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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS
FIRST SESSION

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*of* America

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## SENATE—*Thursday, May 22, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by the guest Chaplain, Rev. Kim Swithinbank of The Falls Church, Falls Church, VA.

### PRAYER

The guest Chaplain offered the following prayer:

Almighty God and Heavenly Father, You alone rule the nations of the world. In Your perfect timing and wisdom, You raise up leaders and You bring them down. You entrust power and authority into their hands, and one day You will call them to account for their stewardship of these gifts. In light of this, we are conscious of the awesome responsibility that You have entrusted to our Nation at this time in the history of Your world.

Therefore, we pray for all who lead and hold high office in this land, especially for the Members of this Senate, that You would give them Your "Spirit of wisdom and understanding, of counsel and might, of knowledge and the fear of the Lord," that their deliberations and decisions would be godly, righteous and pure.

As the eyes of many are on this Nation, may its leaders govern in such a manner that results in peace with justice, and that provides a model for a watching world. We ask these prayers in the mighty name of Jesus, the King of Kings, and Lord of Lords. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, May 22, 2003.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

### THE GUEST CHAPLAIN

Mr. WARNER. Mr. President, first, I wish to say how pleased I am to recognize our guest Chaplain for the day, who is now preaching the gospel in the Commonwealth of Virginia, and with roots to Great Britain, a nation which has been our ally for over 200 years after we settled a mild difference in 1776. But I must say that his message was most appropriate for the day. The magnificent way in which he delivered that message, I felt as if it reverberated through the rafters because of the resonance of that powerful voice. We welcome him.

### SCHEDULE

Mr. WARNER. Mr. President, last evening, owing to the great help of many persons, not the least of whom is the distinguished Democratic whip who is here on the floor with me this morning, the bill of the Armed Services Committee made remarkable progress. Through the night, the staff on both sides prepared another significant collection of amendments which will soon be brought to the Senate for clearance.

When the Senate resumes consideration of the bill today, the Murray amendment will be laid aside, and Senator DASCHLE, or his designee, will be recognized to call up amendment No. 791 regarding the Department of the Air Force.

For the information of all Senators, amendments are expected throughout the day, and therefore rollcall votes will occur as designated by the leadership. It is the managers' hope—and, indeed, I may say from the Chaplain's prayer—that this bill will be concluded, hopefully, by midday today.

I know of several amendments on both sides which I believe we can work our way through. Some of them require the attention of the Senate, of course, with a rollcall vote.

With that, I yield the floor.

### RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant Democratic leader is recognized.

Mr. REID. Mr. President, as we spoke last night as we were leaving, it seemed to me the only hurdle left was what we were going to do about the amendment offered by the distinguished Senator from Washington. She has offered this amendment 7 years in a row. We have had a straight up-or-down vote on this amendment 7 years in a row. It seems to me that would be the way to handle this matter, which, of course, is controversial, as are many other amendments on this very bill. Once we get through that—if, in fact, we do get through it, and it could hold up the bill for an indefinite period of time—we have very few matters left on this side.

I have not been able to determine from the managers if they have been able to clear the Landrieu amendment. We were concerned about the Biden amendment and the Dodd amendment.

I think that is about all we have other than the Boxer amendment, which is going to be debated sometime today.

She has agreed to take a short time on that.

The end is in sight. But knowing the Senate as I do, the simple fact that the

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

end is in sight doesn't mean that we will ever get there.

I hope we can resolve the Boxer matter and the Murray matter rapidly. Having done that, I think we will proceed through this bill quite quickly.

Mr. WARNER. Mr. President, if I might ask the distinguished leader and ranking member, we are prepared to accept the offer made last night with regard to time on the Boxer amendment.

Mr. REID. We would still be willing to do that. The Senator from California has indicated, if the Chair will allow me to speak to the Senator from Virginia, that she is agreeable to take an hour evenly divided on her amendment.

Mr. WARNER. Mr. President, we are prepared to accept that.

Mr. REID. Mr. President, the Senator from Washington waited for hours last night during the parliamentary wrangle that we had. I think we are willing to enter into that time agreement. I think we first have to dispose of the Murray amendment before we agree to that. Under the order, we have to work on the Daschle amendment. As soon as we complete that, I think we should dispose of the Murray amendment before we go to the Boxer amendment.

Mr. WARNER. Mr. President, will the Senator enter into an agreement with the chairman for a one-hour time agreement on the Boxer amendment which does not preclude an amendment in the second degree?

Mr. REID. Not at this time, we would not. I think we need to dispose of the Murray amendment one way or the other. Once we do, I think we can work something out on the Boxer amendment.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1050, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1050) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Murray Amendment No. 691, to restore a previous policy regarding restrictions on use of Department of Defense medical facilities.

The ACTING PRESIDENT pro tempore. Under the previous order, the pending amendment is set aside.

The Senator from Nevada.

### AMENDMENT NO. 791

Mr. REID. Mr. President, I call up amendment number 791.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DASCHLE and Mr. JOHNSON, proposes an amendment No. 791.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To set aside an amount for reconstituting the B-1B bomber aircraft fleet of the Air Force)

On page 21, after line 20, insert the following:

**SEC. 132. B-1B BOMBER AIRCRAFT.**

(a) AMOUNT FOR AIRCRAFT.—(1) Of the amount authorized to be appropriated under section 103(1), $20,300,000 shall be available to reconstitute the fleet of B-1B bomber aircraft through modifications of 23 B-1B bomber aircraft otherwise scheduled to be retired in fiscal year 2003 that extend the service life of such aircraft and maintain or, as necessary, improve the capabilities of such aircraft for mission performance.

(2) The Secretary of the Air Force shall submit to the congressional defense committees a report that specifies the amounts necessary to be included in the future-years defense program to reconstitute the B-1B bomber aircraft fleet of the Air Force.

(b) ADJUSTMENT.—(1) The total amount authorized to be appropriated under section 103(1) is hereby increased by $20,300,000.

(2) The total amount authorized to be appropriated under section 104 is hereby reduced by $20,300,000, with the amount of the reduction to be allocated to SOF operational enhancements.

Mr. WARNER. Mr. President, if I could have the attention of the distinguished leader and ranking member, my understanding is that amendment requires a further amendment, and then it is in an acceptable form. Am I not correct?

Mr. LEVIN. If I could ask the Senator to yield, it is my understanding that the amendment has been agreed to but the paperwork has not yet been completed to accomplish the agreement.

Mr. REID. If the Chair would allow me, Senator DASCHLE agreed to the modification of the amendment. That could be handled either later today or in the managers' package.

Mr. WARNER. Mr. President, I thank the distinguished leader. Perhaps in the course of the debate this morning we can reach that agreement quickly.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. FITZGERALD assumed the Chair.)

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I first express to colleagues in the Senate our appreciation for their patience. We have achieved remarkable results, in my judgment, under the guidance of the distinguished Democratic whip and the Republican whip on this side, helping the two managers.

Mr. President, my colleague Senator LEVIN and I wish to turn to a package of some 30 agreed-upon amendments. At the conclusion of that, we will entertain a unanimous consent request which should pretty well keep us in motion here.

### AMENDMENT NO. 804

Mr. WARNER. Mr. President, I offer an amendment on behalf of Senator SMITH which will authorize land exchange at the Naval and Marine Corps Reserve Center in Portland, OR.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SMITH, proposes an amendment numbered 804.

The amendment is as follows:

(Purpose: To authorize a land exchange, Naval and Marine Corps Reserve Center, Portland, Oregon)

At the end of subtitle C of title XXVIII, add the following:

**SEC. 2825. LAND EXCHANGE, NAVAL AND MARINE CORPS RESERVE CENTER, PORTLAND OREGON.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the United Parcel Service, Inc. (in this section referred to as "UPS"), any or all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres in Portland, Oregon, and comprising the Naval and Marine Corps Reserve Center for the purpose of facilitating the expansion of the UPS main distribution complex in Portland.

(b) PROPERTY RECEIVED IN EXCHANGE.—(1) As consideration for the conveyance under subsection (a), UPS shall—

(A) convey to the United States a parcel of real property determined to be suitable by the Secretary; and

(B) design, construct, and convey such replacement facilities on the property conveyed under subparagraph (A) as the Secretary considers appropriate.

(2) The value of the real property and replacement facilities received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require UPS to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from UPS in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to UPS.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary determines that the replacement facilities required by subsection (b) are suitable and available for the relocation of the operations of the Naval and Marine Corps Reserve Center.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. LEVIN. Mr. President, we have no objection to this amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 804) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 805

Mr. LEVIN. I offer an amendment on behalf of Senator SARBANES that would provide for the conveyance of 33 acres of land in Fort Ritchie, MD.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside for all the amendments which Senator WARNER and I will now be offering.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SARBANES, proposes an amendment numbered 805.

The amendment is as follows:

(Purpose: To provide for the conveyance of land at Fort Ritchie, Maryland)

On page 370, between lines 15 and 16, insert the following new section:

**SEC. 2825. LAND CONVEYANCE, FORT RITCHIE, MARYLAND.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army shall convey, without consideration, to the PenMar Development Corporation, a public instrumentality of the State of Maryland (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, at former Fort Ritchie, Cascade, Maryland, consisting of approximately 33 acres, that is currently being leased by the International Masonry Institute (in this section referred to as the "Institute"), for the purpose of enabling the Corporation to sell the property to the Institute for the economic development of former Fort Ritchie.

(b) EXEMPTION FROM FEDERAL SCREENING REQUIREMENT.—The conveyance authorized by subsection (a) shall be exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code, under the Defense Base and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or under any other applicable law or regulation.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Corporation.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 805) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 707, AS MODIFIED

Mr. WARNER. On behalf of Senator INHOFE, I offer an amendment that supports Army research and development funding for human tissue engineering. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. INHOFE, proposes an amendment numbered 707, as modified.

The amendment is as follows:

(Purpose: To add an amount of Army RDT&E funding for human tissue engineering, and to provide offsets within the same authorization of appropriations)

On page 25, between lines 11 and 12, insert the following:

**SEC. 213. HUMAN TISSUE ENGINEERING.**

(a) AMOUNT.—Of the amount authorized to be appropriated under section 201(1), $1,700,000 may be available in PE 0602787 for human tissue engineering. The total amount authorized to be appropriated under section 201(1) is hereby increased by $1,700,000.

(b) OFFSETS.—Of the amount authorized to be appropriated under section 301(4) for operations and maintenance, Air Force, is hereby reduced by $1,700,000.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. There is no objection.

The PRESIDING OFFICER. The amendment is agreed to.

The amendment (No. 707), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 791, AS MODIFIED

Mr. LEVIN. Mr. President, I offer a modified amendment on behalf of Senator DASCHLE that would add an additional $20.3 million for B–1B bomber modifications. I believe it has been cleared on both sides.

The PRESIDING OFFICER. Does the Senator intend this to be a modification of the pending Daschle amendment?

Mr. LEVIN. I am not sure I can hear the Chair.

The PRESIDING OFFICER. Does the Senator from Michigan intend this to be a modification of the pending Daschle amendment?

Mr. LEVIN. We do.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 791, previously proposed by the Senator from Nevada, Mr. REID, for Mr. DASCHLE, as modified.

The amendment is as follows:

(Purpose: To set aside an amount for reconstituting the B–1B bomber aircraft fleet of the Air Force)

On page 21, after line 20, insert the following:

**SEC. 132. B–1B BOMBER AIRCRAFT.**

(a) AMOUNT FOR AIRCRAFT.—(1) Of the amount authorized to be appropriated under section 103(1), $20,300,000 may be available to reconstitute the fleet of B–1B bomber aircraft through modifications of 23 B–1B bomber aircraft otherwise scheduled to be retired in fiscal year 2003 that extend the service life of such aircraft and maintain or, as necessary, improve the capabilities of such aircraft for mission performance.

(2) The Secretary of the Air Force shall submit to the congressional defense committees a report that specifies the amounts necessary to be included in the future-years defense program to reconstitute the B–1B bomber aircraft fleet of the Air Force.

(b) ADJUSTMENT.—(1) The total amount authorized to be appropriated under section 103(1) is hereby increased by $20,300,000.

(2) The total amount authorized to be appropriated under section 104 is hereby reduced by $20,300,000, with the amount of the reduction to be allocated to SOF operational enhancements.

Mr. DASCHLE. Mr. President, the Senate will soon adopt a new national Defense authorization bill. I commend Senators WARNER and LEVIN, the distinguished managers of this bill, for their excellent work. They have worked well together on an important piece of legislation.

This crucial legislation, the fiscal year 2004 National Defense authorization bill, provides funds for our troops, their training, and their equipment. Coming as it does on the heels of the end of the fighting in Iraq, it also provides the Senate with its first opportunity to act on some of the lessons we have learned in that conflict.

Although the hostilities ended a short time ago and much more needs to be done in Iraq, I do not believe it is premature to begin drawing some conclusions about which forces and equipment performed well. Based on the Pentagon's assessments as well as media reports, it appears the B–1B aircraft and their crews performed magnificently.

Just as in Afghanistan, we had few air bases in adjacent countries. Fortunately the B–1's long operating range overcame that problem. Just as in Afghanistan, our air tankers were straining to keep up the demand for midair refueling—but B–1s were part of the solution, with their ability to cover long distances and strike 24 targets on a single mission. Just as in Afghanistan, we needed the ability to carry out strikes around the clock, on a moment's notice, regardless of weather conditions and B–1s did the job, day after day, until the Iraqi military was routed and its leadership was no more.

All of this served to reinforce what many have believed to be true for quite some time now; namely, that the Pentagon acted too hastily a few years ago when it decided to retire one-third of our B–1B bomber fleet.

The plan to retire one-third of the B–1 fleet was developed before the September 11th attacks, before the war on terrorism, before the fighting in Afghanistan, and before Iraq. Given the proven record of performance of the B–1, the age of our current heavy bomber fleet, the lack of a next-generation bomber, and the fact that it took 20 years before our Nation's last bomber-development program could field planes—it seems incredible that we are consigning 23 of our most capable aircraft, a plane referred to by those who know it best as the "backbone of the bomber fleet," to the Arizona desert.

My amendment would begin the process of rolling back the decision to retire those 23 planes. It would rebuild our bomber fleet toward the level recommended in our last comprehensive review of bomber needs, the U.S. Air Force White Paper on Long Range Bombers. That report determined that 93 B–1s were needed to protect U.S. national security interests until a replacement capability is available. My amendment would put us on the path to 83 B–1s—the most we can muster, given decommissioning work that is already well underway on some aircraft.

Senator JOHNSON and I have consulted with the Air Force about the timing and funding requirements to regenerate 23 planes and have determined that an appropriate first-year effort would be $20.3 million. This is also the level of effort being recommended by the House Armed Service Committee in the bill being taken up this morning on the House floor. This fiscal year 2004 funding would launch a multiyear program to provide these 23 planes the same capabilities as the rest of the B–1 fleet.

To begin with, these planes would require the Block E upgrade to B–1 offensive systems that almost all of our B–1 fleet has already received. Additional assorted upgrades will also be required, and my amendment would begin that work—configuration to accommodate towed decoys, installation of new datalink capabilities, and modifications to improve the dependability and capability of the plane's electronic countermeasure system and its central integrated test system.

Finally, my amendment would require the Air Force to report back to congressional defense committees on additional funding requirements needed in the Future Years Defense Plan, (FYDP) to fully restore these aircraft to operational levels.

This is our last chance to halt the retirement of B–1s, since many are scheduled to be sent to Arizona by the end of this fiscal year. In light of what we know now about the hasty manner in which the B–1 retirement decision was made, the B–1's proven combat effectiveness, and our Nation's anticipated security requirements, it is time to begin bringing back these 23 planes.

Mr. JOHNSON. Mr. President, I support the Daschle-Johnson amendment to the fiscal year 2004 Defense Authorization bill. This amendment will provide the funding necessary to maintain a strong and reliable B–1 bomber fleet.

Over the past week, the B–1 bombers, crews, and support staff of the 28th Bomb Wing have begun to return to Ellsworth Air Force Base from their service in Operation Iraqi Freedom. As they did in Kosovo and Afghanistan, the B–1 bombers performed superbly in the war in Iraq. They have once again demonstrated that they are the backbone of America's bomber fleet. The B–1's unique ability to linger over the battlefield and provide responsive firepower at the time and place required by military commanders was an integral part of our victory in Iraq.

Although B–1s flew fewer than 2 percent of the combat sorties in Operation Iraqi Freedom, they dropped more than half the satellite guided Air Force Joint Direct Attack Munitions, (JDAMs). The B–1s were tasked against the full spectrum of potential targets in Iraq, including command and control facilities, bunkers, tanks, armored personnel carriers, and surface-to-air missile sites. They also provided close air support for U.S. forces engaged in the field. The bombers and crews accomplished all of this while maintaining over an 80 percent mission capable rate. This record of success proves B–1 is a vital, versatile, and potent component of our military force structure.

The Daschle-Johnson amendment would provide the funding needed to start regenerating, modernizing, and returning 23 B–1s to our bomber fleet. The Department of Defense is in the process of implementing its plan to retire all but 60 B–1s, this is despite a U.S. Air Force White Paper on Long Range Bombers that determined it was in our national security interests to maintain the full B–1 fleet. Furthermore, since the Pentagon announced its decision to consolidate the fleet, the B–1s have been instrumental in the military success of both Operation Enduring Freedom and Operation Iraqi Freedom.

Given the demonstration of its unique capabilities in both these campaigns, it makes little sense to continue forward with the retirement of one-third of the B–1 fleet. With the funding provided in the Daschle-Johnson amendment, and planned increases in the Air Force's budget in future years, additional modernized B–1s could enter service in fiscal year 2005. The B–1's ability to carry a large payload of satellite guided weapons and to strike from long distances will make it an important part of our Nation's defense for many years.

Mr. President, I encourage my colleagues to support the long-term viability of the B–1 fleet by voting in favor of the Daschle-Johnson amendment.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. WARNER. It is cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 791), as modified, was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 787, AS MODIFIED

Mr. WARNER. On behalf of Senator SANTORUM, I offer an amendment to support naval research and development for nonthermal imaging systems. The amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SANTORUM, proposes an amendment numbered 787, as modified.

The amendment is as follows:

(Purpose: To make available $2,000,000 for non-thermal imaging systems)

At the end of subtitle B of title II, add the following:

**SEC. 213. NON-THERMAL IMAGING SYSTEMS.**

(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Power Projection Applied Research (PE 602114N), $2,000,000 may be available for research and development of non-thermal imaging systems. The total amount authorized to be appropriated under section 201(2) is hereby increased by $2,000,000.

(b) OFFSETS.—The amount authorized to be appropriated by section 301(4) for operations and maintenance, Air Force, is hereby reduced by $1,000,000 and the amount authorized to be appropriated by section 104 for Defense-Wide Activities, is hereby reduced by $1,000,000 for SOF Rotary Wing Upgrades.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. It has been cleared on this side.

The PRESIDING OFFICER. The amendment is agreed to.

The amendment (No. 787), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 806

Mr. LEVIN. Mr. President, on behalf of Senator BIDEN, I send an amendment to the desk which would increase by 30 the personnel end strength of the Air National Guard.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BIDEN, proposes an amendment numbered 806.

The amendment is as follows:

(Purpose: To increase by 30 personnel the personnel end strength of the Air National Guard of the United States as of September 30, 2004, to provide personnel to improve the information operations capability of the Air National Guard of the United States)

(a) In section 411(a)(5), relating to the authorized strength for Selected Reserve personnel of the Air National Guard of the United States as of September 30, 2004, strike "107,000" and insert "107,030".

(b) The total amount authorized to be appropriated under section 104 is hereby reduced by $3,300,000, including $2,100,000 from SOF rotary wing upgrades and $1,200,000 from SOF operational enhancements.

The PRESIDING OFFICER. Is there debate on the amendment?

The amendment is agreed to.

The amendment (No. 806) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed.

AMENDMENT NO. 788, AS MODIFIED

Mr. WARNER. I offer an amendment to make available funds for operation and maintenance for the Army Reserve for information operations for Land Forces Readiness-Information Operations Sustainment. This amendment has been modified to provide offsets.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SANTORUM, proposes an amendment numbered 788, as modified.

The amendment is as follows:

(Purpose: To make available, with an offset, $3,000,000 for operation and maintenance for the Army Reserve for information operations for Land Forces Readiness—Information Operations Sustainment)

At the end of subtitle B of title III, add the following:

**SEC. 313. INFORMATION OPERATIONS SUSTAINMENT FOR LAND FORCES READINESS OF ARMY RESERVE.**

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ARMY RESERVE.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $3,000,000.

(b) AVAILABILITY FOR INFORMATION OPERATIONS SUSTAINMENT.—(1) Of the amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve, as increased by subsection (a), $3,000,000 may be available for Information Operations (Account #19640) for Land Forces Readiness-Information Operations Sustainment.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $3,000,000.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. No objection on this side.

The PRESIDING OFFICER. The amendment is agreed to.

The amendment (No. 788), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 807

Mr. LEVIN. Mr. President, on behalf of Senator BINGAMAN, I offer an amendment which authorizes $2.1 million to conduct research and development activity for the Holloman Air Force Base high-speed test track.

I believe it has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BINGAMAN, proposes an amendment numbered 807.

The amendment is as follows:

(Purpose: To make available, with an offset, $2,100,000 from amounts available for research, development, test, and evaluation for the Air Force for Major T&E Investment (PE 0604759F) for research an development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico)

At the end of subtitle B of title II, add the following:

**SEC. 213. MAGNETIC LEVITATION.**

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,100,000, with the amount of the increase to be allocated to Major T&E Investment (PE 0604759F).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force and available for Major T&E Investment, as increased by subsection (a), $2,100,000 may be available for research and development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force, is hereby reduced by $2,100,000.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. WARNER. Mr. President, it is cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 807) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 808

Mr. WARNER. Mr. President, on behalf of Senator SANTORUM, I offer an amendment that adds $2 million for the Army for the procurement of rapid infusion pumps.

The matter has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SANTORUM, proposes an amendment numbered 808.

The amendment is as follows:

(Purpose: To make available, with an offset, $2,000,000 for other procurement for the Army for medical equipment for the procurement of rapid infusion (IV) pumps)

In subtitle B of title I, add after the subtitle heading the following:

**SEC. 111. RAPID INFUSION PUMPS.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 101(5) for other procurement, Army, $2,000,000 may be available for medical equipment for the procurement of rapid infusion (IV) pumps.

(2) The total amount authorized to be appropriated under section 101(5) is hereby increased by $2,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(1) for operations and maintenance, Army, the amount available is hereby reduced by $2,000,000.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 808) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 743, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator GRAHAM, I offer an amendment which adds $8 million to Marine Corps research and development funds for development of the collaborative information warfare network in the critical infrastructure protection center.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 743, as modified.

The amendment is as follows:

(Purpose: To set aside an increased amount for the Collaborative Information Warfare Network at the Critical Infrastructure Protection Center at the Space Warfare Systems Center)

On page 40, between lines 7 and 8, insert the following:

**SEC. 235. AMOUNT FOR COLLABORATIVE INFORMATION WARFARE NETWORK.**

(1) Of the amount authorized to be appropriated by section 201(2), for research and development, Navy, $8,000,000 may be available for the Collaborative Information Warfare Network.

(2) The total amount authorized to be appropriated under section 201(2) is hereby increased by $8,000,000.

(3) OFFSET.—Of the amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force, the amount is hereby reduced by $8,000,000.

The PRESIDING OFFICER. Is there debate?

Mr. LEVIN. There is no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 743), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 723, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator LOTT, I offer an amendment which would add $2 million in Research, Development, Test and Evaluation funding for the development and fabrication of composite submarine sail test articles.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. LOTT, proposes an amendment numbered 723, as modified.

The amendment is as follows:

(Purpose: To set aside an amount of Navy RDT&E funding for the development and fabrication of composite sail test articles for incorporation into designs for future submarines)

On page 25, between lines 11 and 12, and insert the following:

**SEC. 213. COMPOSITE SAIL TEST ARTICLES.**

(a) the total amount authorized to be appropriated under section 201(2) for Virginia-class submarine development may be increased by $2,000,000 for the development and fabrication of composite sail test articles for incorporation into designs for future submarines.

(b) Defense-Wide Activities.—The amount authorized to be appropriated under section 104 may be reduced by $2,000,000, to be derived from the amount provided for SOF operational enhancements.

Mr. WARNER. Mr. President, this amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there debate?

Without objection, the amendment is agreed to.

The amendment (No. 723), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 809

Mr. WARNER. Mr. President, on behalf of Senator SANTORUM, I offer an amendment to support Army research and development for portable mobile emergency broadband systems.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SANTORUM, proposes an amendment numbered 809.

The amendment is as follows:

(Purpose: To make available, with an offset, $2,000,000 for research, development, test, and evaluation for the Army for the development of Portable Mobile Emergency Broadband Systems (MEBS)

At the end of subtitle B of title II, add the following:

**SEC. 213. PORTABLE MOBILE EMERGENCY BROADBAND SYSTEMS.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, $2,000,000 may be available for the development of Portable Mobile Emergency Broadband Systems (MEBS).

(2) The total amount authorized to be appropriated under section 201(1) is hereby increased by $2,000,000.

(b) OFFSET.—The amount authorized to be appropriated by section 104 for Procurement, Defense-wide activities, SOF Operational Enhancements is hereby reduced by $2,000,000.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 809) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 810

Mr. WARNER. Mr. President, on behalf of Senator DOMENICI, I offer an amendment which would add funds for research and development of boron energy cell technology.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOMENICI, proposes an amendment numbered 810.

The amendment is as follows:

(Purpose: To provide, with an offset, an additional $5,000,000 for research, development, test, and evaluation for the Air Force for boron energy cell technology)

At the end of subtitle B of title II, add the following:

**SEC. 213. BORON ENERGY CELL TECHNOLOGY.**

(a) INCREASE IN RDT&E, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000.

(b) AVAILABILITY FOR BORON ENERGY CELL TECHNOLOGY.—(1) of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $5,000,000 may be available for research, development, test, and evaluation on boron energy cell technology.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET FROM OPERATIONS AND MAINTENANCE.—The amount authorized to be appropriated by section 301(1), for operations and maintenance for the Army is hereby reduced by $5,000,000.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 810) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 760

Mr. WARNER. Mr. President, on behalf of Senator COCHRAN and others, I offer an amendment which makes available funds for the Arrow ballistic missile defense system.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COCHRAN, Mr. REED, Mr. CHAMBLISS, Mr. NELSON of Nebraska, Ms. MIKULSKI, and Mr. BOND, proposes an amendment numbered 760.

The amendment is as follows:

(Purpose: To set aside an amount for coproduction of the Arrow ballistic missile defense system)

On page 40, between lines 7 and 8 insert the following:

**SEC. 235. COPRODUCTION OF ARROW BALLISTIC MISSILE DEFENSE SYSTEM.**

Of the total amount authorized to be appropriated under section 201 for ballistic missile defense, $115,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. Mr. President, there is no objection on this side.

Mr. President, I ask unanimous consent that I be added as a cosponsor.

Mr. WARNER. Mr. President, likewise, I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the amendment is agreed to.

The amendment (No. 760) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 790, AS MODIFIED

Mr. LEVIN. Mr. President, on behalf of Senator BINGAMAN, I offer an amendment that would add a reporting requirement to section 3131.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BINGAMAN, proposes an amendment numbered 790, as modified.

The amendment is as follows:

(Purpose: To require a report assessing the effects of the repeal of the prohibition on the research and development of low-yield nuclear weapons)

In section 3131, add at the end the following:

(c) REPORT.—(1) Not later than March 1, 2004, the Secretary of Defense and the Secretary of State shall jointly submit to Congress a report assessing whether or not the repeal of section 3136 of the National Defense Authorization Act for Fiscal Year 1994, will affect the ability of the United States to achieve its non-proliferation objectives and whether or not any changes in programs and activities would be required to achieve these objectives.

The PRESIDING OFFICER. Is there debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 790), as modified, was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 811

Mr. WARNER. Mr. President, I offer an amendment which would amend section 2611 of the United States Code title X to allow the Secretary of the Navy to accept guarantees as gifts for the construction of a United States Marine Corps Heritage Center, enabling the center to be completed in time for the 230th anniversary of the United States Marine Corps in November of 2005.

It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 811.

The amendment is as follows:

(Purpose: To authorize the acceptance of guarantees with gifts for the development of the Marine Corps Heritage Center at Marine Corps Base, Quantico, Virginia)

On page 278, beginning on line 16, strike "**FOR ASIA-PACIFIC CENTER FOR SECURITY STUDIES**".

On page 280, after the matter following line 7, insert the following:

(c) ACCEPTANCE OF GUARANTEES WITH GIFTS IN DEVELOPMENT OF MARINE CORPS HERITAGE CENTER, MARINE CORPS BASE, QUANTICO, VIRGINIA.—(1) The Secretary of the Navy may utilize the authority in section 6975 of title 10, United States Code, for purposes of the project to develop the Marine Corps Heritage Center at Marine Corps Base, Quantico, Virginia, authorized by section 2884 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; as enacted into law by Public Law 106–398; 114 Stat. 1654A–440).

(2) The authority in paragraph (1) shall expire on December 31, 2006.

(3) The expiration under paragraph (2) of the authority in paragraph (1) shall not effect any qualified guarantee accepted pursuant to such authority for purposes of the project referred to in paragraph (1) before the date of the expiration of such authority under paragraph (2).

Mr. LEVIN. Mr. President, we support the Warner amendment.

The PRESIDING OFFICER. Is there debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 811) was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that there be a period throughout the remainder of the day for those who wish to be added as cosponsors of this amendment to so indicate to the Presiding Officer their desire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 737

Mr. LEVIN. Mr. President, on behalf of Senator NELSON of Florida, I offer an amendment that would authorize travel and transportation allowances for dependents of service members who have committed dependent abuse against a spouse or dependent child.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. NELSON of Florida, Mr. KENNEDY, and Mrs. CLINTON, proposes an amendment numbered 737.

The amendment is as follows:

(Purpose: To authorize certain travel and transportation allowances for dependents of members of the Armed Forces who have committed dependent abuse)

At the end of subtitle G of title V, add the following:

**SEC. 565. CERTAIN TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO HAVE COMMITTED DEPENDENT ABUSE.**

Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) If the Secretary concerned makes a determination described in subparagraph (B) with respect to the spouse or a dependent of a member described in that subparagraph and a request described in subparagraph (C) has been by the spouse or on behalf of such dependent, the Secretary may provide any benefit authorized for a member under paragraph (1) or (3) to the spouse or such dependent in lieu of providing such benefit to the member.

"(B) A determination described in this subparagraph is a determination by the commanding officer of a member that—

"(i) the member has committed a dependent-abuse offense against the spouse or a dependent of the member;

"(ii) a safety plan and counseling have been provided to the spouse or such dependent;

"(iii) the safety of the spouse or such dependent is at risk; and

"(iv) the relocation of the spouse or such dependent is advisable.

"(C) A request described in this subparagraph is a request by the spouse of a member, or by the parent of a dependent child in the case of a dependent child of a member, for relocation.

"(D) Transportation may be provided under this paragraph for household effects or a motor vehicle only if a written agreement of the member, or an order of a court of competent jurisdiction, gives possession of the effects or vehicle to the spouse or dependent of the member concerned.

"(E) In this paragraph, the term 'dependent-abuse offense' means an offense described in section 1059(c) of title 10.".

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. WARNER. Mr. President, the amendment has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 737) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 812

Mr. WARNER. Mr. President, on behalf of Senator MCCAIN, I offer an amendment to provide emergency and morale communications programs.

The amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, proposes an amendment numbered 812.

The amendment is as follows:

On page 43, strike lines 4 through 9 and insert the following:

**SEC. 311. EMERGENCY AND MORALE COMMUNICATIONS PROGRAMS.**

(a) ARMED FORCES EMERGENCY SERVICES.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be made available to the American Red Cross to fund the Armed Forces Emergency Services.

(b) DEPARTMENT OF DEFENSE MORALE TELECOMMUNICATIONS PROGRAM.—(1) As soon as possible after the date of enactment of this Act, the Secretary of Defense shall establish and carry out a program to provide, wherever practicable, prepaid phone cards, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who are directly supporting military operations in Iraq or Afghanistan (as determined by the Secretary) to enable them to make telephone calls to family and friends in the United States without cost to the member.

(2) The value of the benefit provided by paragraph (1) shall not exceed $40 per month per person.

(3) The program established by paragraph (1) shall terminate on September 30, 2004.

(4) In carrying out the program under this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private entities free or reduced-cost services, and programs to enhance morale and welfare. In addition, and notwithstanding any limitation on the expenditure or obligations of appropriated amounts, the Secretary may use available funds appropriated to or for the use of the Department of Defense that are not otherwise obligated or expended to carry out the program.

(5) The Secretary may accept gifts and donations in order to defray the costs of the program. Such gifts and donations may be accepted from foreign governments; foundations or other charitable organizations, including those organized or operating under the laws of a foreign country; and any source in the private sector of the United States or a foreign country.

(6) The Secretary shall work with telecommunications providers to facilitate the deployment of additional telephones for use in calling the United States under the program as quickly as practicable, consistent with the timely provision of telecommunications benefits the program, the Secretary should carry out this subsection in a manner that allows for competition in the provision of such benefits.

(7) The Secretary shall not take any action under this subsection that would compromise the military objectives or mission of the Department of Defense.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. We have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 812) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

Th motion to lay on the table was agreed to.

### AMENDMENT NO. 813

Mr. WARNER. Mr. President, on behalf of Senator HUTCHISON, I offer an amendment expressing the sense of the Senate that United States air carriers should offer reduced fares and flexible terms of sale to members of the United States Armed Forces. This is a timely message to the airlines of a way in which they can show their support to military members.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mrs. HUTCHISON, proposes an amendment numbered 813.

The amendment is as follows:

(Purpose: To express the sense of the Senate that air carriers should provide special fares to members of the armed forces)

At the appropriate place, insert the following new section:

**SEC. . AIR FARES FOR MEMBERS OF ARMED FORCES.**

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. Mr. President, we support the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 813) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 814

Mr. WARNER. Mr. President, on behalf of Senator CHAMBLISS, I offer an amendment to modify the program element of the Army's short range air defense radar research and development program.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. CHAMBLISS, proposes an amendment numbered 814.

The amendment is as follows:

(Purpose: To modify the program element of the short range air defense radar program of the Army)

At the end of subtitle B of title II, add the following:

**SEC. 213. MODIFICATION OF PROGRAM ELEMENT OF SHORT RANGE AIR DEFENSE RADAR PROGRAM OF THE ARMY.**

The program element of the short range air defense radar program of the Army may be modified from Program Element 602303A (Missile Technology) to Program Element 603772A (Advanced Tactical Computer Science and Sensor Technology).

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LEVIN. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 814) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 815

Mr. LEVIN. Mr. President, on behalf of Senator MIKULSKI, I offer an amendment that would authorize the Department of Defense and the VA jointly to conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. MIKULSKI, proposes an amendment numbered 815.

The amendment is as follows:

(Purpose: To provide additional duties for the DOD-VA Joint Executive Committee relating to integrated healing care practices for members of the Armed Forces and veterans)

On page 169, between lines 5 and 6, insert the following:

(d) INTEGRATED HEALING CARE PRACTICES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs may, acting through the Department of Veterans Affairs–Department of Defense Joint Executive Committee, conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

(2) Amounts authorized to be appropriated by section 301(21) for the Defense Health Program may be available for the program under paragraph (1).

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. WARNER. Mr. President, it is cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 815) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 816

Mr. WARNER. Mr. President, on behalf of Senator BENNETT, I offer an amendment to require a Department of

Defense study of the adequacy of the beryllium industrial base.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. BENNETT, proposes an amendment numbered 816.

The amendment is as follows:

(Purpose: To require a Department of Defense study of the adequacy of the beryllium industrial base)

On page 276, between lines 5 and 6, insert the following:

**SEC. 1025. STUDY OF BERYLLIUM INDUSTRIAL BASE.**

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a study of the adequacy of the industrial base of the United States to meet defense requirements of the United States for beryllium.

(b) REPORT.—Not later than January 30, 2004, the Secretary shall submit a report on the results of the study to Congress. The report shall contain, at a minimum, the following information:

(1) A discussion of the issues identified with respect to the long-term supply of beryllium.

(2) An assessment of the need, if any, for modernization of the primary sources of production of beryllium.

(3) A discussion of the advisability of, and concepts for, meeting the future defense requirements of the United States for beryllium and maintaining a stable domestic industrial base of sources of beryllium through—

(A) cooperative arrangements commonly referred to as public-private partnerships;

(B) the administration of the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act; and

(C) any other means that the Secretary identifies as feasible.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. We have no objection to the amendment on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 816) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 817

Mr. WARNER. Mr. President, on behalf of Senators MCCAIN, SESSIONS, LINDSEY GRAHAM, and BAYH, I offer an amendment which would add reporting requirements to a report on the NATO Prague Capabilities Commitment and the NATO Response Force.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, for himself, Mr. SESSIONS, Mr. GRAHAM of South Carolina, and Mr. BAYH, proposes an amendment numbered 817.

The amendment is as follows:

(Purpose: To require a report on decisionmaking by the North Atlantic Treaty Organization)

On page 310, between lines 9 and 10, insert the following:

(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

(i) an assessment of whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and other issues related to the Prague Capabilities Commitment or the NATO Response Force;

(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee;

(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and security decisionmaking within NATO relating to the Prague Capabilities Commitment, and NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes; and

(vii) if a report under this subparagraph is a report other than the first report under this subparagraph, the information submitted in such report under any of clauses (i) through (vi) may consist solely of an update of any information previously submitted under the applicable clause in a preceding report under this subparagraph.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. The amendment has been cleared on both sides.

Mr. LEVIN. We have no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 817) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 818

Mr. LEVIN. Mr. President, on behalf of Senator BOXER, I offer an amendment that requires the Comptroller General to submit a report regarding the adequacy of special pays and allowances for service members who experience frequent deployments away from their permanent duty stations for periods less than 30 days.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. BOXER, proposes an amendment numbered 818.

The amendment is as follows:

At the appropriate place, add the following:

GAO STUDY.—Not later than April 1, 2004, the Comptroller General shall submit a report regarding the adequacy of special pays and allowances for service members who experience frequent deployments away from their permanent duty stations for periods less than 30 days. The policies regarding eligibility for family separation allowance, including those relating to required duration of absences from the permanently assigned duty station, should be assessed.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Mr. President, the matter is cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 818) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 819

Mr. WARNER. Mr. President, on behalf of myself, I offer an amendment which supports the network centric operations at minority colleges and universities.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 819.

The amendment is as follows:

(Purpose: To set aside an amount for initiating a capability in historically Black colleges and universities to support the network centric operations of the Department of Defense)

On page 25, between lines 11 and 12, insert the following:

**SEC. 213. AMOUNT FOR NETWORK CENTRIC OPERATIONS.**

Of the amount authorized to be appropriated under section 201(1) for historically Black colleges and universities, $1,000,000 may be used for funding the initiation of a capability in such institutions to support the network centric operations of the Department of Defense.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. Mr. President, we support the amendment. I ask unanimous consent that I be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

Mr. WARNER. Mr. President, I ask unanimous consent that the junior Senator from the State of Virginia, Mr. ALLEN, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendment is agreed to.

The amendment (No. 819) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 789, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator BUNNING, I offer an amendment that expresses the sense of the Senate about upgrading the chemical agent sensors at the chemical stockpile disposal sites in the United States.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. BUNNING, proposes an amendment numbered 789, as modified.

The amendment, as modified is as follows:

(Purpose: To express the sense of the Senate on the deployment of airborne chemical agent monitoring systems at the chemical stockpile disposal sites in the United States)

At the end of subtitle D of title X, add the following:

### SEC. 1039. SENSE OF SENATE ON DEPLOYMENT OF AIRBORNE CHEMICAL AGENT MONITORING SYSTEMS AT CHEMICAL STOCKPILE DISPOSAL SITES IN THE UNITED STATES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Millions of assembled chemical weapons are stockpiled at chemical agent disposal facilities and depot sites across the United States.

(2) Some of these weapons are filled with nerve agents, such as GB and VX and blister agents such as HD (mustard agent).

(3) Hundreds of thousands of United States citizens live in the vicinity of these chemical weapons stockpile sites and depots.

(4) The airborne chemical agent monitoring systems at these sites are inefficient or outdated compared to newer and advanced technologies on the market.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Army should develop and deploy a program to upgrade the airborne chemical agent monitoring systems at all chemical stockpile disposal sites across the United States in order to achieve the broadest possible protection of the general public, personnel involved in the chemical demilitarization program, and the environment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. We have no objection on this side.

Mr. WARNER. We have no objection. This has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 789), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 820

Mr. WARNER. Mr. President, on behalf of Senator SESSIONS, I offer an amendment which directs the Secretary of Defense to conduct a study on the adequacy of the benefits for survivors of military personnel who die on active duty. This amendment, and the study it directs, I am confident, will provide a catalyst for necessary evaluation and change in the manner in which families are compensated after the death of loved ones serving in uniform.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SESSIONS, proposes an amendment numbered 820.

The amendment is as follows:

(Purpose: To require a study of the military death gratuity and other death benefits provided for survivors of deceased members of the Armed Forces)

On page 155, between lines 10 and 11, insert the following:

(c) DEATH BENEFITS STUDY.—(1) It is the sense of Congress that—

(A) the sacrifices made by the members of the United States Armed Forces are significant and are worthy of meaningful expressions of gratitude by the Government of the United States, especially in cases of sacrifice through loss of life;

(B) the tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant disparity between the financial benefits for survivors of deceased members of the Armed Forces and the financial benefits for survivors of civilian victims of terrorism;

(C) the death benefits system composed of the death gratuity paid by the Department of Defense to survivors of members of the Armed Forces, the subsequently established Servicemembers' Group Life Insurance (SGLI) program, and other benefits for survivors of deceased members has evolved over time, but there are increasing indications that the evolution of such benefits has failed to keep pace with the expansion of indemnity and compensation available to segments of United States society outside the Armed Forces, a failure that is especially apparent in a comparison of the benefits for survivors of deceased members with the compensation provided to families of civilian victims of terrorism; and

(D) while Servicemembers' Group Life Insurance (SGLI) provides an assured source of life insurance for members of the Armed Forces that benefits the survivors of such members upon death, the SGLI program requires the members to pay for that life insurance coverage and does not provide an assured minimum benefit.

(2) The Secretary of Defense shall carry out a study of the totality of all current and projected death benefits for survivors of deceased members of the Armed Forces to determine the adequacy of such benefits. In carrying out the study, the Secretary shall—

(A) compare the Federal Government death benefits for survivors of deceased members of the Armed Forces with commercial and other private sector death benefits plans for segments of United States society outside the Armed Forces, and also with the benefits available under Public Law 107-37 (115 Stat. 219) (commonly known as the "Public Safety Officer Benefits Bill");

(B) assess the personnel policy effects that would result from a revision of the death gratuity benefit to provide a stratified schedule of entitlement amounts that places a premium on deaths resulting from participation in combat or from acts of terrorism;

(C) assess the adequacy of the current system of Survivor Benefit Plan annuities and Dependency and Indemnity Compensation and the anticipated effects of an elimination of the offset of Survivor Benefit Plan annuities by Dependency and Indemnity Compensation;

(D) examine the commercial insurability of members of the Armed Forces in high risk military occupational specialties; and

(E) examine the extent to which private trusts and foundations engage in fundraising or otherwise provide financial benefits for survivors of deceased members of the Armed Forces.

(3) Not later than March 1, 2004, the Secretary shall submit a report on the results of the study under paragraph (2) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:

(A) The assessments, analyses, and conclusions resulting from the study.

(B) Proposed legislation to address the deficiencies in the system of Federal Government death benefits for survivors of deceased members of the Armed Forces that are identified in the course of the study.

(C) An estimate of the costs of the system of death benefits provided for in the proposed legislation.

(4) The Comptroller General shall conduct a study to identify the death benefits that are payable under Federal, State, and local laws for employees of the Federal Government, State governments, and local governments. Not later than November 1, 2003, the Comptroller General shall submit a report containing the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. We have no objection to the amendment.

Mr. WARNER. Mr. President, I ask unanimous consent to be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. We have no objection to the amendment on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 820) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 821

Mr. LEVIN. Mr. President, on behalf of Senator LANDRIEU, I offer an amendment that would increase the maximum Federal contribution to the National Guard Challenge Program in States from the current 60 percent to 65 percent for fiscal year 2004.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU, proposes an amendment numbered 821.

The amendment is as follows:

(Purpose: To amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Challenge Program for fiscal year 2004, and to provide an offset)

On page 291, between lines 14 and 15, insert the following:

**SEC. 1039. FEDERAL ASSISTANCE FOR STATE PROGRAMS UNDER THE NATIONAL GUARD CHALLENGE PROGRAM.**

(a) MAXIMUM FEDERAL SHARE.—Section 509(d) of title 32, United States Code, is amended—

(1) by striking paragraphs (1), (2), and (3);

(2) by redesignating paragraph (4) as paragraph (1);

(3) in paragraph (1), as so redesignated, by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph (2):

"(2) for fiscal year 2004 (notwithstanding paragraph (1)), 65 percent of the costs of operating the State program during that year.".

(b) STUDY.—(1) The Secretary of Defense shall carry out a study to evaluate (a) the adequacy of the requirement under section 509(d) of title 32, United States Code, for the United States to fund 60 percent of the costs of operating a State program of the National Guard Challenge Program and the State to fund 40 percent of such costs, and (b) the value of the Challenge Program to the Department of Defense.

(2) In carrying out the study under paragraph (1), the Secretary should identify potential alternatives to the matching funds structure provided for the National Guard Challenge Program under section 509(d) of title 32, United States Code, such as a range of Federal-State matching ratios, that would provide flexibility in the management of the program to better respond to temporary fiscal conditions.

(3) The Secretary shall include the results of the study, including findings, conclusions, and recommendations, in the next annual report to Congress under section 509(k) of title 32, United States Code, that is submitted to Congress after the date of the enactment of this Act.

(c) AMOUNT FOR FEDERAL ASSISTANCE.—(1) The amount authorized to be appropriated under section 301(10) is hereby increased by $3,000,000.

(2) Of the total amount authorized to be appropriated under section 301(10), $68,216,000 shall be available for the National Guard Challenge Program under section 509 of title 32, United States Code.

(3) The total amount authorized to be appropriated under section 301(4) is hereby reduced by $3,000,000.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendment is agreed to.

The amendment (No. 821) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 727

Mr. WARNER. Mr. President, on behalf of Senator BUNNING, I offer an amendment which would authorize a multiyear procurement for the Phalanx Close In Weapon System program, Block 1B, for the Navy.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. BUNNING, proposes an amendment numbered 727.

The amendment is as follows:

(Purpose: To authorize the use of multiyear procurement authority for the Navy for procurement of the Phalanx Close In Weapon System program, Block 1B)

On page 17, after line 25, add the following:

(5) The Phalanx Close In Weapon System program, Block 1B.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. We have no objection to the amendment on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 727) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 822

Mr. WARNER. Mr. President, I offer an amendment that would provide an equitable offset for any fee charged the Department of Defense by the Department of State for maintenance, upgrade, or construction of United States diplomatic facilities.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 822.

The amendment is as follows:

(Purpose: To provide an equitable offset for any fee charged the Department of Defense by the Department of State for maintenance, upgrade, or construction of United States diplomatic facilities)

On page 69, line 5, strike "**AIRLIFT**".

On page 70, between the matter following line 9 and line 10, insert the following:

(c) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—For any fee charged to the Department of Defense by the Department of State during any year for the maintenance, upgrade, or construction of United States diplomatic facilities, the Secretary of Defense may remit to the Department of State only that portion, if any, of the total amount of the fee charged for such year that exceeds the total amount of the costs incurred by the Department of Defense for providing goods and services to the Department of State during such year.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. There is no objection to the amendment on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 822) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 823

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator LANDRIEU, which would provide for a feasibility study of the conveyance of the Louisiana Army Ammunition Plant at Doyline, LA.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU, proposes an amendment numbered 823.

The amendment is as follows:

(Purpose: To proivde for a feasibility study of the conveyance of the Louisiana Army Ammunition Plant, Doyline, Louisiana)

At the end of subtitle C of title XXVIII, add the following new section:

**SEC. 2825. FEASIBILITY STUDY OF CONVEYANCE OF LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.**

(a) STUDY REQUIRED.—(1) The Secretary of the Army shall conduct a study of the feasibility, costs, and benefits for the conveyance of the Louisiana Army Ammunition Plant as a model for a public-private partnership for the utilization and development of the Plant and similar parcels of real property.

(2) In conducting the study, the Secretary shall consider—

(A) the feasibility and advisability of entering into negotiations with the State of Louisiana or the Louisiana National Guard for the conveyance of the Plant;

(B) means by which the conveyance of the Plant could—

(i) facilitate the execution by the Department of Defense of its national security mission;

(ii) facilitate the continued use of the Plant by the Louisiana National Guard and the execution by the Louisiana National Guard of its national security mission; and

(C) evidence presented by the State of Louisiana of the means by which the conveyance of the Plant could benefit current and potential private sector and governmental tenants of the Plant and facilitate the contribution of such tenants to economic development in Northwestern Louisiana;

(C) the amount and type of consideration that is appropriate for the conveyance of the Plant;

(D) the evidence presented by the State of Louisiana of the extent to which the conveyance of the Plant to a public-private partnership will contribute to economic growth in the State of Louisiana and in Northwestern Louisiana in particular;

(E) the value of any mineral rights in the lands of the Plant;

(F) the advisability of sharing revenues and rents paid by current and potential tenants of the Plant as a result of the Armament Retooling and Manufacturing Support Program; and

(b) LOUISIANA ARMY AMMUNITION PLANT.—In this section, the term "Louisiana Army Ammunition Plant" means the Louisiana Army Ammunition Plant in Doyline, Louisiana, consisting of approximately 14,949 acres, of which 13,665 acres are under license to the Military Department of the State of Louisiana and 1,284 acres are used by the Army Joint Munitions Command.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House or Representatives a report on the study conducted under subsection (a). The report shall include the results of the study and any other matters in light of the study that the Secretary considers appropriate.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 823) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 824

Mr. LEVIN. Mr. President, on behalf of Senator FEINSTEIN, Senator REID, and Senator BOXER, I offer an amendment that would require the Secretary of Defense to submit to Congress a 2001 survey on potential perchlorate contamination at Department of Defense sites prepared by the U.S. Air Force Research Laboratory.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. FEINSTEIN, for herself, Mr. REID, and Mrs. BOXER, proposes an amendment numbered 824.

The amendment is as follows:

(Purpose: To require the submittal of a survey on perchlorate contamination at Department of Defense sites)

At the end of subtitle B of title III, add the following:

**SEC. 332. SUBMITTAL OF SURVEY ON PERCHLORATE CONTAMINATION AT DEPARTMENT OF DEFENSE SITES.**

(a) SUBMITTAL OF PERCHLORATE SURVEY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress the 2001 survey to identify the potential for perchlorate contamination at all active and closed Department of Defense sites that was prepared by the United States Air Force Research Laboratory, Aerospace Expeditionary Force Technologies Division, Tyndall Air Force Base and Applied Research Associates.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. There has been a clearance on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 824) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 785

(Purpose: To strengthen the authority under section 852 to provide Federal support for the enhancement of the emergency response capabilities of state and local governments)

Mr. LEVIN. Mr. President, on behalf of Senator DODD, I offer an amendment to establish a grant program to support increasing the number of firefighters to address emergencies and terrorist threats.

The PRESIDING OFFICER. Will the Senator please submit the amendment.

Mr. LEVIN. I apologize.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DODD, proposes an amendment numbered 785.

(The amendment is printed in the RECORD of May 21, 2003, under "Text of Amendments.")

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Mr. President, it has been cleared on this side. I ask unanimous consent that the Senator from Virginia be added as a cosponsor.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

Without objection, the amendment is agreed to.

The amendment (No. 785) was agreed to.

Mr. LEVIN. Mr. President, I also ask unanimous consent to be added as a cosponsor of the amendment. And I ask if we can leave the roll open for cosponsors until 6 o'clock tonight—until we go out—for additional people to be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 821

Ms. LANDRIEU. Mr. President, I can think of few better uses of Federal dollars than the benefits derived from our commitment to the National Guard's Youth Challenge Program. Every year, over 500,000 boys and girls drop out of school. High-school dropouts face a much more difficult life after leaving school than their peers who continue their educations to finish high school. Drug use and run-ins with the law often plague high school dropouts for a life-time.

The Youth Challenge Program has reclaimed the lives of over 45,000 children through the instillment of discipline, self-respect, commitment to citizenry, and the renewed pursuit of a diploma. It costs over $40,000 a year for a child to be detained in a juvenile detention center. On the other hand, Youth Challenge can reclaim a child from a life of wrong-turns for $14,000 a child.

I am pleased the President and the Senate have committed $65.2 million to the Youth Challenge Program. Youth Challenge is funded on a formula basis, whereby the Federal Government contributes 60 percent of the funds and States contribute 40 percent. Regrettably, many States are facing steep budget shortfalls, and they are having difficulty meeting the 40 percent match. Already, New York and Missouri have closed their Youth Challenge programs.

This amendment authorizes the Department to increase the Federal match, temporarily, until the States get their financial houses in order. For fiscal year 2004, the Federal match would increase to 65 percent. For fiscal year 2005 and fiscal year 2006 the Federal match would increase to 70 percent. However, it is expected the States will have recovered from budgetary difficulties by fiscal year 2007; therefore, the Federal match would fall back to 65 percent in all subsequent years.

There is no more effective program to make high school dropouts contributors, rather than anchors, to society. I hope you will join me in supporting this amendment.

Mr. WARNER. Mr. President, I believe we are ready to proceed.

Mr. REID. Mr. President, if the Senator will yield, without losing his right to the floor.

Mr. WARNER. Yes.

Mr. REID. Tremendous progress has been made in the last few hours, as we have seen by these amendments. We are very close to being able to issue a consent we hope will be agreed upon to finalize the bill, but we need just a minute to do that. There is a call in the cloakroom we have to resolve before we do that.

Mr. WARNER. May I suggest we put in a quorum call.

Mr. REID. Would the Senator from Virginia do that, please.

Mr. WARNER. The Senator from Virginia suggests the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now resume consideration of the Murray amendment, No. 691, and there then be 60 minutes of debate, equally divided in the usual form, prior to a vote in relation to the amendment, with no amendments in order to the amendment prior to the vote.

Mr. REID. Mr. President, if I may interrupt, I failed to mention this to my friend a second ago. Our leader has asked that the vote occur at 2:15, rather than an hour from the time it begins. We would still only have an hour of debate. There are other things we can do during that period of time. So I ask for that modification.

Mr. WARNER. Yes, that is acceptable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that following the amendments, that only amendments in order are relevant under the original agreement and subject to relevant second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. We have a package of amendments. There are additional amendments, all of which must be in conformity with the unanimous consent, pending relevancy at the desk. All have to be checked through that system. They are: First, Durbin; second, Domenici; third, Landrieu; fourth, Kerry. Further, Senator GRASSLEY has an amendment. All of these have to be passed through the parliamentary unanimous consent.

Mr. REID. These are subject to relevant second-degree amendments.

Mr. WARNER. I say to my distinguished colleague, there is a Boxer amendment regarding contracting, subject to a relevant second degree.

Mr. REID. We just got a call from Senator BYRD. We are going to have to wait.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

### AMENDMENT NO. 691

Mr. WARNER. Mr. President, again I proceed to a unanimous consent request as follows: I ask unanimous consent that the Senate now resume consideration of the Murray amendment No. 691, and there then be 60 minutes of debate equally divided in the usual form prior to a vote in relation to the amendment, with no amendments in order prior to the vote; I ask consent that the following amendments be the only amendments in order and be relevant as under the original agreement and subject to relevant second degrees: A package of amendments that have been cleared and are being cleared by both managers; the Boxer amendment regarding contracting and subject to relevant second degree; Domenici amendment on border security, to be resolved; Kerry, air travel; Landrieu, subject to being relevant; Grassley, ground systems, subject to relevancy.

Mr. REID. Reserving the right to object, Domenici, Kerry, Landrieu, Grassley also have the same language, that they be subject to relevant second-degree amendments. We have stated that twice. I want to make sure that is clear.

Mr. WARNER. I ask unanimous consent that following disposition of the above amendment, the bill be read a third time, and the Senate then proceed to a vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I now ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of S. 1104, introduced by Senator BROWNBACK, relating to parental notification, provided that immediately upon the reporting of the bill, the majority leader or his designee be recognized in order to file a cloture motion on the bill. I further ask consent that there then be 60 minutes for debate only, equally divided between Senators BROWNBACK and MURRAY, and that following that debate time, notwithstanding the provisions of rule XXII, the Senate proceed to an immediate vote on the motion to invoke cloture on the underlying bill, without intervening action or debate; provided further that if cloture is not invoked, the bill be placed on the calendar. If cloture is invoked, I would ask consent that it be in order to file first-degree amendments up to the cloture vote, and second-degree amendments up to 3 hours after the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, if the Senator will yield, this took just a few minutes to read. It took hours to accomplish.

We are now going to a situation where Senator MURRAY and Senator BROWNBACK will debate for 1 hour. Following that, there will be a vote on or in relation to the Murray amendment. Following that, we will work our way through these other amendments that have been declared to be in order on this bill. Some of them, I hope, will be resolved.

I personally extend my appreciation to the two managers of this bill for their patience, their understanding, and also Senator MURRAY and Senator BROWNBACK. The issue about which we are going to debate for an hour is very sensitive to everyone, those two Senators especially. They have also been courteous to each of us and each other. I think this is a fair way to proceed.

Mr. WARNER. I thank the distinguished Democratic leader. He has been too modest to say he, together with the distinguished Senator from Kentucky on this side, has been an integral part of enabling this agreement to be formulated.

I yield the floor.

### AMENDMENT NO. 691

The PRESIDING OFFICER. Now there are 60 minutes evenly divided on the Murray amendment. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, is the Murray amendment called up?

The PRESIDING OFFICER. It is pending.

Mrs. MURRAY. Mr. President, I ask that I be allowed to add cosponsors as follows: Senators SNOWE, BOXER, CANTWELL, COLLINS, SCHUMER, JEFFORDS, DURBIN, LAUTENBERG, CORZINE, and BINGAMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, the Senate now has before it a very important amendment. I think all of us know that women have played a critical role in all of our country's recent military actions.

In Afghanistan, in Iraq, and in missions throughout the world, women have demonstrated their skill, their sacrifice, and their courage. We can all be very proud of the women who have served in our military. They are our mothers, our daughters, they are our sisters, and they are our neighbors. They put themselves in harm's way to protect our freedom. They live and work in hostile combat zones under very dangerous conditions. They make sacrifices every day to defend our Nation.

But today, military women are forced to sacrifice their own constitutional rights, as they risk their lives to protect our freedom. No woman——

The PRESIDING OFFICER. Will the Senator suspend just a moment, please. Could we have order so the Senator from Washington can be heard?

Thank you very much. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, no woman should be forced to surrender her constitutional rights when she puts on a military uniform and volunteers to serve our country overseas. But that is exactly what happens today, and it must stop. The women of our military risk their lives to protect our rights, but if they serve abroad they are being denied access to safe, legal, constitutionally protected health care.

Today I am on the floor of the Senate to offer an amendment to ensure that our military women when they serve overseas have access to the same health care as they get here at home. I again thank all my cosponsors, Senators SNOWE, BOXER, CANTWELL, COLLINS, SCHUMER, JEFFORDS, DURBIN, LAUTENBERG, CORZINE, and BINGAMAN.

Before I go into detail, I want to clarify what this is about and what it is not about. There are four very important aspects to understand.

First of all, this amendment does not require any direct Federal funding of abortion-related services. My amendment simply requires these women to pay for any costs associated with an abortion in a military facility. So no direct Federal funding is involved.

Second, my amendment does not compel a medical provider to perform abortions. All branches of the military allow medical personnel who have moral or religious or ethical objections to abortion not to participate. So this amendment does not change or alter conscience clauses for military medical personnel.

Third, this will not create any significant burden on the military. It will not hinder the military's ability to carry out its missions or to provide medical services.

Finally, do not believe anyone who tells you that our military, the finest military in the world, is not capable of providing these health services or that our military is unable to determine the cost. The truth is that today the Defense Department allows for privately funded abortions in the case of rape or incest. The ultimate proof that this is something our military can do is that, prior to 1988, the Department of Defense did allow privately funded abortions at overseas military facilities.

So, clearly, this can be done. So let's make sure we are all straight on those four points. There is no direct Federal funding. No medical provider would be required to do anything they oppose. No significant burden would be placed on the military. And there is no doubt that our military can do this because it has done it before, prior to 1988, and does it today in cases of rape or incest.

Anyone who comes to the Senate floor and makes any of those claims I have just rebutted is raising red herrings as a distraction from the real issue. The real issue is the health of women who serve our country and respect for their rights and freedom.

The current policy on the books today is an insult to women. It is a rejection of their rights and it is a threat to their health. Under current restrictions, women who have volunteered to serve their country, and female military dependents, are not allowed to exercise their legally guaranteed right to choose, simply because they are serving overseas. These women are committed to protecting our rights as free citizens. Yet they are denied one of the most basic rights afforded all women in this country. This is an important women's health amendment.

Women should be able to depend on their base hospital and military health care providers to meet all of their health care needs. To single out abortion-related services could jeopardize a woman's health. The current policy does not ensure the access women need for four reasons.

First of all, a woman today must seek the approval of her commanding officer for transport back to the United States. That could be very humiliating and can be a deterrent to a woman to getting the care that she needs. We know, from a GAO report that was issued in May of 2002, that many commanding officers—and I quote:

> . . . have not been adequately trained about the importance of women's basic health care. Department of Defense officials said that lacking this understanding, some commanders may be reluctant to allow active duty Members, both men and women, time away from their duty station to obtain health care services.

So women have to face the humiliation of asking a superior officer for permission over something that the GAO found many commanders do not understand or appreciate.

Second, the current policy jeopardizes a woman's right to privacy because she must disclose her medical condition to her superiors with no guarantee that her medical concerns will be kept confidential. That is a very important point. She would have to disclose her medical condition to her superiors in the Air Force or the Army, in the service, with no guarantee that her medical concerns will be kept confidential.

Third, the woman is not afforded medical leave, so she is further penalized under the current policy.

And fourth, because of these unfair restrictions, many women are forced to seek care off the base, in a foreign country. That country may have different cultural and religious norms and different standards of health care. Many women have little or no understanding of the laws or restrictions in a host country, and there may also be significant language and cultural barriers as well. So let's be honest. Some of the countries our military operates in are not very progressive when it comes to women's issues, and that could threaten our service women.

In addition, these countries may not have adequate safety and medical standards. Here in the United States, we take for granted the safety of our health care service. When we seek care in our doctors' offices or in a clinic, we assume all safety and health standards are adhered to. Unfortunately, that is not the case in many countries.

Under current conditions, we are subjecting women to standards in a foreign country where they may not be safe, where they may not be health standards where we can assure that their basic health care is taken care of.

Finally, because of all these barriers, women may delay getting the care they urgently need. Many women are forced to delay the procedure for several weeks until they can travel to a location where safe, adequate care is available. Each week that an abortion is delayed there are greater risks to a woman's health.

So the current policy is humiliating. It is a threat to women's privacy. It is punitive. It is a threat to women's safety, and it is a threat to women's health. Those are not the types of burdens we should be putting on women who volunteer to serve our country and defend our freedoms.

The current policy is unfair to women. It denies them their constitutional rights. My amendment before the Senate today will correct that.

This amendment is supported by the American College of Obstetricians and Gynecologists. It is supported by the American Medical Women's Association. It is supported by Physicians for Reproductive Choice in Health. And it is supported by the National Partnership for Women and Families.

The Senate agreed to this amendment. The Department of Defense has followed this policy before. And, finally, let me just say, after the inspiring and courageous work our military women have done in Iraq and in Afghanistan, we owe them nothing less than the same rights they are fighting to protect for all of us.

This is a test for every Senator. Every Senator is going to have to answer to the women who serve our country overseas. Will you stand up for the rights of women who, today, are standing up to ensure your freedom? Either you respect the women who serve our country overseas and you agree that they deserve the same rights and freedoms as women here at home or you do not. That is the choice. Either you respect the women who serve our country overseas and you agree that they deserve the same rights and freedoms as women here at home or you do not. That is the case.

If you vote against the Murray-Snowe amendment, you are simply telling American servicewomen that when they serve overseas protecting our country and risking their lives that they can't be trusted with the constitutional right to health care that women here at home in the United States have. They deserve more respect than that.

I hope my colleagues will vote for the Murray-Snowe amendment.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 30 minutes.

Mr. BROWNBACK. Mr. President, I wish to, first, thank the Senator from Washington for bringing up this issue. I think there was a relevancy issue associated with it. There was a big debate about this last night. It was eventually deemed relevant.

I then proposed a second-degree amendment that would require parental notification of the type which is involved with 43 of our States. Forty-three States have parental notification—that a minor on a military base, a dependent, could not get an abortion until either parent was notified—just notified, not consent, just notified—within 48 hours before the abortion or that there be a judicial oversight. So that if either parent were not available or accessible, or the child didn't want to notify the parent, they could get the court to rule that the abortion go ahead and the parent not be notified or, if it were a catastrophic situation and the life of the minor was in jeopardy, the doctor could go forward and provide the abortion without a notification period.

That was the second degree that was being proposed. We had a spirited discussion here privately about this.

I thank the managers of the bill. I thank particularly the two whips on either side for pushing this forward to get us to resolve the issue; that what we are going to do today is take up the Murray amendment and take up the parental notification issue at a later date—I hope a week or two after we get back from the break. I think it is an important issue as well.

The parents in 43 States are notified if their minor child is seeking to have an abortion. We would extend this right to parents of military personnel as well. That is what is considered in the second degree.

I appreciate the Senator from Washington working that out with us so we are able to take up both of these difficult issues.

I also thank the Senator from Washington for her passion and caring for women in the armed services. She stands up strongly for women's rights, particularly for women's rights in the military. I appreciate that. I have no qualms about her passion or her heart at all. I recognize and applaud both.

But we have a narrow specific issue here that goes to the very core of what we are about as a society today. It goes to the very core issue of culture of life and culture of death that is being broadly discussed in the culture today. And that is being played out here on the issue of military bases. It goes to the issue of the legal status of the child in utero.

I certainly recognize the passion of the Senator from Washington for women's rights. I applaud that. But there is also another person involved here and there are other issues involved here.

On February 10, 1996, the National Defense Authorization Act for fiscal year 1996 was signed into law by then-President Clinton with a provision to prevent Department of Defense medical treatment facilities from being used to perform abortions except for when the life of the mother is in danger or in the case of rape or incest.

That is the current status for the use of military base health facilities to provide for abortion. They can be provided at military bases in the cases of rape, incest, or when the life of the mother or military personnel is endangered. This would be obviously women in the military or a female dependent in the military.

This provision—10 United States Code 1093(b)—reversed a Clinton administration policy instituted on January 22, 1996, permitting abortions to be performed at military facilities, period.

In other words, all abortions on demand could be provided according to the Clinton administration policy that was put into place immediately after President Clinton became President.

Previously—from 1988 to 1993—the performance of an abortion was not permitted at military hospitals except when the life of the mother was endangered.

I think you can start to see the progression here that was taking place.

Under President Reagan, there was a provision that you could provide an abortion on a military base if the life of the mother was in danger. That continued through President Reagan and President Bush 1. Then President Clinton came into office and immediately opened up all military facilities for all abortions and said they could be performed.

In February 1996, that was limited. Abortions could be provided in cases of rape and incest and when the life of the mother was endangered, but it was an expansion from where it was in the Reagan administration.

That is the law of the land as it is today.

The Murray amendment, which would repeal this pro-life provision, attempts to turn these taxpayer-funded DOD medical treatment facilities into facilities that provide abortion on demand for military personnel and their dependents. The Senate should reject this amendment. This is what the issue is about.

When a similar amendment passed last year, Secretary of Defense Donald Rumsfeld warned that the President's senior advisers would recommend the President veto the Defense authorization bill on this issue. So you are talking about an abortion issue of providing abortions in medical military facilities, a narrow, overall issue bringing down the entire Defense authorization bill—on this issue where abortions are provided for rape, incest, life of the mothers, but not on demand for all abortions. That could bring down the whole bill.

Using the coercive power of Government to force American taxpayers to fund health care facilities where abortions are performed would be a terrible precedent that would put many Americans in a difficult position of saying: They are using my taxpayer money to fund something that I don't agree with—abortion on demand. Yes, I can understand it in cases of life of the mother, certainly, and of rape and incest, but not on demand.

When the 1993 policy permitting abortions in military facilities was first promulgated, military physicians, as well as many nurses and supporting personnel, refused—refused—to perform or assist in elective abortions. In response, the administration sought to hire civilians to do abortions. That should tell us something about what is taking place here. The military personnel themselves—the physicians—do not want to do these elective abortions.

Therefore, if the Murray amendment were adopted, not only would taxpayer-funded facilities be used to support abortion on demand, but resources would be used to search for, hire, and transport new personnel simply so that the abortions could be performed outside of this narrow scope of rape, incest, life of the mother that would be on all other abortions.

In fact, according to CRS, a 1994 memorandum from the Assistant Secretary of Defense for Health Affairs—this would be under the Clinton administration—"direct[ed] the Military Health Services System to provide other means of access if providing prepaid abortion services at a facility was not feasible"—how outside individuals performed abortions on military bases.

One argument used by supporters of abortions in military hospitals is that women in countries where abortion is not permitted will have nowhere else to turn to obtain an abortion. However, DOD policy requires military doctors to obey the abortion laws of the countries where they are providing services, so they still could not perform abortions at those locations.

Military treatment centers, which are dedicated to healing and nurturing life, should not be forced to facilitate the taking of the most innocent human life: the child in utero—and this as an elective, on demand, not in cases of rape, incest, life of the mother, which are currently provided under the law concerning the Department of Defense.

I urge my colleagues to vote down this Murray amendment and free America's military and the Department of Defense authorization bill from abortion politics. American taxpayers should not be forced to fund facilities that destroy innocent human life. I urge my colleagues to reject that amendment.

I would also urge my colleagues, when we bring up the parental notification bill, that they would support such a provision. The parental notification bill would—and that is one parent, not both—one parent is simply notified 48 hours in advance of an abortion being provided to their minor child if that is going to take place on a military base. And if either parent cannot be reached, or if the child believes this would endanger, somehow, him or herself, there is a judicial override or the doctor could go ahead and even perform and note in the record as to why, for health reasons, he did not notify. This isn't consent, it is notifying the parent.

It is not the issue up, but thanks to the Senator from Washington, to help get this agreed to, to work this out, we will be considering that parental notification provision.

Mr. President, I reserve the remainder of our time.

We do have other speakers to present. If it would be appropriate for the Senator from Washington, we could bounce back and forth. I do have a speaker who is here.

Mr. President, how much time remains on our side on the amendment?

The PRESIDING OFFICER. Nineteen minutes, 20 seconds.

Mr. BROWNBACK. Mr. President, I yield up to 10 minutes to my colleague from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I rise in opposition to the Murray amendment.

We worked hard on this bill. I serve on the Armed Services Committee. We are still in a state of conflict in Iraq. We have hostilities and dangers around the world. We made a commitment, as a Senate, to move forward, to move this Defense bill early this year, not wait until the last minute, to do our work properly.

This bill is endangered now by a highly controversial amendment, which I oppose, and which I think a majority in this body will oppose. It could affect adversely our ability to conduct a harmonious conference with the House of Representatives. It could even result in a veto by the President of the United States.

I know there is a strong abortion agenda still out here, even though the polling numbers continue to show erosion for that position.

This side of the aisle—Senator BROWNBACK and others who care about the issue—has not injected abortion into the Defense debate, but it has been raised by the pro-abortion agenda groups. I think that is not healthy. I wish it had not happened. I know there has been a debate over whether or not it is even relevant, but the Parliamentarian had ruled that it is, so we will have this vote today.

I will just note, as an example of the reality of the problem, we had a bankruptcy bill that I worked on in the Judiciary Committee—and others did—for several years. We voted on it on the floor of this body and got 87 votes for it. Yet it died in committee because a pro-abortion amendment had been placed on it. The conference committee could not break the deal, and eventually the entire bill failed.

Mr. CARPER. Will the Senator yield?

Mr. SESSIONS. Yes.

Mr. BROWNBACK. On your time, Mr. President.

Mr. CARPER. I just want 1 minute, if I could.

The PRESIDING OFFICER. The Senator from Alabama controls the time.

Mr. SESSIONS. I yield for 1 minute, if he would use Senator MURRAY's time.

Mrs. MURRAY. I am happy to yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. CARPER. Mr. President, on the issue the Senator raises in relation to the bankruptcy legislation, I make a point of clarification. This is an issue I care about as much as the Senator from Alabama. The language that died, after having been reported out to the conference committee, was language that said when a person commits a violent act for which they are convicted and fined, they cannot discharge that fine in a court of bankruptcy.

It does not say anything about abortion. It does not say anything about abortion clinics. It says if you have been convicted of a violent act, you cannot go to a court of bankruptcy and discharge that claim for which you have been convicted and fined. That is what it said.

Mr. SESSIONS. Will the Senator yield for a question? Does the Senator yield?

Mr. CARPER. I just wanted to make that clear.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I do not think the Senator, who is a great colleague, would dispute the fact that language resulted in the failure of that bill.

People care about this issue. It is a big deal to people. It is a personal and emotional issue that I don't think needs to be pressed at this point.

Our military physicians and nurses are not happy with it. It would require us to utilize military hospitals as facilities to carry out abortions. It would make our hospitals a part of the abortion process. It would utilize Federal property and resources to that degree. It covers not just foreign hospitals but every hospital in America.

Yes, it is legal—clearly legal—that a woman can have an abortion and can use her own money to that effect, but we have sort of reached an understanding and compromise in the Congress that it is legal but because of respect for people with differing views, we just will not use taxpayers' money to fund it. There is just sort of a truce, in a way, that has been reached. I think it is probably something we just have to live with at the present time.

I don't see any need to pressure or embarrass doctors and nurses who do not feel comfortable doing this. We know this. There was a survey done of the Army, Navy, and Air Force obstetricians; 44 of them were surveyed. All but one said they adamantly opposed doing abortions. One later said that physician was opposed to abortions. Some of these were women physicians. Nurses are not comfortable with it. I don't believe we ought to be requiring military hospitals to go out and hire other physicians to come in on Government taxpayer funded property to conduct these procedures. It is just not necessary.

President Bush has made clear he opposes using taxpayers' money to fund abortions. Passage of this amendment would threaten that.

I believe women are playing an increasingly valuable role in our military. I spent over 10 years as a reservist and served with many fine women officers. The unit I was a part of in Mobile, AL, is now in Kuwait commanded by a woman officer. I can't tell you how proud I am of them. I am not hearing from the women I know in the military that this is something they are demanding, frankly. I don't think the American people are.

I will just point out some numbers that deal with this subject. If anybody cares, a January 2003 poll of ABC News/Washington Post—not conservative groups—showed that only 23 percent were for abortion to be legal in all cases. That is less than a fourth. The same poll found, when asked this question, should we make abortion harder to get, 42 percent said yes; easier to get an abortion, 15 percent said yes. So 42 percent thought it ought to be harder to get an abortion and 15 percent thought it should be easier.

In January of 2003, a CBS News/New York Times poll asked this question: should abortion be generally available, 39 percent; stricter limits, 38 percent; not permitted, 22 percent. Sixty percent favored either stricter limits or not permitted. A CNN Gallup poll in 2003 asked, should parental consent be required for an abortion? Yes, 73 percent.

Regardless of how we personally feel about this issue, it ought not to be on this bill. It is not what we need to be debating now. We need to be focused on our men and women in harm's way, providing them with the necessary funding and resources and equipment needed to do their job. We don't need to jeopardize this bill in conference or subject it to a possible Presidential veto as a result of this amendment.

I thank Senator BROWNBACK for his leadership and yield back such time as I may have.

Mr. BROWNBACK. Mr. President, I reserve the remainder of my time.

Mrs. MURRAY. How much time remains on our side?

The PRESIDING OFFICER. Senator MURRAY has 18 minutes 15 seconds.

Mrs. MURRAY. I yield 10 minutes to the Senator from Illinois.

Mr. DURBIN. I thank the Senator from Washington. I listened to a description of her amendment by the Senator from Alabama. It did not sound like the amendment she described. I want to ask a few questions so it is clear.

Does this amendment in any respect require the Federal Government to pay for an abortion?

Mrs. MURRAY. This amendment does not require the Federal Government to pay for an abortion. In fact, it will allow the woman herself to pay out of her own personal private funds for an abortion in a military hospital overseas.

Mr. DURBIN. So under this amendment, women in the U.S. military who seek, through their constitutional right, an abortion service would have to pay for it out of their own pocket?

Mrs. MURRAY. That is correct.

Mr. DURBIN. Secondly, there has been a suggestion made that if your amendment passes, it will require doctors, for example, in medical facilities connected with the armed services, to perform an abortion if they object to performing that procedure under their own conscience; is that correct?

Mrs. MURRAY. That is not correct. The amendment, as I have offered, has a conscience clause for all doctors overseas.

Mr. DURBIN. So if a doctor at a military hospital says, even though this young woman who is in the armed services comes to me for an abortion procedure and I object to it on religious and moral grounds—that doctor is not going to be compelled to perform an abortion under this amendment?

Mrs. MURRAY. That is absolutely correct. This amendment does not compel any medical provider to perform an abortion.

Mr. DURBIN. There has also been a suggestion that in U.S. military hospitals around the world, there is no provision for abortion services; is that correct?

Mrs. MURRAY. Would the Senator restate the question?

Mr. DURBIN. It is my understanding that under certain circumstances, such as rape or incest, at military hospitals around the world today, abortions are being performed; is that correct?

Mrs. MURRAY. The Senator is correct. In all military facilities, women who are victims of rape or incest do have the opportunity to receive abortions.

Mr. DURBIN. I thank the Senator from Washington. That clarifies some of the things that have been said. The Federal Government will not be paying for the abortion. The woman in the military who seeks it must pay out of her own pocket. The doctors involved in this procedure will not be compelled to do so if it violates their own morality or their own conscience by the Murray amendment. And military hospitals serving U.S. personnel around the world today already provide abortions in emergency circumstances involving rape or incest.

We have to be honest about what the amendment does and does not do. This is what it does. It says to women who have volunteered—and we are now dealing with an All-Volunteer Force—to join the U.S. military and to lay their lives on the line, to risk their lives and their future for their country, that they will not be compromised. They will not be surrendering their constitutional right to make a choice to control their own reproductive freedom.

There are some on the other side who say, no, they may have that constitutional right in the United States, but once they have taken the oath to serve the U.S. Army or Navy, in that situation they have given up their constitutional right. Is that what we want to say?

After going through the Iraqi war where women in uniform were captured as prisoners of war, put their lives on the line, are we saying to those women and thousands like them that if you join the U.S. military you give up your constitutional right? Is that what we are saying to those who we are trying to recruit to join the military? I hope not.

I hope we are saying that we recognize the reality of service, particularly overseas. A woman finds herself in a difficult circumstance, where she wants to seek, under her constitutional right guaranteed by the Supreme Court, the right to terminate a pregnancy in the first, second, and third month. Now in the military she has to go ask permission of the commanding officer and may be forced into a situation where she has to find a way back to the United States in order to protect her own health and make her own decision.

This comes down to a fundamental question: Are women serving in the U.S. military to be treated as second-class citizens? Those who oppose the Murray amendment say, yes, once you have said, as a woman, that you will serve in the military, you have given up your constitutional right to control your own body and your own reproductive freedom.

That is a terrible thing to say. Frankly, it says that we denigrate the contribution and the heroism of the women who joined the U.S. military.

What Senator MURRAY is asking for is perfectly reasonable. A woman in the military at her own expense can go to a military hospital which already provides abortion services as a normal course for victims of rape and incest, can go to a doctor who has willingly and voluntarily agreed to be part of this counseling and part of this procedure, and pay out of her own pocket for the procedure to take place. That is not a special privilege. In fact, it says to that woman, you are just as much an American citizen as your sister back home.

If we go the opposite course, frankly, it sends a very sobering message to recruiters around America that you have to be honest with the women you are seeking to recruit and tell them that once they take that oath to the United States to serve in the military, they have given up a constitutional right protected by the laws of the land.

I commend the Senator from Washington for her leadership, and I support the amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mr. BROWNBACK. How much time do I have remaining?

The PRESIDING OFFICER. Eleven minutes fifty-six seconds.

Mr. BROWNBACK. If I could engage and ask the Senator from Washington, to make sure I am on the same amendment—I have her amendment here. What I read here is that the amendment does two things: It says:

> Section 1093 of title 10, United States Code, is amended—
>
> (1) by striking subsection (b); and
>
> (2) in subsection (a), by striking "RESTRICTION ON USE OF FUNDS."

So it strikes those on two words. That is the only thing I have of an amendment. Am I correct? Is that the actual text of the amendment?

Mrs. MURRAY. Yes, the Senator is correct.

Mr. BROWNBACK. By striking subsection (b), that section reads: Restriction on use of facilities: No medical treatment facility or other facility of the Department of Defense may be used to perform an abortion except for—the life of the mother will be in danger if the fetus was carried to term or in the case in which the pregnancy is the result of an act of rape or incest.

That provision will be stricken.

That is what I have got of what the amendment is. Is that correct?

Mrs. MURRAY. If the Senator will hold a second, I will check and then respond.

Mr. BROWNBACK. I will make my full point. We are talking about overseas facilities. In actuality, the striking says "no medical treatment facility or other facility of the Department of Defense. . . ." So you are talking about overseas facilities and domestic facilities. These would be facilities overseas and in the U.S. that could both be used to provide abortion on demand. This is removing this restriction that it would just be in the case of the life of the mother, rape, and incest, is that correct?

Mrs. MURRAY. The Senator is correct only in that it would strike the language in the bill which would put us back to the previous language that is in the statute today, which I am happy to provide him, which I accurately described in my statement.

Mr. BROWNBACK. Maybe the Senator can answer this. This would open up both domestic and overseas facilities because the language as stricken says that no medical treatment facility or other facility of the Department of Defense may be used—it has no limitation saying this is just overseas facilities. It is any DOD facility.

Mrs. MURRAY. The Senator is correct. I remind the Senator that domestically in the service, a woman has the right to receive health care services at a hospital. So where this affects a woman is when they are serving overseas and they don't have the same access.

Mr. BROWNBACK. Still, she would have access to DOD facilities in the U.S.

Mrs. MURRAY. Yes, and she would have to pay for it out of her own money.

Mr. BROWNBACK. I also note the Senator from Illinois talked about conscience clause protection, where somebody would not have to provide this. That is not in your amendment. You are talking about the base portion of any Department of Defense medical doctor.

Mrs. MURRAY. Under current law, all medical providers in the Department of Defense have a conscience clause.

Mr. BROWNBACK. Thank you. Your amendment does not have conscience clause protection. That is already part of the base if you are a military physician, to be able to provide that.

I want to hone in on what the amendment is about. It is about opening up DOD medical facilities, domestically and internationally—the Senator argues there won't be that much demand domestically, but it opens it up both ways to provide abortion on demand in the United States to U.S. military personnel and their dependents. So you are talking about a broad array of taxpayer-funded facilities you are opening up to provide abortions in Kentucky, Washington, Kansas, or wherever.

I want to agree with the Senator from Washington that we are talking about the use of the facilities here—taxpayer-funded facilities—that provide abortions and not necessarily the doctor. The doctor may be recruited from outside and paid for privately, but you are using taxpayer-funded facilities to provide abortions. So you can see a situation in this country where you would have a military facility in Kentucky or in the State of Washington being protested by people who are pro-life because their taxpayer-funded facility is being used to provide abortions on demand—not just for the life of the mother, rape, and incest.

Again, I recognize the strong support Senator MURRAY puts forward for the rights of women, and I applaud that. But we are talking about a very sensitive issue for a number of people when you talk about the use of taxpayer dollars to do something they really don't agree with. I don't think it is wise to do that, one. Two, I don't think we should be tying up the DOD authorization bill on probably the central most difficult issue of our day for people to really wrestle with. That is what this amendment would do.

For those reasons, I urge my colleagues to look at the actual text of the amendment and oppose the Murray amendment.

I yield the floor and retain the balance of my time.

The PRESIDING OFFICER. The Senator has 12 minutes 25 seconds.

Mrs. MURRAY. Mr. President, I will make a couple of points. Under current law, in the case of rape or incest, at a military facility an abortion can be performed. No one is protesting that today. I again advise my colleague that a woman who is in this country has this right, anyway. Where we are concerned, rightfully, is for women who are serving overseas. They don't have a constitutional right today to have an abortion.

Let me tell you what happens to a woman if she finds herself in difficult circumstances and is serving overseas. She has to go to her commanding officer. Believe me, that is very difficult for a woman to do, go to a commanding officer and describe the circumstances she finds herself in, and ask for permission to fly home to have an abortion performed, where it is legal.

Mr. President, that is humiliating, but it is also difficult. She then has to wait for a C–17 to be available. Think about this. We have just seen the conflicts in Afghanistan and Iraq, and we have to make a C–17 available for a woman to fly home. That is ridiculous. They have the medical facilities there already, and the facilities are available. So we are putting the services at risk when we have to fly them home. This is humiliating and she has to ask her commanding officer. A woman serving in the country doesn't have to do that. It is difficult and cumbersome.

This also really jeopardizes a woman's right to privacy because in order to go to her commanding officer, she has to disclose her medical condition. We all would think the officer would respect her rights, but that is not always the case. She has to put that question in her head when she goes to ask them. I don't think it is fair to the women overseas when they disclose their medical condition with no guarantees that they will be kept confidential. Think of the potential of using that against a woman in the service. I think that is something none of us want to place a young woman in the position of having to do.

We need to remember a woman is not given any medical relief and she is penalized under this policy. She has to wait for a C–17 to be available, fly home, take the time to have the procedure done, and then return to military service. We are taking her out of service when we need her, and we are causing her a tremendous amount of distress, too.

Remember, we are talking about a service that is protected constitutionally for any woman who is here in this country. But these are women who have volunteered to serve us overseas in the military.

Finally, let us not forget what we have done to women today who are serving us in the military and fighting for our freedom. We have put them—if they don't want to ask their commanding officer, wait for a C–17, and all of the other conditions we put on them—today, they can go to a hospital in a foreign country. Well, think of the difficulties of that, where they don't have the same culture, don't speak the same language, if a woman has a health care procedure done and the doctor cannot tell her what she needs to do in the following 24 hours or weeks to make sure she is taking care of herself correctly, and she cannot understand him because she doesn't understand the language.

Why would we do that to a woman serving us overseas? I think we ought to go back and put in place a provision in the law that has worked before that simply gives women who serve us the same constitutional right women in this country have today. That is what this amendment is about. That is what this vote is about. I hope our colleagues will vote with us in a few minutes when the vote is called.

I retain the balance of my time.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Kansas is recognized.

Mr. BROWNBACK. How much time remains on both sides?

The PRESIDING OFFICER. There are 6 minutes on the time of the Senator from Kansas and 8 minutes on the time of the Senator from Washington.

Mr. BROWNBACK. Mr. President, I wish to make a couple comments in regard to what Senator MURRAY has just put forward. She said we are talking about international facilities, but the amendment covers international and domestic facilities, which we have established here, so it would be domestic facilities. It is going to be abortion of all types. It could be abortion on demand at domestic facilities.

If the Murray amendment is adopted, it would be for not just military personnel but also for minors, dependents who would be able to use these same facilities for abortion on demand. The reason I wanted to put forward a parental notification amendment is we will have a situation, if the Murray amendment is adopted and the amendment I would put forward is not accepted, we will have a situation at military bases throughout the United States of minors of military personnel seeking abortions and not notifying their parents and not having to notify their parents, even though State laws require a different situation.

I want to check that point to make sure we would be able to do things differently on a military base than in State law.

The point being we are talking about a massive expansion of the use of medical facilities in a very troubling area of the law. There is the issue the Senator from Washington raised about how this would actually work. I submit this is working fairly well right now. We are not receiving a huge level of complaints from women in the military saying: I want to be able to receive an abortion in any medical facility the military has anywhere in the world in cases outside of rape, incest, and life of the mother, which are currently provided. This is quite an expansive position on a very tense subject, and it is one that threatens to bring down the whole Department of Defense bill. I urge my colleagues, this is not the time and place for us to do this. It would be inappropriate to do so.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. Eight minutes and 13 seconds.

Mrs. FEINSTEIN. May I have 5 minutes?

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair. Mr. President, I also thank the Senator from Washington. I think she is doing a great service to the women of our country in pointing out what the problem is here.

I was sitting in my office doing work, and I heard the statement that this is abortion on demand. I thought it might be useful for me to read into the RECORD one letter I received last year from a woman on this very subject that indicates the difficulty of the circumstances women can find themselves in while living overseas.

I am about to read the story of Holly Webb. Holly is the wife of a staff sergeant in the Air Force stationed in Misawa, Japan. I would like you to hear her story:

> My husband was stationed in Misawa, Japan, and I moved over in September 2001 to join him. I was pregnant for the first time. Prior to my arrival in Japan, I felt like something was wrong with my pregnancy, and at 6 weeks I went to the emergency room at the Eglin Air Force Base in Florida where we had been stationed.
>
> My doctor there told me that everything seemed OK from what they could tell. At 16 weeks, I was in Japan with my husband, and I started bleeding. I would bleed weekly for 5 days and then the bleeding would subside. I went to the military hospital at Misawa and they told me I had a placenta previa and that this was a normal side effect and they sent me home.

Just so everybody knows, placenta previa is a serious problem some women confront which can impact their pregnancy. It can cause severe problems for the woman including hemorrhaging both during delivery and post-partum.

Continuing the letter:

> At 20 weeks, I started bleeding heavily, and I went back to the hospital. I thought that my water had broken but the hospital told me it was not an emergency and kept me overnight. My OB/GYN did not visit me until the next morning. They told me that the results of my triple screen blood test showed possible spina bifida which necessitated an ultrasound. When they did the ultrasound, they discovered, as I had thought, that there was no amniotic fluid surrounding the fetus. They were unable to detect whether or not the fetus had spina bifida.
>
> For the next day, I was administered IV fluids, and my doctor mentioned that I might be dehydrated. My cervix remained closed, however, and they told me there was still a fetal heartbeat. I was told I might deliver spontaneously within weeks or months, but if the baby survived, it would have serious health complications due to the fact I was at risk for infection as well and because there was no amniotic fluid surrounding the baby.
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> When I asked the hospital what my options were, they told me they could not induce labor or dilate my cervix to deliver because it would be considered an abortion, but that I was at risk for infection. My doctor told me that in order to have an abortion, they would have to have my situation reviewed by a medical board and that she didn't know how long this would take. She told me that during her 7 or 8 years of practice in a military hospital, no matter what the situation was, a woman's request for an abortion was always denied.
>
> My doctor told me the only way I could receive additional medical treatment was if I became ill. I was told to go home and monitor my temperature and to return when I had a fever or was in pain. I asked if there was any other option because I was worried about dying.
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> At that point, I felt like my choices were either to go home and wait for a life-threatening infection so that my labor could be induced or go to an outside hospital where I didn't speak the language and could not be sure that the treatment would be safe.
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> When I got to the private Japanese hospital, the doctor told me there was a serious risk for infection and that he needed to put me on antibiotics immediately. If I didn't get antibiotics through IV immediately, I would die. I contacted my grandmother in the United States who wired me $2,000 to pay for the hospital visit.
>
> I checked into the hospital about 4 hours later. They dilated my cervix over a period of 2½ days and induced labor. I delivered a stillborn baby. The military hospital told me that this was an elected abortion and not a stillborn birth.
>
> I am now 17 weeks pregnant again, and my only option is to use the military hospital for my OB/GYN treatment. I have begged them to let me off the base to go to a private doctor because of my experience last year. I believe that my pregnancy puts my health at risk. I would again be prevented from making decisions I need to about my pregnancy.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. I thank the Chair. Let me just make a point.

Mrs. MURRAY. I yield the Senator such time as she needs.

Mrs. FEINSTEIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this is just one example of what a women living abroad might go through. We can think of all kinds of other situations in foreign countries that might necessitate the termination of a pregnancy. Many of these women are living in countries that don't have good health care systems in place, skilled providers, or access to safe or clean hospitals.

This ban is a huge mistake. It is in fact a double standard. I do not know of a health situation a man could encounter that would be dealt with at a military hospital in quite the same manner. Nor do I know of a health situation a man could encounter that a military hospital would not treat.

I thank the Senator from Washington for her amendment and for her leadership on this important issue. I urge my colleagues to support this amendment.

Ms. SNOWE. Mr. President, I support the Murray-Snowe amendment. I comment Senator MURRAY for her strong and unflagging leadership on this issue, and am pleased to once again join with her on the critical amendment to the Department of Defense authorization. I am pleased to join my colleague in support of this amendment to repeal the ban on abortions at overseas military hospitals, an amendment whose time has long since come.

Year after year, time after time, debate after debate, we revisit the issue of women's reproductive freedoms by seeking to restrict, limit, and eliminate a woman's right to choose. While at times we are able to take one step forward we end up taking two steps back. Last year we were able to garner a majority of the Senate only to have this language removed in conference. I believe that ultimately, we will prevail, that my colleagues on both sides of the Capitol will realize that this is a policy change that makes sense, and I hope that will occur on this reauthorization.

When we last considered this amendment, almost 11 months ago to the day, we had more than 378,000 troops stationed overseas, today we have over 10,000 more. Of those more than 35,000 of these troops were women as of April 2002 and women make up almost 36,500 of the troops today. We recognize the impact that the failure to repeal this ban has on so many of these women.

Since last year's reauthorization debate, the Commander-in-Chief has called our Nation's military into action on another front. As we watched the 24 hour news stations' broadcasting reports from their embedded reporters, we saw more female faces amongst the troops than ever before. We are considering this Defense authorization during a time of war when Americans, both civilian and military, are fighting terrorism and tyranny all across the globe, both men and women. These women, these soldiers, airmen, sailors and marines, deserve access to the same health services that women here in the States have.

As I think about this last conflict, it occurs to me how ironic it is that the very people who are fighting to preserve our freedoms, those who are on the front lines defending this war on terrorism or other parts of the globe, are supporting those who are fighting, are currently the least protected in terms of the right to make choices about their own personal health and reproductive decisions.

“That is why I stand to join my colleague, Senator MURRAY, once again in overturning this ban on privately funded abortion services in overseas military hospitals, for military women and dependents based overseas, which was reinstated in the fiscal year 1996 authorization bill, as we all know. It is a ban without merit or reason that put the reproductive health of these women at risk.

Specifically, as we know, the ban denies the right to choose for female military personnel and dependents. It effectively denies those women who have voluntarily decided to serve our country in the armed services safe and legal medical care simply because they were assigned duty in another country. It makes me wonder why Congress would, year after year, continue to leave these women who so bravely serve our country overseas with no choice by denying them the rights that are guaranteed to all Americans under the Constitution?

Our task in this debate is to make sure that all of America's women, including those who serve in our Nation's Armed Forces and military dependents, are guaranteed the fundamental right to choose. Our task is not to pay for abortions with Federal funding—contrary to what our opponents may claim, after all, since 1979 the Federal law has prohibited the use of Federal funds to perform abortions at military hospitals. This amendment would not change that. However, what it would do is reinstate the policy that was in place from 1979 to 1988, when women could use their own personal funds to pay for the medical care they need.

In 1988, the Reagan administration announced a new policy prohibiting the performance of any abortions at military hospitals even if it was paid for out of a woman's private funds—a policy which truly defies logic.

President Clinton lifted the ban in January 1993, by Executive order, restoring a woman's right to pay for abortion services with private, non-Defense Department funds. Just when we had thought that logic would prevail, in 1995, through the very bill we authorize today, the House International Security Committee reinstated this ban which was then retained in the conference. And here we are 8 years later trying to undo this unnecessary threat to our female servicewomen.

Let me take a moment to reiterate a very important point. President Clinton's Executive order did not change existing law prohibiting the use of Federal funds for abortion, and it did not require medical providers to perform those abortions. In fact, all three branches of the military have conscience clauses which permit medical personnel with moral, religious, or ethical objections to abortion not to participate in the procedure. I believe that is a reasonable measure and one I do not take issue with.

Opponents of this amendment argue that changing current law means that military personnel and military facilities are charged with performing abortions, and that this, in turn, means that American taxpayer funds will be used to subsidize abortions. This is a wholly and fundamentally incorrect. Every person who has ever been in a hospital for any type of procedure knows full well that the hospital and the physician is able to account for every charge, the cost of every minute, every physician, every nurse, each aspirin, the supplies, the materials, the overheads, the insurance, anything that is part of the procedure. Under this amendment, every expense is included in the cost that is paid by private funds. Public funds are not used for the performance of abortions in this instance. That is an important distinction to reinforce today. I know it is easy to confuse the debate, to obfuscate the issues. What we are talking about here is restricting how a woman using her own private insurance or money in support of that procedure. We are not talking about using Federal funds.

This amendment we are fighting for is to lift the ban on privately funded abortions paid for with a woman's private funds. That is what this issue is all about. Proponents of this amendment believe that a woman would have the ability to have access to a constitutional right when it comes to her reproductive freedom to use her own funds, her own health insurance, for access to this procedure.

Congress works hard at times of war, and at times of peace, to support our American soldiers, sailors, airmen and marines, as well as their dependents, our armed services and our armed forces have no better friend and ally than the Congress. I would argue that is the case in most situations, but obviously there is a different standard when it comes to the health of a woman and her reproductive decisions.

This is especially confounding when we all completely agree that our military members and their families have sacrificed a lot, including their lives, for the sake of our Nation and what we believe. For those women overseas we are asking them to potentially, and unnecessarily, sacrifice their health under this ban. Making this type of decision is perhaps the most fundamental, personal, and difficult decision a woman can face. It is a very personal decision. It is a decision that should be made between a woman, her doctor, her family. It is a constitutional right. It is a constitutional right that should extend to women in the military overseas, not just within the boundaries of the United States.

I think it is regrettable that somehow we have demeaned women, in terms of this very difficult decision that they have to make. There has been example upon example given to us, to my colleague Senator MURRAY, about the trying circumstances that this prohibition has placed on women who serve in the military abroad. I do not think for one moment anybody should minimize or underestimate the emotional, physical hardship that this ban has imposed, a ban that prohibits a woman from using her own private health insurance, her own private funds to make her own constitutional decision when she happens to be in the military serving abroad.

The ban on abortions in military hospitals coerce the women who serve our country into making decisions and choices they would not otherwise make. As one doctor, a physician from Oregon, recalls his days as a Navy doctor stationed in the Philippines, he describes the experiences and hardships that result unnecessarily from this policy. Women have to travel long distances in order to obtain a legal abortion—not necessarily a safe abortion, but a legal one. Travel arrangements that are difficult and expensive. Not to mention the fact that in order to take leave, they had to justify taking emergency leave to their commanding officer. Imagine that circumstance. Forcing women to make a very personal decision so well known.

However, for those women who choose to find an alternative, their only option is to turn to local, illegal abortions. In other circumstances, their dignity was offended and often their health was placed at risk, which was certainly reinforced by the letter that was sent to both Senator MURRAY and from now retired, Lt. Gen. Kennedy, the highest ranking woman in the military. She speaks with great perspective about the humiliation and the demeaning circumstances in which many women were placed, not to mention putting their health at risk.

I hope we can overturn this prohibition in law and grant women in the military the same constitutional right that is afforded women who live within the boundaries of the United States of America. No one should leave their constitutional rights at the proverbial door, but that is what this ban has done. Our constitutional rights are not territorial and women who serve their country should be afforded the same rights that women here in America have. I think this ban is not consistent with the principles which our Armed Forces are fighting to protect, and which the American people so overwhelmingly support. I hope we move forward, and I hope we would understand that women in the military and their dependents overseas deserve the same rights that women have here in this country. They have and should have the protections of the Constitution, no matter where they live.

I hope the Senate will overturn that ban and will support the amendment offered by Senator MURRAY and myself.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the amendment offered by Senators MURRAY and SNOWE to the Department of Defense reauthorization bill to repeal the ban on privately funded abortions sought by U.S. servicewomen, spouses, and dependents in military hospitals overseas.

The Supreme Court acknowledges a woman's right to choose as a constitutionally protected freedom. That right is not suspended simply because a woman serves in the U.S. military or is married to a U.S. service member and living overseas.

Women based in the United States and using a U.S.-based military facility are not prohibited from using their own funds to pay for an abortion. Having a prohibition on the use of U.S. military facilities overseas creates a double standard, and discriminates against women service members stationed overseas.

Banning privately funded abortions on military bases endangers a woman's health. Service members and their dependents rely on their military base hospitals for medical care. Private facilities may not be readily available in other countries.

For example, abortion is illegal in the Philippines. A woman stationed in that country or the spouse of a service member would need to fly to the U.S. or to another country—at her own expense—to obtain an abortion. We don't pay our service members enough to assume they can simply jet off to Switzerland for medical treatment.

If women do not have access to military facilities or to private facilities in the country they are stationed, they could endanger their own health by the delay involved in getting to a facility or by being forced to seek an abortion by someone other than a licensed physician.

We know from personal experience in this country that when abortion is illegal, desperate women are often forced into unsafe and life-threatening situations. If it were your wife, or your daughter, would you want her in the hands of an untrained abortionist on the back streets of Manila or Argentina? Or would you prefer that she have access to medical treatment by a trained physician in a U.S. military facility?

Not only would these women be risking their health and lives under normal conditions, but what if these women are facing complicated or life-threatening pregnancies and are unaware of the seriousness of their condition?

The ban on privately funded abortions on military bases overseas affects more than 100,000 active service members, spouses, and dependents of military personnel.

One such woman this ban impacts is Holly Webb.

Holly Webb is the wife of a staff sergeant in the Air Force stationed in Misawa, Japan. She tells the following story of her struggle to find adequate reproductive health care overseas:

> My husband was stationed in Misawa Japan, and I moved over in September 2001 to join him. I was pregnant for the first time. Prior to my arrival in Japan, I felt like something was wrong with my pregnancy and at 6 weeks I went to the emergency room at the Eglin Air Force Base in Florida where we had been stationed.
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> My doctor there told me that everything seemed OK from what they could tell. At 16 weeks I was in Japan with my husband and I started bleeding. I would bleed weekly for 5 days and then the bleeding would subside. I went to the military hospital at Misawa and they told me I had placenta previa and that this was a normal side effect and they sent me home.
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> At 20 weeks, I started bleeding heavily and went back to the hospital. I thought that my water had broken but the hospital told me that it was not an emergency and kept me overnight. My ob/gyn did not visit me until the next morning. They told me that the results of my triple screen blood test showed possible spina bifida which necessitated an ultrasound. When they did the ultrasound they discovered, as I had thought, that there was no amniotic fluid surrounding the fetus.
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> They were unable to detect whether or not the fetus had spina bifida. For the next day I was administered IV fluids and my doctor mentioned that I might be dehydrated. My cervix remained closed, however, and they told me that there was still a fetal heartbeat. I was told that I might deliver spontaneously within weeks or months, but that if the baby survived, it would have serious health complications due to the fact that I was at risk for infection as well as because there was no amniotic fluid surrounding the baby.
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> When I asked the hospital what my options were they told me that they could not induce labor or dilate my cervix to deliver because it would be considered an abortion but that I was at risk for infection. My doctor told me that in order to have an abortion, they would have to have my situation reviewed by a medical board and that she didn't know how long this would take.
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> She told me that during her 7 or 8 years of practice in a military hospital, no matter what the situation was, a woman's request for an abortion was always denied.
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> My doctor told me that the only way I could receive additional medical treatment was if I became ill. I was told to go home and monitor my temperature and to return when I had a fever or was in pain. I asked if there was any other option because I was worried about dying.
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> At that point, I felt like my choices were either to go home and wait for a life-threatening infection so that my labor could be induced, or to go to an outside hospital, where I didn't speak the language and could not be sure that the treatment would be safe.
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> When I got to the private Japanese hospital, the doctor told me that there was serious risk for infection, and that he needed to put me on antibiotics immediately and that if I did not get antibiotics through IV immediately I would very likely die. I contacted my grandmother in the U.S. who wired me $2,000 to pay for the hospital visit.
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> I checked into the hospital about 4 hours later. They dilated my cervix over a period of 2½ days, then induced labor. I delivered a stillborn baby. The military hospital told me that this was an elected abortion and not a stillborn birth.
>
> I am now 17 weeks pregnant again and my only option is to use the military hospital for my ob/gyn treatment. I have begged them to let me off the base to go to a private doctor because of my experience last year. I believe that if my pregnancy puts my health at risk, I would again be prevented from making the decisions I need to about my pregnancy.

I hope that we have learned something from Mrs. Webb's story. No woman should have to go through the obstacles Mrs. Webb faced. If Mrs. Webb had been living in the U.S. she would have had a choice. She could have gotten an abortion and avoided the emotional trauma associated with giving birth to a stillborn, and not had to put her own life at risk.

Current law does not force any military physician to perform an abortion against his or her will. All branches have a conscience clause that permits medical personnel to choose not to perform the procedure. A doctor can simply say, "I won't perform such a procedure." And then that woman must just find another doctor.

What we are talking about today is providing equal access to military medical facilities, wherever they are located, for a legal procedure paid for with one's own money.

Abortion is legal for American women. These women would pay for the service with their own funds. This amendment does not involve the use of federal funding.

We ask these service members to risk their lives in the service of their country but we are not willing to grant them access to the same services they would receive if they were stationed in the U.S. This is especially troubling since September 11 since more Americans have decided to serve their country.

Service members and their dependents must have access to safe, legal, and comprehensive reproductive health care.

I urge my colleagues to support this amendment and ask unanimous consent that my statement appear in the RECORD.

Mr. KENNEDY. Mr. President, I commend Senator MURRAY for her effort to repeal the unfair ban on privately-funded abortions at overseas U.S. military facilities. This amendment rights a serious wrong in our policy, and guarantees that women serving overseas in the armed forces are able to exercise their constitutional right to choose.

This is an issue of fundamental fairness for the many women who make daily sacrifices to serve our Nation. It is wrong to deny them the same medical care available in the United States. Women serving overseas should be able to depend on military base hospitals for their medical needs. They should not be forced to choose between lower quality care in a foreign country, or returning to the United States for the care they need. Congress has a responsibility to provide the best possible medical care for those serving our country at home and abroad.

Such care is essential. Our dedicated servicewomen should not be unfairly exposed to risks of infection, illness, infertility, and even death, when appropriate care can easily be made available to them. Servicewomen overseas deserve the same access to all medical services as their counterparts at home.

This amendment will also ease the heavy financial burden on servicewomen who make the difficult decision to have an abortion. The cost of returning to the United States from far-off bases in other parts of the world often imposes significant financial hardship on women. Those serving in the United States do not have the same burden, since nonmilitary hospital facilities are readily available. It is unfair to ask women serving abroad to suffer this financial penalty.

If the cost of a separate trip to return to the United States is too high, servicewomen may face significant delay before military transportation is available. Each week, the health risks faced by these women become increasingly serious. Long delays in obtaining a military flight can force women to rely on questionable medical facilities overseas. As a practical matter, they are being denied their constitutionally-protected right to choose.

A woman's decision to have an abortion is very difficult and extremely personal. It is wrong to impose this heavy additional burden on women who serve our country overseas.

Every woman in the United States has a constitutionally-guaranteed right to choose whether or not to terminate her pregnancy. It is long past time for Congress to stop denying this right to women serving abroad.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I think perhaps we are ready to proceed with a vote on the bill. I do not know if the Senator from Washington is ready to yield back her remaining time.

The PRESIDING OFFICER. Does the Senator yield back her remaining time?

Mrs. MURRAY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Washington has 1 minute 38 seconds, and the Senator from Kansas has 3 minutes 9 seconds and counting.

Mr. BROWNBACK. I am prepared to yield back my time. The issue has been well debated. People know the issue. It has been voted on before. I hope we can proceed with the vote.

Mrs. MURRAY. Mr. President, the Senator from California has given a very clear reason to vote for this amendment. We have heard no disagreement that this current policy toward women service members is not humiliating. We have heard no disagreement that it is not a threat to privacy, and it is punitive. What this issue is about is whether women in the service overseas have the same constitutional rights, protections, and safety in their health care as those women who are in this country.

I urge my colleagues to vote for this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Washington yields back time.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 691. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Reed
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Stevens
Wyden

NAYS—51

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Sessions
Shelby
Smith
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Kerry

The amendment (No. 691) was rejected.

Mr. BROWNBACK. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry: At this point the bill is open to further amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Mr. President, will the Senator yield on that?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Virginia.

Mr. WARNER. Would the Presiding Officer advise the Senate with regard to the order that currently controls the next amendment?

The PRESIDING OFFICER. There is a limited list of amendments offered.

Mr. WARNER. Could the Presiding Officer recite those amendments in their standing order?

The PRESIDING OFFICER. A package of amendments has been cleared by both managers: A Boxer amendment on contracting subject to a relevant second degree, a Domenici amendment on border security, a Kerry amendment on air travel, a Landrieu amendment, and a Grassley amendment on the industrial enterprise.

Mr. WARNER. Mr. President, therefore, it would be in order at this time for any of those amendments to be taken up by the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, will the Senator yield?

Mr. WARNER. Yes.

Mr. REID. Mr. President, if I could ask the distinguished managers of the bill to allow a very brief colloquy and a unanimous consent request by the Senators from Massachusetts and New York, and maybe a couple of others, we would take no more than 2 minutes for the Senator from Massachusetts and 3 minutes for the Senator from New York.

Mr. WARNER. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

UNANIMOUS CONSENT REQUEST—S. 923

Mrs. CLINTON. Mr. President, I rise to ask unanimous consent to provide help for 3.2 million Americans who are out of work and need Congress to extend unemployment insurance. Soon the checks will no longer be in the mail for millions of Americans and New Yorkers who depend on unemployment benefits to provide for their families at this time.

In New York alone, over 100,000 people have exhausted their unemployment insurance benefits and are still without a job. Starting on May 31, unless we act, more than 80,000 Americans will begin exhausting their unemployment every single week.

These Americans and New Yorkers need and deserve our action. We knew we had to take steps at the beginning of this year to extend unemployment compensation. We need to do it again.

I hope none of us will turn our back on these hard-working, struggling Americans—people who have mortgages to pay, people who have car payments to make, people who have children to raise.

In April 2000, there were 176,000 long-term unemployed parents. Last month, there were 607,000 long-term unemployed parents, an increase of 245 percent.

I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 923, a bill to provide a 6-month extension of unemployment compensation, including 13 weeks of benefits for the long-term unemployed—exhaustees—and that the Senate then proceed with its immediate consideration; that an amendment at the desk to remove the "Temporary Enhanced Regular Unemployment Compensation" provisions be considered and agreed to; that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I object.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1079, Senator MURKOWSKI's bill to extend the Temporary Extended Unemployment Compensation Act of 2002, provided that the Senate proceed to its consideration, the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, does this include the workers who have contributed into the fund and whose benefits have expired? It has been standard and it has been used in the Senate and supported by the Senate five different times during the 1990s. Does this include those workers?

Mr. WARNER. Mr. President, I call upon the proponent of the amendment.

Mr. KENNEDY. Reserving the right to object, if we can't get an answer to that.

Mr. WARNER. We are about to get an answer, I advise the Senate.

Mr. KENNEDY. I am sorry.

Ms. MURKOWSKI. Mr. President, I ask the Senator from Massachusetts to repeat the question.

Mr. KENNEDY. Does this include the more than 1 million workers whose unemployment benefits have expired and who otherwise would be eligible to receive unemployment compensation under the proposals that have been offered here by the Senator from New York and our own proposal, and that were also included in the proposal that was passed in a bipartisan way on five different occasions during the 1990s? Does this amendment include those individuals?

Ms. MURKOWSKI. Mr. President, if I may respond, my bill is a clean 6-month extension of the Temporary Extended Unemployment Compensation Act of 2002.

Mr. KENNEDY. Mr. President, further holding the right to object, does it include any ability to give flexibility to the States so that they can take care of part-time workers as included in the Democratic proposal? Does it include those provisions as well?

Ms. MURKOWSKI. I repeat that this is a clean 6-month extension of the Temporary Extended Unemployment Compensation Act of 2002.

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, there is a very clear reason the request of the Senator from New York and the request I will make should be respected on the floor of the Senate. We are facing a crisis with 8 to 9 million Americans unemployed. More than 1.5 million of those have seen their unemployment compensation expire. Starting next week, 80,000 workers are going to lose their unemployment compensation.

This is an issue about fairness. On the one hand, we have an opportunity to return to these workers what they have paid over a lifetime of work, in many instances, into a trust fund that is in excess of $20 billion, and the reason it is in surplus is that these workers have paid into it. Now they are entitled to get that money out.

We have had objection to the request of the Senator from New York.

I am going to give the Senate one more opportunity to see whether they are going to be responsive, whether this body is going to understand the issue of fairness. Tomorrow we are going to pass billions of dollars for the wealthiest individuals in this country. We are trying to look out after hard-working Americans.

Therefore, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Democratic leader, the Senate consider S. 1079, extension of the unemployment compensation, considered under the following limitations: General debate of an hour equally divided, with only one amendment in order, the amendment by Senator KENNEDY, on which there be an hour of debate equally divided, and no other amendments be in order, and any points of order be considered waived by this agreement; that upon the disposition of the amendment and the use and yielding back of all time, the Senate vote on passage of the bill, without further intervening action or debate, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, I object.

Mr. President, I compliment our colleague from Alaska for trying to pass a clean, simple extension. This is the same language Senator CLINTON and I passed last January. It is the same language Senator FITZGERALD passed with us, I believe January 7 or 8. It is the same language we passed a couple of times for a clean extension. It is not a doubling of the program. It is not taking a 13-week Federal program and turning it into a 26-week program. It is not expanding the definition of uninsured or unemployed to include part-time workers, or to include a whole variety of people who, frankly, the States don't now cover.

I will tell my colleagues that we are not going to double the program. We are not going to triple the program. The Senator from Alaska offered to extend the current program which we have been using for the last 2 or so years. That is the proposal she will make today and, I would expect, the proposal she will make tomorrow. That is the only proposal, in my opinion, that will pass.

People want to try to make political statements. We had a vote on it in the budget.

I will not yield.

We had a vote on it in the budget. It didn't pass. We had a vote on it last week on the tax bill. It didn't pass. Some people want to double or triple this program. It is not going to work.

The Senator from Alaska says she is trying to extend the program so people won't lose their benefits beginning next month. A clean extension of the Federal program of 13 weeks can pass, or rather may pass. But colleagues who want to continue to double or triple the program jeopardize helping the very people they say they want to help.

I compliment my colleague from Alaska. I hope our colleagues will give fair consideration and ultimately agree to a simple extension of the program for 6 months, as proposed by our colleague from Alaska.

I yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask the Republican leader: Why don't we then just have the two different alternatives placed before the Senate and let the Senate express itself on whether it favors our proposal or favors the Republican proposal?

Mr. President, I ask unanimous consent that both of these proposals be laid before the Senate and, at a time suitable to the majority and minority leaders, we have a 10-minute, evenly divided, discussion, and we let the Senate vote on whether it prefers the proposal of the Senator from Alaska or the proposal of the Senators from New York and Massachusetts.

I think that is a fair way to proceed.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. I will not yield.

We talk about fairness. Our proposal is basically a similar proposal to what was passed five times, and which the Senator from Oklahoma supported in the 1990s. Why don't we give the Senate a chance to vote on either one of them? That would be fairest to the workers in this country.

If you are able, then, to persuade Members to vote for yours, so be it; we will accept it. And if they vote for ours, we would hope you would accept it. That is what I think is fair.

I ask whether the Senator from New York would think that is fair?

Mrs. CLINTON. Yes. I think the Senator from Massachusetts—

The PRESIDING OFFICER (Mr. TALENT). The Senator from Massachusetts is making a unanimous consent request.

Is there objection?

Mr. ENSIGN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts retains the floor.

Mr. KENNEDY. Mr. President, I think this is a pretty clear indication about where our Republican friends are on this issue. They are denying us—or denying the Senate—in the final hours prior to the expiration of coverage for workers—denying us an opportunity to get a vote in the Senate.

Basically, they say: Either take ours or leave it—take ours or leave it—and that is being unfair to workers, particularly at a time when the Republican Party is about to recommend tax breaks of billions of dollars for the wealthiest individuals in this country, and they refuse to give fairness to workers in this country.

That is what is going on here. Workers in this country understand what is happening here in the Senate. It is a clear indication of the priorities: Just open up the Federal Treasury. Give the wealthiest the highest amount of tax breaks and give short shrift to hard-working Americans.

The Republican leader refuses to permit the Senate of the United States, in a time set by our leaders, to make a judgment on which they would prefer. The workers in the United States are clearly getting short-shrifted.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, just for the information of our colleagues, to make sure we make the record straight, my very good friend from the great State of Massachusetts has mentioned: Let people have a vote.

Well, we have not had one vote—we have had three votes this year. We had a vote on the appropriations bill earlier this year. We had a vote on the budget. We had a vote on the tax bill.

They did not win. They tried to double the program two or three times, unsuccessfully, and so they are now trying again.

Frankly, we have a DOD authorization bill, we have a tax/economic growth package, we have a debt limit extension, and we need to pass UI. We have a lot of work to do in the next few hours.

Some of us—let me rephrase that—this Senator is going to do what I can to make sure we are not going to double or triple this program. We have already had three votes on the proposal to double it. We are not going to do that. I don't know how many votes people think they need. They may think they are winning on the votes, but they are not winning on the issue. I think we may have consent to pass a clean extension. It takes unanimous consent. I tell my colleagues on the other side, who are playing this game, this will not work legislatively. And it may jeopardize a clean extension.

So I would be very cautious, especially when you get late in the game, and close before a break, and people want to go home, I would not take for granted that you can pass a clean extension—but I compliment my colleague from Alaska, Senator MURKOWSKI, for trying to do so. I believe we can do so.

We have had three votes already, and it did not win. It will not win on the fourth vote. So I urge my colleagues: The way to do this is let's pass a clean extension, the same extension that my colleague from New York and I passed one or two times on the floor of the Senate. Let's do that again, and let's help the people who need the help.

If people play other games, they jeopardize even a clean extension. I think people should be on notice of that not everybody might want a clean extension. So the effort to double the program may mean that some people will get zero. Instead of getting 13 weeks, they might get zero because of this effort to double the program.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I wanted to ask my friend from Oklahoma to yield to me, but he yielded the floor.

The dilemma, of course, is one that is very difficult for us to confront. I appreciate greatly the wonderful cooperation that I received in working out the extension of unemployment compensation for those who needed to complete their 13 weeks who were unemployed, and for those who were going onto unemployment for the first time.

Our problem is—and this is where I think the nub of our difference is—we have this growing number of literally millions of people who have exhausted their benefits and are looking for work and cannot find it.

I understand and I respect the argument from the other side, although I disagree that the tax package that is about to be passed today or tomorrow is going to generate jobs and economic growth. I do not think it will. I think it will, in fact, make our economic situation worse and continue to put people out of work. But we will get a chance to find out who is right about that.

But, unfortunately, there are a lot of innocent people caught in the middle of this debate, people who are not sitting here on the floor of the Senate, people who are not going to get a big tax break, people who are out of work and cannot find a job in this economy.

At some point we have to take responsibility for these people. I appreciate the author on the other side. And I appreciate the good work of the Senator from Alaska to have a straight extension, but we did not have a vote on that specifically. We had votes attached to other items—appropriations, tax cuts, et cetera. At some point, we are going to have to face the reality that this economy is losing private sector jobs at the fastest rate in our history. At some point, we have to take responsibility for these people.

We reformed welfare, which I supported. We said to people, go out and get a job; support yourself and your children because we expected that we would have a good economy, because we would have good, sensible, responsible, fiscally sound policies at the Federal level that would, hand in hand, help the private sector create those jobs. That is not happening, for a lot of reasons. The economy continues to get worse. We have lost half a million jobs in the last 3 months alone.

So I simply ask my friends, my colleagues on the other side: If not now, when? When do we take responsibility, as previous administrations—Republican and Democrat—previous Congresses—Republican and Democrat—

did in previous recessions? At some point, we cannot any longer pretend that the economy is going to generate the jobs that all of those unemployed people who have no means of support are desperate to have.

So I hope we will get to that point sooner than later because I have thousands and thousands of these people—some of whom have been out of work since 9/11, 2001—and I believe we should help them. And it is good for the economy. We ought to take that action as soon as possible.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I will propound a unanimous consent request.

I ask unanimous consent that Senator BOXER be recognized in order to offer her amendment regarding contracting. I further ask that immediately following the reporting by the clerk, the Senator from Virginia, Mr. WARNER, be recognized to offer a first-degree amendment regarding the same subject; provided further that there be 30 minutes under the control of Senator BOXER and 15 minutes under the control of Senator WARNER. Finally, I ask unanimous consent that following the debate time, the Senate proceed to a vote in relation to the Warner amendment, to be immediately followed by a vote in relation to the Boxer amendment, with no amendments in order to either amendment prior to the votes.

Before the Chair rules, I think we can make the second vote a 10-minute vote.

Mr. REID. Mr. President, if the Senator will yield, I have no objection. I think that would be appropriate. I also ask that there be recorded votes on both the Boxer and Warner amendments; further, that between the two votes, there be 5 minutes equally divided under the control of Senator BOXER and Senator WARNER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. I ask for the yeas and nays on the two votes, both the Warner amendment and the Boxer amendment.

The PRESIDING OFFICER. Without objection, it is in order at this time to simply order the yeas and nays on the two amendments, which will be done if there is no objection.

Mr. WARNER. Will the Chair repeat that?

The PRESIDING OFFICER. Without objection, it is in order at this time to request the yeas and nays on the amendments despite the fact neither has been offered.

Mr. WARNER. I request the yeas and nays on the Warner amendment and the Boxer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The Senator from California.

AMENDMENT NO. 825

Mrs. BOXER. Mr. President, I thank Senator REID and Senator WARNER for working out this arrangement whereby we can have a definite vote on two alternatives that deal with, in my opinion, competitive bidding—that is what we are talking about—in the rebuilding of Iraq.

I send my amendment to the desk, and I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 825:

At the appropriate place insert the following:

(a) FINDINGS.—The Senate finds that—

(1) On March 8, 2003, the Army Corps of Engineers awarded a sole-source Indefinite Delivery/Indefinite Quantity contract for the reconstruction of the Iraqi oil industry.

(2) The Department of Defense has characterized this contract as a short-term "bridge" contract that will be used for an interim period until a contract can be awarded on a competitive basis.

(3) However, the estimated date of completion for this contract is March 2005 and the value is estimated by the Department of Defense to be $57 billion.

(4) The Department of Defense has established a goal of completing the follow-on competition and having a fully competitive contract in place by August 31, 2003. This goal was stated in a letter dated May 2, 2003.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) The taxpayers deserve fairness.

(2) Businesses deserve fairness.

(3) The Competition in Contracting Act of 1984 establishes a preference for the award of competitive contracts.

(4) The Department of Defense should meet its goal of having a fully competitive contract in place by August 31, 2003 and performing work needed for the reconstruction of the Iraqi oil industry after such date under that competitive contract.

(c) REPORT TO CONGRESS.—If the Department of Defense fails to meet its own stated goal of having a fully competitive contract in place by August 31, 2003, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing this sole source contract to continue.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, at this time, does my friend want to bring his second-degree amendment to the desk or, rather, his substitute?

AMENDMENT NO. 826

Mr. WARNER. Mr. President, I send to the desk an amendment which is in the first degree to protect the Senator from California, unless she would like to have it as a second-degree amendment. We can do that.

Mrs. BOXER. I prefer to have it as a first-degree amendment. It will be much better, and I appreciate that.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 826.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

**SEC. . SENSE OF THE SENATE ON COMPETITIVE AWARD OF CONTRACTS FOR IRAQI RECONSTRUCTION.**

It is the sense of the Senate that the Department of Defense should fully comply with the Competition in Contracting Act (10 U.S.C. 2304 et seq.) for any contract awarded for reconstruction activities in Iraq and should conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry as soon as practicable.

Mr. WARNER. Mr. President, I will later advise the Senate with regard to the content of this amendment. For the moment, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, the spirit of my amendment is very clear. I am very resolute about it. I appreciate the fact we are going to have a vote on the Warner first-degree amendment and the Boxer amendment.

All the years I was in the House of Representatives, part of the time I served on the Armed Services Committee. I am pleased to see my friend from Illinois here because together during the years I served on the Armed Services Committee, we took on the issue of procurement reform. I am very pleased to say that as a result of the work that many of us did, we were able to—and it was Berkley Bedell, if my colleague remembers; there were a number of us—we were able to make sure there was competition at the Pentagon.

Competition is the name of the game. It is supposed to be the name of the game in America. When I see any agency turning away from competitive bidding, unless there is a good reason to do so—and I might say, if it is an emergency, this is a good reason, but beyond that, there is no reason to award a contract without going to bid, without considering competitive bids.

What happens—and I feel really deeply about this—when the taxpayers of this country and the businesses of this country that are playing by the rules see such a contract given to one special company, it is very bad, in my opinion, for our country. It is very bad for our fighting men and women who risk their life and limb.

Let me tell you what I mean. As a result of a sole-source contract that was given to a subsidiary of Halliburton, these are some of the headlines that appeared across the country. I will let my colleagues judge, and I will let the people judge whether these kinds of headlines are good for our country and good for the morale of our troops.

Here is one from the Atlanta Journal-Constitution:

> Secret Halliburton deal endangers U.S. credibility.

That is May 8, 2003, in a southern paper.

Here is one from the Montreal Gazette:

> Halliburton contract bigger than reported; Linked to Cheney; Role has grown beyond fighting Iraq oil fires.

This one was in the Houston Chronicle on May 8, 2003:

> Halliburton contract stokes new controversy.

Here is one from the L.A. Times, May 8:

> Shadow over the oilfields; The administration's no-bid contract with Halliburton subsidiary gives the impression of a grab at Iraqi resources for American business.

Another headline in the L.A. Times on April 11:

> More flack on Halliburton deal; The revelation that the Pentagon contract is worth up to $7 billion is more fuel for critics who say it should have been open to bidding.

And USA Today, April 11:

> Halliburton oilfield deal raises questions.

The point is, we should do everything we can for the taxpayers of this country to make them feel comfortable that when there is work at home or abroad, every business in this country gets a chance to compete for the work. Why? Because we all know if there is no competition, the price could soar.

I ask unanimous consent to add as cosponsors to my amendment Senator LIEBERMAN, Senator CLINTON, Senator BOB GRAHAM, Senator LAUTENBERG, and Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I am proud to have their support. There can be no stronger advocate of the strongest possible military than Senators LIEBERMAN and GRAHAM. We know that. We have seen them here. They are supporters because they understand, as I do, that it weakens our country when we do these kinds of deals.

The amendment that my friend has offered is fine; there is nothing wrong with it, but it does not get to the heart of this particular contract. It is general, whereas the amendment I have offered—and, by the way, it is just a sense of the Senate. It is nice. But what I have offered says that if the Secretary of Defense finds that the Army Corps has not, in fact, put the rest of this contract out for bid by the date of September 30—and they have promised to do so by August 31—then they have to tell us why they did not bid out this contract.

I am going to put up a chart that shows a copy of the congressional notification of this contract. It looks scary when one sees it because there is lots in it, but I have highlighted in yellow the things my colleagues ought to know, because maybe they do not know this.

I want to compliment the minority ranking member of the Committee on Government Reform in the House, HENRY WAXMAN, for doing so much of the research.

I ask unanimous consent that a fact sheet called the Bush Administration's Contracts with Halliburton, put out by the minority staff of the Committee on Government Reform, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### Fact Sheet: The Bush Administration's Contracts With Halliburton

The Bush Administration has awarded several extremely large contracts and task orders to Halliburton. Of particular concern are the contracts awarded to a Halliburton subsidiary, Kellogg Brown & Root. GAO reports and other investigations have documented a history of Brown & Root overcharging the taxpayer. Yet despite this history, the Administration has awarded Brown & Root lucrative government contracts—including a recent contract for oil-related work in Iraq that is worth up to $7 billion and that was awarded secretly and without any competition. The Administration has also awarded contracts worth hundreds of millions of dollars for work in Iraq to a select group of U.S. companies, with only limited competition.

Halliburton has a unique relationship to this Administration. When Dick Cheney left his position as Halliburton's CEO in 2000 to run for Vice President, he reportedly received company stock worth over $33 million.[1] He continues to receive deferred compensation payments of over $160,000 a year from Halliburton.[2]

### HISTORY OF BROWN & ROOT PROBLEMS

GAO has found serious problems with contract work that Brown & Root did for the Army in the Balkans. In 1997, it found that the Army "was unable to ensure that the contractor adequately controlled costs."[3] For example, Brown & Root was charging the Army $86 to fly in $14 sheets of plywood from the United States. The Army official in charge was "shocked" when he found that out.[4]

In 2000, GAO found more evidence that Brown & Root was inflating the government's costs—and its profits—by, for example, overstaffing work crews and providing more goods and services than necessary.[5]

Brown & Root was the subject of a criminal investigation for overbilling the government on another contract. According to a former employee, the company routinely and systematically inflated contract prices it submitted to the government for work at the former Fort Ord military base in California.[6] Brown & Root paid $2 million to settle that case in 2002.[7]

Brown & Root's parent company, Halliburton, has its own problems. The SEC is investigating accounting practices of the company dating back to the Vice President's tenure at its CEO.[8] The company recently restated its earnings for the 4th quarter of 2002.[9] And Halliburton has admitted paying $2.4 million in bribes to a Nigerian official in an attempt to gain favorable tax treatment in the country.[10]

### DEFENSE DEPARTMENT CONTRACTS WITH BROWN & ROOT

Despite this troubled history, the Administration has awarded Brown & Root three very lucrative Defense contracts. In 2001, Brown & Root won a $300-million contract to provide support services to the Navy—despite a bid protest by a rival bidder that GAO upheld.[11] Later that year, it won a ten-year contract with no cost ceiling to provide support services to the Army.[12] Under these contracts, Brown & Root has been asked to do work in Afghanistan and Uzbekistan and to build prison cells for terrorist suspects in Guantanamo Bay, Cuba—even though much of this work could be done more cheaply using Army and navy personnel.[13]

In March 2003, the Administration awarded Brown & Root a contract to repair and operate Iraq's oil infrastructure. Normally, federal contracting rules require public notice and full and open competition. But the U.S. Army Corps of Engineers awarded the contract secretly and without any competition.

The Administration has been reluctant to provide complete, or even basic, information about the contract. While the contract was signed March 8, it was not disclosed publicly until March 24. Moreover, the Corps did not reveal until April 8, in response to a letter from Rep. Waxman, that the contract had a potential value of up to $7 billion.[14] And it was not until May 2, in response to another request from Rep. Waxman, that the Corps disclosed that the scope of the contract was significantly broader than previously provided information had suggested.[15]

Based on what the Corps has revealed to date, the contract is worth up to $7 billion, with the potential profit for Brown & Root worth up to $490 million. The Corps has said the actual value of the contract may end up being less than that (according to the Corps, it may be "only" around $600 million). Nonetheless, the fact that the Corps would issue such a large contract without competition is highly unusual.

Moreover, the contract is far broader than had been initially suggested. Information provided by the Corps and Halliburton had indicated that the contract was for work putting out oil well fires and repairing damage. Halliburton issued a press release on March 24 entitled "KBR Implements Plan for Extinguishing Oil Well Fires in Iraq," which described the contract work as "assessing and extinguishing oil well fires in Iraq and evaluating and repairing, as directed by the U.S. government, the country's petroleum infrastructure."[16] The Corps also released information stating that it was in charge of "implementation of plans to extinguish oil well fires and to assess oil facility damage in Iraq" and that it would be contracting with Brown & Root to perform these functions.[17]

On May 2, however, the Corps revealed that the contract also includes "operation of facilities" and "distribution of products." It thus appears that Brown & Root may be asked to operate Iraqi oil facilities and distribute oil products. This raises significant questions about the Administration's intentions regarding Iraqi oil. The Administration has previously drawn a bright line on Iraqi oil: according to White House spokesman Ari Fleischer, "[t]he oil fields belong to the people of Iraq, the government of Iraq, all of

Iraq."[18] Those sentiments were echoed by Secretary of State Colin Powell and Secretary of Defense Donald Rumsfeld, among others.[19] It now appears that Halliburton or another similar company—and not the Iraqi people—may be making fundamental decisions about how much oil should be produced and who should produce it.

The Corps has also claimed that the contract is only for short-term emergency work. But the Corps revealed in their April 8 letter that the contract has a two-year term. The Corps also indicated that they are planning to replace the contract with a new, competitively bid contract. In their May 2 letter, however, the Corps disclosed that the Halliburton contract will be in place until at least late August 2003, and possibility until January 2004.

According to the May 2 letter from the Corps, the new, longer-term contract the Corps is planning to issue will again involve operating facilities and distributing oil. This raises further questions about how much say the Iraqi people will have in making decisions about the country's natural resources.

The Corps contract is "cost plus." This means that the contractor receives its costs plus an additional percentage of those costs as its profit. These kinds of contracts are particularly susceptible to abuse as they give the contractor an incentive to pad its profits by increasing its costs. As noted above, Brown & Root has a record of overcharging the taxpayer on cost-plus contracts.

### OTHER IRAQ CONTRACTS

Halliburton is not the only company to benefit from secret, noncompetitive contracts. The U.S. agency for International Development hand-picked U.S. companies to bid secretly on contracts for work in Iraq. Like the Army Corps contract, the AID contracts for Iraqi reconstruction have been handled with unusual secrecy. AID secretly hand-picked a select few domestic companies to bid on nine contracts for services including airport administration, education, public health, and personnel support. The eight contracts that have been awarded are together worth up to $1 billion. And they may be worth much more, depending on whether and how they are renewed.

Halliburton was one of five companies asked by AID to bid on a $680 million contract to rebuild Iraq. Like Halliburton, the other companies bidding—including Parsons, Fluor, and the eventual winner, Bechtel—are heavy Republican contributors. Between them, these companies reportedly contributed $3.6 million over the past two election cycles, two-thirds of which went to Republicans.[20] After the controversy over the Army Corps contract, Halliburton announced that it would not bid on the AID contract. It has indicated it may instead opt for a still lucrative but lower-profile subcontracting role.

AID has not identified all of the companies that were selected to bid on its contracts and it has given shifting and at times contradictory explanations of why it did not use full and open competition.

For example, AID has said that it limited the eligible companies to those with a security clearance. But it turns out that some of the companies that were asked to bid did not actually have security clearances. In fact, in one case, AID found out after choosing a contractor that the contractor did not have a clearance.[21] AID awarded the contract to the contractor anyway.[22]

AID has also said that it is required by federal law to use U.S. companies. However, AID can waive this requirement. In fact, it did so with respect to subcontractors on the Iraq contracts. But AID declined to invite any non-U.S. firms to bid on the actual contracts.

More information about the Administration's contracts with Halliburton and other companies can be found at www.reform.house.gov/min/inves admin/admin contracts.htm.

### ENDNOTES

[1] *Cheney Gets $33 Million Exit Package from Dallas-Based Energy Services Firm*, Dallas Morning News (Aug. 17, 2000).

[2] White House, *Vice President Dick Cheney and Mrs. Cheney Release 2002 Income Tax Return* (Apr. 11, 2003).

[3] General Accounting Office, *Contingency Operations: Opportunities to Improve the Logistics Civil Augmentation Program* (Feb. 1997) (GAO/NSIAD-97-63).

[4] *Id.*

[5] General Accounting Office, *Contingency Operations: Army Should Do more to Control Contract Cost in the Balkans* (Sept. 2000) (GAO/NSIAD-00-225).

[6] Complaint for Damages under False Claims Act and Demand for Grand Jury at 7, *U.S. ex rel. Dammen Grant Campbell* v. *Brown & Root Service Corp.* (E.D. Cal.) (No. CIV-97-1541WBSPAN).

[7] Department of Defense, Criminal Investigative Service, Press Release (Feb. 7, 2002).

[8] Halliburton, *Halliburton Reports SEC Investigation of Accounting Practice* (May 28, 2002); Halliburton, *Halliburton Updates SEC Status* (Dec. 19, 2002).

[9] Halliburton, *Halliburton 2002 Fourth Quarter Adjustments* (Mar. 27, 2003).

[10] Securities and Exchange Commission, *Halliburton Company Form 10-Q* (Mar. 31, 2003).

[11] The rival bidder also claimed that Brown & Root had an unfair advantage because its proposed program manager was an active-duty Navy officer in the command that conducted the acquisition. GAO concluded that there was "no evidence that any impropriety or unfair competitive advantage resulted" from the apparent conflict of interest. General Accounting Office, *Matter of Perini/Jones Joint Venture (Nov. 1, 2000) (GAO Decision B-285906).*

[12] *In Tough Times, a Company Finds Profits in War*, New York Times (July 13, 2002).

[13] *Id.*

[14] *See* Letter from Lt. Gen. Robert B. Flowers to Rep. Henry A. Waxman (Apr. 8, 2003).

[15] *See* Letter from Lt. Gen. Robert B. Flowers to Rep. Henry A. Waxman (May 2, 2003).

[16] Halliburton, *KBR Implements Plan for Extinguishing Oil Well Fires in Iraq* (Mar. 24, 2003).

[17] U.S. Army Corps of Engineers, *The Corps of Engineers' Role in Combatting Iraqi Oil Fires* (undated).

[18] White House, *Press Briefing by Ari Fleischer* (Feb. 6, 2003).

[19] *Powell Says U.S. Not after Iraqi Oil*, Los Angeles Times (Jan. 23, 2003); *NewsHour*, PBS (Feb. 20, 2003).

[20] Center for Responsive Politics, *Rebuilding Iraq: The Contractors* (undated) (online at www.opensecrets.org/news/rebuilding iraq/index.asp).

[21] Letter from Bruce N. Crandlemire, Office of Inspector General, U.S. Agency for International Development, to Timothy T. Beans, U.S. Agency for International Development (Apr. 25, 2003).

[22] *Id.*

Mrs. BOXER. When we look at this congressional notification, which was very late in getting there because there were already five task orders under this Halliburton contract, finally they gave this information over: They have obligated first $17 million, then $6.7 million, $22 million, $5 million, and $24 million, with no competitive bidding.

Originally it was, oh, they have to put out the oil fires. Okay. We understand that. But what about the rest? The estimated face value of this contract is $7 billion. What do we spend on all of our afterschool programs, I say to my colleagues, in 1 year? A billion dollars. How many kids are waiting in line to get into that program? Millions.

We cannot afford it, but we can afford to give a sole-source $7 billion to one company named Halliburton. We all know the power of that company.

I want my colleagues to see I am not making this up when I say this was a sole-source contract. Estimated face value, $7 billion. Bids solicited, sole-source procurement; bids received, one. What a happy day for Halliburton that was.

The subsidiary of Halliburton is Brown & Root. That is the corporation that is the subsidiary of Halliburton that received this contract. One might say, well, maybe this is such a great company, maybe there is a reason why we would go sole source with this company.

Well, GAO has found serious problems with contract work that Brown & Root did for the Army in the Balkans. In 1997, GAO found that the Army was unable to ensure that the contractor adequately controlled costs. For example, Brown & Root was charging the Army $86 to fly in $14 sheets of plywood from the United States of America. The Army official in charge was shocked when he found out.

In 2000, GAO found more evidence that Brown & Root was inflating the Government's costs and its products by, for example, overstaffing work crews and providing more goods and services than necessary. And how about this: Brown & Root was the subject of a criminal investigation for overbilling the Government on another contract. According to a former employee, the company routinely and systematically inflated contract prices it submitted to the Government for work it performed on a military base in California, and Brown & Root paid $2 million to settle that case.

Brown & Root's parent company Halliburton has its own problems. The SEC is investigating accounting practices of the company. The company recently restated its earnings for the fourth quarter of 2002 and Halliburton has admitted paying $2.4 million in bribes to a Nigerian official in an attempt to gain favorable tax treatment in the country.

So I say to my colleagues, why on Earth would the Army Corps give this company this incredible sole-source contract to the tune of $7 billion?

We have had a series of answers to that question. At first we were told this was just for emergencies. Remember those newspaper articles, just for emergencies? Now we are finding out it goes well beyond emergencies.

In March 2003, the administration awarded Brown & Root a contract to repair and operate Iraq's oil infrastructure. The administration has been reluctant to provide complete or even basic information about the contract: Remember, the contract was awarded March 8 but it was not publicly disclosed until March 24. The Corps did not reveal until April 8, in response to a letter from Representative WAXMAN, that the contract had a potential value of up to $7 billion.

It was not until May 2, in response to another request from Representative WAXMAN, the Corps disclosed the scope of the contract was significantly broader than previously provided information had suggested.

We have a chance to end this embarrassment today. If we have a strong vote on the Boxer-Lieberman-Lautenberg-Durbin-Graham of Florida-Clinton amendment—and I hope many other colleagues will join. I hope many on the other side will join—what are we saying? We are saying if they do not correct the problem as they have stated they would do—and they have stated they would in fact end this sole-source contract and they would go out for bid by the end of August—all we are saying is send us a report, tell us the reason why you are carrying on.

Under Senator WARNER's amendment, which I have no objection to at all, and I am going to vote for it, let's hear what it says. It says it is the sense of the Senate—which, by the way, has no force of law—that the DOD should fully comply with the Competition in Contracting Act for any contract awarded for reconstruction activities in Iraq and should conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry as soon as practicable.

I am not a lawyer, but I can tell my colleagues when we see the words "as soon as practicable," get nervous.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. I would be so happy to yield.

Mr. DURBIN. I am a lawyer, and those are known as weasel words because if that phrase can be included, it has no meaning. The question is whether we are going to hold the Department of Defense accountable. I ask the Senator from California this question: The sense-of-the-Senate resolution which she offers not only raises a question of whether this is evidence of profiteering, evidence of a sweetheart arrangement, evidence of the kind of sole-source agreement that frankly is not in the best interest of either American taxpayers or America's national defense, is she specific in the accountability she is holding the Department of Defense to in terms of when they will report as opposed to as soon as practicable?

Mrs. BOXER. Absolutely. My particular amendment that will be voted on is more than a sense of the Senate. It is a sense of the Senate plus it is a requirement that if the Department of Defense does not meet its own stated goal of having a fully competitive contract in place by August 31, 2003, to replace this boondoggle, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing this sole-source contract to continue.

Mr. DURBIN. I ask the Chair if the Senator would yield for this question. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. DURBIN. In this situation, has the Department of Defense made any statements that they are planning on making some sort of a revision to this $7 billion Halliburton contract?

Mrs. BOXER. That is correct, they have. In a letter to Representative WAXMAN, who has kind of uncovered this entire matter—if it was not for him, this thing might be buried somewhere in somebody's drawer—they said, we are now completing—this is the Department of the Army: We are now completing the competitive acquisition strategy and plan, preparing the statement of work, and preparing the solicitation that will request proposals to perform work. The solicitation will be advertised on the Federal Business Opportunities Web site by late spring or early summer and the estimate for the award of the contract is approximately the end of August.

So they have given a date by which they say they will be able to take the rest of this contract and bid it out.

By the way, there is nothing to say that the Halliburton subsidiary, Brown & Root, can't compete on the rest of the contract when it goes out. It ought to be open.

Mr. DURBIN. If the Senator will further yield for a question, what the Senator from California is asking the Senate to do, is hold the Department of Defense to their own promise to the Congress that they will put an end to this $7 billion Halliburton sole-source contract and actually open this up to bidding. The Senator is only asking Congress to hold the Department of Defense accountable for written promises they have already made to Congress.

Mrs. BOXER. That is all I am doing.

I say to my friend, I can tell from the sound of his voice, he is a little incredulous that this has not been accepted by the other side. This is such a simple, straightforward commonsense kind of approach.

We are saying that this was not right. The Army Corps has said they will fix it. They have given us a date; they will fix it. All we are saying is, if you do not, we want to hold you accountable. We want a report.

Mr. DURBIN. If the Senator will yield for a further question, in most instances, when you are considering this kind of arrangement—here we have a major company, sole-source contract for $7 billion, without anyone else competing with them. The question it raises is whether it is improper or has an appearance of impropriety.

I say on its face there is an appearance of impropriety, that one company, without competitive bidding, would end up with a $7 billion contract. Is the Senator from California saying that if Halliburton is that good, that this is the only company in America that can possibly bid on it, Halliburton will have its chance?

The Department of Defense is going to say to all the companies in America that might provide the services, you have your chance to compete with Halliburton. If it is that good, Halliburton can win this contract fair and square on the up and up and eliminate any appearance of impropriety. Is that what the Senator from California is trying to achieve?

Mrs. BOXER. I am trying to say what you stated. If Halliburton or subsidiaries wish to do more work in Iraq, let them stand shoulder to shoulder, toe to toe with every other company in this country.

I have heard from so many businesspeople who are outraged at this. That is why the amendment I have offered on behalf of Senator LAUTENBERG and you and others is a probusiness amendment; it is a protaxpayer amendment and a proconsumer amendment.

Mr. LAUTENBERG. Will the Senator yield for a question? This could be described as "business unusual."

Mrs. BOXER. I think my friend, a very successful businessman, has put his finger on it: It is business unusual.

Mr. LAUTENBERG. Yes. Often we say business as usual; this is business as unusual.

Does the Senator, in the resolution proposed, talk about terms or performance? Is it not worth noting if this contract were done, if not in the dark of night, certainly at dusk—we do not know the terms—that not only means price could be many times over, there are no performance standards, either, which is pretty darn unusual?

Mrs. BOXER. I say to my friend, it is very unusual. When we ask them, they say: We are just going to use this contract to put out the fires.

Then it turned out, thank God, there were not that many fires; and we thought, OK, fine, it was a sole source.

Mr. LAUTENBERG. It turned out to be a fire sale.

Mrs. BOXER. Another excellent point.

I am happy my friend from New Jersey is back. I was losing my sense of humor. I am glad he is back.

This chart shows the congressional notification of this contract. The light of day never came to this until way after it was issued. Now we finally got it after the fifth task order. Estimated value, $7 billion.

They called it a bridge contract, by the way, when they started out, and they started to let out these task orders.

Mr. LAUTENBERG. Will the Senator yield?

Does it say the maximum amount the Government could spend?

Mrs. BOXER. The estimated face value.

Mr. LAUTENBERG. So if $7 billion became $10 billion—is there any limitation?

Mrs. BOXER. Legally, as I look at it, it says estimated face value.

Here it says "bids received: One."

"Bids solicited, sole source."

This is stunning.

I ask the President how much time remains on my side?

The PRESIDING OFFICER. Eight minutes twenty seconds.

Mrs. BOXER. I yield 5 minutes to my friend from New Jersey and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank my friend and colleague from California. I support Senator BOXER's amendment regarding the questionable—and it is questionable; friends here know I spent a lot of my time, most of my life, in business, more than I have in the Senate. No-bid contracts are practically nonexistent when they have significant value to either the company, the government, or otherwise.

The contract given to Halliburton in early March regarding Iraq's oil infrastructure, this no-bid contract, has raised serious concern. There is good cause. There is no accusation here. It is just a question of what is a good, sensible business practice.

I ask every Senator in this body to take a look and ask if they would give out a contract to cut the lawn at their house or cut down trees or paint the house without getting some formal response as to what it might cost. We have a strange happening: no-bid contract. It could be as much as $7 billion, with no ceiling on it. That is the interesting aspect. For whatever reason, the administration has attempted to conceal the scope and the terms of the contract. This attempt to hide information has generated plenty of suspicion.

Initially, it was announced that the contract with Halliburton was for the specific and limited purpose of extinguishing Iraqi oil fires. That could be described as emergency and repairing equipment. The initial value of the contract, the initial value, was $50 million. We are now talking about approximately $7 billion, give or take $2 billion or $3 billion—mostly take; I guarantee there is no give, in the hope that no one would ask any questions.

This was a no-bid contract given to a company that has strong ties to the administration. Then the details began to change. Six weeks after the contract was originally disclosed, the Army admitted that the contract was not only for putting out the fires and making some repairs—repairs, $7 billion?—suddenly the Army Corps revealed that the contract called for Halliburton to operate the oil wells and distribute Iraqi oil. That is a huge difference.

There is the issue of the no-bid process. Perhaps we ought to have a Senate resolution to see how our friends would vote if we said let's go to all no-bid contracts for Government purchases. Sound like a good idea? I doubt it.

Asked why the Halliburton contract was awarded in a no-bid fashion, the Army Corps asserted that there was no time for a competitive process and this contract would be of short duration. You can spend $7 billion in a hurry, I guess.

We now learn the contract could be worth up to $7 billion. For the past 6 weeks, each time the Army Corps has been questioned about the contract, we hear a different story.

I recently have written a letter to Senator COLLINS and Senator LIEBERMAN, the chairman and the ranking member of the Governmental Affairs Committee of which I sit, asking them to hold a hearing to investigate this contract. I believe the hearing will allow us to finally determine the true scope of this contract and why the administration chose not to have a bidding process and why the information was withheld.

Something here is not right. Not only do we need to investigate the process under which this contract was awarded, but we also need to put a competitive contracting process in place for this work in Iraq. We need to ensure for the American people that the Government is not engaged in sweetheart deals for its corporate friends.

The amendment of Senator BOXER encourages that the current no-bid Halliburton contract be replaced shortly through a competitive process, and I congratulate the Senator from California for that thought. That is the way it ought to work.

The reconstruction of Iraq, particularly the rebuilding of the Iraqi oil industry, is an extremely sensitive endeavor. I believe it is vitally important for the Pentagon to divulge information as to how it awards contracts in a public and systematic fashion. The Halliburton contract and the cloak of secrecy around it must not set a precedent for future contracts in the reconstruction process.

In this time of budget difficulties, with our inability to finance programs that have been an important part of the structure of the United States—whether it is education, whether it is prescription drugs or otherwise—for us to go ahead and spend $7 billion without knowing how, why, and when this work is going to be performed is an outrage. I don't think the American public ought to stand still for it.

I hope my colleagues on the other side will agree. Many of them are good business-people who have been out there and understand what has been appropriate process in business.

I urge my colleagues to support the Boxer amendment.

I yield the floor.

Mrs. BOXER. Mr. President, I reserve the remainder of my time.

Mr. WARNER. Mr. President, I ask unanimous consent to modify my amendment. I will send the modification to the desk.

Mrs. BOXER. Reserving the right to object, I don't know whether I will object. I would like a chance to look at it. I just got a chance to look at it a minute ago. So if you could put the unanimous consent off for a couple of minutes so I can take a look at it?

Mr. WARNER. Fine. Let me just explain to the Senator what it is. The Senator, in the course of her comments, more or less criticized the amendment by the Senator from Virginia as not having in it the full force and effect of law. So, acting upon the suggestion of the good Senator from California, I have now provided that this amendment will have the full force of law. Let me read it to you.

Mrs. BOXER. If the Senator wants to give me 2 minutes, I am just looking at it now. You can read it to me or I can get a copy and read it myself. Either way is fine. I do not have it in front of me.

Mr. WARNER. Let me read it.

> The Department of Defense shall fully comply with the Competition in Contracting Act (10 U.S.C. 2304 et seq) for any contracts awarded for reconstruction activity in Iraq and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry. . . ."

It is straightforward.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum. I am just going to chat with my friend for a minute.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that we proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CORRECTION IN THE ENROLLMENT OF H.R. 1298

Mr. WARNER. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the concurrent resolution (S. Con. Res. 46) to correct the enrollment of H.R. 1298.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the resolution from the Senate (S. Con. Res. 46) entitled "Concurrent resolution to correct the enrollment of H.R. 1298", do pass with the following

Amendment:

On page 1, line 2, strike "Secretary of the Senate" and insert "*Clerk of the House of Representatives*".

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate agree to the amendment of the House.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

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## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—Continued

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate return to the underlying bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 826, AS MODIFIED

Mr. WARNER. Mr. President, as is so often the case here in the Senate during the course of deliberations, colleagues find a mutual ground by which they can resolve such differences as exist. And in this instance, the distinguished Senator from California, myself, and the distinguished Senator from New Jersey have joined together.

The amendment in the first degree of the Senator from Virginia remains in a document that I will shortly send to the desk. And the basic report language required in the amendment of the Senators from California and New Jersey is, likewise, in this document. They are coupled together.

So I ask unanimous consent that the amendment by the Senator from Virginia be modified. And I send the modified amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mrs. BOXER. Reserving the right to object, I would like to say, I am very supportive of this. I just want to ask if it is the right thing for me to withdraw my amendment, or is that not necessary?

Mr. WARNER. Mr. President, I would so make that request. That was my understanding. I was going to do that after this amendment had been modified.

So if the Chair would rule on the modification of the amendment.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing none, it is so ordered.

The amendment (No. 826), as modified, is as follows:

At the appropriate place, insert the following:

**SEC. . COMPETITIVE AWARD OF CONTRACTS FOR IRAQI RECONSTRUCTION.**

(a) REQUIREMENT.—The Department of Defense shall fully comply with the Competition in Contracting Act (10 U.S.C. 2304 et seq) for any contract awarded for reconstruction activities in Iraq and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry.

(b) REPORT TO CONGRESS.—If the Department of Defense does not have a fully competitive contract in place to replace the March 8, 2003 contract for the reconstruction of the Iraqi oil industry by August 31, 2003, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing this sole-source contract to continue. A follow-up report shall be submitted to Congress each 60 days thereafter until a competitive contract is in place.

### AMENDMENT NO. 825 WITHDRAWN

Mr. WARNER. Mr. President, at this time I respectfully ask the Chair to withdraw the amendment by the Senator from California.

Mrs. BOXER. I have no objection to withdrawing my amendment because it has, in fact, been made a part of the Warner amendment.

Mr. WARNER. That is correct.

Mr. REID. Mr. President, I also ask that this amendment have the name of the Senator from California on it, also.

Mr. WARNER. It is to be known as the Warner-Boxer—and also for the Senator from New Jersey, my friend, Mr. LAUTENBERG. The two of us go back many years.

Mr. LAUTENBERG. Further than we can remember.

Mr. WARNER. Yes, further back than we can remember.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from California is withdrawn.

Mr. WARNER. And the amendment of the Senator from Virginia is now known as the Warner-Boxer-Lautenberg amendment?

The PRESIDING OFFICER. That is correct. Without objection, it is so ordered.

Mr. WARNER. Briefly, to explain to the Senate, basically what we have done is we have put into law the requirement that the Department of Defense shall fully comply with the Competition in Contracting Act for any contract awarded for reconstruction activities in Iraq and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry.

Second, a report to Congress. If the Department of Defense does not have a fully competitive contract in place to replace the March 8, 2003 contract for the reconstruction of the Iraqi oil industry by August 31, 2003, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing the sole-source contract to continue. A followup report shall be submitted to Congress each 60 days thereafter until a competitive contract is in place.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank my colleague from Virginia.

I think when the Senate can work together, when we can cross over, one side to the other, we do good work. What we did is literally take one half of the amendment of the Senator from Virginia and one half of mine. What is important to me is, if the Senate will speak in one voice, we will have a vote. I trust it will pass with a very wide margin, if not unanimously. The Senate will go on record, if we pass the Warner-Boxer amendment, as saying the following: We don't approve of this sole-source contract continuing, that we want to make sure the Army Corps, which says it is going to end this contract, is held accountable; that they are going to have to let us know if by August 30 they don't end the sole-source contract, and every 60 days thereafter they are going to have to let us know why they are continuing a $7 billion sole-source contract.

That is all I wanted when I stood up a couple hours ago. That is all I want now. I am grateful to my friend for being openminded. It was a good debate.

I also say to my leader on the Armed Services Committee, Senator LEVIN, the ranking member, how helpful he has been to me. When I started, I had a proposal that might never have seen the light of day. He worked with me to make it relevant, make it work. Again, to Senators GRAHAM and LIEBERMAN and CLINTON and DURBIN and LAUTENBERG, before we looked like we had a winner here, they were with me. This is really very nostalgic for me. In my time in the House, I worked on the Armed Services Committee on military procurement before. I had hoped I wouldn't have to be standing here worried about military procurement, but it looks like it comes back like a bad dream.

I am hopeful the action we take this afternoon, just to let the Army Corps know we are all watching, Republicans and Democrats, will have a salutary effect on the termination of the sole-source contract and fair and open bidding. The taxpayers deserve no less. The business community deserves no less. Consumers deserve no less. Frankly, the people of Iraq deserve no less because we are trying to rebuild their country in the most efficient way we can.

I thank my friend again, Senator WARNER. I urge a yea vote on the Warner-Boxer amendment.

Mr. LAUTENBERG. Mr. President, will the manager yield a moment?

Mr. WARNER. Take such time as you need.

Mr. LAUTENBERG. Just a minute, because I want to second what we just heard from the Senator from California about my friend and colleague from Virginia. We have our policy differences. But when there is something that strikes the right note, I know for the many years we have served together, now about 20, including a 2-year lapse, we were able to agree on things here and there that meant a lot in terms of the process of our functioning.

I commend the Senator from Virginia for coming to a negotiated settlement and consensus view that accomplishes what we all wanted. I thank him for his willingness to listen and for me to be able to participate.

I yield the floor.

Mr. HARKIN. Mr. President, I am pleased to join Senator WYDEN and other colleagues in sponsoring this amendment on contracting in Iraq and in support of the Warner-Boxer amendment No. 826. One of our key objectives for our work in Iraq is to convince the Iraqi people, other nations in the Mideast, and our allies that we are not occupying Iraq to get their oil and benefit big American corporations. We are there to provide the Iraqi people with basic services and infrastructure, human rights, and a more representative government. Given the massive problems we are having there, it is equally important to enable oversight by—and provide information for—Congress and the American people as well.

So it is unfortunate that we have started the reconstruction in Iraq on exactly the wrong note. Contracts have been let in secrecy, without open competition, to friends of the administration. The Army Corps of Engineers gave a contract that they thought was potentially worth $7 billion to Halliburton with no competition at all. The contract is classified, and I have been told the reason it is classified is classified too. And information about it has only dribbled out. First we were told it was just to put out oil well fires. Later it slipped out that production and distribution of oil were included as well. Was this in the interest of the Iraqi people? Did they consider investigations suggesting excessive charges in previous Halliburton contracts? How can we tell?

The Agency for International Development, under guidance from the Pentagon, has also let contracts in secrecy with only limited competition between hand-picked companies. Bechtel, with its own ties to the administration, got the largest one. Again we don't know how they chose these companies.

These practices must end if we are to obtain the trust of people at home or abroad. And I have to say it is not clear that results so far justify this unusual way of doing things.

This modest amendment simply says that if the administration is going to let contracts for Iraqi reconstruction without full and open competition, it has to tell Congress and the American people what it is doing. They have to give the amount of the contract, the scope, a description of who was allowed to compete and why, and documents on why they did not allow full competition. Classified information could be redacted, but would still be given to appropriate Congressional committees.

Similarly, the Warner-Boxer amendment requires competitive contracting for reconstruction of the Iraqi oil industry. If the administration does not cut off the Halliburton contract by August 31 and allow full competition for that work, as it has said it would, the amendment requires report to Congress.

The amendments will not ensure open competition, but at least they will bring daylight to shine on the administration's activities, and will allow the American and Iraqi people to see what is being done with our money and their future.

Mr. LEVIN. Mr. President, I understand the yeas and nays are going to be requested. I thank my good friend from California for her kind words and, as always, the Senator from Virginia for his willingness to work to try to advance the Senate's proceedings in a fair and thoughtful way. I thank him as always for his willingness to try to find some way to bring together diverse views.

Mr. WARNER. Mr. President, by way of concluding remarks, we have set forth a joint statement which hopefully will be enacted into law. I commend my two colleagues for their work. I don't fully share some of the allegations raised with regard to the suspicions connected with this contract. It is for that reason the contract should see the full rays of sunlight and be explored. Committees of Congress will eventually be exploring this same issue.

This document simply establishes a procedure by which this can be done. It is my expectation we will recognize that those in authority in the Department of Defense, recognizing the urgency of time following the basic cessation, not the full cessation but basic cessation of hostilities, have to move with swiftness. That is the underlying reason. Eventually this contract can be substantiated as in compliance with the law.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been previously ordered.

The question is on agreeing to amendment No. 826, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—1

Kerry

The amendment (No. 826), as modified, was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. My distinguished ranking member, working in conjunction with our leadership, is of the view that we are rapidly approaching the point at which we can seek third reading and have final passage. I hope that within a matter of a few minutes we can determine that option and its availability.

Mr. LEVIN. We are almost there, Mr. President, but not quite.

Mr. WARNER. Unless there are further matters that the Senators wish to address with regard to the underlying bill, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 806, AS MODIFIED

Mr. WARNER. Mr. President, the distinguished ranking member and I will now proceed to continue with amendments that have been agreed to on both sides.

Mr. President, I ask unanimous consent amendment No. 806 be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 806), as modified, is as follows:

On page 17, after line 9, insert the following:

**SEC. 108. REDUCTION IN AUTHORIZATION.**

The total amount authorized to be appropriated under section 104 is hereby reduced by $3,300,000, with $2,100,000 of the reduction to be allocated to SOF rotary upgrades and $1,200,000 to be allocated to SOF operational enhancements.

Mr. WARNER. The amendment has been agreed to on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 806), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 828

Mr. LEVIN. Mr. President, on behalf of Senators KERRY and KENNEDY, I offer an amendment which would authorize transportation of dependents to the presence of members of the Armed Forces who are retired for illness or injury as a result of active duty.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. KERRY, for himself and Mr. KENNEDY, proposes an amendment numbered 828.

The amendment is as follows:

(Purpose: To authorize the transportation of dependents to the presence of members of the Armed Forces who are retired for illness or injury as a result of active duty)

At the end of subtitle C of title VI, add the following:

**SEC. 634. TRANSPORTATION OF DEPENDENTS TO PRESENCE OF MEMBERS OF THE ARMED FORCES WHO ARE RETIRED FOR ILLNESS OR INJURY INCURRED IN ACTIVE DUTY.**

Section 411h(a) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) Under the regulations prescribed under paragraph (1), transportation described in subsection (c) may be provided for not more than two family members of a member otherwise described in paragraph (3) who is retired for an illness or injury described in that paragraph if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine that the presence of the family member would be in the best interests of the family member."; and

(4) in paragraph (3), as so redesignated, by striking "paragraph (1)" and inserting "paragraph (1) or (2)".

Mr. LEVIN. The amendment has been agreed to on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 828) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 829

Mr. WARNER. Mr. President, on behalf of Senator VOINOVICH, I offer an amendment which ensures that personnel who attend the Air Force Institute of Technology from the Army, Navy, and Marine Corps, have the costs of their education paid for similarly to the naval postgraduate school.

It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for Mr. VOINOVICH, proposes an amendment numbered 829.

The amendment is as follows:

(Purpose: To provide that requirements on coverage of the costs of instruction at the Naval Postgraduate School shall also apply with respect to costs of instruction at the Air Force Institute of Technology)

On page 103, between lines 18 and 19, insert the following:

"(3) The Department of the Army, the Department of the Navy, and the Department of Transportation shall bear the cost of the instruction at the Air Force Institute of Technology that is received by officers detailed for that instruction by the Secretaries of the Army, Navy, and Transportation, respectively. In the case of an enlisted member permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis)."

The PRESIDING OFFICER. Is there debate?

Mr. WARNER. This has been cleared on both sides.

Mr. LEVIN. We have no objection.

The PRESIDING OFFICER. Without objection the amendment is agreed to.

The amendment (No. 829) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 830

Mr. WARNER. Mr. President, on behalf of Senator HUTCHISON, I offer an amendment which ensures that Impact Aid continues for military dependents at installations that have been conveyed to local communities such as Brooks Air Force Base but the military continues to reside in the base housing.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mrs. HUTCHISON, proposes an amendment numbered 830.

The amendment is as follows:

(Purpose: To amend the section 351 funding authority to include authority for the funds to be used for making Impact Aid basic support payments to local educational agencies affected by the Brooks Air Force Base Demonstration Project, including amounts computed on the basis of Federal property that is converted non-Federal property)

On page 71, strike lines 12 through 21, and insert the following:

(d) AVAILABILITY OF FUNDS FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY THE BROOKS AIR FORCE BASE DEMONSTRATION PROJECT.—(1) Up to $500,000 of the funds made available under subsection (a) may (notwithstanding the limitation in such subsection) also be used for making basic support payments for fiscal year 2004 to a local educational agency that received a basic support payment for fiscal year 2003, but whose payment for fiscal year 2004 would be reduced because of the conversion of Federal property to non-Federal ownership under the Department of Defense infrastructure demonstration project at Brooks Air Force Base, Texas, and the amounts of such basic support payments for fiscal year 2004 shall be computed as if the converted property were Federal property for purposes of receiving the basic support payments for the period in which the demonstration project is ongoing, as documented by the local educational agency to the satisfaction of the Secretary.

(2) If funds are used as authorized under paragraph (1), the Secretary shall reduce the amount of any basic support payment for fiscal year 2004 for a local educational agency described in paragraph (1) by the amount of any revenue that the agency received during fiscal year 2002 from the Brooks Development Authority as a result of the demonstration project described in paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "basic support payment" means a payment authorized under section 8003(b(1)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 830) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 831

Mr. WARNER. Mr. President, I offer an amendment on behalf of Senator DOMENICI which expresses the sense of the Senate on the reconsideration of the decision to terminate the border and seaport inspection duties of the National Guard as part of its drug interdiction and counterdrug mission. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOMENICI, for himself, Mr. MCCAIN, Mr. NELSON of Florida, and Mr. CORNYN, proposes an amendment numbered 831.

The amendment is as follows:

(Purpose: To state the sense of the Senate on the reconsideration of the decision to terminate the border and seaport inspection duties of the National Guard as part of its drug interdiction and counter-drug mission)

At the end of subtitle D of title X, add the following:

**SEC. 1039. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.**

(a) FINDINGS.—The Senate makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.

(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.

(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

Mr. LEVIN. No objection.

The PRESIDING OFFICER. If there is no further debate, the amendment is agreed to.

The amendment (No. 831) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### ENVIRONMENTAL RESTORATION OF THE FORMER EAKER AIR FORCE BASE

Mr. PRYOR. Mr. President, I would like to bring the Senate's attention to a matter important to Blytheville in Mississippi County, AR. Blytheville is the former home of Eaker Air Force Base. In 1992, Eaker closed and ended a 50-year legacy between the U.S. Air Force and the people of Blytheville. During Eaker's 50 years, the Air Force benefited from local support of Eaker—support that ensured an atmosphere where the Air Force could complete critical missions.

Today, a decade following Eaker's closure, the folks at Blytheville are trying to move forward and locate new businesses at the former base. Regrettably, abandoned, decaying buildings with asbestos siding and pipe insulation were left behind after the Air Force's departure and this environmental hazard is preventing any potential economic development on these lands. Our Federal Government regulations are clear concerning these types of hazards and the required remediation thereof. It is my understanding that many of these buildings were scheduled for demolition by the Air Force prior to the base closure. It is further my understanding that there is a potential for the asbestos to become airborne as these building begin to collapse.

Mississippi County currently has the highest unemployment rate in the State. It was not the intent of the base closure process to leave a local community with environmentally hazardous waste, however, this is precisely what has occurred. The county cannot relocate new business in the facilities until the cleanup is complete.

I want to bring closure to this issue and I hope that Chairman WARNER and Senator LEVIN will join me in looking into this matter. I plan on contacting the Air Force to get a formal response to the environmental issues at the former Eaker Air Force Base. Again, I thank my colleagues for any support that they might provide in helping the people of Blytheville, AR.

Mrs. LINCOLN. Mr. President, I want to associate myself with the remarks made by Senator PRYOR. This is a matter that I discussed with Senator INOUYE last year during the consideration of the Defense appropriations bill. For reasons unknown, environmental restoration of the former Eaker Air Force Base has languished for over a decade. It is past time to address this issue. It is time to clean up this land and enable the people of Blytheville to find new tenants that can contribute to the local economy.

The people of Blytheville deserve Federal assistance to clean up the asbestos left behind by the Air Force. For 50 years, residents of Blytheville proudly supported Eaker Air Force Base as home to a group of strategic air command B-52 bombers and more than 3,000 military personnel, before its closure in 1992. Before the closure, the military accounted for 15.2 percent of personal earnings, the largest of any industry in the county.

Through industrial expansion at the Arkansas Aeroplex, I believe significant strides can be made to turn the economic situation in Blytheville around. The Aeroplex is home to a 2-mile runway. In fact, the runway could serve as an alternate landing site for the NASA space shuttle. The potential for new business is abundant, but the opportunities are hampered because of the asbestos-filled buildings.

I look forward to working with Senator PRYOR on this matter, and I hope our colleagues from the Senate Armed Services Committee will assist us on this issue.

Mr. LEVIN. I also would be glad to help the Senator get this issue addressed and will work with you in contacting the Air Force.

### HOUSE PROVISION ON MEALS READY TO EAT (MRE)

Mr. BAYH. As the chairman knows, I am a strong supporter of Buy American requirements, and am generally open to strengthening current law, but the House Armed Services authorization bill contains a provision that could impact our ability to produce MREs. This provision specifically deals with the packaging requirements for MREs procured by DOD.

Mr. WARNER. I have not seen the provision but it sounds like it might be a concern.

Mr. INHOFE. If the distinguished Senator from Virginia would yield, Mr. Chairman, I also have concerns about this provision and the effects it would have on our ability to meet production needs to get necessary meals to our service men and women in the field.

Mr. BAYH. Mr. President, it is my understanding the implementation of the House provision could seriously impact the industry's production capacity and relegating MRE restocking to old, slower technology producing less desirable meal options.

Mr. WARNER. I was unaware of this matter, but want to assure the Senator from Indiana and the Senator from Oklahoma that the Senate will give this provision a thorough review in conference with the House.

Mr. BAYH. I thank the distinguished chairman and the Senator from Oklahoma for their interest in the matter and look forward to working with them to resolve this issue.

Mr. INHOFE. I thank the chairman and the Senator from Indiana and look forward to working with them on this issue as we proceed with the bill.

### THE BAN ON LOW-YIELD NUCLEAR WEAPONS

Mr. BINGAMAN. Mr. President, we have in the Senate repealed the ban on low-yield nuclear weapons, specifically, section 3136 of the National Defense Authorization Act for fiscal year 1994, Public Law 103-160.

Mr. LEVIN. We have included, however, a requirement for the specific authorization for low-yield warhead development beyond phase 2A or 6.2A. With this amendment, Congress and this committee, will continue to play an important oversight role on nuclear weapons development.

Mr. BINGAMAN. I have submitted an amendment which has been accepted, that requires the Secretaries of the Departments of Defense, Energy, and State, to provide Congress by March 1, 2004, an assessment of the effects, if any, that such a repeal will have on the ability of the United States to achieve its nonproliferation objectives, and whether or not, changes in programs or activities would be required to achieve these objectives. I have asked that this report be submitted in an unclassified form with a classified annex, if needed.

Mr. LEVIN. I believe a careful, systematic study is needed by the executive branch on the effects of such a repeal, and especially, how it affects nations such as Russia, where we are cooperatively working to reduce the proliferation of weapons of mass destruction.

Mr. BINGAMAN. The Senator is correct. There is concern on the signal that this repeal could send to other nations, especially those we are working with to stem the proliferation of nuclear weapons. In particular, my intent in submitting this amendment was the effect that the repeal would have on the Cooperative Threat Reduction Program, which was started by Senators NUNN, LUGAR, and DOMENICI. I want to be assured that we do not send any bad-faith signals to Russia, and other countries, that participate in the program. The United States spends over a billion dollars a year in this effort; the repeal of the low-yield ban must not negatively affect this investment of the taxpayers' money.

Mr. LEVIN. I share this concern. I will work with the Senate Armed Services Committee, through our important oversight role, to insure that the Cooperative Threat Reduction Program continues to be carried out effectively by the Departments of Defense and Energy, especially now that we have repealed the ban on low-yield nuclear weapons.

Mr. BINGAMAN. I appreciate the committee's help in this important matter.

Mr. CHAMBLISS. Mr. President, I rise today to express my concern with the administration's approach to competitive sourcing and the revisions to Circular A–76 currently under consideration by the Office of Management and Budget and the Office of Federal Procurement Policy. Currently, "competitive sourcing" as defined and interpreted through Circular A–76 is biased against work performed by Government employees. Some examples of this are: 1, there are very limited provisions for work, including work that has been previously outsourced, being competed and returned to the Government, and, 2, any function that has ever been studied for outsourcing is required to be restudied for outsourcing every 5 years.

With this in mind, I urge the administration to incorporate provisions in the revised A–76 to be released in the coming months. The following items must be included for our support:

One, remove all barriers to moving previously outsourced or "inherently governmental" work into Government facilities and develop clear provisions for competing previously outsourced work. The spirit of A–76 should be to have an even flow of workload between public and private facilities and a level playing field for public and private entities upon which they can compete for work.

Two, encourage public-private partnerships and establish clear provisions for allowing public-private partnerships to compete for work competitively sourced under A–76.

Three, more explicitly define "inherently governmental" so that it will be clear which activities are not subject to A–76 studies.

Four, eliminate the requirement once an A–76 competition has been awarded to the Government, for the work to be reviewed again every 5 years and subject to recompetition. The option to restudy should remain but the requirement to restudy should be eliminated.

Mr. INHOFE. Mr. President, I strongly agree with the Senator from Georgia. I truly believe our depots are a national asset and we should address the basic question of "core" requirements. Currently, there is no acceptable definition of "inherently governmental" functions or "core" which can guide the administration and the Department of Defense as they decide which functions should be competed for outsourcing. As we have seen in both Iraq and Afghanistan, the United States does not have the luxury of time in addressing the threats of tomorrow. Before we start making short-term decisions, we need to look at the long-term effects and requirements in support of national defense.

Mr. KENNEDY. Mr. President, I thank my colleagues for their comments and add my own.

Last November, the Office of Management and Budget proposed the most sweeping changes to the rules on outsourcing of Government work since the last 1950s. Now, the administration wants to use the proposal to privatize at least 225,000 Department of Defense civilian jobs over the next several years.

The proposed changes have received strong criticism from the General Accounting Office, GAO, executive branch agencies, and Federal employee organizations. The CIA wrote that they will be unable to meet their own statutory requirements to protect their intelligence sources and methods if they fully implemented the revision. The Department of Transportation raised concern about the adverse impact of the changes on women and minorities employed by the Federal Government.

The proposed revisions could undermine public-private competition. Under the plan, if an agency is unable to complete public-private competitions in 1 year, it could automatically privatize the work. After an outcry from agencies and the public, OMB indicated that it would consider changes, but it is far from clear what the changes will be.

In addition, the proposal allows so-called "streamlined" competitions for activities involving 65 or fewer employees and lasting no more than 90 days. Under current rules, the Federal employee or the contractor must be at least 10 percent or $10 million more efficient to win a bid. Under this "streamlined" method, there would be no such requirement. Clearly, the potential savings and efficiency created by competition would be threatened and would be contrary to the recommendation of the Commercial Activities Panel, the panel charged with reviewing outsourcing policies, for which all of the contractor and administration representatives voted.

The proposal would also include an automatic bias in favor of contractors. It imposes a 12 percent overhead cost on all Federal employee bids, and then imposes a superfluous charge for indirect labor costs, but it does not impose the same charges on contractor bids, even though both Federal employees and contractors would have similar overhead costs. The DoD inspector general has said that the 12 percent overhead factor is "unsupportable."

In addition, the proposal is likely to reduce the standard of living for tens of thousands of Americans. By artificially inflating the costs of in-house personnel, contractors have incentives to reduce costs by providing unfair compensation packages for those who perform Government work. Good jobs with fair wages and opportunities for advancement would be turned into lower wage jobs with no benefits and no security. According to the Economic Policy Institute, more than one in 10 Federal contract workers already earns less than a living wage.

The proposed revisions also apply different competition requirements to Federal employees and contractors in other ways that raise serious fairness concerns. Contractors have an incentive to low-ball their proposal, since there is relatively little likelihood of real private sector competition. The inspector general of the Department of Defense has reported that over three-fifths of the contracts he and his staff surveyed suffered from "inadequate completion."

Clearly, the proposed revisions will have significant implications for undermining competition and reducing opportunities for Federal employees to compete fairly for their own jobs.

Today, there is far too little real competition for contacts to provide goods and services of Federal agencies. We should be getting the most out of every taxpayer dollar. But, less than 1 percent of Department of Defense service contracts are subject to full public-private competition.

Government procurement should be based on what is best for taxpayers and our national defense. We face great challenges to the Nation's security in these difficult times. More than ever, we rely on the Department of Defense and its dedicated employees. As the military budget grows rapidly, we must see that taxpayers and our men and women in uniform obtain the benefits too. True competition is more critical today than ever.

Mr. CHAMBLISS. I thank the Senator from Oklahoma and the Senator from Massachusetts for their comments. I agree that we should not make short-term decisions on these issues, that more precise definitions of "inherently governmental" and "core" are required to guide competitive sourcing decisions and public-private partnerships, and that the "streamlined" procedure OMB is advocating are a step in the wrong direction. I look forward to working with my colleagues and the administration to ensure any revision to A–76 are done carefully and do not discriminate against our Federal workforce.

### BIOBASED PRODUCTS

Mr. BOND. Mr. President, I would like to engage my colleague, Senator WARNER, in a colloquy.

As we know, Executive Order 13101 provides guidance to the head of each executive agency, including the Secretary of Defense, regarding the use and procurement of recycled and biodegradable products. In fact, the Order states each agency head ". . . shall incorporate waste prevention and recycling in the agency's daily operations and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such products."

I think that now is a great opportunity to once again encourage the Department of Defense to procure products that both reduce waste and enhance recycling. I am aware that biobased products have been developed using a new composite material consisting primarily of limestone and renewable starch for the production of food serviceware. Manufacturers of these products maintain that they have proven to be strong, provide good insulation, and biodegrade in marine and composting environments. I am told that in recent years, biobased products have become more prevalent and more cost competitive. Moreover, I believe that these products have been tested in the Pentagon cafeterias and are being considered for use in other Defense facilities.

I support environmentally friendly products such as biobased products. In my home State of Missouri, we have a manufacturing plant in the City of Lebanon that produces equipment for manufacturing biobased products. The plant has already produced eight machines. By the end of the year, the plant will have produced 50 additional machines. Buy 2004, the plant will have built 100 additional machines. In addition, due to the high demand for biobased products, the plant is also producing biobased food serviceware. The plant takes up 50,000 square feet and requires 90 full-time and temporary workers. I appreciate the jobs and business created by this multi-million-dollar endeavor, and I am proud that we have a Missouri-manufactured product that reduces the impacts of waste on our environment.

Mr. WARNER. I appreciate the Senator's concerns and support his efforts in this area.

• Mr. KERRY. Mr. President, military planning is about balancing risk and cost. Resources will always be limited. And actions will always incur costs, whether financial or political. In the fiscal year 2004 Defense Authorization Bill, the Bush administration sought to develop a new generation of nuclear weapons that would risk blurring the distinction between conventional and nuclear arms. While the financial cost of this decision would not be insignificant, the political costs internationally—and the costs to America's security—could be enormous.

Since the dawn of the nuclear age, the United States has sought to limit the spread of nuclear weapons. We have signed treaties, we have cajoled allies, we have threatened adversaries, and, in the Nuclear Non-Proliferation Treaty, we made it the stated goal of the United States to pursue real nuclear disarmament. The President has stated that the spread of nuclear weapons, when taken with the global danger posed by terrorism, represents the greatest threat to America's security. We have fought one war over weapons of mass destruction in Iraq. We are locked in a perilous stalemate with North Korea over their nuclear weapons program. We remain concerned about the pursuit of nuclear weapons in places like Iran. And we worry that the Indian-Pakistan border might witness the first exchange of nuclear arms.

We find ourselves in an increasingly contradictory position. On the one hand the Bush administration says that it will pursue whatever measures might be necessary to stop the spread of nuclear weapons around the world. Ye in our own affairs, the administration has broken dangerous new ground. Their Nuclear Posture Review urged the development of new nuclear weapons in order to target deeply buried, hardened targets or chemical and biological agents on the battlefield. Earlier this year, the president signed an order raising the prospect of American first-use of nuclear weapons against a non-nuclear state. These are dangerous and sobering developments. They underscore the perils of this new age. But these policies do not make us safer. Indeed, I would argue they risk making us less secure.

The greatest challenge to the security of the United States is the threat of terrorist armed with weapons of mass destruction. There is little debate of this assertion. At a time when stopping the proliferation of weapons of mass destruction and securing those that already exist is the principal security challenge of our time, it is inconceivable to me that the Bush administration would seek the authority to develop new weapons of our own. It is another example of the administration acting unilaterally and damaging America's long-term interests in the process.

The most effective means to thwart the nuclear ambitions of others is our own moral leadership backed by unquestioned military might. That moral leadership is predicated on the way we conduct ourselves. In short, our efforts to keep nuclear arms out of the hands of others will lack international credibility and support—and ultimately success—if we are determined to develop new nuclear weapons of our own. Without international support, our best efforts to prevent the spread of nuclear weapons will be greeted with cynicism and, quite simply, fail.

Our unquestioned military might is not predicated on the development of new nuclear weapons or our ability to target underground bunkers with nuclear bombs; rather it flows from our investment in conventional arms, our ability to project power around the world, our demonstrated capability to strike any point on the planet with precision, and the investment we make in the men and women of our armed forces.

In fact, the United States alone has demonstrated the ability to achieve near-strategic effects through the use of conventional precision munitions. No other country can do that. No other country is even close. Given that fact, it is not clear why this administration is willing to bear the international costs of developing a weapon that will raise new questions about America's intentions and hinder our leadership in the fight against proliferation without providing any new military utility.

The two most likely scenarios in which United States military might use these new weapons, whether low-yield nuclear weapons or larger bunker-busters, are in striking deeply buried, hardened targets and in defeating chemical and biological agents on the battlefield. In both cases, there are conventional alternatives to the use of nuclear weapons. Deeply buried and hardened facilities can be disabled by using conventional munitions to seal their entrances. Other munitions such as incendiary and thermobaric bombs have proven effective in Afghanistan. A nuclear detonation, in contrast, would eject a plume of radioactive debris that would contaminate the surrounding region, sickening civilians in the area and endangering the well-being of American military personnel. Crossing the nuclear threshold to accomplish these missions would be overkill, it would violate accepted norms of behavior, and it would produce a damaging political backlash against the United States and our interests.

There has emerged in recent years an American way of war. Different observers have ascribed different characteristics to it, but nearly all recognize that among its features is a concern and respect for non-combatants. The Secretary of Defense has even noted the additional risk taken by our aircrews to avoid civilian casualties in Afghanistan and Iraq. The use of nuclear weapons, however, would imperil anyone near a target with exposure to dangerous levels of radiation, introducing a new horrific possibility to the euphemism "collateral" damage.

Some have contended that a low-yield nuclear weapon, detonated at some depth, would provide shielding from the dangerous fallout associated wit nuclear detonation. According to Rob Nelson, a nuclear physicist at Princeton University, however, a nuclear bunker buster with a yield of one-tenth of one kiloton—about two hundred times smaller than the bomb dropped on Hiroshima—would need to penetrate to a depth of 230 feet prior to detonation for the earth to absorb the totality of the blast. To provide some perspective, the Pentagon's only current nuclear earth penetrating weapon can reach a depth of only about 20 feet in dry earth. At this depth, a 0.1 kiloton weapon would eject hazardous debris and likely fail to damage a robust, deeply buried, hardened structure.

Finally, by pursuing new, "usable" nuclear weapons designs, this administration underscores to every rogue regime in the world the value of nuclear arms, whether that value is real or not. This is the wrong message for the United States to send. In its place, we must find new ways to demonstrate to countries around the world that these weapons are affordable, unusable, and undesirable.

Now is the wrong time to consider developing a new class of American nuclear arms. Instead of researching and developing new weapons, we must redouble our efforts to secure the nuclear weapons already in the world's inventories and safeguard the stores of nuclear materials scattered in unsecured facilities around the world. There is simply no compelling need for a new generation of nuclear weapons. They will not add any meaningful value to our arsenal. But they will undermine our efforts to stem the growth of nuclear stockpiles around the world while making America less secure and the risks of war and catastrophic terrorism even greater.

The future is not about a return to the city-busting bombs of the past, nor smaller yield nuclear weapons that might blur the distinction—in some minds—between conventional and nuclear arms. Rather, the future is about eliminating the threat posed to us all by such weapons. Our strength and our power at this moment in history is unrivaled. Now is the time for bold leadership that makes the world safer from nuclear dangers, not more eager for new weapons.●

Mr. ROBERTS. Mr. President, I rise in support of the National Defense Authorization Act for fiscal year 2004. I commend Chairman WARNER and Ranking Member LEVIN for their skillful stewardship.

I believe the committee completed its mark-up in near record time, with one of the fastest subcommittee marks in history occurring at the panel I currently chair, the Subcommittee on Emerging Threats and Capabilities.

Nonetheless, Senator JACK REED and I were able to provide funding for a number of important programs. We focused not only on enhancing the capabilities of our men and women in uniform, but also on those initiatives that address threats we face right now here at home.

In fact, since Chairman WARNER established the subcommittee in the Winter of 1999, most of the "emerging threats" have become current realities. I am talking in particular about the use and potential use by terrorists of weapons of mass destruction (WMD).

I am certainly thankful for the leadership of President Bush as we try to navigate through this environment, one that includes apocalyptic terror groups acquiring and employing WMD.

Let us remember, day to day, it is the President of the United states who is responsible for preventing terrorism where we live and work. I am confident President Bush is doing all he can to protect us.

He may not be popular in European cafes, universities, or newspapers, but he gets results for us here at home. Foreign actors, be they governments, individuals, or groups, know our President will hold them accountable for terrorism against us. Perhaps more than any policy action or innovation, this posture contributes to success in achieving a secure environment in which we find ourselves right now.

Up against the most asymmetric, organized, determined, and merciless enemy the United States has ever faced, we have not had a major terror attack in the homeland since beginning the Global War on Terrorism shortly after 9/11. In this urgent threat warning atmosphere, knock on wood, Mr. President.

Indeed, there have been recent attacks in Saudi Arabia, Israel and North Africa. At the same time, however, the State Department reports that, globally, 2002 saw the lowest number of incidents of terrorism since 1969, a 44 percent drop from 2001. That is the lowest number of attacks since the birth of modern terrorism.

I recall these facts because the nature of recent comments from certain Members who suggest virtually every act of terrorism is somehow the fault of our Commander in Chief. That is not only inaccurate but counterproductive to the war against terrorism.

In closing, I would like to briefly summarize the funding authorizations achieved by the Subcommittee on Emerging Threats & Capabilities for fiscal year 2004 include the following:

$88.4 million to field an additional 12 Weapons of Mass Destruction-Civil Support Teams (WMD-CST), resulting in a total of 44 teams by the end of 2004.

$76,6 million to the Chemical Biological Installation/Force Protection Program, doubling the number of bases, from 15 to 30, that will be fully equipped with a highly effective suite of manual and automated chemical and biological detection equipment.

$147.0 million in innovative technologies to combat terrorism and defeat asymmetrical threats.

$135.0 million to rapidly accelerate the development and acquisition of unmanned systems such as UAVs.

$1.5 billion in university based research for transformational defense technologies.

$10.7 billion for the Defense Science and Technology program, including an additional $515.0 million for critical, high-payoff science and technology programs, including approximately $150.0 million for technologies to combat terrorism.

$6.7 billion for the Special Operations Command, including an additional $107.0 million for weapons systems, psychological operations capabilities, and enhanced intelligence.

$450.8 million for the Department of Defense's Cooperative threat Reduction (CTR) Program, as well as authorization for CTR projects and activities outside the states of the Former Soviet Union, and one year authority to waive the conditions that must be met before continuing the Russian chemical demilitarization program at Schuch'ye.

Again, I commend Senators WARNER and LEVIN. I also thank Senator REED for being an outstanding partner in completing the tasks given to our panel this year. We believe we are continuing the committee's investment in science and technology, cutting-edge systems, and efforts to prevent the proliferation of WMD.

I thank the Chair and I urge my colleagues to support the Fiscal Year 2004 National Defense Authorization Act.

Mr. LAUTENBERG. Mr. President, I am going to support this national Defense authorization bill, S. 1050, but I would like to speak candidly about my reservations about it.

When I left the Senate in early 2001, weapon development and troop deployment concerns indeed, even the idea of serious national security threats seemed to be fading into the obscurity of our cold war past. Over the past 2½ years, this has changed. We now live in a world of multiple and continuously emerging threats, emanating not only from states but also from nonstate transnational groups.

What's more, we live in a time when America's superior armed services have been called up for missions that embody the essence of defense transformation. Defense transformation means that our country can overthrow the Taliban regime in Afghanistan 6,000 miles away almost solely from the air. It has allowed special operations forces to train antiterrorist units in places such as Georgia and the Philippines. Finally, defense transformation has meant that military commanders can direct precision-guided weapons at specific office buildings in downtown Baghdad from a command room in Florida.

Today we debate the merits of this national defense bill and the important issues it raises regarding the future of weapons control and military research, technology, and development. Let us first acknowledge and express gratitude to the men and women of our armed services. We are proud of their successful wartime mission to liberate Iraq. We wish them continued success in their peace time mission to secure stability for the Iraqi people.

As we support our troops in Iraq, Afghanistan, and elsewhere, we must keep in mind that their ultimate mission is to defend not only America's security interests but also the cause of global security. I have spoken about a new set of threats that require a transformation of our defense budget and priorities. I believe, however, that it is incumbent upon Congress to conceive of defense transformation—indeed our near-and short-term defense needs—in a way that will also seek to protect world peace.

I am concerned about elements of S. 1050 that allow the Pentagon greater flexibility in developing, testing, and producing new types of nuclear weapons. The diplomatic and security costs of even beginning research on these new types of nuclear weapons far outweigh any marginal benefits of such weapons.

These new nuclear weapon initiatives will further weaken the already struggling international efforts to halt the spread of nuclear weapons. U.S. influence with the international community will erode if it seeks to upgrade U.S. nuclear weapons while demanding that other countries, such as Iran and North Korea, disarm.

Dr. Mohamed El Baradei, Director of the International Atomic Energy Agency, recently said that instead of developing new nuclear weapons, the U.S. should send a message to potential proliferators that, "Even though we have nuclear weapons, we are moving to get rid of them. We are going to develop a system of security that does not depend on nuclear weapons because that's the way we want the world to move."

I agree with Dr. Baradei; I believe the best way to deter nations trying to develop nuclear capabilities is to send the signal that the prospect of nuclear warfare is an idea confined to science fiction movies.

I have supported the amendments offered by Senators REED, FEINSTEIN, and others intended to modify rather than repeal the 1994 Spratt-Furse prohibition on research and development of low-yield nuclear weapons. Secretary Rumsfeld has argued that these mini-nukes could be the ideal weapon for going after deeply buried stashes of chemical and biological weapons—the sort roguish regimes and terrorist groups like al-Qaida might attempt to conceal.

But at the same time, the Pentagon is considering adapting existing conventional warheads for such bunker busting jobs. We don't need both types of weapons to do the same job. By dangerously treating nuclear weapons as just another explosive in the arsenal, rather than as a deterrent weapon of last resort, researching low-yield nukes threatens to blur the line between conventional and non conventional weapons. Given our interest in preserving the seriousness with which the world regards the nonproliferation treaty, we should not be doing anything in our own arsenals that would confuse this distinction.

I would also like to call attention to my amendment, S. 722, that will help protect many endangered species. I am pleased that this amendment passed.

I would also like to call attention to an amendment that I have sponsored along with Senator BOXER and Senator WARNER regarding a noncompetitive contract granted by the Department of Defense to Halliburton Co. for the reconstruction of Iraq. This amendment will ensure that this no-bid contract gives way to a competitively bid contract expeditiously. I am pleased by the bipartisan cooperation and Senator WARNER's leadership in the passage of this amendment.

In recent weeks, I have become concerned with the lack of transparency regarding this particular contract—worth up to $7 billion—awarded in a no-bid process to Halliburton and Co.'s subsidiary. The scope of the contract—both the actual task order and the dollar amount—were not fully disclosed by the administration, and information leaked out about it piecemeal, when the Army was pressed for it. It is extremely important that the Pentagon divulge information about the contracts it awards in a public and systematic fashion.

I believe that this Defense authorization bill has merits and provides comprehensive funding for the Department of Defense's needs. It will effectively meet the needs of our men and women in the armed services. I am, frankly, very concerned about its authorization of low-yield nuclear weapons research, ballistic missile development, and its reduction of the constraints on nuclear weapons testing.

Ms. LANDRIEU. Mr. President, on June 6, 2000, the National D-Day opened in New Orleans, LA. This museum was the culmination of a vision of the late Stephen Ambrose. Dr. Ambrose dedicated his life to chronicling American heroes, including Dwight D. Eisenhower. It was President Eisenhower who mentioned to Dr. Ambrose that World War II was won in New Orleans because of the Higgins landing craft, designed by Andrew Jackson Higgins, which enabled Allied Forces to launch successful amphibious invasions.

The National D-Day Museum has been an unquestioned success as a tourist attraction, meeting place for veterans, and teaching tool for men and women, young and old, wishing to learn more about World War II. Already, over 1 million people have come through the museum's turn-styles.

America has a need to preserve its historical accounts and mementos from World War II. The National D-Day Museum is committed to such preservation. As a result of its mission, the museum has already had to expand and is building a 250,000 square-foot addition. We must preserve the stories and artifacts of the "Greatest Generation."

Accordingly, I submitted an amendment to designate the National D-Day Museum as "America's National World War II Museum." We owe it to the Great Generation to maintain a museum that pays tribute to their great sacrifices so that we may live today in freedom.

Mr. FEINGOLD. Mr. President, I rise to add my thoughts to the debate on the defense budget for fiscal year 2004.

First and foremost, I want to thank the members of the United States Armed Forces for the excellent work that they are doing in the ongoing fight against terrorism, their efforts in Iraq, and the many missions they have been assigned elsewhere at home and abroad. These dedicated men and women do an exemplary job in every mission that they have been asked to undertake, often at great personal sacrifice. They spend time away from their homes and families in different parts of the country and the world, and are placed into harm's way in order to protect the American people and our way of life. We owe a huge debt of gratitude to all our soldiers, sailors, airmen, marines, and members of the Coast Guard for their selfless service.

I am pleased that this bill authorizes a 3.7-percent pay raise for our men and women in uniform, and that it includes a provision authorizing additional pay for members of the Guard and Reserve who have been called to active duty multiple times.

The men and women of our National Guard and Reserve are a cornerstone of our national defense, and we should ensure that they have adequate pay and benefits. I am pleased that the Senate adopted an amendment to give guardsmen and reservists the opportunity to enroll in TRICARE, the military's health care program, whether or not they are on active duty. The provision also would enable these personnel to elect to keep their civilian health insurance for their families while on active duty with a federal reimbursement program. We owe it to our guardsmen and reservists to give these options to help to ensure that they and their families have access to affordable, stable health care coverage.

I have long advocated for the creation of an additional 23 Weapons of Mass Destruction Civil Support Teams, which are staffed by full-time members of the National Guard. These important teams play a vital role in assisting local first responders in investigating and combating these new threats. As the events of September 11, 2001, so clearly and tragically demonstrated, local first responders are on the front lines of combating terrorism and responding to other large-scale incidents. The tragic events of September 11, the ongoing threat of terrorist activities, and the ongoing military action in Iraq make the presence of at least one WMD-CST in each State all the more imperative.

Currently, there are 32 full-time WMD-CSTs and 23 part-time teams. As a Senator representing one of the states without a full-time team, I was pleased that last year's DoD authorization bill included a statutory requirement that 23 additional full-time teams be established, and that at least one team be located in every State and territory. I want to thank the chairman and the ranking member of the Armed Services Committee for working with me to ensure that resources for 12 of these 23 teams are provided in this bill. I look forward to working with the chairman and ranking member of the Appropriations Committee to ensure that the resources authorized in this bill for the new WMD-CSTs are appropriated.

I am also pleased that the committee report contains language asking the Pentagon to include funding for the remaining 11 full-time WMD-CSTs in its fiscal year 2005 budget request. I urge the Secretary of Defense to do so, and to make every effort to select and begin staffing, training, and equipping the 12 new teams authorized by this bill as expeditiously as possible. These teams will improve the overall capability of Wisconsin and other States with part-time teams to respond to potential WMD threats in the future.

On a related matter, as I noted on the floor earlier this week, I share the concern expressed by many of our colleagues about a provision in the Committee-passed bill that would repeal the 10-year ban on research and development of low-yield nuclear weapons, or so-called "mini-nukes." Lifting this ban could be the first step in a resumption of nuclear testing and the creation of new classes of nuclear weapons, which I oppose. I regret that the Senate failed to pass an amendment offered by Senators FEINSTEIN and KENNEDY, of which I was a cosponsor, that would have reinstated this ban. While proponents of lifting the ban argue that it will permit only study into the development of mini-nukes, I am concerned that such study will be the first step toward the eventual resumption of an active nuclear program by the United States.

Nuclear weapons, low-yield or otherwise, are relics of the cold war. Instead of a true transformation during which outdated systems are replaced with new technology geared toward combating emerging threats, this bill regrettably continues the process of piling on expensive new versions of the weapon systems that we used to fight and win the cold war. We cannot keep adding on to this behemoth defense budget. There are projects and programs that can and should be subtracted.

As an editorial in the May 20 New York Times points out:

> [G]ood ideas for reforming the military are included [in this bill]. But so are outdated submarines and jet fighters designed for combat against the defunct Soviet threat. There is a reasonable $1.7 billion for the next generation of unmanned aerial drones and an unreasonable $42 billion for anachronistic fighter planes. As social, education and health care programs are being squeezed, the Pentagon is asking for $9.1 billion to build a missile defense system that does not work yet.

On that last point, I am deeply concerned about the $9.1 billion included in this bill for missile defense. We continue to pour billions and billions of taxpayer dollars into this still unproven program year after year, despite the fact that DoD has not developed performance criteria for this system and does not have an operational testing program in place to verify whether such criteria can be met.

I remain concerned about the President's December 2002 decision to field a ground-based interceptor system by October 2004, despite the fact that the system has not yet been fully tested. I am troubled that, despite this accelerated scheduled, the Pentagon has proposed cutting the number of tests that were slated to be conducted on this costly program. While not everyone agrees on whether we actually need a missile defense system, I think we can all agree that such a system should work.

I was pleased to support an amendment offered by the Senator from Rhode Island, Mr. REED, that will require the Pentagon to develop performance criteria for the missile defense system and an operational test plan for these criteria. I am pleased that the Senate adopted a modified version of the amendment, and I look forward to reviewing these performance criteria.

I will support this flawed bill, but with some reluctance. While it provides a well-deserved pay increase and other benefits for our men and women in uniform, it clings to the hardware of the cold war. Our military personnel deserve top-notch equipment that will help them to combat the threats of the 21st century. I regret that there is little in the way of true transformation in this bill, and I will continue to work to change the cold war mentality of the Pentagon.

I ask unanimous consent that the complete text of the New York Times editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 20, 2003]

THE DEFENSE BUDGET SPILLS FORTH

Mammoth defense spending bills bloated with both new military technology and obsolescent weaponry are being rushed to breakneck approval this week as the administration exploits Congress's weakness for leaving no defense contractor unrewarded. The costliest defense budget since the cold war—more than $400 billion and counting—is being gaveled through by the Republican leadership in a breathtaking few days of glancing debate. Good ideas for reforming the military are included. But so are outdated submarines and jet fighters designed for combat against the defunct Soviet threat.

There is a reasonable $1.7 billion for the next generation of unmanned aerial drones and an unreasonable $42 billion for anachronistic fighter planes. As social, education and health care programs are being squeezed, the Pentagon is asking for $9 billion to build a missile defense system that does not work yet.

The waste easily runs into the tens of billions of dollars, making Congress's haste this week all the more outrageous. The armed forces obviously deserve decent pay, better housing and the most effective new technologies and weapons. But these bills provide windfalls for the military, for defense contractors and, not incidentally, for lawmakers who need the hometown pork and fat-cat contributions being subsidized by the new double-dip military-industrial complex. For all his tough talk, Defense Secretary Donald Rumsfeld is not taking on the generals and Congress to challenge the voracious old ways of military budgeting.

Ms. LANDRIEU. Mr. President, over 220,000 Guardsmen and Reservists were mobilized as part of Operation Enduring Freedom. Additionally, over 100,000 were activated as part of Operations Noble Eagle and Enduring Freedom. While the Soldiers and Sailors Civil

Relief Act and the Uniformed Servicemembers Employment and Reemployment Rights Act, provide a number of protections of our Guard and Reserve personnel, there are no Federal protections for the educational status of Guardsmen and Reservists involuntarily activated while participating in higher education.

Currently, over 30 percent of Guard and Reserve personnel are enrolled in post-high school education. If they are activated while enrolled in higher-education, there are no safeguards to ensure that their academic status is preserved during activation; that they receive refunds or credits for the portion of the school year they paid for but could not complete to mobilization; that college grants and scholarships are preserved; or that they have a right to re-enroll in the educational institution upon their return from active duty.

I submitted an amendment whereby involuntarily called up student Reservists and Guardsmen would be able to take a leave of absence during the activation and for 1 year after the conclusion of such military duty from their institutions of higher education. Furthermore, the student shall be entitled to be restored to the same educational status, without loss of credit, and offered a right to re-enroll at the same educational institution where the student was enrolled prior to activation. Grants and scholarships shall be reinstated. Moreover, students shall be entitled to a refund of tuition and fees for classes they could not complete due to activation or be allowed to enroll in such classes subsequent to their re-enrollment at no cost.

Soon, thousands of Guardsmen and Reservists will be coming home from Iraq and Afghanistan. They will be eager to re-enroll in colleges, universities, and trade schools. Let's help these heroes get back to the classroom as effortlessly as possible.

Mr. BOXER. Mr. President, I support passage of the fiscal year 2004 Defense Authorization bill.

Our military men and women can rest assured that the Congress of the United States stands behind them—especially when they are doing so much for this country in Iraq, Afghanistan, and throughout world. I appreciate their dedication and service to this grateful nation.

That is why it is important to support the many good provisions that are in this bill—especially a well-earned pay raise and improved benefits for our uniformed men and women. I applaud the work of Senator WARNER and Senator LEVIN on these quality of life issues and am especially pleased that they supported my amendment to study how we can provide additional benefits to those who are so frequently deployed that they are only home for hours at a time. This bill also includes a provision to address the issue of children who are left behind when both military parents are deployed to a combat zone—an important priority of mine since I was a member of the House of Representatives.

I am also pleased that the Congress passed my amendment to provide fairness to taxpayers and businesses by making sure that the Department of Defense replaces its sole source contract with Halliburton to provide oil related services in Iraq with a contract that is subject to full and open competition.

However, this does not mean I support everything in this bill. Most alarmingly are the provisions in the legislation that advance the research and development of new high-tech nuclear weapons. These weapons will not make us more secure, but instead encourage other nations to join us in a new nuclear arms race. I urge the President to reverse his dangerous policy of advocating the development of new "usable" nuclear weapons.

I am also disappointed that we did not have the opportunity to address the issue of a future round of base closures. California was disproportionally impacted by previous rounds of the base closure process. Even years later, my state continues to wait for the Department of Defense to meet its responsibility and provide funding for the environmental cleanup of former military installations. For these reasons, I believe the next round of base closures should not go forward in 2005 as scheduled.

It is my hope that these unfortunate shortcomings in the bill can be addressed either in a conference committee with the House or during consideration of the fiscal year 2004 defense appropriations bill.

Mr. INHOFE. Mr. President, as the war in Iraq demonstrated, our troops are the finest in the world. Through their mastery of precision-guided weapons, they minimized casualties of noncombatants and effectively contained war's inevitable destruction. In just 21 days, they liberated Iraq, a country almost the size of California, from a brutal tyranny.

Many factors contributed to the success of the Iraq war. In my view, the most important—and this, I believe, is true of any war—was training. To be strong in battle, soldiers must train as they fight. On U.S. training ranges, our troops engage in highly realistic, combat ready exercises, preparing them to fight and protect themselves in battle. This is what they deserve.

But gradually, those readiness exercises—so critical to the military's training mission—are steadily being constrained and inhibited. Slowly, but surely, training simulations bear little connection with the true-to-life. The cause is straightforward but very disturbing: the extreme agenda of some environmental groups, whose hostile lawsuits are precipitating a crisis in training.

Environmental groups such as the Natural Resources Defense Council and the Center for Biological Diversity have launched an unconscionable war on the military. They believe there are no compromises, even when the issue involves protecting and preparing our troops for battle. They would rather file lawsuits—something they are quite good at, incidentally—than find commonsense solutions to balance environmental protection with the best military training available.

These lawsuits are gradually eroding not just the land available for training and readiness, but are gravely diminishing the actual training exercises and live-fire simulations that are so critical to prepare for real-life combat.

Despite the claims made by environmental groups, the Pentagon has demonstrated a strong commitment to environmental stewardship. The evidence is overwhelming. But land development is fast encroaching upon military facilities, driving wildlife and endangered species into the relative sanctuary of training ranges.

The military has made environmental accommodations time and time again, but there is only so much it can do. The flood of environmental lawsuits is diverting the military away from its all-important training mission. As a result, training slowly but surely is dying a death of a thousand cuts.

There are too many egregious examples to recount here. The situation facing Camp Pendleton in California bears special mention. Camp Pendleton is considered the premier training base for the Marines. Because of a lawsuit filed by the Natural Resources Defense Council to list the gnatcatcher as endangered, 57 percent of the base may become "critical habitat," which in effect means no training and readiness exercises in that area.

Also, there are 17 miles of beach at Camp Pendleton—because of environmental restrictions, only 200 yards of beach are available to practice amphibious landings. All military vehicles that come ashore during an amphibious landing are restricted to designated roads. Troops can only come ashore in single file columns, which is hardly a good simulation of actual warfighting conditions.

To address these problems, the Pentagon has a reasonable, commonsense proposal to clarify existing environmental laws. Contrary to statements by some of my colleagues, the Pentagon is not seeking blanket exemptions from current laws. To say otherwise is simply false.

Take, for example, the provision clarifying how the Endangered Species Act applies to training bases. DoD wants to continue a policy first implemented by the Clinton administration's Fish and Wildlife Service. The proposal would codify Integrated Natural Resource Management Plans, INRMPSs, in place of critical habitat designations.

INRMPs, which are required to provide for, among other things, fish and wildlife management, land management, forest management, fish and wildlife-oriented recreation, and wetland protection, allow the military to balance species protection and training needs.

DoD's proposal explicitly requires DoD to consult with the Fish and Wildlife Service and the National Marine Fisheries Service under section 7 of ESA. Also, the Interior Secretary must approve INRMPs in writing. Other provisions of ESA, as well as statutes such as the National Environmental Policy Act, also would continue to apply.

Thus it is simply unconscionable that this is characterized as a "sweeping exemption." My Democratic colleagues also contend that such a clarification isn't necessary because ESA already contains national security exemptions. Ironically, while complaining about a proposed provision that, in effect, continues to subject DoD to ESA, my colleagues want to pursue exemptions under current law. In practice, those exemptions mean DoD could ignore existing statutory requirements altogether under ESA.

Yesterday, 51 Senators voted for an amendment sponsored by Senators LAUTENBERG and JEFFORDS that effectively guts the ESA provision in the fiscal year 2004 Defense reauthorization bill. The amendment upsets the balance stuck between species protection and training. It tilts irresponsibly in favor of species protection, which is not the mission of DoD.

The amendment says DoD must "conserve the species," rather than, as stated in the bills original language, provide "conservation benefits." The distinction is significant because "conserve' means DoD must recover species. This is an unacceptably high threshold, one that even Fish and Wildlife has been unable to meet under ESA.

According to original 1973 ESA, conserve means "to use and use all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this act are no longer necessary. Such methods and procedures include but are not limited to all activities associated with scientific resources and management, such as research, law enforcement, habitat acquisition and maintenance promulgation, live trapping, and transplanting." As is obvious, the burdens on DoD training and readiness would be enormous.

DoD opposes the amendment because it could have perverse and unintended consequences, such as removing the Fish and Wildlife Service's flexibility to make decisions based on the differing circumstances facing each training range. Also, DoD and the Department of the Interior believe it will lead to more lawsuits, not less—exactly what DoD is trying to prevent.

The question remains: What should DoD's most important focus be, training or recovering the gnatcatcher?

I am also very disturbed by statements an characterizations of DoD's training predicament. Some Senators alluded to the March 13 testimony of EPA Administrator Christie Whitman before my committee. Governor Whitman, said, "I don't believe that there is a training mission anywhere in the country that is being held up or not taking place because of the environmental protection regulations." With all due respect to Governor Whitman, the EPA does not have jurisdiction over the Endangered Species Act, which, of all the existing laws addressed in the Pentagon's proposal, is responsible for the most serious training restrictions.

Moreover, I am extremely troubled by the way some Senators have summarized a General Accounting report on military encroachment. To say "the GAO found the military has presented no evidence that the Endangered Species Act has impaired training" is utterly false and irresponsible.

Here is what the GAO said about encroachment in its report:

> Over time, the impact of encroachment on training ranges has gradually increased. While the effect varies by service and individual installation, in general encroachment has limited the extent to which training ranges are available or the types of training that can be conducted. This limits units' ability to train as they would expect to fight and/or requires units to work around the problem.

Barry Holman, director of the GAO's Defense Capabilities and Management section, and author of the June 2002 encroachment report, stated in his testimony before the House Government Reform Committee on May 16, 2002:

> One thing I want to make clear, I would not want anyone to conclude from looking at that report that GAO is saying 'no data, no problem.' We're not saying that. I think it's very clear . . . that there are limitations on training.

In addition to the ESA clarification in the base bill, I filed an amendment to clarify how the Superfund law applies to military training and readiness. Though it appears this issue will not be addressed as part of the Defense authorization bill this year, it does deserve some explanation.

Live-fire training, which is the "capstone event of a unit's training cycle," has come under heavy fire from environmental groups. The Army at Fort Richardson is engaged in a lawsuit that could shut down firing munitions at Eagle River Flats range. If environmentalists succeed, live fire operations at every Army range—more than 400 sites—could be severely constrained, seriously threatening training and readiness for our men and women in uniform.

This suit is not an isolated incident—there is another one much like it regarding the range at Vieques in Puerto Rico. The pattern is clear, and the Committee on Environment and Public Works received testimony as to the real agenda behind this pattern of lawsuits.

Describing yet another lawsuit by an eco-radical group against the Department of Defense, witness Frank Gaffey, president and CEO of the Center for Security Policy, stated illuminatingly "a plaintiff in the lawsuit was Melanie Dutchen who was described in the New York Times as an Anchorage activist with Greenpeace who said, 'Obviously the hope of this litigation is that delay will lead to cancellation.' She went on to say, 'That is what we always hope for in these suits.' I believe this is sort of an instructive insight into why the Defense Department is concerned, not only about the circumstances that you personally observed, in terms of limitations and impediments to training, but the train wreck that is coming. It is not something that is coming up by accident. It is coming about, I believe, by people, at least some of whom, have very little interest in the readiness of our military."

My amendment will try to stop this by clarifying how RCRA and CERCLA apply to live-fire training ranges. I worked closely with the Pentagon and State officials—in particular, Doug Benevento of Colorado's Department of Public Health and Environment—in drafting compromise language that will balance training needs with environmental protection.

This amendment would codify and confirm longstanding regulatory policy of EPA and every State concerning regulation of munitions on operational ranges under RCRA and CERCLA. The amendment excludes military munitions from the definition of "solid waste" under CERCLA. That way, the military can perform live fire training exercises without having to break up those exercises with extensive, time-consuming clean-up operations.

But this change would still offer environmental protections under existing law. Again, as stated previously, this is not an exemption. Cleanup of operational ranges is not required so long as material stays on range, but if such material moves off range, it still must be addressed under existing law. Also, if munitions cause an "imminent and substantial endangerment on range, EPA will still retain its authority to address it on range under CERCLA.

If we fail to address these and other issues the Pentagon has put before us, we are doing a great disservice to our men and women in uniform. Unfortunately, it appears that Congress will pass only a few pieces of the Pentagon's proposal this year. I think it is imperative, for the sake of our troops, that we address the remaining pieces next year.

Ms. SNOWE. Mr. President, I rise to speak on the Senate version of the fiscal year 2004 national Defense authorization bill.

First, I would like to thank the chairman and the ranking member of the Senate Armed Services Committee for their work on this vital legislation. As a former member of the committee, I am acutely aware of the intense effort required to bring the National Defense Authorization Act to the floor every year. For the chairman and ranking member to be able to bring this bill to the floor with a unanimous vote out of committee is a testament to their leadership. I would also like to thank each of my colleagues who are members of the committee for their invaluable contributions to this bill.

I will take a few moments and discuss some of the provisions of the bill that I believe are important to providing the men and women of our armed services the tools they need to protect our Nation.

First and foremost, I am encouraged that the committee has supported the President's shipbuilding budget that will provide the Navy with an additional seven ships. As the former Chair of the Seapower Subcommittee, I have been concerned for many years about the downward trend in naval shipbuilding that was moving us inexorably towards a 250-ship Navy or less. The administration proposed in its budget to procure seven new Navy ships in fiscal year 2004 and a total of 52 new Navy ships through fiscal year 2009. While this results in an average build rate of 8.6 ships, almost at the 8.9 ships per year necessary to maintain a 310-ship fleet, this average is skewed by the 14 ships the Navy says it intends to build in fiscal year 2009. Fourteen ships is twice the number of ships we have in the bill for fiscal year 2004.

Indeed, if we just look at the proposed shipbuilding plan for the next 5 years, from fiscal year 2004 to fiscal year 2008, there are only 38 ships in the plan, an average of 7.6 ships per year. This is an improvement but still results in the inability to maintain a 310-ship Navy, much less the 360- to 375-ship Navy the current Chief of Naval Operations has said is required to support his Sea Power 21 vision.

We can't afford to risk this essential component of our worldwide defense force. After all, 80 percent of the planet's population lives along the coastal plains of the world, and it is the Navy that has the capability to project power in regional coastal flashpoints around the globe—a capability that is imperative if we are to maintain military superiority and defend America's national interests in the 21st century.

It is the Navy we increasingly rely on to engage the enemy away from our shores. As we saw during Operation Iraqi Freedom, the Navy provides our only means of assured access. Today we are engaged in Southwest Asia and other littoral areas of the world away from our cold war bases in Europe, Japan, and Korea. Our inability to land troops in Turkey during Operation Iraqi Freedom and our withdrawal from bases in Saudi Arabia only highlight the need for a flexible, mobile sea-based defense.

The strength of those surface action groups and carrier battle groups are our major surface combatants. They provide air defense, launch Tomahawk missiles to strike the enemy, interdict opposing naval forces—they truly are the backbone of the fleet. We must do everything we can to ensure that we maintain a strong and healthy shipbuilding base particularly with respect to major surface combatants, for it is only through healthy competition that fresh ideas and reduced costs can be achieved.

To maintain a 116-ship surface combatant force, given the projected service life of 35 years for DDG–51 Class ships, requires a sustained replacement rate of over three ships per year. If you assume a 30-year service life, which is more realistic historically, sustaining even the 116-ship surface combatant force would require annual procurement of almost 4 DDGs each year.

I believe it is in the vital national interest of America to procure a minimum of three major surface combatants a year, not just this year or next, but in every year. I am encouraged that this bill supports that level of procurement.

We must also look to the future and work to increase the warfighting capability and operating efficiency of these Aegis destroyers as they age. We must embark on a modernization program now to incorporate new technologies and systems that will allow us to operate these vessels more effectively with reduced manpower. This bill begins that process by authorizing $20 million for the design, nonrecurring engineering and installation planning of DDG–51 modernization and optimized manning upgrades for incorporation on fiscal year 2004 and/or fiscal year 2005 new construction ships.

The bill also supports the President's request for $158 million for the Littoral Combat Ship in the R&D accounts. However, just as the committee is, I am concerned about counting on an undeveloped ship concept to provide the 375-ship force structure called for by the Chief of Naval Operations and its concomitant impact on the major surface combatant force. I support the bill's call for a determination, through a cycle of analysis and experimentation, of the ship's ability to deliver the expected capabilities.

Furthermore, the bill correctly identified the looming gap in attack submarines by noting that decommissioning the USS *Jacksonville*, rather than refueling her, would put the Navy below the QDR recommended attack submarine force of 55 submarines. In fact, the Navy also recognized this gap and placed the refueling of the USS *Jacksonville* on the Navy's Unfunded Program List to support near term submarine force structure. This bill authorizes $248 million for that refueling overhaul, noting the need for the refueling as "compelling."

I cannot express strongly enough my belief that we must fund shipbuilding to reflect the increasing demands we place on the Navy. The $12 billion included in this bill is needed and appreciated, but it only represents about 3 percent of the total defense budget. For all we expect of our Navy in today's world, we must do everything we can to provide them with the ships and weapons systems they need.

In regard to the homeland security role of the Department of Defense, the bill authorizes an additional $400 million over the President's budget request to expand unit capabilities, field additional sensor systems, and prepare to engage the threat here and abroad. For example, the bill contains an additional $107 million for those special operations forces that have been so effective in Operation Iraqi Freedom and Operation Enduring Freedom. At home, DoD will be able to deploy an additional 12 Weapons of Mass Destruction Civil Support Teams with the funds provided in this bill. In addition, it also provides $173 million for chemical and biological detection and protection technologies such as those being developed in my home State of Maine.

The University of Maine system has been on the forefront of the development of chemical and biological sensors and decontamination systems. The bill provides them with $1 million this year to begin the development of an environmentally friendly photocatalytic decontamination agent that holds much promise for the safe and rapid decontamination of exposed personnel as well as for the remediation of chemical agent and manufacturing and storage facilities.

It is this type of investment in new science and technology efforts that will provide our forces with the advanced capabilities we saw used so effectively over the past 2 months. I am encouraged that this bill provides $10.7 billion for the science and technology accounts which brings us close to the goal of setting aside 3 percent of the defense budget to invest in the "seed corn" of our future military capability. From that investment we see the expansion in our research, development and test and evaluation efforts as evidenced by the commitment of $63.2 billion toward those activities, including over a billion in DD(X) destroyer R&D.

The bill also addresses the need to modernize our military infrastructure by authorizing over $9.0 billion in military construction, an increase of $373 million over the budget request including the addition of $200 million for quality-of-life projects for members and their families. This bill wisely increases investments in stateside facilities while reducing investments overseas while the United States assesses its long-term overseas basing requirements.

Finally, and most importantly, the bill continues our commitment to the men and women in the Armed Forces and their families through the enactment of several important pay and benefits provisions. First, it institutes a 3.7 percent across-the-board pay raise and once again provides an additional targeted pay raise for the senior noncommissioned officers and midcareer personnel who are the backbone of our military. The bill contains several provisions which will directly aid the families of service members such as an increase in the family separation allowance and a high-tempo allowance of $1,000 per month for those troops and sailors deployed away from home for extended periods of time.

Can any of us who watched the poignant homecoming of the USS *Abraham Lincoln* earlier this month after 10 months at sea, the longest carrier deployment since Vietnam, doubt that those dedicated sailors and marines had earned every penny?

In closing, let me say that I hope that as we move this bill towards final passage, we do everything we can to strengthen the bill for those brave young men and women who defend our Nation each and every day. We must do no less.

Ms. COLLINS. Mr. President, I rise today to discuss an amendment to the Defense Authorization bill which Senator VOINOVICH and I have submitted. Our amendment would, among other things, provide for the creation of a National Security Personnel System encompassing the Defense Department's 735,000 civilian employees.

In April, the Department delivered to Congress a proposal to grant the Secretary of Defense authority to dramatically restructure the Department's civilian personnel system. The proposal was designed to provide the Department with the flexibility and agility it needs so it can respond to sudden changes in our security environment. To accomplish this objective, the Department's proposal would give Secretary Rumsfeld not only the personnel flexibilities Congress granted to the Secretary of Homeland Security, but also additional authority to unilaterally waive many personnel regulations.

Of primary importance to the Department of Defense were the following three personnel flexibilities: First, the authority to replace the current General Schedule, 12-grade pay system with a performance-based pay system in which workers would no longer be awarded an automatic, across-the-board pay increase; second, the authority to conduct on-the-spot hiring for hard-to-fill positions; and third, the authority to raise collective bargaining to the national level rather than negotiating with more than 1,000 local units.

Our proposal would grant the Secretary these authorities. It would provide the Secretary of Defense with the three pillars of his personnel proposal and thus would allow for a needed overhaul of an antiquated system. But we do not give the Secretary all he asked for; instead, we have attempted to strike the right balance between promoting a flexible system and protecting employee rights.

Over the past 3 weeks, Senator VOINOVICH and I have repeatedly reached out to a wide variety of interested parties in an attempt to put together a bipartisan proposal. As of today, I believe we have made a considerable amount of headway toward forging a consensus.

For example, in certain areas, such as employee appeals, I am not prepared to support granting the Secretary the authority to immediately do away with the Merit System Protection Board in order to create an internal appeals process. Instead, my amendment allows for a gradual transition from the MSPB to a new appeals process. During the transition, the Department will consult with MSPB while it develops and tests a new appeals process.

I am also not prepared to grant the Secretary the authority to waive the collective bargaining rights of employees. Instead, my amendment places statutory deadlines of 180 days on the amount of time any one issue can be under consideration by one of the three components of the Federal Labor Relations Authority. This alone should make a significant difference in the timeliness of the bargaining process, and prevent the occasional case from dragging on for years.

The bottom line is, we believe that our amendment would give the Secretary the authorities he needs to manage and sustain a civilian workforce some 735,000 strong. Our amendment would grant the administration's request for a new pay system, on-the-spot hiring authority, and collective bargaining at the national level, not individually with 1300 local union affiliates. In addition, our amendment would enable the Secretary to offer separation pay incentives for employees nearing retirement; to contract with individuals for services performed outside the United States in support of the Defense Department; to offer special pay rates for highly qualified experts like scientists, engineers and medical personnel; and to help mobilized Federal civilian employees whose military pay is less than their Federal civilian pay.

The House Armed Services Committee has already included a personnel amendment in their own authorization bill. For that reason, I was dismayed to learn that our amendment was not deemed "relevant" to the underlying legislation, and therefore shall not be made part of the Senate's bill.

But I have worked hard to find a consensus approach, and I don't intend to stop until this goal has been achieved. I believe that the House approach can be improved upon. This is why, on Friday, I plan to re-introduce this legislation as a free-standing bill and to hold a hearing on it the first week of June. Quite simply, I believe civil service personnel reform of this magnitude is too important an issue for the Senate to remain silent.

I urge my colleagues to work with Senator VOINOVICH and me as we continue our efforts on this very important issue. In addition, I would like to thank Senators WARNER and LEVIN for all the advice and input they have already provided. In addition to serving as ranking member of the Armed Services Committee, Senator LEVIN is a senior member of the Governmental Affair Committee, which I chair. As such, he brings expertise to the process from both perspectives. I hope that the bill I introduce on Friday will enjoy his support and that of the chairman.

Mr. DODD. Mr. President, today I will join my colleagues in voting to approve the 2004 Defense authorization bill. This legislation provides a significant increase to our defense budget, a total of $400.5 billion, $17.9 billion more than was authorized for this year. This is the largest defense budget in our Nation's history, and, for the most part, it could not come at a more important time.

This bill is good for our armed services, and crucial for the security of our country. Above all else, it makes a substantial investment in our military's most important assets—our soldiers, sailors, airmen, and marines. It provides a 3.7 percent across-the-board pay raise for all men and women in uniform and introduces a new health care benefit to Reserve and National Guard personnel. In addition, it funds important national security programs to curb the spread of weapons of mass destruction, with $450 million going towards the Nunn-Lugar Cooperative Threat Reduction program to safeguard nuclear stockpiles and fissile material within the former Soviet Union. It ramps up research and development accounts for counterterrorism technologies as well as for intelligence and Special Operations resources.

To respond to emerging threats to our country, these investments are crucial components of the Defense authorization bill. I am also especially pleased that the Senate accepted without dissent, my amendment to establish a new initiative to assist States and communities in hiring firefighters. As we saw so vividly on September 11, our firefighters play an integral part in responding to and protecting our people from terrorist attacks. No homeland security strategy can ignore the crucial role that firefighters play in keeping our Nation safe. My amendment, which was approved by the Senate, authorizes the Department of Homeland Security to invest over $3 billion over the next 3 years in partnership with States and local governments to hire firefighters so that communities are better prepared to respond to potential acts of terrorism.

As this amendment underscores, our States play crucial roles in protecting our security. And the underlying bill supports a number of military initiatives that are particularly supported by the State of Connecticut. Since the days of the Revolutionary War, Connecticut has rightly taken pride in its disproportionately large role in contributing to the U.S. arsenal, earning it the nickname the "Provision State."

The 2004 Defense authorization bill continues this strong tradition, greatly outfitting the Nation's armed services and provisioning advanced technology from Connecticut. The projects funded in this bill from Army helicopters and Air Force fighters to new advances in submarine technology, will allow America's military to prosecute its war on terror from every corner of the globe. Included in this bill is $1 billion to fund the procurement of 36 additional UH-60 Blackhawk helicopters, manufactured by one of my State's leading manufacturers, Sikorsky. These aircraft have proven themselves repeatedly in combat on air assault and medical evacuation missions, as well as in peacekeeping missions providing important cargo and personnel transport.

This bill also authorizes a multiyear procurement and $2 billion in 2004 for a *Virginia* class submarine, manufactured in Groton. Production of this next generation ship will further enable the Navy to extend its reach to the coasts of every continent, staying undetected as it performs various missions from special operations and intelligence-gathering to precision guided missile strikes.

The bill also funds our force's next-generation fighter aircraft, the F/A–22 and Joint Strike Fighter, which will be outfitted with the finest engines in the world, developed at Pratt and Whitney. Procurement of these planes will maintain U.S. air superiority—equipping pilots with unprecedented speed, stealth, and advanced munitions, and transforming the Nation's military into a 21st century force.

I believe these investments will save lives in both the near and long term, and they will strengthen the military industrial base that is so crucial to the long-term viability of our military. I am pleased that this authorization bill continues Secretary Rumsfeld's initiative to transform the military and respond to terrorist threats to our Nation. But I would be remiss if I did not enter into this record the serious reservations I have with this bill.

In particular, I am deeply concerned about the steps this legislation takes toward developing new tactical nuclear weapons. Despite the good-faith efforts of some of my colleagues, this Chamber failed to act as a check on an Executive bent on rolling back decades of strategic arms control and nonproliferation policies. At the President's recommendation, this bill repeals the 1993 Spratt-Furse provision that barred the Government from developing low-yield nuclear weapons. It also funds the study of a high-yield bunker-busting nuclear earth penetrator. Both weapons are part of the administration's long-term plan to field tactical nuclear weapons in war, as outlined in the 2001 Nuclear Posture Review.

The defenders of these provisions believe that such weaponry will enhance America's security by enabling the United States to devastate terrorist targets in a more contained environment. They claim that the U.S. use of nuclear weapons during a war will not set an egregious precedent for other nations to begin fielding their own tactical nuclear arsenal. And they claim that by lifting the ban simply on research, we are not opening a new chapter of the nuclear era.

They are dead wrong. And I am gravely disturbed by this shift in U.S. nonproliferation policy. In 2000, the United States joined the other permanent U.N. Security Council members in a declaration of an "unequivocal commitment to the ultimate goals of a complete elimination of nuclear weapons and a treaty on general and complete disarmament under strict and effective international control."

This declaration was not made on a whim. This was the culmination of decades of diplomacy that has led to the worldwide movement in arms control. But today, with this legislation, we are taking a considerable step away from the goal stated at the 2000 Non-Proliferation Treaty Conference. While we insist that others disarm and cease their development of weapons of mass destruction, we are initiating plans to use new atomic weapons on the battlefield.

As our Armed Forces hone their conventional abilities to surgically strike with increasingly explosive force, it seems peculiar that the United States would now take steps backwards, and devote precious resources to expanding our nuclear arsenal. Our most recent operations in Afghanistan and Iraq have demonstrated that the United States far exceeds any other nation in its ability to strike with nonnuclear weapons anywhere in the world with great precision, and minimal collateral damage. Rather than capitalizing on these new advantages in warfare, the administration's tactical nuclear policy, would actually leave the Nation less secure, and undercut our government's 50-year attempts at averting nuclear war.

But all in all, in spite of these provisions, I believe that this bill's passage is critical to sustaining our national security. Although major combat operations have ended in Afghanistan and Iraq, our military continues to be engaged in low-intensity conflict in this highly unstable region of the world. Our Armed Forces—both Active Duty and Reserve—stand ready to complete their missions in this Nation's ongoing campaign against terror, to stabilize the region, and win the peace.

To do this, they will need the resources provided in this bill. For that reason, I have supported this legislation, and hope that the House and Senate Conferees move quickly toward a final version, so that this Congress will swiftly approve necessary authorizations for America's men and women in uniform.

Mr. McCAIN. Mr. President, I rise today to strongly support S. 1050, the fiscal year 2004 Defense Authorization bill. This legislation funds $400.5 billion for defense programs, which is 3.2 percent or $17.9 billion above the amount appropriated by Congress last year. The Defense Authorization bill would authorize appropriations to purchase new weapons systems and funds research and development for new weapons systems, funds operations and maintenance for the services, provides pay and quality of life improvements for service members and funds military construction projects at military bases.

A number of provisions in this bill go a long way to ensure our service members get the benefits they deserve. I am pleased the Senate included a provision which I offered as an amendment that was adopted by the committee that would eliminate the remaining so-called "pay comparability gap" between military pay and civilian pay. This amendment would tie subsequent military pay raises after 2006 with increases in the Employment Cost Index (ECI). As a former ranking member and long-time member on the Personnel Subcommittee when Senator John Glenn was the chairman, my experience with capping military raises below ECI during the last three decades shows that such caps inevitably lead to significant retention problems among second-term and career servicemembers.

Those retention problems cost our Nation more in the long run in terms of lost military experience, decreased readiness, and increased training costs. Since military pay was last comparable with private sector pay in 1982, military pay raises have lagged a cumulative 6.4 percent behind private sector wage growth—although recent efforts by Congress have reduced the gap significantly from its peak of 13.5 percent in 1999. Our efforts in 1999 increased pay raises, reformed the pay tables, took 12,000 servicemembers off of food stamps, and established a military Thrift Savings Plan.

A key principal of the all volunteer force (AVF) is that military pay raises must match private sector pay growth, as measured by ECI. The Senate's action in this area will send a strong message of support to our servicemembers and women and their families that will continue to promote high morale, better quality-of-life, and ultimately a more ready military force.

For the past 12 years, I have offered legislation on concurrent receipt. This matter is of great significance to many of our country's military retirees, because it would reverse existing, unfair regulations that strip retirement pay from military retirees who are also disabled, and costs them any realistic opportunity for post-service earnings. Last year, I was pleased that the committee, for the first time, included an authorization to begin to address a longstanding inequity in the compensation of military retirees' pay over previous attempts in the past.

I am disappointed that Senator HARRY REID was unable to offer his amendment on concurrent receipt, because the amendment was not ruled relevant under an unanimous consent agreement that was passed by the leadership of the Senate. We must do more to restore retirement pay for those military retirees who are disabled. I have stated this before, and I am compelled to reiterate now—retirement pay and disability pay are distinct types of pay. Retirement pay is for service rendered through 20 years of military service. Disability pay is for physical or mental pain or suffering that occurs during and as a result of military service. In this case, members with decades of military service receive the same compensation as similarly disabled members who served only a few years; this practice fails to recognize their extended, more demanding careers of service to our country. This is patently unfair, and I will continue to work diligently with the committee to correct this inequity for all career military servicemembers who are disabled.

We have a military force that continues to rely more on the Reserve Components—men and women in the National Guard and Reserves—to go to war and to perform other critical military tasks abroad and at home. Many combat, combat support and other support missions are being carried out on the backs of our active and Reserve Component forces—soldiers, sailors, airmen and Marines.

National Guard and Reserve servicemembers are performing many vital tasks: direct involvement in military operations to liberate Iraq in the air, on the ground, and on the sea; guarding nuclear power plants, our borders, and our airports in the United States; providing support to the War on Terrorism through guarding, interrogating, and extending medical services to al-Qaida detainees; rebuilding schools in hurricane-stricken Honduras and fighting fires in our western states; overseeing civil affairs in Bosnia; and augmenting aircraft carriers short on active duty sailors with critical skilled enlisted ratings during at-sea exercises, as well as during periods of deployment.

I believe that the civilian and uniformed leadership of our Armed Forces and the Congress must recognize this involvement, and, at a minimum, provide equal benefits for reserve component servicemembers when they put on the uniform and perform their weekend drills or other critical training evolutions. Reservists, on duty, who resemble their active duty counterparts during training evolutions and are deployed at times around the world, should be treated equally when the administration and Congress provide for quality of life benefits.

I am pleased at the inclusion of language authorizing a Selective Re-enlistment Bonus (SRB) for National Guard and Reserve service members when they are mobilized under a Presidential Select Reserve Call-up and they re-enlist during that period. National Guardsmen and Reservists are prohibited from receiving SRB payments until they get off active duty or mobilization status, sometimes 1 or 2 years later.

The Senate has also authorized Survivor Benefit Plan, SBP, benefits to survivors of National Guard and Reserve service members who die while performing inactive duty training or weekend drills. This legislation provides equity with active duty servicemembers and is consistent with Defense Department regulations when National Guardsmen and Reservists are mobilized under a Presidential Select Reserve Call-up.

Since January, there have been 13 Reserve Component deaths during weekend military training while their units were preparing for Operations Enduring Freedom and Iraqi Freedom where families of National Guard and Reservists did not receive the Survivor Benefit payments.

The Senate has also authorized Commanders' pay for National Guardsmen and Reservists, similar to the pay that active duty commanding officers and commanders receive.

Additionally, the Senate Authorization bill removes and arbitrary cap on commissary privileges for drilling reservists and National Guardsmen, making the benefit similar to the benefit similar to the benefit of authorized for active duty servicemembers.

Unmanned Aerial Vehicles (UAVs) continue to be of interest to me. Operations in Afghanistan and Iraq have been watershed events for military utilization of UAVs. Increased use in the future as new war fighting capabilities come on line is key to our militaries strategy for future conflicts. During the 1999 Yugoslav air campaign only three UAV systems were used. There are nine UAV systems currently deployed and in extensive use in Iraq. The Army's Shadow, Hunter, and Pointer, the Marine Corps' Pioneer and Dragon Eye; the Air Force's Global Hawk, Predator and the Force Protection Surveillance System; and, the Navy's Silver Fox.

The Silver Fox is a small, inexpensive UAV with tremendous application, particularly in downed pilot search and air rescue, border patrol operations, tactical support for ground troops and SOF, submarine detection, marine mammal detection efforts and other critical reconnaissance missions. Ninety Silver Fox systems were deployed for Operation Iraqi Freedom with great success. Additional resources should be afforded to the unmanned aerial vehicle programs. Low cost, innovative systems, like the Silver Fox, deserve considerable support by the committee and I strongly support this effort. I am extremely please the Senate included a UAV pilot program to study the potential uses of UAVs on our borders.

As part of its consideration of this bill, the Senate approved an amendment I sponsored with Senators SESSION, LINDSEY GRAHAM, and BAYH creating a reporting requirement that should shed light on how to improve decision-making within NATO. As a lifelong Atlanticist, my interest is in keeping NATO relevant and effective as it adapts its mission to the new threats we face today. Doing so will require a hard look at what works well within NATO, and what we can do to streamline decision-making processes to improve the effectiveness of the Alliance.

Our amendment would build on a reporting requirement related to NATO is in the underlying bill. Our intention is to make NATO work better by taking a close look at how some of its decision-making structures have recently evolved, for expressly political reasons, in ways that I believe have weakened NATO, but which we, NATO's full members, can rectify in order to ensure that our Alliance remains strong.

Our amendment would require the Secretaries of Defense and State to assess whether certain new NATO military initiatives are within the jurisdiction of NATO's Defense Planning Committee, which has historically overseen NATO's core defense and security missions. The report would relate how NATO defense, military, security, and nuclear decisions traditionally made in the DPC came to be made in other bodies within NATO. It would discuss the extent of France's contributions to each of NATO's component committees, and specifically the degree of French involvement in specific military and security issues within the competence of the DPC, on which the French do not sit. The report would examine how NATO could make greater use of the DPC, by assuming its traditional role of managing NATO's core defense mission, and how to otherwise streamline NATO decisionmaking to make NATO more effective. NATO is actively engaged in discussions on how to reform and improve NATO decision-making, and I strongly believe our amendment will play a useful role in animating that discussion.

In February, Turkey requested assistance from the Alliance to improve its defenses in the event of war with Iraq. Given Turkey's status as a key member of NATO and the Alliance's only front-line state with Iraq, Turkey's routine request for defensive reinforcements under the terms of the NATO charter should not have been controversial in any way. Regrettably, France denied Turkey's request, and the Alliance spent 3 weeks in crisis trying to overcome French objections. France's position was initially supported by Germany, Luxembourg, and Belgium, but these nations ultimately sided with every other member of the Alliance, leaving the French isolated but refusing to relinquish their effective veto over a fundamental Alliance commitment to the defense of a member state. Ultimately, Turkey's Article Four request for defensive assistance was approved by the Defense Planning Committee (DPC), a component committee of NATO which does not include France. But the singular French obstructionism over the course of nearly a month caused the gravest crisis NATO has known in a generation and raised real questions about whether NATO was going the way of the U.N. Security Council or, more ominously, the League of Nations.

In the wake of this debacle, Atlanticists in Europe and the United States have pondered ways to reform and improve decision-making within NATO. In the interests of avoiding another such near-calamity within NATO that threatens the Alliance itself, Secretaries Wolfowitz and Feith have testified before the Senate Armed Services Committee that the DPC could be used more frequently for decision-making within NATO, thereby circumventing the French veto.

Since the mid-1990s, NATO's North Atlantic Council has been the primary venue within the Alliance for decisions to be taken on Alliance operations. But for most of NATO's existence, the NAC was not preeminent. The Defense Planning Committee was created in 1963 and was co-equal to the NAC. The DPC was charged with NATO's core defense and security business, including questions relating to Article Five, the mutual defense clause that is at the heart of NATO's charter. In 1966, when France withdrew from NATO's integrated military structure, the DPC assumed responsibility for the Alliance's core defense business. This allowed the Alliance to continue to function effectively without France's military involvement, and to avoid a French veto over matters related to NATO's core defense mission, in which France did not then and does not now participate.

The Defense Planning Committee was surprisingly active from its creation in 1963 until 1995. It became less prominent following the end of the cold war because the use of NATO forces appeared less likely in Article Five scenarios and more probable in non-Article Five scenarios. The role of the DPC diminished when the North Atlantic Council rose to pre-eminence in the 1990s with NATO peacekeeping scenarios, in the aftermath of the dismal failure of UNPROFOR in Bosnia. In the 1990s, looking for new roles, the NAC endorsed NATO peacekeeping missions in the Balkans.

The process of relying on the North Atlantic Council was also rooted in the futile effort to woo France back into full membership in NATO. Starting with a 1992 decision to support peacekeeping operations and the desire to involve France in Balkans operations, defense issues during the 1990s came to be addressed in the North Atlantic Council. The inclusion of France in NATO Defense Ministerials began in 1993 at Travemunde and has continued. Although they have not rejoined NATO's intergrated military structure, and are therefore not full contributing members of the Alliance, the French have very effectively shifted NATO decision-making into the North Atlantic Council and other bodies in which they have a voice and a vote. Although France does not participate, or participates only selectively, in command structure, infrastructure budget, and defense planning, it has successfully transferred these issues to NATO committees on which it has a seat. France does not participate in 60 percent of NATO budget areas, but participates in 100 percent of the development of resource policy and contribution ceilings.

The upcoming issues for the June NATO Defense Ministerial are of a military and security nature. They include the Capabilities Initiative, the Command Structure Review, and the NATO Response Force. These are military and security issues within the core competence of the DPC. Our amendment is therefore not backward-looking, but would anticipate possible reforms to improve NATO's effectiveness in light of issues currently on the Alliance's agenda.

France unilaterally withdrew from NATO's military structure in 1966—at the height of the Cold War. France has since chosen to remain outside NATO's military structure.. If France wants to return to NATO's military structure, NATO should discuss it, debate it on the merits and make a decision—among the 18 full members of NATO.

What we need now is a better understanding of why NATO came to rely on the NAC, and what can be done to make NATO more effective. We need to understand what we can do to limit France's ability to manipulate NATO, and oppose American foreign policy goals. The report required by our amendment should shed light on how to make our Alliance work as it should, in defense of the supreme national interests of the democracies it protects and nurtures.

I continue to be very concerned about the potential impact on bilateral trade relations with our allies of the domestic source for instance, "Buy America", restrictions enacted in the National Defense Authorization Act for fiscal year 1996. I am extremely concerned that an amendment was proposed that would impose "Buy America" restrictions on the Department of Defense. From a philosophical point of view, I oppose these types of protectionist policies. I believe free trade is an important element in improving relations among all nations and essential to economic growth. Moreover, from a practical standpoint, the added "Buy America" restrictions could seriously impair our ability to compete freely in the international markets and could also result in loss of existing business from long-standing trading partners. Although, I fully understand the need to maintain certain critical industrial base capabilities, I find no reason to support a "Buy America" requirement for a product, like marine pumps, that is produced by no fewer than 25 U.S. companies or a bullet-proof vest made from fabric by a U.S. manufacturer which is inferior and more expensive than a bullet-proof vest made in the U.S. from a fabric produced overseas.

There are many examples of the trade imbalance that I can point to. I would like to review one example for you. The Dutch government, between 1991 and 1994, purchased $508 million in defense equipment from U.S. manufacturers, including air-refueling planes, Chinook helicopters, Apache helicopters, F-16 fighter equipment, missiles, combat radios and various training equipment. During that same period, the United States purchased only

$40 million of defense equipment from the Dutch. Recently, the Defense Ministers of the United Kingdom and Sweden pointed to similar situations in their countries. In every meeting regarding this subject, I am told how difficult it is to buy American defense products because of our protectionist policies and the strong "Buy European" sentiment overseas. Our protectionist practices will hurt us nationally and internationally.

Some legislative enactments over the past several years have had the effect of establishing a monopoly for a domestic supplier in certain product lines. This not only adds to the pressure for our allies to "buy European," but it also raises the costs of procurement for DOD and cuts off access to potential state-of-the-art technologies. DOD should have the ability to make purchases from a second source in an allied country covered by a defense cooperation MOU or Declaration of Principles agreement when only one domestic source exists. This would ensure both price and product competition.

Defense exports improve interoperability with friendly forces with which we are increasingly likely to operate in coalition warfare or peacekeeping missions. They increase our influence over recipient country actions, and in a worse case scenario, allow the U.S. to terminate support for equipment. Exports also lower the unit costs of systems to the U.S. military, and in recent years have kept mature lines open while the U.S. has developed new systems that will go into production around the turn of the century.

Finally, these exports provide the same economic benefits to the U.S. as all other exports—higher paying jobs, improved balance of trade, and increased tax revenue. "Buy America" restrictions on procurement will hurt funding for readiness, personnel land equipment modernization. These are really issues of acquisition policy, not appropriations matters. During debate on this legislation, I offered a second degree amendment with the intention of striking the protectionist amendment proposed by one of my colleagues. I thank my colleagues who successfully supported my amendment that worked to protect not only our allies but the American taxpayer and most importantly our servicemen and women who depend on the Department of Defense to train them and Congress to equip them with the best equipment irrelevant of its country of origin. Why is it that our special forces servicemembers routinely procure equipment without "buy America" requirements?

In all my years on the committee, I have never seen anything like the proposed leasing scheme of the KC–767 aerial tankers. In my efforts and those of others on the Senate Armed Service Committee, to get information on this proposed deal with Boeing, there has been obfuscation. There has been delay. There is withholding of information from me and this committee. Senior Air Force officials have even mislead the committee, according to the DoD Inspector General. It is incumbent upon all of us to provide the men and women of the Armed Forces with the most capabilities in return for our expenditures.

In several hearings this year, we have heard the Air Force Secretary and the Air Force Secretary of Acquisition testify that they have not completed an Analysis of Alternatives (AOA) on aerial tankers. The KC–767 aerial tanker effort requires the Secretary of Defense to do an AOA. Authorized funding should come from Air Force aviation programs which would have originally funded AOA if the program was appropriately planned and programmed like other DoD program. Moreover, the AOA is required by Air Mobility Command (AMC) & DoD documents, TRS–05 and KC–135 ESLS. I am pleased the Senate is requiring the Secretary of Defense to undertake an AOA on aerial tankers.

In the Air Force's fiscal year 2004's budget request the Air Force proposed eliminating 68 KC–135E aerial tankers. The Tanker Requirement Study (TRS–05) was conducted by the Air Mobility Command and the Secretary of Defense Program, Analysis, and Evaluation Division—OSD PA&E. TRS–05 identified the need for approximately 500 to 600 operational KC–135 equivalents to meet air refueling requirements. No other program has received so much attention by the Air Force Secretary. Yet, in direct contrast to his own Air Force studies, he seems relentless in exaggerating aerial tanker shortfalls in order to win approval of his KC–767 leasing scam. I am pleased the committee has included language reducing the number allowed to be retired to 12, but I still feel the Air Force should be prohibited from retiring the requested number of tankers until the AOA is completed and we have determined the best way to replace these national assets. It is foolhardy to begin retiring planes without a plan to replace them.

I am pleased the Senate included a provision that will save millions down the road. The Senate directs the Air Force to provide adequate funding for aviation depots for the purpose of correcting corrosion for the KC–135 aerial refueling fleet. The Armed Services Committee has heard testimony that every $1 spent in preventive maintenance saves $7 in repair or replacement costs. This action to add funding to KC–135 aviation depot level facilities would meet a top objective in the Chief of Staff of the Air Force's fiscal year 2004 Unfunded Priority List.

Operations Iraqi Freedom and Enduring Freedom demonstrated to the world what we saw just 12 years ago. We went to war as the most combat-ready force in the world. The value of that readiness is clear. We won a massive victory in a few weeks, and we did so with very limited loss of American and allied lives. We were able to end aggression with minimum overall loss of life, and we were even able to greatly reduce the civilian casualties of Afghani and Iraqi citizens.

In order to understand the issues involved, it is necessary to recognize just how difficult it is to achieve the kind of readiness we had during Operations Iraqi Freedom and Enduring Freedom. Readiness is not solely a matter of funding operations and maintenance at the proper level. It is not only a matter of funding adequate numbers of high quality personnel, or of funding superior weapons and munitions, strategic mobility and propositioning, high operating tempos, realistic levels of training at every level of combat, or of logistics and support capabilities.

Readiness, in fact, is all of these things and more. A force beings to go hollow the moment it loses its overall mix of combat capabilities in any one critical area. Our technology edge in Afghanistan and Iraq would have been meaningless if we did not have men and women trained to use it. Having the best weapons system platforms in the world would not have given us our victory if we had not had the right command and control facilities, maintenance capabilities, and munitions.

The military forces that we sent to participate in Operation Desert Storm, Kosovo and Serbia, and Operations Enduring Freedom and Iraqi Freedom, trained for their missions on military ranges here in the United States. Perhaps the premier range in the continental United States is the Barry M. Goldwater Range in Arizona. This nearly 3 million acre range comprises portions of the Sonoran desert and the Cabeza Prieta wilderness.

It is estimated that the military spends approximately $77 million a year on conservation efforts on the Barry M. Goldwater Range. There are nearly 80 employees dedicated to continued protection of the Goldwater Range, including archaeologists, biologists, ornithologists and other natural resources experts. In my view, the Air Force and the Marine Corps are very good stewards of this critical habitat.

Efforts are ongoing among environmental agencies, the Department of Defense, and the various land management agencies to further clarify and define the use and management of the Goldwater Range land and the airspace above it. While I applaud these efforts, I must affirmatively state my strong support for preserving the military use of this land and associated airspace. Every service has approached me to convey their deep concern that the military maintain its ability to train in this one-of-a-kind training range.

The Barry M. Goldwater Range is one of the last open-space ranges available to our Armed Forces for realistic, integrated, joint training exercises. I am glad the Senate has included language to help ensure that this training "jewel" remains available to our military for training purposes.

I am very concerned with the trend in the services to curtail live fire opportunities in training. As weapon systems become more expensive and are manufactured in fewer quantities, we are creating a military force that often fires a weapon for the first time in combat. In the Navy, aviators used to fire one radar-guided and one heat-seeking annually. This was reduced to one missile each during a single tour of duty, and has now been further reduced to a single missile each during an entire career.

Luke Air Force Base (AFB) is home to the 56th Fighter Wing and 228 F-16, single engine, high performance aircraft. Luke AFB, similar to the situation at Nellis AFB, that the committee has previously addressed, has significant urban development encroachment issues that impact training at the base. Armed aircraft are no longer permitted to take off to the north of Luke AFB and over the past several years, there have been 16 serious aircraft accidents due to catastrophic engine failure. It is critical that land use along the southern departure corridor (SDC) remain compatible with armed aircraft weapons training, to preserve access to the Barry M. Goldwater Range (BMGR), to prevent land use or encroachments that are incompatible with activities at Luke AFB in the SDC and to increase the margin of safety associated with the Live Ordnance Departure Are (LODA) southwest of Luke AFB.

The Fiscal Year 2003 National Defense Authorization Act provided $10 million to the Air Force for land acquisition at Luke AFB intended to prevent encroachment from residential development and to ensure safe operations for flight departures and munitions storage.

The Air Force identified an immediate requirement to purchase 234 acres around the munitions storage and is in the process of executing this purchase to correct the most serious safety deficiencies. Furthermore, other parcels have been identified to be purchased to protect surrounding communities from impeding upon explosive blast distance arcs and the danger of single-seat F-16 Falcon jets with live ordnance that overfly land areas in the Southern Departure Corridor headed to the BMGR.

A land compatibility use study is currently ongoing to identify potential additional real estate to be purchased in the Southern Departure corridor of the airfield overflown by F-16's headed to the BMGR. I am pleased the chairman of the Subcommittee on Readiness and Management Support included in the chairman's mark, $14.3 million as a modification to the Fiscal Year 2003 authorization to facilitate the quick acquisition of additional parcels around the munitions area and in the Southern Departure corridor once they are identified. The Air Force has identified significant encroachment problems hindering safe flight operations at Luke AFB and will be able to protect accident potential zones from residential development through additional land acquisitions. The Senate Armed Services Committee expects the Air Force to send the committee the results of the land compatibility use study by June 1st, as promised by the Office of the Secretary of the Air Force. The project is a modification to a current requirement previously considered by this committee, authorized, appropriated, and now being executed by the Air Force.

For too long, we have asked our Armed Forces to do more with less. Now it is time to provide them with the funding they need, and to ensure that it is spent more wisely. The American people must also be assured that their tax dollars are being spent to provide for their defense—for the national interest, not for special interests.

More must be done to eliminate unnecessary and duplicative work and military installations. More effort must be made to turn over nonmilitary functions to civilian contractors, to reduce the continuing bloat of headquarters staffs, and to decentralize the Pentagon's labyrinth of bureaucratic fiefdoms.

The base realignment and closure (BRAC) legislation that Congress authorized in 2000 will make available from $4 to $7 billion per year by eliminating excess defense infrastructure. There is another $2 billion per year we can put to better purposes by privatizing or consolidating support and maintenance functions, and an additional $5.5 billion per year by eliminating "Buy America" restrictions that discourage U.S. competition and raise costs.

Similar attention is required to wean our political system of its highly developed taste for pork. I identified $5.2 billion in items that the Appropriations Committee, not the Defense Department, added to the budget last year. We should not tolerate the sacrifice of limited defense resources to special interests masquerading as improvements to our defense. These total savings in the Defense Department amount to almost $20 billion per year—$20 billion that must be reallocated within the defense budget to higher priority military personnel and modernization requirements.

While I am pleased that amount of member adds in this year's legislation has been reduced to around $1 billion, I am still troubled by the amount of unrequested spending on this legislation. Year after year, funding for the same unrequested, unnecessary projects are included in this legislation. For example, the 21st century truck has received $17.5 million dollars in this legislation. I wonder how many veterans Concurrent Receipts benefits would be funded by the total amount we have sunk into the development of the 21st century truck over the years? In the wisdom of the Senate, we have provided $35 million more than the President requested to buy the JPATS Texan. That is a lot of money for an aircraft the Navy does not need or even want. We have provided $10 million for the High Temperature Superconducting Alternating Current HRSAC Synchronous Motor. We have provided $60 million for Advanced Extra High Frequency Spare Parts. Also on the member adds list is $50 million for the Los Alamos National Lab.

The fiscal year 2004 defense authorization bill adds $60 million for Evolved Expendable Launch Vehicle (EELV). This project is one of the largest additions in the bill. This is in addition to the $609.3 million that was included in the President's defense budget request.

With this funding the Air Force will provide a $669.3 million boost to defense companies Boeing and Lockheed Martin to keep both companies in the rocket-launch business, easing the impact of a steep falloff in commercial orders for such services in the commercial-satellite market, where orders have all but dried up.

I am opposed to the "assured access to space program" as it is currently designed. I believe the Committee should hold hearings to review whether to drop one company. I do not believe that two companies are providing adequate competition in this critical program. I believe that a proper accounting of the EELV program will result in a report that more rocket launches and additional weather, communications, reconnaissance, eavesdropping and global position satellites would be launched if the Department of Defense would simply choose a single source for military rocket launches.

I could continue in this vein, but it is sufficient to say that the military needs more money and should spend it more wisely to address the serious problems caused by a decade of declining defense budgets. I have included a copy of the fiscal year 2004 Member Add List which I ask unanimous consent be printed in the record.

I will continue to fight for additional support of increases to the Department of Defense budget. I also will continue to examine with a keen eye all congressional marks that take money away from needed military programs and instead buy political support through favoritism in awarding contracts. In addition, I will persist in placing the men and women who fight for our flag and country at the top of my priority list where they belong: we owe them our gratitude, respect, and unwavering support. They keep us free.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*Fiscal Year 2004 National Defense Authorization Act Member Adds*

| | |
|---|---|
| Emerging Threats: | |
| Collective Protection Chem-bio Protective Shelter | 2.0 |
| Army R, D, T & E: | |
| Low-temperature technology | 2.0 |
| Desert terrain analysis | 4.0 |
| University and Industry Research Center Infrastructure Protection Research | 4.0 |
| Materials Technology: | |
| Advanced Materials Processing | 3.0 |
| Multifunctional Composite materials | 3.0 |
| Missile Technology: | |
| E-Strike Radar & Powertransmission Technologies | 8.0 |
| Maneuver Air Defense System | 6.5 |
| Multiple Component Flight Test | 2.5 |
| Advanced Concepts and Simulation: Advanced Photonics Detection Research | 5.0 |
| Combat Vehicle and Automotive Technology: | |
| Rapid Prototyping Technologies | 2.0 |
| Digital Executive Officer for UAVs | 2.5 |
| Advanced Energy and Manufacturing Technology | 3.0 |
| Advanced Electric Drive | 3.0 |
| Weapons and Munitions Technology: Single Capital Tungsten Alloy Penetrators | 3.0 |
| Countermine Systems: | |
| Chemical Vapor Sensing Technologies | 2.5 |
| Small SAR Mine Detection | 2.0 |
| RAPID and Reliable Countermeasure Capabilities | 5.0 |
| Environmental Quality Technology: Environmental Response and Security Protection System | 1.0 |
| Military Engineering Technology: Geosciences and atmosphere research | 3.0 |
| Warfighter Technology: Embedded Optical Communication for Objective Force Warrior | 4.8 |
| Medical Technology: Genomics Research | 2.0 |
| Medical Advanced Technology: | |
| Electronic Garments | 5.0 |
| Stable Hemostat Research | 5.0 |
| Combat Vehicle and Automotive Technology: | |
| 21st Century Truck | 17.5 |
| Fuel Cell Technology | 5.0 |
| Advanced Collaboration Environments | 2.0 |
| Fastening and Joining Technologies | 1.5 |
| Tactical Vehicle Design Tool | 2.0 |
| Advanced Thermal Management Controls | 1.5 |
| Advanced Composite Materials for Future Combat System | 5.5 |
| Medical Systems Advanced Development: | |
| Automated Detection for Biodefense | 5.0 |
| Topically Applied Vector Vaccines | 1.0 |
| Navy Research, Development, Test and Evaluation: | |
| Chemical Detection on UAVs | 2.0 |
| Advanced Fusion Processing | 5.0 |
| Fiber Reinforced Polymer for Ship Structuring | 4.0 |
| Rapid Prototype Polymeric Aircraft Components | 4.8 |
| Warfighter Sustainment Applied Research: | |
| Bioagent Diagnostic Tool | 4.0 |
| Biowarfare Agent Detector | 4.0 |
| Low Observable Materials for Stealth Application | 6.0 |
| Formidable Aligned Carbon Thermo Sets (FACTS) | 1.5 |
| Step-AIRSEDS (tether technology on UAVs and electrodynamic propulsion capabilities) | 1.0 |
| RF Systems Applied Research: | |
| High Brightness Electron Sources | 3.0 |
| Advanced Semiconductor Research | 2.0 |
| Ocean Warfighting Environment Applied Research: Southeast Atlantic Coastal Ocean Observing System (SEACOOS) | 6.0 |
| Undersea Warfare Applied Research: Low Acoustic Signature Motors & propulsors | 2.8 |
| Common Picture Advanced Technology: | |
| Consolidated Undersea Situational Awareness Capabilities | 4.0 |
| Shipboard Automated Reconstruction Capability | 6.0 |
| Joit Warfare Experiments: | |
| Modeling and Simulation for Homeland Defense USJFCOM | 1.5 |
| Mine Expeditionary Warfare Advanced Technology Augmented Reality Research | 3.5 |
| Studies and Analysis Support for Navy Fire Retardant Fibers | 1.0 |
| Management, Technical & International Support Warfare Analysis and Education | 3.5 |
| Modeling Simulation Support | 2.0 |
| Air Force Research, Development, Test & Evaluation: | |
| Materials: | |
| Low-cost Components for UAVs | 4.0 |
| Fabrication of Microelectronic Components | 6.0 |
| Closed Cell Foam Fire Retardant Materials | 2.0 |
| Nanotechnology Research for Aerospace Materials | 4.5 |
| Space Technology: | |
| Elastic Memory Composites Materials | 4.0 |
| Rigid Silicone Thin Film Solar Cells | 3.5 |
| Parallel Datacon Network for Satellite Communication | 4.0 |
| Microsatellite Duster Technology | 3.0 |

*Fiscal Year 2004 National Defense Authorization Act Member Adds—Continued*

| | |
|---|---|
| Command Control & Communication: MASINT Warfighter Visualization Tools | 7.0 |
| Advanced Materials for Weapons Systems: Materials Affordability Initiative for Aerospace Materials | 7.0 |
| Aerospace Technology Development Demonstration: | |
| Advanced Aluminum Aerostructure | 6.5 |
| Life Cycle Extension Assessment for Tactical Aircraft | 2.0 |
| Fly-by-light Photonictechnology | 3.0 |
| Aerospace Propulsion and Power Technology: | |
| Fuel Lubrication and Turbine Engine Technology | 7.0 |
| Advanced Turbine Gas Engine Generator | 6.0 |
| Support System Development: Aging Aircraft | 3.5 |
| Defense-Wide, Research, Development, Test & Evaluation: | |
| Nano and Micro-electro Mechanical Systems | 5.0 |
| Neural Engineering Research for Autonomous Control | 4.0 |
| Govt Industry Cosponsorship of University Research Program | 10.0 |
| University Research Initiatives: | |
| Photonics Research | 3.5 |
| Advanced Remote Sensing Software | 5.0 |
| Bioterrorism Response Analysis | 2.0 |
| Carbon Nanotechnology Research | 6.0 |
| Chemical and Biological Defense Program: | |
| Bacteriophage Amplification | 1.5 |
| Cell and Tissue Culture and Bacterial Growth Cell Research | 2.0 |
| Chemical and Biological Defense Program: | |
| Acoustic Wave Sensor Technology | 2.0 |
| Water Quality Sensor | 3.5 |
| Mustard Gas Antidote | 3.0 |
| Bioinformatics | 6.5 |
| Sensor Technologies | 2.0 |
| Food Security Technologies | 3.0 |
| Nerve Agent Decontamination Technology | 1.0 |
| Counterproliferation Advanced Development Technologies: Portable radiation search tool | 10.0 |
| Chemical and Biological Defense Program: Advanced Technologies | 5.0 |
| SensorNet Cell Phone Infrastructure for Chemical and Biological Defense Pilot Program | 5.0 |
| General Logistics R&D Technology Demonstrations: Multi-state Manufacturing Extensions Partnership Identify Requirements for Product Delivery Time | 9.0 |
| DMS Data Warehouse | 7.0 |
| Vehical Fuel Cell Program for JP–8 research | 7.0 |
| Command Control and Communications Systems All Optical Switching System | 3.0 |
| Joint Robotics Program Semi-autonomous Unmanned Ground Vehicle | 3.0 |
| Chemical and Biological Defense Program Anthrax and Plague Oral Vaccine Development | 6.0 |
| Chemical and Biological Defense Program Wide Area Decontaminate and Applicators | 5.7 |
| Joint Robotics Program Semi-autonomous small UGV | 4.0 |
| General Support to C3I See and Avoid UAV Technologies | 3.0 |
| Industrial Preparedness Laser Additive Manufacturing Technology | 3.0 |
| Information Systems Security Program: Collaboration between industry, government, and academia to share lessons learned and improve cooperation to solve common defense information systems security challenges | 2.0 |
| Sub-total | 445.6 |
| Airland | |
| Army Aircraft Procurement: OH–58D Kiowa Warrior GAV–19 Machine Gun | 12.3 |
| Army Communications Procurement: | |
| Single Shelter System for Army Common User System (ACUS) | 25.0 |
| Multiband Radios | 6.2 |
| Army Training Equipment Procurement: Military Operation on Urbanized Terrain Intrumentation | 4.8 |
| Navy Aircraft Procurement: JPATS Texan | 35.0 |
| Air Force Aircraft Modification: Ku-Band Satellite Communication Intergration Capability | 6.8 |
| Air Force Special Communications Electronics Projects: Joint Threat Emitter (JTE) System | 5.0 |
| Air Force Personal Safety and Rescue Equipment: | |
| Aircrew Survivable Radio Test Equipment | 7.0 |
| Fixed Aircraft Standardized Seats for C–130 & KC–135 | 4.8 |
| Air Force Base Support Equipment: Expeditionary Medical Support Packages (EMEDS) | 3.0 |
| Army Research, Development, Test & Evaluation: | |
| Missile and Rocket Advanced Technology Close-in Active Protective | 6.0 |
| Logistics and Engineer Equipment Advanced Development: | |
| Mobile Parts Hospital Development | 6.0 |
| Theater Support Vessel Development | 7.5 |
| Weapons and Munition: | |
| Abrams Tank Track Improvement | 4.7 |
| Full Authority Digital Engine Control Improvement Program | 5.0 |
| Air Force Research, Development, Test & Evaluation: | |
| EW Development Loitering Electronic Warfare Killer (LEWR) | 6.0 |
| Armament/Ordinance Development Passive Attack Weapon | 5.0 |
| F–15 Eagle C/D AESA Radar upgrade | 16.5 |
| Eagle Vision Commercial Imaging Program | 8.0 |
| Joint Air-to-Surface Missile Extended Range (JASSME—ER | 17.0 |
| KC–135 Simulator Upgrades (boom) | 3.4 |
| Sub-total | 195.0 |
| Readiness: | |
| Navy Research, Development, Test & Evaluation: Environmental Protection Wireless Sensor-network Technology | 2.0 |
| Army Operation and Maintenance:. | |
| Quadruple Shipping Containers | 4.0 |

*Fiscal Year 2004 National Defense Authorization Act Member Adds—Continued*

| | |
|---|---|
| Satellite Communication Language Training (SCOLA) USSOCOM | 2.0 |
| Corrosion Prevention and Control Program | 8.0 |
| Navy Operation and Maintenance: Condition-based Maintenance Photonic Sensors for Marine Gas Turbine Engines | 6.5 |
| Air Force Operation & Maintenance: Manufacturing Technical Assistance Production Programs (MTAAP) | 3.0 |
| Army Reserve Operation & Maintenance: Equipment Storage Site Initial Operations | 1.0 |
| Army National Guard Operation & Maintenance: Test Support Program | 1.5 |
| Sub-total | 28.0 |
| Seapower: | |
| Army, Other Procurement: Causeway Systems Modular Causeway Systems | 25.0 |
| Navy, Aircraft Procurement: H–1 Series Navigational Thermal Imaging System (NTIS) | 5.5 |
| Navy, Weapons Procurement: ABL Facilities Restoration | 20.0 |
| Navy Other Procurement: | |
| Submarine Training Performance Support Systems | 5.0 |
| Supply Support Equipment: Serial Number Tracking Systems (SNTS) | 8.0 |
| Navy RDT&E: | |
| Force Protection Advanced Technology: | |
| Project M | 4.7 |
| High Temperature Superconducting Alternating Current HRSAC synchronous motor | 10.0 |
| Laser Welding for shipbuilding | 4.1 |
| Warfighter Sustainment Advanced Technology: Automated Container and Cargo Handling System | 6.5 |
| Shipboard System Component Development: Improved Surface Vessel Torpedo Launcher | 3.0 |
| Surface Anti-Submarine Warfare (ASW): ASW Risk Reduction | 2.5 |
| P–3 Modernization Program P3 AIP Phased Capability Upgrade (Integrated tactical picture, Link-16, Tactical Common data link, electro-optic geo-location | 12.3 |
| SSN–688 and Trident Modernization: | |
| Submarine antenna technology improvements: Expandable two-way satellite communications buoy | 2.0 |
| Tethered communication and sensor platform | 3.0 |
| Submarine Tactical Warfare System: Submarine Weapons Control System | 10.0 |
| Navy Energy Program: Uninterruptible Proton Exchange Membrane Fuel Cell | 3.5 |
| Airborne Reconnaissance Systems: Podded Sensors for Air Reconnaissance | 5.1 |
| Sub-total | 130.2 |
| Strategic | |
| Air Force Missile Procurement: Evolved Expendable Launch Vehicle (EELV) | 60.0 |
| Army Research, Development, Test and Evaluation: | |
| Army Missile Defense Systems Integration (Non-Space): | |
| Advanced Laser Electric Power | 2.9 |
| Integrated Composite Missile Systems | 5.0 |
| AMD Architecture Analysis (A3) Program | 3.0 |
| Army Security and Intelligence: Base Protection and Monitoring System | 8.0 |
| Navy Research, Development, Test & Evaluation: | |
| Space and Electronic Warfare Architecture: | |
| Advanced Wireless Network NAVCIITI | 5.0 |
| Strategic Sub & Weapons System Support (TPPL) Thin plate pure lead batteries for submarines | 1.5 |
| Air Force Research, Development, Test & Evaluation: | |
| Advanced Spacecraft Technology: | |
| Satellite Hardening Technologies | 6.8 |
| Thin Film Amorphous Silicon Solar Arrays | 7.0 |
| Maui Space Surveillance System (MSSS), Hawaii: High Accuracy Network Detection System | 10.0 |
| Space Control Technology: | |
| Kinetic Energy Antisatellite Program (KEASAT) | 4.0 |
| Space Control Test Bed | 2.5 |
| Global Hawk Lithium Battery Demonstration | 3.5 |
| Applied Research: Air Force Research Lab Materials | 1.0 |
| Materials, electronics and Computer Technology: Coastal Area Tactical Mapping System | 2.0 |
| Defense Wide Research, Development, Test & Evaluation: | |
| Ballistic Missile Defense Terminal Defense Segment Arrow, US/Israel Ballistic Missile Defense | 10.0 |
| Ballistic Missile Defense Sensors E–2 Hawkeye Infrared Search and Track | 3.8 |
| Defense Research Sciences Nanophotonic Systems Fabrication | 2.0 |
| Department of Energy National Security Programs: Replacement, Los Alamos National Lab Albuquerque, NM | 50.0 |
| Sub-total | 184.0 |
| Grand Total | 982.8 |

Mr. WARNER. Mr. President, I would like to indicate to my distinguished colleague we are prepared to move to third reading.

Mr. LEVIN. That is my understanding. I don't know of any other matters that can be resolved.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum. I don't want you to lose the floor, but if I had the floor I would suggest the absence of a quorum.

Mr. WARNER. If that is your wish, I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I wish to make a brief speech on the bill. Are we under a time limit?

The PRESIDING OFFICER. We are not.

Mr. BYRD. I thank the Chair.

Mine will not be a lengthy speech.

Mr. President, just weeks ago, our Armed Forces once again demonstrated—demonstrated—the overwhelming might of the United States military. Due to the sustained commitment of our country to invest a substantial proportion of our national wealth into our national defense, our military is faster, more agile, more lethal, better equipped, better protected, and better compensated than any other in the world.

Make no doubt about it, the sums that we invest in defense are enormous. According to the most recent CIA World Factbook, the world spent about three-quarters of a trillion dollars on arms in 1999, the latest year for which statistics are available. That same year, the United States spent $292 billion on its military that is nearly 40 percent of all military spending on Earth. Our country spends more on defense than all the other 18 members of NATO, plus China, plus Russia, and plus the six remaining rogue states combined.

Yet our defense budget continues to increase. This bill authorizes $400 billion for our national defense in the next year.

In an age when we talk about smart bombs, smart missiles, and smart soldiers, any talk of smart budgets has gone out the window.

It was not that long ago that Secretary Rumsfeld conducted an extensive series of top-to-bottom reviews of the Defense Department. I supported him in those exercises, and said so, as did many other Members of Congress. Those reviews were supposed to eliminate old weapons systems, field new ones, and cut the fat at the Pentagon, all for the purpose of getting more bang for our defense buck.

I understand that a huge bureaucracy like the Defense Department cannot turn on a dime. But any hopes of containing military spending increases while preparing our forces for the 21st century seem to be a distant memory. Two years into what was supposed to be a major overhaul, the Pentagon's budget has grown by 24 percent, not counting any of the billions of dollars that we have spent on the war on terrorism and the war in Iraq. Our defense budget seems more the same than ever: not more bang for the buck, just more bucks.

The administration has charted a course now to increase defense budgets to $502.7 billion within the next 5 years. At the same time, Congress has passed one tax cut of $1.35 trillion, and the Senate is headed at flank speed to pass another $350 billion in tax cuts before this week is over. Budget deficits are soaring—soaring—out of control, while our economy is in the doldrums.

Instead of saving money by skipping a generation of military weapons, we are sending our country even deeper into debt a debt that will have to be borne by yet another generation of Americans who will be expected to pay for our defense largess.

Let there be no doubt that we can and must provide first-rate fighting capability for our troops. But we can do so without committing to defense budgets that are set to spiral ever, ever higher. I know of no one who would seriously propose to give our troops second-rate equipment or to cut their pay and benefits. The size of our defense budget is not a good measure of our support for our troops.

We have plenty of headroom in which to maintain our overwhelming military superiority without bowing to every request by the powerful defense industry for more and more and more money for more and more and more programs that are all too often over budget and behind schedule. Propping up unproven weapons systems through infusions of taxpayer cash is the surest means to short change our men and women in uniform.

There remains much to be done regarding the business practices at the Pentagon. Secretary Rumsfeld has made a commitment toward improving DOD's financial management and accounting systems, and he appears to be making an earnest effort toward that end, but progress is painfully slow. Untangling the mess of unreliable accounting entries will take years to solve. The bottom line is that the Pentagon still has no way—none—no way of knowing how much it spends, how much it owns, or what its real budgetary needs are. It makes little sense to keep piling more money on a Department that does not know how it spent last year's funds.

The DOD proposed a transformation package that was said to be able to make the Department more efficient. "Flexibilities"—and I use that word in quotation marks—"flexibilities" are held up as the cure-all to what ails the Pentagon's management. The answer to problems like the Pentagon's accounting system clearly is not more flexibility—what is needed is more accountability. Accountability within the Department, accountability to Congress, which means accountability to the Constitution and accountability to the American people.

It is a good sign that this bill does not include most of the "flexibilities" requested by the Department of Defense. Senator WARNER and Senator LEVIN acted wisely in crafting a bill that upholds the prerogatives of Congress in this respect.

Now, we owe a great debt of gratitude to both of these managers, Senator WARNER and Senator LEVIN, because they went against the grain when they opposed those "flexibilities" and when they took them out. It is a good sign that this bill does not include most of the "flexibilities" requested by the Department of Defense.

But we remain on the wrong track when it comes to defense spending. Instead of truth in budgeting, Congress cannot even get a straight answer about how much it will cost to occupy Iraq. Congress could not get a straight answer as to what it would cost to wage the war in Iraq. And Congress still cannot get a straight answer about the costs of reconstructing Iraq or how long we will be there. Instead of choosing priorities for our military and skipping a generation of weapons, defense spending is through the roof while our Government is swimming in red ink.

Instead of holding the Pentagon accountable for what it spends, we are kept busy fighting off legislative proposals that would reduce oversight of the Department of Defense.

Here again, I compliment Senator WARNER and Senator LEVIN. They put the foot down and said no; this far but no further. They took out those various and sundry so-called flexibilities that the Department wanted.

We are living in a time when the greatest threat to our national security is the threat of asymmetrical warfare. We learned that on September 11, 2001. We are in no danger of being outmatched militarily by any nation on Earth, but as the current orange alert status reminds us, we remain vulnerable to the very real threat of terrorists. Yet our Department of Defense is on a track to be the instrument—get this—to be the instrument of a doctrine of preemptive attacks: Ready and willing to invade and take over sovereign states that may not even pose a direct threat to our security. The name "Department of Defense" is increasingly a misnomer for a bureaucracy that is poised to undertake conquests at the drop of a hat.

Senator WARNER and Senator LEVIN have done an excellent job of managing this bill and of stripping some of the most egregious provisions from the President's request.

I have been on the Armed Services Committee a good many years. I first came to the Armed Services Committee when the late Senator Richard Russell, who stood at this desk and who sat in this chair, was chairman of that great committee. I have been a supporter of our national defense. I supported the war in Vietnam until most everyone else had left the field. I held up President Nixon's hand when others on my side and the then majority leader—God rest his soul—were opposed to an amendment that I offered which said in essence that if the President sends our boys, our young men—young men for the most part at that time—to Vietnam, then the President has a responsibility to protect those men to the best of his ability and to enable them to return home safely. I lost on the amendment. I received a call from Camp David from the late President Nixon complimenting me on that amendment.

I don't take a back seat to anyone when it comes to national defense, but I think we are going too far. I commend Senator WARNER and I commend

Senator LEVIN for their hard work, but I believe this bill is still too costly and steers our Nation in exactly the wrong course for the future. I hope they will not think that I in any way am criticizing them or the other members of my Armed Services Committee. I believe it is time to just say no to Pentagon excesses. I believe it is time to force the Defense Department to work smarter and waste less. I believe it is time to demand accountability for our enormous investment in defense.

For these reasons I will vote against this bill.

We will revisit this subject in the Defense Appropriations Committee and the Appropriations Committee as a whole, votes on Defense appropriations bill. But we will meet that challenge when it comes. I thank both the managers for their patience and for their good work.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, our distinguished colleague, former majority leader of the Senate, has been on the Armed Services Committee for 25 years, the quarter of a century Mr. LEVIN and I have been on there.

The Senator invoked the name of Richard Russell. When I was Secretary of the Navy, I used to come up and testify before him. I don't think anybody—maybe Senator Stennis—could match his skill. It was remarkable. Senator Tower, Senator Goldwater idolized him as we all did. But I thank the Senator for his remarks about this Senator. I do respectfully disagree with some of his conclusions, but that is the nature of the magnificence of the Senate. We have argued and expressed to the people of this country our own views.

Mr. LEVIN. If the chairman will yield a minute, I join in thanking Senator BYRD. He has a unique role in this institution and in this Nation. He makes a huge contribution in ways sometimes which are visible but often in ways which are not visible and are not known. One of those ways has been on the Armed Services Committee with so many issues. The issues he pointed out where the so-called flexibility was being sought but was not incorporated in this bill is in significant measure a tribute to his strength in defending the role of the legislative branch. It is a reflection of what is not only a big part of him but what he has instituted in so many others as a role model in this institution for fighting for a branch of government which is truly coequal to the executive branch. We have sustained that in this bill.

While the Senator from West Virginia will be voting no for the reasons he gave, the fact that he noted and welcomed the effort we made to keep out the excess power and flexibility in the executive branch to me is very heart warming indeed. I thank him for it.

Mr. BYRD. Mr. President, I thank both the very distinguished managers of the bill. May I say once again, to the distinguished Senator and to his comrade, the ranking manager, you have indeed properly upheld the role of the Senate and the principle of the separation of powers when you insisted that those various requests for "flexibility" be dropped. I hope you will be able to maintain that position in conference.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, my colleague Senator LEVIN and I, at the concurrence of the distinguished leadership on both sides, are prepared to proceed to a third reading and final passage.

### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. WARNER. Mr. President, I ask unanimous consent that following passage of S. 1050, the Senate proceed to executive session for the consideration of calendar No. 171, the nomination of Consuelo Maria Callahan to be U.S. Circuit Judge for the Ninth Circuit; further, there then be 10 minutes equally divided for debate on the nomination prior to the vote on the confirmation of the nomination, without intervening action or debate; further, I ask unanimous consent that following that vote, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, would that be the 126th judge we have approved during the Bush years?

The PRESIDING OFFICER. Regular order.

Mr. WARNER. I am unable to give an answer to that, I say to my distinguished colleague. I am sure in the course of the colloquy preceding the vote on that jurist, that could be answered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, as we are proceeding, I first want to acknowledge my profound gratitude to my colleague and almost lifetime friend of 25 years in this Chamber, Senator LEVIN, for his support and that of his staff and indeed to my staff who, under the tutelage of Judy Ansley, have done a magnificent job, and for the support of our respective leaderships in making this bill pass, particularly the two whips, the Senator from Nevada and the Senator from Kentucky.

Mr. LEVIN. Mr. President, very briefly, let me thank Senator WARNER, our chairman, for his usual courtesy, his indomitable spirit, and his willingness to try to find ways in which we can resolve differences. He has done a masterful job. We thought it was going to get done in record time. It probably didn't end up quite that way, but not because of any failure on the part of our good friend from Virginia.

I thank Rick DeBobes and all the staff on this side, Judy Ansley and all the staff on the Republican side, all the members of our committee who contributed so much, as members of the committee, as chairmen and as ranking members of the subcommittee. I think we have produced a good bill.

Let me add my thanks to Senator REID in particular. I want to single out Senator REID, if I may. All the leaders help us, but I must say what a unique whip we have in HARRY REID. He really makes things happen around here which otherwise simply could not happen.

I want to take a moment to acknowledge and thank the minority staff members of the Committee on Armed Services for their extraordinary work on S. 1050, the National Defense Authorization Act for Fiscal Year 2004. To arrive at final passage of this important legislation requires hours and hours of hard work and many personal sacrifices. The committee and the Senate are so fortunate to have men and women of their expertise and dedication so ably assisting us on this bill. Rick DeBobes leads our minority staff of fifteen. Although small in numbers, they all make huge contributions to the work of the Committee each and every day. As a tribute to their professionalism, I thank Chris Cowart, Dan Cox, Madelyn Creedon, Mitch Crosswait, Rick DeBobes, Evelyn Farkas, Richard Fieldhouse, Creighton Greene, Jeremy Hekhuis, Maren Leed, Gary Leeling, Peter Levine, Arun Seraphin, Christy Still, Mary Louise Wagner, and Bridget Whalan.

Mr. WARNER. Mr. President, I ask unanimous consent, on behalf of the members of the Senate Armed Services Committee, that they be permitted before the close of business tonight to file such statements as they wish relative to this bill.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I express my profound gratitude to the members of the committee and, most notably, the Presiding Officer. I ask that the bill be read the third time.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. WARNER. Mr. President, I ask for the yeas and nays on passing of the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Byrd

NOT VOTING—1

Kerry

The bill (S. 1050), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I wish to thank all of our colleagues for their patience. I ask unanimous consent that S. 1050, as amended, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I ask unanimous consent that the Senate proceed immediately to the consideration, en bloc, of S. 1047 through S. 1049, Calendar Order Nos. 93, 94, 95; that all after the enacting clause of those bills be stricken and that the appropriate portion of S. 1050, as amended, be inserted in lieu thereof according to the schedule which I am sending to the desk; that these bills be advanced to third reading and passed, the motions to reconsider en bloc be laid upon the table, and that the above actions occur without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The bill (S. 1047) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The bill will be printed in a future edition of the RECORD.)

## MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2004

The bill (S. 1048) to authorize appropriations for fiscal year 2004 for military construction and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The bill will be printed in a future edition of the RECORD.)

## DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2004

The bill (S. 1049) to authorize appropriations for fiscal year 2004 for defense activities of the Department of Energy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The bill will be printed in a future edition of the RECORD.)

## ORDER OF BUSINESS

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I thank the two managers for their hard work and willingness to stay late into the evening in an effort that some said could not be done over the course of the last 3 days, but both managers said we were going to do it. I congratulate them for delivering on that commitment.

In a couple of moments, we will have an additional vote on a Ninth Circuit court judge.

Before doing that, the Democratic leader and I wanted to have a general understanding with our colleagues of where we are and where we will be going over the next couple of days, or next couple 12 hours, say, 18 hours. We will see how long it will be.

It is my understanding we will be receiving sometime in the next hour the conference report on the jobs and growth package. It will be filed shortly in the House. I don't know exactly what time that will be. We just left there. Hopefully, it will be in the next hour or so. It is my hope we will be able to begin debate tonight, following the vote on the judge, on the jobs and growth package.

If that is the case, what I think, in talking to the Democratic leader, we would like to accomplish is the debate, which statutorily would be 10 hours, would begin, although we will not officially start the clock at that point, right after the vote on the judicial nominee. If that were acceptable to our colleagues, again, depending on what time the language arrived and papers could be filed, we would be able to vote on final passage tomorrow morning. This is on the jobs and growth package.

That is not all the business and I will comment on the other business.

Ideally, we would be able to vote sometime around 9:30 tomorrow, although we cannot say with certainty at this juncture.

If that were the case and we were able to complete that vote, we still have the debt limit extension to address, which is something that we have to, absolutely no question about it, deal with tomorrow. Everyone agrees with that, although I do understand there will be amendments from the other side of the aisle to allow discussion. Some of those amendments will be substantive and useful to discuss and debate and some, hopefully, will disappear, and we will talk about the issues at some point. I believe we are talking about eight amendments.

We will have to pass the debt ceiling extension tomorrow. How many amendments, we have not yet decided. We have to wait until tomorrow. I am not sure how long we need to talk on the debt ceiling, but if we had the vote on the jobs and growth package at 9:30 in the morning, I imagine there is a period we might be able to agree to tonight—or may not—at which time we start the amendment process and have a series of amendments, hopefully one after another, or I would encourage that to be the case.

People have a lot of commitments tomorrow and tomorrow evening. We want to do the business in a very deliberate way. That is a rough outline.

Let me turn to my distinguished colleague, Senator DASCHLE, to comment. Right now we are talking not unanimous consents but a general understanding of how the next day will play out.

Mr. DASCHLE. Mr. President, the majority leader and I have been discussing this now for the last several hours and he has described it accurately. Our hope is we can use this evening productively, knowing that a lot of people have schedules tomorrow afternoon and tomorrow evening they will want to keep.

While it would be difficult for us to agree at this point to begin the deliberative process on the conference report until we have actually had a chance to see it and review it, there is no reason why we cannot begin the debate.

We are suggesting that we informally begin the debate, have people address the issues if they want to be heard on the issues. If we can get a copy of a conference report in the next couple of hours, we may be in a position then to retroactively agree to the time already spent and make a commitment with regard to the time certain on the conference report itself. That could be as early as tomorrow between 9:30 and 10.

It would then be our hope we could move to the debt limit. We are not sure yet how many amendments may be offered, but we will try to limit the amount of time on each amendment so we can accommodate the schedules, with the expectation that by early afternoon we could depart.

The majority leader has articulated this understanding accurately and we will work with him to see if we can accomplish this in the next few hours.

Mr. FRIST. Mr. President, let me add, for tomorrow we do the jobs and growth package, we would take what time is necessary on the debt ceiling extension, and then we also have one other issue, which is unemployment insurance, which we will be addressing tomorrow. Again, all of this can be done in a very short period of time. These are not new issues. In each and every one of them, we know what the consequences are. They have been debated. The jobs and growth package we talked a lot about, although it is not exactly as written now, but the issues we talked about and discussed.

On all three of these issues, we will finish them. We could finish them, actually, early afternoon tomorrow if we stay focused, and that will be my intent. I understand some people on the other side of the aisle may want to talk on the debt ceiling and possibly unemployment insurance as well.

I think if we work together in a collegial way, we will be able to complete all of this legislation. Again, it has been an ambitious schedule for the week, but based on what we have seen over the last 3 years, we are making progress as we go forward.

## EXECUTIVE SESSION

## NOMINATION OF CONSUELO MARIA CALLAHAN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Consuelo Maria Callahan, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, there are 10 minutes evenly divided prior to the vote on the nomination.

Who yields time?

Mr. LEAHY. Have the yeas and nays been ordered on this nomination?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I express my enthusiastic support for the confirmation of Consuelo Callahan to the Ninth Circuit Court of Appeals. Justice Callahan is an outstanding nominee with broad support on both sides of the aisle. She has the support of both of the distinguished senators from her home state of California, and she was unanimously approved by the Judiciary Committee the day after her hearing.

Justice Callahan received her undergraduate degree from Stanford University and her law degree from McGeorge School of Law. In 1976, she began her 10-year career as a Deputy District Attorney with the San Joaquin County District Attorney's Office where she specialized in the prosecution of child abuse and sexual assault cases. During her 10-year career as a prosecutor, she handled more than 50 jury trials.

Justice Callahan also has first-hand experience with breaking the gender barrier. In 1992, she was appointed to the Superior Court in San Joaquin County, where she was the first female and Hispanic to serve on that court. She was also the first female member of two local social and service organizations. In 1996, Justice Callahan became the first judge from San Joaquin County to be elevated to the California Court of Appeal in more than 73 years.

In addition to her outstanding career as a prosecutor and a jurist, she has donated her time to organizations involved in addressing the problem of child abuse and sexual assault and has received an award for her work in this area. She has received other awards during her career, including the Governor's award for Criminal Justice Programs and the Susan B. Anthony award for Women of Achievement. In 1999, Justice Callahan was inducted into the San Joquin County Mexican-American Hall of Fame.

The Committee has received numerous letters supporting Justice Callahan's nomination to the Ninth Circuit. The La Raza Lawyer's Association of Sacramento described Justice Callahan's professional qualifications in the following way: "as a state appellate court justice, her opinions have been detailed, thoughtful and supportive of legal precedent. . . . She possesses both the intellect and temperament to be an outstanding justice of the Ninth Circuit Court of Appeals."

The ten justices that serve with Justice Callahan on the Third Appellate District and work with her every day also sent a letter to the Committee praising her skills as a jurist. They write, "During her more than six years on our court, Connie has shown that she has the integrity, capacity, collegiality, and diligence to serve with distinction on the Ninth Circuit. Our only reservation in recommending her confirmation is that it will mean a significant loss to our court. We will miss Connie's energy and enthusiasm, her legal skills, and the positive way in which she fulfills her responsibilities as an appellate jurist."

Her colleagues' loss will be the federal judiciary's gain, as I have great confidence that the beleaguered Ninth Circuit will greatly benefit from her confirmation. I urge my colleagues to support this nomination.

Mr. LEAHY. Mr. President, each of the Senators from California would like to speak.

Mrs. FEINSTEIN. Mr. President, I rise in support of Justice Callahan to go from the California State appellate court to the Ninth Circuit Court of Appeals. This woman was really born in Senator BOXER's and my backyard. She is a Bay area person. She was born in Palo Alto. She attended Stanford, graduated with honors, attended the University of the Pacific McGeorge Law School. She has been both a deputy city attorney and deputy district attorney. She founded the first child abuse unit in the DA's Office of San Joaquin County. In 1996 she was elevated to the State Court of Appeals from the Superior Court of San Joaquin County. She has served with distinction for the past 6 years, has extraordinarily strong support.

I certainly believe, and I believe Senator BOXER concurs in this, that she is going to be an excellent judge of the Ninth Circuit Court of Appeals. I am delighted to support her and to recommend her and to vote for her.

I yield the floor.

Mrs. BOXER. Mr. President, I am very pleased to join with my colleague, Senator FEINSTEIN, in support of this fine nominee.

To support Consuelo "Connie" Callahan to be a judge for the U.S. Circuit Court of Appeals for the Ninth Circuit.

Judge Callahan is a native Californian, born in Palo Alto. She is a graduate of Stanford University and the McGeorge School of Law at the University of the Pacific.

She was the first female and the first Hispanic judge to sit on the San Joaquin County Superior Court. She currently serves on the Third District Court of Appeals located in Sacramento.

She has been a champion of protecting children. When she served as a prosecutor, she focused on major felony prosecutions in the area of child abuse. She has received public recognition for her work on this issue.

She also is a former board member and President of the San Joaquin County Child Abuse Prevention Center. I applaud her involvement in this very serious cause.

I am pleased to join with my colleague, Senator FEINSTEIN, to support this nominee. In addition to having the support of both of her home-state senators, Judge Callahan received unanimous support from the Judiciary Committee.

I urge my colleagues to join us in supporting this well-qualified, mainstream nominee.

Mr. LEAHY. Mr. President, today, we vote to confirm Judge Consuelo Maria Callahan to serve on the United States Court of Appeals for the Ninth Circuit. This is another judicial nominee of President Bush whom Senate Democrats have strongly supported and whose consideration we had expedited through the Judiciary Committee.

I thank the Democratic leader and assistant leader for supporting Judge Callahan's nomination and working out this arrangement with the Republican leadership so that this consensus nomination can be considered without further delay. I appreciate that the majority leader has been willing to work with us to allow this nomination to go forward today.

I still do not know who on the Republican side delayed consideration of this consensus nominee. Just as Senate Democrats last month cleared the nomination of Judge Edward Prado to the United States Court of Appeals for the Fifth Circuit without delay, so, too, the nomination of Judge Callahan to the Ninth Circuit was cleared on the Democratic side promptly. All Democratic Senators serving on the Judiciary Committee voted to report her nomination favorably. All Democratic Senators indicated that they were eager to proceed with her nomination and, after a reasonable period of debate, vote on her nomination.

Unlike the divisive nomination of Carolyn Kuhl to the same court, both home-State Senators support the nomination of Judge Callahan and she is expected to be confirmed by an extraordinary majority—maybe unanimously. Rather than disregarding time-honored rules and Senate practices, I urged my friends on the other side of the aisle to help us fill more judicial vacancies more quickly by bringing those nominations that have bipartisan support, like Judge Callahan, to the front of the line for committee hearings and floor votes. I noted in a statement last week to make the point that the nomination of Judge Callahan to the Ninth Circuit Court of Appeals was cleared on the Democratic side.

We still do not know who on the Republican side delayed consideration of the consensus nomination of Judge Prado for a month. I thank the Congressional Hispanic Caucus for its support of that nomination as well as for its support of Judge Callahan, and for working with the Senate to bringing fair evaluation of these nominees and for adding their voice to the discussion of these lifetime appointments.

It is most unfortunate that so many partisans in this administration and on the other side of the aisle insist on bogging down consensus matters and consensus nominees in order to focus exclusively on the most divisive and controversial of this President's nominees as he continues his efforts to pack the courts. Democratic Senators have worked very hard to cooperate with this administration in order to fill judicial vacancies. What the other side seeks to obscure is our effort, our fairness and the progress we have been able to achieve without much help from the other side or the administration.

The fact is that when Democrats became the Senate majority in the summer of 2001, we inherited 110 judicial vacancies. Over the next 17 months, despite constant criticism from the administration, the Senate proceeded to confirm 100 of President Bush's nominees, including several who were divisive and controversial, several who had mixed peer review ratings from the ABA and at least 1 who had been rated not qualified. Despite the additional 40 vacancies that arose, we reduced judicial vacancies to 60, a level below that termed "full employment" by Senator HATCH. Since the beginning of this year, in spite of the Republican's fixation on the President's most controversial nominations, we have worked hard to reduce judicial vacancies even further. As of today, the number of judicial vacancies has been reduced to 45 and is the lowest it has been in 13 years. That is lower than at any time during the entire 8 years of the Clinton administration. We have already reduced judicial vacancies from 110 to 45, in 2 years. We have reduced the vacancy rate from 12.8 percent to 5.2 percent, the lowest it has been in the last two decades. With some cooperation from the administration, think of the additional progress we could be making.

Earlier this month, we were able to obtain Senate consideration of the nomination of Judge Prado, and another distinguished Hispanic nominee, Judge Cecilia Altonaga, to be a Federal judge in Florida. We expedited consideration of that nominee at the request of Senator GRAHAM of Florida. I am told that she is the first Cuban-American woman to be confirmed to the Federal bench. Indeed, Democrats in the Senate have worked to expedite fair consideration of every Latino nominee this President has made to the Federal trial courts in addition to the nominations of Judge Prado and Judge Callahan.

As I have noted throughout the last 2 years, the Senate is able to move expeditiously when we have consensus nominees to consider. In a recent column, David Broder noted that he asked Alberto Gonzales if there was a lesson in Judge Prado's easy approval, but that Mr. Gonzales missed the point. In Mr. Broder's mind: "The lesson seems obvious. Conservatives can be confirmed for the courts when they are well known in their communities and a broad range of their constituents have reason to think them fair-minded." Judge Consuelo Callahan is another such nominee.

With this confirmation, the Senate will have confirmed 126 judges, including 24 circuit court nominees, nominated by President Bush, 100 in the 17 months in which Democrats comprised the Senate majority. The lesson that less controversial nominees are considered and confirmed more easily was the lesson of the last 2 years, but that lesson has been lost on this White House and the current Senate leadership.

One hundred judicial nominees were confirmed when Democrats controlled the Senate for 17 months, and 26 have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 126 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997 the 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 13 percent and the circuit court total by 33 percent before Memorial Day and with 7 months remaining to us this year.

Today's confirmation makes the seventh court of appeals nominee confirmed by the Senate just this year. That meets the annual average achieved by Republican leadership from 1995 through the early part of 2001. The Republicans have now achieved as much in less than 5 months for President Bush as they used to allow the Senate to achieve in a full year with President Clinton. They are moving two to three times faster for this President's nominees, despite the fact that the current appellate court nominees are more controversial, divisive and less widely supported than President Clinton's appellate court nominees were.

Understand that if the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995 to 1997. In addition, the 45 vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. Of course, the Senate is not adjourning for the year and Chairman HATCH continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton's.

Unfortunately, far too many of this President's nominees raise serious concerns about whether they will be fair judges to all parties on all issues. Those types of nominees should not be rushed through the process. I regret the administration's refusal to work with us to end the impasse it has created in connection with the Estrada nomination. The partisan politics of division that the administration is practicing with respect to that nomination are not helpful and not respectful of the damage done to the Hispanic community by insisting on so divisive a nominee.

I invite the President to work with us and to nominate more mainstream individuals like Judge Prado and Judge Callahan with proven records and bipartisan support. In connection with the unexplained Republican delay before consideration of the nomination of Judge Prado, some suggested that Judge Prado had been delayed because Democratic Senators were likely to vote for him and thereby undercut the Republican's shameless charge that opposition to Miguel Estrada is based on his ethnicity.

We all know that the White House could have cooperated with the Senate by producing Mr. Estrada's work papers. This would have enabled the Senate to have voted on the Estrada nomination months ago. The request for his work papers was sent last May 15 and has been outstanding for more than a year. Rather than respond as every other administration has over the last 20 years and provide access to those papers, this White House has stonewalled. Rather than follow the policy of openness outlined by Attorney General Robert Jackson in the 1940s, this administration has stonewalled. And Republican Senators and other partisans could not wait to claim that the impasse created by the White House's change in policy and practice with respect to nominations was somehow attributable to Democrats being anti-Hispanic. The charge would be laughable if it were not so calculated to do political damage and to divide the Hispanic community. That is what Republican partisans hope is the result. That is wrong.

Unfortunately, in the case of Mr. Estrada, the administration has made no effort to work with us to resolve the impasse. Instead, there has been a series of votes on cloture petitions in which the opposition has grown and from time to time the support has waned. Recently, there have been press reports indicating that Mr. Estrada asked the White House months ago to withdraw his nomination. I understand his frustration. If this administration is not going to follow the practice of every other administration and share with the Senate the government work papers of the nominee—the very practice this administration followed with its own EPA nominee in 2001—then I can understand him not wanting to be used as a political pawn by the administration to score partisan, political points. That the administration has not acceded to his reported request but has plowed ahead to force a succession of unsuccessful cloture votes and to foment division in the Hispanic community for partisan gain is another example of how far this administration is willing to go to politicize the process at the expense of its own nominees.

Judge Callahan is a fine candidate for elevation to the appeals court. She has years of experience serving on the bench in the state of California, first on the California Superior Court and then on the California Court of Appeal. She enjoys the full support of the Congressional Hispanic Caucus. Not a single person or organization has submitted a letter of opposition or raised concerns about her. No controversy. No red flags. No basis for concern. No opposition. This explains why her nomination was voted out of the Judiciary Committee with a unanimous, bipartisan vote on an expedited basis.

During President Clinton's tenure, 10 of his more than 30 Latino nominees, including Judge Rangel, Enrique Moreno, and Christine Arguello to the circuit courts, were delayed or blocked from receiving hearings or votes by the Republican leadership. Republicans delayed consideration of a well-qualified Hispanic nominee to the Ninth Circuit, Judge Richard Paez for over 1,500 days, and 39 Republicans voted against him. The confirmations of Latina circuit nominees Rosemary Barkett and Sonia Sotomayor were also delayed by Republicans. Judge Barkett was targeted for delay and defeat by Republicans based on claims about her judicial philosophy, but those efforts were not successful. After significant delays and an unsuccessful Republican filibuster, 36 Republicans voted against the confirmation of Judge Barkett. Additionally, Judge Sotomayor, who had received the ABA's highest rating and had been appointed to the district court by President George H.W. Bush, was targeted by Republicans for delay or defeat when she was nominated to the Second Circuit. She was eventually confirmed, although 29 Republicans voted against her.

The fact is that the Latino nominations that the Senate has received from this administration have been acted upon in an expeditious manner. They have overwhelmingly enjoyed bipartisan support. Under the Democratically led Senate, we swiftly granted hearings for and eventually confirmed Judge Christina Armijo of New Mexico, Judge Phillip Martinez and Randy Crane of Texas, Judge Jose Martinez of Florida, U.S. Magistrate Judge Alia Ludlum, and Judge Jose Linares of New Jersey to the district courts. This year, we also confirmed Judge James Otero of California, and we would have held his confirmation hearing last year if his ABA peer rating had been delivered to us in time for the scheduling of our last hearing. As I have noted, we also have recently confirmed Judge Cecilia Altonaga and Judge Edward Prado with unanimous Democratic support.

Judge Callahan's nomination was delayed on the Senate executive calendar unnecessarily in my view. I am pleased to see that at the urging of the Democratic leadership—the Republican majority has agreed to bring up this uncontroversial Latina nominee for a vote. I congratulate Judge Callahan and her family on her confirmation.

Mr. President, I thank both the majority leader and the distinguished Democratic leader for clearing this action. We have tried on this side of the aisle for some time to clear this nomination. I appreciate my friends on the Republican side lifting their hold. I support the nominee and yield back all time.

The PRESIDING OFFICER. All time is yielded back. The question is, will the Senate advise and consent to the nomination of Consuelo Maria Callahan, of California, to be United States Circuit Judge for the Ninth Circuit? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 195 Ex.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss

Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—1

Kerry

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

The Senator from Virginia.

## UNANIMOUS CONSENT REQUEST—S. 392

Mr. WARNER. Mr. President, I have been working with the distinguished Democratic whip. There is a small matter that we wish to wrap up with a UC request.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, but no later than June 27, the Senate proceed to a bill introduced by Senators REID and DORGAN on the subject of concurrent receipts, the text of which is at the desk, S. 392. I further ask unanimous consent that no amendments be in order to the bill, and that there be 60 minutes equally divided for debate in the usual form. Finally, I ask unanimous consent that following the use or yielding back of that time, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, we just got a call from the cloakroom, so I withhold my UC request and yield to the Senator from Utah. He has one.

The PRESIDING OFFICER. The request is withheld.

The Senator from Utah.

## MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I further ask unanimous consent that I be recognized to speak for up to 15 minutes, and that following my remarks, Senator BEN NELSON be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE FAIR ACT

Mr. HATCH. Mr. President, today I rise to introduce S. 1125, the bipartisan Fairness in Asbestos Injury Resolution Act of 2003, the FAIR Act. I am joined by my colleagues Senators BEN NELSON, DEWINE, MILLER, VOINOVICH, ALLEN, and CHAMBLISS who share my concern on this important issue and have worked very hard to help bring about a resolution up to this point. They have all felt the impact of this situation in their home States and have shown the courage that we need to move forward to legislate a solution.

I also commend the interests of my good friend and Judiciary partner, Senator LEAHY, as well as Senators DODD and CARPER, whom I would hope will continue to work with us to improve this important legislation.

I also want to recognize and commend my colleague from Oklahoma, Senator NICKLES, who has also been a leader on this issue and recognizes the harm the current system poses to our workers and to our economy.

There can be no doubt that our Nation faces an asbestos litigation crisis. We have all heard the statistics, but they bear repeating. The RAND Institute for Civil Justice tells us that, to date, over 60 companies—I have been informed almost 70 companies—have been forced into bankruptcy—at least three with operations in my own home State of Utah.

The number of claims continues to rise, as does the number of companies pulled into the web of this abusive litigation, often with little, if any, culpability. More than 600,000 people have filed claims, and more than 8,400 companies have been named as defendants in asbestos litigation, some of them for no good reason at all but who are now stuck with horrendous defense costs, even though they would win every case.

This has become such a gravy train for some abusive trial lawyers—just some—that over 2,400 additional companies were named in the last year alone. RAND also notes that "about two-thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill." Two-thirds of the complaints are filed by people who are not even sick. Former Attorney General Griffin Bell, amongst many others, has denounced this type of "jackpot justice."

There is broad support for a comprehensive solution, and I believe that our legislation is a major step in the right direction. I have been and will continue working with my colleagues on both sides of the aisle to resolve this issue. We need to ensure that the truly sick get paid, while providing stability to our economy by stemming the rampant litigation that has resulted in a tidal wave of bankruptcies, endangering jobs and pensions and health care and almost everything else that workers need in these companies. This crisis reaches far and wide, and it hurts everyone.

I am pretty pleased with what we have been able to accomplish to date. I have worked with all kinds of companies. I have worked with the unions. I have worked with some trial lawyers. And I have worked with insurance companies, reinsurers. You name them—they have been to Senator NELSON's office and my office. And Senator NELSON has worked long and hard and diligently side by side with me to be able to come up with what we have right now, which is a pretty darn good package and a good bill.

I am proud of the product we are putting forth today, but we are not done. We know that. But we have made significant progress.

Let me tell you what this bill does. We pay victims faster. The FAIR Act creates a fair and efficient system to resolve claims of asbestos victims in a reasonable way that enables legitimate claimants to obtain recovery much faster and easier than the current system. A new specialized court will pay eligible claimants through a no-fault system within just a few months. Asbestos victims will no longer have to wait several years or more to be paid.

Our proposal will streamline the process and decrease the need for attorneys so that claimants will be able to retain more of their awards, without huge attorney's fees or transaction costs. Transaction costs—most specifically, attorney's fees—have drained essential resources in the current system, to the point where there will not be resources for those who are truly ill, unless we do this bill.

Non-sick claimants will no longer deplete resources that should pay the truly sick victims. In order to direct the resources to those most in need, the FAIR Act implements measured medical criteria and fair dollar values for claimants so that all those who are sick will be able to get compensation. The medical criteria are modeled on the 2002 Manville Trust Distribution Process. These standards were intensely negotiated with the plaintiff's bar before they were enacted, and they represent a fair guideline for determining the respective diseases, and for determining who is impaired and who is not. For those who are not sick, we provide medical monitoring. If and when they become sick, they are ensured access to the fund. This is the FAIR approach.

Payments in the new court process will be fair and reasonable. Claimants will have a reasonable expectation of the amount they will receive. There will not be any more runaway jury awards for people who have never actually been sick, draining the resources away from the victims who truly need our help.

We provide stability and certainty. In order to get the stability we need for victims and the economy, the Fair Act is the exclusive remedy for asbestos personal injury claims. There will be no more "forum shopping" abuses that have made a mockery of our justice system where some legitimate victims are currently left with no recourse while others with no illness at all receive windfalls.

We have taken great pains to ensure adequate funding for claim awards. Awards to claimants are paid out of a newly created fund consisting of contributions over a 25-year period from both the bankrupt and solvent defendants with asbestos liabilities and insurance and reinsurance companies with policies covering asbestos personal injury claims.

The business community receives the certainty they need to protect jobs and pensions. In our legislation, we set out mandatory funding of $90 billion from industry and insurers, with an additional $4 to $6 billion or more available from current asbestos trusts, and the authority to assess another $14 billion from companies that may be avoiding future liability. I am really pleased that the various companies and industry have come together on this. Defendant companies have reached an agreement on allocating their $45 billion in contributions. I am encouraged that the insurers continue to work toward a similar agreement. For now, we have in place a Blue-Ribbon commission that can make those determinations should the insurers be unable to resolve their shares. Overall, the business community has really made tremendous progress to provide funds that are projected to compensate victims appropriately and for the next 50 years.

They haven't been happy to do that but they are going to have to do that. They are not happy with this $108 billion trust fund. It is at least $18 billion more than what they were willing to pay. But I believe that they will, in the end, have to come along with this bill. And many of them are saying that right now. They are not happy but they realize that we are trying to resolve this in a way that is fair to everybody.

We all want to ensure that there is enough money in the fund to compensate claimants. Toward that end, I have included provisions such as a payment guarantee surcharge account and an orphan share account where additional funds will be set aside to grow and be available in the unlikely event of a shortfall. In addition, I provide for contribution obligations to be a priority in bankruptcy and for Attorney General enforcement of contribution obligations.

Over the last few days since I circulated the FAIR Act, I have received a lot of helpful feedback. As a result, we have made a number of changes in response to reasonable concerns. I expect we will make more down the road. All we have to do is have reasonable people work with us in good faith, and we are going to try to improve this bill every step of the way. But we have a limited time in which to get this done. Anybody who does not understand that is going to be somebody who destroys or at least attempts to destroy the only game in town, the only way we can resolve these problems.

We have received some suggestions from Senators LEAHY and DODD. I commend their interest in and leadership on this issue. They have provided some valuable suggestions which we will study. We have already incorporated some of their suggestions in the bill we introduce today.

First, we have included language that permits the Administrator of the fund to refer to the Attorney General for enforcement any information received regarding violations of EPA or OSHA regulations.

Second, we specify that life insurance will not be counted as a collateral source offset to any award granted to victims.

Third, as a further safeguard against imbalance in the appellate procedure, we ensure that the judges of the en banc panel of the new U.S. Court of Asbestos Claims are assigned randomly.

We are considering other proposed suggestions that will further our progress on this issue. Again, I want to thank my colleagues on the other side of the aisle who have been engaged in this issue over the last several months, especially my cosponsors, Senators NELSON and MILLER, as well as Senators LEAHY, DODD, CARPER, LEVIN, and FEINSTEIN, who are contemplating cosponsorship down the line but have not been able to do so as of this date. I encourage them to stay involved and work with us during this process.

I also want to thank the leadership of Senators DEWINE, VOINOVICH, BROWNBACK, NICKLES, and ZELL MILLER in particular, who all share my view that this asbestos crisis must be resolved. I know there are other issues that remain. The issue of a potential shortfall in funding at the end is certainly an important one. I think we can work together to address this issue, although it is premature to come up with a solution to that right now. Perhaps exploring private insurance mechanisms or some other avenue may be the way to go. I don't know. But we are willing to listen.

We have to start now, or we don't have a chance of getting a bill through that will help all of those concerned in this area, from the unions to the smallest company and the largest company. As I have said before, I oppose making taxpayers responsible for any potential mismanagement of the fund. If we employ appropriate medical criteria to ensure that those who are actually sick receive the compensation, that will go a long way toward increasing the manageability of this fund so that we don't have to worry about a shortfall. With our funding levels set at the highest level of current projection, I do not expect a shortfall to occur, and I don't think others do as well who have done the accounting work on this. But we can find a way to give more comfort to those who believe that even the highest level may underestimate the number of claims. If the medical criteria are reasonable, then it will be much easier to resolve the issue of ensuring that there will be enough funds to redress future claimants.

As I have mentioned to my colleagues, if the desire for a legislative solution is genuine, then we must take a position and move forward with the legislative process. This complex legislation will require our collective efforts and our serious cooperation.

I would like to go to this chart. This chart is on the effects of asbestos bankruptcies on workers. A lot of people don't realize, a lot of union members don't realize how serious this is. According to a study by the notable Nobel-winning economist, Joseph Stiglitz, commissioned by the American Insurance Association, entitled "The Impact of Asbestos Liabilities on Workers in Bankrupt Firms" in December of 2002, bankruptcies led to a loss of an estimated 52,000 to 60,000 jobs. That was in 2002. It is higher now. Each displaced worker at the bankrupt firms will lose on average an estimated $25,000 to $50,000 in wages over his or her career because of periods of unemployment and the likelihood of having to take a new job paying a lower salary. The average worker at an asbestos-elated bankrupt firm with a 401(k) plan suffered roughly $8,300 in pension losses, which represented on average roughly a 25-percent reduction in the value of the 401(k) account.

That is important. If we don't solve this problem within the next month, I believe we will have many more companies headed towards bankruptcy with a loss of jobs, a loss of high-paying jobs, a loss of union members' jobs. I believe in the end, the unions will go broke, too. Because if they have any guts at all and any desire to help their members, they will have to help pick up the health costs for these people among other things. But the pensions are going to be gone. The union jobs will be gone. That is why we have to do something now, not keep trying to get blood out of a stone. Unfortunately, we have some who want to do that.

Let me go to this next chart, which is the New York Times. This shows the surge in asbestos suits, many by healthy plaintiffs. The ones who are very injured, cancer ones, are represented by the red line on the bottom. Look at the black line, which is noncancer victims, many of whom have never suffered a sick day in their lives who are now approaching 70,000 claims, many of whom show no signs of being sick at this point. We provide medical monitoring for them during the lifetime of this trust. We pay for it. If they get sick at any time, they can come in and on a no-fault basis get their compensation without having to pay exorbitant attorney's fees or transactional costs. This is something I think every worker should be cheering and hoping for.

The impact of bankruptcy on employment: After adjusting for the changes in industry employment, the firms for which we have data lost 51,970 jobs in the 5 years prior to bankruptcy. That is a couple years ago. It is a lot worse than that now. Assuming that employment losses at the firms for which we lack data were proportionate to those for which we have data, the implied total employment loss would be roughly 60,000.

Now, with regard to the change in employment in 5 years prior to bankruptcy, after accounting for changes in industry employment, in firms filing for bankruptcy before January 1998, was 24,551, the number of jobs lost. Firms filing for bankruptcy after January 1998, 27,419 jobs. Total for firms with data, 51,970. The estimated total for all bankrupt firms is 60,000 as of the day that was done. I believe it is now over 70,000.

This is a serious issue. We have to get serious about it. I have tried to work in good faith on behalf of everybody involved. I am calling on all parties—from the unions to the reinsurers—to get together with us and help us to improve this bill.

But realize there is only so much blood you can get out of this stone. If we don't do that, there are going to be hundreds of thousands of union jobs and other jobs lost that literally are going to be devastating to this country and to the individuals involved; and we would deserve the blame in the Congress because this bill would go a long way toward solving it.

Having said that, I praise my colleague, Senator NELSON of Nebraska, and the other cosponsors of this bill. Without Senator NELSON and his encouragement over the last number of months, I don't think we would have reached this far. He has had the guts to cosponsor this bill at this time, and I have nothing but respect for him, and also Senator MILLER as well on his side, and the others on our side, who are willing to stand up. I haven't talked to a lot of Senators about cosponsoring, but I will. I pay tribute to my colleague for his stalwart support in trying to do something about this tremendous set of problems we have in our society today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, thank you for the opportunity to appear here with my colleague from Utah to say how much I appreciate the opportunity to cosponsor with him and others this very important legislation.

I should also say that when I went to the ranking member, Senator LEAHY, a year or so ago and talked about how difficult an issue this was and how difficult it was becoming, he was gracious and granted a hearing, and he has worked very diligently to make certain this issue gets the kind of exposure it should. He has also worked toward finding solutions to it. Senator DODD has also worked tirelessly on this issue, and they both remain very interested in finding a solution.

My colleague from Utah has outlined very clearly much of the statistical support for this kind of legislation. Historically, in the early 1970s, lawsuits against the asbestos manufacturers opened the door for victims suffering from asbestos-related diseases to be justly compensated for their issues, and they were.

When Johns-Manville—the largest asbestos manufacturer—filed for bankruptcy in 1982, there were fewer than 20,000 asbestos cases, most on behalf of individuals with severe asbestosis or mesothelioma—a vicious asbestos-related cancer. The system worked. Sick people and their families were given the financial security they deserved.

But then the system stopped working. A flood of cases overwhelmed it—some from individuals who were not yet sick but could potentially get sick in the future. We don't want to prevent these individuals from recovering down the road, but we also need to work toward allowing those who are sick now to recover now. With the current docket load, that just isn't happening. Over 90,000 new asbestos lawsuits were filed in 2001 alone, representing an increase of 30,000 from the previous year. However, the American Academy of Actuaries estimates that there are only about 2,000 new mesothelioma cases filed each year, another 2,000 to 3,000 cancer cases that are likely attributable to asbestos, and a smaller number of serious asbestosis cases. As a result, we need to work toward finding a way to address the lawsuits of seriously ill individuals immediately without eliminating the ability for those who may become sick in the future to have their case addressed at the appropriate time.

The unfortunate result of these tens of thousands of lawsuits is that people who are seriously sick and dying from asbestos must wait longer to recover less money than they deserve—if they can recover anything at all. After transaction costs and fees for both plaintiff and defense lawyers, only about one-third of the money spent on asbestos litigation will actually reach the claimants.

Moreover, as insurance is depleted and an increasing number of these defendants declare bankruptcy, it is inevitable that many asbestos victims who develop cancer in the future will go uncompensated, unless we take the action this bill will provide.

The economic fallout from this situation, though, extends beyond sick victims. Because every company that manufactured asbestos is now bankrupt, plaintiffs have been forced to seek alternative defendants to take their place. According to the Rand Institute for Civil Justice, 300 firms were listed as defendants in asbestos cases in 1983. But by 2002, Rand estimates that more than 6,000 independent entities have been named as asbestos liability defendants. More recently, another Rand Institute study has estimated that there is about $200 billion in pending asbestos claims. Many of these new defendants are small businesses located in every community across the country, with little or no actual connection to asbestos.

I have heard from scores of small businesses in my State—local hardware stores, plumbing contractors, auto parts dealers, lumber yards—and none of these businesses manufactured it. Many did not sell it or install it. But these businesses and the jobs they represent are at stake. They are now afraid that as primary asbestos defendants declare bankruptcy, they will be next in line for the thousands of cases being filed and their businesses will not, therefore, survive.

As the Wall Street Journal reported recently:

> Lawsuits are now piling up against consultants, engineering firms, plant owners, and maintenance and construction contractors, all of whom are being blamed for workers' exposure to asbestos.

Also, part of this litigation is now being targeted at insurance providers. As the same story states:

> Many of the smaller [companies] lack resources to defend thousands of lawsuits or pay huge verdicts. But the companies do have one thing in common: plentiful insurance.

As the number of asbestos claims filed each year has nearly tripled in the last 5 years, the pace of asbestos-related bankruptcies has also accelerated dramatically.

Since 1998, more companies have filed for bankruptcy protection than in the previous 20 years combined; and in the first 7 months of 2002 alone, 12 companies facing significant asbestos liability went bankrupt—more than in any other 3-year period before 1999. Firms declaring bankruptcy since 1998 employed more than 120,000 workers prior to their filing, many of whom were significantly invested in their company's stock, pension, and 401(k) plans.

According to Fortune magazine, for example:

> [A]t the time of the Federal-Mogul's bankruptcy filing [in 2001], employees held 16 percent of the company's stock, which had lost 99 percent of its value since January 1999.

It was reported that Federal-Mogul employees lost over $800 million in their 401(k). Similarly,

> [A]bout 14 percent of Owens Corning's shares—which lost 97 percent of their value in the two years before its filing—were owned by employees.

I think we can all agree that those individuals with legal claims who are truly very sick need to be taken care of in the most timely and equitable manner possible. That must be our No. 1 priority. We must also work to ensure that those who are not sick now, but may become sick in the future, are not precluded from recovery and that there are still funds available for such a recovery.

Mr. President, this bill, as it is currently, begins the process of doing just that. And as indicated by my colleague, it is a work in progress. There are many opportunities yet to modify and to improve it as we go through this process. That is what the hearing will be about, and that is what the negotiation would be about.

I am a strong believer that every American has a right to their day in court, but I also believe people dying of asbestos-related disease deserve just compensation for themselves and their families. Fortunately, we are coming closer to being able to restore balance to the system. The fund is in the process of being created that will, I hope, provide a pool of lasting benefits for those with meritorious claims. At the same time, this fund will spread the burden of the cost more evenly and ensure the financial impact will not solely be directed at some parties due to their ability to pay rather than their true liabilities.

There are a number of task that remain to be done, and we recognize that, and we welcome the opportunity to bring all those folks together to make sure we come together with the best possible bill that will do the best possible job for those who are truly sick and those who will become sick.

We are now at a time, I believe, when this issue can be and should be resolved, perhaps not once and for all, as some would hope, but for a good long while, giving us a chance to restore stability and certainty to a very uncertain issue.

While this may not be a perfect bill, as they say, we must not let our desire for the perfect become the enemy of the good. Much work remains to be done, but I hope the parties, the stakeholders, will come together and work with us to refine the bill.

I look forward to working with Members on all sides who truly are striving to ensure that those who have been injured the most have an opportunity to make their cases heard.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

## TAX CUT BILL

Mr. BAUCUS. Mr. President, sometime in the near future—near is in the eyes of the beholder—we are going to vote on the conference report to the tax cut bill. When that does come up before the Senate, I will oppose the bill and recommend the conference report not be adopted.

The conference report, which will be before us soon, is, first, not fiscally responsible. It is not fair to working Americans, and is not likely to succeed in rebuilding the American economy.

First, fiscal responsibility: Two years ago when we considered the 2001 tax cut, the Congressional Budget Office projected trillions of dollars of surpluses well into the future. In fact, $5.6 trillion was projected as budget surpluses over the next 10 years. Today, that same neutral, independent body, the Congressional Budget Office, projects deficits well into the future, and the rough estimate is about $2 trillion of deficits, a swing of close to $7 trillion to $8 trillion over just 2 years.

The fiscal environment has dramatically changed since 2002. If that is the case, I believe our tax policies should also change. Whereas in 2001 it made sense to cut taxes, today we should look much more carefully at any potential tax cut.

The fiscal environment has changed very much today compared to where it was in 2001. Consequently, we should be carefully examining our tax policies and asking whether our tax policies should change accordingly.

The Senator from Ohio, Mr. VOINOVICH, kept his word and forced the conferees to keep the conference report, at least on its face, within the $350 billion Senate agreement. Unfortunately, this tax cut bill busts through that $350 billion ceiling through a series of gimmicks that hide the true cost of the bill, and in this time of increasing deficits, I believe we must live within our limits, and this conference report fails to do so.

Instead, it uses phase-ins and sunsets to shoehorn large tax cuts into a small budget window. Republicans have designed a tax cut that is one big yo-yo. Now you see it, now you don't. Here again, on again, off again. It is one big yo-yo which I will explain in a few minutes.

The child credit, for example, has increased for the years 2003 and 2004, and then guess what. It is taken away. That is one yo-yo.

Part of the marriage penalty is eliminated for the years 2003 and 2004. Guess what again. The penalty comes back again after 2004.

The 10-percent bracket is expanded for 2003 and 2004. Then it reverts back.

Even the dividend tax cut disappears after 2008.

Individual taxpayers and corporate taxpayers, I believe, want certainty. They want some predictability. They want to be able to plan for their families, and companies want to plan for the future. Individuals want to know whether they can plan for vacations, education, and companies want to know whether to invest or not invest. We certainly do not give them that certainty and predictability in this bill.

As for planning, this bill tells American taxpayers, for example, to get married in the year 2003 or 2004, have a child in 2003 or 2004, and then get divorced in 2005. This bill is simply full of way too many gimmicks.

Last year, Members of Congress and the President expressed their outrage at the accounting gimmicks and manipulations of income and expenses by Enron, WorldCom, Adelphia. In fact, legislation was enacted last year to put the brakes on the use of accounting gimmicks by corporate America.

If these accounting gimmicks and financial statement manipulations are so intolerable in corporate America, then why are they not intolerable for the U.S. Congress? Why should Congress be allowed to deceive the American public?

What is really going on here? What is really going on is that the majority intends to extend these tax cuts beyond the budget window. That is what is really going on here. That is the accounting gimmick. That is what is hidden. But if we extend the tax cuts, they will only add to the long-term budget problem. That is, if they are extended as intended by the majority party, they will add to the fiscal nightmares just as we face budget strains brought on by the baby boom generation. Congress should come clean with what is really going on, what it is really up to.

Second, this conference report is not fair to working Americans. The benefits of this bill are skewed heavily to the elite in this country. It mistakenly directs less of its resources to working American families—much less. In this sluggish economy, that is also not good economic policy. Working American families are more likely to spend tax cuts quickly; that is, tax cuts directed at working American families will more likely help rebuild the American economy, but that is not what this bill does.

Take, for example, the tax cuts for dividends. This tax cut alone is heavily weighted to the elite. Three out of four American taxpayers have no dividend income, and half of those who do have dividend income have less than $500 in dividend income. That is about one out of eight at $500 or less in dividend income. So the overwhelming majority of Americans will get little or no benefit from this provision. But look how much this single provision will benefit the elite who do profit from it.

A taxpayer who had a million dollars in dividend income will get a tax break of $236,000. In contrast, $118 or less in tax cuts for the seven-eighths of taxpayers who receive $500 or less in dividend income and $236,000 for the dividend millionaire. That is simply not fair.

Let's look at priorities. The dividends provision is the single largest provision in the bill. That means the bill imposes a penalty on wage earners by definition.

Under the bill, the maximum tax on investment income, that is, dividends and capital gains, is 15 percent. The tax on the wages, however, continues to be heavy. A single fireman earning $35,000 per year pays 40 percent of his marginal income in Federal taxes, 15 percent in payroll taxes, plus 25 percent in income taxes.

In contrast, a retired investment banker living off the dividends on a $1 million portfolio of stocks pays only 15 percent of his marginal income in Federal taxes. Again, this is not fair.

Whatever happened to the argument that we need to eliminate the double taxation of dividends? I thought that is what this bill was supposed to be primarily about. This conference report does not do that. It does not eliminate the double taxation of dividends. Rather, in many cases it would eliminate not only the double taxation of dividends, but it eliminates even the one-time taxation of dividends income. That means zero taxation on dividends.

In many cases, as a consequence of the way this conference report is written, there will be no taxation on many dividends offered by corporations. The corporation will not pay the tax, and the shareholder will not pay the tax.

So this bill lowers the tax for dividends. It lowers the tax for capital gains. The bill says it is a priority of the majority party and the President, apparently, to ensure that the only people who need to pay full freight are those hard-working Americans who earn their income in wages.

The American way is to work hard, to earn income, to do well. There is much more opportunity and mobility in America than any other country, by far. Foreigners who come to America to live and start a business are astounded at the opportunity and mobility in this country compared to the country from which they came.

I do not criticize—in fact, I applaud—anybody who works hard and can earn an income and do well in America. At least they have a much better chance in this country compared with any other country. So I am not being critical of those who make a lot of money. That is great. I wish all Americans could make a lot of money. In fact, that is my underlying goal, certainly in my home State of Montana, to do what we can to get more people to earn more money and get higher paying jobs so more Americans are able to make ends meet.

In this bill, all of America is not being treated alike. We are not being treated together as Americans. This bill is tilted very heavily toward the elite, the extremely wealthy. They are the ones who get the big tax breaks, whereas the average American does not. That is not fair. The benefits of this bill should be evenly distributed among all Americans. That is not what has happened in this bill.

I am not being critical of tax breaks for the wealthy. They should get tax breaks, but I am saying as Americans we should pass legislation that treats Americans equally. That is not what is happening in this bill.

Basically, this bill is not fair. It is not good tax policy, and it does nothing to encourage the work ethic that built this Nation.

I might ask now, how did the conference committee pay for this nontaxation of dividends? The conference committee turned to the Americans today who otherwise would receive the relief under the marriage penalty to, in effect, pay for these tax-free dividends. To say it differently, the marriage penalty tax cuts were scaled back to pay for the dividend proposal in this bill; that is, couples are going to be penalized under this bill to pay for the huge breaks in dividend income for the elite of this country.

What about the marriage penalty for lower income families? No, this conference report does not find the resources to speed up the elimination of the marriage penalty for recipients of the earned-income tax credit, but it does find the money for the dividend tax break. Once again, that is not good tax policy. It is not fair. It does illustrate priorities but I think the wrong priorities for our country.

So this bill increases the budget deficit and lays the bill at the door of our children and grandchildren. I think those of us who seek public office have a moral responsibility to represent people in our home States. That moral responsibility is to do our best to leave this country in as good a shape or better shape than we found it. We have that responsibility because we are not going to be here forever.

We are going to have children and grandchildren and they will have children and grandchildren. We would like the United States of America to continually be strong and be the country that most people in the world look up to. That is our responsibility because we are not going to be here forever. This bill does not fulfill that moral responsibility. It leaves a huge additional burden on our children and grandchildren. That is another reason to not pass this bill.

By the time the baby boomers start to retire, when there will be huge budget pressures to help reform Medicare, to make sure that our senior citizens have the health care benefits they need and, in addition, Social Security, make sure that our senior citizens have the retirement benefits, at least the basic minimum benefits, a safety net, we should not pass this bill because this bill, in effect, makes that problem much more difficult. It adds a huge burden that Members of Congress are going to have to face when those years come up in about 5, 10, or 15 years from now.

This bill increases the budget deficit and lays the bill at the door of our children and grandchildren. It inappropriately targets its tax breaks at the elite instead of those more likely to spend it. This bill is simply not structured to be effective in rebuilding the American economy. I believe it would be irresponsible to enact this legislation, especially at this time.

I might add, there is an interesting article—in fact, it is a bit of an alarming article—in the Financial Times printed on Wednesday, just yesterday. On the front page of the Financial Times, they reported their interview of Federal Reserve Chairman Alan Greenspan. Mr. Greenspan raised concerns about the impact of further tax cuts and spending increases.

According to the Times, Mr. Greenspan:

> [E]xpressed dismay at what he characterized as a breakdown in budget discipline in Washington. He reminded lawmakers that the U.S. Government was facing a "significant" budget problem as the baby-boom population ages and draws on more healthcare and retirement benefits.

Mr. Greenspan added that he would:

> [L]ike to see that addressed more seriously than it is.

In his words:

> The silence is deafening.

I will not be part of that silence. I strongly urge Members of this body to do what is right, to consider what they are doing today.

In return for a short-term gain, they will be creating a long-term, much greater problem if they vote for this bill. I urge my colleagues to vote against the conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I, too, wish to speak on the tax bill which will soon be before us. I rise in opposition. There are many reasons to oppose this reckless proposal. I will mention three.

No less an authority than Warren Buffett pointed out in written op-eds and television appearances the obvious fact. The obvious fact is that this legislation, as it relates to the tax-free status of corporate dividends, will create zero new jobs. Why will it create zero new jobs? It will do so because there is no additional money in the system to generate new jobs. If the corporations that are induced to pay dividends or increase the dividends that they are currently paying as a result of the tax-free status to the stockholder remove those funds from the corporate treasury, there is actually less chance that it will be invested in productive matters.

Since generally only the wealthiest of Americans will benefit by this proposal to make the remainder of dividends which are subject to taxation free of taxes, the practical effect is going to be to have these high-income Americans put the money into some account, not to spend it, and create the demand that our economy needs. Conversely, if the funds stay at the corporate level, the corporation has ongoing needs which are likely to be met by those funds. If the economic theory behind the nontaxability of dividends is that it will stimulate the economy—and the title of this bill indicates that is the objective—it is likely to have just the opposite effect.

The second concern which causes me to speak this evening is the fact that this legislation belies congressional concern for honest accounting. We have spent a lot of time in the last few months berating corporate America for its inappropriate and in some cases duplicitous accounting procedures. Now we are about to pass legislation which makes those shenanigans pale in comparison to what we are about to do.

It is hard to believe this Senate has already passed a version of this tax cut which said for the first year taxation of dividends could be cut by 50 percent; for the second year taxation of corporate dividends would be cut 100 percent; for the third year corporate dividends tax could be cut by 100 percent; and in the fourth year we would go back to the current level of taxation of corporate dividends—an absurd proposition. Clearly, the only rationale for such cooked accounting books is to allow what appears at the most superficial level to be a $350 billion tax cut, in fact, balloon into a tax cut of between $800 billion and $1 trillion. This is according to the Center for Budget and Policy Priorities.

I wanted to talk about a third reason. That is that this agreement, filled with many irresponsible policies and tax cuts, undermines our efforts to adequately fund homeland security. As a candidate for the Presidency, George Bush, when asked what would be his priorities for the use of the $5 billion surplus that lay ahead in the 10 years after January 20, 2001, said the first would be to meet our priority domestic challenges—at that time, he particularly focused on providing a prescription drug benefit for Medicare; certainly today he would include homeland security—the second, to pay down the national debt, and third, if there was any money left over, to return it to the American taxpayers in the form of tax reductions.

Subsequent events have made the President's choices easier. We do not have a $5 billion surplus to consider allocating among domestic priorities, paying down the national debt and, if funds are left over, returning them to the American taxpayer because there is no surplus. The surplus has magically, in 28 months, been converted into one of the largest deficits that our Nation has ever suffered. And the 10-year projection of those deficits is $2 trillion. When you add those two numbers together, the $5 trillion surplus that was thought to be in hand as recently as January of 2001, and now the $2 trillion addition to our national debt that we face over the next 10 years, we have in excess of a $7 trillion swing in our Nation's fiscal well-being in the course of barely over 2 years.

One of the areas in which this change in fiscal fortune has been particularly pronounced has been homeland security. The Transportation Security Administration has told the appropriators that the agency is facing a $913 million shortfall. This situation is so dire that the administration is now requesting authority to shift funds from one security program to another.

Our Nation's seaports stand out as an example of the administration's blind eye to the vulnerabilities faced by our Nation. Our Presiding Officer represents a State with one of America's great seaports. Because of the vulnerability of our Nation's 361 seaports, Congress passed the Maritime Transportation Security Act in November of last year. The Senate attempted to include in that legislation provisions that would guarantee the funding of maritime security. That effort, regrettably, failed.

But the failure did not stop there. The administration has ignored the need to improve security at our Nation's seaports, requesting little to no seaport security funds in fiscal years 2002, 2003, and again in 2004. The majority of funding which has been made available in seaport security grants has come at the action and the behest of Congress: $92 million in fiscal year 2002 through an emergency supplemental; $125 million in fiscal year 2002 through yet another supplemental; and $150 million in fiscal year 2003 in the omnibus appropriations bill. Of these amounts, only $92 million, those funds appropriated by the emergency supplemental in fiscal year 2002, has actually been distributed.

Recently, in my State of Florida, two of our ports received approximately $11 million of this $92 million. While this funding is a step in the right direction, it is clearly inadequate. According to the Coast Guard, port security improvements are estimated to cost $963 million in the first year and $4.4 billion over the next 10 years. The need is clear. The fiscal year 2002 $92 million garnered grant request that totaled $695 million, the local governments, administrators, and users of our seaports, found there were needs of $695 million but we decided that $92 million was sufficient funding to meet those needs.

For the next $125 million—these are the funds that were appropriated in the supplemental appropriations of fiscal year 2002—for $125 million in funds available, there were $997 million of requests. According to information from the intelligence community, the threat is clear.

Although a great deal of information is necessarily classified, the Associated Press is reporting today that the FBI arrested a New York City cabdriver who had conducted surveillance on bridges in Miami, FL, after he attempted to buy enough explosives to blow up a mountain from an undercover law enforcement agent, as well as purchasing bulletproof vests and night vision goggles.

Few can forget the recent tragedy of October 6, 2002, when the supertanker Lindberg was attacked by a small boat packed with explosives off the coast of Yemen.

Despite these threats, the administration has consistently reduced levels of funding for homeland security. For example, the White House refused to designate $2.5 billion in homeland security money as a budgetary emergency in fiscal year 2002. This resulted in a loss to the Transportation Security Administration of $480 million.

This should not be an either/or choice. We should not have to decide whether to protect our airports or protect our seaports. We should not have to decide whether to go on the offensive against international terrorists by effectively carrying the war to where they are as opposed to adequately defending the homeland from terrorist attacks.

Why are these programs, vital to our homeland security, struggling for funding, while we enact tax cuts which are projected over the next 10 years to cost $1 trillion? Why are we doing this? This tax cut is supposed to stimulate the economy. As Mr. Buffett has so eloquently pointed out, the major component of the tax cut, which is the removal of taxation on corporate dividends, is unlikely to stimulate even the first job. But imagine the impact on our economy if we had to close America's seaports due to a terrorist incident. Just as a point of reference, the cost last year of a labor strike at the seaports on the west coast was estimated at more than $1 billion a day. What will be the economic price for closing all 361 of our seaports?

A recent Booz Allen Hamilton port security analysis concluded that if the Government were unable to open U.S. seaports within 20 days after an attack, the New York Stock Exchange would have to halt all trading.

In June of 2002, a White House press release on homeland security stated:

> The President's most important job is to protect and defend the American people.

Regrettably, this rhetoric has not been matched by performance. It is wrong that the price of these tax cuts may be our homeland security.

It does not have to be. In October, during the debate on the Iraq war resolution, I spoke about how the lives of millions of Americans are literally in our hands. We will determine whether the level of security is that which our Nation is committed to do by the President's statement that the most important job is to protect and defend the American people, or if the only thing that stands between the American people and additional and more lethal terrorist attacks is the rhetoric of the President.

We are making the false choice in favor of tax cuts as opposed to Americans' security here at home.

I urge my colleagues to oppose the conference agreement on this tax bill, to oppose creating the artificial impression that this is going to actually improve the economy by creating new jobs, to oppose the criticism that will legitimately be raised against the Congress for setting one standard in terms of proper accounting for corporate America but applying quite a different standard to ourselves.

We should oppose this conference report because it is denying to America the resources necessary to truly protect our people.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I compliment our colleague from Florida on an outstanding statement. The Senator from Florida, who sits next to me on the Senate Finance Committee, has long been a voice of fiscal responsibility. His record is clear. I very much hope people across the country were listening to his excellent statement.

I also want to take a moment to thank our ranking member on the Finance Committee, the Senator from Montana. Earlier this evening, he gave outstanding statement describing the problems with what is being proposed here. This is not a growth package. This is not a package that is going to lift the economy. In fact, the evidence is increasingly clear that, in the long term, this is going to hurt economic growth in this Nation.

The ranking member also made clear the unfairness of this package. This is as unfair a package as I have seen in the 17 years I have served in the Senate.

All of those who vote for this package are going to have a lot of explaining to do in the future because, as a former tax commissioner, I guarantee you are going to see one scandal after another as a result of the passage of this tax bill.

This is going to provide lots of fodder for lots of writers, as they examine the consequences of this tax bill because it is going to produce, I predict on the floor of the Senate tonight, some of the most perverse tax outcomes we have ever seen as a result of legislation to pass the Congress.

As Warren Buffett observed, in commenting on the President's proposed repeal of taxes on dividends, his receptionist was going to pay a rate of taxes 10 times what he pays. He is the second richest man in the United States, and his receptionist is going to pay taxes at a rate 10 times what he pays.

Let me be clear. The measure we will vote on tomorrow morning is not quite the same measure as he was critiquing in his op-ed piece in the Washington Post. Instead of his paying one-tenth of what his receptionist pays, it may be down to one-eighth of what his receptionist pays.

I tell you, this is a scandal, and it is going to explode, and it is going to explode right in the faces of those who vote for it.

Here is the reality. We were told 2 years ago by the President that we could expect almost $6 trillion of surpluses—$5.6 trillion, to be absolutely precise—over the next decade. Now we know, instead of nearly $6 trillion of surpluses, if we enact the President's plan, we can look forward to $2 trillion of deficits. That is the hard reality confronting this Nation.

This chart shows what is happening to budget deficits year by year. The President said, once we went into deficit, after he told us, you do not have to worry about that, that is not going to happen: My program with big tax cuts is going to lift the economy; it is going to produce more jobs, more economic growth; we are going to be able to pay off the debt; we are going to be able to protect Social Security, protect Medicare.

Here are the results. The deficits are exploding. The deficit this year, on an operating basis, is going to be between $500 and $600 billion. It is going to be about $400 billion before you deal with Social Security. Under the President's plan, every penny of Social Security surplus money is going to be taken this year to pay for tax cuts and other expenses of the Government—every single dime.

The President said the deficits will be small and short lived. Wrong again. These deficits are massive, and we see no end in sight. We have $550 billion of deficits on a $2.2 trillion budget? That is large by any calculation. We do not see deficits on an operating basis below $300 billion a year anytime for the next decade.

The President told us 2 years ago, if we adopted his plan, we would be able to virtually eliminate the national debt. He said he would be able to retire all of the debt that was available to retire. He said by 2008 we would be down to $36 billion of publicly held debt. Now, after adopting his plan, we see that by 2008 we will not be down to $36 billion.

Instead, the debt is going to be $5.2 trillion. That is the publicly held debt. That is just part of the story. The gross debt of the United States is even worse. The gross debt of the United States at the end of this year will be approximately $6.7 trillion. If we adopt the President's plan, at the end of this decade it is going to be $12 trillion. The deficits and debt are exploding. They are exploding at the worst possible time.

Why is it the worst possible time? Here is the reason it is the worst possible time.

This chart shows the Medicare trust funds, the Social Security trust funds, and the cost of the tax cut the President has proposed. The blue bar is the Medicare trust fund, the green bar is the Social Security trust fund, and the red bars are the tax cuts. You can see that right now the trust funds are throwing off big surpluses. In fact, just this year, Social Security will produce a surplus of $13 billion. But look at what happens later on in this decade and in the next decade when the baby boomers start to retire. Then the trust funds turn cash negative. At the very time they go cash negative, the cost of the tax cuts explodes, dragging us deep into deficit and debt in a way that is totally unsustainable—over $1 trillion a year in deficits.

This isn't my projection. These are the President's own projections. This is page 43 of his analytical perspectives from the budget.

Here is his long-term outlook on the deficit as a percentage of the gross domestic product. Economists like to use that measurement because it is an apples-to-apples comparison over time. It takes out the effect of inflation.

This is the President's projection of where we are headed. If we adopt his tax plan and his spending plan, we never get out of deficits. These deficits that look relatively small compared to where we are headed according to the President are, in fact, record deficits. The deficit we are going to run this year is going to be the largest deficit ever in the history of America. The previous largest deficit we ran on a unified basis where all the money is put into the same pot and all the expenses come out of that pot—the largest deficit we ever had on the unified basis was $290 billion. On a unified basis this year, the deficit is going to be over $400 billion. That is here. As a percentage of gross domestic product, you can calculate it yourself—$400 billion on a $1.5 trillion economy. That is about 3.6 percent or 3.7 percent of gross domestic product deficit. But look at where we are headed. Again, this is the President's assessment of where we are headed if we adopt his plan.

Deficits as a percentage of gross domestic product of over 12 percent. Twelve percent on the economy of today would be a deficit of over $1.2 trillion this year.

Who is going to loan us the money? America is going to become a deadbeat. Why has the dollar plunged 20 percent in value in just the last several months? Why are economists saying it is poised to plunge perhaps another 10 percent? What are the implications for foreigners who are buying dollar-denominated investments today when they see the dollar dropping like a rock? Do you think they want to hold American bonds? Do you think they want to hold American stocks when the value of the dollar is dropping like a rock? What happens to the American economy if they start to pull their money out of our stock market and out of our bond market? Do you want to see interest rates jump and see equity values plunge? Just have this dynamic continue, and it will rattle the eyeteeth of the markets in this country. The idea that this is going to increase markets—I am afraid it is going to be painful.

This year alone, revenues are running $100 billion below forecasts—forecasts made only 7 months ago. Yet it is running $100 billion below what was forecast. If that continues, we are going to have the lowest revenue as a percentage of our gross domestic product since 1959, the lowest revenue in 44 years.

Remember when the President told us 2 years ago when revenue was the highest percentage of gross domestic product it has been in 40 years, he said we had to have a big tax cut to give the money back to the people. And we did. Now revenue is poised to be the lowest it has been in more than 40 years, and the President's answer is the same: Let's have another big tax cut. Give the money back to the people. He says it is the people's money. He is right about that. That is exactly whose money it is. It is the people's money.

Do you know what else? It is the people's debt. It is the people's Social Security. It is the people's Medicare. And this President is running up the debt in an unprecedented way and at the worst possible time. He is running up the debt right before the baby boomers start to retire.

If there is any question about his running up the debt, we are going to have it in our face tomorrow. We are going to have it before us tomorrow. He is asking not only for one of the biggest tax cuts ever, but he is asking for one of the biggest increases in debt ever. In fact, it is the biggest increase in debt in the history of our country.

The last time he increased the debt, it was a $450 billion increase in June of 2002. But by April of 2003, the President is back asking Congress to increase the debt by $984 billion in one fell swoop—almost $1 trillion of added debt.

This is an economic plan that is not working. It is failing. It is dangerous to the future of our country. The plan before us isn't going to work.

How can I be so sure? I just said we have a $10.5 trillion economy, and this tax cut will provide $55 billion of lift in a $10.5 trillion economy. That is less than one-half of 1 percent of gross domestic product. If all of it translates into increased economic activity, the most it can affect is one-half of 1 percent of gross domestic product.

This is a $350 billion package. At least it is advertised to be, despite the gimmicks it has. It is the most gimmick-laden package we have ever considered on the floor of the Senate. It costs $350 billion. Only 16 percent of it is effective this year to give stimulus to the economy. It is an upside-down plan. It provides too little lift now when we need it, and it costs too much in future years when we can't afford it. It is totally an upside-down plan.

If you took out the gimmicks, all the sunsets, and the phase-ins, and the dodging around that is in this plan, it doesn't cost $350 billion. It costs $1 trillion.

Those who are the most fervent advocates of this plan have no intention to sunset the various elements of this tax plan. If you do not sunset it, the true cost is $1 trillion.

We go to the question of, Will this stimulate the economy? This is the answer of the people who were hired by the White House and hired by the Congressional Budget Office to answer that question. This is their answer, as shown on this chart. This black line is the President's policy. The green line is the base; that is, if you do nothing.

What this shows is, you get that one-half of 1 percent increase in GDP in the early years, but after 2004 this plan is worse than doing nothing—worse than doing nothing in terms of economic growth. Why?

Well, the people who do that analysis—and, again, they are hired by the White House; they are hired by the Congressional Budget Office to do this kind of analysis—this is what they say:

> Initially the plan would stimulate aggregate demand significantly by raising disposable income, boosting equity values, and reducing the cost of capital. However, the tax cut also reduces national saving directly while offering little new, permanent incentive for either private saving or labor supply. Therefore, unless it is paid for with a reduction in Federal outlays—

which it is not—

> the plan will raise equilibrium real interest rates, "crowd out" private-sector investment, and eventually undermine potential GDP.

That is what Macroeconomic Advisers say. They are not alone.

This is from the Joint Committee on Taxation with a macroeconomic analysis of the House bill, which is the basis of the conference agreement we will have before us to vote on tomorrow:

> The simulations indicate that eventually the effects of the increasing deficit will outweigh the positive effects of the tax policy, and the buildup of private non-residential capital stock will likely decline.

I do not know how many of our own experts we have to have tell us that we are going down the wrong path, but let's say you don't put any stock in the people we have hired to advise us. Let's say you don't trust the Joint Committee on Taxation. Let's say you don't trust Macroeconomic Advisers.

How about 250 of the most prominent CEOs in America, the Council on Economic Development? They say current budget projections seriously understate the problem. While slow economic growth has caused much of the immediate deterioration in the deficit, the deficits in later years reflect our tax-and-spending choices. And the inevitable conclusion: deficits do matter.

Those who are running around this town now telling us that deficits do not matter are the folks who, for years, made political careers in saying deficits did matter. Well, deficits do matter. Anybody who tells the American people they don't is shoveling smoke.

The final point they made is the aging of our population compounds the problem. They could not be more right.

Of course, they are not alone. Here are 10 Nobel laureates in economics, 10 people who have had the greatest achievement, the greatest recognition in economics. What do they say?

> The tax-cut plan proposed by President Bush is not the answer to our problems. Regardless of how one views the specifics of the plan, there is wide agreement that its purpose is permanent change in the tax structure, not the creation of jobs and growth in the near term.

"Not the creation of jobs and growth in the near term." They need to change the title of this bill from the "Jobs and Growth Package" to the "Not Jobs and Growth Package" because that is what it is because it explodes the deficits and debt. It is all financed with borrowed money. The dead weight of those deficits and debt will reduce economic growth, not improve it.

The economists go on to say—again, 10 Nobel laureates—

> Passing these tax cuts will worsen the long-term budget outlook, adding to the Nation's projected chronic deficits.

It is not just them. This is the head of the Federal Reserve Board, Chairman Alan Greenspan, who endorsed the President's last round of tax cuts. Now he is saying we have to start paying attention to the growth of these deficits.

He says:

> There is no question that as deficits go up, contrary to what some have said, it does affect long-term interest rates. It does have a negative impact on the economy, unless attended to.

But he said more. He said the tax cuts that the President is proposing should be paid for. The President has no proposal to pay for these tax cuts. He is not offsetting them by reducing spending. In fact, he is increasing spending by over $600 billion above the baseline at the same time he is recommending $1.6 trillion of additional tax cuts, when we already have record deficits.

My grandmother told me: If somebody tells you something is too good to be true, it probably is. When the President told us, 2 years ago, you could have it all, you could have a major defense buildup, you could have a massive tax cut, you could protect Social Security and Medicare fully, and in addition, you would be able to pay off the national debt, that sounded awfully good. But do you know what? It was not true. It was not close to being true.

We have already seen that instead of paying off the debt by 2008, it is going to be over $5 trillion. We also know now, instead of protecting Social Security, the President's plan is going to take and loot virtually every penny of the Social Security surplus every year for the rest of the decade. This year, he is going to take every dime. Next year, he is going to take every dime; the next year, every dime; the next year, every dime.

There are real consequences to the decision that is going to be made on this floor tomorrow. These are consequential decisions.

Chairman Greenspan said: If, however, in the process of cutting taxes you get significant increases in deficits, which induce a rise in long-term interest rates, you will be significantly undercutting the benefits that would be achieved from the tax cuts.

Again, it is not just Chairman Greenspan or 10 Nobel laureates or any of the others we have cited. Here are people at McKinsey & Co., one of the foremost consulting firms in the Nation, in fact, in the world. Mr. Koller and Ms. Foushee noted in a recent report that, as of last year, owners of 61 percent of all common stock were not subject to tax. They were not even subject to tax.

Anybody who is listening: If you have a 401(k), you do not pay taxes on dividends. In fact, 61 percent, according to their analysis, of all common stock owners were not subject to tax. So markets are driven by investors who are not concerned with the tax treatment of dividends. Thus "the proposed tax cut" on dividends "seems unlikely to have a significant or lasting effect on U.S. share prices."

It is not just consultants from one of the most prominent consulting firms or 10 Nobel laureates or the Chairman of the Federal Reserve who are warning us about the danger of the direction we are taking. But here is Warren Buffett. I think he is the second most wealthy man in America. He calls this "dividend voodoo." He calls dividend tax relief "welfare for the rich." He said:

> When you listen to tax-cut rhetoric, remember that giving one class of taxpayer a "break" requires—now or down the line—that an equivalent burden be imposed on other parties.

Now, obviously, that is true because we are in deficits. Remember, all of this money that is going out for a tax cut is being borrowed. In whose name is it being borrowed? It is being borrowed in all of our names.

This is not out of surplus funds. This is out of borrowed funds. Every dime of this tax cut is being financed with borrowed money. When the President says it is the people's money, he is right. It is also the people's debt. That is how this is being financed. It is being financed by debt. Mr. Buffett goes on to say:

> Government can't deliver a free lunch to the country as a whole. It can, however, determine who pays for lunch. And last week the Senate handed the bill to the wrong party.
>
> Supporters of making dividends tax-free like to paint critics as promoters of class warfare. The fact is, however, that their proposal promotes class welfare. For my class.

Mr. Buffett is referring to himself and other extraordinarily wealthy individuals.

Where is a big chunk of the money coming from? Here it is. We are going to run, in Social Security, $2.7 trillion in surpluses over the next decade. Under the President's plan, $2.698 trillion is being taken to pay for these tax cuts and other expenses. This is the biggest raid on Social Security that has ever been conducted. It is being done right on the eve of the retirement of the baby boom generation. What a profound mistake.

This plan is also deeply unfair. As Mr. Buffett said: His class is the biggest beneficiary. But he has that right. For those earning over $1 million a year, their tax cut for this year alone will be over $93,000. Let me say that again. If you are fortunate enough to be earning over $1 million a year in 2003, this package will give you on average a tax cut this year of over $93,000. If you are a middle-income person, if you are in the 20 percent of taxpayers who are right in the middle of the income distribution, your average benefit will be $217. Do you think that is fair? Our friends on the other side will say: Well, rich people pay more taxes. Indeed, they do. That is how our tax system works. But they don't pay that disproportionate a share of the taxes. No. No. They pay about 23 or 24 percent of the taxes. They are getting almost 40 percent of the benefit out of this plan. That is what is going on here. Don't let anybody tell you this is a fair plan, evenly distributed, based on what people pay in taxes, because it is not. It is not even close to being evenly distributed.

It doesn't end there. This tax bill produces gimmick after gimmick after gimmick to hide its true cost. This is a "now you see it, now you don't" tax plan that comes and goes. Taxes are lower. Taxes are raised. Taxes are jumping all around because they have to hide the true cost of this plan.

Here is how they propose fixing the standard deduction marriage penalty. The marriage penalty is eliminated when you get to a standard deduction for joint filers of $9,500. So for 2003 and 2004, they are at $9,500. Then in 2005, they drop it down to $8,265, representing a huge tax increase for those couples for 2005. Then they jump it up to $8,740 for 2006; $8,883 for 2007; then in 2009 and 2010, it goes back up to $9,500. Then look what happens in 2011, 2012, 2013. I mean this thing is embarrassingly bad. Then it goes down to the standard deduction to $7,950—meaning another big tax increase for people facing the marriage penalty. They don't just do it with the marriage penalty.

Here is what they do with the child tax credit: it was $600 in 2002; they increase it to $1,000 in 2003 and 2004. Then they cut it to $700 for 4 years. Then they raise it to $800. Then in 2010 they raise it to $1,000. Then they cut it in 2011, 2012, and 2013 back down to $500.

Does this make any sense to anybody watching or listening; this kind of tax policy? The ranking member calls this a yo-yo tax plan. It is at least a yo-yo. And it doesn't end with the marriage penalty or the child tax credit. Here is the 10-percent bracket. It shrinks for 2 years, then disappears altogether in 2011. Look at this plan. I don't know. It is not a pretty thing. From $12,000, it goes up to $14,000 for 2 years, then back down to $12,000 for 3 years, then it jumps for 3 years up to $14,000. Then it goes down to zero for 3 years. Who is kidding who about this plan?

This thing is absurd on its face. Here is the small business expensing limit. From $25,000 in 2002, they increase it to $100,000 for 2003, 2004, 2005. Then they cut it back to $25,000 all the rest of the time. Top rate on dividends, same pattern, jumping all around: 38.6, then they cut it to 15 percent for 6 years. Then they jump it back up to 35 percent for 5 years.

Our ranking member has called it a yo-yo tax plan. There is the yo-yo, up and down and all around. Economists say this is going to create such confusion, such chaos, such a lack of predictability in the tax system that in and of itself, the unpredictability will cost the economy substantially.

The top rate on capital gains, same thing, jumping all around: 20 percent, then down to 15 percent for 6 years, then it is back up to 20 percent for 5 years.

This is a tax policy that not even a mother would love, if this were a child.

We can do better than this. This is a policy that is irresponsible fiscally. It is ineffective in terms of stimulus, and it is totally unfair. Those are the best things I can think to say about it.

This is a tax policy that is going to plunge us right off the cliff into deficits and debt as far as the eye can see, and it is going to hurt this economy.

I urge my colleagues to vote against the conference report. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, as always the Senator from North Dakota has made an eloquent presentation, a graphic presentation, an intellectually honest presentation of where we stand with regard to the economic policies before us in the Senate. I appreciate his strong effort in trying to educate our colleagues and the public with a graphic demonstration of many of the weaknesses which I will discuss tonight with regard to the conference report, the so-called tax relief program.

Tomorrow, this body will in all probability pass two pieces of legislation which will have tremendous economic impact on the American people and our economy. In my view, they will have a negative economic impact. I do not consider this a jobs and growth package. I believe it is antigrowth, and I will go through some of the reasons that is the case.

One thing for sure is, I know when we pass that debt limit tomorrow—that $984 billion debt limit, just a little smidgen under $1 trillion. It's like pricing something at $99.95, just under $100. It is so we don't have to say it is by $1 trillion we are increasing the debt limit tomorrow. We are increasing, for every single American who is watching this tonight, their debt load $3,500. That is how much we are increasing it as we spend out that debt limit increase over the next year or 15 months.

By the way, that is $28 billion of debt we are laying on the people of the State of New Jersey. I think they ought to know that. That is a huge cost and a big implication over time. I don't want to talk about the debt limit tonight because we will have time to go through that tomorrow. It is really indicative of the problem: it is not the problem. The underlying economic policy is what has allowed that to happen.

The conference report that will be before us—I hope we get a chance to read it so we don't have $70 billion errors that show up after the fact because of how we have framed it. But I know from the outlines of what we have been able to see this is going to have a dramatic impact on the future of our economy and the quality of life for every American, because in this tax program we are making enormous choices. I think this legislation is going to lead to—well, we already have massive deficits. I am hearing estimates from people in the private sector that we are now well over $400 billion this year—north of 4 percent GDP. That is deepening the debt as we go forward. I think this will weaken the economy in the long term. I will try to say some of the reasons why. I almost certainly know it is going to reduce the quality of life for the people of the United States.

Before I talk about the economic implications, I think this needs to be framed in the context of the values we are speaking to while we go through this tax cut legislation. It says a lot about us as Senators, Americans, and about what our priorities are.

Here we have a huge set of tax breaks for the privileged few, some would say elite: $93,000 is the estimate for people making over $1 million, with 53 percent of all taxpaying Americans only getting $100 or less. Let's hear that again. Less than 1 percent of taxpayers make over a million dollars, but they get a $93,000 tax break, and 53 percent of the taxpaying Americans get less than $100.

What are we trading that off against with our ability to invest back in America? I don't think investing in America is really the issue. The administration is calling for deep cuts in education. We are not fulfilling our mandate on Leave No Child Behind. We gave them the test, but not the money. We are talking about limiting the benefits for our veterans. We are cutting back on the number of people who have access to veterans hospitals and clinics in my home State—a number of veterans who have access to a prescription drug benefit they were promised. We are talking about limiting the dollars we can invest in homeland security.

We are now at level orange, and every State and community now has their law enforcement and local folks on overtime, running up huge tabs. In New Jersey, I think the figure is about $1.2 million a week, with the way they calculated it the last time. If it is wrong, it is a lot more. These are incredible burdens we are putting on them. Frankly, I think what really is a mistake is that we are going to lose our ability to protect Social Security and make sure Medicare is there for future generations. We have 37 million Americans now who are over 65 and in another 10, 15 years, we will have about 75 million, give or take. We will not, with tax policies that we have in place today, be able to secure Social Security and Medicare as we know it today. You are going to hear the term "reform" all the time. All that is about is not having the capacity to deal with the demands Medicare is going to place on our system of Social Security in the years ahead. Some of us think there is a real attempt to undermine the basic social safety net programs that are very much a part of the values of the American way of life.

Maybe the President and my colleagues on the other side of the aisle believe in this tax cut, or that tax breaks for a very limited number of folks are more important than education. I don't think people feel that way in New Jersey. Maybe they believe it is more important to force cuts in Social Security or guaranteed benefits on Social Security down the road. Maybe we need to privatize it because we don't have the resources. I don't think I am hearing that from constituents in New Jersey, and that is not what I will fight for on the floor as we go ahead.

Most of my constituents strongly disagree with those priorities and the values of placing these tax breaks that are heavily loaded and benefiting those who are already doing well in our society versus having the ability to invest back in America the way I think so many believe—at least my constituents. I think it will be a hard sell when they get the fundamental facts out about what this tax cut program is all about.

Having said what I had to say about values, the problem with this legislation goes well beyond those issues. The key problem is very simple. I don't think it works. I just think it is flat out not intended to revive our economy. There is no indication it is going to create jobs. Actually, it might well do the opposite because we are undermining the tax base of our State and local governments. They have to raise taxes. We are taking money off the balance sheets of corporations by giving them encouragement to pay dividends. I don't know how companies go out and hire people, invest in plant and equipment, or put projects together on research and development when they don't have cash. I think that is actually what drives and gives incentive to the corporations to operate. So I have a hard time understanding even the theory of this program.

I know the administration and my colleagues on the other side of the aisle disagree. I know they have a theory about how these tax breaks work. They seem to really believe that huge windfalls or large tax breaks for a limited number of investors eventually will trickle their way through the system to working Americans. They seem to believe cutting taxes will actually increase flows of revenue to the Federal Government. They have to believe that. I believe they are sincere; they must be. I didn't come to the floor to question anybody's motivations or sincerity. But their arguments don't stand up to serious analysis and scrutiny by anyone who stands back and asks: Does this work? What does history tell us? It contradicts these views; it directly contradicts the basic principles of economics as expressed in the past by some of the administration's own policymakers, which I will cite as we go down the road.

We have tried radical supply-side economics before; we tried them back in the 1980s. We certainly got the massive deficits. Then we had the crash of 1987, and we had all kinds of serious dislocations and a sustained period of slow economic growth in the late 1980s and early 1990s. We tried them just 2 years ago when President Bush and Congress pushed through the first tax cut. Where are the results? Tell me what has happened to employment since we passed the first tax cut. I think it is something like we have lost 2 million jobs since then. We have had 2.7 million private sector jobs lost since we have been implementing and debating these kinds of policies. So it didn't work the first time, and we are going to try the second time.

We have to also understand our fiscal position does have something to do with what happens in the economy. We have moved, in the 2 years and 4 months since this administration has been in office, from a projected surplus of $5.6 trillion to a deficit projection of $1.8 trillion.

It is mind-boggling how big these numbers are, but a $7 trillion swing in the cash position of the Federal Government is a big deal. It is not just a little bit of money. That is not $1. That is $1 trillion, $2 trillion, all the way up to $7 trillion of negative cash swing for the Federal Government in 2 years and 4 months.

If you were running a business and you had that kind of cash swing, I guess you would be scrambling to find someone to lend you money. Maybe that is what we are seeing with respect to our dollar today, which has had a 20-percent depreciation. Maybe people are a little less enthusiastic about holding dollar assets outside the United States.

As I said, we lost 2.7 million private sector jobs. Two million people today have been unemployed for over 6 months. Frankly, this administration is on track for the worst job creation record in over 50 years, and we are trying to do the same thing over and over.

The history is clear, at least to this reader of history. Large tax breaks, privileged few, massive deficits, and massive debt simply do not work. They do not make the pie expand; they make it shrink. They do not lift all boats; they drain the economy and hurt everyone, including, by the way, many of those who get the bulk of the tax breaks.

I do not understand why we thought policies were so bad in the 1990s. There was a great expansion of wealth at all levels across the economic spectrum in this country. Probably more millionaires were made in the 1990s than any time in the history of the United States.

That is the history that I know, and it should not come as a surprise because economists have been arguing against these kinds of policies for years. Which economists? The Senator from North Dakota talked about the 10 Nobel Prize winners, and there are 450 economists from academic institutions across America, 250 business folks, economists such as Alan Greenspan, major economists on Wall Street—across the economy—who speak out against these policies. I will add, and this is the hard one, economists from the Bush administration.

Let me read from the book authored by President Bush's nominee—I guess he has not yet been confirmed by the Senate, but the nomination has been reported out of the Senate Banking Committee—to be head of the Council of Economic Advisers, Greg Mankiw. He is a great economist from Harvard. He wrote the textbook for Economics 101 that is being used at most colleges across America today. It is called "The Essentials of Economics." I usually bring it with me and read it but I did not do that tonight.

In this book, obviously written before joining the Bush administration, Professor Mankiw, in effect, points out the fundamental fallacies of this tax policy, this fiscal policy. I will take, for example, the argument from many administration officials that deficits do not matter. This happens to be on page 401. I do not have the book. I used to cite it regularly. Professor Mankiw says:

> When the Government reduces national savings by running a budget deficit—

I think that is what we are doing now—

> the interest rate rises and investment falls because investment is important for long run economic growth. Government budget deficits reduce the economy's growth rate.

That is Professor Mankiw at page 401 of his textbook, "The Essentials of Economics."

What about claims that cutting taxes will actually lead to higher levels of revenue? That is the supply-side dynamic scoring. What does Professor Mankiw say about that? This is another quote:

> Some supplysiders push their arguments to ridiculous extremes claiming, for instance, that tax cuts would generate so much growth that they would be self-financing. The experience of the Reagan years puts this theory to rest.

Professor Mankiw is obviously right about the bankruptcy of supply-side economics, at least from my perspective. Fortunately, he is wrong about one thing. The Reagan years did not prove it to somebody or a whole bunch of folks because we are trying it all over again. It is alive and well right here in Washington, DC, and we are not following what I think are the essentials of economics, and we are practicing ideological economics, politics, as opposed to dealing with the real world as I think most folks know it.

The truth is deficits do matter. They matter for our economy, just as they matter for ordinary American families, just as they do for our State and local governments, just as they do for everyone who operates in an economic context.

According to one analysis, by lowering national savings and increasing long-term interest rates, the incomes of working Americans would be reduced by about 2 percent, or about $1,000 per person. That is the economic analysis that is often an accepted rule of thumb. While the tax breaks would go primarily to the few of the best-off Americans, most Americans will suffer from this reduction in their income. Most Americans will.

Keep in mind, the Federal debt does not come free. It leads to increases in interest payments that must be paid by ordinary American taxpayers. Over 10 years, spending on interest on additional debt, what might be called a debt tax, in my view—and I would like to get that out—of the increase of the deficit that is projected in the years ahead would amount to $2.4 trillion for the tax cut that we are going to probably sign off on tomorrow.

That, by the way, is $30,000 in interest burden for a family of four. I don't know, that sort of offsets a lot of this talk about the kind of benefit this is supposedly going to have in the pockets of individuals. Somehow or another, those interest expenses for the Federal Government are going to have to get paid by the taxpayer. Somehow or another they are going to have to show up. For a family of four, that is the interest burden.

The impact of higher interest rates is not limited to higher taxes that our taxpayers will have to pay to service the Federal debt. It is also going to impact the debt payments they are going to have to make. It has been estimated that for every 1-percent increase in the deficit as a percentage of GDP, other things being equal, interest rates go up to where they would have been otherwise one-half to 1 percent.

We have a weak economy right now, so we have very low interest rates. Maybe they would be lower if we did not have huge deficits, and if we happened to get back into a more rapidly growing economy, then the increase in interest rates will be very rapid and the cost for ordinary families will be very real.

For instance, on a $100,000 30-year mortgage, the increase in mortgage payments by that 1-percent increase would be a $860 per year payment. That is out of pocket. That is a tax.

Consider what you are going to be paying in additional dollars on car loans, something approaching $100 a year if you had a $10,000 car loan; multiply it out by 30,000, you get $300 or $400 on car loan payments, and then on a $20,000 student loan or maybe it is a $100,000 student loan, and you get another $500. Cumulative, if the economic analysis is right by people who have been doing this over and over, we have families paying something like $2,000 more in higher interest costs than they would pay if we did not have these kinds of deficits.

The Bush debt tax would take a real bite out of family budgets. Remember, 53 percent of Americans are going to get $100 or less, and I just went through how somebody could end up paying $2,000 more in interest expense, which I call a debt tax.

This bill will not really result in tax cuts for many, if not most, Americans, and it will result in a massive tax burden shift with a handful of elite investors paying far fewer Federal taxes and other taxpayers eventually having to make up the difference somehow or another.

Somehow or another it often is at the State and local level. Rising property taxes, sales taxes, State income taxes, and gas taxes all are likely to be going up. I should not say likely; they are going up. New Jersey property taxes at the local level went up 7 percent this year. Across the river in New York City they went up 18 percent.

We are putting a burden on State and local governments that is going to more than make up for anybody's average—pick the number. We are going to end up paying more in taxes at the State and local level than anybody could argue someone is making on the kinds of tax breaks we are doing, other than the very top income earners in America.

This does not do very much for average Americans, for people who are middle income, working hard, trying to make things happen with a solid budget. This is a massive tax shift from those who are doing well to middle-income folks, lower income folks.

Four out of five Americans pay more in payroll taxes than they pay in income taxes. Why we did not think about payroll taxes or wage tax credits is hard for me to understand. That is where the real tax burden is. If we are going to protect Social Security and Medicare as we go forward, I wonder where we are going to get those dollars. Probably right back in the payroll taxes.

In my view, this is not a tax cut; it is a tax shift. Frankly, this should not come as a surprise to anyone. One does not need an economics degree to be skeptical about promises based on the premise that we have a free lunch; that if we cut taxes, revenues are going to grow so much that we do not have to worry about our budget deficit.

The truth is, we pass these tax breaks out to a very narrow segment of society. Everybody else ends up paying. I suppose there might be an argument for the Bush debt tax if it were being used somehow to create jobs and strengthen the economy, but it will not. According to one respected firm, Economy.com, the White House plan, which is similar to the legislation before us in many ways, causes the loss of 750,000 jobs over the next 10 years. That is on top of the 2.7 we have already lost.

In my view, the Republican plan will depress economic growth not only because it will dramatically increase Federal debt but because of its failure to address the worst fiscal crisis facing our States in 50 years.

I am glad we put $20 billion into this program. I am glad that in the negotiations we have provided some help. But with the dividend exclusion and the capital gains tied to State income tax rates, in most instances they are going to be losing, if it were pure dividend exclusion, $10 billion. I do not really know how this is going to apply to the States, but it is not going to be a healthy benefit to our State governments.

Unfortunately, there are a lot of people who do not care. Again, there is this ideological policy as opposed to an economic policy. I will only quote one leading supporter of this proposal who is very strong in supporting most of the things the administration does, and that is Grover Norquist. He has stated, I guess, what we are trying to practice: I hope the State goes bankrupt.

Well, some of my colleagues may hope that States go bankrupt. I do not think many of them do. The truth is, when States face problems, it is not just State officials who suffer. It is working families. It is kids on CHIPS, the Children's Health Insurance Program. It is Medicare beneficiaries. It is our hospitals. It is our roads. It is all that holds us together as a society.

I go full circle and come back. This is about values as well as about economic numbers: Who gets what and what is going to happen to the economy? I think we are missing it and missing it big time in understanding that for the benefit of a very few, we are actually walking away from helping those in whom I think many of us believe we ought to be investing.

I could go on and on about other elements, but I see the ranking member who has fought so hard for reasonable economic policies, Senator BAUCUS. He has talked about this as a yo-yo or shell game, whatever one wants to call it, with sunsets. We have made sunsets, which should be a beautiful thought in American minds, into something that is almost silly in the context of this particular package. The $350 billion is really $800 billion to $1 trillion. I am sure those who have proposed this think this is a program that is going to stay on the books. If we are going to stay with this program, including even some of the middle-class income tax breaks on marriage penalty, child tax credits and other things, this will amount to $800 billion to $1 trillion.

This is bad fiction. This is not even a fair representation of the reality of the cost. So not only is it bad economic policy, I think it also challenges the basic values that we should be representing in the Senate. It is not even truthful.

Some could argue that it is Enron-like accounting. I think it is not the right way to deal with the American people to say we have a $350 billion tax cut when we really have a $1 trillion tax cut, at best. It may be a little less, may be a little more, depending on how things work out.

This is going to bring on a new age in tax shelters, a new opportunity that people are going to be working on. They are probably working on it right now on Wall Street. The differential between earned income and dividend and capital gains income creates an enormous bonanza of opportunity for the creative mind to translate current earnings, wage earnings, into capital gains.

There will be more midnight oil burned in the next 3 months figuring out tax shelter strategies than we have ever been able to imagine. From what I understand—again I have not seen the detail of it—we took out all of the closing of loopholes that were a positive part of the Senate bill. I find some of the values that we are reflecting there an enormously disturbing element from what I understand about this conference report.

The saying is, fool me once, shame on you. Fool me twice, shame on me. I think that is what we are doing with this proposal. I do not think it does what it says it is going to do about growing the economy. I do not think it reflects our values. I sure do not think the American people are getting a tax break. What they are getting is a debt tax laid on them that is going to overwhelm any of the benefits. In the long run, we threaten ourselves and our ability to invest in education, invest in Social Security.

I do not get it. I think it is a bad thing to do. I hope my colleagues will have a good night's sleep, think a little bit about how some of this works, come back and be honest with the American people, rid ourselves of some of these gimmickries, and get on with an effective fiscal policy and economic policy that really does work for working families.

I yield the floor.

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, the order is what?

The PRESIDING OFFICER (Mr. TALENT). We are in morning business.

## JOBS AND GROWTH PACKAGE

Mr. GRASSLEY. Mr. President, I use morning business as a forum to discuss some of the issues that are going to be coming up tonight and tomorrow morning before we vote on the tax bill conference, the jobs bill, the growth package—whatever you want to call it. I take my opportunity to speak to the conference report that was agreed to this afternoon.

There has been a great deal of hard work that has taken place in the last few days to bring the reconciliation conference agreement to completion. I thank all of my colleagues and the House for their hard work and their cooperation in meeting our goal of getting a jobs and growth bill to the President by this Memorial Day recess.

We all agree the economy needs a shot in the arm. Although our economy is growing, it is not growing fast enough to create jobs. The difference is it has been growing for about a year and a half at 2 percent, roughly. We do not create jobs at 2 percent even though the economy is growing. It takes growth of about 3 to 3.5 percent to create jobs. We believe this bill will bring about the proper growth.

Some estimates, some versions of the growth package, although not necessarily this compromise before the Senate, is that it will create 1.4 million new jobs. A major cause of the sluggish economy is the bursting of the stock market bubble created in the 1990s. This bill will address the ailing stock market. It will help create jobs. It will grow the economy. It will put money back into the hands of families, consumers, investors, and businesses that will help fuel our economic engines that create those jobs that we hope will be created from this legislation.

It is often said that various bills before the Congress might be historic in nature, and I don't want to overplay this one, but I do want to use the term about this being an historic agreement in this sense: It will amount to the third largest tax cut in history. President Bush should be highly praised for initiating two out of the last three largest tax relief packages passed by the Congress in that period of time.

The packages before the Senate abide by the budget agreement of the Senate side limiting the overall number to $350 billion. It includes the speeding up of all rate reductions, as well as the House's innovative version of the President's dividend proposal that will not only reduce dividend tax but also reduce the capital gains rate, as well.

Capital gains and dividends will be taxed when this bill becomes law at 15 percent and 5 percent depending upon the level of income. The 5 percent eventually will be phased down to reach zero level of taxation in the year 2008.

This happens to be the lowest level of capital gains tax since 1934. Dividends will also be taxed at historic lows, and those figures would be the same rates of taxation as apply to capital gains.

We also included in this package an expenditure of $20 billion in aid to States that was in the Senate bill, which I know my fellow Senate colleagues, including Senator Rockefeller, who was a conferee, will appreciate.

In addition, the bill includes further child tax credit and marriage penalty relief. Some may argue that we did not do enough regarding the two problems. This bill will greatly improve current law. If Senators vote for this measure, they are voting to put approximately an extra $1,000 in the pockets of a family of four if that family has two children. They are going to do this for the next couple of years compared to current law. That is going to be retroactive to January 1 of this year, and it would presume a rebate of $400 per child back to any family who reported children on their income tax. That check should be in the mail later this summer or very early in the fall. So a family with two children would get an $800 rebate check from the Federal Treasury later this year.

As chairman of the Finance Committee, I certainly intend to continue and enhance improvements in marriage penalty and child tax credit in the coming years. In other words, we should get to that goal of continuing the $1,000 credit as permanent legislation, not as temporary legislation. We should resume our goal of eliminating the paper right now rather than down the road a few years when it is slated to be phased out.

I happen to be very disappointed about an aspect of the conference report I and a lot of other people from rural States worked on, to bring some equity in Medicare reimbursement to our respective rural States. My amendment had 86 votes in the Senate. We addressed the Medicare rural equity. This is what was not included in the final agreement.

Here is where the House comes from. They did not have a similar provision in their bill. They argued in the other body that this tax relief bill and the Medicare issues should be addressed in the Medicare legislation coming up for consideration in just 2 weeks. What I heard was this is a tax bill, not a Medicare bill, and why can't this wait an additional 2 weeks and take it up in an environment very closely related to the subject of Medicare reimbursement and not isolate it in a tax bill.

My answer to that is, I know this bill before the Senate will be signed by the President. I hope later on this summer or early fall we have a Medicare prescription drug bill for the President to sign. But, obviously, I am not as sure of that as I am of this bill going to the President. There are obviously a lot of things about the reimbursement of Medicare for our health care providers in rural America that are very unequal to that of urban areas.

On this very issue of Medicare rural equity, President Bush weighed in strongly supporting my efforts in the context of the Medicare bill, and this is a continuation of things that he spoke about at two or three different events over a period of months in Iowa just in the last year. It is a continuation of discussions I have had with the President on this very same subject during the month of December, last year, and the month of April, this year, when I had very private meetings with the President on the subject of Medicare.

Given the President's strong endorsement of my proposal, and the strong support in the Congress evidenced by the 86 votes in the Senate, and the fact we will be considering Medicare very soon, and also Chairman Thomas's willingness to consider these issues, I am encouraged we will succeed before the end of summer.

I ask unanimous consent to print a copy of the President's letter in the RECORD, wherein the President speaks about support for my efforts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
*Washington, May 22, 2003.*

Senator CHARLES GRASSLEY,
*Committee on Finance,*
*U.S. Senate, Washington, DC.*

DEAR CHAIRMAN GRASSLEY, I want to congratulate you on Senate passage of the jobs and growth bill, and also on the passage of your amendment to that bill which increased federal assistance to rural providers through the Medicare program.

When we met in the Oval Office in early April, we discussed our concerns that rural Medicare providers need additional help, and we committed to addressing their problems. We agreed on the need to address issues faced by rural hospitals, skilled nursing facilities, home health agencies, and physicians.

You demonstrated your commitment by passing your amendment last week with tremendous bipartisan support, and by pushing hard for it in the conference negotiations on the jobs and growth bill.

I will support the increased Medicare funding for rural providers contained in your amendment as a part of a bill that implements our shared goal for Medicare reform.

Sincerely,

GEORGE W. BUSH.

Mr. GRASSLEY. Mr. President, some are going to say during this debate on this reconciliation compromise tax relief for working men and women that we cannot afford to give money back to the American people. You get the impression from people who say that this is the Government's money and not the people's money. It is the people's money that comes to Washington. We spend it for them—a lot of times not as they would. But it is never the Government's money. No government creates wealth. Only working men and women, either through their labor or the use of their genius and using that in a productive manner, is what creates wealth in America.

It is not right to assume in this body or any other legislative body that the resources of the American people belong to Government and we let them keep some of their own resources to use as they want, but it all belongs to us. This attitude is that we in Government are smarter and know better than other people how to spend other people's money.

This bill before us underscores the President's, and the majority's, belief that this is the people's money first. The people will spend and invest their money in more productive ways than government ever will. This bill reinforces that philosophy. I commend the President for his leadership, his perseverance, and his ability to get things done.

I am still going to speak on the issue of the conference committee report before us, but I want to concentrate now for just a few minutes on the accuracy and intellectual honesty in the debate over our bipartisan tax relief package. This mostly would address who benefits and who does not benefit. Too many people on the other side of the aisle want you to believe this legislation only benefits the wealthy or high-income people of America. In fact, what this bill is about is not worrying just about income, but it is an effort through what we do on capital gains and what we do on dividend taxation to encourage the creation of wealth.

We are not starting from ground zero here in the creation of wealth. This was started by the people themselves over the last now maybe a couple of decades. Because just 20 years ago, maybe less than that, about 12 percent of the people in the country had money invested in the stock market or had pensions and 401(k)s that were dependent upon the stock market. Today that is about 55 percent of the people in the country. So there is an expansion of instruments leading to the creation of wealth. There is a broader range of people in the United States now, compared to 10 years ago, or let's say 20 years ago, who have an interest in the stock market. So I want to discuss the importance of the accuracy of the data in the debate over the bipartisan tax relief package before us.

In this and all tax policy debates, it is very important to have accurate data and to debate the issues in an intellectually honest manner. Involved is the key question of whether a tax relief package is fair. In evaluating fairness, we frequently look at whether a proposal retains or improves the progressivity of our tax system.

We have critics of President Bush's growth plan who attempt to use what we call distribution tables to show that a certain proposal—in this case President Bush's proposal—disproportionately benefits upper-income taxpayers. Let me say flat out this is factually inaccurate. But more importantly, it misses the point of this legislation for several reasons I want to present to my colleagues.

Make no bones about it, this is not a tax relief package for the sole purpose of just giving more money back to the taxpayers. It is for the purpose of doing that with the end result that it will lead to the creation of jobs and it will cause our economy to grow, which is necessary to create jobs. As such, the proposal attempts to promote investment incentives so that companies will purchase capital and labor. Although the package is balanced between consumption and investment, it is the investment-side incentive that will result in long-term economic growth.

What we are trying to do is enhance the capital-to-labor ratio. When there is a surplus of capital, that is when labor benefits. When there isn't capital to invest, there is a surplus of labor and consequently labor cannot advance up the economic ladder the way we want all Americans to be able to do. But when you bring in a surplus of capital that is invested, there is an increase in demand for labor. When there is an increase in the demand for labor, wages and benefits go up for working men and women. This bill is all about increasing—or at least a good part of it; some of it is oriented toward consumer spending, but a good part of this is oriented towards encouragement for capital and enhancing that capital-to-labor relationship.

Those who criticize this plan for benefiting wealthy taxpayers assume the rich stay rich and the poor stay poor through a lifetime. It is almost "born rich, you are always rich; born poor, you are always poor." That is not America. America is all about economic mobility, the dynamics of the free marketplace. That gives people opportunity to improve themselves and that is what America is all about.

Recent studies, including one produced by the National Center for Policy Analysis, indicate this is untrue, that the rich are always rich and the poor are always poor. The study measures income mobility by breaking same-age workers into five income levels and monitoring their movement between the income quintiles over a period of 15 years. The study shows there is considerable economic mobility in America and that large numbers of people move up and down the economic ladder in relatively short periods of time.

Moreover, in recent years, earnings mobility has in fact increased. The study demonstrates that within a single 1-year timeframe, one-third of the workers in the bottom quintile moved up and, in fact, one-fourth of the workers in the top 20 percent of our population moved down. One-half of the remaining labor force changed quintiles within that year, and 60 percent of the workers are upward mobile within 10 years.

The University of Michigan study also concluded that taxpayers tend to move between income groups during their lifetime. It is quite obvious how much sense this makes. It makes a lot of sense.

Taxpayers are likely to be lower income earners early and late in life, but are likely to be higher income earners during their midpoints of life.

My colleagues, just think of your own lifetime starting out in your first job out of high school or your first job out of college. Hasn't there been a great deal of movement during your lifetime, both up and down? We hope most of it is up. But for some, it is down. What allows these people to escape the lowest-income quintile and start earning more money is a college education and acquiring necessary skills on the job.

Interestingly, anecdotal evidence shows that 80 percent of the individuals in the Forbe's 400 list were self-made as opposed to those who inherited fortunes. Again, this underlies the importance of taking advantage of educational opportunities. Education allowed these people to overcome differences in income, increase their chances to escape low-wage jobs, and determine the success of their future earnings.

These findings are backed by a third study produced by the Financial Services Roundtable by the same organization I have been quoting, the NCPA. This study confirms that there is substantial economic mobility between generations. Almost 60 percent of the sons whose parents' incomes were in the bottom 20 percent are in higher income groups. Thirty-one percent have incomes in the top 60 percent.

Therefore, whoever is saying that once rich, Americans always stay rich and once poor, they always stay poor are purely mistaken.

I welcome this data on this important matter for one simple reason. It sheds light on what America really is all about. We are a nation of vast opportunities. We are a nation of tremendous economic mobility by people from all over the world. Our country truly provides unique opportunities for everyone. These opportunities include better education, health care services, financial security but, most importantly, our country provides people with freedom to obtain necessary skills to climb the economic ladder and to live better lives.

We are a free nation. We are a mobile nation. We are a nation of hard-working, innovative, skilled, and resilient people who like to take risks when necessary in order to succeed.

We have an obligation as lawmakers to incorporate these fundamental principles into our tax system, and this bill succeeds in doing that.

If I could, I would like to continue on an item that was in the Senate bill more specifically than I have spoken about the bill in the past. I want to speak about a provision that was, in fact, dropped in conference. It was very important to ZELL MILLER, the Senator from Georgia.

On a preliminary point, I express my appreciation to Senator MILLER for his support of the President's package. It has not been easy for a person from the other side of the aisle to be so consistent in their support. But he has been a fearless man with the Marine courage and conviction that is in his background.

Senator MILLER discussed a proposal regarding CEOs to sign a corporate tax return. This measure has been in the tax shelter curtailment proposal passed by the Senate Finance Committee. I support the proposal.

I share Senator MILLER's commonsense view of this proposal. As does Senator MILLER, I think CEOs ought to be accountable on their companies tax returns just as individuals are. Unfortunately, I was not able to secure Senator MILLER's position in conference. I faced two barriers. One was a potential procedural problem. The other, the opposition of the House to any proposals that raised revenue.

Despite my effort, I was not able to deliver this provision back to the Senate for Senator MILLER. But I would like to make clear to downtown lobbyists and to corporate America that Senator MILLER and I will be back on this very important provision.

Chairman Thomas and his staff know the importance of this issue to Senator MILLER and to me. I have let them know that we will be back at it in legislation that has passed the Senate called the CARE Act—that is a charitable giving act—or if we don't do it there, we will do it in other tax legislation this year.

At a later point in this debate, Senator MILLER and I may engage in a colloquy on this very important subject to all of us; but very important for Senator MILLER because of his instigation of it, the CEO signature provision.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to make a few comments regarding the bill.

First, I compliment the chairman of the Finance Committee for his leadership. Passing a budget has not been an easy process. If we had not passed a budget, we wouldn't be passing a tax bill.

Senator GRASSLEY was a very strong supporter of us getting a budget. He showed great courage in doing that. Some people criticised him for it. I take issue with that. Senator GRASSLEY, in bringing to the floor the tax provision reconciliation bill that we are going to be voting on tomorrow, frankly, made a commitment, as any chairman would, that he didn't want to bring a bill back to the floor of the Senate that wouldn't have the necessary votes to pass. He is exactly right. He, as I, count votes.

We are passing the biggest, best growth package we could get through the Senate. Both of us would like for it to be more. We met with our colleagues in the House. They would like for it to be more. The President would like for it to be more. This is the best we can do with the votes we have. With the package, I think we have done a good job, which we have, in loading up front, doing the best job we can to create jobs and create growth in our economy.

I compliment Senator GRASSLEY because if he hasn't shown leadership, we wouldn't have a budget and we wouldn't be voting on a tax bill. Tomorrow, we will be passing one of the best that this Congress has passed—maybe not just this Congress but in a long time.

I wish to talk about some of the provisions that are in the tax bill.

Senator GRASSLEY complimented Senator MILLER. Senator MILLER and I introduced the President's tax bill several months ago. It was $696 billion. The tax bill we are voting on tomorrow, most people say, is $350 billion. Actually, the tax portion of it is significantly less than that. It is closer to $315 billion.

Somebody might ask, What is the difference? There are outlays. We had to pay for the outlays. When we passed this bill in the Senate, we passed $430 billion worth of tax cuts. We had some offsets, user fees, and other things that were extended to make the bill come out at a net of $350 billion, which was consistent with the budget resolution.

Now, let me just make a couple other comments.

I have heard some of our colleagues say that $350 billion is outlandish, such a large tax cut. It is $350 billion over 10 years when the total revenue to be received by the Federal Government will probably be $25, $26, maybe $27 trillion, so it is really a very small percent, maybe 1.3 percent or thereabouts. Granted, we loaded more of it upfront so it is a greater percentage the first couple of years. We did that because we wanted to have more positive impact on the economy. We want to grow the economy. We want to create jobs.

The economy is very soft, some people would say very stagnant. It is not growing to near the potential we want it to be. We have lost a lot of jobs, so we want to do some things, and we believe we can do some things, in the Tax Code that will create an environment that will be a lot more conducive to creating jobs.

I have been in the Senate a long time. I have seen us pass tax bills that encouraged growth, and I have seen us pass tax bills that, frankly, discouraged growth. I might touch on those just for a minute.

But I remember, in 1997—frankly, the Clinton administration was not in favor of it at the time—I remember negotiating this provision reducing the capital gains rate from 28 percent to 20 percent. President Clinton eventually signed the bill. By doing that, we created a lot of jobs. That created a lot of economic activity. That was a positive thing to do. That generated revenue. That helped our economy. That is just an example.

If you go back a little further in history, when Ronald Reagan came into office, in 1981, the maximum tax rate was 70 percent. When he left, 8 years later, it was 28 percent, and we had one of the longest periods of economic growth in our Nation's history and created millions of jobs. Phenomenal. Incidentally, the Government revenues increased substantially over that period of time.

Well, what are we doing in the tax bill today that will help this economy of ours grow? There are several provisions in it. I look at this bill, and I am amazed we were able to do as much as we did. I compliment our friends and colleagues in the House. We worked together, and we fashioned a pretty good bill.

I will also say, it is not perfect, and it is not exactly what I would have written, but we make compromises to pass legislation in legislative bodies. I think the Senate reported out a good bill. I am proud of the bill we reported out on the floor of the Senate just last week. We have compromised with the House. I will touch on several of these provisions.

Both the House and the Senate accelerated the rate reductions we passed in 2001. What does that mean? It means somebody who was paying the maximum rate of 38.5 percent will be paying 35 percent. It just so happens 35 percent is the same rate that General Electric pays, corporations pay. Why should individuals—many of them have their own business—why should they be paying personal rates higher than the largest corporations in America? So that was a positive stop.

I have heard some of our colleagues say: Wait a minute, these are tax cuts for the wealthy and the rich, and so on. For the wealthy, the maximum tax rate was 39.6 percent. We passed that in 2001. To date, it has only been reduced 1 percentage point, from 39.6 percent to 38.6 percent.

Now, we will finally get it to 35 percent, the same rate as corporations. People who were paying 35 percent will pay 33 percent; people who were paying 30 percent will pay 28 percent; people who were paying 27 percent will pay 25 percent; and a lot of the people who were paying 15 percent, when we passed the bill in 2001, will have a rate reduction to 10 percent. So they got the entire rate reduction in 2001 retroactive. I just mention those facts so people will be aware of them.

We put in a provision to allow small business expensing. We raised that from $25,000 to $100,000. I used to own and operate a small business. This will help a lot of small businesses. We had that in the Senate bill. The House had it in their bill. That sunsets after a couple years.

Bonus depreciation was not in the Senate bill. It was in the House bill. I compliment the House. That increased the bonus depreciation segment we had in the 2001 tax bill from 30 percent to 50 percent through the end of next year. This will encourage all corporations, large and small, to make more significant investment. When they make significant investment, they will be able to recoup half that investment over a much shorter period of time.

We also did something that dealt with dividends and capital gains. The bill that passed the Senate was basically a 100-percent exemption for dividends for 4 years. Some people say: Wait a minute, it was only 50 percent the first year. That was for 2003 that we passed in the Senate. Frankly, we are halfway through 2003, so I am looking at this, and at least from this point on it would have been a total elimination of double taxation on dividends for the remainder of 2003, 2004, 2005, and 2006. I thought that was superior to the House provision that said: Let's tax dividends at 15 percent.

What came out of conference was the House provision. Again, we make compromises. The House provision has a lot of merits. It says: Let's tax capital gains and dividends at 15 percent. Well, for capital gains, that are presently taxed at 20 percent, to go to 15 percent is a 25-percent reduction. That is pretty significant.

I mentioned earlier in my statement, when we reduced capital gains from 28 percent to 20 percent, we reduced the tax on financial transactions, and we turned over a lot more transactions. That had a very positive impact on the economy. I expect we will have a positive impact on the economy by reducing the rate on capital gains again. And I think there is a lot of merit in saying we should have the tax on dividends be the same as the tax on capital gains. That was the House provision. That is a 15-percent rate. That is maybe a little more than a 50-percent exclusion.

Now, if you looked at the chart—I do not have the chart with me today—we tax dividends higher than any other country in the world. If we want to create a climate that is going to be productive for investment, we should not tax the proceeds or profits from those investments higher than anybody else in the world. We consider ourselves the "free enterprise mecca" of the world, but yet we tax the distribution of those profits higher than anybody. We are basically tied with Japan for taxing corporate dividends higher than anybody. We tax them higher than Great Britain, we tax them higher than France, and we tax them higher than Germany. It makes no sense.

Well, this is going to be a big step toward probably putting us about in the middle range of countries as far as taxation is concerned. It still has double taxation. I still would much prefer the Senate provision. We did not prevail in conference. Again, it's the art of compromise.

This is a giant step forward. If you asked me 3 months ago, could you get a 50-percent exclusion, I probably would have said: Let's take it. That is a giant step forward.

Let me just give a couple of personal examples on corporate dividends.

I think a lot of people have tried to construe this as only benefiting the wealthy, and so on. That is hogwash. That is absolute hogwash. Over half of Americans today have some ownership of stock. Maybe they own it. Maybe they don't own the shares in their name, but they are participants in a retirement plan. Maybe they are in a teachers retirement plan. Maybe they are in a retirement plan for firemen. Maybe they are in a Teamsters retirement plan. Maybe they are in a civil service Federal employees retirement plan. Maybe they have a portion—maybe all, maybe some—of their retirement based in stocks. A lot of those stocks pay dividends. This is going to help the value of their account. This will cause the market to go up.

The stock market has been on a significant decline for the last 3 years. Some people want to say: Well, that was President Bush's recession. I hate to remind them, but the stock market collapse or decline—rapid decline—started in March of 2000. The Nasdaq fell by 50 percent between March of 2000 and the end of 2000. So we have seen a precipitous decline in the stock market.

I believe the proposal we have before us—certainly the one that passed the Senate, and I also believe the one that we will be passing tomorrow—will help the stock market. It will be positive because we are not going to tax the proceeds or distributions from gains in an investment so high. We are basically going to cut the tax rate on those investments in half. That is a positive, giant step forward.

So I again compliment our colleagues. I think we are doing something that will encourage investment, not discourage it.

Let me give you another example. I used to run a corporation. A corporation makes money. It wants to distribute some of the proceeds or profits of that money to their stockholders. In doing so, let's just say the figure is $100,000. If they do so today, they have to pay corporate tax on it. That is $35,000. Then they have $65,000 left to give to their stockholders. They give the $65,000 to the stockholders and—guess what—they are taxed today, and they might be taxed at 38 percent, they might be taxed at 30 percent. Regardless, you add the two rates together and they are taxed at about 65 percent, in some cases 70 percent, in some cases more than 70 percent. So out of that $100,000, the Government is getting about $60,000, and the owner of the corporation is getting about $30,000.

That is not a good deal. That is not a prudent investment. As a matter of fact, as a result of that, anybody who is managing a corporation says: wait a minute, let's not give money to the owners through dividends. Let's do it in the form of bonuses or through other means. And you come up with a lot of schemes—some are very legitimate; some are not so legitimate—to avoid this enormous Government take on the proceeds of distribution of gains from a corporation.

They should be taxed once. Once is enough. Thirty-five percent is enough. Again, our provision, which will hopefully pass tomorrow, is a giant step in the right direction. This provision cuts capital gains from 20 percent to 15 percent and, I might mention, from 8 percent to 5 percent for lower income taxpayers. Again, this is a 25-percent reduction, and it eliminates the long-term/short-term capital gains. If you want income tax in capital gains simplification, we do it. Right now you have long-term and short term capital gains. Anybody who has an investment in anything, they have to keep track: How long did you own this? Does it qualify for a 20-percent or 18-percent rate? We are saying we will not do that. The rate for capital gains is 15 percent, and it has to be the same rate on dividends.

There is another advantage to this. If somebody who has a portfolio invests today, the present Tax Code says, let's make a lot of investments in growth stocks because they pay capital gains, and the tax rate on capital gains is 20 or 18 percent. That is about half of the present rate on dividends, on ordinary income tax. That is the present law. A lot of people, because of the Tax Code, were encouraged to go to more growth-oriented stocks, i.e., stocks that don't pay dividends, to make their investments. Many of those stocks are a lot more volatile, a lot riskier, a lot more subject to variations in prices. Again, having a policy that at least taxes dividend distribution and capital gains on an equal basis will take the bias out that presently exists for growth stocks as compared to dividends or more oriented stocks that pay dividends. That is good. That will change corporate behavior, and that is good.

So when you add all these things together, we have done some things for families. Somebody says, this is just going to benefit corporations and small businesses. That is not correct. We have done something for families. Individuals and married couples who have kids are going to get a $1,000-per-child tax credit. Present law is $600. That is a $400 increase. If you have four kids, that is an increase of $1,600. I have four children. My kids are a little old so they don't qualify, but this will help families all across America. That is $1,000 per child that they don't have to pay in taxes. Frankly, most families need that extra money to raise their kids. So it is family friendly.

We did something on marriage penalty. We doubled, basically, the 15-percent bracket for couples. Let me give an example. It is kind of wonkish. People move from a 15-percent bracket in present law to a 27-percent bracket. I think now it is $28,000. So if they have taxable income above $28,000, they move from a 15-percent bracket to a 27-percent bracket. That bracket is almost twice as high. So what is the bracket for couples? If you look at couples, under our provision we say we should double the individual bracket for couples. So if the break line of going from 15 percent to 27 percent under current law is $28,000, we say it should be $56,000 for a couple. Right now it is 40-some thousand. The difference of that is about $1,200.

Let me make sure people understand that. If you have a married couple who has a combined taxable income of $56,000, their savings under this provision is $1,200. If they have two kids, that is an additional savings of $800. That is over $2,000 that a family of four with income of $56,000 will save. That is significant. That is family friendly. That eliminates the marriage penalty for those couples.

Again, we have some positive measures in this bill, positive for families, positive for companies, positive to grow the economy, incentives for people to hire, for people, frankly, to make investments because they can recoup them earlier. Instead of amortizing over 10 years, they might be able to amortize them immediately or maybe half in the first year. Those are significant, positive changes.

We will eliminate at least partially this very high rate of double taxation in current law for corporate distribution.

Both the House and the Senate have done some good work. I compliment Senator GRASSLEY for his leadership. It has not been easy. It has not been easy through the budget or tax process. When we marked up this tax bill last week, we had, I believe, 33 or 34 amendments. I believe the majority of those amendments were decided by one vote. Senator GRASSLEY is to be complimented for his leadership. This tax bill, unlike many, is 43 pages. We have seen tax bills before that are hundreds of pages.

So this is simple. It is clean. It does not have a lot of Members' add-ons that touch on one page and deal with rewriting the Tax Code. This is simplified. We make it much simpler on capital gains. We will tax capital gains and dividends at the same rate. It is simplified because we will accelerate the rate cuts already in the tax law so somebody won't defer income from one year to the next year so there will be a lower tax rate. It is simplified because we will allow small business to be able to expense items in some cases 100 percent of the cost of the item up to $100,000, so they don't have to amortize it over years.

There are a lot of positive things in here that will help the economy, help American families, and create a much better environment both for investment and creating jobs.

I thank my colleagues, particularly Senator GRASSLEY and Senator MILLER, for their support and their hard work. The American taxpayer and the economy will be a lot better off by passing this legislation.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. FRIST. Mr. President, tonight we debate and tomorrow we act on legislation that will help set a course for a stronger national economy in the coming months. Next month, we will begin to address issues in the health care sector. We will look at ways to strengthen and improve Medicare. We will also begin the appropriations process, funding education, training, and other critically important programs that make contributions to our future economic growth. These issues and others are fundamental to the overall objective of maintaining stable, sustained economic growth that creates jobs and opportunities for all our citizens.

For today we must act on the conference agreement we worked so hard on throughout this week, the Jobs and Growth Tax Relief Reconciliation Act of 2003. This is legislation that justly deserves the expedited consideration it was given over the last month and the special procedures afforded it under the Budget Act.

It is, simply put, must-do legislation. The good things we enjoy as Americans come, in large part, from the wealth of our vast human and natural resources. They come from a political and economic system that rewards hard work, rewards the entrepreneurial spirit, rewards personal initiative—all conducted within a framework of fair, just, and equitable laws of commerce.

History is replete with governments that have failed because of failed economies. Our responsibility as elected officials to do whatever is necessary to maintain economic growth is real not only for today but for future generations. I am concerned about our economy not only because of its current sluggishness in creating jobs but also because of the new risk—the risk of disinflation.

But you don't have to take my word. Recently, the Federal Open Market Committee decided to keep the target for the Federal funds rate at 1¼ percent, the lowest level in nearly 40 years. But more importantly, the committee concluded that:

> The probability of an unwelcome substantial fall in inflation, though minor, exceeds that of a pickup in inflation from its already low level and the balance of risks . . . is weighted toward weakness over the foreseeable future.

I hope my colleagues are listening. The Fed is raising the specter of both continued economic weakness and disinflation—something that we have not experienced in this country. While the economy continued to grow in the first quarter of this year, although at a lackluster rate, it was not sufficient to generate enough demand to encourage businesses and employers to create new jobs. The result is that the unemployment rate has risen to 6 percent.

Now the Fed has added another concern. With insufficient growth, the economy lacks the momentum to stop inflation from falling further.

I continue to meet with economists and business groups to better understand the policies and programs that best address weak economic growth and a jobless recovery. Most all agree that economies are like ships—they cannot be turned around quickly. But while this economy doesn't need to be turned around, it is headed in the right direction. It just needs to pick up its pace. Indeed, that is what the jobs and growth package is all about.

In order to achieve growth sufficient to create jobs, to reduce unemployment, and to stem this potential disinflation phenomena, there must be a substantial injection of new demand into our economy, and it must be now. This is for the job security of the American people. We need to stoke the boilers on this ship. The tax bill before us represents an immediate opportunity to inject new demand in the economy, as much as $60 billion immediately. Of the $350 billion stimulus and growth provided in this conference agreement, 60 percent of that stimulus is provided this year and next.

Equally as important, this stimulus translates directly into money in the pockets of American families. As an example, a married couple with two children and an income of $40,000 will see their taxes decline this year nearly 96 percent—from $1,978 to $45.

The legislation provides for immediate and retroactive to the beginning of this year tax relief to millions of American families by increasing the tax credit for each child to $1,000 each year. The legislation accelerates all the tax rates we enacted 2 years ago, providing in total nearly $31 billion in tax relief this year, immediately. The legislation provides incentives for businesses by providing a 50-percent bonus depreciation for capital investments, up from 30 percent enacted last year—a powerful known stimulus to the economy.

The legislation will increase expensing for small businesses from $25,000 today up to $100,000. As we all know, these small businesses are the real engines of job creation and economic growth.

On the proposal to reduce taxes on dividends and capital gains, this, of course, has generated much discussion in this body and in the House of Representatives. While the Senate passed a different measure than what is in the underlying reconciliation tax bill, the compromise provides significant reduction in taxes on dividends immediately, a nearly 60-percent reduction, and makes reductions in capital gains tax rates to further stimulate investment and growth.

Finally, the legislation does address aid to our fiscally strapped States by providing over $20 billion in direct fiscal relief immediately.

It is clear that we must act, and we must act quickly if we are to ensure that the economy continues on a course of stronger growth and job creation. I ask my colleagues to join me in doing our job.

The House has acted and now it is time for us to act. We must present to the President a strong job creation, anti-inflation economic growth bill. The American economy needs a boost. The American people need jobs, and that duty falls inescapably to us right here and now.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I am looking forward to voting for the jobs and growth package when it comes out of conference and reaches the Senate floor. One of the lessons of the last few years is that we cannot do anything that any of us want to do without prosperity. We cannot do education the way we would like; we cannot improve the quality of health care the way we want to; we cannot protect our Nation's borders the way we would like to; and we cannot provide for our defense the way we would like to without prosperity.

Prosperity means jobs. The way to get jobs, among other things, is to put more money into the hands of people who save, spend, and invest, and that means tax relief. That is what the jobs and growth package is about.

It is not the only way, though, to increase jobs and create economic growth in our country. Another way to do that is by opening up markets abroad. One of the ways we do that is by getting our competitors to end tariffs, end the nontariff obstacles they have placed on importing our products.

For too long we have let the European Union get away with illegal, unwarranted, and protectionist trade policies regarding agricultural biotechnology. I strongly support the President and the administration in the case before the WTO against the European Union. I want to take a few moments to talk about that situation this evening.

For the past 5 years—half a decade—the European Union has effectively blocked our agricultural trade into Europe through their moratorium on the approval of new biotechnology products entering the European market.

Since its implementation in October 1998, the moratorium has blocked more than $300 million annually in U.S. corn exports to the European Union countries. When you look at the total cost of the moratorium, our corn producers have lost $1.5 billion in exports to the European Union.

This moratorium clearly violates WTO rules requiring measures regulating imports to be based on "sufficient scientific evidence" and mandating countries to operate regulatory approval procedures without "undue delay." And as far as sufficient scientific evidence is concerned, they have zero standing. Moreover, their policies are holding back products that hold tremendous promise for improving the food supply, advancing human health and preventing famine in the developing world.

The actions of the EU not only violate laws established by the WTO, but also, the EU is violating its own laws requiring science-based regulatory decisionmaking.

The EU policy decisions on biotechnology are being driven by people disdainful of science and its capacity for solving problems facing mankind and critical of the leading role of the United States in scientific advancement.

It is likely that nearly every American has eaten a meal made with corn and soybeans enhanced through biotechnology. These products have been sold and served in restaurants, local grocery stores and farmers' markets for years, without any adverse health consequences ever being reported.

Additionally, agriculture biotechnology, contrary to what the EU may say, is good for the environment. In 2001 alone, biotechnology reduced the application of pesticides by 46 million pounds, in addition to reducing soil erosion and creating an environment more hospitable to wildlife.

However, the facts have not stopped the EU from propping up their moratorium on a flimsy foundation. In addition to their anti-American policies, the EU has more recently pursued policies to undermine the development and support of genetically engineered products around the world, including in countries facing famine, and that was the turning point in this case.

About 40 million people in Africa's famine-stricken nations are at risk of starvation and diseases brought about by incessant hunger. Additionally, 800 million children are starving worldwide. Ongoing droughts and famines have devastated these countries, leaving them without options, and much too often, without hope.

Last fall, three African countries—Zambia, Zimbabwe and Mozambique—were pressured to turn down shipments of safe, nutritious, U.S. humanitarian biotech food aid by the EU. The EU even threatened their export markets if they accepted biotechnology food aid. To do that to a country threatened with famine is nothing less than extortion.

This is the same food that we eat here in the United States. It is unconscionable to me that the EU would promote these anti-humanitarian, anti-development policies.

The EU should try honesty for once. They should try explaining the real reason they do not like American biotechnology: they want to protect their market from competition. They want to protect European markets by ignoring the scientific evidence, which makes clear the safety and nutritional advantage of biotechnology.

Our agriculture producers are leading the biotech revolution and providing us with the most affordable, most abundant and safest food supply in the world. And Missouri's producers are among the leaders in the country.

When the U.S. wins this lawsuit, it will be a victory for our producers who have lost more than $300 million annually in corn exports, and also for science, the environment and everyone who wants to win the war against famine and world hunger.

I applaud the President for filing this suit in the WTO. In doing so, he is once again demonstrating the kind of leadership and courage we have come to expect from him I appreciate our leadership working so quickly on this important issue.

Senator BOND and I, along with several others, have submitted a resolution in support of the action in the WTO against the European Union. I urge my colleagues to consider this resolution expeditiously, to support it, and to give the administration the ammunition they need to prosecute this lawsuit successfully.

I yield the floor.

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I wish to take an opportunity just before we close down tonight to express some disappointment on my part that none of the specific small business and agricultural provisions survived the final conference agreement.

I truly believe there are many provisions in the final agreement that will be generally good for small business, but there are several specialty areas that continue to need tax relief in a special way to address the particular concerns of some industries.

Many of the items included in the original Senate bill are important to the bipartisan membership of the Senate. It previously passed the Finance Committee as well as the Senate. Again, I stress bipartisanship.

I plan to continue to work on a bipartisan basis with Senator BAUCUS, the ranking member of the committee, to assure that we are able to address the tax needs of S corporations, cooperatives, particularly farm cooperatives, small business excise tax problems, livestock drought relief through the tax efforts, and historic rehabilitation, just to name a few areas of concern.

As we finalize this growth package for the Senate's final vote and the President's signature, we will review the upcoming Finance Committee schedule and move forward with these important small business and agricultural provisions, all of which have bipartisan support.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend, the chairman of the committee, Senator GRASSLEY, for making that statement. We both agreed. Those are provisions that are very important, particularly to certain parts of America. These are provisions that we have been working on in the past to try to get included in law, and I very much appreciate the chairman of the committee making that statement to that effect just now. I join with him and look forward to working with him as we get these measures passed.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, in case I do not get an opportunity tomorrow—or who knows, maybe even forget it—I am reminded by the Senator's statement that even though we have disagreed on the substance of this legislation, the Senator from Montana, the ranking member of the committee, has very cooperatively helped us move this legislation along. We have entered into several agreements to help us get amendments out of the way. A couple of times when there were some political differences, he helped smooth my path to move this bill along. That is all within the tradition of the Senate Finance Committee, and I say it not only to bring attention to the cooperative effort of Senator BAUCUS and also of the committee but also to demonstrate to the people of the country who might be watching this debate on the Senate Finance Committee bill and feel, well, it is just all the Republicans on one side and all the Democrats on the other side, that we are always that way and very seldom is a product from the Senate Finance Committee not a bipartisan product.

I thank Senator BAUCUS for helping us move this bill along, even though he is not in agreement with the substance of the legislation.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 2 at 8:30 a.m. on Friday, May 23, there be 1 hour for debate remaining divided as follows: Senator GRASSLEY, 25 minutes; Senator BAUCUS, 5 minutes; Senator CONRAD, 10 minutes; Senator DAYTON, 10 minutes; Senator DASCHLE, 5 minutes; Senator FRIST, 5 minutes.

I further ask consent that following the use or yielding back of the debate time, the Senate proceed to a vote on or in relation to the conference report, without further intervening action or debate. Finally, I ask consent that following the vote on the adoption of the conference report the Senate then begin consideration of H.J. Res. 51, the debt limit extension.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. BAUCUS. Reserving the right to object, all this assumes, I take it from the majority leader, that we actually do get the conference report in time for the debate and then the vote.

Mr. FRIST. Mr. President, that is a correct assumption. We do expect it sometime between now and then, and we plan on having received it to start at 8:30. If we do not receive it, we will alter these best laid plans.

Mr. BAUCUS. Mr. President, given that assurance, which I trust will occur, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING OUR ARMED FORCES

### SALUTE TO THE 147TH FIELD ARTILLERY

Mr. DASCHLE. Mr. President, yesterday the 5th U.S. Army demobilized Battery C, 1st Battalion of the South Dakota National Guard's 147th Field Artillery. This unit, headquartered in Yankton was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom.

Today, these soldiers and their service become a part of South Dakota's military heritage. Like those who served in the two world wars, in Korea, in Vietnam and numerous other places, this new generation has answered the call. They have offered to make every sacrifice, including life itself, to protect our freedom and security. We must never forget them or the honor with which they served.

This unit participated in a mobilization with few precedents in South Dakota history. Nearly 2,000 Guard and Reserve troops were called to active duty in our State, by far the largest mobilization since World War II. At the time the fighting began, units from more than 20 communities had been called up, from Elk Point in the south to Lemmon in the north, from Watertown in the east to Custer in the west. Indeed, our State's mobilization rate ranked among the highest of all the States on a per capita basis.

These soldiers were proud to serve, and their communities are proud of them. Across the State, thousands of citizens pitched in to participate in send-off parades, to lend a hand for families who suddenly had to get by without a mom or dad, and even to assist with financial hardships caused by the mobilization. This mobilization was a statewide effort, in many ways.

South Dakota's Guard and Reserve units provided our Active-Duty Forces in Iraq with invaluable support. Many units did not participate directly in combat, which ended more quickly than anyone expected. But we all know that the battle would have been waged much differently if our Guard and Reserve units had not been ready to deploy as needed. Furthermore, we know that some units will play an important role in the work of restoring peace and order to Iraq, as well as rebuilding basic infrastructure. These tasks will be vital to ensuring that Iraq becomes a stable nation, hopefully with a prosperous economy and democratic government. This is how we can win the peace—and save future generations from another conflict.

In addition to the service of this particular unit, I want to acknowledge the sacrifices and dedication of the families who stayed home. They are the unsung heroes of any mobilization. They motivate and inspire those who are far from home, and they, too, deserve our gratitude.

Today, I join these families and the State of South Dakota in celebrating the courage, commitment, and success of the members of the 147th Field Artillery, and I honor their participation in this historic event in our Nation's history. Welcome home. Thanks to all of you for your courage, your sacrifice, and your noble commitment to this country and its ideals.

### HEADQUARTERS SERVICE BATTERY

Mr. DASCHLE. Mr. President, yesterday the 5th U.S. Army demobilized the Headquarters and Headquarters Service Battery, 1st Battalion of the South Dakota National Guard's 147th Field Artillery. This unit, which operates the battalion's headquarters in Sioux Falls, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom.

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### BATTERY A

Mr. DASCHLE. Mr. President, yesterday the 5th U.S. Army demobilized Battery A, 1st Battalion of the South Dakota National Guard's 147th Field Artillery. This unit, headquartered in Mitchell, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom.

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Today, I join these families and the State of South Dakota in celebrating the courage, commitment, and success of the members of the 147th Field Artillery, and I honor their participation in this historic event in our Nation's history. Welcome home. Thanks to all of you for your courage, your sacrifice, and your noble commitment to this country and its ideals.

### BATTERY B

Mr. DASCHLE. Mr. President, yesterday the 5th U.S. Army demobilized Battery B, 1st Battalion of the South Dakota National Guard's 147th Field Artillery. This unit, from Sioux Falls and Salem, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom.

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### BATTERY C

Mr. DASCHLE. Mr. President, yesterday the 5th U.S. Army demobilized Battery C, 1st Battalion of the South Dakota National Guard's 147th Field Artillery. This unit, headquartered in Yankton, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom.

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### AN OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few weeks we have seen dramatic proof that the brutal regime of Saddam Hussein is over and that a new day is dawning for the Iraqi people.

President Bush has announced that major military combat operations in Iraq have ended, and that America and her Allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it is wonderful. I am proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women may face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own may cause problems, stir up trouble, and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But today I rise to honor a man who made the ultimate sacrifice one can make for his country. LCpl Thomas Alan Blair was Oklahoma's first known casualty in Operation Iraqi Freedom. This 24-year old Broken Arrow native was killed on March 23 in a fierce battle near Nasiriyah when an enemy rocket propelled grenade hit his amphibious assault vehicle.

Tommy graduated from Broken Arrow High School in 1997 but had decided long before then that he would be a marine. He chose his career nearly a decade ago when he watched his older brother SSgt Al Blair graduate from boot camp. In a way he followed in his brother's footsteps, but his family will tell you that he would have been a marine no matter what. His brother recalled that Tommy "truly wanted to help people."

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Lance Corporal Blair did not die in vain. He died so that many others could live freely. For that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

Mr. President, recently we have seen dramatic proof that the brutal regime of Saddam Hussein is over and that a new day is dawning for the Iraqi people.

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But today I rise to honor a man who made the ultimate sacrifice one can make for his country. LTC Dominic R. Baragona, 42, was stationed at Fort Sill. He was killed in Iraq on May 19, when a tractor-trailer lost control and hit his Humvee near Safwan.

Colonel Baragona was assigned to and commander of the 19th Maintenance Battalion. He was deployed to CENTCOM in support of Operation Iraqi Freedom on March 16 with about 100 other members of his battalion.

Colonel Baragona's cousin Anthony said, "wherever they needed him, that's where he went." Baragona, like so many of our military men and women, placed the call to duty above self.

Our prayers and debt of appreciation now go to his family, who had expected him to come home in June. He is survived by his parents who live in St. George Island, FL.

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Lieutenant Colonel Baragona did not die in vain. He died so that many others could live freely. For that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

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But today I rise to honor a man who made the ultimate sacrifice one can make for his country. Sgt Randall Rehn died April 3 amid fierce fighting for control of what is now Baghdad International Airport. He is survived by his wife Raelynn and daughter Megan of Lawton, as well as his family in Colorado.

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Sergeant Rehn did not die in vain. He died so that many others could live freely. For that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

Mr. President, over the past few weeks we have seen dramatic proof that the brutal regime of Saddam Hussein is over and that a new day is dawning for the Iraqi people.

President Bush has announced that major military combat operations in Iraq have ended, and that America and her Allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it is wonderful. I am proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women may face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own may cause problems, stir up trouble, and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But today I rise to honor a man who made the ultimate sacrifice one can make for his country. One of eight brothers and sisters, Todd Robbins, 33, who was stationed at Fort Sill, served in the Navy for the first gulf war before joining the Army. He leaves behind a wife at Fort Sill and a 13-year-old son. "He always wanted to be in the Army," said his father Dale Robbins. "He lived, ate, and slept the Army. He loved it."

Tragically, the death of Sergeant Robbins was said to be a result of friendly fire in the form of coalition bombs. While our military always works to prevent such accidents, they always occur during war fighting.

The fact that his death was accidental in no way diminishes his sacrifice. He gave his life to protect us, and our freedoms, and to make people he had never met, half way around the world, free in their own country.

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Sergeant Robbins did not die in vain. He died so that many others could live freely. For that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

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Our military men and women may face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own may cause problems, stir up trouble and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But today I rise to honor a man who made the ultimate sacrifice one can make for his country. Donald Oaks, who was stationed at Fort Sill, would have turned 21 on April 26. He was a bright young man who was good at math and computers. Also, he enjoyed playing baseball and fishing with his dad. He joined the Army to get money for a college education after his service. His mother Laurie Oaks said, "He was my best friend and was always my hero. He still is." He was engaged to be married.

Tragically, the death of Specialist Oaks was said to be a result of friendly fire in the form of coalition bombs. While our military always works to prevent such accidents, they always occur during warfighting.

The fact that his death was accidental in no way diminishes his sacrifice. He gave his life to protect us, and our freedoms, and to make people he had never met, halfway around the world, free in their own country.

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Specialist Oaks did not die in vain. He died so that many others could live freely. For that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

### TRIBUTE TO CMSGT RET. LOUIS BROWN

Mr. ALLARD. Mr. President, I just received word that a dear friend of mine, the Air Force Academy, and the State of Colorado passed away last night and I would like to take this opportunity to recognize retired Chief Master Sergeant Louis Brown Jr. One of Colorado's finest citizens, CMSgt. Ret., Louis Brown Jr., has made numerous contributions to the young men and women—past, present and future—of the United States Air Force Academy. Chief Brown has been a steadfast proponent and volunteered more than 10 years of service to recruit, advise, interview, and mentor cadets for the Air Force Academy with my congressional office. Additionally, he has spent over 30 years of tireless interaction with some of the Air Force's finest officers and Academy graduates.

Chief Brown has made a difference to the Air Force, the Air Force Academy, and to Colorado as a whole. Specifically, he has worked countless hours with members of my staff since my tenure in the United States Congress helping to interview potential candidates to the academy, educating them on the appointment process, and encouraging these young men and women to contribute to the United States armed forces. He has been a mentor and a role model to countless cadets who have gone forward to become Air Force officers.

I want to honor the life of Chief Brown who served the Air Force first as an enlisted Airman and later in life as an advocate for recruitment of future officers. His contributions to the State of Colorado and the United States Air Force will not be forgotten. I ask the Senate now to join me in thanking Chief Brown and his family for these contributions and also to pray for his loved ones in their time of mourning.

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## MEMORIAL DAY: HONORING OUR FALLEN HEROES

Mr. AKAKA. Mr. President, I rise today to pay tribute to the many individuals who have died in defense of our great Nation. Next week we will all return to our States to join our constituents in honoring those who gave their lives to ensure that we enjoy the principles of liberty and justice as Americans.

One of my constituents, Mr. Keith Haugen, has written a song entitled "Walking Through the Memories, A Requiem to the Fallen." Mr. Haugen served in the U.S. Army and has been honored by a number of organizations for songs he has written to honor military members and veterans. Mr. Haugen will perform this song on Memorial Day at the National Memorial of the Pacific.

I have reviewed the lyrics to this melody and have Mr. Haugen's permission to share them with my colleagues. I ask unanimous consent to print a copy of these lyrics in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### WALKING THROUGH THE MEMORIES, A REQUIEM TO THE FALLEN

(By Keith Haugen, ASCAP)

The peace they fought for is right here, between the rows of crosses
They died to save our freedom, they're numbered among our losses
Although they came from far and wide, this place is now their home
A peaceful, final resting place, where they'll never be alone
And I'm walking through the memories, where honor knows no end
That unmarked grave is special, for I know that he's my friend
We were comrades on a foreign shore, buddies to the end
In the distance I hear a bugle call, as I stroll alone with God
It's haunting voice is singing "Taps" for those beneath the sod
And I'm walking through the memories of those who gave their all
Walking, walking, walking, past graves both old and new
Their sun has set, their day is done, they were the chosen few
We salute and pay our tribute, flags and flowers all abound
They all came back to make their home in this hallowed ground
And I'm walking through the memories of those who gave their all
Yes, I'm walking through the memories where honor knows no end

Mr. PRYOR. Mr. President, this Memorial Day is an especially meaningful time for our Nation. It comes as the images of defending freedom and democracy are still fresh in our minds.

This weekend, we remember and honor the men and women who paid the ultimate price for their country. Flags fly at half-mast, relatives and friends place wreaths and flowers on the graves of their loved ones, and communities host parades adorned in red, while, and blue. In actuality, these tributes are small acts we perform in an effort to express our gratitude to those who have served the cause of freedom.

Since the time of the Civil War, communities have paid tribute to fallen soldiers with spontaneous gestures of remembrance. In May of 1868, GEN. John A. Logan officially recognized the public's desire to honor those who died in pursuit of liberty by declaring May 30 of each year a day to decorate the graves of fallen soldiers. A century later, President Lyndon B. Johnson signed legislation declaring, in part, that Memorial Day be held the last Monday of May every year.

Memorial Day weekend has since become a signal for family gatherings, barbeques, sales at the mall, trips to the beach, and the opening of community pools. We should celebrate our freedom but we must also remember that freedom is not free—it comes to us at a great cost. In our Nation's history, upwards of 40 million Americans have risked life and limb to defend our country and make the world a safer place. More than a million service men and women have died for our country. Moreover, 140,000 were taken as prisoners of war and many of them have never been accounted for. They are our Nation's heroes who acted selflessly throughout our history to bring forth freedom and opportunity for generations.

We also honor the families who bear the heaviest burden of liberty. Our fallen and missing soldiers were moms, dads, brothers, sisters, sons, and daughters. They are not statistics but empty voids in their families' hearts. While the grief and pain for some may not have faded, I hope it is comforting for them to know that their fallen loved ones' cause was just.

In addition, let us remember that thousands of service men and women will spend this Memorial Day stationed in other countries defending our freedoms far away from their families. I join Americans today in a prayer for peace so that we can reunite them with their loves ones soon.

We take 1 day out of the year to honor our fallen soldiers but we benefit from their sacrifice each and every day. I hope that Arkansans will take a break from their Memorial Day activities to remember and honor our fallen soldiers. Let us display the noble patriotism for our country that our Armed Forces exemplify each day.

### HONORING SERGEANT RICHARD CARL OF KING HILL, IDAHO

Mr. CRAPO. Mr. President, I rise today to mark a sad occasion that is underway in my home State of Idaho. We are burying one of our soldiers who was killed during the war in Iraq, and I wanted to take a few moments to share my thoughts with you about SGT Richard Carl. While I was not privileged to know him personally during his short 26 years, he has come alive for me through the memories that you have shared in the past few days. He is remembered as a son to Richard and Karen, a husband to Audrey, a father to 3-year-old Ealy Ann and 18-month-old Dominick, and a friend to many, many others.

It is a weighty job—the one we, as a nation, ask of people like Sergeant Carl. It brings uncertainty and sacrifice, not just for the troops, but for their families and loved ones. But our Nation is built on the foundations laid by good people like Sergeant Carl, and it is through their sacrifice, that their children and our children will inherit a free nation.

Such lofty language pales against the stark reality that confronts us today at this service. In the last few days, news articles have brought a quiet, brave family man to the attention of many Idahoans. I have been touched by the memories of good deeds, unheralded kindness, and a good heart. One memory frequently mentioned was that he was always helping someone else, and that is a remarkable legacy to leave. In his duty to his country, he died helping someone else—in this case, an injured Iraqi child who needed to be taken to a hospital. We cannot find the words to express the full extent of the debt that we owe to Sergeant Carl and so many other young men and women who have served our country to the fullest measure.

In his wife Audrey's words, "Our family is dealing with this loss as well as can be expected. Richard was a good man, and while he was not known to the world, he played an important role. We are so proud of his contributions to our nation and his role in making the world a better place. He will never be forgotten."

We are honored to have him remembered as an Idahoan. We are blessed to have had him here, even for a short time, and I am confident that those who knew him will make certain that his children have the opportunity to know their father through those memories. Sergeant Carl and so many others who have sacrificed for our freedoms will continue in my thoughts and prayers and in our Nation's grateful hearts.

### NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

Mr. GRAHAM of Florida. Mr. President, today I rise with my colleague Senator PATTY MURRAY to sponsor a resolution federally acknowledging April 9, 2003, and recognizing April 9, 2004, as National Former Prisoner of War Recognition Day.

As we watch the overjoyed faces of soldiers returning home from Iraq on television, we also remember those taken hostage by enemy forces. In this age of technology, we watched the images of brave soldiers from Operation Iraqi Freedom, courageous in the face of physical and mental hardships most of us can only imagine. I am outraged and saddened that, in clear violation of international treaties, opposing troops have taken even one of our fighting American men and women against their will.

Our thoughts and prayers are with the families and friends of all of these soldiers, from recent as well as past conflicts. It is my sincere hope that the still-captive prisoners from previous wars will be home to participate in the celebrations next April, and I have faith that they will be.

At this time, it is appropriate that we pause and reflect on the bravery and sacrifice made by all of our Nation's former prisoners of war, and to remember that tens of thousands of our friends and neighbors have endured unthinkable brutality fighting throughout America's history.

The men and women who braved captivity and imprisonment gave up months and years of their lives to ensure the continuation of the freedom we enjoy today. Their service has taught us about patriotism, perseverance, and character. There is little we can do to repay these men and women but we can recognize their invaluable contribution.

I urge my colleagues to join Senator MURRAY and myself in cosponsoring this important resolution honoring our former prisoners of war.

## CONGRESSIONAL BUDGET ACT COMPLIANCE

Mr. NICKLES. Mr. President, pursuant to section 313(c) of the Congressional Budget Act of 1974, I submit for the RECORD a list of material in the conference agreement on H.R. 2 considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313. The inclusion or exclusion of material on the following list does not constitute a determination of extraneousness by the Presiding Officer of the Senate.

To the best of my knowledge, H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act of 2003, contains no material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313 of the Congressional Budget Act of 1974.

## SUBMITTING CHANGES TO COMMITTEE ALLOCATIONS AND BUDGETARY AGGREGATES

Mr. NICKLES. Mr. President, section 310(c)(2) of the Congressional Budget Act, as amended, provides the chairman of the Senate Budget Committee with authority to revise committee allocations, functional levels, and budgetary aggregates for a reconciliation conference report which fulfills an instruction with respect to both outlays and revenues. The chairman's authority under section 310(c) may be exercised if the following conditions have been satisfied:

1. The conferees report a bill which changes the mix of the instructed revenue and outlay changes by not more than 20 percent of the sum of the components of the instruction, and,

2. The conference agreement still complies with the overall reconciliation instruction.

I find that the conference report on H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act of 2003, satisfies the two conditions above and pursuant to my authority under section 310(c), I hereby submit revisions to H. Con. Res. 95, the 2004 Budget Resolution. The attached tables show the revised committee allocations and budgetary aggregates.

I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004—H. CON. RES. 95 REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 310(c)(2)(A)

*For the Jobs and Growth Tax Relief Reconciliation Act of 2003, Conference Report*

[In billions of dollars]

| | |
|---|---|
| *Section 101* | |
| (1)(A) Revenues (on-budget): | |
| FY 2003 | 1310.347 |
| FY 2004 | 1331.000 |
| FY 2005 | 1499.842 |
| FY 2006 | 1656.090 |
| FY 2007 | 1788.688 |
| FY 2008 | 1900.567 |
| FY 2009 | 2053.762 |
| FY 2010 | 2167.937 |
| FY 2011 | 2270.540 |
| FY 2012 | 2403.572 |
| FY 2013 | 2547.546 |
| (1)(B) Changes in Federal Revenues: | |
| FY 2003 | −49.487 |
| FY 2004 | −135.370 |
| FY 2005 | −117.184 |
| FY 2006 | −84.582 |
| FY 2007 | −64.478 |
| FY 2008 | −62.410 |
| FY 2009 | −24.568 |
| FY 2010 | −25.105 |
| FY 2011 | −156.956 |
| FY 2012 | −246.207 |
| FY 2013 | −256.664 |

*Section 101*

(2) Budget Authority (on-budget):

| | |
|---|---|
| FY 2003 | 1873.975 |
| FY 2004 | 1873.459 |
| FY 2005 | 1990.721 |
| FY 2006 | 2118.756 |
| FY 2007 | 2229.650 |
| FY 2008 | 2346.329 |
| FY 2009 | 2454.814 |

*Section 101*

| | |
|---|---|
| FY 2010 | 2555.986 |
| FY 2011 | 2669.845 |
| FY 2012 | 2751.637 |
| FY 2013 | 2871.677 |

(3) Budget Outlays (on-budget):

| | |
|---|---|
| FY 2003 | 1826.134 |
| FY 2004 | 1896.973 |
| FY 2005 | 1982.080 |

*Section 101*

| | |
|---|---|
| FY 2006 | 2085.890 |
| FY 2007 | 2187.270 |
| FY 2008 | 2304.531 |
| FY 2009 | 2420.227 |
| FY 2010 | 2528.260 |
| FY 2011 | 2651.603 |
| FY 2012 | 2721.116 |
| FY 2013 | 2852.255 |

### SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, BUDGET YEAR TOTAL 2003

[In millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations act | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Appropriations: | | | | |
| General Purpose Discretionary | 843,550 | 808,891 | 0 | 0 |
| *Memo:* | | | | |
| *on-budget* | *839,738* | *805,053* | 0 | 0 |
| *off-budget* | *3,812* | *3,838* | | |
| Highways | 0 | 31,264 | 0 | 0 |
| Mass Transit | 1,436 | 6,551 | 0 | 0 |
| Mandatory | 391,344 | 378,717 | 0 | 0 |
| Total | 1,236,330 | 1,225,423 | 0 | 0 |
| Agriculture, Nutrition, and Forestry | 19,359 | 14,964 | 52,763 | 40,712 |
| Armed Services | 73,996 | 73,473 | 275 | 233 |
| Banking, Housing, and Urban Affairs | 12,558 | 1,599 | 118 | 16 |
| Commerce, Science, and Transportation | 10,590 | 7,255 | 885 | 814 |
| Energy and Natural Resources | 2,879 | 2,539 | 48 | 63 |
| Environment and Public Works | 30,830 | 2,372 | 0 | 0 |
| Finance | 766,693 | 770,464 | 286,512 | 286,509 |
| Foreign Relations | 13,595 | 11,366 | 183 | 183 |
| Governmental Affairs | 66,931 | 65,426 | 16,564 | 16,564 |
| Judiciary | 6,509 | 6,441 | 534 | 527 |
| Health, Education, Labor, and Pensions | 5,328 | 4,805 | 2,814 | 2,801 |
| Rules and Administration | 82 | 85 | 104 | 103 |
| Intelligence | 0 | 0 | 223 | 223 |
| Veterans' Affairs | 1,171 | 1,109 | 30,321 | 29,969 |
| Indian Affairs | 456 | 444 | 0 | 0 |
| Small Business | 864 | 769 | 0 | 0 |
| Unassigned to Committee | (371,644) | (358,647) | 0 | 0 |
| Total | 1,876,527 | 1,829,887 | 391,344 | 378,717 |

Revisions Pursuant to Section 310(c)(2)(A) of the Congressional Budget Act for the Job and Growth Tax Relief Reconciliation Act of 2003, Conference Report.

### SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, BUDGET YEAR TOTAL 2004

[In millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations acts | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Appropriations: | | | | |
| General Purpose Discretionary | 783,214 | 822,895 | 0 | 0 |
| *Memo:* | | | | |
| *on-budget* | *778,957* | *818,688* | | |
| *off-budget* | *4,257* | *4,207* | | |
| Highways | 0 | 31,555 | 0 | 0 |
| Mass Transit | 1,461 | 6,634 | 0 | 0 |
| Mandatory | 426,949 | 410,619 | 0 | 0 |
| Total | 1,211,624 | 1,271,703 | 0 | 0 |
| Agriculture, Nutrition, and Forestry | 20,801 | 16,826 | 55,536 | 39,472 |
| Armed Services | 77,560 | 77,326 | 357 | 376 |
| Banking, Housing and Urban Affairs | 13,946 | 2,251 | 120 | 12 |
| Commerce, Science, and Transportation | 10,908 | 6,518 | 827 | 843 |
| Energy and Natural Resources | 2,669 | 2,390 | 64 | 70 |
| Environmental and Public Works | 35,654 | 2,312 | 0 | 0 |
| Finance | 769,846 | 773,735 | 315,856 | 315,780 |
| Foreign Relations | 9,787 | 11,689 | 179 | 179 |
| Governmental Affairs | 68,533 | 67,000 | 17,362 | 17,362 |
| Judiciary | 7,883 | 7,230 | 511 | 523 |
| Health, Education, Labor, and Pensions | 5,232 | 4,439 | 2,888 | 2,872 |
| Rules and Administration | 82 | 246 | 109 | 109 |
| Intelligence | 0 | 0 | 226 | 226 |
| Veterans' Affairs | 1,311 | 1,260 | 32,914 | 32,795 |
| Indian Affairs | 475 | 472 | 0 | 0 |
| Small Business | 3 | (23) | 0 | 0 |
| Unassigned to Committee | (371,280) | (355,315) | 0 | 0 |
| Total | 1,865,034 | 1,890,059 | 426,949 | 410,619 |

Revisions Pursuant to Section 310(c)(2)(A) of the Congressional Budget Act for the Jobs and Growth Tax Relief Reconciliation Act of 2003, Conference Report.

### SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 5-YEAR TOTAL 2004–2008

[In millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations act | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Agriculture, Nutrition, and Forestry | 109,330 | 91,951 | 288,857 | 206,256 |
| Armed Services | 417,330 | 416,461 | 2,992 | 3,047 |
| Banking, Housing and Urban Affairs | 71,267 | 7,231 | 626 | (104) |
| Commerce, Science, and Transportation | 60,492 | 38,575 | 4,538 | 4,541 |
| Energy and Natural Resources | 11,991 | 10,905 | 320 | 333 |

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 5-YEAR TOTAL 2004–2008—Continued
[In millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations act | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Environmental and Public Works | 190,317 | 10,561 | 0 | 0 |
| Finance | 4,504,397 | 4,513,658 | 1,824,189 | 1,823,275 |
| Foreign Relations | 59,034 | 55,412 | 876 | 876 |
| Governmental Affairs | 372,971 | 365,695 | 93,701 | 93,701 |
| Judiciary | 25,585 | 25,756 | 2,629 | 2,640 |
| Health, Education, Labor, and Pensions | 32,738 | 29,056 | 15,226 | 15,126 |
| Rules and Administration | 408 | 574 | 588 | 588 |
| Intelligence | 0 | 0 | 1,230 | 1,230 |
| Veterans' Affairs | 6,561 | 6,382 | 176,815 | 176,196 |
| Indian Affairs | 2,587 | 2,569 | 0 | 0 |
| Small Business | 6 | (59) | 0 | 0 |

Revisions Pursuant to Section 310(c)(2)(A) of the Congressional Budget Act for the Job and Growth Tax Relief Reconciliation Act of 2003, Conference Report.

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 10-YEAR TOTAL 2004–2013
[In millions of dollars]

| Committee | Direct spending jurisdiction | | Entitlements funded in annual appropriations act | |
|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays |
| Agriculture, Nutrition, and Forestry | 209,130 | 178,892 | 600,618 | 446,118 |
| Armed Services | 910,879 | 909,159 | 7,129 | 7,273 |
| Banking, Housing and Urban Affairs | 141,433 | 1,859 | 1,318 | (176) |
| Commerce, Science, and Transportation | 113,446 | 69,687 | 10,252 | 10,232 |
| Energy and Natural Resources | 22,263 | 20,458 | 640 | 653 |
| Environment and Public Works | 393,698 | 19,403 | 0 | 0 |
| Finance | 10,591,162 | 10,606,226 | 4,487,111 | 4,485,223 |
| Foreign Relations | 127,160 | 116,399 | 1,733 | 1,733 |
| Governmental Affairs | 833,756 | 819,817 | 206,453 | 206,453 |
| Judiciary | 42,068 | 41,692 | 5,459 | 5,455 |
| Health, Education, Labor, and Pensions | 71,126 | 64,104 | 32,601 | 32,468 |
| Rules and Administration | 803 | 1,025 | 1,309 | 1,309 |
| Intelligence | 0 | 0 | 2,648 | 2,648 |
| Veterans' Affairs | 12,781 | 12,501 | 373,770 | 372,651 |
| Indian Affairs | 5,805 | 5,765 | 0 | 0 |
| Small Business | 6 | (76) | 0 | 0 |

Revisions Pursuant to Section 310(c)(2)(A) of the Congressional Budget Act for the Job and Growth Tax Relief Reconciliation Act of 2003, Conference Report.

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## FCC VOTE ON OWNERSHIP RULES

**Mr. JEFFORDS.** Mr. President, I want to state my opposition to the Federal Communications Commission's scheduled June 2nd vote to overhaul current broadcast media ownership rules of newspapers, television, and radio stations. I am disappointed that FCC Chairman Michael Powell has refused to hold a single public hearing regarding the proposed changes to these rules, or to entertain further public comment on what is turning out to become a historic rulemaking.

The public needs to be heard from, and the public needs to know what will happen if the changes that Chairman Powell has proposed become reality. The biennial review required by the 1996 Telecommunications Act requires the FCC to review its rules every 2 years, but this review should not be used as an excuse to radically alter the way our constituents receive their news from the media.

Not only am I disappointed at how this situation has come to pass, but I am also dismayed at what the FCC proposes. There are a number of changes that I disagree with—and this is just from what we have learned last week.

For instance, we have learned that the FCC is considering to allow the major broadcast networks to purchase more television stations and strip them of local control. The FCC is also proposing to ease "cross-ownership" rules and allow a media company to own a newspaper and television company in the same community.

I urge everyone to reflect on this and how this will impact communities throughout this country. In my State of Vermont, we have a very proud tradition of grassroots activism. Our local Vermont media knows this and reports the day's events with a Vermont audience in mind. If more Vermont media companies are controlled by out-of-state, or out-of-country owners, I fear a significant deterioration in the coverage of local news.

The Vermont Press Association and the Vermont State Legislature have concerns similar to mine. The Vermont Press Association has written a letter to the FCC explaining its position, and the Vermont State Legislature passed unanimously a joint resolution regarding this matter.

I ask unanimous consent that both documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VERMONT PRESS ASSOCIATION
*Colchester, VT, May 16, 2003.*

Hon. MICHAEL POWELL,
*Chairman, Federal Communications Commission, Washington, DC.*

DEAR CHAIRMAN POWELL: The Board of Directors of the Vermont Press Association, which represents the interests of the 10 dailies and four dozen non-dailies circulating in Vermont, endorses a Joint Resolution passed May 13th by the Vermont Legislature. The resolution, which I include at the end of this letter (an official copy is to be sent to you by Vermont Secretary of State Deborah Markowitz), urges the Federal Communications Commission to provide for a public comment period prior to the adoption of any changes to the broadcast media ownership rules.

We urge you to give serious consideration to this Joint Resolution and allow for a public comment period, including Congressional hearings, prior to issuing any new rules concerning cross ownership.

Although FCC rules are a federal matter, what we read in newspapers, hear on the radio and see on television is a local and state issue. There is too much consolidation in the news business and too few independent voices; relaxing cross ownership rules even more will hurt all citizens. As a board, we support increased diversity in media ownership, not less.

Thank you for your consideration of this press association's viewpoint, and for taking into account the resolution passed by the Vermont Legislature. We would appreciate it if you would enter this resolution into the public record on this issue.

Sincerely,

ROSS CONNELLY,
*President, Vermont Press Association, Editor & Co-publisher, The Hardwick Gazette.*

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### JOINT HOUSE RESOLUTION 18

Whereas, pursuant to the provisions of 47 C.F.R. §73.3555, the Federal Communications Commission (FCC) has established a series of ownership rules for radio and television stations in a designated market area (DMA), and

Whereas, these rules were intended to prevent a monopolization of media voices within a community, and

Whereas, over the last several decades, the number of commercial radio stations a single entity may own in a DMA has risen dramatically, from the former universal limit of one AM and one FM, to, depending on the total number of local radio stations in the DMA, as many as eight, with no more than five on either the AM or FM broadcast band, and

Whereas, the number of local television stations a single entity may own in a DMA has risen from one to two, depending on technical considerations, and nationally, the number has risen from a total of 7-35 percent of the aggregate national audience, and

Whereas, the significant relaxation of multiple broadcast media ownership restrictions has led to the creation of a small number of national media conglomerates, including Viacom (owner of CBS), General Electric (owner of NBC), Disney (owner of ABC), and Clear Channel Communications, each of which owns large numbers of broadcast stations, often including multiple radio stations in the same DMA in addition to national programming services, and

Whereas, this concentration in the corporate ownership of commercial broadcast media, both locally and nationally, has severely limited the diversity of perspectives offered on important issues, and also has resulted in a significant reduction in local radio news coverage, and

Whereas, in an unusual, but nevertheless poignant, impact of concentrated media ownership in a single community, public safety officials in Minot, North Dakota, where all six commercial radio stations are owned now by the same national chain, were unable to reach anyone at the designated emergency radio station when a train derailment resulted in anhydrous ammonia fertilizer being released over the city, and

Whereas, until now, the existing prohibition on daily newspapers owning an AM, FM, or television station whose primary signal serves "the entire community in which such newspaper is published," 47 C.F.R. §73.3555(d), has remained in place, and

Whereas, under §212(h) of the Telecommunications Act of 1996, P.L. No. 104-104 as amended, the FCC is directed to review biennially all of the broadcast media ownership rules, and

Whereas, there are strong indications the commission's current review will result in the further relaxation of the existing ownership rules, possibly allowing newspapers to purchase radio or television stations in their publication communities, and

Whereas, FCC Chair, Michael Powell, has announced the newly revised ownership rules will be released in final form on June 2 without an opportunity for public or congressional comment, and

Whereas, a bipartisan group of U.S. Senators, Olympia Snowe, Republican of Maine, Byron Dorgan, Democrat of North Dakota, Ernest Hollings, Democrat of South Carolina, and Trent Lott, Republican of Mississippi, has written to Chairman Powell requesting that Congress and the public be afforded an opportunity to review any proposed changes before they take effect, and

Whereas, both the potential substantive changes in the media ownership rules and the lack of a public comment period are greatly disturbing, now therefore be it

*Resolved by the Senate and House of Representatives*: That the General Assembly strongly urges the Federal Communications Commission to refrain from relaxing further the restrictions on broadcast media outlet ownership, and be it further

*Resolved*: That the General Assembly urges the Federal Communications Commission to provide for a public comment period prior to the adoption of any changes to the broadcast media ownership rules, and be it further

*Resolved*: That the Secretary of State be directed to send a copy of this resolution to Michael Powell, Chair of the Federal Communications Commission, and to each member of the Vermont Congressional Delegation.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Fresno, CA. On September 20, 1998, the apartment of transgender female Chanel Chandler was set ablaze. Inside the apartment the authorities discovered Chandler's body, stabbed repeatedly with a broken beer bottle. According to a police spokesperson, Chandler's gender identity and expression was a primary motivation for the attack. The fire, which did not reach the room where Chandler's body was found, was likely a failed attempt to hide Chandler's murder.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## OP-ED BY SENATOR GEORGE McGOVERN

Mr. LEAHY. Mr. President, the delineation between an "internationalist" and "isolationist" has too often been drawn at the doctrine of preemption. Those who supported the war in Iraq are considered "internationalists" while those who did not, are shunted as "isolationists." This classification is unprecedented in the more than two centuries of American foreign policy. Opposition to an unprovoked invasion is not isolationism. And internationalism is more than merely waging war.

On May 12, the Washington Post published an op-ed by my friend and our former colleague, Senator George McGovern. As he has done many times in the past, Senator McGovern has provided important and timely insights on U.S. foreign policy.

The debate over U.S. policy towards Iraq over the past several months has been littered with references to "internationalists" and "isolationists." Senator McGovern has penned some important reflections about how these labels have been used in previous foreign policy debates.

I ask unanimous consent that a copy of the op-ed by Senator McGovern in the Washington Post on May 12, be printed in the RECORD so that all Senators and staff have an opportunity to review his comments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, May 12, 2003]

### A MORE CONSTRUCTIVE INTERNATIONALISM

(By George S. McGovern)

In his May 1 op-ed piece, Will Marshall praised presidential candidates Dick Gephardt, Joe Lieberman, John Kerry and John Edwards as "Blair Democrats"—internationalists who are willing "to use force in the national interest." He rejoiced that the Democratic Party "is moving away from McGovernism and back to its international roots."

One wonders why Marshall went to Britain for an example of how American Democrats ought to behave. It is more puzzling why he concluded that I'm opposed to internationalism and the "use of force in the national interest." I first used force in the national interest during World War II, when I flew 35 combat missions in Europe.

American involvement in that war was clearly in our national interest, and that is why I volunteered at the age of 19 to be part of it.

It is true that I opposed the American war in Vietnam, but not because I had ceased to be an internationalist. That war was a disastrous folly, as all literate people now acknowledge. We were never more isolated from the international community than when our troops were deepest in the Vietnam jungle. A close second in isolating us from the international community was the invasion of Iraq, a largely defenseless little desert state that posed no threat to us and had taken no action against us.

The best way to support our troops is to keep them out of needless wars such as Iraq and Vietnam. The best way for America to play a constructive role internationally is to support the United Nations and to work toward expanding international trade, aid and investment while protecting our workers and the environment. An internationalist would also support the Kyoto Protocol on global warming, the International Criminal Court, the Anti-Ballistic Missile Treaty and an international ban on land mines.

An internationalist also would support the International Food for Peace Program, which I directed during the Kennedy administration, as well as the efforts I carried forward to reduce global hunger during my service as a Clinton administration ambassador to the U.N. Food and Agriculture agencies in Rome. Former senator Bob Dole and I have teamed up to press for an international school lunch program that would reach 300 million elementary school children who are not being fed.

I am opposed to the Bush doctrine of "preemptive war"—what heretofore has been known as aggression or invasion. I am also opposed to congressional resolutions that give the president a blank check to go to war when he pleases.

I have always thought America to be the greatest country on earth. One of the reasons

I think so is because of our great founding fathers, including Thomas Jefferson, who spoke of "a decent respect to the opinions of mankind." Is there any doubt that the opinion of mankind was overwhelmingly against our wars in Vietnam and Iraq?

We don't measure a nation's internationalism by the number of troops it sends to other countries. But that test, Adolf Hilter would be the greatest internationalist of the 20th century. I might add for Marshall's edification that I would not have won the Democratic presidential nomination in 1972—winning 11 primaries, including two largest states, New York and California—if I had been perceived as an isolationist. I also believe that if the disgraceful conduct of President Richard Nixon during that campaign had been known before the election, I would have been elected. If so, I would have led as an internationalist unafraid to use force in the national interest.

The writer was a Democratic senator from South Dakota from 1963 to 1981 and his party's presidential nominee in 1972.

## SUPPORT FOR DURBIN AMENDMENT TO S. 3

Ms. MIKULSKI. On March 12, 2003, during the debate on S. 3, the Partial Birth Abortion Ban Act, I made the following statement in support of the Durbin amendment:

Mr. President, I rise to express my strong support for the Durbin amendment.

I support the Durbin amendment because it is consistent with my four principles. These are my principles: It respects the constitutional underpinnings of Roe v. Wade. It prohibits all post-viability abortions, regardless of the procedure used. It provides an exception for the life and health of a woman, which is both intellectually rigorous and compassionate. And it leaves medical decisions in the hands of physicians—not politicians.

The Durbin alternative addresses this difficult issue with the intellectual rigor and seriousness of purpose it deserves. We are not being casual. We are not angling for political advantage. We are not looking for cover.

The Durbin amendment offers the Senate a sensible alternative, one that would prohibit post-viability abortions while respecting the Constitution and protecting women's lives. I believe it is an alternative that reflects the views of the American people.

I support the Durbin amendment because it is a stronger, more effective approach to banning late term abortions. The Durbin amendment respects the Constitution and the Supreme Court's ruling in Roe v. Wade.

The Santorum bill before us does not. It is unconstitutional.

In fact, the Supreme Court ruled in Stenberg v. Carhart just 3 years ago that a Nebraska State law that bans certain abortion procedures is unconstitutional. The Supreme Court ruled it was unconstitutional for two reasons. First, it did not include an exception for a woman's health. Second, it does not clearly define the procedure it aims to prohibit and would ban other procedures, sometimes used early in pregnancy.

The bill before us, the Santorum bill, is nearly identical to the Nebraska law the Supreme Court struck down. The proponents of this legislation say they have made changes to the bill to address the Supreme Court's ruling. They have not. It still does not include an exception to protect the health of the woman. It still does not clearly define the procedure it claims to prohibit. Let me be clear about this. The Santorum bill is unconstitutional.

The Santorum bill violates the key principles of Roe v. Wade and other Court decisions. When the Court decided Roe, it was faced with the task of defining, "When does life begin?" Theologians and scientists differ on this. People of good will and good conscience differ on this.

So the Supreme Court used viability as its standard. Once a fetus is viable it is presumed to have not only a body, but a mind and spirit. Therefore it has standing under the law as a person.

The Roe decision is quite clear. States can prohibit abortion after viability so long as they permit exceptions in cases involving the woman's life or health. Under Roe, states can prohibit most late term abortions. And 41 states have done so.

In my own state of Maryland, we have a law that does just that. It was adopted by the Maryland General Assembly. It prohibits post viability abortions. It provides an exception to protect the life or health of the woman, as the Constitution requires. It also provides an exception if the fetus is affected by a genetic defect or a serious abnormality. This law reflects the views of Marylanders. It was approved by the people of Maryland by referendum.

Like the Maryland law, the Durbin alternative is consistent with Roe. It is a compassionate, Constitutional approach to prohibiting late term abortions.

It says that after the point of viability no woman should be able to abort a viable fetus. The only exception can be when the woman faces a threat to her life or serious and debilitating risk to her health as required by the Constitution.

The Durbin amendment is stronger than the Santorum bill. It bans all post viability abortions. Unlike the Santorum bill, the Durbin amendment doesn't create loopholes by allowing other procedures to be used.

I believe there is no Senator who thinks a woman should abort a viable fetus for a frivolous, non-medical reason. It does not matter what procedure is used. It is wrong, and we know it. The Durbin alternative bans those abortions. It is a real solution.

On the other hand, Senator SANTORUM's bill does not stop a single abortion. It does not ban all late term abortions. It bans certain procedures and diverts doctors to other procedures. This approach is both hollow and ineffective. It bans procedures that may be the safest for a woman's health. But let me be clear. Under Santorum, late term abortions would still be allowed to happen.

It does not make late term abortions more rare. It makes them more dangerous. And for that reason, the Santorum approach is ineffective.

The Durbin amendment provides a tough and narrow health exception that is both intellectually rigorous and compassionate. It will ensure that women who confront a grave health crisis late in a pregnancy can receive the treatment they need. The Durbin amendment defines such a crisis as a "severely debilitating disease or impairment caused or exacerbated by pregnancy" or "an inability to provide necessary treatment to a life-threatening condition."

And we don't leave it up to her doctor alone. We require that a second, independent physician also certify that the procedure is the most appropriate for the unique circumstances of the woman's life.

I want to be very clear in this. The Durbin amendment does not create a loophole with its health exception. We are not loophole shopping when we insist that an exception be made in the case of serious and debilitating threats to a woman's physical health. This is what the Constitution requires—and the reality of women's lives demands.

Let's face it. Women do sometimes face profound medical crises during pregnancy. Breast cancer, for example, occurs in one in 3,000 pregnancies. In some unfortunate circumstances, pregnant women in their second trimester discover lumps in their breasts and are diagnosed with invasive breast cancer. Continuing the pregnancy—and delaying medical treatment—would put a woman's health in grave danger.

The Durbin amendment recognizes that to deny a woman in a situation like this access to the abortion that could save her life and physical health would be unconscionable. To deny her other children a chance to know a healthy mother would be unconscionable.

When the continuation of the pregnancy is causing profound health problems, a woman's doctor must have every tool available to respond. I readily acknowledge that the procedure described by my colleagues on the other side is a grim one. I do not deny that. But there are times when the realities of women's lives and health dictates that this medical tool be available.

I support the Durbin alternative because it leaves medical decisions up to doctors, not legislators. It relies on medical judgement, not political judgement about what is best for a patient.

Not only does the Santorum bill not let doctors be doctors, it criminalizes them for making the best choice for their patients.

Under this bill, a doctor could be sent to prison for up to two years for doing what he or she thinks is necessary to save a woman's life or health. I say that's wrong.

In fact, those who oppose the Durbin amendment say it is flawed precisely because it leaves medical judgements up to physicians. Well, who else should decide? Would the other side prefer to have the government make medical decisions?

I disagree with that. I believe we should not substitute political judgement for medical judgement. We need to let doctors be doctors. This is my principle whether we are talking about reproductive choice or any health care matter.

Physicians have the training and expertise to make medical decisions. They are in the best position to recommend what is necessary or appropriate for their patients. Not bureaucrats. Not managed care accountants. And certainly not legislators.

The Durbin amendment provides sound public policy, not a political soundbite. It is our best chance to address the concerns many of us have about late term abortions.

Today we have an opportunity today to do something real. We have an opportunity to let logic and common sense win the day. We have an opportunity to do something that I know reflects the views of the American people. Today, we can pass the Durbin amendment.

We can say that we value life, and that we value our Constitution. We can make clear that a viable fetus should not be aborted. We can say that we want to save women's lives and protect women's health.

The only way to do this is to vote for the Durbin amendment. I urge my colleagues to support it.

## WYNONA WARD OF "HAVE JUSTICE—WILL TRAVEL"

Mr. LEAHY. Mr. President, I rise today to speak about a truly remarkable Vermonter who delivers "justice on wheels" to victims of domestic abuse.

Wynona Ward is the founder and director of Have Justice—Will Travel, HJWT, an innovative, mobile, multiservice program that assists rural victims of domestic violence through the legal process. She accomplishes this by combining her present profession as an attorney with her experiences as a truck driver to provide a variety of services—including free legal aid, inhome counseling, and transportation to and from court hearings and other social service appointments to rural families trapped in the generational cycle of abuse.

Based on her pioneering and inspirational work on behalf of domestic violence victims and their families, Wynona has been selected by Lifetime Television to be honored in "Lifetime's Achievement Awards: Women Changing the World," which will air tonight. An independent panel of judges reviewed thousands of nominations before selecting six women for the honor. Wynona received the "Champion Award," presented to a woman who overcame "seemingly insurmountable odds to create a positive change for herself or others."

Wynona was born into a poor family where alcoholism and abuse was routine—her father beat her mother and his 5 children, and sexually assaulted his daughters. Family violence was an accepted way of life then in rural Vermont. Local doctors treated the black-and-blues and other injuries that frequently appeared on the bodies of Wynona, her mother and her siblings, but they never once asked how those bruises got there. No law required that they be reported, and even if suspected abuse were reported, law officials would hesitate to interfere with goings on in the home. The family had no choice but to suffer in secret.

To escape her abusive father, Wynona married young and then worked 15 years with her husband, Harold, in their own trucking business driving their 18-wheeler tractor-trailer unit cross-country. Years later, she received word from home that the abuse she had known was beginning for the next generation of her family. Wynona decided to take action by revealing the family secret so that her family could no longer deny that abuse existed, and volunteered as the victim's advocate for the child who had been sexually abused. Her experience led her to her current career after realizing how traumatizing and confusing the legal system can be for victims and their families.

After she turned 40, Wynona entered the Adult Degree Program at Vermont College of Norwich University. She and Harold continued to run their trucking business, and as they crossed the U.S., she completed her B.A. on a laptop in the living compartment of their truck. She then entered Vermont Law School, and in April 2000, she passed the bar and was sworn in as a licensed Vermont Attorney.

Drawing on her personal experience as a survivor of childhood domestic abuse, Wynona created a new way to bridge the legal, geographical, psychological, cultural and economic gaps that exist for battered women and their children. She came up with the concept of Have Justice—Will Travel from the knowledge that battered rural women living in isolation often lack education or job skills and access to telephones and transportation. They need comprehensive assistance in achieving self-reliance and independence. HJWT serves about 50 clients a year, and offers assistance to several hundred more women not only in Vermont but those in rural areas throughout the United States.

"Have Justice—Will Travel" has been successful in serving women and children throughout the State of Vermont. It is a shining example for grassroots domestic violence assistance on a national level. I have met this extraordinary woman many times, and I never fail to be inspired and humbled by her dramatic personal story and her venture into a non-traditional career. I salute Wynona Ward today as a true champion.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT THAT DECLARES A NATIONAL EMERGENCY TO DEAL WITH THE UNUSUAL AND EXTRAORDINARY THREAT POSED TO THE NATIONAL SECURITY AND FOREIGN POLICY OF THE UNITED STATES BY THE THREAT OF ATTACHMENT OR OTHER JUDICIAL PROCESS AGAINST THE DEVELOPMENT FUND FOR IRAQ, IRAQI PETROLEUM AND PETROLEUM PRODUCTS, AND INTERESTS THEREIN, AND PROCEEDS, OBLIGATIONS, OR ANY FINANCIAL INSTRUMENTS OF ANY NATURE WHATSOEVER ARISING FROM OR RELATED TO THE SALE OR MARKETING THEREOF, AND INTERESTS THEREIN—PM 36

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Consistent with section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), section 5 of the United Nations Participation Act (22 U.S.C. 287c) (UNPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my authority to declare a national emergency to deal with the unusual and extraordinary threat posed to the national security and foreign policy of the United States by the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein.

A major national security and foreign policy goal of the United States is to ensure that the newly established Development Fund for Iraq and other Iraqi resources, including Iraqi petroleum and petroleum products, are dedicated for the well-being of the Iraqi people, for the orderly reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, for the costs of indigenous civilian administration, and for other purposes benefiting the people of Iraq. The Development Fund for Iraq and other property in which Iraq has an interest may be subject to attachment, judgment, decree, lien, execution, garnishment, or other judicial process, thereby jeopardizing the full dedication of such assets to purposes benefiting the people of Iraq. To protect these assets, I have ordered that, unless licensed or otherwise authorized pursuant to my order, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process be prohibited, and shall be deemed null and void, with respect to the following:

(a) the Development Fund for Iraq, and

(b) all Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale and marketing thereof, and interests therein, in which any foreign country or a national thereof has any interest, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons.

In addition, by my memorandum to the Secretary of State and Secretary of Commerce of May 7, 2003 (Presidential Determination 2003-23), I made inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87-195, as amended, and any other provision of law that applies to countries that have supported terrorism. Such provisions of law that apply to countries that have supported terrorism include, but are not limited to, 28 U.S.C. 1605(a)(7), 28 U.S.C. 1610, and section 201 of the Terrorism Risk Insurance Act.

I also have ordered that Executive Order 12722 of August 2, 1990, and Executive Order 12724 of August 9, 1990, which blocked property and interests in property of the Government of Iraq, its agencies, instrumentalities and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, and Executive Order 13290 of March 20, 2003, which confiscated and vested certain Government of Iraq accounts, shall not apply to the Development Fund for Iraq or to Iraqi petroleum or petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale and marketing thereof, and interests therein.

I have delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the authority to take such actions as may be necessary to carry out the purposes of the Executive Order, including the promulgation of rules and regulations. I have also authorized the Secretary of the Treasury to employ all powers granted to the President by IEEPA and UNPA to carry out the purposes of the Executive Order. I am enclosing a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 22, 2003.*

## MESSAGES FROM THE HOUSE

### ENROLLED BILL SIGNED

At 11:57 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 330. An act to further the protection and recognition of veterans' memorials, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the house disagrees to the amendment of the Senate to the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, and agrees to the conference asked by the Senate on the disagreeing of the two Houses thereon; and appoints the following as managers of the conference on the part of the House:

For consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. DELAY, and Mr. RANGEL.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1170. An act to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.

H.R. 1911. An act to amend title 38, United States Code, to enhance cooperation and the sharing of resources between the Department of Veterans Affairs and the Department of Defense.

The message further announced that the House has agreed to the following concurrent resolution, with an amendment:

S. Con. Res. 46. Concurrent resolution to correct the enrollment of H.R. 1298.

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1257. An act to amend title 38, United States Code, to make permanent the authority for qualifying members of the Selected Reserve to have access to home loans guaranteed by the Secretary of Veterans Affairs and to provide for uniformity in fees charged qualifying members of the Selected Reserve and active duty veterans for such home loans.

H.R. 1683. An act to increase, effective as of December 1, 2003, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

At 9:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2185. An act to extend the Temporary Extended Unemployment Compensation Act of 2002.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1170. An act to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1257. An act to amend title 38, United States Code, to make permanent the authority for qualifying members of the Selected Reserve to have access to home loans guaranteed by the Secretary of Veterans Affairs and to provide for uniformity in fees charged qualifying members of the Selected Reserve and active duty veterans for such home loans; to the Committee on Veterans' Affairs.

H.R. 1683. An act to increase, effective as of December 1, 2003, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1911. An act to amend title 28, United States Code, to enhance cooperation and the sharing of resources between the Department of Veterans Affairs and the Department of Defense; to the Committee on Veterans' Affairs.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1104. A bill to amend title 10, United States Code, to provide for parental involvement in abortions of dependent children of members of the Armed Forces.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 22, 2003, she had delivered to the President of the United States the following enrolled bill:

S. 330. An act to further the protection and recognition of veterans' memorials, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2407. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Limitations on the Issuance of Commercial Driver's Licenses With a Hazardous Materials Endorsement (2126-AA70)" received on May 15, 2003; to the

Committee on Commerce, Science, and Transportation.

EC–2408. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Final Rule; Notice of Information Collection Approval (2137-AD67)" received on May 15, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2409. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Raccoon Creek, NJ (CGD05-02-065)"; to the Committee on Commerce, Science, and Transportation.

EC–2410. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Chicago Zone [CGD09-03-203]"; to the Committee on Commerce, Science, and Transportation.

EC–2411. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: (Including 3 Regulations) [COTP Western Alaska 03-002] [CGD09-03-212] [CGD09-03213] (1625-AA00) (2003-0018)"; to the Committee on Commerce, Science, and Transportation.

EC–2412. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: (Including 71 regulations) (1625-AA00) (2003-0019)"; to the Committee on Commerce, Science, and Transportation.

EC–2413. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Railroad Highway Projects (2125-AD86)" received on May 15, 2003; to the Committee on Environment and Public Works.

EC–2414. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Indian Reservation Road Bridge Program (2125-AE57)" received on May 15, 2003; to the Committee on Environment and Public Works.

EC–2415. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of a draft bill entitled "Economic Development Administration Reauthorization Act of 2003" received on May 15, 2003; to the Committee on Environment and Public Works.

EC–2416. A communication from the Rule Administration, Office of General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Public Works and Community Service Projects, final rule published April 18, 2003" received on May 15, 2003; to the Committee on the Judiciary.

EC–2417. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedule of Controlled Substances: Exempt Anabolic Steroid Products" received on May 19, 2003; to the Committee on the Judiciary.

EC–2418. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substance: Temporary Placement of Benzylpiperazine and Trifluoromethylpiperazine Into Schedule I" received May 19, 2003; to the Committee on the Judiciary.

EC–2419. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Rescheduling of Buprenorphine From Schedule V to Schedule III" received on May 19, 2003; to the Committee on the Judiciary.

EC–2420. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Dispensing of Controlled Substances to Assist Suicide (AG Order No. 2534-2001)" received on May 19, 2003; to the Committee on the Judiciary.

EC–2421. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Temporary Placement of 2.5 dimeethoxy-4(n)-propylthiophenethylanmine into Schedule I" received on May 19, 2003; to the Committee on the Judiciary.

EC–2422. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of controlled substances; Temporary Placement of Alpha-methyltryptamine and 5-methoxy-N, N-diisopropyltryptamine into Schedule I" received on May 19, 2003; to the Committee on the Judiciary.

EC–2423. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Excluded Veterinary Anabolic Steroid Implant Products" received on May 19, 2003; to the Committee on the Judiciary.

EC–2424. A communication from the Secretary of Defense, transmitting, pursuant to subsection 111(b) of division M of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), the report relative to the Terrorism (nee Total) Information Awareness program, received on May 19, 2003; to the Select Committee on Intelligence.

EC–2425. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards: Tour Operators (3245–AE98)" received on May 19, 2003; to the Committee on Small Business and Entrepreneurship.

EC–2426. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Regulations; Petroleum Refiners (3245–AE84)" received on May 15, 2003; to the Committee on Small Business and Entrepreneurship.

EC–2427. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report of a draft rule entitled "To amend titled 38, United States Code, to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes" received on May 19, 2003; to the Committee on Veterans' Affairs.

EC–2428. A communication from the Secretary of State, transmitting, pursuant to law, the report of the Department of State Performance Plan for FY 2004, received on May 15, 2003; to the Committee on Governmental Affairs.

EC–2429. A communication from the General Counsel, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy and nomination for the position of Deputy Director for Management of the Office of Management and Budget, received on May 15, 2003; to the Committee on Governmental Affairs.

EC–2430. A communication from the Director, Financial Management and Assurance, General Accounting Office, transmitting, pursuant to law, the report of document entitled "Financial Audit: Congressional Award Foundation's Fiscal Years 2002 and 2001 Financial Statements" received on May 15, 2003; to the Committee on Governmental Affairs.

EC–2431. A communication from the President and Chief Executive Officer, Overseas Private Investment Corporation (OPIC), transmitting, pursuant to law, OPIC's Management Report, the Annual Performance Plan, and the Annual Program Performance Report for Fiscal Year 2002; OPIC's Report on Development and U.S. Effects of Fiscal Year 2002 Projects, and a Report on Cooperation with Private Insurers; OPIC's Report on the Environment, received on May 15, 2003; to the Committee on Governmental Affairs.

EC–2432. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report relative to Six countries not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, Sudan, and Syria, received on May 15, 2003; to the Committee on Foreign Relations.

EC–2433. A communication from the President and CEO, transmitting, pursuant to law, the report of a draft legislation entitled "To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation"; to the Committee on Foreign Relations.

EC–2434. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC–2435. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–2436. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada and the United Kingdom, received on May 19, 2003; to the Committee on Foreign Relations.

EC–2437. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Norway, received on May 19, 2003; to the Committee on Foreign Relations.

EC–2438. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of Defense articles or defense services in the amount of $100,000,000 or more to Germany, received on May 19, 2003; to the Committee on Foreign Relations.

EC–2439. A communication from the Director of Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, the Annual Report of the Strategic Environmental Research and Development Program, received on May 15, 2003; to the Committee on Armed Services.

EC–2440. A communication from the Assistant Secretary of Defense, Health Affairs, Department of Defense, transmitting, pursuant to law, the Department of Defense Evaluation of the TRICARE Program Fiscal Year 2003 Report to Congress, received on May 15, 2003; to the Committee on Armed Services.

EC–2441. A communication from the Attorney/Advisor, Office of the General Counsel, Selective Service System, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Director, Selective Service System; to the Committee on Armed Services.

EC–2442. A communication from the Legal Counsel, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a nomination from the position of General Counsel for the Equal Employment Opportunity Commission, received on May 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–124. A resolution adopted by the Senate of the State of Michigan relative to the armed Forces Tax Fairness Act of 2003; to the Committee on Finance.

### SENATE RESOLUTION NO.65

Whereas, Under the provisions of the Taxpayer Relief Act of 1997, home sellers are relieved of the obligation to pay taxes on capital gains of up to $250,000 ($500,000 per couple), if they have owned and occupied their home for at least two of the five years before the sale. This historic legislation made the federal tax code fairer and more equitable for millions of American taxpayers; and

Whereas, A glaring inequity in the tax code, however, affects a number of those who serve our nation as military personnel and who leave their homes on extended assignment. These brave men and women may be penalized for their selfless service on behalf of the American people and our allies. Many are unable to take advantage of the capital gains tax relief afforded ordinary citizens because their call to overseas duty may prevent them from physically occupying their homes for the required period of time; and

Whereas, Two measures currently before the 108th Congress (H.R. 1307 and S. 351) propose ending the injustice of the Taxpayer Relief Act's limitation regarding extended overseas military service. The Armed Forces Tax Fairness Act of 2003 would, in part, extend the five-year period used in calculating the full exemption for capital gain to ten years for persons engaged in qualified official extended duty in military or foreign service. This legislation will help assure that those who so proudly serve our nation will not be disserviced by its tax code: Now, therefore, be it

*Resolved by the Senate*, That the United States Congress be memorialized to enact the Armed Forces Tax Relief Act of 2003; and be it further

*Resolved*, That copies of this resolution be presented to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation.

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POM–125. A concurrent resolution passed by the Legislature of the State of Arizona relative to rescinding all of Arizona's previous calls for a constitutional convention to amend the Constitution of the United States, received on May 15, 2003; to the Committee on the Judiciary.

### SENATE CONCURRENT RESOLUTION 1022

Whereas, the Legislature of the State of Arizona, acting with the best of intentions, has in the past applied to the Congress of the United States by memorial or resolution in accordance with article V, Constitution of the United States, for one or more constitutional conventions for the purpose of amending the Constitution of the United States; and

Whereas, over the course of time, the will of the people of the State of Arizona has changed with regards to Arizona's previous calls for a constitutional convention to amend the Constitution of the United States; and

Whereas, certain persons or states have called for a constitutional convention on issues that may be directly in opposition to the will of the people of this state; and

Whereas, the people of this state do not want their previous applications for a constitutional convention to be aggregated with those calls for a convention from other states; and

Whereas, former Justice of the United States Supreme Court Warren E. Burger, former Associate Justice of the United States Court Arthur J. Goldberg and many other leading constitutional scholars are in general agreement that a convention, notwithstanding whatever limitation might be placed on it by the call for a convention, may propose sweeping constitutional changes or, by virtue of the authority of a constitutional convention, redraft the Constitution of the United States creating an imminent peril to the well established rights of citizens and to the duties of various levels of government; and

Whereas, the Constitution of the United States has been amended many times in the history of this nation and may be amended many more times without the need to resort to a constitutional convention, and has been intercepted for more than two hundred years and found to be a sound document that protects the lives and liberties of citizens; and

Whereas, there is no need for, and in fact there is great danger in, a new constitution or in opening the Constitution of the United States racial changes, the adoption of which could create legal chaos in this nation and begin the process of another two centuries of litigation over its meaning and interpretation: and

Whereas, changes or amendments that may be needed in the present Constitution of the United States may be proposed and enacted without resorting to a constitutional convention by using the process provided in the Constitution and previously used throughout the history of this nation: Therefore be it

*Resolved by the Senate of the State of Arizona, the House of Representatives concurring*:

1. That the Legislature of the State of Arizona hereby repeals; rescinds, cancels, renders null and void and supersedes any and all existing applications to the Congress of the United States for a constitutional convention under Article V of the Constitution of the United States for any purpose, whether limited or general.
2. That the Legislature of the State of Arizona urges the legislature of each and every state that has applied to Congress for either a general or limited constitutional convention to repeal and rescind their applications.
3. That the Secretary of State of the State of Arizona transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, the Administrator of General Services in Washington, DC., each Member of Congress from the State of Arizona and the Secretaries of State and presiding officers of both houses of the legislation of each state in the Union.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 579. A bill to reauthorize the National Transportation Safety Board, and for other purposes (Rept. No. 108–53).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 92. A resolution designating September 17, 2003 as "Constitution Day".

S. Res. 136. A resolution recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's many achievements.

S. Res. 145. A resolution designating June 2003, as "National Safety Month".

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 554. A bill to allow media coverage of court proceedings.

S. 858. A bill to extend the Abraham Lincoln Bicentennial Commission, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nomination of Maj. Gen. John W. Rosa, Jr.

Air Force nomination of Brig. Gen. Barbara C. Brannon.

Army nomination of Maj. Gen. Jerry L. Sinn.

Army nomination of Maj. Gen. Steven W. Boutelle.

Army nomination of Maj. Gen. Ricardo S. Sanchez.

Army nomination of Maj. Gen. Anthony R. Jones.

Army nomination of Maj. Gen. John R. Vines.

Army nomination of Brig. Gen. Emile P. Bataille.

Army nomination of Brig. Gen. David H. Hicks.

Army nomination of Brig. Gen. Brian L. Tarbet.

Army nomination of Chaplain (Col.) Jerome A. Haberek.

Navy nomination of Rear Adm. Michael J. McCabe.

Navy nomination of Rear Adm. (lh) John P. Debbout.

Navy nomination of Capt. Craig O. McDonald.

Mr. WARNER. Mr. President, for the Committee on Armed Services, I report favorably the following nomination lists which were printed in the Record on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning Elise A. * Ahlswede and ending Paul K. * Yenter, which nominations were received by the Senate and appeared in the Congressional Record on January 13, 2003.

Air Force nomination of Jefferson L. Severs.

Army nominations beginning Charles R. Bailey and ending David W. Smartt, which nominations were received by the Senate and appeared in the Congressional Record on January 29, 2003.

Marine Corps nominations beginning Benjamin T. Ackison and ending Robert B. Zwayer, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2003.

Navy nominations beginning Amando F. Abaya and ending Shanon J. Wells, which nominations were received by the Senate and appeared in the Congressional Record on May 1, 2003.

By Mr. HATCH for the Committee on the Judiciary.

Michael Chertoff, New Jersey, to be United States Circuit Judge for the Third Circuit.

Robert D. McCallum, Jr., of Georgia, to be Associate Attorney General.

Peter D. Keilser, of Maryland, to be an Assistant Attorney General.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself, Mr. Specter, Mr. Kohl, Mr. Durbin, Mr. Feingold, Mrs. Clinton, and Mr. Schumer):

S. 1103. A bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWNBACK:

S. 1104. A bill to amend title 10, United States Code, to provide for parental involvement in abortions of dependent children of members of the Armed Forces; read the first time.

By Mr. BOND:

S. 1105. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself and Mr. Kerry):

S. 1106. A bill to establish National Standards for Fishing Quota Systems; to the Committee on Commerce, Science, and Transportation.

By Mr. THOMAS:

S. 1107. A bill to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON (for herself and Mr. Warner):

S. 1108. A bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes; to the Committee on the Judiciary .

By Mr. TALENT (for himself and Mr. Wyden):

S. 1109. A bill to provide $50,000,000,000 in new transportation infrastructure funding through Federal bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, rail, transit, aviation, and water, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. Baucus, Mr. Rockefeller, Mr. Daschle, Mrs. Murray, Ms. Cantwell, Mr. Dayton, Mr. Lieberman, Mrs. Lincoln, and Mrs. Feinstein):

S. 1110. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1111. A bill to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the Record of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself and Mr. Harkin):

S. 1112. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs pharmacies to dispense medications on prescriptions written by private practitioners to veterans who are currently awaiting their first appointment with the Department for medical care, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself and Mr. DeWine):

S. 1113. A bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the medicare program for bone mass measurements; to the Committee on Finance.

By Mrs. LINCOLN (for herself and Ms. Collins):

S. 1114. A bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. Dayton, Ms. Cantwell, Mr. Baucus, Mr. Leahy, Mrs. Boxer, and Mr. Jeffords):

S. 1115. A bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products; to the Committee on Environment and Public Works.

By Mr. LEVIN (for himself, Mr. DeWine, Ms. Stabenow, and Mr. Voinovich):

S. 1116. A bill to amend the Federal Water Pollution Control Act to direct the Great Lakes National Program Office of the Environmental Protection Agency to develop, implement, monitor, and report on a series of indicators of water quality and related environmental factors in the Great Lakes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself, Mr. Kennedy, and Mr. Jeffords):

S. 1117. A bill to provide a definition of a prevailing party for Federal fee-shifting statutes; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. Leahy, Mr. Schumer, and Mrs. Clinton):

S. 1118. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of Florida (for himself, Mr. Hatch, and Mr . Jeffords):

S. 1119. A bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. Rockefeller, Mr. Bingaman, Mr. Dayton, and Mrs. Murray):

S. 1120. A bill to establish an Office of Trade Adjustment Assistance, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. McCain):

S. 1121. A bill to extend certain trade benefits to countries of the greater Middle East; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. Daschle):

S. 1122. A bill to provide equitable funding for tribal transportation programs, and for other purposes; to the Committee on Indian Affairs.

By Mrs. BOXER (for herself and Mr. Biden):

S. 1123. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary.

By Ms. MIKULSKI:

S. 1124. A bill to amend title 38, United States Code, to increase burial benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HATCH (for himself, Mr. Nelson of Nebraska, Mr. DeWine, Mr. Miller, Mr. Voinovich, Mr. Allen, and Mr. Chambliss):

S. 1125. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. Kerry, and Mr. Smith):

S. 1126. A bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Ms. STABENOW (for herself, Mr. Kennedy, Mr. Leahy, Mr. Dodd, Mr. Corzine, Mr. Lautenberg, Mr. Harkin, Mr. Bingaman, Mr. Durbin, and Mr. Rockefeller):

S. 1127. A bill to establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. Leahy, and Mr. Kohl):

S. 1128. A bill to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. Brownback, Mr. Voinovich, Ms. Cantwell, Mr. DeWine, Mr. Lautenberg, Mr. Feingold, and Mr. Kennedy):

S. 1129. A bill to provide for the protection of unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 1130. A bill for the relief of Esidronio Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. Bunning):

S. 1131. A bill to increase, effective December 1, 2003, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself, Mr. Bunning, and Mr. Graham of South Carolina):

S. 1132. A bill to amend title 38, United States Code, to improve and enhance certain benefits for survivors of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER (by request):

S. 1133. A bill to amend title 38, United States Code, to improve the authorities of the Department of Veterans Affairs relating to compensation, dependency and indemnity compensation, pension, education benefits, life insurance benefits, and memorial benefits, to improve the administration of benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOND (for himself and Mr. Inhofe) (by request):

S. 1134. A bill to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. Jeffords, Mr. Grassley, Mrs. Lincoln, and Mr. Bingaman):

S. 1135. A bill to amend title XVIII of the Social Security Act to establish a uniform national medicare physician fee schedule; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. Bunning):

S. 1136. A bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' Affairs.

By Mr. LOTT:

S. 1137. A bill to establish a Mississippi Gulf Coast National Heritage Area in the State of Mississippi, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COLEMAN:

S. 1138. A bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DeWINE (for himself and Mr. Lautenberg):

S. 1139. A bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. DeWine, and Mrs. Feinstein):

S. 1140. A bill to amend titles 23 and 49, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mr. DeWine):

S. 1141. A bill to amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol; to the Committee on Environment and Public Works.

By Mrs. MURRAY (for herself, Mr. Graham of Florida, Mr. Miller, Mr. Rockefeller, and Mr. Bunning):

S.J. Res. 13. A joint resolution to designate April 9, 2004, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY (for herself, Ms. Snowe, Mr. Daschle, and Mr. Kennedy):

S. Res. 153. A resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

### S. 146

At the request of Mr. DeWine, the names of the Senator from Missouri (Mr. Bond), the Senator from Texas (Mr. Cornyn), the Senator from Idaho (Mr. Craig) and the Senator from Idaho (Mr. Crapo) were added as cosponsors of S. 146, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

### S. 229

At the request of Mr. Johnson, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 229, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

### S. 271

At the request of Mr. Smith, the name of the Senator from Georgia (Mr. Chambliss) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

### S. 310

At the request of Mr. Thomas, the names of the Senator from Kentucky (Mr. Bunning) and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

### S. 333

At the request of Mr. Breaux, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

### S. 451

At the request of Ms. Snowe, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

### S. 480

At the request of Mr. Harkin, the name of the Senator from Wisconsin (Mr. Kohl) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

### S. 518

At the request of Ms. Collins, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 526

At the request of Mr. HATCH, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 526, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries.

S. 542

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 542, a bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 595

At the request of Mr. HATCH, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 654

At the request of Ms. SNOWE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 654, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 656

At the request of Mr. REED, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 724

At the request of Mr. ENZI, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 724, a bill to amend title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials.

S. 741

At the request of Mr. SESSIONS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 777

At the request of Mr. INHOFE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 777, a bill to amend the impact aid program under the Elementary and Secondary Education Act of 1965 to improve the delivery of payments under the program to local educational agencies.

S. 818

At the request of Ms. SNOWE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 818

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 818, supra.

S. 856

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 856, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 862

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 862, a bill to promote the adoption of children with special needs.

S. 874

At the request of Mr. TALENT, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 875

At the request of Mr. KERRY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 878

At the request of Mr. CRAIG, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 878, a bill to authorize an additional permanent judgeship in the District of Idaho, and for other purposes.

S. 888

At the request of Mr. GREGG, the names of the Senator from Nevada (Mr. REID), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from South Dakota (Mr. DASCHLE), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 888, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 890

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 890, a bill to amend the Individuals with Disabilities Education Act to provide grants to State educational agencies to establish high cost funds from which local educational agencies are paid a percentage of the costs of providing a free appropriate public education to high need children and other high costs associated with educating children with disabilities, and for other purposes.

S. 893

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 899

At the request of Mr. BAYH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 899, a bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes.

S. 922

At the request of Mr. KENNEDY, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 922, a bill to change the requirements for naturalization through service in the Armed Forces of the United

States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

### S. 923

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 923, a bill to provide for additional weeks of temporary extended unemployment compensation, to provide for a program of temporary enhanced regular unemployment compensation, and for other purposes.

### S. 982

At the request of Mrs. BOXER, the names of the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Ms. STABENOW), the Senator from Minnesota (Mr. DAYTON), the Senator from Nevada (Mr. REID), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

### S. 1008

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1008, a bill to provide for the establishment of summer health career introductory programs for middle and high school students.

### S. 1019

At the request of Mr. DEWINE, the names of the Senator from Missouri (Mr. BOND), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

### S. 1037

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1037, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

### S. 1046

At the request of Mrs. DOLE, her name was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

### S. 1082

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1082, a bill to provide support for democracy in Iran.

### S. 1086

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1086, a bill to repeal provisions of the PROTECT Act that do not specifically deal with the prevention of the exploitation of children.

### S. 1087

At the request of Ms. MIKULSKI, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1087, a bill to provide for uterine fibroid research and education, and for other purposes.

### S. 1091

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

### S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

### S. CON. RES. 7

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

### S. CON. RES. 7

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. Con. Res. 7, supra.

### S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. Con. Res. 7, supra.

### S. RES. 133

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 133, a resolution condemning bigotry and violence against Arab Americans, Muslim Americans, South-Asian Americans, and Sikh Americans.

### AMENDMENT NO. 691

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 691 proposed to S. 1050, an original bill to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

### AMENDMENT NO. 785

At the request of Mr. WARNER, his name and the name of the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 785 proposed to S. 1050, an original bill to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

### AMENDMENT NO. 785

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of amendment No. 785 proposed to S. 1050, supra.

### AMENDMENT NO. 785

At the request of Mr. KERRY, his name was added as a cosponsor of amendment No. 785 proposed to S. 1050, supra.

### AMENDMENT NO. 785

At the request of Mr. DODD, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Rhode Island (Mr. REED), the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mr. SCHUMER), the Senator from Vermont (Mr. JEFFORDS), the Senator from New York (Mrs. CLINTON), the Senator from Maine (Ms. SNOWE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. BAUCUS), the Senator from California (Mrs. FEINSTEIN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 785 proposed to S. 1050, supra.

### AMENDMENT NO. 785

At the request of Mr. SMITH, his name was added as a cosponsor of amendment No. 785 proposed to S. 1050, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KOHL, Mr. DURBIN, Mr. FEINGOLD, Mrs. CLINTON, and Mr. SCHUMER):

S. 1103. A bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today I am introducing the Meat and Poultry Pathogen Reduction Act of 2003. This legislation, commonly known as Kevin's Law, is dedicated to the memory of 2-year-old Kevin Kowalcyk, who died in 2001 after eating a hamburger contaminated with E.coli H7:0157 bacteria. Passage of this bill is vital because on December 6, 2001, the 5th Circuit Court of Appeals upheld and expanded an earlier District Court decision that removes the U.S. Department of Agriculture's, USDA, authority to enforce its Pathogen Performance Standard for Salmonella. The 5th Circuit's decision in Supreme Beef v. USDA, Supreme, seriously undermines the sweeping food safety changes adopted by USDA in its 1996 Hazard Analysis Critical Control Point and Pathogen Reduction, HACCP, rule.

More recently, there was another court case that calls into question USDA's authority to enforce its microbiological performance standards. A company called Nebraska Beef sued USDA after the Department tried to shut down the plant for numerous alleged food safety violations. The judge in the case granted a temporary restraining order, preventing USDA to take enforcement action.

According the 5th Circuit's opinion in Supreme and the Nebraska Beef decision, today, there is nothing USDA could do to shut down a meat grinding plant that insists on using low-quality, potentially contaminated trimmings. These decisions seriously undermine the new meat and poultry inspection system.

The Pathogen Reduction Rule recognized that bacterial and viral pathogens were the foremost food safety threat in America, responsible for 5,000 deaths, 325,000 hospitalizations and 76 million illnesses each year. To address the threat of foodborne illness, USDA developed a modern inspection system based on two fundamental principles.

The first was that industry has the primary responsibility to determine how to produce the safest products possible. Industry had to examine their plants and determine how to control contamination at every step of the food production process, from the moment a product arrives at their door until the moment it leaves their plant.

The second, even more crucial principle was that plants nationwide must reduce levels of dangerous pathogens in meat and poultry products. To ensure the new inspection system accomplished this, USDA developed Pathogen Performance Standards. These standards provide targets for reducing pathogens and require all USDA-inspected facilities to meet them. Facilities failing to meet a standard are shut down until they create a corrective action plan to meet the standard.

So far, USDA has only issued one Pathogen Performance Standard, for Salmonella. The vast majority of plants in the U.S. have been able to meet the new standard, so it is clearly workable. In addition, USDA reports that Salmonella levels for meat and poultry products have fallen substantially. Therefore the Salmonella standard has been successful. The 5th Circuit Court's and the Nebraska Beef decisions threaten to destroy this success and set our food safety system back years.

The other major problem is we have an industry dead set on striking down USDA's authority to enforce meat and poultry pathogen standards. Ever since the original Supreme decision, I have spent untold hours trying to find a compromise that will allow us to ensure we have enforceable, science-based standards for pathogens in meat and poultry products. I have introduced bills to address this issue and I have even worked with industry leaders to reach a reasonable compromise.

However, despite repeated attempts to address industry concerns, industry has continually backtracked and moved the finish line. Many times, I have made changes in my legislation to address their "pressing" concern of the moment only to have them come back and say we hadn't gone far enough. We cannot let a few bullies in the meat and poultry industry place our children, our families at a increased risk of getting ill or dying, because some of the industry want to backtrack on food safety.

In addition, the recent announcement that a cow in Alberta, Canada tested positive for bovine spongiform encephalopathy, BSE, otherwise known as "mad cow disease", provoked the U.S. government to immediately close the U.S.-Canadian border for the trade at beer and beef products. I applaud the current Administration for taking this action to ensure the safety of our Nation's food supply until more information is made available about the true extent of the problem.

And without downplaying the seriousness of that horrible disease, I think its necessary to look at the impact of BSE in light of other food borne illnesses. Researchers believe that BSE is linked to variable Creutzfeldt-Jakob, vCJD, disease. Since its onset in Britain in 1995, 129 people have died worldwide from vCJD. Foodborne pathogens, on the other hand, have cause 5000 deaths, 125,000 hospitalizations, and 76 million illnesses each year. The numbers speak for themselves.

The swift and comprehensive response provoked by a single diseased cow in a neighboring country stands in stark contrast to the way our government currently responds to outbreaks of foodbornes illness in our country today. USDA has the ability to shut down the trade from the biggest importer of beef into out country on suspicions of possible food safety problems, but cannot even temporarily shut down one plant that USDA knows has problems.

I plan to seek every opportunity to get this language enacted. I think it is essential, both to ensuring the modernization of our food safety system, and ensuring consumers that we are making progress in reducing dangerous pathogens.

I hope that both parties, and both houses of Congress will be able to act to pass this legislation without delay. The public's confidence in our meat and poultry inspection system is at stake.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1103

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Meat and Poultry Pathogen Reduction and Enforcement Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the primary purpose of the Federal meat and poultry inspection program is to protect public health;

(2) the Centers for Disease Control and Prevention report that human pathogens found in raw and cooked meat, meat products, poultry, and poultry products are a significant source of foodborne illness;

(3) to reduce the public health burden of foodborne illness, the Federal meat and poultry inspection system should focus on reducing the risk of foodborne illness associated with the presence of foodborne pathogens through—

(A) establishment and enforcement of performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services; and

(B) enforcement of the Hazard Analysis and Critical Control Point (HACCP) System requirements and sanitation requirements;

(4) good public health practice requires controlling pathogens as close as practicable to the initial source of contamination to reduce pathogens and prevent foodborne illness;

(5) there is a need for strong safeguards at slaughter establishments during the slaughter and processing of meat and poultry products because those establishments are where pathogen contamination often originates;

(6) while proper handling and cooking of meat and poultry products can virtually eliminate the risk of foodborne illness from the consumption of meat and poultry, the presence of pathogens in raw meat and poultry products leads to cross-contamination of other foods and surrounding surfaces;

(7) to reduce the risk of foodborne illness and protect public health, regulatory authorities and all parties involved in the production and handling of meat, meat products, poultry, or poultry products should make a concerted effort to reduce, to the maximum extent practicable, contamination

by pathogens using the best available scientific information and appropriate technology;

(8) the distribution of meat, meat products, poultry, or poultry products that contain human pathogens—

(A) impairs the effective regulation of wholesome meat, meat products, poultry, or poultry products in interstate and foreign commerce; and

(B) destroys markets for wholesome products;

(9) all articles and other animals that are subject to this Act and the amendments made by this Act are either in or substantially affect interstate or foreign commerce; and

(10) regulation by the Secretary of Agriculture and cooperation by the States are necessary to prevent or eliminate burdens on interstate or foreign commerce and to protect the health and welfare of consumers.

**SEC. 3. PATHOGEN PERFORMANCE STANDARDS.**

(a) Meat and Meat Products.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by inserting after section 8 (21 U.S.C. 608) the following:

**“SEC. 8A. PATHOGEN PERFORMANCE STANDARDS.**

“(a) In General.—In order to protect the public health and promote food safety, the Secretary shall prescribe performance standards for the reduction of pathogens in raw meat and meat products processed by each establishment receiving inspection services under this Act.

“(b) List of Pathogens.—

“(1) In general.—In consultation with the Secretary of Health and Human Services, and taking into account data available from the Centers for Disease Control and Prevention, the Secretary shall identify the pathogens that make a significant contribution to the total burden of foodborne disease associated with meat and meat products.

“(2) Publication; updates.—The Secretary shall—

“(A) publish a list of the pathogens described in paragraph (1) not later than 60 days after the date of enactment of this section; and

“(B) update and publish the list annually thereafter.

“(c) Pathogen Surveys.—

“(1) In general.—Not later than 180 days after the date of enactment of this section, the Secretary shall initiate comprehensive, statistically representative surveys to determine the current levels and incidence of contamination of raw meat and meat products with the pathogens listed under subsection (b), including the variation in levels and incidence of contamination among establishments.

“(2) Publication.—Not later than 2 years after the date of enactment of this section, the Secretary shall compile, and publish in the Federal Register, the results of the surveys.

“(3) Updates.—At least once every 3 years after the preceding surveys are conducted, the Secretary shall—

“(A) conduct surveys described in paragraph (1); and

“(B) compile and publish the results of the surveys in accordance with paragraph (2).

“(d) Pathogen Reduction Performance Standards.—

“(1) In general.—The pathogen reduction performance standards required under subsection (a) shall ensure the lowest level or incidence of contamination that is reasonably achievable using the best available processing technology and practices.

“(2) Current contamination.—In determining what is reasonably achievable, the Secretary shall consider data on current levels or incidence of contamination, including what is being achieved by establishments in the upper quartile of performance in controlling the level or incidence of contamination.

“(3) Initial pathogens.—Not later than 3 years after the date of enactment of this section, the Secretary shall propose pathogen reduction performance standards for at least 2 pathogens from the list published under subsection (b).

“(4) Subsequent pathogens.—Not later than 1 year after proposing pathogen reduction standards for the initial pathogens under paragraph (3), and each year thereafter, the Secretary shall propose a pathogen reduction performance standard for at least 1 pathogen each year from the list published under subsection (b) until standards have been proposed for all pathogens on the list.

“(5) Final standards.—Not later than 1 year after proposing a pathogen reduction standard for a pathogen under this subsection, the Secretary shall promulgate a final pathogen reduction standard for the pathogen.

“(6) Zero-tolerance standards.—Nothing in this section affects the authority of the Secretary to establish a zero-tolerance pathogen reduction performance standard.

“(e) Review of Standards.—

“(1) In general.—Not later than 3 years after promulgation of a final pathogen reduction performance standard for a pathogen under subsection (d)(5), the Secretary shall review the standard to determine whether the standard continues to ensure the lowest level or incidence of contamination that is reasonably achievable using the best available processing technology and practices, taking into account the most recent survey conducted under subsection (c).

“(2) Revisions.—The Secretary shall revise the standard, as necessary, to comply with subsection (d).

“(f) Enforcement.—

“(1) In general.—The Secretary shall conduct regular microbial testing in establishments producing raw meat and meat products to determine compliance with the pathogen reduction performance standards promulgated under this section.

“(2) Inspections.—If the Secretary determines that an establishment fails to meet a standard promulgated under subsection (d) and that the establishment fails to take appropriate corrective action, as determined by the Secretary, the Secretary shall refuse to allow any meat or meat product subject to the standard and processed by the establishment to be labeled, marked, stamped or tagged as ‘inspected and passed’.

“(g) Report on Health-Based Pathogen Performance Standards.—

“(1) In general.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report on the scientific feasibility of establishing health-based performance standards for pathogens in raw meat and meat products.

“(2) Factors.—In preparing the report, the Secretary shall consider—

“(A) the scientific feasibility of determining safe levels for pathogens in raw meat and meat products;

“(B) the scientific and public health criteria that are relevant to determining the safe levels; and

“(C) other factors determined by the Secretary.

“(h) Relationship to Adulteration Provisions.—Nothing in this section affects the applicability to pathogens of the provisions of this Act relating to adulteration.”.

(b) Poultry and Poultry Products.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by inserting after section 7 (21 U.S.C. 456) the following:

**“SEC. 7A. PATHOGEN PERFORMANCE STANDARDS.**

“(a) In General.—In order to protect the public health and promote food safety, the Secretary shall prescribe pathogen performance standards for the reduction of pathogens in raw poultry and poultry products processed by each establishment receiving inspection services under this Act.

“(b) List of Pathogens.—

“(1) In general.—In consultation with the Secretary of Health and Human Services, and taking into account data available from the Centers for Disease Control and Prevention, the Secretary shall identify the pathogens that make a significant contribution to the total burden of foodborne disease associated with poultry and poultry products.

“(2) Publication; updates.—The Secretary shall—

“(A) publish a list of the pathogens described in paragraph (1) not later than 60 days after the date of enactment of this section; and

“(B) update and publish the list annually thereafter.

“(c) Pathogen Surveys.—

“(1) In general.—Not later than 180 days after the date of enactment of this section, the Secretary shall initiate comprehensive, statistically representative surveys to determine the current levels and incidence of contamination of raw poultry and poultry products with the pathogens listed under subsection (b), including the variation in levels and incidence of contamination among establishments.

“(2) Publication.—Not later than 2 years after the date of enactment of this section, the Secretary shall compile, and publish in the Federal Register, the results of the surveys.

“(3) Updates.—At least once every 3 years after the preceding surveys are conducted, the Secretary shall—

“(A) conduct surveys described in paragraph (1); and

“(B) compile and publish the results of the surveys in accordance with paragraph (2).

“(d) Pathogen Reduction Performance Standards.—

“(1) In general.—The pathogen reduction performance standards required under subsection (a) shall ensure the lowest level or incidence of contamination that is reasonably achievable using the best available processing technology and practices.

“(2) Current contamination.—In determining what is reasonably achievable, the Secretary shall consider data on current levels or incidence of contamination, including what is being achieved by establishments in the upper quartile of performance in controlling the level or incidence of contamination.

“(3) Initial pathogens.—Not later than 3 years after the date of enactment of this section, the Secretary shall propose pathogen reduction performance standards for at least 2 pathogens from the list published under subsection (b).

“(4) Subsequent pathogens.—Not later than 1 year after proposing pathogen reduction standards for the initial pathogens under paragraph (3), and each year thereafter, the Secretary shall propose a pathogen reduction performance standard for at least 1 pathogen each year from the list published under subsection (b) until standards have been proposed for all pathogens on the list.

"(5) FINAL STANDARDS.—Not later than 1 year after proposing a pathogen reduction standard for a pathogen under this subsection, the Secretary shall promulgate a final pathogen reduction standard for the pathogen.

"(6) ZERO-TOLERANCE STANDARDS.—Nothing in this section affects the authority of the Secretary to establish a zero-tolerance pathogen reduction performance standard.

"(e) REVIEW OF STANDARDS.—

"(1) IN GENERAL.—Not later than 3 years after promulgation of a final pathogen reduction performance standard for a pathogen under subsection (d)(5), the Secretary shall review the standard to determine whether the standard continues to ensure the lowest level or incidence of contamination that is reasonably achievable using the best available processing technology and practices, taking into account the most recent survey conducted under subsection (c).

"(2) REVISIONS.—The Secretary shall revise the standard, as necessary, to comply with subsection (d).

"(f) ENFORCEMENT.—

"(1) IN GENERAL.—The Secretary shall conduct regular microbial testing in establishments producing raw poultry and poultry products to determine compliance with the pathogen reduction performance standards promulgated under this section.

"(2) INSPECTIONS.—If the Secretary determines that an establishment fails to meet a standard promulgated under subsection (d) and that the establishment fails to take appropriate corrective action, as determined by the Secretary, the Secretary shall refuse to allow any poultry or poultry product subject to the standard and processed by the establishment to be labeled, marked, stamped or tagged as 'inspected and passed'.

"(g) REPORT ON HEALTH-BASED PATHOGEN PERFORMANCE STANDARDS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report on the scientific feasibility of establishing health-based performance standards for pathogens in raw poultry and poultry products.

"(2) FACTORS.—In preparing the report, the Secretary shall consider—

"(A) the scientific feasibility of determining safe levels for pathogens in raw poultry and poultry products;

"(B) the scientific and public health criteria that are relevant to determining the safe levels; and

"(C) other factors determined by the Secretary.

"(h) RELATIONSHIP TO ADULTERATION PROVISIONS.—Nothing in this section affects the applicability to pathogens of the provisions of this Act relating to adulteration.".

### SEC. 4. NATIONAL ADVISORY COMMITTEE FOR MICROBIOLOGY CRITERIA FOR FOODS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In consultation with the Secretary of Health and Human Services, the Secretary of Agriculture (referred to in this section as the "Secretary") shall establish a National Advisory Committee for Microbiology Criteria for Foods (referred to in this section as the "Committee").

(2) ADMINISTRATION.—The Committee shall report to—

(A) the Secretary of Agriculture, acting through the Under Secretary for Food Safety; and

(B) the Secretary of Health and Human Services, acting through the Assistant Secretary for Health.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Committee shall be composed of not fewer than 9 nor more than 15 members appointed by the Secretary, including a Chairperson designated by the Secretary.

(2) QUALIFICATIONS.—In appointing members of the Committee, the Secretary shall appoint individuals who—

(A) are qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Committee; and

(B) to the maximum extent practicable, represent the fields of microbiology, risk assessment, epidemiology, public health, food science, veterinary medicine, and other relevant disciplines.

(3) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—A member of the Committee appointed under paragraph (1) shall not be an employee of the Federal Government.

(4) DATE OF APPOINTMENTS.—The appointment of an initial member of the Committee shall be made not later than 90 days after the date of enactment of this Act.

(5) TERM.—A member of the Committee shall be appointed for a term established by the Secretary.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(2) MEETINGS.—The Committee shall meet at the call of the Chairperson, in consultation with the Secretary.

(3) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(4) CONFLICTS OF INTEREST.—

(A) IN GENERAL.—Notwithstanding sections 201 through 209 of title 18, United States Code, a conflict of interest involving the appointment of a member of the Committee shall be waived under section 208(b)(3) of that title only if the member with the conflict of interest is essential to the completion of the work of the Committee.

(B) VOTING.—Notwithstanding subparagraph (A), a member of the Committee with a conflict of interest on a matter before the Committee shall not be allowed to vote on the matter.

(d) DUTIES.—

(1) IN GENERAL.—The Committee shall provide such independent, impartial, scientific advice to Federal food safety agencies as may be requested by the Secretary for use in the development of an integrated national food safety systems approach from farm-to-final consumption to ensure the safety of domestic, imported, and exported foods and reduce the public health burden of foodborne illness.

(2) FOOD SAFETY STANDARDS AND REGULATIONS.—

(A) IN GENERAL.—At the time at which the Secretary submits to any Federal agency for formal review and comment any standard or regulation proposed under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or any program administered by the Under Secretary for Food Safety, the Secretary shall make available to the Committee—

(i) the standard or regulation; and

(ii) relevant scientific and technical information possessed by the Secretary on which the proposed standard or regulation is based.

(B) ADVICE AND COMMENTS.—Not later than a date specified by the Secretary that is not later than 90 days after receipt of the standard or regulation, the Committee may make available to the Secretary the advice and comments of the Committee on the adequacy of the scientific and technical basis for the proposed standard or regulation, together with any additional information the Committee considers appropriate.

(C) CONTEMPORANEOUS REVIEW.—To the maximum extent practicable, the review by the Committee under subparagraph (A) shall be conducted contemporaneously with review by other Federal agencies.

(e) POWERS.—

(1) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Committee may secure directly from a Federal agency such information as the Committee considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Committee, the head of the agency shall provide the information to the Committee.

(3) SUBCOMMITTEES AND INVESTIGATIVE PANELS.—

(A) IN GENERAL.—The Committee may establish such subcommittees and investigative panels as the Secretary and the Committee determine necessary to carry out this section.

(B) CHAIRPERSON.—Each subcommittee and investigative panel shall be chaired by a member of the Committee.

(4) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(5) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(f) COMMITTEE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—A member of the Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Committee.

(2) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Committee to perform the duties of the Committee.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Committee.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

(2) EXISTING FUNDS.—Any funds that are available to the National Advisory Committee on Microbiological Criteria in existence on the date of enactment of this Act shall be made available to the Committee.

**SEC. 5. ENFORCEMENT OF HACCP AND SANITATION REQUIREMENTS.**

(a) IN GENERAL.—The Secretary of Agriculture shall enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements established under part 417 of title 9, Code of Federal Regulations (or successor regulations), and the sanitation requirements established under part 416 of title 9, Code of Federal Regulations (or successor regulations), in any official establishment.

(b) ENFORCEMENT.—

(1) IN GENERAL.—If the Secretary determines that an establishment fails to meet a requirement described in subsection (a) and that the establishment fails to take appropriate corrective action, as determined by the Secretary, the Secretary may refuse to allow any meat or meat product, or poultry or poultry product, subject to the standard and processed by the establishment to be labeled, marked, stamped or tagged as "inspected and passed".

(2) ADDITIONAL AUTHORITY.—The authority provided under paragraph (1) is in addition to any other authority the Secretary may have to enforce the requirements of this section.

**SEC. 6. REGULATIONS.**

(a) IN GENERAL.—Consistent with section 553 of title 5, United States Code, the Secretary of Agriculture shall have the authority to enforce the pathogen performance standards of the Secretary in accordance with the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

(b) CHALLENGES.—Subsection (a) does not prevent a challenge to the standards described in subsection (a) on any basis other than the basis that the Secretary lacks the authority to issue and enforce pathogen performance standards promulgated in accordance with section 553 of title 5, United States Code.

(c) EFFECTIVE DATE.—This section takes effect on January 1, 2000.

Mr. DURBIN. Mr. President, I am pleased to join Senator HARKIN today in introducing Kevin's Law, which is an essential piece of legislation that will clarify the U.S. Department of Agriculture's authority to enforce pathogen reduction standards in meat and poultry products.

Our country has been blessed with one of the safest and most abundant food supplies in the world. However, we can do better. While food may never be completely free of risk, we must strive to make our food as safe as possible. Foodborne illnesses and hazards are still a significant problem that cannot be passively dismissed.

The Centers for Disease Control and Prevention estimate as many as 76 million people suffer from foodborne illnesses each year. Of those individuals, approximately 325,000 will be hospitalized and more than 5,000 will die. With emerging pathogens, broader distribution patterns, an increasing volume of food imports, and changing consumption patterns, this situation is not likely to improve without decisive action.

Foodborne illnesses can have devastating effects on certain populations in our society. Children are especially vulnerable. Because their immune systems are not fully developed, they are at greater risk for developing life-threatening or fatal complications associated with foodborne illnesses. Quite simply, a child's lower weight means that it takes a smaller quantity of pathogens to make a child sick than it would a healthy adult. The elderly and those with compromised immune systems are also at high risk for developing life-threatening conditions associated with foodborne illnesses.

A key tool for addressing foodborne illness in this country has been the USDA's pathogen reduction/hazard analysis and critical control point, PR/HACCP, regulations that were phased in beginning in January 1998. Under these regulations, USDA developed a scientific approach aimed at protecting consumers from foodborne pathogens. Instead of a system based on sight, smell, and touch, USDA moved to a system that would successfully detect harmful pathogens whether visible or not.

A major part of this system includes testing for harmful pathogens, such as salmonella. USDA uses the data from this testing to determine if meat and poultry plants are producing products that are safe to consume.

USDA's pathogen testing regulations have provided consumers with increased confidence in the safety of meat and poultry products. However, in December of 2001, the Fifth Circuit Court of Appeals upheld an earlier district court decision that removes the USDA's authority to enforce its pathogen standards for salmonella. The result of this court case is that USDA can no longer ensure that meat and poultry plants comply with pathogen standards. This creates a significant risk that meat and poultry products contaminated with common but potentially deadly pathogens will be sold to unsuspecting consumers.

The legislation we are introducing today will clarify USDA's authority to enforce strong safety standards for contamination in meat and poultry products. Specifically, this legislation will provide the Secretary of Agriculture with the clear authority to control for pathogens and enforce pathogen performance standards for meat and poultry products. Only with this authority will the Secretary of Agriculture be able to ensure the safety of the meat and poultry products sold in this country.

We must work together to ensure that USDA has the necessary authority to enforce pathogen performance standards that will protect public health. Let's not turn our back on food safety and consumer protection at such a critical time for food safety and security. I encourage my colleagues to join this effort to protect our food supply and public health.

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By Mr. BOND:

S. 1105. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BOND. Mr. President, I rise today to introduce legislation recognizing the historical significance of downtown Sainte Genevieve, MO. Sainte Genevieve was the first European settlement west of the Mississippi River, and still contains many structures and artifacts that have survived from its rich early history. Establishing this area as a unit of the National Park System will provide an unparalleled opportunity for Americans to be educated about our Nation's colonial past.

Sainte Genevieve was founded by French settlers in 1735. These early pioneers traveled south from French Canada, and built the rare French Colonial style structures that remain in place to this day. Today, the city contains an invaluable wealth of Native American and French Colonial sites, artifacts, and architecture. Perhaps most impressively, downtown Sainte Genevieve contains three of only five poteaux-en-Terre, post in the ground, vertical log French homes remaining in North America, dating from approximately 1800.

In addition to the historic downtown district, the area adjacent to Sainte Genevieve is rich in historic sites. The "Grand Champ" common field of the French colonists still retains its original field land pattern. The area's saline salt springs were an important industry source for Native American and European settlers. And nearby ceremonial mounds are evidence of a prehistoric Native American village.

This area is a truly valuable asset to the State of Missouri, and I feel that it is only fair to share it with the entire

Nation by establishing the French Colonial Heritage Area as a unit of the National Park System. My legislation would take the first step toward such an establishment by directing the National Park Service to conduct a study of the historic features of Sainte Genevieve. After a thorough study, I am confident that the National Park Service will determine that Sainte Genevieve is the best tool with which to tell the important and fascinating story of the French in the New World.

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By Ms. SNOWE (for herself and Mr. KERRY):

S. 1106. A bill to establish National Standards for Fishing Quota Systems; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with Senator KERRY, to introduce the Fishing Quota Act of 2003 which will address one of the most complex policy questions in fisheries management—fishing quotas. This bill will amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize the establishment of new fishing quota systems. This legislation will in no way whatsoever force Fishing Quota programs upon any regional fishery management council and this is not a mandate to use Fishing Quota programs. Rather, it is intended to provide the councils with an additional conservation and management tool.

Fishing Quota programs can drastically change the face of fishing communities and the fundamental principles of conservation and management. Therefore, this legislation was developed in a careful and meaningful manner over the span of many years with significant input and participation from all of the many affected and interested parties.

In 1996, Congress reauthorized the Magnuson-Stevens Fishery Conservation and Management Act through enactment of the Sustainable Fisheries Act, SFA. The SFA contained the most substantial improvements to fisheries conservation since the original passage of the Magnuson-Stevens Act in 1976. More specifically, the SFA included a five year moratorium on new fishing quota programs and required the National Academy of Sciences, NAS, to study and report on the issue.

In 1999, the NAS issued its report, Sharing the Fish, which contained a number of critically important recommendations addressing the social, economic, and biological aspects of Fishing Quota programs. The Fishing Quota Act of 2003 incorporates many of the recommendations in this report and provides the regional councils with the flexibility to adopt additional NAS recommendations.

During the 106th Congress, the Subcommittee on Oceans and Fisheries traveled across the country and held six hearings on reauthorizing the Magnuson-Stevens Act. We began the process in Washington, DC, and then visited fishing communities in Maine, Louisiana, Alaska, Washington, and Massachusetts. During the course of those hearings, we heard official testimony from over 70 witnesses and received statements from many more fishermen during open microphone sessions at each field hearing. The Subcommittee heard the comments, views, and recommendations of Federal and State officials, regional council chairmen and members, other fisheries managers, commercial and recreational fishermen, members of the conservation community, and many other interested in these important issues. After these hearings, I introduced the Individual Fishing Quota Act of 2001, S. 637, at the beginning of the 107th Congress beginning the legislative dialogue. Since then, we have heard from many stakeholders who assisted the Subcommittee in shaping and re-shaping this bill.

The Fishing Quota Act of 2003 creates a framework under which fishery management plans, FMPs, or plan amendments may establish a new fishing quota system. As with other components of fisheries conservation and management, there is no "one-size-fits-all" solution to Fishing Quota programs. Therefore, this bill sets certain conditions under which Fishing Quota programs may be developed, if such a program is desired. In doing so, it clearly provides the regional fishery management councils and the affected fishermen with the flexibility to shape any new Fishing Quota program to fit the needs of the fishery.

The bill ensures that any regional council which establishes a new fishing quota program will promote sustainable management of the fishery; require fair and equitable allocation of fishing quotas; minimize negative social and economic impacts on local coastal communities; ensure adequate enforcement of the system; and take into account present participation and historical fishing practices of the relevant fishery. Additionally, the bill requires the Secretary of Commerce to conduct referenda to ensure that those most affected by fishing quotas will have the opportunity to formally approve the adoption of any new fishing quota program by a two-thirds vote.

This bill authorizes the potential allocation of fishing quotas to fishing vessel owners, fishermen, and crew members who are citizens of the United States. In addition, participation in the fishery is required for a person to obtain quota. Moreover, this bill permits councils to allocate quota shares to entry-level fishermen, small vessel owners, or crew members who may not otherwise be eligible for individual quotas. While this bill authorizes the transfer of fishing quotas, it requires the regional councils to define and prohibit an excess accumulation of quota shares.

This is a good bill which allows Fishing Quota programs to be created where they are needed and desired. The Fishing Quota Act of 2003 incorporates many of the suggestions we heard from those men and women who fish for a living and those who are most affected by the law and its regulations. I appreciate the participation of Senator KERRY and all the impacted stakeholders who assisted in drafting this legislation. I look forward to moving this bill through the legislative process toward final passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1106

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fishing Quota Act of 2003".

**SEC. 2. FISHING QUOTA SYSTEMS.**

(a) IN GENERAL.—Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853) is amended—

(1) by striking subsection (f)(6) and inserting the following:

"(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

"(A) the conservation requirements of this Act with respect to the fishery;

"(B) present participation in the fishery;

"(C) historical fishing practices in, and dependence on, the fishery;

"(D) the economics of the fishery;

"(E) the capability of fishing vessels used in the fishery to engage in other fisheries;

"(F) the cultural and social framework relevant to the fishery and any affected fishing communities;

"(G) the fair and equitable distribution of a public resource; and

"(H) any other relevant considerations.";

(2) by striking subsection (d) and inserting the following:

"(d) FISHING QUOTA SYSTEMS.—

"(1) ESTABLISHMENT.—Any fishery management plan or amendment that is prepared by any Council, or by the Secretary, with respect to any fishery, may establish a fishing quota system consistent with the provision of subsection (b)(6).

"(2) IN GENERAL.—The Councils and Secretary shall ensure that any such fishing quota system submitted and approved after September 30, 2002, complies with the requirements of this Act, and:

"(A) shall prevent any person from acquiring an excessive share of the fishing quotas issued, as appropriate for the fishery, and establish any other limits or measures necessary to prevent inequitable concentration of quota share;

"(B) shall provide for the fair and equitable initial allocation of quota share and in such allocation—

"(i) shall take into account present and historic participation in the fishery;

"(ii) shall consider allocating a portion of the annual harvest to entry-level fishermen, small vessel owners, skippers, crew members, and fishing communities; and

"(iii) may allocate shares among categories of vessels or gear types.

"(C) shall contain provisions for the regular review and evaluation of the system, including timetables and criteria for evaluating performance, and actions to be taken for failure to meet the criteria;

"(D) shall contain criteria that would govern limitation, revocation, renewal, reallocation, or reissuance of fishing quota, including:

"(i) reallocation or reissuance of quota revoked pursuant to section 308 of this Act;

"(ii) revocation and reissuance of fishing quota if the owner of the quota cease to substantially participate in the fishery; and

"(iii) exceptions to revocation or limitation in cases of death, disablement, undue hardship, or in any case in which fishing is prohibited by the Secretary;

"(E) shall provide a process for appeals of decisions on—

"(i) eligibility of a person to receive or bid for an allocation of quota shares; and

"(ii) limitations, restrictions and revocations of quota held by a person.

"(F) shall promote management measures top improve the conservation and management of the fishery, including reduction by bycatch;

"(G) shall provide for effective enforcement, monitoring, a management of such system, including adequate data collection and use of observers at least at a level of coverage that should yield statistically significant results;

"(H) may provide for the sale, lease or transfer of quota shares and limitations thereto;

"(I) shall provide a mechanism, such as fees as authorized by section 304(d)(2), including fees payable on quota transfers to recover costs related to administering and implementing the program, including enforcement, management and data collection (including adequate observer coverage), if the assessment of such fees is proportional to the amount of quota held and fished by each quota holder and if such fees are used only for that fishing quota system;

"(J) shall consider the use of community or area-based approaches and strategies in developing fishing quota systems and consider other management measures, including measures to facilitate formation of fishery cooperative arrangements, taking into account proximity to and dependence on the resource, contribution of fishing to the social and economic status of the community, and historic participation in the fishery; and

"(K) shall include procedures and requirements necessary to carry out subparagraphs (A) through (J).

"(3) No Creation of Right, Title, or Interest.—A fishing quota or other limited access system authorization—

"(A) shall be considered a permit for the purposes of sections 307, 308, and 309;

"(B) may be revoked or limited at any time in accordance with this Act, including for failure to comply with the terms of the plan or if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

"(C) shall not confer any right of compensation to the holder of such fishing quota or other such limited access system authorization if it is revoked or limited;

"(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested; and

"(E) shall be considered a grant of permission to the holder of the fishing quota to engage in activities permitted by the fishing quota system.

"(4) Eligibility.—Persons eligible to hold fishing quota shares are persons who are United States citizens, or who are United States nationals or permanent resident aliens qualified by Federal law to participate in the fishery.

"(5) Duration.—Any fishing quota system established under this section after the date of enactment of the Fishing Quota Act of 2003 shall expire at the end of a 10-year period beginning on the date the system is established, or at the end of successive 10 year periods thereafter, unless extended by a fishery management plan amendment is accordance with this Act, for successive periods not to exceed 10 years.

"(6) Referendum Procedures.—

"(A) Except as provided in subparagraph (C) for the Gulf of Mexico commercial red snapper fishery, a Council may not submit, and the Secretary not approve or implement a fishery management plan or amendment that creates a fishing quota system, including a secretarial plan, unless such a system, as ultimately developed, has been approved by more than two-thirds of those voting in a referendum among eligible permit holders. If a fishing quota system fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

"(B) The Secretary shall conduct the referendum referred to in this paragraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures and eligibility requirements for the referendum process and the proposed fishing quota system. The Secretary shall within one year of enactment of the Fishing Quota Act of 2003 publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

"(C) The provisions of section 407(e) shall apply in lieu of this paragraph for any fishing quota system for the Gulf of Mexico commercial red snapper fishery.

"(D) Chapter 35 of title 44, United States Code, (commonly known as the "Paperwork Reduction Act") does not apply to the referenda conducted under this paragraph.

"(7)(A) No provision of law shall be construed to limit the authority of a Council to submit, or the Secretary to approve, the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including a fishing quota system.

"(B) This subsection shall not apply to, or be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, Southern Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

"(8)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the——

"(i) purchase of fishing quotas in that fishery by fishermen who fish from small vessels; and

"(ii) first-time purchase of fishing quotas in that fishery by entry level fishermen.

"(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.".

(b) Independent Review.—Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853) is further amended by adding at the end the following:

"(e)(1) Within 5 years after the date of enactment of the Fishing Quota Act of 2003, and every 5 years thereafter, the National Research Council shall provide an independent review of the effectiveness of fishing quota systems conducted in Federal fisheries.

"(2) The review shall be conducted by an independent panel of individuals who have knowledge and experience in fisheries conservation and management, in the implementation of fishing quota systems, or in the social or economic characteristics of fisheries. The National Research Council shall ensure that members of the panel are qualified for appointment, are not active quota share holders, and provide fair representation to interests affected by such programs.

"(3) The independent review of fishing quota systems shall include—

"(A) a determination of how fishing quota systems affect fisheries management and contribute to improved management, conservation (including bycatch reduction) and safety in the fishery;

"(B) formal input in the form of testimony from quota holders relative to the effectiveness of the fishing quota system;

"(C) an evaluation of the social, economic and biological consequences of the quota system, including the economic effects of the system on fishing communities;

"(D) an evaluation of the costs of implementing, monitoring and enforcing the systems and the methods used to establish or allocate individual quota shares; and

"(E) recommendations to the Councils and the Secretary to ensure that quota systems meet the requirements of this Act and the goals of the plans, and recommendations to the Secretary for any changes to regulations issued under section 304(i).

"(4) The Secretary shall submit the report to the Congress and any appropriate Councils within 60 days after the review is completed.".

(c) Action on Limited Access Systems.—Section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854) is amended by adding at the end the following:

"(i) Action on limited access systems.—Within 1 year after the date of enactment of the Fishing Quota Act of 2003, the Secretary shall issue regulations which establish requirements for establishing a fishing quota system. Nothing in this paragraph prohibits a Council or the Secretary from initiating development of a fishing quota system consistent with the provisions of this Act pending publication of the final regulations.".

(d) Definitions.—Section 3 of the Magnuson-Stevens Fishery Management and Conservation Act (16 U.S.C. 1802) is amended by—

(1) adding at the end the following:

"(46) The term 'United States Citizen' means an individual who is a citizen of the United States or a corporation, partnership, association or other entity that qualifies to document a fishing vessel as a vessel of the United States under chapter 121 of title 46, United States Code."; and

(2) striking " 'individual fishing quota' " in paragraph (21) and inserting " 'fishing quota system' ".

(e) CONFORMING AMENDMENTS.—

(1) The following provisions of that Act are amended by striking "individual fishing quota" and inserting "fishing quota";

(A) Section 304(c)(3) (16 U.S.C. 1854(c)(3)).

(B) Section 304(d)(2)(A)(i) (16 U.S.C. 1854(D)(2)(A)(i)).

(C) Section 402(b)(1)(D) (16 U.S.C. 1881a(b)(1)(D)).

(D) Section 407(a)(1)(D), (c)(1), and (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and (c)(2)(B)).

(2) section 305(h)(1) (16 U.S.C. 1855(h)(1) is amended by striking "individual".

### SEC. 3. GULF OF MEXICO FISHING QUOTA SYSTEMS.

Section 407(c) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1883) is amended by adding at the end the following:

"(3) The initial referendum described in paragraph (1) shall be used to determine support for whether the sale, transfer, or lease of quota shares shall be allowed.".

Mr. KERRY. Mr. President, I rise today with my colleague, Ms. SNOWE, to introduce the Fishing Quota Act of 2003, legislation to establish national criteria governing the use of individual fishing quota IFQ systems. Work began in earnest on this bipartisan bill in the Commerce Committee last spring, as the expiration of the national moratorium on the use of IFQs approached, and small boat fishermen voiced concerns that existing legislative criteria governing the use of IFQs would not offer sufficient protection to communities. I would like to thank Subcommittee Chair SNOWE for her efforts to work with me and with other members of the Commerce Committee on this legislation, which draws from separate IFQ legislation that both Senator SNOWE and I introduced beginning in the 106th Congress.

The IFQ moratorium established under the 1996 Sustainable Fisheries Act was set to expire September 30, 2000. Senator SNOWE and I supported a 2-year extension of that moratorium to allow for hearings and full consultation with affected groups on the issues surrounding IFQs. Our discussions focused on the need to provide regional flexibility to use IFQs as a management tool, while providing national "rules of the road." Such rules of the road would ensure IFQ systems developed after expiration of the moratorium are adopted with the support of the fishery, allocate quota fairly and equitably, address region-specific needs, further the conservation and management goals of the Magnuson-Stevens Act, prevent consolidation of quota, address the needs of small fishing communities, and recognize both the public nature of the resource and that issuance of an IFQ does not give rise to a compensable property right.

To develop such rules, we worked with fellow Commerce Committee members, including Senators BREAUX, LOTT, BOXER, STEVENS, and CANTWELL, consulted with interested groups, and obtained technical advice from the National Marine Fisheries Service. While New England has historically been opposed to IFQs, other regions are interested in utilizing IFQ programs in certain fisheries. I believe the resulting bill provides a balance between the need to provide national policy guidance that considers the concerns of communities and harvesters, but allows for development of IFQ systems, where appropriate, on a fishery-by-fishery basis. This preserves the balanced regional approach to fishery management that Congress intended in the Magnuson-Stevens Act. I also want to clarify that this bill does not authorize the establishment of "processor quota," and relates only to issuance of harvester quota.

The bill Senator SNOWE and I are introducing today sets forth a set of national criteria that councils wishing to adopt IFQs would follow. Importantly, this bill contains a provision that directs councils to consider the use of community or area-based approaches and strategies that would preserve the vitality of small fishing communities, including the allocation of quota to a fishing community. It also directs councils to consider use of other management measures, including those that would facilitate formation of fishery cooperative arrangements, taking account of the dependence of coastal communities on these fisheries.

This bill addresses many of the concerns raised by fishermen, and I understand the many concerns of small fisherman in New England regarding the use of IFQs. I believe this bill gives fishermen the power to decide whether to implement an IFQ program and ensures that those who do will operate under a fair system. First, no region could implement an IFQ system without approval of a two-thirds majority of eligible permit holders through a referendum process run by the Secretary of Commerce. In addition, any IFQ system developed under the legislation would have to meet a set of national criteria. These national criteria would include: (1) ensuring a fair and equitable initial allocation of quota, including the establishment of an appeals process for qualification and allocation decisions, taking into account present and historic participation in the fishery; (2) establishing limits necessary to prevent inequitable concentration of quota share; (3) preventing any person from acquiring an "excessive share"; (4) considering allocation of a portion of the annual harvest specifically to small fishermen, skippers, crew members, fishing communities, or categories of vessels or gear types; and (5) providing for revocation of quota if the owner is no longer an active fisherman.

I also believe this bill responds to concerns that IFQ systems would undermine the national interest in conserving fishery resources held in the public trust. In order to respond to those concerns, the bill would: (1) specify that an IFQ is a permit under the Magnuson-Stevens Act and does not confer any right of compensation or any right, title or interest to any fish before it is harvested; (2) established that the quota expires after 10 years, unless extended by a fishery management plan; (3) require that the systems promote management measures to improve the conservation and management of the fishery, including reduction of bycatch; (4) provide for regular review and evaluation of the system, including specifying actions to be taken for any failure to meet the criteria; (5) require that the systems provide for effective enforcement, monitoring, and management, including use of observers; and (6) require that quota be revoked from individuals found to be subject to civil penalties under section 308 of the Magnuson-Stevens Act.

The bill also would require a 5-year recurring independent review of IFQ systems by the National Research Council, to: (1) evaluate the effectiveness of such systems and determine who the systems contribute to improved management, conservation and safety; (2) evaluate the social, economic and biological consequences of the systems, including economic impacts on fishing communities; (3) evaluate the costs of implementation; and (4) provide recommendations to ensure the systems meet Magnuson-Stevens Act requirements and the goals of the plans.

I believe this legislation provides guidelines for the use of IFQs that will help ensure the health of our marine fisheries. During the last reauthorization of the Magnuson-Stevens Act, our Nation's fisheries were at a crossroads, and action was required to remedy our marine resource management problems, to preserve the way of life in our coastal communities, and to promote the sustainable use and conservation of our marine resources for future generations and for the economic good of the Nation. We must stay the course, and this bill will help us do just that. I remain committed to the goal of establishing biologically and economically sustainable fisheries so that fishing will continue to be an important part of the culture and economy of coastal communities throughout Massachusetts, as well as the economy of the Nation.

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By Mr. THOMAS:

S. 1107. A bill to enhance the Recreation Fee Demonstration Program for the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I rise today to introduce the Recreation Fee Authority Act of 2003. This legislation modifies the congressionally created Recreation Fee Demonstration Program.

The issue of user fees on public lands is a difficult one. As you know, our Nation's parks and recreation areas are in serious trouble and have significant maintenance and infrastructure needs. The National Park Service alone has roughly a $5 billion backlog in maintenance and infrastructure repair. There are a number of reasons for this funding shortage, including poor park management, congressional inaction and apathy from the American public.

Currently, the Recreation Fee Demonstration Program allows the National Park Service, Bureau of Land Management, Fish and Wildlife Service and the U.S. Forest Service to collect and expend funds for areas in need of additional financial support. Agencies collect fees for admission to a unit or site for special uses such as boating and back country camping fees and are able to use 80 percent of the receipts for protection and enhancement in that area. Fees are typically used for visitor services, maintenance and repair of facilities as well as cultural and natural resource management. The remaining 20 percent is used on an agency-wide basis for parts of the system, which are precluded from participating in the Recreation Fee Demonstration program.

The legislation I am introducing today allows permanent authorization of the Recreation Fee Demonstration Program for national parks, and provides some new flexibility. For example, many visitors frequent national and State parks, but are not allowed to use State and national passes interchangeably. In cooperation with State agencies, the Secretary of the Interior will be authorized to enter into revenue sharing agreements to accept state and national park passes at sites within that state—providing a cost savings and convenience for the visitor.

In the past, concerns have been expressed about "nickel and dime" efforts where there appears to be a lack of planning and coordination by agency officials. Fee programs under this legislation would be established at fair and equitable rates. Each unit would perform an analysis to consider benefits and services provided to the visitor, cumulative effect of fees, public policy and management objectives and feasibility of fee collection. This review would serve as a business plan for each site so that managers could utilize scarce resources in the most efficient manner.

The Recreation Fee Demonstration program was an effort by Congress to allow public land agencies to obtain funding in addition to their annual appropriations. This legislation will help provide resources for badly needed improvement projects and ensure an enhanced experience for all visitors.

We need to guarantee our national treasures are available for generations to come. I believe that Congress, the National Park Service and those interested in helping our parks should cooperate on initiatives to protect resources, increase visitor services and improve management throughout the system. Working together, we can ensure that these areas will remain affordable and accessible for everyone.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

## S. 1107

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Fee Authority Act of 2003".

### SEC. 2. RECREATION FEE AUTHORITY.

(a) In General.—Beginning in Fiscal Year 2004 and thereafter, the Secretary of the Interior ("Secretary") may establish, modify, charge, and collect fees for admission to a unit of the National Park System and the use of National Park Service ("Service") administered areas, lands, sites, facilities, and services (including reservations) by individuals and/or groups. Fees shall be based on an analysis by the Secretary of—

(A) the benefits and services provided to the visitor;

(B) the cumulative effect of fees;

(C) the comparable fees charged elsewhere and by other public agencies and by nearby private sector operators;

(D) the direct and indirect cost and benefit to the government;

(E) public policy or management objectives served;

(F) economic and administrative feasibility of fee collection, and

(G) other factors or criteria determined by the Secretary.

(b) Number of Fees.—The Secretary shall establish the minimum number of fees and shall avoid the collection of multiple or layered fees for a wide variety of uses, activities or programs.

(c) Analysis.—The results of the analysis together with the Secretary's determination of appropriate fee levels shall be transmitted to the Congress at least three months prior to publication of such fees in the Federal Register. New fees and any increases or decreases in established fees shall be published in the Federal Register and no new fee or change in the amount of fees shall take place until at least 12 months after the date the notice is published in the Federal Register.

(d) Additional Authorities.—Beginning on October 1, 2003 the Secretary may enter into agreements, including contracts to provide reasonable commissions or reimbursements with any public or private entity for visitor reservation services, fee collection and/or processing services.

(e) Administration.—The Secretary may provide discounted or free admission days or use, may modify the National Park Passport, established pursuant to Public Law 105-391, and shall provide information to the public about the various fee programs and the costs and benefits of each program.

(f) State Agency Admission and Special Use Passes.—Effective October 1, 2003 and notwithstanding the Federal Grants Cooperative Agreements Act, the Secretary may enter into revenue sharing agreements with State agencies to accept their annual passes and convey the same privileges, terms and conditions as offered under the auspices of the National Park Passport, to State agency annual passes and shall only be accepted for all of the units of the National Park System within the boundaries of the State in which the specific revenue sharing agreement is entered into except where the Secretary has established a fee that includes a unit or units located in more than one State.

### SEC. 3. DISTRIBUTION OF RECEIPTS.

(a) Without further appropriation, all receipts collected pursuant to the Act or from sales of the National Park Passport shall be retained by the Secretary and may be expended as follows—

(1) 80 percent of amounts collected at a specific area, site, or project as determined by the Secretary, shall remain available for use at the specific area, site or project, except for those units of the National Park System that participate in an active revenue sharing agreement with a State under Section 2(f) of this Act, not less than 90 percent of amounts collected at a specific area, site, or project shall remain available for use.

(2) The balance of the amounts collected shall remain available for use by the Service on a Service-wide basis as determined by the Secretary.

(3) Monies generated as a result of revenue sharing agreements established pursuant to Section 2(f) may provide for a fee-sharing arrangement. The Service shares of fees shall be distributed equally to all units of the National Park System in the specific States that are parties to the revenue sharing agreement.

(4) Not less than 50 percent of the amounts collected from the sale of the National Park Passport shall remain available for use at the specific area, site, or project at which the fees were collected and the balance of the receipts shall be distributed in accordance with paragraph 2 of this Section.

### SEC. 4. EXPENDITURES

(a) Use of Fees at Specific Area, Site, or Project.—Amounts available for expenditure at a specific area, site or project shall be accounted for separately and may be used for—

(1) repair, maintenance, facility enhancement, media services and infrastructure including projects and expenses relating to visitor enjoyment, visitor access, environmental compliance, and health and safety;

(2) interpretation, visitor information, visitor service, visitor needs assessments, monitoring, and signs;

(3) habitat enhancement, resource assessment, preservation, protection, and restoration related to recreation use, and

(4) law enforcement relating to public use and recreation.

(b) The Secretary may use not more than fifteen percent of total revenues to administer the recreation fee program including direct operating or capital costs, cost of fee collection, notification of fee requirements, direct infrastructure, fee program management costs, bonding of volunteers, start-up costs, and analysis and reporting on program accomplishments and effects.

### SEC. 5. REPORTS.

(a) On January 1, 2006 and every three years thereafter the Secretary shall submit to the Congress a report detailing the status of the Recreation Fee Program conducted in units of the National Park System including an evaluation of the Recreation Fee Program conducted at each unit of the National Park System; a description of projects that were funded, work accomplished, and future projects and programs for funding with fees, and any recommendations for changes in the overall fee system.

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By Mr. TALENT (for himself and Mr. WYDEN):

S. 1109. A bill to provide $50,000,000,000 in new transportation infrastructure funding through Federal bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, rail, transit, aviation, and water, and for other purposes; to the Committee on Finance.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1109

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ETC.**

(a) Short Title.—This Act may be cited as the “Build America Bonds Act of 2003”.

(b) References to Internal Revenue Code of 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Our Nation's highways, transit systems, railroads, airports, ports, and inland waterways drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

**SEC. 3. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.**

(a) In General.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

**“Subpart H—Nonrefundable Credit for Holders of Build America Bonds**

“Sec. 54. Credit to holders of Build America bonds.

**“SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.**

“(a) Allowance of Credit.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

“(b) Amount of Credit.—

“(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

“(2) Annual credit.—The annual credit determined with respect to any Build America bond is the product of—

“(A) the applicable credit rate, multiplied by

“(B) the outstanding face amount of the bond.

“(3) Applicable credit rate.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

“(4) Credit allowance date.—For purposes of this section, the term ‘credit allowance date’ means—

“(A) March 15,

“(B) June 15,

“(C) September 15, and

“(D) December 15.

Such term includes the last day on which the bond is outstanding.

“(5) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

“(c) Limitation Based on Amount of Tax.—

“(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

“(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(d) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

“(e) Build America Bond.—For purposes of this part, the term ‘Build America bond’ means any bond issued as part of an issue if—

“(1) 95 percent or more of the proceeds from the sale of such issue are to be used—

“(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

“(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

“(2) the bond is issued by the Build America Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (f),

“(3) the Build America Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

“(4) the Build America Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

“(5) except for bonds issued in accordance with subsection (f)(4), the term of each bond which is part of such issue does not exceed 30 years,

“(6) the payment of principal with respect to such bond is the obligation of the Build America Corporation, and

“(7) the issue meets the requirements of subsection (g) (relating to arbitrage).

“(f) Limitation on Amount of Bonds Designated.—

“(1) National limitation.—There is a Build America bond limitation for each calendar year. Such limitation is—

“(A) for 2004—

“(i) with respect to bonds described in subsection (e)(1)(A), $50,000,000,000, plus

“(ii) with respect to bonds described in subsection (e)(1)(B), such amount (not to exceed $15,000,000,000) as determined necessary by the Build America Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity, and

“(B) except as provided in paragraph (3), zero thereafter.

“(2) Limitation allocated to qualified projects among States.—

“(A) In general.—Subject to subparagraph (B), the limitation applicable under paragraph (1)(A)(i) for any calendar year shall be allocated by the Build America Corporation for qualified projects among the States under an allocation plan established by the Corporation and submitted to Congress for consideration.

“(B) Minimum allocations to States.—In establishing the allocation plan under subparagraph (A), the Build America Corporation shall ensure that the aggregate amount allocated for qualified projects located in each State under such plan is not less than $500,000,000.

“(3) Carryover of unused limitation.—If for any calendar year—

“(A) the Build America bond limitation amount, exceeds

“(B) the amount of bonds issued during such year by the Build America Corporation, the Build America bond limitation amount for the following calendar year shall be increased by the amount of such excess. Any carryforward of a Build America bond limitation amount may be carried only to calendar year 2005 or 2006.

“(4) Issuance of small denomination bonds.—From the Build America bond limitation for each year, the Build America Corporation shall issue a limited quantity of

Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

"(g) SPECIAL RULES RELATING TO ARBITRAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Build America Corporation reasonably expects—

"(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

"(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

"(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

"(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

"(A) the Build America Corporation uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

"(B) the following requirements are met:

"(i) The Build America Corporation spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

"(ii) The Build America Corporation spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

"(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Build America Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) FAILURE TO PAY.—If the Build America Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(i) BUILD AMERICA TRUST ACCOUNT.—

"(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Build America Corporation:

"(A) The proceeds from the sale of all bonds issued under this section.

"(B) The amount of any matching contributions with respect to such bonds.

"(C) The investment earnings on proceeds from the sale of such bonds.

"(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

"(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Build America Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

"(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Build America Corporation for any qualified project.

"(j) QUALIFIED PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified project' means the financing of capital improvements for any transportation infrastructure project of any governmental unit or other person, including highways, transit systems, railroads, airports, ports, and inland waterways, proposed by a State and approved by the Build America Corporation.

"(2) APPROVAL GUIDELINES AND CRITERIA.—Not later than 60 days after the date of the enactment of this section, the Build America Corporation shall consult with the appropriate committees of Congress regarding the development of guidelines and criteria for the approval by the Corporation of projects as qualified projects for inclusion in the allocation plan established under subsection (f)(2)(A) and shall submit such guidelines and criteria to such committees. The guidelines and criteria shall—

"(A) to the maximum extent, be consistent with statutory provisions governing the approval of transportation projects, as in effect on such date, and

"(B) require the Build America Corporation—

"(i) to base such approval on—

"(I) the results of alternatives analysis and preliminary engineering, and

"(II) a comprehensive review of mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies, and

"(ii) to give preference to—

"(I) projects supported by evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure,

"(II) projects expected to have a significant impact on traffic congestion, and

"(III) projects which promote regional balance in infrastructure investment.

"(k) STATE CONTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Build America Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

"(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

"(l) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

"(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Build America Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

"(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(5) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(6) REPORTING.—The Build America Corporation shall submit reports similar to the reports required under section 149(e).".

(b) Amendments to Other Code Sections.—

(1) Reporting.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) Reporting of credit on build america bonds.—

"(A) In general.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) Treatment for estimated tax purposes.—

(A) Individual.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Special Rule for Holders of Build America Bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) Corporate.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

"(5) Special rule for holders of build america bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) Clerical Amendments.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart H. Nonrefundable Credit for Holders of Build America Bonds.".

(2) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 4. BUILD AMERICA CORPORATION.**

(a) Establishment and Status.—There is established a body corporate to be known as the "Build America Corporation" (hereafter in this section referred to as the "Corporation"). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) Principal Office; Application of Laws.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29-301 et seq.) shall apply.

(c) Functions of Corporation.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish an allocation plan as required under section 54(f)(2)(A) of such Code,

(3) establish and operate the Build America Trust Account as required under section 54(i) of such Code,

(4) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(5) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) Powers of Corporation.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as maybe necessary and incident to carrying out this Act.

(e) Nonprofit Entity; Restriction on Use of Moneys; Conflict of Interests; Independent Audits.—

(1) Nonprofit entity.—The Corporation shall be a nonprofit corporation and shall have no-capital stock.

(2) Restriction.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) Conflict of interests.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) Independent audits.—An independent certified public accountant shall audit the financial statements of the Corporation each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be available to the public and shall be included in the report required under subsection (c)(5).

(f) Tax Exemption.—The Corporation, including its franchise and income, is exempt from taxation imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(g) Management of Corporation.—

(1) Board of directors; membership; designation of chairperson and vice chairperson; appointment considerations; term; vacancies.—

(A) Board of directors.—The management of the Corporation shall be vested in a board of directors composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

(B) Chairperson and vice chairperson.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) Individuals from private life.—Five members of the Board shall be appointed from private life.

(D) Federal officers and employees.—Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) Appointment considerations.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 4 members of the Board are members of any 1 political party.

(F) Terms.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 2 shall be appointed for terms of 1 year and 2 shall be appointed for terms of 2 years.

(G) Vacancies.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) Compensation, actual, necessary, and transportation expenses.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) Quorum.—A majority of the Board shall constitute a quorum.

(4) President of corporation.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

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By Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. DASCHLE, Mrs. MURRAY, Ms. CANTWELL, Mr. DAYTON, Mr. LIEBERMAN, Mrs. LINCOLN, and Mrs. FEINSTEIN):

S. 1110. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Trade Adjustment Assistance for Communities Act of 2003. This legislation is co-sponsored by Senators BAUCUS, ROCKEFELLER, DASCHLE, MURRAY, CANTWELL, DAYTON, LIEBERMAN, LINCOLN, and FEINSTEIN. Companion legislation will be introduced in the House by Congressman SANDER LEVIN tomorrow.

I first introduced Trade Adjustment Assistance legislation in the last Congress, and I was very pleased when that legislation—the provisions relating to both individuals and communities—passed the Senate as part of the Trade Act of 2002. I would like to take this opportunity to thank all of my colleagues for their efforts in making this happen. But I would like to thank Senator BAUCUS in particular for making Trade Adjustment Assistance one of his priorities last session and pushing on it to the very end. And I would also like to thank Senator GRASSLEY for understanding the importance of Trade Adjustment Assistance to the ongoing trade debate, and his decision to make it part of the trade package that went through Congress.

But I also have to express my disappointment with the way the process ended. In spite of the bi-partisan consensus that formed around Trade Adjustment Assistance during the negotiations last year and the efforts of my colleagues, I regret to say that the provisions related to communities did not make it out of conference. I can not tell you why this happened. However, I can tell you that it is incredibly naive to ignore the problems that are occurring right now across the country and not understand what it means for our country's long-term economic interests. Look at the newspaper and you will see that in many communities, people are pretty much out of work for good, at least when you look at the jobs they had and the wages they were making. And as the lay-offs have expanded, the impact the lay-offs have had on entire communities have become more pronounced. Now it is not just the individuals who are struggling, but the communities in which hundreds or thousands of people live, all because a company or a group of companies have closed their doors for good.

From what I can tell from statements some of my colleagues have made in committee or on the floor of the Senate, this is really nothing more than tough luck. This is the way markets work and you simply make do with what you have. I disagree completely. From where I sit you can't just let individuals who have worked their whole life at a company, who have played by the rules for their entire life, who have committed their entire life to keeping their communities intact, be reduced to little more than hope that something will change for the better. They deserve more than that. You also can't let the communities where these people live just die, because they form the foundation of what we are as a society. These are the networks that have lasted generations, that connect us, and define who we are. I firmly believe we need to do everything we can for these folks and the communities where they live, simply because we owe them something for what they have given us and our country. I believe we have a responsibility to give these communities a shot at a new future. The legislation I am introducing today does just that.

Let me make it clear that writing this legislation is not an abstract exercise. For me, this is about my friends and neighbors that I have known for years. Right now, in my hometown of Silver City, NM, I have folks that I grew up with, wondering what they are going to do next.

Over the last few years the copper mines closed, and then the businesses that supported the copper mines closed, and then the tax base began to disappear, and then services started to be cut, and it seems to everyone like the whole community has been caught in a downward spiral. In spite of what some of my colleagues might claim, this is not because of lack of effort on the part of the people of Silver City. These people are not content with the way things are. On the contrary, they are trying desperately to change direction. They have ideas about where they want to go and what they need to do to make things better. They have acted on these ideas to the best of their ability. And I want to commend them for that. But right now they are stuck because there is no money available to get things started, to take the first step so other steps can be taken afterward.

And this is the way it is across the country in a good many communities just like Silver City. I strongly believe this has to change. We have let things stand just the way they are for far too long. The status quo is not acceptable, and it is time for Congress to make a serious effort to change how we manage these kinds of problems.

My interest in Trade Adjustment Assistance actually began in November, 1997 when Levi-Strauss announced its decision to close most of its plants in the United States and transfer production to other countries. Levi-Strauss decided to close two plants in New Mexico one in Albuquerque and one in Roswell—with the Roswell facility alone losing close to 600 workers. This number didn't even include the contract workers and other folks that relied on Levi-Strauss for their living. They lost their jobs as well. Six-hundred plus individuals would be a significant blow in any town, but in a town of 50,000 people—which is what Roswell is—with a workforce of only 25,000 people, this lay-off was truly devastating. What exactly were these people going to do? Where could they go to get work so they could pay their mortgage, pay for health care, pay for their kids' education? Sure, some of them could be re-trained through Trade Adjustment Assistance, but the question that was on everyone's mind was: Retrained for what? What do you retrain 600 people for when there are no other jobs available in town, and no new companies coming into town?

The questions surrounding what happened in Roswell—actually, what should have happened in Roswell if we had more effective Trade Adjustment Assistance policies in place—combined with other plant closures across the country in towns just like Roswell, made me ask what actually could be done to help individuals and communities adapt to this kind of collective crisis. In cooperation with Senators Roth and Moynihan, who were the Chair and Ranking Member of the Finance Committee at the time, I requested studies from the General Accounting Office on the overall efficacy of Trade Adjustment Assistance program. I also asked them to study how communities across the country had responded to the changes that derive from international trade agreements and globalization.

I have to say that the answers we got back from the General Accounting Office were not very encouraging. To begin with, the Trade Adjustment Assistance for individuals program suffered from inconsistencies, incoherence, and a general lack of accountability. Some states managed their programs well, but others—my home State of New Mexico being one—did not. There was no Trade Adjustment Assistance for Communities program at the time, but in analyzing how particular communities responded to economic crises, the General Accounting Office report clearly stated that government funds available for economic recovery efforts were limited and the road to real recovery was difficult even when funds were available. There were no "best practices", no obvious answers, to refer to because success had been so limited. In most cases, there was no way out of the downward spiral at all.

But over time some individual lessons appeared, and interestingly enough, those lessons were very similar to the ones we learned in Roswell. Among other things, technical assistance is needed early on in the process to ensure that a community-wide recovery strategy can be developed. Funding needs to be made available to assist in strategic planning. Individual and institutional differences need to be bridged in the community so there is a tangible collective interest in the strategic plan. Short-term, medium-term, and long-term funding needs to be available for communities to use as they pursue their economic strategy. U.S. government agencies need to cooperate to ensure that their efforts are not duplicative or contradictory. State governments need to be involved in the recovery process to encourage cooperation where there has been none before.

I admit that it is very difficult to make sure all these things happen, especially in communities that are struggling to stay on an even keel. Clearly much of the burden for the activities fall on communities, because they are the ones that have to decide what is best for them. And that is the way it should be. But Congress can play a role in helping communities attain the goals they have set for themselves, and I believe the bill I am introducing today offers a very good start. The key components of the legislation are as follows: First, the legislation establishes a Trade Adjustment Assistance for Communities Program at the Department of Commerce, signaling that communities that are negatively impacted by trade are deserving of a separate stream of funds to help them through their economic crisis. Ideally this program will be located at the Economic Development Administration, which has the expertise and experience to manage a program of this type.

Second, the legislation establishes a U.S. government inter-agency Trade Adjustment Assistance for Communities working group, the goal being to ensure that agencies work in cooperation to assist communities negatively impacted by trade, integrating personnel, activities, and resources as they respond to existing or anticipated problems.

Third, the legislation provides funding for strategic planning and development grants for communities negatively impacted by trade. As written, there is no limit on the funds that a community can receive. Instead, the level of funding is determined by the individual needs of each community, the coherence of their strategic plan, and the cooperation that exists among the stakeholders applying for the grant.

Fourth, the legislation allows funding from programs at other agencies to be used in concurrence with Trade Adjustment Assistance for Communities funding, and, furthermore, allows Federal funding to be used to fulfill most non-Federal matching requirements that exist. In the past, some economic development efforts have been stopped in their tracks because communities don't have the matching funds necessary to get grants. This legislation would give communities that are now suffering under serious financial constraints some initial flexibility in their effort to get funding.

Fifth, the legislation gives preference to rural communities in funding guidelines, since these are the communities that have the fewest options available to them as they attempt to respond to trade-related problems.

Sixth, the legislation authorizes $350 million per year for the Trade Adjustment Assistance for Communities program, essentially doubling the funds that are currently available for economic adjustment in the United States. I believe this amount is consistent with the needs that we see of communities across the United States.

Seventh, the legislation establishes a look-back to January 1998, allowing communities that were negatively impacted by trade and have yet to overcome their problems an opportunity to obtain funds and begin their recovery.

Finally, the legislation establishes a set of new triggers for eligibility that are designed to help not only communities that have been negatively impacted by trade, but also communities that have experienced some negative impacts but want to set a new course so any future impacts will be limited. This approach is far different than anything that has been done before in Trade Adjustment Assistance legislation—far different even than the legislation that my colleagues and I introduced last year—and is designed specifically to avoid the criticism that Trade Adjustment Assistance is really nothing but "death insurance".

The inclusion of the category of "affected domestic producers" as a trigger, for example, would allow certain companies to work with their communities to create a coherent strategic plan to renovate or construct basic or advanced infrastructure, diversify the local economy, attract new investment, and encourage long-term economic stability and global competitiveness—all this before a company is closed and the entire community is affected. The inclusion of TAA for firms as a trigger would allow restructuring at a firm to occur in tandem with restructuring in a community. The inclusion of TAA for workers as a trigger would allow funds to be directed into a community at the initial onset of problems at a company—at the moment when lay-offs are first occurring—not when the problems are so far down the line that there is very little that can be done about it.

Let me say straight out that this legislation cannot be considered a substitute for a strong trade or manufacturing policy. But I do believe this legislation is complementary to those policies. From where I sit, there will always be individuals and communities negatively impacted by trade, and it is incumbent upon Congress to ensure that these individuals and communities are treated with the respect they deserve and with the strategic economic interests of our country in mind. The economic ideology that suggests we just let things take their course and things will work out the way they are supposed to is, from my perspective, wrongheaded and misguided. The fact is we must look very carefully at the changes that are occurring to our national economy as a result of globalization and position ourselves to do better than we are now.

This legislation carves out an area of real need and addresses it in a coherent, comprehensive, and innovative fashion. If enacted, it will have an immediate, concrete, and important impact on communities across the country. Every State in the country would benefit from the legislation. It will allow communities to take charge of the future and contribute to the economic welfare of the Nation. It is a practical approach that is designed to keep our communities intact and our country competitive and strong. I urge my colleagues to support it.

Mr. BAUCUS. Mr. President, I rise today in support of the Trade Adjustment Assistance for Communities Act of 2003.

I want to commend Senator BINGAMAN for introducing this bill today. He has been a strong advocate of Trade Adjustment Assistance and a strong voice for communities that need a helping hand facing the challenges of the global economy.

Trade and trade-opening policies create benefits for our country. But that fact should not keep us from acknowledging that the benefits of trade are seldom evenly distributed. In fact, there can be losers from trade, even when the economy as a whole is better off.

In 1962, President Kennedy said that "those injured by . . . trade competition should not be required to bear the full brunt of the impact." "There is an obligation," he said, for the Federal government "to render assistance to those who suffer as a result of national trade policy."

That year, President Kennedy and a bipartisan majority of Congress created Trade Adjustment Assistance—a program designed to help those who are displaced by trade policy to retrain and get back on their feet.

Last year, with help of another bipartisan majority of Congress, we passed the Trade Adjustment Assistance Reform Act of 2002—a historic expansion of the TAA program.

The Trade Adjustment Assistance for Communities Act continues to build on this important tradition by creating a new TAA program for communities.

In a recent study, the General Accounting Office found that, even with TAA benefits available to displaced workers, the loss of a major employer can have ripple effects on the local economy.

In addition to the direct job losses, local economies can experience reduced tax revenues, reduced sales by the closed plant's supplier firms and by local retailers, and rising social services costs. Until they can attract well-paying new jobs, these communities can face extended periods of economic distress.

This is especially true in smaller and rural communities, such as we have in Montana. These communities may not have a lot of job opportunities for displaced workers, even with TAA retraining. Indeed, one of the main criticisms of the current TAS program has been that it does nothing to make sure there are jobs for workers at the end of the retraining process.

There are a number of Federal programs out there that might offer some help. They are all over the map—in Commerce, Treasury, Labor, Agriculture, HUD and the SBA, just to name a few. But these communities have no way to start, no go-to person or resource to guide them through this maze of potential help. And the Federal government doesn't make it any easier. There is very little coordination of response among the various agencies. Finally, even if communities can find these Federal resources, most existing programs are not tailored to the special needs of trade-impacted communities.

This bill tries to make Federal economic assistance work better for trade-impacted distressed communities in a few simple ways.

It creates a single office responsible for coordinating the Federal response.

It creates a simple trigger process to identify potentially eligible communities and bring appropriate resources to their attention.

It gives communities the technical assistance they need to develop a strategic plan—basically a roadmap for economic recovery. That helps ensure that Federal resources are being used in the most coordinated and cost-effective way possible.

Finally, it makes sure that there are expertise and resources tailored to the special needs of trade-impacted communities.

I am pleased to be a cosponsor of this bill. I hope we will be able to consider it in the Finance Committee this year.

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By Mrs. FEINSTEIN:

S. 1111. A bill to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the Record of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce a bill to prevent unnecessary hardship for ranching families in the Sierra Nevada Mountains.

This summer, restrictions imposed for the Yosemite Toad and willow flycatcher will force about fifteen to thirty ranchers off the land that they have long used for grazing.

This bill requires the Forest Service to explore all the options available to avoid this outcome. For example, the bill makes it easier for the Forest Service to offer ranchers suitable alternative grazing land.

Besides alternative grazing arrangements, the Forest Service should look at fencing, active management of the cattle, and other options. If none of these alternatives are feasible, the bill provides relief for the most seriously affected ranchers.

The bill would allow ranchers to keep using 15 parcels of land during this calendar year where Yosemite Toad and willow flycatcher restrictions would otherwise make grazing unworkable. For many other ranches, where grazing and the species could coexist with some adjustments, environmental protections would fully remain in place.

I urge the Forest Service to quickly devise a long-term strategy to promote the coexistence of ranchers and the species. The Forest Service should work proactively with the Fish and Wildlife Service to establish a conservation plan for the species—with the goal of avoiding the need for any listing of it.

I believe that if the regulatory agencies collect better information on the Yosemite Toad and the willow flycatcher, we can find ways to protect the species without completely shutting down long-term ranching operations. I am committed to expediting these long-term solutions.

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By Mr. KERRY (for himself and Mr. HARKIN):

S. 1112. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs pharmacies to dispense medications on prescriptions written by private practitioners to veterans who are currently awaiting their first appointment with the Department for medical care, and for other purposes; to the Committee on Veterans' Affairs.

Mr. KERRY. Mr. President, there are now nearly 200,000 American veterans today who are forced to wait at least 6 months for their first visit with a Department of Veterans Affairs physician. Despite having served their country and been promised health benefits, these veterans are receiving deferred and rationed health care because of chronic underfunding and bureaucratic red tape. It amounts to a broken promise with men and women who have served in our armed forces. To help ensure that our veterans receive the care they need and have been guaranteed, today I am pleased to introduce the Veterans' Prescription Drug Reform Act of 2003.

Veterans enrolled in the VA health care program are entitled to a prescription drug benefit. This is an essential benefit given the importance of pharmaceuticals in health care today. However, there's a bureaucratic catch: The benefit only applies to prescriptions written by a VA physician, and there are nearly 200,000 veterans who now wait 6 months or longer for their first visit with a VA physician. For those veterans in need of medicine and waiting months on end to see a VA physician, the benefit has little value.

The VA has reported to Congress that, while it has no exact figure, it estimates that tens of thousands of the veterans now on the waiting list are there primarily to access their prescription drug benefit. In many of these cases, veterans have already seen a private physician and have a prescription. But in order to use the VA pharmacy and receive their prescription benefit, these individuals must duplicate their health care visits and see a VA physician. This delays health care benefits for far too many veterans.

The Veterans' Prescription Drug Reform Act of 2003 would permit veterans already on the waiting list to fill a prescription written by a private physician at the VA pharmacy.

Specifically, the Veterans' Prescription Drug Reform Act of 2003 would give the Secretary of Veterans Affairs the authority to permit veterans on the waiting list for their first appointment with a VA physician at the date of enactment to use the VA pharmacy to fill prescriptions written by a private physician. It would also preserve the core healthcare mission of the VA by limiting this initiative only to those currently waiting for their first appointment. The proposal calls for a report to Congress in 1 year so that its potential expansion can be evaluated.

The Secretary of Veterans Affairs has told Congress that he would support such a proposal, and I look forward to working with Senator HARKIN, who joins me in sponsoring this legislation, and my other colleagues in the Senate on this common-sense approach to reducing the lengthy wait-lines for veterans' healthcare.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1112

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Prescription Drug Reform Act of 2003".

### SEC. 2. AUTHORITY OF DEPARTMENT OF VETERANS AFFAIRS PHARMACIES TO DISPENSE MEDICATIONS TO CERTAIN VETERANS FOR PRESCRIPTIONS WRITTEN BY PRIVATE PRACTITIONERS.

(a) AUTHORITY TO DISPENSE MEDICATIONS TO CERTAIN VETERANS.—Section 1712 of title 38, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) The Secretary may authorize the pharmacies of the Department to dispense medications to a veteran described in paragraph (2) pursuant to a valid prescription of the veteran written by a private practitioner.

"(2) A veteran described in this paragraph is any veteran who is on a waiting list for such veteran's first appointment with the Department for medical services as of the date of the enactment of this section.

"(3) A veteran dispensed a medication under this subsection shall pay the Secretary an amount for such medication determined in accordance with the provisions of section 1722A(a) of this title.

"(4) Any amounts paid under paragraph (3) shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund.".

(b) DEPOSIT OF COLLECTIONS.—Section 1729A(b) of such title is amended—

(1) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) Section 1712(e) of this title.".

(c) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the exercise by the Secretary of the authority provided in subsection (e) of section 1712 of title 38, United States Code (as amended by subsection (a) of this section).

(2) The report shall include—

(A) a description of the exercise of the authority by the Secretary; and

(B) such recommendations for additional legislative or administrative action with respect to the authority as the Secretary considers appropriate in light of the exercise of the authority.

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By Mrs. MURRAY (for herself, Mr. DAYTON, Ms. CANTWELL, Mr. BAUCUS, Mr. LEAHY, Mrs. BOXER, and Mr. JEFFORDS):

S. 1115. A bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products; to the Committee on Environment and Public Works.

Mrs. MURRAY. Mr. President, today I rise to introduce legislation to do what should have been done decades ago: Fully ban asbestos in the United States. I am introducing the Ban Asbestos in America Act of 2003 to prohibit this known carcinogen from being used to manufacture products in this country. The bill also bans imports of asbestos products from other countries where asbestos is still legal. I am pleased that Senators BAUCUS, BOXER, CANTWELL, DAYTON, JEFFORDS and LEAHY are original cosponsors of this important legislation.

The primary purpose of the Ban Asbestos in America Act of 2003 is to require the Environmental Protection Agency, EPA, to ban the substance within two years. Most people think that asbestos has already been banned. In fact, in 1989 EPA finalized regulations to phase out and ban the substance by 1997. But in 1991, the 5th Circuit Court of Appeals overturned EPA's ban, arguing that EPA did not "first evaluate and then reject the less burdensome alternatives" under the Toxic Substances Control Act. Unfortunately, the first Bush Administration did not appeal the decision to the Supreme Court. While new uses of asbestos were banned, existing ones were not.

As a result, it is still legal in 2003 to construct buildings in the United States with asbestos cement shingles and to treat them with asbestos roof coatings. It is still legal to construct new water systems using asbestos cement pipes imported from other countries. It is still legal for cars and trucks to be made and serviced with asbestos brake pads and clutch facings.

Asbestos is still not banned, and as a result, we're still using it. According to the U.S. Geological Survey, in 2001, businesses in this country consumed 26 million pounds of chrysotile asbestos to make roofing products, gaskets, friction materials and other products. Last month, my staff walked into a local home improvement store and bought off the shelf roofing sealants made with asbestos. In addition, we are still importing asbestos products from other countries, many of which have less stringent environmental and public health standards.

Everyone knows that asbestos is harmful. The term asbestos, like arsenic, lead, mercury or DDT, is synonymous with poison. Asbestos may well be the most regulated toxic substance that Federal and State agencies have ever dealt with. At least eleven different Federal statutes address asbestos. The EPA, Occupational Safety and Health Administration, OSHA, Mine Safety and Health Administration and Consumer Product Safety Commission are only some of the Federal agencies tasked with implementing rules to protect workers and consumers from the dangers of this substance.

But the sheer volume of rules and regulations in place does not guarantee that public health and the environment are being adequately protected. We have significant evidence suggesting that because asbestos is still not banned, we're still not safe from its dangers. I'd like to highlight some of this evidence for my colleagues.

First, workers in this country are still being exposed to dangerous levels of asbestos. According to OSHA, "An estimated 1.3 million employees in construction and general industry face significant asbestos exposure on the job. Heaviest exposures occur in the construction industry, particularly during the removal of asbestos during renovation or demolition. Employees are also likely to be exposed during the manufacture of asbestos products, such as textiles, friction products, insulation, and other building materials, and during automotive brake and clutch repair work."

It is important to remember that there is no known safe threshold level of asbestos exposure. OSHA's permissible exposure limit of 0.1 fibers per cubic centimeter is based on technical measurement limitations. OSHA's limit assumes that workers exposed to this concentration have a lifetime exposure risk of 3 to 5 in 1,000 for cancer and 2 in 1,000 for asbestosis. This is a very high risk compared to the cancer risk levels that are considered acceptable for some environmental cleanups.

The extent to which workers are exposed to dangerous levels of asbestos is especially troublesome when one considers the frequency with which OSHA's standards are violated. On July 31, 2001, I chaired a Senate Health, Education, Labor and Pensions hearing on asbestos and workplace safety. At the hearing I learned from OSHA that since 1995, the agency had cited employers for violations of its asbestos standards 15,691 times. This is astounding given the known dangers of asbestos and the high risks of disease even when OSHA's exposure limit is being met.

As follow-up to the hearing, I asked OSHA to provide more information about asbestos-related violations. In an October 17, 2001 letter to me, Mr. John Henshaw, Assistant Secretary for Occupational Safety and Health, wrote that between fiscal year 1996 and fiscal year 2001, OSHA conducted a total of 190,971 inspections generating a total of 427,786 violations. Of these, 3,000 inspections and 15,691 violations involved asbestos. According to Mr. Henshaw, about 2 percent of inspections and 4 percent of violations were asbestos-related. In his letter to me, Mr. Henshaw wrote, "OSHA does not consider any level to be an acceptable noncompliance level. We strive for 100 percent compliance." Despite OSHA's best intentions, workers are still being exposed to dangerous levels of asbestos.

It is also important to consider that the vast majority of workplaces where asbestos exposure occurs, such as construction jobs and auto repair shops, are not regularly inspected by OSHA. The Administration conducts inspections only in response to complaints or as a result of referrals from law enforcement or the media. Many more violations of the standard occur in the real world than are actually recorded by regulators. Many employees likely do not contact OSHA about potential asbestos exposure on the job because they think asbestos has been banned long ago and is no longer a problem.

But asbestos in the workplace is clearly still a problem. Recent news investigations provide more evidence that workers are being exposed to dangerous levels of this mineral. According to an article in the Seattle Post-Intelligencer on November 16, 2000, "During the past three months, the P-I collected samples of dust from floors, work areas and tool bins in 31 brake-repair garages in Baltimore, Boston, Chicago, Denver, Richmond, Seattle, and Washington, D.C. Asbestos, almost exclusively chrysotile, which has been used for decades in brakes, was detected in 21 of the locations. The amount of asbestos in the dust ranged from 2.26 percent to 63.8 percent."

When dust with these concentrations of asbestos in them is disturbed, airborne concentrations of asbestos occur that are well above OSHA's permissible exposure limit of 0.1 fiber per cubic centimeter. Under current OSHA regulations, if airborne asbestos concentrations exceed this level, employers must conduct air monitoring, take measures to reduce asbestos emissions, post warning signs and record concentrations of airborne asbestos. Workers are supposed to wear respirators and protective clothing and are required to undergo long-term medical monitoring.

Now I recognize that much of the exposure to asbestos in the workplace comes from asbestos products installed years, and in many cases, decades ago. By one estimate, about 30 million tons of asbestos was used in this country between 1900 and 1980. Asbestos in place, in our buildings, schools and homes, will be with us for decades to come.

But given the known dangers of this mineral, why are we still using it? Why are we still adding it to products on purpose when there are perfectly acceptable substitutes? In retrospect, it is tragic that asbestos was so widely used during the 20th century, for the economic and public health impacts have been disastrous. One very important step in overcoming the problems caused by asbestos is to stop adding to the problem—however incrementally—by continuing to use this dangerous mineral in products on purpose.

I'd like to point out some additional evidence supporting the need to ban asbestos in the United States and to raise awareness about this issue. Most of my colleagues are familiar with the tragedy in Libby, MT, where hundreds of workers and their families suffer from asbestos-related diseases caused by exposure to asbestos-tainted vermiculite.

For decades, the W.R. Grace mine in Libby supplied about 80 percent of the vermiculite used in this country. W.R. Grace very successfully marketed its product, without any warning labels, even though the company was well aware its product was contaminated with this known carcinogen. Asbestos-contaminated ore was shipped to more than 300 sites around the country for processing and use in industrial and consumer products. According to the EPA, 14 of these sites are so contaminated with asbestos that they still need to be cleaned up, even though the Libby mine closed in 1990. While this is a problem that came from a small mining town in Montana, the ramifications and consequences are clearly national in scope.

In addition, vermiculite from Libby is still around and is still a threat to public health. It is estimated that tens of millions of homes, schools and businesses contain insulation made with Libby vermiculite, known as Zonolite. A recent study conducted for EPA, entitled Asbestos Exposure Assessment for Vermiculite Attic Insulation, found that Zonolite in homes today contains up to 2 percent asbestos. This study included tests on Zonolite insulation from Seattle Public Utilities and from a home in Washington State. It found that when this insulation was disturbed, airborne concentrations of 3.3 asbestos fibers per cubic centimeters were measured. In other words, handling Zonolite asbestos can cause levels of asbestos in the air that significantly exceed OSHA's exposure limit for workers. Even more troubling, perhaps, the study found "vermiculite that tests non-detect for asbestos by bulk analysis can still generate airborne asbestos concentrations when disturbed." When vermiculite without significant amounts of asbestos in bulk was disturbed, concentrations of asbestos in the air up to 0.5 fibers per cubic centimeters were detected. This means that even vermiculite with only trace amounts of asbestos in bulk can generate unhealthy concentrations of asbestos in the air.

Yesterday EPA launched a national consumer education campaign warning people not to disturb Zonolite attic insulation if they have it in their homes. The agency also warned people not to let their children play in attics with vermiculite for fear of asbestos exposure. EPA has developed a consumer education brochure and has created an asbestos hotline for people to call for more information. The Agency for Toxic Substances and Disease Registry and National Institute for Occupational Safety and Health have joined EPA in this education effort by creating materials to educate consumers and workers about the dangers of asbestos-contaminated vermiculite.

While we need to ensure that we are no longer adding asbestos to our products on purpose, we also need to ensure that asbestos in harmful concentrations isn't ending up in our consumer products by accident. I am glad EPA, ATSDR and NIOSH are now proactively reaching out to consumers and workers to warn them to stay away from vermiculite attic insulation. This is an important first step in dealing with just one aspect of the legacy created by W.R. Grace in Libby.

There is another important reason to ban asbestos that I would like to share with my colleagues. As I mentioned previously, the United States is still importing products that contain asbestos. Unfortunately, we do not have precise statistics on which products coming into this country contain the deadly mineral. The Department of Commerce's import database does not distinguish between asbestos-containing products and products containing asbestos substitutes. According to the U.S. International Trade Commission, in 2002 this country imported more than 44,000 tons of asbestos-cement products, some of which may have contained cellulose instead of asbestos.

With increased globalization and international trade, U.S. imports of asbestos containing consumer and industrial products will continue to rise—unless we prohibit these products from crossing our borders in the first place.

Although we do not have accurate numbers for the extent to which asbestos products are flowing across our borders, we do know that asbestos is being heavily marketed to developing countries. According to an August 2, 1999 USA Today article, "As asbestos demand has plummeted in the industrialized world the past 25 years, it has soared in many developing nations and formerly communist countries. Its use in these countries is largely unregulated, haphazard and deadly."

A more recent editorial in the Canadian Medical Association Journal compares the asbestos industry to the tobacco industry. The February 20, 2001 article by Doctors Joseph LaDou, Philip Landrigan, John C. Bailar III, Vito Foa and Arthur Frank reads:

"The commercial tactics of the asbestos industry are very similar to those of the tobacco industry. In the absence of international sanctions, losses resulting from reduced cigarette consumption in the developed countries are offset by heavy selling to developing nations. In a similar fashion, the developed world has responded to the asbestos health catastrophe with a progressive ban on the use of asbestos. In response, the asbestos industry is progressively transferring its commercial activities and the health hazards to the developing countries."

Banning asbestos in the United States sends an important message to the rest of the world. The asbestos industry will no longer be able to justify its marketing to developing countries by pointing out that asbestos is still legal in the U.S., and therefore, it must be safe. More than 30 countries have already banned asbestos, and it is time for this country to follow suit. It is our moral responsibility as the world's strongest economy, the most powerful

Nation and a leader in environmental protection and public health to ban this harmful substance.

That is why today I am introducing the Ban Asbestos in America Act. The legislation has five main parts. First, this bill protects public health by doing what the EPA tried to do 14 years ago: ban asbestos in the United States. The legislation requires EPA to ban it within 2 years of passage of the Act. As under the regulations EPA finalized in 1989, companies may file for an exemption to the ban if there is no substitute material available.

Second, the bill requires EPA to convene a Blue Ribbon Panel on asbestos policy and to have the National Academy of Sciences conduct an asbestos study. In response to the 2001 EPA Inspector General's report on Libby, Montana, the EPA promised to convene a Blue Ribbon Panel on asbestos and non-regulated fibers. But instead of convening a high level panel, EPA hired a non-profit organization, the Global Environment and Technology Foundation, to develop an asbestos policies focus group. Just yesterday EPA released GETF's Asbestos Strategies Report. I am very pleased that the Report recommends several aspects of the Ban Asbestos in America Act, including that Congress pass legislation to ban asbestos.

While the recommendations are certainly helpful in providing guidance to EPA, Congress and other federal agencies on the next steps to address asbestos, the GETF report does not replace a full fledged Blue Ribbon Panel. The Ban Asbestos in America Act codifies creation of a Blue Ribbon Panel as EPA first committed to in 2001. The panel will include participation from the Department of Labor and the Consumer Product Safety Commission. It will review the current laws and rules in place to protect workers and consumers, and make recommendations for improving protections within 2 years of passage of the Act.

In addition, the bill calls for EPA to have the NAS conduct a study on the current state of the science relating to the human health effects of exposure to asbestos and other durable fibers. The NAS study shall also include recommendations for a uniform system of asbestos exposure standards and for a uniform system to create protocols to detect and measure asbestos. As I mentioned previously, asbestos is regulated under multiple statutes. There are different standards within EPA and across Federal agencies, and agencies rely on different protocols to identify the substance. The NAS shall be required to submit the study to EPA, other Federal agencies and Congress within 18 months of passage of the Act.

Third, the legislation requires a survey to determine which products contain asbestos, either on purpose or as a contaminant. EPA will be required to conduct this review with input from the Department of Labor, the Consumer Product Safety Commission and the International Trade Commission.

The bill directs the EPA to conduct a survey on the status of asbestos-containing products, such as roofing materials, brake pads and gaskets, which contain asbestos on purpose. EPA must also study contaminant-asbestos products, such as some insulation and horticultural products, which contain asbestos as a contaminant of another substance. The study will examine how people use these products and the extent to which people are exposed to harmful levels of asbestos. The study must be finalized within 18 months to inform the Blue Ribbon Panel and the education campaign.

Fourth, based on the results of the study, EPA shall conduct a public education campaign to increase awareness of the dangers posed by asbestos-containing products and contaminant-asbestos products, including those in homes and workplaces. The agency shall give priority to those products posing the greatest risk, as determined by the study required by the bill. The education campaign must be conducted within 2 years of passage of the bill.

EPA and the Consumer Product Safety Commission shall still be required to conduct a national education campaign about vermiculite insulation within 6 months of passage of the Act. As many as 35 million homes and businesses may contain asbestos-contaminated insulation made with vermiculite from Libby. This requirement is still in the bill despite EPA's recent announcement of an education campaign about vermiculite attic insulation. This will ensure EPA's long-term commitment to educating the public.

Finally, the Ban Asbestos in America Act increases the federal commitment to finding new treatments for the terrible diseases caused by asbestos. At least 2,000 people per year die from mesothelioma, a deadly cancer of the lining of the lungs and internal organs caused by exposure to asbestos. The legislation would direct the head of NIH to "expand, intensify and coordinate programs for the conduct and support of research on diseases caused by exposure to asbestos." The Centers for Disease Control would be required to create a National Mesothelioma Registry to improve tracking of the disease, which in many cases goes undiagnosed and thus unrecorded. In addition, the bill creates 10 mesothelioma treatment centers around the country to improve treatments for and awareness of this fatal cancer.

Our hope is that by continuing to work together, we will build support for the Ban Asbestos in America Act. If we can get this legislation passed, fewer people will be exposed to asbestos, fewer people will contract asbestos diseases in the first place, and those who already have asbestos diseases will receive treatments to prolong and improve quality of life. I urge my colleagues to support this important legislation.

In the meantime, we should do all we can to ensure that the rules in place to protect workers, consumers and schoolchildren from asbestos are followed and are strengthened if necessary. We also need to make sure that Federal agencies are given adequate resources to fully implement Congress' many mandates.

I ask unanimous consent that the text of the Ban Asbestos in America Act of 2003 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1115

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ban Asbestos in America Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Administrator of the Environmental Protection Agency has classified asbestos as a category A human carcinogen, the highest cancer hazard classification for a substance;

(2) there is no known safe level of exposure to asbestos;

(3)(A) in hearings before Congress in the early 1970s, the example of asbestos was used to justify the need for comprehensive legislation on toxic substances; and

(B) in 1976, Congress passed the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(4) in 1989, the Administrator promulgated final regulations under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) to phase out asbestos in consumer products by 1997;

(5) in 1991, the United States Court of Appeals for the 5th Circuit overturned portions of the regulations, and the Government did not appeal the decision to the Supreme Court;

(6) as a result, while new applications for asbestos were banned, asbestos is still being used in some consumer and industrial products in the United States;

(7) the United States Geological Survey has determined that in 2000, companies in the United States consumed 15,000 metric tons of chrysotile asbestos, of which approximately 62 percent was consumed in roofing products, 22 percent in gaskets, 12 percent in friction products, and 4 percent in other products;

(8) available evidence suggests that—

(A) imports of some types of asbestos-containing products may be increasing; and

(B) some of those products are imported from foreign countries in which asbestos is poorly regulated;

(9) many people in the United States incorrectly believe that—

(A) asbestos has been banned in the United States; and

(B) there is no risk of exposure to asbestos through the use of new commercial products;

(10) the Department of Commerce estimates that in 2000, the United States imported 51,483 metric tons of asbestos-cement products;

(11) banning asbestos from being used in or imported into the United States will provide

certainty to manufacturers, builders, environmental remediation firms, workers, and consumers that after a specific date, asbestos will not be added to new construction and manufacturing materials used in this country;

(12) asbestos has been banned in Argentina, Australia, Austria, Belgium, Chile, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, Luxembourg, the Netherlands, Norway, Poland, Saudi Arabia, the Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom;

(13) asbestos will be banned throughout the European Union in 2005;

(14) in 2000, the World Trade Organization upheld the right of France to ban asbestos, with the United States Trade Representative filing a brief in support of the right of France to ban asbestos;

(15) the 1999 brief by the United States Trade Representative stated, "In the view of the United States, chrysotile asbestos is a toxic material that presents a serious risk to human health.";

(16) people in the United States have been exposed to harmful levels of asbestos as a contaminant of other minerals;

(17) in the town of Libby, Montana, workers and residents have been exposed to dangerous levels of asbestos for generations because of mining operations at the W.R. Grace vermiculite mine located in that town;

(18) the Agency for Toxic Substances and Disease Registry found that over a 20-year period, "mortality in Libby resulting from asbestosis was approximately 40 to 80 times higher than expected. Mesothelioma mortality was also elevated.";

(19)(A) in response to this crisis, in January 2002, the Governor of Montana requested that the Administrator of the Environmental Protection Agency designate Libby as a Superfund site; and

(B) on October 23, 2002, the Administrator placed Libby on the National Priorities List;

(20)(A) vermiculite from Libby was shipped for processing to 42 States; and

(B) Federal agencies are investigating potential harmful exposures to asbestos-contaminated vermiculite at sites throughout the United States;

(21) the Administrator has identified 14 sites that have dangerous levels of asbestos-tainted vermiculite and require cleanup efforts; and

(22) although it is impracticable to eliminate exposure to asbestos entirely because asbestos is a naturally occurring mineral in the environment and occurs in several deposits throughout the United States, Congress needs to do more to protect the public from exposure to asbestos and Congress has the power to prohibit the continued, intentional use of asbestos in consumer products.

### SEC. 3. ASBESTOS-CONTAINING PRODUCTS.

(a) In General.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended—

(1) by inserting before section 201 (15 U.S.C. 2641) the following:

### "Subtitle A—General Provisions";

and

(2) by adding at the end the following:

### "Subtitle B—Asbestos-containing Products

### "SEC. 221. DEFINITIONS.

"In this subtitle:

"(1) Asbestos-containing product.—The term 'asbestos-containing product' means any product (including any part) to which asbestos is deliberately or knowingly added or in which asbestos is deliberately or knowingly used in any concentration.

"(2) Contaminant-asbestos product.—The term 'contaminant-asbestos product' means any product that contains asbestos as a contaminant of any mineral or other substance, in any concentration.

"(3) Distribute in commerce.—

"(A) In general.—The term 'distribute in commerce' has the meaning given the term in section 3.

"(B) Exclusions.—The term 'distribute in commerce' does not include—

"(i) an action taken with respect to an asbestos-containing product in connection with the end use of the asbestos-containing product by a person that is an end user; or

"(ii) distribution of an asbestos-containing product by a person solely for the purpose of disposal of the asbestos-containing product in compliance with applicable Federal, State, and local requirements.

"(4) Durable fiber.—

"(A) In general.—The term 'durable fiber' means a silicate fiber that—

"(i) occurs naturally in the environment; and

"(ii) is similar to asbestos in—

"(I) resistance to dissolution;

"(II) leaching; and

"(III) other physical, chemical, or biological processes expected from contact with lung cells and other cells and fluids in the human body.

"(B) Inclusions.—The term 'durable fiber' includes—

"(i) richterite;

"(ii) winchite;

"(iii) erionite; and

"(iv) nonasbestiform varieties of crocidolite, amosite, anthophyllite, tremolite, and actinolite.

"(5) Fiber.—The term 'fiber' means an acicular single crystal or similarly elongated polycrystalline aggregate particle with a length to width ratio of 3 to 1 or greater.

"(6) Person.—The term 'person' means—

"(A) any individual;

"(B) any corporation, company, association, firm, partnership, joint venture, sole proprietorship, or other for-profit or nonprofit business entity (including any manufacturer, importer, distributor, or processor);

"(C) any Federal, State, or local department, agency, or instrumentality; and

"(D) any interstate body.

### "SEC. 222. NATIONAL ACADEMY OF SCIENCES STUDY.

"The Administrator shall enter into a contract with the National Academy of Sciences to study and, not later than 18 months after the date of enactment of this subtitle, provide the Administrator, and other Federal agencies, as appropriate—

"(1) a description of the current state of the science relating to the human health effects of exposure to asbestos and other durable fibers; and

"(2) recommendations for the establishment of—

"(A) a uniform system for the establishment of asbestos exposure standards for workers, school children, and other populations; and

"(B) a uniform system for the establishment of protocols for detecting and measuring asbestos.

### "SEC. 223. ASBESTOS POLICIES PANEL.

"(a) Panel.—

"(1) In general.—The Administrator shall establish an Asbestos Policies Panel (referred to in this section as the 'panel') to study asbestos and other durable fibers.

"(2) Membership.—The panel shall be comprised of representatives of—

"(A) the Secretary of Labor;

"(B) the Secretary of Health and Human Services; and

"(C) the Chairman of the Consumer Product Safety Commission;

"(D) nongovernmental environmental, public health, and consumer organizations;

"(E) industry;

"(F) school officials;

"(G) public health officials;

"(H) labor organizations; and

"(I) the public.

"(b) Duties.—The panel shall—

"(1) provide independent advice and counsel to the Administrator and other Federal agencies on policy issues associated with the use and management of asbestos and other durable fibers; and

"(2) study and, not later than 2 years after the date of enactment of this subtitle, provide the Administrator, other Federal agencies, and Congress recommendations concerning—

"(A) implementation of subtitle A;

"(B) grant programs under subtitle A;

"(C) revisions to the national emissions standards for hazardous air pollutants promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(D) legislative and regulatory options for improving consumer and worker protections against harmful health effects of exposure to asbestos and durable fibers;

"(E) whether the definition of asbestos-containing material, meaning any material that contains more than 1 percent asbestos by weight, should be modified throughout the Code of Federal Regulations;

"(F) the feasibility of establishing a durable fibers testing program;

"(G) options to improve protections against exposure to asbestos from asbestos-containing products and contaminant-asbestos products in buildings;

"(H) current research on and technologies for disposal of asbestos-containing products and contaminant-asbestos products; and

"(I) at the option of the panel, the effects on human health that may result from exposure to ceramic, carbon, and other manmade fibers.

### "SEC. 224. STUDY OF ASBESTOS-CONTAINING PRODUCTS AND CONTAMINANT-ASBESTOS PRODUCTS.

"(a) In General.—In consultation with the Secretary of Labor, the Chairman of the International Trade Commission, the Chairman of the Consumer Product Safety Commission, and the Assistant Secretary for Occupational Safety and Health, the Administrator shall conduct a study on the status of the manufacture, processing, distribution in commerce, ownership, importation, and disposal of asbestos-containing products and contaminant-asbestos products in the United States.

"(b) Issues.—In conducting the study, the Administrator shall examine—

"(1) how consumers, workers, and businesses use asbestos-containing products and contaminant-asbestos products that are entering commerce as of the date of enactment of this subtitle; and

"(2) the extent to which consumers and workers are being exposed to unhealthful levels of asbestos through exposure to products described in paragraph (1).

"(c) Report.—Not later than 18 months after the date of enactment of this subtitle, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

### "SEC. 225. PROHIBITION ON ASBESTOS-CONTAINING PRODUCTS.

"(a) IN GENERAL.—Subject to subsection (b), the Administrator shall promulgate—

"(1) not later than 1 year after the date of enactment of this subtitle, proposed regulations that—

"(A) prohibit persons from manufacturing, processing, or distributing in commerce asbestos-containing products; and

"(B) provide for implementation of subsections (b) and (c); and

"(2) not later than 2 years after the date of enactment of this subtitle, final regulations that, effective 60 days after the date of promulgation, prohibit persons from manufacturing, processing, or distributing in commerce asbestos-containing products.

"(b) EXEMPTIONS.—

"(1) IN GENERAL.—Any person may petition the Administrator for, and the Administrator may grant an exemption from the requirements of subsection (a) if the Administrator determines that—

"(A) the exemption would not result in an unreasonable risk of injury to public health or the environment; and

"(B) the person has made good faith efforts to develop, but has been unable to develop, a substance, or identify a mineral, that—

"(i) does not present an unreasonable risk of injury to public health or the environment; and

"(ii) may be substituted for an asbestos-containing product.

"(2) TERMS AND CONDITIONS.—An exemption granted under this subsection shall be in effect for such period (not to exceed 1 year) and subject to such terms and conditions as the Administrator may prescribe.

"(c) DISPOSAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of enactment of this subtitle, each person that possesses an asbestos-containing product that is subject to the prohibition established under this section shall dispose of the asbestos-containing product, by a means that is in compliance with applicable Federal, State, and local requirements.

"(2) EXEMPTION.—Nothing in paragraph (1)—

"(A) applies to an asbestos-containing product that—

"(i) is no longer in the stream of commerce; or

"(ii) is in the possession of an end user; or

"(B) requires that an asbestos-containing product described in subparagraph (A) be removed or replaced.

### "SEC. 226. PUBLIC EDUCATION PROGRAM.

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this subtitle, and subject to subsection (c), in consultation with the Chairman of the Consumer Product Safety Commission and the Secretary of Labor, the Administrator shall establish a program to increase awareness of the dangers posed by asbestos-containing products and contaminant-asbestos products in homes and workplaces.

"(b) GREATEST RISKS.—In establishing the program, the Administrator shall—

"(1) base the program on the results of the study conducted under section 224;

"(2) give priority to asbestos-containing products and contaminant-asbestos products used by consumers and workers that pose the greatest risk of injury to human health; and

"(3) at the option of the Administrator on receipt of a recommendation from the Asbestos Policies Panel, include in the program the conduct of projects and activities to increase public awareness of the effects on human health that may result from exposure to—

"(A) durable fibers; and

"(B) ceramic, carbon, and other manmade fibers.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) VERMICULITE INSULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Consumer Product Safety Commission shall begin a national campaign to educate consumers concerning—

(1) the dangers of vermiculite insulation that may be contaminated with asbestos; and

(2) measures that homeowners and business owners can take to protect against those dangers.

### SEC. 4. ASBESTOS-CAUSED DISEASES.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

### "SEC. 417D. RESEARCH ON ASBESTOS-CAUSED DISEASES.

"(a) IN GENERAL.—The Secretary, acting through the Director of NIH and the Director of the Centers for Disease Control and Prevention, shall expand, intensify, and coordinate programs for the conduct and support of research on diseases caused by exposure to asbestos, particularly mesothelioma, asbestosis, and pleural injuries.

"(b) ADMINISTRATION.—The Secretary shall carry out this section—

"(1) through the Director of NIH and the Director of the CDC (Centers for Disease Control and Prevention); and

"(2) in collaboration with the Administrator of the Agency for Toxic Substances and Disease Registry and the head of any other agency that the Secretary determines to be appropriate.

"(c) MESOTHELIOMA REGISTRY.—Not later than 1 year after the date of enactment of this section, the Director of the Centers for Disease Control and Prevention, in cooperation with the Director of the National Institute for Occupational Safety and Health and the Administrator of the Agency for Toxic Substances and Disease Registry, shall establish a mechanism by which to obtain data from State cancer registries and other cancer registries, which shall form the basis for establishing a Mesothelioma Registry.

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available for the purposes described in subsection (a) under other law, there are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2004 and each fiscal year thereafter.

### "SEC. 417E. MESOTHELIOMA RESEARCH AND TREATMENT CENTERS.

"(a) IN GENERAL.—The Director of NIH shall provide $1,000,000 for each of fiscal years 2004 through 2008 for each of up to 10 mesothelioma disease research and treatment centers.

"(b) REQUIREMENTS.—The Centers shall—

"(1) be chosen through competitive peer review;

"(2) be geographically distributed throughout the United States with special consideration given to areas of high incidence of mesothelioma disease;

"(3) be closely associated with Department of Veterans Affairs medical centers to provide research benefits and care to veterans, who have suffered excessively from mesothelioma;

"(4) be engaged in research to provide mechanisms for detection and prevention of mesothelioma, particularly in the areas of pain management and cures;

"(5) be engaged in public education about mesothelioma and prevention, screening, and treatment;

"(6) be participants in the National Mesothelioma Registry;

"(7) be coordinated in their research and treatment efforts with other Centers and institutions involved in exemplary mesothelioma research; and

"(8) be focused on research and treatments for mesothelioma that have historically been underfunded.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2004 through 2008.".

### SEC. 5. CONFORMING AMENDMENTS.

The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

(1) by inserting before the item relating to section 201 the following:

"Subtitle A—General Provisions";

and

(2) by adding at the end of the items relating to title II the following:

"Subtitle B—Asbestos-Containing Products

"Sec. 221. Definitions.
"Sec. 222. National Academy of Sciences Study.
"Sec. 223. Asbestos Policies Panel.
"Sec. 224. Study of asbestos-containing products and contaminant-asbestos products.
"Sec. 225. Prohibition on asbestos-containing products.
"Sec. 226. Public education program.".

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By Mr. LEVIN (for himself, Mr. DEWINE, Ms. STABENOW, and Mr. VOINOVICH):

S. 1116. A bill to amend the Federal Water Pollution Control Act to direct the Great Lakes National Program Office of the Environmental Protection Agency to develop, implement, monitor, and report on a series of indicators of water quality and related environmental factors in the Great Lakes; to the Committee on Environmental and Public Works.

Mr. LEVIN. Mr. President, my colleagues Senators DEWINE and VOINOVICH of Ohio, Senator STABENOW of Michigan, and I are pleased to introduce the Great Lakes Water Quality Indicators and Monitoring Act. This bill will provide science-based assessments of the health of the Great Lakes and whether restoration projects are working. The bill directs the Environmental Protection Agency to develop indicators of Great Lakes water quality and related environmental factors and a comprehensive network to monitor those indicators.

The Great Lakes contain almost 20 percent of the world's fresh water. Millions of people rely on the lakes for drinking water, for economic livelihoods such as fishing and shipping, and for recreational opportunities, including swimming and boating. But the

Great Lakes have suffered from decades of toxic discharges, urban and agricultural runoff, and other environmental challenges. We've made some progress in improving water quality, but we know we have a long way to go.

The stewards of the lakes at the Federal, State, and local levels use a variety of methods to determine the health of the Great Lakes and whether they are improving. For example, EPA and the Fish and Wildlife Service monitor the accumulation of chemicals in Great Lakes fish. The National Oceanic and Atmospheric Administration detects changes in the ecosystem from space-based satellites and waterborne buoys. The Geological Survey samples stream flow and quality, and the states inspect for compliance with water quality standards.

But these efforts to collect scientific data are largely voluntary and suffer from a lack of funding and coordination. They use inconsistent methods that often produce incompatible results.

This week, members of the Great Lakes Task Force released a General Accounting Office report on Great Lakes environmental programs. GAO looked at almost 200 Federal and State programs and found that a lack of coordination, poorly defined goals, and insufficient data make it difficult to evaluate the success of these programs. GAO found that there are no data collected regularly throughout the Great Lakes, and that the existing data are inadequate to determine whether water quality and other environmental conditions are improving.

In 1990, I authored the Great Lakes Critical Programs Act, which strengthened the water quality standards in the Great Lakes region. This year, Congress passed the Great Lakes Legacy Act, to speed the cleanup of contaminated bottom sediment. But we haven't established a way to evaluate the impact of these measures.

A restoration program is only as good as its ability to demonstrate results. To show results, we need science-based indicators of water quality and related environmental factors, and we need to monitor those indicators regularly throughout the ecosystem.

GAO recommends that EPA's Great Lakes National Program Office lead an effort to develop indicators and a monitoring network. Our bill gives that office the mandate to work with other Federal agencies and Canada to identify and measure water quality and other environmental factors on a regular basis. The initial set of data collected through this network will serve as a benchmark against which to measure future improvements. Those measurements will help us make decisions on how to steer future restoration efforts. With a clear picture of how the Great Lakes are changing, we can change course when needed and spend public funds on the most pressing demands.

This bill serves a second purpose—it provides EPA with dedicated funding to make sure that data collection can begin in a timely manner and be carried out consistently and comprehensively as long as the Great Lakes are in need.

I encourage my colleagues to support this bill and help speed its passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1116

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Great Lakes Water Quality Indicators and Monitoring Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) there are no comprehensive, regularly-collected data that reveal whether the water quality or related environmental factors of the Great Lakes have improved as a result of efforts to remediate and protect the Great Lakes;

(2) that lack of data was confirmed in May 2003 in a report by the General Accounting Office that concluded that existing data were inadequate to assess the overall progress of restoration efforts in the Great Lakes; and

(3) without those data, it is impossible to determine whether—

(A) progress is being made toward achieving the goals contained in the Great Lakes Water Quality Agreement between the United States and Canada; or

(B) Federal and State water quality standards and remediation programs are effective.

**SEC. 3. GREAT LAKES WATER QUALITY INDICATORS AND MONITORING.**

(a) IN GENERAL.—Section 118(c)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B)(i) not later than 2 years after the date of enactment of this clause, in cooperation with Canada and appropriate Federal agencies (including the United States Geological Survey, the National Oceanic and Atmospheric Administration, and the United States Fish and Wildlife Service), develop and implement a set of science-based indicators of water quality and related environmental factors in the Great Lakes, including, at a minimum, measures of toxic pollutants that have accumulated in the Great Lakes for a substantial period of time, as determined by the Program Office;

"(ii) not later than 4 years after the date of enactment of this clause—

"(I) establish a Federal network for the regular monitoring of, and collection of data throughout, the Great Lakes basin with respect to the indicators described in clause (i); and

"(II) collect an initial set of benchmark data from the network; and

"(iii) not later than 2 years after the date of collection of the data described in clause (ii)(II), and biennially thereafter, in addition to the report required under paragraph (10), submit to Congress, and make available to the public, a report that—

"(I) describes the water quality and related environmental factors of the Great Lakes (including any changes in those factors), as determined through the regular monitoring of indicators under clause (ii)(I) for the period covered by the report; and

"(II) identifies any emerging problems in the water quality or related environmental factors of the Great Lakes.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by striking subsection (h) and inserting the following:

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section (other than subsection (c)(1)(B)) $25,000,000 for each of fiscal years 2004 through 2008.

"(2) GREAT LAKES WATER QUALITY INDICATORS AND MONITORING.—There are authorized to be appropriated to carry out subsection (c)(1)(B)—

"(A) $4,000,000 for fiscal year 2004;

"(B) $6,000,000 for fiscal year 2005;

"(C) $8,000,000 for fiscal year 2006; and

"(D) $10,000,000 for fiscal year 2007.".

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By Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1117. A bill to provide a definition of a prevailing party for Federal fee-shifting statutes; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to introduce the Settlement Encouragement and Fairness Act of 2003. This bill provides that when plaintiffs bring a lawsuit that acts as a catalyst for a change in position by the opposing party, they will be considered the "prevailing party" for purposes of recovering attorneys' fees under Federal law. The bill will help ensure that people who are the victims of civil rights, environmental and worker rights' abuses can obtain legal representation to enforce their rights.

Over the course of our history, Congress has often enacted laws encouraging private litigants to implement public policy through our court system. An integral part of many such laws are provisions that help individuals obtain adequate legal representation by providing that the defendants will pay the plaintiffs' attorneys fees in cases where the plaintiff prevails. In laws involving public accommodations, housing, labor, disabilities, age discrimination, violence against women, voting rights, pollution and others, Congress has acted over and over again to empower private litigants in their pursuit of justice. Presently, there are over two hundred statutory fee-shifting provisions that allow for some sort of payment of attorneys' fees to a prevailing plaintiff.

Until 2001, in interpreting these fee-shifting statutes in cases where a settlement was reached before trial, nine circuit courts of appeals embraced the "catalyst theory" to determine whether attorneys' fees could be obtained. The catalyst theory required the payment of fees where the lawsuit caused a change in the position or conduct of the defendant. Only one circuit court, the Fourth Circuit, applied a more narrow definition of prevailing party, requiring a judgment or a court approved settlement in order for a plaintiff to obtain attorneys' fees.

In Buckhannon Board of Care & Home Inc. v. West Virginia Department of Health and Human Services (2001), a case arising out of the Fourth Circuit, the U.S. Supreme Court ruled, in a 5-4 decision, that plaintiffs may recover attorneys' fees from defendants only if they have been awarded relief by a court, not if they prevailed through a voluntary change in the defendant's behavior or a private settlement. The Buckhannon ruling eliminated the catalyst theory for all fee shifting statutes in federal law.

The bill I introduce today restores the catalyst theory that the vast majority of courts had approved prior to the Buckhannon decision as a basis for seeking attorneys fees under Federal fee shifting statutes. It provides a new definition of "prevailing party" for all such statutes to encompass the common situation where defendants alter their conduct after a lawsuit has commenced but without waiting for a court order requiring them to do so. This critical change in the definition of "prevailing party" will allow attorneys representing clients who cannot otherwise afford to hire a lawyer to recover their costs and to be paid a reasonable rate for their work.

The Buckhannon case itself illustrates the need for this legislation. Buckhannon Board and Care Home in West Virginia, an operator of assisted living residences, failed a state inspection because some residents were incapable of "self-preservation" as defined by state law. After receiving orders to close its facilities, Buckhannon sued the state seeking declaratory and injunctive relief that the "self-preservation" requirement violated the Fair Housing Amendments Act and the Americans with Disabilities Act. While the lawsuit was pending but before the court ruled, the state legislature eliminated the "self-preservation" requirement.

Imagine how the plaintiffs felt when they learned that their lawsuit had forced a change in the law not only for their own case but also for all of the other individuals who had been subject to the improper self-preservation doctrine. If ever there was a complete and total victory caused by litigation, this was it. But, as Casey Stengall once said, "It ain't over 'til it's over." Once the state legislature changed the law, the District Court granted defendant's motion to dismiss the case as moot and denied Buckhannon's request for attorneys' fees. The court ruled that the legislative action did not amount to a judicially required change in position that would permit Buckhannon to be considered a "prevailing party" in the case. On appeal, the Court of Appeals for the Fourth Circuit and then the U.S. Supreme Court denied attorneys' fees for the plaintiffs, ruling that because the change in the defendants' conduct was voluntary rather than ordered by the court, Buckhannon was not a prevailing party.

I believe the narrow definition of "prevailing party" endorsed by the Buckhannon decision will result in many injustices going unchallenged. Indeed, in calculating whether to take a case, an attorney for a plaintiff will have to consider not only the chances of losing, but the chances of winning too easily. If businesses or individuals are able to engage in egregious conduct, refuse to change their behavior without a lawsuit being filed against them, and then avoid paying attorneys' fees by changing their conduct on the eve of trial, the effect will be that some lawyers will decide they cannot afford to take a case even if the claims are very strong.

Imagine a case involving a legitimate claim of housing discrimination where, after many months, perhaps even years of work, as the attorney who labored for the plaintiff prepares into the evening for opening statements, the attorney learns that the defendant has admitted its wrongful conduct and offered substantial compensation and a promise to change its practices. This offer came about only because of the spotlight the lawsuit put on the defendant and the possibility of a large jury verdict. This would be a complete victory for the plaintiff, but under Buckhannon, the attorney who labored for years to bring about this result may not be paid. Later, if the same defendant returns to discriminatory practices, the next plaintiff might very well not be able to find competent counsel who will take the case.

Ironically, the failure to correct the Buckhannon decision could lead to plaintiffs' attorneys dragging out law suits far beyond a point in time where the parties could reach a fair settlement, in order to insure that they meet the Buckhannon definition of "prevailing party." This will increase the costs of litigation and discourage settlement. Simply put, Buckhannon creates unnatural tensions between attorneys and clients and may even push attorneys to not act in the best interest of their clients.

Certainly we can do better. Congress has passed important laws to protect the public in the work place and in our communities; we must ensure that these laws can be enforced, when necessary, in court. The Settlement Encouragement and Fairness Act of 2003 will help insure that all our citizens have the ability to meaningfully challenge injustice.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SCHUMER, and Mrs. CLINTON):

S. 1118. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I am very pleased to introduce the Champlain Valley National Heritage Act of 2003. I am joined by Senator LEAHY and Senators SCHUMER and CLINTON of New York. This bill will establish a National Heritage Partnership within the Champlain Valley. Passage of this bill will culminate a process to enhance the incredible cultural resources of the Champlain Valley.

The Champlain Valley of Vermont and New York has one of the richest and most intact collections of historic resources in the United States. Fort Ticonderoga still stands where it has for centuries, at the scene of numerous battles critical to the birth of our Nation. Revolutionary gunboats have recently been found fully intact on the bottom of Lake Champlain. Our cemeteries are the permanent resting place for great explorers, soldiers and sailors. The United States and Canada would not exist today but for events that occurred in this region.

We in Vermont and New York take great pride in our history. We preserve it, honor it and show it off to visitors from around the world. These visitors are also very important to our economy. Tourism is among the most important industries in this region and has much potential for growth.

The Champlain Valley Heritage Partnership will bring together more than one hundred local groups working to preserve and promote our heritage. Up to $2 million a year will be made available from the National Park Service through the Lake Champlain Basin Program to support local efforts to preserve and interpret our heritage and present it to the world. Most of the funding will be given to small communities to help preserve their heritage and develop economic opportunities.

This project has taken many years for me to bring to the point of introducing legislation. This has been time well spent working at the grass-roots level to develop a framework to direct federal resources to where it will do the most good. I am confident that we have found the best model. This will be a true partnership that supports each member but does not impose any new federal requirements.

The Champlain Valley National Heritage Partnership will preserve our historic resources, interpret and teach about the events that shaped our nation and will be an engine for economic growth. I am hopeful that this bill, which was considered by the Senate last year, will become law during this Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1118

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Champlain Valley National Heritage Partnership Act of 2003".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the Champlain Valley and its extensive cultural and natural resources have played a significant role in the history of the United States and the individual States of Vermont and New York;

(2) archaeological evidence indicates that the Champlain Valley has been inhabited by humans since the last retreat of the glaciers, with the Native Americans living in the area at the time of European discovery being primarily of Iroquois and Algonquin descent;

(3) the linked waterways of the Champlain Valley, including the Richelieu River in Canada, played a unique and significant role in the establishment and development of the United States and Canada through several distinct eras, including—

(A) the era of European exploration, during which Samuel de Champlain and other explorers used the waterways as a means of access through the wilderness;

(B) the era of military campaigns, including highly significant military campaigns of the French and Indian War, the American Revolution, and the War of 1812; and

(C) the era of maritime commerce, during which canals boats, schooners, and steamships formed the backbone of commercial transportation for the region;

(4) those unique and significant eras are best described by the theme "The Making of Nations and Corridors of Commerce";

(5) the artifacts and structures associated with those eras are unusually well-preserved;

(6) the Champlain Valley is recognized as having one of the richest collections of historical resources in North America;

(7) the history and cultural heritage of the Champlain Valley are shared with Canada and the Province of Quebec;

(8) there are benefits in celebrating and promoting this mutual heritage;

(9) tourism is among the most important industries in the Champlain Valley, and heritage tourism in particular plays a significant role in the economy of the Champlain Valley;

(10) it is important to enhance heritage tourism in the Champlain Valley while ensuring that increased visitation will not impair the historical and cultural resources of the region;

(11) according to the 1999 report of the National Park Service entitled "Champlain Valley Heritage Corridor Project", "the Champlain Valley contains resources and represents a theme 'The Making of Nations and Corridors of Commerce', that is of outstanding importance in U.S. history"; and

(12) it is in the interest of the United States to preserve and interpret the historical and cultural resources of the Champlain Valley for the education and benefit of present and future generations.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York to recognize the importance of the historical, cultural, and recreational resources of the Champlain Valley region to the United States;

(2) to assist the State of Vermont and New York, including units of local government and nongovernmental organizations in the States, in preserving, protecting, and interpreting those resources for the benefit of the people of the United States;

(3) to use those resources and the theme "The Making of Nations and Corridors of Commerce" to—

(A) revitalize the economy of communities in the Champlain Valley; and

(B) generate and sustain increased levels of tourism in the Champlain Valley;

(4) to encourage—

(A) partnerships among State and local governments and nongovernmental organizations in the United States; and

(B) collaboration with Canada and the Province of Quebec to—

(i) interpret and promote the history of the waterways of the Champlain Valley region;

(ii) form stronger bonds between the United States and Canada; and

(iii) promote the international aspects of the Champlain Valley region; and

(5) to provide financial and technical assistance for the purposes described in paragraphs (1) through (4).

**SEC. 3. DEFINITIONS.**

In this Act:

(1) HERITAGE PARTNERSHIP.—The term "Heritage Partnership" means the Champlain Valley National Heritage Partnership established by section 4(a).

(2) MANAGEMENT ENTITY.—The term "management entity" means the Lake Champlain Basin Program.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan developed under section 4(b)(B)(i).

(4) REGION.—

(A) IN GENERAL.—The term "region" means any area or community in 1 of the States in which a physical, cultural, or historical resource that represents the theme is located.

(B) INCLUSIONS.—The term "region" includes

(i) the linked navigable waterways of—

(I) Lake Champlain;

(II) Lake George;

(III) the Champlain Canal; and

(IV) the portion of the Upper Hudson River extending south to Saratoga;

(ii) portions of Grand Isle, Franklin, Chittenden, Addison, Rutland, and Bennington Counties in the State of Vermont; and

(iii) portions of Clinton, Essex, Warren, Saratoga and Washington Counties in the State of New York.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—the term "State" means—

(A) the State of Vermont; and

(B) the State of New York.

(7) THEME.—The term "theme" means the theme "The Making of Nations and Corridors of Commerce", as the term is used in the 1999 report of the National Park Service entitled "Champlain Valley Heritage Corridor Project", that describes the periods of international conflict and maritime commerce during which the region played a unique and significant role in the development of the United States and Canada.

**SEC. 4. HERITAGE PARTNERSHIP.**

(a) ESTABLISHMENT.—There is established in the regional the Champlain Valley National Heritage Partnership.

(b) MANAGEMENT ENTITY.—

(1) DUTIES.—

(A) IN GENERAL.—The management entity shall implement the Act.

(B) MANAGEMENT PLAN.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall develop a management plan for the Heritage Partnership.

(ii) EXISTING PLAN.—Pending the completion and approval of the management plan, the management entity may implement the provisions of this Act based on its federally authorized plan "Opportunities for Action, an Evolving Plan For Lake Champlain".

(iii) CONTENTS.—The management plan shall include—

(I) recommendations for funding, managing, and developing the Heritage Partnership;

(II) a description of activities to be carried out by public and private organizations to protect the resources of the Heritage Partnership;

(III) a list of specific, potential sources of funding for the protection, management, and development of the Heritage Partnership;

(IV) an assessment of the organizational capacity of the management entity to achieve the goals for implementation; and

(V) recommendations of ways in which to encourage collaboration with Canada and the Province of Quebec in implementing this Act.

(iv) CONSIDERATIONS.—In developing the management plan under clause (i), the management entity shall take into consideration existing Federal, State, and local plans relating to the region.

(v) SUBMISSION TO SECRETARY FOR APPROVAL.—

(I) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit the management plan to the Secretary for approval.

(II) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (I), the Secretary shall not provide any additional funding under this Act until a management plan for the Heritage Partnership is submitted to the Secretary.

(vi) APPROVAL.—Not later than 90 days after receiving the management plan submitted under subparagraph (V)(I), the Secretary, in consultation with the States, shall approve or disapprove the management plan.

(vii) ACTION FOLLOWING DISAPPROVAL.—

(I) GENERAL.—If the Secretary disapproves a management plan under subparagraph (vi), the Secretary shall—

(aa) advise the management entity in writing of the reasons for the disapproval;

(bb) make recommendations for revisions to the management plan; and

(cc) allow the management entity to submit to the Secretary revisions to the management plan.

(II) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (vii)(I)(cc), the Secretary shall approve or disapprove the revision.

(viii) AMENDMENT.—

(I) IN GENERAL.—After approval by the Secretary of the management plan, the management entity shall periodically—

(aa) review the management plan; and

(bb) submit to the Secretary, for review and approval by the Secretary, the recommendations of the management entity for any amendments to the management plan that the management entity considers to be appropriate.

(II) EXPENDITURE OF FUNDS.—No funds made available under this Act shall be used to implement any amendment proposed by the management entity under subparagraph (viii)(1) until the Secretary approves the amendments.

(2) PARTNERSHIPS.—

(A) IN GENERAL.—In carrying out this Act, the management entity may enter into partnerships with—

(i) the States, including units of local governments in the States;

(ii) nongovernmental organizations;

(iii) Indian Tribes; and

(iv) other persons in the Heritage Partnership.

(B) GRANTS.—Subject to the availability of funds, the management entity may provide grants to partners under subparagraph (A) to assist in implementing this Act.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property.

(c) ASSISTANCE FROM SECRETARY.—To carry out the purposes of this Act, the Secretary may provide technical and financial assistance to the management entity.

**SEC. 5. EFFECT.**

Nothing in this Act—

(1) grants powers of zoning or land use to the management entity;

(2) modifies, enlarges, or diminishes the authority of the Federal Government or a State or local government to manage or regulate any use of land under any law (including regulations); or

(3) obstructs or limits private business development activities or resource development activities.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act not more than a total of $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of any activities carried out using Federal funds made available under subsection (a) not be less than 50 percent.

**SEC. 7. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

Mr. LEAHY. Mr. President, I am very pleased to join with my Senate colleagues from Vermont and New York as we reintroduce the Lake Champlain Heritage Act of 2003. Last year, we took a significant step in helping all Americans better appreciate Lake Champlain with the passage of Daniel Patrick Moynihan Lake Champlain Basin Program Act. Today, we reaffirm our commitment to the continuing preservation of Lake Champlain's important historic sites and artifacts.

The role of Lake Champlain cannot be overlooked. From the earliest human habitation 10,000 years ago, to the Revolutionary War and the conduct of trade in the 19th and 20th centuries, this 120-mile-long basin has played a pivotal role in the Course of American history.

It was on Lake Champlain that Benedict Arnold's motley group of 15 American ships engaged a much larger and far superior British fleet in the Battle at Valcour Island. While the battle ended in a loss for the Americans, it successfully delayed the British fleet and became known as one of the most crucial engagements of the American Revolution.

This act is intended to promote and preserve these centuries of struggle in the Lake Champlain Valley. It will advance the cultural heritage goals of "Opportunities for Action," a comprehensive pollution prevention, control, and restoration plan developed by the Lake Champlain Basin Program. And it will also promote such things as locally planned and managed heritage networks and a management strategy for the lake's underwater cultural resources. With the 400th anniversary of Samuel De Champlain's arrival in the valley coming up in 2009, this bill could not be more needed.

Vermonters and New Yorkers have a serious responsibility to preserve the historical and cultural heritage of the Lake Champlain Valley for future generations. Local communities on both sides of the lake have helped us develop a bold vision to enhance the conservation, interpretation, and enjoyment of our shared history. We can help revitalize local economies, promote heritage tourism, and improve the valley's cultural legacy by making additional resources available to communities and organizations through the Lake Champlain Basin Program.

It is with great pride that I stand here today with my colleagues from Vermont and New York to reassert our partnership for Champlain Valley National Heritage Act and continue our cooperative effort to conserve, interpret, and honor our common heritage.

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By Mr. GRAHAM of Florida (for himself, Mr. HATCH, and Mr. JEFFORDS):

S. 1119. A bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, today I am re-introducing legislation that will improve the effectiveness of one of the most successful programs we have to help Americans get affordable housing, the Low-Income Housing Tax Credit. I am proud to be joined in this effort by my esteemed colleagues, Senators HATCH and JEFFORDS.

The need for affordable housing is as great today as ever. The generally accepted definition of affordability is for a household to pay no more than 30 percent of annual income on housing. Today, twelve million renter and homeowner households pay more than 50 percent toward housing costs. In fact, nowhere in the country can a family with one minimum wage worker afford the rent on a two-bedroom apartment.

The Low-Income Housing Tax Credit was created in 1986 to attract private sector capital to the affordable housing market. It has been the major engine for financing the production of low-income multi-family housing. The program offers developers and investors in affordable housing credit against their Federal income tax in return for their investment. Since its inception, the Low-Income Housing Tax Credit has assisted in the development and availability of roughly 850,000 new and rehabilitated units of affordable housing.

In the fall of 2000, the Internal Revenue Service issued its first guidance in the program's 16-year history. That guidance was issued in the form of several technical advice memoranda, or TAMs, and specified which development costs will be eligible and ineligible for the credit, known as eligible basis.

TAMs are not official guidance, reviewed by the Treasury Department, but instead, are IRS legal opinions providing direction to IRS agents conducting audits. They are not citable in court proceedings because they are not official guidance. In the absence of official guidance, TAMs could be taken as the official government position. In fact, that is exactly what is happening.

The problem is that the IRS's position is contrary to common industry practice, and eliminates many reasonable, legitimate and necessary costs from the tax credit. This has caused uncertainty among investors as to whether the credits for which they have paid, will be realized. Moreover, these guidelines could adversely affect the ability of States to target affordable housing to those who need it the most.

It is important to understand, this legislation will not increase the pool of low-income housing tax credits. The Internal Revenue Code sets the maximum amount of credits that States may allocate to developers of affordable housing properties. Thanks to legislation that we enacted in 2000, the amount available to each State has increased from $1.50 to $1.75 times the State's population. That 40 percent increase is expected to produce about 30,000 more units a year. Since the unmet demand for affordable housing is many times greater than what can be built with the help of the credit, our legislation should not affect revenues. In fact, the only way for this legislation to have a revenue impact is if the legislation makes it easier for the States to use the credits we intend for them to have under present law.

What this legislation does do, however, is very important. To understand its importance, it may be useful to have a little background on how the low-income housing tax credit works.

In economic terms, the credit is equity financing which replaces a portion of debt that would otherwise be necessary to finance a property. By replacing debt, credits work to reduce interest costs. This allows a property owner to offer lower rents than otherwise would be the case.

The most unique feature of the program is that State housing finance agencies award Federal tax credits to developers of rental housing. Since these agencies have considerable flexibility in how they distribute the credits, developers compete for the limited number of tax credits by submitting project proposals. The agencies rate the proposals, and allocate credits to individual properties based on criteria provided in the Internal Revenue Code, and on the State's particular housing needs and priorities.

The Internal Revenue Code also limits the amount of credits a State may allocate to a particular property. The limit is determined as percentage of the basis of a property. The basis is, generally speaking, the cost of constructing a building that is part of an affordable housing project. Non-federally subsidized new construction may receive a 9 percent credit. Existing buildings and new buildings receiving other Federal subsidies may get a 4 percent credit.

The IRS takes the position that certain construction costs should not be included in basis. This position makes a large number of affordable housing properties financially unfeasible, and weakens the economics of those that still pass minimum underwriting requirements. The loss of equity would surely affect the properties that serve the lowest income tenants, provide higher levels of service, or operate in high cost areas. The reason that this is problematic is simple. Reducing the amount of credits does not reduce the development costs. It merely alters the source of financing from equity to debt, forcing either higher rents or lower quality construction.

Apparently, the Treasury Department and Internal Revenue Service agree that this is an issue worthy of review, as both agencies have included it in their business plan. Last year, the IRS issued new guidance on one of the items addressed by the TAMs, but there does not appear to be a full review of the effect of the positions set forth in the TAMs anytime soon.

This legislation would amend the Internal Revenue Code to specify that certain associated development costs are to be included in eligible basis. In many cases, the largest item excluded from eligible basis under the TAMs is "impact fees." Impact fees are fees required by the government "as a condition to the development" and considered ineligible because they are one-time costs, unlike building permits that need to be renewed each time a building is built. These fees cover a wide range of infrastructure improvements including sewer lines, schools, and roads. Certainly, whether or not they are includable in basis for the purpose of calculating the amount of tax credit, these costs will be incurred and will impact the economics of the property. As I mentioned previously, the IRS has recently addressed the inclusion of impact fees in eligible basis, but not other costs directly related to building construction.

Other items that would be severely restricted or excluded from eligible basis under the interpretations expressed in the TAMs are site preparation costs, development fees, professional fees related to developing the property, and construction financing costs. The legislation we are introducing today will clarify that any cost incurred in preparing a site which is reasonably related to the development of a qualified low-income housing property, any reasonable fee paid to the developer, any professional fee relating to an item includable in basis, and any cost of financing attributable to construction of the building is includable in basis for the purpose of calculating the maximum amount of credit a State may allocate to a low-income housing property.

The intent of these clarifications is simply to codify common industry practice before the issuance of the TAMs. Not only will the legislation allow the low-income tax credit program to provide better quality housing at lower rental rates than would be possible if the positions taken in the TAMs are followed, but clarification will help simplify administration of the credit by giving both taxpayers and the Internal Revenue Service a clearer statement of the standards that apply in calculating credit amounts.

Our economy is not doing as well as we would like, and there is a significant likelihood that we are going to need even more affordable housing in the not too distant future. We should be proud that we increased the amount of low-income housing tax credits that will be available to help finance this housing. What we need to do now is to make sure that these credits are used as efficiently as possible to provide housing for those who need it the most. The legislation we are introducing today will help achieve that goal.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1119

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ELIGIBILITY OF CERTAIN EXPENSES FOR LOW-INCOME HOUSING CREDIT.**

(a) IN GENERAL.—Subsection (d) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended by adding at the end the following new paragraph:

"(8) ASSOCIATED DEVELOPMENT COSTS INCLUDED IN BASIS.—

"(A) IN GENERAL.—Solely for purposes of this section, associated development costs shall be taken into account in determining the basis of any building which is part of a low-income housing project to the extent not otherwise so taken into account.

"(B) ASSOCIATED DEVELOPMENT COSTS.—For purposes of subparagraph (A), the term 'associated development costs' means, with respect to any building, such building's allocable share of—

"(i) any cost incurred in preparing the site which is reasonably related to the development of the qualified low-income housing project of which the building is a part,

"(ii) any fee imposed by a State or local government as a condition to development of such project,

"(iii) any reasonable fee paid to any developer of such project,

"(iv) any professional fee relating to any item includible in the basis of the building pursuant to this paragraph, and

"(v) any cost of financing attributable to construction of the building (without regard to the source of such financing) which is required to be capitalized."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) housing credit dollar amounts allocated after December 31, 2002, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

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By Mr. BAUCUS (for himself, Mr. ROCKEFELLER, MR. BINGAMAN, Mr. DAYTON, and Mrs. MURRAY):

S. 1120. A bill to establish an Office of Trade Adjustment Assistance, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Adjustment Assistance for Firms Reorganization Act.

The Trade Adjustment Assistance for Firms program assists hundreds of mostly small and medium-sized manufacturing and agricultural companies in Montana and nationwide when they face layoffs and lost sales due to import competition. Qualifying companies develop adjustment plans and receive technical assistance to become more competitive, so they can retain and expand employment.

.The program is very cost effective. It requires the firms being helped to match the Federal assistance with their own funds, and it pays the government back in Federal and State tax revenues when the firms succeed.

Currently, TAA for Firms clients receive assistance preparing petitions and adjustment plans from twelve Trade Adjustment Assistance Centers, which are Commerce Department contractors. Program and policy decisions are made by a small Headquarters staff in Commerce's Economic Development Administration. This organizational structure is efficient and has served the program well for many years.

For example, TAA for Firms is helping Montola Growers from Culbertson, Montana, to develop cosmetic applications for its rapeseed oil. The program is helping Pyramid Mountain Lumber of Seeley Lake, MT to upgrade its production process and train employees to use new process controls. And it is helping Porterbilt Company of Hamilton to expand its product line.

Last year, in the Trade Act of 2002, a bipartisan majority of Congress voted to reauthorize this important program for seven years and to increase its authorized funding level. The program seemed headed toward some years of smooth sailing. But it turns out that is not the case.

For reasons unrelated to TAA for Firms, EDA is about to move all its Headquarters program operations to its six regional offices, with a policy office in Washington. For TAA for Firms, that means clients will get the same local services from the TAACs, but decisions will be made in six regional offices and the national policy office—a net increase in layers of government. The likely result is more personnel needed to run the program, less centralized and consistent decision making, and less accountability—all without any likely improvement in customer service.

The organizational structure of TAA for Firms is not broken and it doesn't need to be fixed. This bill preserves the existing efficient management structure of the TAA for Firms program. Instead of moving the program out of Commerce Headquarters entirely, it simply moves the program to a different part of the Commerce Department. That way it can continue to be centrally managed with a minimal staff.

Under this bill, administration of TAA for Firms will move from the Economic Development Administration at the Department of Commerce to DOC's International Trade Administration.

Relocating the program to ITA makes a lot more sense that dividing it up among seven different EDA offices, for several reasons. First, ITA has experience running this program, which was located there prior to 1990. Second, relocating TAA for Firms to ITA will result in fewer layers of government and more centralized and accountable program management. It also creates synergies by allowing better coordination of the TAA for Firms program with other trade and trade remedy programs administered by ITA. And it enhances the ability of the Finance Committee to carry out its oversight responsibilities for this program and for trade policy in general.

I want to thank Senators ROCKEFELLER, BINGAMAN, DAYTON, and MURRAY who have joined me in co-sponsoring this bill. This is a simple matter of good, sensible government and I encourage more of my colleagues to lend it their support. I urge Chairman GRASSLEY to take up this bill in the Finance Committee as soon as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1120

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Trade Adjustment Assistance for Firms Reorganization Act".

**SEC. 2. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.**

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

**"SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.**

"(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

"(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

"(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

"Sec. 255A. Office of Trade Adjustment Assistance.".

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By Mr. BAUCUS (for himself and Mr. MCCAIN):

S. 1121. A bill to extend certain trade benefits to countries of the greater Middle East; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce, on behalf of my self and Senator MCCAIN, the Middle East Trade and Engagement Act of 2003.

For more than a thousand years, the most important trade route in the world ran through the heart of the Middle East. The Silk Road that linked the Western world with China wound its way through what is today Egypt, Iraq, Jordan, Turkey, and a host of other countries in the Middle East.

Merchants who traveled either direction along the Silk Road brought with them not only their goods for sale, but also their ideas and culture. In this way, all peoples from the West through the East were enriched with both money and knowledge.

But in modern times, the countries of the Middle East have retreated from their historically critical role in world trade. Today, few countries in the Middle East engage fully in the global trading system.

Many are not members of the World Trade Organization. Many have high barriers to international trade and investment. Their economies have suffered as a result. A declining share of world trade and investment has led to decades of deepening poverty and slow job creation in the countries of the Middle East.

At the same time, they have been experiencing population growth rates among the highest in the world. That means that a growing number of young people will be entering the workforce to look for jobs that don't now exist.

The United States cannot stand idly by as a generation of young people in the Middle East grows up to discover that there is no meaningful work for them, and that they have no way to provide for a family of their own.

The problem will only get worse if we don't act now. As the rest of the world continues to liberalize its trade, the countries of the Middle East will only be left further behind.

That is why we're today introducing the Middle East Trade and Engagement ACt of 2003. Under this Act, countries in the Middle East will be given preferential access to the U.S. market.

This is not a one-way street. Countries must meet certain conditions. They must support our war on terrorism, and they must pursue economic reforms. Only then will they reap the benefits of this legislation.

Our proposal can have an immediate impact. Opening our markets to the countries of the Middle East will encourage higher levels of trade and direct investment in those countries. And we know it can be a success because if has worked before in other regions. Our bill is modeled on successful programs that increased economic development in sub-Saharan Africa and the Andean countries.

This legislation will do the same for the countries of the Middle East. Increased economic development in that region means jobs for the young and the unemployed, some of whom may otherwise be recruited by our enemies in the war on terrorism.

By helping to strengthen these economies, we also increase the number of people who can afford to purchase American products and services. That means increased export opportunities for American businesses and more jobs for American farmers and workers.

President Bush recently announced an initiative to create a free trade area for the United States and the countries of the Middle East by the year 2013. This is a good long-term goal. But the people in the Middle East need our help now. They need jobs now, not ten years from now.

The Middle East Trade and Engagement Act would bring the benefits of trade to the people of the countries in the Middle East in a much shorter time. It would also help those countries make the economic reforms they'll need to make before a free trade area can become a realistic option.

And just as trade in the time of the Silk Road allowed the exchange of ideas and culture as well as goods, increased trade now can strengthen ties between the United States and the countries in the Middle East.

Now, in the Aftermath of the war in Iraq, the whole world's attention is focused on the Middle East. It is the ideal time for the United States to engage these countries in a comprehensive way and help bring them more fully into the global trading system.

I hope that my colleagues will join Senator McCAIN and me in cosponsoring this important legislation, and I hope we will have a change to consider this in the Finance Committee this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1121

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle East Trade and Engagement Act of 2003".

### SEC. 2. FINDINGS.

Congress finds that—

(1) it is in the mutual interest of the United States and the countries of the greater Middle East to promote stable and sustainable growth and development throughout the greater Middle East;

(2) Congress views democratization and economic progress in the countries of the greater Middle East as important elements of a policy to address terrorism and endemic instability;

(3) free trade relationships are not a substitute for, but a complement to, necessary political and economic reforms that lead to political liberalization and economic freedom;

(4) the countries of the greater Middle East have enormous economic potential and are of enduring political significance to the United States;

(5) despite their economic potential, the countries of the greater Middle East are experiencing deepening poverty, slow job creation, and a declining share of world trade and investment, while at the same time experiencing population growth rates among the highest in the world;

(6) these economic conditions are in part the result of barriers to trade and investment, a failure to engage fully in the global trading system, lack of participation in the World Trade Organization, and, often, a lack of economic diversification and over-reliance on the energy sector;

(7) offering the countries of the greater Middle East enhanced trade preferences will encourage higher levels of trade and direct investment and help bring those countries more fully into the global trading system;

(8) higher levels of trade and investment and greater involvement in the global trading system can lead to increased economic development, which can in turn lead to more jobs for people in the countries of the greater Middle East; and

(9) encouraging the reciprocal reduction of trade and investment barriers in the greater Middle East will enhance the benefits of trade and investment for all the countries in the greater Middle East as well as enhance commercial and political ties between the United States and the greater Middle East.

### SEC. 3. STATEMENT OF POLICY.

Congress supports—

(1) encouraging increased trade and investment between the United States and the countries of the greater Middle East and among the countries of the greater Middle East;

(2) reducing tariff and nontariff barriers and other obstacles to trade between the United States and the countries of the greater Middle East and among the countries of the greater Middle East;

(3) strengthening and expanding the private sector and accelerating the rate of job creation in the countries of the greater Middle East;

(4) focusing on countries committed to the rule of law, economic reform, political liberalization, respect for human rights, and the eradication of poverty;

(5) facilitating the development of civil societies and political freedom in the countries of the greater Middle East;

(6) promoting sustainable development, and protecting and preserving the environment in a manner consistent with economic development; and

(7) encouraging the countries of the greater Middle East to diversify their economies, implement domestic economic reforms, open to trade, and adopt anticorruption measures, including through accession to the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

### SEC. 4. DESIGNATION OF ELIGIBLE COUNTRIES.

(a) IN GENERAL.—The President is authorized to designate any country listed in subsection (c) as a beneficiary country if the President determines that the country—

(1) has established, or is making continual progress toward establishing—

(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(B) the rule of law and the right to due process, a fair trial, and equal protection under the law;

(C) political pluralism, a climate free of political intimidation and restrictions on peaceful political activity, and democratic elections that meet international standards of fairness, transparency, and participation;

(D) the elimination of barriers to United States trade and investment, including by—

(i) providing national treatment and measures to create an environment conducive to domestic and foreign investment;

(ii) protecting intellectual property; and

(iii) resolving bilateral trade and investment disputes;

(E) economic policies that reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through micro-credit or other programs;

(F) a system to combat corruption and bribery, such as signing and implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;

(G) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work; and

(H) policies that provide a high level of environmental protection;

(2) does not engage in activities that undermine United States national security or foreign policy interests, and supports a peaceful resolution of the Israeli-Palestinian conflict;

(3) is a signatory of the United Nations Declaration of Human Rights, does not engage in gross violations of internationally recognized human rights, and is making continuing and verifiable progress on the protection of internationally recognized human rights, including freedom of speech and press, freedom of peaceful assembly and association, and freedom of religion;

(4) is not listed by the United States Department of State as a state sponsor of terrorism and cooperates fully in international efforts to combat terrorism;

(5) does not participate in the primary, secondary, or tertiary economic boycott of Israel; and

(6) otherwise meets the eligibility criteria set forth in section 502(b)(2) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)), other than section 502(b)(2)(B).

(b) CONTINUING COMPLIANCE.—If the President determines that a designated beneficiary country no longer meets the requirements described in subsection (a), the President shall terminate the designation of the country made pursuant to subsection (a) and inform Congress of the President's determination and the reasons therefor.

(c) COUNTRIES ELIGIBLE FOR DESIGNATION.—In designating countries as beneficiary countries under this Act, the President shall consider only the following countries of the greater Middle East or their successor political entities:

(1) Afghanistan.
(2) Algeria.
(3) Azerbaijan.
(4) Bahrain.
(5) Bangladesh.
(6) Egypt.
(7) Iraq.
(8) Kuwait.
(9) Lebanon.
(10) Morocco.
(11) Oman.
(12) Pakistan.
(13) Qatar.
(14) Saudi Arabia.
(15) Tunisia.
(16) Turkey.
(17) United Arab Emirates.
(18) Yemen.

(d) THE PALESTINIAN AUTHORITY.—The President is also authorized to designate the Palestinian Authority or its successor political entity as a beneficiary political entity which, if so designated, shall be accorded benefits under this Act as if it were a beneficiary country, if the President determines that the Palestinian Authority—

(1) satisfies the conditions of subsection (a)(1) and (2);

(2) does not participate in acts of terrorism, and takes active measures to combat terrorism;

(3) cooperates fully in international efforts to combat terrorism;

(4) does not engage in gross violations of internationally recognized human rights,

and is making continuing and verifiable progress on the protection of internationally recognized human rights, including freedom of speech and the press, freedom of peaceful assembly and association, and freedom of religion; and

(5) accepts Israel's right to exist in peace within secure borders.

### SEC. 5. DESIGNATION OF ELIGIBLE ARTICLES.

(a) Eligible Articles.—Except as provided in sections 503(b)(2) and (3) of the Trade Act of 1974 (19 U.S.C. 2463(b)(2) and (3)), the President is authorized to designate articles as eligible for duty-free treatment from all beneficiary countries for purposes of this Act by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (c).

(b) Rules of Origin.—

(1) General rule.—The duty-free treatment provided under this Act shall apply to any eligible article which is the growth, product, or manufacture of 1 or more beneficiary countries if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in 1 or more beneficiary countries, plus

(ii) the direct cost of processing operations performed in such beneficiary country or countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

(2) Additional countries.—For purposes of the rules of origin in paragraph (1) and the regulations prescribed pursuant to paragraph (4), the term "beneficiary country" includes Israel and Jordan.

(3) Exclusions.—An article shall not be treated as the growth, product, or manufacture of a beneficiary country by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(4) Regulations.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this Act, an article—

(A) must be wholly the growth, product, or manufacture of 1 or more beneficiary countries, including Israel and Jordan; or

(B) must be a new or different article of commerce which has been grown, produced, or manufactured in 1 or more beneficiary countries, including Israel and Jordan.

(c) International Trade Commission Advice.—Before designating an article as an eligible article under subsection (a), the President shall publish in the Federal Register and furnish the International Trade Commission with a list of articles that may be considered for designation as eligible articles for purposes of this Act. The President shall comply with the provisions of sections 131, 132, 133, and 134 of the Trade Act of 1974 as if an action under this Act were an action taken under section 123 of the Trade Act of 1974 to carry out a trade agreement entered into under section 123.

### SEC. 6. UNITED STATES-MIDDLE EAST TRADE AND ECONOMIC COOPERATION FORUM.

(a) Declaration of Policy.—The President shall convene annual high-level meetings among appropriate officials of the United States Government, officials of the governments of eligible beneficiary countries, and officials of the Governments of Israel and Jordan in order to foster close economic ties between the United States and the countries of the greater Middle East.

(b) Establishment.—Not later than 12 months after the date of enactment of this Act, the President, after consulting with Congress and the governments concerned, shall establish a United States-Middle East Trade and Economic Cooperation Forum (in this section referred to as the "Forum").

(c) Requirements.—In creating the Forum, the President shall meet the following requirements:

(1) The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to host the first annual meeting with their counterparts from the governments of designated beneficiary countries, and those countries and political entities listed in section 4 (c) and (d) that the President determines are taking substantial positive steps toward meeting the eligibility requirements in section 4. The purpose of the meeting shall be to discuss expanding trade and investment relations between the United States and the countries of the greater Middle East and the implementation of this Act including encouraging joint ventures between small and large businesses. The President shall also direct the Secretaries and the United States Trade Representative to invite to the meeting representatives from appropriate organizations and government officials from countries and political entities in the greater Middle East.

(2)(A) The President, in consultation with Congress, shall encourage United States nongovernmental organizations to host annual meetings with nongovernmental organizations from the countries and political entities of the greater Middle East in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(B) The President, in consultation with Congress, shall encourage United States representatives of the private sector to host annual meetings with representatives of the private sector from the countries and political entities of the greater Middle East in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(3) The President shall, to the extent practicable, meet with the heads of governments of designated beneficiary countries, and those countries and political entities listed in section 4 (c) and (d) that the President determines are taking substantial positive steps toward meeting the eligibility requirements in section 4, not less than once every 2 years for the purpose of discussing the issues described in paragraph (1). The first such meeting should take place not later than 12 months after the date of enactment of this Act.

(d) Dissemination of Information by USIS.—In order to assist in carrying out the purposes of the Forum, the United States Information Service shall disseminate regularly, through multiple media, economic information in support of the free market economic reforms described in this Act.

### SEC. 7. FREE TRADE AGREEMENTS WITH COUNTRIES OR POLITICAL ENTITIES IN THE GREATER MIDDLE EAST.

(a) Declaration of Policy.—Congress declares that bilateral free trade agreements should be negotiated, where feasible, with interested countries or political entities in the greater Middle East, in order to serve as the catalyst for increasing trade between the United States and the greater Middle East and increasing private sector investment in the greater Middle East.

(b) Eligibility.—Any country or political entity that desires to negotiate a bilateral free trade agreement with the United States shall be a member of the World Trade Organization or be working diligently toward membership and shall satisfy the criteria in section 4(a) of this Act.

(c) Plan Requirement.—

(1) In general.—The President, taking into account the willingness of the governments of the beneficiary countries to engage in negotiations to enter into free trade agreements, shall develop a plan for the purpose of negotiating and entering into 1 or more trade agreements with interested beneficiary countries.

(2) Elements of plan.—The plan shall include the following:

(A) The specific objectives of the United States with respect to negotiations described in paragraph (1) and a suggested timetable for achieving those objectives.

(B) The benefits to both the United States and the relevant beneficiary countries with respect to the applicable free trade agreement or agreements.

(C) A mutually agreed-upon timetable for the negotiations.

(D) Subject matter anticipated to be covered by the negotiations and United States laws, programs, and policies, as well as the laws of participating eligible countries of the greater Middle East and existing bilateral and multilateral and economic cooperation and trade agreements, that may be affected by the agreement or agreements.

(E) Procedures to ensure the following:

(i) Adequate consultation with Congress and the private sector during the negotiations.

(ii) Consultation with Congress regarding all matters relating to implementation of the agreement or agreements.

(iii) Approval by Congress of the agreement or agreements.

(iv) Adequate consultations with the relevant governments of the greater Middle East during the negotiation of the agreement or agreements.

(d) Reporting Requirement.—Not later than 12 months after the date of enactment of this Act, the President shall prepare and transmit to Congress a report containing the plan developed pursuant to subsection (c).

### SEC. 8. REPORTING REQUIREMENT.

(a) In General.—The President shall monitor, review, and prepare a report annually on the progress of each country and political entity listed in section 4 (c) and (d) in meeting the requirements described in section 4(a) in order to determine the current or potential eligibility of each country or political entity to be designated as a beneficiary country under this Act. The report shall also include a comprehensive discussion of the implementation of this Act and an analysis of the trade and investment policy of the United States with respect to the countries and political entities listed in section 4 (c) and (d). To the extent that any subject matter required by the report is included in another report submitted by the President, the report required by this section may reference the other report.

(b) TIME FOR SUBMITTING REPORT.—The President shall submit the report described in subsection (a) to Congress not later than 1 year after the date of enactment of this Act, and annually thereafter through 2011.

### SEC. 9. PRESERVATION OF BENEFITS OF UNITED STATES-ISRAEL AND UNITED STATES-JORDAN FREE TRADE AGREEMENTS.

Nothing in this Act shall be deemed to nullify or impair any right or benefit accorded either to Israel or to Jordan under the existing trade agreements with the United States.

### SEC. 10. TERMINATION OF PREFERENTIAL TREATMENT.

No duty-free treatment or other preferential treatment extended to beneficiary countries under this Act shall remain in effect after December 31, 2011.

Mr. MCCAIN. Mr. President, today I join Senator BAUCUS in introducing the Middle East Trade and Engagement Act of 2003. Our legislation would permit eligible countries in the greater Middle East to gain greater access to American markets through the duty-free treatment of certain exports, and ultimately to negotiate free trade agreements with the United States. It would condition broader trade relations on fundamental political and economic reforms, cooperation in the fight against terrorism, and support for the Israeli-Palestinian peace process, among other issues, in order to promote liberalization and reform across the Arab and Muslim worlds.

Free trade is a powerful tool for opening up closed societies, if leaders in the greater Middle East are willing to make necessary and overdue political and economic reforms. It is past time for nations in the region to join the global economy, and for rulers to lead increasingly restive populations in the direction of democracy and free markets.

Today, the countries of the Middle East account for a small percentage of non-energy sector trade for the United States. With the exception of oil, most Arab nations barely trade with each other, much less with the rest of the world, and many still maintain a hostile economic boycott on Israel—policies that isolate the Middle East from the global economy and perpetuate conflict instead of building prosperity. The wave of free-market reform and democratization that swept Europe, Latin America, Asia, and parts of Africa in the 1980s and 1990s has left most of the Middle East untouched and unchanged.

America's interest in economic opening and political liberalization in the region requires a new level of engagement with the countries of the greater Middle East, premised on the acceleration and active implementation of a host of reforms without which prosperity and democracy are not possible. Our legislation would tie preferential trade access to American markets to progress towards adoption of these reforms, as well as meaningful progress on human rights protections, decisive movement towards democracy, full cooperation in the war on terrorism, and an end to the primary, secondary, and tertiary economic boycott of Israel.

Our bill is modeled on the success of the Andean Trade Preferences Act and the African Growth and Opportunity Act. Ideally, enactment of the bill we are introducing today would create a regime of duty-free trade in a number of goods from the greater Middle East. Such a trade preference program would encourage and often require eligible nations to undertake the kind of significant economic reforms that ultimately lead to free trade agreements, as President Bush has called for and which we support.

The Andean Trade Preferences Act was created to expand the economies of Bolivia, Colombia, Ecuador, and Peru. By granting duty-free and reduced rate treatment to various products from these nations, we took action to strengthen the fragile economies of the region, expand their export bases, and provide Andean farmers and workers with legitimate employment outside of the drug trade. It has worked. The trade agreement created new industries in the region outside of the drug trade and expanded the economies of the region which helped to create legitimate jobs. We foresee similar effects from this legislation on parts of the Middle East, if leaders have the courage and vision to complement progress on trade with internal political and economic reforms.

Reform in the Arab and Muslim worlds requires not just greater trade but accelerated political and economic liberalization, including respect for fundamental human freedom. It is my hope that the spirit and effect of our legislation will help move countries of the greater Middle East in that direction.

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By Mrs. BOXER (for herself and Mr. BIDEN):

S. 1123. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, today I am introducing the Violence Against Children Act of 2003. The legislation, modeled on the successful Violence Against Women Act, will both toughen Federal penalties for crimes against children and assist local communities in their efforts to fight violence against children. It has been endorsed by over 100 prominent individuals and organizations.

We were all horrified by the tragic murders of Samantha Runion and Danielle van Dam. We were horrified by the kidnaping of Elizabeth Smart, Erica Pratt, and Nichole Taylor Timmons who were snatched right from their homes. We were horrified by the kidnaping and rape of Jacqueline Marris and Tamara Brooks.

But there are thousands more stories we do not hear—thousands of children who each year are victims of sexual molestation, kidnaping, murder—thousands of children whose stories do not make the nightly news—thousands of children and thousands of families who suffer in silence and often without help.

In fact, 71 percent of all sex crime victims are under the age of 18—and 38 percent of all kidnaping victims are under age 18. Those between the ages of 12 and 17 are over two times more likely to be victims of a violent crime than adults. And as alarming as those statistics are, according to a study published in 1999, only 28 percent of all crimes against children are actually reported.

While we are horrified by these and other stories, we must not let them paralyze us. We must do for children what we have done on behalf of women, by changing attitudes and changing the culture. The Violence Against Children Act would create a new Federal criminal statute for willfully injuring or attempting to injure any person under the age of 18. Those who injure a child or try to will be imprisoned for up to 10 years and fined. And if the crime is kidnaping, aggravated sexual abuse, or murder, the maximum penalty will be life in prison.

In addition to enhanced penalties for crimes against children, the Violence Against Children Act provides Federal assistance—including technical, forensic, and prosecutorial assistance—to any State, Indian tribe, or local government that requests assistance with a violent felony against a child. The bill also establishes a grant program to help local police and prosecutors to strengthen effective law enforcement and prosecution for these crimes.

This Act builds upon the Protect Act, recently signed into law, by requiring that States have an Amber Alert system to help locate missing children in order to qualify for the local law enforcement grants. In addition, to cut down on the number of abused and neglected children, states are required to have a Safe Haven program that would allow parents to leave newborn babies in hospital emergency rooms, anonymously and with no fear of penalty. These requirements will ensure that states take action to improve systems that can protect our Nation's children.

I am pleased to be joined in this effort by Senator BIDEN, who I teamed up with over a decade ago in introducing the Violence Against Women Act. And Representative MILLENDER-MCDONALD is the sponsor of the House bill.

This is a critical issue to safeguard our children and youth nationwide. I urge my colleagues to cosponsor this bill.

I ask unanimous consent to print in the RECORD a section-by-section summary of the bill and a list of those who have endorsed it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## VIOLENCE AGAINST CHILDREN ACT—SECTION-BY-SECTION SUMMARY

### *Section 1. Short title*

Names the Act the "Violence Against Children Act of 2003."

### *Section 2. Findings*

Includes findings on the extent of crimes against children and the effect of those crimes against children. Also finds that failure to pay child support is a form of neglect.

### TITLE I—ENHANCED FEDERAL ROLE IN CRIMES AGAINST CHILDREN

### *Section 101. Enhanced penalties*

*(1) New Criminal Statute*

Creates a new federal criminal statute for willfully injuring or attempting to injure any person under the age of 18. Establishes a maximum penalty of 10 years in prison and a fine. If death of the child results from the crime or if the crime is kidnapping, an attempt to kidnap, aggravated sexual abuse, an attempt to commit aggravated sexual abuse, or an attempt to kill, the maximum penalty is a fine and life in prison.

For constitutional purposes, the criminal statute applies only under certain circumstances: (1) if the defendant or the victim engages in interstate or foreign commerce, including crossing a state line, during the course of or as the result of committing the crime; or (2) the defendant uses a firearm or other weapon that has traveled in interstate or foreign commerce.

*(2) Enhanced Penalties of Existing Crimes*

Directs the United States Sentencing Commission to provide enhanced penalties for existing federal crimes when the victim is under the age of 18.

*(3) Review of State Laws*

Directs the General Accounting Office, within 6 months, to review state criminal penalties for crimes against children and state laws regarding enhanced penalties when the victim of a crime is under the age of 18.

### *Section 102. Enhanced assistance for criminal investigations and prosecutions by state and local law enforcement officials*

Requires the Attorney General to provide federal assistance—including technical, forensic, and prosecutorial assistance—to any state, Indian tribe, or local government that requests assistance with a violent felony against a child.

If the Attorney General determines that there are insufficient resources to fulfill all such requests, priority is given to (a) requests that involve offenders who have committed crimes in more than one state; and (b) rural areas that do not have sufficient resources to investigate and prosecute the crime.

### TITLE II—GRANT PROGRAMS

### *Section 201. State and local law enforcement assistance grants*

Creates a new grant program to assist states, Indian tribes, and local governments to strengthen law enforcement and prosecution of crimes against children. Grants could be used for a variety of purposes, including: (a) training law enforcement officers, prosecutors, and judges; (b) developing or expanding law enforcement units or courts that specifically target crimes against children; (c) developing policies to prevent, identify, and respond to crimes against children; (d) establishing data collection and communication systems to link police, prosecutors, and courts in helping to track arrests, prosecutions, and convictions of crimes against children; and (e) establishing and strengthening collaboration and communication between law enforcement and child services agencies.

To be eligible for funds, a state must have in place an AMBER Alert system (see section 301) and must use, or be in the process of using, the National Incident-Based Reporting System (see section 302).

Authorizes $25 million for each of the next five years. Federal funds must supplement, not supplant, non-federal funds.

### *Section 202. Education, prevention, and victims' assistance grants*

Creates a new grant program to assist states, Indian tribes, local governments, and nongovernmental organizations to provide education, prevention, intervention, and victims' assistance services regarding crimes against children. Grants could be used for a variety of purposes, including: (a) hotlines; (b) training of professionals; (c) informational and educational services and materials; (d) intervention services; (e) emergency medical treatment; (f) counseling to child victims and their families; and (g) increasing the number of mental health professionals that specialize in child victims.

To be eligible for funds, a state must have a Safe Haven program (see section 303).

Authorizes $25 million for each of the next five years. Federal funds must supplement, not supplant, non-federal funds.

### TITLE III—NATIONWIDE PROGRAMS

### *Section 301. Nationwide AMBER Alert*

Requires each state receiving a law enforcement assistance grant (see section 201) to have in place a state-wide AMBER Alert communications network for child abduction cases.

This system must be in place within 3 years after the date of enactment of the Violence Against Children Act.

### *Section 302. Improved statistical gathering*

Requires each state receiving a law enforcement assistance grant (see section 201) to use, or to be in the process of testing or developing protocols to use, the National Incident-Based Reporting System. (This program provides the most detailed statistical profile of crimes in the United States, including by the age of the victims. However, it is a voluntary program, and less than half the states currently participate.)

### *Section 303. National safe haven*

Requires each state receiving a victims' assistance grant (see section 202) to have a Safe Haven program, which permits a parent to leave a newborn baby with a medically-trained employee of a hospital emergency room anonymously without penalty. The state program must have a mechanism to voluntarily collect information about the medical history of the family, must require a search of the child in the state and federal missing person databases, and must include a plan to publicize the state program.

To ensure that an abused or intentionally harmed newborn is not left at a hospital so a parent can escape responsibility, a state *may* have a limited exception to the Safe Haven program in those circumstances.

### *Section 304. Improved child protection services programs*

Directs each state, within 6 months, to report to the Department of Health and Human Services on its child protective services program, including how the state maintains records, keeps track of the children under its care, and verifies the well-being of the children.

Directs the General Accounting Office, within 6 months, to review state child protective services practices, including how states keep track of the children under their care, and to report to Congress on any legislative changes needed to improve the program.

### TITLE IV—CHILD SUPPORT ENFORCEMENT

### *Section 401. Child support bad debt deduction*

Expresses the sense of the Senate that Congress should extend the existing federal tax law on bad debt to nonpayment of child support. That is, those who do not receive the child support they are owed should be able to deduct that from their federal income taxes; those who fail to pay ordered child support should be required to add the unpaid amount to their income and pay federal taxes on it.

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## VIOLENCE AGAINST CHILDREN ACT LETTERS OF SUPPORT

### NATIONAL ORGANIZATIONS/INDIVIDUALS

KlaasKids Foundation (Marc Klaas).

Children's Defense Fund.

National Children's Alliance.

American Academy of Child and Adolescent Psychiatry.

American Humane Association.

Crimes Against Children Research Center.

Dr. Laura Schlessinger.

### CALIFORNIA LAW ENFORCEMENT

California Police Activities Leagues.

Auburn Chief of Police.

Butte County Sheriff-Coroner.

Chico Chief of Police.

Colusa County Sheriff-Coroner.

Fairfield Chief of Police.

Glenn County Sheriff-Coroner.

Kern County Sheriff-Coroner.

Lassen County Sheriff-Coroner.

Long Beach Chief of Police.

Los Angeles Chief of Police.

Manteca Chief of Police.

Marin County Sheriff.

Marysville Chief of Police.

Napa Chief of Police.

Oxnard Chief of Police.

Redding Chief of Police.

Roseville Chief of Police.

Sacramento Chief of Police.

Sacramento County Sheriff.

San Diego Chief of Police.

San Mateo Chief of Police.

San Mateo County Sheriff.

Santa Ana Chief of Police.

Santa Clara Chief of Police.

Shasta County Sheriff.

Stanislaus County Sheriff-Coroner.

Stockton Chief of Police.

Woodland Chief of Police.

Yolo County Sheriff.

Yuba City Chief of Police.

### OTHER LAW ENFORCEMENT

Pierce County (WA) Sheriff.

### CALIFORNIA PUBLIC OFFICIALS

Bill Lockyer, California Attorney General.

Jack O'Connell, California State Superintendent of Public Instruction.

Steve Westly, California State Controller.

John L. Burton, President Pro Tempore, California State Senate.

James Hahn, Mayor, Los Angeles.

Jan Scully, Sacramento County District Attorney.

Chula Vista City Council (Stephen C. Padilla, Mayor).

Santa Rosa City Council (Sharon Wright Mayor).

Ed Henderson, Mayor, Napa.

Steve Cooley, Los Angeles County District Attorney.

Pete Knoll, Siskiyou County District Attorney.

Claire Mack, Mayor, San Mateo.

Karin MacMillan, Mayor, Fairfield.

John A. Russo, Oakland City Attorney.

Alan D. Bersin, San Diego Superintendent of Public Instruction.

City of Santa Clara (Patricia M. Mahan, Mayor).

CALIFORNIA ORGANIZATIONS

Family Violence Law Center (Oakland).

Children's Interview Center (San Pablo).

Child Abuse Prevention Council of Sacramento.

Latino Coalition for a Healthy California.

Healthy Children's Collaborative (Stockton).

Sacramento Pediatric Society.

Sacramento County Children's Coalition.

Didi Hirsch Community Mental Health Center (Culver City).

Prevent Child Abuse—California.

Fresno Council on Child Abuse Prevention.

Rancho Cordova Neighborhood Center.

The Mutual Assistance Network of Del Paso Heights.

FamiliesFirst (Davis).

La Familia Counseling Center (Sacramento).

Orange County Child Advocacy Center.

Shasta County Child Abuse Prevention Coordinating Council.

Bienvenidos Family Services (Los Angeles).

Break the Cycle (Los Angeles).

SHEILDS For Families (Los Angeles).

South Central Prevention Coalition (Los Angeles).

Violence Prevention Coalition of Greater Los Angeles.

Prototypes (Culver City).

Five Acres Boys' and Girls' Aid Society of Los Angeles.

Heart of Los Angeles Youth.

Jewish Family Service of Los Angeles.

Marjaree Mason Center (Fresno).

Phoenix Houses of California.

Boys & Girls Club of San Fernando Valley.

Community Violence Solutions.

California Coalition for Youth.

The Jeffrey Foundation (Los Angeles).

The Center for the Advancement of Nonviolence (Los Angeles).

The Community Clinic Association of Los Angeles County.

A Place Called Home (Los Angeles).

LA's Best.

Prevent Child Abuse, Tuolumne County.

Child Advocacy Center, San Joaquin County.

Multi-Disciplinary Interview Center, Placer County District Attorney's Office.

YMCA Youth and Family Services, San Diego.

Advokids (Core Madera).

Northridge Hospital Medical Center.

Holmes & Holmes Attorneys at Law (Glendale).

San Fernando Valley Interfaith Council.

Chicano Youth Center (Fresno).

LA Family Housing.

Child Abuse Listening & Mediation (Santa Barbara).

Department of Children and Family Services, Alameda County.

OTHER ORGANIZATIONS

Children's Advocacy Center of Delaware.

Friends of the Children's Justice Center of West Hawaii.

Friends of the Children's Justice Center of East Hawaii.

Caring House (Iron Mountain, MI).

Garrett County Family Violence Coalition (Oakland, MD).

Dove Center (Oakland, MD).

Logan County Children's Services (Bellefontaine, OH).

CornerHouse (Minneapolis, MN).

Children's Advocacy Center (Pittsburgh, KS).

Prevent Child Abuse Illinois.

Children's Advocacy Center (Chicago).

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Mr. BIDEN. Mr. President, I rise today to help introduce a bill with my good friend from California that will bring new and needed tools to the battle to end violence against children in America, whether it takes place inside the home or out on the street. Today, Senator BOXER and I are introducing the Violence Against Children Act, VACA, which provides a comprehensive approach to prevent crimes against children, treat child victims, and prosecute those who harm our Nation's children.

In 1994, this body passed a piece of legislation that I authored, the Violence Against Women Act. When we passed this landmark legislation, we said as a Congress, and as a Nation as a whole, that domestic violence is not a family problem to be dealt with quietly behind the scenes, but a national crisis in need of a coordinated response from law enforcement, the courts and the medical community. Backed by almost one and half billion dollars of Federal funds, the Violence Against Women Act spurred a sea change on the Federal, State and local levels in how police, prosecutors, judges, medical personnel and others, process and handle cases of domestic abuse, sexual assault and stalking. Most importantly, the Violence Against Women Act also made it clear that victims of domestic violence and sexual assault were, in fact, victims: Victims who deserved the full extend of this Nation's medical and legal resources. The Violence Against Children Act, offered by Senator BOXER and myself today, is designed to bring this same type of concentered focus and coordinated response to end all child abuse, the most heinous and incomprehensible form of violence against the most vulnerable people in our lives.

Last year in my state of Delaware there were 1,073 substantiated cases of child abuse and neglect—46 percent were cases of neglect, 31 percent were cases of abuse and 12 percent were cases of sexual abuse. Nationally, 3.9 million of the nation's 22.3 million children between the ages of 12 and 17 have been seriously physically assaulted. One in three girls and one in five boys are sexually abused before the age of 18. One study recently reported that in 2000, the homicide rate for U.S. infants is almost equal to the murder rate of teens. As stunning as these numbers are, we should be aware that these numbers are not the totals. Like incidents of domestic violence, we know that violence against children is under-reported. We also know that violence against kids cuts across all lines—it happens to children of doctors and lawyers, not just to poor children. We must do more to protect our children, and with the Violence Against Children Act we can.

Designed to be a comprehensive measure, the Violence Against Children Act will fight the battle against child abuse on a number of fronts: by providing states with new resources, law enforcement with additional tools and families with more places to turn to for help. What specifically the legislation do? The Violence Against Children Act has three major provisions; 1. it deters crime by toughening Federal criminal penalties for crimes against children; 2. it requires the Federal Government to provide investigative, forensic and prosecutorial assistance to states working on cases of violent crimes against children; and 3. it authorizes two new grant programs—one aimed at providing more resources to state and local law enforcement for training, creating new courts and enforcement units focused solely on child crimes, and a second grant program for local governments and nonprofit organizations to provide emergency medical treatment and counseling for child victims, to increase the number of mental health professionals who specialize in child victims, and to establish child abuse and crime prevention programs.

The Violence Against Children Act also encourages State and localities to take affirmative steps to fight crimes against children by conditioning receipt of grant monies on three points: 1. creating a statewide Amber Alert system to alert the public immediately after a child abduction has been discovered; 2. creating Safe Haven programs which allow parents to leave newborn babies for whom they cannot care in hospital emergency room anonymously and without fear of penalty; and 3. improving data gathering so that police, treatment providers and policy makers get a clearer view of the circumstances surrounding child crimes. We need to stop nibbling around the edges with piecemeal legislation that tackles just one aspect of child abuse or child exploitation. The Violence Against Children Act takes into account the larger landscape and provides wide-reaching tools and resources. I feel certain that once my colleagues become aware of this effort, this bill will gather broad and bipartisan support.

Recently the Nation was stunned and relieved at the return of Elizabeth Smart to her parents Ed and Lois. As a father and grandfather my heart went out to them. I don't want to read about these types of cases anymore. My State of Delaware has an Amber Alert system in place. Delaware has a Safe

Haven law. Not every State has these critical tools at their disposal. Senator BOXER and I are introducing the Violence Against Children Act for a reason. We must do everything that we can to prevent crimes against children and, if God forbid they do occur, we must do everything we can to treat the victims and their families and prosecute their perpetrators to the fullest extent of the law. As one child advocates succinctly said, "a civilized society says children matter." The Violence Against Children Act says loud and clear, kids matter.

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By Ms. MIKULSKI:

S. 1124. A bill to amend title 38, United States Code, to increase burial benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Ms. MIKULSKI. Mr. President, I rise to introduce the Veterans Burial Benefits Improvement Act.

During the upcoming Memorial Day holiday, we will honor our U.S. soldiers who died in the name of their country. These service men and women are America's true heroes and on this day we pay tribute to their courage and sacrifice. Some have given their lives for our country. All have given their time and dedication to ensure our country remains the land of the free and the home of the brave. We owe a special debt of gratitude to each and every one of them.

This holiday serves as an important reminder that our nation has a sacred commitment to honor the promises made to soldiers when they signed up to serve our country. As the Ranking Member of the Senate Appropriations Subcommittee that funds veterans programs, I fight hard to make sure promises made to our service men and women are promises kept. These promises include access to quality, affordable health care and a proper burial for our veterans.

I am deeply concerned that burial benefits for the families of our wounded or disabled veterans have not kept up with inflation and rising funeral costs. We are losing over 1,000 World War II veterans each day, but Congress has failed to increase veterans' burial benefits to keep up with rising costs and inflation. While these benefits were never intended to cover the full costs of burial, they now pay for only a fraction of what they covered in 1973, when the Federal Government first started paying burial benefits for our veterans.

I want to thank my colleagues on the Veterans' Affairs Committee for working with me in the 107th Congress. Together, we were able to increase modestly the service-connected benefit from $1.500 to $2,000, and the plot allowance from $150 to $300. While I believe these increases are a step in the right direction, they are not a substitute for the amounts included in my bill.

That's why I am again introducing the Veterans Burial Benefits Improvement Act. This bill will increase burial benefits to cover the same percentage of funeral costs as they did in 1973. It will also provide for these benefits to be increased annually to keep up with inflation.

In 1973, the service-connected benefit paid for 72 percent of veterans' funeral costs. Today, this benefit covers just 39 percent of funeral costs. My bill will increase the service-connected benefit from $2,000 to $3,713, bringing it back up to the original 72 percent level.

In 1973, the non-service connected benefit paid for 22 percent of funeral costs. It has not been increased since 1978, and today it covers just 6 percent of funeral costs. My bill will increase the non-service connected benefit from $300 to $1.135, bringing it back up to the original 22 percent level.

In 1973, the plot allowance paid for 13 percent of veterans' funeral costs. Yet it now covers just 3 percent of funeral costs. My bill will increase the plot allowance from $300 to $670, bringing it back up to the original 13 percent level.

Finally, the Veterans Burial Benefits Improvement Act will also ensure that these burial benefits are adjusted for inflation annually, so veterans won't have to fight this fight again.

This legislation is just one way to honor our Nation's service men and women. I want to thank the millions of veterans, Marylanders, and people across the nation for their patriotism, devotion, and commitment to honoring the true meaning of Memorial Day. U.S. soldiers from every generation have shared in the duty of defending America and protecting our freedom. For these sacrifices, America is eternally grateful.

I ask unanimous consent that the text of this legislation, and letters from several veterans' advocacy groups supporting it, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1124

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans Burial Benefits Improvement Act of 2003".

**SEC. 2. INCREASE IN BURIAL BENEFITS FOR VETERANS.**

(a) BURIAL AND FUNERAL EXPENSES.—(1) Section 2302(a) of title 38, United States Code, is amended by striking "$300" and inserting "$1.135 (as increased from time to time under section 2309 of this title)".

(2) Section 2303(a)(1)(A) of that title is amended by striking "$300" and inserting "$1.135 (as increased from time to time under section 2309 of this title)".

(3) Section 2307 of that title is amended by striking "$2.000," and inserting "$3.712 (as increased from time to time under section 2309 of this title),".

(b) PLOT ALLOWANCE.—Section 2303(b) of that title is amended—

(1) by striking "$300" the first place it and inserting "$670 (as increased from time to time under section 2309 of this title)"; and

(2) by striking "$300" the second place it appears and inserting "$670 (as so increased)".

(c) ANNUAL ADJUSTMENT.—(1) Chapter 23 of that title is amended by adding at the end the following new section:

**"§ 2309. Annual adjustment of amounts of burial benefits**

"With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the burial and funeral expenses under sections 2302(a), 2303(a), and 2307 of this title, and in the plot allowance under section 2303(b) of this title, equal to the percentage by which—

"(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"2309. Annual adjustment of amounts of burial benefits.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to deaths occurring on or after the date of the enactment of this Act.

(2) No adjustments shall be made under section 2309 of title 38, United States Code, as added by subsection (c), for fiscal year 2004.

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MAY 15, 2003.

Hon. BARBARA MIKULSKI,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR MIKULSKI: As Memorial Day 2003 approaches, the co-authors of The Independent Budget would like to express our strong support for your legislation which would revitalize veterans' burial benefits and honor those who have sacrificed for this country. This legislation would provide a meaningful increase in burial benefits that is long overdue.

Veterans' burial benefits have seriously eroded in value over the years. The proposed increase would cover the same percentage of veterans' burial costs that they covered in 1973 when they were initiated. The annual adjustment to cover the costs of inflation is also something that The Independent Budget has argued in favor of in the past.

The Independent Budget produced by AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and the Veterans of Foreign Wars fully supports the proposed adjustment of burial allowances to reflect the increases in burial costs. Clearly, it is time these benefits were raised to provide a more meaningful contribution to the costs of burial for veterans. We applaud your efforts to responsibly address this matter, and we appreciate your continued commitment to the men and women who have served this country and are continuing to do so even today.

Sincerely,

RICK JONES,
*National Legislative Director, AMVETS.*
RICHARD B. FULLER,
*National Legislative Director, Paralyzed Veterans of America.*

Joseph A. Violante,
*National Legislative Director, Disabled American Veterans.*
Dennnis Cullinan,
*National Legislative Director, Veterans of Foreign Wars of the United States.*

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Fleet Reserve Association,
*Alexandria, VA, May 21, 2003.*

Hon. Barbara A. Mikulski,
*U.S. Senate, Hart Building, Washington, DC.*

Dear Senator Mikulski: The Fleet Reserve Association (FRA) and its 135,000 members extend its strong support for the reintroduction of the Veterans Burial Benefits Improvement Act. FRA applauds your leadership on working on this important issue.

As it has for more than 79 years, FRA effectively represents the interests of Sea Services enlisted communities, and is committed to ensuring equitable compensation and benefits for active duty, reserve and retired personnel.

The FRA stands ready to assist you and your staff on the introduction of this important legislation.

Sincerely,

Joseph L. Barnes,
*National Executive Secretary.*

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The National Association of State Directors of Veterans Affairs, Inc.,
*May 20, 2003.*

Senator Barbara Mikulski,
*Hart Senate Office Building,*
*Wasington, DC.*

Dear Senator Mikulski: The National Association of State Directors of Veterans Affairs (NASDVA) is in strong support of the legislation you are proposing with regards to burial benefits for our Nation's deceased veterans, namely, "The Veterans Burial Benefits Improvement Act of 2003."

We recognize and thank you for your outstanding earlier work with regards to veterans' burial benefits, including authoring, introducing, and shepherding the Veterans Burial Benefits Improvement Act of 2001 through the legislative process. While it is regrettable that Congress declined to enact all of the much needed measures you proposed, your work did lead to important increases in the authorized allowance for burial and funeral expenses for deceased veterans. We appreciate and thank you for your introduction of this new legislation.

As you are aware, the 95th Congress enacted the State Cemeteries Grant as part of Public Law 95-476 in order to provide Federal assistance to the States to construct, expand, and improve State veterans' cemeteries. State veterans' cemeteries must be State-owned, and operated solely for the interment of eligible veterans and their dependents and/or spouses. Operational costs are paid by the States.

State veterans' cemeteries continue to provide a cost-effective supplement to the VA's National Cemetery System. However, Federal veterans' burial plot allowances currently offset the costs of operation of State veterans' cemeteries by only one-third of the total cost. Furthermore, the actual allowances have been increased only incrementally since the programs were first instituted in 1973, and the rate of reimbursement has fallen far short of increases in the actual costs of burial expenses and cemetery plots.

Your bill proposes an increase to $3.713 for the burial plot allowance for veterans who die as a direct result of a service-connected illness or injury. When first enacted in 1973, the amount of the benefit at that time covered 72 percent of the average burial expense at that time. Today, the current benefit of $2,000 covers just 39 percent of those costs. Your earlier work helped to provide a much-needed increase to the current level, and we fully endorse your current efforts to ensure that the allowance is raised to at least the 1973 rate.

Your proposed legislation would also increase the amount of the burial benefit to $1,135 for the non-service-connected death of veterans in receipt of or otherwise found entitled to VA compensation, VA pension, and veterans who die while hospitalized or domiciled in a VA facility. The original 1973 benefit aided grieving families of deceased veterans by offsetting the cost of burial and funeral expenses by 22 percent. Today, the $300 that is provided covers just 6 percent of those costs.

Finally, your bill addresses the amount of funding provided for veterans' burial plot allowances. Your earlier work helped to provide a much-needed increase in that amount from $150 to $300. However, as you know, the current amount provides only 5.85 of the average cost of a burial plot, while the 1973 rate provided 13 percent. We are in strong support of your efforts to raise the allowance to its 1973 rate, at $670.

We are hopeful that Congress will see fit to fully enact the provisions of the Veterans Burial Benefits Improvement Act of 2003. We also that Congress will enact legislation to expand eligibility for the burial plot allowance for burial in State Veterans Cemeteries to include all honorably discharged veterans.

Thank you again for your efforts on behalf of our Nation's veterans. Your work is greatly appreciated.

Sincerely,

Raymond G. Boland,
*President, NASDVA.*

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National Funeral Directors Association,
*Washington, DC, May 15, 2003.*

Hon. Barbara A. Mikulski,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

Dear Senator Mikulski: The National Funeral Directors Association (NFDA) represents more than 13,000 funeral homes in all 50 states. It is the leading funeral service organization in the United States, providing a national voice for the profession. The NPDA has been the premier organization chosen by top funeral directors for more than 120 years. NFDA members stand for credibility, ethics, excellence and trust.

The NFDA would like to thank you for your support of legislation to increase the amount paid for veteran funeral and burial expenses by the Department of Veterans Affairs (DVA), as well as to increase the amount for veteran plot allowances.

As you are well aware, the amount payable for veterans' memorial benefits has remained constant for many years in spite of inflation. Today, the average cost of a funeral, including casket, vault and cemetery charges is about $7,500. While funerals are still a modest expense when compared to the cost of other items an individual must purchase during the course of their lifetime, it is still a significant expense, particularly for those least able to afford it.

At a time of unimaginable grief, funeral directors deal with the families of service members who must plan for the funeral of their loved one. This process is never easy, but it is even more difficult when a family must plan a funeral within the current DVA funeral and burial expense limits.

The NFDA strongly supports legislation that recognizes the reality of the cost of a funeral and burial in 2003, and that seeks to help the families of veterans manage this expense.

Again, thank you for your interest and action on this important issue.

Sincerely,

William A. Isokait,
*NFDA Director of Advocacy.*

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By Mr. JOHNSON (for himself, Mr. Kerry, and Mr. Smith):

S. 1126. A bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. JOHNSON. Mr. President, today, I proudly join with Senator Kerry and Senator Smith to reintroduce the Native American Small Business Development Act. This important legislation is designed to help American Indians, Alaska Natives, and Native Hawaiians to overcome barriers which inhibit business development and job creation. We greatly appreciate the support of the distinguished Senators who join us in sponsoring the legislation including Senators: Akaka, Baucus, Bingaman, Daschle, Cantwell, Murray, Stabenow.

The communities served this initiative represent some of the most traditionally isolated, disadvantaged, and underserved populations in our country. Despite the unique and persistent challenges to business development in these areas, many of the supportive services the federal government provides to entrepreneurs are not available in these distressed regions. The Native American Small Business Development Act endeavors to develop and disseminate culturally tailored business assistance to assure Native American businesses may secure and sustain long-term success.

Native American communities continue to struggle with the social, economic, and cultural repercussions derived from persistent and pervasive poverty and unemployment. A recent report released by the U.S. Census Bureau, entitled Poverty in the United States: 2000, indicates that the "three year average poverty rate for American Indians and Alaska Natives [from 1998–2000] was 25.9 percent. Higher than for any other race groups."

The Native American Small Business Development Act is a deliberate effort to enhance the availability of technical assistance to support entrepreneurship in Indian Country. The communities served by this initiative represent some of the most traditionally isolated, disadvantaged, and underserved populations in our country.

Too many Native American communities are plagued by feelings of hopelessness and helplessness. We must work to transform this disappointment and discouragement into a sensible, workable, strategy for economic opportunity.

According to U.S. Department of Commerce census data, unemployment rates on Indian Lands in the continental United States range up to 80 percent compared to 5.6 percent for the U.S. as a whole. Census data also show that the poverty rate for Native Americans during the late 1990s was 26 percent, compared to the national average of 12 percent. In fact, overall, Native American household income is only three-quarters of the national average.

This disparity is particularly evident in my home state of South Dakota where Native Americans represent over 8 percent of the State's population. While the overall State economy is relatively strong with a low 3.1 percent unemployment rate, the Native American population continues to suffer. South Dakota counties with Indian Reservations are ranked by the U.S. Census Bureau as among the most impoverished in the United States.

Among the achievements included in the bill is the establishment of a statutory office within the U.S. Small Business Administration to focus on concerns specific to Native American populations. The Office of Native American Affairs will serve as an advocate in the SBA for the interests of Native Americans. In addition to administering the Native American Development Program, the Assistant Administrator will consult with Tribal Colleges, Tribal Governments, Alaska Native Corporations and Native Hawaiian Organizations to enhance the development and implementation of culturally specific approaches to support the growth and prosperity of Native American small businesses.

Furthermore, the Act creates the Native American Development Program to provide necessary business development assistance. These services are vital to establish and support small businesses. The Federal Government currently invests to provide these services in communities throughout the country. It is past time for these services to be integrated into our efforts to promote self-sufficiency and economic development in Indian Country.

In addition, we recognize that in order to remain competitive, businesses and entrepreneurs must be innovative and flexible to change. This legislation reflects the needs of businesses, tribes, and regional interests to pursue unique approaches that will complement local needs and improve the overall quality of services. Two pilot programs are integrated in this approach to promote new and creative solutions to assist American Indians to awaken economic opportunities in their communities.

We must strive to eliminate the impediments that stifle Native American entrepreneurs. By providing business planning services and technical assistance to potential and existing small businesses, we can unlock the capacity for individuals and families to pursue their dreams of business ownership. Not only will these efforts combat poverty and unemployment, but they will bring new services and opportunities to communities that enhance the quality of life for local families.

We must also work to improve access to investment capital to support economic and community development for Native Americans. As the Chairman of the Senate Banking Financial Institutions Subcommittee, I am conducting hearings last year to identify opportunities and techniques which may foster greater access to capital markets for Tribal and Native American entities.

Together, these initiatives will help to turn an important corner as we endeavor to enhance the livelihood of the First Americans.

I would like to thank Congressman UDALL for his leadership in the U.S. House of Representatives in bringing these issues to the forefront and for his cooperation on this historic legislation. I would like to thank Senator JOHN KERRY, the Ranking Member of the Senate Small Business and Entrepreneurship Committee, for his hard work on this legislation and his serious commitment to these critical issues. In addition, I would like to express my sincere appreciation to Senator SMITH for his strong support of this effort. We are grateful to the many cosponsors who join us in introducing the bill today.

I encourage the Senate to fully consider this historic legislation and to work expeditiously to enact it into law. The Native American Small Business Development Act will forge a more hopeful and prosperous future for Native American families and communities. By investing in adequate infrastructure and by making the appropriate tools available, we can empower individuals to pursue, achieve, and sustain economic opportunities that enrich their lives and their communities. The American dream will never be fully realized until it becomes a reality for all Americans. This legislation is critical to ensuring that economic growth and economic opportunity permeate the lives of Native American families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1126

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Native American Small Business Development Act".

**SEC. 2. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following:

**"SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.**

"(a) DEFINITIONS.—In this section—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));

"(2) the term 'Alaska Native corporation' has the same meaning as the term 'Native Corporation' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m));

"(3) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Native American Affairs established under subsection (b);

"(4) the terms 'center' and 'Native American business center' mean a center established under subsection (c);

"(5) the term 'Native American business development center' means an entity providing business development assistance to federally recognized tribes and Native Americans under a grant from the Minority Business Development Agency of the Department of Commerce;

"(6) the term 'Native American small business concern' means a small business concern that is owned and controlled by—

"(A) a member of an Indian tribe or tribal government;

"(B) an Alaska Native or Alaska Native corporation; or

"(C) a Native Hawaiian or Native Hawaiian organization;

"(7) the term 'Native Hawaiian' has the same meaning as in section 625 of the Older Americans Act of 1965 (42 U.S.C. 3057k);

"(8) the term 'Native Hawaiian organization' has the same meaning as in section 8(a)(15) of this Act;

"(9) the term 'tribal college' has the same meaning as the term 'tribally controlled college or university' has in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4));

"(10) the term 'tribal government' has the same meaning as the term 'Indian tribe' has in section 7501(a)(9) of title 31, United States Code; and

"(11) the term 'tribal lands' means all lands within the exterior boundaries of any Indian reservation.

"(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

"(1) ESTABLISHMENT.—There is established within the Administration the Office of Native American Affairs, which, under the direction of the Assistant Administrator, shall implement the Administration's programs for the development of business enterprises by Native Americans.

"(2) PURPOSE.—The purpose of the Office of Native American Affairs is to assist Native American entrepreneurs to—

"(A) start, operate, and grow small business concerns;

"(B) develop management and technical skills;

"(C) seek Federal procurement opportunities;

"(D) increase employment opportunities for Native Americans through the start and expansion of small business concerns; and

"(E) increase the access of Native Americans to capital markets.

"(3) Assistant Administrator.—

"(A) Appointment.—The Administrator shall appoint a qualified individual to serve as Assistant Administrator of the Office of Native American Affairs in accordance with this paragraph.

"(B) Qualifications.—The Assistant Administrator appointed under subparagraph (A) shall have—

"(i) knowledge of the Native American culture; and

"(ii) experience providing culturally tailored small business development assistance to Native Americans.

"(C) Employment status.—The Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code, and shall serve as a noncareer appointee, as defined in section 3132(a)(7) of title 5, United States Code.

"(D) Responsibilities and duties.—The Assistant Administrator shall—

"(i) administer and manage the Native American Small Business Development program established under this section;

"(ii) recommend the annual administrative and program budgets for the Office of Native American Affairs;

"(iii) consult with Native American business centers in carrying out the program established under this section;

"(iv) recommend appropriate funding levels;

"(v) review the annual budgets submitted by each applicant for the Native American Small Business Development program;

"(vi) select applicants to participate in the program under this section;

"(vii) implement this section; and

"(viii) maintain a clearinghouse to provide for the dissemination and exchange of information between Native American business centers.

"(E) Consultation requirements.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of—

"(i) Administration officials working in areas served by Native American business centers and Native American business development centers;

"(ii) the Bureau of Indian Affairs of the Department of the Interior;

"(iii) tribal governments;

"(iv) tribal colleges;

"(v) Alaska Native corporations; and

"(vi) Native Hawaiian organizations.

"(c) Native American Small Business Development Program.—

"(1) Authorization.—

"(A) In general.—The Administration, through the Office of Native American Affairs, shall provide financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers in accordance with this section.

"(B) Use of funds.—The financial and resource assistance provided under this subsection shall be used to overcome obstacles impeding the creation, development, and expansion of small business concerns, in accordance with this section, by—

"(i) reservation-based American Indians;

"(ii) Alaska Natives; and

"(iii) Native Hawaiians.

"(2) 5-year projects.—

"(A) In general.—Each Native American business center that receives assistance under paragraph (1)(A) shall conduct 5-year projects that offer culturally tailored business development assistance in the form of—

"(i) financial education, including training and counseling in—

"(I) applying for and securing business credit and investment capital;

"(II) preparing and presenting financial statements; and

"(III) managing cash flow and other financial operations of a business concern;

"(ii) management education, including training and counseling in planning, organizing, staffing, directing, and controlling each major activity and function of a small business concern; and

"(iii) marketing education, including training and counseling in—

"(I) identifying and segmenting domestic and international market opportunities;

"(II) preparing and executing marketing plans;

"(III) developing pricing strategies;

"(IV) locating contract opportunities;

"(V) negotiating contracts; and

"(VI) utilizing varying public relations and advertising techniques.

"(B) Business development assistance recipients.—The business development assistance under subparagraph (A) shall be offered to prospective and current owners of small business concerns that are owned by—

"(i) American Indians or tribal governments, and located on or near tribal lands;

"(ii) Alaska Natives or Alaska Native corporations; or

"(iii) Native Hawaiians or Native Hawaiian organizations.

"(3) Form of federal financial assistance.—

"(A) Documentation.—

"(i) In general.—The financial assistance to Native American business centers authorized under this subsection may be made by grant, contract, or cooperative agreement.

"(ii) Exception.—Financial assistance under this subsection to Alaska Native corporations or Native Hawaiian organizations may only be made by grant.

"(B) Payments.—

"(i) Timing.—Payments made under this subsection may be disbursed in an annual lump sum or in periodic installments, at the request of the recipient.

"(ii) Advance.—The Administration may disburse not more than 25 percent of the annual amount of Federal financial assistance awarded to a Native American small business center after notice of the award has been issued.

"(iii) No matching requirement.—The Administration shall not require a grant recipient to match grant funding received under this subsection with non-Federal resources as a condition of receiving the grant.

"(4) Contract and cooperative agreement authority.—A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other under-served small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with the terms of any assistance received by the Native American business center from the Administration.

"(5) Application process.—

"(A) Submission of a 5-year plan.—Each applicant for assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.

"(B) Criteria.—

"(i) In general.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance.

"(ii) Public notice.—The criteria required by this paragraph and their relative importance shall be made publicly available, within a reasonable time, and stated in each solicitation for applications made by the Administration.

"(iii) Considerations.—The criteria required by this paragraph shall include—

"(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of current or potential owners of Native American small business concerns;

"(II) the ability of the applicant to commence a project within a minimum amount of time;

"(III) the ability of the applicant to provide quality training and services to a significant number of Native Americans;

"(IV) previous assistance from the Small Business Administration to provide services in Native American communities; and

"(V) the proposed location for the Native American business center site, with priority given based on the proximity of the center to the population being served and to achieve a broad geographic dispersion of the centers.

"(6) Program examination.—

"(A) In general.—Each Native American business center established pursuant to this subsection shall annually provide the Administration with an itemized cost breakdown of actual expenditures incurred during the preceding year.

"(B) Administration action.—Based on information received under subparagraph (A), the Administration shall—

"(i) develop and implement an annual programmatic and financial examination of each Native American business center assisted pursuant to this subsection; and

"(ii) analyze the results of each examination conducted under clause (i) to determine the programmatic and financial viability of each Native American business center.

"(C) Conditions for continued funding.—In determining whether to renew a grant, contract, or cooperative agreement with a Native American business center, the Administration—

"(i) shall consider the results of the most recent examination of the center under subparagraph (B), and, to a lesser extent, previous examinations; and

"(ii) may withhold such renewal, if the Administration determines that—

"(I) the center has failed to provide adequate information required to be provided under subparagraph (A), or the information provided by the center is inadequate; or

"(II) the center has failed to provide adequate information required to be provided by the center for purposes of the report of the Administration under subparagraph (E).

"(D) Continuing contract and cooperative agreement authority.—

"(i) In general.—The authority of the Administrator to enter into contracts or cooperative agreements in accordance with this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

"(ii) Renewal.—After the Administrator has entered into a contract or cooperative agreement with any Native American business center under this subsection, it shall not suspend, terminate, or fail to renew or extend any such contract or cooperative agreement unless the Administrator provides the center with written notification setting forth the reasons therefore and affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

"(E) MANAGEMENT REPORT.—

"(i) IN GENERAL.—The Administration shall prepare and submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an annual report on the effectiveness of all projects conducted by Native American business centers under this subsection and any pilot programs administered by the Office of Native American Affairs.

"(ii) CONTENTS.—Each report submitted under clause (i) shall include, with respect to each Native American business center receiving financial assistance under this subsection—

"(I) the number of individuals receiving assistance from the Native American business center;

"(II) the number of startup business concerns created;

"(III) the number of existing businesses seeking to expand employment;

"(IV) jobs created or maintained, on an annual basis, by Native American small business concerns assisted by the center since receiving funding under this Act;

"(V) to the maximum extent practicable, the capital investment and loan financing utilized by emerging and expanding businesses that were assisted by a Native American business center; and

"(VI) the most recent examination, as required under subparagraph (B), and the subsequent determination made by the Administration under that subparagraph.

"(7) ANNUAL REPORT.—Each entity receiving financial assistance under this subsection shall annually report to the Administration on the services provided with such financial assistance, including—

"(A) the number of individuals assisted, categorized by ethnicity;

"(B) the number of hours spent providing counseling and training for those individuals;

"(C) the number of startup small business concerns created or maintained;

"(D) the gross receipts of assisted small business concerns;

"(E) the number of jobs created or maintained at assisted small business concerns; and

"(F) the number of Native American jobs created or maintained at assisted small business concerns.

"(8) RECORD RETENTION.—

"(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

"(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (6)(A) indefinitely.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2008, to carry out the Native American Small Business Development Program, authorized under subsection (c).".

**SEC. 3. PILOT PROGRAMS.**

(a) DEFINITIONS.—In this section:

(1) INCORPORATION BY REFERENCE.—The terms defined in section 36(a) of the Small Business Act (as added by this Act) have the same meanings as in that section 36(a) when used in this section.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration.

(3) JOINT PROJECT.—The term 'joint project' means the combined resources and expertise of 2 or more distinct entities at a physical location dedicated to assisting the Native American community;

(b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award Native American development grants to provide culturally-tailored business development training and related services to Native Americans and Native American small business concerns.

(B) ELIGIBLE ORGANIZATIONS.—The grants authorized under subparagraph (A) may be awarded to—

(i) any small business development center; or

(ii) any private, nonprofit organization that—

(I) has members of an Indian tribe comprising a majority of its board of directors;

(II) is a Native Hawaiian organization; or

(III) is an Alaska Native corporation.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds $100,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for not less than a 2-year period and not more than a 4-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit an application to the Administration that contains—

(A) a certification that the applicant—

(i) is a small business development center or a private, nonprofit organization under paragraph (1)(B)(i);

(ii) employs an executive director or program manager to manage the facility; and

(iii) agrees—

(I) to a site visit as part of the final selection process;

(II) to an annual programmatic and financial examination; and

(III) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

(B) information demonstrating that the applicant has the ability and resources to meet the needs, including cultural needs, of the Native Americans to be served by the grant;

(C) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(D) information demonstrating the effective experience of the applicant in—

(i) conducting financial, management, and marketing assistance programs designed to impart or upgrade the business skills of current or prospective Native American business owners;

(ii) providing training and services to a representative number of Native Americans;

(iii) using resource partners of the Administration and other entities, including universities, tribal governments, or tribal colleges; and

(iv) the prudent management of finances and staffing;

(E) the location where the applicant will provide training and services to Native Americans; and

(F) a multiyear plan, corresponding to the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant;

(ii) in the continental United States, the number of Native Americans to be served by the grant; and

(iii) the training and services to be provided to a representative number of Native Americans.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each completed application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of a Native American development grant under this subsection shall annually report to the Administration on the impact of the grant funding, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours spent providing counseling and training for those individuals;

(C) the number of startup small business concerns created or maintained with assistance from a Native American business center;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created or maintained at assisted small business concerns; and

(F) the number of Native American jobs created or maintained at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(c) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program. under which the Administration shall award not less than 3 American Indian Tribal Assistance Center grants to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near tribal lands.

(B) ELIGIBLE ORGANIZATIONS.—

(i) CLASS 1.—Not fewer than 1 grant shall be awarded to a joint project performed by a Native American business center, a Native American business development center, and a small business development center.

(ii) CLASS 2.—Not fewer than 2 grants shall be awarded to joint projects performed by a Native American business center and a Native American business development center.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds $200,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for a 3-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit to the Administration a joint application that contains—

(A) a certification that each participant of the joint application—

(i) is either a Native American Business Center, a Native American Business Development Center, or a Small Business Development Center;

(ii) employs an executive director or program manager to manage the center; and

(iii) as a condition of receiving the American Indian Tribal Assistance Center grant, agrees—

(I) to an annual programmatic and financial examination; and

(II) to the maximum extent practicable, to remedy any problems identified pursuant to that examination;

(B) information demonstrating an historic commitment to providing assistance to Native Americans—

(i) residing on or near tribal lands; or

(ii) operating a small business concern on or near tribal lands;

(C) information demonstrating that each participant of the joint application has the ability and resources to meet the needs, including the cultural needs of the Native Americans to be served by the grant;

(D) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described above, designed to impart or upgrade the business skills of current or prospective Native American business owners; and

(ii) the prudent management of finances and staffing; and

(F) a plan for the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant; and

(ii) the training and services to be provided.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of an American Indian tribal assistance center grant under this subsection shall annually report to the Administration on the impact of the grant funding received during the reporting year, and the cumulative impact of the grant funding received since the initiation of the grant, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours of counseling and training provided and workshops conducted;

(C) the number of startup business concerns created or maintained with assistance from a Native American business center;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created or maintained at assisted small business concerns; and

(F) the number of Native American jobs created or maintained at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $1,000,000 for each of the fiscal years 2004 through 2007, to carry out the Native American Development Grant Pilot Program, authorized under subsection (b); and

(2) $1,000,000 for each of the fiscal years 2004 through 2007, to carry out the American Indian Tribal Assistance Center Grant Pilot Program, authorized under subsection (c).

Mr. KERRY. Mr. President, I am pleased today to join with my colleagues, Senators JOHNSON and SMITH, as well as the cosponsors of our legislation, Senators AKAKA, BAUCUS, BINGAMAN, CANTWELL, DASCHLE, MURRAY, and STABENOW in introducing the Native American Small Business Development Act.

As many of my colleagues are aware, last Congress the Committee on Small Business and Entrepreneurship unanimously passed nearly identical legislation, S. 2335, yet the bill was not taken up by the full Senate. Today, Senator JOHNSON, Senator SMITH and I are reintroducing this bill because we recognize that there is an even a greater need for this legislation on tribal lands across the Nation. The economy continues to slump, access to capital is even more limited, and state funding for small business initiatives is being pulled back.

According to a report released by the U.S. Census Bureau, the "three year average poverty rate for American Indians and Alaska Natives [from 1998–2000] was 25.9 percent. Higher than for any other race groups." With an unemployment rate well above the national average and household income at just three-quarters of the national average, Native American communities need a commitment from the Federal government that we will help them, particularly during these difficult economic times. To reaffirm this commitment, the Johnson-Kerry-Smith bill provides Native Americans the resources they need to take advantage of the opportunities of entrepreneurship.

Mr. President, this legislation bears the same name as legislation that recently passed the House, H.R. 1166, which was reintroduced by Congressman TOM UDALL, a recognized leader in promoting the interests of American Indians. I would like to thank Congressman UDALL for his work in stewarding the Native American Small Business Development Act through the House, this Congress and last, and for his assistance in working with Senators JOHNSON and SMITH and me in drafting the Senate version of our legislation. And I would specifically like to thank Senator SMITH for his continued support on this issue.

I would again like to thank the National Indian Business Association, the National Center for American Indian Enterprise Development, the Association of Small Business Development Centers, the Oregon Native American Business Entrepreneurial Network (ONABEN), Native American Management Services, Inc., and all of the tribes that met with us or provided information to help in the drafting of this legislation.

The Senate version of the Native American Small Business Development Act, while incorporating the heart of the Udall legislation, is more comprehensive and provides greater assistance to Native American communities. Senator JOHNSON, who serves on the Indian Affairs Committee, and I, as the lead Democrat on the Senate Committee on Small Business and Entrepreneurship, were able to combine the resources and experiences of our committees in developing this legislation.

Mr. President, our need to fashion a more comprehensive business assistance package for Native American small businesses stems in part from a growing lack of commitment from the Small Business Administration (SBA) to our Native American communities under this Administration.

While I applaud the Bush Administration for responding to congressional requests by including $1 million in the Administration's FY 2003 budget request for Native American outreach, I was disappointed that it did not seek the full level of $2.5 million requested in a letter I sent with my colleagues Senators DASCHLE, Wellstone, JOHNSON, BINGAMAN and BAUCUS. Our request specifically sought funding for the SBA's Tribal Business Information Center (TBIC) program, an initiative started and successfully operated under the Clinton Administration. The TBIC program was designed to address the unique conditions faced by American Indians when they seek to start or expand small businesses.

Mr. President, I am disappointed that the Administration has eliminated all funding for Native American outreach in FY2004. With an average unemployment rate on reservations as high as 43 percent, it is inconceivable that two years of outreach is sufficient to have met our shared goal of building sustainable economic opportunities in those communities.

Mr. President, I do not believe that anyone in this Congress would dispute that economic development in Indian Country has often been difficult to achieve and that one important way to help American Indians who live on reservations is to provide them with assistance to open and run their own small businesses. Helping Native Americans open and run small businesses not only instills a sense of pride in the owner and his or her community, it also provides much-needed job opportunities, as well as other economic benefits.

Although underfunded, the TBIC program has provided assistance to a number of small businesses on Indian reservations. TBICs have the support of the American Indian communities they serve because they provide desperately needed, culturally tailored business development assistance in those communities. The Administration should be seeking to strengthen its commitment to programs that assist Native American communities. Unfortunately, the SBA cut off TBIC funding on March 31, 2002, and now 14 months later, has not met a request by a bipartisan group of Senators to begin the reprogramming process in order to keep the TBICs open.

The Native American Small Business Development Act will ensure that the SBA's programs to assist Native American communities cannot be dissolved by making the SBA's Office of Native American Affairs (ONAA) and its Assistant Administrator permanent. Our legislation would also create a statutory grant program, known as the Native American Development grant program, to assist Native Americans. It would also establish two pilot programs to try new means of assisting Native American communities and require Native American communities to be consulted regarding the future of SBA programs designed to assist them. In short, this legislation will ensure that our Native American communities receive the adequate assistance they need to help start and grow small businesses.

The ONAA will be responsible for helping Native Americans and Native American communities start, operate, and grow small businesses; develop management and technical skills; seek out Federal procurement opportunities; increase employment opportunities through the start and expansion of small business concerns; and increase their access to capital markets.

To be selected to serve as the Assistant Administrator for ONAA, a candidate must have knowledge of Native American cultures and experience providing culturally tailored small business development assistance to Native Americans. Under our legislation, the Assistant Administrator would be statutorily required to consult with Tribal Colleges and Tribal Governments, Alaska Native Corporations (ANC) and Native Hawaiian Organizations (NHO) when carrying out responsibilities under this legislation, which would give Native American communities a true voice within the SBA. The Assistant Administrator for ONAA would be responsible for administering the Native American Development program and the pilot programs created by the Native American Small Business Development Act.

The Native American Development program is designed to be the SBA's primary program for providing business development assistance to Native American communities. To offer this support, the SBA will provide financial assistance to establish and keep Native American Business Centers (NABC) in operation. Financial assistance under the Native American Development program would be available to Tribal Governments and Tribal Colleges. Unlike the SBA's TBIC program, however, ANCs and NHOs would also be eligible for the grants.

NABCs would address the unique conditions faced by reservation-based American Indians, as well as Native Hawaiians and Native Alaskans, in their efforts to create, develop and expand small business concerns. Grant funding would be used by the NABCs to provide culturally tailored financial education assistance, management education assistance, and marketing education assistance.

The first pilot program under the legislation establishes a Native American development grant. This grant is modeled after the Udall legislation and is designed to bring the expertise of SBA's Small Business Development Centers (SBDC) to Native American Communities. Additionally, any private nonprofit organization, which has members of an Indian tribe comprising a majority of its board of governors or is an NHO or an ANC, may also apply for the grant. Nonprofits were included in the Senate version thanks to the thoughtful input of Senator CANTWELL. Many American Indian communities in Washington state are served by an organization called ONABEN, which provides SBDC-like services to Native American communities in Washington, Oregon, Idaho, and California. Organizations like ONABEN, which also has the strong support of Senator SMITH, should be encouraged to continue their good work assisting Native American communities, and including them in the grant program available to SBDCs was an important addition to the legislation.

Finally, our legislation establishes a second pilot program to try a unique experiment in Indian Country. Grant funding would be made available to establish American Indian Tribal Assistance Centers. These centers will consist of joint entities, such as a partnership between an NABC, a Native American development center (which receive grants from the Department of Commerce) and possibly an SBDC. The purpose of this grant is to coordinate experts from various entities to provide culturally tailored business development assistance to prospective and current owners of small business concerns on or near Tribal Lands.

Mr. President, I would again like to thank Senators JOHNSON and SMITH and all of the cosponsors of this important legislation to assist our Native American communities. I would also, again like to thank Congressman UDALL for taking the lead in the House on providing critical assistance for small businesses in Native American communities. I would urge all of my colleagues to cosponsor this legislation to help us fulfill our commitment to Native American communities.

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By Ms. STABENOW (for herself, Mr. KENNEDY, Mr. LEAHY, Mr. DODD, Mr. CORZINE, Mr. LAUTENBERG, Mr. HARKIN, Mr. BINGAMAN, Mr. DURBIN, and Mr. ROCKEFELLER):

S. 1127. A bill to establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I rise to introduce the Fair and Impartial Rights, FAIR, for Medicare Act and bring attention to growing concerns I have heard about the possible politicization of the Medicare appeals process.

The Administrator of the Centers for Medicare and Medicaid Services, CMS, has indicated that the Administration would like to alter the current practice of requiring that Medicare beneficiaries or Medicare providers be granted a hearing before an independent Administrative Law Judge, ALJ, when their initial claim is denied.

Instead of taking the side of beneficiaries and providers, this proposed action would seek to inject political interference in the Medicare appeals process to try to deny benefits to claimants. When Medicare beneficiaries and Medicare providers are denied payment for services, the 2000 BIPA law allows them a five-step process for them to appeal this decision.

Unfortunately, the first two steps of this appeals process has been working against beneficiaries and providers. In the last five years, ALJs have reversed 53 percent of these preliminary rulings. This means that 53 percent of all cases were decided incorrectly by the preliminary steps in the Medicare appeals process. It was only when beneficiaries or providers appealed to an independent ALJ that they received the proper ruling.

ALJs serve an essential role in the claims review process because there is often conflicting and confusing information to guide beneficiaries and providers. In its 2001 report as part of its ongoing review of CMS communications, the General Accounting office described the information CMS's carriers gives to providers as "often incomplete, confusing, out of date, or even incorrect." GAO found that "the norm" for many carriers were documents over 50 pages that "often contained long articles, written in dense language and printed in small type." Documents "were also poorly organized, making it difficult for a physician to identify relevant or new information." ALJs base their decisions on administrative rules, which have the benefit of being open to public comment and review, as well as case law and statutes.

Unfortunately, the Administration is seeking to undermine the independent role of ALJs who hear Medicare cases and replace ALJs with Federal employees, perhaps even political appointees, with closer ties to the Administration's policy goals. The Administration's plan is not just an abstract proposal. It would hurt Medicare beneficiaries and Medicare providers.

The FAIR for Medicare Act would stop this political attempt to weaken the role of independent ALJs. Specifically, it would: Prohibit non-ALJs, like political appointees, from performing the duties of ALJs. Transfer Medicare ALJs from the Social Security Administration to the Department of HHS, just like a bipartisan bill introduced in the House by Congresswoman NANCY JOHNSON. Ensure ALJs are organizationally and functionally separated from CMS and all other political appointees other than the Secretary of HHS.

Similar legislation has been introduced in the House by Representative NANCY JOHNSON, and it received bipartisan support. I hope that my proposal will achieve the same result.

I ask unanimous consent that the text of the bill and several articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## S. 1127

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair And Impartial Rights (FAIR) for Medicare Act of 2003".

### SEC. 2. ADMINISTRATIVE LAW JUDGES WITHIN HHS; ENSURING INDEPENDENCE OF ADMINISTRATIVE LAW JUDGES; PRESERVATION OF THE ROLE OF ADMINISTRATIVE LAW JUDGES.

(a) ALJS WITHIN HHS.—Any administrative law judge performing the administrative law judge functions described in section 1869 of the Social Security Act (42 U.S.C. 1395ff) shall be within the Department of Health and Human Services.

(b) ENSURING INDEPENDENCE OF ALJS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall ensure the independence of administrative law judges described in subsection (a).

(2) INDEPENDENCE DESCRIBED.—In order to ensure the independence described in paragraph (1), each administrative law judge described in subsection (a) shall—

(A) be an impartial decisionmaker;

(B) be bound only by applicable statutes, regulations, and rulings issued in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the "Administrative Procedures Act");

(C) be placed by the Secretary in an administrative office that is organizationally and functionally separate from the Centers for Medicare & Medicaid Services; and

(D) report to, and be under the general supervision of, the Secretary, but shall not report to, or be subject to supervision by, another officer of the Department of Health and Human Services.

(c) PRESERVATION OF THE ROLE OF ALJS.—An individual who is not an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, may not perform the functions of an administrative law judge specified in section 1869 of the Social Security Act (42 U.S.C. 1395ff).

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395ff(f)(2)(A)(i)) is amended by striking "of the Social Security Administration".

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[From The New York Times, March 16, 2003]

## BUSH PUSHES PLAN TO CURB APPEALS IN MEDICARE CASES

(By Robert Pear)

WASHINGTON, March 15.—The Bush administration says it is planning major changes in the Medicare program that would make it more difficult for beneficiaries to appeal the denial of benefits like home health care and skilled nursing home care.

In thousands of recent cases, federal judges have ruled that frail elderly people with severe illnesses were improperly denied coverage for such services.

In the last year, Medicare beneficiaries and the providers who treated them won more than half the cases—39,796 of the 77,388 Medicare cases decided by administrative law judges. In the last five years, claimants prevailed in 186,300 cases, for a success rate of 53 percent.

Under federal law, the judges are independent, impartial adjudicators who hold hearings and make decisions based on the facts. They must follow the Medicare law and rules, but are insulated from political pressures and sudden shifts in policy made by presidential appointees.

President Bush is proposing both legislation and rules that would limit the judges' independence and could replace them in many cases.

The administration's draft legislation says, "The secretary of health and human services may use alternate mechanisms in lieu of administrative law judge review" to resolve disputes over Medicare coverage.

Under the legislative proposal, cases could be decided by arbitration or mediation or by lawyers or hearing officers at the Department of Health and Human Services. The department recently began testing the use of arbitration in Connecticut under a law that permits demonstration projects.

Tommy G. Thompson, the secretary of health and human services, said the proposed legislative changes would give his agency "flexibility to reform the appeals system" so the government could decide cases in a more "efficient and effective manner."

The department said there was an "urgent need for improvements to the Medicare claim appeal system," in part because the number of appeals was rising rapidly.

Consumer groups, administrative law judges and lawyers denounced the proposals. Judith A. Stein, Director of the Center for Medicare Advocacy in Willimantic, Conn., said, "The president's proposals would compromise the independence of administrative law judges, who have protected beneficiaries in case after case, year after year."

Beneficiaries have a personal stake in the issue. When claims are denied, a beneficiary is often required to pay tens of thousands of dollars for services already received. In a typical case, an administrative law judge ordered Medicare to pay for 230 home care visits to a 67-year-old woman with breast cancer, heart disease and arthritis. Medicare officials had said the woman should pay the cost. But the judge ordered Medicare to pay because the woman was homebound and the services were "reasonable and necessary."

When federal agencies issue rules or decide cases; they generally must follow the Administrative Procedure Act, a 1946 law intended to guarantee the fairness of government proceedings.

Ronald G. Bernoski, president of the Association of Administrative Law Judges, said: "We see President Bush's proposals as a serious assault on the Administrative Procedure Act, a stealth attack on the rights of citizens to fair, impartial hearings. These hearings guarantee due process of law, as required by the Constitution."

The American Bar Association and the Federal Bar Association, which represents lawyers who practice in federal courts and before federal agencies, have expressed similar concerns.

Health care providers, which are involved in many of the appeals, share those concerns.

Robert L. Roth, a Washington lawyer who has represented hospitals and suppliers of medical equipment, said: "The interests of providers and beneficiaries are aligned. Access to an independent decision maker, an administrative law judge, is quite valuable because it's often your first opportunity to get a fair review of government action."

Medicare officials could adopt the proposed rules, regardless of whether Congress accepts Mr. Bush's recommendation for changes in the law.

The proposed rules would require administrative law judges to "give deference" to policies adopted by Medicare and its contractors, which review and pay claims for the government. Beneficiaries would have to show why such policies should be disregarded,

That would be a significant change. Administrative law judges are now required to follow Medicare statutes and regulations, but not the agency's policies. As a result, the judges often grant benefits previously denied by the Medicare agency or its contractors.

In the Connecticut experiment, arbitration will be used to resolve some claims disputes, and beneficiaries may opt out. If this approach produces prompt, fair decisions with less paperwork, it could be a model for Congress in changing the appeals process.

But Matthew L. Spitzer, dean of the University of Southern California Law School, said that consumers "should think long and hard before they agree to binding arbitration." It is, he said, extremely difficult for an individual to overturn an arbitrator's decision.

Ms. Stein, who has represented Medicare patients in hundreds of cases, agreed. "The president proposes replacing administrative law judges with some form of dispute resolution," Ms. Stein said. "This puts beneficiaries at a disadvantage, with unequal bargaining power and inadequate expertise to do battle with the Medicare agency."

The judges are full-time government employees who typically receive salaries of $95,000 to $140,000 a year.

To ensure that federal agency hearings would be fair, Congress in 1946 protected the decision makers, providing that they could be dismissed or demoted "only for good cause." The judges who hear Medicare cases have extra protection because they are employed by the Social Security Administration, an independent agency.

Congress revamped the appeals process in 2000, to enhance the rights of beneficiaries and to expedite decisions. The changes were supposed to take effect in October 2002. But Medicare officials said that without more money, they could not meet the new deadlines, so they have postponed many of the changes.

Medicare officials said they wanted to end the arrangement under which Social Security judges decide Medicare cases. They have announced plans to transfer responsibility for hearing appeals to the Medicare agency from Social Security, and they hope to do so by Oct. 1.

A bipartisan bill introduced by Representative Nancy L. Johnson, Republican of Connecticut, would make the transfer in 2005. The bill requires the secretary of health and human services to preserve the judge's role as independent decision makers.

The potential for conflict seems to be inherent in the relationship between agency officials and administrative law judges, with tensions flaring periodically. In 1983, the Association of Administrative Law Judges filed a lawsuit, saying that Social Security officials appointed by President Ronald Reagan had put improper pressure on them to deny benefits to people with disabilities.

A Federal District Court found that Social Security had engaged in practices "of dubious legality," which tended to encroach on the judges' independence. The agency halted the practices after the lawsuit was filed.

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[From the Philadelphia Inquirer, March 20, 2003]

### Tilt!

### MEDICARE LOOKS TO RIG APPEALS SYSTEM IN ITS FAVOR

If the score's going against you, just change the rules of the game.

That is, if you're president.

The Bush administration's plan to rework the appeals process for Medicare recipients denied treatment appear to be just that: a rules change that tilts the playing field.

In losing thousands of these appeal annually, the federal government is being ordered to pay millions of dollars for health-care services.

So administration officials start calling for "flexibility to reform the appeals system." Translation: We want to win more cases and pay out less.

It's not as though the appeals process is a runaway train; in the last year, only a little more than half the cases were won by Medicare recipients. But nearly 40,000 appeals were upheld; put another way, that means 40,000 elderly citizens had been improperly denied care.

It wasn't for face lifts or tummy tucks, either. Rather, it was for things that make all the difference to frail seniors, things like home health assistance and skilled nursing care.

Independent administrative judges handle these appeals now. Under proposed new rules, the Department of Health and Human Services could steer the cases into arbitration or mediation—both of which experts view as less likely to favor the citizens.

The administration also wants to turn the independent judges into Medicare employees—and to require them to "give deference" to policies adopted under Medicare.

At this rate, why not drop all pretense and just ban appeals? That way every Medicare recipient—including those much-coveted Florida voters—would know exactly where they stand with this White House.

Medicare's money troubles are real enough. But trimming expenses by undercutting a fair appeals process is wrong. And to pursue this policy while seeking huge tax cuts and claiming to attend to seniors' health care needs is cynical.

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[From The Seattle Times, May 7, 2003]

### Medicare Appeal Process Should Not Be Weakened

(By Kathleen O'Connor)

With our focus riveted on Iraq and the state's dramatic budget shortfalls, virtually no attention is being paid to the proposed, ominous changes in Medicare. No, not the Medicare prescription-drug benefit that hogs headlines. It's something more dramatic, more important. The proposed changes could essentially eliminate Medicare due process.

How? By removing the independence of the administrative law judges who now hear Medicare appeals and by axing most of the current terms and conditions under which those appeals can be made. The Bush administration wants to let the secretary of the Department of Health and Human Services (HHS) use arbitration or mediation and—get this—lawyers or hearing officers inside the HHS to make decisions on Medicare appeals. This means appeals would no longer be heard by independent judges in a separate agency. Instead, appeals would be heard in-house by Medicare employees.

Nothing like letting the fox guard the hen house. Where is due process or equal protection in this? How can inside gatekeepers be fair? How do you hear an appeal when your job is to guard the treasury? How long would these Medicare employee-judges keep their jobs if they keep agreeing that the beneficiaries are right, as they have been in over 50 percent of the appeals?

Even as far back as 1996, the Office of the Inspector General—the internal audit arm of HHS that manages Medicare—found that Medicare was dead wrong in 55 percent of the claims it processed. Recent data cited in The New York Times revealed that over half the appeals in the past five years eventually were found to be in the beneficiaries' favor. In 2002 alone, Medicare beneficiaries and their providers prevailed in almost 40,000 of the 77,000 appeals that were filed, or 52 percent of the time.

What's remarkable about this is that Medicare appeals had to have been lost at two lower levels before the beneficiaries even got to these judges. The 1946 Administrative Procedure Act was designed to assure we have fair and just recourse when we have complaints against the government.

Since the creation of Medicare, appeals have been heard before these administrative law judges and have been based on Medicare laws and regulations rather than internal Medicare policies that frequently change with each administration. If the appeals function is brought in-house, independent appeals would vanish and coverage decisions could be made by the whim of an internal policy, whether written or not. Worse yet, the administration says these changes don't really need congressional approval and can simply be made by procedural rules that would have the administrative law judges "give deference" to Medicare's policies and those of Medicare contractors.

What this really means is the burden of proof would be placed on the harmed beneficiaries and their providers, who would have to show why these policies should be ignored. Why does this matter? Follow the money. Let's take a look at what Medicare covers. Part A pays for inpatient hospital care, skilled nursing home care, home health care and hospice stays. Part B basically covers all outpatient care (doctors) and outpatient hospital services, cancer screening, lab tests and medical equipment, such as wheel chairs.

Take the case of Mrs. H in Brooklyn, N.Y. She sought coverage for a prescribed transcutaneous electronic nerve stimulator (TENS) to treat her fibromyalgia, a chronic disorder characterized by widespread musculoskeletal pain and fatigue. Medicare initially denied coverage for this device, noting that the information provided did not support the need for the item. Mrs. H appealed and was denied at what's called the fair hearing level, based on internal coverage guidelines. After that denial, the appeal went to an administrative law judge for an independent ruling. The judge found in Mrs. H's favor, deeming the device to be "medically necessary."

The finding provided on $646, but when you're poor and living on Social Security, $600 is a lot of money. Other findings are in the tens of thousands of dollars. How many internal Medicare judge employees would be that independent? Administrative law judges can be dismissed "only for good cause." If the appeals function is an in-house post, the employee decision-maker can be transferred or reassigned. The administration law judges can be dismissed "only for good cause." If the appeals function is an in-house post, the employee decision-maker can be transferred or reassigned. The administration will say it is only making "procedural changes": that an appeals process still "exists." Sure, but it is one that harms rather than helps the beneficiary. They may say there is still due process. But it will no longer be an independent review. Not any real due process. Which is the issue after all. As a friend is fond of saying: "Token due process is not due process at all."

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By Mr. FEINGOLD (for himself, Mr. LEAHY, and Mr. KOHL:

S. 1128. A bill to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I introduce the "Involuntary Bankruptcy Improvement Act," along with Senator LEAHY, the ranking member of the Judiciary Committee, and my colleague Senator KOHL, the senior Senator from Wisconsin. This bill addresses the growing problem of the use of involuntary bankruptcy petitions as a means to harass public officials. A similar bill has been introduced in the other body by the Chairman of the House Judiciary Committee. I believe this bill should be enacted on its own as soon as possible or, if necessary, be a part of any bankruptcy-related legislation that goes through the Congress this year.

Involuntary bankruptcy petitions are a rarely used, but legitimate, creditor tool to prevent the wasting of an asset that would otherwise be available to satisfy creditor claims. Unfortunately, tax protestors and others with real or imagined grievances against the government have filed fraudulent involuntary bankruptcy petitions against government officials as a way to harass and harm them. This problem came to my attention recently because of a case in my home State of Wisconsin.

In that case, a man named Steven Magritz undertook a vendetta against thirty-six Ozaukee County officials after the County pursued a foreclosure action against him for failing to pay taxes by filing involuntary bankruptcy petitions against those officials. Although the petitions were ultimately dismissed and Magritz was convicted of criminal slander and sentenced to five years in prison, the petitions had, and are still having, an impact on the credit ratings of the officials.

Current law provides for punitive damages to be assessed against someone who files an erroneous petition of this kind. But because bankruptcy filings are public records and credit reporting agencies include information in their reports for ten years, erroneous or fraudulent filings can have a devastating impact on the credit ratings of the individuals involved even if the perpetrator is punished. The local government officials that were the subject of this vendetta have had great difficulty in obtaining loans or refinancing their homes.

Although a comprehensive study of this problem has not been done, I understand that fraudulent involuntary bankruptcy petitions have been filed against federal district court judges in Ohio and Maine, a U.S. Attorney in Maine, and IRS agents in Ohio. A district in California reported that over 10 percent of the involuntary bankruptcy petitions filed in recent years were likely filed in bad faith.

The bill I am introducing today will address this problem in two ways. First, it requires the bankruptcy court on motion of the debtor to expunge from the court's file all records relating to the filing of an involuntary petition and any references to such petition, if 1. the debtor is an individual; 2. the petition is dismissed; and 3. the petition is false or contains a materially false, fictitious, or fraudulent statement.

Second, the bill authorizes a bankruptcy court to prohibit credit reporting agencies from issuing a consumer report that contains any information relating to an involuntary bankruptcy petition or to the case commenced by such petition where the debtor is an individual and the court has dismissed the petition.

These steps will retain involuntary bankruptcy as a legitimate tool to preserve debtor assets, but will allow the courts to address the real harm that can befall an innocent victim of harassment. I urge my colleagues to support this reasonable and necessary reform of the bankruptcy laws. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1128

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Involuntary Bankruptcy Improvement Act of 2003".

**SEC. 2. INVOLUNTARY CASES.**

Section 303 of title 11, United States Code, is amended by adding at the end the following:

"(*l*)(1) If—

"(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

"(B) the debtor is an individual; and

"(C) the court dismisses such petition;

the court, upon motion of the debtor, shall expunge from the records of the court such petition, all the records relating to such petition in particular, and all references to such petition.

"(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.".

Mr. KOHL. Mr. President, I rise today to join my colleagues, Senators LEAHY and FEINGOLD in introducing the Involuntary Bankruptcy Improvement Act of 2003.

This bill responds to an unfortunate abuse of the involuntary bankruptcy laws which occurred in my home state of Wisconsin last year. There, a tax protestor filed involuntary bankruptcy petitions against 36 public officials. Even though none of the filings had any merit, the protestor succeeded in ruining the credit ratings of many of the public officials by filing what the Milwaukee Journal-Sentinel described as "an avalanche of legal documents against them." Some of the victims did not even know they were the subject of an involuntary bankruptcy case until they tried to use their lines of credit or obtain credit.

Involuntary bankruptcy plays an important role in our system, but when it is abused by frivolous and fraudulent filings the victims deserve the right to clear their good names.

Some background on involuntary bankruptcy is in order. Under current law, one or more creditors can file an involuntary bankruptcy petition against an individual or corporation. The credit problems were created because the filing of an involuntary bankruptcy case is a matter of public record pursuant to bankruptcy code section 107. In addition, credit reporting agencies include the filing on a person's credit report for up to ten years.

The abuse of the involuntary bankruptcy laws is not common, but the Wisconsin case is not unique either. The National Conference of Bankruptcy Clerks advises that after an initial review, they found that federal district judges in Ohio and Maine have been the subject of involuntary petitions, as well as a United States Attorney in Maine, and two IRS agents in Ohio. Finally, the bankruptcy clerk in the Central District of California reported that approximately 11 percent of involuntary petitions were bad faith filings over a 27 month period ending in March 2003.

This bill addresses the problem in two primary ways. First, it amends the bankruptcy code to require that on the motion of the debtor that the bankruptcy courts expunge from the courts file all records relating to the filing of an involuntary petition under certain conditions. Those conditions are: (1) the petition is false or contains a materially false, fictitious, or fraudulent statement, (2) the debtor is an individual; and (3) the petition is dismissed.

Second, the bill amends the bankruptcy code to authorize a bankruptcy court to prohibit all credit reporting agencies from issuing a consumer report that contains any information relating to the involuntary bankruptcy petition or to the case commenced by such petition where the debtor is an individual and the court has dismissed the petition.

So while this bill cannot prohibit someone from filing involuntary bankruptcy petitions like the man in Wisconsin, it can make it significantly easier for the victim to contain the impact on his or her credit rating and to remove the unfortunate incident from the record.

Mr. President, I understand that Chairman SENSENBRENNER is moving the same bill on the House side. I look forward to working with him and my Senate cosponsors to get this important change to the bankruptcy code into law.

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By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. VOINOVICH, Ms. CANTWELL, Mr. DEWINE, Mr. LAUTENBERG, Mr. FEINGOLD, and Mr. KENNEDY):

S. 1129. A bill to provide for the protection of unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the "Unaccompanied Alien Child Protection Act of 2003," bipartisan legislation to reform the way the Federal Government treats unaccompanied alien children who are in Federal immigration custody. I am pleased to be joined by my colleagues, Senators BROWNBACK, VOINOVICH, KENNEDY, CANTWELL, DEWINE, FEINGOLD, and LAUTENBERG in introducing this important measure.

Approximately 5,000 foreign-born children under the age of 18 enter the United States each year unaccompanied by parents or other legal guardians. These children are among the most vulnerable of the immigrant population.

Many have often entered the country under traumatic circumstances. They are young and alone, subject to abuse and exploitation. They are often unable to articulate their fears, their views, or testify to their needs as accurately as adults can.

Despite these facts, U.S. Immigration laws and policies have been developed and implemented without regard for their effect on children, particularly on unaccompanied alien children.

Under current immigration law, these children are forced to struggle through a system designed primarily for adults, even though they lack the capacity to understand nuances legal principles and procedures. Children who may very well be eligible for relief are often vulnerable to being deported back to the very life-threatening situations from which they fled—before they are even able to make their cases before the Department of Homeland Security or an immigration judge.

Prior to March 1, 2003, the Immigration Naturalization Service, INS, had responsibility for the care, custody, and treatment of unaccompanied alien children. Too often, the INS, fell short in fulfilling the protection side of these responsibilities.

The legislation that I am introducing today builds on Section 462 of Public Law 107-296, the "Homeland Security Act of 2002", which provided for the transfer of responsibility for the care and placement of unaccompanied alien children from the now-abolished INS to the Office of Refugee Resettlement, ORR, within the Department of Health and Human Services. This provision was based on S. 121, comprehensive legislation relating to unaccompanied alien children that I introduced at the beginning of the 107th Congress.

With the enactment of the Homeland Security Act, we set into motion the centralization of responsibility for the care and custody of unaccompanied alien children in the Office of Refugee Resettlement. The first phase of this transfer of responsibility occurred on March 1, 2003. Once the transition is completed, we have finally resolved the conflict of interest inherent in the former system.

I am pleased that the provision transferring responsibility for the care and custody of unaccompanied alien children was contained in the Homeland Security Act. Its inclusion in the new law was an important first step in reforming the way unaccompanied alien children are treated. It was a key provision for two reasons: First, it will help ensure that the Secretary of Homeland Security is not burdened with policy issues unrelated to the threat of terrorism. The new Department has a huge and important mission and its attention should be focused on that mission. Second, it recognizes that the Federal Government has a special responsibility to protect these children who are in federal custody. The INS did not always live up to that responsibility.

But, the transfer of authority to the ORR—by itself—is not enough to ensure that these children are properly treated. Congress now has a responsibilty to go beyond the simple transfer and set the priorities for ORR and its new jurisdiction over unaccompanied foreign-born minors.

A number of other important reforms that were contained in last year's S. 121 were left out of the Homeland Security Act. Enactment of these reforms will be crucial if we truly are to reform the manner in which these children are treated. As I mentioned, the Unaccompanied Alien Child Protection Act of 2003 builds on the Homeland Security Act in two ways: First, it would make a number of technical and conforming changes in law to bring about the smooth transfer of the INS's unaccompanied alien child-related functions to ORR. Second, it would make a number of more substantive reforms in law with respect to the treatment of these children—reforms that are designed to ensure that such children are treated with fairness and compassion.

Other provisions include those that would keep children who are criminals or who pose a threat to national security under the custody of the Department of Homeland Security rather than transfer responsibility of them to the ORR.

I first became involved in this issue when I heard about a young 15-year old Chinese girl who stood before a U.S. immigration court facing deportation proceedings. She had found her way to the United States as a stowaway in a container ship captured off of Guam, hoping to escape the repression she had experienced in her home country.

She had been placed on a boat bound for the United States by her very own parents, fleeing China's rigid family planning laws. Under these laws, she was denied citizenship, education, and medical care. She came to this country alone and desperate.

And what did our immigration authorities do when they found her? The INS detained her in a juvenile jail in Portland, OR, for 8 months before her asylum hearing, and 4 months after she was granted asylum.

At her asylum hearing, the young girl stood before a judge, unrepresented by counsel, confused, and unable to understand the proceedings against her. She could not wipe away the tears from her face because her hands were chained to her waist. According to a lawyer who later came to represent her, "her only crime was that her parents had put her on a boat so she could get a better life over here."

While the young girl eventually received asylum in our country, she unnecessarily faced an ordeal no child should bear under our immigration system. This young Chinese girl represents only one of 5,000 foreign-born children who, without parents or legal guardians to protect them, are discovered in the United States each year in need of protection. This, is unacceptable treatment. We have a responsibility to do better than this.

Central throughout the Unaccompanied Alien Child Protection Act of 2003 are two concepts: 1. The United States Government has a fundamental responsibility to protect unaccompanied children in its custody; and 2. in all proceedings and actions, the government should have as a high priority protecting the interests of these children, most of whom are unable to understand the nature of the proceedings in which they are involved.

This bill would ensure that children who are apprehended by immigration authorities are treated humanely and appropriately by: ensuring that eligible unaccompanied alien children are promptly placed in the custody of the Office of Refugee Resettlement after they are encountered by immigration officials; ensuring that the children have counsel to represent them in immigration proceedings and matters; authorizing the Director of ORR to provide guardians ad litem for the children to look after their interests; establishing clear guidelines and uniformity for detention alternatives such as shelter care, foster care, and other child custody arrangements; establishing minimum standards for detention and alternative settings that take into account the special needs of children; improving such children's access to existing options for permanent protection when U.S. immigration and child welfare authorities believe such protection is warranted; setting forth procedures that immigration officers should follow when apprehending unaccompanied alien children at the United States border or at United States ports of entry; establishing procedures to ensure that the true age of an alien who claims to be under the age of 18 is determined; ensuring that the Department of Homeland Security, rather than the Office of Refugee Resettlement, maintain custody over children who are either criminals or threats to national security; and establishing procedures to ensure that certain unaccompanied alien children from Mexico or Canada, encountered along the United States border, are returned to their homes, subject to formal agreements between the United States and those countries providing for their safe return without undue delay.

Without enactment of my legislation, none of these important parameters would be placed on the Office of Refugee Resettlement or the Department of Homeland Security.

This bill also includes provisions that provide for the safety of the significant number of unaccompanied alien children who are victims of smuggling or trafficking rings. For example, 2 years ago, Phanupong Khaisri, a 2-year old Thai child, was brought to the United States by two individuals falsely claiming to be his parents, but who were actually part of a major alien trafficking ring.

The INS was prepared to deport the child back to Thailand. It was not until Members of Congress and the local Thai community had intervened, however, that the INS decided to allow the child to remain in the United States until the agency could provide proper medical attention and determine what course of action would be in his best interest.

The Unaccompanied Alien Child Protection Act aims to prevent situations like this from recurring. Moreover, the legislation would ensure that children are released into safe and humane environments while awaiting a determination of their status when that is appropriate, and it would ensure that the children are protected from smugglers, traffickers, or others who might exploit them.

Further, it would require the ORR to take steps to ensure that unaccompanied alien children are protected from smugglers or others who may wish to do them harm, and authorizes reimbursement for State and local expenses associated with caring for unaccompanied alien children.

Children, even more than adults, have incredible difficulty understanding the complexities of the immigration system without the assistance of counsel. Despite this reality, most children in immigration custody are overlooked and unrepresented. Without legal representation, children are at risk of being returned to their home countries where they may face further human rights abuses.

The Unaccompanied Alien Child Protection Act of 20032 would require that all unaccompanied alien children in Federal custody by reason of their immigration status have counsel to represent them in any immigration proceedings involving them. It would vest in the Director of ORR responsibility for ensuring that the children have counsel, and it would provide the Director power to establish an infrastructure for developing a system to recruit and support pro bono counsel who can represent these children without cost to them or to the government.

It provides, as a last resort, that counsel could be provided for the children at government expense, capping the fees that such counsel could charge in the event that the government pays for such counsel.

This bill would authorize, but not mandate, the Director of ORR to put into place a system of guardians ad litem who would help the court in determining the best interests of children in U.S. custody.

The vast majority of unaccompanied alien children have been forced to maneuver the immigration system without any representation or without any assistance. This is unacceptable. It results in many children participating in a system without any understanding of the process they are undergoing or the ramifications of their situation.

Under this section, the guardian ad litem would not be working "for the child." Nor would he or she be working for the Department of Homeland Security. Instead, he or she would be an impartial observer reporting to the court and to the Office of Refugee Resettlement on what he or she thinks is in the best interest of the child.

The guardians ad litem system could be modeled after any of a number of systems already existing in juvenile courts throughout the American juvenile justice system. This system is not a novel legal concept, but one that is trusted and already in place in every state in proceedings involving juveniles.

Imagine the fear of a foreign-born child, in the United States alone without a parent or guardian. Imagine that child being thrust into a system she did not understand, given no legal aid, placed in jail that housed juveniles with serious criminal convictions. Mr. President, I find it hard to believe that our country would have allowed innocent children to be treated in such a manner.

That is why my colleagues and I are introducing this legislation today. The Unaccompanied Alien Child Protection Act of 2003 will help our country fulfill the special obligation to these children.

I am proud to have the support of the United States Conference of Catholic Bishops, the Women's Commission on Refugee Women and Children, the Lutheran Immigration and Refugee Service, the American Bar Association, the United National High Commissioner for Refugees, and many other organizations with whom I have worked closely to develop this legislation.

I urge my colleagues to join me by cosponsoring this important measure and ensuring that these reforms are finally enacted.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 1129

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

### TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

Sec. 101. Procedures when encountering unaccompanied alien children.
Sec. 102. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 103. Appropriate conditions for detention of unaccompanied alien children.
Sec. 104. Repatriated unaccompanied alien children.
Sec. 105. Establishing the age of an unaccompanied alien child.
Sec. 106. Effective date.

### TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

Sec. 201. Guardians ad litem.
Sec. 202. Counsel.
Sec. 203. Effective date; applicability.

### TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

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Sec. 602. Technical corrections.
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**SEC. 2. DEFINITIONS.**

(a) IN GENERAL.—In this Act:

(1) COMPETENT.—The term "competent", in reference to counsel, means an attorney who complies with the duties set forth in this Act and—

(A) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia;

(B) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting the attorney in the practice of law; and

(C) is properly qualified to handle matters involving unaccompanied immigrant children or is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters.

(2) DIRECTOR.—The term "Director" means the Director of the Office.

(3) DIRECTORATE.—The term "Directorate" means the Directorate of Border and Transportation Security established by section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201).

(4) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

(5) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(6) Unaccompanied alien child.—The term "unaccompanied alien child" has the same meaning as is given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

(7) Voluntary agency.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director of the Office of Refugee Resettlement.

(b) Amendments to the Immigration and Nationality Act.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(51) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

## TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

### SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) Unaccompanied Children Found Along the United States Border or at United States Ports of Entry.—

(1) In general.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) Special rule for contiguous countries.—

(A) In general.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child is a national or habitual resident of a country described in subparagraph (A);

(ii) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iv) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) Right of consultation.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right in the child's native language.

(3) Rule for apprehensions at the border.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) Care and Custody of Unaccompanied Alien Children Found in the Interior of the United States.—

(1) Establishment of jurisdiction.—

(A) In general.—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) Exception for children who have committed crimes.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

(ii) has been convicted of any such felony.

(C) Exception for children who threaten national security.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

(D) Trafficking victims.—For purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) and this Act, an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386), shall be considered to be in the custody of the Office.

(2) Notification.—

(A) In general.—The Secretary shall promptly notify the Office upon—

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of the Directorate is an unaccompanied alien child;

(iii) any claim by an alien in the custody of the Directorate that such alien is under the age of 18; or

(iv) any suspicion that an alien in the custody of the Directorate who has claimed to be over the age of 18 is actually under the age of 18.

(B) Special rule.—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 105 and take whatever other steps are necessary to determine whether or not such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(3) Transfer of unaccompanied alien children.—

(A) Transfer to the office.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody and care has been retained or assumed by the Directorate pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs.

(B) Transfer to the directorate.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall promptly make arrangements to transfer the care and custody of such child to the Directorate.

(c) Age Determinations.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets the age requirements for treatment under this Act shall be made by the Director in accordance with section 105.

### SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) Placement Authority.—

(1) Order of preference.—Subject to the discretion of the Director under paragraph (4) and section 103(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.

(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) Suitability assessment.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid suitability assessment conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) Right of parent or legal guardian to custody of unaccompanied alien child.—

(A) Placement with parent or legal guardian.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) Rule of construction.—Nothing in this Act shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES AND PROGRAMS.—

(i) IN GENERAL.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(ii) WITNESS PROTECTION PROGRAMS INCLUDED.—The programs established pursuant to clause (i) may include witness protection programs.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director may make grants to, and enter into contracts with, voluntary agencies to carry out section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or to carry out this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person described in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

### SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 102(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Regulations promulgated in accordance with subparagraph (A) shall provide that all children are notified orally and in writing of such standards in the child's native language.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

### SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The Secretary of State shall include each year in the State Department Country Report on Human Rights, an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) FACTORS FOR ASSESSMENT.—The Office shall consult the State Department Country Report on Human Rights and the Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on efforts to repatriate unaccompanied alien children.

(2) CONTENTS.—The report submitted under paragraph (1) shall include, at a minimum, the following information:

(A) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(B) A description of the type of immigration relief sought and denied to such children.

(C) A statement of the nationalities, ages, and gender of such children.

(D) A description of the procedures used to effect the removal of such children from the United States.

(E) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(F) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

### SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) IN GENERAL.—The Director shall develop procedures to determine the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue. Such procedures shall permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge.

(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Neither radiographs nor the attestation of an alien shall be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

### SEC. 106. EFFECTIVE DATE.

This title shall take effect 90 days after the date of enactment of this Act.

## TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

### SEC. 201. GUARDIANS AD LITEM.

(a) ESTABLISHMENT OF GUARDIAN AD LITEM PROGRAM.—

(1) APPOINTMENT.—The Director may, in the Director's discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) for such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Directorate, the Office, or the Executive Office for Immigration Review.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) take reasonable steps to ensure that the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(F) take reasonable steps to ensure that the child understands the nature of the legal proceedings or matters and determinations made by the court, and ensure that all information is conveyed in an age-appropriate manner; and

(G) report factual findings relating to—

(i) information gathered pursuant to subparagraph (B);

(ii) the care and placement of the child during the pendency of the proceedings or matters; and

(iii) any other information gathered pursuant to subparagraph (D).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed;

(B) the child departs the United States;

(C) the child is granted permanent resident status in the United States;

(D) the child attains the age of 18; or

(E) the child is placed in the custody of a parent or legal guardian;

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;

(E) shall be permitted to consult with the child during any hearing or interview involving such child; and

(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child prior to notification.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the—

(1) circumstances and conditions that unaccompanied alien children face; and

(2) various immigration benefits for which such alien child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).

(2) PURPOSE.—The purpose of the pilot program established pursuant to paragraph (1) is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;

(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established pursuant to paragraph (1).

(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program is established pursuant to paragraph (1), the Director shall report to the Committees on the Judiciary of the Senate and the House of Representatives on subparagraphs (A) through (C) of paragraph (2).

**SEC. 202. COUNSEL.**

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office, or in the custody of the Directorate, who are not described in section 101(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of competent pro bono counsel who agree to provide representation to such children without charge.

(3) GOVERNMENT-FUNDED LEGAL REPRESENTATION AS A LAST RESORT.—

(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, if no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) shall not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) AVAILABILITY OF FUNDING.—In carrying out this paragraph, the Director may make use of funds derived from any source designated by the Secretary of Health and Human Services from discretionary funds available to the Department of Health and Human Services.

(D) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection. National nonprofit agencies may enter into subcontracts with or make grants to private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with agencies in accordance with subparagraph (A), the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractee for more than 1 of the following services:

(i) Services provided under section 102.

(ii) Services provided under section 201.

(iii) Services provided under paragraph (2).

(iv) Services provided under paragraph (3).

(6) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed in accordance with subparagraph (A) shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed in accordance with subparagraph (A) and submit them for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Directorate;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) TERMINATION OF APPOINTMENT.—Counsel appointed under subsection (a)(3) shall carry out the duties described in subsection (b) until—

(1) those duties are completed;

(2) the child departs the United States;

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3));

(4) the child is granted protection under the Convention Against Torture;

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158);

(6) the child is granted permanent resident status in the United States; or

(7) the child attains 18 years of age;

whichever occurs first.

(e) Notice to Counsel During Immigration Proceedings.—

(1) In general.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) Opportunity to consult with counsel.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(f) Access to Recommendations of Guardian Ad Litem.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

### SEC. 203. EFFECTIVE DATE; APPLICABILITY.

(a) Effective Date.—This title shall take effect 180 days after the date of enactment of this Act.

(b) Applicability.—The provisions of this title shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this title.

## TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

### SEC. 301. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J Visa.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 21 on the date of application who is present in the United States—

"(i) who by a court order, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of the Bureau of Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) Adjustment of Status.—Section 245(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply;";

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) the Secretary of Homeland Security may waive subparagraphs (A) and (B) of paragraph (2) of section 212(a) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) Eligibility for Assistance.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

### SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) Training of State and Local Officials and Certain Private Parties.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(b) Training of Directorate Personnel.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Directorate who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 101(a)(2).

### SEC. 303. REPORT.

Not later than January 31, 2004, and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committees on the Judiciary of the House of Representatives and the Senate that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in accordance with this Act;

(3) data regarding the provision of guardian ad litem and counsel services in accordance with this Act; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

### SEC. 304. EFFECTIVE DATE.

The amendment made by section 301 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

## TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

### SEC. 401. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) Sense of Congress.—Congress commends the Immigration and Naturalization Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service (and its successor entities) in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) Training.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

### SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.

(a) Identifying Unaccompanied Refugee Children.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

### SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.

(a) Placement in Removal Proceedings.—Any unaccompanied alien child apprehended by the Directorate, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section (101)(a) of this Act, shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(b) Exception from Time Limit for Filing Asylum Application.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

"(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied child as defined in section 101(a)(51).".

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

### SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out—

(1) section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and

(2) this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

## TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

### SEC. 601. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

(1) in subparagraph (K), by striking "and" at the end;

(2) in subparagraph (L), by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and"; and

(3) by adding at the end the following:

"(M) ensuring minimum standards of care for all unaccompanied alien children—

"(i) for whom detention is necessary; and

"(ii) who reside in settings that are alternative to detention.".

(b) ADDITIONAL POWERS OF THE DIRECTOR.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

"(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

"(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2003; and

"(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2003, including the power to—

"(i) declare providers to be in breach and seek damages for noncompliance;

"(ii) terminate the contracts of providers that are not in compliance with such conditions; and

"(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.".

(c) CLARIFICATION OF DIRECTOR'S AUTHORITY TO HIRE PERSONNEL.—Section 462(f)(3) of the Homeland Security Act of 2002 (6 U.S.C. 279(f)(3)) is amended—

(1) by striking "(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel" and inserting the following:

"(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the personnel"; and

(2) by inserting at the end the following:

"(B) EXCEPTION.—The Director may hire and fix the level of compensation of an adequate number of personnel to carry out the duties of the Office. Notwithstanding the provisions of subparagraph (A), the Director may elect not to receive the transfer of any personnel of the Department of Justice employed in connection with the functions transferred by this section or, at the Director's discretion, to assign different duties to such personnel.".

### SEC. 602. TECHNICAL CORRECTIONS.

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 601, is amended—

(1) in paragraph (3), by striking "paragraph (1)(G)" and inserting "paragraph (1)"; and

(2) by adding at the end the following:

"(5) STATUTORY CONSTRUCTION.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.".

### SEC. 603. EFFECTIVE DATE.

The amendments made by this title shall take effect as if enacted as part of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

Mr. BROWNBACK. Mr. President, I am honored to join my distinguished colleagues, Senators FEINSTEIN and VOINOVICH, to introduce this important piece of legislation that will address an area of our immigration law that is sorely neglected—unaccompanied alien children. Currently, these children face a legal loophole that can leave them in a confusing maze of technicalities, none of which actually help the child or the nation. This bill will fix that problem through several very straightforward remedies.

Last year, through the Homeland Security Act, the responsibility for the care and custody of unaccompanied alien children was transferred from the now-defunct Immigration and Naturalization Service to the Department of Health and Human Services's Office of Refugee Resettlement. This was an important step in the right direction, but it did not accomplish everything we had hoped to do last year. That is why I am pleased to join my colleagues in taking one more crack at providing safeguards for these vulnerable children.

These safeguards are simple, but to the point. This legislation will ensure that the transfer of responsibilities mandated last year actually occurs in an orderly manner. It will remind Federal authorities to keep in mind the special needs and circumstances of unaccompanied children. It will ensure that these children have access to competent counsel and guardians ad litem when appropriate. Minimum standards for the care and custody of these unaccompanied alien children will be established, and the procedures for access to permanent protection for abused, abandoned or neglected children will be reformed. Finally, the legislation will require an annual report to Congress to ensure these provisions are being carried out faithfully.

But that is all simply the legalese surrounding this issue. What's truly important are the children. That's the whole point of this legislation, and why I—and all of my colleagues who are cosponsors—got involved and are committed to seeing this legislation pass. It is the children who suffer, through no fault of their own, if they're run through the legal system in the United States without any accounting for their unique situation as children.

Last year, the Senate Judiciary Committee held a hearing on this topic, inviting Senator FEINSTEIN to speak—her testimony and the testimony of the children who came, moved me to cosponsor the bill that very day. I still remember the story the Senator told of a young girl from China, standing before a judge, unable to speak the language, her arms shackled to her sides, crying. That sort of situation is shameful.

Or how about the case of Edwin Munoz, a Honduran youth who testified last year during this hearing? His story was simple but appalling: abandoned by his parents at age 7, he was left in the care of a cousin, who beat him mercilessly. At 13, he finally escaped, and hitchhiked alone to the United States. I can only imagine how frightening that experience was—but unfortunately it was only the start: once he arrived in the U.S., he was thrown into a San Diego juvenile facility filled with violent offenders. Without a lawyer or court-appointed guardian for weeks, this became a nightmare of taunts from the other inmates and being shackled each time he had to appear in court.

These are children—not common criminals—and they should not be treated as such. They should be treated as children.

The main purpose of our legislation is to ensure just that—that children who come to the United States are still treated as children. That does not mean that they will escape a proper and appropriate accounting and ruling on whether they may stay or not—it simply means that their age and circumstances will be considered at all times.

I therefore urge my colleagues to support this critically important legislation. We are still the Nation described upon the Statue of Liberty—let's ensure our legal system remembers this point as well.

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Mr. KENNEDY. Mr. President, it is a privilege to join Senator FEINSTEIN in the introduction of the Unaccompanied Alien Child Protection Act, and I commend her long-standing commitment to this issue.

In recent years, increasing numbers of foreign-born children have come to the United States, unaccompanied by their parents or their guardians. Last year, more than 5,000 arrived, and the numbers have continued to rise this year. Some are fleeing from armed conflict or other dangerous conditions in their home countries. Others are fleeing from human rights abuses, including forced recruitment as soldiers, slavery, child labor, prostitution, or forced marriage. Still others escape to the United States because they have been abused or abandoned by their parents or care givers. Additional numbers are brought to the United States by a family friend or relative, by paid smugglers, or by traffickers involved in organized crime.

Regardless of how they arrive, these children often enter our country after traumatic experiences, speaking little to no English, and unaware of their rights under U.S. law. They may well be good candidates for asylum, but they have no way to apply for it, and they are left to represent themselves in an immigration court against experienced trial lawyers for INS.

Their plight is exacerbated by the fact that when they arrive, they are frequently detained. Many of them languish for long periods in shelters designed for short-term use, without access to translators, telephones, or medical care and other vital services. But these are the "fortunate" ones, compared to many others detained, with dangerous criminals, put in handcuffs, shackles, strip-searched, and required to wear prison uniforms.

Shamefully, this is happening every day in the United States of America. It's no wonder other countries criticize us for hypocrisy on human rights.

Last year, in the Homeland Security Act, we took the important first step of transferring responsibility for the care and custody of these children to the Office of Refugee Resettlement in the Department of Health and Human Services. This office has decades of experience working with foreign-born children and can easily include the care of these unaccompanied children in its existing functions.

That Act, however, left out critical safeguards for these children. The legislation we are introducing corrects these omissions. It addresses many of the problems facing unaccompanied children and will help bring our treatment of them in line with international standards.

Essential to these efforts is providing an appointed counsel and a special guardian to assist them. Statistics demonstrate that applications for asylum are four times more likely to be granted when represented by counsel. Yet, less than half of the children in INS custody are represented by an attorney.

Children are given appointed counsel in important non-immigration cases, and they should be afforded the same right in immigration cases. In addition, a special guardian can be indispensable in identifying the needs of a child when language and cultural barriers prevent an attorney from communicating effectively with the child.

Our bill will require that these vulnerable children receive the representation they need to see that their rights are protected, and the care they deserve to see their needs are properly considered as they go through complicated immigration proceedings.

The vast majority of these children are not criminals, and they should not be treated as criminals. We must prevent the use of detention in these cases. Children who are not a danger to others or a flight risk should be released to their families or appropriate care-givers. Our bill requires the release of children whenever possible, and supports the expanded use of shelters and foster care for children who do not have such care givers. Other needed protections in the bill will establish standards for detention, better training for immigration personnel on these issues, and more effective opportunities for permanent protection.

We look forward to working with our colleagues to enact these long overdue safeguards. It is time to end the gross abuses in our current immigration system and to ensure that the best interests of these children are fully protected and respected.

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By Mrs. FEINSTEIN:

S. 1130. A bill for the relief of Esidronio Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to provide lawful permanent residence status to Esidronio Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola, Mexican nationals who live in the Fresno area of California.

Mr. and Mrs. Arreola have lived in he United States for nearly 20 years. They are the parents of Nayely and Cindy, who also stand to benefit from this legislation. The Arreolas also have three United States citizens children: Roberto, who is 11 year old; Daniel, who is 8; and Saray, their youngest daughter, who is six-years old. Today, Mr. and Mrs. Arreola, and her children face deportation.

The story of the Arreola family is quite compelling and I believe they merit Congress' special consideration for humanitarian relief. The Arreolas are in uncertain situation in part because of grievous errors committed by their previous counsel, who has since been disbarred. In fact, the attorney's conduct was so egregious that it compelled an immigration judge to write the Executive Office of Immigration Review seeking his disbarment for the legal detriment he caused his immigrant clients.

Mr. Arreola has lived in the United States since 1986. He was an agricultural migrant worker in the fields of California for several years, and as such would have been eligible for permanent residence through the Seasonal Agricultural Workers, SAW, program had he known that he could apply for it. Mrs. Arreola was living in the United States at the time she became pregnant with her daughter Cindy, but returned to Mexico to give birth to Cindy to avoid any problems with the Immigration and Naturalization Service. It is quite likely that the family would have qualified for cancellation of removal but for the conduct of their previous attorney.

Perhaps one of the most compelling reasons for permitting the family to remain in the United States is the devastating impact their deportation would have on their children: three of whom are U.S. citizens; the other two have lived in the United States virtually all of their lives. This country is the only the country they really know.

Nayely, the oldest child, is a junior in high school. She is an outstanding student with a 3.91 Grade Point Average who ranks fourth in her class of approximately 300 students. At her relatively young age, Nayely has demonstrated a strong commitment to the ideals of citizenship in her adopted country. She has worked hard to achieve her full potential both in her academic endeavors and through the service she provides her community.

Nayely is a member of Advancement Via Individual Determination, AVID, a college preparatory program in which students commit to determining their own futures through achieving a college degree. Nayely is also President of the key Club, a community service organization. She helps mentor freshmen and participates in several other student organizations in her school. Perhaps the greatest hardship to this family if she is forced to return to Mexico will be her lost opportunity to realize here dreams and further contribute to her community and to this country.

As the principal of her high school wrote, "[s]he epitomizes what we seek to instill in all of our students. She has accepted the challenges and has made a commitment to better her future, to better her life, and to better herself through education."

It is clear to me that Nayely feels a strong sense of responsibility for her community and country. By all indication, this is the case as well for all of the members of her fine family.

I understand that the Arreolas also have other family who are lawful permanent residents here in the United States. Mrs. Arreola also has three brothers who are U.S. citizens and Mr. Arreola has a sister who is a U.S. citizen. It is my understanding that they do not have any family to whom they might return in Mexico.

According to immigration authorities, this family has never had any problems with law enforcement. I am told that they have filed their taxes for every year from 1990 to the present. They have always worked hard to support themselves. As I previously mentioned, Mr. Arreola was previously employed as a farmworker, but now has his own business repairing electronics. His business has been successful enough to enable him to purchase a home for his family.

It seems so clear to me that this family has embraced the American dream and their continued presence in our country would do so much to enhance the values we hold dear. Enactment of the legislation I have introduced today will enable the Arreolas to continue to make significant contributions to their community and to the United States as well.

I ask unanimous consent that the letter of Xavier De La Torre, Principal of Granite Hills High School, as well as the numerous letters of support our office has received from members of the Porterville community be entered into the RECORD. I also ask unanimous consent that Nayely's essay entitled "If I Could Change the World," which she wrote at age 15, be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

GRANITE HILLS HIGH SCHOOL,
*Porterville, CA, May 7, 2003.*

DEAR SENATOR FEINSTEIN: It is with a sense of urgency that I write this letter in support of Nayely Arreola, a student at Granite Hills High School. I have known Nayely for the past three years and have found her to be an outstanding student and a fine young lady with many of the personal attributes I would want for my own daughters.

Nayely is a leader and a pioneer. She is among a very small cadre of second language learners that have overcome seemingly insurmountable conditions and adversities many of us will never know and emerged as a respected scholar. She is a classic success story. Nayely, with her spirit and drive, has helped open and establish Granite Hills High School, the newest high school in our community. She epitomizes what we seek to instill in all of our students. She has accepted the challenges and has made a commitment to better her future, to better her life, and to better herself, through education. Her leadership qualities were evident immediately, as she became very involved in the Link Crew program, the American Cancer Society's Relay for Life, the Porterville Celebrates Reading program, and the Key Club.

As a first time principal of a new high school, I rely on students like Nayely to establish a strong foundation for our school. She and others like her have been instrumental in all the success that we have had as a school in a relatively short period of time. Much of this success has come on the heels of adverse conditions. She is resilient and sees life from an optimistic lens, something very difficult to teach.

As a student, Nayely is well liked by her peers, teachers, and our learning community in general. A top student in her class, Nayely is studious, polite, possesses a staunch work ethic, and is determined to succeed in any endeavor she pursues. I attribute this attitude to her parental upbringing, her sense of moral obligation and a strong value system. I have all the confidence in the world that Nayely will be successful in life.

If there are any further questions, or if elaboration is required, please contact me at your convenience.

Sincerely,

XAVIER DE LA TORRE,
*Principal, Granite Hills High School.*

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA, May 7, 2003.*

DEAR SENATOR FEINSTEIN: Nayely Arreola is one of the most conscientious students I have even had in school. When I first met her last year, she introduced herself and said she would be the top student in my advanced Placement U.S. History class. As it turned out, schedule conflicts forced her into a college prep class, but her intentions and performance remained the same. She has been one of the very top academic students. She also has demonstrated a deep sense of patriotism and commitment to our country. Often times in discussion, she has been the first to voice her support of government policies and has an understanding of the complex reasoning behind difficult decisions legislators and other elected government people must make. In all the process of having to return to Mexico, she has never once been negative or derogatory towards the laws and procedures. Of all the people who should be given residency, Nayely and her family should be at the top of the list. They have demonstrated their dependability, loyalty, hard work and individual responsibility in their lives in this country. There is the "letter of the law" and there is then the "spirit of the law." The Arreolas are a family that truly deserve the "spirit of the law" in allowing them to stay and become officially citizens. They have consistently demonstrated their intentions to be such for the last decade or more.

SALLY HOWEN,
*Social Science*
*Chair, Granite Hills High School.*

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA, May 7, 2003.*

DEAR SENATOR FEINSTEIN: Nayely Arreola is an outstanding person. Having taught 30 years, I've met few students who are as dedicated to working to improve themselves as Nayely. Not only is she hard working, she is very intelligent. Nayely was in my Geometry class two years ago and she not only worked hard but she also has a wonderful understanding of the connectedness of mathematics. She was always ready and willing to help others who might not understand.

Nayely is more than just a shining example of a student, she is also one of the nicest students I've ever had. She is always courteous and respectful to everyone. I have never seen her act unkindly to anyone around campus. She is the type of person of intelligence, character and integrity that this country desperately needs.

Nayely has the qualities that will make her a leader and a peacekeeper in whatever situation she finds herself. If she is deported to Mexico, she will do well there and enrich that country. My hope and prayer is that she can stay and enrich this country.

If there is anything I can do to help in her family's need, please contact me.

Sincerely,

CAROL BENTZ,
*Teacher, Granite Hills High School.*

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA.*

SENATOR DIANE FEINSTEIN: My name is Filomena Lewis and I serve as the chairperson for the World Language Department here at Granite Hills High School. I am pleased to be writing this letter on behalf of Nayely Arreola.

It has been a pleasure having Nayely as my student. She is among the top students in my Advance Placement Spanish Language class. Nayely functions effectively in both leadership and group roles. Her properly developed social skills are well received by her peers.

Nayely is a terrific young lady. I have no doubt in my mind that she will be a contributing asset to our society. I highly recommend, with utmost regard, that Nayely be extended every possible consideration to allow her to complete this portion of her education at Granite Hills High School.

Respectfully,

FILOMENA ROCHA LEWIS.

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA, May 13, 2003.*

TO WHOM IT MAY CONCERN: It is a great pleasure to write this letter for Nayely Arreola. One of Granite Hills High School's most distinguished high academic students, Nayely is a junior, the daughter of Esidronio and Maria Elena Arreola, 1384 E. Success Dr., Porterville, CA (559) 782-3278.

Nayely is currently earning a total grade point average of 3.9. She is enrolled in a college preparatory program called AVID and is taking Advanced Placement Spanish Literature 3 and Advanced Placement English 3P. She also has nearly perfect attendance.

Not only is Nayely excelling in academics, she also excels and participates in various curricular and extracurricular activities on and off campus. Including Grizzly basketball and clubs. She also participates in her church youth group activities at her church.

Nayely hopes to attend University of California upon graduating from Granite Hills High School, where she will major in medicine. Nayely also hopes to see how far she can go with an honors program.

When asked what she liked about school, especially Granite Hills, she said the instructors, classes and the academic programs, especially AVID. She is our top AVID student in the program.

Nayely across the years has also received many honors and awards. Some of those being for leadership and the Renaissance Academic Program here at Granite Hills. She has also been on the Honor Roll for three years.

I know this student has all the tools to be successful in life. She will definitely be a very successful individual.

I know Nayely on a personal basis. She has done so much to be where she's at. She has achieved so many things because of her efforts and motivation. She deserves so much in life. I feel very proud of her.

RAUL B. BERMUDEZ,
*Guidance Tech., Granite Hills High School.*

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA.*

DEAR SENATOR FEINSTEIN: It is with a grateful heart I write to thank you for your recent support of Nayely Arreola and her family. It has been my extreme pleasure to work with Nayely at Granite Hills High for the past three years. Nayely is by far one of the hardest working students I have met in my twenty years of teaching. She is currently ranked fourth in a class of three hundred students and has received honors here at Granite Hills High. Recently she was selected as the runner-up to Girls State. She is the President of the Key Club where she has assisted in food, coat and toy drives for the needy of our community. She is a LINK leader, which works with freshmen, and I have known her as one of my prized speech students. Last year she won the Club and Zone levels of the Optimist Speech Contest and this year she was a Club winner in the Lions Club Speech Contest.

It has surprised many that I, a conservative Republican, would try to assist Nayely and her family with their problem of gaining residency her in the United States. I believe our country was founded with people just like the Arreola family who came here with a dream to improve their lives and the lives of their family. The Arreola family has proved that they are honest, hard working, tax paying people. It is unfortunate that they received poor advice from their first attorney that caused them to have their case sent to the deportation court. I truly believe if they had received proper representation they would have received residency long ago.

Nayely Arreola is more than a remarkable student, she is a remarkable person. Everything she has done has been to prepare here to go to a University here in the United States. I spent almost a year teaching in Mexico and I beg our Congress not to send her there. She is America's dream—her contribution to our country will be great. I have watched with great pride as she has grown into a wonderful young lady, ready to take on the world.

Once again, I thank you for all your help.

CHRISTINE L. AMANN,
*Reading Specialist/Speech Coordinator.*

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA, May 14, 2003.*

TO WHOM IT MAY CONCERN: It is with great pleasure that I write this letter on behalf of Nayely Arreola, a student of mine at Granite Hills High School.

Nayely is currently enrolled in my Chemistry class. She has proven herself to be a conscientious, intelligent, hard-working young lady. She consistently has the highest grade in her class and often goes "above and beyond" on her assignments.

I strongly support Nayely and her family in their quest for legal residence in this country. I have no doubt Nayely will one day be a successful, contributing member of our society. She has the drive and determination to achieve any goal she desires.

Sincerely,

SARA E. SILVA,
*Chemistry Teacher,*
*Granite Hills High School.*

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GRANITE HILLS HIGH SCHOOL,
*Porterville, CA.*

Nayely Arreola is one of my top 5 Pre-calculus/Trig students. This student is basically a model student. She is the kind of student that teachers dream about. She is self-motivated, intelligent, has a good heart, sincere, involved, etc. etc. etc. Every teacher should get an opportunity to have such a student.

It is truly sad that our government doesn't allow such students to remain in the U.S. These kinds of students are the ones that will help our country grow stronger. Students like Nayely are the kind of resources this country needs. I am in disbelief that other students that have no respect for authority, do not care for education, and eventually, we will have to pay for their existence in one way or another, are allowed to stay. Yet great hard working people like the Arreola family are obligated to leave this country.

The qualities that Nayely possesses are indeed rare. If our students possessed half of her qualities we would be second to no nation in terms of education. We can not afford to lose these precious resources. If our country is to grow stronger we must change our way of thinking. We must change our laws. We must attract people like Nayely and abolish those that harm our country. We are hurting ourselves by forcing Nayely Arreola to leave this country. Howe can politics be so blind?

Truly,

JOSE VELAZQUEZ,
*Granite Hills High School*
*Trigonometry teacher.*

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IF I COULD CHANGE THE WORLD . . .

(By Nayely B. Arreola)

The world has changed dramatically throughout the years. Disrespect, abuse, and quick judgment are major factors that have caused human suffering. They are my main concern because we need to value individuality. In my speech today I am going to talk about three ways I feel we could change the world.

If I could change our interactions with elderly people, the world would be a better place. I disagree with the pessimistic attitude that some young Americans take towards the elderly. Our country should honor and respect our senior citizens. For example, in other countries convalescent homes do not exist, because family members take care of their older family members. They demonstrate an appreciation, and respect by giving their elderly person a special significance in their own life. The children take care of the parents when they grow older and cannot do it themselves. The sons or daughters give their loved ones a special value and view age as a wonderful experience because they can learn from the elderly family members. If this were not possible, then I would change the convalescent homes from a hospital environment to more of a home environment. In order to ensure better treatment of the elderly the main focus should be on their dignity, comfort, and well-being.

By keeping the elderly at home, the children can receive love and attention from someone other than their parents. Some kids come home to empty houses when their parents are working hard to maintain their career. Instead of watching TV, they can actually learn something about themselves and the origin of their family history. In order to change the world, we should appreciate our elderly people because they have a lot to offer us.

Elderly people have a lot to teach us about the world, society, and culture because they have grown wise throughout the years. They can help us learn from their mistakes so that we won't have to go through it again and learn the hard way. It is an honor to sit by them and hear so many things that they have encountered during their lifetime. We have degraded the value of age in America drastically by placing so much emphasis on youth and looking youthful.

Second, we have degraded the beauty of other races. I would make people colorblind, so that they would not care about a person's color or race. Prejudice ignores a person's character, causing one person to feel superior over another person. Racism has caused conflicts and problems throughout history. A person who is racist does not know the big mistake that he or she is making. They fail to truly meet the wonderful people who they neglect.

Furthermore, another thing that I would change in the world is the suffering and abuse of an innocent child. Children are gifts from heaven, but when they go through a life of torment or anguish, they reflect that later in their lives. These children have low self-esteem.

Most of them repeat the same type of abuse toward their children, causing the chain to repeat itself, again and again throughout generations. The life of an abused child is a sad life. If child suffering were eliminated, we would have happier children, thus healthier adults. They would be prepared to succeed in the light of success and would not be left in the darkness of despair. It would make them view the world as a wonderful place.

In conclusion, I cannot change the world into a wonderful place or impact it without changing myself. If I were able to change the world, I would begin with myself and erase all evil within my heart, in hopes of setting an example for others to follow. I can only change one life at a time in order to change the world into honoring the life of an individual. We cannot disrespect the elderly, judge a person by their color or abuse a child who in its innocence didn't ask to be born. We should show respect and dignity without caring the size, age or color. We should get past the fashion, clothes, and looking good in order for us to truly be compassionate to see what lies in the depths of a person's heart. In order to change our world the answer is definitely in changing the hearts of our people. We must all do our part. Today I have accepted this challenge—I ask you can you?

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By Mr. SPECTER (for himself and Mr. BUNNING):

S. 1131. A bill to increase, effective December 1, 2003, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation I am introducing today to provide a cost-of-living, COLA, adjustment for certain veterans' benefits programs. This COLA adjustment would affect payments made to nearly 3 million Department of Veterans Affairs, VA, beneficiaries, and would be reflected in beneficiary checks that are received in January 2004, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment would be compensation paid to disabled veterans, and dependency and indemnity compensation, DIC, payments made to the surviving spouses, minor children and other dependents of persons who died in service, or who died after service as a result of service-connected injuries or diseases.

The President's budget anticipates inflation to be at a two percent level at the close of this year as measured by the consumer price index, CPI, published by the Department of Labor's Bureau of Labor Statistics. If inflation is held to the 2 percent level, that will be the level of COLA adjustment under this legislation since it ties the increase directly to the CPI increase as measured by the Department of Labor. Whatever the CPI increase eventually turns out to be, however, veterans' and survivors' benefits payments must be protected by being increased by a like amount. The Congress already concurred with that judgment with the recent passage of the budget resolution; that resolution sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I ask my colleagues to support this vital legislation.

I yield the floor, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 1131

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2003".

**SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2003, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2003.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2003, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

**SEC. 3. PUBLICATION OF ADJUSTED RATES.**

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2004, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

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By Mr. SPECTER (for himself, Mr. BUNNING, and Mr. GRAHAM of South Carolina):

S. 1132. A bill to amend title 38, United States Code, to improve and enhance certain benefits for survivors of veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation I have introduced today to further honor the sacrifices made by the family members of those who were killed or injured in service to our country. As we celebrate the victory won on the battlefield in Iraq, we must remember that the loss of American lives—even a relative few—was a sobering price to pay.

The loss of life in service is most acutely felt by the spouses and children left behind. For them, we must make every effort—however inadequate that effort might be in comparison to the enormity of their loss—to recognize their needs. This bill attempts to do so by increasing educational assistance benefits for survivors, by providing additional dependency and indemnity compensation payments for bereaved families, by authorizing a remarried spouse to be buried in a national cemetery with his or her deceased veteran-spouse, and by providing health, training and compensation benefits to children of certain veterans who served in or near the Korean demilitarized zone, DMZ, in the late 1960s, and who were born with Agent Orange-induced spina bifida.

The legislation I introduce today would increase the rate of monthly Survivors' and Dependents' Education Assistance, DEA, benefits from $680 to $985. DEA benefits are provided to the spouses and children of veterans who were killed, or profoundly wounded, in service. The increase I propose today would create parity between DEA benefits and veterans' educational assistance, Montgomery GI Bill, benefits. Such parity was recommended by a recent Department of Veterans Affairs, VA, program evaluation and is dictated by the common sense observation that college tuition is no less expensive for widows and orphans than it is for veterans.

Under this legislation, DEA-eligible survivors, like Montgomery GI Bill beneficiaries, would receive an aggregate of $35,460 worth of education benefits—$985 monthly for a total of 36 months. Thus, both veterans and survivors would have the resources necessary to meet the average cost of tuition, fees, and room and board at four-year, public institutions of higher learning. As was stated by VA's Deputy Secretary, Dr. Leo Mackay, at a Committee on Veterans Affairs hearing on June 28, 2001, VA "believe[s] it is only fair that these benefits should be at the same level as those provided to veterans." VA estimates that a monthly benefit at that level will entice 90% of eligible persons to use the benefit.

This legislation would also put into effect a key policy recommendation made by a VA-contracted study examining the adequacy of survivors' Dependency and Indemnification Compensation, DIC, benefit. The 2001 study called for the DIC benefit—the basic rate of which is now set at $948 per month—to be increased by $250 per month during the 5-year period following the death of a veteran to further ease the transition of surviving spouses with dependent children. The contractor study based its recommendations on the reported income needs and expenses of DIC recipients; it found that spouses with children reported higher levels of unmet need than spouses without children—even though spouses with dependent children already receive an additional $237 in monthly DIC benefits per child. In short, the contractor found that while widows with children are already afforded additional DIC benefits, they need more.

In July 2001, VA estimated that there were approximately 14,500 surviving spouses with dependent children. Reading the profiles of some of the young men and women who lost their lives in Iraq, I know that several spouses will, sadly, be added to that number. This provision of my bill is a small way to further recognize the needs of families based on an objective assessment of what those needs are.

Section four of this bill would codify a practice that VA routinely allows through a waiver process. Under current practice, when the remarried widow of a deceased veteran dies, her second husband must grant VA permission before VA will allow, under a waiver process, the widow to be buried in a national cemetery with her deceased veteran-husband. A woman, for example, who was married for 50 years to a World War II veteran and who remarries late in life after her first husband dies should not have to depend on a waiver process to ensure burial with her first husband. Remarried spouses whose second marriages end due to death or divorce have a statutory right to burial with their deceased veteran-spouse. The same statutory right should be afforded to remarried spouses who, though married at death, never lost their desire to be united with a prior spouse already at rest in a national cemetery.

Finally, my legislation would provide benefits to spina bifida children of veterans who served in or near the Korean DMZ between 1967 and 1969. Benefits would be provided on the same basis, and under the same rationale, as they are to children of Vietnam veterans who are born with spina bifida. In 1996, Congress authorized benefits for Vietnam children born with spina bifida based on evidence reported by the Institute of Medicine of an association between exposure to Agent Orange and the appearance of the birth defect spina bifida in a veteran's offspring. The same contaminant found in Agent Orange—dioxin—was also used to clear brush in and near the Korean DMZ during the late 1960s. Indeed, veterans who served near the Korean DMZ during that time are already presumed by VA to have been exposed to herbicides, unless military records demonstrate otherwise, and they are, accordingly, already awarded compensation on a presumptive basis if they fall ill from conditions presumed by law to be presumptively service-connected for Vietnam veterans. VA, however, exercises no such latitude in addressing the needs of the children of Korean DMZ veterans born with spina bifida. It should—and this bill would direct VA to do so.

I first learned of this inequity from Mr. John Ruzalski, a resident of Hawley, PA. Mr. Ruzalski is a Korean DMZ veteran whose 27-year-old son suffers from spina bifida. I am grateful to Mr. Ruzalski for his service in Korea, and for bringing this matter to light, and am hopeful that the Congress can reward his vigilance on behalf of his son. Clearly, it makes no sense for VA to presume that Korean DMZ veterans should be treated like Vietnam veterans for purposes of compensating the veteran's service-related illnesses and yet treat their spina bifida children differently.

In summary, the provisions of this legislation will make a difference in the lives of those who fallen servicemembers loved even more than country—their families. I ask my colleagues for their support.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 1132

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Survivors Benefits Enhancements Act of 2003".

### SEC. 2. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "at the monthly rate of" and all that follows and inserting "at the monthly rate of $985 for full-time, $740 for three-quarter-time, or $492 for half-time pursuit."; and

(B) in paragraph (2), by striking "at the rate of" and all that follows and inserting "at the rate of the lesser of—

"(A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay; or

"(B) $985 per month for a full-time course.";

(2) in subsection (b), by striking "$670" and inserting "$985"; and

(3) in subsection (c)(2), by striking "shall be" and all that follows and inserting "shall be $795 for full-time, $596 for three-quarter-time, or $398 for half-time pursuit.".

(b) CORRESPONDENCE COURSES.—Section 3534(b) of that title is amended by striking "$670" and inserting "$985".

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) of that title is amended—

(1) by striking "$670" and inserting "$985"; and

(2) by striking "$210" each place it appears and inserting "$307".

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) of that title is amended by striking "shall be $488 for the first six months" and all that follows and inserting "shall be $717 for the first six months, $536 for the second six months, $356 for the third six months, and $179 for the fourth and any succeeding six-month period of training.".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on October 1, 2003, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

(2) No adjustment in rates of monthly training allowances shall be made under section 3687(d) of title 38, United States Code, for fiscal year 2004.

### SEC. 3. MODIFICATION OF DURATION OF EDUCATIONAL ASSISTANCE.

Section 3511(a)(1) of title 38, United States Code, is amended by striking "45 months" and all that follows and inserting "45 months, or 36 months in the case of a person who first files a claim for educational assistance under this chapter after the date of the enactment of the Veterans' Survivors Benefits Enhancements Act of 2003, or the equivalent thereof in part-time training.".

### SEC. 4. ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN.

(a) ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION.—Section 1311 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of eighteen, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $250, regardless of the number of such children.

"(2) Dependency and indemnity compensation shall be increased for a month under this subsection only for months occurring during the five-year period beginning on the date of death of the veteran on which such dependency and indemnity compensation is based.

"(3) The increase in dependency and indemnity compensation of a surviving spouse under this subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of eighteen.

"(4) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable by law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

### SEC. 5. ELIGIBILITY OF SURVIVING SPOUSES WHO REMARRY FOR BURIAL IN NATIONAL CEMETERIES.

(a) IN GENERAL.—Section 2402(5) of title 38, United States Code, is amended by striking "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)" and inserting "(which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after January 1, 2000.

### SEC. 6. BENEFIT FOR CHILDREN WITH SPINA BIFIDA OF VETERANS OF CERTAIN SERVICE IN KOREA.

(a) IN GENERAL.—Chapter 18 of title 38, United States Code, is amended—

(1) by redesignating subchapter III, and sections 1821, 1822, 1823, and 1824, as subchapter IV, and sections 1831, 1832, 1833, and 1834, respectively; and

(2) by inserting after subchapter II the following new subchapter III:

### "SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

### "§ 1821. Benefits for children of certain Korea service veterans born with spina bifida

"(a) BENEFITS AUTHORIZED.—The Secretary may provide to any child of a veteran of covered service in Korea who is suffering from spina bifida the health care, vocational training and rehabilitation, and monetary allowance required to be paid to a child of a Vietnam veteran who is suffering from spina bifida under subchapter I of this chapter as if such child of a veteran of covered service in Korea were a child of a Vietnam veteran who is suffering from spina bifida under such subchapter I.

"(b) SPINA BIFIDA CONDITIONS COVERED.—This section applies with respect to all forms and manifestations of spina bifida, except spina bifida occulta.

"(c) VETERAN OF COVERED SERVICE IN KOREA.—For purposes of this section, a veteran of covered service in Korea is any individual, without regard to the characterization of that individual's service, who—

"(1) served in the active military, naval, or air service in or near the Korean demilitarized zone (DMZ), as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 1, 1967, and ending on December 31, 1969; and

"(2) is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in or near the Korean demilitarized zone.

"(d) HERBICIDE AGENT.—For purposes of this section, the term 'herbicide agent' means a chemical in a herbicide used in support of United States and allied military operations in or near the Korean demilitarized zone, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 1, 1967, and ending on December 31, 1969.".

(b) Child Defined.—Section 1831 of that title, as redesignated by subsection (a), is further amended by striking paragraph (1) and inserting the following new paragraph (1):

"(1) The term 'child' means the following:

"(A) For purposes of subchapters I and II of this chapter, an individual, regardless of age or marital status, who—

"(i) is the natural child of a Vietnam veteran; and

"(ii) was conceived after the date on which that veteran first entered the Republic of Vietnam during the Vietnam era.

"(B) For purposes of subchapter III of this chapter, an individual, regardless of age or marital status, who—

"(i) is the natural child of a veteran of covered service in Korea (as determined for purposes of section 1821 of this title); and

"(ii) was conceived after the date on which that veteran first entered service described in subsection (c) of that section.".

(c) Nonduplication of Benefits.—Section 1834(a) of that title, as redesignated by subsection (a), is further amended by adding at the end the following new sentence: "In the case of a child eligible for benefits under subchapter I or II of this chapter who is also eligible for benefits under subchapter III of this chapter, a monetary allowance shall be paid under the subchapter of this chapter elected by the child.".

(d) Conforming Amendment.—(1) Section 1811(1)(A) of that title is amended by striking "section 1821(1)" and inserting "section 1831(1)".

(2) The heading for chapter 18 of that title is amended to read as follows:

**"CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS".**

(e) Clerical Amendments.—(1) The table of sections at the beginning of chapter 18 of that title is amended by striking the items relating to subchapter III and inserting the following new items:

"SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

"1821. Benefits for children of certain Korea service veterans born with spina bifida.

"SUBCHAPTER IV—GENERAL PROVISIONS

"1831. Definitions.
"1832. Applicability of certain administrative provisions.
"1833. Treatment of receipt of monetary allowance and other benefits.
"1834. Nonduplication of benefits.".

(2) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are each amended by striking the item relating to chapter 18 and inserting the following new item:

**"18. Chapter 18—Benefits for Children of Vietnam Veterans and Certain Other Veterans ................ 1802".**

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By Mr. SPECTER (by request):

S. 1133. A bill to amend title 38, United States Code, to improve the authorities of the Department of Veterans Affairs relating to compensation, dependency and indemnity compensation, pension, education benefits, life insurance benefits, and memorial benefits, to improve the administration of benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S.1133, the proposed "Veterans Programs Improvement Act of 2003." The Secretary of Veterans Affairs has submitted this proposed legislation to the President of the Senate by letter dated April 25, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

I ask unanimous consent that the text of the bill be printed in the Record, together with the transmittal letter and a section-by-section analysis which accompanied it.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1133

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) Short Title.—This act may be cited as the "Veterans Programs Improvement Act of 2003".

(b) References.—Except as otherwise expressly provided, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

### SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) Rate Adjustment.—The Secretary of Veterans Affairs shall, effective on December 1, 2003, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) Amounts To Be Increased.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) Compensation.—Each of the dollar amounts in effect under section 1114;

(2) Additional compensation for dependents.—Each of the dollar amounts in effect under section 1115(1);

(3) Clothing allowance.—The dollar amount in effect under section 1162;

(4) New DIC rates.—Each of the dollar amounts in effect under paragraphs (1) and (2) of section 1311(a);

(5) Old DIC rates.—Each of the dollar amounts in effect under section 1311(a)(3);

(6) Additional DIC for surviving spouses with minor children.—The dollar amount in effect under section 1311(b);

(7) Additional DIC for disability.—Each of the dollar amounts in effect under subsections (c) and (d) of section 1311; and

(8) DIC for dependent children.—Each of the dollar amounts in effect under sections 1313(a) and 1314.

(c) Determination of Increase.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2003.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2003, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) Special Rule.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(e) Publication of Adjusted Rates.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2004, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) as increased pursuant to subsection (a).

### SEC. 3. REPEAL OF 45-DAY RULE FOR EFFECTIVE DATE OF AWARD OF DEATH PENSION.

Subsection (d) of section 5110 is amended—

(1) by striking the designation "(1)";

(2) by striking "death compensation or dependency and indemnity compensation" and inserting "death compensation, dependency and indemnity compensation, or death pension"; and

(3) by striking paragraph (2).

### SEC. 4. EXCLUSION OF LUMP-SUM LIFE INSURANCE PROCEEDS FROM DETERMINATIONS OF ANNUAL INCOME FOR PENSION PURPOSES.

Subsection (a) of section 1503 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking "materials." at the end of paragraph (10)(B) and inserting "materials; and"; and

(3) by adding at the end the following new paragraph:

"(11) lump-sum proceeds of any life insurance policy or policies on a veteran, for purposes of pension under subchapter III of this chapter.".

### SEC. 5. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) Clarification.—Chapter 11 is amended—

(1) in section 1110, by striking "drugs." and inserting "drugs, even if the abuse is secondary to a service-connected disability."; and

(2) in section 1131, by striking "drugs." and inserting "drugs, even if the abuse is secondary to a service-connected disability.".

(b) Applicability.—The amendments made by subsection (a) shall apply to any claim—

(1) filed on or after the date of enactment of this Act; or

(2) filed before the date of enactment of this Act and not finally decided as of that date.

### SEC. 6. ALTERNATIVE BENEFICIARIES FOR NATIONAL SERVICE LIFE INSURANCE AND UNITED STATES GOVERNMENT LIFE INSURANCE.

(a) National Service Life Insurance.—(1) Section 1917 is amended by adding at the end the following new subsection:

"(f)(1) Following the death of the insured and in a case not covered by subsection (d)—

"(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

"(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the secretary be equitably entitled thereto.

"(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.".

(b) United States Government Life Insurance.—Section 1952 is amended by adding at the end the following new subsection:

"(c)(1) Following the death of the insured and in a case not covered by section 1950 of this title—

"(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

"(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

"(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.".

(c) Transition Provision.—In the case of a person insured under subchapter I or II of chapter 19, title 38, United States Code, who dies before the date of the enactment of this Act, the two-year and four-year periods specified in subsection (f)(1) of section 1917 of title 38, United States Code, as added by subsection (a), and subsection (c)(1) of section 1952 of such title, as added by subsection (b), as applicable, shall for purposes of the applicable subsection be treated as being the two-year and four-year periods, respectively, beginning on the date of the enactment of this Act.

### SEC. 7. TIME LIMITATION ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUEST BY DEPARTMENT OF VETERANS AFFAIRS.

(a) In General.—Section 5102 is amended by adding at the end the following new subsection:

"(c) Time Limitation.—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date of such notification, no benefit may be paid or furnished by reason of the claimant's application.

"(2) This subsection shall not apply to any application or claim for Government life insurance benefits.".

(b) Repeal of Superseded Provisions.—Section 5103 is amended—

(1) by striking "(a) Required information and evidence.—"; and

(2) by striking subsection (b).,

(c) Effective Date.—The amendments made by this section shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096).

### SEC. 8. BURIAL PLOT ALLOWANCE.

(a) Subsection (b) of section 2303 is amended—

(1) in the matter preceding paragraph (1), by striking "a burial allowance under such section 2302, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war" and inserting "burial in a national cemetery under section 2402 of this title"; and

(2) in paragraph (2), by striking "(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)" and inserting "is eligible for a burial allowance under section 2302 of title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran".

(b) Section 2307 is amended in the last sentence by striking "and (b)" and inserting "and (b)(2)".

### SEC. 9. PROVISION OF MARKERS FOR PRIVATELY MARKED GRAVES.

(a) In General.—Subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 995), as amended by section 203 of the Veterans Benefits Act of 2002 (Public Law 107–330; 116 Stat. 2824), is further amended by striking "September 11, 2001" and inserting "November 1, 1990".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 502 of Public Law 107–103.

### SEC. 10. EXPANSION OF BURIAL ELIGIBILITY FOR REMARRIED SPOUSES.

(a) In General.—Paragraph (5) of section 2402 is amended by striking "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)" and inserting "(which for purposes of this chapter includes a surviving spouse who remarries following the veteran's death)".

(b) Effective Date.—The amendments made by subsection (a) shall apply to deaths occurring on or after the date of the enactment of this Act.

### SEC. 11. MAKE PERMANENT AUTHORITY FOR STATE CEMETERY GRANTS PROGRAM.

(a) Permanent Authorization.—Paragraph (2) of section 2408(a) is amended—

(1) by striking "for fiscal year 1999 and for each succeeding fiscal year through fiscal year 2004"; and

(2) by adding at the end "Funds appropriated under the preceding sentence shall remain available until expended.".

(b) Technical Amendment.—Subsection (e) of section 2408 is amended by striking "Sums appropriated under subsection (a) of this section shall remain available until expended.".

### SEC. 12. FORFEITURE OF BENEFITS FOR SUBVERSIVE ACTIVITIES.

(a) Addition of Certain Offenses.—Paragraph (2) of section 6105(b) is amended by striking "sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18" and inserting "sections 175, 229, 792, 793, 794, 798, 831, 1091, 2332a, 2332b, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18".

(b) Effective Date.—The amendment made by subsection (a) shall apply to claims filed after the date of the enactment of this Act.

### SEC 13. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 3692 is amended—

91) in subsection (a), by inserting "as far as practicable" after "include";

(2) in subsections (a) and (b), by striking "chapter 106" and inserting "chapter 1606" both places it appears; and

(3) in subsection (c), by striking "2003" and inserting "2013".

### SEC. 14. REPEAL OF EDUCATION LOAN PROGRAM.

(a) Termination of Program.—No loans shall be made under subchapter III of chapter 36 after the date of the enactment of this Act, and such subchapter shall be repealed 90 days after such date of enactment.

(b) Closing of Loan Fund.—All monies in the revolving fund established in the Treasury of the United States of America known as the "Department of Veterans Affairs Education Loan Fund" (the "Fund") on the day before the date of repeal of such subchapter III shall be transferred to the Department of Veterans Affairs Readjustment Benefits Account, and the Fund shall be closed.

(c) Discharge of Liability.—The liability on any education loan debt outstanding under such subchapter III shall be discharged, and any overpayments declared under section 3698(e)(1) of that subchapter shall be waived without further process on the date funds are transferred as referred to in subsection (b) of this section.

(d) Technical Amendment.—On the date of repeal of such subchapter III, as provided herein, the table of sections at the beginning of chapter 36 shall be amended by striking the items relating to subchapter III.

(e) Conforming Amendment.—(1) Chapter 34 is amended—

(A) by repealing paragraph (2) of section 3462(a); and

(B) in paragraph (1) of section 3485(e), by striking "(other than an education loan under subchapter III)".

(2) Section 3512 is amended by repealing subsection (f).

(3) The amendments made by paragraphs (1)(B) and (2) shall take effect 90 days after the date of the enactment of this Act.

### SEC. 15. RESTORATION OF CHAPTER 35 EDUCATION BENEFITS OF CERTAIN INDIVIDUALS.

(a) Restoration.—Subsection (h) of section 3512 is amended by inserting "or is involuntarily ordered to full-time National Guard duty under section 502(f) of title 32" following "title 10".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of September 11, 2001.

### SEC. 16. EXPANSION OF MONTGOMERY GI BILL EDUCATION BENEFITS FOR CERTAIN SELF-EMPLOYMENT TRAINING.

(a) Self-employment Training.—Subparagraph (B) of section 3002(3) is amended—

(1) in clause (i) by striking "and";

(2) by adding at the end the following clause:

"(iii) a program of self-employment on-job training approved as provided in section 3677(d) of this title; and".

(b) PROGRAM APPROVAL.—Section 3677 is amended—

(1) in subsections (a) and (c), by inserting "self-employment on-job training or" after "other than";

(2) in subsection (b)(1), by inserting "described in subsection (a)" after "offering training"; and

(3) by adding at the end the following new subsection:

"(d)(1) Any State approving agency may approve a program of self-employment on-job training for purposes of chapter 30 of this title only when it finds that the training is generally recognized as needed or accepted for purposes of obtaining licensure to engage in the self-employment occupation or is required for ownership and operation of a franchise that is the objective of the training..

"(2) The training entity offering the training for which approval is sought under this chapter must submit to the State approving agency a written application for approval, in the form and with the content as prescribed by the Secretary, which shall include such information as is required by the State approving agency.

"(3) As a condition for approving a program of self-employment on-job training, the State approving agency must find upon investigation that the following criteria are met:

"(A) The training content is adequate to qualify the eligible individual for the self-employment occupation that is the objective of the training.

"(B) The training consists of full-time training for a period of less than six months.

"(C) The length of the training period is not longer than that customarily required to obtain the knowledge, skills, and experience needed to successfully engage in the particular self-employment occupation that is the objective of the training.

"(D) The training entity has adequate instructional space, equipment, materials, and personnel to provide satisfactory training on the job.

"(E) The training entity keeps adequate records of each trainee's progress toward the self-employment objective and, at the end of the training period, issues a license, certificate, or other document recording the individual's successful completion of the training program.

"(F) The training entity and the self-employment on-job training program meet such other criteria as the Secretary may prescribe and as the State approving agency, with the Secretary's approval, may establish.".

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 3687(a) is amended by inserting "subsections (a), (b), and (c) of" before "section 3677".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date six months after the enactment of this Act and shall apply to self-employment on-job training approved and pursued on or after that date.

THE SECRETARY OF
VETERANS AFFAIRS,
*Washington, DC, April 25, 2003.*

Hon. RICHARD B. CHENEY,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: I am transmitting a draft bill, the "Veterans Programs Improvement Act of 2003'. I request that this draft bill be referred to the appropriate committee for prompt consideration and enactment.

INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Section 2 of the draft bill would direct the Secretary of Veterans Affairs to increase administratively the rates of disability compensation for veterans with service-connected disability and of dependency and indemnity compensation (DIC) for the survivors of veterans whose deaths are service related, effective December 1, 2003. As provided in the Presidents fiscal year (FY) 2004 budget request, the rate of increase would be the same as the cost-of-living adjustment (COLA) that will be provided under current law to Social Security recipients, which is currently estimated to be 2 percent. We believe this proposed COLA is necessary and appropriate to protect the affected benefits from the eroding effects of inflation.

We estimate that enactment of this section would cost $355 million during FY 2004 and $4.3 billion over the period FY 2004 through FY 2013. However, this cost is already assumed in the Budget baseline and, therefore, would not have any effect on direct spending.

REPEAL OF 45-DAY RULE FOR EFFECTIVE DATE OF AWARD OF DEATH PENSION AND EXCLUSION OF LUMP-SUM INSURANCE PROCEEDS FROM DETERMINATIONS OF ANNUAL INCOME FOR PENSION PURPOSES

Section 3 of the draft bill would amend 38 U.S.C. §5110(d) to make an award of death pension effective the first day of the month in which the death occurred if the claim is received within one year from the date of death. Section 4 of the draft bill would amend 38 U.S.C. §1503(a) to add lump-sum proceeds of life insurance policies to the list of payments that do not count as income for purposes of determining eligibility for death pension benefits administered by the Department of Veterans Affairs (VA) under chapter 15 of title 38, United States Code.

Under 38 U.S.C. §5110(a), an award based on a death pension claim received more than 45 days after the veterans death can be effective no earlier than the date of the claim. Pursuant to current 38 U.S.C. §5110(d)(2), however, if VA receives an application for death pension within 45 days of the veteran's death, then the effective date of a death pension award is the first day of the month in which the death occurred. Section 5110(d)(2)'s original one-year period was reduced to the current 45 days by the Deficit Reduction Act of 1984, Pub. L. No. 98-369, 98 Stat. 494, 854–901, as a cost-saving measure. Unfortunately, the "45-day rule" created a situation that has led to unfair and unequal treatment of applications for VA death pension.

The practical effect of the "45-day rule" in many cases has been to exclude lump-sum life insurance proceeds received within 45 days of the veteran's death from the countable income for pension claimants who file their claims more than 45 days after the date of the veteran's death. In contrast, claimants who both receive insurance proceeds and file pension claims within 45 days of the veteran's death have insurance proceeds counted as annual income, often reducing or precluding pension benefits during their first year of potential eligibility. In other words, claimants who receive insurance proceeds within 45 days of death, but who wait 45 days or longer to file pension claims, can receive pension effective from the date of claim without regard to recently-received insurance proceeds. In essence, claimants receiving lump-sum insurance proceeds under the current law are encouraged to forego entitlement from the date of death in exchange for the exclusion of the insurance payment in determining countable income for the following 12 months.

While many veterans' advocates are aware of this situation and advise claimants who receive life insurance proceeds within 45 days of death to postpone filing their claims, the current law unfairly penalizes claimants who are not well versed in such technical details. Fairness dictates that VA rules and procedures be straightforward, particularly for claimants who are coping with the losses of loved ones. Consequently, we believe the "45-day rule" should be eliminated in favor of a rule making death pension benefits effective from the first day of the month of the veterans death if the claim is received within one year of that date.

However, we believe that this change must go hand in hand with an amendment, provided in section 4 of the draft bill, excluding lump-sum life insurance proceeds from the computation of income for death pension purposes. Lump-sum life insurance proceeds of genuine consequence are more appropriately addressed in terms of net worth, as provided in 38 U.S.C. §1543, than in terms of income. Pursuant of section 1543, a claimant is ineligible to receive death pension benefits if his or her net worth is such that it is reasonable that some portion of it should be consumed for his or her maintenance. In our view, a surviving spouse whose income, excluding lump-sum life insurance proceeds, and net worth do not constitute a bar to pension deserves help from VA.

We believe these proposed amendments are necessary and appropriate to eliminate unequal treatment of death pension applicants and to uphold one of the fundamental principles of the pension program, which is to ensure that those with the greatest need receive the greatest benefit.

We estimate that the net effect of enactment of both section 3 and section 4 would cost $649 thousand for FY 2004 and $12.8 million for the ten-year period FY 2004 through FY 2013.

CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY

Section 5(a) of the draft bill would amend 38 U.S.C. §§1110 and 1131 to clarify that the prohibition on payment of compensation for a disability that is a result of the veteran's own abuse of alcohol or drugs applies even if the abuse is secondary to a service-connected disability. Section 5(b) would make that amendment applicable to claims filed on or after the date of enactment and to claims filed before then but not finally decided as of that date.

Sections 1110 and 1131 of title 38, United States Code, authorize the payment of compensation for disability resulting from injury or disease incurred or aggravated in line of duty in active service, during a period of war or during other than a period of war, respectively. Section 1110 also currently provides, "but on compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs." Before their amendment in 1990, the provisions currently codified in sections 1110 and 1131 prohibited compensation "if the disability is the result of the veteran's own willful misconduct." In 1990, they were amended to also prohibit compensation if the disability is a result of the veteran's own alcohol or drug abuse.

VA has long interpreted those provisions to authorize compensation not only for disability immediately resulting from injury or disease incurred or aggravated in service, but also for disability more remotely resulting from such injury or disease. That interpretation is embodied in 38 C.F.R. §3.310(a), which provides that, generally, disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. Thus, VA pays compensation for primary service-connected disability and for secondary service-connected disability. However, consistent with the plain meaning of sections 1110 and 1131, if a disability, whether primary or secondary, is a result of the veteran's own alcohol or drug abuse, VA did not pay compensation.

This has changed. On February 2, 2001, a three-judge panel of the United States Court of Appeals for the Federal Circuit interpreted section 1110 as not precluding compensation for an alcohol or drug-abuse-related disability arising secondarily from a service-connected disability. Allen v. Principi, 237 F.3d 1368, 1370 (Fed. Cir. 2001). More specifically, the panel held that section 1110 "does not preclude compensation for an alcohol or drug abuse disability secondary to a service-connected disability or use of an alcohol or drug abuse disability as evidence of the increased severity of a service-connected disability." Id. at 1381. The Government filed a petition for rehearing and rehearing en banc, which the panel and full court denied on October 16, 2001. Allen v. Principi, 268 F.3d 1340, 1341 (Fed. Cir. 2001). However, five of the eleven judges who considered the petition for rehearing en banc dissented from the order denying rehearing, opening that that court's interpretation is wrong. 268 F.3d at 1341–42.

We are concerned that payment of additional compensation based on the abuse of alcohol or drugs is contrary to congressional intent and is not in veterans' best interests because it removes an incentive to refrain from debilitating and self-destructive behavior.

The Federal Circuit's interpretation in Allen could also greatly increase the amount of compensation VA pays for service-connected disabilities. Under the court's interpretation, any veteran with a service-connected disability who abuses alcohol or drugs is potentially eligible for an increased amount of compensation if he or she can offer evidence that the substance abuse is a way of coping with the pain or loss the disability causes. Under this interpretation, alcohol or drug abuse disabilities that are secondary to either physical or mental disorders are compensable.

The potential for increased costs is illustrated by mental disorders, which are frequently associated with alcohol and drug abuse. Almost 421,000 veterans are currently receiving compensation for a service-connected mental disability. All but 97,000 of those disabilities are currently rated less than 100 percent disabling and could potentially be rated totally disabling on the basis of secondary alcohol or drug abuse. Even if the service connection of disability from alcohol or drug abuse does not result in an increased schedular evaluation, temporary total evaluations could be assigned whenever a veteran is hospitalized for more than twenty-one days for treatment or observation related to the abuse. Even the 97,000 cases of a service-connected mental disability evaluated at 100 percent disabling have potential for increased compensation for secondary alcohol or drug abuse if the statutory criteria for special monthly compensation are met.

The potential increase in compensation does not end there. Under the Federal Circuit's interpretation, VA is required to pay compensation for the secondary effects of the abuse of alcohol or drugs. Once alcohol or drug abuse is service connected as being secondary to another service-connected disability, then service connection can be established for any disability that is a result of the service-connected abuse of alcohol or drugs. If alcohol or drug abuse results in a disease, such as cirrhosis of the liver, then that disease would also be service connected and provide a basis for compensation under the court's interpretation.

Of course, an increase in the amount of compensation VA pays for service-connected disabilities will increase the benefit cost of the compensation program. Section 5 of this draft would avoid those increased costs. Our estimate of savings that would result from enactment of the draft bill is based on the payment of only basic compensation for alcohol or drug abuse disabilities secondary to service-connected disabilities (*i.e.*, it does not consider temporary total evaluations, special monthly compensation, or compensation for the secondary effects of alcohol or drug abuse). We estimate that this provision would result in benefit cost savings of $127 million and administrative cost savings of $44 million in FY 2004 and benefit cost savings of $4.6 billion and administrative cost savings of $97 million for the ten-month period FY 2004 through FY 2013.

### ALTERNATIVE BENEFICIARIES FOR NATIONAL SERVICE LIFE INSURANCE AND UNITED STATES GOVERNMENT LIFE INSURANCE

Section 6 would authorize the payment of unclaimed National Service Life Insurance (NSLI) and United States Government Life Insurance (USGLI) proceeds to an alternative beneficiary.

Under current law, there is no time limit under which a named beneficiary of an NSLI or USGLI policy is required to claim the proceeds. Consequently, when the insured dies and the beneficiary does not file a claim for the proceeds, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by the beneficiary. VA holds the proceeds as a liability. While extensive efforts are made to locate and pay these individuals, there are cases where the beneficiary simply cannot be found. Under current law, we are not permitted to pay the proceeds to a contingent or alternative beneficiary unless we can determine that the principal beneficiary predeceased the insured. Consequently, payment of the proceeds to other beneficiaries is withheld.

A majority of the existing liabilities of unclaimed proceeds were established over ten years ago. As time passes, the likelihood of locating and paying a principal beneficiary becomes more remote. In fact, the older a liability becomes, the more unlikely it is that it will ever be paid even though other legitimate heirs of the insured have been located.

Section 6 would authorize the Secretary to pay NSLI and USGLI proceeds to an alternative beneficiary when the proceeds have not been claimed by the named beneficiary within two years following the death of the insured or within two years of this bill's enactment, whichever is later. The principal beneficiary would have two years following the insured's death to file a claim. Afterward, a contingent beneficiary would have two additional years within which to file a claim. Payment would be made as if the principal beneficiary had predeceased the insured. If there is no contingent beneficiary to receive the proceeds, payment would be made to those equitably entitled, as determined by the Secretary. As occurs under current law, no payment would be made if payment would escheat to a State. Such payment would bar recovery of the proceeds by any other individual.

Section 6 of the bill would apply retroactively as well as prospectively, and is similar to the time-limitation provisions of the Servicemember's and Veterans' Group Life Insurance programs and the Federal Employees Group Life Insurance program.

Insofar as payment to beneficiaries is made from the insurance trust funds, there are no direct appropriated benefit costs associated with this section of the bill. The liabilities are already set aside and would eventually be paid, either as payment to beneficiaries that eventually claim the proceeds, or released from liability reserves and paid as dividends.

There are approximately 4,000 existing policies in which payment has not been made due to the fact that we cannot locate the primary beneficiary, despite extensive efforts. Over the years, the sum of moneys had as aggregated to approximately $23 million. Each year, about 200 additional policies (with an average face value of $9600, or approximately $1.9 million annually) are placed into this liability because the law prohibits payment to a contingent beneficiary or to the veteran's heirs. It is estimated that approximately two-thirds of the 4,000 policies would eventually be paid as a result of this legislation. Additionally, in anticipation of the fact that VA will not be able to pay about one-third of these policies, nearly $7 million has already been released to surplus and made available for dividend distribution.

VA estimates that the enactment of this section would result in costs of $15 million during the five-year period FY 2004 through FY 2008 and a total of $17 million during the ten-year period FY 2004 through FY 2013.

### TIME LIMITATION ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUEST BY DEPARTMENT OF VETERANS AFFAIRS

Section 7(a) and (b) of the draft bill would make a technical correction to the statutory provisions created by the Veterans Claims Assistance Act of 2000 (VCAA), Pub. L. No. 106–475, 114 Stat. 2096. Section 7(c) would make that correction effective as if enacted immediately after the VCAA.

Before the enactment of the VCAA, 38 U.S.C. §5103(a) required VA, if a claimant's application for benefits was incomplete, to notify the claimant of the evidence necessary to complete the application. Section 5103(a) further provided: "If such evidence is not received within one year from the date of such notification, no benefits may be paid or furnished by reason of such application."

In accordance with former section 5103(a), VA regulations provide that, if evidence requested in connection with a claim is not furnished within one year after the date of request, the claim will be considered abandoned. After the expiration of one year, VA will take no further action unless it receives a new claim. Furthermore, should the right to benefits be finally established, benefits based on such evidence would commence no earlier than the date the new claim was filed. 38 C.F.R. §3.158(a).

Before the enactment of the VCAA, title 38, United States Code, contained no provision requiring VA to notify a claimant of the evidence necessary to substantiate a claim.

Section 3(a) of the VCAA struck former 38 U.S.C. §§5102 and 5103 and added new sections 5102 and 5103. 114 Stat. at 2096–97. Now section 5102(b) requires VA, if a claimant's application for a benefit is incomplete, to notify the claimant (and his or her representative, if any) of the information necessary to complete the application. Section 5102 contains no provision concerning a time limitation for the submission of information necessary to complete an application.

Now section 5103(a) requires VA, upon receipt of a complete or substantially complete application for benefits, to notify the claimant (and his or her representative, if any) of any information and evidence not previously provided to VA that is necessary to substantiate the claim. Furthermore, that notice must indicate which portion of that information and evidence, if any, is to be provided by the claimant and which portion, if any, VA will attempt to obtain on the claimant's behalf. Section 5103(b)(1) provides, in the case of information or evidence that the claimant is notified is to be provided by him or her, if VA does not receive such information or evidence within one year from the date of such notification, no benefit may be paid or furnished by reason of the claimant's application.

As a result of the amendments made by the VCAA, the statutory provision imposing a one-year limitation now relates to the substantiation of claims rather than to the completion of applications. We do not believe Congress intended this change from prior law. This change raises several potential problems.

Without a statutory limitation of one year to complete an application, VA no longer has a statutory basis for closing an application as abandoned. Thus, if a claimant were to submit an incomplete application for benefits, but not respond to VA's notice of the information necessary to complete it until many years later, the award of any benefit granted on the basis of that application would have to be effective from the date of the application, even though the claimant took no action to complete it for many years. Further, it appears that VA would be authorized to close or deny the claim based on the claimant's failure to respond. We do not believe Congress intended this result. Rather, we believe that the former one-year statutory limitation on the time available to complete an application should be restored.

The statutory limitation of one year to substantiate a claim also raises potential problems. One such problem is the possibility that courts will interpret the provision to preclude VA from deciding a claim until one year has expired from the date VA gives notice of the information and evidence necessary to substantiate the claim. Exactly that interpretation was offered by several veterans service organizations challenging VA's regulations implementing the VCAA. Under those regulations, as part of VA's notice under section 5103(a), VA will request the claimant to provide any evidence in the claimant's possession that pertains to the claim. We ask for the evidence within 30 days, but tell the claimant that one year is available to respond. If the claimant has not responded to the request within 30 days, VA may decide the claim before expiration of the one year, based on all the information and evidence contained in the file, including information and evidence it has obtained on the claimant's behalf. However, VA will have to readjudicate the claim if the claimant subsequently provides the information and evidence within one year of the date of the request. 38 C.F.R. §3.159(b)(1).

VA issued those rules "to allow for the timely processing of claims." 66 Fed. Reg. 17,834, 17,835 (2001). Once an application had been substantially completed, VA does not want to have to wait one year to decide the claim, given the large backlog of claims awaiting adjudication by VA and the Secretary's commitment to reducing the backlog and shortening the time VA takes to adjudicate claims. What VA considers to be Congress' inadvertent moving of the one-year limitation from the provision relating to completion of applications to the provision relating to the substantiation of claims could impede VA's efforts to improve service to veterans. VA doubts that Congress intended to require VA, after requesting evidence from a claimant, to keep the claim open and pending for a full year if the claimant has not responded.

Furthermore, section 5103(b)(1)'s clear and unambiguous language appears to prohibit the payment of benefits even though VA could allow a claim. For example, VA might be able to allow a claim on the basis of evidence VA obtained on the claimant's behalf, even though the claimant has not provided the evidence requested of him or her. Or VA might find clear and unmistakable error in a prior denial and need to grant benefits on the claim that was erroneously denied. Yet section 5103(b)(1) prohibits the payment or furnishing of any benefit if VA does not receive within one year the information or evidence the claimant is to provide according to VA's notice. Surely, Congress did not intend such a results.

Finally, some of VA's pro-veteran regulations will have to be changed unless the one-year time limitation is removed from section 5103. For example, 38 C.F.R. §20.1304(a) permits an appellant to submit additional evidence during the 90 days following notice that an appeal has been certified to the Board of Veterans' Appeals and the appellate record has been transferred to the Board. That 90-day period may extend beyond the one-year period following notice of the information and evidence necessary to substantiate the claims given under section 5103(a), in which case it would conflict with the statutory mandate that "no benefit may be paid or furnished by reason of the claimant's application" if VA does not receive the evidence within one year from the date of the section 5103(a) notice. Another potentially conflicting regulation is 38 C.F.R. §3.156(b), which deems new and material evidence received before expiration of the one-year appeal period (beginning when notice of the decision on a claim is sent) or before an appellate decision is made if a timely appeal is filed to have been filed in connection with the claim pending at the beginning of the appeal period. Because the one-year appeal period necessarily extends beyond the one-year substantiation period, the regulation authorizes the grant of benefits based on evidence not timely received under section 5103(b), contrary to the statutory mandate.

Accordingly, we propose a technical amendment to sections 5102 and 5103 that would prevent these problems. Section 7 would restore the one-year limitation to section 5102 and remove it from section 5103. It would make these technical amendments effective as if enacted immediately after the VCAA.

No costs are associated with this proposal. These amendments would allow VA to close inactive or abandoned claims and would prevent unjustified retroactive awards.

### BURIAL PLOT ALLOWANCE

Section 8 of the draft bill would amend 38 U.S.C. §§2303(b) and 2307 to authorize payment of the burial plot allowance to states for each veteran interred in a state veterans cemetery at not cost to the veteran's estate or survivors.

Current section 2302(b)(1) authorizes VA to pay to a state a $300 plot or interment allowance for each eligible veteran buried in qualifying state veterans' cemetery. Such allowance authorized only if the veteran: (1) was a veteran of any war; (2) was discharged from active service for a service-connected disability; (3) was receiving VA compensation or pension at the time of death; or (4) died in a VA facility. Under current section 2307, survivors of veterans who die as a result of service-connected disabilities may seek reimbursement of burial and funeral expenses not exceeding $2,000. If, however, a burial and funeral allowance is paid to a veteran's survivors under section 2307, states cannot also receive a plot allowance for burial of the veteran. The proposed amendment would expand VA's authority to pay the plot allowance to states for burial in State veterans' cemeteries of all eligible peacetime veterans and all wartime veterans who die of service-connected disabilities.

This amendment would encourage state participation in the State Cemetery Grants Program. In 1978, Congress established the State Cemetery Grants Program to complement VA's national cemetery system by assisting states in providing burial plots for veterans in areas where existing national cemeteries cannot satisfy veterans' burial needs. State officials have indicated to VA that they consider future maintenance costs when deciding whether to pursue a state cemetery grant. To the extent that the amendment would help defray those maintenance costs and encourage states to establish veterans' cemeteries, it would make the benefit of burial in such a cemetery an accessible option for more veterans.

The proposed amendment would allow states to receive plot allowance payments for approximately 1,200 additional interments annually. We estimate the costs associated with the enactment of this amendment would be $360,000 for FY 2004 and $3.6 million for the ten-year period from FY 2004 through FY 2013.

### PROVISION OF MARKERS FOR PRIVATELY MARKED GRAVES

Section 9 would change the applicability date of VA's current authority to provide a marker for the private-cemetery grave of a veteran, regardless of whether the grave has been marked at private expense. Section 2306(a) of title 38, United States Code, has long authorized VA to provide a Government headstone or marker for the unmarked grave of an eligible individual. Section 502 of the Veterans Education and Benefits Expansion Act of 3001, Pub. L. No. 107–103, §502, 115 Stat. 976, 994, which was signed into law on December 27, 2001, authorized VA to furnish appropriate marker for the grave of an eligible veteran buried in a private cemetery, regardless of whether the grave was already marked with a non-Government marker. This authorization was made applicable to veterans who died on or after that Act's enactment date. Public Law 107–440 extended this authority to include deaths.

Under current law, if a veteran died before September 11, 2001, provision of a Government headstone or market is authorized only if the veterans' grave is unmarked. If a veteran died after September 11, 2001, provision of a Government headstone or market is authorized regardless of whether the grave is already marked at private expense. While recent changes in the law have allowed VA to begin to meet the needs of families who view the government-furnished market as a means of honoring and publicly recognizing a veteran's military service, VA is now in the difficult position of having to deny a benefit based solely on when a veteran died.

Moreover, the law has never precluded the addition of a privately purchased headstone to a grave after place of a government-furnished marker, resulting in double marking. However, when a private marker had been placed in the first instance, a Government marker may not be provided if the veteran died before September 11, 2001. We believe this creates an arbitrary distinction disadvantaging families who promptly obtained a private marker.

From October 18, 1979, until November 1, 1990, with the enactment of the Omnibus Budget and Reconciliation Act of 1990, VA paid a headstone or marker allowance to those families who purchased a private headstone or marker in lieu of a Government headstone or marker. Those families all had the opportunity to benefit from the VA-marker program. Our proposal would benefit families of those veterans who died between November 1, 1990, and September 11, 2001.

We estimate that the mandatory cost of this proposal would be $4.9 million if FY 2004 and $12.4 million during the period FY 2004 through FY 2013.

### EXPANSION OF BURIAL ELIGIBILITY FOR REMARRIED SPOUSES

Section 10 would allow a veteran's surviving spouse who marries a non-veteran after the veteran's death to be eligible for burial in a VA national cemetery based on his or her marriage to the veteran. Over the last several years, the National Cemetery Administration has seen an increase in the number of requests for burial of a veteran's widow or widower who has married a non-veteran after the veteran has died. These cases involve spouses of veterans who have been married for many years and have raised a family with the veteran. Typically, the veteran's children and grandchildren, and of the current spouse, support the burial of the decedent with the original veteran-spouse in a VA national cemetery. However, current law does not permit it if the remarriage remained in effect when the veteran's survivor predeceased the new spouse.

Public Law 103–446 revised eligibility criteria for burial in a national cemetery to reinstate burial eligibility for a surviving spouse of an eligible veteran whose subsequent remarriage to a non-veteran has been terminated by death or dissolved by divorce. The current proposal would be consistent with that amendment in further acknowledging the importance of the first marriage to the veteran's family. This proposal would allow the deceased veteran to be buried with a spouse with whom he or she always expected to be buried with a spouse with whom he or she always expected to be buried. It would also allow the veteran's children to visit a single gravesite to pay their respects to their parents.

We estimate that the cost associated with this proposal would be minimal. The average number of requests for burials for individuals previously married to an eligible veteran who subsequently married a non-veteran is estimated to be 200 per year; the majority of these burials would be second interments. The cost of a second interment (including a headstone or marker) in a VA national cemetery ranges from just over $400 to nearly $800, depending on the type of burial and placement of the remains, with an average cost of approximately $550. For FY 2004, we anticipate the cost of the proposal would be $110,000. Our ten-year cost estimate (FY 2004 through FY 2013) is $1.1 million.

### MAKE PERMANENT AUTHORITY FOR STATE CEMETERY GRANTS PROGRAM

Section 2408 of title 38, United States Code, authorizes VA to make grants to states to assist them in establishing, expanding, or improving state veterans' cemeteries. Section 2408(a)(2) currently authorizes appropriations for making those grants through fiscal year 2004. Section 11 of our proposed bill would permanently authorize such appropriations.

VA's State Cemetery Grants Program is an important component in meeting the burial needs of our Nation's veterans. State veterans' cemeteries supplement VA's national cemetery system in providing burial options to veterans throughout the Nation. VA's State Cemetery Grants Program has already helped to fund 49 operational state veterans' cemeteries, and six more are under construction. VA has received over 30 additional pre-applications from states requesting grants. There is a tremendous, on-going demand for grants to improve or expand existing state veterans' cemeteries, and VA's proposal would assist long-term planning for this important program.

Appropriations for VA's State Home Grants Program (authorized by subchapter III of chapter 81, title 38, United States Code) are permanently authorized under 38 U.S.C. §7133(a). The amendment made by section 11 of this bill would improve the consistency in the operation of the two programs.

The costs associated with this proposal would be those included in VA's annual budget request for use in providing grants to states. The President's budget submission to Congress for FY 2004 includes a request for $32 million for the State Cemetery Grants Program.

### FORFEITURE OF BENEFITS FOR SUBVERSIVE ACTIVITIES

Section 12 would amend 38 U.S.C. §6105 to supplement the list of offenses conviction of which would result in a bar to all gratuitous VA benefits. Section 6105 provides that an individual convicted after September 1, 1959, of any of several specified offenses involving subversive activities shall have no right to gratuitous benefits, including national cemetery burial, under laws administered by the Secretary of Veterans Affairs and that no other person shall be entitled to such benefits on account of such individual. Congress' primary concern in enacting this provision was to prevent VA benefits from being provided based on military service of persons found guilty of offenses involving national security. This proposal would amend section 6105 to supplement the list of offenses conviction of which would result in a bar to all gratuitous VA benefits to include additional offenses that have come into being since enactment of section 6105.

This proposal would extend the current prohibition on payments of gratuitous benefits to persons convicted of subversive activities to include six additional classes of activities. The following offenses from title 18, United States Code, would be added: sections 175 (Prohibitions with respect to biological weapons); 229 (Prohibited activities with respect to chemical weapons); 831 (Prohibited transactions involving nuclear materials); 1091 (Genocide); 2332a (Use of certain weapons of mass destruction); and 2332b (Acts of terrorism transcending national boundaries). All of these offenses, which involve serious threats to national security, were added to title 18, United States Code, after the enactment of section 6105.

There is no cost associated with this proposal. Cost savings would be insignificant.

### VETERANS' ADVISORY COMMITTEE ON EDUCATION

Section 13 would extend to the year 2013 the expiration date of the Veterans' Advisory Committee on Education. It would also amend the language requiring that veterans from specific wartime and post-wartime periods be members of the Committee to state that Committee positions must be filled with such individuals as far as practicable. Finally, this section would make a technical amendment to reflect that, under title 10, United States Code, as reorganized, chapter 106 is now designated chapter 1606.

Under current law, the authority for the Committee will expire on December 31, 2003. VA favors extending the existence of the Education Advisory Committee. The Committee has been useful for the Secretary in keeping in touch with the education community, as well as the veterans' service organizations. Over the last several years, the Committee has made a number of recommendations that have, in turn, become legislative proposals. We believe the Committee's discussions and recommendations are an invaluable aid to our efforts in administering the education program.

The amendment that would require that veterans from certain periods, e.g. World War II, the Korean conflict era, or post-Korean conflict era, be included as members of the Committee only as far as practicable allows for flexibility in filling Committee positions if finding members of specific populations who wish to serve on the Committee might be problematic.

We estimate the costs associated with the extension of the Committee would be $25,400 for FY 2004 and $200,000 for the ten-year period from FY 2004 through FY 2013.

### REPEAL OF EDUCATION LOAN PROGRAM

Section 14 would repeal the VA education loan program and waive any existing repayment obligations, to include overpayments due to default on such loans. The program, in effect since January 1, 1975, currently is available to issue loans up to a maximum of $2,500 per academic year to spouses and surviving spouses who are past their delimiting dates with remaining entitlement to chapter 35 benefits. The population for this program is very limited, and with other options in the public and private sectors, there is no longer a demand for these loans. In fact, VA has not issued a loan under this program in several years, but the government has paid an estimated $70,000 a year to administer it. VA's October 2002 monthly loans statistics show 20 current education loans in the amount of $14,987.08 and 116 defaulted education loans totaling $105,908.10. As is apparent, it costs VA more to administer the loan program than to forgive the debts currently outstanding.

### RESTORATION OF CHAPTER 35 EDUCATION BENEFITS OF CERTAIN INDIVIDUALS

Section 15 would amend the law to provide that individuals who qualify for chapter 35 benefits and are involuntarily ordered to full-time National Guard duty under 32 U.S.C. §502(f) after September 11, 2001, would have their individual delimiting dates (the ending date of the individual's eligibility) extended by an amount of time equal to that period of full-time duty plus 4 months.

Public Law 107–103 restored entitlement to National Guard personnel who qualified for chapter 35 benefits who had to discontinue course pursuit as a result of being called to active duty under specific sections of title 10, United States Code. Our proposal would provide the same delimiting date extension to National Guard members who are activated under title 32.

We estimate the costs associated with the enactment of section 15 would be $150,000 for

FY 2004 and approximately $5 million for the ten-year period from FY 2004 through FY 2013.

EXPANSION OF MONTGOMERY GI BILL EDUCATION BENEFITS FOR CERTAIN SELF-EMPLOYMENT TRAINING

Section 16 would expand the Montgomery GI Bill chapter 30 program by authorizing education assistance benefits for veterans under that program for on-job training in certain self-employment training programs. Such training might, for example, include that necessary for operation of a franchise or to gain a commercial drivers' license to become an independent trucker.

The Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106–50) requires that all Federal agencies aggressively support self-employment for veterans and service-disabled veterans, directly and through public-private partnerships. This amendment will provide veterans considering self-employment with improved access to capital for training. Thus, more veterans will be encouraged to initiate steps towards self-employment and sustainable self-sufficiency.

We estimate the costs associated with the enactment of section 16 would be $357,000 for FY 2004 and approximately $3.9 million for the ten-year period from FY 2004 through FY 2013.

The Budget Enforcement Act's pay-as-you-go (PAYGO) requirements and discretionary spending caps expired on September 30, 2002. The attached proposals affect revenues and direct spending. This bill is currently estimated to produce cost savings of $116.1 million for FY 2004 and $4.52 billion for FY 2004 through FY 2013. These proposals were included in the President's FY 2004 Budget and should be considered in conjunction with all other proposals in the Budget. The Administration supports the extension of budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's Budget.

The Office of Management and Budget advises that there is no objection to the transmission of this bill and that its enactment would be in accord with the Administration's program.

Sincerely yours,

ANTHONY J. PRINCIPI.

Enclosure.

### SECTION-BY-SECTION ANALYSIS OF DRAFT BILL—VETERANS PROGRAMS IMPROVEMENT ACT OF 2003

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

Section 1(a) would provide a short title for the Act: the "Veterans Programs Improvement Act of 2003." Section 1(b) would provide that all amendments made by the Act, unless otherwise specified, are to a section or other provision of title 38, United States Code.

SECTION 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Section 2 would direct the Secretary of Veterans Affairs to administratively increase the rates of disability compensation for veterans with service-connected disabilities and of dependency and indemnity compensation (DIC) for the survivors of veterans whose deaths are service related, effective December 1, 2003. As provided in the President's fiscal year 2004 budget request, the rate of increase would be the same as the cost of living adjustment that will be provided under current law to Social Security recipients, which is currently estimated to be 2 percent.

SECTION 3. REPEAL OF 45-DAY RULE FOR EFFECTIVE DATE OF AWARD OF DEATH PENSION

Section 3 would amend 38 U.s.C. §5110(d) to make an award of death pension effective the first day of the month in which the death occurred if the claim is received within one year from the date of death.

SECTION 4. EXCLUSION OF LUMP-SUM LIFE INSURANCE PROCEEDS FROM DETERMINATIONS OF ANNUAL INCOME FOR PENSION PURPOSES

Section 4 would amend 38 U.S.C. §1503(a) to add lump-sum proceeds of life insurance policies to the list of payments that do not count as income for purposes of determining eligibility for death pension benefits administered by the Department of Veterans Affairs (VA) under chapter 15 of title 38, United States Code.

SECTION 5. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY

Section 5(a) would amend 38 U.S.C. §§1110 and 1131 to clarify that the prohibition on payment of compensation for a disability that is a result of the veteran's own abuse of alcohol or drugs applies even if the abuse is secondary to a service-connected disability. Section 5(b) would make that amendment applicable to claims filed on or after the date of enactment and to claims filed before then but not finally decided as of that date.

SECTION 6. ALTERNATIVE BENEFICIARIES FOR NATIONAL SERVICE LIFE INSURANCE AND UNITED STATES GOVERNMENT LIFE INSURANCE

Section 6 would authorize the payment of unclaimed National Service Life Insurance and United States Government Life Insurance proceeds to an alternative beneficiary.

SECTION 7. TIME LIMITATION ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUEST BY DEPARTMENT OF VETERANS AFFAIRS

Section 7(a) and (b) would make a technical correction to the statutory provisions created by the Veterans Claims Assistance Act of 2000 (VCAA), Pub. L. No. 106–475, 114 Stat. 2096. It would change the applicability of a one-year time limit from the substantiation of a claim to the completion of an application. Section 7(c) would make that correction effective as if enacted immediately after the VCAA.

SECTION 8. BURIAL PLOT ALLOWANCE

Section 8 would amend 38 U.S.C. §§2302(b) and 2307 to authorize payment of the burial plot allowance to states for each veteran interred in a state veterans' cemetery at no cost to the veteran's estate or survivors.

SECTION 9. PROVISION OF MARKERS FOR PRIVATELY MARKED GRAVES

Section 9 would change the applicability date (to deaths occurring on or after November 1, 1990) of VA's current authority to provide a marker for the private-cemetery grave of a veteran, regardless of whether the grave has been marked at private expense.

SECTION 10. EXPANSION OF BURIAL ELIGIBILITY FOR REMARRIED SPOUSES

Section 10 would allow a veteran's surviving spouse who marries a non-veteran after the veteran's death to be eligible for burial in a VA national cemetery based on his or her marriage to the veteran.

SECTION 11. MAKE PERMANENT AUTHORITY FOR STATE CEMETERY GRANTS PROGRAM

Section 11 would permanently authorize appropriations for the State Cemetery Grants Program under 38 U.S.C. §2408, which authorizes VA to make grants to states to assist them in establishing, expanding, or improving state veterans' cemeteries.

SECTION 12. FORFEITURE OF BENEFITS FOR SUBVERSIVE ACTIVITIES

Section 12 would amend 38 U.S.C. §6105 to supplement the list of offenses conviction of which bars entitlement to all gratuitous VA benefits.

SECTION 13. VETERANS' ADVISORY COMMITTEE ON EDUCATION

Section 13 would extend to the year 2013 the expiration date of the Veterans' Advisory Committee on Education. It would also amend the language requiring that veterans from specific wartime and post-wartime periods be members of the Committee to state that Committee positions must be filled with such individuals when practicable. Finally, this section would make a technical amendment to reflect that, under title 10, United States Code, as reorganized, chapter 106 is now designated chapter 1606.

SECTION 14. REPEAL OF EDUCATIONAL LOAN PROGRAM

Section 14 would repeal the VA education loan program and waive any existing repayment obligations, to include overpayments due to default on such loans.

SECTION 15. RESTORATION OF CHAPTER 35 EDUCATION BENEFITS OF CERTAIN INDIVIDUALS

Section 15 would provide that individuals who qualify for chapter 35 benefits and are involuntarily ordered to full-time National Guard duty under 32 U.S.C. §502(f) after September 11, 2001, would have their individual delimiting dates (the ending date of the individual's eligibility) extended by an amount of time equal to that period of full-time duty plus 4 months.

SECTION 16. EXPANSION OF MONTGOMERY GI BILL EDUCATION BENEFITS FOR CERTAIN SELF-EMPLOYMENT TRAINING

Section 16 would expand the Montgomery GI Bill chapter 30 program by authorizing education assistance benefits for veterans under that program for on-job training in certain self-employment training programs.

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By Mr. BOND (for himself and Mr. INHOFE) (by request):

S. 1134. A bill to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, in these times of economic distress and hardship we must focus our efforts to assist the more impoverished regions of our country. With this in mind, it is my pleasure to rise today to introduce, on behalf of President Bush, the Economic Development Administration Reauthorization Act of 2003.

This bill will allow the Economic Development Administration, commonly known as the EDA, to assist communities in the development of their local economy. Simply put, it will help to bring jobs to our cities and towns by reauthorizing the mission of the EDA, while focusing the Administration's efforts on localized economic growth.

EDA was established under the Public Works and Economic Development Act of 1965. Throughout the near forty years of its existence, EDA has helped to generate employment, retain existing jobs, and stimulate industrial and commercial growth in rural and urban areas of the nation that experience high unemployment, low income or other severe economic distress.

EDA has consistently been guided by the basic principle that 'distressed communities must be empowered to develop and implement their own economic development and revitalization strategies'. To achieve these goals, EDA works in partnership with State and local governments by providing Federal grants to public and private nonprofit organizations, regional economic development agencies and Indian tribes.

This bill seeks to improve the coordination, flexibility, and performance of EDA. It focuses on methods to ensure that EDA can more easily work in coordination with other agencies involved in economic development, such as the Army Corps of Engineers or the Department of Labor. It attempts to improve EDA's ability to respond to rapidly changing economic conditions within regions and it highlights the need to focus on the performance of grantees—whether grantees actually increase jobs and economic growth.

During the last decade, in my home State of Missouri, EDA has implemented over 300 projects and invested more than $115 million into my state's economy. These projects have included improvements to the Cornerstone Industrial Park in St. Louis, the renovation of a blighted neighborhood outside Kansas City, and construction assistance for the Center for Emerging Technologies in St. Louis. EDA assistance in Missouri has truly been a boon to local investment and economic growth. Reauthorization of EDA will enable future projects like these throughout our country for years to come.

In this time of economic difficulty, strong partnership between federal and local governments are crucial. My hope is that through a sustained focus on spurring growth in our economy through continued support of the EDA, we can surmount the economic challenges of today and prepare the way for a more prosperous future.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1134

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Short Title.—This Act may be cited as the "Economic Development Administration Reauthorization Act of 2003".

**SEC. 2. FINDINGS AND DECLARATIONS.**

Section 2 of the Public Works and Economic Development Act of 1965, as amended ("PWEDA") (42 U.S.C. §3121), is revised to read as follows:

**"SEC. 2. FINDINGS AND DECLARATIONS.**

"(a) Findings.—Congress finds that—

"(1) while the fundamentals for growth in the American economy remain strong, there continue to be areas experiencing chronic high unemployment, underemployment, low per capita incomes, and outmigration as well as areas facing sudden and severe economic dislocations due to structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

"(2) sustained economic growth in our Nation, States, cities and rural areas is produced by expanding free enterprise through trade and enhanced competitiveness of regions;

"(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging local and regional communities to develop a more competitive and diversified economic base by—

"(A) promoting job creation through increased innovation, productivity, and entrepreneurship; and

"(B) empowering local and regional communities experiencing chronic high unemployment and low per capita income to attract substantially increased private-sector capital investment;

"(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private local, regional, Tribal and State organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

"(5) in order to avoid wasteful duplication of effort and achieve meaningful, long-lasting results, Federal, State, Tribal and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, common measures of success, and simplified and consistent requirements; and

"(6) Federal economic development efforts will be more effective if they are coordinated with, and build upon, the trade, workforce investment, and technology programs of the United States.

"(b) Declarations.—Congress declares that, in order to promote a strong and growing economy throughout the United States:

"(1) assistance under this Act should be made available to both rural and urban distressed communities;

"(2) local communities should work in partnership with neighboring communities, Indian Tribes, the States, and the Federal Government to increase their capacity to develop and implement comprehensive economic development strategies to enhance regional competitiveness in the global economy and support long-term development of regional economies; and

"(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to focus on strengthening entrepreneurship and competitiveness, and to take advantage of the development opportunities afforded by technological innovation and expanding and newly opened global markets.".

**SEC. 3. DEFINITIONS.**

Section 3 of PWEDA (42 U.S.C. §3122) is amended as follows:

(1) Subparagraph (4)(A) of this section is amended by striking subparagraph (i) and re-designating successive subpararphs (ii) through (vii) as (i) through (vi) and revising subparagraph (iv) as re-designated to read as follows:

"(iv) a city or other political subdivision of a State, including a special purpose unit of State or local government, or a consortium of political subdivisions;".

(2) Subparagraph 4(B) is amended by adding at the end thereof a new sentence:

"The requirement under subparagraph (A)(vi) that the nonprofit organization or association is 'acting in cooperation with officials of a political subdivision of a State' does not apply in the case of research, training and technical assistance grants under section 207 that are national or regional in scope.".

(3) Paragraph (8), (9) and (10) are amended by re-designating them as paragraphs (9), (10) and (11) and a new paragraph (8) is added as follows:

"(8) Regional commissions.—The term 'Regional Commissions' as used in section 403 of this Act refers to the regional economic development authorities: the Delta Regional Authority (Pub. L. No. 106–554, Sec. 1(a)(4) [Div. B, title VI]. 114 Stat. 2763A–268) (7 U.S.C. §2009aa et seq.), the Denali Commission (Pub. L. No. 105–277, Div. C, title III, 112 Stat. 2681–637)(42 U.S.C. §3121 note), and the Northern Great Plains Regional Authority (Pub. L. 107–171, 116 Stat. 375) (7 U.S.,C. §2009bb et seq.).".

(4) A new paragraph (12) is added at the end to read as follows:

"(12) University center.—The term 'university center' refers to a University Center for Economic Development established pursuant to the authority of section 207(a)(2)(D) of this Act.".

**SEC. 4. WORKING WITH NONPROFIT ORGANIZATIONS IN ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.**

Section 101 of PWEDA (42 U.S.C. §3131) is amended as follows:

(1) In subsection (b) strike "and multi-State regional organizations" and insert in lieu thereof "multi-State regional organizations, and nonprofit organizations."

(2) In subsection (d) strike "adjoining" each time it occurs.

**SEC. 5. SUB-GRANTS IN CONNECTION WITH PUBIC WORKS PROJECTS.**

Section 201 of PWEDA (42 U.S.C. §3141) is amended by adding a new subsection (d) as follows:

"(d) Sub-Grants.—(1) Subject to paragraph (2), a recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.

"(2) Under paragraph (1), a receipt may not redistribute grant funds to a for-profit entity.".

**SEC. 6 CLARIFICATION OF GRANTS FOR STATE PLANNING.**

Section 203 of PWEDA (42 U.S.C. §3143) is amended as follows:

(1) Revise paragraph (1) of subsection (d) to read as follows:

"(1) Development.—Any State plan developed with assistance under this section shall, to the maximum extent practicable, take into consideration regional economic development strategies.";

(2) Strike paragraph (3) of subsection (d) in its entirety and re-designate paragraphs (4) and (5) and (3) and (4);

(3) Revise re-designated paragraph (3) of subsection (d) by striking "and" at the end of subparagraph (C) and re-designating current subparagraph (D) as (E) and adding a new subparagraph (D) to read as follows:

``(D) assist in carrying out state's workforce investment strategy (as outlined in the State plan required under section 112 of the Workforce Investment Act of 1998 (29 U.S.C. §2822)); and'';

(4) Add a new subsection (e) at the end thereof as follows:

``(e) SUB-GRANTS.—(1) Subject to paragraph (2), a recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.

``(2) Under paragraph (1), a recipient may not redistribute grant funds to a for-profit entity.''.

### SEC. 7. SIMPLIFICATION OF DETERMINATION OF GRANT RATES.

Sections 204 and 205 of PWEDA (42 U.S.C. §§3144, 3145) are amended to read as follows:

### "SEC. 204. COST SHARING.

``(a) FEDERAL SHARE.—The Secretary shall issue regulations to establish the applicable grant rates for projects based on the relative needs of the areas in which the projects are located. Except as provided in subsection (c) below, the amount of a grant for a project under this title may not exceed 80 percent of the cost of the project.

``(b) NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, and services, and assumptions of debt.

``(c) INCREASE IN FEDERAL SHARE.—

``(1) INDIAN TRIBES.—In the case of a grant to an Indian tribe, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

``(2) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State (or a political subdivision of a State), that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

### "SEC. 205. GRANTS SUPPLEMENTING OTHER AGENCY GRANTS. (42 U.S.C. §3145)

``(a) DEFINITION OF DESIGNATED FEDERAL GRANT PROGRAM.—In this section, the term 'designated Federal grant program' means any Federal grant program that—

``(1) provides assistance in the construction or equipping of public works, public service, or development facilities;

``(2) is designated as eligible for an allocation of funds under this section by the Secretary; and

``(3) assists projects that are—

``(A) eligible for assistance under this title; and

``(B) consistent with a comprehensive economic development strategy.

``(b) SUPPLEMENTARY GRANTS.—Subject to subsection (c) below, in order to assist eligible recipients to take advantage of designated Federal grant programs, on the application of an eligible recipient, the secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the recipient's economic situation, for which the eligible recipient cannot provide the required non-Federal share.

``(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

``(1) AMOUNT OF SUPPLEMENTARY GRANTS.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable grant rate under section 204.

``(2) FORM OF SUPPLEMENTARY GRANTS.—The Secretray shall make supplementary grants by

``(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs, or

``(B) the award of funds under this Act which will be combined with funds transferred from other Federal agencies in projects administered by the secretary.''.

``(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be used to increase the Federal share for specific projects under the program that are carried out in areas described in section 301(a) above the Federal share of the cost of the project authorized by the law governing the program.''.

### SEC. 8. REGULATIONS ON ALLOCATIONS TO ENSURE JOB CREATION POTENTIAL.

Subsection 206 of PWEDA (42 U.S.C. §3146) is amended by striking ``and'' at the end of subparagraph (1)(C), inserting ``and'' at the end of paragraph (2), and adding a new paragraph (3) at the end thereof to read as follows:

``(3) allocations of assistance under this title promote job creation through increased innovation, productivity, and entrepreneurship, and financial assistance extended pursuant to such allocations will have a high probability of meeting or exceeding applicable performance requirements established in connection with extension of the assistance.''.

### SEC. 9. INCREASED FLEXIBILITY IN GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

(a) Section 207 of PWEDA (42 U.S.C. §3147) is amended by striking ``and'' at the end of subparagraph (2)(F) of subsection (a), re-designating current subparagraph (G) as (H), and adding a new subparagraph (G) to read as follows:

``(G) studies that evaluate the effectiveness of collaborations between projects funded under this Act with projects funded under the Workforce Investment Act of 1998 (29 U.S.C. §2801 et seq.); and ''.

(b) Section 207 is further amended by adding a new subsection (c) to read as follows:

``(c) SUB-GRANTS.—A recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.''.

### SEC. 10. REMOVAL OF SECTION.

Section 208 of PWEDA (42 U.S.C. §3148) is stricken in its entirety and insert in lieu thereof:

### "SEC. 208. [Repealed].".

### SEC. 11. IMPROVEMENTS IN ADMINISTRATION GRANTS FOR ECONOMIC ADJUSTMENT INVOLVING REVOLVING LOAN FUND PROJECTS.

(a) Subsection (d) of section 209 of PWEDA (42 U.S.C. §3149) is amended by striking ``an eligible'' in each case it occurs in paragraphs (1) and (2) inserting in lieu thereof ``a recipient''.

(b) Section 209 of PWEDA (42 U.S.C. §3149) is amended by adding a new subsection (e) at the end thereof as follows:

``(e) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—The Secretary shall promulgate regulations to ensure the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

``(1) EFFICIENT ADMINISTRATION.—In order to improve the ability to manage and administer the Federal interest in revolving loan funds and in accordance with regulation issued for such purposes, the Secretary may amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria. In addition, the Secretary may assign or transfer assets of a revolving loan fund to a third party for the purpose of liquidation and a third party may retain assets of the fund to defray costs related to liquidation. The Secretary may also take such other actions with respect to management and administration as the Secretary determines to be appropriate to carry out the purposes of this Act, including actions to enable revolving loan fund operators to sell or securitize loans to the secondary market (except that such actions may not include issuance of a Federal guaranty by the Secretary).

``(2) RELEASE OF FEDERAL INTERESTS.—The Secretary may release; in whole or in part, any property interest in connection with a revolving loan fund grant after the date that is 20 years after the date on which the grant was awarded, provided that the recipient—

``(A) is in compliance with the terms of its grant and operating the fund at an acceptable level of performance as determined by the Secretary; and

``(B) reimburses the government prior to the release for the amount of the Secretary's investment in the fund or the pro-rata share of the fund at the time of the release, whichever is less.

Any action taken by the Secretary pursuant to this subsection with respect to a revolving loan fund shall not constitute a new obligation provided that all grant funds associated with the original grant award have been disbursed to the recipient.''.

### SEC. 12. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

Section 211 of PWEDA (42 U.S.C. §3151) is amended to read as follows:

### "SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

``In any case in which the Secretary has made a grant for a construction project under sections 201 or 209 of this title, and before closeout of the project, the Secretary determines that the cost of the project based on the designs and specifications that were the basis of the grant has decreased because of decreases in costs—

``(1) without further appropriations action, the Secretary may approve the use of the excess funds or a portion of the funds to improve the project; and

``(2) any amount of excess funds remaining after application of paragraph (1) may used for other investments authorized for support under this Act.

In addition to paragraphs (1) and (2) of this section, in the event of construction underruns in projects utilizing funds transferred from other Federal agencies pursuant to section 604 of this Act, the Secretary may utilize thee funds in conjunction with paragraphs (1) and (2) with the approval of the originating agency or will return the funds to the originating agency.''.

### SEC. 13. SPECIAL IMPACT AREAS.

Title II of PWEDA is further amended by adding a new section 214 as follows:

### "SEC. 214. SPECIAL IMPACT AREAS.

"Special Impact Areas.—The Secretary is authorized to make grants, enter into contracts and provide technical assistance for projects and programs that the Secretary finds will fulfill a pressing need of the area and be useful in alleviating or preventing conditions of excessive unemployment or underemployment or assist in providing useful employment opportunities for the unemployed or underemployed residents in the areas. In extending assistance under this section, the Secretary may waive, in whole or in part, as appropriate, the provisions of section 302 of this Act provided that the Secretary determines that such assistance will carry out the purposes of the Act.".

### SEC. 14. PERFORMANCE INCENTIVES.

Title II of PWEDA is further amended by adding a new section 215 as follows:

### "SEC. 215. PERFORMANCE INCENTIVES.

"(a) In accordance with regulations issued for such purposes, the Secretary may award transferable performance credits in an amount that does not exceed 10 percent of the grant amount awarded under sections 201 or 209 of this Act on or after the effective date of this amendment. The Secretary shall base such performance incentives on the extent to which a recipient meets or exceeds performance requirements established in connection with extension of the assistance.

"(b) A recipient awarded a transferable performance credit under this section may redeem the credit to increase the Federal share of a subsequent grant funded under sections 201 and 209 of this Act above the maximum Federal share allowable under section 204 up to 80 percent of the project cost. A performance credit must be redeemed within 5 years of its issue date.

"(c) An original recipient may also sell or transfer the credit in its entirety to another eligible recipient for use in connection with a grant approved by the Secretary under this Act without reimbursement to the Secretary for redemption in accordance with subsection (b) above.

"(d) The Secretary shall attach such terms and conditions or limitations as the Secretary deems appropriate in issuing a performance credit. Performance credits shall be paid out of appropriations for economic development assistance programs made available in the year of redemption to the extent of availability.

"(e) The Secretary shall include information regarding issuance of performance credits in the annual report under section 603 of this Act.".

### SEC. 15. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

Sub-paragraph (a)(3)(A) of section 302 of PWEDA (42 U.S.C. §3162) is amended by adding "maximizes effective development and use of the workforce (consistent with any applicable state and local workforce investment strategy under the Workforce Investment Act of 1998 (29 U.S.C. §2801 et. seq.)," between "access," and "enhances".

### SEC. 16. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS.

Sub-paragraph (a)(3)(B) of section 401 of PWEDA (42 U.S.C. §3171) is amended by striking "by each affected State and".

### SEC. 17. DISTRICT INCENTIVES.

Section 403 of PWEDA (42 U.S.C. §3173) is amended by striking it in its entirety and re-designating sections 404 and 405 as sections 403 and 404. Section 403 as re-designated is amended by adding at the end the following new sentence:

"If any part of an economic development district is in a region covered by one or more other Regional Commissions as defined in section 3(8) of this Act, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected regional commission.".

### SEC. 18. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 502 of PWEDA (42 U.S.C. §3192) is amended to read as follows:

### "SEC. 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

"In carrying out this Act, the Secretary shall—

"(1) maintain a central information clearinghouse on the Internet with information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal government, links to State economic development organizations, and links to other appropriate economic development resources;

"(2) assist potential and actual applications for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;

"(3) assist areas described in section 301(a) and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas; and

"(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.".

### SEC. 19. REMOVAL OF UNUSED AUTHORITY.

Section 505 of PWEDA (42 U.S.C. §3195) is amended by striking it in its entirety and sections 506 and 507 are re-designated as sections 505 and 506.

### SEC. 20. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

Section 505 of PWEDA (42 U.S.C. §3196) as re-designated is amended as follows:

(1) In subsection (c), strike "after the effective date of the Economic Development Administration Reform Act of 1998".

(2) In paragraph (d)(2), strike "and" before "disseminating results" and insert ", and measuring the outcome-based results of the university centers' activities" before the period at the end thereof.

(3) In paragraph (d)(3) of section 506, insert before the period at the end thereof "as evidenced by outcome-based results, including the number of jobs created or retained, and amount of private-sector funds leveraged".

(4) In subsection (e) of section 506, strike "university center or" each occasion it occurs.

### SEC. 21. CITATION CORRECTIONS.

Section 602 of PWEDA (42 U.S.C. §3212) is amended by striking the citations to "40 U.S.C. §276A-276A-5" and "section 276c" and inserting in lieu thereof, "40 U.S.C. §3141 et seq." and "section 3145" respectively.

### SEC. 22. DELETION OF UNNECESSARY PROVISION.

Section 609 of PWEDA (42 U.S.C. §3219) is amended by striking subsection (a) in its entirety and striking the subsection designation "(b)".

### SEC. 23. GENERAL AUTHORIZATION OF APPROPRIATIONS.

Section 701 of PWEDA (42 U.S.C. §3231) is amended to read as follows:

### "SEC 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

"(a) Economic Development Assistance Programs.—There are authorized to be appropriated for economic development assistance programs to carry out this Act $331,027,000 for fiscal year 2004, and such sums as may be necessary for fiscal years 2005, 2006, 2007, and 2008, to remain available until expended.

"(b) Salaries and Expenses.—There are authorized to be appropriated for salaries and expenses of administering this Act $33,377,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years from 2005 through 2008, to remain available until expended.".

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Mr. INHOFE. Mr. President, today I join my colleague from Missouri, Senator Bond, in introducing by request a bill to reauthorize the Economic Development Administration.

EDA works with partners in local communities to create wealth and minimize poverty by promoting favorable business environments to attract private investment. Studies show that EDA uses Federal. dollars efficiently and effectively. EDA's average cost of creating and retaining long-term jobs is among the lowest in government.

In my home State of Oklahoma, we have some communities that struggle with economic distress, and EDA has worked long and hard with those communities to bring in private capital investment and jobs. In fact, over the last ten years, EDA projects have resulted in more than 15,000 jobs being created or saved. With an investment of about $53 million, we have leveraged another 50 million in State and local dollars and more than 1.1 billion in private sector dollars. I would call that a wonderful success story.

I am pleased that the President has chosen to send to Congress a reauthorization bill for this agency. His bill promotes coordination, flexibility and performance—all excellent goals. The EDA's authorization is set to expire on September 30, 2003, and I look forward to working with the Administration, as well as my colleagues here in the Senate and in the House of Representatives, to try to reauthorize it before then.

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By Mr. HATCH (for himself, Mr. Jeffords, Mr. Grassley, Mrs. Lincoln, and Mr. Bingaman):

S. 1135. A bill to amend title XVIII of the Social Security Act to establish a uniform national medicare physician fee schedule; to the Committee on Finance.

Mr. HATCH. Mr. President, today I am pleased to introduce the "Medicare Physician Payment Equity Act of 2003," a bill that corrects a long-standing inequity in Medicare reimbursement to rural physicians. I am delighted that my colleagues, Senators Jeffords, Grassley, Lincoln, and Bingaman have joined me in addressing this issue and introducing this bill.

Although many Americans are not aware of it, Medicare currently reimburses physicians practicing in many rural areas at a lower rate than those practicing in more densely populated areas. A complicated formula, the geographic physician cost index, reimburses physicians according to presumed regional differences in the costs of their work, practice expenses, and medical liability insurance premiums. But in almost every case, this formula penalizes physicians who practice in rural settings.

As a result, the unfortunate effect of the current formula is that it may contribute to regional disparities in access to health care. Rural areas tend to have fewer physicians, fewer hospitals and patients often have less access to subspecialty care. Penalizing doctors who practice in rural settings by paying them substantially less than their urban colleagues may contribute to this inequity in access to care.

According to the Rural Policy Research Institute, the Medicare payment for an intermediate office outpatient visit in 2003 is 30 percent higher in New York City, $59.33, than it is in St. George, UT, $45.75, and the reimbursement for an emergency room visit is 22 percent higher in New York City, $161.82, than it is in St. George, UT, $131.96.

Proponents of this system that pays doctors differently for the same work claim that the purchasing power of physician compensation should be similar regardless of where the work is performed. But others, and I am one of them, believe that doctors should be compensated equally and appropriately for their work regardless of where that work is performed. I believe that it is time that we provide physicians with equal pay for equal work. Physicians deserve it and their patients do also. After all, the citizen in Utah pays Federal taxes at the same rate as the citizen in New York. Why should the citizen in Utah receive cheaper service?

The practice expense component of the geographic physician cost index also penalizes rural physicians and their patients. Proponents of the current system claim that it is more expensive for doctors to practice medicine in urban areas where the cost of living is higher and the cost of paying employees is thought to be higher. The practice expense geographic physician cost index rewards physicians in these "high practice expense" areas by reimbursing physician services at a higher rate.

While it might be tempting to think that practice expenses in urban areas are higher than those in rural areas, this is not necessarily the case. Rural physicians sometimes must offer higher wages to attract nurses and technicians to work in their communities. Furthermore, the formula that is used to calculate the geographic practice expense does not take certain key elements into consideration. Volume discounts can result in lower costs for capital goods and supplies in densely populated areas. Furthermore, a physician in a rural area who purchases an expensive, but necessary piece of equipment, such as an ultrasound machine, may use that equipment less frequently than a physician from a densely populated area. As a result, the rural doctor may not be able to pay for the capital investment as quickly as the urban physician. The practice expense for the rural physician in such a case is higher.

In fact, we have known for years that additional resources are sometimes necessary to attract doctors to practice in rural settings. Physicians, nurses and allied health professionals are less prevalent and hospitals are fewer and farther between in rural settings. In some cases, certain services and subspecialty care are not available at all. For this reason, Federal and State programs have offered tuition payment and loan forgiveness programs to student physicians who agree to practice in underserved areas, many of which are rural.

Federal payment policy with respect to physician services delivered in rural and underserved areas has been described as contradictory—paying bonuses to physicians for practicing in rural and underserved areas on the one hand while devaluing physician clinical decision-making and patient services in rural areas less, on the other. The bottom line is this: For many years we have found it difficult in this country to increase access to health care and improve the quality of health care in rural communities. Penalizing physicians for practicing in rural settings just does not make sense.

All Medicare beneficiaries, whether they live in an urban or rural area, deserve excellent health care and access to outstanding doctors. The bill I am introducing today, the Medicare Physician Payment Act, addresses current disparities by creating a system that reimburses physicians equitably regardless of where they practice. The bill addresses all three components of the geographic physician cost index, work, practice expense, and medical liability costs, by increasing reimbursement for physicians in disadvantaged areas over a three-year period and by eliminating disparities in reimbursement altogether in the year four. If we pass this bill, doctors will no longer be discouraged from practicing in the rural communities that desperately need their services. I look forward to working with my colleagues in the 108th Congress to pass this legislation.

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleagues Senators HATCH, GRASSLEY, LINCOLN, and BINGAMAN in introducing the Medicare Physician Payment Equity Act of 2003. This bill corrects a longstanding inequity in the Medicare Part B reimbursement methodology that pays rural physicians less than what is received by physicians for more densely populated areas who provide the same exact service. I am pleased that we are able to offer a legislative solution to this payment inequity.

Establishing Medicare reimbursement for physician services is a complex process and many factors go into setting rates. Without going into all of the intricacies of how fees are set, let me note that, for any specific service, the physician fee schedule has three components—physician work, practice expenses, and the cost of malpractice insurance. Each of these components is further subjected to a geographic adjustment, which is lower for rural areas than for urban areas.

In my own State of Vermont, we face a chronic shortage of doctors in our rural areas. Yet, when we need to find a physician for a rural clinic, we compete in a national market to find providers. The inequities in payments these physicians receive, however, makes it all the more difficult to recruit and retain physicians. Rural physicians have the same training, spend the same time with patients, and manage the same office pressures as their urban counterparts. Their work should be valued equally, and that is what this bill accomplishes.

I've heard from many people in Vermont about this issue. Tim Thompson, M.D., President of the Vermont Medical Society, expressed his concern that while Vermonters pay the same premiums as other Americans to support the Medicare program, our doctors are paid less. This occurs without regard to the quality or efficiency of health care services they provide. In fact, according to the Center for Medicare Services, Vermont physicians provide the second highest quality care in the country, but the State is ranked forty-fourth in payments per Medicare beneficiary. We should do more to reward quality health care regardless of whether it is provided in an urban or rural setting. The Vermont Medical Society has told me that they strongly support the Medicare Physician Payment Equity Act of 2003 as an important first step in reducing the existing inequities in payment levels.

I look forward to working with my colleagues to pass the Medicare Physician Payment Equity Act of 2003.

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By Mr. SPECTER (for himself and Mr. BUNNING):

S. 1136. A bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have sought recognition today to introduce legislation that would restate, revise and update the Soldiers' and Sailors' Civil Relief Act of 1940, SSCRA.

The SSCRA, in summary, suspends some of the legal obligations incurred by military personnel prior to entry into the service so that they might give their full attention to military duty. As was stated by the Supreme Court in LeMaistre v. Leffers, 333 U.S. 1, 6, 1948, SSCRA is to be read "with an eye friendly to those who dropped their affairs to answer their country's call." With operations in Iraq now wrapping up, it is an appropriate time for a review of this World War II-vintage legislation to see how it might be modified to better address the needs of 21st Century servicemen and women.

I should mention at this point that I am aware that a bill to revise the SSCRA, H.R. 100, is currently pending in the House, and that my colleague from Georgia, Senator ZELL MILLER, has introduced companion legislation in the Senate as S. 792. My legislation is similar to H.R. 100 and S. 792, but it contains modifications and additions to those bills as suggested by reservists and their families, the Department of Defense, and by other groups. It is my intention to work with Senator MILLER to craft legislation that incorporates the best features of the two bills.

This legislation would rename SSCRA the "Servicemembers' Civil Relief Act" to reflect that the Armed Forces are made up now of more than just soldiers and sailors, and keep in place the core protections that have been features of SSCRA for decades: stays of civil proceedings during a person's period of military service; an interest rate cap of 6 percent on debts incurred before active duty; protection from eviction and termination of preservice residential leases; and legal residency protection. But it would also add several new provisions to this core.

Currently, the Higher Education Act of 1965 prohibits the SSCRA's 6 percent interest cap from applying to Federally-insured student loans. This bill would remove that prohibition. It would also require institutions of higher education to permit students who are called to active duty to return and complete classes at no additional cost.

In addition, SSCRA now precludes evictions from premises occupied by servicemembers having a monthly rent $1200 or less. This $1200 ceiling was set in 1991: it has not been adjusted since. This legislation would raise the rent ceiling to $1950 or the amount of a servicemember's basic allowance for housing, whichever is higher. It would thereby take post-1991 inflation into account, and avoid the need for frequent amendments to the law since housing allowances are adjusted annually based on housing costs in the area where the servicemember is assigned.

When the SSCRA was originally enacted in 1940, automobiles were not commonly leased. That, of course, has changed; many people now choose leasing as a way to finance their personal transportation needs. This legislation would protect servicemembers who have leased cars—just as it does those who had chosen the more traditional form of auto financing—in two ways. First, it would prohibit lessors, like purchase financers, from repossessing personal property for nonpayment or breach without court action. Second, it would allow servicemembers called to active duty to terminate automobile leases just as they can real property leases.

This bill also takes steps to offer some protection to professionals and small business owners who are called to active duty. It would include the practice of law among the "professional services" for which professional liability insurance obligations could be suspended subject to mandatory reinstatement. It would also authorize the Secretary of Defense to designate other professional callings that would be subject to these protections. And it would protect the assets of small business owners during military service if the servicemember is personally liable for trade or business debts.

Since 1940, the Soldiers' and Sailors' Civil Relief Act has provided important protections to the men and women who wear the uniform. But 60-plus years later, it is time for Congress to take a critical look at this law and revise it to reflect changes in our society since it was originally enacted. With the assistance of the Department of Defense, the National Guard Bureau, the Enlisted Association of the National Guard, and the Small Business Administration, the staff of the Committee on Veterans' Affairs, most notably Mr. David Goetz, the Committee's Associate Counsel, has undertaken the painstaking review that has yielded this rather extensive bill. It is my intention to seek further comment and then guide this important reform legislation to enactment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1136

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RESTATEMENT OF ACT.**

The Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) is amended to read as follows:

**"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

"(a) SHORT TITLE.—This Act may be cited as the 'Servicemembers Civil Relief Act'.

"(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Purposes.

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Definitions.
"Sec. 102. Jurisdiction and applicability of Act.
"Sec. 103. Protection of persons secondarily liable.
"Sec. 104. Extension of protections to citizens serving with allied forces.
"Sec. 105. Notification of benefits.
"Sec. 106. Extension of rights and protections to Reserves ordered to report for military service and to persons ordered to report for induction.
"Sec. 107. Waiver of rights pursuant to written agreement.
"Sec. 108. Exercise of rights under Act not to affect certain future financial transactions.
"Sec. 109. Legal representatives.

"TITLE II—GENERAL RELIEF

"Sec. 201. Protection of servicemembers against default judgments.
"Sec. 202. Stay of proceedings when servicemember defendant has notice.
"Sec. 203. Fines and penalties under contracts.
"Sec. 204. Stay or vacation of execution of judgments, attachments, and garnishments.
"Sec. 205. Duration and term of stays; codefendants not in service.
"Sec. 206. Statute of limitations.
"Sec. 207. Maximum rate of interest on debts incurred before military service.

"TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES.

"Sec. 301. Evictions and distress.
"Sec. 302. Protection under installment contracts for purchase or lease.
"Sec. 303. Mortgages and trust deeds.
"Sec. 304. Settlement of stayed cases relating to personal property.
"Sec. 305. Termination of leases by lessees.
"Sec. 306. Protection of life insurance policy.
"Sec. 307. Enforcement of storage liens.
"Sec. 308. Extension of protections to dependents.

"TITLE IV—INSURANCE

"Sec. 401. Definitions.
"Sec. 402. Insurance rights and protections.
"Sec. 403. Application for insurance protection.
"Sec. 404. Policies entitled to protection and lapse of policies.
"Sec. 405. Policy restrictions.
"Sec. 406. Deduction of unpaid premiums.
"Sec. 407. Premiums and interest guaranteed by United States.
"Sec. 408. Regulations.
"Sec. 409. Review of findings of fact and conclusions of law.

"TITLE V—TAXES AND PUBLIC LANDS

"Sec. 501. Taxes respecting personal property, money, credits, and real property.
"Sec. 502. Rights in public lands.
"Sec. 503. Desert-land entries.
"Sec. 504. Mining claims.
"Sec. 505. Mineral permits and leases.
"Sec. 506. Perfection or defense of rights.
"Sec. 507. Distribution of information concerning benefits of title.
"Sec. 508. Land rights of servicemembers.
"Sec. 509. Regulations.
"Sec. 510. Income taxes.
"Sec. 511. Residence for tax purposes.

"TITLE VI—ADMINISTRATIVE REMEDIES

"Sec. 601. Inappropriate use of Act.
"Sec. 602. Certificates of service; persons reported missing.
"Sec. 603. Interlocutory orders.

"TITLE VII—FURTHER RELIEF

"Sec. 701. Anticipatory relief.
"Sec. 702. Power of attorney.

"Sec. 703. Professional liability protection.
"Sec. 704. Health insurance reinstatement.
"Sec. 705. Guarantee of residency for military personnel.
"Sec. 706. Business or trade obligations.
"Sec. 707. Return to classes at no extra cost.

### "SEC. 2. PURPOSES.

"The purposes of this Act are—

"(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

"(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

## "TITLE I—GENERAL PROVISIONS

### "SEC. 101. DEFINITIONS.

"For the purposes of this Act:

"(1) Servicemember.—The term 'servicemember' means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code.

"(2) Military service.—

"(A) With respect to a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, the term 'military service' means active duty, as that term is defined in section 101(d)(1) of title 10, United States Code.

"(B) Active service of commissioned officers of the Public Health Service or National Oceanic and Atmospheric Administration shall be deemed to be 'military service' for the purposes of this Act.

"(C) Service of a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds shall be deemed to be 'military service' for the purposes of this Act.

"(3) Period of military service.—The term 'period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

"(4) Dependent.—The term 'dependent', with respect to a servicemember, means—

"(A) the servicemember's spouse;

"(B) the servicemember's child (as defined in section 101(4) of title 38, United States Code); or

"(C) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Act.

"(5) Court.—The term 'court' means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

"(6) State.—The term 'State' includes—

"(A) a commonwealth, territory, or possession of the United States; and

"(B) the District of Columbia.

"(7) Secretary concerned.—The term 'Secretary concerned'—

"(A) with respect to a member of the armed forces, has the meaning given that term in section 101(a)(9) of title 10, United States Code;

"(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

"(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

"(8) Motor vehicle.—The term 'motor vehicle' has the meaning given that term in section 30102(a)(6) of title 49, United States Code.

### "SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.

"(a) Jurisdiction.—This Act applies to—

"(1) the United States;

"(2) each of the States, including the political subdivisions thereof; and

"(3) all territory subject to the jurisdiction of the United States.

"(b) Applicability to Proceedings.—This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

"(c) Court in Which Application May Be Made.—When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

### "SEC. 103. PROTECTION OF PERSONS SECONDARILY LIABLE.

"(a) Extension of Protection When Actions Stayed, Postponed, or Suspended.—Whenever pursuant to this Act a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

"(b) Vacation or Set-Aside of Judgments.—When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this Act, the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment or decree.

"(c) Bail Bond Not To Be Enforced During Period of Military Service.—A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

"(d) Waiver of Rights.—

"(1) Waivers not precluded.—This Act does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protections provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

"(2) Waiver invalidated upon entrance to military service.—If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106.

### "SEC. 104. EXTENSION OF PROTECTIONS TO CITIZENS SERVING WITH ALLIED FORCES.

"A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act if that service with the allied force is similar to military service as defined in this Act. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

### "SEC. 105. NOTIFICATION OF BENEFITS.

"The Secretary concerned shall ensure that notice of the benefits accorded by this Act is provided to persons in military service and to persons entering military service.

### "SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

"(a) Reserves Ordered To Report for Military Service.—A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

"(b) Persons Ordered To Report for Induction.—A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

### "SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT.

"(a) In General.—A servicemember may waive any of the rights and protections provided by this Act. In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

"(b) Actions Requiring Waivers in Writing.—The requirement in subsection (a) for a written waiver applies to the following:

"(1) The modification, termination, or cancellation of—

"(A) a contract, lease, or bailment; or

"(B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.

"(2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that—

“(A) is security for any obligation; or

“(B) was purchased or received under a contract, lease, or bailment.

“(c) Coverage of Periods After Orders Received.—For the purposes of this section—

“(1) a person to whom section 106 applies shall be considered to be a servicemember; and

“(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 shall be considered to be a period of military service.

### “SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

“Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

“(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

“(2) With respect to a credit transaction between a creditor and the servicemember—

“(A) a denial or revocation of credit by the creditor;

“(B) a change by the creditor in the terms of an existing credit arrangement; or

“(C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

“(3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

“(4) A refusal by an insurer to insure the servicemember.

“(5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.

“(6) A change in the terms offered or conditions required for the issuance of insurance.

### “SEC. 109. LEGAL REPRESENTATIVES.

“(a) Representative.—A legal representative of a servicemember for purposes of this Act is either of the following:

“(1) An attorney acting on the behalf of a servicemember.

“(2) An individual possessing a power of attorney.

“(b) Application.—Whenever the term ‘servicemember’ is used in this Act, such term shall be treated as including a reference to a legal representative of the servicemember.

## “TITLE II—GENERAL RELIEF

### “SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

“(a) Applicability of Section.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

“(b) Affidavit Requirement.—

“(1) Plaintiff to file affidavit.—In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

“(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

“(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

“(2) Appointment of attorney to represent defendant in military service.—If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

“(3) Defendant's military status not ascertained by affidavit.—If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

“(4) Satisfaction of requirement for affidavit.—The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

“(c) Penalty for Making or Using False Affidavit.—A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

“(d) Stay of Proceedings.—In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court's own motion, if the court determines that—

“(1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or

“(2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

“(e) Inapplicability of Section 202 Procedures.—A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202.

“(f) Section 202 Protection.—If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202.

“(g) Vacation or Setting Aside of Default Judgments.—

“(1) Authority for court to vacate or set aside judgment.—If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

“(A) the servicemember was materially affected by reason of that military service in making a defense to the action; and

“(B) the servicemember has a meritorious or legal defense to the action or some part of it.

“(2) Time for filing application.—An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

“(h) Protection of Bona Fide Purchaser.—If a court vacates, sets aside, or reverses a default judgment against a servicemember and the vacating, setting aside, or reversing is because of a provision of this Act, that action shall not impair a right or title acquired by a bona fide purchaser for value under the default judgment.

### “SEC. 202. STAY OF PROCEEDINGS WHEN SERVICEMEMBER DEFENDANT HAS NOTICE.

“(a) Applicability of Section.—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section—

“(1) is in military service or is within 90 days after termination of or release from military service; and

“(2) has received notice of the action or proceeding.

“(b) Automatic Stay.—

“(1) Authority for stay.—At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

“(2) Conditions for stay.—An application for a stay under paragraph (1) shall include the following:

“(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

“(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

“(c) Application Not a Waiver of Defenses.—An application for a stay by a servicemember or a servicemember's representative under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

“(d) Additional Stay.—

“(1) Application.—A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

"(2) APPOINTMENT OF COUNSEL WHEN ADDITIONAL STAY REFUSED.—If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

"(e) COORDINATION WITH SECTION 201.—A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201.

"(f) INAPPLICABILITY TO SECTION 301.—The protections of this section do not apply to section 301.

### "SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.

"(a) PROHIBITION OF PENALTIES.—When an action for compliance with the terms of a contract is stayed pursuant to this Act, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

"(b) REDUCTION OR WAIVER OF FINES OR PENALTIES.—If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—

"(1) the servicemember was in military service at the time the fine or penalty was incurred; and

"(2) the ability of the servicemember to perform the obligation was materially affected by such military service.

### "SEC. 204. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

"(a) COURT ACTION UPON MATERIAL AFFECT DETERMINATION.—If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

"(1) stay the execution of such judgment or order entered against the servicemember; and

"(2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after such judgment.

"(b) APPLICABILITY.—This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 60 days after such service terminates.

### "SEC. 205. DURATION AND TERM OF STAYS; CODEFENDANTS NOT IN SERVICE.

"(a) PERIOD OF STAY.—A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

"(b) CODEFENDANTS.—If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

"(c) INAPPLICABILITY OF SECTION.—This section does not apply to sections 202 and 701.

### "SEC. 206. STATUTE OF LIMITATIONS.

"(a) TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.—The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

"(b) REDEMPTION OF REAL PROPERTY.—A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

"(c) INAPPLICABILITY TO INTERNAL REVENUE LAWS.—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

### "SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

"(a) INTEREST RATE LIMITATION.—

"(1) 6-PERCENT LIMIT.—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

"(2) APPLICABILITY TO STUDENT LOANS.—Notwithstanding section 428(d) of the Higher Education Act of 1965 (20 U.S.C. 1078(d)), paragraph (1) applies with respect to an obligation or liability of a servicemember, or the servicemember and the servicemember's spouse jointly, entered into under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.)

"(3) FORGIVENESS OF INTEREST IN EXCESS OF 6 PERCENT.—Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

"(4) PREVENTION OF ACCELERATION OF PRINCIPAL.—The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (3) that is allocable to the period for which such payment is made.

"(b) IMPLEMENTATION OF LIMITATION.—

"(1) WRITTEN NOTICE TO CREDITOR.—In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

"(2) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

"(c) CREDITOR PROTECTION.—A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

"(d) INTEREST DEFINED.—As used in this section, the term 'interest' means simple interest plus service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

### "TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

### "SEC. 301. EVICTIONS AND DISTRESS.

"(a) COURT-ORDERED EVICTION.—Except by court order, a landlord (or another person with paramount title) may not—

"(1) evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises—

"(A) that are occupied or intended to be occupied primarily as a residence; and

"(B) for which the monthly rent does not exceed the greater of—

"(i) $1,950; or

"(ii) the monthly basic allowance for housing to which the servicemember is entitled under section 403 of title 37, United States Code; or

"(2) subject such premises to a distress during the period of military service.

"(b) STAY OF EXECUTION.—

"(1) COURT AUTHORITY.—Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service—

"(A) stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or

"(B) adjust the obligation under the lease to preserve the interests of all parties.

"(2) RELIEF TO LANDLORD.—If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

"(c) PENALTIES.—

"(1) MISDEMEANOR.—Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

"(d) RENT ALLOTMENT FROM PAY OF SERVICEMEMBER.—To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

"(e) LIMITATION OF APPLICABILITY.—Section 202 is not applicable to this section.

### "SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE.

"(a) PROTECTION UPON BREACH OF CONTRACT.—

"(1) PROTECTION AFTER ENTERING MILITARY SERVICE.—After a servicemember enters military service, a contract by the servicemember for—

"(A) the purchase of real or personal property (including a motor vehicle); or

"(B) the lease or bailment of such property,

may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

"(2) Applicability.—This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

"(b) Penalties.—

"(1) Misdemeanor.—A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 108, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(2) Preservation of other remedies and rights.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

"(c) Authority of Court.—In a hearing based on this section, the court—

"(1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

"(2) may, on its own motion, and shall on application by a servicemember when the servicemember's ability to comply with the contract is materially affected by military service, stay the proceedings for a period of time as, in the opinion of the court, justice and equity require; or

"(3) may make other disposition as is equitable to preserve the interests of all parties.

**"SEC. 303. MORTGAGES AND TRUST DEEDS.**

"(a) Mortgage as Security.—This section applies only to an obligation on real or personal property owned by a servicemember that—

"(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and

"(2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

"(b) Stay of Proceedings and Adjustment of Obligation.—In an action filed during, or within 90 days after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

"(1) stay the proceedings for a period of time as justice and equity require, or

"(2) adjust the obligation to preserve the interests of all parties.

"(c) Sale or Foreclosure.—A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 90 days after, the period of the servicemember's military service except—

"(1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or

"(2) if made pursuant to an agreement as provided in section 108.

"(d) Penalties.—

"(1) Misdemeanor.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(2) Preservation of other remedies.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

**"SEC. 304. SETTLEMENT OF STAYED CASES RELATING TO PERSONAL PROPERTY.**

"(a) Appraisal of Property.—When a stay is granted pursuant to this Act in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

"(b) Equity Payment.—Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

**"SEC. 305. TERMINATION OF LEASES BY LESSEES.**

"(a) Covered Leases of Real Property.—This section applies to the lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

"(1) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

"(2) the servicemember, while in military service, executes a lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

"(b) Covered Leases of Vehicles.—This section applies to the lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents if the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service.

"(c) Notice to Lessor.—

"(1) Delivery of notice.—A lease described in subsection (a) or (b) is terminated when written notice is delivered by the lessee to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee).

"(2) Time for notice.—The written notice may be delivered at any time after the lessee's entry into military service or, in the case of a lease described in subsection (a), the date of the military orders for a permanent change of station or to deploy for a period of not less than 90 days.

"(3) Nature of notice.—Delivery may be accomplished—

"(A) by hand delivery;

"(B) by private business carrier; or

"(C) by placing the written notice in an envelope with sufficient postage and addressed to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee) and depositing the written notice in the United States mails.

"(d) Effective Date of Termination.—

"(1) Lease with monthly rent.—Termination of a lease providing for monthly payment of rent shall be effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered.

"(2) Other lease.—All other leases terminate on the last day of the month following the month in which the notice is delivered.

"(e) Arrearages.—Rents or lease amounts unpaid for the period preceding termination shall be paid on a prorated basis.

"(f) Amounts Paid in Advance.—Rents or lease amounts paid in advance for a period succeeding termination shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent).

"(g) Relief to Lessor.—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

"(h) Penalties.—

"(1) Misdemeanor.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent or lease payments accruing after the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(2) Preservation of other remedies.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

**"SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.**

"(a) Assignment of Policy Protected.—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

"(b) Exception.—The prohibition in subsection (a) shall not apply—

"(1) if the assignee has the written consent of the insured made during the period described in subsection (a);

"(2) when the premiums on the policy are due and unpaid; or

"(3) upon the death of the insured.

"(c) Order Refused Because of Material Affect.—A court which receives an application for an order required under subsection (a) may refuse to grant such order if the court determines the ability of the servicemember to comply with the terms of the obligation is materially affected by military service.

"(d) Treatment of Guaranteed Premiums.—For purposes of this subsection, premiums guaranteed under the provisions of title IV shall not be considered due and unpaid.

"(e) Penalties.—

"(1) Misdemeanor.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

**"SEC. 307. ENFORCEMENT OF STORAGE LIENS.**

"(a) LIENS.—

"(1) LIMITATION ON FORECLOSURE OR ENFORCEMENT.—A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

"(2) LIEN DEFINED.—For the purposes of paragraph (1), the term 'lien' includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

"(b) STAY OF PROCEEDINGS.—In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service—

"(1) stay the proceeding for a period of time as justice and equity require; or

"(2) adjust the obligation to preserve the interests of all parties.

The provisions of this subsection do not affect the scope of section 303.

"(c) PENALTIES.—

"(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

**"SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.**

"Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent's ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember's military service.

### "TITLE IV—INSURANCE

**"SEC. 401. DEFINITIONS.**

"For the purposes of this title:

"(1) POLICY.—The term 'policy' means any contract for whole, endowment, universal, or term life insurance, including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which—

"(A) provides that the insurer may not—

"(i) decrease the amount of coverage or increase the amount of premiums if the insured is in military service; or

"(ii) limit or restrict coverage for any activity required by military service; and

"(B) is in force not less than 180 days before the date of the insured's entry into military service and at the time of application under this title.

"(2) PREMIUM.—The term 'premium' means the amount specified in an insurance policy to be paid to keep the policy in force.

"(3) INSURED.—The term 'insured' means a servicemember whose life is insured under a policy.

"(4) INSURER.—The term 'insurer' includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

**"SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.**

"(a) RIGHTS AND PROTECTIONS.—The rights and protections under this title apply to the insured when the insured, the insured's designee, or the insured's beneficiary applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured's policy is not entitled to protection under this title.

"(b) NOTIFICATION AND APPLICATION.—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

"(c) LIMITATION ON AMOUNT.—The total amount of life insurance coverage protection provided by this title for a servicemember may not exceed $250,000, or an amount equal to the Servicemember's Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

**"SEC. 403. APPLICATION FOR INSURANCE PROTECTION.**

"(a) APPLICATION PROCEDURE.—An application for protection under this title shall—

"(1) be in writing and signed by the insured, the insured's designee, or the insured's beneficiary, as the case may be;

"(2) identify the policy and the insurer; and

"(3) include an acknowledgement that the insured's rights under the policy are subject to and modified by the provisions of this title.

"(b) ADDITIONAL REQUIREMENTS.—The Secretary of Veterans Affairs may require additional information from the applicant, the insured, and the insurer to determine if the policy is entitled to protection under this title.

"(c) NOTICE TO THE SECRETARY BY THE INSURED.—Upon receipt of the application of the insured, the insurer shall furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

"(d) POLICY MODIFICATION.—Upon application for protection under this title, the insured and the insurer shall have constructively agreed to any policy modification necessary to give this title full force and effect.

**"SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE OF POLICIES.**

"(a) DETERMINATION.—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

"(b) LAPSE PROTECTION.—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest or indebtedness on a premium, after the date of the application for protection.

"(c) TIME APPLICATION.—The protection provided by this title applies during the insured's period of military service and for a period of two years thereafter.

**"SEC. 405. POLICY RESTRICTIONS.**

"(a) DIVIDENDS.—While a policy is protected under this title, a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

"(b) SPECIFIC RESTRICTIONS.—While a policy is protected under this title, cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

**"SEC. 406. DEDUCTION OF UNPAID PREMIUMS.**

"(a) SETTLEMENT OF PROCEEDS.—If a policy matures as a result of a servicemember's death or otherwise during the period of protection of the policy under this title, the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

"(b) INTEREST RATE.—If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured's policy was issued.

"(c) REPORTING REQUIREMENT.—The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

**"SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES.**

"(a) GUARANTEE OF PREMIUMS AND INTEREST BY THE UNITED STATES.—

"(1) GUARANTEE.—Payment of premiums, and interest on premiums at the rate specified in section 406, which become due on a policy under the protection of this title is guaranteed by the United States. If the amount guaranteed is not paid to the insurer before the period of insurance protection under this title expires, the amount due shall be treated by the insurer as a policy loan on the policy.

"(2) POLICY TERMINATION.—If, at the expiration of insurance protection under this title, the cash surrender value of a policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

"(b) RECOVERY FROM INSURED OF AMOUNTS PAID BY THE UNITED STATES.—

"(1) DEBT PAYABLE TO THE UNITED STATES.—The amount paid by the United States to an insurer under this title shall be a debt payable to the United States by the insured on whose policy payment was made.

"(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

"(3) DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

"(c) CREDITING OF AMOUNTS RECOVERED.—Any amounts received by the United States as repayment of debts incurred by an insured under this title shall be credited to the appropriation for the payment of claims under this title.

**"SEC. 408. REGULATIONS.**

"The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title.

### "SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

"The findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title may be reviewed by the Board of Veterans' Appeals and the United States Court of Appeals for Veterans Claims.

## "TITLE V—TAXES AND PUBLIC LANDS

### "SEC. 501. TAXES RESPECTING PERSONAL PROPERTY, MONEY, CREDITS, AND REAL PROPERTY.

"(a) APPLICATION.—This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's—

"(1) personal property; or

"(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees—

"(A) before the servicemember's entry into military service; and

"(B) during the time the tax or assessment remains unpaid.

"(b) SALE OF PROPERTY.—

"(1) LIMITATION ON SALE OF PROPERTY TO ENFORCE TAX ASSESSMENT.—Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

"(2) STAY OF COURT PROCEEDINGS.—A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

"(c) REDEMPTION.—When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

"(d) INTEREST ON TAX OR ASSESSMENT.—Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

"(e) JOINT OWNERSHIP APPLICATION.—This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

### "SEC. 502. RIGHTS IN PUBLIC LANDS.

"(a) RIGHTS NOT FORFEITED.—The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being absent from the land, or by failing to begin or complete any work or improvements to the land, during the period of military service.

"(b) TEMPORARY SUSPENSION OF PERMITS OR LICENSES.—If a permittee or licensee under the Act of June 28, 1934 (43 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

"(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

### "SEC. 503. DESERT-LAND ENTRIES.

"(a) DESERT-LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held under the desert-land laws before the entrance of the entryman or the entryman's successor in interest into military service shall not be subject to contest or cancellation—

"(1) for failure to expend any required amount per acre per year in improvements upon the claim;

"(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest is in the military service, or for 180 days after termination of or release from military service; or

"(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

"(b) SERVICE-RELATED DISABILITY.—If an entryman or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entryman or claimant may make proof without further reclamation or payments, under regulations prescribed by the Secretary of the Interior, and receive a patent for the land entered or claimed.

"(c) FILING REQUIREMENT.—In order to obtain the protection of this section, the entryman or claimant shall, within 180 days after entry into military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

### "SEC. 504. MINING CLAIMS.

"(a) REQUIREMENTS SUSPENDED.—The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) specified in subsection (b) shall not apply to a servicemember's claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation due to injuries or disabilities incurred in the line of duty.

"(b) REQUIREMENTS.—The provisions in section 2324 of the Revised Statutes that shall not apply under subsection (a) are those which require that on each mining claim located after May 10, 1872, and until a patent has been issued for such claim, not less than $100 worth of labor shall be performed or improvements made during each year.

"(c) PERIOD OF PROTECTION FROM FORFEITURE.—A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

"(d) FILING REQUIREMENT.—In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

### "SEC. 505. MINERAL PERMITS AND LEASES.

"(a) SUSPENSION DURING MILITARY SERVICE.—A person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may suspend all operations under the permit or lease for the duration of military service and for 180 days thereafter. The term of the permit or lease shall not run during the period of suspension, nor shall any rental or royalties be charged against the permit or lease during the period of suspension.

"(b) NOTIFICATION.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

"(c) CONTRACT MODIFICATION.—This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

### "SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.

"(a) RIGHT TO TAKE ACTION NOT AFFECTED.—This title shall not affect the right of a servicemember to take action during a period of military service that is authorized by law or regulations of the Department of the Interior, for the perfection, defense, or further assertion of rights initiated or acquired before entering military service.

"(b) AFFIDAVITS AND PROOFS.—

"(1) IN GENERAL.—A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

"(2) LEGAL STATUS OF AFFIDAVITS.—Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United State Code.

### "SEC. 507. DISTRIBUTION OF INFORMATION CONCERNING BENEFITS OF TITLE.

"(a) DISTRIBUTION OF INFORMATION BY SECRETARY CONCERNED.—The Secretary concerned shall issue to servicemembers information explaining the provisions of this title.

"(b) APPLICATION FORMS.—The Secretary concerned shall provide application forms to servicemembers requesting relief under this title.

"(c) INFORMATION FROM SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title (other than sections 501, 510, and 511) and related application forms.

### "SEC. 508. LAND RIGHTS OF SERVICEMEMBERS.

"(a) NO AGE LIMITATIONS.—Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

"(b) Residency Requirement.—Any requirement related to the establishment of a residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

"(c) Entry Applications.—Applications for entry may be verified before a person authorized to administer oaths under section 1044a of title 10, United States Code, or under the laws of the State where the land is situated.

**"SEC. 509. REGULATIONS.**

"The Secretary of the Interior may issue regulations necessary to carry out this title (other than sections 501, 510, and 511).

**"SEC. 510. INCOME TAXES.**

"(a) Deferral of Tax.—Upon notice to the Internal Revenue Service or the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

"(b) Accrual of Interest or Penalty.—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

"(c) Statute of Limitations.—The running of a statute of limitations against the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

"(d) Application Limitation.—This section shall not apply to the tax imposed on employees by section 3101 of the Internal Revenue Code of 1986.

**"SEC. 511. RESIDENCE FOR TAX PURPOSES.**

"(a) Residence or Domicile.—A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

"(b) Military Service Compensation.—Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

"(c) Personal Property.—

"(1) Relief from personal property taxes.—The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

"(2) Exception for property within member's domicile or residence.—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

"(3) Exception for property used in trade or business.—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

"(4) Relationship to law of state of domicile.—Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

"(d) Increase of Tax Liability.—A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

"(e) Federal Indian Reservations.—An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

"(f) Definitions.—For purposes of this section:

"(1) Personal property.—The term 'personal property' means intangible and tangible property (including motor vehicles).

"(2) Taxation.—The term 'taxation' includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

"(3) Tax jurisdiction.—The term 'tax jurisdiction' means a State or a political subdivision of a State.

### "TITLE VI—ADMINISTRATIVE REMEDIES

**"SEC. 601. INAPPROPRIATE USE OF ACT.**

"If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

**"SEC. 602. CERTIFICATES OF SERVICE; PERSONS REPORTED MISSING.**

"(a) Prima Facie Evidence.—In any proceeding under this Act, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

"(1) That a person named is, is not, has been, or has not been in military service.

"(2) The time and the place the person entered military service.

"(3) The person's residence at the time the person entered military service.

"(4) The rank, branch, and unit of military service of the person upon entry.

"(5) The inclusive dates of the person's military service.

"(6) The monthly pay received by the person at the date of the certificate's issuance.

"(7) The time and place of the person's termination of or release from military service, or the person's death during military service.

"(b) Certificates.—The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

"(c) Treatment of Servicemembers in Missing Status.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act that begins or ends with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

**"SEC. 603. INTERLOCUTORY ORDERS.**

"An interlocutory order issued by a court under this Act may be revoked, modified, or extended by the court upon its own motion or otherwise, upon notification to affected parties as required by the court.

### "TITLE VII—FURTHER RELIEF

**"SEC. 701. ANTICIPATORY RELIEF.**

"(a) Application for Relief.—A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief—

"(1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or

"(2) from a tax or assessment falling due before or during the servicemember's military service.

"(b) Tax Liability or Assessment.—In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

"(1) Stay of enforcement of real estate contracts.—

"(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation—

"(i) during the servicemember's period of military service; and

"(ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

"(B) Any stay under this paragraph shall be—

"(i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and

"(ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

"(2) Stay of enforcement of other contracts.—

"(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement—

"(i) during the servicemember's military service; and

"(ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

"(B) Any stay under this paragraph shall be—

"(i) for a period of time equal to the period of the servicemember's military service or any part of such period; and

"(ii) subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

"(c) Affect of Stay on Fine or Penalty.—When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

**"SEC. 702. POWER OF ATTORNEY.**

"(a) AUTOMATIC EXTENSION.—A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37, United States Code) if the power of attorney—

"(1) was duly executed by the servicemember—

"(A) while in military service; or

"(B) before entry into military service but after the servicemember—

"(i) received a call or order to report for military service; or

"(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

"(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

"(3) expires by its terms after the servicemember entered a missing status.

"(b) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

**"SEC. 703. PROFESSIONAL LIABILITY PROTECTION.**

"(a) APPLICABILITY.—This section applies to a servicemember who—

"(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to sections 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

"(2) immediately before receiving the order to active duty—

"(A) was engaged in the furnishing of health-care or legal services or other services determined by the Secretary of Defense to be professional services; and

"(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the servicemember during the period of the servicemember's active duty unless the premiums are paid for such coverage for such period.

"(b) SUSPENSION OF COVERAGE.—

"(1) SUSPENSION.—Coverage of a servicemember referred to in subsection (a) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with this subsection upon receipt of a written request from the servicemember, or the servicemember's legal representative, by the insurance carrier.

"(2) PREMIUMS FOR SUSPENDED CONTRACTS.—A professional liability insurance carrier—

"(A) may not require that premiums be paid by or on behalf of a servicemember for any professional liability insurance coverage suspended pursuant to paragraph (1); and

"(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such servicemember, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

"(3) NONLIABILITY OF CARRIER DURING SUSPENSION.—A professional liability insurance carrier shall not be liable with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a servicemember that occurs during a period of suspension of that servicemember's professional liability insurance under this subsection.

"(4) CERTAIN CLAIMS CONSIDERED TO ARISE BEFORE SUSPENSION.—For the purposes of paragraph (3), a claim based upon the failure of a professional to make adequate provision for a patient, client, or other person to receive professional services or other assistance during the period of the professional's active duty service shall be considered to be based on an action or failure to take action before the beginning of the period of the suspension of professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

"(c) REINSTATEMENT OF COVERAGE.—

"(1) REINSTATEMENT REQUIRED.—Professional liability insurance coverage suspended in the case of any servicemember pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that servicemember transmits to the insurance carrier a written request for reinstatement.

"(2) TIME AND PREMIUM FOR REINSTATEMENT.—The request of a servicemember for reinstatement shall be effective only if the servicemember transmits the request to the insurance carrier within 30 days after the date on which the servicemember is released from active duty. The insurance carrier shall notify the servicemember of the due date for payment of the premium of such insurance. Such premium shall be paid by the servicemember within 30 days after receipt of that notice.

"(3) PERIOD OF REINSTATED COVERAGE.—The period for which professional liability insurance coverage shall be reinstated for a servicemember under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

"(d) INCREASE IN PREMIUM.—

"(1) LIMITATION ON PREMIUM INCREASES.—An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any servicemember for the minimum period of the reinstatement of such coverage required under subsection (c)(3) to an amount greater than the amount chargeable for such coverage for such period before the suspension.

"(2) EXCEPTION.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

"(e) CONTINUATION OF COVERAGE OF UNAFFECTED PERSONS.—This section does not—

"(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

"(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

"(f) STAY OF CIVIL OR ADMINISTRATIVE ACTIONS.—

"(1) STAY OF ACTIONS.—A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

"(A) the action was commenced during the period of the suspension;

"(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

"(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the servicemember.

"(2) DATE OF COMMENCEMENT OF ACTION.—Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

"(g) EFFECT OF SUSPENSION UPON LIMITATIONS PERIOD.—In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

"(h) DEATH DURING PERIOD OF SUSPENSION.—If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

"(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (f)(1) shall terminate on the date of the death of such servicemember; and

"(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term 'active duty' has the meaning given that term in section 101(d)(1) of title 10, United States Code.

"(2) The term 'profession' includes occupation.

"(3) The term 'professional' includes occupational.

**"SEC. 704. HEALTH INSURANCE REINSTATEMENT.**

"(a) REINSTATEMENT OF HEALTH INSURANCE.—A servicemember who, by reason of military service as defined in section 703(a)(1), is entitled to the rights and protections of this Act shall also be entitled upon termination or release from such service to reinstatement of any health insurance that—

"(1) was in effect on the day before such service commenced; and

"(2) was terminated effective on a date during the period of such service.

"(b) NO EXCLUSION OR WAITING PERIOD.—The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if—

"(1) the condition arose before or during the period of such service;

"(2) an exclusion or a waiting period would not have been imposed for the condition during the period of coverage; and

"(3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

"(c) EXCEPTIONS.—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

"(d) TIME FOR APPLYING FOR REINSTATEMENT.—An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

### "SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

"For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become a resident in or a resident of any other State.

### "SEC. 706. BUSINESS OR TRADE OBLIGATIONS.

"(a) AVAILABILITY OF NON-BUSINESS ASSETS TO SATISFY OBLIGATIONS.—If the trade or business (without regard to the form in which such trade or business is carried out) of a servicemember has an obligation or liability for which the servicemember is personally liable, the assets of the servicemember not held in connection with the trade or business may not be available for satisfaction of the obligation or liability during the servicemember's military service.

"(b) RELIEF TO OBLIGORS.—Upon application to a court by the holder of an obligation or liability covered by this section, relief granted by this section to a servicemember may be modified as justice and equity require.

### "SEC. 707. RETURN TO CLASSES AT NO ADDITIONAL COST.

"(a) IN GENERAL.—Each institution of higher education that receives Federal assistance or participates in a program assisted under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall permit each student who is enrolled in the institution and enters into military service—

"(1) to return to the institution of higher education after completion of the period of military service; and

"(2) complete, at no additional cost, each class the student was unable to complete as a result of the period of military service.

"(b) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

### SEC. 2. CONFORMING AMENDMENTS.

(a) MILITARY SELECTIVE SERVICE ACT.—Section 14 of the Military Selective Service Act (50 U.S.C. App. 464) is repealed.

(b) TITLE 5, UNITED STATES CODE.—(1) Section 5520a(k)(2)(A) of title 5, United States Code, is amended by striking "Soldiers' and Sailors' Civil Relief Act of 1940" and inserting "Servicemembers Civil Relief Act"; and

(2) Section 5569(e) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking "provided by the Soldiers' and Sailors' Civil Relief Act of 1940" and all that follows through "of such Act" and inserting "provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104 and 106, title IV, and title V (other than sections 501 and 510) of such Act"; and

(B) in paragraph (2), by striking "person in the military service" and inserting "servicemember".

(c) TITLE 10, UNITED STATES CODE.—Section 1408(b)(1)(D) of title 10, United States Code, is amended by striking "Soldiers' and Sailors' Civil Relief Act of 1940" and inserting "Servicemembers Civil Relief Act".

(d) INTERNAL REVENUE CODE.—Section 7654(d)(1) of the Internal Revenue Code of 1986 is amended by striking "Soldiers' and Sailors' Civil Relief Act" and inserting "Servicemembers Civil Relief Act".

(e) PUBLIC LAW 91-621.—Section 3(a)(3) of Public Law 91-621 (33 U.S.C. 857-3(a)(3)) is amended by striking "Soldiers' and Sailors' Civil Relief Act of 1940, as amended" and inserting "Servicemembers Civil Relief Act".

(f) PUBLIC HEALTH SERVICE ACT.—Section 212(e) of the Public Health Service Act (42 U.S.C. 213(e)) is amended by striking "Soldiers' and Sailors' Civil Relief Act of 1940" and inserting "Servicemembers Civil Relief Act".

(g) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 8001 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701) is amended by striking "section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)" in the matter preceding paragraph (1) and inserting "section 511 of the Servicemembers Civil Relief Act".

### SEC. 3. EFFECTIVE DATE.

The amendment made by section 1 shall apply to any case decided after the date of the enactment of this Act.

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By Mr. COLEMAN:

S. 1138. A bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1138

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Help Expand Access to Recovery and Treatment Act of 2003" or the "HEART Act".

### SEC. 2. FINDINGS.

Congress finds the following:

(1) Substance abuse, if left untreated, is a medical emergency and a private and public heath crisis.

(2) Nothing in this Act should be construed as prohibiting application of the concept of parity to substance abuse treatment provided by faith-based treatment providers.

### SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENEFITS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

### "SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

"(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

"(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

"(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical and surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

"(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

"(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

"(A) Inpatient treatment, including detoxification.

"(B) Nonhospital residential treatment.

"(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

"(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

"(6) SUBSTANCE ABUSE.—the term 'substance abuse' includes chemical dependency.

"(f) NOTICE.—a group health plan under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.".

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg—23(c)) is amended by striking "section 2704" and inserting "sections 2704 and 2707".

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

**"SEC. 714. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.**

"(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

"(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term small employer means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

"(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

"(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

"(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

"(A) Inpatient treatment, including detoxification.

"(B) Nonhospital residential treatment.

"(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

"(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

"(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes çhemical dependency.

"(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.".

(B) Section 731(c) of such Act (29 U.S.C. 1191(c)) is amended by striking "section 711" and inserting "sections 711 and 714".

(C) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(D) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"714. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits.".

(3) INTERNAL REVENUE CODE AMENDMENTS.—(A) Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

**"SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.**

"(a) IN GENERAL.—In the case of a group health plan that proves both medical and surgical benefits and substance abuse treatment benefits, the plan shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as a requiring a group health plan to provide any substance abuse treatment benefits; or

"(2) to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rule similar to the rules under subsections (b), (c), (m), and (o) of section 414 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan, any day or visit limits imposed on coverage of benefits under the plan during a period of time.

"(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include substance abuse treatment benefits.

"(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

"(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

"(A) Inpatient treatment, including detoxification.

"(B) Non-hospital residential treatment.

"(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

"(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

"(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.".

"(B) Section 4980D(d)(1) of such Code is amended by inserting "(other than a failure attributable to section 9813)" after "on any failure".

"(C) The table of sections of subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

"9813. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits.".

(b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

**"SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE BENEFITS.**

"(a) IN GENERAL.—The provisions of section 2707 (other than subsection (e)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.".

(2) Section 2762(b)(2) of such Act (42 U.S.C. 300gg-62(b)(2)) is amended by striking "section 2751" and inserting "sections 2751 and 2753".

(c) EFFECTIVE DATES.—(1) Subject to paragraph (3), the amendments made by subsection (a) apply with respect to group health plans for plan years beginning on or after January 1, 2004.

(2) The amendments made by subsection (b) apply with respect to health insurance covered offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2004.

(3) In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2004.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATED REGULATIONS.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made this subtitle and section 401)" and inserting "the provisions of part 7 of the subtitle B of title I of the Employee Retirement Congressional Income Security Act of 1974, and the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986".

(e) PREEMPTION.—Nothing in the amendments made by this section shall be construed to preempt any provision of State law that provides protections to individuals that are greater than the protections provided under such amendments.

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By Mr. DEWINE (for himself and Mr. LAUTENBERG):

S. 1139. A bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, I rise today, along with my colleague from New Jersey, Senator LAUTENBERG, to introduce a bi-partisan bill aimed at reducing the number of vehicle incidents associated with drinking and driving.

Last year, the Nation experienced an increase in alcohol-related traffic fatalities for the third year in a row. This increase resulted in 17,970 deaths or 42 percent of the 42,850 people killed in traffic incidents. Statistics from the National Highway Traffic Safety Administration show that motor vehicle crashes are the leading cause of death for Americans ages 1 to 35 years of age. In fact, on average, 117 people die each day from motor vehicle crashes in the United States.

Our bill—the Traffic Safety Law Enforcement Campaign Act—would require States to conduct a combined media/law enforcement campaign aimed at reducing these traffic fatalities. Specifically, the law enforcement portion consists of sobriety checkpoints in the District of Columbia and in the 39 States that allow them and saturation patrols in those States that do not. The Centers for Disease Control estimate that the sobriety checkpoints proposed in the underlying bill may reduce alcohol related crashes by as much as 20 percent. More than 75 percent of the public has indicated in NHTSA polls support for sobriety checkpoints. In fact, NHTSA has concluded that 62 percent of Americans want sobriety checkpoints to be used more often.

I urge each of my colleagues to join this bi-partisan effort to save lives and promote highway safety.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1139

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Traffic Safety Law Enforcement Campaign Act".

**SEC. 2. TRAFFIC SAFETY LAW ENFORCEMENT CAMPAIGNS.**

(a) IN GENERAL.—The Administration of the National Highway Traffic Safety Administration shall establish a program to conduct at least 3 high-visibility traffic safety law enforcement campaigns each year.

(b) FOCUS.—The campaigns shall focus on—

(1) reducing alcohol-impaired driving;

(2) increasing seat belt use; and

(3) a combination of reducing alcohol-impaired driving and increasing seat belt use.

(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section for the development, production, and use of broadcast and print media advertising in carrying out this section.

(d) EVALUATION AND REPORT.—The Administrator shall evaluate the effectiveness of the campaigns at the end of each year and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 90 days after the end of each year setting forth the findings, conclusions, and recommendations of the Administrator with respect to the program.

**SEC. 3. FUNDING.**

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than from the Mass Transmit Account) to the Administrator to carry out this Act $150,000,000 for each of fiscal years 2004 through 2009, of which—

(a) $48,000,000 shall be used for each fiscal year for nationwide advertising by the Administration;

(2) $48,000,000 shall be made available each fiscal year by the Administrator to States for advertising;

(3) $48,000,000 shall be made available each fiscal year by the Administrator to States for traffic safety law enforcement; and

(4) $6,000,000 shall be available to the Administrator for evaluation of the program under section 2.

(b) PROGRAM STANDARDS.—Within 120 days after the date of enactment of this Act, the Administrator shall promulgate program standards and criteria for the use of funds under subsection (a)(2) and (3) that will ensure the effective and appropriate use of such funds in accordance with this Act, taking into account State efforts, needs, administrative resources, and priorities.

(c) APPORTIONMENT.—The Administrator shall apportion funds under subsection (a)(2) and (3) among the States on the same basis as funds are apportioned among the States under section 402(c) of title 23, United States Code.

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By Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mrs. FEINSTEIN):

S. 1140. A bill to amend titles 23 and 49, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, today, I am proud to introduce, along with my colleagues Senator DEWINE and Senator FEINSTEIN, legislation which will make our roads safer and last longer. Anyone who has ever shared the road with a large tractor trailer truck has wondered whether the truck driver is aware of the smaller vehicles around the truck. Anyone who has seen the third trailer on a triple-trailer truck swinging around like the tail end of a snake knows that these trucks are to be avoided.

The State of New Jersey sees its share of the Nation's truck traffic, but, incidentally, not its share of federal highway dollars. We are concerned about these 53-foot, 80,000-pound vehicles on our highways and the pressure from other states to increase weight and length limitations to allow bigger trucks to come through our State. This makes truck safety even more important to New Jersey drivers.

Twelve years ago, I got a provision into the highway reauthorization bill we call "ICE-TEA" to ban triple-trailer trucks and other so-called "longer combination vehicles", LCVs, from New Jersey and most other States. At that time and ever since, the trucking industry has fought to defeat and repeal this ban, under the guise of arguments for "states' rights" and "unfair re-distribution of business to railroads." But these are not rational arguments for allowing bigger and heavier trucks as well as triple-trailer trucks on our roads. Additionally, the trucking industry's proclaimed hardships have not materialized. In fact, the trucking companies have survived the current laws quite well, and trucks have refined their role in our national freight transportation system.

Our bill, the "Safe Highways and Infrastructure Preservation Act, will extend the current limited ban which only applies to our 44,000-mile Interstate Highway System to the entire 156,000-mile National Highway System, NHS. This extension will make more roads safer and will further reduce the wear and tear of our highways and bridges.

Bigger trucks are not safe. The U.S. Department of Transportation has determined that multi-trailer trucks are likely to be involved in more fatal crashes—*11 percent more*—than today's single-trailer trucks. By expanding the limits on triples and other longer combination vehicles to the entire NHS—*including more than 2,000 miles of highway in New Jersey*—the Safe Highways and Infrastructure Protection Act will save lives and prevent further deterioration of our roads and bridges.

Triple-trailers and other LCVs do more damage to our roads and bridges but don't come close to paying associated maintenance and repair costs. The fees, tolls and gasoline taxes paid by the operator of a 100,000-pound truck only covers 40 percent of the cost of the damage that truck does to our roads and bridges. The rest of the taxpayers make up the difference. I believe that motorists should not have to share the road with these dangerous behemoths *and* pay for the extra damage they cause.

I thank my colleagues Senator DEWINE and Senator FEINSTEIN for joining me in sponsoring this important legislation, and I look forward to working with my colleagues in the Congress to improve the highway safety and increase the remaining life of our country's roads and bridges.

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By Mr. LAUTENBERG (for himself and Mr. DEWINE):

S. 1141. A bill to amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, today Senator MIKE DEWINE of Ohio and I are helping to make a big stride in re-arming our country in the war against drunk driving. Together, we have introduced two pieces of legislation which will help reduce the number of civilian casualties in this war by arming our government safety officials with the weapons they need to keep drunk drivers off of our roads.

First, I am proud to be a cosponsor of Senator DEWINE's legislation on improving enforcement of drunk driving laws. There are some good drunk driving laws on the books and they should not be ignored. Since September 11, 2001, much of our country's law enforcement focus has been on ensuring the security of citizens from terrorist attack. This legislation will ensure that efforts to reduce drunk driving are not given short shrift. Almost 18,000 people died last year in alcohol-related motor vehicle traffic crashes, and we must not neglect the safety of our highways. This bill provides needed resources for law enforcement and will deter people from drinking and driving to begin with.

Second, I am proud to introduce, along with Senator DEWINE, legislation targeting higher-risk drivers. This includes repeat offenders and drivers with blood alcohol concentration levels of 0.15 percent or higher. Once these offenders are caught, we need to make sure they don't fall through the cracks in the legal system. These criminals should not be behind the wheel—I believe they are a menace to our society, and we should not tolerate their existence.

I have long been interested in making our roads and highways safer. During my previous tenure, I saw to it that the Federal government took responsibility for reducing the number of fatalities due to drunk driving. I authored laws to increase the minimum drinking age for alcoholic beverages from 18 to 21, and to encourage States to establish .08 percent as the blood alcohol concentration standard for drunk driving nationwide. These laws have made our roads and highways safer and my hope is that they have saved many precious lives.

I feel that the Federal Government needs to take a strong leadership role to reduce alcohol-impaired driving. States cannot deal with these problems in a comprehensive manner. We have passed legislation encouraging states to establish tougher standards for highways safety and drunk driving, but: 32 States still don't have a primary enforcement safety belt law; 11 States still have not adopted the .08 percent Blood Alcohol Content (BAC) standard; 24 States still don't have an open container law; and 27 States still don't have a repeat offender law for drunk driving offenses.

I am particularly disappointed that my home State of New Jersey has not yet adopted the .08 percent BAC standard. At risk are millions of dollars in Federal highway funding that our State desperately needs to repair and improve our roads and bridges. Here in Congress, I fight desperately for this funding. But the State puts this funding at risk rather than make a sensible safety choice and adopt a .08 percent BAC standard. This is why I feel that the Federal Government needs to take a leadership role in setting policies that will save lives by reducing drunk driving.

I feel that States need stronger "encouragement" to address these important highway safety issues. We have already tried threatening withholding highway construction funds, but if we allow a loophole for States to recover the funds within 4 years; maybe that still is not enough encouragement.

Now it is time to take the next step in getting drunk drivers off our roads. I look forward to working with Senator DEWINE and the rest of my colleagues in the Senate to reduce the 18,000 alcohol-related traffic fatalities that occur each year. I urge my colleagues to join me and Senator DEWINE in supporting both of these important pieces of legislation.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 153—EXPRESSING THE SENSE OF THE SENATE THAT CHANGES TO ATHLETICS POLICIES ISSUED UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 WOULD CONTRADICT THE SPIRIT OF ATHLETIC EQUALITY AND THE INTENT TO PROHIBIT SEX DISCRIMINATION IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Mrs. MURRAY (for herself, Ms. SNOWE, Mr. DASCHLE, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 153

Whereas title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), also known as the "Patsy Takemoto Mink Equal Opportunity in Education Act" (referred to in this resolution as "title IX"), prohibits education programs or activities, including athletic programs or activities, that receive Federal financial assistance from discriminating on the basis of sex;

Whereas prior to 1972 and the enactment of title IX, virtually no college offered athletic scholarships to women, fewer than 32,000 women participated in collegiate sports, and women's sports received only 2 percent of college athletic dollars;

Whereas the regulation implementing title IX was submitted to Congress, multiple hearings were held, and the regulation became effective July 21, 1975, with specific provisions governing athletic programs and the awarding of athletic scholarships;

Whereas according to the Department of Education's 1979 Policy Interpretation, which interprets the application of title IX and its implementing regulations to athletics, an educational institution may demonstrate compliance with title IX's requirement that it allocate athletic participation opportunities on a nondiscriminatory basis to male and female athletes by meeting 1 of the criteria in a 3-part test, by demonstrating—

(1) that intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments at the institution;

(2) a history and continuing practice of program expansion responsive to the developing interests and abilities of members of the underrepresented athletes' sex; or

(3) that the interests and abilities of the members of the underrepresented athletes' sex have been fully and effectively accommodated by the present program;

Whereas the 1979 Policy Interpretation and its 3-part test have been in place for over 2 decades and have been supported by both Republican and Democratic administrations;

Whereas 2 out of 3 educational institutions comply with the second or third criterion of the 3-part test;

Whereas the Office for Civil Rights of the Department of Education issued a Clarification of Intercollegiate Athletics Policy Guidance in 1996 regarding the 3-part test—

(1) confirming that educational institutions can comply with title IX's requirement of nondiscriminatory allocation of athletic participation opportunities by meeting any single part of the 3-part test;

(2) setting out specific examples for compliance to guide the institutions; and

(3) confirming that there are no strict numerical formulas for determining title IX compliance;

Whereas the 1979 Policy Interpretation and the 1996 clarification provide educational institutions with ample and fair guidance on compliance with title IX and provide flexibility to the institutions so that they may determine for themselves how best to comply with the law;

Whereas the enforcement mechanism of title IX, the 3-part test, has been upheld as legal and valid by each of the 8 United States Courts of Appeals to consider it;

Whereas since the beginning of title IX implementation, men's participation in intercollegiate sports has increased from 220,178 to 231,866, and women's participation in those sports has increased from 31,852 to 162,783, an increase of more than 400 percent;

Whereas the number of girls participating in athletics at the high school varsity level has increased from 294,015 in 1972 to 2,784,154 in 2001, an 847 percent increase;

Whereas sex discrimination in athletics persists, despite the strides made under title IX, with, for example, female athletes receiving only 42 percent of the college athletic participation opportunities nationwide, even though female students make up 56 percent of the college population, and female athletes receiving $133,000,000 fewer athletic scholarship dollars per year than their male counterparts;

Whereas nothing in title IX or its policies requires educational institutions to reduce men's athletic participation opportunities to come into compliance with participation requirements and 72 percent of colleges and universities that have added women's teams have done so without cutting any teams for men;

Whereas recommendations made by the Commission on Opportunity in Athletics for changes to the athletics policies issued under title IX would seriously weaken title IX's protections and result in significant losses in athletic participation opportunities and scholarships to which women and girls are entitled under current law; and

Whereas those recommended changes to the title IX athletics policies would allow an educational institution that fails to equally accommodate its male and female students to be in compliance with title IX without having to fully demonstrate that discrimination does not exist in the institution's athletic programs: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) changes to athletics policies issued under title IX would contradict the spirit and intent of title IX's mandate to provide equal opportunities in athletics;

(2) the current title IX athletics policies, namely, the 1975 regulations issued under title IX, and the 1979 Policy Interpretation, as clarified in the 1996 Clarification of Intercollegiate Athletics Policy Guidance, should remain unchanged and be enforced vigorously to eliminate the continuing discrimination against women and girls in athletics; and

(3) if the Department of Education changes the current title IX athletics policies, Congress will respond with legislation to restore the policies and preserve the right to equal opportunities in athletics, as mandated by title IX.

Mr. DASCHLE. Mr. President, today is opening day for the seventh season of the Women's National Basketball Association. The league's incredible success demonstrates the enormous influence that title IX has had on women in sports, and in society.

Since the WNBA's inception, the number of players and teams in the league have doubled, and its popularity has skyrocketed throughout the Nation, and all over the world. It is fitting, therefore, that the WNBA has helped lead the way in support of maintaining title IX and its enforcement. The league has circulated a petition and collected over 25,000 signatures, including those of current and former NBA and WNBA players, as well as of an impressive array of other prominent Americans, to voice concern over the proposed changes.

It is in the spirit of this overwhelming support for the effort to provide equal opportunities for all of America's students that I join my Senate colleagues in offering a bipartisan resolution on title IX.

Specifically, our resolution would express the sense of the Senate that the changes to title IX policies recommended by the Commission on Opportunity in Athletics would run contrary to the spirit and purpose of the original law, and that the current mechanisms for enforcement are both fair and reasonable. Our resolution would also state that Congress will respond to any changes in title IX policy with legislation to restore these protections, and to preserve the right to equal opportunities in athletics.

The enactment of title IX in 1972 was a landmark moment in this history of American education policy. For the first time ever, women and girls in schools across the Nation could be sure they would receive the same educational opportunities as their male counterparts—opportunities to learn, grow, and compete.

But this issue is about more than equality under the law; it is about demonstrating to our children that confidence and success in our society, in our workplaces, and on our athletic fields know no gender. It is about teaching our girls and boys the skills they need to participate in our society.

Studies have shown that girls who play sports are less likely to become depressed, fall victim to an eating disorder, take drugs, get pregnant, and contract breast cancer later in life. Thus, as a result of title IX and the doors that it has opened, our Nation has produced a stronger, healthier, happier generation of girls than ever before.

Title IX's successes have been overwhelming. Prior to 1972 and the enactment of title IX, virtually no college offered athletic scholarships to women, fewer than 32,000 women participated in collegiate sports, and women's sports received only 2 percent of schools' athletic funds.

Since the implementation of title IX, men's participation in collegiate sports has increased, and women's participation has increased more than 400 percent. At the high school level, the increase in athletic opportunities for women and girls has been even more staggering; since 1972, female participation in high school varsity athletics has increased from 294,015 to 2,784,154, an increase of 847 percent.

While title IX has already enjoyed many successes, the fact remains that sex discrimination in athletics persists. Unfortunately, the Secretary's Commission on Opportunity in Athletics has proposed changes to title IX enforcement that are deeply troubling.

The Commission's report ignores clear evidence showing that our daughters' new opportunities have not come at the expense of our sons. Nothing in title IX or its policies requires schools to reduce men's opportunities to comply with participation requirements, and 72 percent of colleges and universities that have added women's athletic teams have done so without cutting any teams for men. In fact, evidence suggests that we must do more to strengthen title IX enforcement, not weaken it.

Currently, despite the fact that women comprise 56 percent of the college population, female athletes receive only 42 percent of the college participation opportunities nationwide. In addition, women and girls receive $133 million fewer scholarship dollars annually than their male counterparts.

The changes being proposed would significantly weaken the existing mechanisms for enforcing title IX's provisions—mechanisums that have been in place for decades and have provided adequate flexibility to educational institutions seeking to demonstrate compliance.

Moreover, the current enforcement mechanism has been repeatedly affirmed—by the regulations issued by the Department of Education in 1975, by the Department's 1979 policy review, and by the 1996 Clarification of Intercollegiate Athletics Policy Guidance.

These policies have remained unchanged for 20 years, thanks to the affirmation of both Republican and Democratic administrations. Instead of evaluating proposals that could weaken title IX, the administration should focus on efforts to continue to build on its history of success.

The argument used by detractors of title IX in favor of the Commission's recommendations is that title IX has increased athletic opportunities for women to the detriment of those available to men. This is simply not true.

Today, the Senate must take a strong stand in favor of title IX as it is currently written and enforced. Title IX is an integral part of the effort to provide America's students with the opportunities they need and deserve to achieve their full potential, and we must not retreat from this goal. I urge my colleagues to join me in support of this important resolution.

Mr. KENNEDY. Mr. President, Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in all education programs and activities that receive Federal funding, including sports. When Congress passed this important civil rights law, it intended to give girls and women opportunities equal to those of boys and men in all education programs receiving taxpayer dollars. Today, on opening day of the Women's National Basketball Association's seventh season, we see again the enormous impact of Title IX on women's sports. Since its first season in 1997, the WNBA has doubled its number of teams from 8 to 16. Last year, millions of fans from countries throughout the world tuned to see 176 women play professional basketball in 256 regular-season WNBA games.

Over the past 31 years, Title IX has expanded athletic opportunities at all levels for all women. Fewer than 32,000 women participated in college sports before Title IX. Today, the number is 163,000. Opportunities for girls in high school have grown even more incredibly, from 294,000 to almost 2.8 million.

Athletic opportunities contribute to better health for women, and they also translate into better outcomes in many other areas as well. Participation in sports builds confidence, improves self-esteem, reduces stress, teaches teamwork, and improves achievement in education.

The female athletes of the past 31 years who have reaped the benefits of Title IX are a tribute to its success. Countless women have taken the lessons they learned on the playing field and applied them to the rest of their lives. They serve as role models for us all. And one of the things they have proved so clearly is that when the opportunities are there, women will show up to play.

But it's never clear sailing for Title IX. Despite all the progress in athletic opportunities under the current law, women continue to lag behind men in playing time and funding. Women in Division I colleges comprise 53 percent of the student body, but they receive only 41 percent of the opportunities to play in intercollegiate sports, 43 percent of athletic scholarship dollars, 36 percent of athletic budgets, and 32 percent of the dollars spent to recruit new athletes.

Even though parity is not yet achieved, a movement is under way to undermine Title IX. The Bush Administration's Commission on Opportunity in Athletics has issued recommendations that would drastically reduce its enforcement and put women and girls at a disadvantage by permitting schools to reduce athletic opportunities and scholarships for women. The Women's Sports Foundation estimates that college women would lose 50,000 slots and $122 million in scholarships under one of the Commission proposals. High school girls would lose 305,000 opportunities. What is needed is even stronger enforcement of Title IX, not weakening or modifying it. The Department of Education should concentrate its efforts on fully and fairly enforcing the existing law through existing mechanisms.

Current law on Title IX is fair, and it provides schools with flexibility in meeting its requirements. They can comply in any one of three ways: by showing that the percentages of male and female athletes are substantially proportionate to the percentage of male and female student enrolled full-time; by demonstrating a history and continuing practice of program expansion to meet the needs of the underrepresented athletes; or by demonstrating that their interests and abilities have been fully and effectively accommodated.

This three-part test has been in place for over two decades, and has been supported by both Republican and Democratic administrations. It has been upheld by all eight Federal Courts of Appeals who have considered it.

Some critics claim that the first prongs of the three prong test, called the proportionality text, has become the de facto test of compliance. But in fact, 2 out of 3 schools comply with Title IX through the second and third options, not through proportionality.

The major complaint is that Title IX has hurt men's sports. Yet, since the beginning of Title IX implementation, men's participation in intercollegiate sports has actually increased, and so has the total number of teams for men. Nothing in Title IX or its policies requires schools to reduce men's opportunities. 72 percent of colleges and universities that had added women's teams have done so without cutting any teams for men. When schools have discontinued men's or women's teams, a lack of student interest was cited as the most important factor in the decision. Schools also discontinue men's and women's teams because of choices about how to allocate their resources. These decisions are not the product of a Title IX mandate.

Unfortunately, the President's Commission was not representative of the whole Title IX community. Two-thirds of the Commissioners represented Division I-A colleges, which have the largest men's basketball and football budgets and therefore the most to gain from weakening Title IX. No Division II or III colleges, no community colleges, and no high schools were represented, even though they tend to have the most successful record of implementation of Title IX. Twice as many opponents of Title IX were asked to testify before the Commission, compared to proponents of the law. Institutions that had been sued for non-compliance and lost their cases were invited to testify, but the women who were discriminated against and who brought these suits and the schools that have complied with the law successfully were not invited.

In response to the unfairness of the process and resulting findings, two of the Commissioners issued a minority report summarizing the problems with the Commission and its recommendations. Secretary of Education Paige has refused to consider the concerns raised in the minority report. Needless to say, the Commission was not fair and impartial, and it should not be the basis by which Congress judges Title IX. The Commission's proposals contradict the spirit of athletic equality and the intent to prohibit discrimination against girls and women in education.

Today, we submit a bipartisan resolution to maintain Title IX and strengthen its enforcement. Only then will full promise be achieved. We must retreat from the Nation's commitment to equal opportunity for women and girls in education and athletics. Girls and boys, women and men, need education opportunities such as athletics to allow them to build character, self-esteem and motivation. The past 31 years demonstrate the amazing advances that women and girls have made in athletics when they are given the opportunities to play, and it would be shameful for Congress or the Administration to misuse that extraordinary success as an excuse to retreat now.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 799. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 800. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1050, supra; which was ordered to lie on the table.

SA 801. Mrs. FEINSTEIN (for herself, Mr. REID, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 1050, supra; which was ordered to lie on the table.

SA 802. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1050, supra; which was ordered to lie on the table.

SA 803. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1050, supra; which was ordered to lie on the table.

SA 804. Mr. WARNER (for Mr. SMITH) proposed an amendment to the bill S. 1050, supra.

SA 805. Mr. LEVIN (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 1050, supra.

SA 806. Mr. LEVIN (for Mr. BIDEN (for himself and Mr. CARPER)) proposed an amendment to the bill S. 1050, supra.

SA 807. Mr. LEVIN (for Mr. BINGAMAN) proposed an amendment to the bill S. 1050, supra.

SA 808. Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1050, supra.

SA 809. Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1050, supra.

SA 810. Mr. WARNER (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1050, supra.

SA 811. Mr. WARNER (for himself and Mr. THOMAS) proposed an amendment to the bill S. 1050, supra.

SA 812. Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1050, supra.

SA 813. Mr. WARNER (for Mr. SPECTER) proposed an amendment to the bill S. 1050, supra.

SA 814. Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1050, supra.

SA 815. Mr. LEVIN (for Ms. MIKULSKI) proposed an amendment to the bill S. 1050, supra.

SA 816. Mr. WARNER (for Mr. BENNETT) proposed an amendment to the bill S. 1050, supra.

SA 817. Mr. WARNER (for Mr. MCCAIN (for himself, Mr. SESSIONS, Mr. GRAHAM, of South Carolina, and Mr. BAYH)) proposed an amendment to the bill S. 1050, supra.

SA 818. Mr. LEVIN (for Mrs. BOXER) proposed an amendment to the bill S. 1050, supra.

SA 819. Mr. WARNER proposed an amendment to the bill S. 1050 , supra.

SA 820. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 1050, supra.

SA 821. Mr. LEVIN (for Ms. LANDRIEU (for himself, Mr. LEVIN, Ms. MURKOWSKI, and Mr. BREAUX)) proposed an amendment to the bill S. 1050, supra.

SA 822. Mr. WARNER proposed an amendment to the bill S. 1050 , supra.

SA 823. Mr. LEVIN (for Ms. LANDRIEU (for himself and Mr. BREAUX)) proposed an amendment to the bill S. 1050, supra.

SA 824. Mr. LEVIN (for Mrs. FEINSTEIN (for himself, Mr. REID, and Mrs. BOXER)) proposed an amendment to the bill S. 1050, supra.

SA 825. Mrs. BOXER (for herself and Mr. CORZINE) proposed an amendment to the bill S. 1050, supra.

SA 826. Mr. WARNER (for himself, Mrs. BOXER, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1050, supra.

SA 827. Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. NELSON, of Florida, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 1050, supra; which was ordered to lie on the table.

SA 828. Mr. LEVIN (for Mr. KERRY (for himself and Mr. KENNEDY)) proposed an amendment to the bill S. 1050, supra.

SA 829. Mr. WARNER (for Mr. VOINOVICH (for himself and Mr. DEWINE)) proposed an amendment to the bill S. 1050, supra.

SA 830. Mr. WARNER (for Mrs. HUTCHISON) proposed an amendment to the bill S. 1050, supra.

SA 831. Mr. WARNER (for Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. NELSON, of Florida, and Mr. CORNYN)) proposed an amendment to the bill S. 1050, supra.

## TEXT OF AMENDMENTS

**SA 799.** Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, between lines 7 and 8, insert the following:

**SEC. 235. COLLABORATIVE INFORMATION WARFARE NETWORK.**

(a) INCREASE IN RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $8,000,000.

(b) AVAILABILITY FOR COLLABORATIVE INFORMATION WARFARE NETWORK.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $8,000,000 may be available for the Collaborative Information Warfare Network.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $8,000,000.

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**SA 800.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

### SEC. 213. BORON ENERGY CELL TECHNOLOGY.

(a) Increase in RDT&E, Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000.

(b) Availability for Boron Energy Cell Technology.—(1) of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $5,000,000 may be available for research, development, test, and evaluation on boron energy cell technology.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) Offset from Operations and Maintenance, Army.—The amount authorized to be appropriated by section 301(1), for operations and maintenance for the Army is hereby reduced by $5,000,000.

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**SA 801.** Mrs. FEINSTEIN (for herself, Mr. Reid, and Mrs. Boxer) submitted an amendment intended to be proposed by her to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

### SEC. 332. SUBMITTAL OF SURVEY ON PERCHLORATE CONTAMINATION AT DEPARTMENT OF DEFENSE SITES.

(a) Submittal of Perchlorate Survey.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress the 2001 survey to identify the potential for perchlorate contamination at all active and closed Department of Defense sites that was prepared by the United States Air Force Research Laboratory, Aerospace Expeditionary Force Technologies Division, Tyndall Air Force Base and Applied Research Associates.

(b) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

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**SA 802.** Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, between lines 11 and 12, and insert the following:

### SEC. 213. COMPOSITE SAIL TEST ARTICLES.

(a) Amount for Articles.—Of the total amount authorized to be appropriated under section 201(2) for Virginia class submarine development, $2,000,000 shall be available for the development and fabrication of composite sail test articles for incorporation into designs for future submarines.

(b) Adjustments in Authorizations of Appropriations.—(1) The total amount authorized to be appropriated under section 201(2) is hereby increased by $2,000,000, the additional amount to be available for Virginia class submarine development.

(2) The total amount authorized to be appropriated under section 104 is hereby reduced by $2,000,000, to be derived from amounts for Special Operations Forces operational enhancements.

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**SA 803.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 852, and insert the following:

### SEC. 852. FEDERAL SUPPORT FOR ENHANCEMENT OF STATE AND LOCAL ANTI-TERRORISM RESPONSE CAPABILITIES.

(a) Procurements of Anti-Terrorism Technologies and Services by State and Local Governments Through Federal Contracts.—

(1) Establishment of program.—The President shall designate an officer or employee of the United States—

(A) to establish, and the designated official shall establish, a program under which States and units of local government may procure through contracts entered into by the designated official anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism; and

(B) to carry out the SAFER grant program provided for under subsection (f).

(2) Designated federal procurement official for program.—In this section, the officer or employee designated by the President under paragraph (1) shall be referred to as the "designated Federal procurement official".

(3) Authorities.—Under the program, the designated Federal procurement official—

(A) may, but shall not be required to, award contracts using the same authorities as are provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act (41 U.S.C. 259(b)(3)); and

(B) may make SAFER grants in accordance with subsection (f).

(4) Offers not required to state and local governments.—A contractor that sells anti-terrorism technology or anti-terrorism services to the Federal Government may not be required to offer such technology or services to a State or unit of local government under the program.

(b) Responsibilities of the Contracting Official.—In carrying out the program established under this section, the designated Federal procurement official shall—

(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and

(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the designated official.

(c) Required Procedures.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities:

(1) Submissions by states.—

(A) Requests and payments.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the designated Federal procurement official under this section shall submit to that official in such form and manner and at such times as such official prescribes, the following:

(i) Request.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(ii) Payment.—Advance payment for each requested technology or service in an amount determined by the designated official based on estimated or actual costs of the technology or service and administrative costs incurred by such official.

(B) Other contracts.—The designated Federal procurement official may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contractors. No indemnification may be provided under Public Law 85-804 pursuant to an exercise of authority under section 851 for procurements that are made directly between contractors and States or units of local government.

(2) Permitted catalog technologies and services.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).

(3) Coordination of local requests within state.—The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) Shipment and transportation costs.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation of the technologies or services, respectively, to the State and localities within the State.

(d) Reimbursement of Actual Costs.—In the case of a procurement made by or for a

State or unit of local government under the procedures established under this section, the designated Federal procurement official shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.

(e) TIME FOR IMPLEMENTATION.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.

(f) SAFER GRANT PROGRAM.—

(1) AUTHORITY.—The designated Federal procurement official in cooperation with the Secretary of the Department of Homeland Security or his designee, is authorized to make grants to eligible entities for the purpose of supporting increases in the number of permanent positions for firefighters in fire services to ensure staffing at levels and with skill mixes that are adequate emergency response to incidents or threats of terrorism.

(2) USE OF FUNDS.—The proceeds of a SAFER grant to an eligible entity may be used only for the purpose specified in paragraph (1).

(3) DURATION.—A SAFER grant to an eligible entity shall provide funding for a period of 4 years. The proceeds of the grant shall be disbursed to the eligible entity in 4 equal annual installments.

(4) NON-FEDERAL SHARE.—

(A) REQUIREMENT.—An eligible entity may receive a SAFER grant only if the entity enters into an agreement with the designated Federal procurement official to contribute non-Federal funds to achieve the purpose of the grant in the following amounts:

(i) During the second year in which funds of a SAFER grant are received, an amount equal to 25 percent of the amount of the SAFER grant funds received that year.

(ii) During the third year in which funds of a SAFER grant are received, an amount equal to 50 percent of the amount of the SAFER grant funds received that year.

(iii) During the fourth year in which funds of a SAFER grant are received, an amount equal to 75 percent of the amount of the SAFER grant funds received that year.

(B) WAIVER.—The designated Federal procurement official may waive the requirement for a non-Federal contribution described in subparagraph (A) in the case of any eligible entity.

(C) ASSET FORFEITURE FUNDS.—An eligible entity may use funds received from the disposal of property transferred to the eligible entity pursuant to section 9703(h) of title 31, United States Code, section 981(e) of title 18, United States Code, or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) to provide the non-Federal share required under paragraph (1).

(D) BIA FUNDS.—Funds appropriated for the activities of any agency of a tribal organization or for the Bureau of Indian Affairs to perform firefighting functions on any Indian lands may be used to provide the share required under subparagraph (A), and such funds shall be deemed to be non-Federal funds for such purpose.

(5) APPLICATIONS.—

(A) REQUIREMENT.—To receive a SAFER grant, an eligible entity shall submit an application for the grant to the designated Federal procurement official.

(B) CONTENT.—Each application for a SAFER grant shall contain, for each fire service covered by the application, the following information:

(i) A long-term strategy for increasing the force of firefighters in the fire service to ensure readiness for appropriate and effective emergency response to incidents or threats of terrorism.

(ii) A detailed plan for implementing the strategy that reflects consultation with community groups, consultation with appropriate private and public entities, and consideration of any master plan that applies to the eligible entity.

(iii) An assessment of the ability of the eligible entity to increase the force of firefighters in the fire service without Federal assistance.

(iv) An assessment of the levels of community support for increasing that force, including financial and in-kind contributions and any other available community resources.

(v) Specific plans for obtaining necessary support and continued funding for the firefighter positions proposed to be added to the fire service with SAFER grant funds.

(vi) An assurance that the eligible entity will, to the extent practicable, seek to recruit and employ (or accept the voluntary services of) firefighters who are members of racial and ethnic minority groups or women.

(vii) Any additional information that the designated Federal procurement official considers appropriate.

(C) SPECIAL RULE FOR SMALL COMMUNITIES.—The designated Federal procurement official may authorize an eligible entity responsible for a population of less than 50,000 to submit an application without information required under subparagraph (B), and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of an application by such an entity.

(D) PREFERENTIAL CONSIDERATION.—The designated Federal procurement official may give preferential consideration, to the extent feasible, to an application submitted by an eligible entity that agrees to contribute a non-Federal share higher than the share required under paragraph (4)(A).

(E) ASSISTANCE WITH APPLICATIONS.—The designated Federal procurement official is authorized to provide technical assistance to an eligible entity for the purpose of assisting with the preparation of an application for a SAFER grant.

(6) SPECIAL RULES ON USE OF FUNDS.—

(A) SUPPLEMENT NOT SUPPLANT.—The proceeds of a SAFER grant made to an eligible entity shall be used to supplement and not supplant other Federal funds, State funds, or funds from a subdivision of a State, or, in the case of a tribal organization, funds supplied by the Bureau of Indian Affairs, that are available for salaries or benefits for firefighters.

(B) LIMITATION RELATING TO COMPENSATION OF FIREFIGHTERS.—

(i) IN GENERAL.—The proceeds of a SAFER grant may not be used to fund the pay and benefits of a full-time firefighter if the total annual amount of the pay and benefits for that firefighter exceeds $100,000. The designated Federal procurement official may waive the prohibition in the proceeding sentence in any particular case.

(ii) ADJUSTMENT FOR INFLATION.—Effective on October 1 of each year, the total annual amount applicable under subparagraph (A) shall be increased by the percentage (rounded to the nearest one-tenth of one percent) by which the Consumer Price Index for all-urban consumers published by the Department of Labor for July of such year exceeds the Consumer Price Index for all-urban consumers published by the Department of Labor for July of the preceding year. The first adjustment shall be made on October 1, 2004.

(7) PERFORMANCE EVALUATION.—

(A) REQUIREMENT FOR INFORMATION.—The designated Federal procurement official shall evaluate, each year, whether an entity receiving SAFER grant funds in such year is substantially complying with the terms and conditions of the grant. The entity shall submit to the designated Federal procurement official any information that the designated Federal procurement official requires for that year for the purpose of the evaluation.

(B) REVOCATION OR SUSPENSION OF FUNDING.—If the designated Federal procurement official determines that a recipient of a SAFER grant is not in substantial compliance with the terms and conditions of the grant the designated Federal procurement official may revoke or suspend funding of the grant.

(8) ACCESS TO DOCUMENTS.—

(A) AUDITS BY DESIGNATED FEDERAL PROCUREMENT OFFICIAL.—The designated Federal procurement official shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of an eligible entity that receives a SAFER grant.

(B) AUDITS BY THE COMPTROLLER GENERAL.—Subparagraph (A) shall also apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

(9) TERMINATION OF SAFER GRANT AUTHORITY.—

(A) IN GENERAL.—The authority to award a SAFER grant shall terminate at the end of September 30, 2010.

(B) REPORT TO CONGRESS.—Not later than two years after the date of the enactment of this Act, the designated Federal procurement official shall submit to Congress a report on the SAFER grant program under this section. The report shall include an assessment of the effectiveness of the program for achieving its purpose, and may include any recommendations that the designated Federal procurement official has for increasing the forces of firefighters in fire services.

(10) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—The term "eligible entity" means—

(i) a State;

(ii) a subdivision of a State;

(iii) a tribal organization;

(iv) any other public entity that the designated Federal procurement official determines appropriate for eligibility under this section; and

(v) a multijurisdictional or regional consortium of the entities described in clauses (i) through (iv).

(B) FIREFIGHTER.—The term "firefighter" means an employee or volunteer member of a fire service, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—

(i) is trained in fire suppression and has the legal authority and responsibility to engage in fire suppression; or

(ii) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

(C) FIRE SERVICE.—The term "fire service" includes an organization described in section 4(5) of the Federal Fire Prevention and Control Act of 1974 that is under the jurisdiction of a tribal organization.

(D) MASTER PLAN.—The term "master plan" has the meaning given the term in section 10 of the Federal Fire Prevention and Control Act of 1974.

(E) SAFER GRANT.—The term 'SAFER grant' means a grant of financial assistance under this subsection.

(F) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this section such sums as may be necessary from the Department of Homeland Security, up to—

(A) $1,000,000,000 for fiscal year 2004;
(B) $1,030,000,000 for fiscal year 2005;
(C) $1,061,000,000 for fiscal year 2006;
(D) $1,093,000,000 for fiscal year 2007;
(E) $1,126,000,000 for fiscal year 2008;
(F) $1,159,000,000 for fiscal year 2009; and
(G) $1,194,000,000 for fiscal year 2010.

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**SA 804.** Mr. WARNER (for Mr. SMITH) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title XXVIII, add the following:

### SEC. 2825. LAND EXCHANGE, NAVAL AND MARINE CORPS RESERVE CENTER, PORTLAND OREGON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the United Parcel Service, Inc. (in this section referred to as "UPS"), any or all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres in Portland, Oregon, and comprising the Naval and Marine Corps Reserve Center for the purpose of facilitating the expansion of the UPS main distribution complex in Portland.

(b) PROPERTY RECEIVED IN EXCHANGE.—(1) As consideration for the conveyance under subsection (a), UPS shall —

(A) convey to the United States a parcel of real property determined to be suitable by the Secretary; and

(B) design, construct, and convey such replacement facilities on the property conveyed under subparagraph (A) as the Secretary considers appropriate.

(2) The value of the real property and replacement facilities received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require UPS to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from UPS in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to UPS.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary determines that the replacement facilities required by subsection (b) are suitable and available for the relocation of the operations of the Naval and Marine Corps Reserve Center.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

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**SA 805.** Mr. LEVIN (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 370, between lines 15 and 16, insert the following new section:

### SEC. 2825. LAND CONVEYANCE, FORT RITCHIE, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army shall convey, without consideration, to the PenMar Development Corporation, a public instrumentality of the State of Maryland (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, at former Fort Ritchie, Cascade, Maryland, consisting of approximately 33 acres, that is currently being leased by the International Masonry Institute (in this section referred to as the "Institute"), for the purpose of enabling the Corporation to sell the property to the Institute for the economic development of former Fort Ritchie.

(b) EXEMPTION FROM FEDERAL SCREENING REQUIREMENT.—The conveyance authorized by subsection (a) shall be exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code, under the Defense Base and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or under any other applicable law or regulation.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Corporation.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

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**SA 806.** Mr. LEVIN (for Mr. BIDEN (for himself and Mr. CARPER)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

(a) In section 411(a)(5), relating to the authorized strength for Selected Reserve personnel of the Air National Guard of the United States as of September 30, 2004, strike "107,000" and insert "107,030".

(b) The total amount authorized to be appropriated under section 104 is hereby reduced by $3,300,000, including $2,100,000 from SOF rotary wing upgrades and $1,200,000 from SOF operational enhancements.

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**SA 807.** Mr. LEVIN (for Mr. BINGAMAN) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

### SEC. 213. MAGNETIC LEVITATION.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,100,000, with the amount of the increase to be allocated to Major T&E Investment (PE 0604759F).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force and available for Major T&E Investment, as increased by subsection (a), $2,100,000 may be available for research and development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force, is hereby reduced by $2,100,000.

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**SA 808.** Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In subtitle B of title I, add after the subtitle heading the following:

**SEC. 111. RAPID INFUSION PUMPS.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 101(5) for other procurement, Army, $2,000,000 may be available for medical equipment for the procurement of rapid infusion (IV) pumps.

(2) The total amount authorized to be appropriated under section 101(5) is hereby increased by $2,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(1) for operations and maintenance, Army, the amount available is hereby reduced by $2,000,000.

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**SA 809.** Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 213. PORTABLE MOBILE EMERGENCY BROADBAND SYSTEMS.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, $2,000,000 may be available for the development of Portable Mobile Emergency Broadband Systems (MEBS).

(2) The total amount authorized to be appropriated under section 201(1) is hereby increased by $2,000,000.

(b) OFFSET.—The amount authorized to be appropriated by section 104 for Procurement, Defense-wide activities, SOF Operational Enhancements is hereby reduced by $2,000,000.

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**SA 810.** Mr. WARNER (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 213. BORON ENERGY CELL TECHNOLOGY.**

(a) INCREASE IN RDT&E, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000.

(b) AVAILABILITY FOR BORON ENERGY CELL TECHNOLOGY.—(1) of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $5,000,000 may be available for research, development, test, and evaluation on boron energy cell technology.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET FROM OPERATIONS AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1), for operations and maintenance for the Army is hereby reduced by $5,000,000.

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**SA 811.** Mr. WARNER (for himself and Mr. THOMAS) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 278, beginning on line 16, strike "**FOR ASIA-PACIFIC CENTER FOR SECURITY STUDIES**".

On page 280, after the matter following line 7, insert the following:

(c) ACCEPTANCE OF GUARANTEES WITH GIFTS IN DEVELOPMENT OF MARINE CORPS HERITAGE CENTER, MARINE CORPS BASE, QUANTICO, VIRGINIA.—(1) The Secretary of the Navy may utilize the authority in section 6975 of title 10, United States Code, for purposes of the project to develop the Marine Corps Heritage Center at Marine Corps Base, Quantico, Virginia, authorized by section 2884 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; as enacted into law by Public Law 106–398; 114 Stat. 1654A–440).

(2) The authority in paragraph (1) shall expire on December 31, 2006.

(3) The expiration under paragraph (2) of the authority in paragraph (1) shall not effect any qualified guarantee accepted pursuant to such authority for purposes of the project referred to in paragraph (1) before the date of the expiration of such authority under paragraph (2).

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**SA 812.** Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 43, strike lines 4 through 9 and insert the following:

**"SEC. 311. EMERGENCY AND MORALE COMMUNICATIONS PROGRAMS.**

(a) ARMED FORCES EMERGENCY SERVICES.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be made available to the American Red Cross to fund the Armed Forces Emergency Services.

(b) DEPARTMENT OF DEFENSE MORALE TELECOMMUNICATIONS PROGRAM.—(1) As soon as possible after the date of enactment of this Act, the Secretary of Defense shall establish and carry out a program to provide, wherever practicable, prepaid phone cards, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who are directly supporting military operations in Iraq or Afghanistan (as determined by the Secretary) to enable them to make telephone calls to family and friends in the United States without cost to the member.

(2) The value of the benefit provided by paragraph (1) shall not exceed $40 per month per person.

(3) The program established by paragraph (1) shall terminate on September 30, 2004.

(4) In carrying out the program under this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private entities free or reduced-cost services, and programs to enhance morale and welfare. In addition, and notwithstanding any limitation on the expenditure or obligation of appropriated amounts, the Secretary may use available funds appropriated to or for the use of the Department of Defense that are not otherwise obligated or expended to carry out the program.

(5) The Secretary may accept gifts and donations in order to defray the costs of the program. Such gifts and donations may be accepted from foreign governments; foundations or other charitable organizations, including those organized or operating under the laws of a foreign country; and any source in the private sector of the United States or a foreign country.

(6) The Secretary shall work with telecommunications providers to facilitate the deployment of additional telephones for use in calling the United States under the program as quickly as practicable, consistent with the timely provision of telecommunications benefits of the program, the Secretary should carry out this subsection in a manner that allows for competition in the provision of such benefits.

(7) The Secretary shall not take any action under this subsection that would compromise the military objectives or mission of the Department of Defense.

At the appropriate place, insert the following new section:

**SEC.    . AIR FARES FOR MEMBERS OF ARMED FORCES.**

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

At the end of subtitle B of title II, add the following:

**SEC. 213. MODIFICATION OF PROGRAM ELEMENT OF SHORT-RANGE AIR DEFENSE RADAR PROGRAM OF THE ARMY.**

The program element of the short-range air defense radar program of the Army may be modified from Program Element 602303A (Missile Technology) to Program Element 603772A (Advanced Tactical Computer Science and Sensor Technology).

On page 169, between lines 5 and 6, insert the following:

(d) INTEGRATED HEALING CARE PRACTICES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs may, acting through the Department of Veterans Affairs-Department of Defense Joint Executive Committee, conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

(2) Amounts authorized to be appropriated by section 301(21) for the Defense Health Program may be available for the program under paragraph (1).

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**SA 813.** Mr. WARNER (for Mr. SPECTER) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following new section:

### SEC. . AIR FARES FOR MEMBERS OF ARMED FORCES.

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

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**SA 814.** Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

### SEC. 213. MODIFICATION OF PROGRAM ELEMENT OF SHORT RANGE AIR DEFENSE RADAR PROGRAM OF THE ARMY.

The program element of the short range air defense radar program of the Army may be modified from Program Element 602303A (Missile Technology) to Program Element 603772A (Advanced Tactical Computer Science and Sensor Technology).

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**SA 815.** Mr. LEVIN (for Ms. MIKULSKI) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 169, between lines 5 and 6, insert the following:

(d) INTEGRATED HEALING CARE PRACTICES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs may, acting through the Department of Veterans Affairs-Department of Defense Joint Executive Committee, conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

(2) Amounts authorized to be appropriated by section 301(21) for the Defense Health Program may be available for the program under paragraph (1).

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**SA 816.** Mr. WARNER (for Mr. BENNETT) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 276, between lines 5 and 6, insert the following:

### SEC. 1025. STUDY OF BERYLLIUM INDUSTRIAL BASE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a study of the adequacy of the industrial base of the United States to meet defense requirements of the United States for beryllium.

(b) REPORT.—Not later than January 30, 2004, the Secretary shall submit a report on the results of the study to Congress. The report shall contain, at a minimum, the following information:

(1) A discussion of the issues identified with respect to the long-term supply of beryllium.

(2) An assessment of the need, if any, for modernization of the primary sources of production of beryllium.

(3) A discussion of the advisability of, and concepts for, meeting the future defense requirements of the United States for beryllium and maintaining a stable domestic industrial base of sources of beryllium through—

(A) cooperative arrangements commonly referred to as public-private partnerships;

(B) the administration of the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act; and

(C) any other means that the Secretary identifies as feasible.

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**SA 817.** Mr. WARNER (for Mr. MCCAIN (for himself, Mr. SESSIONS, Mr. GRAHAM of South Carolina, and Mr. BAYH)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 310, between lines 9 and 10, insert the following:

(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

(i) an assessment whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and other issues related to the Prague Capabilities Commitment or the NATO Response Force;

(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee;

(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and security decisionmaking within NATO relating to the Prague Capabilities Commitment, and NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes; and

(vii) if a report under this subparagraph is a report other than the first report under this subparagraph, the information submitted in such report under any of clauses (i) through (vi) may consist solely of an update of any information previously submitted under the applicable clause in a preceding report under this subparagraph.

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**SA 818.** Mr. LEVIN (for Mrs. BOXER) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, add the following:

GAO STUDY.—Not later than April 1, 2004, the Comptroller General shall submit a report regarding the adequacy of special pays and allowances for service members who experience frequent deployments away from their permanent duty stations for periods less than 30 days. The policies regarding eligibility for family separation allowance, including those relating to required duration of absences from the permanently assigned duty station, should be assessed.

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**SA 819.** Mr. WARNER proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 25, between lines 11 and 12, insert the following:

### SEC. 213. AMOUNT FOR NETWORK CENTRIC OPERATIONS.

Of the amount authorized to be appropriated under section 201(1) for historically Black colleges and universities, $1,000,000 may be used for funding the initiation of a capability in such institutions to support the network centric operations of the Department of Defense.

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**SA 820.** Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 155, between lines 10 and 11, insert the following:

(c) DEATH BENEFITS STUDY.—(1) It is the sense of Congress that—

(A) the sacrifices made by the members of the United States Armed Forces are significant and are worthy of meaningful expressions of gratitude by the Government of the United States, especially in cases of sacrifice through loss of life;

(B) the tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant disparity between the financial benefits for survivors of deceased members of the Armed Forces and the financial benefits for survivors of civilian victims of terrorism;

(C) the death benefits system composed of the death gratuity paid by the Department of Defense to survivors of members of the Armed Forces, the subsequently established Servicemembers' Group Life Insurance (SGLI) program, and other benefits for survivors of deceased members has evolved over time, but there are increasing indications that the evolution of such benefits has failed to keep pace with the expansion of indemnity and compensation available to segments of United States society outside the Armed Forces, a failure that is especially apparent in a comparison of the benefits for survivors of deceased members with the compensation provided to families of civilian victims of terrorism; and

(D) while Servicemembers' Group Life Insurance (SGLI) provides an assured source of life insurance for members of the Armed Forces that benefits the survivors of such members upon death, the SGLI program requires the members to pay for that life insurance coverage and does not provide an assured minimum benefit.

(2) The Secretary of Defense shall carry out a study of the totality of all current and projected death benefits for survivors of deceased members of the Armed Forces to determine the adequacy of such benefits. In carrying out the study, the Secretary shall—

(A) compare the Federal Government death benefits for survivors of deceased members of the Armed Forces with commercial and other private sector death benefits plans for segments of United States society outside the Armed Forces, and also with the benefits available under Public Law 107-37 (115 Stat. 219) (commonly known as the "Public Safety Officer Benefits Bill");

(B) assess the personnel policy effects that would result from a revision of the death gratuity benefit to provide a stratified schedule of entitlement amounts that places a premium on deaths resulting from participation in combat or from acts of terrorism;

(C) assess the adequacy of the current system of Survivor Benefit Plan annuities and Dependency and Indemnity Compensation and the anticipated effects of an elimination of the offset of Survivor Benefit Plan annuities by Dependency and Indemnity Compensation;

(D) examine the commercial insurability of members of the Armed Forces in high risk military occupational specialties; and

(E) examine the extent to which private trusts and foundations engage in fundraising or otherwise provide financial benefits for survivors of deceased members of the Armed Forces.

(3) Not later than March 1, 2004, the Secretary shall submit a report on the results of the study under paragraph (2) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:

(A) The assessments, analyses, and conclusions resulting from the study.

(B) Proposed legislation to address the deficiencies in the system of Federal Government death benefits for survivors of deceased members of the Armed Forces that are identified in the course of the study.

(C) An estimate of the costs of the system of death benefits provided for in the proposed legislation.

(4) The Comptroller General shall conduct a study to identify the death benefits that are payable under Federal, State, and local laws for employees of the Federal Government, State governments, and local governments. Not later than November 1, 2003, the Comptroller General shall submit a report containing the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

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**SA 821.** Mr. LEVIN (for Ms. LANDRIEU (for herself, Mr. LEVIN, Ms. MURKOWSKI, and Mr. BREAUX)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 291, between lines 14 and 15, insert the following:

**SEC. 1039. FEDERAL ASSISTANCE FOR STATE PROGRAMS UNDER THE NATIONAL GUARD CHALLENGE PROGRAM.**

(a) MAXIMUM FEDERAL SHARE.—Section 509(d) of title 32, United States Code, is amended—

(1) by striking paragraphs (1), (2), and (3);

(2) by redesignating paragraph (4) as paragraph (1);

(3) in paragraph (1), as so redesignated, by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph (2):

"(2) for fiscal year 2004 (notwithstanding paragraph (1)), 65 percent of the costs of operating the State program during that year.".

(b) STUDY.—(1) The Secretary of Defense shall carry out a study to evaluate (a) the adequacy of the requirement under section 509(d) of title 32, United States Code, for the United States to fund 60 percent of the costs of operating a State program to the National Guard Challenge Program and the State to fund 40 percent of such costs, and (b) the value of the challenge program to the Department of Defense.

(2) In carrying out the study under paragraph (1), the Secretary should identify potential alternatives to the matching funds structure provided for the National Guard Challenge Program under section 509(d) of title 32, United States Code, such as a range of Federal-State matching ratios, that would provide flexibility in the management of the program to better respond to temporary fiscal conditions.

(3) The Secretary shall include the results of the study, including findings, conclusions, and recommendations, in the next annual report to Congress under section 509(k) of title 32, United States Code, that is submitted to Congress after the date of the enactment of this Act.

(c) AMOUNT FOR FEDERAL ASSISTANCE.—(1) The amount authorized to be appropriated under section 301(10) is hereby increased by $3,000,000.

(2) Of the total amount authorized to be appropriated under section 301(10), $68,216,000 shall be available for the National Guard Challenge Program under section 509 of title 32, United States Code.

(3) The total amount authorized to be appropriated under section 301(4) is hereby reduced by $3,000,000.

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**SA 822.** Mr. WARNER proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 69, line 5, strike "**AIRLIFT**".

On page 70, between the matter following line 9 and line 10, insert the following:

(c) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—For any fee charged to the Department of Defense by the Department of State during any year for the maintenance, upgrade, or construction of United States diplomatic facilities, the Secretary of Defense may remit to the Department of State only that portion, if any, of the total amount of the fee charged for such year that exceeds the total amount of the costs incurred by the Department of Defense for providing goods and services to the Department of State during such year.

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**SA 823.** Mr. LEVIN (for Ms. LANDRIEU (for herself and Mr. BREAUX)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title XXVIII, add the following new section:

**SEC. 2825. FEASIBILITY STUDY OF CONVEYANCE OF LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.**

(a) STUDY REQUIRED.—(1) The Secretary of the Army shall conduct a study of the feasibility, costs, and benefits for the conveyance of the Louisiana Army Ammunition Plant as a model for a public-private partnership for the utilization and development of the Plant and similar parcels of real property.

(2) In conducting the study, the Secretary shall consider—

(A) the feasibility and advisability of entering into negotiations with the State of Louisiana or the Louisiana National Guard for the conveyance of the Plant;

(B) means by which the conveyance of the Plant could—

(i) facilitate the execution by the Department of Defense of its national security mission;

(ii) facilitate the continued use of the Plant by the Louisiana National Guard and the execution by the Louisiana National Guard of its national security mission; and

(C) evidence presented by the State of Louisiana of the means by which the conveyance of the Plant could benefit current and potential private sector and governmental tenants of the Plant and facilitate the contribution of such tenants to economic development in Northwestern Louisiana;

(C) the amount and type of consideration that is appropriate for the conveyance of the Plant;

(D) the evidence presented by the State of Louisiana of the extent to which the conveyance of the Plant to a public-private partnership will contribute to economic growth in the State of Louisiana and in Northwestern Louisiana in particular;

(E) the value of any mineral rights in the lands of the Plant;

(F) the advisability of sharing revenues and rents paid by current and potential tenants of the Plant as a result of the Armament Retooling and Manufacturing Support Program; and

(b) Louisiana Army Ammunition Plant.—In this section, the term "Louisiana Army Ammunition Plant" means the Louisiana Army Ammunition Plant in Doyline, Louisiana, consisting of approximately 14,949 acres, of which 13,665 acres are under license to the Military Department of the State of Louisiana and 1,284 acres are used by the Army Joint Munitions Command.

(c) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study conducted under subsection (a). The report shall include the results of the study and any other matters in light of the study that the Secretary considers appropriate.

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**SA 824.** Mr. LEVIN (for Mrs. FEINSTEIN (for herself, Mr. REID, and Mrs. BOXER)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title III, add the following:

### SEC. 332. SUBMITTAL OF SURVEY ON PERCHLORATE CONTAMINATION AT DEPARTMENT OF DEFENSE SITES.

(a) Submittal of Perchlorate Survey.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress the 2001 survey to identify the potential for perchlorate contamination at all active and closed Department of Defense sites that was prepared by the United States Air Force Research Laboratory, Aerospace Expeditionary Force Technologies Division, Tyndall Air Force Base and Applied Research Associates.

(b) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

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**SA 825.** Mrs. BOXER (for herself and Mr. CORZINE) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place insert the following:

### SEC. .

(a) Findings.—The Senate finds that—

(1) On March 8, 2003, the Army Corps of Engineers awarded a sole-source Indefinite Delivery/Indefinite Quantity contract for the reconstruction of the Iraqi oil industry.

(2) The Department of Defense has characterized this contract as a short-term "bridge" contract that will be used for an interim period until a contract can be awarded on a competitive basis.

(3) However, the estimated date of completion for this contract is March 2005 and the value is estimated by the Department of Defense to be $7 billion.

(4) The Department of Defense has established a goal of completing the follow-on competition and having a fully competitive contract in place by August 31, 2003. This goal was stated in a letter dated May 2, 2003.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) The taxpayers deserve fairness.

(2) Businesses deserve fairness.

(3) The Competitive in Contracting Act of 1984 establishes a preference for the award of competitive contracts.

(4) The Department of Defense should meet its goal of having a fully competitive contract in place by August 31, 2003 and performing work needed for the reconstruction of the Iraqi oil industry after such date under that competitive contract.

(c) Report to Congress.—If the Department of Defense fails to meet its own stated goal of having a fully competitive contract in place by August 31, 2003, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing this sole-source contract to continue.

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**SA 826.** Mr. WARNER (for himself, Mrs. BOXER, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

### SEC. . SENSE OF THE SENATE ON COMPETITIVE AWARD OF CONTRACTS FOR IRAQI RECONSTRUCTION.

It is the sense of the Senate that the Department of Defense should fully comply with the Competition in Contracting Act (10 U.S.C. 2304 et seq) for any contract awarded for reconstruction activities in Iraq and should conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry as soon as practicable.

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**SA 827.** Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. NELSON of Florida, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

### SEC. 1039. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.

(a) Findings.—The Senate makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.

(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.

(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

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**SA 828.** Mr. LEVIN (for Mr. KERRY, (for himself and Mr. KENNEDY)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title VI, add the following:

### SEC. 634. TRANSPORTATION OF DEPENDENTS TO PRESENCE OF MEMBERS OF THE ARMED FORCES WHO ARE RETIRED FOR ILLNESS OR INJURY INCURRED IN ACTIVE DUTY.

Section 411h(a) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) Under the regulations prescribed under paragraph (1), transportation described in subsection (c) may be provided for not more than two family members of a member otherwise described in paragraph (3) who is retired for an illness or injury described in that paragraph if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine that the presence of the family member would be in the best interests of the family member."; and

(4) in paragraph (3), as so redesignated, by striking "paragraph (1)" and inserting "paragraph (1) or (2)".

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**SA 829.** Mr. WARNER (for Mr. VOINOVICH, (for himself and Mr. DEWINE)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 103, between lines 18 and 19, insert the following:

"(3) The Department of the Army, the Department of the Navy, and the Department of Transportation shall bear the cost of the instruction at the Air Force Institute of Technology that is received by officers detailed for that instruction by the Secretaries of the Army, Navy, and Transportation, respectively. In the case of an enlisted member permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).

On page 71, strike lines 12 through 21, and insert the following:

(d) Availability of Funds for Local Educational Agencies Affected by the Brooks Air Force Base Demonstration Project.—(1) Up to $500K of the funds made available under subsection (a) may (notwithstanding the limitation in such subsection) also be used for making basic support payments for fiscal year 2004 to a local educational agency that received a basic support payment for fiscal year 2003, but whose payment for fiscal year 2004 would be reduced because of the conversion of Federal property to non-Federal ownership under the Department of Defense infrastructure demonstration project at Brooks Air Force Base, Texas, and the amounts of such basic support payments for fiscal year 2004 shall be computed as if the converted property were Federal property for purposes of receiving the basic support payments for the period in which the demonstration project is ongoing, as documented by the local educational agency to the satisfaction of the Secretary.

(2) If funds are used as authorized under paragraph (1), the Secretary shall reduce the amount of any basic support payment for fiscal year 2004 for a local educational agency described in paragraph (1) by the amount of any revenue that the agency received during fiscal year 2002 from the Brooks Development Authority as a result of the demonstration project described in paragraph (1).

(e) Definitions.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "basic support payment" means a payment authorized under section 8003(b(1)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

At the end of subtitle D of title X, add the following:

**SEC. 1039. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.**

(a) Findings.—The Senate makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.

(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.

(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

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**SA 830.** Mr. WARNER (for Mrs. HUTCHISON) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 71, strike lines 12 through 21, and insert the following:

(d) Availability of Funds for Local Educational Agencies Affected by the Brooks Air Force Base Demonstration Project.—(1) Up to $500k of the funds made available under subsection (a) may (notwithstanding the limitation in such subsection) also be used for making basic support payments for fiscal year 2004 to a local educational agency that received a basic support payment for fiscal year 2003, but whose payment for fiscal year 2004 would be reduced because of the conversion of Federal property to non-Federal ownership under the Department of Defense infrastructure demonstration project at Brooks Air Force Base, Texas, and the amounts of such basic support payments for fiscal year 2004 shall be computed as if the converted property were Federal property for purposes of receiving the basic support payments for the period in which the demonstration project is ongoing, as documented by the local educational agency to the satisfaction of the Secretary.

(2) If funds are used as authorized under paragraph (1), the Secretary shall reduce the amount of any basic support payment for fiscal year 2004 for a local educational agency described in paragraph (1) by the amount of any revenue that the agency received during fiscal year 2002 from the Brooks Development Authority as a result of the demonstration project described in paragraph (1).

(e) Definitions.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "basic support payment" means a payment authorized under section 8003(b(1)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

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**SA 831.** Mr. WARNER (for Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. NELSON of Florida, and Mr. CORNYN)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

**SEC. 1039. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.**

(a) Findings.—The Senate makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.

(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.

(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Thursday, June 5, 2003, in Room 301 Russell Senate Office Building, to conduct a hearing on Senate Rule XXII and proposals to amend this rule.

For further information concerning this meeting, please contact Susan Wells at 202-224-6352.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 22, 2003, at 10 a.m., on Media Ownership, in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 22, 2003, at 2:30 p.m., to hold a hearing on Iraq Stabilization and Reconstruction: U.S. Policy and Plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 22, 2003, at 10 a.m., in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Status of Telecommunications in Indian Country.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a mark up on Thursday, May 22, 2003, at 9:30 a.m., in Dirksen Room 226.

I. Nominations: Michael Chertoff to the U.S. Circuit Judge for the Third Circuit; David G. Campbell to the U.S. District Judge for the District of Arizona; Robert D. McCallum to be Associate Attorney General, U.S. Department of Justice; Peter D. Keisler to be Assistant Attorney General, Civil Division, U.S. Department of Justice; R. Hewitt Pate to be Assistant Attorney General, Antitrust Division, U.S. Department of Justice; and David B. Rivkin to the Foreign Claims Settlement Commission.

II. Bills: S. 554. A bill to allow media coverage of court proceedings [Grassley/Cornyn/Craig/DeWine/Graham/Schumer]; S. 1023. A bill to increase the annual salaries of justices and judges of the United States [Hatch/Chambliss/Cornyn/Durbin/Feinstein/Kennedy/Leahy]; S. 858. A bill to extend the Abraham Lincoln Bicentennial Commission, and for other purposes [Durbin/Bunning]; S. Res. 136, A resolution recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's many achievements [Kennedy/DeWine]; S. Res. 92, A resolution designating September 17, 2003 as "Constitution Day" [DeWine/Hatch]; S. Res. 145, Designating June 2003 as "National Safety Month" [Fitzgerald/Feinstein]; and S. Res. 133, A resolution condemning bigotry and violence against Arab Americans, Muslim Americans, South-Asian Americans, and Sikh Americans [Durbin/Biden/Chambliss/DeWine/Feingold].

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Thursday, May 22, 2003, at 2 p.m., in the Dirksen Senate Office Building Room 226.

Panel I: [senators].

Panel II: Richard C. Wesley to be United States Circuit Judge for the Second Circuit.

Panel III: J. Ronnie Greer to be United States District Judge for the Eastern District of Tennessee; Thomas M. Hardiman to be United States District Judge for the Western District of Pennsylvania; Mark R. Kravitz to be United States District Judge for the District of Connecticut; and John A. Woodcock, to be United States District Judge for the District of Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 22, 2003, at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON COMMUNICATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Communications be authorized to meet on Thursday, May 22, 2003, in Rural Wireless Broadband, at 2:30 p.m. in SD–562.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE AND INFRASTRUCTURE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce and Infrastructure be authorized to meet on Thursday, May 22, 2003, at 2:30 p.m., on NHTSA Reauthorization, in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON ECONOMIC POLICY

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Economic Policy of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 22, 2003, at 10 a.m., to conduct an oversight hearing on "Jumpstarting the Economy: Increasing Investment in the Equity Markets."

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Mr. Robert Dean, a congressional fellow in my office, be granted the privilege of the floor now and for the duration of the debate on the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Patrick Shen, a detailee on my Judicial Committee staff, be granted the privilege of the floor for the duration of this session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE READ THE FIRST TIME—S. 1104

Mr. FRIST. Mr. President, I understand that S. 1104 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1104) to amend title 10, United States Code, to provide for parental involvement in abortions of dependent children of members of the Armed Forces.

Mr. FRIST. I now ask for its second reading and object to further proceeding on this matter.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 90, 91, 178, 179, 180, 181, 182, 183, 184, 185, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198.

I further ask unanimous consent that the nominations be confirmed en bloc; that the motions to reconsider be laid upon table; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

### UNITED STATES SENTENCING COMMISSION

Michael E. Horowitz, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2007.

Ricardo H. Hinojosa, of Texas, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2007.

### DEPARTMENT OF JUSTICE

Mark Moki Hanohano, of Hawaii, to be United States Marshal for the District of Hawaii for the term of four years.

### THE JUDICIARY

L. Scott Coogler, of Alabama, to be United States District Judge for the Northern District of Alabama.

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Steven B. Nesmith, of Pennsylvania, to be an Assistant Secretary of Housing and Urban Development.

### NATIONAL INSTITUTE OF BUILDING SCIENCES

Lane Carson, of Louisiana, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 2004.

James Broaddus, of Texas, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 2004.

Jose Teran, of Florida, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 2005.

Morgan Edwards, of North Carolina, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 2005.

EXECUTIVE OFFICE OF THE PRESIDENT

Nicholas Gregory Mankiw, of Massachusetts, to be a Member of the Council of Economic Advisers.

DEPARTMENT OF STATE

Jeffrey Lunstead, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

James B. Foley, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

Steven A. Browning, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Harry K. Thomas, Jr., of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Richard W. Erdman, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Democratic Republic of Algeria.

Michael B. Enzi, of Wyoming, to be a Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations.

Paul Sarbanes, of Maryland, to be a Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations.

James Shinn, of New Jersey, to be a Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations.

Cynthis Costa, of South Carolina, to be an Alternate Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations.

Ralph Martinez, of Florida, to be an Alternate Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations.

NOMINATIONS OF RICARDO HINOJOSA AND MICHAEL HOROWITZ

Mr. KENNEDY. Mr. President, I support the nominations of Ricardo Hinojosa and Michael Horowitz to the United States Sentencing Commission. The Sentencing Commission is responsible for developing guidelines for sentencing in Federal courts; collecting data about crime and sentencing; and serving as a resource to Congress, the White House, the Justice Department, and the judiciary on crime and sentencing policy. It is therefore critical that nominations to this commission continue to be made in a fair, cooperative, and bipartisan manner.

When Mr. Hinojosa's and Mr. Horowitz's nominations came up in the Judiciary Committee in March 2003, I voted “present” because I was concerned about the process by which the White House had selected them. In particular, I was concerned that instead of the bipartisan selection process by which previous nominees had been named, the White House had selected Mr. Horowitz as an ostensible “Democratic” nominee without any consultation with Senate Democrats.

Since that vote in committee, I have been informed that White House Counsel Alberto Gonzales has assured the ranking member of our committee, Senator LEAHY, that the White House is treating both Mr. Hinojosa and Mr. Horowitz as Republican nominees to the commission. I further understand that when the next three vacancies arise on the commission in October, the President will either reappoint all three commissioners now holding those seats—Ruben Castillo, William Sessions, and Michael O'Neill—or will consult in the traditional and appropriate manner with the Democratic leadership before announcing a replacement nominee for a current Democratic commissioner. Based on that understanding, I have decided to support these important nominations to the U.S. Sentencing Commission.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## ADDITIONAL PERMANENT JUDGESHIP IN THE DISTRICT OF IDAHO

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 102, S. 878.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 878) to authorize additional permanent judgeship in the District of Idaho, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 878

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. DISTRICT JUDGESHIP FOR THE DISTRICT OF IDAHO.**

[(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Idaho.

[(b) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended by striking the item relating to Idaho and inserting the following:

“Idaho .............................................. 3”.]

***SECTION 1. DISTRICT JUDGESHIP FOR THE NORTHERN DISTRICT OF ALABAMA.***

*(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the northern district of Alabama.*

*(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Alabama and inserting the following:*

*“Alabama:*

| | |
|---|---|
| *Northern* | *8* |
| *Middle* | *3* |
| *Southern* | *3.”.* |

***SEC. 2. DISTRICT JUDGESHIPS FOR THE DISTRICT OF ARIZONA.***

*(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the district of Arizona.*

*(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Arizona and inserting the following:*

*“Arizona ........................................ 14”.*

***SEC. 3. DISTRICT JUDGESHIPS FOR THE EASTERN AND SOUTHERN DISTRICTS OF CALIFORNIA.***

*(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—*

*(1) 3 additional district judges for the eastern district of California; and*

*(2) 1 additional district judge for the southern district of California.*

*(b) CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.—The existing judgeship for the eastern district of California authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101–650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).*

*(c) TECHNICAL AND CONFORMING AMENDMENT.—*

*(1) IN GENERAL.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to California and inserting the following:*

*“California:*

| | |
|---|---|
| *Northern* | *14* |
| *Eastern* | *10* |
| *Central* | *27* |
| *Southern* | *14”.* |

*(2) EFFECTIVE DATE.—This subsection shall take effect on the later of—*

*(A) the date of enactment of this Act; or*

*(B) July 16, 2003.*

***SEC. 4. DISTRICT JUDGESHIP FOR THE DISTRICT OF IDAHO.***

*(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Idaho.*

*(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Idaho and inserting the following:*

*“Idaho .............................................. 3”.*

### SEC. 5. TEMPORARY JUDGESHIP FOR THE NORTHERN DISTRICT OF IOWA.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional judge for the northern district of Iowa.

(b) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the northern district of Iowa occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

### SEC. 6. CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.

(a) IN GENERAL.—The existing judgeship for the district of Nebraska authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101–650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

"Nebraska .................................... 4.".

### SEC. 7. DISTRICT JUDGESHIPS FOR THE EASTERN DISTRICT OF NEW YORK.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the eastern district of New York.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) IN GENERAL.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to New York and inserting the following:

"New York:

| | |
|---|---|
| Northern ........................................ | 5 |
| Southern ........................................ | 28 |
| Eastern .......................................... | 17 |
| Western .......................................... | 4". |

(2) EFFECTIVE DATE.—This subsection shall take effect on the later of—

(A) the date of enactment of this Act; or

(B) July 16, 2003.

### SEC. 8. TEMPORARY JUDGESHIP FOR THE EASTERN DISTRICT OF NEW YORK.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate 1 additional judge for the eastern district of New York.

(b) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the eastern district of New York occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

### SEC. 9. DISTRICT JUDGESHIP FOR THE DISTRICT OF SOUTH CAROLINA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of South Carolina.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to South Carolina and inserting the following:

"South Carolina ............................ 11".

### SEC. 10. DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Utah.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Utah and inserting the following:

"Utah .............................................. 6.".

### SEC. 11. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the "Bankruptcy Judgeship Act of 2003".

(b) AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) Two additional bankruptcy judgeships for the southern district of New York.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) One additional bankruptcy judgeship for the district of New Jersey.

(4) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(5) Three additional bankruptcy judgeships for the district of Maryland.

(6) One additional bankruptcy judgeship for the eastern district of North Carolina.

(7) One additional bankruptcy judgeship for the district of South Carolina.

(8) One additional bankruptcy judgeship for the eastern district of Virginia.

(9) Two additional bankruptcy judgeships for the eastern district of Michigan.

(10) Two additional bankruptcy judgeships for the western district of Tennessee.

(11) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(12) Two additional bankruptcy judgeships for the district of Nevada.

(13) One additional bankruptcy judgeship for the district of Utah.

(14) Two additional bankruptcy judgeships for the middle district of Florida.

(15) Two additional bankruptcy judgeships for the southern district of Florida.

(16) Two additional bankruptcy judgeships for the northern district of Georgia.

(17) One additional bankruptcy judgeship for the southern district of Georgia.

(c) TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the district of Puerto Rico.

(B) One additional bankruptcy judgeship for the northern district of New York.

(C) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(D) One additional bankruptcy judgeship for the district of Maryland.

(E) One additional bankruptcy judgeship for the northern district of Mississippi.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the southern district of Georgia.

(2) VACANCIES.—

(A) IN GENERAL.—The first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) TERM EXPIRATION.—In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in subparagraph (A), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

(3) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(A) IN GENERAL.—The temporary bankruptcy judgeships authorized for the northern district of Alabama and the eastern district of Tennessee under paragraphs (1) and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years or more after the date of enactment of this Act.

(B) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeships referred to in this subsection.

(d) TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.—The bankruptcy judgeship presently shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

(e) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(2) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(f) TECHNICAL AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking "3" and inserting "4";

(2) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(3) in the item relating to the middle district of Florida, by striking "8" and inserting "10";

(4) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(5) in the item relating to the northern district of Georgia, by striking "8" and inserting "10";

(6) in the item relating to the middle district of Georgia, by striking "2" and inserting "3";

(7) in the item relating to the southern district of Georgia, by striking "2" and inserting "3";

(8) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1";

(9) in the item relating to the district of Maryland, by striking "4" and inserting "7";

(10) in the item relating to the eastern district of Michigan, by striking "4" and inserting "6";

(11) in the item relating to the district of Nevada, by striking "3" and inserting "5";

(12) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(13) in the item relating to the southern district of New York, by striking "9" and inserting "11";

(14) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(15) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(16) in the item relating to the district of Puerto Rico, by striking "2" and inserting "3";

(17) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

*(18) in the item relating to the western district of Tennessee, by striking "4" and inserting "6";*

*(19) in the item relating to the district of Utah, by striking "3" and inserting "4"; and*

*(20) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".*

Mr. FRIST. I ask unanimous consent the committee substitute amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, in the nature of a substitute, was agreed to.

Mr. FRIST. I ask unanimous consent the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 878), as amended, was read the third time and passed.

## S. 878

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. DISTRICT JUDGESHIP FOR THE NORTHERN DISTRICT OF ALABAMA.

(a) Additional Permanent District Judgeship.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the northern district of Alabama.

(b) Technical and Conforming Amendment.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Alabama and inserting the following:

| | |
|---|---|
| "Alabama: | |
| Northern | 8 |
| Middle | 3 |
| Southern | 3.". |

### SEC. 2. DISTRICT JUDGESHIPS FOR THE DISTRICT OF ARIZONA.

(a) Additional Permanent District Judgeships.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the district of Arizona.

(b) Technical and Conforming Amendment.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Arizona and inserting the following:

"Arizona .................................... 14.".

### SEC. 3. DISTRICT JUDGESHIPS FOR THE EASTERN AND SOUTHERN DISTRICTS OF CALIFORNIA.

(a) Additional Permanent District Judgeships.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 3 additional district judges for the eastern district of California; and

(2) 1 additional district judge for the southern district of California.

(b) Conversion of Temporary Judgeship to Permanent Judgeship.—The existing judgeship for the eastern district of California authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(c) Technical and Conforming Amendment.—

(1) In general.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to California and inserting the following:

| | |
|---|---|
| "California: | |
| Northern | 14 |
| Eastern | 10 |
| Central | 27 |
| Southern | 14.". |

(2) Effective date.—This subsection shall take effect on the later of—

(A) the date of enactment of this Act; or

(B) July 16, 2003.

### SEC. 4. DISTRICT JUDGESHIP FOR THE DISTRICT OF IDAHO.

(a) Additional Permanent District Judgeship.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Idaho.

(b) Technical and Conforming Amendment.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Idaho and inserting the following:

"Idaho ............................................ 3.".

### SEC. 5. TEMPORARY JUDGESHIP FOR THE NORTHERN DISTRICT OF IOWA.

(a) In General.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional judge for the northern district of Iowa.

(b) Vacancy Not Filled.—The first vacancy in the office of district judge in the northern district of Iowa occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

### SEC. 6. CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.

(a) In General.—The existing judgeship for the district of Nebraska authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(b) Technical and Conforming Amendments.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

"Nebraska .................................. 4.".

### SEC. 7. DISTRICT JUDGESHIPS FOR THE EASTERN DISTRICT OF NEW YORK.

(a) Additional Permanent District Judgeships.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the eastern district of New York.

(b) Technical and Conforming Amendment.—

(1) In general.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to New York and inserting the following:

| | |
|---|---|
| "New York: | |
| Northern | 5 |
| Southern | 28 |
| Eastern | 17 |
| Western | 4.". |

(2) Effective date.—This subsection shall take effect on the later of—

(A) the date of enactment of this Act; or

(B) July 16, 2003.

### SEC. 8. TEMPORARY JUDGESHIP FOR THE EASTERN DISTRICT OF NEW YORK.

(a) In General.—The President shall appoint, by and with the advice and consent of the Senate 1 additional judge for the eastern district of New York.

(b) Vacancy Not Filled.—The first vacancy in the office of district judge in the eastern district of New York occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

### SEC. 9. DISTRICT JUDGESHIP FOR THE DISTRICT OF SOUTH CAROLINA.

(a) Additional Permanent District Judgeship.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of South Carolina.

(b) Technical and Conforming Amendment.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to South Carolina and inserting the following:

"South Carolina .......................... 11.".

### SEC. 10. DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.

(a) Additional Permanent District Judgeship for the District of Utah.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Utah.

(b) Technical and Conforming Amendments.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Utah and inserting the following:

"Utah ............................................ 6.".

### SEC. 11. BANKRUPTCY JUDGESHIPS.

(a) Short Title.—This section may be cited as the "Bankruptcy Judgeship Act of 2003".

(b) Authorization for Additional Bankruptcy Judgeships.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) Two additional bankruptcy judgeships for the southern district of New York.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) One additional bankruptcy judgeship for the district of New Jersey.

(4) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(5) Three additional bankruptcy judgeships for the district of Maryland.

(6) One additional bankruptcy judgeship for the eastern district of North Carolina.

(7) One additional bankruptcy judgeship for the district of South Carolina.

(8) One additional bankruptcy judgeship for the eastern district of Virginia.

(9) Two additional bankruptcy judgeships for the eastern district of Michigan.

(10) Two additional bankruptcy judgeships for the western district of Tennessee.

(11) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(12) Two additional bankruptcy judgeships for the district of Nevada.

(13) One additional bankruptcy judgeship for the district of Utah.

(14) Two additional bankruptcy judgeships for the middle district of Florida.

(15) Two additional bankruptcy judgeships for the southern district of Florida.

(16) Two additional bankruptcy judgeships for the northern district of Georgia.

(17) One additional bankruptcy judgeship for the southern district of Georgia.

(c) Temporary Bankruptcy Judgeships.—

(1) Authorization for additional temporary bankruptcy judgeships.—The following judgeship positions shall be filled in

the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the district of Puerto Rico.

(B) One additional bankruptcy judgeship for the northern district of New York.

(C) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(D) One additional bankruptcy judgeship for the district of Maryland.

(E) One additional bankruptcy judgeship for the northern district of Mississippi.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the southern district of Georgia.

(2) VACANCIES.—

(A) IN GENERAL.—The first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) TERM EXPIRATION.—In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in subparagraph (A), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

(3) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(A) IN GENERAL.—The temporary bankruptcy judgeships authorized for the northern district of Alabama and the eastern district of Tennessee under paragraphs (1) and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years or more after the date of enactment of this Act.

(B) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeships referred to in this subsection.

(d) TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.—The bankruptcy judgeship presently shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

(e) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(2) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(f) TECHNICAL AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking "3" and inserting "4";

(2) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(3) in the item relating to the middle district of Florida, by striking "8" and inserting "10";

(4) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(5) in the item relating to the northern district of Georgia, by striking "8" and inserting "10";

(6) in the item relating to the middle district of Georgia, by striking "2" and inserting "3";

(7) in the item relating to the southern district of Georgia, by striking "2" and inserting "3";

(8) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1";

(9) in the item relating to the district of Maryland, by striking "4" and inserting "7";

(10) in the item relating to the eastern district of Michigan, by striking "4" and inserting "6";

(11) in the item relating to the district of Nevada, by striking "3" and inserting "5";

(12) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(13) in the item relating to the southern district of New York, by striking "9" and inserting "11";

(14) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(15) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(16) in the item relating to the district of Puerto Rico, by striking "2" and inserting "3";

(17) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(18) in the item relating to the western district of Tennessee, by striking "4" and inserting "6";

(19) in the item relating to the district of Utah, by striking "3" and inserting "4"; and

(20) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".

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## PREVENTION OF ANTI-SEMITIC VIOLENCE

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 105, S. Con. Res. 7.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 7) expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is a profound concern and effort that should be undertaken to prevent future occurrences.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CAMPBELL. Mr. President, I appreciate the broad bipartisan support given to Senate Concurrent Resolution 7, and the prompt action by the Committee on Foreign Relations, allowing for timely consideration of this resolution by the full Senate. Anti-Semitism is an evil that has bedeviled previous generations, formed a black spot on human history, and remains a problem to this day. As Co-Chairman of the Helsinki Commission, I have been particularly concerned over the disturbing rise in anti-Semitism and related violence in many participating States of the 55-nation Organization for Security and Cooperation in Europe, OSCE, including the United States.

The anti-Semitic violence we witnessed in 2002, which stretched the breadth of the OSCE region, is a wake-up call that this evil still lives today, often coupled with a resurgence of aggressive nationalism and an increase in neo-Nazi "skin head" activity. Together with colleagues on the Helsinki Commission, we have diligently urged the leaders of OSCE participating States to confront and combat the plague of anti-Semitism. Through concerted efforts by the State Department and the U.S. Mission to the OSCE, a conference focused on anti-Semitism—called for in the pending resolution—will be convened in Vienna, Austria, June 19–20.

Meanwhile, the Helsinki Commission has undertaken a number of initiatives aimed at further elevating the attention given to rising anti-Semitism. In the year since the Commission's hearing on this issue, Commissioners have pursued it within the OSCE Parliamentary Assembly as well as in contacts with officials from countries of particular concern. I would point to France as a country that has recognized the problem and acted to confront anti-Semitism and related violence with tougher laws and more vigorous law enforcement. I urge French officials to remain vigilant, while recognizing that none of our countries is immune.

A recent opinion survey of adults in five European countries conducted by the Anti-Defamation League, ADL, found that 21 percent harbor "strong anti-Semitic views." At the same time, the survey revealed that 61 percent of the individuals polled stated they are "very concerned" or "fairly concerned" about violence directed against European Jews. An ADL national poll of 1000 American adults found that 17 percent of Americans holds views about Jews that are "unquestionably anti-Semitic," an increase of 5 percent from the previous survey conducted four years earlier. According to ADL there were 1,559 reported anti-Semitic incidents in the U.S. in 2002, with attacks on campuses rising by 24 percent over the previous year.

Mr. President, if anti-Semitism is ignored and allowed to fester and grow, our societies and civilization will suffer. A particularly disturbing element we have observed is the growth of anti-

Semitic acts and attitudes among young people ranging from a rise in incidents on U.S. college campuses to violent attacks perpetrated on Jews by young members of immigrant communities in Western Europe. Education is essential to reversing the rise in anti-Semitism. Our young people must be taught about the Holocaust and other acts of genocide. Institutions such as the Holocaust Memorial Museum are making valuable contributions to promote the sharing of this experience at home and abroad. Such activity should have our strong support as a vital tool in confronting and combating anti-Semitism.

Mr. President, passage of the Senate Concurrent Resolution 7 will put the United States Senate on record and send an unequivocal message that anti-Semitism must be confronted, and it must be confronted now.

Mr. FRIST. Mr. President, I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 7) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 7

Whereas the expressions of anti-Semitism experienced throughout the region encompassing the participating States of the Organization for Security and Cooperation in Europe (OSCE) have included physical assaults, with some instances involving weapons or stones, arson of synagogues, and desecration of Jewish cultural sites, such as cemeteries and statues;

Whereas vicious propaganda and violence in many OSCE States against Jews, foreigners, and others portrayed as alien have reached alarming levels, in part due to the dangerous promotion of aggressive nationalism by political figures and others;

Whereas violence and other manifestations of xenophobia and discrimination can never be justified by political issues or international developments;

Whereas the Copenhagen Concluding Document adopted by the OSCE in 1990 was the first international agreement to condemn anti-Semitic acts, and the OSCE participating States pledged to "clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination against anyone as well as persecution on religious and ideological grounds";

Whereas the OSCE Parliamentary Assembly at its meeting in Berlin in July 2002, unanimously adopted a resolution that, among other things, called upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions, and judicial proceedings;

Whereas Decision No. 6 adopted by the OSCE Ministerial Council at its Tenth Meeting held in Porto, Portugal in December 2002 (the "Porto Ministerial Declaration") condemned "the recent increase in anti-Semitic incidents in the OSCE area, recognizing the role that the existence of anti-Semitism has played throughout history as a major threat to freedom";

Whereas the Porto Ministerial Declaration also urged "the convening of separately designated human dimension events on issues addressed in this decision, including on the topics of anti-Semitism, discrimination and racism, and xenophobia"; and

Whereas on December 10, 2002, at the Washington Parliamentary Forum on Confronting and Combating anti-Semitism in the OSCE Region, representatives of the United States Congress and the German Parliament agreed to denounce all forms of anti-Semitism and agreed that "anti-Semitic bigotry must have no place in our democratic societies": Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that—

(1) officials of the executive branch and Members of Congress should raise the issue of anti-Semitism in their bilateral contacts with other countries and at multilateral fora, including meetings of the Permanent Council of the Organization for Security and Cooperation in Europe (OSCE) and the Twelfth Annual Session of the OSCE Parliamentary Assembly to be convened in July 2003;

(2) participating States of the OSCE should unequivocally condemn anti-Semitism (including violence against Jews and Jewish cultural sites), racial and ethnic hatred, xenophobia, and discrimination, as well as persecution on religious grounds whenever it occurs;

(3) participating States of the OSCE should ensure effective law enforcement by local and national authorities to prevent and counter criminal acts stemming from anti-Semitism, xenophobia, or racial or ethnic hatred, whether directed at individuals, communities, or property, including maintaining mechanisms for the thorough investigation and prosecution of such acts;

(4) participating States of the OSCE should promote the creation of educational efforts throughout the region encompassing the participating States of the OSCE to counter anti-Semitic stereotypes and attitudes among younger people, increase Holocaust awareness programs, and help identify the necessary resources to accomplish this goal;

(5) legislators in all OSCE participating States should play a leading role in combating anti-Semitism and ensure that the resolution adopted at the 2002 meeting of the OSCE Parliamentary Assembly in Berlin is followed up by a series of concrete actions at the national level; and

(6) the OSCE should organize a separately designated human dimension event on anti-Semitism as early as possible in 2003, consistent with the Porto Ministerial Declaration adopted by the OSCE at the Tenth Meeting of the OSCE Ministerial Council in December 2002.

## CONDEMNING BIGOTRY AND VIOLENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 133 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 133) condemning bigotry and violence against Arab Americans, Muslim Americans, South Asian-Americans, and Sikh Americans.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. Mr. President, I support S. Res. 133, a resolution expressing the Senate's condemnation of acts of bigotry and violence against Arab Americans, Muslim Americans, South-Asian Americans, and Sikh Americans.

I am pleased to join the Senior Senator from Illinois, Mr. DURBIN, and the Senator from Wisconsin, Mr. FEINGOLD, in sponsoring this resolution in the Senate. I would like to thank them for their leadership on this issue, along with the other Senators from both sides of the aisle who have joined us as cosponsors. And I would also like to thank Chairman HATCH, Ranking Member LEAHY, and the members of the Judiciary Committee for their favorable action on the resolution.

Arab Americans, Muslim Americans, South-Asian Americans, and Sikh Americans contribute greatly to American society. Many serve honorably in the armed services and as law enforcement officials. Like all law-abiding Americans, they deserve respect for their civil rights and civil liberties. This resolution condemns bias-motivated acts against members of these communities and calls upon Federal and local law enforcement to prosecute any criminal violations.

Regrettably, after the September 11 attacks and more recently after the start of military action in Iraq, acts of bigotry and violence against Arab Americans, Muslim Americans, South-Asian Americans, and Sikh Americans have increased. President Bush has condemned such incidents on more than one occasion, and it is appropriate for the Senate to join him and citizens across the country in expressing outrage over these acts.

I applaud the Senate's passage of this resolution, and I again thank the Senator from Illinois, Mr. DURBIN, and the Senator from Wisconsin, Mr. FEINGOLD, for working with me on this important issue.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, all with no intervening action or debate, and any statements related to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 133) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 133

Whereas all Americans are united in supporting American men and women who protect our Nation abroad and at home;

Whereas thousands of Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans serve in the military and in law enforcement, working to protect all Americans;

Whereas the Arab-American, Muslim-American, Sikh-American, and South-Asian-American communities are vibrant, peaceful, and law-abiding, and have greatly contributed to American society;

Whereas Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans, as do all Americans, condemn acts of violence and prejudice; and

Whereas the United States Senate is concerned by the number of bias-motivated crimes against Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans, and other Americans in recent months: Now, therefore, be it

*Resolved*, That the Senate—

(1) declares that the civil rights and civil liberties of all Americans, including Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans, should be protected;

(2) condemns bigotry and acts of violence against any Americans, including Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans;

(3) calls upon local, State, and Federal law enforcement authorities to work to prevent bias-motivated crimes against all Americans, including Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans; and

(4) calls upon local, State, and Federal law enforcement authorities to investigate and prosecute vigorously all such crimes committed against Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans.

## DESIGNATING SEPTEMBER 17, 2003 AS CONSTITUTION DAY

## DESIGNATING JUNE 2003 AS NATIONAL SAFETY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Nos. 109 and 111, en bloc.

I ask unanimous consent that the resolutions be agreed to en bloc, the preambles be agreed to en bloc, the motions to reconsider be laid on the table en bloc, and any statements relating to these matters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 92 and S. Res. 145) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 92

Whereas the Constitution of the United States of America was signed on September 17, 1787, by 39 delegates from 12 States;

Whereas the Constitution was subsequently ratified by each of the original 13 States;

Whereas the Constitution was drafted in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for the citizens of the United States;

Whereas the Constitution has provided the means and structure for this Nation and its citizens to achieve a level of prosperity, liberty, security, and justice that is unparalleled among nations;

Whereas the Constitution's contributions to the welfare of the human race reach far beyond the borders of the United States;

Whereas the Senate continues to strive to preserve and strengthen the values and rights bestowed by the Constitution upon the United States of America and its citizens; and

Whereas the preservation of such values and rights in the hearts and minds of American citizens would be advanced by official recognition of the signing of the Constitution: Now, therefore, be it

*Resolved*, That the Senate:

(1) designates September 17, 2003, as "Constitution Day"; and

(2) calls upon the people of the United States to observe the day with appropriate ceremonies and respect.

S. RES. 145

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 90th anniversary in 2003 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 50th anniversary in 2003 as a congressionally chartered organization;

Whereas, even with advancements in safety that create a safer environment for Americans, such as improvements in technology and new legislation, the unintentional-injury death toll is still unacceptable;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public; and

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates June 2003, as "National Safety Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities that promote acknowledgement, gratitude, and respect for the advances of the National Safety Council and its mission.

## ORDERS FOR FRIDAY, MAY 23, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m., Friday, May 23. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the conference report to accompany H.R. 2, the jobs and economic growth bill, as provided under the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. For the information of all Senators, tomorrow the Senate will resume debate on the conference report to accompany H.R. 2, the jobs and economic growth bill. Under the previous order, the Senate will vote on the adoption of the conference report tomorrow morning at 9:30. The 9:30 a.m. vote on the conference report will be the first vote tomorrow.

Following the disposition of the conference report, the Senate will consider the debt limit extension legislation. Amendments to the measure are expected throughout the morning and therefore rollcall votes will occur throughout the afternoon. It is my hope that Members will show restraint in the number of amendments offered to the debt limit legislation, and we could thereby complete action on this necessary measure early tomorrow afternoon.

In addition, we will be considering in all likelihood the unemployment compensation initiative at some point tomorrow, most probably following the debt limit legislation.

I would alert Members at this time that tomorrow will be a very busy day, starting early in the morning with a number of rollcall votes expected throughout the day. I encourage Senators to make the necessary scheduling arrangements to accommodate the voting on these important issues.

## ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:34 p.m., adjourned until Friday, May 23, 2003, 8:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 22, 2003:

### THE JUDICIARY

BRIAN F. HOLEMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE MARY ELLEN ABRECHT, RETIRED.

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) DUNCAN C. SMITH, 4654

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

*To be rear admiral*

REAR ADM. (LH) SALLY BRICE-O'HARA, 1553
REAR ADM. (LH) HARVEY E. JOHNSON, 4015
REAR ADM. (LH) DAVID W. KUNKEL, 0746
REAR ADM. (LH) DAVID B. PETERMAN, 8115

### IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. DOUGLAS BURNETT, 0970

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. CRAIG S. FERGUSON, 1196

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JAN C. HULY, 6184

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF NAVAL OPERATIONS, UNITED STATES NAVY AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5035:

*To be admiral*

VICE ADM. MICHAEL G. MULLEN, 9509

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES INAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be admiral*

ADM. EDMUND P. GIAMBASTIANI JR., 8318

### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF AGRICULTURE

ALI ABDI, OF VIRGINIA
JUDE AKHIDENOR, OF VIRGINIA
DEANNA M. AYALA, OF THE DISTRICT OF COLUMBIA
KEVIN LATNER, OF CALIFORNIA
KEVIN L. SAGE-EL, OF MARYLAND
ERIC B. TRACHTENBERG, OF NEW YORK

#### DEPARTMENT OF STATE

HENRY A. LEIGHTON JR., OF CALIFORNIA
BRIAN GEORGE HEATH, OF NEW JERSEY

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF AGRICULTURE

KIMBERLY L. SVEC, OF WASHINGTON

#### DEPARTMENT OF STATE

CLAY KRAUSS ADLER, OF CALIFORNIA
PATRICIA AGUILERA, OF TEXAS
ERIC CHARLES ANDERSON, OF ILLINOIS
DAVID R. ATKINSON, OF VIRGINIA
JOSEPH J. BEDESSEM, OF VIRGINIA
MIKAEL CLEVERLEY, OF CALIFORNIA
KIA JEANNINE COLEMAN, OF MARYLAND
CRAIG M. CONWAY, OF NEVADA
MICHELE J. DASTIN-VAN RIJN, OF MARYLAND
CYNTHIA A. EBEID, OF THE DISTRICT OF COLUMBIA
NICOLAS ANTOINE FETCHKO, OF VIRGINIA
DAVID L. FISHER, OF CALIFORNIA
STEPHEN THOMAS FRAHM, OF NEVADA
KENDRA L. GAITHER, OF VIRGINIA
RICHARD H. GLENN, OF NEW MEXICO
TOBIAS HENRY GLUCKSMAN, OF NEW YORK
JASON BAIRD GRUBB, OF VIRGINIA
KRISTIN R. GUSTAVSON, OF CALIFORNIA
HENRY R. HAGGARD, OF VIRGINIA
CRAIG L. HALL, OF FLORIDA
MORGAN C. HALL, OF CALIFORNIA
JULIA HARLAN, OF INDIANA
KRISTI DIANNE HOGAN, OF CALIFORNIA
DONNA LEIGH HOPKINS, OF TEXAS
MATTHEW EDWARD KEENE, OF PENNSYLVANIA
MARTIN T. KELLY, OF MARYLAND
ANTHONY J. KLEIBER, OF ILLINOIS
ERIC W. KNEEDLER, OF PENNSYLVANIA
NANCY W. LEOU, OF CALIFORNIA
VICTORIA C. MALZONE, OF MASSACHUSETTS
CHARLES K. MAY, OF WASHINGTON
DAVID MICHAEL MERON, OF FLORIDA
MITCHELL ROLAND MOSS, OF TEXAS
PERLITA W. MUIRURI, OF VIRGINIA
ROBERT JOHN PALLADINO JR., OF VIRGINIA
LISA JEAN PITTMAN, OF CALIFORNIA
WILLIAM WAYNE POPP, OF VIRGINIA
JONATHAN GOODALE PRATT, OF CALIFORNIA
MARY BRETT ROGERS, OF CALIFORNIA
RACHEL SCHOFER, OF PENNSYLVANIA
SUZANNE A. SHELDON, OF NEW HAMPSHIRE
IAN M. SHERIDAN, OF CALIFORNIA
SHELBY V.V. SMITH-WILSON, OF VIRGINIA
DAVID JONATHAN TESSLER, OF NEW YORK
ERIC WATNIK, OF CALIFORNIA
HANS F. WECHSEL, OF IDAHO
AMY MARIE WILSON, OF MASSACHUSETTS
CHARLES AUGUSTUS WINTERMEYER JR., OF WASHINGTON

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF COMMERCE

DARREL W.C. CHING, OF GEORGIA

#### DEPARTMENT OF STATE

ERNEST J. ABISELLAN, OF FLORIDA
PAUL S. AGUE, OF VIRGINIA
LAURA T. BARBORIAK, OF VIRGINIA
PAUL J. BARRY, OF VIRGINIA
WENDY LYNN BERG, OF VIRGINIA
ELLEN S. BIENSTOCK, OF PENNSYLVANIA
DAN BIERS, OF CALIFORNIA
BRIAN EDWARD BOLTON, OF VIRGINIA
TREVOR W. BOYD, OF NEW JERSEY
JOSEPH M. BOYLE, OF VIRGINIA
DANNA JULIE BRENNAN, OF THE DISTRICT OF COLUMBIA
TIMOTHY S. BRISCO, OF VIRGINIA
CHRISTOPHER CHARLES BROWN, OF WISCONSIN
LAWRENCE J. BURKHART, OF MARYLAND
DANNIE L. BUTLER, OF VIRGINIA
JEREMY D. CADDEL, OF TEXAS
SONIA L. CALCAGNO, OF VIRGINIA
JENNIFER A. CARA, OF VIRGINIA
ANTHONY P. CATINELLA, OF VIRGINIA
MICHAEL JUSTIN CHADWICK, OF VIRGINIA
LYRA S. CHIDONI, OF VIRGINIA
WILLIAM MONROE COLEMAN IV, OF NORTH CAROLINA
DEWITT CHARLES CONKLIN, OF FLORIDA
RENEE YNIGUEZ COTTON, OF FLORIDA
W. PATRICK CRAGUN, OF TEXAS
KEVIN CRISP, OF CALIFORNIA
ELIZABETH ANNE CULVER, OF VIRGINIA
JENNIFER J. DANOVER, OF MINNESOTA
JENNIFER LYNN DAVIS, OF NORTH CAROLINA
JESSICA LYNN DAVIS BA, OF THE DISTRICT OF COLUMBIA
RAMONA G. DUNN, OF VIRGINIA
MICHAEL B. ELIESON, OF TEXAS
KIERA LACEY EMMONS, OF CALIFORNIA
JEROME NORBERT EPPING JR., OF NEW MEXICO
ERIN M. EWART, OF VIRGINIA
MARY FISK-TELCHI, OF ARKANSAS
REBECCA A. FONG, OF CALIFORNIA
CHRISTOPHER T. FRIEFELD, OF VIRGINIA
THOMAS BARRY FULLERTON JR., OF THE DISTRICT OF COLUMBIA
JONATHAN GANNON, OF VIRGINIA
KATHERINE L. GILES, OF VIRGINIA
JEFFREY DAVID GRAHAM, OF THE DISTRICT OF COLUMBIA
CANDACE A. GRAVES, OF NORTH CAROLINA
MICHAEL W. GRAY, OF LOUISIANA
CATHERINE I. GULYAN, OF COLORADO
CHRISTOPHER J. GUNNING, OF TEXAS
DANIELLE ALISA HARMS, OF PENNSYLVANIA
SCOTT E. HARTMANN, OF THE DISTRICT OF COLUMBIA
CYNTHIA R. HARVEY, OF VIRGINIA
CHARLES V. HAWLEY, OF VIRGINIA
TODD MARTIN HAZELBARTH, OF VIRGINIA
NICHOLAS J. HEGARTY, OF NEW JERSEY
KEVAN HIGGINS, OF THE DISTRICT OF COLUMBIA
SHAROLYN HIGGINS, OF VIRGINIA
SARAH PRICE HORTON, OF FLORIDA
MARK HOUGAARD, OF VIRGINIA
WILLIAM B. HURD, OF THE DISTRICT OF COLUMBIA
MICHELE A. JAROSINSKI, OF VIRGINIA
DANIEL JEON, OF VIRGINIA
ANDREW JOHNSON, OF WASHINGTON
CATHERINE L. KEANE, OF THE DISTRICT OF COLUMBIA
ANDREW F. KERR, OF VIRGINIA
MARY-ELIZABETH KNAPP, OF NORTH CAROLINA
RYAN JOHN KOCH, OF COLORADO
KAWEEM MOHAMMAD KOSHAN, OF VIRGINIA
JOSEPH D. LACROSSE, OF VIRGINIA
MARSHA ANN LANCE, OF FLORIDA
JENNIFER LARSON, OF NEW HAMPSHIRE
CHRISTOPHER GEORGE LESLIE, OF VIRGINIA
VLAD LIPSCHUTZ, OF NEW YORK
BONNIE D. LONG, OF FLORIDA
DAVID A. LYON, OF VIRGINIA
ERNEST V. MALATO III, OF VIRGINIA
CATHERINE V. MARINIS, OF VIRGINIA
PETER H. MARTIN, OF THE DISTRICT OF COLUMBIA
JOHN TIMOTHY MAYS, OF NORTH CAROLINA
SHANNON TOVAN MCDANIEL, OF THE DISTRICT OF COLUMBIA
MATTHEW J. MILLER, OF WYOMING
WALTER R. MILLER, OF CONNECTICUT
ADAM B. MOBARIK, OF VIRGINIA
JOSEPH MOONE, OF VIRGINIA
DAVID WAYNE MOYER, OF MARYLAND
TERRY L. MURPHREE, OF MARYLAND
JAI L. NAIR, OF MARYLAND
SIRIANA KVALVIK NAIR, OF MARYLAND
KEISHA P. NEAMO, OF THE DISTRICT OF COLUMBIA
AARON C. OLSA, OF VIRGINIA
BRYAN OLTHOF, OF VIRGINIA
LESLIE T. ORDEMAN, OF NEW YORK
ANDRES PAZ, OF THE DISTRICT OF COLUMBIA
ROBERT P. PECK, OF FLORIDA
DEBORAH Y. PEDROSO, OF CALIFORNIA
MARY ANN PEFFER, OF VIRGINIA
MAURA VAUGHAN PELLET, OF NEVADA
AARON MICHAEL PERRINE, OF WASHINGTON
JENNIFER PETERSON, OF FLORIDA
RICHARD J. PETERSON, OF UTAH
JOSHUA WILEY POLACHECK, OF ARIZONA
ROBERT JASPER POPE, OF MINNESOTA
JENNIFER KATHLEEN PURL, OF CALIFORNIA
SARAH MORRIS RADT, OF VIRGINIA
MARION HEYNA RAM, OF CALIFORNIA
LARILYN L. REFFETT, OF ILLINOIS
CHERYL I. RICE, OF THE DISTRICT OF COLUMBIA
BRUCE O. RIEDEL, OF VIRGINIA
JASON B. RIEFF, OF THE DISTRICT OF COLUMBIA
SCOTT ASHTON ROBINSON, OF CALIFORNIA
RUSSELL C. ROBY, OF VIRGINIA
JENNIFER LEE ROQUE, OF MASSACHUSETTS
ADAM DOUGLAS ROSS, OF CONNECTICUT
ERIC A. SALZMAN, OF NEW MEXICO
BRIANA L.M. SAUNDERS, OF MINNESOTA
CAROLYN A. SCHERER, OF FLORIDA
TAMER SHARKAWY, OF VIRGINIA
MARILYN D. SIRI, OF VIRGINIA
DEMIAN SMITH, OF VIRGINIA
TIMOTHY G. SMITH, OF WASHINGTON
AARON DAVID SNIPE, OF NEW YORK
CHRISTOPHER KIRKLAND SNIPES, OF CALIFORNIA
STEVE J. SO, OF VIRGINIA
MARGARET A. SORENSON, OF VIRGINIA
DEREK SPEAKMON, OF THE DISTRICT OF COLUMBIA
MARK EMANUEL STROH, OF PENNSYLVANIA
SUZANNE M. SUMMERS, OF THE DISTRICT OF COLUMBIA
DOUGLAS MICHAEL SWIGERT, OF VIRGINIA
OSMAN N. TAT, OF MARYLAND
KATYA THOMAS, OF MARYLAND
PAUL STERLING THOMAS, OF COLORADO
KRISTIN L. WESTPHAL, OF NEW YORK
JOHN D. WILCOCK, OF CONNECTICUT
JAMES BENTON WILLIAMS, OF MARYLAND
CHRISTOPHER J. YOUNG, OF VIRGINIA
STACIE ZERDECKI, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

VAN S. WUNDER III, OF FLORIDA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

LAWRENCE C. MANDEL, OF MASSACHUSETTS

## CONFIRMATIONS

Executive nominations confirmed by the Senate May 22, 2003:

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

STEVEN B. NESMITH, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

#### NATIONAL INSTITUTE OF BUILDING SCIENCES

LANE CARSON, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2004.

JAMES BROADDUS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2004.

JOSE TERAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2005.

MORGAN EDWARDS, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2005.

## EXECUTIVE OFFICE OF THE PRESIDENT

NICHOLAS GREGORY MANKIW, OF MASSACHUSETTS, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

## DEPARTMENT OF STATE

JEFFREY LUNSTEAD, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALDIVES.

JAMES B. FOLEY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

STEVEN A. BROWNING, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

HARRY K. THOMAS, JR., OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF BANGLADESH.

RICHARD W. ERDMAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA.

MICHAEL B. ENZI, OF WYOMING, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

PAUL SARBANES, OF MARYLAND, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JAMES SHINN, OF NEW JERSEY, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CYNTHIA COSTA, OF SOUTH CAROLINA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

RALPH MARTINEZ, OF FLORIDA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## UNITED STATES SENTENCING COMMISSION

MICHAEL E. HOROWITZ, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2007.

RICARDO H. HINOJOSA, OF TEXAS, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2007.

## THE JUDICIARY

CONSUELO MARIA CALLAHAN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

## DEPARTMENT OF JUSTICE

MARK MOKI HANOHANO, OF HAWAII, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS.

## THE JUDICIARY

L. SCOTT COOGLER, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

# HOUSE OF REPRESENTATIVES—*Thursday, May 22, 2003*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Forbid, Lord, that our roots become too firmly attached to a given moment in time or that our love be limited to earthly things.

Help us to understand that this journey of life is but an introduction, a preface, a school of love for what is yet to come.

Grant us, Lord, true perspective. Then shall we not be possessed by the things we possess, or love only the things of time, but come to love the things that endure.

Save us from the tyranny of possessions which we have no leisure to enjoy or property whose care becomes a burden or of games which only rob us of time.

May we have the courage to simplify our lives around family, friends and faith.

And by Your grace, may we be fully alive, not merely exist, enjoy our work and find balance in daily living so as to live as the free children of God now and forever. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Iowa (Mr. BOSWELL) come forward and lead the House in the Pledge of Allegiance.

Mr. BOSWELL led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 160. Concurrent resolution expressing the sense of Congress that the United Nations should remove the economic sanctions against Iraq completely and without condition.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

> S. 515. An act to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency.

The message also announced that pursuant to the provisions of Public Law 107–306, the Chair, on behalf of the Majority Leader, after consultation with the Chairman of the Select Committee on Intelligence of the Senate, announces the appointment of the following individuals to serve as members of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community: The Honorable Fred Thompson of Tennessee. Bran Ferren of California.

The message also announced that pursuant to Public Law 99–498, the Chair, on behalf of the President pro tempore, appoints Claude O. Pressnell, Jr. of Tennessee, to the Advisory Committee on Student Financial Assistance for a three-year term.

The message also announced that pursuant to Public Law 105–292, as amended by Public Law 106–55, the Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, appoints the following individual to the United States Commission on International Religious Freedom: Michael K. Young of Washington, D.C.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 10 1-minute speeches on each side.

## HONORING CONGRESSIONAL RESEARCH SERVICE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Members of Congress need access to information. The problem is there is so much of it that to process it and use it to make decisions is often difficult. My staff mines through a lot of information, does a great job with limited resources, and they often need help. And that is where the Congressional Research Service comes in.

CRS helps with research on nearly any topic. They are able to track down new stories, books. They can talk through issues, help review legislation. Congress would not be the same without the valuable service they provide. My office has had the privilege of working with CRS quite closely on a number of issues. In particular, Ted Stedman and Wayne Riddle helped update my Dollars to the Classroom Act.

Tim and Wayne and their colleagues at CRS are an invaluable part of what we are trying to accomplish here in Congress. I thank CRS for their hard work, for their dedication in providing Congress with the tools that we need to address the issues our Nation faces.

## HONORING BETTI AND CARLOS LIDSKI

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay special tribute to two wonderful individuals in my congressional district: Betti and Carlos Lidski, National Trustees of The Foundation Fighting Blindness.

The Foundation is working valiantly to find a cure for retinal degenerative diseases. These debilitating diseases currently claim the sight of over six million Americans. Through the tireless efforts of the scientists at the Foundation and through the generosity of individuals like the Lidskis, exciting strides have been made in finding a cure and providing viable treatment options for those who suffer with these illnesses.

I thank Betty and Carlos and their entire family for the love, compassion, and unwavering dedication that they demonstrate every day for the visually impaired. They are truly an inspiration, not only to our South Florida community but indeed to our entire Nation.

Gracias to Betti and Carlos.

## URGING THE FCC TO COMPLETE ITS WORK

(Mr. BOSWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOSWELL. Mr. Speaker, as the Members know, I with many others in our Congress have served halfway around the world in a place called Southeast Asia. Sometimes we wondered how long it would take to get the equipment to us. It would take up to a month, but it always arrived. It always got there.

Mr. Speaker, I am sure all of us in this Chamber would agree that we

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

must ensure the government operates efficiently and in a timely manner. However, a situation has come to my attention that I find very troubling.

Three months ago, the FCC adopted its Triennial Review order. I believe the economic implications of this action will be of great benefit throughout our Nation. However, the FCC has had 3 months to issue rules on this action and has done nothing. Meanwhile the companies are held hostage because, quite frankly, their hands are tied.

Mr. Speaker, how is it possible the United States can ship a large piece of military equipment halfway around the world in a shorter period of time than it takes the FCC to send its rules up a flight of stairs?

I am here today urging the FCC to complete its work and bring some certainty to the telecommunications industry so that our Nation can move forward and our economy can once again begin to grow.

## JOBS AND GROWTH PACKAGE

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, today or tonight this body will get another chance to vote on the Jobs and Growth package. The benefits of this bill are so obvious, one has to wonder what is going on in the minds of anyone who still opposes it. From their arguments, the opponents in the press and in this building seem to be saying, "Do not create jobs, do not trim taxes, do not stimulate the economy. Washington needs the money to spend on new programs and bigger government."

On the other hand, maybe these tax relief antagonists are saying, "We do not want a Jobs and Growth package because stimulating the employment and energizing the economy will not get us reelected" .

Then again, perhaps the jobs and growth opponents are saying "Give the people our money? Oh, no, you don't. It is our money, not the people's money. Every dollar in tax relief is a dollar out of our hands. We cannot let that kind of power slip out of our control."

The truth is, listening to the tortured arguments of those who still oppose this bill makes even the casual observer want to put a bag over his head just for tuning in.

This is not rocket science. Simple economics tells us when we put more money in the hands of working families and small businesses, we get more spending, new jobs and a revived U.S. economy. It works.

## EXTENDING UNEMPLOYMENT BENEFITS

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, if the House does not act today or tomorrow, 80,000 Americans will be denied extended unemployment benefits on June 1. Every week thereafter, another 80,000 laid-off workers will be denied benefits, totaling $2 million over the next 6 months. This is in addition to the one million unemployed workers who have already exhausted their extended benefits.

Last week, Democrats tried three times to get a vote on extending unemployment benefits, but each time the Republicans said no. We are now in the longest period of negative job growth since the Great Depression. The unemployed are looking for work, but they cannot find jobs. They need and deserve extension of unemployment benefits.

Mr. Speaker, I would hope that you would entertain a request to immediately consider legislation introduced by the gentleman from New York (Mr. RANGEL) and myself, H.R. 1652, to extend unemployment benefits for millions of Americans who have lost their jobs, not just those who have exhausted their State benefits. This request would simply ensure that the unemployed at least get a vote on the floor before we adjourn. We have the money in the Federal Unemployment Trust Fund to pay for these benefits. That is the least we can do.

## BROADBAND REGULATION

(Mr. BASS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BASS. Mr. Speaker, by most measures the United States is the most technologically advanced country in the world. One measure, however, where the U.S. is sorely lacking behind other industrialized nations is high-speed Internet access for citizens and small businesses alike. The United States is not even among the top five countries in these broadband access rates. In fact, we are behind South Korea, Canada, Taiwan and Sweden, just to name a few. The statistics for DSL, a form of broadband that uses the telephone infrastructure, are even worse. The U.S. is not even in the top 10.

The Federal Communications Commission has begun to see that regulation of DSL harms the ability of companies to deploy that technology. Part of the FCC's Triennial Review, adopted this past February, improved some of the DSL regulations. That should help make DSL deployment easier.

However, there are two problems. The first is that the FCC has yet to actually issue these rules agreed upon in February, and the second is that action in February is just a start.

The FCC is looking at whether or not to regulate DSL as a telephone service. The broadband provided over cable, satellite or wireless is not as regulated as telephone.

I urge this body to urge the FCC to move forward on this rule-making process.

□ 1015

## GOING OUT WITH A BANG

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, Congress can recess for the Memorial Day break with a big bang. We are going to increase the debt ceiling by $984 billion, almost $1 trillion, and also later today the Congress will vote to borrow over $300 billion to reduce the taxes, principally of a wealthy few in this country, under the premise that under trickle-down economics, they will invest that money in such a way it will create jobs.

Well, the last tax cut of $1.2 trillion cost the country 1.7 million jobs and caused us to borrow another $1 trillion, because we are now running deficits.

We could make real investments and put people back to work, investments in roads, bridges, highways, mass transit, sewer, water systems, things that increase the productive capacity of the country and the wealth of the country.

By the administration's own measures, if we diverted that money instead of borrowing it to give to wealthy people in the hope it might create the 1 million jobs the President hopes for, we could create 13 million jobs directly in construction, with a huge spillover in economic activity across the country.

There is a very viable alternative: do not borrow money to give to a few people. Never have we borrowed so much to give to so few.

## GOVERNMENT WASTE

(Mr. CHOCOLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHOCOLA. Mr. Speaker, I came to Congress from a business background, and I ran for Congress in large part because I believe that we need more of a small business perspective here in Washington, especially when it comes to eliminating wasteful spending.

Every day, the families and businesses in my district have to make tough decisions. They have to meet a payroll, they have to live within a budget, and small businesses and families must eliminate wasteful spending. I do not think the Federal Government should be any different.

This year the Heritage Foundation identified $386 billion of wasteful Federal Government spending. Mr. Speaker, that was $386 billion. If Congress would only eliminate waste, mismanagement, and inefficiency in the Federal Government, we could save the taxpayers billions and billions of dollars.

But it is not enough to just complain. We have to do something about it. This week the majority leader, the gentleman from Texas (Mr. DELAY), and the Committee on the Budget chairman, the gentleman from Iowa (Mr. NUSSLE), announced a significant effort to root out and eliminate government waste during the 108th Congress. I applaud their effort, and I pledge that I will join them and my colleagues to reduce waste, fraud, and abuse in government in my time in Congress. I urge my colleagues on both sides of the aisle to join in this effort.

## ON RAISING THE DEBT LIMIT

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, at the very time negotiators are putting the final touches on a tax cut that will add several hundred billion dollars to our national debt, the leadership in Congress is planning on slipping through the largest increase in the debt limits in the history of our country, without any debate up or down.

We are about to engage in brinksmanship with the full faith and credit of the United States Government by adjourning before Congress completes action on the debt limit, in order to force the other body to approve the largest debt limit in history. We are going to cut and run.

Mr. Speaker, I am willing to support a temporary increase in the debt limit. In a few moments I will offer a unanimous consent request to approve legislation providing for an increase in the debt limit through the end of the current fiscal year, with the requirement that the President submit a plan to bring our budget back into balance. This will allow us the time to consider a long-term larger increase with the deliberation this serious matter deserves.

If my friends on the other side of the aisle honestly believe that tax cuts with borrowed money is good economic policy, they should stand up and vote to increase the national debt to pay for their tax cuts, relying on parliamentary maneuvers to avoid an up-or-down vote on the issue.

Mr. Speaker, in light of this, I ask unanimous consent that the House end this charade of borrowing money to pay for tax cuts and immediately take up H.R. 2156, which provides a temporary increase in the public debt, but makes no room for additional debt-financed tax cuts.

The SPEAKER pro tempore (Mr. LATOURETTE). Under the Speaker's consistent guidelines, the gentleman is not recognized for that purpose, and his time has expired.

## KEEPING MONEY IN THE PRIVATE SECTOR

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, it is really very simple: there is waste in the private sector, just like there is waste in the public sector; but the waste in the business world pales in comparison to the waste in government. Thus, every dollar we can keep in the private sector creates more jobs and lowers more prices. We get more bang for the buck, so to speak, from every dollar kept in private hands.

Who benefits the most from having more jobs and lower prices? The poor and lower-income and working people of this country. This has been proven time and again all over the world. Small government means a good economy. Too much government means a starvation economy where the middle class gets wiped out.

Mr. Speaker, that is what this tax cut is all about. If people really want to help the lower-income and working people of this country, they will support the President's tax cut initiative.

## ECONOMIC CLASS WARFARE

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, the Republican tax plan is nothing more than voodoo economics. Only in Washington would Republicans tell average American families that raising their national debt is a way to solve this economy's malaise. Raising their debt.

This is not a $350 billion tax package; it is a $1 trillion tax package, because no one believes that it will be ultimately eliminated once it is enacted. And that $1 trillion tax package is a job killer, not a job creator. Ask the 2 million-plus jobs we have already lost under the original Bush tax plan.

And, yes, it has a child tax credit; but then, before you know it, it is taken away and eliminated. But guess what is not eliminated? The accelerated reductions in the top income tax. They are forever. Child tax credit: here today, gone tomorrow. Top tax relief: there forever. That is class warfare.

## FEDERAL PRISON INDUSTRIES TAKING AMERICAN JOBS

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOEKSTRA. Mr. Speaker, one of the fastest growing companies in America today is Federal Prison Industries. In the last 2 weeks they have unveiled a brand-new scheme to take jobs from the private sector and move them into Federal Prison Industries.

Their new scheme is, under competitive bidding, companies come in and present their bids; and at the opening, companies get excited because they have won the bid. But Federal Prison Industries comes in and says no, no, no, you do not understand the new bidding process. Give us your bid. We will take a look at it, and then there will be a second round of bidding. But the only company that gets to bid in the second round is Federal Prison Industries.

Mr. Speaker, it is time to stop this charade. It is time to provide best value to government contractors. Let the bidding process work. Let American workers compete against Federal prisons, so they can keep their jobs.

## TAX CUT PLAN A FRAUD AND FAILURE

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, I rise to salute the common sense of the American people who, after weeks of stumping by the President, have concluded that this alleged tax cut plan is a fraud and a failure.

According to the Wall Street Journal, Americans two to one have concluded that this plan will have no real effect on U.S. economic performance, and the American people are right. Six out of ten Americans have concluded that this plan shortchanges job creation in favor of tax cuts weighted to the rich; six out of ten Americans have concluded that this tax cut plan benefits the wealthy more than average people; and six out of ten Americans have concluded that this tax cut plan will increase the Federal budget deficit. And they are right, because we will now have to increase our debt limit $894 billion.

Mr. Speaker, the American people have got it right, because they have common sense. In the midst of this situation, we ought to create jobs, not debt. In the midst of this situation, we ought to be favoring working people, not just the wealthy.

The American people have got it right; and I will tell you, they are not buying this used car from this President.

## CIVIL SERVICE REFORMS: REINSTATING A WORKERS' BILL OF RIGHTS

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in frustration over the Committee on Rules' failure to allow the Cooper Civil Service Bill of Rights to be offered today as an amendment to the defense authorization bill.

On the day that Congress left for the Easter recess, the Department of Defense presented Congress with the largest civil service reform package in nearly half a century. Impacting nearly 620,000 Department of Defense civilian employees, the proposed bill strips workers of fundamental protections, including the right to collective bargaining and the right to belong to a union without fear of discrimination. In fact, it does not even guarantee overtime pay for firefighters.

Although I agree that the Department of Defense civil service reforms are necessary, the manner in which these reforms have been moving through this body is disgraceful.

Congress is doing a disservice to our hard-working men and women at the Department of Defense by failing to bring this issue up for a debate. The Cooper amendment would have restored, among many things, critical worker protections, including veterans' preferences, freedom from political patronage, collective bargaining rights, membership in labor organizations, and protection from discrimination.

Mr. Speaker, the leadership in this body has failed our Department of Defense employees.

## BURDENS BEING PLACED ON BACK OF VETERANS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, as we approach the Memorial Day weekend, I think it is important for the veterans across this country to understand what this body is doing. We are placing additional burdens on the backs of our veterans for the health care they receive through the VA system in order to give a larger, more generous tax cut to the richest people in this country, many of whom have never served this country in the military.

Why do I say that? We passed a budget in this House supported by the President that asked for a $250 annual enrollment fee so that many of our veterans will be able to participate in the VA health care system. If they do not pay the enrollment fee, they cannot participate.

The President has asked for an increase in the co-payment for prescription drugs from $7 to $15 a prescription. They have placed a gag order on their health care providers, saying they can no longer actively inform veterans of the benefits they are legally entitled to receive.

So here is what we have: a decision by the President and the Congress to put an additional financial burden on the backs of our veterans so that we can give a more generous tax cut to the richest people in this country. It is wrong.

## PROPOSED TAX PLAN KILLING JOBS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, 2 years ago President Bush brought a $1 trillion tax cut to the American public in the name of creating jobs and stimulating the economy. Since the time that he has done that, the economy has lost 2.7 million jobs; 2.7 million Americans out of work, the deficit has soared dramatically, and the economy is moving sideways, at best.

Now what does the President suggest? Today he suggests we cut taxes again, another $1 trillion, and that $1 trillion is supposed to create jobs. Very shortly President Bush will reign over the loss of 3 million jobs since he has come to office.

The President keeps putting forth this plan as a means of creating jobs. What it has done is it has killed 3 million jobs. The President's economic plan has yet to create its first job, its first job; but it has killed 3 million jobs in the American economy. The American public ought to understand, it is a $1 trillion giveaway to the richest people in the country and a job killer for working Americans.

## APPOINTMENT OF CONFEREES ON H.R. 2. JOBS AND GROWTH RECONCILIATION TAX ACT OF 2003

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

### MOTION TO INSTRUCT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. STENHOLM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2 be instructed—

(1) to include in the conference report the fiscal relief provided to States by section 371 of the Senate amendment, and

(2) to the maximum extent possible within the scope of conference agree to a conference report that will neither increase the Federal budget deficit nor increase the amount of the debt subject to the public debt limit.

□ 1030

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Texas (Mr. STENHOLM) and the gentleman from California (Mr. THOMAS) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in his State of the Union address, the President told us this country has many problems, and that we will not deny, we will not ignore, we will not pass along our problems to other Congresses, other presidents, and to other generations.

As a proud grandfather who wants to leave a better future for my grandchildren, I applauded that statement; and I applaud it today. Unfortunately, our current budget, our current economic game plan, our current budget policies, would do precisely what we all applauded we should not do. Every dollar of the tax cuts passed by the Senate will be added to our $6.4 trillion debt.

At the same time, we are debating another round of tax cuts, the leadership of this House is trying to slip through an increase in our debt limit of nearly $1 trillion, the largest increase in the history of our country. Our total debt in this country in 1979 was less than the amount that we will borrow in a period of less than 2 years. That is what we are objecting to in this motion to instruct conferees.

I do not oppose tax cuts. In fact, I have stood with my fellow Blue Dogs and an overwhelming majority of this side of the aisle, and a few from that side of the aisle, and voted this year to do the tax cuts on the marriage tax penalty, to do the child tax credit speed-up. But our budget, our bill, did not borrow the money to do it.

My objection to the tax cuts that we are about to vote on today is that they are being done with borrowed money. It is irresponsible to pass a tax cut for ourselves today that leaves the bill to our children and grandchildren in the form of a crushing national debt.

If my friends on the other side of the aisle honestly believe that tax cuts with borrowed money is good economic policy, they should be willing to stand up and vote to increase the national debt to pay for their tax cuts, instead of relying on parliamentary maneuvers to avoid an up-and-down vote on this issue.

Our current economic and budget policies will increase the most wasteful spending in the Federal budget, the $332 billion collected from taxpayers simply to cover our national interest payments. The tax bill passed by the House would increase this wasteful spending by $273 billion over the next 10 years.

The best way to ensure that we, as well as our children and our grandchildren, are all overtaxed for the rest of our lives is to keep borrowing money and running up our debts. Our children will be forced to pay even higher taxes just to pay the increasing interest on the debts we incurred and getting fewer services from the government for the taxes they pay.

Under the majority's budget, the debt tax will consume more than 20 percent of all taxes going to pay the interest on our national debt by the end of the decade; $520 billion the Congress will have to tax the people in 2012, assuming 4 percent interest, assuming 4 percent interest.

That is under the economic game plan that, if it works exactly like the proponents and the chairman of the Committee on Ways and Means who will defend this, sincerely in his own heart, if it works exactly like they say and it creates exactly the amount of jobs that they propose, we will increase our national debt to $13 trillion over the next 10 years, continuing to ignore the baby boom retirements that will occur beginning in 2011, continuing to postpone to the next Congress and the next president dealing with the most serious problem facing the economy and this country, which is, how do we deal with the crushing unfunded liability of the Social Security system and the Medicare system, ignoring that in order to pass what they will explain, as we have heard in 1-minutes today, is a jobs-creating tax bill.

I hope they are right. As I said 2 years ago when we stood on this floor and opposed the then tax cut of the 2001 variety, I hoped that I would eat the biggest plate of crow in town. I sincerely did. For the good of our country, I hope my friends on the other side of the aisle are right, because it will be better for our country if they are right.

Unfortunately, their track record thus far does not meet the rhetoric that we will hear over and over and over again.

When my Republican colleagues talk about the economic benefits of tax cuts, they conveniently ignore the harm to the economy and the impact on private capital markets from the government running large permanent deficits.

Just yesterday, Federal Reserve Chairman Alan Greenspan told the Joint Economic Committee that deficits do matter in any evaluation. What happens to deficits is an integral part of the analysis. That is why the Congressional Budget Office and the Joint Committee on Taxation both concluded that the tax cuts would actually harm the economy over the long term by increasing the deficit.

I ask my colleagues, as one Democrat who used to vote with them, with my friend who came to Congress at the same time in 1979, when we used to try or we passed the balanced budget constitutional amendment in 1995, what has happened to him? What has caused the gentleman to suddenly start saying that deficits do not matter, balancing the budget does not matter? If we believe that deficits matter, if we agree that we should not be placing a crushing debt burden on our grandchildren, vote for this motion to instruct and then follow it. Do what this motion says.

The motion the gentleman from New York (Mr. RANGEL) has put forward today, or I have been privileged to do on his behalf to this point, is to include in the conference report the fiscal relief provided by the States to the maximum extent possible within the scope of the conference, agree to a conference report that will neither increase the deficit nor increase the amount of debt subject to the public debt limit.

Mr. Speaker, this is a serious matter today. It is probably one of the most serious points in the history of our current generation that we have been to. I hope that those that believe that increasing the debt is not a problem, that there is an unlimited amount of money that the United States can borrow for whatever purposes we wish to borrow and spend it, because if we will look at the spending side of the ledger, we will see that spending is going to increase at the greatest rate in the last 25 years.

So when we hear that it is Congress' spending that needs to be controlled, look at the facts. Do not deal with rhetoric, mine included. Just look at the facts. Somehow, some way we have got to focus on the facts of what we are doing to this country: pursuing an economic game plan that most economists in this country say will not work, cannot work under the conditions we are living in today.

Mr. Speaker, I ask unanimous consent that the gentleman from New York (Mr. RANGEL) be permitted to control the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RANGEL. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would ask my friend and colleague, the gentleman from Texas, and I did not know whether he was going to depart the Chamber, having yielded his time, but if he is not, I listened carefully to what the gentleman said. We did come together, and I have read this motion to instruct.

As the gentleman knows, we have to bring the House and Senate together, since two pieces of legislation have passed and they are different in each House. This motion to instruct asks, and we all know that motions to instruct are not binding, but they do focus on what is important to people, the motion asks that we include in the conference report the fiscal relief provided to the States by section 371 of the Senate amendment. That amounts to $20 billion in two different forms, $10 billion to be distributed through the Medicaid structure and $10 billion through a pro rata formulation with minimums to smaller States and smaller territories.

Whenever we have to reconcile the differences between the two bodies, we oftentimes have to listen very carefully to whether or not what one or the other side is asking for is important to them. Having talked to a number of my colleagues, both Democrat and Republican, on the other side of the Capitol, I believe this provision is important to them. I believe it is important to them to the level that, if it is not included, they would seriously consider the way in which they would be required to vote on a conference report that was placed in front of them without this provision.

So I can tell the gentleman that I have every intention of including section 371, as we can mutually agree to internal amendments to that section in the conference report.

The second item in the motion to instruct begins with the language "to the maximum extent possible," which I believe is a very wise and even sage observation that what we are going to do is, as humans, attempt to deal with the situation as best as we are humanly capable of dealing with it, to the maximum extent possible.

I have no problem with any of the language following "to the maximum extent possible", although I did hear the gentleman read that section and not read that portion of the section, as though it was a dictate that certain things must follow; but in fact it is not, the way it is written. It is a desire to the maximum extent possible to do certain things. When I read it that way, I have no objection to what the gentleman is saying in the second section, either, when I read it the way it is written.

I would tell the gentleman, his reference to the time we came and the decisions that we have made, at the time we came the gentleman and his party were in the majority. Currently, the gentleman from California and his party is in the majority.

One of the differences between the time the gentleman was in the majority and the time we were in the majority is that we have actually paid down on the national debt more than half a trillion dollars since we have become the majority. So I think not only in word but in deed we agree with the gentleman.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Texas.

Mr. STENHOLM. Would the gentleman care to revise and extend the remark that he just made about the success of his party in the majority and what has happened to our national debt?

Mr. THOMAS. I did not say what has happened to our national debt. I said "paid down on the national debt," money that went to the reduction of the national debt. That was my statement.

Now, let me go on and talk about his concerns and my concerns about deficits, because when we have a deficit and when we add to a deficit, $1 added to the deficit in one particular way I believe is substantively different than $1 added to the national debt and deficit in a different way.

For example, when we have fought past wars, especially significant societal and in fact world wars, when we have to build that battleship, build that carrier, build that bomber, build that tank, we clearly spent money we did not have. That is a dollar spent in deficit, but it was spent as an investment to ensure our way of life. No one would argue that that was not a very high calling for the deficit dollar.

In the decades following World War II, and especially in the 1960s and in the 1970s and to a certain extent through the 1980s, it became a habit when the revenue did not equal the desired spending of the Federal Government that the Congress would spend $1 it didn't have, a deficit dollar, spent to sustain programs or to create new programs which would then in the future demand more deficit dollars to keep them going, unless there was a decision to raise taxes and bring in the revenue that would be required to cover the new and growing costs of the Federal Government.

What happened was that year after year after year deficit dollars were spent. What for? To sustain spending programs. That became known as the structural deficit, that they just continued a deficit that was built in because it was easier, more convenient, less painful than asking the American people to contribute more to cover the programs they wanted to create.

I do not believe anyone should support for any length of time a structural deficit. That is just wrong. I oppose and I believe the gentleman from Texas opposes structural deficits. That is one kind of a deficit dollar.

The other kind of a deficit dollar I have talked about in the context of war, but we can also talk about a deficit dollar in the context of peace.

□ 1045

Mr. Speaker, because the deficit dollar in war was an investment in national security, you can spend a deficit dollar in peace as an investment in national strength, i.e. make sure the economy is strong, create jobs; and when you have jobs, people are being paid, more revenue comes into the Federal Government, and you can see that deficit dollar is not a structural deficit. It is spent in a way to grow the economy to be able to cover the expenses the Federal Government incurs. That is not a structural deficit. That is an investment deficit dollar.

While there is no question we wish there were no deficit, recent history would clearly indicate what has gone on which certainly has contributed to the problems we have; not just external, internal as well; decisions that people made about investments and the ability to convince people that certain things were real when perhaps they were not, where you create investment opportunities that fail.

One of the great things about this country is you can succeed; but in creating a structure that allows one to succeed, it is also necessary that we have a business structure where we allow people to fail. One of the fundamental differences between the United States and Europe in creating jobs is that we understand creative destruction because we can then rebuild. We can start anew. If we hang onto what we have got, if we do not risk, we cannot gain.

What happened was in many of the investments they were not placed wisely. I do not think that the government should deal with that, but nevertheless it had an impact on the economy. We can go over a number of other factors that have placed us where we are today.

The gentleman's emphasis in the motion to instruct is should we spend deficit dollars not for structural deficits, and that is why we are opposed to significant increases in spending, if we do not have the money, but should we spend a deficit dollar investing in the economy so it can grow. There is a legitimate difference of agreement as to whether, and how we do, it is appropriate or not. I have no problem dealing with that. That is the structure we have here and the debate that will take place.

So the way the gentleman has worded his motion to instruct in which I think to be able to bring back a conference report the first one needs to be included in ways that make it more amenable to more people, and the way the gentleman words his second provision to the maximum extent possible, the gentleman from California would accept the motion to instruct. I have no problem with it based upon our clear difference notwithstanding about the way we spend deficit dollars, because to the maximum extent possible, we will not because it does not say you will not. One does not create a procrustean bed where if you do not fit cramping you in that you are in countervention to your position, no.

Mr. Speaker, I accept what I consider to be a reasonable proposal to the maximum extent possible. I would indicate to the gentleman and if he has now transferred his time to the gentleman from New York, if the gentleman is willing to yield back the balance of his time, I am more than willing to yield back the balance of my time since we are in agreement.

If the gentleman, therefore, and I would recognize the gentleman from New York, is willing to yield back the balance of his time, I will yield back the balance of my time; we will agree to the motion to instruct so we can get on to the conference.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I think I should be recognized by the Speaker.

Mr. THOMAS. I am yielding to the gentleman on my time to respond to my question. Is the gentleman willing to yield back the balance of his time?

Mr. RANGEL. I am anxious to be recognized by the Speaker.

Mr. THOMAS. Mr. Speaker, then I will say to Members, everything that is being said after the refusal to accept the offer to yield back so we can go to conference is nothing more than politically motivated. If they were sincere in this motion to instruct, which we are willing to accept, we would be on to the conference. Instead, we are going to hear a whole series of discussions which obviously can be made when the conference report is brought back.

I see on the other side of the aisle the gentleman from Maryland (Mr. HOYER), the majority whip, who has taken the mike more than once asking, What has happened to the comity in this body? Why are we not working together? We should show decent respect for either side. All I am saying is, here is the offer: let us yield back, let us accept the motion to instruct and go to conference. The answer is, no. Clearly the intentions, the motivations, the language probably is here for an entirely different reason; and actually, I am saddened a little bit.

Mr. Speaker, I tell my friends on the other side of the aisle, you have offered, we have accepted.

### POINT OF ORDER

Mr. TANNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman will state his point of order.

Mr. TANNER. Mr. Speaker, is it permissible for a Member to impugn the motives of another Member? I think he is out of order because he has impugned the motives of the gentleman from New York (Mr. RANGEL) and those of us who want to speak on this issue by his words.

The SPEAKER pro tempore. In the opinion of the Chair, a Member who has only talked about political motivation would not be in violation of the rules.

The gentleman from California (Mr. THOMAS) is still recognized.

Mr. THOMAS. Mr. Speaker, apparently my friends on the other side of the aisle are interested in employing parliamentary maneuvers so I am not able to continue to make a very basic point. The basic point is this: if we had yielded back our time, it would have been a sincere offer and a sincere acceptance.

Since they are not willing to yield back, everybody understands what this is all about.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first thank the graciousness of the distinguished chairman of the Committee on Ways and Means and congratulate him on the sincerity with which he accepts the motion to instruct the conferees for creating the atmosphere so we can have discussion on what is happening here.

This is a motion to instruct the conferees; and to people who are not aware of it, there is an assumption that there is a conference, a conference that involves Members of the House and the Senate appointed by our great Speaker to resolve the technical differences in a bill from the House of Representatives and the Senate, for us to be represented, Democrats and Republicans alike. And the distinguished chairman of the committee says that he will accept our recommendations that were drafted in parliamentary language to report neither an increase in the Federal budget deficit nor an increase in the amount of the debt subject to the public debt.

Now, while he is saying that this is his conduct in the conference, all of last night and this morning we have heard that the chairman of the Committee on Ways and Means has already reached agreement with his Republican friends in the Senate. I do not know who is going to be appointed as a conferee, but it is abundantly clear that they have reported to the press that they have already decided what they are going to do, and so the whole idea that democracy is taking place here has really been shattered by the fact that the Republicans have yet to come out of the dark room that they have been in to share with us where will the conference be.

I do hope that we understand this, that the eloquence with which the chairman of the Committee on Ways and Means described how repugnant the deficit is to him, that he only found it difficult to live with because it was caused by Members of Congress' propensity to spend money for programs.

I really think that is the key to the whole thing. He has no problem in creating the deficit for tax cuts, but his problem is when we are spending it for education and housing and Social Security and Medicare and prescription drugs. That is where he draws the line.

It seems as though while the papers are concerned with whether the negotiators, and that is what is referred to on the front page of the Wall Street Journal, not the congressional conferences taking place trying to resolve differences, but what he and his Republican counterpart have decided that they are going to do for long-term economic gain, something similar to what they did several years ago when they said they had a program to create jobs, and it turns out that they had a program to increase deficits.

So here we are today saying that they have agreed on a $350 billion tax cut when everyone inside the Beltway and in the House and Senate knows that they have agreed to a trillion dollar tax cut and a trillion dollars in borrowed money; and the fact remains that for the next decade the interest that we will be paying on the money that has been borrowed for tax cuts will be more than the money that we ever will be paying for discretionary programs to provide assistance for Americans.

So now that they have come out of the dark room and agreed that they are going to do the best, I can tell Members this: no matter what they come out with, it is the American people who are going to pay the price for this dramatic shift as to when did we start borrowing trillions of dollars in order to reduce the taxes on the precious few already-blessed people with high incomes that will be the beneficiaries of it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will reach my hand out once again; we are willing to accept it. You slapped it away once. I hope the gentleman does not slap it away a second time because as the gentleman from Maryland (Mr. HOYER) has reminded us time and time again, there is not enough comity in this House, that we ought not treat each other the way we have been treated. I thought I would take the initiative.

I find it interesting when the request is made repeatedly on this side, apparently it is just a request. When I accept that offer and reach my hand back, it is denied. So then you wonder why the request was made in the first place, or perhaps it was just a request that they hoped would remain out there, floating ephemeral.

What I have done is I have put my hand out and said let us get to conference. The gentleman from New York (Mr. RANGEL) says he does not know where the conference is or where it is going to meet. I tell the gentleman from New York, I do not know either. Why, as the gentleman well knows, the Senate is organizing this conference. It is the chairman of the Senate Committee on Finance who will be the chairman of the conference. They will organize it, and they will structure it.

If we can get this motion to instruct behind it, I would have preferred yielding back the balance of my time, but obviously statements need to be made, but then maybe we will find out where it is; and he and I can go together to where it is that the chairman of the Senate Committee on Finance will decide where and when it should meet.

So if the gentleman is concerned he does not know, once again, on a totally equal basis, I do not know either. We will try to pursue that together. Perhaps that is one thing we can do together today because clearly you are not willing to accept the gesture of moving on so we can actually do it by accepting our offer on the motion to instruct.

☐ 1100

I guess it just concerns me a little bit because from now on when I sit on the floor and listen to the platitudes about how we ought to work together, we will have a little better understanding of the context in which those statements are made. We understand it is political rhetoric, just as everything that is going to be said from now on is political rhetoric.

I just wanted you to know that in all sincerity, to live up to what you said, I wanted to give you a chance. You offered. We are willing to accept. You are not willing to accept our offer to accept. That really is sad.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I am even more frightened now that the chairman has indicated publicly how little he knows about what the Senate is doing since he has been on television all night sharing with us that he has been negotiating with the Senate, but I accept his lack of understanding of where the conference is going to be.

Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, the chairman can say over and over and over again that he reaches out his hand in comity in seeking bipartisan participation. But no matter how often he says it, no matter how sincerely drips the lines from his mouth, the reality is starkly different. Yes, we reject a sham offer for a sham process, predetermined and not inclusive, a process that is leading to the injuring of our country, the undermining of our economy, the destruction of jobs. Those are the facts, as the gentleman from Texas (Mr. STENHOLM) said earlier. The creation of gargantuan debt. And, yes, as the chairman knows but will not repeat, under Mr. Reagan and Mr. Bush, their budget request, forget about what Democrats did, their budget request requested more spending than the Congress gave them in those 12 years. This President has asked for more spending than we had last year.

Mr. Speaker, I urge my colleagues to support this motion to instruct, not caveated, not if you mean this or that, as the chairman says. This motion instructs conferees on the tax bill to include the provisions on State aid as provided for in the Senate. Frankly, I know it galls many of my colleagues on the other side of the aisle, none more so I think than the chairman, that the States are now asking the Federal Government for help in weathering their worst fiscal crisis since World War II, caused in large part by the fiscal policies of this administration. Do we ignore the fact that many States are now considering massive layoffs in an effort to save money and balance their budgets? The chairman would say yes. Do we ignore the fact that States are now considering Draconian cuts to Medicaid and other vital services for our most vulnerable citizens? The chairman would say yes. Do we ignore the fact that at least one State, Kentucky, is even considering letting prison inmates out early to save money?

Mr. Speaker, that puffed-up piety, that dripping sanctimony that so often laces the lectures on fiscal responsibility that our Republican friends are so fond of making would have far more credibility if the GOP actually practiced what it preached. But the party that turned record budget surpluses into record deficits, the party that squandered a projected $5.6 trillion surplus, and the party that later today intends to vote for a $350 billion bill, it says, but everybody on this floor who is at all honest knows it is a trillion dollars, plunging us deeper into debt, demanding a record increase in the statutory debt limit should not be lecturing anyone on fiscal responsibility.

This motion instructs conferees not to increase the deficit, which the CBO now projects will be well over $300 billion, and not to include language to raise the debt limit. Our Democratic alternative, of course, was paid for with offsets. The GOP bill is not.

Ladies and gentlemen, if you care about your country, if you care about honesty with the American public, if you care about any personal responsibility that we have as Members of the Congress, you will vote for this motion to instruct and against this package that will harm our country.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Maryland called my offer to yield back the balance of the time and accept the motion to instruct a sham offer. All you have got to do is call me on it to see if it is a sham or not. You yield back your time; I will yield back my time. That was rejected.

The next test will be since we have already said we would accept the motion to instruct is when we finish debate, all time has expired and the question will be on the motion. We do not intend to call a rollcall vote. There would be no need to call a rollcall vote if in fact you have offered and we have accepted. It would be a sham to call a rollcall vote. We do not intend to call a rollcall vote. If you on the other side of the aisle call a rollcall vote after you have offered and we have accepted, then it is pretty obvious where you are going. Words piled upon words cannot bury this simple fact: I offered; you refused.

Of all sad words of tongue or pen, the saddest are these: "It might have been."

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

It is certainly understandable why the chairman of the committee would not want us to talk about this bill. It is certainly understandable that he would not want the American public to learn from us that this is a trillion-dollar tax bill that plunges this country faster and further into debt than anytime in history. He certainly would not want us to tell the American people that when they did their first tax bill of a trillion dollars 2 years ago, that since that time we lost 2.7 million jobs, the economy has faltered, the market has faltered and the Bush administration and the Republicans in the House and the Senate do nothing.

They do nothing but take care of the Bush class in America against the middle class in America. I am sure the gentleman from California would not like to have us tell that to the American public, just as he did not want us to tell the American public when we had a substitute and they denied us time to talk about it, they denied us the right to offer. Why? Because we had a substitute that was fair and fast acting, would have created a million jobs and no long-term deficit. They could not figure out how to construct one. They did not have the discipline to construct it. They did not have the morals to construct it. They did not have the ethics to construct it, so they just dove into the pit of debt and deficits and red ink.

And now as they emerge from that pit, it drips off of them, deficits, red ink, muck, to be left to the future generations. That is their plan. And I am sure they would not like us to talk about it. And I am sure that he will beg us to yield back our time. But we think this is the House where the people rule. This is where the people ought to hear what is taking place here. The facts that cannot be buried, as he would say, is the exploding deficit, the cost of these tax bills, a $400 billion deficit this year, a $7 trillion deficit over the long term and the immorality of passing that on to future generations.

Mr. THOMAS. Might I ask the Speaker the remaining division of time?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California (Mr. THOMAS) has 12½ minutes, and the gentleman from New York (Mr. RANGEL) has 11.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from California indicated that they were quite disappointed that their substitute was not made in order. What the gentleman full well knows is that the substitute did not conform to the rules. That they could not construct, or chose not to construct a substitute that did not violate the rules, that was outside the rules. And what they wanted was to ignore the rules.

What the majority did was construct a program that fit the rules. I understand, based upon the way you behaved when you were the majority, that you do not like the constraining aspect of rules. We believe that you ought to play the game according to the rules, and you do not think rules should apply to you. We understand that. But for you to argue that your motion should be made in order in which we had to follow the rules of the House and you did not is to say, let's have a game of baseball. You get nine in the field, we get 28. You get three outs, we get 12.

I certainly understand based upon the way you performed when you were in the majority, you do not get it. Why can we not have 28 in the field? Why can we not have 12 outs? Why can we not spend more than we raise year after year after year when you had the ability not to? But now somehow the Holy Grail is to not spend more than you take in, and we would sip from that cup every day if we did not face the problems we face now. Just as we did in wartime when we spent dollars we did not have to try to save our country, we are trying to do the same thing right now.

I understand your desire to score political points. But the argument that somehow we do not want people to know what we are attempting to do, as soon as we can get to conference, is absolutely the most amazing argument I have ever heard. You know why? Because once you understand what we are doing, it completely blows up your rhetoric. Those old yellowed sheets of class warfare give to the rich are actually going to have to be rewritten. Or maybe you just ignore, as you have done a number of times, reality.

What we are attempting to place before this body is a change in the Tax Code that does not give no taxation of dividends or capital gains to the most rich. Warren Buffett does not get zero. Bill Gates does not get zero. We are attempting, and the longer we stand here the longer it is going to take us to present it to you, to create a change in the Tax Code that gives zero to who? No tax on dividends or capital gains to those who pay the lowest amounts of taxes. In the 10 and the 15 percent bracket, zero. Their modest investment in the engine that drives our economy, the private sector, should not be subjected to the Federal Government taking money out of that small pot. That is what we want to put in front of you. I think you are a little worried about it because your old syllabus will not work. We do not want to provide zero tax to the richest in America. We want to provide zero tax in the investment of the engine of this economy to those on the bottom and the second to the bottom rung of the ladder, so that they can amass wealth, they can understand what it means to be a capitalist, they can share in the resources of this country; and I believe your real fear is that eventually they will understand what it means to think and be a Republican.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

It is so sad that the gentleman constantly refers to this as some type of a game. I am certain to the millions of people without jobs and without hope that they consider this tax cut just as repugnant as the words that have been uttered about this class warfare. It is a class warfare, and it is the working class that are the victims.

Mr. Speaker, it is a great honor to yield 2 minutes to the gentlewoman from California (Ms. PELOSI), our distinguished leader.

□ 1115

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, I listened intently to the comments of the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, just now as he talked about the rules of the House and those rules foreclosing the option of the Democrats to be able to bring a bill to this floor.

What I heard the gentleman say is that the rules of this House are rigged against working families in America; that the rules of this House under his interpretation are rigged against bringing a bill that would create jobs, that would invest in infrastructure in our country and immediately create jobs which would help address the concerns of cities, States, and localities in terms of homeland security needs so important to the American people; that it is rigged against extending unemployment benefits to America's workers where the money is there for that purpose and which would inject demand immediately into the economy, immediately creating jobs because of people having to spend that money on necessities; and that the rules of the House are rigged against fiscal responsibility.

The Democratic proposal was at a cost of zero. It paid for itself. It was offset. So if the rules of this House do not allow us to come here and fight in a very direct way for working families in America, for the middle class in America, then the rules of the House should be changed.

The gentleman knows full well that the minority had every opportunity for amendment and substitutes when the Democrats were in power. But it is no use talking about process. Let us talk about jobs. Let us talk about job creation. Let us talk about immediately infusing demand into the economy. Let us talk about fiscal soundness. Let us talk about the debt limit, that this irresponsible, reckless Republican proposal that may be coming to this floor will demand that we lift the debt ceiling once again, further indebting, further indebting America's children well into the future, but without a vote and without a debate and without the American people understanding the damage that the Republicans are doing to our economy and to our future.

Republicans are supporting record debt increases to finance a tax cut that hundreds of economists and Federal Reserve Chairman Alan Greenspan agree will not grow the economy. And sadly what President Bush did by putting forth his proposal has started the unraveling of fiscal responsibility in our country. That is not leadership. How irresponsible that was.

But the Republicans in Congress picked up the baton and started a feeding frenzy of further tax cuts, further responsibility in terms of our budget. And some of their proposals even administration allies, such as Kevin Hassett of the American Enterprise Institute, are saying that what they propose in their dividend plan is one of the most patently absurd tax policies ever proposed.

Mr. Speaker, public policy is important. Fiscal policy, budget policy makes a difference. It has ramifications in the economy. In order to back up their claim that passing this bill will stimulate the economy this year, House Republicans are using gimmicks that border on the absurd and have very damaging public policy ramifications. Their bill delays billions of corporate tax payments, otherwise due September 15, for 16 days until October 1 when the next fiscal year begins. How does delaying taxes for 2 weeks create jobs for American workers?

Again this is process. We want jobs. In order to jam more tax breaks for the wealthy into this bill, Republicans have included provisions to end middle-class-oriented tax cuts, leaving middle-class Americans with a tax increase in 2006. This will force a future Congress to either increase taxes or add billions to our spiraling debt just as baby boomers are retiring.

The tax cuts for the higher end ought to be left alone. The middle class is asked to subsidize the wealthy. That is simply not right. The projected deficit for this year is already a record high, and the Republican's want to add $1 trillion more in debt to pay for this tax cut. It defies logic. It defies economics, and it contradicts promises made to the American people.

Shortly after taking office, President Bush said, "We should approach our Nation's budget as any prudent family would." And last August he reiterated, "We cannot go down the path of soaring deficits." We cannot go down the path of soaring deficits? What are we doing today? This tax bill breaks that promise.

The reckless tax bill promoted by Republicans in Congress fails to help those who need it most, the middle class; fails to create jobs; fails to maintain fiscal responsibility.

Democrats have their own initiative, a plan that creates one million new jobs this year and gets the economy moving again without adding to the deficit, and the Republicans tell us that the rules do not allow that.

We are fighting for a return to fiscal responsibility. The motion to instruct is part of that fight. I urge my colleagues to support it, and I commend the gentleman from New York (Mr. RANGEL) for his leadership in putting it forth.

Mr. THOMAS. Mr. Speaker, I yield such time as I may consume.

I find it ironic that the yellowed notes made their way down into the well in terms of, need I say, class warfare, in terms of cuts for the richest people in America and the poor working people do not get a break. If someone would actually examine what it is we propose to do, it is to remove the dividend and the capital gain tax on working Americans, on those in the 10 and the 15 percent bracket, that we retain taxes on the richest Americans, remove them from those in the lowest brackets.

I know it does not fit their yellowed notes, but that is what we propose to do. And I know change is difficult.

I especially know change is difficult when the minority leader takes the well and begins to talk about how fair they were when they were in the majority, but never mind that. And if the Members will read in the CONGRESSIONAL RECORD, it trails off into a failure to present specifics about how reasonable and fair they were. In fact, she said the rules of the House have been rigged against them. I find it ironic because all we say is follow the rules.

But since the subject was brought up, let us visit a little recent history. When they were in the majority, there was not even a motion to recommit guaranteed to the minority. The present rules of the House under this majority are the most liberal rules ever extended to a minority in the history of the House of Representatives. They just apparently do not remember or do not want to remember. Their rules were far more restrictive toward the minorities than the current rules. Guarantees in today's rules; not guaranteed under their rules.

So everything we hear is rhetoric. Some of it comes close to being accurate.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), who has made such an outstanding contribution to the Committee on Ways and Means and Congress.

Mr. LEVIN. Mr. Speaker, make no mistake. The hand the chairman has reached out is one of the hands that has strangled democracy in this institution. It is no longer a deliberative body. It is the rule of one, the Republican majority.

The gentleman from California (Mr. THOMAS) says zero taxation for low-income people. Why? Because in most cases they have no dividends or capital gains to tax. Under his original proposal, and it remains essentially the same, a millionaire gets 90,000 bucks more in tax cuts. The average taxpayer gets a couple hundred bucks.

Mr. THOMAS, whom are you warring on? Middle-income and low-income families in this country.

The President came here today to declare victory. Time will declare this a defeat for the Nation because the Republican party has turned red, red ink, red ink. The gentleman from California (Mr. THOMAS) says he is opposed to structural deficits, but they have built in more and more debt into this structure. The only way it is not a structural debt is the hole is so deep the way they built it they cannot build anything on it.

Now you say you favor creative destruction? Two and a half million jobs lost. That is very creative under this President and under the leadership of the House majority here.

This is a fiscally irresponsible bill for the Nation. It is unfair to individual taxpayers. It will not stimulate economic growth, as the gentleman from Texas (Mr. STENHOLM) and others have said. They are mortgaging the future of my children, of my grandchildren. We should pass this and then go on to defeat this conference report.

Mr. THOMAS. Mr. Speaker how much time remains?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California has 6 minutes. The gentleman from New York has 6½ minutes.

Mr. THOMAS. The gentleman from New York (Mr. RANGEL) has more time than the gentleman from California?

The SPEAKER pro tempore. By 30 seconds.

Mr. THOMAS. I find that astounding. With all the speakers and all the time that was consumed, he still has more time?

The SPEAKER pro tempore. I will tell the gentleman we are pretty good at that up here. The gentleman has 6 minutes.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CARDIN), an outstanding member of the Committee on Ways and Means and the Congress.

Mr. CARDIN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

Mr. Speaker, I have had a lot of town hall meetings in my district; and I will tell my colleagues what my constituents do not like. That is, they do not like us to charge and spend; and that is exactly what this conference report is going to do. It is going to borrow money in order to give tax breaks.

That does not make a lot of sense. By the Republicans' own number, their budget is going to go from a $6 trillion national debt to $12 trillion, doubling the national debt. Every dollar of tax relief has to be borrowed in which we are paying interest. That does not make sense.

Mr. Speaker, this is a reckless bill. They advertise they give help to low-income people. That is for 1 year only. They give permanent relief to the well-to-do. That is not fair. That is not what we should be doing as a Nation.

This bill is reckless. This bill is not affordable. This bill is going to hurt our economy, not help our economy.

What we should be doing is responsibly managing our resources. We should not be borrowing money to give a tax cut. That is wrong.

Mr. THOMAS. Mr. Speaker, where might I find that Jericho clock somebody apparently has in keeping time?

Mr. Speaker, I yield myself such time as I may consume.

I think I finally get it. The gentleman from Maryland (Mr. CARDIN) indicated that some of these provisions are permanent. I actually thought that since it is under the process called reconciliation, governed by the rules of the Senate, by the way, not the House, that anything that is done under the reconciliation process by definition cannot be permanent. In fact, on the one hand they criticize a number of provisions that expire.

Frankly, when we are trying to stimulate the economy and we offer a reduction on depreciable assets, what we want them to do is make a decision to buy that truck, to buy that computer as soon as possible. That helps stimulate the economy. That helps create jobs. If we leave the offer to reduce the cost on depreciation for the entire decade, a decision can be made anytime during the decade.

The whole concept of a stimulus is to get decisions that will be made sometime in the decade near the current time. Those are supposed to expire.

But for the gentleman to say that some of these provisions are permanent tells me there is an underlying fear on the other side of the aisle that, notwithstanding the statutes will expire, they will not be in the majority when they expire.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I will not yield at this time. I do not have a Jericho clock like some folks have, and my time actually gets ticked off.

□ 1130

The real fear in terms of their arguments, notwithstanding the yellowed notes that they use about the class warfare, which simply is not true, based upon the facts in the tax bill, is that when those provisions do expire, as they must under the temporary provisions of reconciliation, the American people might have the audacity to continue to maintain a Republican majority, because they like what we are doing; and when it comes time to decide whether they get extended or not, they might actually get extended.

Now I get it. You are in the minority, and your fear is if this becomes law, based upon what we do and the positive reaction of the American public, your fear is you will remain in the minority. I will trust to the wisdom of the American public. They have done pretty well in recent years.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), an outstanding member of the Committee on Ways and Means.

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is the first time I have ever been accused of exercising bad faith because we were given 30 minutes to talk about this and we actually took it.

I think that one other point ought to be made, and that is that on January 1, 1995, our national debt subject to limit was $4.8 trillion. On January 1, 2004, it will be $7.4 trillion. That is an increase of 54 percent in 8 years. That is not a political argument; that is a fact, a demonstrable, proven fact.

Now, part two of this motion says, to the maximum extent possible, within the scope of the conference. To me, that means what the Blue Dog plan was that was rejected on the floor, because, to the maximum extent possible, the Blue Dog plan does what we have asked. It neither increases the Federal budget deficit, nor does it increase the amount of debt subject to the public limit. So when one wants to say to the maximum extent possible, we can do that. We could do that by adopting the Blue Dog plan.

The other thing I would simply say is this: if we keep going down this road, we are building in such a structural long-term tax increase called interest on the national debt that the young people of this country are going to be unable to have the options and the choices about what kind of government they want when they are our age, because they will be strapped to the gurney with debt and interest that has to be paid on that debt that we are leaving them.

That is not a political argument either. That is a fact. With interest, compound interest, capitalism, whatever you want to call it, interest must be paid before anything else in our system.

So I would just hope that we would actually take a look at what we are doing.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, to quote a popular Republican President, "There you go again." With no apparent sense of irony, the Republican leadership scrambled to complete an irresponsible, unaffordable tax package during the same week that the other body will consider a $984 billion increase in the public debt, the largest in American history.

The House leadership pushed a massive increase of $450 billion in the debt limit not even 1 year ago; and here they go again, with a debt limit increase that is more than double the size of last year's record increase. We have about $7 trillion in debt. We pay over $1 billion a day in interest in this country, and it is outrageous.

The Democratic motion to instruct conferees attempts to restore at least some sanity to Congress' fiscal mismanagement of the country by insisting that the tax reconciliation conference report should increase neither the debt nor the deficit in this country.

Further, Mr. Speaker, the Democratic motion to instruct recognizes the necessity of relief to our States. Under the Senate tax bill, Texas would receive approximately $1 billion in fiscal relief, including $571.4 million in increased Medicaid funding. This is especially necessary at a time when the Texas House approved a budget that would slash Medicaid and eliminate coverage under CHIP for 250,000 low-income children.

If the passage of an irresponsible tax cut is inevitable, despite the highest projected budget deficits and a record national debt, the very least we could do is aid our States.

Mr. THOMAS. Mr. Speaker, it is my privilege and pleasure to yield 1 minute to the gentleman from Louisiana (Mr. McCRERY), a member of the Committee on Ways and Means.

Mr. McCRERY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the previous two speakers, the gentleman from Tennessee and the gentleman from Texas, talked about the national debt and how much it has increased from 1994 to 2004, and those numbers sound scary to people. But most of that debt, Mr. Speaker, is debt that we are paying to the Social Security trust fund, to the Medicare trust fund; and surely those gentleman are not suggesting that we should not be accumulating that debt in those trust funds and paying interest on that debt.

So I just want to make clear that for several years under the Republican majority we paid down the debt held by the public while we were continuing to accumulate debt in the trust funds. Economists and market watchers distinguish between the publicly held debt and total government debt, and that distinction needs to be made here on this floor.

So, Mr. Speaker, while the figures they gave are technically accurate, they are far from the truth when it comes to fiscal responsibility in this House.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, earlier I listened to the distinguished chairman of the committee talk about the importance of funding our national security budgets, and I agree with him. But make no mistake about it, this tax plan makes it harder for our kids to fund their national security budgets.

The nonpartisan Congressional Budget Office has estimated that starting in 2008 we are going to require defense budgets of $464 billion a year. What does that mean? Within a few years, we are going to have to come up with at least $64 billion a year every year over this year's authorized limits. That is $384 billion for defense before this tax cut expires. You do the math: $384 billion more for defense, and $350 billion less to pay for it. We are draining the Treasury when we need even more for defense.

No conferee would go into a fancy car dealer, pick out the most expensive model, and say, Let my kids pay for it.

Mr. Speaker, this is reckless. For those Members of this body who say they are strong on defense, let them be strong on defense budgets. Strong defense budgets are more important than tax cuts. This plan does the opposite.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, the comments from the gentleman from California (Mr. THOMAS) border on fraud. If more debt would stimulate the economy, then you would think that with the $817 billion of debt that has been added in slightly over 2 years since the passage of the Thomas-Bush tax package and budget, we would have a red-hot economy.

Our friend from Louisiana says that that money we are borrowing goes into the Social Security trust fund. No, I say to the gentleman from Louisiana (Mr. McCRERY), it is stolen from the Social Security trust fund.

Take the lockbox. Please tell these folks in the gallery where the account is. Because there is not one penny in that account. They cannot find it. It is all IOUs.

They are taking money from working people, Social Security taxes, Medicare taxes; and they are using them to give to other folks in tax breaks, and then they are borrowing the rest, $817 billion, to run our Nation. I say to the gentleman from Louisiana (Mr. McCRERY), you obviously do not understand the facts.

Mr. Speaker, this is the theft of the future of America. Those people who claim to be for a balanced budget are running up $817 billion worth of debt in 2 years, stealing it from your Social Security trust fund, stealing it from Medicare; and now they are saying the only answer to this is more debt.

Please vote against this.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaTOURETTE). The Chair would remind all Members not to make reference to the visitors in the gallery.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The gentleman from California is recognized for 2½ minutes.

Mr. THOMAS. Mr. Speaker, if we are going to be talking about the greatest threats to our children, we ought to at least get it accurate. The greatest threat to our children is our failure to acknowledge that we are currently engaged in the greatest transfer of wealth in the history of the world. They are called the Medicare and the Social Security programs. The failure to modernize and to reform, given the continued growth of those programs in the Federal budget, will choke out every other aspect of the Federal budget. The threat that they will go bankrupt without our addressing them is the greatest threat to our children, denying them the opportunity tomorrow what seniors have today.

So if we are going to talk about threats, let us talk about the failure, the absolute refusal to give up a political bumper sticker, you have all seen it: "Save Social Security, Vote Democratic." If you do not address change, it is going bankrupt. It is not a partisan issue.

Just like the yellowed papers on "we are favoring the rich and hurting the poor on the tax issue," which is absolutely false, your failure to address this fundamental reform is the greatest threat to our children. And probably the greatest insult to Americans is to argue that while you refuse to seriously engage in modernization and reform, you are doing it to save the system. It is about as old and yellowed as all your other arguments.

The test will be the choice made by the American people. They have made it recently; and I believe we will be able, despite the rhetoric that you offer, to make the changes that the American people agree on and move this country forward.

Mr. Speaker, I yield back the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 30 seconds remaining.

Mr. RANGEL. Mr. Speaker, I really think that the chairman of the Committee on Ways and Means has adequately concluded this debate. God forbid, if the safety and the solvency of the Social Security system and the Medicare system, the future education of our children, affordable housing, be placed in Republican hands, then the situation is worse than I ever thought.

No, you do not have to be an economist to figure this move out. What we are talking about is borrowing money, making insecure the Social Security system, privatizing the Medicare system, not having enough funds to and keeping every child behind. And why are we doing this? Are we borrowing it for spending, or are we borrowing it for tax cuts? I think the American people understand what we are doing.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. THOMAS, DELAY and RANGEL.

There was no objection.

□ 1145

## VETERANS COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

The SPEAKER pro tempore (Mr. LATOURETTE). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1683.

The Clerk read the title of the bill.

The SPEAKER pro tempore. At this point, the unfinished business will be deferred until a later moment in time.

## PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 247 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 247

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes. No further amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 2. Each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report (except as specified in section 3), may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Each amendment printed in the report shall be debatable for 10 minutes (unless otherwise specified in the report) equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment). All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 2 are waived.

SEC. 2. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules not earlier disposed of or germane modifications of any such amendment. Amendments en bloc offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 3. The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

SEC. 4. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas, Mr. FROST, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Yesterday, the Committee on Rules met and granted a structured rule for H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. This rule provides for further consideration of the bill and makes in order only those amendments printed in the Committee on Rules report accompanying the resolution and amendments en bloc described in section 2 of the resolution.

The amendments printed in the report shall be considered only in the order printed in the report, except as specified in section 3 of the resolution, may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Each amendment shall be debatable for 10 minutes, unless otherwise specified in the report, equally divided and controlled by the proponent and an opponent and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on Armed Services may each offer one pro forma amendment for the purpose of further debate on any pending amendment.

Finally, the rule provides one motion to recommit with or without instructions.

This is a fair rule. It is a traditional, structured rule for defense authorization, and it provides for debate on 30 additional amendments that deal with pertinent issues, including personnel issues, maritime security, quality-of-life issues for our servicemen and women, and a number of noncontroversial concerns.

The most controversial of these measures is certain to be the modernization of the personnel system. Modernizing the management system is imperative to national security and the retention and recruitment of civilian personnel.

The Committee on Armed Services believes that the important lessons learned from various demonstration projects within DOD should be applied across the Department. These projects have shown to improve the expeditious hiring of qualified personnel, have been valuable in providing flexible personnel compensation and assignment systems, and have improved organizational efficiency. These demonstration projects have also been highly successful in attracting and maintaining high-quality work forces.

The reforms included in this legislation would be similar to the flexibility provided to the Department of Homeland Security.

Finally, I believe that the Secretary of Defense should have more flexible management authority.

H.R. 1588 is more than just a signal to our soldiers, sailors, airmen, and Marines that this Nation recognizes their sacrifices. It is the means by which we meet our commitment to providing them a decent quality of life by providing an across-the-board 4.1 percent pay increase for military personnel, so as to sustain the commitment and professionalism of America's all-voluntary Armed Forces and the families that support them.

While our men and women in uniform have swiftly dispatched our enemies abroad, they face increasingly complex personal and professional challenges at home. We must do more to take care of those who are putting their lives on the line to defend our freedom, and for the families that support them.

Currently, the Survivor Benefit Program for the survivor of an injured or ill service member who lives long enough to be disability retired is better than the benefit for the survivor of a service member who dies instantaneously. I am deeply concerned about this inequity and am pleased that this legislation recommends that the Secretary of Defense review SPB procedures and propose legislation to ensure equitable treatment for the survivors of all members of our military, regardless of their circumstances.

With Memorial Day on Monday, it is only fitting to remember those who gave the ultimate sacrifice in the defense of our country. Let us take this opportunity to reaffirm our commitment to those who are currently defending our homeland and abroad by passing this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for all of my 25 years in Congress I have worked for a strong national defense. Like so many pro-defense Democrats, I have bent over backwards to put politics aside and work together to support America's men and women in uniform. That cooperative approach is fundamental to our efforts to keep partisan politics from polluting the Armed Forces.

So, repeatedly on the House floor and in the Committee on Rules, I have urged the Republican leadership to stop their assault on the bipartisan cooperation that has defined our approach to defense policy for so long. In response, the chairman of the Committee on Rules kept holding out hope that maybe, just maybe, in this second rule for the defense authorization bill the committee would allow a full and bipartisan consideration of serious defense issues.

Last night, very late, the Committee on Rules reported out the second rule. Guess what? It does even more violence to the tradition of bipartisanship than the first rule did. For the second day in a row, the Republican leadership has prevented the House from considering serious and substantive issues in the defense authorization bill. For the second day in a row, they cast aside bipartisanship to protect the partisan and right-wing ideology that has been attached to this defense authorization bill. This is a shameful way to run this institution, an institution that is supposed to allow the voices of all Americans to be heard.

For instance, Republican leaders used this rule to again defend their assault on America's environmental protections. The ranking members of the Committee on Resources and the Committee on Energy and Commerce, the gentleman from West Virginia (Mr. RAHALL) and the gentleman from Michigan (Mr. DINGELL), offered their reasonable substitute to Republicans on environmental language. Republican leaders refused to allow the House to vote on this substitute.

To prevent terrorists from getting nuclear, biological, and chemical weapons, the gentleman from South Carolina (Mr. SPRATT), the second ranking Democrat on the Committee on Armed Services and an acknowledged expert on defense issues, once again tried to strengthen America's cooperative threat reduction program, but the Republican leadership once again refused to allow his amendment, in spite of the fact that it simply does what President Bush has asked for.

To protect the American taxpayers, the gentleman from California (Mr. WAXMAN) tried to require that contracts over $1 million be awarded only in open bidding process, but Republican leaders decided to make it easier for big companies, for example, Halliburton, Brown and Root, Bechtel, to get private deals, so they rejected the amendment of the gentleman from California (Mr. WAXMAN).

The gentleman from Mississippi (Mr. TAYLOR), a staunch defense hawk from Mississippi, had a substantive amendment relating to the next round of base closures. But instead of allowing him and the House the vote they deserve, Republican leaders simply shut out his amendment.

Similarly, Committee on Rules Republicans blocked three important amendments that I offered to address defense issues that I have pursued for some time: helping immigrant soldiers earn U.S. citizenship, providing tuition refunds to Reservists called to active duty, and tax fairness for civilian defense employees serving in combat zones.

Finally, Mr. Speaker, Republican leaders are using this rule to rig the game in favor of their attack on worker rights at the Pentagon. Now, these are the same Pentagon employees who showed such bravery and sacrifice on September 11. So the gentleman from Tennessee (Mr. COOPER), the gentleman from Illinois (Mr. DAVIS), and the gentleman from Maryland (Mr. VAN HOLLEN) proposed an employees' bill of rights. It is a common-sense approach to protecting those public servants who work to protect us. It has the support of America's firefighters. But Republican leaders refused to allow the House to vote to protect Pentagon employees.

All in all, Mr. Speaker, this rule makes a mockery of the bipartisan cooperation that has been the keystone to our approach to defense policy, so I urge my colleagues to oppose the previous question.

If we defeat the previous question, I will amend the rule to allow the House to consider the Pentagon employee bill of rights. If the previous question passes, I urge a no vote on this rule. This is the only way to restore some semblance of bipartisanship to this process and to safeguard America's national defense policy from the partisanship and right wing ideology that are tainting this bill.

☐ 1200

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule. It follows the procedure which, as I said here yesterday, has been addressed year after year.

We are coming forward with a second rule which has a wide range of amendments. Contrary to what my friend from Dallas just said, this is a very bipartisan bill. And I will make a prediction, Mr. Speaker. At the end of the day we will have strong bipartisan support, Democrats and Republicans, voting for the Defense Authorization Bill.

Now, as we proceed with this process that has just been described as, frankly, less than bipartisan, the rule that we are addressing here happens to include amendments from my fellow Californian (Mr. LANTOS), the ranking minority member of the Committee on International Relations; my friend, the gentlewoman from Texas (Ms. JACKSON-LEE), has an amendment in order; my Committee on Rules colleague, the gentleman from Florida (Mr. HASTINGS), has an amendment that is made in order. There is a bipartisan amendment that my colleague, the gentlewoman from California (Ms. WOOLSEY), is working with some Republican colleagues on.

We have amendments made in order by the gentleman from Massachusetts (Mr. TIERNEY), the gentleman from New York (Mr. NADLER). The gentlewoman from Ohio (Ms. KAPTUR) has two amendments that are made in order. My colleague, the gentleman from California (Mr. FARR), came to me and asked that we make in order an amendment that dealt with an important issue to him. We made that in order.

Those are all Democrats I have talked about, Mr. Speaker. So I think it is clear that we have, in fact, proceeded in a bipartisan way to try to allow some concerns that have come forward by our Democratic colleagues to be addressed.

Now, I do know that these two hot buttons of civilian personnel and environmental questions are still out there. Now, I happen to believe that while we did consider this process, as we considered the option of other amendments, we did come to the conclusion that, in fact, the Hefley language that was included in the Hunter amendment was the appropriate way to deal with this issue.

Yesterday, a number of us had a chance to meet with our colleague, with our former colleague, now Secretary of Defense Donald Rumsfeld, and talked about the environmental consequence and what impact this will have on our young men and women in uniform. And I know that the chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), has talked about that and we heard some horror stories of what compliance has in fact done. But this measure does not, in fact, eliminate the compliance with important legislation like the Endangered Species Act and the Mammal Protection Act.

Now, I know on the civilian personnel question we also have this issue that has come to the forefront. Now, I went through this explanation and I know that my very good friend, the gentleman from Missouri (Mr. SKELTON), has come forward and we have now had, and I will acknowledge a change in positions, but initially a request was made of me that we consider making in order an amendment that would strike out the civilian personnel provisions. Why? Because they have made it very clear that they do not like those provisions.

Well, what has happened, Mr. Speaker, is there has been a change that has taken place since that time. I recognize we could, in fact, deal with that change; but we chose to approach the minority leadership and indicate that we would be willing as was first asked of me to make in order an amendment that would allow for the striking of the civilian personnel provisions; and they decided that they did not want to have that considered. And so now they are complaining that we have not made another amendment in order. And, yes, it is true, we had nearly 100 amendments submitted to us. We did not make an additional amendment in order on that issue. But we still, Mr. Speaker, are proceeding in a bipartisan way making numerous amendments. In fact, 11 amendments that Democrats have submitted are made in order.

I will be offering an amendment in a bipartisan way with my colleague, the gentlewoman from Northern California (Ms. LOFGREN), to deal with the very important computer security issue which I hope we will have bipartisan support on.

So I do want to say, contrary to what we will be hearing, the spirit of this rule has been pursued in a bipartisan way as has been the legislation. I urge support of the previous question. I urge support of the rule, and I urge my colleagues to come together and provide strong support for the critically important defense of our Nation.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

My friend from California, the chairman, I am afraid has somewhat of a selective memory. I have handled the defense authorization rules on this floor for 25 years; and when we were in the majority, we always made in order the main issues of contention under the defense bill. Sometimes they were amendments that I personally opposed and that other prodefense Members on the Democratic side opposed, but we made them in order so that the House could express its will on the main issues raised in the Defense Authorization Bill.

This happened on numerous occasions. Sometimes those amendments came from people to my left in the Democratic Party who perhaps wanted to eliminate certain weapons systems. Sometimes those amendments came from conservative Republicans who did not like things that were in the bill. The main issues, not peripheral issues, and we appreciate the fact that some issues were made in order, some amendments were made in order that individual Members felt strongly about; but when we were in the majority, when there were significant issues that had support from a large number of Members either on our side or on the Republican side, we made those amendments in order and let the House express its will.

There were numerous instances when I personally voted against amendments that were included in the rule that we made in order and that other prodefense Democrats opposed, but we thought that the House should have the opportunity to express its will.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I would simply respond by saying, first, I do appreciate the fact that when Democrats were in the majority, they did allow for consideration of a wide range of Members. I would argue that we made every attempt to deal with both the civilian personnel issue as well as the environmental issue; and we tried to do so in a bipartisan way, as I outlined, by approaching the minority leadership saying the request that was first made of me, that we allow for a striking provision to be made in order. We said we were willing to do that.

On the issue of the environment, the Hefley language, which I know was worked on in a bipartisan way, is in fact included in the Hunter measure. I would argue that we tried our doggonedest to do just what was said.

Mr. Speaker, I thank my friend for yielding.

Mr. FROST. Reclaiming my time, I would point out to the gentleman that when we were in the majority we did not try and dictate what amendments the minority will offer. We did not say, we will give you a Democratic amendment on that subject but the Republicans cannot offer the amendment they want. That is exactly what they have done in the reverse here. They said, we will give you a Republican amendment on this subject, but we will not let the Democrats offer the amendments they want. Of course, Democrats would offer a different amendment on a particular issue than Republicans would. Republicans would offer an amendment which was, of course, much more friendly to the basic provisions in the bill.

Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, during the floor debate yesterday, the Committee on Rules chairman, the gentleman from California (Mr. DREIER), addressed our complaints by saying, what are you arguing about? We have another rule coming up. Your complaints are premature. As if to suggest we would have another day.

Well, that day has come. Rule number two has arrived: and just to show you how much bipartisanship there is, my amendment which deals with an important project, cooperative threat reduction, destroying weapons of mass destruction in Russia, the former Soviet Union, the Dingell-Rahall amendment which would correct outrageous grants of authority over environmental laws granted to the Department of Defense under this bill, the Cooper-Davis-Van Hollen amendment which goes to the most radical revision of the civil service in the last hundred years with respect to the Department of Defense, all of those substantive amendments are not made in order.

So what we will have here is a sterile, almost pro forma, debate because what is left in contention, really challengeable, is not what is really at fault in this bill at all. We cannot have that debate. We see that substantive alternatives which we are offering, not controversial, not partisan gotcha bills, substantive alternatives simply cannot be brought up here.

What the Republican majority is doing is using procedural devices which they control with a thin majority to deny us fair consideration on substantive issues of the utmost gravity. They may not agree with it, but they cannot dispute the fact that all of these are grave and significant issues.

Let me tell you what my amendment would have done. My amendment would simply have taken this bill and removed from it all kinds of encumbrances, fences, conditions that the President did not seek, request, and does not want with respect to a program called Cooperative Threat Reduction, known better to some as Nunn-Lugar, and with respect in particular to one project, Shchuch'ye, which is the largest repository of the deadliest chemical weapons that the Soviet Union ever produced. After years of negotiating, years of preparation, we are finally at the threshold of beginning a facility that will destroy those weapons.

I was there last May. I have got two posters here that show you what those facilities look like. Wooden roofs. Look at the windows over here with the makeshift bars on them. That is the kind of security they have got. And on the racks, rack after rack, sitting on dirt floors, wooden racks, what you find are little chemical warheads like that, literally thousands upon thousands of them, gathering dust like bottles of wine, barely secured, any one of which could wipe out the population of a soccer stadium, all of which could poison the entire world. Nerve gas, sarin. The deadliest stuff you could possibly imagine. Do we not want to get rid of this?

Is there any reason to wait? Can we not have at least here in the well of the House a debate on whether or not we need these conditions that the chairman of this committee have imposed? I do not think we do. All I ask is with the 21 years of experience that I have had is the opportunity to make that case in the well of the House. You have diminished the House and diminished this process by denying me that opportunity.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), another member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of H. Res. 247. The Committee on Rules has listened to hours of testimony and made in order 39 total amendments, nine amendments in yesterday's first rule and 30 amendments under the new rule before us today. We made in order 22 majority amendments, 14 minority amendments, and three bipartisan amendments. And while everyone will not be pleased by these decisions, it is a fair rule that will give the House the opportunity to debate a wide variety of national security issues.

Mr. Speaker, the underlying legislation, H.R. 1588, is entirely consistent with what the founders envisioned when they wrote article I, section 8 of U.S. Constitution, to ensure that Congress shall have the power to support, maintain, and provide for military to provide for the common defense.

First, this legislation provides adequate funding to help continue the U.S. military's transition to the 21st century. H.R. 1588, for example, authorizes funding for the U.S. Army to procure weapons and tracked combat vehicles for the U.S. Navy for shipbuilding and conversion and for the U.S. Air Force to procure additional aircraft, including language to maintain the important F/A-22 program.

The authorization for these programs, along with others, will help the U.S. military remain the most efficient, most lethal, and most effective fighting force on Earth. But, Mr. Speaker, we cannot possibly hope to maintain the level of excellence obtained by the U.S. military without the achievements of men and women who proudly wear the uniform.

As a former captain in the U.S. Air Force myself, I continue to draw inspiration from the resolve, patriotism, and strength of commitment exhibited by our servicemen and women. This Congress must work to reinforce that strength, and I believe H.R. 1588 works to that end.

I am pleased that the underlying legislation contains a 4.1 increase in base pay for military personnel. H.R. 1588 also recommends a reduction from 7.5 to 3.5 in the percentage of out-of-pocket expenses military personnel must contribute toward housing cost. Both of these provisions will not only help ease the burden placed on military personnel and their families, but should also help ensure that the U.S. military is able to retain these highly trained personnel.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I think it is outrageous that the rule proposed by the Republican leadership denies the 435 Members of this House the opportunity to vote on the amendment to restore certain rights and protections for the 700,000 civil servant employees within the Department of Defense, rights and protections that are stripped away under the underlying bill. It is particularly sad to see this just after those civil servants joined together with our military in such a successful military operation in Iraq.

Yet this bill does away with so many protections. For example, it takes away the time-honored protections to ensure that civil servants will have their professional career advancement based on merit and professional conduct, rather than political litmus tests.

□ 1215

Do we want our contract officers, do we want our procurement officers to be looking over their shoulder to see if their decision is based on what is best for the taxpayer or best politically for someone in the Defense Department? And yet this bill eliminates those protections that have been in place since Teddy Roosevelt.

Let me just say that the amendment that was proposed, and I will read a provision of the amendment that is being denied an opportunity for us to vote on: "An employee shall have the right to be free of favoritism or discrimination in connection with hiring, tenure, promotion or other conditions of employment due to the employee's political opinion or affiliation." But they do not want us to have an opportunity to vote on that provision.

The head of the nonpartisan General Accounting Office, David Walker, when he was asked about this issue, said, "I do not believe that we have the infrastructure in place in order to effectively and fairly move to a more performance-based compensation structure at this time." In response to a question, he said, "I think the agency has to demonstrate that they have these systems and controls in place before they should be given the flexibility."

Mr. Speaker, do we want our Defense Department, the civil servants, to be run using professional judgment, which I think is in the best interest of national security, or do we want them to be driven more by political considerations? I think our national security depends on a nonpolitical, professional civil service; and it is very disappointing that the amendment was not made in order.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I rise in opposition to this rule.

When I testified before the Committee on Rules, Mr. Speaker, I specifically asked that committee for several major amendments, Democratic amendments, and that they be made in order. The first was the Cooper amendment dealing with civil service changes, which would establish a bill of rights for civilian workers within that department. The second, the Spratt amendment, on cooperative threat reduction, which, by the way, Mr. Speaker, the President of the United States requested. The third, the Taylor amendment on base closure. We should have a full and fair debate on that. And the Dingell-Rahall amendment on the environment. The dean of the House, the gentleman from Michigan (Mr. DINGELL), was not given that amendment. As a matter of fact, none of those four amendments were made in order. That is, Mr. Speaker, simply wrong.

Regardless of how Members might feel on the substance of amendments, it is wrong that a major substantive policy amendment is kept from debate. That should not happen. It should be allowed. It should be debated fully on this floor. This is a deliberative body, and many have said the most deliberative body in the whole world. Yet, Mr. Speaker, we cannot debate key issues that come before us. This is not a full debate. It deserves that. We in this institution do not deserve this disservice, and I cannot agree, sadly, with this rule.

Mrs. MYRICK. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Well, here we are again, my dear colleagues, deja vu all over again.

The Republicans told us yesterday how they were going to have a second rule. Well, the second rule is just like the first, unfair, stifling debate, and not allowing discussion.

We are told it is bipartisan. It reminds me of the story of a fellow who complained about the stew. He was told it is horse and rabbit stew. He said, what is the recipe? They said, oh, it is simple. Equal parts, one horse, one rabbit. He said, no wonder it tastes like hell.

The simple fact of the matter is that is what we have here. That is the Republican definition of bipartisanship.

They exclude seven significant amendments. Why? I can only assume one of several reasons: They are scared to death to debate them; they want to be unfair; they have not got the vaguest ideas of what is fairness or how a representative body should function. I suspect all of the above are there. In any event, it tends to show they either know or care less about fairness than a hawk does about a handsaw.

What have they denied us the right to do? Legislation to address environmental concerns. Legislation to address the problem of chemical and nuclear weapons. Imagine what is going to happen if the Spratt amendment does not go into place and all of a sudden terrorists show up with nuclear weapons, or they show up with weapons of chemical or biological character because they got them out of a leaky stockpile in Russia? They do away with the opportunity to offer an open bidding requirement on contracts over $1 million. That says that they probably are scared to discuss this issue. They will not discuss the question of base closings. They refuse to help immigrant soldiers to get citizenship and for us to offer an amendment to allow that.

Now there are certain things about a representative body that I have to assume my Republican friends either do not care about or they do not know about. My dear Republican colleagues serve here as the servants of the people. This is the House of Representatives, with emphasis on the word representatives. We are all supposed to represent the House. My Republican colleagues are supposed to represent in the House the people whom they serve. They are also supposed to respect all of the people who are served here and to allow wide, broad, fair, discussion of important issues.

Is there a shortage of time to debate? Absolutely not. We meet about 3 days a week. But my Republican friends do not seem to have time to discuss important questions. I can only assume it is because they do not understand our duty to the people.

My Republican colleagues are creating a precedent which is bad. First of all, we do not debate the issues that are important. Second of all, my colleagues are creating a poisonous atmosphere in this place which is going to continue and to persist for a long time. The ability of this institution to properly debate questions and to have respect for each other and for the people we serve is being demeaned by this rule. I say, shame.

Let us defeat the rule, let us defeat the previous question, let us get the House back to being what it should be, the representatives of the people.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, first, I would like to second the remarks of the dean of the House, my friend, the gentleman from Michigan (Mr. DINGELL).

Last night, in this great Capitol building, about 10 p.m., the Committee on Rules was meeting. Our friends on the other side of the aisle had just come back from their lavish dinner at which the newspapers report they raised some $22 million for the Republicans. They voted on this rule, and they voted to deny this House the opportunity to work its will on $47 billion in the DOD budget.

That is a matter of some concern, because that is one of the largest items in the entire bill, and the House is unable to work its will on it due to their denial of an amendment. But more important than that, they denied over 700,000 DOD employees to have this section of the bill aired and debated. Over 700,000 families who work for our Pentagon worldwide are not able to hear their concerns aired on the floor of this House.

This is the people's House, yet over 700,000 patriotic and loyal Americans who have served this Nation well in the Iraq war, in the Afghan war, and let us remember 65 of these civilians died in the 9/11 attack on the Pentagon, but, no, this House is too busy to consider their concerns. That is not fair, that is not right, and this House should demand justice.

These are important civil servants of our Nation. They work hard every day to keep our Nation strong. Only last week our committee bothered to commend them for their skill, their hard work and dedication. But, no, their concerns are not important enough to be aired on the floor of this House.

We had one hearing in the Committee on Armed Services, we had no subcommittee markup, and now we are unable to debate the issue on the floor of this House. It is an injustice.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Speaker, I appreciate the gentlewoman yielding me this time.

First of all, civil servants have had a large role in shaping this. There have been nine pilot programs the Department of Defense has piloted through the years, and in all of those cases, civil servants have, in many cases contrary to the labor bosses, opted for the new system as opposed to the old system with which they are currently operating.

The problem with the current system today is that we are contracting out where we ought to be able to use Federal employees because we do not have the flexibility in terms of deployment. So we are using uniformed officers behind desks to get jobs done, Federal contractors to get jobs done, what Federal workers are, in many cases, more capable of doing, and that is wrong.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

I agree with the gentleman. I think that this bill is going to provide for more jobs for civil service employees because it is easier when we have a job to do under this massive bureaucracy we have now and the SECDEF says, I need that job done, can we have a civil servant do it? And the answer is, we can in 6 months. So the Secretary then does one of two things: He says, okay, let us get a contractor to do it, if we cannot get one of our own guys to do it the other alternative is let us get a sergeant to do it. The sergeant salutes and says, yes, sir, and he goes and gets the information he needs to do the job and he does it.

So the idea that we are going to be contracting the civil service force as a result of this is absolutely not accurate. In my opinion, we are going to have more people. Secretary Rumsfeld said there are, right now, under his estimate, some 300,000 uniformed people, people in the military, doing jobs that civil service folks could do if we could get the bureaucracy out of the way.

Mr. TOM DAVIS of Virginia. Mr. Speaker, reclaiming my time, I thank the gentleman, but let me just say it is 320,000 uniform personnel doing jobs that civil servants are certainly capable of doing. These are 320,000 we had to call up from the Reserves to do work, potentially, that could have gone and stayed with their families and everything else because of these arcane rules.

In addition to this, Under Secretary Wolfowitz testified under oath that this would increase the number of Federal civil servants. So this idea that it is going to lead to more contracting out is not only bunk, it is disingenuous, it is wrong, and I think it takes civil servants in the wrong direction.

Let me correct a couple of other things that have been said in the debate. We had a Member yesterday say that the right to receive veterans preference is gone, the right to discrimination protection, gone. Veterans preference, located in chapters 33 and 35 of title V, those are nonwaivable under this legislation. Discrimination protection is located in 2302(b)(2) of title V and explicitly referred to in this legislation. Overtime pay in chapter 55 of title V, also nonwaivable.

In fact, for middle-level managers, what we have done is corrected some inequities in overtime pay. Currently, GS–12s, 13s, and 14s receive less working overtime than they receive in ordinary pay, and we have corrected that in this. This is a benefit to managers. We have raised the level that SES'rs and managers can get in bonus over what the current level is. So we have raised the levels of what Federal employees can earn.

As far as collective bargaining, NSPS states that we must ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing. As for the right to an attorney, which was alleged to have been taken away, we do not mention it, but neither does the underlying legislation, and we have established an independent review panel to consider employee grievances.

We have worked hard on this legislation. We held a couple of hearings in the Committee on Government Reform on this, but, most importantly, this is designed from nine pilot programs where the Federal employees themselves have spoken to this and have voted strongly to opt for the new systems versus the existing system. It does not pay for performance; it pays on a seniority basis.

This will allow us to expedite hiring. It will allow us to do the kinds of things that we have already given other Federal agencies. This is not new ground. There are numerous Federal agencies currently, in sections 71, 73, and 75, that we have waived or altered, and we do this here. In fact, there is less flexibility here than Congress recently gave to the Department of Homeland Security.

□ 1230

Mr. Speaker, I might add, my colleagues who are arguing against this opposed those provisions in the Department of Homeland Security bill. We had an ensuing election on this issue. The voters spoke, and I think we have visited this issue once. There are fewer flexibilities here than we have in that as well.

I want to say a couple of other things. The Committee on Armed Services also had a day-long hearing and a 2-day markup of the DOD authorization bill. Dozens of the amendments offered there were also offered in our committee, and the votes were party line on these issues. They want to bring these same issues to the floor. I am not happy with every part of this rule. I had several amendments, particularly on the procurement side, that were part of the Committee on Government Reform's markup that were not included in the DOD bill that I could not get offered here. I understand the disappointment of those Members who are not able to have those heard at this point.

But 40,000 employees with over 20 years of experience want a new system, and defense of the current system not only leads to more outsourcing, it does not lead to the kind of performance-based pay and the salary levels that many of our best Federal employees are deserving of.

I worked in the private sector for a number of years. I worked for a company where our best asset was not our computers or our building; it was our people. They walked out the door every night; and we prayed to get them back because replacing them was costly, it created more inefficiencies, and it made us less competitive.

Those factors in the private sector ought to be extended to the public sector because our employees are our best asset, too. But I think we need to treat them well. I think we need to give them appropriate safeguards, which this legislation does. The unknown and the concerns by some on the other side are that all of this is not written by Congress. But we have put appropriate safeguards in this legislation. This will be part of a later debate, but I certainly support the rule.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding, and I understand his assertion. His assertion essentially is that these provisions that will affect our Federal employees are positive provisions.

If that is the case, on our side we are very concerned that we are not being allowed to debate these fully. As the gentleman knows, 30 amendments are allowed with 10 minutes per amendment. The gentleman will admit, I think, that these are very substantial changes that we are making in the law; am I correct on that?

Mr. TOM DAVIS of Virginia. As I stated earlier, we debated these thoroughly in both committees. I cannot speak to every amendment that is being offered on the floor of the House. I understand the gentleman's concern. I know we will get debate on the motion to recommit, and we are debating it now. But I was also disappointed in not being able to offer some amendments. In addressing that issue, I think that is probably above my pay grade.

Mr. HOYER. Mr. Speaker, if the gentleman will continue to yield, I tell my friend, and he and I work very closely on issues dealing with Federal employees, there is a tendency to undervalue our Federal employees, as the gentleman knows. But the concern we have is if the other side is so concerned that the propositions it puts before us are correct, then it is a shame that we do not allow this body to fully debate them. I understand there were votes in committee. However, I am not on the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Although we were privileged to have the gentleman testify before us.

Mr. HOYER. I did appreciate the opportunity to come and testify, notwithstanding the fact that the committee did not follow my advice. My point is that the majority of Members on both sides of the aisle are not on your committee or the Committee on Armed Services, and I think it would have been appropriate for us to debate these items. If the proposals are as good as the gentleman says they are, presumably they would have been supported by the majority of this House.

Mr. TOM DAVIS of Virginia. I appreciate the gentleman's comments, and we did take some of his suggestions in the markup. The gentleman's testimony was not for naught.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, let me just say that the distinguished whip on the other side has made a point that more time should be given to this issue.

We are doing a $400 billion bill; and arguably the decisions on hundreds of weapons systems that we are approving, both whether we are talking about the high-tech stuff or the low-tech stuff that we are bolstering in this bill, those decisions could have life and death impact, and yet we moved this bill through.

I want to assure the gentleman that we gave more time to this issue. We did a 10-hour hearing on this issue, largely at the insistence of the distinguished ranking member, the gentleman from Missouri (Mr. SKELTON), but we did a 10-hour hearing. That is more time than we gave any single weapons system in the entire DOD bill. So the argument can be made that we should have 10 times as many hearings as we have, and the gentleman knows that in this House and on this floor we have a myriad of responsibilities. We spent more time on this than any single weapons system in the entire DOD bill, and we had a 25-hour markup. I would say a very substantial portion of that markup, without limitation to debate, was afforded all of the Members.

Lastly, the chairman of the Committee on Government Reform makes a good point. I listened to the concerns. I listened early on to the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Oklahoma (Mr. COLE) and the gentlewoman from California (Mrs. DAVIS). We sat down and put together this independent appeals board that is going to be afforded anyone and everyone. So we spent a lot of time on this. This was not hastily thrown together.

Lastly, the gentleman from Tennessee (Mr. COOPER) made a good point. He said we are putting a major entrustment to the Secretary of Defense to build a new system, and we all agree in many ways it is broken. I am looking at this union dispute over whether they should have cancelled the annual picnic, and it ended up costing $750,000 of taxpayer money to decide whether or not you should cancel the picnic. There are changes that need to be made.

Lots of good people involved themselves on this and worked on this; and this is an excellent, excellent product. I want to thank everybody who had suggestions because a number of the concerns from Democrats and Republicans were addressed. We are entrusting the Secretary of Defense, who with his team took 300,000 American lives into a very dangerous military theater, and answered to us and did a good job with that entrustment. He deserves some degree of respect, and he has merited the empowerment to move forward and build a new system under our guidance.

We are going to be reviewing everything he has done in a few months. We can change things that he does that we do not like; but certainly giving him an opportunity to revamp his shop to make it better, not just for DOD and the taxpayers but also for the folks that live and work in this system, the Federal employees.

Mr. Speaker, I think we did a good job of working this. We can always spend more time, and I would say to the gentleman from Maryland (Mr. HOYER) that could be said about every single weapons system that comes up here.

Mr. HOYER. Mr. Speaker, will the gentlewoman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I want to make an observation to the distinguished chairman of the Committee on Armed Services. The gentleman and I served in this body when this bill had 5 full days of debate, discussion and open amendments in which we had very extensive discussions on not only weapons systems but other proposals contained in the bill.

I am probably going to end up voting for this bill. As the gentleman knows, I have consistently supported authorization bills and appropriation bills. I believe this Nation needs a strong defense, and I respect the Secretary of Defense. But I would say to the gentleman that it would have been nice if the Secretary had respected the Members of the House on both sides of the aisle and presented this at the beginning of the year and not just a few weeks ago so we could have had more extensive discussions, as we have had on some of those weapons systems heretofore. None of them were offered just recently. They were offered early in the year or in years past; but I recognize what the gentleman said. Obviously, we do not have unlimited time for unlimited debate.

I would suggest in this instance this proposal, a very substantive one, came very late; and although the gentleman spent some time in committee on it, appropriately, and I thank the gentleman for that, it would have been nice if we would have had more extensive debate and substantive amendments on this floor.

Mr. TOM DAVIS of Virginia. Mr. Speaker, reclaiming my time, I include for the RECORD an editorial from the Honorable Donald H. Rumsfeld, printed in today's Washington Post.

### DEFENSE FOR THE 21ST CENTURY

(By Donald H. Rumsfeld)

Rep. Ike Skelton (D-Mo.) laid out a number of objections on this page yesterday to the president's proposed Defense Transformation Act for the 21st Century. I respect Mr. Skelton's long service, but I disagree with many of his stated objections. Here is why.

Skelton argues that this legislation is the most sweeping overhaul of the Defense Department since the 1986 Goldwater-Nichols Act. He may be right—but that is precisely the point. We are at this moment fighting the first wars of the 21st century with a department that has management and personnel systems developed decades ago, at the height of the Cold War.

The threats we face today are notably different from that era. We learned on Sept. 11, 2001, that our nation is vulnerable to enemies who hide in the caves and shadows and strike in unexpected ways. That is why we must transform our armed forces. Our forces need to be flexible, light and agile, so they can respond quickly and deal with surprise. The same is true of the men and women who support them in the Department of Defense. They also need flexibility, so that they can move money, shift people, design and deploy new weapons more rapidly and respond to the continuing changes in our security environment.

Today we do not have that kind of agility. In an age—the information age—when terrorists move information at the speed of an e-mail, money at the speed of a wire transfer and people at the speed of a commercial jetliner, the Defense Department is still bogged down in the bureaucratic processes of the industrial age.

Consider: we have more than 300,000 uniformed personnel doing jobs that should be done by civilians. That means that nearly three times the number of troops that were on the ground in Iraq during Operation Iraqi Freedom are doing nonmilitary jobs that should be done by civilian personnel.

Why is that? It's because when managers in the department want to get a job done, they go to the military. They know they can manage military people, put them in a job, give them guidance, transfer them from one task to another and change the way they do things. They can't do that with the civil service, because it is managed outside the Defense Department by others, with a system of rules and requirements fashioned for a different era.

The defense authorization bill has grown from only one page in 1962 to a whopping 534 pages in 2001. The department is required to prepare and submit some 26,000 pages of justification, and more than 800 required reports to Congress each year—many of marginal value, most probably not read. Since 1975, the time it takes to produce a new weapons system has doubled, even as new technologies are arriving in years and months, not decades.

We are working to fix problems that we have the freedom to fix. We have reduced management and headquarters staffs by 11 percent, streamlined the acquisition process by eliminating hundreds of pages of unnecessary rules and red tape, and begun implementing a new business management structure. But we also need legislative relief. That is why we are asking for:

Measures for transforming our system of personnel management, so that we can gain more flexibility and agility in the way we manage the more than 700,000 civilians in the department. And let me be clear: The provisions we have proposed explicitly bar nepotism.

Expanded authority for competitive outsourcing so that we can get military personnel out of nonmilitary tasks and back into the field.

Measures to protect our military training ranges so that our men and women in uniform will be able to train as they fight, while honoring our steadfast commitment to protecting the environment.

It is true, as Rep. Skelton notes, that the Goldwater-Nichols Act took four years for Congress to pass. But we do not have four years to wait before we transform—the new threats are here now. If anything, our experience in the global war on terror has made the case for transformation even more urgent. Because our enemies are watching us—studying how we were successfully attacked, how we are responding and how we might be vulnerable again. In distant caves and bunkers, they are busy developing new ways to harm our people—methods of attack that could kill not 3,000 people, but 30,000 or 300,000—or more. And they are not struggling with bureaucratic red tape fashioned in the last century as they do so.

The fact is that the transformation of our military capabilities depends on the transformation of the way the Defense Department operates. This does not mean an end to congressional oversight. What it means is that we need to work together to ensure the department has the flexibility to keep up with the new threats emerging as this century unfolds.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I rise in opposition to this rule and the underlying bill. My colleague from Virginia only said one thing that is correct, and that is our Federal employees are our greatest resource. Unfortunately, in this bill they are treated very poorly.

In this bill, the Secretary of Defense can waive collective bargaining. That was designed to allow employee input into working conditions and grievances. He talks about Federal employees, but every Federal employee organization opposes this language.

The Secretary of Defense would be allowed to exempt the Department of Defense from the Federal wage schedule that was designed to prevent discrimination and nepotism.

The Secretary of Defense is allowed to exempt the Department of Defense from due process and appeals rights, appeals to the Equal Opportunity Commission, fighting discrimination.

This bill would authorize the Secretary of Defense to bypass OPM and create an entirely new personnel system.

It authorizes the Secretary to have authority under this proposal to take action at his sole, exclusive, and unreviewable discretion.

The Secretary of Defense, in an opinion piece in The Washington Post yesterday, said our military needs more agility and flexibility because they are fighting terrorists in caves and bunkers. Then he cleverly transfers this reasoning to the civilian population. I ask Members why do clerks and secretaries and administrators need to be deprived of their appeals rights? They should have a fixed appeals system. They should have the rights that Federal employees have had over the years. He makes the case for a flexible military, he does not make the case for depriving Federal employees of their rights, and he attempts to trade off agility for morale. I suggest we need to improve morale and protect our Federal employees.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to make the comment that we do have a committee system in this House because not everybody can be on every committee. They make recommendations to the full House, and usually we value their opinions and accept their recommendations. That is part of what is going on today.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I rise in strong opposition to the rule. First, on the issue we have been dealing with around civil service, none of the lessons learned and the myriad projects that we are talking about would necessarily be part of the law as it is drafted in the civil service part of the provisions in this bill. So we did have that debate and some of that discussion, but in fact none of that is relevant to the bill at all.

Second, I object to the fact that the Committee on Rules deprived this body of the opportunity to have a substantive debate on the environmental provisions, a debate about the facts.

Mr. Speaker, the fact is that the Deputy Secretary of Defense, Paul Wolfowitz, wrote in a March memo, "We have demonstrated that we are both able to comply with environmental requirements and to conduct necessary military training and testing." The administration's own EPA agrees, and that is the fact.

Finally, Mr. Speaker, for 3 years I have worked to close the military pay gap. This year at the Committee on Rules I offered an amendment to close that gap permanently, but that amendment was denied. My amendment is identical to language passed in the Senate. Over 4 years each of the quarter million soldiers, sailors, airmen and Marines who fought in Iraq were making a decision whether or not to stay or go in the military. Now is the time to send them and their families a message that the Members of this House care about them and the quality of their lives. Instead, we send a hastily different message with empty promises. Why is the majority silent on closing the pay gap permanently?

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

□ 1245

Mr. BLUMENAUER. Mr. Speaker, one of the problems with the way the Republicans have managed, orchestrated the rule is that it simply does not permit an opportunity for us to clarify even simple misunderstandings.

Many of my colleagues may have listened on television to the distinguished chairman of the committee put a map up here that implied that 57 percent of Camp Pendleton was off-limits to military activities. We came to the floor and pointed out that that was simply not true. It never was. Using the flexibility under existing law, 1 percent was set aside.

The real problem with Camp Pendleton is the fact that you have got an interstate freeway, you have got encroachment from sprawl, but we could not clarify it.

I have had colleagues who misunderstood what the chairman said. I am sure it was a mistake to imply that 57 percent was off-limits to military training. The gentleman from West Virginia (Mr. RAHALL) and I are reduced to putting out a Dear Colleague which maybe somebody will see in the blizzard of paper. It is an embarrassment to this Chamber that we cannot have a legitimate debate and clarify things like this and not mislead the public or Members of this assembly.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. I thank the gentlewoman for yielding me this time.

Mr. Speaker, the gentleman is aware of the map that I put up of Camp Pendleton that showed the overlays on the various environmental restrictions. I have gone through that a number of times. It has got the areas for the gnatcatcher, it has got the estuarine sanctuary, it has got the closeout for the beach. The gentleman is aware that there is about 17 miles of beach there where the Marines practice their amphibious landings. Is it the gentleman's claim that that beach is now open for use for the United States Marines?

Mr. BLUMENAUER. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Yes. Absolutely. This limited area, 840 acres out of 125,000 acres, is available to amphibious landings, according to the information we have received. And it only applies out of 6 months. The real problem is you have got a freeway, you have got a nuclear power plant, you have got a State park. There never was a legal restriction ever.

Mr. HUNTER. Let me ask the gentleman further, because we are going to have this thing sorted out before this bill is over. Is it the gentleman's contention that the Marine Corps' position is they understand that they can use that beach and they simply have not used it, that that beach is available for amphibious landings?

Did the gentleman ask the Marines? That is my question, I guess.

Mr. BLUMENAUER. I have dealt with the Department of Defense, the Fish and Wildlife Service and have gone to the court records. I do not know how it is being distorted.

Mr. HUNTER. Let me just tell the gentleman that if you have these agreements that they put in place, those agreements are made by several parties: one, Fish and Wildlife; one, State resources, in California that is Fish and Game; and, lastly, the Service. Since we want to make sure we are all on the same playing field here before this debate is over, I would ask the gentleman, we have got a couple of hours here, to check with the U.S. Marine Corps. I will be happy to be with him when we check on it and we can come to the floor and give together an opinion on how much land is ruled off-limits.

My information from the Marine Corps is that they cannot use that beach. That is not the small part of the beach that is up in the north that they use for the nuclear power plant. Nobody has claimed you want to make amphibious landings at a nuclear power plant.

I would ask the gentleman, since he did not have a direct communication with the Marine Corps, if he could get that, and I will work with him, and we will try to come in with the same sheet of music.

Mr. BLUMENAUER. I welcome the gentleman's offer to do so and to correlate that with what the Secretary of the Interior has actually ruled in this case. I welcome it.

Mr. HUNTER. Let me just finish by saying that my information from DOD as of last week is that, currently, of that 17 miles, only roughly one-fifth of a mile, that is roughly one one-hundred-and-fiftieth or one one-hundredth of this shoreline where the Marines practice their amphibious landings is available for use. So we have got totally disparate views. The gentleman says the beach is open. The Marines tell me that the beach is closed. We will be happy to work with him and get a communication from the Marine Corps.

Mr. BLUMENAUER. I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. REYES).

Mr. REYES. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to this very unfair rule. The bill before us today contains provisions that would give the Department of Defense unprecedented authority to develop an entirely new civil service system for its 700,000 civilian employees with little or no congressional oversight, jeopardizing many of the employee protections and rights that Federal employees have fought so hard for over the years.

How do I know this? Because before coming to Congress I was a Federal employee, a civil service employee for 26½ years.

I know that there is a lot of frustration and a lot of misinformation that has been put forth in this. My good friend and chairman has said they had 10 hours of testimony. But when you factor in that there are 700,000 civilian employees that are going to be affected, that is .0008 minutes for each one of those employees that has been given in terms of hearings. I think our civil servants deserve better than that, and we ought to have more hearings on this issue and not just take their civil protections away as we are with this bill.

Mr. Speaker, I rise in strong opposition to this unfair rule.

The bill before us today contains provisions that would give the Department of Defense unprecedented authority to develop an entirely new civil service system for its 700,000 civilian employees with little or no congressional oversight, jeopardizing many employee protections that Federal workers have fought so hard for over the years.

This issue has great personal significance to me, because for more than 26 years prior to becoming a Member of Congress, I myself was a civil servant, first as a Border Patrol agent and later as a Sector Chief. When I joined the Border Patrol, I was one of only two Hispanic members of my training class. I can tell you that there were some that would have preferred that we were not part of the Border Patrol, but the civil service system protected me.

As a Sector Chief, over the objections of my superiors, I implemented what turned out to be one of the most successful programs to stop illegal immigrants from entering this country. If it were not for the civil service protections, I would have been fired immediately.

We sought to offer an amendment to help ensure that DoD civilian employees would continue to enjoy the basic protections that I was afforded as a civil servant, including the right to due process and appeal in cases of alleged discrimination, collective bargaining, and veterans preferences.

Unfortunately, the Republican leadership did not see fit to make Mr. COOPER's amendment in order, so we will not have a debate on this extraordinarily important issue.

Mr. Speaker, even GAO has said, "Congress should consider establishing additional safeguards to ensure the fair, merit-based, transparent, and accountable implementation" of DoD's civil service system. But this rule does not allow us to do that. The patriotic employees who serve our Nation at the Department of Defense deserve better.

I urge my colleague to vote "no" on the previous question and "no" on this terrible rule.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I include for the RECORD my op-ed article entitled "Overhaul Without Oversight" from the Washington Post dated May 21.

[From the Washington Post, May 21, 2003]

### OVERHAUL WITHOUT OVERSIGHT

(By Ike Skelton)

I believe history will show that the swiftness of America's military victory in Iraq was due in large part to the in-depth training of our officers in strategy and plans and to the military's application of that training in the operational plans developed in the months before the war. Many people, including the Secretary of Defense, had detailed lists of what could go wrong. We avoided those outcomes, partly thanks to luck but mostly because of deliberate military planning that sought out and compensated for potential risks and unintended consequences.

Last month, as Congress was departing for a two-week recess, the Defense Department submitted a 200-page draft "transformation" bill that requests extensive new authorities. It is not an understatement to say that this bill, taken as a whole, is the most sweeping defense reform legislation proposed since the Goldwater-Nichols Act of 1986, which changed both the structure and the policies governing our military. The only thing that is obvious and consistent throughout the 50 provisions included in this bill is the aggregation of power sought for the Department of Defense, removing the legal restrictions and congressional oversight that should safeguard against any abuses, however unintentional. This approach is a rush to judgment that will affect vast numbers of people and, in many cases, will enshrine bad policy in law.

Major reassignments of constitutional authority such as this demand the same sort of thoughtful foresight as a war plan. In fact, the Goldwater-Nichols legislation took Congress four years to pass. The armed services committees of both houses of Congress held dozens of hearings and spent months drafting a comprehensive and bipartisan bill. We did this because the scope of the legislation was broad, the potentially unforeseen implications were numerous and the impact on the lives of all those who serve this nation was enormous.

The House of Representatives is to consider and vote on a defense authorization bill today that has much to commend it. It will authorize $400 billion to ensure that our forces remain the best trained and best equipped in the world. But it will also include large pieces of the transformation package—even though the committee has held fewer than five hearings, and most of those with less than a week's notice. Without the time to investigate and ask the tough questions, we do not know what the implications of these changes are. And so we, unlike Gen. Tommy Franks in Iraq, cannot build a plan to avoid the worst outcomes.

The proposed legislation makes sweeping changes to both military and civilian personnel systems. On the civilian side, the Defense Department wants unfettered freedom to hire and fire its nearly 700,000 employees. Congress had a long, contentious debate over similar personnel proposals when creating the Department of Homeland Security. That legislation is barely being implemented now, and there has been no opportunity to evaluate its results. The Defense Department wants changes that are even more dramatic, including, just as one example, the repeal of laws preventing nepotism. What justification based on our national security or sound management principles can justify that? What message does this send to the hundreds of thousands who have dedicated their careers to the service of this nation? And why do such changes need to be rushed through now, when a successful military campaign has shown that the existing system works?

The department also is requesting extensive exemptions from a host of environmental laws that have helped safeguard the long-term health of our communities and of the global environment. As a solidly pro-military member of Congress, I believe the readiness and exceptional training of our troops are of paramount importance and should be taken into account in our environmental laws. But the Defense Department has not yet made use of the legal remedies that already exist to accommodate military readiness. Operations in Iraq showed the exquisite capability of the U.S. military trained under the current system. Changing the law at this point has not been shown to be needed for military readiness, but it will certainly undermine the legal structure that ensures the nation's environmental health.

The Constitution establishes Congress as a counterweight to executive authority for good reasons—to guard against the excessive aggregation of any administration's power and to ask critical questions that allow better policy and better law to be made. When we in Congress are doing our jobs well, we ask what every American should want to know: Why is this necessary and what are the downsides of taking this action?

Without the ability to question and consider fully the implications of what we do, we abandon the planning needed to protect our nation's security and to protect those who serve their nation. We would not accept that of the officers planning a military campaign. We should not accept it from our political leaders either.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, we are spending $100 billion and tragically the loss of young men and women's lives in a war in Iraq that was supposed to be about getting the weapons of mass destruction out of Saddam Hussein's hands so he could not give them to the terrorists. So far, we have not found those weapons of mass destruction.

But the gentleman from South Carolina (Mr. SPRATT) pointed out to us that there are 5,000 tons of weapons of mass destruction in chemical weapons and gases and sarin chemical that we know exactly where they are. But the Republicans will not allow an amendment in order to protect Americans from the assault from these weapons when they fall into the hands of terrorists. We know exactly where 5,000 tons are. We have not found one ounce in Iraq.

There is also nuclear material in the same area of the former Soviet Union and in Central Asia and elsewhere in the world. But they will not allow us to clean it up. They will not allow us to secure it. They are compromising the security of this Nation because this is more likely to fall into the hands of terrorists than anything that Saddam Hussein had.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman's time has expired.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman's time has expired.

Mrs. MYRICK. Mr. Speaker, the gentleman's time has been expired for about 2 minutes.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman will suspend. The gentleman's time has expired.

Mr. GEORGE MILLER of California. . . .

Mrs. MYRICK. The gentleman's time has expired, and he should be removed from the floor.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman will suspend.

Mrs. MYRICK. Nobody is begging anybody. Use your time.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. All Members please suspend.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. Will the gentleman from California acknowledge the Chair?

Mrs. MYRICK. Mr. Speaker, regular order.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman from California is no longer recognized.

Mr. GEORGE MILLER of California. I thank the Chair, and I yield back my time.

Mr. OBEY. . . .

The SPEAKER pro tempore. All Members suspend. The Chair would observe that this is the United States House of Representatives, and respect for the decorum of this Chamber is expected by all. The gentleman from California is a distinguished gentleman, but all rules of the House and the rulings of the Speaker should be followed.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman is not recognized.

Mr. GEORGE MILLER of California. . . .

Mrs. MYRICK. Regular order.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to compliment the gentleman from California. I want to compliment the gentleman from California for having the guts to finally say the rules are rigged against those Members who do not blindly follow the Republican leadership. Every one of us represents about 700,000 people. We do not run for office saying, some of us can speak and some of us can't. Some of us can offer amendments and some of us can't. The Committee on Rules serves to do nothing but keep Members from offering their amendments.

I have got an amendment on base closure. I think every single citizen of this body ought to be recorded as being wanting to close bases or wanting to keep bases open. I have been denied the opportunity to have that vote for 3 years running now.

I have got to ask, who wants to close bases? Do the military retirees who live next to them who want to use the hospital want to close them? No. Do the military retirees who want to use the commissaries want to close them? No. Do the communities that in many instances have paid to bring those bases there like Pascagoula, Mississippi, paid $20 million to help bring home port Pascagoula there, do they want to close them? No.

So maybe who does want to close bases? Mr. DREIER, how about your friend Katrina Leung? I think it is a fair question to ask whether or not someone who is being accused of being a Communist Chinese spy, who has contributed to your campaign, whether or not she wants to close bases.

Why can I not have a vote as a Member of this body on deciding whether or not we are going to close bases? Are we are going to listen to our Nation's military retirees? Are we going to listen to our citizens? Or are we listening to Katrina Leung?

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge Members to vote "no" on the previous question.

If the previous question is defeated, I will offer an amendment to the rule that will make in order the Cooper/Davis/Van Hollen Civil Service Bill of

Rights amendment. Last night, the Republican majority refused to allow the House to consider this amendment. The Republican leadership had decided what kind of Democratic amendment would be acceptable to be included in the rule and since no Democrat was willing to toe the Republican Party line, Democrats have been shut out once again on a straight party line vote.

The bill we are considering today makes enormous and far-reaching changes in the personnel laws affecting civilian defense employees. Furthermore, it does so with virtually no input or oversight from Congress. It leaves this massive overhaul in the hands of the Secretary of Defense.

The Cooper/Davis/Van Hollen amendment would spell out an employee bill of rights to ensure that these valuable employees do not lose their basic employee rights. Yet under this unfair rule it will not be allowed to come to the floor for a vote.

Mr. Speaker, it is hard for me to believe that just a few weeks after the war in Iraq, after all of us heaped deserving praise on all employees of the Defense Department, both military and civilian, that we would pull the rug out from underneath these patriotic, hard-working Americans.

Let me make it very clear. A "no" vote will not stop the House from taking up the Department of Defense authorization. However, a "yes" vote amounts to slamming the door in the face of the military's civilian employees.

As you cast your vote, think about these people and whether you will turn your back on them or whether you will do the right thing and vote to allow this amendment.

Ms. PELOSI. Mr. Speaker, I rise to speak in opposition to the rule on the National Defense Authorization Act. This rule fails to make in order several important Democratic amendments, including the Rahall-Dingell amendment on the environmental provisions in the bill.

The Department of Defense claims that it needs exemptions from five of our major environmental laws—laws that protect the air, water, endangered species, whales, dolphins, and last but not least, humans. The Pentagon says these laws are interfering with military readiness. But the evidence it has presented is at best anecdotal. In a June 2002 study, the Government Accounting Office could find no evidence that environmental protection is a problem for our Armed Forces.

In light of the impressive performance of our men and women in Iraq, any assertion that our military is not ready to fight and win is patently ridiculous. These environmental laws have been in place for several decades, and our Armed Forces are the best trained in the world.

The defense bill that we are debating today rolls back protections in two key environmental laws: the Endangered Species Act and the Marine Mammal Protection Act. The DOD bill significantly reduces the Secretary of the Interior's responsibility to designate critical habitat and would greatly weaken protections for endangered species anywhere in the U.S., not just on military facilities. Without critical habitat, imperiled species will not recover. This bill would also specifically reduce protections for endangered species on military lands. For marine mammals, the bill weakens the definition of "harassment" for all users of the oceans and coastal waters, not just for the military. It would also give the DOD unlimited, unmonitored exemptions from marine mammal protection.

The majority has refused to allow us to vote on the Rahall-Dingell amendment to fix these provisions. Why? Because they are afraid they will lose. The American people reject the idea that the federal government should be above the law. A recent Zogby poll showed 84 percent of likely voters think the Pentagon should follow the same environmental and public health laws as everyone else. Liberals, moderates, and conservatives alike agree that all agencies of the federal government should be held accountable for their actions.

Communities across the nation are grappling with the toxic contamination of former bases that used to be exempt from environmental laws. Many of us have decommissioned military facilities in our districts. In my home city of San Francisco, we have been pushing for years for the clean up of the Hunters Point Naval Shipyard. The military's track record on protecting the environment is dismal. We hold the Department of Defense accountable for its actions in the future.

I urge my colleagues to vote "no" on the previous question, so that we can make the Rahall-Dingell amendment in order, and "no" on the rule.

Mr. LEVIN. Mr. Speaker, I strongly oppose this unfair rule. I do so because it denies Members the opportunity to offer amendments to critical provisions in the Defense Authorization bill.

National defense should be a subject that brings the Congress and the nation together, and not an occasion to create division. Especially given the clear and present danger of further terrorist attacks against the United States, it is imperative that we remain united as we confront these threats.

I support most of the provisions in this bill. It is unfortunate that the Majority chose to insert a number of highly controversial provisions into the Defense Authorization. In particular, I oppose the provisions of the bill that seek to upend longstanding civil service protections for more than 700,000 civilian workers who are instrumental to supporting our men and women in uniform. Without a competent civilian workforce at the Defense Department to back up our troops, it would be difficult, if not impossible, for our armed forces to prevail on the battlefield.

We are legislating in the dark here. Over the past century, we have established protections to prevent the civil service form becoming a political patronage system. Before we throw these protections in the garbage can, we'd better know what we're doing. the Bush Administration delivered its 205-page legislative proposal to restructure the Pentagon's civilian and military personnel system on April 10, just days before the House adjourned for a two-week recess. These sweeping proposed changes are not well understood and they have the potential for long-term negative consequences.

I want to read an excerpt from a General Accounting Office testimony on these proposed changes to the Pentagon's civilian personnel system. The GAO cautions that "moving too quickly or prematurely [to a new personnel system] at DOD or elsewhere, can significantly raise the risk of doing it wrong. This could also serve to severely set back the legitimate need to move to a more performance- and results-based system for the federal government as a whole. Thus, while it is imperative that we take steps to better link employee pay and other personnel decisions to performance across the federal government, how it is done, when it is done, and the basis on which it is done, can make all the difference in whether or not we are successful." GAO goes on to say that "based on GAO's past work, most existing federal performance appraisal systems, including a vast majority of DOD's systems, are not currently designed to support a meaningful performance-based pay system."

The civil service rules have generally served our country well. Can we improve the Defense Department's civilian personnel rules? Sure. Is this the way to do it? Absolutely not. Such sweeping changes—changes affecting more than 700,000 Defense Department workers—deserve more thoughtful consideration by this Congress. If these changes are approved, we will find ourselves in the unique position of having one set of personnel rules for civilian defense employees, another set of personnel rules for employees at the Department of Homeland Security, and a third set of rules for every other federal worker.

It's bad enough that the Republican Majority insisted on including these controversial civil service changes in this bill. What's worse is that the Majority will not even allow us to debate them or offer amendments. The House should be permitted to debate the Employee Bill of Rights amendment proposed by Representatives COOPER, DAVIS and VAN HOLLEN. This amendment would protect the right to receive a veterans preference and the right to be free from discrimination based on political opinion or party affiliation. It would ensure that Department of Defense employees have the same collective bargaining rights and due process rights that other federal employees enjoy. These rights are fundamental. they should not be waived or curtailed at the whim of the Defense Secretary, and this House should not be stampeded into providing him the authority to do so.

I urge my colleagues to join me in opposing the rule so we can have a fair debate and a vote on the Employee Bill of Rights amendment.

Mrs. MALONEY. Mr. Speaker, today we continue the Defense Authorization bill debate.

This bill authorizes a total of $400.5 billion in FY 2004 for defense activities important for our nation's security, however, there are troubling provisions in this bill relating to civil services law, contracting, environmental exemptions and nuclear weapons policy that should not have been included in H.R. 1588.

I'm particularly concerned about the civil service provisions that undermine collective bargaining and safeguards against employee harassment. H.R. 1588 will deny basic worker protections to one third of all Federal Employees. This bill places the Secretary of Defense in the position of being the ultimate decision maker in labor disputes giving him blanket authority to create a completely new civilian employee system. Many of the changes included in this bill will open the way for abuses that the Pendleton Act of 1893 was enacted to eliminate. We may need to modernize, however, we also need to preserve the principles of a Civil Service that has served our nation well for more than 100 years.

I am disappointed that an amendment I offered in the Rules Committee was not made in order. It was a simple amendment that would have ensured that Chief Acquisition Officers are career professionals and not political appointees. I would like to put letters of support from several good government/civil servant groups, including the Federal Managers Association, AFGE, the Senior Executives Association, NTEU, AFSCME and others, into the RECORD.

As AFSCME noted in a letter of support, "H.R. 1588 entrusts the contracting process to political appointees who stay an average of only 18 months and will turn federal contracts into political currency." This wrongheaded provision is a recipe for cronyism and political favoritism!

I am also greatly disappointed that my pro-competition in procurement amendment, offered with Mr. TURNER of Texas, was not made in order. The Maloney-Turner amendment to the Defense Authorization Act would have reapplied certain common-sense, good government procurement rules to the Other Transactions Authority section (Section 1451) of H.R. 1588.

This amendment tried to close a large procurement loophole that is both unnecessary and fraught with potential for abuse.

For some interested in closed-door deals and invitation-only bids, it may be more advantageous to use OT authority rather than a procurement contract, however, it may not be more advantageous for taxpayers.

We are reversing important, settled public policy with this bill. Vote "no" on the rule.

FEDERAL MANAGERS ASSOCIATION,
*Alexandria, VA, May 19, 2003.*
Hon. CAROLYN MALONEY,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CONGRESSWOMAN MALONEY: On behalf of the 200,000 executives, managers, and supervisors in the Federal government whose interests are represented by the Federal Managers Association (FMA), I am writing to express our strong support of your amendment to H.R. 1588, the fiscal 2004 National Defense Authorization Act, requiring that the Federal Chief Acquisition Officer (CAO) position be filled by a career civil servant.

Currently, Section 1421 of H.R. 1588 stipulates that newly appointed CAO's are to be non-career employees, or political appointees. We at FMA believe that Federal agencies and taxpayers would benefit more from the institutional knowledge, expertise, and experience that a career civil servant would bring to this position.

Today, the average tenure of a political appointee is eighteen months, which will result in a revolving door of CAO's in and out of agencies. This situation will only serve to further complicate the structure of the Federal acquisition workforce, while compromising the effectiveness of this critical position due to a lack of stability. Over time, we have already seen detrimental effects on Federal agencies as a result of short-term appointees in leadership positions.

Moreover, Federal acquisition policy is built upon the goal of providing American taxpayers with high-quality products and services through the most efficient use of their tax dollars. In order to achieve this goal, the CAO must be removed from any and all political pressures.

Finally, we at FMA are supportive of the National Commission on the Public Service's (a.k.a., the Volcker Commission named for its chairman, Paul A. Volcker) recent recommendation that, "Congress and the President should work together to significantly reduce the number of executive branch political positions." The requirement that the newly-created CAO positions be filled by non-career employees would only continue the dangerous trend of increasing the number of political appointments—a step at odds with the Commission's recommendation, which has been supported by many Members of Congress.

Sec. 1421 of H.R. 1588 would best serve the American public if amended, as you have recommended, to require that the CAO be a career civil servant.

Thank you for your leadership on this important issue. We look forward to working with you to ensure passage of this amendment. Please do not hesitate to contact us if we can be of further assistance to you on this matter.

With kindest regards, I am
Sincerely yours,
MICHAEL B. STYLES,
*National President.*

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AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,
*Washington, DC, May 19, 2003.*
Representative CAROLYN MALONEY,
*House of Representatives, Rayburn House Office Bldg., Washington, DC.*

DEAR REPRESENTATIVE MALONEY: The American Federation of State, County and Municipal Employees (AFSCME) strongly supports the amendment you seek to offer to the Defense Authorization bill that would require "Chief Acquisition Officers" to be career civil servants.

As presently drafted, H.R. 1588 requires these officers, many of whom would fill newly created positions in the federal agencies, to be political appointees. There is no sound justification for such a proposal. In light of the Administration's announced intention to contract out half the federal workforce, it should be seen for what it is: a strategy to facilitate reaching this goal whether or not it is cost effective or in the public interest.

H.R. 1588 entrusts the contracting process to political appointees who stay an average of only 18 months and will turn federal contracts into political currency. It will diminish public accountability of the public's money; further destroy the morale of committed and experienced career employees; destabilize the delivery of federal services; and lead to the award of billions in contracts to the Administration's political allies and friends with little regard to effective management.

At a time when we should be shoring up the public's faith in our government, H.R. 1588 will return to the corruption and spoils system that the creation of a professional workforce under the civil service system was intended to end.

AFSCME strongly supports your amendment and commends you for seeking to ensure that federal operations are performed in an objective and professional manner that puts the public interest ahead of special interests.

Sincerely,
CHARLES M. LOVELESS,
*Director of Legislation.*

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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO,
*Washington, DC, May 19, 2003.*
Hon. CAROLYN MALONEY,
*Rayburn House Office Building, Washington, DC.*

DEAR REPRESENTATIVE MALONEY: On behalf of the American Federation of Government Employees, AFL–CIO, which represents more than 600,000 federal employees who serve the American people across the nation and around the world, including many federal employees who administer contracts for goods and services, I commend you for your ongoing efforts to amend the Services Acquisition Reform Act (SARA) to ensure that the position of Chief Acquisition Officer is held by career civil servants, and not political appointees.

Your amendment would ensure that an agency's preeminent procurement official would be someone with an institutional interest in promoting the interests of the agency and the taxpayers who support that agency, both over the short-term as well as the long-term. A career civil servant is more likely to have developed the expertise necessary to perform the important responsibilities of the chief acquisition officer. It is unlikely that a political appointee would have the same level of expertise and commitment, especially given the significant turnover generally among political appointees. Ironically, at the same time there is a bipartisan consensus to reduce the number of political appointees, SARA would add yet another layer of political appointees.

While I know that the authors of SARA have no such intention, you are absolutely correct in your assertion that making the Chief Acquisition Officers political appointees raises significant concerns about cronyism and patronage, a serious concern given ongoing efforts to strip all federal employees of their civil service protections against politics and favoritism. I know that your experience in New York City in the long but ultimately successful fight against waste, fraud and abuse in municipal contracting induced you to offer your amendment to make the Chief Acquisition Officer a career civil servant at the House Government Reform Committee's mark up of SARA earlier this month. Learning from the hard lessons of history, New York City was able to make substantial progress on behalf of taxpayers when procurement officials were made civil servants, instead of political cronies.

The counter-arguments to your amendment that were served up at the mark up were entirely unpersuasive. Whether a Chief Acquisition Officer will command respect from agency management and acquisition personnel will depend entirely on her experience, her expertise, and her independence, and not on whether she is a political appointee. Surely, it is self-evident that a Chief Acquisition Officer is more likely to command respect and be able to perform her important responsibilities if she is a career civil servant.

I sincerely hope that the rule for consideration of the defense authorization bill (H.R. 1588) will allow your amendment to be made in order on the floor of the House of Representatives because its enactment is imperative if the Congress is to ensure that the billions and billions of taxpayer dollars spent annually on services are safeguarded. Please contact John Threlkeld in AFGE's Legislative Department at (202) 639-6413 if you have any questions about the views expressed in this letter.

Sincerely,
BOBBY L. HARNAGE, SR.,
*National President.*

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SENIOR EXECUTIVES ASSOCIATION,
*Washington, DC, May 19, 2003.*
Hon. CAROLYN B. MALONEY,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR REPRESENTATIVE MALONEY: The Senior Executives Association (SEA) represents the interests of career federal executives in the Senior Executives Association (SES), and those in Senior Level (SL), Scientific and Professional (ST), and equivalent positions. We are writing in support of your amendment to H.R. 1588, which would require that a career employee fill the proposed Chief Acquisition Officer position. In contrast, the current bill states that a noncareer employee would fill this position.

SEA feels strongly that the role of the Chief Aquisition Officer must be free from any potential allegations of undue political influence. The critical business of government procurement should never lend itself to even a perceived taint of political manipulation. This can best be accomplished by requiring that a qualified career employee fill the position.

In SEA's oral testimony at the April 29, 2003 hearing before the House Civil Service and Agency Organization Subcommittee on "Transforming the Defense Department: Exploring the Merits of the Proposed National Security Personnel System," we emphasized our support for a procurement process free from politicization. For your reference, we have included a copy of the oral testimony from the April 29th hearing with this letter.

Please let us know if there is any way in which we might be of assistance in securing the passage of this critical amendment.

Sincerely,
CAROLY A. BONOSARO,
*President.*
G. JERRY SHAW,
*General Counsel.*

STATEMENT OF G. JERRY SHAW, GENERAL COUNSEL, SENIOR EXECUTIVES ASSOCIATION BEFORE THE GOVERNMENT REFORM COMMITTEE, SUBCOMMITTEE ON CIVIL SERVICE & AGENCY ORGANIZATION, U.S. HOUSE OF REPRESENTATIVES ON THE PROPOSED DEFENSE TRANSFORMATION ACT OF 2003, APRIL 29, 2003

Thank you Chairman Davis and members of the Subcommittee for the opportunity to testify today on this very important legislative proposal.

You have already heard from others about many of the problems and concerns of employees and their representatives about this proposed legislation today. SEA too has its issues. But we will confine our comments to those matters that we believe threaten the integrity of the federal workforce, and specifically of the Senior Executive Service and its cadre of career executives that insure the impartial and non-political, non-partisan enforcement and administration of our nation's laws.

I was watching a "60 Minutes" segment on CBS television last night. It was directly applicable to the proposed legislation and our concerns. It involved allegations by the "60 Minutes" correspondent that there had been improper political interference in the awarding of DoD contracts for the rebuilding effort in Iraq. Specifically it accused Vice President Cheney of "obviously" interfering in the pre-hostilities award of classified contracts to Halliburton Corporation, which he headed prior to becoming Vice President of the US. It also made allegations about former General Officers in the military who were now working for Halliburton and some of the other companies and corporations that received DoD contracts for providing services to the US troops in Iraq, including food service, waste disposal, water, fire fighting, and other necessitates. Finally, it sought to cast aspersions on the current Administration and its political leadership for allegedly interfering in these and other rebuilding efforts in Afghanistan, Iraq and elsewhere.

Now we all know that such allegations and innuendo are the lifeblood of "60 Minutes" and other television news shows, and are not to be taken seriously on many occasions; this may well be one of those occasions. But the interesting part was the response by DoD.

Instead of the Secretary of Defense or other high level political appointees responding, DoD had the Chief Counsel of the Dept. of the Army Corps of Engineers, Robert Anderson respond to the allegations. Mr. Anderson is a career member of the Senior Executive Service. He provided an eloquent defense of the procurement process, but his most important and telling statement was that the contract procurement activities were performed by career employees, who would NOT allow DoD or other federal contracts to be awarded on the basis of partisan politics. He stated that if "60 Minutes" or any of the other parties making allegations were to spend one week with these career employees, they would understand how carefully and objectively these contracts were evaluated and awarded, and how the career employees insured the impartiality of the process.

Later in the "60 Minutes" presentation the correspondent states that the Office of the Vice President had issued a statement that he had never been involved in the awarding or seeking of contracts from the government while he was Secretary of Defense, President of Halliburton or Vice President of the US.

The importance of this is that DoD realized that the integrity of its programs depended on the career executives and career employees who carry out the day-to-day activities of the government. It also knew that if a Career SES employee presented the facts, they would carry more credibility with the public "60 Minutes" was at a loss when confronted with the career employees as the protector of the integrity of the procurement process, and I believe that most of the nation's citizens dismissed out of hand the allegations because of the assurances of the career SES employee, Mr. Anderson.

We relate this incident because we firmly believe that some of the authorities sought by DoD in this legislation could serve to undermine the citizens confidence in the integrity of government operations. This confidence is based in large part on the integrity of the Civil Service system, and the Career Senior Executive leadership of our system. Provisions of this legislation would do away with many of the rights and protections these employees need to maintain their nonpartisan integrity, and the people of this country know this. SEA is that this is not intended, but there is always a concern about un-intended consequences. We believe that breadth and depth of the unfettered authority sought by this legislation justifies our, and your concern.

Most of SEA's concerns are stated and supported in our statement, which we have submitted for the record. However, we do want to highlight some of the most important ones.

1. The legislation would do away with the requirement for Career Reserved SES positions, by allowing such positions if allowed to exist, to be filled by anyone, qualified or unqualified, partisan politician or not. This authority is not necessary. OPM has done the job of overseeing and insuring that positions requiring impartiality and non-partisan enforcement of the nation's laws are carried out by career employees who have gained their positions based on merit. We believe this should continue.

2. The legislation would do away with the requirement that career SES appointments be made from persons who meet the qualifications for the job. This too has been done by OPM through the Qualifications Review Board process, which should continue.

3. It would allow for SES Career Reserved positions to be filled by temporary employees with no review of their qualifications, and no limit on their numbers. We respectfully object to this authority. It also removes the restriction that political appointees may fill no more than 10% of SES positions overall in government, or 25% in any agency. This could destroy the career SES, and rob the government and the people of this country of the impartial administration of our nation's laws and regulations.

4. The legislation would allow the elimination of all appeal rights for career executives and employees to the MSPB if their pay was drastically cut, or they were removed from their positions for alleged misconduct. This would deny these employees any due process rights in the "taking" of their pay, or their positions and reputations.

5. It allows the flexibility to eliminate the SES appointment rules, the 120 get acquainted rule, the rule of 60 days notice for geographic reassignments, and many other rights. It also allows for an SES employees pay to be set annually anywhere between $125,000 (or lower) up to the VP level of $198,600 with no oversight, no necessity for 'certification' of a fair evaluation process, or any right on behalf of the employee to challenge the determination anywhere, including if the pay is cut.

6. It allows the creation of appointments of "highly qualified experts, who could be paid up to 50% higher than the highest SES salary, or currently $297,900. There would be no limit on the number of these appointments, and they could serve for six years in any position, with no independent check on their qualifications. If a particular DoD administration wished, they could unilaterally fire every one of their career SES employees, and fill these positions with "highly qualified experts" from whatever field, without review of their actions or appointees.

[Currently DoD has such authority for 40 positions at DAPRA, 40 for each of the armed services research labs, and 10 more between NIMA and NSA. However, these are limited to scientific and engineering positions, and the appointees are limited to pay 25% higher than the SES pay, or currently $248,250. No such limitations are contained in the proposed legislation].

These are but some of our concerns. We urge the Subcommittee to expeditiously amend this proposal to restore the necessary safeguards for career SES employees, and other civil service employees before its enactment.

SEA does not object to additional flexibility for DoD. But we believe the new flexibility should be limited to that provided the Dept. of Homeland Security, and that they be required to go through the same process as Homeland Security before issuing regulations and beginning or implementing new systems in the Dept. of Defense.

Thank you for this opportunity to testify. I will be happy to answer any questions you might have.

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THE NATIONAL TREASURY
EMPLOYEES UNION,
*Washington, DC, May 19, 2003.*

Hon. CAROLYN MALONEY,
*Rayburn House Office Building, Washington, DC.*

DEAR REPRESENTATIVE MALONEY: I am writing on behalf of the National Treasury Employees Union (NTEU) to express support for your amendment to the "Defense Authorization Act of FY 2004." Your amendment seeks to fix a flaw in the bill by seeking to ensure that Chief Acquisition Officers are career civil servants, not political appointees.

NTEU represents 150,000 career federal employees in 28 federal agencies and departments. These employees work on the front lines day in and day out, and they are in the best position to determine whether federal government services should be privatized or not. Agencies continue to privatize more and more federal jobs even though the government does not have the staff or systems in place to oversee the work of contractors. Giving short-term political appointees broad authority to privatize the work of the federal government only serves to foster political cronyism, waste taxpayer dollars, and jeopardize the delivery of government services to the American public.

I urge support for your amendment so that government purchasing decisions will be made by experienced and hardworking federal employees who know the needs of their agencies best.

Sincerely,

COLLEEN M. KELLEY,
*National President.*

Mrs. TAUSCHER. Mr. Speaker, I rise today in opposition to the rule.

This bill entirely re-writes two of the cornerstones of environmental policy—the Endangered Species Act and the Marine Mammal Protection Act. Yet we will debate this for only 10 minutes.

This rule attempts to conceal an egregious overreach by the Majority by labeling it as a typographical error.

Having been caught with their hands in the cookie jar, the Majority now seeks to establish political cover, prohibit meaningful debate and avoid going on the record with a recorded vote against the environment.

This administration's attempt to enact sweeping environmental exemptions under the guise of "military readiness" is a disgrace.

I am also outraged that the rule has not allowed Mr. SPRATT's amendment on nuclear nonproliferation.

The threat level has been increased to orange, the administration is on the lookout for terrorists and rogue nations with weapons of mass destruction, yet the Majority refuses to allow debate on the most meaningful way to prevent terrorists from getting nuclear weapons in the first place—our long-standing, proven nonproliferation programs.

Mr. Speaker, this is an outrage. I urge my colleagues to vote for the very principles this body was founded upon and vote against this egregious rule.

Mr. FROST. Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The material previously referred to by Mr. FROST is as follows:

### PREVIOUS QUESTION FOR H. RES. 247—2ND RULE ON H.R. 1588 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

At the end of the resolution, add the following:

"SEC. 5. Notwithstanding any other provision of this resolution and only immediately after the disposition of amendment numbered 1, the amendment specified in section 6 shall be in order as though printed in the report of the Committee on Rules if offered by Representative Cooper of Tennessee or a designee. That amendment shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

SEC. 6. The amendment referred to in section 5 is as follows:

### AMENDMENT TO H.R. 1588, AS REPORTED OFFERED BY MR. COOPER OF TENNESSEE OR MR. DAVIS OF ILLINOIS OR MR. VAN HOLLEN OF MARYLAND

In section 9902 of title 5, United States Code (as added by section 1111 of the bill (page 349, line 13)), insert after subsection (b) the following new subsection (and make all necessary technical and conforming changes):

"(c) EMPLOYEE BILL OF RIGHTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) the Department of Defense should have flexibilities in personnel decisions, including pay and promotion, in order to provide the strongest possible national defense; and

"(B) the Department of Defense should protect fundamental civil service protections of civilian employees at the Department.

"(2) CIVIL SERVICE PROTECTIONS.—

"(A) The right of an employee to receive a veterans preference in hiring and a reduction in force, as in effect on the date of the enactment of this subsection, shall not be abridged.

"(B) An employee shall have the right to be free from favoritism or discrimination in connection with hiring, tenure, promotion, or other conditions of employment due to the employee's political opinion or affiliation.

"(C) The Secretary shall not refuse to bargain in good faith with a labor organization, except as provided in section 9902(f) (relating to bargaining at the national rather than local level), and shall submit negotiation impasses to—

"(i) an impartial panel; or

"(ii) an alternative dispute resolution procedure agreed upon by the parties;

"(D) An employee shall have the right to full and fair compensation for overtime, other time worked that is not part of a regular workweek schedule, and pay for hazardous work assignments.

"(E) An employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Such right includes the right to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

"(F) An employee against whom removal or suspension for more than 14 days is proposed shall have a right to—

"(i) reasonable advance notice stating specific reasons for the proposed action, unless there is reasonable cause to believe that such employee has committed a crime or immediate action is necessary in the interests of national security;

"(ii) reasonable time to answer orally or in writing; and

"(iii) representation by an attorney or other representative.

"(G) An employee shall have a right to appeal actions involving alleged discrimination to the Equal Employment Opportunity Commission.

"(H) An employee shall have a right to back pay and attorney fees if the employee is the prevailing party in an appeal of a removal or suspension."

Strike 9902(f)(2)(D) of title 5, United States Code (as so added) (and make all necessary technical and conforming changes).

☐ 1300

Mrs. MYRICK. Mr. Speaker, did the gentleman from Texas (Mr. FROST) yield back his time?

The SPEAKER pro tempore (Mr. ISAKSON). All time has expired.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution and thereafter on the motions to suspend the rules and pass H.R. 1683 and H.R. 1257.

The vote was taken by electronic device, and there were—yeas 224, nays 198, answered "present" 1, not voting 11, as follows:

[Roll No. 207]

YEAS—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)

Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NAYS—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### ANSWERED "PRESENT"—1

Farr

### NOT VOTING—11

Bonilla
Combest
Gephardt
Lewis (GA)
Meek (FL)
Portman
Quinn
Rangel
Solis
Udall (CO)
Watson

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON) (during the vote). Members are advised there are 2 minutes left to vote.

□ 1319

Messrs. ALEXANDER, CAPUANO and CARDOZA changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 207 on the previous question I was unavoidably detained. Had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 199, answered "present" 2, not voting 11, as follows:

[Roll No. 208]

### AYES—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette

Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—2

Farr
Lofgren

NOT VOTING—11

Bonilla
Combest
Cunningham
Gephardt
Lewis (GA)
Meek (FL)
Oxley
Quinn
Rangel
Solis
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1328

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 208 on H. Res. 247, providing for consideration of H.R. 1588, I was unavoidably detained. Had I been present, I would have voted "no."

## PERSONAL EXPLANATION

Mr. UDALL of Colorado. Mr. Speaker, earlier today I was inadvertently delayed in reaching the floor and as a result was not recorded on two votes. Had I been present, I would have voted as follows:

On rollcall No. 207, on ordering the previous question on H. Res. 247, I would have voted "no."

On rollcall No. 208, on adoption of H. Res. 247, I would have voted "no."

□ 1330

## VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

The SPEAKER pro tempore (Mr. ISAKSON). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1683.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 1683, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

[Roll No. 209]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Bonilla
Combest
Gephardt
Lewis (GA)
Oxley
Quinn
Sabo
Stearns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

☐ 1335

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. STEARNS. Mr. Speaker, on rollcall No. 209 I was unavoidably detained. Had I been present, I would have voted "yea."

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## SELECTED RESERVE HOME LOAN EQUITY ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1257.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 1257, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 0, not voting 6, as follows:

[Roll No. 210]

YEAS—428

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Bonilla
Combest
Gephardt
Lewis (GA)
Oxley
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes in which to cast their votes.

☐ 1342

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 249 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 249

*Resolved,* That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of May 22, 2003, providing for consideration or disposition of the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my colleague and friend, the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 249 waives clause (6)(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

The rule applies the waiver to a special rule reported on the legislative day of May 22, 2003, providing for consideration or disposition of the bill to provide for reconciliation pursuant to section 201 of the concurrent resolution, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

This rule is the starting block to allow the House to consider legislation that will infuse our economy with job-creating tax relief, investment incentives, and overall economic growth.

The House initially passed the Jobs and Growth Reconciliation Tax Act earlier this month, and with today's action we can demonstrate our continued commitment to spurring economic expansion and providing stability to American workers, businesses and families.

Our economy needs a healthy dose of meaningful relief. This Congress has once before exhibited the leadership and sense of purpose needed to create jobs and protect workers. If we delay, we put American jobs and the strength of our economy at risk.

As we prepare to consider legislation extending unemployment compensation, I can think of no better complimentary action for Congress to adopt than legislation to boost employment levels, lower the tax burden, and grow the economy. It is imperative that we move forward at once. Thus, I strongly urge my colleagues to support this rule so we can proceed with a debate on this very important legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1345

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is often said if you repeat a lie often enough, people begin to believe it. Our record $350 billion deficit, the Republican Congress tells us that does not matter. The fact that this Republican administration has asked us not once, but twice, to raise the debt limit to record levels, ignore that, and maybe it will go away. The promise that all Members made to protect Social Security and Medicare funds in a lockbox, that does not seem to matter either, Mr. Speaker.

This is not government. This is a complete abdication of fiscal responsibility.

In 1995 the now majority leader, TOM DELAY, said, "By the year 2002, we can have a Federal Government with a balanced budget or we could continue down the present path towards total fiscal catastrophe."

It is now abundantly clear that the Republicans have lost their way and have decided that the path of fiscal catastrophe is not such a bad path after all. That begs the question, Mr. Speaker, what are the priorities of the Republican Party that makes tripping down the path to fiscal catastrophe such a great idea in 2003 when it was so bad an idea in 1995?

Well, we know the Republicans' top priority is to give millionaires a dividend tax cut. Where does that money come from? Well, the Republican budget conference report cuts veterans' Medicare and burial benefits by $6.2 billion. So if you are a millionaire and you have got a lot of dividend and capital gains income, the Republicans take care of you. If you are a veteran, this Republican Congress wants you to remember this Memorial Day as the one when your benefits were cut. And for what, Mr. Speaker? One of the most gimmick-laden tax cuts this Congress has ever considered. While the dividend and capital gains taxes last until 2008, the marriage penalty relief and child tax credits disappear at the end of 2004.

So while the millionaires enjoy their rate break for the rest of the decade, working families are left with uncertainty.

In 2001 the Republicans told us that their tax cut would create jobs. Instead, the Bush administration has presided over one of the worst job losses in American history; 2.7 million jobs have been lost. A dividend tax package is not going to help these people get jobs. It is simply welfare for millionaires.

Mr. Speaker, Warren Buffett has made a lot of money. Mr. Buffett would, in fact, be one of the greatest recipients of the Republican tax plan. He wrote an op-ed in The Washington Post this week calling the dividend tax plan "voodoo economics."

Alan Greenspan said, "There is no question that as deficits go up, contrary to what some have said, it does effect long-term interest rates. It does have a negative impact on the economy."

These are two of America's leading economic minds, Mr. Speaker. And they know that financing this tax cut which benefits only the wealthy few with borrowed money is wrong. It is wrong, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we believe it is important to move this legislation forward to grow our economy, to create jobs, help people who do not have jobs find jobs; and we strongly support it and strongly support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I received my symbol for this Congress just the other day. It is an official stamp from the White House, and they are passing them out. You will all get one in the mail I am pretty sure, and it says: "Official rubber stamp. I approve of everything George Bush does. Member of Congress."

All you have to do is sign your name on there. That is what this Congress is about, rubber stamping the President's proposals. Bring it out here. No debate. Do not let us offer amendments. Do not take any time. Just get out the rubber stamp and put it down there and just roll it on in. You have now joined the rubber stamp Congress.

This party is running a one-party government. They want no input from the Democrats whatsoever. They are a rubber stamp for the President. They are willing to give away all their prerogatives on the war. They said to the President, whenever you think it is time to go to war, go ahead. So they have rubber-stamped whatever he wanted to do. On the tax cut, just give it to him. It will work. On unemployment benefits, well, they stalled and stalled; and he said, look, we are getting bad numbers on those polls. We better do something about employment. So in about an hour we are going to come out here and rubber-stamp again his unemployment bill that the Democrats have been pushing for 4 months. But when the President says it, everybody on the other side jumps up and says, Where is my rubber stamp? God, I got to get over to the floor and cast my vote for whatever he wants.

Whether he wants to repeal all of the environmental issues related to the military, give the military an open season on doing anything they want. They are killing whales and porpoises in Washington, they are doing all the rest, but over here on the other side, we do not want to have any debate on that. We are rubber-stamping whatever the President wants. I welcome everybody to the rubber stamp club. I hope you got yours. Do not forget to bring them to the floor when you vote.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for yielding me time.

Mr. Speaker, it would be my greatest desire that we would have a full debate on the question of the next step for our economy and walk out of this Chamber with the mark of the Congress in the bipartisan way.

Two days ago, Warren Buffett wrote an op-ed, and I believe everyone knows the portfolio of Warren Buffett is still very strong, one of the richest men in the Nation. And he argued vigorously with the approach this Congress was taking. Clearly, he said, the tax plan now moving through the Congress is not a gift for him. It is an outright bonus. It is Christmas every day, and it is for everyone in his predicament and condition: $40 billion-plus in assets. But he compared his status, Mr. Speaker, with the status of the secretary or receptionist working in his office or even the cleaning woman working in his office.

He said, under this effort, this tax cut program, he would be paying or being given a gift and he would be paying one-tenth of the amount of monies required by the receptionist and the cleaning woman.

What that says to me, Mr. Speaker, we are going up the wrong road. There is a dead end at the end of the road and the dead end are the millions of unemployed who are not getting an extended unemployment package of 26 weeks because we have got to give a tax cut to the rich. We are going up a dead end, Mr. Speaker, because the program that is now being fostered upon us does not create jobs.

If we took the Democratic plan, Mr. Speaker, and we invested a million dollars in transportation infrastructure, you would get 13 jobs. If you did it in health care, you would get 26 jobs. Mr. Speaker, if you use the plan that the President has put forward, you take a million dollars and you get two jobs.

Now, I know that there is a difficulty in math in this great body because we are willing to go forward on $550 billion, which I understand is a compromise on $350 billion; but it does not invest back into America to create jobs, and the plan as proposed by the Republicans takes $1 million to create two jobs. And I can take $1 million and put it in transportation and create 15 jobs, and in health care and create 28 jobs and on down the line. And then I could provide 26 weeks of unemployment for those whose benefits are being cut off.

I know the American people are focused as we honor the dead this coming weekend, and I will join them in cherishing those who fight for our freedom. But it is time for America to wake up. You are going to be hungry after 13 weeks. You need to stand up and fight for 26 weeks. That is what I believe we should be doing today.

Putting up this marshal rule does not allow us to collaborate and to work together. Let us work through tomorrow, let us work through Saturday, let us work through Sunday. Let us leave this place with a tax bill that really invests in America. Let us leave this place with 26 weeks of unemployment insurance for the single mothers and dads who are going to be facing eviction because they do not have the benefit.

Let us churn the economy by ensuring that those people who are without work who are looking for work because there are no jobs, still have the benefits to pay their mortgage and their rent and to buy the food.

Mr. Speaker, we are forcing this down the throats of the Members of Congress. I know we are better than this. This is not a good rule. We need to deliberate and work for a better economy for America because our economy is in shambles. I ask my colleagues to work together and vote against this.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, I rise to suggest a caution flag as we rush towards this free lunch-approach to governmental fiscal policy. We cannot have a world-class military and defense, world-class health care, education, cities, and culture, and suggest that no one has to pay for it. And we talk about tax cuts today as if they are going to stimulate the economy tomorrow with some type of selective amnesia, because it was right here on this floor just 2 years ago that we passed the largest tax cut supposedly in the history of the country. And it did not stimulate our economy.

Let us just take a look for a minute at where we are.

□ 1400

We have moved from hundreds of billions of dollars of surpluses to now having hundreds of billions of dollars of deficits. We had millions of Americans who were working who are now unemployed; and, even today, the unemployment registration rate in our country has increased again. Consumer confidence is down. Housing starts are down. And every single indicator, in terms of economic health in our country, is troubling.

We have heard from the Chair of the Federal Reserve Board, Alan Greenspan, suggesting that this tax cut is very problematic in both the short term and the long term. He cautions the Congress that our combination of both spending and tax cuts risks the fiscal health of this Nation. And the Republican majority, I am sure, wants to say, well, we just need to get spending under control, as if the country should forget that they are in the majority, that they control spending both in the House and in the Senate, and they control the signature from the executive at the White House.

For so many years now we have been insisting on spending more on defense, we have been insisting on investing in a whole range of exotic weapons systems, and then we come to the floor and the majority offers us more and more tax cuts. The fiscal health of our country is in jeopardy. Future generations will have to pay. We should say to Americans, why do we not be mature, pay the bills as we go, rather than run the country into further deficit?

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this is a martial law rule, and that is appropriate because there are those in this House and in this country that think the role of all the representatives here is to march in a martial fashion behind the leadership of the majority leader, the gentleman from Texas (Mr. DELAY).

So it is appropriate they bring this rule out today, a gag rule, to gag those of us that do not share the views of the majority leader, who might have an amendment or an alternative way to address the problems that American families face. They deny us that right. They have assured there will be no substitutes considered on this floor. It is their way or the highway. It is a martial America that they are supporting and appropriate they bring this rule up to do it.

Their ideas are so narrow and so extreme that they cannot stand to have them debated and voted upon, not so much worrying about the Democrats but worrying that some members of their own party could not be held in line against solid alternatives to do something for the millions of Americans that lack jobs in this Bush economy; to do something about the millions of Americans who lack insurance in this Bush economy; to do something about the children who are denied the opportunity to fulfill their full potential because of teacher freezes, because there are textbooks that will not be renewed in Texas.

Meanwhile, the President tells us that he has to break his promise on the "Leave No Child Behind" Act. He has come up with a mere $9 billion, that is billion with a "B," billion dollars. He breaks his promise in the short period of time that he advanced a bipartisan proposal for education that we all came behind. Now he will break his promise and not fulfill the promise he made to the American people. Though we do not have the money for our children to get access to new textbooks, we do not have enough money for that, we do have enough money for more tax breaks for those at the top of the economic ladder.

The budget deficit puts a hole in the pocket of every American every day of their lives. It threatens the very foundation of our culture. We must seize and act upon this historic opportunity to solve this, the most pressing issue facing the country.

Those are not my words, though I find them rather eloquent. They are the words of Treasury Secretary John Snow in 1995 but forgotten by him now that he has a new job in the administration. No "Snow job" can hide this administration's Mt. Everest of debt. Mr. Snow got a new job and a new viewpoint at the same time millions of Americans were losing their jobs in this sorry economy.

A few weeks ago, the President announced a tax cut of the size that will be imposed on America tonight and said that it was just a "little bitty" tax cut. Well, Mr. Snow is coming the same week and asking us to raise the debt ceiling by billions of dollars. Is that a "little bitty" increase? No, they practically need an extension ladder over there at the Treasury Department because they cannot get the debt ceiling raised fast enough before they are back having to go up a little higher and raise it some more.

Of course, they turn to us and say, "it is the people's money, give it back to them. It is their taxes." Well, it is the people's debt, too, and they are going to have a whole lot more of it. And not billions, but trillions, with a "T," trillions of dollars in additional debt if this lame economic policy, this sorry tax break, one after another writeoff for the rich, is imposed on the children and the grandchildren of America.

This is a borrow and spend Republican Party, and that is why they have to have martial rules because they cannot permit Congress to consider alternative proposals. They cannot have full and fair debate. They need everybody to line up in a line and stand to borrow more from the people of this country. **A "no" vote is a vote for fiscal responsibility that ensures our children will not be burdened by today's excesses.**

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the distinguished gentleman from Texas (Mr. FROST) for yielding me this time, and I rise in opposition to this martial rule, which essentially restricts debate. It does not permit the Democratic economic program to even be debated today.

Why not? What is the opposition afraid of? They have the votes on their side. Why not even allow us to talk about our program?

Here is why. I remember back to that old saying, if you fool me once, shame on you. If you fool me twice, shame on me. But if you fool me thrice, well, my gosh, it is just a sad and deadly shame.

If we think back to 1981, when Vice President DICK CHENEY was then a Member of this House and head of the Republican Policy Group, he was involved in the Republican tax program enacted back in 1981. We had the worst job washout in American history. I was elected in 1983. It took us 15 years to balance this budget and to bring employment up, with the election of Bill Clinton and 8 years of economic growth inside this economy. And it was not easy.

When this administration took over, they blew $1.3 billion in the first year and a half. Fifteen years of work flew out the window. Then with their tax bill that they passed back in 2001, what have we gotten in terms of employment? None. We have got the biggest job loss since World War II, over 3 million more jobs lost in this country. We have three people in this economy looking for every single job that is being created, and most of those jobs do not pay a living wage and they do not have health benefits.

So, fool me once, fool me twice, and now we have the third version that they are bringing up. This bill, what will it do? It is going to create more unemployment. It is no different than what was done back in 1981, no different than what was done back in 2001. Strike one, strike two, strike three. They ought to be out.

If we take a look at our country, we might ask ourselves the question: With 150,000 of our men and women, of our troops, now deployed in Afghanistan and Iraq, is it not amazing that what we do here at home under the Republican plan is reward the Wall Street brokers who just stole your 401(k) money? There is not a single American family that has not been affected. So we say to them, take more of our money. Take more of our money. The interesting thing about the Republican bill is that not a dime that is given to them has to be invested in the USA. We are going to have more job washout to China, to Mexico, and every single American community and worker knows what I am talking about.

So the Democratic plan provides a million jobs this year alone. It invests in the United States. It gives families security. It does not borrow against the Social Security trust funds, which is how they are covering their growing deficits, and it enacts responsible economic programs. That is what the Democratic bill does. It creates jobs this year, it does not add a penny to the deficit, and it preserves Social Security and Medicare, our Democratic legacy.

Fool me once, not me. Fool me twice, not me. Fool me thrice? How about you?

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

We are seeing a very clear difference in philosophy and opinion on the floor of the House today between the parties. It was said before by one of our friends on the other side of the aisle that when we cut taxes, when we reduce the burden of taxation on the American people, that that is an imposition. That was the word. We impose this. Congress, it was said, will impose a tax cut on the American people.

We believe that when we relieve the tax burden on the American people, that that is not an imposition on the American people. We believe it is their money in the first place, and we are relieving the tax burden on the American people. We are imposing less taxes from Washington.

So it is an interesting difference of opinion, and I think it is a fundamental difference of opinion. I think the American people are seeing it today. What we believe is that we should return as much as we can of the people's money to the people, and that they are best suited and know best how to spend their own money. So it is a fundamental difference.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Yes, there is a difference between the two parties here. The other side would impose billions of dollars of debt on my 6-year-old granddaughter and my 3-year-old granddaughter and my 2-month-old granddaughter. I do not believe we should be doing that.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, the Bush recession continues, and this job killer bill ensures that it will continue to continue. It imposes additional deficits on our budget and additional debt on the American people. It imposes higher interest rates on the American people. It will impose upon our teachers and our firefighters layoffs at a time when we need more jobs in the economy, because it virtually ensures that we will provide only very limited and inadequate aid to our States and cities that are falling on hard times right now.

If we look at the details, we become aware that this bill, whatever the arguments that were made in favor of it, is nothing more than an effort to hand as much cash as possible to the Bush class. We are told that it is going to help investments, but when we look at the details, we discover otherwise. Three details: It is temporary, it provides aid to children with huge trust funds, and it provides equal encouragement to invest in foreign corporations as domestic corporations.

At least that is what I am told orally about a bill that, in theory, has not been written yet but in fact is out in the press now.

What about it being temporary? The idea was that we were not just going to give a windfall to people who had already invested in stocks but that we were going to encourage people to invest more. Well, wait a minute. Municipal bonds are a nice investment for tax-free income. But who would buy a municipal bond today if 5 years from now all the income was going to be subject to tax? Nobody is going to invest in stocks long term because of a short-term window in which the dividends are tax free. Sure, if they already own the stock, they will enjoy not paying taxes.

Second, I am told that these same benefits are available to investments in foreign corporations. So if you invest in the Chinese people's low-wage corporation, you pay no American tax at the corporate level, of course, and no American tax at the domestic level, or a very low tax.

Finally, if you transfer half a million bucks worth of Rolls Royce stock to your 14-year-old daughter, in a couple of years she will be eligible to receive the dividends on that stock virtually tax free and then go out and buy a Rolls Royce with the dividend income. This is the Rolls Royce Investment Act, or I like to call it the Rolls Royce for Buffy Act.

□ 1415

The Bush recession continues, and this bill is carefully crafted to make sure it continues.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, we have heard a lot of talk, and my colleagues on my side of the aisle have suggested that we are traveling down a course we traveled before from 2 years ago when we were promised that a tax bill would create millions of new jobs and new opportunities for people. In fact, it did not.

Some will say there are reasons for that. The President will say, as he has said in speech after speech, that this country was attacked. We were. Our Nation responded with great resolve, determination, courage and charity; and our military has responded with unprecedented swiftness and effectiveness. Yet we in Congress have failed the American people, and the President has, in large part, as well. Instead of tailoring and adjusting a plan to conform to the realities of the day, we continue to offer the same rhetoric and the same plan that we offered when things were good, when things were bad, when things were really bad, and now at a time when things are compounded.

Some of my colleagues have come to the floor to detail the challenges that their States face. My colleague on the other side of the aisle, whom I have great respect for, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), comes from a State which is running a big deficit. The President's brother is the Governor of that State. My Governor is faced with a $500 million shortfall. Things are so bad in some States that they are releasing prisoners early to help meet or to close budget shortfalls. Something is wrong here in Congress and wrong with us in government when we pretend that these issues are either not ours to confront or not of our making, or somehow our ideas are the only and best ideas.

We could probably come up with a number of ways to stimulate the economy, a number of tax cuts to stimulate the economy. I have heard some say this dividend tax is unfair. The Tax Code is polluted with areas that unfair; inequities litter it. We should prioritize if we are going to clean up and undo some of the unfairness of the Tax Code.

It would seem to me the best thing we can do is to help our States. The President reluctantly agreed to include a $20 billion package. I applaud him on that front. If anything, we should provide more for the States. Not only do we help governors avoid doing the two worse things during an economic downturn, which are to cut services and/or raise taxes, we also help them create more jobs because as you cut State programs, more and more people are laid off.

Those of us from rural areas understand the importance of rural hospitals and rural health care. When you close hospitals, not only do you compromise care, you cause a decline in the job market in those areas as well. I can only say to my friends, and there are those who have come to the floor and have talked about marching orders and even rubber-stamping, and there is great truth and great humor in a lot of the things that they have said. It is my hope that my friends on the other side of the aisle will pay some attention to what we are saying. We understand that they have the votes to ram things down and do what they choose to do. But remember, all of us represent people and all of us have to go home and explain to our Governors, to our mayors, and, more importantly, to our bosses whom we call constituents why we have not done more to assist cities and States, and for that matter the private sector, in creating more and more jobs.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been hearing some interesting arguments today. I thought it was very interesting that one of our colleagues on the other side of the aisle said that by virtue of the fact that the tax cut is set to expire, or parts of it at the end of the year 2008, that that will diminish the incentive for people to invest in the stock market and have the stock market thus increase and contribute to economic growth.

But what was failed to be pointed out is that the opponents of the tax cut have so diligently fought the tax cut that they were able to reduce the amount of the tax cut for the American people, the reduction of taxes for the American people; and thus that portion will expire previously before we would have wanted it to have expired. I do not think it is logical to be able to say I am going to fight the tax cut. You reduce it, and then they say since it expires sooner than it was meant to, then its effectiveness is to be questioned. Wait a minute, do you want the tax cut or do you not want the tax cut?

In a sense I thought that was somewhat incoherent, that argument; but of course there is a right to make any argument in this wonderful body.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentleman from Tennessee.

Mr. FORD. If my reading is correct, and I have not been a part of any of the meetings, it appeared to me that one of the reasons that the tax cut was reduced from $726 billion to $550 billion to $350 billion was because there was disagreement in the gentleman's own party between the two bodies, between the House and Senate.

Mr. LINCOLN DIAZ-BALART of Florida. That is correct.

Mr. FORD. So we bear some of the responsibility, but some on the other side of the aisle also bear some of the responsibility.

Mr. LINCOLN DIAZ-BALART of Florida. Yes, there is no doubt about that. But what I was pointing to was that the argument was made that the incentive to invest in the stock market is reduced by virtue of the fact that that tax cut, that tax incentive, is sunsetted.

What I am saying is it is people who oppose the tax cut, from whatever party, and the argument was made against the effectiveness of the tax cut with regard to the dividends part by my distinguished colleague who is a Democrat. I was pointing out that I think it is inconsistent to want to have it both ways and then to say it sunsets, so it is not effective. I thought there was an inconsistency there, and some incoherence.

Mr. FORD. Fair enough.

Mr. LINCOLN DIAZ-BALART of Florida. But the gentleman is right, there are Republicans in the other body that are responsible for reducing the effectiveness of what we are talking about. But what we strongly believe and what we want to do, and we are doing it to the best of our ability, is to reduce the tax burden on the American people.

The gentleman from Texas (Mr. FROST) pointed out previously that the debt burden may be increased. We want to reduce the debt burden by incentivizing economic growth which will not only create jobs now, but also lessen the debt burden in the future. That is what I was pointing out with regard to the point on the effectiveness of the dividend part. If you are against the tax cut, but then say it sunsets, so it is not effective, I thought that was an incoherent argument.

Mr. FORD. If the gentleman would continue to yield, with regard to the efforts the Congress made on behalf of the airline industry right after September 11 and not long ago in the war supplemental, which I thought was the right thing to do and I support it, does it not make sense also, because part of the argument on this side, and I think from some in the other body, to provide greater resources to States that are having to lay nurses and teachers off? And I could go on with our rhetoric, and the other side has rhetoric; but the reality is State governments are forced to make some bad decisions largely because the Governors cannot borrow money, and we can. I am just curious, the $20 billion that was added on the Senate side, is that something that the other side would be supportive of? That was not included in the House bill.

Mr. LINCOLN DIAZ-BALART of Florida. I am not sure if it is. What we are doing with this rule is making possible for us to have that debate today, and obviously the people who have been involved in the negotiations will explain the details of what they ultimately end up with. We are trying to have that debate today, and that is why we have this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

The reasoning on the other side is very curious. I do recall in 2001 when they were promoting the first tax cut, the reason they gave for the tax cut was, oh, we have a surplus. Now we have this surplus, we need a tax cut so we can give that money back. Now we are in 2003 and we have a deficit, so we have to have a tax cut. Which one was it? It cannot be both. It cannot be we had a surplus, so we should have a tax cut; we have a deficit, so we should have a tax cut.

I find their logic very curious. Everyone would like a tax cut. The American public obviously would like to pay less in taxes; and certainly we could have made the argument for a tax cut in 2001, perhaps not as large as they did, but we certainly could have made a valid argument: we are running a surplus; we do not need all of this money. Some of us felt like the tax cut was so large it was going to plunge us into a deficit, and that is what has happened.

But it is hard to make the argument that now we are in a deficit, let us drive this country deeper into a deficit.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will allow the House to consider H.R. 2046, introduced by the gentleman from New York (Mr. RANGEL), the Democratic Rebuilding America Through Job Creation plan.

I guess I can understand why the Republicans are rushing through what they are claiming is a conference process to come up with a so-called economic growth bill. Every hour the American people have to see what the Republicans are up to, the less they will like it. It is a proposal that hurts American families, it hurts the American economy, and just digs the deficit hole deeper.

In stark contrast to the conference agreement we will soon see here on the floor, the Democratic plan helps all Americans, not just the rich; and it helps the economy immediately. It provides middle-class tax cuts to stimulate demand; it gives tax incentives to all businesses, especially small businesses and U.S. manufacturing businesses; and unlike the Republican proposal, it is fiscally responsible.

Yes, if I were a Republican, I might not want to have to explain a vote against the Democratic Rebuilding America Through Job Creation plan. But guess what, that is not a good enough reason to deny Members a chance to debate and vote on this measure. It is a terrible disservice to the American people if we let our fear of criticism prevent a vote on this very effective and responsible plan.

Let me make it very clear that a "no" vote on the previous question will not stop consideration of the conference agreement. A "no" vote will allow the House to consider the Democratic job creation plan as a separate bill. However, a "yes" vote on the previous question will prevent the House from taking up this responsible alternative. Make no mistake, this vote is the only opportunity the House will have to consider the Rangel plan. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we believe it is very important to be able to get to this debate. We need to pass this rule, and then we will debate this matter further. It is obviously a fundamental matter. We believe that we need to do everything that we can to incentivize economic growth and job creation. That is why we are bringing this matter to the floor today.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 249 WAVING ⅔ CONSIDERATION FOR CONFERENCE REPORT ON H. RES. 2

At the end of the resolution add the following new section:

"SEC. . Immediately after disposition of the resolution 249, it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2046) to amend the Internal Revenue Code of 1986 to rebuild America through job creation. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except:

(1) one hour of debate equally divided and controlled by the Chairman and ranking Minority Member of the Committee on the Ways and Means; and

(2) on motion to recommit with or without instructions."

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on adoption of the resolution.

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 221, nays 202, not voting 11, as follows:

[Roll No. 211]

YEAS—221

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NAYS—202

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOT VOTING—11

Bonilla
Combest
Cunningham
Foley
Gephardt
Hyde
Kennedy (RI)
Lewis (GA)
Oxley
Quinn
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1448

Mr. GUTIERREZ changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 218, noes 202, not voting 14, as follows:

[Roll No. 212]

### AYES—218

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOES—202

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOT VOTING—14

Bilirakis
Bonilla
Brown-Waite, Ginny
Combest
Cunningham
DeGette
Foley
Gephardt
Hunter
Hyde
Lewis (GA)
Nadler
Oxley
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have less than 2 minutes remaining in this vote.

☐ 1455

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BILIRAKIS. Mr. Speaker, on rollcall No. 212, I was attending the burial of a leading veteran from my district at Arlington National Cemetery. Had I been present, I would have voted "aye."

## PROVIDING FOR CONSIDERATION OF H.R. 2185, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 248 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 248

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2185) to extend the Temporary Extended Unemployment Compensation Act of 2002. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means: and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 248 is a closed rule, providing for the consideration of H.R. 2185, an extension of the Federal Temporary Extended Unemployment Compensation Program. The rule provides 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule also provides one motion to recommit, with or without instructions. This is a fair rule and one that will expedite the debate of this important extension so that we can provide needed economic security to the unemployed.

H.R. 2185 will provide for a 13-week extension of benefits for the unemployed. This legislation once again provides a total of 26 weeks of benefits to those in designated "high unemployment" States.

The extension of benefits under the Federal Temporary Extended Unemployment Compensation Program is set to have expired at the end of this month. I am pleased to bring this rule to the floor as this House responds to those who are without work. With passage of this bill, we ensure there is no break in essential benefits to families across the country.

H.R. 2185 provides over $7 billion in extended Federal unemployment benefits in addition to the $16 billion that this Congress has previously approved for both State and Federal unemployment. With the original legislation in March of 2002 and the first extension in January of this year, Congress has succeeded in assuring those families in need will have the funds precisely to put food on the table and pay for child care so that they can focus on becoming employed once again. In fact, this extension will help 2.5 million people in addition to the 5 million that have been helped through previous extensions.

I would like to highlight the previous work by this body to not only provide Federal unemployment benefits but also $8 billion to the individual States for use in their individual unemployment programs.

□ 1500

I would like to thank the gentleman from California (Chairman THOMAS) for his leadership and the gentlewoman from Washington (Ms. DUNN) for sponsoring this important legislation. H.R. 2185 is important legislation, important to the continued economic health of families in all of the 50 States.

Mr. Speaker, hopefully this should be a bipartisan effort to provide benefits to the unemployed, and this rule allows this Chamber to consider it and consider it today. Accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in opposition to the rule. Once again, the Republican leadership is turning its back on working Americans. Last night, President Bush told over 7,500 wealthy Republican donors that this is a strong and compassionate country.

Mr. Speaker, this economy is anything but strong, and this leadership is anything but compassionate. I am sure the people in that crowd, the crowd that raised $22 million for the Republican Party, cheered and clapped their hands every time somebody mentioned the Republican tax bill, or, as some have called it, the "No Millionaire Left Behind Bill." But what about the rest of the country? What about the people struggling to find work? They do not have as much to cheer about.

Let us look at the facts: over 2.7 million jobs have been lost since President Bush took office in 2001; long-term unemployment is at a 30-year high; the average length of unemployment is the highest since 1984; the economy has lost 500,000 jobs in the last 3 months; there are currently three unemployed workers competing for every available job.

Mr. Speaker, people are out of work, and they need help. The Republican leadership's solution is to be dragged, kicking and screaming, into doing the absolute minimum. Their proposal will continue to leave over 1 million unemployed workers in the cold.

We have seen this rerun before. The Republican leadership voluntarily let unemployment insurance expire last December, forcing millions of Americans to worry about how they would provide for their families during and after the holidays. Two weeks later they proposed a plan that denied 1 million people unemployment insurance.

That is compassionate? These unemployed Americans are not deadbeats. They are our neighbors, friends, and relatives. They do not want a handout, they want a job, but they need help while they search for a job.

It is well established that unemployment insurance provides a better stimulus than dividend tax cuts. In fact, we will see a $1.73 return for every dollar invested in unemployed Americans. As an investment tool, expanding unemployment insurance is good policy, but it is also the morally right thing to do. Unemployment insurance is a safety net for American workers who lose their jobs through no fault of their own, and we have a moral responsibility to not let these workers down.

Now, before this current economic crisis, no Congress had ever extended unemployment insurance without including workers who already exhausted their Federal unemployment. But for the second time this year, the Republican leadership lets these workers down by cutting out the unemployed who have already exhausted their coverage.

This leadership should be ashamed of themselves for this disingenuous and insufficient bill. But they are not.

The unemployed deserve better until the job market improves, and the ranking member of the Committee on Ways and Means has a bill to do just that. His bill would provide unemployment insurance for workers who are currently unemployed and are exhausting their coverage, and I support that plan.

But the Republican leadership has once again tossed aside the democratic process by denying the House the right to debate and vote on the proposed substitute offered by the gentleman from New York (Mr. RANGEL). At the end of this debate, I will move the previous question; and if defeated, I will offer an amendment to make the Rangel substitute in order.

The only reason I can think of to deny the Rangel substitute is that the Republican leadership is terrified that it might actually pass. It is the same reason we were not allowed to vote on the amendment offered by the gentleman from Tennessee (Mr. COOPER) and the gentleman from Maryland (Mr. VAN HOLLEN) on worker rights at the Pentagon.

Instead of fostering the free and open debate that the American people deserve on these issues, we are once again forced into this unfair, closed procedure. In the long run the democratic process will suffer, but today it is the unemployed workers of America who are hurt by the actions of this leadership.

I urge my colleagues to join me in defeating the previous question, and, if that effort fails, voting "no" on the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to reiterate and make clear that the legislation before us that we are bringing to the floor with this rule will provide for a 13-week extension of unemployment benefits in the Nation, and the legislation once again provides a total of 26 weeks of benefits to those in designated high-unemployment States.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I remind the gentleman that his proposal still leaves 1 million American workers out in the cold.

Mr. Speaker, I yield 2¼ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, sometimes when a President flies somewhere, part of his trip is charged to his party's political committee because the trip is partly governmental and partly political.

The expenses for running the House for the next hour ought to be charged to the Republican Congressional Campaign Committee, because the purpose of this rule and of other rules we have seen so far is incumbent protection for the Republican Party.

What they have done is to shut down democracy within the House. It is democratic in the sense that you get elected to get here, but then it becomes authoritarian. There will be no free speech, there will be no chance to consider tough issues. Why? Not simply because we do not have enough time. We do not work very much around here. We do this to protect Republican incumbents from having to vote on difficult issues.

The purpose of the Committee on Rules is to make sure that Republicans can follow an extremely conservative leadership and do things that would be unpopular and then pretend that they had no choice. How does that happen? They vote for rules which prevent them from voting on these issues. They then go in a great act of fakery to their constituents and say, Gee, I would have been with you, but I did not get a chance to vote on that issue, having themselves voted on the procedure which kept the issue off the floor. We cannot vote on important issues in the defense bill; we cannot vote on an alternative unemployment compensation.

It is a conscious and deliberate pattern, and it is particularly to accommodate that extraordinary breed known as the "moderate Republican." They specialize in razzle-dazzle. They specialize in being loyal executors of extreme right-wing policies, but in a way that allows them to go home and disclaim any responsibility for what they were doing. It would not be plausible to claim they were drunk for an entire session. That is usually the way people explain that sort of thing.

So what they do is to vote for rules, procedures that keep controversial issues off the floor, so they can then go and mislead their constituents by saying that they would have supported their position, but they did not have a chance to do it.

It is a self-inflicted constraint. It is the reverse Houdini. Houdini used to have people tie him in knots, and he would go before the people and untie the knots. What moderate Republicans do is the reverse Houdini. The moderate Republicans tie themselves in knots, and then they go before the voters and say, Gee, I'm sorry I couldn't help you, but I was all tied up in knots.

Let us vote against this rule and put an end to the most fundamental, political and intellectual dishonesty.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is wonderful to see the imagination on the other side of the aisle. In case somebody is watching this debate or listening to it, I would like to get us back to what we are debating.

H.R. 2185 will provide for a 13-week extension of benefits for the unemployed in the United States, and the legislation once again provides a total of 26 weeks of benefits to those in designated high-unemployment States.

I recall the debate we had last week when the "theme du jour" was that these unemployment benefits were going to expire before the end of May. Well, we are acting today so that they will not expire, and there will be another 13 weeks of benefits, plus 26 weeks in the high-unemployment States that are designated as such.

So that is what is before us today. It is an important piece of legislation. That is why I will continue to urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I remind those watching that under their bill, 1 million American workers will be left in the cold with no benefits.

Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, this is quite a day in the life of Congress. We are going to pass a $350 billion tax cut, 75 percent of which goes to the wealthiest 5 percent of the households in this country. We are going to authorize the Federal Government to borrow almost an additional $1 trillion. The day of the big tax cut is the day we vote the largest extension of borrowing authority to this country, in light of the red ink we will run, ever enacted.

So, in the middle of all of this, it appeared certain that nothing would be done to address the fate of our unemployed workers. Only in the last few hours has this plan emerged; and we are glad it has, as far as it goes. Certainly something needed to be done, because the economic performance of the country has been abysmal: 2.7 million private sector jobs lost over the last 2 years, an extraordinary decrease; 3.4 unemployed workers for every single job opening.

Now, under this circumstance, people try to find work, but they cannot find work, so their unemployment benefits run out.

I am going to ask for a "no" vote on this rule, however, because the proposal brought before us has a fatal flaw. It only extends benefits if your benefits have not lapsed. If you were unfortunate enough to lose your job, been on the job market, pounding the shoe leather, sending out resumes, looking everywhere for employment, but have not found employment before your unemployment benefits lapsed, guess what? You will not get any extension, you will not get any relief, under the measure brought before the House.

Now, we have an amendment to offer to cure this fatal flaw of the majority proposal so that people whose benefits have lapsed also get some help. Lord knows they need it. But we are not allowed to offer that amendment.

What could be more ridiculous? We will extend benefits if you have not lapsed yet; but if you have lapsed, you get no help whatsoever. Well, you think, that must have been inadvertent somehow. Let us fix that.

They will not let us fix that with an amendment. That is why the rule is unfair. That is why the response is inadequate. Vote "no" on the rule.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, last week Democrats tried to get a vote on extending unemployment benefits three times on the floor of this House. Each time the Republican majority said no. So we are happy that the Republican leadership has finally agreed to consider this very important issue. However, we are concerned that the bill being brought to the floor today will exclude more than 1 million unemployed workers.

The legislation filed with the Committee on Rules last night extends unemployment benefits only for those exhausting their regular unemployment compensation. It does nothing for those who have exhausted their Federal unemployment, 13 weeks.

This is certainly an important step in the right direction. However, the Republican bill does not provide any assistance for those workers who have already run out of their 13 weeks of extended benefits. More than 1 million Americans now fall into this category.

Given that we are in the longest period of negative job growth since the Great Depression, I cannot understand why we would want to deny unemployment benefits to Americans suffering from long-term unemployment.

As my friend from North Dakota pointed out, for every person who is unemployed, there are three people looking for a job, for every job available. These individuals are looking for jobs that simply cannot be found.

We recently had a report that came back that showed there are 70 percent more workers who have exhausted their Federal benefits during this recession than during the 1990s; yet in the 1990s we extended the number of weeks beyond what we are extending in this legislation.

Without unemployment compensation, how are these families going to pay their rent or mortgage? Last month, Mr. Speaker, one of these long-term unemployed workers came and testified before the Committee on Ways and Means. His name was Joe Bergmann. Over the last year and a half, Joe has sent out 2,000 resumes, searched 32 job sites on the Internet, and has taken extra training classes; but he still is unable to find a job. Joe has worked his entire adult life, but is now having a hard time in an economy that has lost 2.7 million jobs.

Mr. Speaker, I urge my colleagues to reject the previous question so that we can extend unemployment benefits for every worker that has lost their job during this very difficult economy. It is the right thing to do, to extend the benefits to all who need the help.

We have the money in the Federal unemployment trust funds; $21 billion is in those funds. It will adequately cover not only the extension of the 13 weeks, but the extra benefits for those who have exhausted their Federal unemployment compensation benefits.

□ 1515

We have the money. By defeating the previous question, we can have the right legislative solution. We can do it before we adjourn.

I urge my colleagues to reject the previous question.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, they say a half a loaf is better than none. This is a half a loaf. It will help one million workers who have been left out or threatened to be left out in the cold. But there are actually more than one million people who have been out of work or will be out of work for longer than the 9 months who are going to be just given the cold shoulder by what the Republicans are doing here today.

They refuse to give us the chance to provide some benefits for those who have been looking for work but have been out of work for more than 9 months. It is ironic, those out of work the longest get the cold shoulder from the Republicans.

Mr. Speaker, it was just a few days ago that the gentleman from Texas (Mr. DELAY) said, "I think it is a stretch to say that we are at a crisis point." So there was no action on unemployment comp. I guess Mr. Rove called up and said, politically, you had better cover your base. So here we are today. But covering a political base is not going to help close to two million people who have either exhausted their benefits or will soon do that altogether.

I was looking at the data, and it is really sad. They talk, the gentlemen from the Committee on Rules, about the States that have triggered in to extended benefits beyond the 39. That is only six States. The majority of workers in the majority of States are also left out in the cold.

By the way, it is not only their needs, it is the need of the country. When we provide unemployment comp benefits, we provide money into the economy to grow the GDP, because people who are unemployed tend to spend the money they receive through benefits.

So what are they afraid of? Why do they not let us bring before the floor the second half of that loaf? What are they afraid of? Answer that question. Why not give us a chance to bring it up? Why a rule that turns the cold shoulder in the end to two million Americans? I would be glad to have an answer.

Instead, the Republicans sit silently. They say there is no crisis and, at the last minute, act. I urge that we reject the rule.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. A few minutes ago, Mr. Speaker, I came out and talked about this being a rubber stamp Congress. We now have a perfect example.

We brought up in the Committee on Ways and Means at least three or four times, the gentleman from Maryland (Mr. CARDIN) did, the issue of unemployment. The chairman said, whoa, we cannot do anything about that. We cannot do anything about that. The person who sponsors the bill today voted no against it in the committee again and again and again.

Then we come out here on the floor and they say, oh, no, we cannot vote for unemployment.

Then they must have done a poll and the poll must have come back real bad, because we have a bill here that we are going to vote on what about 90 percent of the people in this House will have never even seen. They will not know what it says here. It was filed on May 21. Would that be yesterday?

This has not had any hearings, no testimony from anybody to come in and talk about this issue, and we run it out here and we put it under martial law and we run it through the House. If that is not a rubber stamp for the White House, I do not know what is.

They have Mr. Rove down there. He gins up all kinds of destruction in Colorado and Texas. He also runs what happens on this floor. The junta up in the leadership office, that junta says, Mr. THOMAS, you cannot handle this. We will send it straight to Rules. You are not smart enough to get a bill out or handle any kind of discussion about what is going on.

It is an absolute destruction of the process. They ought to allow us to have amendments to fix this. We heard from the gentleman from Michigan (Mr. LEVIN) that there are problems. There are one million people who are not covered by this.

Even Mr. Greenspan says that probably people who are not getting jobs now are not doing it because they like being on unemployment. They cannot find work. Why would we leave $20 billion in the unemployment fund put there by these very people? Why would we not give it to them during this period? It is because the rubber stamp at the White House has come out, boom, this is what we are doing. And our leadership on the other side, they get all in line and say, folks, this is what we are doing.

Here, the gentlewoman from Washington (Ms. DUNN), put this bill in. They put it in last night. They have a Committee on Rules meeting at 11 o'clock after they have a $22 million fundraiser. They all troop back in and say, great, now let us get things ready for tomorrow. This is what we get. Maybe we will be here tomorrow doing more rubber stamp stuff. We are going to do unemployment and this tax bill so they can go home and say they have handled unemployment.

I come from a State with the highest unemployment in the country. When that happened before, we had people who were defeated who voted against it, so they remembered. Now we must come with this bill, so rubber stamp it. "Get ready, guys. Bring your rubber stamps from the office when you come over.''

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise, Mr. Speaker, and I am also happy to see that our colleagues on the other side of the aisle have finally agreed to consider an extension of unemployment compensation. It is about time.

But Mr. Speaker, it is only half a loaf. It is a bill that is much needed to help 2.7 million Americans that have lost their jobs, but it does not go far enough. I am again disappointed that my colleagues on the other side of the aisle refuse to allow us the opportunity to improve upon that bill.

I say that very genuinely because in my own State of California over 351,000 workers have lost their jobs since President Bush took office. I know this because in my own district I represent a portion of Los Angeles County, East Los Angeles. The cities of El Monte and Azusa have had upwards of 10 percent unemployment for over 2 years.

Where is the relief for our communities? Where is the relief for people wanting to earn good money and good-paying jobs? Even that tax cut that we are going to be voting on that some of them are supporting is not even going to provide any relief to those workers.

I ask Members to please allow our party, our side of the aisle, to amend the bill and promote goodwill for those millions of workers and the chronically underemployed Latinos, disadvantaged folks, that have been waiting for something to happen here in the House of Representatives. I am ashamed to go home and not provide relief for those more than one million workers and a large number that I represent in California.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding time to me.

I do not doubt for a minute that the Republicans would have been perfectly happy, probably preferred, to go home for a week letting unemployment benefits expire; give tax cuts to the rich today, that is the number one priority, $350 billion, most of which goes to the richest Americans, and zip to the unemployed. Actually, they did it at Christmastime, right before Christmas, let those benefits expire.

But after the Democrats pushed and pushed, and maybe there was some polling done, they decided to not only do something for the Bush class but to do something for the middle class and for the unemployed workers, $5 billion compared to $350 billion. Okay, we are grateful for that.

But over a $100,000 tax cut to Secretary of the Treasury Snow and still zero dollars for the more than one million workers who are still out of work, 53,000 in Illinois. Some over on the other side of the aisle have fretted about, oh, unemployment benefits, they just encourage people to stay home and not look for a job. How dare they? These people want a job, and this administration and its economic plan has been nothing but a job-killer, a job-killer. We have seen the loss of over 2.5 million jobs since this President has come in. The economy is going down.

These people want to work. People in my own family who have been laid off, they want nothing more than a good job. These people do not want unemployment insurance benefits. They want a job. But at the very least, we should be making sure that all those people who play by the rules, are looking for a job every day, get something.

On this floor of this House we should be able to debate alternatives. We are just cut off. Why? Because our alternative is better. It addresses the need for the American people, and that is exactly what the Republicans do not want to hear. They do not want to give anyone a chance to vote on our better plan. We should be voting no on the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 6 minutes to my colleague and friend, the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding time to me. I apologize for my voice, which I am unfortunately losing. But before I lose my voice, I think it is important that someone respond to the rhetoric we have heard from the other side of the aisle.

Once again, the other side of the aisle offers the American people their solution for the economy. That is unlimited unemployment benefits. I think Republicans are compassionate people, and we are taking care of those who have lost their jobs. The other side of the aisle, their solution has been increased taxation, increased regulation, increased litigation. Unfortunately, from the other side of the aisle, my friends and colleagues, they do not have a clue, a clue as to how we create jobs in business.

I have $20 here. If I send this $20 to Washington, I do not have $20 to spend, I do not have $20 to invest.

□ 1530

It takes capital. I do not think they have a clue as to basic free enterprise or business investment tenets. People have to have money in their pockets. They want to put more money in Washington. They want them to rely on the government for unemployment benefits. If you want to stimulate business, well, first of all, most of them should go out and try to start a business. When you have increased taxation and you send more money to Washington, you have fewer people to invest in that business. A basic tenet. When you send more money to Washington, you have less money to spend, and it hurts the poor the most because they have the least amount of money, and you cannot start a business. When you have increased regulation, which they have spent 30 and 40 years piling regulations on the business man and woman, it is impossible to start a business.

Would you start a business? I cannot tell you how happy I am to be out of a business because of government regulation, taxation, and then finally litigation, the protectors of litigation. So we become the most lawsuit-happy land in the world. And we drive businesses overseas because of taxation, because of regulation, and because of litigation.

Would you want to get into business in the United States of America today with the opportunity to be sued at every corner? Small business people, the largest employer in this country, by far the largest employer, they are backing off of providing health insurance benefits. We have more people without health insurance benefits. Why? Because the other side blocks litigation reform and they have gone crazy with lawsuits. And a few people are benefiting and the rest of us are paying. People who can least afford it are not having health care coverage; small business operators are unable to provide health care coverage.

So that is their plan, increased taxation, increased litigation, increased government regulation. And then finally, here they offer their grand plan, unlimited unemployment extension. No one has come up to me and said, I want unlimited unemployment benefits from the Federal Government. I want a job. I want an opportunity to share in the American Dream. I want health care coverage. I do not want more suits, more money to go to Washington, less control of my life, less control of my money.

I have heard it, and I think we have all heard it. The song and dance from the other side just does not work, will not work. Even the former Soviet Union tried a full government plan. It did not work. So now we have a choice. We will have a tax and economic package before us that puts more money in the hands of the American people. It gives them an opportunity. It gives people an opportunity for a job, not just for an extension of unemployment benefits.

The Republicans are compassionate. They have provided for both an extension of unemployment benefits but also for hope and opportunity and for an America we all want for the future.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would say to the gentleman that what we want is help for unemployed workers, and your plan leaves a million workers out in the cold, and that is not the least bit compassionate.

Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I just have to express my dismay at the anti-American diatribe we have just heard. I am sorry to hear this defeatist attitude about the American economy. The American economy continues to be a vibrant one overall, and to have it so thoroughly denigrated and to be told that no one ought to want to go into business in America is a shockingly anti-American approach.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, this rule should be rejected because the bill is unfair.

Under this bill, thousands of jobless Californians will get an additional 13 weeks of unemployment instead of the 26 weeks that other States will get because California is not considered a high-unemployment State.

Well, tell that to the people of Santa Clara County. An editorial in today's San Jose Mercury News lays out the facts. Since President Bush took office in January of 2001, 2.6 million jobs have vanished in America, 239,000 of them in Santa Clara County gone.

We have had a 42 percent decrease in venture capital. The unemployment rate in San Jose is now a whopping 8.5 percent, and San Jose has lost nearly 16 percent of its jobs. Yet this bill does not treat Santa Clara County as a high-unemployment area, even though my county has more population than many States, including North and South Dakota, Montana, Wyoming, Delaware and many others to name just a few.

This rule does not even let us debate whether a 26-week extension is appropriate, not just for the 6 States the Republicans consider to be high unemployment, but for cities like San Jose who are well above the national unemployment rate. I hear and get e-mails from people all the time; qualified, educated people who have been laid off, who send out thousands of resumes and cannot even get an interview, people who have run through their savings, who have refinanced their house, and who have run through that, whose unemployment is running off and the layoffs are continuing.

My friends on the other side of the aisle do not get it. It is not a recession in Silicon Valley right now. It is a depression. A 26-week extension is justified, and I wish we had a chance to debate that. I urge my colleagues to reject this rule so that we will.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule.

I will admit that my number one economic priority is not the extension of unemployment benefits. My number one economic priority is to create jobs and to put into place the kinds of mechanisms that we can to encourage job creation and economic growth.

My very good friend from Santa Clara County who just talked about what she described as a depression in the Silicon Valley and I will be offering an amendment later this afternoon which will, I believe, play a role in creating the kind of jobs in the Silicon Valley which are so important to improving the quality of life not only for people in that part of our country, but throughout the rest of the Nation.

I also believe that as we look at the jobs and economic growth package which we are going to be considering, it is geared towards job creation and economic growth. Now, having said that, I will acknowledge Chairman Greenspan is absolutely right when he says that there are a lot of people out there who through no fault of their own have been victimized by this downturn which, by the way, began during the last two quarters of 2000.

Now my friend, the gentlewoman from California (Ms. LOFGREN), just described the job loss since President Bush took office; but virtually every economist has acknowledged that the downturn began during the last two quarters. We also know, and I do not need to remind my colleagues again, that we have suffered greatly over the past couple of years through the tragedy of September 11, and we are just emerging from a war with Iraq, and we are still in the midst of this very costly war on terrorism.

We are working together in a bipartisan way to deal with these issues; but quite frankly, they have played a role in creating the economic downturn. And that is why we as Republicans are proud to step up to the plate and deal with the extension of unemployment benefits.

I know that there are parts of States as have been described by the gentlewoman from California (Ms. LOFGREN) that are suffering more than other parts of States and the overall level is not as high as it is in other States that will, in fact, end up receiving a 26-week extension. But I believe that our dealing with this question before we get to the expiration is the right thing for us to do. Let us move ahead. This will be a problem that we will continue to address as we face it. But I hope and pray that passage of the Dreier-Lofgren amendment this afternoon, that passage of the jobs and growth package that we have will deal with the challenges that we have. And so I encourage my colleagues to provide support for this measure.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just respond that under this limited bill over 150,000 workers in California will be left out in the cold and close to 60,000 workers in Florida will not get their benefits.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise to oppose this rule.

The underlying bill does very little for those working Americans whose benefits have run out. In my home town of Chicago unemployment is up to 6.7 percent. My State of Illinois has lost 17,400 jobs in the last month alone. We have lost in this economy 2.75 million jobs, 2 million manufacturing jobs. Two weeks from today, on June 6, the new unemployment figures will come out; and we will get close to, as indications are now, losing 3 million jobs. Since the first economic package that the President has passed, 2.5 million Americans have lost their jobs, 5 million Americans have lost their health care. Nearly a trillion dollars' worth of corporate assets have been foreclosed on, and 2 million Americans have gone out of the middle class to poverty.

That has been the net result of the economic program put together. And as Ronald Reagan used to say, "Facts are a stubborn thing."

USA Today reported just the other day that they have the lowest amount of job-wanted ads since 1964. The only two things that seem to be growing in the President's growth package is the deficit and unemployment.

We have gone from a surplus to a slump. Now to the earlier speaker who took a $20 bill out of his pocket and my colleague, the gentleman from Florida (Mr. MIKA), that $20 is the same amount of money our government and our taxpayers are paying individual workers in Iraq and Iraqis. That is what we are paying them. We are offering them $20 as a form of employment to get the economy in Iraq moving. We have an agenda for Iraq. It is investing in 20,000 schools, 25,000 units of housing, text books for schools, 4 million children get early childhood education in Iraq.

We have an economic plan for Iraq, and we have an economic plan for America; and it does not just count on stimulating only the stock market. We have to stimulate the job market as well as the stock market. And our economic plan does exactly that. It does not force Americans into an either/or choice. And there will be people who will be left out, unlike the tax cut that leaves no millionaire behind.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY), our ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to congratulate our friends on the Republican side of the aisle. This day perfectly summarizes what Republican Party values are all about.

Under President Bush we have lost well more than 2 million jobs in this economy, and today we have the Republican answer. Their answer is to leave behind one million working Americans who have been out of work and cannot find work and are now no longer even eligible to receive unemployment. At the same time they are going to pass a tax bill in the dead of night which gives a huge share of the benefits in that bill to people who make over $300,000 a year. That warped and misguided and misbegotten sense of values is the major reason that I left the Republican Party a long time ago and joined the Democratic Party.

The Republican Party practices the tired old game of trickle down economics. They practice the idea that if you just give John D. Rockefeller a tax break, eventually some of it will trickle down to Jay Rockefeller. Well, that is not good enough.

My old friend Harvey Dueholm from Wisconsin used to say, "The problem with Republican economics is that they want to give the poor and the rich the same amount of ice but they give the poor theirs in the winter time."

That pretty much sums up what is happening today. We have seen a miserably mismanaged economy under this administration. We have seen this Congress swallow whole budget proposals that walk away from our commitments to education, walk away from our obligation to do something about the health care problems in this country, walk away from the problems of the people who have lost their jobs and are down on their luck and have nowhere to turn. And yet, oh, they have plenty of money for the top dogs in this society.

Just once be for the average dog; be for the under dog. I know that is too much to expect, but nonetheless I would like to see it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, simply to reiterate what we are about today, we are extending unemployment benefits for 13 weeks throughout the Nation and for 26 weeks in the States that are classified as high-unemployment States. We have also provided previously $8 billion to the individual States for use in their individual unemployment programs, and almost $6 billion of those $8 billion that the Federal Government has provided to the States are still available to the States for use for their unemployment programs.

It is important to realize what we are talking about today with this legislation; this is not theory. We have legislation before us, we are bringing to the floor legislation to help 2.5 million unemployed people in this country. And we think that is an important piece of legislation, and we think that it should be passed. And that is why we seek to bring it forward with this rule. And that is why we urge support for this rule and then for the subsequent underlying legislation, to get that aid, that continued aid to 2.5 million people in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. LaHOOD). The gentleman from Massachusetts has 2¾ minutes remaining.

Mr. McGOVERN. Mr. Speaker, may I inquire if the gentleman has any further speakers, because I am the final speaker on my side.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I will close.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be calling for a vote on the previous question. And if the previous question is defeated, I will offer an amendment to the rule. My amendment will make in order the Rangel substitute amendment which is identical to the text of H.R. 1652, the Unemployment Benefits Extension Act.

H.R. 1652 will extend Federal unemployment benefits by 26 weeks and will also give an additional 13 weeks to those unemployed workers whose benefits have been exhausted. The Republican bill only extends benefits by 13 weeks and does nothing for workers whose benefits have run out.

Mr. Speaker, unemployment rates continue to rise. They increased to 6 percent in April, the third month in a row that the economy has lost jobs. For every one available job, there are three Americans looking for work.

Out-of-work Americans need relief, and they need it immediately. Current Federal unemployment benefits run out at the end of this month, less than 2 weeks away. Without an extension, 2.1 million Americans will lose their unemployment benefits. Since the current recession began in 2001, 2.7 million jobs have disappeared in this country. In the last 3 months alone over half a million private sector jobs have vanished. The number of unemployed people is at the highest point in a decade; and, sadly, there is no indication that the economic situation in our Nation will provide relief anytime soon.

□ 1545

Republicans in the House have voted against extending these critical benefits four times in the last 2 weeks, and I am glad they are finally bringing up this legislation today. But I am very disappointed that they will not let the House vote on the Rangel substitute, which will bring relief to far more people in need.

Under the Republican bill, 1 million people will be left behind, and that is unconscionable. Why will they not let us bring the Rangel substitute up? What are they afraid of? We are just about to pass a massive tax bill later today. If we took a tiny percentage of the money from that bill, we could help millions of unemployed American workers go through this very difficult time. But, no, we are going to instead give massive tax cuts to the very richest in this country.

Let me make very clear that a "no" vote on the previous question will not stop the consideration of the legislation to extend Federal unemployment benefits, but a "no" vote will allow this House to vote on the Rangel substitute, which will provide more benefits to more unemployed Americans. However, a "yes" vote on the previous question will prevent the House voting on a more generous and more far-reaching extension of Federal unemployment benefits to our unemployed workers. I would urge a "no" vote on the previous question.

This is an important issue. We should have an open debate. We should be able to consider and vote up or down on the Rangel substitute. The fact that we are being denied that opportunity is wrong, it is unconscionable, and I would urge my colleagues again to vote "no" on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment and a description of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. LaHOOD). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are extending the unemployment benefits for 2½ million Americans, and in doing so this Congress is appropriating $7 billion for that purpose. Again, it is 2½ million Americans who are unemployed that this legislation will help. That is in addition to the $16 billion that we have appropriated before for that purpose.

This is important legislation. It is to help people who need help, and I feel proud to have brought forward this rule. I urge support for the rule and that then we get to the underlying legislation and that we pass the underlying legislation to get extended unemployment benefits to 2½ million people in this country.

The material previously referred to by Mr. McGOVERN is as follows:

### PREVIOUS QUESTION FOR H. RES. 248—RULE ON H.R. 2185 UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

In the resolution strike "and (2)" and insert the following:

"(2) an amendment in the nature of a substitute consisting of the text of H.R. 1652 if offered by Representative Rangel or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 217, nays 203, not voting 14, as follows:

[Roll No. 213]

YEAS—217

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—203

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Bonilla
Combest
Conyers
Cunningham
Gephardt
Gingrey
Hunter
Issa
Lewis (GA)
Napolitano
Norwood
Oxley
Quinn
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1606

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 201, not voting 17, as follows:

[Roll No. 214]

AYES—216

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Radanovich

Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (AK)
Young (FL)

NOES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—17

Barton (TX)
Bereuter
Bonilla
Combest
Conyers
Cunningham
Gephardt
Hall
Issa
Lewis (GA)
Lynch
Norwood
Oxley
Portman
Quinn
Walden (OR)
Wilson (SC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1613

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 247 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1588.

□ 1614

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

□ 1615

The CHAIRMAN pro tempore (Mr. LAHOOD). When the Committee of the Whole rose on Wednesday, May 21, 2003, amendment No. 9 printed in House Report 108–120 offered by the gentleman from California (Mr. HUNTER) had been disposed of.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 3 offered by the gentlewoman from California (Ms. LORETTA SANCHEZ), amendment No. 4 offered by the gentlewoman from California (Mrs. TAUSCHER), amendment No. 6 offered by the gentleman from Florida (Mr. GOSS), and amendment No. 8 offered by the gentleman from New Jersey (Mr. SAXTON).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 3 OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. LORETTA SANCHEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. LORETTA SANCHEZ of California:

At the end of title VII (page 196, after line 12), add the following new section:

**SEC. 708. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.**

Section 1093(b) of title 10, United States Code, is amended by inserting "in the United States" after "Defense".

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 227, not voting 7, as follows:

[Roll No. 215]

AYES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Dunn
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick
Kind
Kirk
Kleczka
Kolbe
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lofgren
Lowey
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)

Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—227

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Boozman
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—7

Bonilla
Combest
Gephardt
Issa
Lewis (GA)
Oxley
Quinn

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD) (during the vote). There are 2 minutes remaining in this vote.

□ 1632

Mr. GILCHREST changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. BEREUTER. Mr. Chairman, on rollcall No. 215 I inadvertently pressed the wrong button. I meant to vote "no."

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

### AMENDMENT NO. 4 OFFERED BY MRS. TAUSCHER

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mrs. TAUSCHER:

At the end of subtitle A of title II (page 30, after line 7), insert the following new section:

**SEC. 2 . FUNDING REDUCTIONS AND INCREASES.**

(a) INCREASE.—The amount provided in section 201 for research, development, test, and evaluation is hereby increased by $21,000,000, of which—

(1) $5,000,000 shall be available for Program Element 0603910D8Z, strategic capability modernization;

(2) $6,000,000 shall be available for Program Element 0602602F, conventional munitions; and

(3) $10,000,000 shall be available for Program Element 0603601F, conventional weapons technology.

(b) REDUCTION.—The amount provided in section 3101 for stockpile research and development is hereby reduced by $21,000,000, of which—

(1) $15,000,000 shall be derived from the feasibility and cost study of the Robust Nuclear Earth Penetrator; and

(2) $6,000,000 shall be derived from advanced concepts initiative activities.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 199, noes 226, not voting 9, as follows:

[Roll No. 216]

### AYES—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (KS)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—226

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter

Hyde
Isakson
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Pastor
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—9

Bonilla
Combest
Emerson
Gephardt
Herger
Issa
Lewis (GA)
Oxley
Quinn

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1640

Mr. SIMPSON and Mr. CRAMER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 6 OFFERED BY MR. GOSS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. Goss) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. Goss.

At the end of title XII (page 384, after line 3), insert the following new section:

**SEC. . REPORT ON ACTIONS THAT COULD BE TAKEN REGARDING COUNTRIES THAT INITIATE CERTAIN LEGAL ACTIONS AGAINST UNITED STATES OFFICIALS.**

(a) Finding.—Congress finds that actions for or on behalf of a foreign government that constitute attempts to commence legal proceedings against, or attempts to compel the appearance of or production of documents from, any current or former official or employee of the United States or member of the Armed Forces of the United States relating to the performance of official duties constitutes a threat to the ability of the United States to take necessary and timely military action.

(b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on appropriate steps that could be taken by the Department of Defense (including restrictions on military travel and limitations on military support and exchange programs) to respond to any action by a foreign government described in subsection (a).

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 412, noes 11, not voting 11, as follows:

[Roll No. 217]

### AYES—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

### NOES—11

Conyers
Filner
Hinchey
Kucinich
Lee
McDermott
Olver
Payne
Stark
Waters
Woolsey

### NOT VOTING—11

Bonilla
Burton (IN)
Combest
Cox
Emerson
Gephardt
Issa
Lewis (GA)
Oxley
Quinn
Turner (TX)

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LaHood) (during the vote). The Chair will advise Members there are two minutes left to vote.

☐ 1648

Mr. PAYNE changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. SAXTON OF NEW JERSEY

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on amendment No. 8 offered by the gentleman from New Jersey (Mr. SAXTON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. SAXTON:

At the end of subtitle B of title V (page 91, after line 16), insert the following new section:

**SEC. 514. REPEAL OF REQUIRED GRADE OF DEFENSE ATTACHE IN FRANCE.**

(a) IN GENERAL.—Section 714 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of such title is amended by striking the item relating to section 714.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 302, noes 123, not voting 9, as follows:

[Roll No. 218]

AYES—302

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Deutsch
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Engel
English
Etheridge
Evans
Everett
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—123

Abercrombie
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berman
Blumenauer
Boswell
Brown (OH)
Brown, Corrine
Capuano
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Emanuel
Eshoo
Farr
Fattah
Ford
Frank (MA)
Frost
Gonzalez
Grijalva
Gutierrez
Harman
Hinchey
Hoeffel
Holt
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kilpatrick
Kleczka
Kolbe
Kucinich
Lampson
Larsen (WA)
Lee
Lowey
Majette
Markey
Matsui
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rahall
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (VA)
Serrano
Slaughter
Smith (WA)
Solis
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey

NOT VOTING—9

Bonilla
Combest
Diaz-Balart, L.
Emerson
Gephardt
Issa
Lewis (GA)
Oxley
Quinn

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). The Chair advises there are 2 minutes to vote.

☐ 1656

Messrs. TOWNS, PRICE of North Carolina and PALLONE, Ms. LORETTA SANCHEZ of California and Ms. McCOLLUM changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, no further amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 108–122 and amendments en bloc described in section 2 of the resolution.

Each amendment printed in the report shall be offered only in the order printed, except as specified in section 3, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for division of the question.

Each amendment printed in the report shall be debatable for 10 minutes, unless otherwise specified in the report, equally divided and controlled by the proponent and an opponent and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of or germane modifications of any such amendment. Amendments en bloc shall be considered read, except that modifications shall be reported, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

☐ 1700

The original proponent of an amendment included in the amendments en bloc may insert a statement in the

CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The chairman of the Committee of the Whole may recognize for consideration of any amendment out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an en bloc amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The Clerk will designate the amendments en bloc and report the modifications.

The Clerk designated the amendments en bloc and proceeded to report the modifications, as follows:

Amendments en bloc printed in House Report 108-122 offered by Mr. HUNTER consisting of amendment No. 1; amendment No. 2; amendment No. 3; amendment No. 5; amendment No. 7; amendment No. 8; amendment No. 10; amendment No. 11, as modified; amendment No. 12; amendment No. 13; amendment No. 14; amendment No. 15; amendment No. 16; amendment No. 17; amendment No. 18; amendment No. 19; amendment No. 20; amendment No. 21, as modified; amendment No. 22; amendment No. 23; amendment No. 24; amendment No. 25; amendment No. 26; amendment No. 27; amendment No. 28; amendment No. 29; and amendment No. 30.

AMENDMENT NO. 1 OFFERED BY MR. KLINE

The text of the amendment is as follows:

At the end of division A (page 433, after line 20), insert the following new title:

## TITLE XV—HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

### SEC. 1501. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Higher Education Relief Opportunities for Students Act of 2003".

(b) REFERENCE.—References in this title to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

### SEC. 1502. WAIVER AUTHORITY FOR RESPONSE TO MILITARY CONTINGENCIES AND NATIONAL EMERGENCIES.

(a) WAIVERS AND MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this title as the "Secretary") may waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Act as the Secretary deems necessary in connection with a war or other military operation or national emergency to provide the waivers or modifications authorized by paragraph (2).

(2) ACTIONS AUTHORIZED.—The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

(A) recipients of student financial assistance under title IV of the Act who are affected individuals are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals;

(B) administrative requirements placed on affected individuals who are recipients of student financial assistance are minimized, to the extent possible without impairing the integrity of the student financial assistance programs, to ease the burden on such students and avoid inadvertent, technical violations or defaults;

(C) the calculation of "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under title IV of the Act for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family;

(D) the calculation under section 484B(b)(2) of the Act (20 U.S.C. 1091b(b)(2)) of the amount a student is required to return in the case of an affected individual may be modified so that no overpayment will be required to be returned or repaid if the institution has documented (i) the student's status as an affected individual in the student's file, and (ii) the amount of any overpayment discharged; and

(E) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Act that are located in areas that are declared disaster areas by any Federal, State or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster, may be granted temporary relief from requirements that are rendered infeasible or unreasonable by a national emergency, including due diligence requirements and reporting deadlines.

(b) NOTICE OF WAIVERS OR MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section.

(2) TERMS AND CONDITIONS.—The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

(3) CASE-BY-CASE BASIS.—The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(c) IMPACT REPORT.—The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Act, and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

(d) NO DELAY IN WAIVERS AND MODIFICATIONS.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the waivers and modifications authorized or required by this title.

### SEC. 1503. TUITION REFUNDS OR CREDITS FOR MEMBERS OF ARMED FORCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all institutions offering postsecondary education should provide a full refund to students who are affected individuals for that portion of a period of instruction such student was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for active duty or active service; and

(2) if affected individuals withdraw from a course of study as a result of such active duty or active service, such institutions should make every effort to minimize deferral of enrollment or reapplication requirements and should provide the greatest flexibility possible with administrative deadlines related to those applications.

(b) DEFINITION OF FULL REFUND.—For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

### SEC. 1504. USE OF PROFESSIONAL JUDGMENT.

A financial aid administrator shall be considered to be making a necessary adjustment in accordance with section 479A(a) of the Act if the administrator makes adjustments with respect to the calculation of the expected student or parent contribution (or both) of an affected individual, and adequately documents the need for the adjustment.

### SEC. 1505. DEFINITIONS.

In this title:

(1) ACTIVE DUTY.—The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

(2) AFFECTED INDIVIDUAL.—The term "affected individual" means an individual who—

(A) is serving on active duty during a war or other military operation or national emergency;

(B) is performing qualifying National Guard duty during a war or other military operation or national emergency;

(C) resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency; or

(D) suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

(3) MILITARY OPERATION.—The term "military operation" means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

(4) NATIONAL EMERGENCY.—The term "national emergency" means a national emergency declared by the President of the United States.

(5) SERVING ON ACTIVE DUTY.—The term "serving on active duty during a war or other military operation or national emergency" shall include service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such war, operation, or emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(6) QUALIFYING NATIONAL GUARD DUTY.—The term "qualifying National Guard duty during a war or other military operation or national emergency" means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, another military operation, or a national emergency declared by the President and supported by Federal funds.

### SEC. 1506. TERMINATION OF AUTHORITY.

The provisions of this title shall cease to be effective at the close of September 30, 2005.

### AMENDMENT NO. 2 OFFERED BY MR. BROWN OF SOUTH CAROLINA

The text of the amendment is as follows:

At the end of title III (page , after line ), insert the following new section:

### SEC. . EXPANSION OF DEPARTMENT OF DEFENSE EXCESS PERSONAL PROPERTY DISPOSAL PROGRAM TO INCLUDE HEALTH AGENCIES IN ADDITION TO LAW ENFORCEMENT AND FIREFIGHTING AGENCIES.

(a) INCLUSION OF HEALTH AGENCIES.—Section 2576b of title 10, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

"(a) TRANSFER AUTHORIZED.—Subject to subsection (b), the Secretary of Defense may transfer to a firefighting agency or health agency in a State any personal property of the Department of Defense that the Secretary determines is—

"(1) excess to the needs of the Department of Defense; and

"(2) suitable for use in providing fire and emergency medical services or responding to health or environmental emergencies, including personal protective equipment and equipment for communication and monitoring."; and

(2) in subsection (b)(2) and (c), by striking "firefighting" both places it appears.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

**"§ 2576b. Excess personal property: sale or donation to assist firefighting agencies and health agencies**

(2) The table of sections at the beginning of chapter 153 of such title is amended by striking the item relating to section 2576b and inserting the following new item:

"2576b. Excess personal property: sale or donation to assist firefighting agencies and health agencies.".

### AMENDMENT NO. 3 OFFERED BY MR. ACKERMAN

The text of the amendment is as follows:

At the end of title XII (page 384, after line 3), insert the following new section:

### SEC. . SENSE OF CONGRESS CONCERNING NAVY PORT CALLS IN ISRAEL.

(a) FINDINGS.—Congress finds the following:

(1) The United States Sixth Fleet has not conducted regular visits to the port of Haifa, Israel, since the attack on the U.S.S. Cole in Aden, Yemen, on October 12, 2000, but previously visited that port on a regular basis, with an average of 90 United States warships visiting Haifa each year.

(2) The United States Navy has invested millions of dollars in expanding the capacity and capability of the port of Haifa to accommodate United States Navy requirements and the port of Haifa is among the most secure harbors in the world and offers reliable and efficient repair facilities with close proximity to capable air transport and communications.

(3) The forward presence of United States Navy ships is a powerful deterrent to aggression and a tangible expression of American national interests.

(4) The visits of the United States Sixth Fleet to Haifa demonstrate the historic friendship of the American and Israeli people and the commitment of the United States to the security and survival of the State of Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Defense and the United States Navy should engage with the Government of Israel and the Israel Defense Forces to establish appropriate and effective arrangements to ensure the safety of United States Navy vessels and personnel; and

(2) upon such arrangements being made, the Sixth Fleet should resume regular port visits to Haifa, Israel.

### AMENDMENT NO. 5 OFFERED BY MR. HEFLEY

The text of the amendment is as follows:

At the end of title X (page 333, after line 21), insert the following new section:

### SEC. . PILOT PROGRAM TO IMPROVE USE OF AIR FORCE AND AIR NATIONAL GUARD MODULAR AIRBORNE FIRE-FIGHTING SYSTEMS TO FIGHT WILDFIRES.

(a) TEMPORARY EXCEPTION TO ECONOMY ACT REQUIREMENT.—Notwithstanding section 1535(a)(4) of title 31, United States Code, the Secretary of the Interior and the Secretary of Agriculture may procure the services of military aircraft (and personnel of the Armed Forces to operate and maintain such aircraft) of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units in California, Colorado, North Carolina, and Wyoming to fight a wildfire without first comparing the cost and convenience of procuring such services from such source to the cost of procuring the same services from a commercial enterprise.

(b) DURATION OF PILOT PROGRAM.—The authority provided by subsection (a) expires December 31, 2005.

(c) REPORTING REQUIREMENT.—Not later than February 1, 2005, the Secretary of the Interior and the Secretary of Agriculture shall submit to Congress a report describing—

(1) the use of the exception provided in subsection (a) to expedite the procurement of the services of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units to fight wildfires; and

(2) the ability of these units in responding to wildfires in a timely and effective manner.

### AMENDMENT NO. 7 OFFERED BY MR. LANTOS

The text of the amendment is as follows:

In section 1021, strike subsection (b) (page 274, lines 22 through 24), and redesignate subsequent subsections accordingly.

### AMENDMENT NO. 8 OFFERED BY MS. JACKSON-LEE OF TEXAS

The text of the amendment is as follows:

At the end of title X (page 333, after line 21), insert the following new section:

### SEC. . STUDY ON FEASIBILITY OF USE OF SMALL BUSINESSES, MINORITY-OWNED BUSINESSES, AND WOMEN-OWNED BUSINESSES IN EFFORTS TO REBUILD IRAQ.

The Secretary of Defense shall commission a study of the feasibility of using small businesses, minority-owned businesses, and women-owned businesses in the United States' efforts to rebuild Iraq. The study shall include the development of outreach procedures to provide, to small businesses, minority-owned businesses, and women-owned businesses, information on participating in rebuilding Iraq.

### AMENDMENT NO. 10 OFFERED BY MS. WOOLSEY

The text of the amendment is as follows:

At the end of title X (page 333, after line 21), insert the following new section:

### SEC. . SENSE OF CONGRESS REGARDING CONTINUATION OF MISSION AND FUNCTIONS OF ARMY PEACEKEEPING INSTITUTE.

It is the sense of Congress that the Secretary of Defense should maintain the functions and missions of the Army Peacekeeping Institute at the Army War College in Carlisle, Pennsylvania, or within a joint entity of the Department of Defense, such as the National Defense University or the Joint Forces Command, to ensure that members of the Armed Forces continue to study the strategic challenges and uses of peacekeeping missions and to prepare the Armed Forces for conducting such missions.

### AMENDMENT NO. 11, AS MODIFIED, OFFERED BY MR. WELDON OF PENNSYLVANIA

The Clerk read as follows:

Amendment No. 11, as modified, offered by Mr. WELDON of Pennsylvania:

The amendment as modified is as follows:

Page 389, line 24, strike "$50,000,000" and insert "$78,000,000".

At the end of the bill, add the following new title:

## TITLE XXXVI—NUCLEAR SECURITY INITIATIVE

### SEC. 3601. SHORT TITLE.

This title may be cited as the "Nuclear Security Initiative Act of 2003".

## Subtitle A—Nonproliferation Program Enhancements

### SEC. 3611. ESTABLISHMENT OF INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM IN DEPARTMENT OF STATE.

(a) POLICY WITH RESPECT TO FORMER SOVIET UNION.—It is the policy of the United States to seek to cooperate with the Russian Federation and each other independent state of the former Soviet Union to effect as quickly as is reasonably practical basic security measures (such as the replacement of doors, the bricking of or placement of bars in windows, the clearing of underbrush from facility perimeters, and the erection of fences) at each facility in the Russian Federation and each such state that is used for storing nuclear weapons or nuclear materials and is not yet protected by such measures.

(b) POLICY WORLDWIDE.—It is the policy of the United States to seek to cooperate with all appropriate nations—

(1) to attempt to ensure that all nuclear weapons and nuclear materials worldwide are secure and accounted for according to stringent standards; and

(2) to minimize the number of facilities worldwide at which separated plutonium and highly enriched uranium are present, so as to achieve the highest and most sustainable levels of security for such facilities in the most cost-effective manner.

(c) EXPANSION OF PROGRAM TO ADDITIONAL COUNTRIES AUTHORIZED.—(1) The Secretary of State may establish an international nuclear materials protection and cooperation program with respect to countries other than the Russian Federation and the other independent states of the former Soviet Union.

(2) In carrying out such program, the Secretary of State may provide such funds as are needed to remove nuclear materials from potentially vulnerable facilities, including funds to cover the costs of—

(A) transporting such materials from those facilities to secure facilities;

(B) purchasing such materials;

(C) converting those facilities to a use that no longer requires nuclear materials; and

(D) providing incentives to facilitate the removal of such materials from such facilities.

(3)(A) The Secretary of Energy may provide technical assistance to the Secretary of State in the efforts of the Secretary of State, in carrying out the program, to assist such countries to review and improve their security programs with respect to nuclear weapons and nuclear materials.

(B) The technical assistance provided under subparagraph (A) may, where consistent with the treaty obligations of the United States, include the sharing of technology or methodologies to the countries referred to in that subparagraph. Any such sharing shall take into account the sovereignty of the country concerned and the nuclear weapons programs of such country, as well as the sensitivity of any information involved regarding United States nuclear weapons or nuclear weapons systems.

(C) The Secretary of State may include the Russian Federation in activities under this paragraph if the Secretary determines that the experience of the Russian Federation under the International Nuclear Materials Protection and Cooperation program of the Department of Energy would make the participation of the Russian Federation in those activities useful in providing technical assistance under subparagraph (A).

## Subtitle B—Administration and Oversight of Threat Reduction and Nonproliferation Programs

### SEC. 3621. ANALYSIS OF EFFECT ON THREAT REDUCTION AND NONPROLIFERATION PROGRAMS OF CONGRESSIONAL OVERSIGHT MEASURES WITH RESPECT TO SUCH PROGRAMS.

(a) ANALYSIS OF AND REPORT ON CONGRESSIONAL OVERSIGHT MEASURES.—(1) The National Academy of Sciences shall carry out an analysis of the effect on threat reduction and nonproliferation programs of applicable congressional oversight measures. The analysis shall take into account—

(A) the national security interests of the United States;

(B) the need for accountability in the expenditure of funds by the United States;

(C) the effect of such congressional oversight measures on the continuity and effectiveness of such programs; and

(D) the oversight responsibilities of Congress with respect to such programs.

(2) In carrying out the analysis, the National Academy of Sciences shall consult with the chairs and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives.

(b) REPORT.—Not later than November 1, 2004, the National Academy of Sciences shall submit to Congress a report on the analysis required by subsection (a). The report shall—

(1) identify, and describe the purpose of, each congressional oversight measure; and

(2) set forth such recommendations as the National Academy of Sciences considers appropriate as to whether the measure should be retained, amended, or repealed, together with the reasoning underlying that determination.

(c) DEFINITIONS.—In this section:

(1) the term "congressional oversight measure" means—

(A) the restrictions in subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952);

(B) the eligibility requirements in paragraphs (1) through (4) of section 502 of the FREEDOM Support Act (22 U.S.C. 5852);

(C) the prohibition in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 512; 22 U.S.C. 5952 note); and

(D) any restriction or prohibition on the use of funds otherwise available for threat reduction and nonproliferation programs that applies absent the submission to Congress (or any one or more officers or committees of Congress) of a report, certification, or other matter.

(2) The term "threat reduction and nonproliferation programs" means—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note); and

(B) any programs for which funds are made available under the defense nuclear nonproliferation account of the Department of Energy.

### SEC. 3622. ANNUAL REPORT ON THE USE OF FUNDS APPROPRIATED FOR THREAT REDUCTION AND NONPROLIFERATION IN STATES OF THE FORMER SOVIET UNION.

(a) REPORT.—Not later than December 31 of each year, the Secretary of Energy shall submit to Congress a report on the use, during the fiscal year ending September 30 of that year, of funds appropriated for threat reduction and nonproliferation programs in the Russian Federation and the other independent states of the former Soviet Union. The report shall be prepared in consultation with the Secretary of Defense and shall include the following:

(1) A description of the use of such funds and the manner in which such funds are being monitored and accounted for, including—

(A) the amounts obligated, and the amounts expended, for such activities;

(B) the purposes for which such amounts were obligated and expended;

(C) the forms of assistance provided, and the justification for each form of assistance provided;

(D) the success of each such activity, including the purposes achieved for each such activity;

(E) a description of the participation in such activities by private sector entities in the United States and by Federal agencies; and

(F) any other information that the Secretary of Energy considers appropriate to provide a complete description of the operation and success of such activities.

(2) An accounting of the financial commitment made by the Russian Federation, as of the date of the end of the fiscal year covered by the report, to the destruction of its weapons of mass destruction and to threat reduction and nonproliferation programs.

(3) A description of the efforts made by the United States to encourage the Russian Federation to continue to maintain its current level of financial commitment at a level not less than the level of its commitment for fiscal year 2003, and the response of the Russian Federation to such efforts.

(4) A description of the access provided by the Russian Federation to the United States during the fiscal year covered by the report to the facilities with respect to which the United States is providing assistance under threat reduction and nonproliferation programs.

(b) CONSULTATION REQUIRED.—In preparing the report, the Secretary of Energy shall consult with the chairs and ranking minority members of the following congressional committees:

(1) The Committee on Armed Services, Committee on Appropriations, and Committee on International Relations of the House of Representatives.

(2) The Committee on Armed Services, Committee on Appropriations, and Committee on Foreign Relations of the Senate.

(c) INFORMATION FROM RUSSIAN FEDERATION.—In the case of activities covered by the report that are carried out in the Russian Federation, the Secretary of Energy shall, in preparing the report, include information provided by the Russian Federation with respect to those activities.

(d) DEFINITION.—In this section, the term "threat reduction and nonproliferation programs" has the meaning given such term in section 3621.

### SEC. 3623. PLAN FOR AND COORDINATION OF CHEMICAL AND BIOLOGICAL WEAPONS NONPROLIFERATION PROGRAMS WITH STATES OF THE FORMER SOVIET UNION.

(a) CHEMICAL AND BIOLOGICAL WEAPONS PLAN.—Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1247), as amended by section 1205 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2664) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) CHEMICAL AND BIOLOGICAL WEAPONS.—(1) Not later than June 1, 2004, the President shall develop with the President of the Russian Federation and submit to Congress a comprehensive, detailed plan—

"(A) to account for, secure, and destroy all chemical and biological weapons, and the chemical and biological materials designed for use in such weapons, that are located in Russia and the independent states of the former Soviet Union; and

"(B) to prevent the outflow from those states of the technology and scientific expertise that could be used for developing those weapons, including delivery systems.

"(2) The plan required by paragraph (1) shall include the following:

"(A) Specific goals and measurable objectives for the programs that are designed to carry out the objectives specified in subparagraphs (A) and (B) of paragraph (1).

"(B) Identification of all significant obstacles to achieving those objectives and the means for overcoming those obstacles.

"(C) Criteria for success for those programs and a strategy for eventual termination of United States contributions to those programs and assumption of the ongoing support of those programs by the Russian Federation.

"(D) Specification of the fiscal and other resources necessary in each of the eight fiscal years after fiscal year 2003 to achieve those objectives, including contributions from the international community.

"(E) Arrangements for United States oversight and access to sites.

"(F) Recommendations for any changes—

"(i) in the structure or organization of the programs for carrying out those objectives; and

"(ii) in regulations or legislation that would increase the efficiency and coordination of those programs or would otherwise contribute to the achievement of those objectives.

"(3) In developing the plan required by paragraph (1), the President shall consult with—

"(A) the majority and minority leadership of the appropriate committees of Congress; and

"(B) appropriate officials of the states of the former Soviet Union.

"(4)(A) The President, after consultation with the majority and minority leadership of the appropriate committees of Congress, shall designate a senior official of the Executive Branch, and provide that official with sufficient authority and staffing and other resources, to coordinate the programs referred to in paragraph (2)(A).

"(B) The President shall designate that official not later than 12 months after the date of the enactment of this subsection.".

(b) REPORT REQUIRED TO COVER BOTH PLANS.—Subsection (e) of section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1247), as redesignated by subsection (a), is amended—

(1) in the subsection heading, by striking "PLAN.—" and inserting "PLANS.—";

(2) in paragraph (1)—

(A) by striking "January 31, 2003," and inserting "January 31, 2005,"; and

(B) by striking "plan required by subsection (a)" and inserting "plans required by subsections (a) and (d)(1)"; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking "plan required by subsection (a)" and inserting "plans required by subsections (a) and (d)(1)"; and

(B) in subparagraphs (B), (C), and (D) by striking "plan" each place it appears and inserting "plans".

(c) CONFORMING AMENDMENT.—The heading of section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1247) is amended to read as follows:

**"SEC. 1205. PLANS FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF, AND FOR COORDINATING CHEMICAL AND BIOLOGICAL WEAPONS NONPROLIFERATION PROGRAMS WITH, STATES OF THE FORMER SOVIET UNION.".**

(d) EFFECTIVE DATE FOR FIRST REPORT COVERING BOTH PLANS.—The amendments made by subsection (b) shall apply with respect to the first report due after January 31, 2004.

## Subtitle C—United States—Russia Relations

### SEC. 3631. COMPREHENSIVE INVENTORIES AND DATA EXCHANGES ON NUCLEAR WEAPONS-GRADE MATERIAL AND NUCLEAR WEAPONS.

(a) FINDINGS.—Congress finds that inventories of nuclear weapons-grade material and nuclear weapons should be tracked in order, among other things—

(1) to make it more likely that the Russian Federation can fully account for its entire inventory of nuclear weapons-grade material and nuclear weapons; and

(2) to make it more likely that the sources of any such material or weapons possessed or used by any foreign state or terrorist organization can be identified.

(b) STATEMENT OF POLICY.—To the extent that the President considers prudent, it is the policy of the United States to seek to establish jointly with the Russian Federation comprehensive inventories and data exchanges of Russian Federation and United States nuclear weapons-grade material and nuclear weapons, with particular attention to tactical warheads and warheads that are no longer operationally deployed.

(c) ASSISTANCE IN DEVELOPING COMPREHENSIVE INVENTORIES.—Notwithstanding any other provision of law, the United States should seek to work with the Russian Federation to develop comprehensive inventories of Russian highly enriched uranium, weapons-grade plutonium, and assembled warheads, with special attention to be focused on tactical warheads and warheads that are no longer operationally deployed.

(d) DATA EXCHANGES.—As part of the development of inventories under subsection (c), to the maximum extent practicable and without jeopardizing United States national security interests, the United States may exchange data with the Russian Federation on categories of material and weapons described in subsection (c).

(e) REPORT.—Not later than 12 months after the date of the enactment of this Act, and annually thereafter until a comprehensive inventory is created and the information collected from the inventory is exchanged between the United States and the Russian Federation, the President shall submit to Congress a report, in both classified and unclassified form as necessary, describing the progress that has been made toward creating an inventory and exchanging the information.

### SEC. 3632. ESTABLISHMENT OF DUMA-CONGRESS NUCLEAR THREAT REDUCTION WORKING GROUP.

(a) ESTABLISHMENT OF WORKING GROUP.—There is hereby established a working group to be known as the "Nuclear Threat Reduction Working Group" as an interparliamentary group of the United States and the Russian Federation.

(b) PURPOSE OF WORKING GROUP.—The purpose of the Working Group established by subsection (a) shall be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear nonproliferation and security, and such other issues related to reducing nuclear weapons dangers as the delegations from the two legislative bodies may consider appropriate.

(c) MEMBERSHIP.—(1) The majority leader of the Senate, after consultation with the minority leader of the Senate, shall appoint 10 Senators to the Working Group established by subsection (a).

(2) The Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives, shall appoint 30 Representatives to the Working Group.

### SEC. 3633. JOINT UNITED STATES/NORTH ATLANTIC TREATY ORGANIZATION COOPERATION WITH RUSSIA ON THEATER-LEVEL BALLISTIC MISSILE DEFENSES.

(a) POLICY.—It is the policy of the United States that the President should seek to ensure that the United States takes the lead in arranging for the United States, in conjunction with the North Atlantic Treaty Organization, to enter into appropriate cooperative relationships with the Russian Federation with respect to the development and deployment of theater-level ballistic missile defenses.

(b) PURPOSE OF COOPERATIVE RELATIONSHIPS.—It is the policy of the United States—

(1) that the purpose of the cooperative relationships described in subsection (a) is to increase transparency and confidence with the Russian Federation;

(2) that United States defense and security cooperation with the Russian Federation should contribute to defining a new bilateral strategic framework that is not rooted in the concept of "mutual assured destruction"; and

(3) that that new bilateral strategic framework should be based upon improving the security of the United States and the Russian Federation by promoting transparency and confidence between the two countries.

(c) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report (in unclassified or classified form as necessary) on the feasibility of increasing cooperation with the Russian Federation on the subject of theater-level ballistic missile defenses and on the purposes and objectives set forth in subsection (b). The report shall include—

(1) recommendations from the Department of Defense and Missile Defense Agency;

(2) a threat assessment; and

(3) an assessment of possible benefits to missile defense programs of the United States.

### SEC. 3634. ENCOURAGEMENT OF ENHANCED COLLABORATION TO ACHIEVE MORE RELIABLE RUSSIAN EARLY WARNING SYSTEMS.

(a) FINDINGS.—Congress finds that—

(1) the innovative United States-Russian space-based remote sensor research and development program known as the Russian-American Observation Satellite (RAMOS) program addresses a variety of defense concerns while promoting enhanced transparency and confidence between the United States and the Russian Federation; and

(2) an initial concept of co-orbiting United States and Russian satellites for simultaneous stereo observations is complete and should be continued.

(b) POLICY.—To the exent that the President considers prudent, it is the policy of the United States—

(1) to encourage joint efforts by the United States and the Russian Federation to reduce the chances of a Russian nuclear attack anywhere in the world as the result of misinformation or miscalculation by developing the capabilities and increasing the reliability of Russian ballistic missile early-warning systems, including the Russian-American Observation Satellite (RAMOS) program; and

(2) to encourage other United States-Russian programs to ensure that the Russia Federation has reliable information, including real-time data, regarding launches of ballistic missiles anywhere in the world.

(c) INTERIM RAMOS FUNDING.—To the extent that the Secretary of Defense considers prudent, the Secretary of Defense shall ensure that, pending the execution of a new agreement between the United States and the Russian Federation providing for the conduct of the RAMOS program, sufficient amounts of funds appropriated for that program are used in order to ensure the satisfactory continuation of that program during fiscal years 2004 and 2005.

### SEC. 3635. TELLER-KURCHATOV ALLIANCE FOR PEACE.

(a) FINDINGS.—Congress finds that—

(1) Edward Teller of the United States and Igor Kurchatov of the former Soviet Union were architects of the nuclear weapons programs in their respective countries;

(2) these outstanding individuals both expressed a longing for peace and opposition to war; and

(3) as the United States and the Russian Federation work together to redirect the nations of the world towards the peaceful use of nuclear energy, seeking to improve the quality of life for all human beings, it is appropriate to establish an alliance for peace in the names of Edward Teller and Igor Kurchatov.

(b) TELLER-KURCHATOV ALLIANCE FOR PEACE.—(1) To the extent that the Secretary of Energy considers prudent, the Secretary shall seek to enter into an agreement with the Minister of Atomic Energy of the Russian Federation to carry out a cooperative venture, to be known as the Teller-Kurchatov Alliance for Peace, to develop and promote peaceful, safe, and environmentally sensitive uses of nuclear energy.

(2) The cooperative venture referred to in paragraph (1) shall involve the national security laboratories of the National Nuclear Security Administration and the laboratories of the Ministry of Atomic Energy and the Kurchatov Institute of the Russian Federation.

(3) The cooperative venture shall be directed by two co-chairs, one each from the United States and the Russian Federation. The co-chair from the United States shall serve for a term of two years and shall be designated by the Administrator for Nuclear Security from among officials of the three national security laboratories, with each laboratory represented on a rotating basis.

### SEC. 3636. NONPROLIFERATION FELLOWSHIPS.

(a) IN GENERAL.—(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at the Kurchatov Institute of the Russian Federation and Lawrence Livermore National Laboratory, international exchange fellowships, to be known as Teller-Kurchatov Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the field of nuclear nonproliferation to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in that field.

(3) A fellowship awarded to a scientist under the program shall be for study and training at (and, where appropriate, at an institution of higher education in the vicinity of)—

(A) the Kurchatov Institute, in the case of a scientist employed at Lawrence Livermore National Laboratory; and

(B) Lawrence Livermore National Laboratory, in the case of a scientist employed at the Kurchatov Institute.

(4) The duration of a fellowship under the program may not exceed two years. The Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at the Kurchatov Institute; and

(B) one fellowship to a scientist employed at Lawrence Livermore National Laboratory.

(6) A fellowship under the program shall include—

(A) travel expenses;

(B) any tuition and fees at an institution of higher education for study or training under the fellowship; and

(C) any other expenses that the Administrator considers appropriate, such as room and board.

(b) FUNDING.—Amounts available to the Department of Energy for defense nuclear nonproliferation activities shall be available for the fellowships authorized by subsection (a).

(c) DEFINITIONS.—In this section—

(1) the term "institution of higher education" means a college, university, or other educational institution that is empowered by an appropriate authority, as determined by the Administrator, to award degrees higher than the baccalaureate level;

(2) the term "nuclear nonproliferation sciences" means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry; and

(3) the term "scientist" means an individual who has a degree from an institution of higher education in a science that has practical application in the field of nuclear nonproliferation.

## Subtitle D—Other Matters

### SEC. 3641. PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

(a) FINDINGS.—Congress finds that—

(1) cooperative programs to control potential threats from any fissile and radiological materials, whatever and wherever their sources, should be expanded to include additional states and international organizations; and

(2) addressing issues of nuclear weapons and materials, as well as the issue of radiological dispersal bombs, in new forums around the world is crucial to the generation of innovative mechanisms directed at addressing the threats.

(b) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to Congress a report on—

(1) the efforts made by the United States to initiate the discussions described in subsection (b);

(2) the results of those efforts; and

(3) any plans for further discussions and the purposes of such discussions.

AMENDMENT NO. 12 OFFERED BY MR. ROGERS OF MICHIGAN

The text of the amendment is as follows:

At the end of title XII (page 384, after line 3), insert the following new section:

### SEC. . ASSISTANCE TO IRAQI CHILDREN INJURED DURING OPERATION IRAQI FREEDOM.

(a) ASSISTANCE.—The Secretary of Defense shall, to the maximum extent practicable, provide all necessary support in an expeditious manner to assist Iraqi children who were injured during Operation Iraqi Freedom.

(b) ADDITIONAL REQUIREMENTS.—Assistance described in subsection (a) may be provided to a child only if adequate treatment from other sources in Iraq or neighboring countries is not available and only after completion of an evaluation by a physician or other appropriate medical personnel of the United States Armed Forces. In addition, assistance described in subsection (a) may be provided only if it would not adversely affect military operations of the United States.

(c) DEFINITION.—In this section, the term "Operation Iraqi Freedom" means operations of the United States Armed Forces, the armed forces of the United Kingdom, and the armed forces of other coalition member countries initiated on or about March 19, 2003—

(1) to disarm Iraq of its weapons of mass destruction;

(2) to enforce United Nations Security Council Resolution 1441 (November 8, 2002) and other relevant Security Council resolutions with respect to Iraq; and

(3) to liberate the people of Iraq from the regime of Saddam Hussein.

AMENDMENT NO. 13 OFFERED BY MR. UPTON

The text of the amendment is as follows:

At the end of subtitle B of title VI (page 172, after line 19), insert the following new section:

### SEC. . AVAILABILITY OF HOSTILE FIRE AND IMMINENT DANGER PAY FOR RESERVE COMPONENT MEMBERS SERVING IN RESPONSE TO CERTAIN DOMESTIC TERRORIST ATTACKS.

(a) AVAILABILITY OF SPECIAL PAY.—Subsection (a)(2) of section 310 of title 37, United States Code, as amended by section 616 of this Act, is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) was on duty as a first responder, or as a member assigned to accompany or protect first responders, to a terrorist attack on the United States regarding which there is an immediate threat of physical harm or imminent danger as a result of direct or residual effects of the attack or potential secondary attacks; or".

(b) FIRST RESPONDER DEFINED.—Such section is further amended by adding at the end the following new subsection:

"(e) FIRST RESPONDER DEFINED.—In this section, the term 'first responder' means a member of the uniformed services who, as part of the member's assigned duties, is expected to arrive at the site of a terrorist attack within 12 hours after the attack.".

AMENDMENT NO. 14 OFFERED BY MR. VITTER

The text of the amendment is as follows:

At the end of section 3517 (page 615, after line 12) add the following new subsection:

(c) TELECOMMUNICATIONS EQUIPMENT.—The telecommunications and other electronic equipment on an existing vessel that is redocumented under the laws of the United States for operation under an operating agreement under this subtitle shall be deemed to satisfy all Federal Communications Commission equipment certification requirements, if—

(1) such equipment complies with all applicable international agreements and associated guidelines as determined by the country

in which the vessel was documented immediately before becoming documented under the laws of the United States;

(2) that country has not been identified by the Secretary as inadequately enforcing international regulations as to that vessel; and

(3) at the end of its useful life, such equipment will be replaced with equipment that meets Federal Communications Commission equipment certification standards.

AMENDMENT NO. 15 OFFERED BY MR. HUNTER

The text of the amendment is as follows:

At the end of subtitle B of title I (page 20, after line 24), insert the following new section:

### SEC. 112. CONFIGURATION OF FOURTH STRYKER BRIGADE COMBAT TEAM.

(a) CONFIGURATION, LETHALITY ENHANCEMENTS, AND SUSTAINABILITY.—The Secretary of the Army shall configure the fourth Stryker brigade combat team so that that brigade combat team provides the commanders of combatant commands with enhanced combat capability and sustainability well beyond the combat and sustainment capabilities provided by any one of the first three fielded Stryker brigade combat teams.

(b) FUNDS.—The amount provided in section 101(3) is hereby increased by $100,000,000, to be available for procurement of additional lethality and sustainability enhancements for the fourth Stryker brigade combat team.

(c) OPTIONS FOR CONSIDERATION.—In the execution of the funds provided pursuant to subsection (b)(1), the Secretary of the Army shall include among the enhancements considered for the configuration of the fourth Stryker brigade combat team enhancement with heavy armored vehicles, with additional heavy attack helicopters, with additional reconnaissance and attack helicopters, and with indirect fire artillery capabilities, or with any combination thereof.

(d) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report that details the additional types of lethality and sustainability enhancements that will be fielded as part of the new configuration of the fourth Stryker brigade combat team.

At the end of subtitle A of title II (page 30, after line 7), insert the following new section:

### SEC. 203. PROGRAM INCREASES.

(a) COMPUTER-ASSISTED MEDICAL DIAGNOSTIC TECHNOLOGY.—The amount provided in section 201(1) for research, development, test, and evaluation, Army, is hereby increased by $3,000,000, to be available for Medical Advanced Technology in Program Element 0603002A for evaluation for potential use by Department of Defense medical treatment facilities of commercially available medical diagnostic technology that, using a digital chemical library and decision support software, can be used for diagnosis of dermatological diseases.

(b) LIGHTWEIGHT CARTRIDGE CASES FOR AMMUNITION.—The amount provided in section 201(1) for research, development, test, and evaluation, Army, is hereby increased by $3,000,000, to be available for Weapons and Munitions Advanced Technology in Program Element 0603004A for advanced technology development for lightweight cartridge cases for ammunition.

(c) AVIATION-SHIPBOARD INFORMATION TECHNOLOGY.—The amount provided in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $6,500,000, to be available for Shipboard Aviation Systems in Program Element 0604512N to complete research and development for the Aviation-Shipboard Information Technology Initiative.

(d) AUTOREAD.—The amount provided in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $1,400,000, to be available for Shipboard Aviation Systems in Program Element 0604512N to complete research and development for the AutoREAD system for improving the accuracy and reducing the workload of collecting preventive maintenance data on aircraft launch and recovery systems.

(e) SPIKE URBAN WARFARE SYSTEM.—The amount provided in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $5,000,000, to be available for the Marine Corps Advanced Technology Demonstrations in Program Element 0603640M for development and demonstration of the SPIKE urban warfare system.

(f) RESEARCH IN HYDROGRAPHIC SCIENCES.—The amount provided in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $3,250,000, to be available for Air/Ocean Tactical Applications advanced component development and prototyping in Program Element 0603207N for hydrographic sciences research.

(g) SHIPBOARD ELECTRONIC WARFARE IMPROVEMENTS.—The amount provided in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $5,000,000, to be available for system development and demonstration for Tactical Command Systems in Program Element 0604231N for an at-sea demonstration for shipboard use of a variant of the F/A-22 digital electronic warfare product improvement program.

(h) AEROSPACE SENSORS.—The amount provided in section 201(3) for research, development, test, and evaluation, Air Force, is hereby increased by $4,000,000, to be available for Aerospace Sensors in Program Element 0602204F for development of general purpose reconfigurable signal processors suitable for time critical sensor processing for broad military intelligence, surveillance, and reconnaissance applications.

(i) ELEMENTAL DETECTOR TECHNOLOGY APPRAISAL.—The amount provided in section 201(4) for research, development, test, and evaluation, Defense-Wide, is hereby increased by $2,000,000, to be available for Program Element 0603750D8Z, Advanced Concept Technology Demonstrations, to evaluate the capability of an elemental detector to provide directional cueing to concentrations of specific elements and compounds.

(j) MUSTARD GAS ANTIDOTE.—The amount provided in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby increased by $5,000,000, to be available for Chemical-Biological Defense Applied Research in Program Element 0603284BP for continuing applied research on an antidote for mustard gas.

At the end of subtitle A of title III (page 45, after line 21), insert the following new sections:

### SEC. 304. COUNTEREXPLOITATION INITIATIVE.

Within the amount authorized to be appropriated by section 301(5) for operations and maintenance, Defense-wide, the amount for the United States Special Operations Command is hereby increased by $1,100,000, to be made available for the initiative for accurately tracing portable, sensitive items exported beyond the borders of the United States.

### SEC. 305. REDUCTION IN AUTHORIZATION FOR AIR FORCE OPERATION AND MAINTENANCE ACCOUNT.

The amount authorized to be appropriated in section 301(4) is hereby reduced by $135,500,000.

In section 318, strike subsection (c) (page 62, line 21, through page 64, line 7) and insert the following new subsection:

(c) INCIDENTAL TAKINGS OF MARINE MAMMALS IN MILITARY READINESS ACTIVITIES.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)) is amended—

(1) in subparagraph (A), by adding at the end the following:

"Notwithstanding the preceding sentence, the Secretary is not required to publish notice under this subparagraph with respect to incidental takings while engaged in a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) authorized by the Secretary of Defense, except in the Federal Register.";

(2) in subparagraph (D), by adding at the end the following new clause:

"(vi) Notwithstanding clause (iii), the Secretary is not required to publish notice under this subparagraph with respect to an authorization under clause (i) of incidental takings while engaged in a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) authorized by the Secretary of Defense, except in the Federal Register."; and

(3) by adding at the end the following new subparagraph:

"(F) In determining whether a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) authorized by the Secretary of Defense is in compliance with the requirements of subparagraphs (A), (B), and (D), the following references shall not apply:

"(i) In subparagraph (A), 'within a specified geographical region' and 'within that region of small numbers'.

"(ii) In subparagraph (B), 'within a specified geographical region' and 'within one or more regions'.

"(iii) In subparagraph (D), 'within a specific geographic region', 'of small numbers', and 'within that region'.".

In section 421, strike "$98,938,511,000" (page 83, line 23) and insert "$98,634,511,000".

In section 1021(a), strike paragraph (10) (page 262, lines 7 and 8).

In section 1021(a), strike paragraph (29) (page 266, lines 4 through 7).

In section 1021(a), strike paragraph (34) (page 266, lines 16 and 17).

In section 1021, strike subsection (b) (page 2674, lines 22 through 24).

Page 342, starting on line 10, strike "the Federal Employees Pay for Performance Act of 2003" and insert "the National Defense Authorization Act for Fiscal Year 2004".

Page 342, starting on line 25, strike "sections 3 and 4 of the Federal Employees Pay for Performance Act of 2003." and insert "section 1106 of the National Defense Authorization Act for Fiscal Year 2004.".

Page 343, line 19, strike "(c)" and insert "(3)".

Page 344, line 3, strike "subsection (c)(2)" and insert "paragraph (2)".

Strike section 1109 (page 346, line 20 through page 348, line 6) and insert the following:

### SEC. 1109. CLARIFICATION OF HATCH ACT.

No Federal employee or individual who, before the date of the enactment of this Act, was employed in the Office of the Department of Defense Inspector General and transferred to a Special Court sponsored by the

United Nations pursuant to the authority described in section 3582(a) of title 5, United States Code, shall be subject to enforcement of the provisions of section 7326 of such title, except that this section shall not apply in the event that such employee or individual subsequently becomes reemployed in the civil service.

In section 1201(d)(2), insert "of such section" after "subsection (a)" (page 373, line 14).

In section 1201(d)(3), strike "each" (page 373, line 18) and insert "such".

Page 374, line 9, strike the fourth word.

Strike section 1453 (page 427, line 12, through page 429, line 10).

In section 1455(a), strike the matter preceding paragraph (1) (page 430, lines 11 through 14) and insert the following:

(a) IN GENERAL.—No contract awarded on a sole source basis for the procurement of items or services that are treated as or deemed to be commercial items pursuant to the amendments made by section 1441, 1444, or 1457 of this Act shall be exempt from—

At the end of subtitle E of title XIV (page 433, after line 20), insert the following new section:

### SEC. 1457. AMENDMENTS RELATING TO FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY.

(a) REPEAL OF SUNSET FOR AUTHORITIES APPLICABLE TO PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.—Section 852 of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2235) is amended by striking ", but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act".

(b) APPLICABILITY OF INCREASED SIMPLIFIED ACQUISITION THRESHOLD.—(1) The matter preceding paragraph (1) of section 853(a) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2235) is amended to read as follows:

"(a) THRESHOLD AMOUNTS.—For a procurement referred to in section 852, the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is deemed to be—".

(2) Subsections (b) and (c) of section 853 of such Act are repealed.

(3) The heading of section 853 of such Act is amended to read as follows:

### "SEC. 853. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR CERTAIN PROCUREMENTS.".

(4) The table of contents in section 1(b) of such Act is amended by striking the item relating to section 853 and inserting the following:

"Sec. 853. Increased simplified acquisition threshold for certain procurements.".

(5) Section 18(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)(1)) is amended—

(A) by striking "or" at the end of subparagraph (G);

(B) by striking the period at the end of subparagraph (H) and inserting "; or"; and

(C) by adding at the end the following:

"(I) the procurement is by the head of an executive agency pursuant to the special procedures provided in section 853 of the Homeland Security Act of 2002 (Public Law 107–296).".

(c) APPLICABILITY OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—(1) Subsection (a) of section 855 of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2236) is amended to read as follows:

"(a) AUTHORITY.—With respect to a procurement referred to in section 852, the head of an executive agency may deem any item or service to be a commercial item for the purpose of Federal procurement laws.".

(2) Subsection (b)(1) of section 855 of such Act is amended by striking "to which any of the provisions of law referred to in subsection (a) are applied".

(d) EXTENSION OF DEADLINE FOR REVIEW AND REPORT.—Section 857(a) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2237) is amended by striking "2004" and inserting "2006".

In section 2803(b)(2)(A), insert "subsections" after "as" (page 464, line 15).

In section 2805(b), strike "2822" and insert "2822(b)" (page 472, line 18).

At the end of subtitle C of title XXVIII (page 487, after line 23), insert the following new section:

### SEC. . LAND CONVEYANCE, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE REQUIRED.—The Secretary of the Army shall convey, without consideration, to Fairfax County, Virginia (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10 acres at Fort Belvoir and known as the John McNaughton Memorial baseball fields for the purpose of permitting the County to use the property for recreational purposes.

(b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the County.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

In section 3121(e)(5), insert ", as amended by section 3112," after "926)" (page 513, line 23).

Page 537, line 23, strike the first close parenthesis.

Page 544, line 13, insert "Authorization" after "National Defense".

Page 557, line 9, strike "(c)" and insert "(d)".

Page 560, line 24, insert open quotation marks before "SEC.".

Page 572, line 11, strike "ON" and insert "TO CONGRESS OF".

Page 572, line 15, strike "Fiscal Year".

Page 574, line 8, strike "of" the first place it appears and insert "after".

Page 587, line 23, strike "59" and insert "50".

Page 616, line 9, insert "by redesignating the second subsection (e) as subsection (f), and" after "is amended".

Page 616, line 10, strike "(e)" and insert "(g)".

Page 622, lines 15 and 16, strike "(e)" each place it appears and insert "(g)".

AMENDMENT NO. 16 OFFERED BY MR. SIMMONS

The text of the amendment is as follows:

At the end of title X (page 333, after line 21), insert the following new section:

### SEC. . ASSESSMENT OF EFFECTS OF SPECIFIED STATUTORY LIMITATIONS ON THE GRANTING OF SECURITY CLEARANCES.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an assessment of the effects of the provisions of section 986 of title 10, United States Code (relating to limitations on security clearances), on the granting (or renewal) of security clearances for Department of Defense personnel and defense contractor personnel. The assessment shall review the affects of the disqualification factors specified in subsection (c) of that section and shall include such recommendations for legislation or administrative steps as the Secretary considers necessary.

AMENDMENT NO. 17 OFFERED BY MR. TIERNEY

The text of the amendment is as follows:

Page 205, line 18, strike "performed." and insert the following: "performed, an explanation of the business rationale for why the decision was made to transfer the work outside the United States, and a certification of the specific percentage of the total contract to be performed outside the United States.".

Page 206, line 16, strike "Representatives." and insert the following: "Representatives, including the recommendations of the Secretary regarding how procurement from the United States defense industrial base can be maximized.".

AMENDMENT NO. 18 OFFERED BY MR. NADLER

The text of the amendment is as follows:

At the end of title XIII (page 393, after line 14), insert the following new section:

### SEC. 1308. STUDY RELATING TO EX-SOVIET URANIUM AND PLUTONIUM.

The Secretary of Defense shall submit a study to Congress not later than one year after the date of the enactment of this Act, examining the costs and benefits of purchasing all the ex-Soviet weapons-grade uranium and plutonium in fiscal year 2005, and safeguarding it from smuggling or theft until it can be rendered unusable for weapons.

AMENDMENT NO. 19 OFFERED BY MR. PORTER

The text of the amendment is as follows:

At the end of title III (page 79, after line 17), insert the following new section:

### SEC. . DEPARTMENT OF DEFENSE PUBLIC HEALTH ASSESSMENT OF EXPOSURE TO PERCHLORATE.

(a) EPIDEMIOLOGICAL STUDY OF EXPOSURE TO PERCHLORATE.—

(1) IN GENERAL.—The Secretary of Defense shall provide for an independent epidemiological study of exposure to perchlorate in drinking water.

(2) PERFORMANCE OF STUDY.—The Secretary shall provide for the performance of the study under this subsection through the Centers for Disease Control, the National Institutes of Health, or another Federal entity with experience in environmental toxicology selected by the Secretary for purposes of the study.

(3) MATTERS TO BE INCLUDED IN STUDY.—In providing for the study under this subsection, the Secretary shall require the Federal entity conducting the study—

(A) to assess the incidence of thyroid disease and measurable effects of thyroid function in relation to exposure to perchlorate;

(B) to ensure that the study is of sufficient scope and scale to permit the making of meaningful conclusions of the measurable public health threat associated with exposure to perchlorate, especially the threat to sensitive subpopulations; and

(C) to study thyroid function, including measurements of urinary iodine and thyroid hormone levels, in a sufficient number of pregnant women, neonates, and infants exposed to perchlorate in drinking water and match measurements of perchlorate levels in the drinking water of each study participant in order to permit the development of meaningful conclusions on the public health threat to individuals exposed to perchlorate.

(4) REPORT ON STUDY.—The Secretary shall require the Federal entity conducting the study under this subsection to submit to the Secretary a report on the study not later than June 1, 2005.

(b) REVIEW OF EFFECTS OF PERCHLORATE ON ENDOCRINE SYSTEM.—

(1) IN GENERAL.—The Secretary shall provide for an independent review of the effects of perchlorate on the human endocrine system.

(2) PERFORMANCE OF REVIEW.—The Secretary shall provide for the performance of the review under this subsection through the Centers for Disease Control, the National Institutes of Health, or another appropriate Federal research entity with experience in human endocrinology selected by the Secretary for purposes of the review. The Secretary shall ensure that the panel conducting the review is composed of individuals with expertise in human endocrinology.

(3) MATTERS TO BE INCLUDED IN REVIEW.—In providing for the review under this subsection, the Secretary shall require the Federal entity conducting the review to assess—

(A) available data on human exposure to perchlorate, including clinical data and data on exposure of sensitive subpopulations, and the levels at which health effects were observed; and

(B) available data on other substances that have endocrine effects similar to perchlorate to which the public is frequently exposed.

(4) REPORT ON REVIEW.—The Secretary shall require the Federal entity conducting the review under this subsection to submit to the Secretary a report on the review not later than June 1, 2005.

AMENDMENT NO. 20 OFFERED BY MR. LOBIONDO

The text of the amendment is as follows:

At the end of subtitle A of title XXVIII (page 477, after line 10), insert the following new section:

### SEC. . ANNUAL REPORT ON MILITARY CONSTRUCTION REQUIREMENTS TO SUPPORT HOMELAND DEFENSE MISSIONS OF THE ARMED FORCES.

As part of the annual defense authorization request required by section 113a(b) of title 10, United States Code, the Secretary of Defense shall include an assessment of the military construction requirements anticipated to be necessary to support the homeland defense missions of the Armed Forces for the fiscal year for which the defense authorization request is submitted, for the fiscal years covered by the then-current future-years defense plan under section 221 of such title, and for subsequent fiscal years.

AMENDMENT NO. 21, AS MODIFIED, OFFERED BY MS. KAPTUR

The Clerk read as follows:

Amendment No. 21, as modified, offered by Ms. KAPTUR:

The amendment as modified is as follows:

Page 220, after line 12, insert the following new section (and conform the table of contents accordingly):

### SEC. 827. DATA COLLECTION AND TECHNICAL ASSISTANCE CENTER RELATING TO MACHINE TOOLS.

(a) COLLECTION OF DATA ON CONTRACTS USING MACHINE TOOLS.—The Secretary of Defense shall collect data in order to identify all contractors and subcontractors that use machine tools in carrying out any defense contract in an amount that is $5,000,000 or greater.

(b) TECHNICAL ASSISTANCE CENTER.—The Secretary of Defense shall establish a center to provide technical assistance to machine tool companies in the United States, and entities that use machine tools, to seek guidance with respect to government contracting regulations, including compliance procedures, and opportunities for contracting with the Department of Defense. As part of the assistance provided through the center, the Secretary may provide information about defense contracts that are expected to be carried out through the use of machine tools.

(c) DEFINITION.—In this section the term "machine tools" includes machine tools in the North American Industry Classification System (NAICS) codes 333511, 333512, 333513, 333514, and 333515.

AMENDMENT NO. 22 OFFERED BY MS. KAPTUR

The text of the amendment is as follows:

Page 220, after line 12, insert the following new section (and conform the table of contents accordingly):

### SEC. 827. BUY AMERICAN ENHANCEMENT.

Section 2533 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) In determining under section 2 of the Buy American Act (41 U.S.C. 10a et seq.) whether application of such Act is inconsistent with the public interest, the Secretary of Defense shall not consider the provisions of any trade agreement between the United States and a foreign country that is in effect at the time of the determination.".

AMENDMENT NO. 23 OFFERED BY MR. TURNER OF OHIO

The text of the amendment is as follows:

Strike section 1051 (page 323, line 4, through page 324, line 20) and insert the following:

### SEC. 1051. ASSISTANCE FOR STUDY OF FEASIBILITY OF BIENNIAL UNITED STATES INTERNATIONAL AIR TRADE SHOW AND FOR INITIAL IMPLEMENTATION.

(a) ASSISTANCE FOR FEASIBILITY STUDY.—(1) The Secretary of Defense shall provide assistance to the nonprofit organization named United States Air and Trade Show Inc. for expenses of a study by that organization of the feasibility of the establishment and operation of a biennial United States international air trade show.

(2) The Secretary shall provide for the organization specified in paragraph (1) to submit to the Secretary a report containing the results of the study not later than September 30, 2004. The Secretary shall promptly submit the report to Congress, together with such comments on the report as the Secretary considers appropriate.

(b) ASSISTANCE FOR IMPLEMENTATION.—If the organization conducting the study under subsection (a) determines that the establishment and operation of such an air show is feasible and should be implemented, the Secretary shall provide assistance to that organization for the initial expenses of implementing such an air show.

(c) AMOUNT OF ASSISTANCE.—The amount of assistance provided by the Secretary under subsections (a) and (b)—

(1) may not exceed a total of $1,000,000, to be derived from amounts available for operation and maintenance for the Air Force for fiscal year 2004; and

(2) may not exceed one-half of the cost of the study and may not exceed one-half the cost of such initial implementation.

AMENDMENT NO. 24 OFFERED BY MR. KINGSTON

The text of the amendment is as follows:

At the end of title XXVIII (page 495, after line 6), insert the following new section:

### SEC. . CONSIDERATION OF PUBLIC-ACCESS-ROAD ISSUES RELATED TO DISPOSAL OF PROPERTY AT MILITARY INSTALLATIONS UNDER BASE CLOSURE PROCESS.

(a) 1988 LAW.—Section 204(b)(2)(E) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "If a military installation to be closed or placed in an inactive status under this title includes a road used for public access through, into, or around the installation, the consultation required by this subparagraph shall include a discussion of measures to ensure the continued availability of the road for public use after the installation is closed or placed in an inactive status.".

(b) 1990 LAW.—Section 2905(b)(2)(D) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "If a military installation to be closed or placed in an inactive status under this part includes a road used for public access through, into, or around the installation, the consultation required by this subparagraph shall include a discussion of measures to ensure the continued availability of the road for public use after the installation is closed or placed in an inactive status.".

AMENDMENT NO. 25 OFFERED BY MR. HOBSON

The text of the amendment is as follows:

Part II of subtitle B of title VIII is amended by adding at the end (page 220, after line 12) the following new section:

### SEC. 827. REQUIREMENT RELATING TO PURCHASES BY DEPARTMENT OF DEFENSE SUBJECT TO BUY AMERICAN ACT.

In applying section 2 of the Buy American Act (41 U.S.C. 10a) to acquisitions by the Department of Defense, the term "substantially all" shall mean at least 65 percent.

AMENDMENT NO. 26 OFFERED BY MR. HOEFFEL

The text of the amendment is as follows:

At the end of subtitle B of title XXVIII (page 479, before line 15), insert the following new section:

### SEC. . SENSE OF CONGRESS ON DEMOLITION OF ARMY TACONY WAREHOUSE DEPOT SITE, PHILADELPHIA, PENNSYLVANIA.

(a) FINDINGS.—Congress finds the following:

(1) The Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 656), appropriated $5,000,000 for the demolition of the Army Tacony Warehouse depot site in Philadelphia, Pennsylvania, operated by Fort Dix.

(2) The Secretary of the Army has yet to implement plans to demolish the Tacony warehouse.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army should take swift action to finally demolish the Tacony warehouse, as previously required by Act of Congress.

AMENDMENT NO. 27 OFFERED BY MR. HOSTETTLER

The text of the amendment is as follows:

In section 2534(a) of title 10, United States Code, as proposed to be added by section 821(a), strike "Packaging in direct contact with meals" (page 212, line 8) and insert: "Pre-formed retort packaging in direct contact with main entree meals".

AMENDMENT NO. 28 OFFERED BY MR. FARR

The text of the amendment is as follows:

At the end of subtitle C of title III (page , after line ), insert the following new section:

### SEC. . PERMANENT AUTHORITY FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES AT INSTALLATIONS IN MONTEREY COUNTY, CALIFORNIA.

(a) AUTHORITY.—Subject to subsection (b), public works, utility, and other municipal services needed for the operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located in that county.

(b) PROHIBITION ON PURCHASE OF CERTAIN SERVICES.—Section 2465 of title 10, United States Code, relating to the purchase of firefighting or security-guard services at a military installation, applies with respect to the authority provided by subsection (a).

(c) CONFORMING AMENDMENT.—Section 816 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is repealed.

AMENDMENT NO. 29 OFFERED BY MR. DICKS

The text of the amendment is as follows:

At the end of subtitle C of title XXVIII (page , after line ), insert the following new section:

### SEC. . LAND CONVEYANCE, PUGET SOUND NAVAL SHIPYARD, BREMERTON, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Bremerton, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 2.8 acres at the eastern end of the Puget Sound Naval Shipyard, Bremerton, Washington, immediately adjacent to the Bremerton Transportation Center.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City, directly or through an agreement with another entity, shall replace administrative space on the parcel to be conveyed by renovating for new occupancy approximately 7,500 square feet of existing space in Building 433 at Naval Station, Bremerton, Washington, at no cost to the United States, in accordance with plans and specifications acceptable to the Secretary. In lieu of any portion of such renovation, the Secretary may accept other facility alteration or repair of not less than equal value.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) ENVIRONMENTAL CONDITIONS.—The Secretary may use funds available in the Environmental Restoration Account, Navy to carry out the environmental remediation of the real property to be conveyed under subsection (a). Such environmental remediation shall be conducted in a manner consistent with section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620), including the requirement to consider the anticipated future land use of the parcel.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 30 OFFERED BY MR. CRENSHAW

The text of the amendment is as follows:

At the end of subtitle D of title XXXV (page 627, after line 25), add the following:

### SEC. . AUTHORITY TO CONVEY NDRF VESSELS AND VESSEL CONTENTS.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to any or all of the vessels USS ORION (AS–18), USS HOWARD W. GILMORE (AS–16), USS SPERRY (AS–12), USS NEREUS (AS–17), USS PROTEUS (XAS–19), and S.S. HATTIESBURG VICTORY (number 248651), a barge and its inventoried contents (YFNB 4, also known as SSE–512), and the contents (Victory class spares) that have been removed from the S.S. CATAWBA VICTORY, to Beauchamp Tower Corporation (a not-for-profit corporation, in this section referred to as the "recipient") for use as moored support ships for the corporation and as memorials to the Fulton class ships and the Victory class ships, if—

(1) the vessel is not used for commercial transportation purposes;

(2) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(3) the recipient agrees that when the recipient no longer requires the vessel for use as a moored support ship for the corporation and as a memorial to the Fulton class ships and the Victory class ships—

(A) the recipient shall, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State of Florida, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (2) or (3); and

(5) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, a written loan commitment, or financial resources—

(A) except as provided in subparagraph (B), of at least $1,500,000 for each vessel conveyed; and

(B) at least $50,000 for each barge with contents conveyed.

(b) DELIVERY OF VESSEL.—If a conveyance of a vessel is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of the enactment of this Act, in its present condition, without cost to the Government.

(c) MANAGEMENT OF VESSELS PENDING CONVEYANCE.—

(1) 2-YEAR HOLDING PERIOD.—The Secretary shall remove all vessels authorized to be conveyed under this section from the scrapping disposal list for a period of 2 years.

(2) DISPOSAL AT END OF HOLDING PERIOD.—If a vessel has not been received and transported from its conveyance location by the recipient before the end of such 2-year period, the Secretary may dispose of the vessel as the Secretary determines to be appropriate.

(3) DISPOSAL DURING HOLDING PERIOD.—Notwithstanding paragraph (1), the Secretary may dispose of a vessel authorized to be conveyed under this section during the 2-year period provided for in paragraph (1), if it is determined that the vessel is in danger of sinking or presents an immediate critical hazard to the National Defense Reserve Fleet or environmental safety.

(d) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient any unneeded equipment, materials, and spares from other vessels or in storage with the Maritime Administration and the National Defense Reserve Fleet, for the recipient's use, including the restoration and refit of the vessels conveyed under this section and to assist other vessel museums.

(e) RETENTION OF VESSEL IN NDRF.—The Secretary shall retain in the National Defense Reserve Fleet each vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the modifications be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. WELDON), chairman of the Subcommittee on Tactical Air and Land Forces, and the vice-chairman of the full committee.

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank my chairman for yielding time to me.

If for no other reason, I would ask my colleagues to look at this amendment en bloc because it contains perhaps one of the most significant pieces of legislation that we have passed in this Congress.

Approximately 1 month ago, 25 Members of Congress, including the gentleman from Texas (Mr. EDWARDS) and I, introduced the Nuclear Security Initiative Act of 2003. This bill is the first major, comprehensive expansion of our efforts to work with the former Soviet states to take away the threat of the use of weapons of mass destruction.

The bill authorizes $78 million of funding, but, more significantly, includes a whole vast, new array of engaging the Russians, including the establishment of a Duma-Congress initiative to focus together on nonproliferation, the establishment of fellowships between the Kurchatov Institute and Lawrence Livermore Laboratory to focus on nonproliferation, the killing in our policy to work with NATO and do appropriate cooperative relationships in development and deployment of theater missile defenses, to work with the Russians on early warning, the Ramos program, to expand that, to create a Teller-Kurchatov alliance for peace to work together, to provide more in the inherent accountability and transparency on how we spend money in Russia to take apart these weapons of mass destruction.

This particular bill, which is in fact as it was introduced, H.R. 1719, was endorsed by the Heritage Foundation, the Carnegie Endowment for Peace, the Nuclear Threat Reduction Initiative, Sam Nunn's group, the Physicians for Social Responsibility, all coming together, along with the Vietnam Veterans Foundation, saying this is the direction we should be moving in.

My colleagues on both sides of the aisle, including the gentleman from Maryland (Mr. HOYER) on the minority side and the gentleman from California (Mr. COX) on the Republican side, are original sponsors.

It is a major step forward, a major step forward for this Congress, for this body in taking the lead on helping to secure these weapons of mass destruction. I thank the distinguished chairman.

Mr. Chairman, I include for the RECORD letters from top Russian leaders thanking this Congress for taking this bold step, including one letter I received yesterday signed by 30 of the top leaders in the Russian Duma thanking this Congress for its leadership role in helping to provide a vision for a new relationship with Russia that goes beyond the Nunn-Lugar program, that allows us to truly establish a new framework in dealing with the issues of weapons of mass destruction that still exists within the bounds of the former Soviet states.

The letters referred to are as follows:

Hon. CURT WELDON,
*Member of Congress, House of Representatives,*
*Washington, DC.*

DEAR CONGRESSMAN WELDON. With satisfaction we knew about your new initiative (a Bill) towards higher cooperation with the Russian Federation on nonproliferation of nuclear weapon and other weapons of mass destruction.

We think that the Russian Federation and the United States as the countries, which possess the biggest inventories of nuclear warheads, are responsible to the world future in the matter of deterrence and nonproliferation.

The especially important role belongs to transition of the nuclear warhead industry to peaceful aims—development of ecologically clean nuclear energy. The Russian and American scientists are especially responsible for this. That's why establishment of the Teller-Kurchatov Alliance for Peace may be an important and useful step. It would be also extremely important to engage students, post-graduates, and young scientists in this work.

We consider that establishment of the Nuclear Threat Reduction Working Group as a subgroup of Duma-Congress Group will help to setup an additional control on international and national programs in this field.

Dear Mr. Weldon, we wish you success in your initiative promotion, and you can count on our understanding and assistance.

With best regards,

———.

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Hon. CURT WELDON,
*Member of Congress, House of Representatives,*
*Washington, DC.*

DEAR CONGRESSMAN WELDON: We welcome your new initiative (a Bill) towards higher cooperation with the Russian Federation on nonproliferation of nuclear weapon and other weapons of mass destruction.

We believe that the Russian Federation and the United States specially account for the world future in the matter of deterrence and nonproliferation being the countries, which possess the biggest inventories of nuclear warheads.

The very important matter is to redirect the nuclear warhead industry to peaceful aims—development of ecologically clean nuclear energy. The especially important role belongs to the Russian and American Scientists in this process. That's why establishment of the Teller-Kurchatov Alliance for Peace may be an important and useful step. It would be also extremely important to engage students, post-graduates, and young scientists in this work.

We expect that establishment of the Nuclear Threat Reduction Working Group as a subgroup of Duma-Congress Group will help to strengthen the control on international and national programs in this field.

Dear Mr. Weldon, we wish you success in your initiative promotion, and you can count on our understanding and assistance.

Sincerely,

VASILY F. KUZNETSOV,
*Deputy of the State Duma.*

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Hon. CURT WELDON,
*Member of Congress, House of Representatives,*
*Washington, DC*

DEAR CONGRESSMAN WELDON. With satisfaction we knew about your new initiative (a Bill) towards higher cooperation with the Russian Federation on nonproliferation of nuclear weapon and other weapons of mass destruction.

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We consider the establishment of the Nuclear Threat Reduction Working Group as a subgroup of Duma-Congress Group will help to setup an additional control on international and national programs in this field.

Dear Mr. Weldon, we wish you success in your initiative promotion, and you can count on our understanding and assistance.

With best regards,

VALENTINA N. PIVNENKO,
CHAIRMAN OF THE COMMITTEE ON THE PROBLEMS OF THE NORTH AND THE FAR EAST OF THE STATE DUMA.

Mr. Chairman, I thank the chairman for his untiring cooperation, and I thank the ranking member for his cooperation in making sure that together we can bring this package forward.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to support the Kline amendment, but I believe we need to point out the realities of this legislation.

Mr. Chairman, this amendment provides the Secretary of Education with the authority to waive certain statutory or regulatory provisions relating to student aid for higher education to benefit our Armed Forces personnel.

The Committee on Education and the Workforce passed the first version of this legislation last Congress after the attacks of September 11. I applaud the gentleman from Minnesota for seeking to help our troops, but I believe this amendment will still not respond to their needs.

Unfortunately, the Secretary of Education has done little to actually help our troops with the authority he has been granted. The Secretary recently granted two waivers under the existing HEROS authority, but these waivers are going to have very little impact on the vast majority of Armed Forces personnel with student loans. The response of the Secretary in this area has been inadequate.

This amendment and existing law provide the Secretary with the authority to ensure that those called up for active duty in the military are not financially disadvantaged, but the student loans of servicemen and women are still accruing interest while they are in armed combat overseas. The minimum that can be done for these individuals is to ensure that interest on their student loans do not accrue while they are defending their country. Unfortunately, the Secretary has not chosen to act in this area. I encourage him to do so.

This amendment is a good first start, but it does not directly or forcefully address the real needs of our servicemen and women who have student loans. I would like to work with the gentleman from Minnesota (Mr. KLINE) to make sure the Secretary uses the authority we grant him.

Mr. HUNTER. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. HEFLEY), chairman of the Subcommittee on Readiness.

Mr. HEFLEY. Mr. Chairman, I would like to be recognized for the purpose of a colloquy with the gentleman from Montana (Mr. REHBERG).

I have an amendment in here that is trying to get rid of the bureaucratic difficulty we have of getting firefighting assets of the Air Force Reserve focused on a fire early on. The law right now, as it is being interpreted, says that you must make sure that there are no private assets that can do it.

I had a forest fire burning in my backyard last summer, 140,000 acres, and we had these planes sitting on the tarmac and could not take off to go help with the fight.

I believe the gentleman from Montana (Mr. REHBERG) and some others have some questions about this.

Mr. REHBERG. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Montana.

Mr. REHBERG. Mr. Chairman, I thank the gentleman from Colorado for yielding to me.

I want to express my concerns about the potential impact of the Hefley-Gallegly amendment on the commercial firefighting industry.

I am aware that action by the FAA has caused some surplus aircraft not to be certified as flightworthy. This action has raised concerns about the availability of firefighting resources in the approaching firefighting season.

I am also aware that the U.S. Forest Service is addressing ways of examining the problem, but I believe in the short term it is unlikely. I ask if I can obtain the gentleman's assurance that in conference on this bill he will work with me to address my concerns about the potential negative impacts of this legislation on the commercial firefighting industry.

Mr. HEFLEY. I appreciate you bringing up these concerns. I think they are legitimate concerns. We have no desire to put the private contractors out of business. We only have eight planes in the Air Force Reserve to do this, and they are scattered from coast to coast, so there is no way it would put them out of business, anyway.

We have no desire to do that. The gentleman has raised a legitimate concern, and I pledge to work with the gentleman. It is kind of a dramatic gesture I made there, but I pledge to work with the gentleman to try to solve this problem in conference. If we do not get it solved, I will not let it go through.

Mr. REHBERG. I thank the gentleman from Colorado.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I would like to direct to the chairman of the committee, the gentleman from California, the concerns that I have as chairman of the Committee on Agriculture and the gentleman from California (Mr. POMBO) has. He is the chairman of the other committee of concurrent jurisdiction with regard to this issue.

We want to raise our strong concerns to the way this amendment has proceeded to the floor, as well as the way that the amendment is drafted. We have some grave concerns about the necessity of it and about the scope of it. It may go well beyond what both the Committee on Armed Services and the Forest Service think is appropriate and necessary.

Mr. Chairman, I rise in opposition to the Hefley/Gallegly amendment to H.R. 1588, the National Defense Authorization Act For Fiscal Year 2004. This amendment creates a pilot program to improve the use of Air Force and Air National Guard Modular Airborne Fire-Fighting systems to fight wildfires. It should come as no surprise to anyone that I support strengthening our ability to fight wildfires but this amendment is ill-considered. The U.S. Forest Service tells me that this authority is not necessary and they oppose it as does the Office of Management and Budget. This will disrupt decades of contractual services provided by competent private sector participants.

This amendment is identical to bills that were referred primarily to the House Agriculture Committee. As Chairman of the committee of jurisdiction on this issue, I intend to address this issue in conference as a conferee. However, I would note, notwithstanding the comments of the gentleman from Colorado, that he has never discussed this issue with me or members of the committee staff or asked that any action be taken by the Committee on Agriculture.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I would pledge to work to see that we have a balanced result coming out of the conference and that we work with the gentleman and the other gentlemen who have spoken of this.

Mr. HEFLEY. Let me just say, I am sorry about the procedure, but this bill has been sitting in these two committees for 2 years. We have a fire season coming up again, and we need to focus all the assets we can.

When we have a war and when we have a blazing fire, and that is a war, we want all the assets we can get on it. It is predicted we will have 30 percent less assets this year than we had last year in terms of planes because many of the private planes have been grounded, so we need to solve this and we need to solve it now, not put it off for another year or two.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Chairman, I rise in support of the en bloc amendment.

I want to thank the chairman of the committee, the gentleman from California (Mr. HUNTER) and the ranking minority member, the gentleman from Missouri (Mr. SKELTON), for their work on this year's National Defense Authorization Act.

Mr. Chairman, my amendment, which is included in the en bloc, is short and simple. It encourages the

Secretary of Defense and the U.S. Navy to work with their Israeli counterparts to make arrangements for safe port visits by the U.S. Sixth Fleet to Haifa, and if such arrangements can be made, to resume the regular visits to Haifa that used to occur.

To be clear, the amendment does not require the resumption of visits by the Sixth Fleet to Haifa and does not encourage such visits unless appropriate means can be agreed upon to protect our ships and personnel.

Mr. Chairman, Israel, like our nation, is confronting terror. The visits of our Navy ships to Israel's chief port will send a critical message of support and make clear our Nation's bedrock commitment to the survival of the only real democracy in the Middle East.

I want to thank the chairman and the ranking member for their support, and I encourage Members to support the amendment.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of this broad amendment before us. Included in this package is the text of H.R. 1412, the Higher Education Relief Opportunities for Students Act of 2003, or the HEROS Act. This legislation passed the House overwhelmingly on April 1, and I urge its inclusion here to ensure its enactment into law.

As we know, many members of our National Guard and Reserves are also students. This amendment will bring assurance to those men and women by providing the Secretary of Education with the authority to waive certain rules and requirements to ensure that as a result of war, military operation, or national emergency, they are protected from hardship in relation to their education or for their student aid obligations. It is crucial that our military and others are protected while the integrity of the student aid programs remain intact.

I thank my colleague, the gentleman from Michigan (Mr. KILDEE), for his support. I urge all of my colleagues to support this amendment, and I thank the chairman of the Committee, the gentleman from California (Mr. HUNTER), for his support here.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have introduced the Build America Act Amendment, which is a step towards ensuring that the United States defense jobs are performed by United States defense workers. American defense workers are 100 percent committed to our Armed Forces and to ensuring that America has the best-trained, best-equipped, and best-led forces in the world.

Unfortunately, over the past 15 years, defense-related employment has fallen by 67 percent. That translates into over 1 million jobs lost. We need to do more to reverse this disturbing trend, and we must do more on their behalf.

Just as we in Congress continue to fulfill our patriotic promise to our men and women in uniform, we must also demonstrate our equal commitment to those men and women who wear a different kind of uniform, those who build, repair, and operate the machines that sustain and strengthen our security here at home.

The Build America Amendment, which expands the scope of the United States defense Industrial Base Assessment Program, seeks information on why contracts are transferred outside this country and mandates an action plan on how this critical sector can be revitalized and restored.

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The amendment stands in solidarity with our workers, finding out where jobs have gone and fighting to keep them in this country.

Mr. Chairman, I thank the chairman and the ranking member for their fine work on this bill and this section in particular.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from the great State of Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I rise today in support of this amendment en bloc but particularly to an amendment that I offered which supports our Nation's reservists.

In the event of a domestic terrorism attack this country's reservists, particularly the National Guard's weapons of mass destruction team, could be called up at any time to protect and defend their fellow citizens, working with their fellow first responders across the country, police and firefighters. It would clarify that the first response to a domestic terrorism attack will qualify reservists for hostile fire and imminent danger pay. Ultimately, it is a matter of appreciation for the service to our Nation's Reserve forces. I hope all of you will join in supporting this amendment.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I would like to thank the fine gentleman from Missouri (Mr. SKELTON) for yielding me time, the ranking member on Defense, and also the chairman, my good friend, the gentleman from California (Mr. HUNTER), for allowing the inclusion in the en bloc amendment, our Buy America Enhancement Provisions as well as our Technical Assistance Provisions.

Let me just say that these dual amendments direct and require the Department of Defense to consciously at the highest level support the continuation and enhancement of our domestic industrial manufacturing capabilities, particularly those defense industrial companies that are essential to war production and face stiff foreign competition. It specifies that when application of the Buy American Act is inconsistent with the public interest, the Defense Secretary shall not consider the provision of any trade agreement between the U.S. and a foreign country that is in effect at the time of the determination.

We particularly ask the Department of Defense to focus on critical technologies such as industrial molds, special dies and tools, cutting tools and machine tools and accessories. Of course, in the foundry area, attention is needed as well.

The technical assistance provisions and the center that is proposed will also require the Department to reach out to the over 7,000 such firms in our country that comprise our defense industrial base, many of them small and medium sized companies, and connect them directly to the Department of Defense so that contracts and subcontracts have broad application, and small and medium size businesses are included.

The dual amendments thus require both a "topdown" and "bottomup" approach by the Department to engage this critical sector of U.S. defense manufacturing.

I also want to thank the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) for their wonderful investigative work on the Committee on Small Business that has supported strongly the necessarity for these provisions.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Connecticut (Mr. SIMMONS), who is a member of the committee and has a great defense background.

Mr. SIMMONS. Mr. Chairman, I thank the gentleman for yielding me time. I support this amendment wholeheartedly in part because it contains a provision requesting a report from the Secretary of Defense which I have requested dealing with the issuance of security clearances and updates on security clearance for defense workers.

My district has literally thousands of defense workers producing the very best submarines in the world. But under a recently passed law which we refer to as the Smith Act, some of these workers run the risk of losing their clearances for activities that took place many, many years ago and, yet, under the provisions of the Smith Act, may result in denial of a clearance which for them results in denial or loss of a job.

I look forward to the report which this amendment requests so that we can work to eliminate this unintended consequence of the Smith Act.

Mr. Chairman, I rise today in support of the en bloc amendment being offered by Chairman DUNCAN HUNTER.

This amendment contains many important provisions. It includes language I authored to require the Secretary of Defense to report to Congress on the granting or renewal of security clearances for Department of Defense personnel and defense contractor personnel.

Those Members of Congress with Department of Defense contractors in their districts know the importance of a security clearance to the men and women who work for those contractors. As someone who has held a TOP SECRET clearance for over 30 years, I fully understand the importance of issuing these clearances to defense contractors and their employees.

My district is home to Electric Boat where thousands of hard working people show up every day to design and build the finest submarines in the world. Every 5 years Electric Boat workers are put through a necessary review of their security clearances, which I support.

Unfortunately, a recent law contained language commonly known as the "Smith Act" which requires any person convicted of a crime and sentenced to one year or more in jail to be automatically disqualified from holding a security clearance. The law does not take into account whether the individual actually served the sentence. But, the law says conviction means no clearance, and no clearance means no job.

Mr. Chairman, over the past year many highly skilled veteran workers from Electric Boat have appeared at my district office, frightened that a conviction in their youth will suddenly come back to haunt them and cost them their job. These are men and women who have often held their security clearances for over 20 years. But because of the Smith Act, those clearances are now in jeopardy.

These working men and women have families and contribute positively to their communities, both in eastern Connecticut and around the nation. And at Electric Boat they have been safely and securely building the best submarines in the world for the U.S. Navy for over 100 years!

There are similar stories in other defense contractor facilities around this great nation. While the intention of the "Smith Act" was good, it is time to re-examine this law and see if there are more effective ways to update and issue these security clearances.

My amendment does just that. It simply requires the Department of Defense to report back to Congress within 60 days with recommendations for legislation or administrative steps the Secretary of Defense considers necessary to better carry out the business of granting and renewing security clearances.

In searching for solutions to this problem, I am pleased to have the support of both management and labor. Both parties are well aware of the importance of security clearances to the defense industry and the dramatic impact the loss of a clearance has on their employees.

Today I am pleased to share letters from both the President of Electric Boat and the President of the Metal Trades Council of New London County. Both letters express support for my efforts to improve the Smith Act. I ask unanimous consent that these letters be inserted into the RECORD.

In closing, let me thank Chairman HUNTER and his staff for working with me on this important amendment. I appreciate their recognition of the need to review the unintended consequences of the Smith Act.

Finally, I look forward to reviewing the recommendations from the Department of Defense and working with both the Pentagon and my colleagues on the Armed Services Committee to craft a reasonable solution to this problem.

METAL TRADES COUNCIL OF
NEW LONDON COUNTY,
*Groton, CT, May 15, 2003.*

Hon. DUNCAN HUNTER,
*Chairman, House Armed Services Committee, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN HUNTER: It has come to my attention that Congressman Rob Simmons is currently working with you and your staff on ways to improve Section 986(c)(1) of title 10 USC, also known as the "Smith Act." As the president of the Metals Trade Council union at Electric Boat in Groton (CT), I am writing today to share my strong support of Mr. Simmons's proposed changes to the Act.

As you know, the purpose of the Smith Act is to ensure that individuals who have been convicted of a serious crime are not given a Defense Security Service (DSS) security clearance at controlled industrial areas like Electric Boat. Under the Act, any person convicted of a crime and sentenced to imprisonment for greater than one year is automatically disqualified from a security clearance. Unfortunately, I have seen firsthand the unintended consequences of the Smith Act.

All too often, an Electric Boat employee, whose security clearance is being reviewed, is denied a clearance renewal because of a minor criminal offense where the individual was sentenced to more than one year in prison, yet served little or no jail time. Sadly, losing a clearance means losing a job.

Many of these working men and women have received their clearances prior to the implementation of the Smith Act and have been on the yard for more than 20 years. They are skilled workers, proud of their work and their country. And while I support efforts to protect controlled industrial areas through tougher scrutiny of clearances, I would urge you to strongly consider the proposed changes that Congressman Simmons has drafted. These improvements to the Smith Act will go a long way toward saving the jobs of numerous laborers at Electric Boat.

Thank you for taking my thoughts into consideration. We at Electric Boat appreciate everything that you and your Committee have done for the submarine capital of the world.

Sincerely,

KENNETH DELACRUZ,
*President.*

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GENERAL DYNAMICS,
*Groton, CT, May 15, 2003.*

Hon. DUNCAN L. HUNTER,
*Rayburn House Office Building, Washington, DC.*

DEAR MR. HUNTER: Electric Boat Corporation enthusiastically supports the efforts of Congressman Robert Simmons to amend TITLE 10 > Subtitle A > Part II > chapter 49 > Sec. 986, Title: "Security Clearances limitations" (The "Smith Amendment"). In particular we support the proposed change to Paragraph (c)(1) which presently states:

"Persons Disqualified From Being Granted Security Clearances—A person is described in this subsection if any of the following applies to that person: (1) The person has been convicted in any court of the United States of a crime and sentenced to imprisonment for a term exceeding one year."

Electric Boat supports Congressman Simmons' proposal that the language in Paragraph (c)(1) be changed to reflect that an individual be disqualified from being granted a security clearance if they have been convicted in any court of the United States of a crime and subsequently served a sentence of a year and a day or greater.

Electric Boat supports retaining the other three disqualifying categories in Section (c).

Electric Boat Corporation is a DOD contractor performing on classified contracts for the United States Navy. Our primary business focus is the design, manufacture and maintenance of United States Navy nuclear submarines. The nature of our contracts, and the type of work we perform, requires that virtually all 10,000 employees be eligible to receive and maintain a DOD security clearance. In accordance with the requirements of the Defense Industrial Security Clearance Program, individuals who hold an active clearance must undergo a "periodic reinvestigation". The Smith Amendment in its present form adversely affects Electric Boat because it states that the ". . . Department of Defense may not grant or renew a security clearance for a person to whom this section applies." Unfortunately, a number of Electric Boat employees who hold active/final DOD clearances either are, or will be, negatively impacted by this law. In those instances, although "sentenced" during judicial proceedings, they actually served no time or less than one year due to the circumstances of the law in their particular cases. They should not now be penalized (in many cases years later) under legislation that was passed without considering this important distinction.

In the interest of fairness for Electric Boat employees, and many other employees of defense contractors who are adversely affected by this law, Electric Boat supports Congressman Simmons' recommended amendments to this legislation.

M.W. TONER,
*President.*

The following is an example of an Electric Boat employee who is subject to lose her DOD Secret clearance as a result of the Smith Act. This individual was identified because her clearance was up for renewal/periodic reinvestigation.

*Example (1):* This employee is a valued member of management as a trade superintendent in the shipyard. She began her employment in the trades as a welder in 1974. Before starting work with Electric Boat in 1974, the individual was convicted of a drug offense and sentenced to 18 months. The sentence was suspended, she was placed on probation, and she never served any time in jail. The individual has an outstanding work record over the course of the last 29 years. Of greatest significance, she has held a DOD Secret clearance for virtually all of her period of employment and has had her clearance status periodically reinvestigated several times without an issue.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding me time. I thank the chairman and ranking member for including in this en bloc amendment, which I support, my amendment which I will address now.

Mr. Chairman, the greatest danger this country faces is that al Qaeda or some other terrorist group will get nuclear weapons. The greatest danger of that happening is that they will get weapons grade material from the former Soviet Union, which has enough weapons grade plutonium and uranium to manufacture 40,000 nuclear weapons lying around, not guarded properly and subject to theft or sale on the black market.

What we ought to do is buy all this material from the Russians from between 25 to $30 billion so we can take possession of it and protect it from theft or sale.

My amendment requires the Secretary of Defense to submit a study to Congress examining the costs and benefits of purchasing all the ex-Soviet Union's weapons grade plutonium and uranium in fiscal year 2005 and safeguarding it from smuggling or theft until it can be rendered unusable for weapons.

I am glad that this study of doing what I regard as essential to protect this country from the possibility of al Qaeda having a nuclear weapon with which to attack us is included in this amendment and I, therefore, support it.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Chairman, I rise today to thank the chairman for including my amendment. The Defense Department conducts studies on the effects of perchlorate on human beings. Perchlorate, a major ingredient in rocket fuel and other military ordnance, has been found in the water of many western States, including my district in Nevada, as well as the chairman's home State of California.

The EPA is currently in the process of determining a safe amount of perchlorate in drinking water, but right now no one knows if even a level of one part per billion is safe. What level of perchlorate is found will have a major impact in the water districts, costing them potentially billions of dollars in technology to meet the standards.

I must add there can be no substitute for clean drinking water for children. And whatever level is found to be safe, Congress must help our communities to meet this need. The major source of perchlorate comes from current and former defense industrial sites, including in my district. The Department of Defense is potentially liable for the cost of perchlorate cleanup at some or all of these sites. Given that, and the perchlorates primarily were made for DOD orders, it is only fair that the Department contribute to the ongoing urgent research on the possible health efforts of this chemical.

I rise today to thank Chairman HUNTER for including my amendment requiring the Defense Department to conduct studies on the effects of perchlorate on human beings.

Perchlorate, a major ingredient in rocket fuel and other military ordnance, has been found in the water of many Western States, including my district of Nevada, as well as in the Chairman's home state of California.

The Environmental Protection Agency is currently in the process of determining the safe amount of perchlorate in drinking water, but right now no one knows what, if any, level above 1 part per billion is safe.

What level of perchlorate is found safe will have a major impact on water districts, costing them potentially billion of dollars in technology to meet new standards.

I must add that there can be no substitute for clean drinking water for children, and that whatever level is found to be safe, Congress must provide the help our communities need to achieve this.

The major source of perchlorate comes from current and former defense industrial sites, including my district.

The Department of Defense is potentially liable for the cost of perchlorate cleanup at some or all of these sites. Given that, and that perchlorates primarily were made for DoD orders, it is only fair that the Department contribute to the ongoing, urgent research on the possible health effects of this chemical.

The Senate Armed Services Committee has already passed, with a bipartisan majority, identical language to my amendment. I thank the Chairman for including this amendment and look forward to working with him in the future.

Mr. HUNTER. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from California (Mr. HUNTER) has 1½ minutes remaining.

Mr. SKELTON. Mr. Chairman, may I make the same inquiry. How much time do we have left?

The CHAIRMAN pro tempore. The gentleman from Missouri (Mr. SKELTON) has 4 minutes remaining.

Mr. SKELTON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank my colleague for yielding me time. I wish to engage the distinguished gentleman from Nevada (Mr. PORTER) in colloquy to clarify his amendment which is included in the en bloc amendment.

This amendment requires the Secretary of Defense to reach an agreement with another Federal entity naming the National Institutes of Health and the Centers for Disease Control as preferred candidates to conduct an independent epidemiological study of the effects of perchlorate on humans. It is my understanding that this study would not be done by the Department of Defense or the Department of Energy; am I correct?

Mr. PORTER. Mr. Chairman, will the gentlewoman yield?

Mrs. CAPPS. I yield to the gentleman from Nevada.

Mr. PORTER. That is correct.

Mrs. CAPPS. It is also my understanding that the gentleman's intention in requiring this independent Federal study of perchlorate is to add to the scientific database on this chemical. I understand that your amendment is not intended to delay the setting of a drinking water standard for perchlorate or to delay any cleanup at any site that may have perchlorate contamination. Is my understanding correct?

Mr. PORTER. That is correct.

Mrs. CAPPS. Mr. Chairman, I thank the gentleman from Nevada (Mr. PORTER) for this clarification.

Mr. HUNTER. Mr. Chairman, I yield a challenging 15 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for such a generous allocation of time. I just want to say this is probably the most important amendment because I have his and the ranking member's support. All it says is in the event of BRAC, if they close down a base, the roads will stay open to the local folks, and that will be very important to offset the impact of a base closure.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I want to thank the ranking member and the chairman for working with me and my colleagues, the gentleman from Iowa (Mr. LEACH) and the gentleman from Pennsylvania (Mr. PLATTS), to include our amendment in the en bloc amendment.

Our partisan Sense of the Congress amendment calls on the Department of Defense to have an institution devoted to studying peacekeeping operations and preparing our troops for future peacekeeping missions. We have constantly bore witness to the dramatic challenges facing our troops right now in Afghanistan and in Iraq as they work to secure the peace, from acting as traffic cops to feeding hungry crowds.

Our amendment aims to ensure that these troops are prepared for peace as much as they are ready for war.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. ROGERS), who has a presentation he wants to make.

Mr. ROGERS of Michigan. Mr. Chairman, I have an important story to tell in a very brief time.

The person you will see here is named Hannan Shahib, a young girl, 15 years old, was injured, burned severely in coalition bombings. Because of the heroic action of our military soldiers on the ground, she was able to survive this, keep her arm due to their great work, and is now at the University Hospital in Michigan receiving treatment.

We have been after the DOD for some time to help us facilitate more of these injured Iraqi children. And I will tell you, when this gal got up off the stretcher to walk to that airplane all on her own, all of these soldiers in that tent, and I happened to be there that day, there were cheers and tears and every one of those soldiers realized that they were there as liberators and not conquerors.

But I tell you what, Mr. Chairman, when we went to the Department of Defense, the bureaucrats down the road, the only tears were frustration. We are getting calls now from different military medical providers in Iraq asking for help. We cannot get any help out of the bureaucrats down the road. For 3 days, Northwest Airlines, Immigration, Department of State, private sector came together to make this happen. It took 3 weeks, 3 weeks for the Department of Defense to even make a decision to let her ride on an airplane to Frankfurt, Germany. We have lost a little girl we were working on this weekend. She was 7 years old. If they had only made a decision, just given us a decision, she might be alive today, in the good care of an American hospital today.

Two hundred people of Hannan's family showed up that day to whisk her off and wish her well. They were crying and cheering and praising the United States of America. We need to do this.

We need to do this. We can do this. We need to show the Iraqi people that our muscles are big, but our hearts and our compassion are bigger. The soldiers on the ground are doing heroic work every day; and they are asking us, Members of Congress, to help them out. We need to nudge the folks down there in the ivory tower, tell them to not worry about the wax that is on the floor; but tell them to start worrying about the soldiers in the dust making these kinds of things happen. They are identifying these children. We can help them, but we need DOD to help. We need to get them out of Baghdad to a commercial airport so we can get them here. All the rest is paid for.

The American people have stood up and said, We are going to help these kids. We have two burn centers around the country standing by ready to go, free of charge to the Federal Government because they feel so strongly that this is important and we need to have it happen. We have talked to as many people as we possibly could, Mr. Chairman, over there at the Department of Defense, and we have asked for help.

As I stand here today, this has been 2 weeks since she has been here; and by the way, those doctors were able to save her arm. Had she been there one more day, she would have lost her arm. Her mother told me just the other day this last weekend that when she calls home there are other folks who are there getting ready to lose their limbs. This is only due to a lack of decision on behalf of the Department of Defense.

The military folks on the ground are doing the right thing. They are standing up. They are showing compassion. They are reaching out. We need to do this, Mr. Chairman. We need an answer from DOD. We need them to stand up and do the right thing and stand up for these soldiers in the field who are doing miraculous things.

Mr. HUNTER. Mr. Chairman, how much time do we have left under the striking request?

The CHAIRMAN pro tempore. The gentleman has 1½ minutes remaining.

Mr. HUNTER. Mr. Chairman, how much time do I have under my regular time?

The CHAIRMAN pro tempore. The gentleman has 1¼ minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I want to thank the chairman and the ranking member.

The amendment I am offering today is straightforward and noncontroversial. It would authorize the Secretary of the Navy to transfer a small parcel of land to the city of Bremerton, Washington, my hometown in my district.

The property in question sits on the eastern end of the Puget Sound Naval Shipyard and has been determined to be surplused on the Navy's immediate and future needs. It has been used in the past several years largely as a laydown area for steel. The shipyard has found ways to reduce its inventory of steel and transferred the storage of this material closer to the machine shop where it is used.

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The property is not well positioned for any other shipyard function, and the installation would prefer not to pay for the upkeep of the property in an empty condition.

The City of Bremerton has proposed to use the property for a Maritime Park and Naval Museum, functions that are consistent with the security needs of the Navy industry and which enhance the mission of the shipyard. The shipyard is also acquiring other property in the City for security purposes. The conveyance of this unneeded property will keep the shipyard footprint from growing substantially and avoid increasing the maintenance costs of the installation to the Navy.

The amendment includes provisions for the city to compensate the Navy through renovations to Navy property acceptable to both sides. Mr. Chairman, this amendment is good for the Navy and good for the taxpayer. I urge my colleagues to support it and to support the en bloc amendments.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Chairman, the rule did not make in order an amendment that I sought with respect to cooperative threat reduction, but it does make in order an amendment offered by my good friend, the gentleman from Pennsylvania (Mr. WELDON), and I am here to offer my support for his amendment, which is included in the en bloc amendment.

This amendment is drawn from legislation introduced earlier this year by the gentleman from Pennsylvania, the Nuclear Security Initiative Act, which I was proud to cosponsor. As the gentleman from Pennsylvania said, this bill was in the works for a long time, and I can attest to that. In fact, parts of it come from provisions I introduced in prior years.

I commend the chairman of our committee for allowing this to be made in order, including it in the en bloc. I think it is a positive addition to the bill, and I encourage support for the en bloc amendment.

The rules governing debate on this defense bill did not make in order an amendment I offered with Rep. SCHIFF that would have restored the President's request on Cooperative Threat Reduction (CTR) programs by striking several provisions in the committee bill. Like the Administration, I believe these committee-added provisions will hamstring the program unnecessarily.

I was disappointed not to have the chance to debate the amendment, and I plan to work to strike those provisions in conference. And if I may, Mr. Speaker, I'd like to enter into the RECORD an excerpt from today's Statement of Administration Policy on the committee bill.

The rule did, however, make in order an amendment offered by my friend from Pennsylvania, Mr. WELDON, and I am here to offer my support. This amendment is drawn from legislation introduced earlier this year by Rep. WELDON, the "Nuclear Security Initiative Act," which I was proud to cosponsor. As Mr. WELDON likes to say, the bill was in the works for a long time, and I can attest to that—in fact, it includes some provisions I introduced in prior years with my colleague Rep. ELLEN TAUSCHER.

Like the bill, the Weldon amendment calls for enhanced cooperation between the U.S. and Russia to reduce the threat posed by weapons of mass destruction, and establishes what should be useful tools for improved collaboration toward that end.

It calls for some important studies, too, including an examination by the National Academy of Sciences of the effect on CTR and other non-proliferation programs of the myriad congressional oversight measures that have been established over the past several years.

I must confess I have mixed feelings about reducing the President's request for CTR, even by the modest amount contained in the Weldon amendment, but as the funds are proposed to be shifted into the Department of Energy's companion threat reduction program, I can support it. And the amendment on balance, like the Weldon-Edwards-McHugh-Spratt bill it is drawn from, should strengthen our threat reduction and non-proliferation programs.

I urge support of the Weldon amendment.

Mr. Chairman, I provide for the RECORD the statement of administration policy with respect to cooperative threat reduction.

From the Statement of Administration Policy issued May 22, 2003 Executive Office of the President Office of Management and Budget Page 3:

"Nonproliferation and Cooperative Threat Reduction The Administration appreciates full funding of the CTR budget request, but is very concerned about requirements imposed by the Committee that would hinder DOD's and DOE's ability to implement more rigorously and effectively Cooperative Threat Reduction (CTR) and Nuclear Nonproliferation activities. Furthermore, H.R. 1588 would limit the President's flexibility to apply CTR resources to the most pressing nonproliferation challenges in support of the Global War on Terrorism and would not clarify that DOE has the authority to carry out such activities outside states of the former Soviet Union."

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Chairman, I thank the gentleman for yielding me this time, and I also thank the chairman of the committee for all his help with the provisions in this bill on strengthening the industrial base.

I also wanted to quickly comment on the Tierney amendments, which is included in here, which will allow us to find out why the contractors are leaving the United States. The average taxpayer pays $1,000 a year that goes to building up our own industrial base, and I think the least we can do is make sure that those jobs are employed here in the United States.

I want to thank the chairman for all his work and also thank the ranking member, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member, the gentleman from Missouri (Mr. SKELTON), for yielding to me, as well as the gentleman from California (Mr. HUNTER) and the staff for their hard work.

Mr. Chairman, I have an amendment that is part of the en bloc amendment that I wish to speak on at this time. Mr. Chairman, this challenge that I give is one that I hope will be not only instructive but it will open the doors of opportunity, and that is, of course, to small, minority and women-owned businesses. My amendment directs the Secretary of the Department of Defense to commission a study on the feasibility of using small, minority-owned businesses and women-owned businesses in the United States' efforts to build and rebuild Iraq.

This is an operation that will cost billions of dollars. Obviously, as we look toward the future of peacekeeping, America asks the question of when, why and how, and would it not be better to ensure that the backbone of America's economy, small businesses, medium-sized businesses, minority businesses, and women-owned businesses are part of the rebuilding of Iraq?

It is well-known that the culture of many of our nations in the Arab community are interested or have been used to dealing with smaller and more localized businesses. The business-to-business contact providing the opportunities to contract on behalf of the United States and to do the work in Iraq would be miraculous and outstanding. In looking at the work that has been distributed by the Department of Defense in 2001, the most recent statistics, we see that only $300 million is going to what we call hub zone businesses. I believe this amendment is going to be instructive and constructive.

Mr. Chairman, this is a study, but I hope that we can work through conference to be able to work harder on language that would really outreach to our small businesses, and I appreciate the gentleman's assistance as we move toward conference.

Mr. SKELTON. Reclaiming my time, Mr. Chairman, I thank the gentlewoman; and she can be assured that we will work very hard to keep the provisions in the bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, if the gentleman will continue to yield, as I indicated, this focuses on small businesses, giving the opportunity to develop relationships and help rebuild Iraq. I hope we can strengthen it in conference and work with the chairman as we do so.

Mr. Chairman, I propose an Amendment to H.R. 1588, the "National Defense Authorization Act For Fiscal Year 2004."

Under my amendment, "The Secretary of Defense shall commission a study of the feasibility of using small businesses, minority-owned businesses, and women-owned businesses in the United States' efforts to rebuild Iraq. The study shall include the development of outreach procedures to provide, to small businesses, minority-owned businesses, and women-owned businesses, information on participating in rebuilding Iraq."

The purpose of this amendment is to direct the Secretary of the Department of Defense to commission a study of the feasibility of using small, minority-owned businesses, and women-owned businesses in the United States' efforts to rebuild Iraq. The study will develop outreach procedures to provide information on participating in rebuilding Iraq to minority-owned businesses and women-owned businesses.

During the course of cooperative discussions with the leadership of the House of Representatives' Armed Services Committee, it was agreed that the language of my amendment would better serve the needs of the small, minority, and women-owned business community if there were revisions.

My revised amendment would read, "The Secretary of Defense shall ensure that outreach procedures are in place to provide information to small businesses, minority-owned businesses, and women-owned businesses regarding Department of Defense requirements and contract opportunities for the rebuilding of Iraq.

Both the Majority and Minority Party leadership agreed to work in conference to include the revised language in the final passage of the bill. This is a better formulation of the language of the amendment, and it protects small, minority, and women-owned businesses from unnecessary delay. In fact, the Leadership of the Armed Services Committee agreed to work "robustly" in conference, and with me to ensure that this amendment language is in the final version of H.R. 1588, and also to ensure that small, minority, and women-owned business participate fully in rebuilding Iraq.

The process of rebuilding Iraq is a monumental task that should include the participation of more than just the large, international corporations. Small, minority, and women-owned businesses are the backbone of our economy. Small businesses employ more members of the workforce than larger businesses. For example, according to 2000 Census statistics published by the Small Business Administration, 114,064,976 employees worked at various businesses. Of that number, 81.95 percent of the employees worked at firms with between 20 and 100 employees. This is the majority of the American workforce. These hardworking men and women possess the expertise and experience to contribute to our efforts to rebuild Iraq. Furthermore, by promoting the participation of America's small, minority, and women-owned businesses in the rebuilding of Iraq, we bolster our work force, alleviate the strains of unemployment, and strengthen our economy.

The Department of Defense has not allocated a substantial percentage of their contracts to small, minority, and women-owned businesses. In 2001, the Department of Defense awarded $135.8 billion in prime contracts. Only $7.8 billion went to small disadvantaged businesses, and only $3.0 billion went to women-owned small businesses. In subcontracts, the Department of Defense awarded a total of $60.5 billion. Of that sum, only $3.0 billion went to small disadvantaged businesses, and $2.5 went to women-owned small businesses.

I also recommend that the Department of Defense hold regional meetings around the country to inform small, minority, and women-owned businesses of the Department of Defense's contracting opportunities. It is imperative that these meetings be held in localities where the small businesses can easily attend. Holding the meetings in Washington, DC does not provide small, minority, and women-owned businesses with sufficient opportunity to attend. Holding regional meetings will ensure that all contracting companies have the opportunity to participate.

The Department of Defense must also establish procedures to monitor the progress and implementation of their contracts. The monitoring should be conducted on two fronts. First, the Department of Defense should monitor all of the prime and subcontractors that receive funding. Second, the prime contractors should also closely monitor the disbursement of funds to, and progress of, the small, minority, and women-owned businesses to ensure the funds are allocated to businesses owned, not simply staffed, by minorities and women.

It is also critical that the Department of Defense establish a system of accountability. It is not enough for prime contractors to agree to subcontract a portion of their award. There must be a follow-up mechanism, and a sanctioning mechanism. For example, if a prime contractor is awarded a Department of Defense contract based upon an agreement to subcontract 50 percent of the contract to minority, there should be penalties if the prime contractor fails to do so.

The Department of Defense can use the model established by USAID. USAID procures prime and subcontracts for the rebuilding of Iraq, but also make substantial use of small, minority, and women-owned businesses. USAID is responsible for the purchase of over $2.5 billion of goods and services annually in support of U.S. foreign policy initiatives. As of May 12, 2003, USAID has provided $90.9 million for the reconstruction of Iraq. USAID allocated $34.6 million was awarded to Bechtel to build infrastructure, $10 million to ABT Associates for health, $10 million to World Health organization for health, $9 million to UNICEF for health and education, $7.9 million to Research Triangle Institute for local governance, $7.1 million to International Resources Group for personnel support, $4.8 million to Stevedoring Services of America for port management and administration, $4 million to the Air Force Contract Augmentation Program for theater logistical support, $2.5 million to SkyLink Air and Logistic Support for airport management and administration, $1 million to Creative Associates for education.

On May 21, 2003 at the Ronald Reagan Building here in Washington, DC Bechtel National, Inc. hosted a contractor-supplier conference to inform the contractors of its role in USAID's Iraq Infrastructure Reconstruction Program. The conference included an overview of Bechtel's role in rebuilding Iraq, and the status of Bechtel's support of USAID's humanitarian assistance efforts. Bechtel also discussed maximizing Iraqi resources, presentations about tendering and subcontracting processes and requirements including insurance requirements, performance securities, collecting expressions of interest, determining bid lists for specific programs and job orders, tendering and tender evaluations.

USAID's policies require a majority of these funds to be subcontracted. It is important that small, minority, and women-owned have full access to the subcontracted funds available, and also have an equal opportunity to compete for the prime contracts.

For example, in Houston, there are dozens of minority-owned businesses with expertise in all aspects of the oil industry. The minority-owned businesses can provide a range of oil-related services from refining, processing, storage, and transportation.

This amendment's purpose is only to commission a study of feasibility of using small, minority, and women-owned businesses and to develop efficient outreach procedures to maximize inclusion of these businesses. Small, minority, and women-owned businesses are a valuable resource that should be fully utilized in the Iraq rebuilding efforts. This amendment to H.R. 1588, the Department of Defense Reauthorization bill is an important step in that direction. I urge the Chamber to accept my amendment to H.R. 1588.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I wish to assure the gentlewoman that we will work to see to it that small businesses participate robustly in rebuilding Iraq.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank both gentleman for their help and would conclude by asking my colleagues to support this amendment.

Mr. SKELTON. Mr. Chairman, reclaiming my time, let me urge the passage of the en bloc amendments and thank the chairman so very much for his courtesy in working with this side of the aisle and making all of these happen. I think it is an excellent series of amendments.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time to reciprocate to my partner, the ranking member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), and thank him for his great work on this bill, and I want to thank all the Members for their great work on this en bloc package.

Mr. FARR. Mr. Chairman, I rise today in support of the rights of women around the world, including those of servicewomen who are stationed abroad. The Sanchez amendment is about restoring rights and healthcare access to our servicewomen abroad, and not about the ideological debate on abortion.

This Congress has professed tremendous leadership in advocating on behalf of those who have selflessly chosen to serve in the military. However, the health, safety, and rights of our servicewomen do not seem to be a top priority. In no way should the healthcare options of any serviceman or woman be compromised. Unfortunately, the system currently in place makes servicewomen stationed abroad second-class citizens who are subject to different and inferior healthcare parameters than their male counterparts. In supporting our Armed Services we cannot allow the very rights and liberties that they are fighting for to be compromised by refusing to allow servicewomen to choose to have safe and timely medical procedures at military hospitals.

It is unacceptable that a servicewomen would be forced to compromise her privacy and wait for space on a military transport, in order to obtain a time-sensitive procedure like an abortion. Our female soldiers should be cared for in a safe and timely manner by a military hospital, whose very purpose is to provide healthcare for serviceman and women. Moreover, this amendment clearly states that these abortions would be paid for by private funds, and that no doctor or staff would be forced to participate in these procedures.

In defense of women's reproductive freedoms, and our servicewomen stationed abroad, I support the Sanchez amendment and urge my colleagues to do the same.

Mr. VITTER. Mr. Chairman, I rise today to urge the support of my amendment that would assist in our efforts to ensure that militarily useful United States flag commercial vessels crewed by American citizens are available for this Nation's military and national security needs under the Maritime Security Program.

The MSP program provides the Department of Defense with a large fleet of U.S.-flag roll-on/roll-off, container and other militarily useful vessels for the transport of military vehicles, supplies and other materiel in support of U.S. military operations around the world. I particularly commend Chairman HUNTER for his strong support of the MSP program, and for his leadership by including provisions in the pending Defense Authorization bill that would extend, expand and significantly improve that vital military program.

Chairman HUNTER's work will preserve the ability of the United States through the MSP program to maintain a fleet of active, militarily useful, privately owned United States-flag vessels to meet national defense and other security requirements and to maintain a United States presence in international commercial shipping.

In order to encourage the participation of the most modern vessels in the MSP program, my amendment would allow existing vessels to be documented under United States flag provided that the telecommunications and other electronic equipment of such vessels meets internationally accepted standards.

When the MSP program was originally enacted in the mid-1990's, Congress provided that vessels which meet internationally accepted construction and equipment standards and are reflagged under United States flag for operation in the MSP program are not required to retrofit material and equipment solely for the purpose of complying with U.S. law and regulations, where such law or regulations establish a standard exceeding the internationally accepted standard which applied to the vessel before it was reflagged. However, that legislation did not expressly address related telecommunications standards within its provisions. Our amendment remedies that oversight.

Accordingly, my amendment would permit a vessel to be added to the U.S.-flag commercial fleet for operation in the MSP program if its telecommunications and other radio equipment aboard the vessels comply with applicable international Safety of Life at Sea (SOLAS) Convention requirements. Our amendment removes unjustified impediments to the documentation of militarily useful vessels under the United States flag, and is in keeping with the elimination of financial and other burdens that the Congress specifically sought to remove through the establishment of the Marine Security Program.

I would particularly like to acknowledge and thank my other colleague from Louisiana, Mr.

TAUZIN, the Chairman of the Energy and Commerce Committee, and Mr. DINGELL, the Ranking Member of that Committee, for their cooperation and support on this amendment. I also would like to express my appreciation to Chairman HUNTER and Chairman DREIER for working so closely with us to clear this amendment. I urge the support of this body for this amendment that is critical to the military and national security of the United States.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

This amendment makes a number of unnecessary and potentially harmful changes to Federal procurement law in the name of fighting terrorism. Most troubling is the authority it grants to all agencies—not just the Department of Defense—to use special simplified procurement procedures designed for commercial items for any good or service, regardless of cost. This means that full and open competition will not be used when purchasing these items. It also means that the government will not have access to important safeguards designed to protect taxpayer dollars on sole-source contracts below $15 million.

We all want to fight the war on terrorism as effectively as possible, but the case simply has not been made that we need this bill. What agencies are having problems getting material or services to fight the war on terrorism? What exactly is it that they have been enable to get?

I haven't heard that agencies are having any problems. The administration has not asked for these "flexibilities." Maybe that is because existing law already has a great deal of flexibility. Waivers from almost all acquisition procedures are available to agencies for a number of reasons. Those include waivers for national security reasons, if there is an "unusual and compelling urgency," and even if it is determined that it is "in the public interest." All of these would seem to apply to fighting the war on terrorism.

Under current law, when the government buys a good or service from a company, the government is entitled to receive cost and pricing data if that company is the only one that can provide the product to the government and if the value of the contract is over $550,000. The laws that require this information are the Truth in Negotiations Act. The Cost Accounting Standards are also a critical oversight tool. Congress wrote those laws to prevent waste, fraud, and abuse and they are critical safeguards needed to protect taxpayer dollars in the Federal procurement process.

The amendment allows any agency—not just the Defense Department—to enter into sole-source contracts worth up to $15 million without requiring the contractor to provide accurate cost and pricing data to ensure that taxpayers are getting their money's worth. I think that is foolish and irresponsible, and I urge members to oppose this amendment.

Mr. HOEFFEL. Mr. Chairman, I rise in support of the en bloc amendment. This amendment contains many important provisions, most notably language regarding the Tacony Warehouse.

In September of 2001, the Philadelphia City Planning Commission released a long-term plan to redevelop and revitalize the North Delaware Riverfront located in Philadelphia. The plan is to transform the area from a corridor of abandoned industry and shipping to one of recreation and leisure, business and residential living.

A key component of this plan is the demolition of the Tacony Warehouse, an abandoned 1988 BRAC site that is under the administrative responsibility of the United States Army. Congress included $5 million in the Fiscal Year 2001 Department of Defense Appropriations bill to demolish this building, yet the United States Army has taken no action to destroy the property.

My amendment expresses the Sense of the Congress that the Secretary of the Army should take swift action to finally demolish the Tacony Warehouse. It is imperative that the Tacony Warehouse be destroyed in order for the City of Philadelphia and the Tacony Community Development Corporation to move forward with their efforts to revitalize Northeast Philadelphia.

I wish to thank Chairman HUNTER and Ranking Member SKELTON for their support of my amendment.

Mr. Chairman, this amendment is an important first step in ensuring that the Army moves forward in demolishing the Tacony Warehouse, as previously required by Congress. I look forward to working with Chairman LEWIS and Ranking Member MURTHA in securing the necessary Federal commitments so that their instructions to the Army in fiscal year 2001 Defense Appropriations Bill are realized.

Revitalizing our nation's riverfronts will leave our cities economically stronger and more sustainable. I ask my colleagues to support this important amendment.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendments en bloc offered by the gentleman from California (Mr. HUNTER).

The amendments en block were agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 108–122.

AMENDMENT NO. 4 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman. I offer amendment No. 4 made in order under the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TOM DAVIS of Virginia:

At the end of subtitle A of title XI (page 349, after line 10), insert the following new section (and redesignate subsequent sections accordingly):

**SEC. 1111. HUMAN CAPITAL PERFORMANCE FUND.**

(a) IN GENERAL.—Subpart D of part III of title 5, United States Code, is amended by inserting after chapter 53 the following:

### “CHAPTER 54—HUMAN CAPITAL PERFORMANCE FUND

“Sec.
“5401. Purpose.
“5402. Definitions.
“5403. Human Capital Performance Fund.
“5404. Human capital performance payments.
“5405. Regulations.
“5406. Agency plan.
“5407. Nature of payment.
“5408. Appropriations.

**“§ 5401. Purpose**

“The purpose of this chapter is to promote, through the creation of a Human Capital Performance Fund, greater performance in the Federal Government. Monies from the Fund will be used to reward agencies' highest performing and most valuable employees. This Fund will offer Federal managers a new tool to recognize employee performance that is critical to the achievement of agency missions.

**“§ 5402. Definitions**

“For the purpose of this chapter—

“(1) ‘agency’ means an Executive agency under section 105, but does not include the General Accounting Office;

“(2) ‘employee’ includes—

“(A) an individual paid under a statutory pay system defined in section 5302(1);

“(B) a prevailing rate employee, as defined in section 5342(a)(2); and

“(C) a category of employees included by the Office of Personnel Management following the review of an agency plan under section 5403(b)(1);

but does not include—

“(i) an individual paid at an annual rate of basic pay for a level of the Executive Schedule, under subchapter II of chapter 53, or at a rate provided for one of those levels under another provision of law;

“(ii) a member of the Senior Executive Service paid under subchapter VIII of chapter 53, or an equivalent system;

“(iii) an administrative law judge paid under section 5372;

“(iv) a contract appeals board member paid under section 5372a;

“(v) an administrative appeals judge paid under section 5372b; and

“(vi) an individual in a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; and

“(3) ‘Office’ means the Office of Personnel Management.

**“§ 5403. Human Capital Performance Fund**

“(a) There is hereby established the Human Capital Performance Fund, to be administered by the Office for the purpose of this chapter.

“(b)(1)(A) An agency shall submit a plan as described in section 5406 to be eligible for consideration by the Office for an allocation under this section. An allocation shall be made only upon approval by the Office of an agency's plan.

“(B)(i) After the reduction for training required under section 5408, ninety percent of the remaining amount appropriated to the Fund may be allocated by the Office to the agencies. Of the amount to be allocated, an agency's pro rata distribution may not exceed its pro rata share of Executive branch payroll.

“(ii) If the Office does not allocate an agency's full pro rata share, the undistributed amount remaining from that share will become available for distribution to other agencies, as provided in subparagraph (C).

“(C)(i) After the reduction for training under section 5408, ten percent of the remaining amount appropriated to the Fund, as well as the amount of the pro rata share not distributed because of an agency's failure to submit a satisfactory plan, shall be allocated among agencies with exceptionally high-quality plans.

"(ii) An agency with an exceptionally high-quality plan is eligible to receive an additional distribution in addition to its full pro rata distribution.

"(2) Each agency is required to provide to the Office such payroll information as the Office specifies necessary to determine the Executive branch payroll.

**"§ 5404. Human capital performance payments**

"(a)(1) Notwithstanding any other provision of law, the Office may authorize an agency to provide human capital performance payments to individual employees based on exceptional performance contributing to the achievement of the agency mission.

"(2) The number of employees in an agency receiving payments from the Fund, in any year, shall not be more than the number equal to 15 percent of the agency's average total civilian full- and part-time permanent employment for the previous fiscal year.

"(b)(1) A human capital performance payment provided to an individual employee from the Fund, in any year, shall not exceed 10 percent of the employee's rate of basic pay.

"(2) The aggregate of an employee's rate of basic pay, adjusted by any locality-based comparability payments, and human capital performance pay, as defined by regulation, may not exceed the rate of basic pay for Executive Level IV in any year.

"(3) Any human capital performance payment provided to an employee from the Fund is in addition to any annual pay adjustment (under section 5303 or any similar provision of law) and any locality-based comparability payment that may apply.

"(c) No monies from the Human Capital Performance Fund may be used to pay for a new position, for other performance-related payments, or for recruitment or retention incentives paid under sections 5753 and 5754.

"(d)(1) An agency may finance initial human capital performance payments using monies from the Human Capital Performance Fund, as available.

"(2) In subsequent years, continuation of previously awarded human capital performance payments shall be financed from other agency funds available for salaries and expenses.

**"§ 5405. Regulations**

"The Office shall issue such regulations as it determines to be necessary for the administration of this chapter, including the administration of the Fund. The Office's regulations shall include criteria governing—

"(1) an agency plan under section 5406;

"(2) the allocation of monies from the Fund to agencies;

"(3) the nature, extent, duration, and adjustment of, and approval processes for, payments to individual employees under this chapter;

"(4) the relationship to this chapter of agency performance management systems;

"(5) training of supervisors, managers, and other individuals involved in the process of making performance distinctions; and

"(6) the circumstances under which funds may be allocated by the Office to an agency in amounts below or in excess of the agency's pro rata share.

**"§ 5406. Agency plan**

"(a) To be eligible for consideration by the Office for an allocation under this section, an agency shall—

"(1) develop a plan that incorporates the following elements:

"(A) adherence to merit principles set forth in section 2301;

"(B) a fair, credible, and transparent employee performance appraisal system;

"(C) a link between the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan;

"(D) a means for ensuring employee involvement in the design and implementation of the system;

"(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system;

"(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

"(G) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance; and

"(H) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system;

"(2) upon approval, receive an allocation of funding from the Office;

"(3) make payments to individual employees in accordance with the agency's approved plan; and

"(4) provide such information to the Office regarding payments made and use of funds received under this section as the Office may specify.

"(b) The Office, in consultation with the Chief Human Capital Officers Council, shall review and approve an agency's plan before the agency is eligible to receive an allocation of funding from the Office.

"(c) The Chief Human Capital Officers Council shall include in its annual report to Congress under section 1303(d) of the Homeland Security Act of 2002 an evaluation of the formulation and implementation of agency performance management systems.

**"§ 5407. Nature of payment**

"Any payment to an employee under this section shall be part of the employee's basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87, and for such other purposes (other than chapter 75) as the Office shall determine by regulation.

**"§ 5408. Appropriations**

"There is authorized to be appropriated $500,000,000 for fiscal year 2004, and, for each subsequent fiscal year, such sums as may be necessary to carry out the provisions of this chapter. In the first year of implementation, up to 10 percent of the amount appropriated to the Fund shall be available to participating agencies to train supervisors, managers, and other individuals involved in the appraisal process on using performance management systems to make meaningful distinctions in employee performance and on the use of the Fund.".

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 53 the following:

"54. Human Capital Performance Fund .... 5401".

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume, and I rise to offer an amendment to authorize the establishment of a Human Capital Performance Fund, a fund that would enable agencies to reward their highest-performing and most valuable employees at various and sundry GS levels. This is a common-sense idea that the current civil service laws prohibit.

In his fiscal year 2004 budget submission to the Congress, the President proposed the creation of a Human Capital Performance Fund that would provide for a base pay increase of up to 10 percent to individual employees based on exceptional employees' contribution to an agency's mission. H.R. 1836, the Civil Service and National Security Personnel Improvement Act, which the gentleman from California (Mr. HUNTER) and I introduced last month, included this language that I am offering here today. In addition, the Human Capital Performance Fund was approved by the Committee on Government Reform during its consideration of this legislation.

The incentive payments paid to employees from this performance fund would be, number one, in addition to an employee's current salary and general schedule grade; second, continuing rather than just a one-time bonus; and, third, part of a base pay for purposes of retirement and other benefits.

This amendment would authorize $500 million for the fund for fiscal year 2004, in which 90 percent would be available to the agencies. The other 10 percent would be used to train Federal managers on how to effectively manage and evaluate employee performance.

To qualify for funds from this fund agencies must submit a plan demonstrating its performance management system supports its strategic goals and performance objectives and is able to make a meaningful distinction in individual performance.

In addition, the Committee on Government Reform included additional requirements that agencies must certify that their agency plans contain certain elements that are essential to a good performance management system, such as adherence to merit principles, transparency, employee feedback, and sufficient training.

The statement of administration policy strongly endorses the authorization of the performance fund. I believe it will go a long way toward moving the government-wide human capital management agenda forward. I urge adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member seek time in opposition?

Mr. WAXMAN. Mr. Chairman, I seek time in opposition.

The CHAIRMAN pro tempore. The gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

It is ironic, Mr. Chairman, that this amendment is made in order. It applies across the board to civil servants, but this is a DOD bill, and what the Republican leadership would not allow to be in order is a debate about the dramatic radical changes on civil service and procurement issues.

First, with regard to the amendment before us, I have concerns about this Human Capital Performance Fund because I am concerned that the fund will be used as a ruse to slash annual pay raises for Federal employees.

Mr. Chairman, three of my colleagues, though, were denied the opportunity to come to the floor and offer a proposal, which was such a commonsense approach, for restoring the fundamental rights of DOD employees without in any way hindering the Department's ability to perform its mission.

The Cooper-Danny Davis-Van Hollen amendment would have protected due process appeal and collective bargaining rights. The amendment would have reaffirmed the importance of veterans' preferences and nondiscrimination based on political affiliation. These are the same fundamental rights enjoyed by other Federal employees and, indeed, by employees all around the country. Yet the underlying bill takes those rights away. They would not even allow the chance for these authors to propose this.

Now, let me inform my colleagues that that Cooper-Van Hollen-Danny Davis amendment will be the motion to recommit, so Members will still have to vote on it. But the Republican leadership will not allow us to debate the Cooper amendment on the floor because they cannot defend their own bill. This is no way for the House to deal with one of the most sweeping civil service changes in history.

What makes this process even more galling is that we are dealing with the rights of 700,000 loyal and hard-working DOD employees. They are the same employees who saw terrorists crash an airplane into their headquarters at the Pentagon, and they are the same employees who made enormous sacrifices to support the military efforts in Iraq.

We have our basic priorities all wrong. At the same time that the House today is going to reward billionaires with unnecessary tax breaks, the Republican majority is passing legislation to take away health benefits from veterans and strip dedicated Defense Department employees of their basic rights.

Of course, this is only the latest assault on Federal employees by the Bush administration. Federal jobs have been given to private contractors who are unsupervised and unable to do their job as effectively or efficiently as it would be public employees, and financial bonuses have been given to political appointees instead of career employees. If we are truly concerned about a strong national defense, we ought to open debate and make sure that we have a motivated workforce.

I was also unable to offer an amendment requiring sole source contracts over $1 million to be covered by laws intended to prevent waste, fraud and abuse. Who is in favor of waste, fraud and abuse? Well, we would have given the chance for Members to make sure that that sort of thing would not happen.

The approach of the leadership on the Republican side is unprecedented, and I want to use this time to protest it.

Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. HOYER) to further talk about what is happening in this DOD bill.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time, and I wish to ask the gentleman from Virginia if he is for the budget provision in the Republican budget for 4.1 percent parity for civil service employees?

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, not only are we for it, there is language in this underlying legislation that calls for pay parity to the maximum extent practicable.

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Mr. HOYER. I understand the maximum extent practical. Is the gentleman for the 4.1 percent parity for civil service employees?

Mr. TOM DAVIS of Virginia. Absolutely.

Mr. HOYER. Reclaiming my time, when this proposal was originally made, I said if it is a proposal in lieu of ensuring proper pay for Federal employees, then I would oppose it, and I would oppose it vigorously. I do not think the administration is yet for parity. They did not offer parity. This Congress has repeatedly said they are for parity. In fact, the President's pay advisory committee says that civilians are further behind comparable private sector jobs than the military. In light of that, certainly we must adopt the premise that 4.1 percent pay raise will be adopted; but I say to my friend that if this is solely for the purposes of supplementation, then I think that it is not objectionable. But my concern is that they fund this, but not the pay raise.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself 15 seconds.

Let me assure the gentleman from Maryland (Mr. HOYER) that this is in addition to. This is supplemental to what would ordinarily be paid. The underlying legislation speaks to that. This is a half billion in additional compensation to Federal employees, and I want to put that on the record.

Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Virginia for allowing me to speak on this important amendment that will motivate Federal workers to perform at their true potential.

In January, the National Commission on the Public Service, chaired by Paul Volcker, issued a report stating the current civil service system "makes few distinctions between hard-working high-achievers and indifferent nonachievers."

A recent OPM study found the current performance evaluation for the Senior Executive Service "is merely a rubber stamp and not a measure of, nor an incentive to, performance." And a recent Center for Public Service survey of Federal employees found the average estimate of the number of poor performers in their midst was about 25 percent. These results are typical of the conclusions reached by other studies conducted to evaluate the status of the Federal civil service. The true value of the individual Federal worker is lost beneath the layers of rigidity in a decades-old architecture of pay and classification.

We must not underestimate the value of rewarding our hard-working Federal employees. The amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) which has the strong support of the President represents a major step in the direction of adequately acknowledging these contributions. I urge Members to support this amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I thank the gentleman for the opportunity to speak on this amendment.

Under the current civil service system, agencies are limited in the extent to which they can reward employees for their performance, in the way they can recognize excellent performance. In the current system, employees at lower levels of their employment grade can receive quality step increases limited to about 3 percent of their annual salary, and they can only receive one a year regardless of how well they perform in their job. The Human Capital Performance Fund would allow agencies to reward their top-performing employees with a pay raise, a pay raise that they deserve, that they have worked for and earned, but would never receive under the current guidelines.

It is important to clarify, however, that the funds in the Human Capital Performance Fund are in addition to across-the-board pay raises and periodic within-grade step increases that Federal workers already receive. This is not an attempt to gouge Federal employee pay raises, and this is not an attempt to circumvent the existing system. It is an attempt to integrate performance incentives into a civil service system that was developed many decades ago. I urge support for this amendment.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

I have some misgivings about this amendment, but the real point that I want to make is that we should have had an opportunity to debate radical, sweeping civil service changes for the DOD. It was wrong not to have that chance to offer an amendment to do that.

In the motion to recommit, an employee bill of rights will be offered which will protect veterans' preferences, protect against discrimination based upon political opinion or affiliation, right to overtime pay, due process rights, and appeal rights. I hope Members will be willing to vote for that.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself the balance of my time.

I thank the gentleman from Maryland (Mr. HOYER) for some of the clarifications he brought forth. It is very clear that underlying pay parity is something I feel strongly about. That needs to be in the record.

In addition, this bonus builds for calculations for retirement, something that current bonuses do not. Pay parity has been an issue not just with this administration but with previous administrations, and we have joined together in a bipartisan way to overturn those, and will be fighting that battle again this year.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Maryland.

Mr. HOYER. I think the gentleman is correct, it has been a bipartisan problem. We have been together. I look forward to succeeding this year, as we have in years past.

Mr. TOM DAVIS of Virginia. Mr. Chairman, hopefully this bonus pool will reward hard-working Federal employees who exhibit great merit. I urge adoption of the amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in House Report 108-122.

AMENDMENT NO. 6 OFFERED BY MR. DREIER

Mr. DREIER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. DREIER:

At the end of title X (page 333, after line 21), insert the following new section:

**SEC. . REPEAL OF MTOPS REQUIREMENT FOR COMPUTER EXPORT CONTROLS.**

(a) REPEAL.—Effective 120 days after the date of the enactment of this Act, subtitle B of title XII and section 3157 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note) are repealed.

(b) CONSULTATION REQUIRED.—During the 120-day period beginning on the date of the enactment of this Act and before implementing any new regulations relating to an export administration system for high-performance computers, the President shall consult with the following congressional committees:

(1) The Select Committee on Homeland Security, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

(2) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) REPORT.—Not later than 30 days after implementing any regulations described in subsection (b), the President shall submit to Congress a report that—

(1) identifies the functions of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, Secretary of State, the Secretary of Homeland Security, and any other relevant national security or intelligence agencies under the export administration system embraced by those regulations; and

(2) explains how the export administration system will effectively advance the national security objectives of the United States.

(d) NEW REGULATIONS.—If the President finds that it is in the national security interest of the United States, the President may, after consultation with the Secretary of Commerce, Secretary of Defense, Secretary of Energy, Secretary of State, Secretary of Homeland Security, the Director of Central Intelligence, and other relevant national security and intelligence agencies, issue regulations that replace the current MTOPS-based method for controlling computer exports, after considering other means of controlling such exports, including controls that may incorporate accepted and accurate measurements of computer performance (including the performance of clustered computers).

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, the gentleman from California (Mr. DREIER) and a Member opposed each will control 10 minutes.

Mr. DREIER. Mr. Chairman, I ask unanimous consent to yield 5 minutes of my time to the gentlewoman from California (Ms. LOFGREN), the coauthor of the amendment, and that she may control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, we are making an attempt to move into the 21st century; and quite frankly, we have found from the war on terrorism and the war with Iraq that one of the most phenomenal developments has been the technological advances that have been made in dealing with our national security concerns.

One of the things that we found during that process is the fact that we have a very outdated structure known as millions of theoretical operations per second, MTOPs, which has not enhanced our ability to move ahead technologically and has undermined our ability to compete globally. We believe very strongly that it is important for us to have in place a structure which would in fact allow us to deal with the potential transfer of sensitive computer technology to our adversaries.

This amendment which I have offered along with the gentlewoman from California (Ms. LOFGREN) will allow for the administration to have 120 days during which time they would come up with another method of dealing with this, and they must do it in full consultation with the relevant committees here in both Houses of Congress.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from California (Mr. HUNTER) is recognized for 10 minutes.

Mr. HUNTER. Mr. Chairman, we have a system today which makes a great deal of sense. It says if we sell a supercomputer, and the President has a right to define what a supercomputer is, he can raise the number of millions of theoretical operations per second that define a supercomputer, but once he makes that determination, then if someone sells to what is known as a Tier III country, and that is a country that we may have great problems with, and I will ask the staff to bring down a poster that has those countries. I am talking about countries like China, India, Djibouti, other countries like that; and if you sell a supercomputer to those countries, you have to do something very simple, you just give notice.

You just send a notice to the Department of Commerce; and under our law that we worked out very studiously, the Department of Commerce gives within 24 hours that notice to the Secretary of Defense and the Secretary of State, and they are able to scrub their list and say wait a minute, have we got a bad guy who is an end user here? Have we got a company that wants to kill Americans? Do we have somebody who is going to aid terrorists?

If that is not the case and we come up with a benign end user, okay, go ahead and sell it. All we have to do is give notice 10 days before the transfer is made. And if the bureaucracy fails to act in 10 days, the trade under our present law is authorized.

The gentleman from California (Mr. DREIER), and I have great respect for him and he is a great friend and he is right on many defense issues, is wrong on this one because this takes away the notice. We are a Nation that now understands that fighting terrorism means knowing things. It means intelligence. We are the country that is going to get information off driver's licenses and visas and background checks because we need information; and yet if this passes, there is no notice requirement.

The gentleman from California (Mr. DREIER) says some notice requirement may be built in in the future; but when we strike title B, it takes away the notice requirement.

The other thing that it takes away, it takes away what is known as end-use verification. That means when we sell a supercomputer to Communist China, and they say we are not using this for our nuclear weapons development, we are going to use this for our weather laboratories, that means we have a right to go over and check in that weather laboratory and make sure that they have not transferred it over to nuclear weapons development. The Dreier amendment strikes this, and we no longer can check on how this equipment is being used.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the gentleman from California (Mr. COX) and I led the investigation into the transfer of technology to China, and one of the things that we found in our investigation was the great difficulty of verifying what the end use in fact was.

We have to look at the possibility that they could use this to upgrade their nuclear weapons capability. I think this is very serious and dangerous. I do not think we should do this. I think to end all export controls in 120 days is irresponsible, and that is what the amendment will do.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think this is a good amendment, and I think it is important for Members to know that the administration supports the amendment. We received a letter from Secretary Don Evans indicating that the administration supports the amendment and also a letter from Condoleezza Rice indicating that "the President has long-supported the repeal of this requirement." She and the President support this amendment.

Clearly, President Bush would not support an amendment that would be adverse to the national security interests of the United States, and the truth is we are not repealing computer export controls. What we are doing with this amendment is replacing the control system with something that is flexible and that works better.

I have here in my hand a Sony PlayStation 2. It is a children's toy. I bought one for my son for Christmas on ebay and a game, the Madden game. This children's toy was controlled under the MTOP export control standard at one time, and we could not change it fast enough so that the toys could not be exported. That is a preposterous result. Of course we have altered the MTOP since then, but the reason the President wants this change is so the President and the administration can move and protect this country in a flexible way, and the current law does not allow that.

I hope that Members listen to Condoleezza Rice and listen to the technology sector that knows about computers. Certainly this has great economic value in this time when the tech sector is in the dumps, but we would never support it if it was not also consistent with national security, which clearly it is.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I rise in strong opposition to this amendment. In 1993, a group of Congressmen wrote then-Secretary of State Warren Christopher asking permission for an outfit called Hughes-Loral to launch satellites in China allegedly for telecommunications purposes.

□ 1800

The result of that and the mistakes that followed were that the Chinese now have the technology, paid for by the American taxpayer, to put multiple warheads on one rocket and kick them into different trajectories to land on different cities. That was the scandal that came of that.

The pitch then was, nothing can go wrong. As a matter of fact, the letter says: You will find that Hughes satellites are guarded around the clock by U.S. Government and Hughes personnel during their time in China and that the Chinese have no opportunity to touch or even view the embedded MTCR control technology. Therefore, no technology transfer is possible at any time. As the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) will tell you, they sure as heck got that technology, paid for by the American taxpayer, that now threatens the American taxpayer.

The gentleman from California (Mr. DREIER) signed that letter. How many mistakes does the gentleman from California have to make? How much more do we have to put the American people at risk so that one company or two can make a couple of bucks, and then we as the taxpayers have to go back and spend a fortune to undo the harm that has been done?

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. That letter has nothing to do with what we are looking at here today.

Mr. TAYLOR of Mississippi. It is the exact same argument.

Mr. DREIER. Mr. Chairman, I am happy to yield 1½ minutes to the gentleman from Florida (Mr. GOSS), the very distinguished chairman of the Permanent Select Committee on Intelligence.

Mr. GOSS. Mr. Chairman, I thank my distinguished friend, the chairman of the Committee on Rules, for yielding me this time. This is a subject that we have discussed many times. There is no question about one thing and that is that MTOPS is no longer a viable template to use as the decision-driver to control exports of high-performance computers. We, I think, all agree on that. We have economic and security concerns to weigh when we talk export on these matters. They are very serious. They affect a great many people in a great many ways. But we understand that what we are dealing with is no longer viable. What we need and what the administration is seeking, I am told, is new computer control methodology that will deal with technology as it is today, in the world as it is today that provides for our national security and provides for economic opportunity. That is something we need to do.

The risk before us right now is repealing the old system without having the new system fully in place. The Dreier amendment, I believe, allows 4 months to put the new system in place, specific consultation with the appropriate committees, those who are concerned about this on all sides of it; and it comes with a pledge from the head of our national security affairs, Condoleezza Rice, that indeed the administration is about this and a pledge from the Secretary of Commerce that says repeal of existing regulation on exports of high-performance computers until appropriate regulations are in place will not happen.

That ought to give us satisfaction. The question is, can the administration get it done in 4 months? I believe so. Are we in the process? I believe so. Should we stand pat under the old system that does not work just because we are scared to go forward with the technology in situations today? The answer is no. I believe the Dreier amendment should be considered and supported.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in strong opposition to the Dreier amendment. I, too, signed that letter in 1993, and I have regretted it ever since. Unlike the gentleman from California (Mr. DREIER), who has not seemed to have learned his lessons on this, the bottom line is this is exactly the same issue. I signed that letter in 1993 because I was promised that there would be no transfer of technology for military use that could be in any way threatening to the United States. And you know what happened? Yes, because the satellite industry wanted to sell satellites to Communist China and the end result was our missile technology was transferred to Communist China and as the gentleman from Mississippi (Mr. TAYLOR) said, we now have MIRVs based on our technology, that technology, aimed at the United States. This is a travesty. The same will happen if we do not put these types of restrictions on supercomputers.

The bottom line is there is an obsession with open trade to Communist China driving policy here. We need to put heavy restrictions on those countries that could be potential enemies, like Communist China, while opening up free trade with nonbelligerent countries that do not pose a threat to us.

Vote "no" on the Dreier amendment. Keep us safe.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. SMITH), a leader in this effort.

Mr. SMITH of Washington. Mr. Chairman, I think the most telling thing about this debate thus far is that those who oppose this amendment have said virtually nothing about the amendment itself. We absolutely completely agree that that system on the gentleman from California's chart should stay in place. We should have checks on end use. We should have some standard for what to ship to countries that we do not want to ship it to. This amendment does not eliminate that. It merely recognizes the fact that the existing standard does not work and actually places our country in precisely the danger the opponents have described.

The MTOPS system is hopelessly out of date and keeping up with it is virtually impossible. Just to give you one example, by trying to figure out what a supercomputer is, you have this concept that you can simply look at a computer and say, it's a supercomputer or it isn't. It is not that easy. MTOPS is the way it is currently measured, but that does not take into account that a computer that would be under the supercomputer level can be elevated to the supercomputer level simply by adding another processor which is about the size of my hand, or smaller, to the computer.

The point here is that the MTOPS system does not work. The Dreier amendment would change that and has nothing to do with the letter that people signed back in 1993. We should absolutely keep standards in place for what technology we export, particularly to countries that we are concerned about. The standard we have now does not work, and it does not protect us. It not only hurts business, as has been mentioned, which, by the way, is also important to national security if we are to maintain our leadership in technology in this country where it does us the most good on national security; but this also does not even work to protect national security because the standard is hopelessly out of date. We are giving the President of the United States, who I think the gentleman from California (Mr. HUNTER) has some confidence in on national security issues, the power to change that system to one that would work better. That is what we are doing.

At some point, the opponents of this amendment might talk about it. I doubt it. They will talk about other issues. On the substance of the Dreier amendment, it is a change that is going to protect our national security, which is something we should all be in support of.

Mr. HUNTER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let me just say, the playtop system that the gentlewoman from California held up and said this would be licensed, that is not the case today. Today the case is 19,000 million theoretical operations per second. That is about 2,000. Nobody is asking for a report on that. We have taken care of that.

Secondly, the heart of this is the report. If you sell to one of these controlled countries like China, you have to let the Secretary of Defense know you did it. He only has 10 days to review it. If he does not do anything, you make the sale. But the idea that we do not want to bother ourselves with knowing what we are doing makes no sense.

Mr. Chairman, I yield 1 minute to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, there is a bit of acrimony here, and I think we ought to reduce it. People have different views on this. I regret that my good friend from Washington says that we are not wanting to take up the question of the MTOPS and that that is an inadequate measure. I have here before me the GAO report on "Export Controls: More Thorough Analysis Needed to Justify Changes in High Performance Computer Controls," in which it states quite specifically that the inadequacies of the report, that is to say, the President's report on this issue is compounded by the continued use of the flawed measured MTOPS. That is not what we are talking about.

We are talking about whether or not this amendment would get done what the advocates say it will do. It will not. What it does is say give the President the opportunity to come up with a system. The reason this should be defeated is that those who wish to have a different kind of measure, those who wish to be able to sell these computers or its components in some other form need to come up with the alternative proposal and have it vetted through the Committee on Armed Services and other relevant committees, and then we will take it up and vote on it. This should be defeated because it is not ready to be passed.

Mr. DREIER. Mr. Chairman, I am very happy to yield 1½ minutes to the gentleman from California (Mr. COX), the distinguished chairman of the Select Committee on Homeland Security.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding me this time. I thank the chairman, as well, for working with me on the language of this amendment which I became concerned with first as chairman of a different select committee on U.S. national security and military commercial concerns with the People's Republic of China. As a result of extensive expert testimony during hearings before that committee, I became convinced that the MTOPS standard is not an acceptable metric for the purposes that we are seeking to achieve with our export control regime, and I support modernizing and updating the approach that we are taking to high-end computer export controls. I have suggested, and there is included in this amendment, a 120-day period during which these regulations can be implemented by the Bush administration, and I appreciate the gentleman from California (Mr. DREIER) changing the text of the amendment so that the repeal of the current regime is not immediately effective.

I am concerned that while we are repealing the provisions concerning MTOPS, we are also repealing the notification requirements in the statute. I would hope that as we go to conference we might correct what I believe is an oversight in that respect because I believe that any new regime of regulations would include such notification requirements in all events. But I think it is important that we modernize our regime in this respect, and I support the amendment. I will vote in support of it.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. SAXTON), chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Mr. SAXTON. Mr. Chairman, as the gentleman mentioned at the beginning of this session, the Committee on Armed Services set up a new subcommittee which I have the honor of chairing. One of our responsibilities on the Subcommittee on Terrorism, Unconventional Threats and Capabilities is to review matters just such as this one that would have to do with the proliferation of weapons of a variety of kinds and the materials that could be used to construct them. This very amendment offered by the gentleman from California (Mr. DREIER) is just such a subject that should be reviewed by this subcommittee. That is what we are staffed for, and that is what we do; and here we are on the floor considering this amendment without even having had the opportunity to consider it by our subcommittee.

We are for international trade. We are for export of computer systems to the right people. However, this is a wrongheaded, in my opinion, at least at this point without having had a chance to study it before today, amendment which goes, in my opinion, in the wrong direction as has been stated by the developing coalition, including the gentleman from Hawaii (Mr. ABERCROMBIE), the gentleman from Washington (Mr. DICKS), and the gentleman from Mississippi (Mr. TAYLOR).

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

I thought it was quite wonderful that the chairman of the Permanent Select Committee on Intelligence supported this amendment. I would like to note for the record that the ranking member, the gentlewoman from California (Ms. HARMAN), has also announced her support for the amendment. I think there is a reason for that. We have been trying to resolve this for many, many years; and because of a variety of snags, we were unable to do it, but we are paying an economic price. The Silicon Valley unemployment rate today is 8.5 percent. We have lost 239,000 jobs since January of 2001, and we need to revitalize the economy. This is one way to do it that is safe. It is supported by the Bush administration, it is supported by Condoleezza Rice, it is supported by the Department of Defense, it is supported by the GAO study; and I think it is time to act.

I am delighted to cosponsor this amendment with my colleague, the gentleman from California (Mr. DREIER). It has overwhelming support on both sides of the aisle as well as within the administration. I think it is quite worthy of the support of Members on both sides. It does not jeopardize our national security in any way. I hope that Members will listen to the debate and vote "aye."

Mr. DREIER. Mr. Chairman, I yield myself the balance of my time. As we have worked in structuring this rule, I want to congratulate the gentleman from California (Mr. HUNTER) for all of the effort he has put into this great piece of legislation. I do not step forward to challenge him on an issue lightly. This is a very serious matter. I will take a back seat to no one when it comes to the national security of the United States of America.

The gentleman from California and I came together with Ronald Reagan in 1980, and I would not be supportive of any legislation which repealed regulations to ensure that the transfer of sensitive technology would go into the hands of our adversaries. I have great confidence in Condoleezza Rice. I have great confidence in the leadership of this President. And I believe that the correspondence that we have had, having worked closely on fashioning this amendment with the administration, having worked closely with the chairman of the Permanent Select Committee on Intelligence, having worked closely with the chairman of the Select Committee on Homeland Security, and Democrats on the other side of the aisle to ensure that we have this opportunity to do it, guarantees that we will address our national security concerns.

□ 1815

Pass this amendment. Repeal this outdated moment. Please vote in favor of the amendment.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment guts a very important aspect of national security, and that aspect is knowledge. The idea that we want to take away notice when a supercomputer is sold to one of these third-tier countries, and once again I would ask the floor staff to put up that list of so-called third-tier countries, including Communist China and a number of others which may at some point be our adversary. The idea that we want to take away our notice so that we do not know if we are transferring a supercomputer to the Osama bin Laden Construction Corporation, we want to divest ourselves of that knowledge, that makes no sense.

We have a system in place which is very practical. It is a 10-day system. You simply tell, by notice, the Department of Commerce if you are going to sell a supercomputer. The President decides what a supercomputer consists of; and if you are going to sell a supercomputer to China or Pakistan or Vietnam or Algeria, you give them a 10-day notice. He sends a copy within 24 hours to the Secretary of Defense, the Secretary of State. If nobody objects, you make the sale. If 10 days expires, you go ahead and transfer this supercomputer.

The other thing we have is in-use verification. We want to make sure when a supercomputer goes to China it is being used by their weather bureau, for example, not by their nuclear facilities. The only way one can tell is by sending a team and saying is that supercomputer where they said it would be? That is called in-use verification. The gentleman from California's (Mr. DREIER) amendment strikes in-use verification.

The gentleman from Illinois (Mr. HYDE) joins me in opposing this amendment very strongly. I would ask the Members to look at the handout that the gentleman from Illinois (Mr. HYDE) and I put out together.

Please vote this amendment down and please retain notice.

Ms. ESHOO. Mr. Chairman, I rise in strong support of the amendment offered by my colleagues Chairman DREIER and Representative LOFGREN.

The amendment allows the Administration to reform the MTOP standard to control computer exports, a standard implemented during the Cold War to protect high-performance computers from falling into the hands of rogue nations.

Why should this standard be reformed?

Quite simply, the MTOP standard has failed to keep pace with technological innovation and has become a useless tool that serves no other purpose other than to place American companies at a severe competitive disadvantage with their foreign competitors.

Personal computers available today perform at more than 25 times the speed of the supercomputers built just a decade ago. Yet these same PCs are treated like weapons under the MTOP standard.

Clearly, reform of our export system is necessary.

This amendment protects our national security while at the same time allowing American high technology companies to compete on a level playing field with their foreign competitors.

Importantly, it is not only the technology and computer industries who are calling for this reform.

Both the Defense Department and the GAO agree that the MTOPS export control system is "ineffective" and "irrelevant".

We must reform this standard and I urge my colleagues to support this amendment.

Ms. HARMAN. Mr. Chairman, I rise in support of the Dreier-Lofgren amendment, which would repeal the requirement to use MTOPS as the metric for restricting exports of high-powered computers and authorize the President to devise a new approach that is both more effective at protecting national security and less injurious to U.S. commercial interests.

When Congress imposed the MTOPS requirements as part of the National Defense Authorization Act back in 1998, we made a terrible mistake by mandating a metric that was poorly matched to the threat it was designed to address. At the same time, we handicapped U.S. high tech companies trying to break into the world's fastest growing markets—and gave an artificial advantage to all the companies abroad who would like to move the leading edge in high-powered computing to other nations.

The MTOPS metric has been ineffective at controlling the diffusion of technology primarily because computing power has advanced at such a furious pace over the past decade and a half. In 1991 when the MTOPS metric was first devised, the fastest supercomputer in the world was the Cray C90, which was the size of two refrigerators and cost about $10 million. Do you realize that today a Dell Pentium 4 laptop computer, which costs about $1,000, has more computing power than the Cray C90?

What's more, "clustering" technology allows a foreign government whose technological capabilities we are trying to limit to buy mass market PCs off the shelves of Radio Shack or Wal-Mart and achieve the same computing power by harnessing them together.

The most important point I want to make today is that this amendment repealing the MTOPS mandate will not injure national security. To that end, I want to cite just a few sources:

A May 2001 report by the Center for Strategic and International Studies (CSIS) concluded that the MTOPS system is "ineffective, given the global diffusion of information technology and the rapid increases in performance" and "irrelevant" because it "cannot accurately measure performance of current microprocessors or alternative sources of supercomputing like clustering."

A February 2001 study by DOD's Office of Science and Technology similarly concluded that "MTOPS has lost its effectiveness * * * due to rapid technology advances."

President George W. Bush commented in March 2001 that "With computing power doubling every 18 months, these controls have the shelf life of sliced bread. They don't work."

Mr. Chairman, passing this amendment will give the President the power to devise a better system to protect national security. Let's do the right thing and approve the Dreier-Lofgren amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. DREIER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DREIER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 8 of rule XX, further proceedings on the amendment offered by the gentleman from California (Mr. DREIER) will be postponed.

The CHAIRMAN pro tempore. The Committee will rise informally.

The SPEAKER pro tempore (Mr. LAHOOD) assumed the Chair.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The Committee resumed its sitting.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). It is now in order to consider amendment No. 9 printed in House Report 108–122.

### AMENDMENT NO. 9 OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. HASTINGS of Florida:

Page 260, strike lines 23 and 24.

Page 262, strike lines 7 through 12.

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer an amendment that preserves congressional oversight authority over Department of Defense actions. U.S. Code, Title 10, directs the Department of Defense to prepare a variety of reports annually, quarterly, and monthly. The Secretary has argued, and with some currency, that the task of preparing these reports is too time-consuming and manpower intensive. The Secretary now seeks to have the requirement to submit reports deleted.

Mr. Chairman, I am all for efficiency in government, but let us be careful not to give away the House and the Senate. Mr. Chairman, included in the list of reports the Secretary of Defense seeks to delete from Title 10 are some that are critical for the House and Senate. We cannot abrogate our constitutional duty of checks and balances over the largest department of the Executive Branch simply because it takes time to prepare a report.

My amendment retains three reporting requirements that I believe are extremely important to this body's oversight authority.

The first directs the Secretary of Defense to inform the House Permanent Select Committee on Intelligence and the Senate Intelligence Committee on any actions taken consistent with activities outlined in the National Security Act. I can assure the Members, as a member of the Permanent Select Committee on Intelligence, this information is of the utmost importance to us.

The second is an annual report from the Secretary of Defense to the House Committee on Armed Services and the Senate Armed Services Committee as well as the House Committee on International Relations and the Senate Foreign Relations Committee. This report lists all humanitarian assistance activities of the Department, including the cost of those activities.

The third report retained by my amendment requires the heads of each DOD department or agency to provide an annual report to the House Committee on Armed Services and the Senate Armed Services Committee on the management of the civilian workforce under their jurisdiction.

With the sweeping changes envisioned for the DOD civilian workforce, who can argue that these reports are no longer important?

I appreciate the Secretary's concerns. As a matter of fact, several of us met with Secretary Rumsfeld as he returned to the Department of Defense, and one of the questions that was put to him was what changes did he see this second time around. Very candidly and forthrightly he said the thing that struck him most is the number of reports that are required to be brought out by the Department of Defense.

I have included in this amendment timely and relevant reports to Congress and excluded from it original versions that would have required more.

We are about to write a very large check for the Department of Defense and rightly so, but at the end of the day let us make sure we know what we are paying for. I would like to thank the gentleman from California (Chairman HUNTER) for his interest in my amendment, and especially I am grateful to him and his staff and the ranking member, and I believe that we have reached an acceptable compromise.

Mr. Chairman, I reserve the balance my time.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent for the time in opposition, although I am not opposed to the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman for bringing this amendment and thank him for working with the committee, and we have no objection to the amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman and the ranking member.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The amendment was agreed to.

### AMENDMENT NO. 6 OFFERED BY MR. DREIER

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on amendment No. 6.

The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. DREIER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 217, not voting 10, as follows:

[Roll No. 219]

AYES—207

Ackerman
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bereuter
Berkley
Biggert
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boswell
Boucher
Brady (TX)
Brown (SC)
Burr
Camp
Cannon
Cantor
Capps
Capuano
Cardin
Cardoza
Case
Castle
Chocola
Clay
Conyers
Cooper
Cox
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Dingell
Doggett
Dooley (CA)
Dreier
Dunn
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Farr
Flake
Fletcher
Foley
Fossella
Frank (MA)
Frost
Gallegly
Gonzalez
Goodlatte
Goss
Granger
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hensarling
Herger
Hill
Hinojosa
Hoekstra
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Inslee
Israel
Issa
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (MN)
Kennedy (RI)
Kilpatrick
Kind
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (GA)
Linder
Lofgren
Lowey
Lucas (KY)
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (NC)
Moore
Moran (VA)
Myrick
Nadler
Napolitano
Neal (MA)
Northup
Nunes
Oberstar
Olver
Osborne
Ose
Otter
Pallone
Pastor
Paul
Pelosi
Peterson (MN)
Petri
Pitts
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reynolds
Roybal-Allard
Rush
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sessions
Shays
Shimkus
Smith (TX)
Smith (WA)
Snyder
Solis
Sullivan
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tierney
Toomey
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Waters
Watson
Watt
Weiner
Weller
Wexler
Wilson (NM)

NOES—217

Abercrombie
Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Bonner
Boozman
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Burgess
Burns
Burton (IN)
Buyer
Calvert
Capito
Carson (IN)
Carson (OK)
Carter
Chabot
Clyburn
Coble
Cole
Collins
Costello
Cramer
Crenshaw
Culberson
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeMint
Deutsch
Diaz-Balart, M.
Dicks
Doyle
Duncan
Edwards
English
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Forbes
Ford
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Graves
Green (TX)
Green (WI)
Hall
Hayes
Hayworth
Hefley
Hinchey
Hobson
Hoeffel
Holden
Hostettler
Hunter
Hyde
Isakson
Istook
Jackson-Lee (TX)
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kildee
King (IA)
King (NY)
Kingston
Kleczka
Kline
Lantos
Larson (CT)
Levin
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lucas (OK)
Lynch
Marshall
McCarthy (MO)
McCotter
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Nethercutt
Ney
Norwood
Nussle
Obey
Ortiz
Owens
Pascrell
Payne
Pearce
Pence
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Tiahrt
Tiberi
Turner (OH)
Turner (TX)
Visclosky
Vitter
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Wicker
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Bonilla
Brown-Waite, Ginny
Combest
Doolittle
Emerson
Gephardt
Gordon
Langevin
Oxley
Whitfield

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1848

Messrs. NETHERCUTT, MORAN of Kansas, CARSON of Oklahoma, PENCE, Mr. RYUN of Kansas, MEEK of Florida, BURTON of Indiana, RUPPERSBERGER, Ms. BROWN of Florida, Messrs. WYNN, TIAHRT, LARSON of Connecticut, and WILSON of South Carolina, Ms. ROS-LEHTINEN, and Mr. SHADEGG changed their vote from "aye" to "no."

Messrs. KIND, TOOMEY, THOMPSON of California, WATT, WALDEN of Oregon, PALLONE, LAMPSON, MARKEY, NADLER, RAHALL, CROWLEY and Ms. HARRIS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LANGEVIN. Mr. Chairman, on rollcall No. 219, my vote was not recorded, but had it been recorded I would have voted "no."

PERSONAL EXPLANATION

Mr. OXLEY. Mr. Chairman, I was absent from the House floor during rollcall vote 208 through rollcall vote 219. Had I been present, I would have voted "aye" on rollcall votes numbered 208, 209, 210, 211, 212, 213, 214, 217, 218, and 219. I would have voted "nay" on rollcall votes 215 and 216.

Mr. BOEHLERT. Mr. Chairman. I submit the following letter for the RECORD.

COMMITTEE ON SCIENCE,
HOUSE OF REPRESENTATIVES,
*Washington, DC, May 15, 2003.*

Hon. DUNCAN HUNTER,
*Chairman, Committee on Armed Services, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I understand that the Armed Services Committee has requested that the Committee on Science waive its right to a referral on several sections of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. It is also my understanding that the Parliamentarian's office has confirmed that the Science Committee has jurisdiction over several provisions in H.R. 1588.

To expedite the consideration of this bill by the House, the Committee is willing to waive its right to a referral, provided that the Science Committee's right to participate as conferees on those provisions within its jurisdiction is also protected. I would also appreciate if this exchange of letters could be included in the record of debate on H.R. 1588 during floor consideration.

Thank you for your consideration in this matter.

Sincerely,

SHERWOOD BOEHLERT,
*Chairman.*

Mr. BLUMENAUER. Mr. Chairman, providing national defense is one of the federal government's most significant functions, and today it is more important than ever. Our military superiority, as demonstrated during the war in Iraq, is unmatched. In terms of numbers, the United States spends more on defense than the next 25 nations combined.

Yet this $400 billion authorization, the largest defense allocation in history, does not sufficiently address long term threats to our national security. In fact, it takes us in the wrong direction by exempting the Pentagon from its future environmental responsibilities and not providing adequate resources to clean up the legacy of past defense-related pollution.

With such an enormous authorization of resources, we must make sure that the money is being spent wisely. Unfortunately, we have not eliminated unnecessary, wasteful programs that do little to enhance the security of the United States. Despite agreement on the need for deep and lasting changes to military strategy, doctrine, and force structure, the Pentagon's focus so far has been on acquiring new capabilities rather than on re-evaluating current questionable priorities and programs. While the Pentagon identified only $24.3 billion to fund "transformation goals," roughly one third of that amount is also budgeted for missile defense, a Reagan era program that continues to suffer from technological difficulties and cost overruns. This is misdirected funding taking away from other defense commitments and ignores the fact that we are more at risk from terrorist with trucks, suitcases and motorboats than missiles.

We are not meeting our commitments to "hometown security." More of this money should be directed to our struggling communities to address the real security threats they are facing, as demonstrated by the current code orange security status.

We are not meeting our commitments to our veterans. Our spending priorities should include funding concurrent receipts, which enable retirees who were injured in the line of duty to receive both their deserved retirement pay and disability payments. The number one issue I hear about from military retirees in my district is veterans' health care funding, which has vast unmet needs.

We are not meeting our environmental commitments. We should not lay the burden on our communities of cleaning up the Department of Defense's toxic legacy. In particular, we should fund remedies to the problem of unexploded ordnance. There are some 2,000 former military properties in every state and nearly every congressional district where these hidden dangers lurk. This is a prime example of the need for the federal government to be a better partner and clean up after itself.

In addition to the unwise and wasteful expenditures in this bill, it also authorizes unnecessary and destructive waivers of important environmental protections essential to the health of Americans and the health of our land and water. The bill would weaken one of the key provisions of the Endangered Species Act involving critical habitat protection. It would also weaken the definition of "harassment" in the Marine Mammal Protection Act. Unfortunately these laws apply to all ocean users, not just the Department of Defense. If we exempt the largest landowner in the country from environmental regulations, how can we expect anyone else to follow our laws?

Instead of addressing real threats to readiness, the Bush administration and Republican leadership are taking on an easier target: endangered species. Using national defense as cover, the Republicans propose to make changes to environmental laws in ways that have nothing to do with defense readiness, suggesting that was not their goal in the first place. The provision in this bill are too broad to protect the environment, yet too narrow to deal with the wide range of problems that hinder military readiness, like encroachment and sprawl.

This is the same sprawl and unplanned growth that threatens our farms and forestlands, pollutes our air and water, and congests our roadways.

There is much that we could do to strengthen and better protect America with the enormous resources authorized in this bill. There are too many items authorized that threaten Americans' health and safety or waste tax dollars with no tangible benefit. We must do better in shaping our Nation's defense policy and honoring our existing commitments to veterans, the environment, and our community.

Ms. BALDWIN. Mr. Chairman, I rise today to oppose the FY 04 Defense Authorization bill.

Since September 11, 2001, our nation has faced the threat of international terrorism. Every Member of Congress has taken seriously one of our most important responsibilities; protecting the lives and property of all Americans. I have supposed many of President's Bush's initiatives to address the threat posed by Al Qaida and international terrorism when I believed they would enhance our country's security. I have opposed proposals when I believed they would not.

The test of any defense related legislation is: Does it make our country safer? This bill fails that test. In fact, in some ways, this bill will decrease our security.

First, this bill encourages nuclear proliferation. This bill will eliminate the prohibition on the research, development and deployment of low-yield nuclear weapons, even as the United States works to stop proliferation of nuclear weapons elsewhere. The list of countries with nuclear weapons keeps growing: the United States, Russia, Great Britain, France, China, Israel, India, and Pakistan. Now North Korea has them. Who's next? The United States committed to work toward disarmament when the Nuclear Non-proliferation Treaty (NPT) went into effect in 1972. We should be taking bold steps toward ending the threat of nuclear holocaust once and for all, not creating new ones.

The United States must show leadership by refraining from the use of nuclear weapons. Developing new ones sends exactly the opposite message. By continuing the development of new nuclear weapons at the same time we are trying to convince other nations to abstain from such weapons, we undermine our credibility to fight proliferation. Now is not the time to send an ambiguous non-proliferation message to those nations who would try to join the nuclear club.

These "tactical" nuclear weapons are not needed for our defense. Conventional "bunker buster" bombs have been used and additional research is ongoing to improve their effectivess. A "robust earth penetrator" would not be a targeted "smart bomb," since fallout would harm human beings in the area of the blast. One that successfully penetrates deep enough to contain the fallout would need to have sufficient explosive power to no longer be considered a "mini" or tactical nuclear weapon. The only permanent solution to the nuclear threat is to eliminate these weapons entirely through a global legal commitment, backed by strong oversight and enforcement mechanisms.

Second, the overall spending level in this bill is excessive. This will be the largest defense budget in the history of the United States. The Center for Strategic and Budgetary Assessment has calculated that it is 10 percent higher in real terms than the average military budget during the Cold War. At $400.5 billion, this bill is $7.6 billion higher than the current authorized level. It represents 51 percent of Fiscal Year 2004 discretionary spending. The first Defense Authorization bill passed after I was elected to Congress in 1998 was the FY 2000 bill. That legislation authorized $291.0 billion.

Clearly we are the preeminent military power in the world. Our military spending is 8 times as large as the next largest military—Russia. No other nation, or collection of nations, is anywhere close to being able to challenge American military power. Continuing to increase our military spending beyond the rate of inflation and in a time of budget deficits and a stagnant economy is not a wise use of taxpayer dollars. We can be safe without spending more.

Before significantly increasing defense spending, we need to eliminate the waste, fraud and abuse within the department. The department's inspector general found that the department could not account for more than $1 trillion in spending. Yes, $1 trillion. That's two and half yearly defense budgets. A General Accounting Office report found that the Army could not account for 56 airplanes, 32 tanks, and 36 missile command launch-units. The GAO found that the department has 2,200 overlapping accounting systems which cost a total of $18 billion per year. $18 billion, and apparently they don't even work. The GAO estimates there is at least $20 billion in savings that could be found in the defense budget.

Third, this bill continues funding for weapons systems that are expensive and unnecessary. The bill would authorize $1.05 billion to purchase 9 new MV–22 Osprey tilt-rotor aircraft and continue program research and development. This aircraft has had continuing design problems that have already cost us $15 billion, four crashes and the lives of 23 Marines. We don't need these planes. We also do not need the F–22 Raptor. Like the Osprey, it has continuing technical problems and cost overruns. Each aircraft costs $260 million. We could save $3.5 billion if we did not purchase the proposed 22 this year.

The bill also makes it harder to close unneeded military bases. We have and will continue to restructure our forces to meet our new security needs. That process requires us to reduce our expenses by closing excess bases. Keeping unnecessary bases open wastes valuable defense dollars that could be used to enhance our security.

Perhaps the biggest boondoggle in the defense budget is the national missile defense system. The bill calls for $9.1 billion to continue research, development and initial deployment in Alaska. Each year we put more and more resources into this unproven technology that does not address the most likely threats from weapons of mass destruction. Is a nuclear weapon likely to arrive on an intercontinental ballistic missile? Homeland security experts don't believe so. They are worried about our ports and our borders. The GAO found that "an effective port security environment may be many years away." The U.S. maritime system consists of more than 300 sea and river ports with more than 3,700 cargo and passenger terminals. In excess of 6 million transport containers enter our ports each year. With $9.1 billion we could secure our ports, and have money left over to address other urgent homeland security needs like funding for first responders, research on chemical, biological and nuclear weapons detection, improving our border security, and providing more resources for non-proliferation efforts overseas. These should be our priorities.

Fourth, the bill includes many unwise, inappropriate and unnecessary provisions. The bill would exempt the Department of Defense from certain aspects of the Marine Mammal Protection Act and Endangered Species Act. These laws already contain exemptions in cases where national security is at stake. Both the General Accounting Office and EPA Administrator Whitman have testified that environmental laws have not affected military readiness. This provision will undermine our environmental laws and threaten endangered species.

The bill gives the Secretary of Defense unprecedented ability to bypass civil service personnel rules and establish new personnel systems. Civil service rules were established to protect workers and protect the public interest by ensuring that fair rules and professionalism replace political favoritism and cronyism. The Bush Administration submitted this sweeping and unprecedented request at the last minute. We don't even know what kind of system the Secretary of Defense intends to create. Any major change like this one requires extensive hearings and in-depth analysis before Congress makes a decision. We should not be railroaded into dismantling an effective, honest civil service system. Furthermore, we should not give a blank check to the Administration in designing this system.

Finally, I am concerned about the continued funding of counter-narcotics military operations in Colombia. The involvement of our military in Colombia's civil war is counterproductive and dangerous. This bill allows counter-narcotics funding and equipment to be used by the Colombian government to fight its civil war. This policy should come to an end.

Mr. Chairman, we can keep our nation secure. Unfortunately, this defense authorization bill does not do so. This defense budget wastes money. If I believed that the increased expenditures were appropriately focused on paying our brave servicemen and women what they deserve and increasing their readiness, I would support it. But this defense budget is targeted at the wrong threats. This defense budget sets the wrong priorities.

Mr. UDALL of Colorado. Mr. Chairman, this bill is one of the most important measures that the House will consider this year. It is intended to set out our vision for the defense of our country in the years ahead—both in terms of policy direction and spending priorities. Unfortunately, the vision this bill puts forth is not one I can endorse, and so I cannot vote for it.

We are over a year into our war on terrorism and fresh from military action in Iraq. There is no doubt that we must continue to focus on defending our homeland against terrorism, we must support our military personnel, and we must give our military the training, equipment, and weapons it needs to beat terrorism around the world.

That's why I'm in favor of provisions in the bill that support those men and women who made our victory possible in Afghanistan and Iraq. The bill provides an average 4.1 percent pay raise for service members, boosts military special pay and extends bonuses, and fund programs to improve living and working facilities on military installations. Those are all good provisions that I support.

I'm also in favor of ensuring our defense capabilities are up to the task of defending against 21st century threats. Secretary Rumsfeld continues to try to refocus and reprioritize our defense programs along 21st century lines, but I'm not sure his vision has the support of some of our colleagues here in the House, who seem content to address new threats with Cold War-era technologies. Indeed, with the exception of the Crusader artillery system, the Administration and Congress have continued every major weapons system inherited from previous administrations.

So my first objection to this bill is that although it brings overall defense spending to levels 13 percent higher than average Cold War levels, it doesn't present a coherent vision of how to realign our defense priorities. We need to make clear decisions about our defense spending, and this bill doesn't begin to consider the choices that must be made.

I have other strong objections to the bill. It includes provisions similar to those in H.R. 1935, a bill we considered in the Resources Committee, to exempt the Department of Defense from compliance with the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). There is a broad-based support for existing environmental laws—as there should be—and these laws already allow case-by-case flexibility to protect national security. The Pentagon has never sought to take advantage of this flexibility, so it strains belief that these laws are undermining our national security. Indeed, the General Accounting Office has found that training readiness remains high at military installations notwithstanding our environmental laws.

Lacking any compelling data to conclusively demonstrate that military readiness and training have suffered as a result of compliance with the ESA and MMPA, I am not persuaded that the changes to these acts proposed by the military are justified. If anything, the recently completed Iraqi Freedom campaign verifies once again that our armed forces remain the best trained, best equipped force on the planet. The Administration has opportunistically selected the present circumstances as a thin veneer behind which to move legislation to weaken key aspects of the ESA and MMPA that it could not achieve otherwise. Such over-reaching should not be rewarded, and the House should not have included these provisions in the bill we are considering today.

I am also concerned about the bill's provisions to overhaul DOD's personnel system. Last year, Congress authorized the largest government reorganization over thirty years with the creation of the Department of Homeland Security, affecting 170,000 Federal employees. Following extensive debate, the new DHS Secretary was given authority to establish a flexible personnel system that at least attempted to protect workers' rights. The provisions in this bill would create even wider ranging exemptions for the Department of Defense, stripping almost 700,000 civilian employees of fundamental rights relating to due process, appeals, and collective bargaining.

The Administration only knows that it wants to gut the current system, but it hasn't provided an alternative. This bill provides a blank check for the Administration to undo many of our civil service laws in an unprecedented unilateral approach to civil service reform. What's worse, the Rules Committee wouldn't allow the House to consider a sensible amendment that would restore a system of checks and balances for our Federal workers. I cannot support the way this bill treats so many dedicated civilian employees of the Department of Defense.

Finally, I am concerned about the bill's provisions on nuclear weapons. This year's bill provides funding to study the feasibility of developing nuclear earth-penetrating weapons and low-yield nuclear weapons. Low-yield nuclear weapons have an explosive yield of five kilotons or less—"only" a third of the explosive yield of the bomb dropped on Hiroshina.

Mr. Chairman, our obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) require the United States to work towards nuclear disarmament, rather than further increase the size and diversity of our arsenal. Indeed, we're working even now to prevent North Korea, Iran, Syria, and other countries from gaining access to nuclear weapons. By continuing the development of new U.S. nuclear weapons at the same time that we are trying to convince other nations to forego obtaining such weapons, we undermine our credibility in the fight to stop nuclear proliferation.

I believe we must be extremely cautious before we consider expanding applications of nuclear use. We all agree on the need to maintain the deterrent capability of our nuclear forces, but I don't believe we need more or new weapons to maintain our deterrent. This bill takes our nuclear posture a step backwards, putting the U.S. in a position of leading the world in the direction of developing more nuclear weapons.

Mr. Chairman, if the House had been permitted to consider more needed amendments to the bill, it might have been improved enough so that I could support it. But the Rules Committee rebuffed sensible amendments at every turn, denying us a voice on civil services protections and the environment, among other issues. So in view of my strong objections outlined above, I cannot support this bill.

Mr. VAN HOLLEN. Mr. Chairman, it is my intention to vote for the National Defense Authorization Act for fiscal year 2004 now before the House. The brave men and women risking their lives in Iraq deserve the support of the United States Congress and we have a responsibility to provide the military with the means to protect all of us. However, I am deeply troubled by portions of the Act that have the potential to undermine America's standing in the world, decrease our security, undermine the protections guaranteed under current law for civil servants working in the Department of Defense, and endanger our environment. Earlier today an important amendment failed to be included in the final version of the Act that we are now being asked to vote on.

The Tauscher Amendment would have transferred money from the Robust Nuclear Earth Penetrator to a conventional weapon system meant to defeat hardened and deeply buried targets. The development and possible use of such a bunker-busting nuclear weapon is a dangerous step for this Congress to authorize. Such weapons would disperse deadly radioactive fallout into the atmosphere, could lead to the resumption of nuclear testing and would undercut US efforts to halt the proliferation of weapons of mass destruction.

We were also denied the opportunity even to cast a vote on the other amendments. An amendment I proposed with Mr. Cooper and Mr. Davis to ensure that protections for the 700,000 civil service employees of the Department of Defense remain in force was excluded from consideration by the Rules Committee yesterday. In the Committee on Government Reform, of which I am a member, representatives from the Department of Defense made it clear that our military success in Iraq was the result of a team effort: a team effort between the military and the civil servants within the Department of Defense that provided them crucial support. It was a true partnership. Yet, just a few weeks after our military success in Iraq, the Pentagon launched what can only be described as a sneak, surprise attack on the rights of those civil servants within the Department of Defense. If these civil service protections, in existence since the Presidency of Theodore Roosevelt, are thrown out it will open up the Department of Defense to party politics and will change our security. We want a personnel system that rewards people based on merit, not based on political favoritism. We want, for example, our procurement officers to be looking out for the public interest, to be looking out for our national interests, not the interests of the most politically connected contractors. I support the idea of pay for performance; but it should be merit-based performance, not a political loyalty test. I think this bill, which is important to our national security, should not contain this provision which damages the integrity of the Civil Service.

We were also denied the right to vote on an amendment to protect our environment. I am appalled by the provisions in this bill that exempt the Defense Department from important environmental protections. It is a sad irony that the Department, which is responsible for protecting our nation from enemy assaults would ask for an exemption from laws to prevent assaults on our environment here at home.

The work of the Department of Defense is crucial to protecting both the physical security of our citizens and ensuring that we as Americans can live in a society that protects our interests in the long run. I will vote for the Act, but my support is tempered by my serious concern that certain elements of this bill could prove detrimental to other important national interests.

Mr. STARK Mr. Chairman, I oppose HR 1588, the Defense Authorization Bill.

This bill will enact a defense budget 23 percent higher than the average military budget during the Cold War. It then sets the stage for a 17 percent increase in defense budgets over the next decade. Republicans seek to finance these increases by taking money away from basic domestic priorities and saddling our children with a deficit as far as the eye can see.

Of course, the President and Republicans won't provide the funds needed to improve our schools and guarantee our children a high quality education. They won't provide a real Medicare prescription drug benefit for our seniors and people with disabilities. They won't even give so-called "first responders" the resources to protect Americans against terrorist attacks that may well be spurred by this Administration's fanatical foreign policy.

There isn't a dollar in the President's overall budget for school modernization, but this defense budget has us spending $9.1 billion on a pie-in-the-sky missile defense system. 28,000 kids will be cut from Head Start, but $15 million will go to researching something called nuclear "bunker buster" bombs.

Make no mistake about it, the Bush Administration has us on the edge of a new nuclear arms race by pushing for research into so-called "low-yield" nuclear weapons. The idea behind their development is their possible use in conventional warfare! So much for the theory of nuclear deterrence. Such a policy would only welcome more nations—on top of North Korea—into a renewed worldwide nuclear weapons race. I don't even want to imagine a future where the world's armies use nuclear weapons to fight wars.

At the same time this bill raises the nuclear ante throughout the world, we'll be spending $28 million less than the federal government says is necessary for non-proliferation efforts. These are vital to keeping weapons of mass destruction out of the hands of Al Qaeda and other terrorist organizations.

Republicans are also overriding basic environmental protections in this defense bill before us today. Their bill will allow military bases to override the Endangered Species Act—putting rare species at risk of decimation. It also allows the Navy to use sonar devices that have led to the deaths of whales and other threatened marine mammals.

It doesn't stop at endangering our environment. It also tramples the rights of workers at the Department of Defense and other who work for our military. If enacted, this bill will scrap basic civil service protections at the Defense Department that have long promoted a professional federal workforce. It even fails to provide women on military bases overseas with access to potentially needed reproductive health services—even if they pay for those services with their own money.

Mr. Chairman, this Department of Defense Authorization bill is wrong in many ways. It dedicates too much of our limited federal budget to defense at the expense of other vital domestic needs. It spends those dollars in ways that could add to our defense costs by inciting a new nuclear arms race. It weakens protections for those who work in the Department of Defense or otherwise serve our military. And, it endangers environmental protections here at home. I urge my colleagues to join me in opposition to this dangerous bill.

Mr. FALEOMAVAEGA. Mr. Chairman, I want to thank the Chairman, the Ranking Member and both Republican and Democratic members of the Armed Service Subcommittee on Total Force and the full Committee for unanimously supporting an amendment to increase the number of military academy appointments from American Samoa, Guam and the Virgin Islands to the U.S. Military Academy, the United States Naval Academy, and the United States Air Force Academy.

For my constituents, this means that American Samoa will be able to send two students to each service academy. Given that American Samoa has a population of over 57,000 people, a per capita income of less than $4,500 and almost 5,000 men and women serving in the U.S. Armed Services, I am pleased that we may be able to offer more students the opportunity to attend one of our nation's prestigious military academies.

Like other States and Territories, American Samoa has a long and proud tradition of supporting and defending the United States of America. In 1900, the traditional leaders of American Samoa ceded the island of Tutuila to the United States.

Tutila's harbor is the deepest in the South Pacific and the port village of Pago Pago was used as a coaling station for U.S. naval ships in the early part of the century and a support base for U.S. soldiers during World War II. To this day, American Samoa serves as a refueling point for U.S. naval ships and military aircraft.

American Samoa also has a per capita enlistment rate in the U.S. military which is as high as any State or U.S. Territory. Our sons and daughters have served in record numbers in every U.S. military engagement from World War II to present operations in our war against terrorists. We have stood by the United States in good times and bad and I believe it is only appropriate that this relationship should be acknowledged by increasing our number of military academy appointments.

Again, I want to thank Chairman John McHugh and Ranking Member Vic Snyder of the Subcommittee on Total Force for supporting my request to increase the number of military academy appointments for American Samoa. I also want to thank my good friends, the Chairman of the Committee on Armed Services, Congressman Duncan Hunter and Ranking Member Ike Skelton, for their support.

On a personal note and as a Vietnam Veteran, I also want to thank the sons and daughters of this great nation who are currently serving in the U.S. Armed Forces. As we consider the National Defense Authorization for Fiscal Year 2004, I am hopeful that we will remember the sacrifices they are making to protect our liberties and in so remembering I urge my colleagues to support this reauthorization.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I rise today in support of the defense authorization bill and commend Chairman Hunter, ranking member Skelton and the committee staff on their strong efforts in crafting this legislation.

As our soldiers, sailors and airmen continue the global war on terrorism and as thousands of them return home from the liberation of the Iraqi people and elimination of the threat posed by Saddam Hussein, it is a fitting tribute to them and to their families that we pass this legislation.

Our men and women in the military and their families are this bill's primary focus. This bill authorizes another 4.1 percent average pay raise and other incentives that are critical to maintaining retention, morale, recruitment, and quality of life. The thousands of men and women who get up and put on a uniform to serve their country abroad or on the seas should do so with the best equipment and the best training possible. Their service will protect our shores, provide stability in unstable regions, provide security to our friends and allies, and deter or destroy those who wish to harm us.

A lesser-known aspect of our Operations Enduring Freedom and Iraqi Freedom is the success of the logistical support structure of those operations. The logistical coordination that supported our efforts in Afghanistan and Iraq can be described as nothing less than an organizational marvel. It takes teamwork, training, skill and courage, Mr. Chairman, and critical to that achievement is the work of the 157th Air Refueling Wing of the Air Mobility Command based at Pease Air National Guard Base located in my district. In Operation Iraqi Freedom, tankers flew more than 17,050 refueling missions supporting aircraft from all services—the 157th Air Refueling Wing completed over 400 sorties, offloading over 26 million pounds of fuel to aircraft from all the services. In fact, the 157th was recently selected as the recipient of the Air Force's Most Outstanding Unit Award for the second year in a row due to their performance. Therefore, I am happy that this bill includes an airborne tanker initiative of $229 million that would give the Air Force the flexibility of retaining KC–135E aircraft, meeting unfunded requirements for depot maintenance of tanker aircraft.

Mr. Chairman, yesterday I had the honor of meeting Air Force Capt. Jeremy Shane Carter and 1st Lieutenant Drew Bjerken, two courageous airmen who recently have returned from Operation Iraqi Freedom. They are part of the electronic warfare component of our military success that does not receive the full credit it deserves. Capt. Carter and Lieutenant Bjerken operated one of the real jewels in our electronic warfare arsenal, the Compass Call aircraft. This platform monitors and jams communications and targeting systems used by adversaries. Compass Call air crews flew over 200 combat sorties providing 24/7 coverage in all major combat engagements including the operations to recover POW Pvt. Jessica Lynch and the capture of the oil facilities at the Al Faw peninsula in Iraq. Saving Private Lynch is it own fantastic story. But it should be remembered that Compass Call aircraft were essential to the successful capture of Al Faw by special operations foiling the sabotage of oil facilities by Iraqi soldiers and averting a major environmental and economic disaster for the country and region. I am pleased that this bill includes an additional $9 million that will go toward the completion of upgrades to Compass Call aircraft to the block 35 configuration.

Mr. Chairman, this legislation continues our efforts at transforming our military for the threats of the future. The bill contains $3.5 billion for the procurement of 21 F–22 fighter aircraft, ensuring that the U.S. maintains air dominance in any conflict in the years ahead. The bill also continues our efforts to have the Pentagon procure smarter and more efficiently through continued research and development of the F–35 Joint Strike Fighter. Variants of the F–35 will eventually replace four aircraft, the F–16, the A–10, and the AV–8B and F–18 C/D, bringing important cost savings to our taxpayers not only in production but also in the maintenance and operation over the life of each aircraft.

Air dominance today and in the future is directly attributable to the electronic warfare capability of our aircraft, helicopters and satellite systems. BAE Systems' Electronic Systems division in my home state of New Hampshire is the world leader in electronic warfare systems, providing protection, surveillance, stealth and lethality for our pilots and aircrews in all the services. I am pleased with the programs included in this bill that fund research and development for countermeasures to protect our pilots and other important electronic systems.

As every regional military commander will attest, our Navy is stretched thin, especially our submarine force. Although this bill does not fund the refueling of the USS *Jacksonville,* I would like to highlight the need to refuel all of the remaining Los Angeles Class submarines in our fleet. Taxpayers have already paid half the job. The reactors for these submarines have been procured at a cost of over $200 million each, it makes sense for us to finish the job and keep these boats in service for the remainder of their design life.

Mr. Chairman, this bill is a good balance of our resources to continue our military's transformation to meet the challenges of tomorrow. It responds to the realities of the war on terrorism and sets us on course to meet the new challenges that unquestionably lie ahead. I urge my colleagues to support the bill.

Mr. WOLF. Mr. Chairman, I congratulate our men and women in uniform and in civilian positions who helped liberate Iraq from the grip of Saddam Hussein. Our military—the finest in the world—has in the course of just two years liberated Afghanistan, played a vital role in defending the homeland against terrorism, and worked with our allies to hunt down terrorists. I am grateful to all those who protect our national security, both in and out of uniform. They have my deep respect. They are outstanding Americans and valued federal employees. Indeed, a large number of federal employees, many of whom work for the Department of Defense, call the 10th Congressional District of Virginia their home, and I am proud to be their Representative in Congress.

As we debate H.R. 1588 the National Defense Authorization Act for fiscal year 2004, I want to express my support for many important programs included in this bill which are investments to make sure that our military remains the best in the world, as it should. Our service men and women and those civilians who support them deserve only the best. Our colleague and my classmate, DUNCAN HUNTER, chairman of the House Armed Services Committee, deserves our congratulations for the hard work of his committee in bringing this bill to the floor.

There are some provisions in this bill, however, which deeply concern me. Those address the wholesale personnel reforms and management authority changes at the Defense Department which I believe could shortchange civilian employees and come on the heels of the many recent historic accomplishments made possible by these very employees.

The Department of Defense has acted with lightning speed in presenting to Congress a number of changes to its personnel system. There was minimal consultation with members of Congress, little notice of its plans provided, and relatively few hearings held about this sweeping proposal. Why such a rush to change?

H.R. 1588 would radically alter the way in which many Department of Defense employees are paid, establishing a pay-for-performance plan with standards which are in some cases subjective. The Secretary of Defense would be able to overrule the director of the Office of Personnel and Management in making personnel decisions, if the President agreed with the Secretary.

The Department of Defense would be granted more power than ever before in how it structures policies which will impact its 746,000 civilian employees. While I understand the need for flexibility in the modern-day federal workplace, I am very concerned that some of the changes in H.R. 1588 champion flexibility at the expense of oversight and congressional involvement in ensuring employee protections on a fair and level civil service playing field. When oversight is limited and decisions are channeled to one source, red flags should go up about accountability and the decision-making process at DOD.

I also am concerned about what appears to be some ambiguity on the question of veterans' preference in hiring at the Department of Defense. Veterans are given preference in hiring for civil service positions in recognition of their military service to our nation. This long-standing policy allows the Department of Defense as well as other government departments and agencies to recruit and retain veterans who can continue to provide valuable service to their nation in their civilian lives. It is unclear under this legislation whether the veterans preference in hiring will remain totally intact in all areas of hiring in the Department of Defense. This lack of clarity is troubling not only as a matter of practice, but as a matter of principle: there should be a clear understanding that the veterans preference cannot be waived in any hiring circumstances.

Because of the controversial personnel change included, in this legislation, I am very disappointed that the House Rules Committee foreclosed the opportunity to amend that section of the bill. No amendments were made in order concerning the civil service portion of H.R. 1588. Some colleagues, including Representative COOPER were prepared to offer a valuable amendment and had submitted it to the Rules Committee. That amendment would have created an Employees Bill of Rights offering fundamental civil service protections for the civilian employees at the Department of Defense. That amendment should have been made in order, and this House should have had the chance to debate that amendment. Had we been given that opportunity, I would have voted for the Cooper amendment.

Our colleague Representative IKE SKELTON, the ranking member of the Armed Services Committee, argued yesterday in a Washington Post op-ed that "major reassignments of constitutional authority such as this demand the same sort of thoughtful foresight as a war plan." He added that "the only thing that is obvious and consistent throughout the 50 provisions included in this bill is the aggregation of power sought for the Department of Defense, removing the legal restrictions and congressional oversight that should safeguard against any abuses, however unintentional. This approach is a rush to judgment that will affect vast numbers of people and, in many cases, will enshrine bad policy in law."

Secretary of Defense Donald Rumsfeld responded to Congressman SKELTON'S arguments today in his own Post op-ed. He laid out his case for what he sees as necessary "flexibility and agility" in managing the civilian workforce at DOD in the 21st century. I would not disagree that we are in a changed world and that the federal government must respond to those changes.

But the secretary should heed his own op-ed conclusion. He stated: "The fact is that the transformation of our military capabilities depends on the transformation of the way the Defense Department operates. This does not mean an end to congressional oversight. What it means is that we need to work together to ensure the department has the flexibility to keep up with the new threats emerging as this century unfolds."

Indeed. We need to work together. That means giving Congress the opportunity for thoughtful and deliberate study of this plan, time to investigate its implications, and the chance to ask the tough questions to make sure we fully understand how this plan will impact the lives of the people at the Pentagon who work to serve their country. That doesn't mean that Congress just salutes and says, "Yes, sir," and rubber stamps the secretary's controversial plan.

We must ask what message this plan sends to the rest of government. Will the Department of Defense's rush into a personnel transformation plan encourage other government departments and agencies to do the same, affecting even more federal employees? Because of my concern about responding to the terrorism threat in our country, I voted for the legislation establishing the new Department of Homeland Security and allowing the department to set up new model rules which could be used to judge future decisions on personnel policy. We are on new ground and don't as yet know how well this model works. The DOD personnel proposal before the House could not only affect the Department of Defense, but may impact the entire government in ways which we cannot yet know.

I also must share my concern about a pattern of unilateral action we continue to see within the Office of the Secretary of Defense. There have been troubling news reports about how some high ranking military personnel have been treated at the Department of Defense. I am concerned how senior civilian employees would fare under the new personnel proposals for DOD.

Our Armed Forces deserve the very best, and I am pleased that this bill authorizes giving those in uniform and those civilians supporting them the funding they need to continue to do their jobs in the outstanding way in which they have in the past and will do in the future.

Unfortunately those parts of the bill relating to personnel issues have not been adequately investigated by Congress and will impact civilian employees at the Department of Defense in ways that we can only guess at this point. These Federal employees and the military deserve more than a rushed plan that fundamentally alters the way the Department of Defense interacts with its civilian employees.

Mr. KIND. Mr. Chairman, as we were reminded last week with the triple bombing in Saudi Arabia, international terrorism still threatens our world. Currently we have troops around the world fighting in the global war against terrorism, and it is important that we make sure they have the resources to prevail.

The United States has the best trained, best equipped fighting force in the world, and the legislation today seeks to ensure America's military supremacy in the future. It provides for a sizable procurement agenda allowing the United States to stay at the cutting edge of technology. It also provides a 4.1 percent pay increase for our deserving military personnel who sacrifice to ensure the security of America, most recently in dangerous battlegrounds in Afghanistan and Iraq.

Further, this bill reduces housing expenses for service members, contains new benefits for reservists, and authorizes $35 million for the Impact Aid program that serves school districts with high numbers of military children. H.R. 1588 also moves forward new weapons programs critical to meet 21st century challenges, as well as funds important for non-proliferation and weapons of mass destruction security activities in Russia and other nations.

In past years, defense authorization bills have generally been approved with wide bipartisan support. And while most provisions of the legislation in front of us today are necessary and widely supported, the majority party and the administration have decided to include a few highly controversial riders that need to be addressed. Under the rules of debate set up by the majority party, however, we will not have an opportunity to debate and attempt to amend provisions that strip civil services protections for 700,000 Federal employees, unnecessarily discard environmental regulations and hinder nuclear nonproliferation efforts. These provisions do not serve to enhance the security of our Nation, and at the very least, deserve to be thoroughly considered by Congress with input from the public.

In the name of transformation, the administration has proposed eliminating civil service protections of the 700,000 civilians working in the Department of Defense. This unprecedented proposal stabs at the heart of our Federal civil service which has been crafted over decades based on concerns and needs of employees and the federal government to protect federal employees from political pressure and favoritism. Most offensive, however, is the arrogance of the administration in seeking to remove the civil service protections from dedicated employees without consulting with Congress or employee representatives on a replacement plan. In fact, the General Accounting Office (GAO) notes that the Department of Defense (DOD) does not have a good track record on working with employee representatives, raising additional concerns that the needs of employees will not be considered as a new personnel plan is formulated.

I was pleased that the Government Reform Committee stepped in to curtail the administration's proposal; however, the language passed by that committee and included in the legislation before us still fails to adequately protect our federal employees in areas such as due process, appeal, and collective bargaining rights. In addition, it grants the Secretary of Defense, and all future Secretaries of Defense, wide latitude in making sweeping, and potentially politically motivated, personnel changes without respect to the needs of the employees. The GAO, does not find adequate justification for these personnel proposals considering the enormous impact they will have on the Federal workforce.

The Bush administration has been attacking civil service rights since day one, regardless of whether any new proposal will be good for employees or good for the federal government. While it is important that we update Federal Government personnel systems to ensure our Federal workforce is modeled to meet the challenges of today and the future, this must be done in a systematic and inclusive manner based on sound principles, innovation, and experience. An amendment drafted by Mr. Cooper would have removed these provisions dismantling the civil service system, and allow Congress to thoroughly weigh the need for flexibility in personnel management with the needs of the Federal workforce. However, the majority has refused to allow debate or consideration on this amendment.

Another area of concern is the exemption from environmental regulations being sought by the administration and included in this bill. While it is understandable that the Defense Department must have the ability to properly train our soldiers, sailors, airmen, and Marines in realistic combat conditions, the necessity of exempting 25 million acres of land at the more than 425 installation nationwide from the Resource Conservation and Recovery Act, Clean Air Act, Superfund, Endangered Species Act, and Marine Mammal Protection Act has not been proven. Again, the GAO has found that training readiness remains high at most military installations.

DOD currently has the ability to seek national security and military training exemptions in federal environmental law to address encroachment concerns. However, as we debated in the House Resources Committee two weeks ago, DOD has never sought an exemption from the Endangered Species Act or Marine Mammal Protection Act. Exempting the DOD from these proven environmental laws is simply not necessary to ensure the best training of our troops and will harm the tremendous progress made in protecting important species for future generations. An amendment drafted by the ranking member of the House Resources, Mr. RAHALL, would have removed this unnecessary exemption. Again, however, the majority has refused to allow consideration of this important amendment.

While current times call for increased attention to national security, it is also important that Congress make responsible funding decisions and dedicate limited resources to defense projects needed for our security in the 21st century. I have consistently criticized the hurried efforts of the administration to develop a ballistic missile defense system that is questioned by most experts and will post enormous costs to the taxpayers. Formidable technical challenges plague the proposed missile defense program in which every component is behind schedule, over budget, and unable to perform its mission. Yet, the administration's answer is to exempt the program from accountability requirements and increase funding. The legislation in front of us contains $9.1 billion for the ballistic missile defense program, which is a 17 percent increase over last year's level, and five times the amount spent on proven nuclear non-proliferation efforts. This is a perfect example of how Congress must better prioritize the national security threats, and work to reduce funding for ineffective and obsolete programs.

In conclusion, Mr. Chairman, we need to continue to fund a strong national defense to meet the emerging challenges of tomorrow but at the same time highlight the deficiencies in the majority's proposal. We are doing well, but we can do better. For this reason, I urge my colleagues to oppose the majority's rule for debate that denies us the opportunity to consider amendments to remove the sweeping personnel and environmental revisions of this bill.

Currently our nation is under a “Code Orange” homeland security alert, meaning that the risk of a terrorist attack on our nation is high. The tireless work of our soldiers, sailors, airmen, and Marines, along with other security and intelligence officials, have protected the American people from further devastating terrorist attacks, and we need to make sure they have the resources they need to do their job. If we can remove the detrimental provisions from this legislation, we will certainly be able to pass a truly effective and bipartisan bill.

Mr. NUSSLE. Mr. Chairman, I rise today in support of H.R. 1588, the National Defense Authorization Act for fiscal year 2004. The authorizations of appropriations in this important piece of legislation are consistent with the levels established in H. Con. Res. 95, the Congressional Budget Resolution. On April 11, this body passed a conference report that made available the budgetary resources for our most urgent constitutional responsibility—the common defense. We provided $400.6 billion in budget authority for national defense.

The principal reason for these considerable budget resources is, of course, Congress's unwavering commitment to win the war against terrorism. But in addition to combating terrorism, we provided a blueprint in the resolution to give service members a pay raise averaging 4.1 percent, increased housing allowances, and increased incentive pay. Consistent with the resolution, the bill we are considering today also contains levels of weapons procurement not seen since the Reagan administration, and the largest amount ever for research and development.

This bill improves our national security by striking a balance between modernizing existing forces and investing in transformational capabilities. U.S. forces have seen nearly every type of conflict in recent months, from air campaigns and armored warfare, to special operations and urban street combat. They have fought terrorists and irregular forces while conducting psychological warfare and other convert operations. H.R. 1588 draws on the “lessons learned” from those conflicts.

The budget resolution also provided an allocation of $70 million so that proceeds from Post Exchanges and other facilities on closed bases can be re-applied without an appropriation. H.R. 1588 would codify that in law.

I will note that H.R. 1588 contains a provision affecting the Pentagon's Military Housing Privatization Initiative. There were some technical problems because the Congressional Budget Office has recently reconsidered its scoring rules for activities involving loans, loan guarantees, and other ways the government encourages private sector participation in military housing projects. But working together, the Armed Services and Budget Committees have achieved an agreement that allows this program to be appropriately reflected in the budget. I am pleased that we were able to resolve this issue in a spirit of cooperation.

Several provisions of this bill directly affect thousands of my constituents who work at the Rock Island Arsenal in the Quad Cities in Eastern Iowa. Funding for the Army's Future Combat Systems program, increased funding for replenishing of munitions stocks, and overall spending levels will enhance the ability of these workers to continue their very important job. The employees of the Rock Island Arsenal do a superb job of equipping the world's best Army, and this bill reflects Congress's continued commitment to those workers.

With that I express my support for H.R. 1588.

Mr. FARR. Mr. Chairman, earlier in the year, Department of Defense (DOD) approached Congress with a request to exempt itself from several fundamental environmental laws in order to strengthen military readiness. At the time this request shocked most of us, because the readiness of our military is the best in the world but that the state of some of our natural resources are not. Things went from bad to worse when the House Armed Services Committee reported out a bill that went way above and beyond what DOD had originally asked for.

H.R. 1588, the fiscal year 2004 defense authorization bill, contains provisions that fundamentally change the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA), two major pieces of legislation that directly affect my home district in California. There are many species listed under ESA in my home district. These include the California condor, which has been through an intense reestablishment program, the San Joaquin Kit Fox that lives on Fort Hunter Liggett, steelhead trout that breed in our rivers and streams, and the snowy plover which nests on our beaches.

The continued existence of many of these species relies on the designation of “critical habitat,” which is basically the homes and breeding grounds that are necessary for their survival. For example, the Santa Cruz long-toed salamander has only six breeding ponds on which the whole species depends. Without the designation of these breeding ponds as critical habitat, the salamander would be left without a vehicle for bringing them back from the brink of extinction.

This bill aims to make critical habitat designation only when it is “necessary” and not when its “prudent and determinable” as the law currently states. I ask you when would it be “necessary” to designate critical habitat? I'm not sure because “necessary” is not defined in the bill. So basically, the Secretary of the Interior and the Secretary of Commerce would be able to make a decision with no set criteria. The Bush Administration has clearly stated its belief that critical habitat provides no protection, and as such this provision could result in many species without homes and breeding areas such that the Santa Cruz long-toed salamander would have no ponds, the snowy plover would have no open beaches, and the marbled murrelet would have no trees.

H.R. 1588 not only guts ESA, but it also puts whales and dolphins in jeopardy by changing the Marine Mammal Protection Act.

The intent of the MMPA is to prohibit the “harassment” of marine mammals. The language in H.R. 1588 weakens the definition of “harassment” not just for DOD related activities but also for all people who use our oceans and coasts. The waters of Monterey Bay in my home district are home to sea otters, sea lions and harbor seals and serve as a migratory route for majestic humpback and blue whales. These animals are important economic resources because people visit my district to see them. Likewise, people travel to see the orcas in the waters of Puget Sound, Washington, the whales in the Gulf of Maine, and the manatees along the coast of Florida.

Current MMPA language aims to protect these animals from being harassed, from being injured, and from being killed. But H.R. 1588 drastically weakens this protection and would allow an increasing number of harmful interactions such as: oil and gas exploration and high intensity sonar testing. Such increased harassment and harm to marine mammals would go largely unchecked by wildlife agencies and left unmonitored and unmitigated.

Struggling sea otters are currently dying at record levels in the State of California. They are listed both under ESA and MMPA. Our sea otters need these laws to protect what's left of their population; without them they will go extinct in California.

Consideration of fundamental changes to these laws should be taken up during re-authorization of ESA and MMPA when there is ample time for hearings and discussion, and not under the guise of national security.

Mr. KLECZKA. Mr. Chairman, we are not currently at war with another nation and the Cold War has been over for more than a decade. But we alone already spend more on our military than the 21 countries with the next largest defense budgets combined. Our military spending is greater than the total defense budgets, added together, of Russia, China, Japan, the United Kingdom, France, Germany, Saudi Arabia, Italy, India, South Korea, Brazil, Taiwan, Israel, Spain, Australia, Canada, Netherlands, Turkey, Mexico, Kuwait, and the Ukraine.

Nonetheless, before us today is a bill, H.R. 1588, FY04 Defense Authorization, that would authorize an increase of $7.6 billion for a total defense budget of $400.5 billion, the highest in this country's history.

This legislation authorizes $3.5 billion for the F–22 Raptor, an air superiority fighter designed to fight the Soviet Union. This program has seen continual cost overruns and encountered technical problems, and now represents the most costly jet fighter ever built. However, the other fighters that the F–22 is designed to replace continue to perform admirably and the only countries that possess aircraft that even come close to parity with our existing fighters are our allies in NATO, as well as Russia. Given this program's troubled history, it is likely to balloon in cost even more, and is hardly a bargain for our military and taxpayers.

Likewise, the "Star Wars" missile defense program also receives a huge boost in this measure, increasing by 17 percent over last year to a total of $9.1 billion. Despite massive spending since the 1980s on this program, a working system has yet to be produced. Furthermore, we live in an age in which those wishing to do us harm would be more likely to smuggle a nuclear device into our country through a port where overworked customs inspectors rarely examine the bulk of arriving cargo. Firing a ballistic missile at the United States is suicide, and any potential enemies know it.

The defense authorization measure would also unnecessarily circumvent important environmental laws like the Endangered Species Act (ESA). The Department of Defense (DoD) has control over 25 million acres of land that provide habitats for over 300 endangered and threatened species, and portions of this land have been designated for special protection in recognition of the endangered wildlife present. Under the ESA, the DoD works with environmental agencies to provide protection for these species that live within the boundaries of military installations.

The bill before us allows DoD to avoid its obligations under the ESA by filing alternative resources management plans. Concerns have already been raised that such plans may be inadequate to protect endangered species, and as a result are currently the subject of court challenges.

The bill's sponsors claim that this new provision is necessary to ensure that training is not affected. However, a General Accounting Office (GAO) report last year found no evidence to support the contention that critical habitat designations conflict with military training or other activities. And even if such conflicts were to arise, the Pentagon is already able to obtain national security exemptions from the ESA critical habitat conservation measures. No Secretary of Defense has ever requested such an exemption in the 30 years the law has been in effect. The ESA provision has no place being included in this defense legislation.

Lastly, this bill allows DoD to scrap the civil service procedures currently in place to safeguard the rights of 700,000 of its civilian employees. The legislation would allow managers, including Administration political appointees, to change the existing pay scale, the appeals process for employees that disagree with decisions related to their employment, and the right to join a union in some cases.

While the Administration claims that it wants these provisions in order to institute more flexible, performance-based pay and personnel policies, last month the GAO's Comptroller General warned that "moving too quickly or prematurely at DoD or elsewhere can significantly raise the risk of doing it wrong . . ." The GAO testified that such changes would first require having a "credible . . . validated performance management system in place with adequate safeguards, including reasonable transparency and appropriate accountability mechanisms to ensure fairness and prevent politicization and abuse."

GAO said the DoD does not have these safeguards, transparency, or accountability in place. We should not rush to rubber stamp an Administration plan that could lead to favoritism, appointment of political cronies, or discrimination in hiring, tenure, promotion, or other conditions of employment due to an employee's political opinions or affiliation.

The defense of our nation is a critical issue to which every Member is committed, and I certainly support increasing military pay, providing quality health care for those who serve and their families, and funding necessary modernization priorities.

But this bill contains unnecessary weakening of environmental laws and elimination of worker civil service protections while providing an increase to a military budget besides which already far outpaces all other allies and potential enemies. It would make move to devote increased resources to homeland security to prevent future terrorist attacks than spend more money on weapons systems that are designed to fight Cold War adversaries that no longer exist.

Therefore, I must regretfully cast my vote against this legislation.

Mr. TOWNS. Mr. Chairman, I rise in opposition to the rule for H.R. 1588, the National Defense Authorization bill.

In one swift act, this bill would make sweeping changes to the civil service system that has served its employees and our nation well for 100 years. The recent quick and decisive action by our armed services in Iraq demonstrated that the current civil service system has not harmed our military's effectiveness. I strongly believe that our DOD civilian employees deserve all of the same protections that workers in other agencies enjoy.

Even if some of these ideas had merit, which they clearly do not, DOD is not ready to implement such a major personnel change without first making critical management reforms. In a hearing on April 8, Comptroller General David Walker said that although DOD may get an "A" for fighting and winning armed conflicts, it receives a "D" for its management practices. Previously, the Comptroller General described the financial management problems at DOD as "pervasive, complex, long-standing, and deeply rooted in virtually all business operations throughout the department." This does not sound like an agency that is ready for wholesale changes to its personnel system. The GAO has also noted repeatedly that agency-wide, the entire government does not have the systems in place to implement meaningful performance-based pay that this bill would enact as well.

Although civil service reform may warrant consideration, all of the nonpartisan, credible information indicates that this bill goes way too far and that the DOD is not ready to effectively make such changes.

This rule did not allow our side to offer an amendment that would help address the shortcoming in the civil service section of the bill. So I urge the defeat of this unfair and poorly crafted rule.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in opposition to H.R. 1588. This bill allows the Department of Defense to severely alter the current civil service system, to trample over environmental laws, and to develop more nuclear weapons while providing more money to the DOD, despite the fact that it still cannot pass an audit. It strips away the fundamental rights from almost 700,000 civilian employees at the Department of Defense (DOD). These rights include collective bargaining, due process and appeal rights, and the congressionally passed annual pay raise. This bill also exempts the Department of Defense from public health and environmental laws, dramatically weakening protections for marine mammals and endangered species and undermining the role of states that administer pollution control laws. Finally, this bill promotes unnecessary irresponsible funding for the development of more nuclear weapons such as the infamous "bunker buster", and authorizes over $9 billion for ballistic missile defense programs—a program that will not work.

I also want to mention my support of the Sanchez amendment, which simply gives American women overseas the same legal abortion rights they would receive if they were home. The current ban on abortions at overseas U.S. military facilities denies women who have volunteered to serve this country a right they would ordinarily have if they were not overseas. This sends the wrong message to women who believe in the freedoms for which this country stands and want to serve this country to preserve those freedoms.

H.R. 1588 will authorize over $400 billion to the Department of Defense, $20.6 billion more than the President's budget request for FY2004. U.S. taxpayers will pay $15.7 billion for nuclear weapons in FY2004. For that same amount of money, we could have provided health care to 2,803,167 more people, including 132,473 in my home state of Illinois.

I support efforts to provide our military with the necessary funding needed to defend our country and to increase the salaries of our men and women in the Armed Forces but I am not willing to compromise the environment, workers' rights, and domestic priorities, such as education and health care, to achieve this goal. I urge my colleagues to vote against this bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to begin by saying that I opposed the war in Iraq. I support the brave men and women who sacrificed their lives and safety to fight in Operation Iraqi Freedom, but I feel that war should always be the last option.

While I opposed the war in Iraq, at the same time I recognize that it is important to ensure our national security. It is important for us to strike a balance: protect our national security but not rush to engage in war.

Our ongoing fight against terrorism makes it more difficult to strike this balance. The world has watched in horror as suicide bombings orchestrated by terrorist groups have ravaged countries overseas. There have been nine suicide bombing attacks in Saudi Arabia in the last few weeks. Twenty-five innocent victims lost their lives including eight U.S. citizens.

There have been thirteen suicide bombing attacks in Morocco that killed 28 people. The al-Queda terrorist network is suspected in many of the bombings. The FBI has announced that the bombings abroad may be a prelude to attacks on American soil. As a result the Department of Homeland Security recently elevated the terrorist threat level to "High."

The fight against terrorism and the labor to protect our national security is multifaceted. Part of protecting our national security is protecting those who secure our nation. The individuals include America's many veterans and also the troops returning to the United States from Operation Iraqi Freedom. It is critical that H.R. 1588, have sufficient fund allocations for programs for our veterans and troops from Iraqi freedom, as well as other valuable programs.

I have proposed an amendment to H.R. 1588 to direct the Secretary of the Department of Defense to study the feasibility of using small, minority, and women-owned businesses in the efforts to rebuild Iraq. During the course of cooperative discussions with the leadership of the House of Representatives' Armed Services Committee, it was agreed that the language of my amendment would better serve the needs of the small, minority, and women-owned business community if there were revisions.

My revised amendment would read, "The Secretary of Defense shall ensure that outreach procedures are in place to provide information to small business, minority-owned businesses, and women-owned businesses regarding Department of Defense requirements and contract opportunities for the rebuilding of Iraq.

Both the Majority and Minority Party leadership agreed to work in conference to include the revised language in the final passage of the bill. This is a better foundation of the language of the amendment, and it protects small, minority, and women-owned businesses from unnecessary delay. In fact, the Leadership of the Armed Services Committee agreed to work "robustly" in conference, and with me to ensure that this amendment language is in the final version of H.R. 1588, and also to ensure that small, minority, and women-owned business participate fully in rebuilding Iraq.

The adoption of my amendment coupled with the support of the leadership of the Armed Services Committee will give me the power to insist that the Department of Defense use small, minority, and women-owned businesses in the efforts to rebuild Iraq. This valuable program must be followed-up, and followed through. It is because of amendments to H.R. 1588 that I support the bill.

The sections of H.R. 1588 that I am concerned with deal with funding the production of weapons. Under H.R. 1588, the Army is appropriated $1,594,622,000 for missiles, the Navy and Marine Corps are appropriated $2,529,821,000 for missiles and torpedoes, and the Air Force is appropriated $4,348,039,000 for missiles.

I am absolutely opposed to missile defense and nuclear weapons expenditures. Missiles are inherently dangerous and are an outdated weapon in our armed services' arsenal. Take for example the missile known as the cluster bomb. Cluster bombs are designed to hit their target and disperse sub-munitions, also called "grenades" in surface-delivered weapons and "bomblets" in air-delivered weapons, over a large area, thereby increasing the radius of destructive effect over a target. Typically cluster bombs are used by U.S. Forces on troop concentrations, airfields, and air defense units.

Many human rights organizations have called to an end to the use of cluster bombs. For example, Human Rights Watch has called for a global moratorium on use of cluster bombs because they have been shown to cause unacceptable civilian casualties both during and after conflict. Cluster bombs have wide dispersal pattern and cannot be targeted precisely, making them especially dangerous when used near civilian areas. Cluster bombs are usually used in very large numbers and have a high initial failure rate which results in numerous explosive "duds" that pose the same post-conflict problem as antipersonnel landmines. Equally important, the duds pose a threat to American troops canvassing the area of attack.

Expending hundreds of millions of dollars on missile programs that are dangerous to civilian populations and to American troops is a poor use of Department of Defense Funds. In light of the housing, unemployment, education, and health care crisis America is presently faced with I cannot condone expending such exorbitant sums of money on missiles.

Furthermore, H.R. 1588 is completely lacking in peace-keeping provisions. The Department of Defense is as responsible for promoting peace around the world as they are waging war around the world. This Chamber should demand the Department of Defense allocate more funds toward the peace-keeping mission.

The need for peace and the fears and concerns about terrorism show that it is of critical importance that we fully support and fund the operations and programs of the Department of Defense. The Department of Defense Reauthorization bill that we are considering today is a comprehensive authorization that covers many Department of Defense programs that benefit military personnel.

The most important element of our Armed Forces is the personnel. H.R. 1588 contains numerous valuable provisions that benefit the brave men and women who serve in our armed forces. H.R. 1588 retains health professionals to fulfill active-duty service commitments, increases the flexibility for voluntary retirement for military officers, and simplifies the annual participation requirements for the Ready Reserves.

H.R. 1588 also makes valuable changes to the Education and Training Programs of the Department of Defense. The bill creates a masters of operational studies degree for the Marine Corps University, expands education assistance authority for cadets and midshipmen, increase in allocation of scholarships under the Army Reserve ROTC scholarship program, and inclusion of accrued interest may be repaid under Selected Reserve critical specialities education loan repayment program.

H.R. 1588 also improves the benefit program by adding more classes of individuals to participate in the Federal long-term care insurance program. Increases assistance to local educational agencies that benefit dependents of the Armed Forces and DoD civilian employees. Other provisions of H.R. 1588, improve the DoD Health care provisions by making improvement to the chiropractic, medical, and dental programs.

I support the provisions of H.R. 1588 that are beneficial to the brave men and women of our Armed Forces. However, I oppose the provisions of H.R. 1588 that fund missiles, and I am disappointed that the bill does not contain more peace keeping measures. Therefore, Mr. Chairman, I support H.R. 1588 with some reservations.

Mr. HOLT. Mr. Chairman, Democrats and Republicans in recent years have recognized the rapidly-changing security challenges that confront our Nation and come together to address them. That is why much of this bill is non-controversial. In particular, we are united since the terrorist attacks of September 11, 2001 in supporting the increased investments needed to strengthen our common defense and to effectively prosecute the war against terrorism.

Let me begin by stating that there is no higher test for this bill, in my estimation, than how it treats the brave men and women who risk their lives every day to defend our freedom. By that standard, I am pleased by the provisions that continue our shared commitment to boost the income for all of our military personnel with a 4.1 percent average increase in base pay. It also extends several special pay provisions and bonuses for active duty personnel through December 31, 2004, including the enlistment and re-enlistment bonus. Furthermore, it calls for reducing the average amount of housing expenses paid by service members from 7.5 percent to 3.5 percent in FY 2004 and eliminates the out-of-pocket expense completely by FY 2005.

But on balance, I am opposing this bill on final passage because I fundamentally disagree with key aspects of its policy presumptions and prescriptions. It will make America less safe.

First and most importantly, the growing reliance upon nuclear weapons that this bill encourages makes our Nation and the world less safe, not more so. Accordingly, I strongly disagree with the funding in this bill to continue work on high-yield, burrowing nuclear "bunker-busters" that target underground military facilities or arsenals. I am equally opposed to the language in this bill that lifts the ban on research leading to low yield "mini-nuclear weapons" of 5 kilotons or less.

Last month, I sent a letter to President Bush that was co-signed by 34 of my colleagues to convey our grave concern that he is weakening long-standing U.S. policy governing the use of nuclear as opposed to conventional weapons. That action coupled with the examples I've cited and other provisions in this bill further undermine the U.S. non-proliferation efforts of Republican and Democratic Presidents alike and heighten growing international fear that Bush Administration's policies are fueling a new nuclear arms race.

Second, I am opposed to the blanket exemptions from our Nation's environmental protection laws for the Pentagon in this bill. There is no convincing evidence that environmental laws like the Clean Air Act and the Endangered Species Act hinder our military's capacity to defend our Nation.

But you don't have to take my word for it. The out-going EPA Administrator, Christine Whitman, has testified to the Congress that she does not "believe that there is a training mission anywhere in the country that is being held up or not taking place because of environmental protection." Furthermore, the U.S. General Accounting Office (GAO) has reported to the Congress that the Pentagon has failed to produce any evidence that environmental laws have significantly affected our military readiness.

I do not think the Pentagon or any other federal agency should be above the law. Moreover, current law already allows case-by-case environmental exemptions for the Pentagon, when they are determined to be in the national interest.

Finally, this bill also contains provisions that will be very harmful to hundreds of thousands of dedicated civilian men and women who make our Defense Department work.

Last year saw the largest government reorganization in more than three decades with the creation of the U.S. Department of Homeland Security, affecting 170,000 federal employees. Following extensive congressional debate, Secretary Ridge was granted authority to establish a more flexible agency that attempted to protect basic worker rights.

But this bill will give Defense Secretary Rumsfeld broad authority to rollback worker protections for hundreds of thousands of Pentagon employees. There will be nothing to prevent agency managers from abusing their power for political advancement or engaging in discriminatory practices. Allowing managers the ability to waive such protections under the guise of national security and the need for greater flexibility is wrong. It will not make us safer.

At the same time that the Pentagon seeks to do away with its current personnel system in this bill, Secretary Rumsfeld has not offered a serious alternative to replace it. Instead, he has simply requested a blank check to undo, in whole or in part, many of the civil service laws and protections that have been in place for nearly a century to safeguard against the return of an unfair patronage system.

I want to be very clear. I support a strong national defense. I support modernizing our military. I support giving our troops the resources and training they need to keep our nation secure. But I cannot support a bill that contains provisions that will take our military backwards, rather than forwards. I cannot support a bill that will re-ignite a global nuclear arms race, even as we go to war to stop the spread of nuclear weapons abroad! I cannot support a bill that takes away the rights of hundreds of thousands of hard-working Pentagon employees. Finally, I cannot support a bill that disingenuously claims that stripping away important environmental protections will somehow bolster our national security.

Ms. KILPATRICK. Mr. Chairman, I rise in opposition to the bill, H.R. 1588. If this were a straightforward Defense Authorization bill, it would have my support, but the provisions contained in this legislation go far beyond the scope of the Pentagon and the great men and women who grace our uniformed services.

This bill has become a Trojan Horse. The Defense bill is being used as a legislative vehicle by which the President, the Secretary of Defense and a complaint majority in this chamber can rewrite the rules that conserve our land and wildlife resources.

This bill is not about providing for the health and welfare of our armed services, or taking care of military needs at home and abroad, or about advancing our military capabilities. The underlying bill contained a major rewrite of the Endangered Species Act (ESA) and the Marine Mammal Protection Act that goes far beyond what the military needs or requested. The Endangered Species Act specifically allows the Secretary of Defense to waive requirements for purposes of advancing our national security. In other words, the Secretary has waiver authority under present law.

But for reasons that are beyond me, the Secretary of Defense wants broader exemptions than are found in current law. For example, the bill weakens "critical habitat" designation requirements to such an extent that they are only done on a discretionary basis. These changes to our national environmental laws are being railroaded without consideration of a full debate and without an opportunity to consider a more sensible alternative. The majority, in its rush to pass bad legislation, has denied the opportunity for Members to consider an alternative environmental provision authored by my fellow colleague from Michigan, Mr. DINGELL, and the distinguished gentleman from West Virginia, Mr. RAHALL. The majority has denied us a right to discuss this important issue and the right to offer amendments.

Mr. Chairman, given the tilted playing field on which H.R. 1588 is being considered, I regret that I must vote against final passage.

Before closing, I want to pay a salute to the men and women of our armed forces and thank them for a job well done and for the sacrifices they are making to protect our Nation. As I recall the swiftness with which they marched into Baghdad, I am puzzled at the implication of some that our present environmental laws and regulations impaired their military readiness. I am convinced that our military is well prepared, and am equally convinced that they can maintain a high standard of readiness under existing environmental laws.

The CHAIRMAN pro tempore. There being no further amendments in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. HASTINGS of Washington, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths through fiscal year 2004, and for other purposes, pursuant to House Resolution 247, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. COOPER

Mr. COOPER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. COOPER. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COOPER moves to recommit the bill H.R. 1588 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendments:

In section 9902 of title 5, United States Code (as proposed to be added by section 1111 of the bill), after subsection (b) (page 353, after line 12) insert the following new subsection:

"(c) EMPLOYEE BILL OF RIGHTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) the Department of Defense should have flexibilities in personnel decisions, including pay and promotion, in order to provide the strongest possible national defense; and

"(B) the Department of Defense should protect fundamental civil service protections of civilian employees at the Department.

"(2) CIVIL SERVICE PROTECTIONS.—

"(A) The right of an employee to receive a veterans preference in hiring and a reduction in force, as in effect on the date of the enactment of this subsection, shall not be abridged.

"(B) An employee shall have the right to be free from favoritism, nepotism, or discrimination in connection with hiring, tenure, promotion, or other conditions of employment due to the employee's political opinion or affiliation.

"(C) The Secretary shall not refuse to bargain in good faith with a labor organization, except as provided in section 9902(f) (relating to bargaining at the national rather than local level), and shall submit negotiation impasses to—

"(i) an impartial panel; or

"(ii) an alternative dispute resolution procedure agreed upon by the parties;

"(D) An employee shall have the right to full and fair compensation for overtime, other time worked that is not part of a regular workweek schedule, and pay for hazardous work assignments.

"(E) An employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Such right includes the right to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

“(F) An employee against whom removal or suspension for more than 14 days is proposed shall have a right to—

“(i) reasonable advance notice stating specific reasons for the proposed action, unless there is reasonable cause to believe that such employee has committed a crime or immediate action is necessary in the interests of national security;

“(ii) reasonable time to answer orally or in writing; and

“(iii) representation by an attorney or other representative.

“(G) An employee shall have a right to appeal actions involving alleged discrimination to the Equal Employment Opportunity Commission.

(H) An employee shall have a right to back pay and attorney fees if the employee is the prevailing party in an appeal of a removal or suspension.

Page 359, line 5, insert “and” after “Secretary;”.

Page 359, line 8, strike “; and” and insert a period.

Page 359, strike lines 9 through 12.

Mr. COOPER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COOPER) is recognized for 5 minutes in support of his motion to recommit.

Mr. COOPER. Mr. Speaker, this is the amendment that was banned in Washington. This is the amendment that Republican leadership does not want us to vote on. Why? They are afraid Members will like it. They are afraid it will pass. They are afraid that the real majority in this great House of Representatives, common sense, the Democrats and Republicans working together, will like what is in this amendment.

That is why the Committee on Rules did not allow it to be considered in either rule, and that is why the chairman of the Committee on Armed Services did not allow an amendment like this to be put before the Committee on Armed Services.

What is in the Cooper-Davis-Van Hollen amendment that makes it so controversial? Members will be surprised when they read it. There are copies at the desk.

It is a relatively simple three-page DOD civilian bill of rights. No new rights are extended. All we are trying to do is to make sure, to make absolutely sure, that existing civilian employees' rights are preserved.

Let me read section A. The right of an employee to receive a veterans preference in hiring and reduction in force shall not be abridged.

Who in this House is against that?

An employee shall have the right to be free from favoritism, nepotism, or discrimination.

Who in this House is against that?

The Secretary shall not refuse to bargain in good faith with a labor organization.

Who in this House is against that?

The Secretary shall submit negotiating impasses to an impartial panel.

Who in this House is against that?

An employee shall have the right to full and fair compensation for overtime and pay for hazardous duty work.

Who in this House is against that?

An employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal.

Who is against that in this House?

Such right includes the right to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

Who in this House is against that?

There are simple, basic, due process and appeal rights that these employees have today that you are about to take away unless Members vote for the motion to recommit. These rights include freedom from racial discrimination, so these people have a chance to take their case to the EEOC.

Many on the other side of the aisle will say these rights are already in the bill. If that is true, if that is true, they should welcome this motion to recommit and vote for it. If they are believing their own speeches, they should vote for this motion to recommit, because it will not kill this bill. It will not even delay this bill a microsecond. All it will do is safeguard the rights of DOD employees.

This is the only chance Members will have in this long debate to help these employees. The next time Members visit a military base, the next time a DOD employee or family member appears at a gathering, they are going to ask Members what they did or did not do to help them. They are going to ask us why the Senate helped them and you did not. Because the other body is treating these people in a much fairer manner.

☐ 1900

You do not want to tell these 750,000 patriotic families that you do not have time or the interest to consider preserving their existing rights. So now is your chance, your only chance to help these people, 65 of whom died on September 11 when the terrorists attacked the Pentagon, people who are part of the best employee workforce in the history of the Pentagon.

Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, over a hundred years ago Republicans and Democrats came together to prevent and preclude and to eliminate a politicized patronage system that was sucking down the quality of public service. What the amendment says is that we will not return to that kind of a system. I agree with the gentleman. If your bill does not do that, this motion to recommit does not harm it. If there is a chance that it does, it precludes it and protects it against a politicized civil service system. Vote for this motion to recommit.

Mr. HUNTER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. HUNTER) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Speaker, this amendment was offered and rejected in the Committee on Government Reform.

The gentleman is right, it was 100 years ago; and today we are in an information age when terrorists move information at the speed of an e-mail, money at the speed of a wire transfer, and people at the speed of a commercial jet liner. But the Department of Defense is still bogged down in bureaucratic processes in an industrial age that goes back 100 years.

Now, we preserve the rights the gentleman talked about, and he alluded to the fact, I am holding up the bill and ask you to read these. This section 9902 has 10 pages of fundamental employee protections. We include Chapters 33 and 35 of title V, which cover veterans' preferences with nonwaivable chapters.

The NSPS strictly forbids political patronage and mandates that the Department comply with all existing civil service protections, sex, age, race discrimination. That is in section 2301 and section 2302 of title V.

Nepotism protections, section 2302, are not waived. They remain in this legislation.

The amendment would require employees to be able to collectively bargain. The legislation at 9902 specifically says that employees may organize, bargain collectively, and participate through labor organizations of their own choosing. And section 9902, the gentleman from New York (Mr. MCHUGH) offered an amendment in committee that sets up an independent employee review panel appointed by the President, not the Secretary of Defense. The McHugh amendment took care of that problem.

These flexibilities are less in most cases than what we just gave the Department of Homeland Security less than a year ago and which dozens of other government departments have.

We need to understand that. And they are based on the experience of nine pilot programs and 40,000 employees who have voted, in many cases against the union bosses who oppose them, to continue these kinds of reforms.

Let us take the civil service into the 21st century, and let us pay our employees what they are worth.

The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) has 3 minutes remaining.

Mr. HUNTER. Mr. Speaker, the gentleman is absolutely right when he went over the litany of rights and protections that are in this bill. And we had a 25-hour mark up in which members on the Committee on Armed Services had lots of time, Democrat and Republican, to look at this bill. And let me just say, this bill passed 58 to 2 out of the Committee on Armed Services. And I think if folks really thought that this totally stripped due process away from 700,000 Americans, they would not have voted for that. And it does not strip away due process.

You know something, we are asking the Secretary of Defense to rebuild a system, and I think it is a system that is going to end up employing more people in the civil service because those 300,000 people in uniform who are doing the job now, because of bureaucracy, it is too tough to get through to appoint a civil servant, so it is easier to tell a sergeant, Sergeant, you go to it. The sergeant salutes, he goes and does it, and a civil service job is taken away.

This is going to be a great new reform package.

Now, let us get to the big picture. Just a couple of weeks ago American military folks, people coming from the air and the great Air Force, people projecting power from the sea in our Navy, people making combined arms operations with the Marines and the Army, people parachuting in with the 173rd Airborne coming into northern Iraq, the Third Armored Division moving up like a spear point up through the throat of Iraq going straight to Saddam Hussein's hideout, the great First Marine Division, the First Cav., all those Special Operators, those Special Forces, all the great men and women who supported this operation, went out and took what this Congress has given them over the last many years in terms of equipment and training and they carried out America's foreign policy, and they fought for freedom and they did a great job.

This bill does our job. It replaces that equipment. It raises that pay of 4.1 percent average across the board. It helps us to fight the battle of today if we have to engage by bolstering heavy armor and bringing in new precision-guided munitions; and it also looks over the horizon to the battle we might have to fight tomorrow.

Those great men and women in uniform did their job. This bill is our job. Please vote down the motion to recommit, and let us pass this bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Mr. COOPER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 204, noes 224, not voting 6, as follows:

[Roll No. 220]

### AYES—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—6

Bonilla
Combest
Doolittle
Emerson
Gephardt
Greenwood

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Two minutes remain to vote.

□ 1923

Mr. HALL changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 361, noes 68, not voting 5, as follows:

[Roll No. 221]

AYES—361

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—68

Baird
Baldwin
Ballance
Becerra
Blumenauer
Brown (OH)
Capps
Capuano
Case
Clay
Conyers
Crowley
Davis (IL)
DeFazio
DeGette
Delahunt
Dingell
Doggett
Eshoo
Farr
Fattah
Filner
Frank (MA)
Grijalva
Hinchey
Holt
Honda
Jackson (IL)
Kanjorski
Kilpatrick
Kleczka
Kucinich
Larson (CT)
Lee
Lewis (GA)
Lofgren
Markey
McCollum
McDermott
McGovern
Miller, George
Nadler
Oberstar
Obey
Olver
Owens
Paul
Payne
Rush
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Serrano
Solis
Stark
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu

NOT VOTING—5

Bonilla
Combest
Doolittle
Emerson
Gephardt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain to vote.

□ 1931

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes".

A motion to reconsider was laid on the table.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1588, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

## GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1588, the bill just passed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from California?

There was no objection.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the amendment of the House to the resolution (S. Con. Res. 46) "Concurrent resolution to correct the enrollment of H.R. 1298.".

## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

Ms. DUNN. Mr. Speaker, pursuant to House Resolution 248, I call up the bill (H.R. 2185) to extend the Temporary Extended Unemployment Compensation Act of 2002, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 2185 is as follows:

H.R. 2185

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Unemployment Compensation Amendments of 2003".

**SEC. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.**

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking “before June 1” and inserting “on or before December 31”;

(2) in subsection (b)(1), by striking “May 31, 2003” and inserting “December 31, 2003”;

(3) in subsection (b)(2)—

(A) in the heading, by striking “MAY 31, 2003” and inserting “DECEMBER 31, 2003”; and

(B) by striking “May 31, 2003” and inserting “December 31, 2003”; and

(4) in subsection (b)(3), by striking “August 30, 2003” and inserting “March 31, 2004”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

The SPEAKER pro tempore. Pursuant to House Resolution 248, the gentlewoman from Washington (Ms. DUNN) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we consider H.R. 2185 to extend unemployment benefits for millions of displaced workers. I want to thank the gentleman from California (Mr. THOMAS) for his leadership in bringing this bill to the floor today. This bill will extend the current unemployment insurance program until December 2003 with a phase-out until March 2004.

My legislation will allow dislocated workers to receive 13 weeks of benefits in all States and an additional 13 weeks for workers who live in States with high unemployment rates such as Alaska, Connecticut, Massachusetts, Oregon, Pennsylvania, and Washington. The bill will help approximately 2.4 million displaced workers nationwide.

In my home State of Washington, the unemployment rate has again increased from 7.1 percent to 7.3 percent, making it the third highest unemployment rate in the Nation. Mass layoffs continue to have an adverse impact on our State's economy, especially in the aerospace industry. I represent more than 25,000 Boeing workers, many of whom have already lost their jobs.

As we work on a jobs and growth package to provide an immediate boost to our economy, we must also give displaced workers the peace of mind in knowing that they have a little time to find a job. So what does H.R. 2185 do? It achieves the following: it extends unemployment benefits until December 31, 2003, with a phase-out until March 31, 2004; it extends unemployment benefits for 13 weeks in all States for displaced workers; it extends unemployment benefits for an additional 13 weeks for a total of 26 weeks in high unemployment States.

This bill will cost $6.5 billion over 10 years, and it will help about 2.4 million workers nationwide. I think it is important that people realize that the Congress has done a lot to help unemployed workers. We feel this is the time to continue generosity and to help some of these folks who are trying to get jobs.

The existing unemployment extension expires at the end of this month with a phase-out until August. Congress has now extended unemployment benefits three different times: first in March 2002, 13 weeks for all States and 26 weeks for high unemployment States; secondly, in January 2003, 13 weeks for all States and 26 weeks for high unemployment States; and, lastly, in April 2003 an additional 26 weeks for airline and related industry workers.

We are extending the safety net for workers struggling to find a job while stimulating our economic growth by reducing taxes for individuals and encouraging business expansion. By extending unemployment benefits for an additional 13 weeks in all States, we can help the 2.4 million workers, and in my State, 60,000 workers, who need this kind of help.

Our unemployment system has worked well for many years, and it serves people during economic downturns. We are constantly reviewing the unemployment program to ensure that it helps those who have lost their jobs through no fault of their own. It is a temporary program, and now is the time to extend these benefits in a temporary way to help those folks who need to be helped.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from New York (Mr. RANGEL).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me assure the House that on the Democratic side of the aisle, we are pleased that we have legislation before us that extends the Federal unemployment compensation for an additional 7 months. We think that is the right way to move. However, we are extremely disappointed that the legislation does not include any additional help for those who have already exhausted their unemployment insurance benefits.

We are very disappointed that over a million people who currently are unemployed, who cannot find employment, will not be able to get any benefits under this legislation. Few States will be able to go beyond the 13 weeks of additional Federal unemployment insurance benefits because of the trigger mechanism. We believe that the legislation before us should include 26 weeks of unemployment insurance benefits for all those workers who exhaust their State unemployment insurance funds.

Let me point out that in prior recessions we have done exactly that. The gentlewoman from Washington (Ms. DUNN) points out what we have done, but it falls far short of what we did in the recession in the early 1990s. Despite the fact that this recession is much deeper than the prior recession, we have lost 2.7 million jobs, twice as many jobs as in the early 1990s, and 70 percent more people have exhausted their unemployment insurance benefits in this recession than in the recession in the early 1990s. In the early 1990s, we extended benefits for 27 months. Yet in this recession, we have only extended benefits for 15 months. In the prior recession, we extended Federal unemployment benefits initially for 26 weeks, then reduced it to 20 weeks; yet the legislation before us maintains only 13 weeks of benefits for those who are unemployed.

We have accumulated $21 billion in the Federal unemployment trust funds just for this purpose. The legislation before us is scored at about $6.5 billion. If we would extend the benefits to all of those who have exhausted benefits and provide 26 weeks of Federal unemployment insurance, it would cost perhaps another $3.5 billion, so $10 billion, about half the money that is in the fund exactly for this purpose.

Lastly, let me point out that providing unemployment insurance benefits for those who are unemployed and cannot find employment through no fault of their own would be the best way to stimulate our economy. A little later this evening we will be talking about a tax bill, supposedly to create jobs. If we really want to help our economy, let us give the money to those people who have to spend it because they have no other source of income.

The rule before us denies the opportunity of Members to offer amendments. That is regrettable. We should have had that opportunity. Speaking for my side of the aisle, the Democrats will use every opportunity we can to try to correct this legislation to deal with the 1 million people who are being left out by the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. DUNN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a very valuable member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, I must say having been in western Pennsylvania, when you have been reading the headlines, looking at the economic statistics, things are indeed bleak out there. We are in a recession even if many within the Washington beltway do not fully recognize it, and that is why I rise today to applaud the Committee on Ways and Means, the gentlewoman from Washington, and the House leadership for recognizing the needs of the unemployed in this recession.

While we work, apparently in the face of partisan opposition, to enact a balanced and robust economic growth package, we also need to provide immediate help for these displaced workers. These are people who would rather have a job; but in lieu of a job during an economic slowdown, they need these benefits. Today's legislation will maintain a safety net for our Nation's displaced workers by providing up to 26 weeks of benefits for those who exhaust their State benefits. This type of measure is absolutely critical to move now so we make sure that no families fall between the cracks.

However, as we do it, I think we also need to recognize as a House that maybe the time has come to reassess parts of the safety net, look for ways of extending it, and that is why I have introduced the Safety Net Extension Act, a bill that would not only extend temporary assistance for the unemployed, but also enact some permanent reforms to the unemployment system. It would provide relief for those workers who are paying taxes on their unemployment benefits, many of whom are in my district. My bill would look to also reauthorization trade adjustment assistance, and I view this package as being of a piece.

Tonight we have an opportunity to move forward and extend the unemployment benefits for workers who have been laid off, making sure that they do not fall between the cracks. But in the long haul, I would hope that we in the House would come together on a bipartisan basis and look for ways of enriching those benefits and at the same time pass a real stimulus package that will get the economy back on a growth path.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would point out to the gentleman from Pennsylvania (Mr. ENGLISH) that under the bill, 78,000 people from Pennsylvania will be denied any additional benefits.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, tomorrow morning 1 million Americans will arise and have no jobs. They will go to the front doorstep and pick up the newspaper and look at the want ads.

□ 1945

The want ads will be filled with solicitations for jobs if you are a nuclear engineer or if you are ready to work for minimum wage with no benefits. And then they will go to their mailbox and even though they have no job, they will still have their mortgage bill and their car insurance bill and their utility bill and all the other expenses they need to support their families. And they will go out for their daily trek to try to find work and they will find that for every 3½ people in America looking for a job, there is one job. It is a measure of decency and equity how we treat these 1 million Americans.

Before we adjourn for the recess in the wee small hours of the morning, the majority will no doubt pass significant relief for the owners of the companies that laid off these million people. How tragic it is that we will not even get the opportunity to address the real needs of the 1 million Americans who will wake up tomorrow with no job, no prospects and no unemployment benefits. Let us measure the decency of this House and the capacity for compassion in this country by extending unemployment benefits for all the people of the country who need them, not simply those covered by this bill. Of course we will support this bill to help those who are helped, but it is a tragedy that we are leaving behind 1 million Americans who need work.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I want to remind the gentleman from New Jersey that, under this bill, 124,250 of his constituents will receive unemployment coverage.

Mr. ANDREWS. Mr. Speaker, will the gentlewoman yield?

Ms. DUNN. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Also in this bill, 51,000 of my constituents will not receive the extension, either.

Ms. DUNN. Because they have already received Federal benefits in the past.

Mr. ANDREWS. If the gentlewoman will yield, and they have exhausted those benefits and have no benefits now.

Ms. DUNN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER), a very trusted and good member of our committee.

Mr. WELLER. Ladies and gentlemen of the House, I rise in strong support of H.R. 2185. It is simple legislation that helps people, a simple, straightforward 7-month extension of the current Federal Temporary Extended Unemployment Compensation program. It is going to benefit 2.5 million unemployed, many in Illinois and many in the district that I represent.

I would note that 2.5 million unemployed workers will receive extra help through this extension on top of the 5 million workers who have already received Federal extended benefits in 2002-2003. For those who measure their compassion by how much money you spend, I would note that this proposal before us provides about $7 billion in additional extended unemployment benefits on top of the $16 billion that we provided the States earlier this year.

This is important legislation. My State in Illinois has 6.6 percent unemployment. My district, my home county, has 12.8 percent unemployment. The manufacturing sector in the district that I represent is hurting. Many of those laid off are employed or used to be employed in the manufacturing sector. This legislation extending unemployment benefits combined with the economic growth and jobs plan that we will be adopting, which deserves bipartisan support, would be a boost for the manufacturing sector as well as the economy in my State of Illinois.

I urge support of this 7-month extension of unemployment benefits. I urge support for the jobs and growth plan later on this evening.

Mr. CARDIN. Mr. Speaker, let me just point out to my friend from Illinois that 53,000 of his constituents will not be able to get benefits because of being excluded from this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, this bill tonight, while a welcome step, will leave by the end of the year 2 million Americans without the safety net that they have contributed to when they were employed as far as the unemployment compensation tax, as a part of benefits.

1.4 million Federal workers have already exhausted their State and Federal benefits. 685,000 workers will exhaust their benefits and be left stranded under this bill, 58,000 in my home State of Florida.

There is a simple reason for this. This Congress is refusing to do what Democrats and Republicans came to do in the early 1990s during the recession and that is to add an additional 13 weeks of coverage after 13 weeks have expired from the Federal Government on top of 26 weeks of the State. There is no defense on the other side of the aisle as to why we should not repeat what Democrats and Republicans did in the 1990s to preserve the safety net.

Who is being affected out there tonight by this? There are more than three unemployed workers looking for every job opening in the country today. 341,000 people lost their jobs in April. The unemployment rate is 6 percent. There are 8.8 million people out of work right now. One out of every five unemployed workers have been out for 6 months right now. The unemployment compensation trust fund today has $20 billion in it that is designed to be used exactly for the benefits the Republicans are refusing to provide tonight to these people who are looking for work.

And who are these people? The average unemployed worker has been looking on 29 different occasions trying to find a job, 29 potential job openings.

People over 45 on the average have applied for 42 different jobs without success. Two-thirds of unemployed workers have had to cut back on basic necessities for their families. One in four unemployed workers have lost their home. Six in ten unemployed workers have spent almost all their savings.

Is this what you want to be proud of tonight? Is this what we are not capable of addressing tonight? Let us pass this bill but only after we adopt the benefits that were provided in the 1990s.

Ms. DUNN. Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), a former Governor and current valued Member.

Mr. CASTLE. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I also rise in strong support of H.R. 2185, the Unemployment Compensation Amendments. I am proud to be an original cosponsor of this important measure, and I thank Chairman THOMAS and the House leadership for bringing this to the floor.

Sadly, we have watched many Americans become unemployed and struggle to find work in today's economy. Today, Congress is taking a much-needed step in extending unemployment compensation for our Nation's workers. Figures show the U.S. unemployment rate is at 6 percent, and nearly 9 million people are unemployed. This legislation provides a safety net for men and women who have lost their jobs through no fault of their own.

We must assist workers during these times of hardship so they can successfully make the transition back to the workforce. The legislation before us helps accomplish this goal and coupled with existing job training and networking programs we can return Americans to the workforce. I urge my colleagues to join together in supporting this important legislation.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), a distinguished member of the Committee on Ways and Means.

Mrs. JONES of Ohio. Thank God, Mr. Speaker. They finally woke up and decided that we needed to extend unemployment benefits. But they fell short. In fact, they have let so many people fall off the cliff, I wonder, where is the safety net?

In Ohio, as a result of the proposal for unemployment benefits that is being presented, 36,500 people will not get unemployment benefits. Right now in Ohio, since this President took office, 167,000 people have lost their job. In the city of Cleveland, 57,000 people have lost their job.

If you do not believe me about unemployment, let me go to somebody that everybody thinks is really great and ought to be heard. Let me tell you what Mr. Greenspan said about unemployment. He says:

"Unemployment insurance is essentially restrictive because it's been our perception that we don't want to create incentives for people not to take jobs. But when you're in a period of job weakness, where it is not a choice on the part of people whether they're employed or unemployed, then obviously you want to be temporarily generous." We ought to be temporarily generous.

"And I think that's what we have done in the past and it has worked well."

He goes on to say this:

"I do, however, argue that we must be careful about creating permanent, temporary extensions, if I might put it that way. And I was suggesting to your colleagues that should you be going forward in an extension that it is far more important to have a short extension and if necessary just repeat it later." But I think this is important. "And I think that because it is stringent in normal periods, that one should recognize that people who lose jobs not because they did anything and can't find new ones, you have a different form of problem, which means that you have to allow the unemployment system to be much broader and, indeed, that's what we need to do."

So I say, pay no attention to me, listen to Mr. Greenspan where he says, but when you get into a period where jobs are failing, the arguments that people are worried about incentives should not apply.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I think, to put the comments of Mr. Greenspan in context, because he made them at the meeting of the Joint Economic Committee yesterday, where I was present, he said:

"I have always been of the opinion, and stated before this committee previously, that our unemployment insurance system seems to work rather well. It is not overly generous, which would induce the type of increased levels of structural unemployment which we see in other countries which have these types of things, these types of structures. But unemployment insurance is essentially restrictive because it's been our perception that we don't want to create incentives for people not to take jobs. But when you're in a period of job weakness where it is not a choice on the part of the people whether they're unemployed or unemployed, then obviously you want to be temporarily generous."

And he says, "If you go forward with additional extensions, I would be careful to keep the extensions relatively short and renew them again if necessary."

That is exactly what we are doing.

He says, "Because we're not quite clear at this stage what the path of short-term economic activity is. A number of major economic forecasters have forecasts for the third quarter, which is just about in front of us, of 4 percent growth at an annual rate. And that is a relatively long list."

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. I thank the gentlewoman from Washington for yielding me this time.

Mr. Speaker, I rise in very strong support of H.R. 2185 which will provide an additional 13 weeks of unemployment benefits to workers whose State jobless benefits will expire at the end of this month. I believe that we need to make sure that unemployed workers can continue to look for work with a degree of security that they can pay their bills. This legislation is the right way to accomplish this goal. I supported an extension of unemployment benefits in January and at that time signaled my belief that we should extend benefits throughout all of 2003 to give the economy time to recover and Congress a chance to pass a strong jobs and growth package. Tonight, we will pass that package, and we will also make unemployed workers eligible for unemployment benefits through the end of the year.

I would like to thank the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means; I would like to thank the gentleman from New York (Mr. QUINN), a colleague whom I have worked with closely to help working men and women; and I would like for all of my colleagues to think about, as we prepare to go back to our districts to answer to the folks that we represent next week, that we think about people in the real world, people who are around that kitchen table who know that they have a problem on their hands. This gives us an opportunity to say that we have listened, we have recognized the problem, and we are willing to do something about it. People will argue maybe that this is not perfect, but it is a good step that everyone should support, and we should look for additional ways to help working men and women get through these troubled times.

Mr. CARDIN. Mr. Speaker, let me point out to my friend from New Jersey that 51,000 people in his State are not going to get benefits because of leaving out the extra weeks.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT), a distinguished member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, welcome back to the rubber-stamp Congress. This bill is a statement by the President of the United States that he does not care about 1 million people. He sent the message to his junta here, and they run a bill out last night, drop it in, never had one single hearing on it, will not give us a chance to amend it.

If you gave us an amendment to cover those 1 million people, it would pass. The people on your side would be afraid to go home, having given the stiff arm to people who are off benefits. But we have to rubber-stamp everything George Bush does. "I approve of everything George Bush does. I will leave a million people off the unemployment rolls deliberately." Deliberately. It is not an accident. It is not as though it just happened to us.

I got this from the White House. I suppose everyone else has theirs. You are going to use that again tonight on another bill, the tax bill. I have figured out what the President is thinking. He figured out, "Well, I'm leaving a million people off and then I'm going to give this huge tax cut and I'm going to create a million jobs. And all those people who have been left out, they're going to have a job."

□ 2000

Of course they are going to have to wait until tax time next year or sometime. I do not know when all that is going to start.

This is nonsense. You did absolutely the minimum you could do and keep a straight face and put out your press release that you did something for unemployment. How you could deliberately construct one when you have 70 percent more people running out of benefits now than Bush, Sr., did 10 years ago.

At least he said 27 weeks. He was expansive. His son is about as tightfisted as we are ever going to see towards working people. Not to the military. Not to nuclear defense and all that kind of stuff, but to working people he is just saying, hey, folks, I am sorry you do not qualify or your State did not trigger but tell the kids to kind of suck it up. Pull their belt a little bit tighter because the rubber stamp Congress of George Bush is out here tonight. They are waiting at home to see what you do.

If you had been out of work and you cannot pay your rent and you cannot buy for your kids and you are one of those million, you say to your kids, I am sorry but the President does not care. He has got $20 billion in a fund down there, but he will not give us anything.

How is that going to look in the next election? You ought to be thinking about that. I guarantee that before we leave here you will be back here extending these benefits again.

Your idea that people are staying at home from work to live off these fancy benefits is simply nonsense. Nobody who has lost a job stays at home when there is a job available. There are not enough jobs.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly agree with the gentleman from Washington in that anybody who cannot find a job wants to, which is why we are going to pass tonight the Jobs and Growth Reconciliation Tax Act of 2003.

I do want to also remind the gentleman from Washington that the Congress has been watching over the concerns of States like Washington that have been the recipient of many unemployed people, and we have not done nothing. The debate tonight makes it sound like the Federal Government has done nothing.

In the State of Washington specifically, we have followed up 30 weeks of State benefits that the residents of our State are eligible for with 26 weeks of federally funded benefits that we passed in March, 2002, and extended again another 26 weeks in January of 2003, and then we matched the State for 9 total weeks of Federal- and State-funded benefits. We added on 7 weeks of State benefits for aerospace and timber workers who are in training programs. If we total that all up, it comes to 65 weeks for all dislocated workers, 98 weeks for aerospace workers and 72 weeks for timber workers.

I think the extension that we are going to do today, which for the State of Washington would provide 60,000 new people with unemployment benefits, is the right thing to do. With luck, if we play our cards right and the economy responds in the way we hope it will, we will not need to extend unemployment benefits, but if we need to, we will be there and do it, as Alan Greenspan says, on a temporary basis.

Mr. Speaker, I yield 4 minutes to the gentleman from the State of Oregon (Mr. WALDEN) who talks from experience since he is from the State with the highest unemployment.

Mr. WALDEN of Oregon. Mr. Speaker, we are proud of a lot of things in the great State of Oregon. Having the highest unemployment rate at 8 percent is not among them.

It is astounding to me to hear some of the Members on the other side of the aisle talk about unemployment insurance being a great economic producer. You are the people who have taken the jobs away from the people in Wallowa County: unemployment rate, 15.1 percent. It is your policies, yes, it is your policies who took away the jobs in Crook County: unemployment rate, 11.5 percent; Grant County, 14 percent.

I will tell you the policies. Did you vote for the Healthy Forests Restoration Act of 2003 the day before yesterday? Did you? Did you? Did you? No. Maybe you voted for it. Did you?

Mr. NEAL of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. WALDEN of Oregon. I yield to the gentleman from Massachusetts.

Mr. NEAL of Massachusetts. Mr. Speaker, what was the unemployment rate there 5 years ago or 6 years ago?

Mr. WALDEN of Oregon. Mr. Speaker, worse. Worse. It has been double-digit rates. I am happy to show the numbers. I will get them.

Some of these counties were approaching 20 percent unemployment because they are surrounded by Federal forests. Yes, it is hard to believe. Yes, you can laugh. Folks in Wallowa County are not laughing. We have been on 65 weeks of unemployment, 65 weeks, the highest unemployment in the country. If we want to create jobs in rural America, and that is what I represent, 72,000 square miles. My colleagues know my district. It is all of eastern Oregon. These are hard-working people. They are Republicans and Democrats. It is not a partisan thing to be unemployed. They want real jobs.

I am going to vote to extend this. You bet I am. This district, and I have only represented it for 4 years, did not enjoy the roaring 1990s of the major metropolitan areas. We are a resource-based district. Agriculture and timber. Our forests burn. Our watersheds are destroyed. Trees rot because they cannot go in and cut down the dead trees after a fire. We are trying to change that. I want healthy watersheds. I want healthy forests. They are America's forests. And I want these men and women back to work.

So I plead with my colleagues as we extend unemployment, which we must, and I have supported it every time, including the aerospace extension, to extend the benefits, but I plead with my colleagues, these people want jobs. Help us change the policies. When they voted no this week on healthy forests, they voted to take away their jobs again. Please work with us. It is more than just a safety net.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. WALDEN of Oregon. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I think the gentleman makes a good point, and he says work with us. The gentleman recalls that you would not allow us amendments to that bill so that many Democrats would have felt very comfortable voting for that bill. So you did not work with us.

Mr. WALDEN of Oregon. Reclaiming, first, I am not on the Committee on Rules.

Mr. HOYER. I understand that. I did not mean the gentleman personally.

Mr. WALDEN of Oregon. Second, let me suggest that the gentleman's side was given an opportunity to craft a bill to create a majority vote on this floor. The gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO), whom I have worked with on other issues and will again, put forward a proposal of their free will in writing. They were given that opportunity. Many of you voted for that. I think it is insufficient. It did not prevail. It did not achieve a majority.

But it goes beyond healthy forests. The rules and the regulations and the laws. I remember when George McGovern left this body and opened a bed and breakfast. He wrote a column, and he said, "I wish I had done this before I served in the Congress, because I had no idea what these rules and regulations and laws do to small business."

I have been in small business 16 years. The bill we are going to vote on tonight to increase the ability to expense and deduct will produce jobs because companies will have the ability to invest in equipment they need. Somebody has to make that equipment, and they will. So let us get America back to work, and let us extend benefits as we need to extend them, and I will continue to vote to do that as I am going to do tonight.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Let me just point out to my friend from Oregon that the Bush Administration has the worst job record of any administration since World War II, losing 69,000 jobs, whereas the Clinton Administration has the best, creating over half a million jobs.

Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Maryland (Mr. HOYER), Democratic whip.

Mr. WALDEN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Oregon.

Mr. WALDEN of Oregon. Mr. Speaker, I would suggest that the job losses occurred in my district under the Clinton Administration. I would suggest that and I bet I could prove that. The gentleman's numbers are about States in total, not looking at rural communities like the ones I represent.

Mr. HOYER. Mr. Speaker, reclaiming my time, there is no doubt, however, that George W. Bush has the worst job creation or, better put, the worst job loss record of any President. I would tell the gentleman from Oregon I do not recall his statement, but I recall the statements of many of his colleagues that stood on this floor in 2001 and said, if we vote for this $1 trillion package, we are going to create jobs, the economy is going to boom, and, guess what, we can do it within the framework of this $5.6 trillion surplus which is now, of course, as the gentleman knows well, a $2.7 trillion deficit, an $8 trillion turnaround which is going to dampen the economy of Oregon and our entire country.

Mr. Speaker, what a difference a week makes. I ask the gentleman from Oregon (Mr. WALDEN) to listen to this.

Last week, my colleagues may recall, the gentleman from Texas (Mr. DELAY), House majority leader, last week said in on this floor in regard to the much-needed extension of unemployment insurance benefits, what they bring here under great pressure from Democrats, and that is the only reason it is here, and I am going to vote for it, the gentleman from Texas (Mr. DELAY) said this:

"I think it is a stretch to say that we are at a crisis point, that we have to move quickly and not deliberatively on this issue."

I am sure the people in eastern Oregon thought we had better move quickly, and the gentleman from Oregon (Mr. WALDEN) agrees with that. Our Republicans friends finally have recognized that last week's noncrisis, which is what their leader said, is this week's emergency for millions of American families; and I share the gentleman from Oregon's (Mr. WALDEN) view on the need of those unemployed.

The Republicans have finally peeked out from under their tax-cut blinders just long enough to see the harsh reality on Main Street America today, that our Nation has the highest unemployment rate in 9 years, that there are nearly 9 million unemployed Americans, that our economy has lost 2.7 million private sector jobs since President Bush was inaugurated, and that 4 million jobless Americans will have their temporary unemployment benefits completely cut off on May 31 unless this Congress acts immediately.

We asked that they act last week. We asked that they act the week before that. They have not done so. But their political analysts have told them, do not go home without at least positively affecting some of these people. Even as they prepare to shower the most affluent citizens in America with enormous budget-busting, debt-exploding tax cuts, the self-proclaimed compassionate conservatives demonstrate again that they only have so much compassion in their hearts, two-thirds to be exact tonight, because 1 million people are going to be left on the cutting room floor.

This GOP bill is most notable for its half measures. It will provide only 13 weeks of additional benefits to workers who have exhausted their State benefits, rather than 26 weeks that we sought. And for the 1 million unemployed Americans who have already exhausted both their State and Federal unemployment benefits, this bill would provide zero; nada; nothing; sorry, we cannot help.

I challenge my Republican colleagues to go home and tell the jobless constituents in eastern Oregon or anyplace else who have exhausted their State and Federal benefits that they refuse to extend them when they have the opportunity tonight now. Do it. Do the right thing.

Ms. DUNN. Mr. Speaker, may I inquire as to the amount of time that remains for both sides, please?

The SPEAKER pro tempore. The gentlewoman from Washington (Ms. DUNN) has 12 minutes remaining, and the gentleman from Maryland (Mr. CARDIN) has 13¾ minutes remaining.

Mr. CARDIN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from Maryland (Mr. CARDIN) for yielding me this time.

I say to the gentleman from Oregon here, I think there is a fundamental difference in the philosophy of these two parties, and it is highlighted once again this evening. We care about the entire American family. What we mean by community is a place where nobody is to be abandoned and nobody is to be left behind.

But let me give my colleagues a quote to follow up on what the gentleman from Maryland (Mr. HOYER) said, where the majority leader offered another callous comment about the unemployed. But let me offer a comment from another prominent member of the Republican leadership as he said, as he often is, worked up about this or that, hey, this is not a welfare program.

Talk about callousness? Talk about indifference? We are going to vote in the wee hours of this morning to give a massive tax cut to people who, to their everlasting credit, have not even asked for it. Those are members of the American family. It has sent shudders through Wall Street what they are about to do. And every one of the Members on this side of the aisle will march in, head down, and do what they are told once again.

There are millions of Americans who are struggling today, millions of them. And I want to vote to help the people in Oregon. They deserve it, just like the people on the East Coast. Do my colleagues know what we call that in our democracy? The national principle. We come to the assistance of parts of this country who need it.

Let me give the Members some economic facts, and they are pretty bleak. U.S. unemployment, a 9-year high. It was 4.1 percent when the President took office. Now it is 6 percent. The number of discouraged workers, and I suspect a lot of them live in the gentleman from Oregon's congressional district, who are not even looking for a job any longer are at a 20-year high, 2.3 million jobs lost since 2001. One point seven million jobs have been lost since the $1.3 trillion 2001 tax cuts took effect.

Do we have in this institution amnesia? We were told this was a jobs bill last year, and I am telling the Members watch, 2 o'clock in the morning, head down, they will all vote for it again. And do the Members know what? Not one of them even asked a question. That is the embarrassing part about it. Seventy-three thousand jobs lost per month.

Mr. Speaker, vote for the Democratic alternative on the motion to recommit. Give those people in Oregon an opportunity. Call them members of the American family.

Ms. DUNN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I looked up and I heard these figures come out that this many people are going to be left out of this bill. I looked up at who is supporting it and where the figures are coming from. It is called the Center on Budget Priorities, an extreme far-left-wing organization that is supported by Democrat Socialists of America, lodged a progressive caucus on its website, supports increased taxes, increased social spending, bigger wasteful government, supports union over small business, and I could go on. So I think the numbers are a little bit misfit.

In the year 2000, this country was going through a recession. The tax relief that was passed according to Alan Greenspan and the economists who testified before the committees said that the tax relief shallowed that recession. It was growing at about 4.5 percent, which is slow, but it was increasing. And then we had 9/11. New York City alone, $200 billion in reconstruction and construction.

□ 2015

That does not include $83 billion in lost revenue and the jobs that went with it. In all of your districts, think about the hotel business, the tourism. Hotels in San Diego were at 10 percent occupancy. Tourism went down. The airlines got hurt. Look what happened to the stock market. Then we had Enron; then we had WorldCom.

We produced 58 bills that the other body did not pass to stimulate the economy. That was under Democratic leadership in the other body. Some of those bills restored confidence for people that lost thousands, in some cases millions, of dollars in their retirement accounts, and that would have helped stimulate the economy as well. But that was held up.

Mr. Speaker, it was said that this is the worst jobs President there ever was. Let me remind Members of some of the facts.

First of all, on the 1993 tax bill, the Democrats will say that no Republican voted for it. Let me tell you why. The same issues that Democrats demagogue on every single day, veterans, Democrats cut COLAs in 1993. You cut the COLAs for our military; that was on food stamps. You increased the tax on Social Security, and in that bill every dime was taken out of the Social Security trust fund.

Guess what? You even had a gas tax that went into the general fund. We changed that when we took the majority and put it into a transportation fund. That is where we came up with ISTEA for infrastructure control. We did away with your 1993 highest tax increase in the history of the United States. Then I remember the lady in the red dress and the gentleman from Missouri said we need middle-class tax cuts. Well, you increased the tax on the middle-class.

We decreased those taxes. And not a single Clinton budget, not even the Blue Dog budget, which had some very good points in it during that time frame, ever passed the House, ever. Not a Clinton budget passed.

Republicans brought the Clinton budget to the House floor to force the Democrats to vote on it, it was so bad. Do you know how many Democrats voted for it? Three, the same amount that voted for the First Lady's health care package.

When you say that President Clinton was responsible for the surplus, it just ain't so.

Now, let us get down to the issue that is before us that people left out. I have been here for 12 years; and this year is the worst partisan attack, from our side as well, and a lot of it in reaction.

I will bet every single Member here, except for those in leadership, would rather sit down and work together, and we can; and we can help the people with this bill, instead of the partisan attacks.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me tell my friend from California that if he checks with the Department of Labor he will find that 150,000 people in his State are not going to be covered under this bill who are unemployed.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me time.

Well, it is about time the Republican leadership does something about the unemployed and something for the unemployed; but what they offer is too little, too late, and it does not cover those who have used up their benefits but are still not working.

I would like to remind the gentlewoman from Washington State that unemployed workers cannot find jobs when there are not any. I would like to respond to the gentleman from Oregon, referring to "our policies," meaning the Democrats. Our policies, indeed. When Bill Clinton was our President, our economy was strong. Not like today, when just 3 weeks ago the Labor Department reported that new applications for unemployment insurance hit 455,000 for the week ending April 19, and that number does not even count families who have exhausted their benefits and are not working.

Just listen to one of my constituents. He says, "I have a master's degree and I have not been able to find work. I also deal with a chronic illness. I find myself applying for food stamps and soon will be unable to pay any bills. I am not sure I will have a roof over my head very soon. A lot of people are having a very difficult time. Please, Congresswoman, try to make unemployment extensions a top priority."

That is why I support the Rangel bill, H.R. 1652, the Unemployment Benefits Extension Act, which would provide 26 weeks of extended benefits through November 2003. This bill will provide real benefits to all of those workers who are in between jobs, not only those who are newly unemployed.

Mr. Speaker, I urge my colleagues to oppose this legislation, and I urge the Republican leadership to take up H.R. 1652 so that we can have real unemployment relief.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some of these speakers on the other side have talked about folks who have been covered in the past by Federal unemployment insurance, but they do not make that point. They make it sound as though they never have been covered.

I think it is important to reiterate that the Congress in March of 2002 extended to folks 13 weeks of Federal unemployment and 26 weeks for high unemployment States; extended it once again in January 2003, 13 weeks for all States and 26 weeks for high unemployment States; extended it again in April 2003, an additional 26 weeks for airline and related industry workers; and that many States also have provided for unemployment benefits.

Some States have additional benefits to help those who have exhausted their Federal benefits. For example, States have the option to provide 13 weeks of extended benefits at a 50/50 State and Federal cost share. This is after the 26 weeks of State and 13/13 weeks of Federal benefits, where we matched the States.

Additional Federal funds have been given to States to provide for unemployment benefits in any way they wish. They are done under the Reid Act. In March 2002, Congress allocated $8 billion to States under the Reid Act. States have the flexibility to use this money to pay for an additional unemployment benefit if they choose to do so. At this time States still have $6 billion of unused funds under the Reid Act. Congress also provided, as I said before, targeted additional benefits to airline and related industry sectors.

So I think it is very, very misleading to make it sound like this is the first time we have thought of people who are unemployed. We have kept very close watch over these folks, because we feel their pain and we want to make sure they are provided with the help they need to go out and get jobs.

Mr. Speaker, I yield 2 minutes to the gentleman from the high-unemployment State of Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I find this debate interesting, because we are debating a bill we all, or most all, are going to be supporting, so it is kind of like this is a good bill, we are going to vote for it, but we want it better or want it differently.

It is a good bill. It is a good bill for my State; 75,359 people have benefited. We are going to help 37,450 more, for a total of 112,809. In terms of dollars spent, we have provided $259,231,629. We are going to add $142 million, for $401 million. This is an effort to reach out.

My colleague from Buffalo, New York, has helped push this, along with the gentlewoman from Washington (Ms. DUNN) and others. We listened to our Democratic colleagues who said we need to move forward with the bill. It seems to me they should be taking credit for some of what we are doing.

Now, I support this legislation because I think it is important to our workers who are out of work; but I also support our tax cut, because I think that is ultimately how we are going to benefit these folks who need a job.

We are going to increase the child tax credit to $1,000, and then phase it out for the wealthy. It only is going for the families that need it. If you have three kids, you get to subtract $3,000 from the bottom line of your taxes. If you are married, you are not going to be paying a penalty anymore.

But my colleagues on the other side of the aisle voted against this. We are going to reduce the marginal rates to help working families. We are going to treat dividends like capital gains, and also reduce the capital gains rate.

We are going to get this economy moving again, frankly, with or without the support of our Democratic colleagues. We are going to provide the unemployment compensation we need, we are going to provide the tax cuts that we need, and we are going to get this economy moving again.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to my friend from Connecticut that the suggestion we are making to cover those who are unemployed costs less than 1 percent of the tax bill we are taking up later.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BELL).

Mr. BELL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise tonight to talk about the need for follow-through and about what got us to this point. For many weeks now, those of us here on the Democratic side of the aisle have been talking about jobs, the need for an economic stimulus plan that would lead to true job creation, the need to extend unemployment benefits for those who simply cannot find work in this lousy economy.

□ 2030

If Members come from a place like Houston, Texas, like I do, in a State that is facing 6.7 percent unemployment, the highest unemployment we have seen in 10 years, and a city like Houston, where more than 2,000 people are losing their jobs each and every month, we realize that people are desperate and that they need a helping hand. But for weeks what we continued to hear from the other side of the aisle was, no, that there would be no further extensions.

Well, now that has suddenly changed; and we welcome that change. I know that there will be a lot of chest thumping on the other side of the aisle tonight, that they have now passed an unemployment benefit extension, and many of us will join with them in that vote.

The problem is follow-through. Because if you are going to finally be brought kicking and screaming to the realization that people need a helping hand, then at least be willing to give them the hand that they need, not a plan that leaves 1 million unemployed people out in the cold, but provides for another 13-week extension for those individuals; not just another 13-week extension for the others, but a 26-week extension that would provide a real window of opportunity for those individuals to find work.

If they are finally going to listen to us and recognize the need to extend unemployment insurance benefits, then they should have been willing to follow through and accept our proposal. I am glad they were willing to go part of the way, but given the economic situation we face in this country, they should have been willing to go the rest of the way.

Ms. DUNN. Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank my colleagues from the Committee on Ways and Means for allowing me to speak.

I rise in support of the effort to give out-of-work Americans more time to find a job before their benefits run out. In December of 2000, my hometown of Houston had one of the lowest unemployment rates in the Nation, 3.5 percent. The national average then was 4.2. Today we have unemployment of 6.7 percent in Houston. That is almost double what it was in December of 2000. Texas has lost 112,000 jobs since January of 2001. The country as a whole has lost over 2.5 million jobs since then.

Texans want to work, earn a living, and make homes for their families, but no one can survive for long on an unemployment check. People do not lose their jobs just to collect the unemployment check. It is almost laughable. It is only making the best of a terrible situation.

One hundred thirty-three thousand Texans are likely to run out of their regular unemployment without finding new work. We need to help these workers, and I am glad we are doing so today. But many will be left out, even as we act today. By the end of this month, there will be an estimated 69,000 Texans who have run out of their extended benefits and remain unemployed in this slow economy, even if we act today. Another 39,000 Texas workers will run out of benefits this summer. None of these numbers take into account the underemployed and the long-term unemployed.

Mr. Speaker, while I commend the leadership of both parties in bringing this legislation to the floor today, we need to realize it is only a Band-Aid. Texans and American workers need an extension of unemployment benefits, but they would rather have a job. But workers see Congress exporting good jobs and building up a massive Federal debt that slows down the economy and will have to be paid for by our children.

I urge support of the legislation, but it is a half a loaf, at best.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Speaker, I thank the gentleman for yielding time to me.

I am pleased that the House has taken up the extension of the unemployment benefits tonight. The unemployment in my congressional district is a glaring 30 percent in the Millinocket and East Millinocket labor market area, 13 percent in the Calais labor market area, 12 percent in the Jonesport labor market area, and the list goes on and on. Mill after mill are either shutting machines down or closing their doors completely.

As far as the Statewide unemployment, it is in the single digits. But as far as the northern part of the State, as I mentioned, it is over 30 percent in some of the labor market areas. It is not as if you could drive an hour away or so to go to where there is low unemployment. You have to drive about 6 hours away.

The aid we deliver tonight is desperately needed, but, Mr. Speaker, we can do so much more. We should be voting on a bill like H.R. 1652, the Rangel bill, of which I am a cosponsor. The bill would extend benefits by 26 weeks and give an additional 13 weeks for unemployed workers who have exhausted their benefits.

This would help the 2,700 workers in Maine who have exhausted their benefits and who would be left behind, because this bill would not consider them tonight. These are people who are left stranded by the economic downturn, jobless through no fault of their own, and are desperately looking for work but cannot find the work.

For those who do not know, I have worked in a mill, paper mill, over 30 years in northern Maine. I know what it is like to lose your job. These neighbors, they are neighbors of mine, they are family, and they are friends. They do not want a handout, but, with no other recourse, they do need a helping hand.

Until we get this economy moving again and providing new jobs, instead of the 2 million jobs that we have lost over the couple of years, they will need this help desperately. But we can do much better for my constituents and people across this country, so I urge that we amend this bill to increase the unemployment compensation.

Ms. DUNN. Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 1½ minutes to the gentlewoman from Florida (Ms. Corrine Brown).

Ms. CORRINE BROWN of Florida. Mr. Speaker, this administration should be referred to as the administration of hard knocks. It is simply amazing that George W. Bush, who has been in office for only 2 years after being selected by the Supreme Court, has led this country into one of the worst economic downturns in our Nation's history; 2 years, selected by the Supreme Court, and he has led this country into one of the worst economic downturns in the Nation's history. We have lost over 2 million jobs in the last 2 years and as many as 500,000 jobs in the last 3 months alone.

The only answer the Republicans have to our economic problems is tax cuts, tax cuts, and more tax cuts. This is supposed to be the People's House, not a House that just represents the country club buddies of the Republican Party.

On this weekend before Memorial Day we have an unemployment package before the House, and once again the Republican Party is playing politics with the American people. They again block the Democratic proposal, which would have given workers an additional 13 weeks to find a job in these difficult markets.

Watch out, Republicans. They can fool some of the people some of the time, but they cannot fool all of the people all of the time. The 1 million people left out in the cold are paying attention and will remember them on Election Day.

Ms. DUNN. Mr. Speaker, I yield 1 minute to the very valued member of the House of Representatives, the gentleman from New York (Mr. Quinn).

Mr. QUINN. Mr. Speaker, I want to thank the gentlewoman from Washington for yielding time to me. I also want to thank the gentlewoman for her work on this unemployment extension.

Many times I find myself at odds with the Republican Party, my party, when it comes to unemployment benefits for the working families across this country. But tonight we are not trying to fool any of the people any of the time. Tonight we are being very straightforward. Tonight what we are trying to do is to make sure that the working men and women and families of this country understand that the Republican Party understands their needs.

I am happy to support this bill tonight, as I think most Members on both sides of the aisle will. I want to thank our leadership of the Republican Party for taking this up and allowing many of us who feel that we need to have a voice for working families in the country make that voice heard.

I want to make certain that our Members understand that it is an opportunity for us to help working families. I am proud to say that we are going to do that very straightforwardly in a very clean bill, unattached to anything else, up or down, yes or no.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we would give the gentleman a chance to help the 103,000 people who are currently not covered by the bill in New York.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Emanuel).

Mr. EMANUEL. Mr. Speaker, in Illinois we have unemployment now of 6.7 percent; 17,000 workers have lost their job in the last 6 months; 2.5 million Americans have lost their jobs in the last 2 years; and 2 million of those jobs are manufacturing jobs.

One gentleman brought up the statistics and said that the statistics, and we are talking about the 1 million people who are left out, they were put out by the Center for Budget Priorities. In fact, the Department of Labor also recognized that 1 million people would not be covered by this unemployment insurance.

The fact is, I believe people on both sides are going to support this because people on both sides believe that people are hurt and need support. But this is an itsy-bitsy unemployment insurance program, when we can cover another 1 million people. That is how some people refer to the $350 billion tax cut. In my view, this is an itsy-bitsy unemployment tax cut.

We can do more because we are able to do more. We should not make that choice, that if you are unemployed you cannot get unemployment insurance. I believe that is the value we want to put in place. Although a number of us will support this, we can do better than the economic plan envisioned here.

Ms. DUNN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Peterson), from one of those high unemployment States.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I would like to commend the Committee on Ways and Means and the gentlewoman from Washington (Ms. Dunn) for her leadership on this issue.

I come from western Pennsylvania, which has been struggling with high unemployment. We have had many plant closings, a very difficult time. I believe this committee and this Congress has been meeting these issues head on and appropriately.

Why do we have the high unemployment? I hear today we are laying blame. If we are laying blame, I mention where I think the blame lies. September 11 shook the economy of this country. Why did we have 9/11? We had two embassies blown up. What did we do about the terror? Nothing. We had a barracks blown up, and several hundred of the Marines killed. What did we do about the terror? Nothing. We had the side of a ship blown up. What did we do about that terror? Nothing. We had an attempt to blow up the towers in New York before 9/11. What did we do? Blow up a baby milk factory.

We have an energy issue in this country that the last administration ignored. Every time we have had energy spikes in this country, our economy has gone down. Because we do not have adequate energy supply in this country, and when we do not have ample supply of all energies, we have spikes in prices.

We have been unwilling to have an energy policy. We have moved to all-natural gas for power generation. This very day we have gas prices that are going to hurt this economy in the year ahead because they are the highest they have ever been, and our storage is the lowest.

Yes, a lack of fighting terror years ago in the last administration, lack of an energy policy in the last administration, is the reason. Unemployment does not happen in a year. Those things happen over years of not taking care of business.

I just wanted to share my thoughts of where the blame ought to be.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. Hastings of Washington). The gentleman from Maryland (Mr. Cardin) is recognized for 45 seconds.

Mr. CARDIN. Mr. Speaker, as I said at the beginning of this debate, we welcome the opportunity of having an unemployment compensation bill on the floor. It is important that we enact legislation tonight that will help those people who are unemployed.

I can assure Members the Democrats want to join in that effort. We will offer an opportunity under the Rules so we can extend those benefits to all the people that are being trapped that are entitled to unemployment through their employment paying into the fund, so we do not leave 1 million people behind.

We would urge Members to support our motion, which will allow the 7-month extension for those who have exhausted the State benefits and also include those who have exhausted their 13 weeks.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

I would like to do a comparison between the bill that we are talking about on the floor tonight and the bill that the Democrats have often brought up as being a better bill.

The Democrat plan is not targeted. It guarantees 26 weeks of benefits, regardless of local economic conditions in a State. Our bill is targeted. It provides immediately 13 weeks of Federal assistance to those who need it now, and it targets additional benefits to States that have high unemployment rates.

The Democrat plan is too long in duration. That plan would extend the program through October, 2004. We might be out of this recession by October of 2004. Our goal is to create jobs. We are enacting tax relief for all Americans that will give our economy an immediate boost and create new jobs.

Our bill continues the unemployment benefits through December, 2003, with a phase-out through March, 2004. That means Congress can come back, as we have consistently done in the past, and review the economic conditions at that time and decide if we need to extend unemployment benefits.

□ 2045

Also, in the growth bill, in addition to these unemployment extension benefits, we will provide $20 billion of Federal assistance to States in the jobs and growth package. This is a good solid unemployment package. It should pass.

Mr. SIMMONS. Mr. Speaker, I rise today in support of H.R. 2185, the "Unemployed Compensation Amendments of 2003." I am proud to be an original sponsor of a measure so important to my home State of Connecticut.

Despite the fact that this Congress has passed several extensions for unemployment benefits, there are still millions of displaced workers who, of no fault of their own, are unable to find employment. This Congress—led by my colleague JENNIFER DUNN—recognizes this and has put forth a bill that will once again provide a lift to those who are still feeling the impact of September 11 on the economy.

Nowhere is this bill more important than in my home State of Connecticut. Unemployment benefit claims in Connecticut are up 7 percent from this month last year.

Thousands of Connecticut's working men and women need more assistance. For these reasons, it is imperative for Congress to act now and extend the unemployment insurance program to help those who are still looking for jobs.

H.R. 2185 will go a long way toward helping Connecticut's economy recover and ensure our workers economic security as they seek to rejoin the workforce.

On behalf of those more than 112,000 working men and women in Connecticut who will benefit from an unemployment extension, I ask that all Members of Congress support this bill.

Mr. BLUMENAUER. Mr. Speaker, Oregon's highest unemployment rate in the Nation gives me more than 139,800 reasons to be concerned. This extension is one of the most important things we can do to help people in my State. It is ironic that the bill to extend these benefits is being debated on the same day as we are poised to pass a massive tax cut. The contrast between the economic effect of the two pieces of legislation and the people they benefit are stark. Each new dollar in the unemployment benefits program quickly boosts the economy by $1.73, while the cut in dividend taxes enriches the economy by only 9 cents per dollar. Republican leadership priorities are made clear when it takes an extraordinary effort to extend $6.5 billion in benefits for those struggling to find work, while approving $350 billion—sure to be a trillion dollars if the authors of the tax cut have their way—in tax cuts that, in large part, benefit the wealthiest and worsen our ever spiraling national deficit.

After fighting for this extension for months I'm pleased we will pass this legislation before benefits expire this weekend, but it is once again, too little too late. What about the thousands of Oregonians who have had their benefits lapse? They will not be eligible for any benefits under this legislation. The Democratic substitute, which will not be allowed under the restrictive rule for debate today, would have assisted these workers. Our amendment would also have helped states improve coverage of low-wage earners and part-time workers, who pay unemployment taxes but often fail to qualify for benefits upon losing their jobs. Unfortunately, we will not even be able to debate this proposal today, instead forced to vote for half a solution. I hope we can reach the point where the House appreciates that unemployment benefits are too critical to be political cannon fodder. Unemployed Oregonians struggling to provide for their families deserve better.

Mr. STARK. Mr. Speaker, I rise today to support H.R. 2185, the Unemployment Compensation Amendment of 2003, but I must also highlight that this bill is an inadequate response to the plight of those without jobs.

Although the economic policies of the Bush administration and the Republican Congress have led to the loss of 2.7 million jobs, my Republican colleagues continue to do the absolute minimum to help those out-of-work Americans. H.R. 2185 reauthorizes 13 weeks of emergency benefits for individuals who have exhausted their regular unemployment benefits, but it ignores many others who are unemployed.

This legislation does not help the 1.1 million Americans who have already exhausted their emergency unemployment benefits and still cannot find work. With three unemployed workers for every job opening in America, the prospect of these long term unemployed workers finding a job are gloomy at best. They need help, but they're left out in the cold under this bill.

Another inadequacy of H.R. 2185 is that it only provides 13 weeks of additional emergency unemployment benefits after beneficiaries have exhausted their 26 weeks of regular unemployment benefits. A 13-week emergency unemployment benefit extension is simply inadequate because the number of workers who have been unemployed for more than 6 months has more than tripled over the last three years—up from 596,000 in April 2000 to 1.9 million in April 2003.

Finally, the Republican legislation fails to modernize the Unemployment Insurance program and adjust the definition of a high unemployment State, so that beneficiaries in States marred in deep recessions can access an additional 7 weeks of emergency unemployment benefits. Those 7 weeks of emergency unemployment benefits would be in addition to the current 13 weeks those unemployed workers can receive under current law. Because of the Republican bill's failure to change this definition, only 5 to 6 States qualify as high unemployment States and some funds designated for emergency benefits to high unemployment States are currently sitting unused in a federal trust fund.

If the Republicans really wanted to help hard-working average Americans, they could have begun by passing the Democratic alternative plan. Our plan really helps those who are without jobs. The Democratic plan adds 26 weeks of emergency unemployment benefits for individuals who exhaust their regular unemployment benefits and provides an additional 13 weeks for those workers who have already exhausted their emergency unemployment benefits. In addition, the Democratic plan modernizes the Unemployment Insurance program by lowering the rate of unemployment a state must have before it is designated a high unemployment State. This change would allow unemployed workers in 15 States get the additional 7 weeks of emergency unemployment benefits.

I will support this legislation today because it does help many unemployed Americans. But, Congress needs to do more to help all unemployed Americans survive this recession.

Mr. QUINN. Mr. Speaker, I thank the gentlelady from Washington Ms. DUNN for her work on this vital legislation.

Mr. Speaker, I rise today in strong support of H.R. 2185. I applaud the efforts of Chairman THOMAS and Majority Whip BLUNT for making good on their commitment to address this issue and ensure that unemployed Americans will be able to get through the Memorial Day holiday without having to worry about their benefits expiring on May 31.

H.R. 2185 would extend the Federal unemployment compensation program through the end of this year—relieving Congress of having to continue to revisit this issue while the economy begins to rebound.

This extension will provide relief for about 2.5 million unemployed workers.

It allows for 13 weeks of federally funded benefits—as well as an additional 13 weeks for residents of high unemployment States.

This relief will be a tremendous boost to Americans still actively seeking employment.

Again, I thank my colleagues for their hard work on this issue.

Mr. BACA. Mr. Speaker, since January 2001, 2.7 million people have been put out of work and my colleagues on the other side of the aisle are doing nothing to change it. H.R. 2185 is an unemployment package that will not help our Nation's economy or our Nation's unemployed.

In just the last 3 months, nearly one half million people have lost their jobs. Our unemployment rate is at an astounding 6 percent. That is the highest unemployment rate we have experienced in 10 years. And in response to this, all the Republicans can do is extend unemployment benefits for merely 13 weeks. 13 weeks. This is intolerable.

We need legislation that is going to stimulate growth and create jobs. We need to invest in research and technology to try to get this economy moving. We need to find realistic solutions that help the working and unemployed people of this Nation—not merely the wealthiest 5 percent.

We need to help the people that have been out of work for more than 6 months or more because this job market simply has nothing to offer. By the end of this month, it is estimated that well over 1 million people will have exhausted both State and Federal unemployment benefits without finding jobs.

As Democrats, we want to start passing legislation that creates jobs. We want to make sure that the unemployed have benefits. We want to make sure that people can feed their families and clothe their children. But the Republicans simply will not let us do it. Under our plan, we would strengthen unemployment benefits offering a permanent solution not merely temporary aid. Research shows that each dollar dedicated to strengthening unemployment benefits would boost the economy by one dollar and seventy-three cents. But the Republicans have closed their door on this plan and will never let it reach the House floor. This is a tragedy.

I am tired of temporary solutions. We need to fix this problem and make sure that the hard working people of this Nation get the help that they need.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise is support of H.R. 2185, Extend Temporary Unemployment Benefits Act. This bill guarantees at least 13 weeks of unemployment benefits for jobless workers who are about to exhaust their original 26 weeks of benefits. Extending unemployment insurance is not only compassionate; it makes good economic sense because it stimulates the economy. For every dollar of unemployment insurance given to individuals, $1.73 is generated in the economy, the greatest of any spending initiative or tax cut.

Over the past 2½ years, more than 2.6 million Americans have lost their jobs, and the total number of unemployed, 8.8 million, is the highest in a decade. In New York State, we have seen 175,000 people lose their jobs over this same period of time. Without this extension, many of these workers would lose their insurance in the next few months.

Today's legislation is a step in the right direction. While it helps those who have not exhausted their benefits, it is my hope we continue to finds ways to help those whose benefits have completely expired and are facing difficult times. Families need real help, not empty promises.

I look forward to President Bush signing this legislation into law.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of H.R. 2185, the "Unemployment Compensation Amendments." I am proud to be an original cosponsor of this important measure and I thank Chairman THOMAS and the House leadership for bringing this to the floor.

Sadly, we have watched many Americans become unemployed and struggle to find wok in today's economy. Today, Congress is taking a much needed step in extending unemployment compensation for our Nation's workers. Figures show the U.S. unemployment rate is at 6 percent and nearly 9 million people are unemployed. This legislation provides a safety net for men and women who have lost their jobs through no fault of their own.

We must assist workers during these times of hardship so they can successfully make the transition back to the workforce. The legislation before us helps accomplish this goal and coupled with existing job training and networking programs we can return Americans to the workforce. I urge my colleagues to join me in supporting this important legislation.

Mr. LAHOOD. Mr. Speaker, I rise today in support of H.R. 2185, legislation that will allow unemployed workers to receive 13 weeks of additional Federal unemployment benefits. This legislation also provides an additional 13 weeks for workers who live in States with high unemployment rates. Congress previously passed an extension of benefits in December, and I urge my colleagues to once again support this important legislation.

Approximately 300,000 unemployed workers will exhaust their benefits each month without this extension. While I think we all agree that unemployment compensation should be a temporary benefit, I do not believe that our economy is currently strong enough to phase out the extension we passed in December. With the unemployment rate at 6 percent and an estimated 2 million unemployed workers predicted to exhaust their benefits between June and November, families need this benefit to simply make ends meet and keep their homes.

Many of my own constituents in central Illinois, despite their hard work and persistence, cannot find suitable work. In Illinois, over 100,000 unemployed workers are likely to exhaust their benefits over the next 6 months. This legislation will help to sustain these families until they can once again become self-sufficient. Additionally, it will provide even more benefits to unemployed workers in States in a worse position than Illinois, such as Washington and Oregon.

It is important that we pass this legislation today and avoid a possible disruption in benefits. While Congress is doing its part to ensure that our economy improves, we should not ignore those who are struggling. Once again, I urge my colleagues to support this important legislation.

Ms. MILLENDER-MCDONALD. Mr. Speaker, today I come before you to talk about how much unemployed Americans across the country will be affected when the Temporary Extended Unemployment Compensation Act of 2002, TEUC, runs out at the end of this month. We all know how severely the current economic downturn has impacted not only our districts, but our States overall. In my own State of California, the unemployment rate was 6.7 percent in 2002, while the Nation's unemployment rate for the same time period was 5.8 percent. California had 1.2 million unemployed residents in 2002, leaving it tied for 46th place with the worst unemployment ranking among the 50 States and the District of Columbia. As of March 2003, the State's unemployment rate had risen to 6.8 percent, which remains higher than the national average of 5.8 percent.

With our country's ongoing economic uncertainty, it is incumbent upon us to provide all methods of support to citizens who are searching for work nationwide.

With upward of 2.7 million private sector jobs lost during the past 2 years in contrast to 1.3 million private sector jobs disappearing in the early 1990s, we must clearly provide all available resources to unemployed Americans.

If we do not act quickly, some 80,000 Americans who are out of work will be unable to receive extended unemployment benefits each week unless we act and extend the current Temporary Extended Unemployment Compensation Program. If we delay further action, as of June 1 up to 2 million unemployed workers could be denied extended benefits over the next 6 months. This is on top of the 1 million out-of-work Americans who have already exhausted their Federal extended benefits.

Given that our economy was declared to be in recession as of March 2001, and with the additional decline caused by the events of September 11, more people are losing their jobs, and experience difficulty finding other work in order to sustain their families and themselves. We are facing new, unprecedented economic challenges, and the assistance we offer to those who are unemployed must meet their needs. An extended benefits program was made available to the unemployed for 27 months during the recession of the early 1990s, and unemployed workers received from 20 to 26 weeks' worth of benefits. Now, the extended benefits program is scheduled to expire after only 15 months, and it offers only 13 weeks of benefits in a select number of States. We spent $28.5 billion to help unemployed workers a decade ago, as opposed to spending $16 billion on extended benefits for the unemployed today.

The statistics we face regarding unemployment today are grim. The Department of Labor's Job Openings and Labor Turnover report indicates that there are now more than three unemployed workers for every job opening. Many individuals and families rely solely on unemployment benefits to support themselves. With the average length of unemployment now stretching out to 19.6 weeks, we are facing a 20-year high in terms of the numbers of Americans who are seeking employment. At this time, the percentage of people who have exhausted their standard unemployment benefits stands at 43 percent over the past several months, which is a record high. Compounding that fact, the number of long-term unemployed individuals out of work for more than 6 months has tripled over the last 3 years from 596,000 in 2000 to 1.9 million as of last month.

We are facing sobering statistics in a difficult economic climate, and tough choices must be made. As we move forward in making decisions, let us be mindful of the women, men and children who are in greatest need at this time.

Ms. DUNN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). All time for debate has expired.

The bill is considered read for amendment.

Pursuant to House Resolution 248, the previous question is ordered on the bill.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CARDIN. Yes, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CARDIN moves to recommit the bill, H.R. 2185, to the Committee on Ways and Means with instructions that the Committee report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following:

**SEC. 3. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.**

(a) WEEKS OF TEUC AMOUNTS.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 28) is amended to read as follows:

"(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to 26 times the individual's weekly benefit amount for the benefit year.".

(b) WEEKS OF TEUC-X AMOUNTS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 28) is amended by striking "an amount equal to the amount originally established in such account (as determined under subsection (b)(1))" and inserting "7 times the individual's weekly benefit amount for the benefit year".

(c) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002; but

(2) shall apply only with respect to weeks of unemployment beginning on or after the date of enactment this Act.

Mr. CARDIN (during the reading). Mr. Speaker, I ask unanimous consent the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. CARDIN) is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, as I have indicated during the debate on the bill, the bill before us does extend unemployment insurance benefits for 7 months. I agree with the gentlewoman from Washington (Ms. DUNN) that a 7-month extension of the unemployment insurance benefits at this time is the appropriate length of time for us to extend unemployment insurance benefits.

We hope that during this period of time our economy will rebound; and if not, then we will have to revisit it again, but the length of time is the right period, and we have no objection to that.

Our objection is that we are not covering all the people who need to be helped. As I pointed out, in the recession in the 1990s when the loss of employment was less severe than the loss of employment in this recession, with the number of people who exhausted their Federal unemployment insurance benefits was less than under the current recession, we extended benefits for 26 weeks. We have the money in the unemployment insurance trust fund in order to do this. We have the money in the account, $21 billion. This will add a little over $3 billion.

Mr. Speaker, the distinguished chairman of the Committee on Ways and Means just filed the conference report on the Growth Tax Bill that I assume we will be taking up later this evening. That conference report will incur $350 billion of additional outlays. The amendment I have before you is less than 1 percent, less than 1 percent of the conference report on the tax bill. It affects 1 million people; 1 million people are affected by this motion. The adoption of this motion to recommit will not delay this bill 1 minute. We will still vote on it and pass it tonight. It is our opportunity to speak to what is the right policy, the right policy for those people who are unemployed; the right policy for what we have done in previous recessions; the right policy to help our economy, because we know these people need the money and will spend the money.

It is the right policy. I urge my colleagues to take advantage of this opportunity so that we cannot only take care of the 2 million people who are estimated to exhaust their State unemployment insurance benefits during the next 6 to 7 months, but we can help the 1 million people who are looking for jobs and cannot find jobs.

We have heard from these people in our communities. For every three people that are seeking a job, there is only one job available in the community, through no fault of their own. The least we can do is try to help them, and we can tonight by your vote on this motion to recommit. I urge my colleagues to support the motion.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, first of all, I want to compliment the gentlemen from Maryland (Mr. CARDIN). He has written a motion to recommit that is real.

We have seen many, many of these motions to recommit, and I am forced to point out the language that prefaces the specifics is not really genuine because they use the word "promptly" which kills the bill; and therefore, anything that they say they want simply is not so. And I rise to compliment him because in my usual examining of motions to recommit, he has got "forthwith." That is real. That means if we decide to do this, it comes back immediately and the bill is changed. That is usually what the motion to recommit is about.

That is one of the reasons that Republicans, when we became the majority, decided to make sure that the minority would always have, would always have the right to recommit, not at the pleasure of the majority as was the case when we were in the minority, but guaranteed so that they could offer their alternative; and what we have seen all too often is a political stunt.

This is not a political stunt because it is clear with the language "forthwith" that they would like to have what this motion to recommit does. The gentleman said that we will soon be considering a growth plan, and I appreciate his use of that term because we hope that is exactly what it does. Of course, it is kind of a piker in terms of growth compared to what is offered in the motion to recommit.

It turns out that under the Democrat's plan, although it is not quite perpetual motion it comes darn close, someone can work for 20 weeks and then they can get 26 weeks of regular State unemployment. Then they can get another 26 weeks of temporary extended that will be provided to every State under the motion. Seven additional weeks in a high-unemployment State and then 13 additional permanents. That is 72 weeks. That is 17 months for 20 weeks' work.

If this motion to recommit passes, the growth plan that we will soon be considering, notwithstanding the fact that there may be a job, will create a real temptation for many people to take a look at this growth plan for unemployment that the Democrats offer and say 20 weeks of work for 17 months of unemployment is a really, really good deal.

We believe that we have to have a structure that deals with the underlying problem. We believe the bill that we have presented does. It is possible to create a structure which is, in fact, virtually self-defeating. I believe this motion to recommit comes awfully close. And I would ask my colleagues to oppose the motion to recommit. Vote for the underlying bill. Move that bill off the floor so that prior to this break everyone knows we wanted to make sure that we had a continuous, uninterrupted opportunity so that those who are seeking employment can have assistance to do so.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CARDIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This is a 15-minute vote to be followed by a 5-minute vote on passage.

The vote was taken by electronic device, and there were—yeas 205, nays 222, not voting 7, as follows:

[Roll No. 222]

YEAS—205

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sefrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Berman
Bonilla
Combest
Doolittle
Emerson
Gephardt
Jones (NC)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). There are two minutes remaining to vote.

☐ 2113

Messrs. BEAUPREZ, HEFLEY, McINNIS, and SMITH of Michigan changed their vote from "yea" to "nay."

Mr. BAIRD changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. QUINN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 19, not voting 6, as follows:

[Roll No. 223]

AYES—409

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller

Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOES—19

Bartlett (MD)
Burgess
Crane
Cubin
Culberson
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Hensarling
Hostettler
Johnson, Sam
King (IA)
Miller (FL)
Musgrave
Paul
Shadegg
Smith (MI)
Tancredo

### NOT VOTING—6

Bonilla
Combest
Doolittle
Emerson
Gephardt
Lewis (CA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2120

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

Mr. THOMAS (during consideration of H.R. 2185) submitted the following conference report and statement on the bill (H.R. 2), to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004:

### CONFERENCE REPORT (H. REPT. 108-126)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2), to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

### *SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Jobs and Growth Tax Relief Reconciliation Act of 2003".*

*(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.*

*(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; references; table of contents.*

*TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS*

*Sec. 101. Acceleration of increase in child tax credit.*
*Sec. 102. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.*
*Sec. 103. Acceleration of increase in standard deduction for married taxpayers filing joint returns.*
*Sec. 104. Acceleration of 10-percent individual income tax rate bracket expansion.*
*Sec. 105. Acceleration of reduction in individual income tax rates.*
*Sec. 106. Minimum tax relief to individuals.*
*Sec. 107. Application of EGTRRA sunset to this title.*

*TITLE II—GROWTH INCENTIVES FOR BUSINESS*

*Sec. 201. Increase and extension of bonus depreciation.*
*Sec. 202. Increased expensing for small business.*

*TITLE III—REDUCTION IN TAXES ON DIVIDENDS AND CAPITAL GAINS*

*Sec. 301. Reduction in capital gains rates for individuals; repeal of 5-year holding period requirement.*
*Sec. 302. Dividends of individuals taxed at capital gain rates.*
*Sec. 303. Sunset of title.*

*TITLE IV—TEMPORARY STATE FISCAL RELIEF*

*Sec. 401. Temporary State fiscal relief.*

*TITLE V—CORPORATE ESTIMATED TAX PAYMENTS FOR 2003*

*Sec. 501. Time for payment of corporate estimated taxes.*

## *TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS*

### *SEC. 101. ACCELERATION OF INCREASE IN CHILD TAX CREDIT.*

*(a) IN GENERAL.—The item relating to calendar years 2001 through 2004 in the table contained in paragraph (2) of section 24(a) (relating to per child amount) is amended to read as follows:*

*"2003 or 2004 .................................... $1,000".*

*(b) ADVANCE PAYMENT OF PORTION OF INCREASED CREDIT IN 2003.—*

*(1) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by inserting after section 6428 the following new section:*

### *"SEC. 6429. ADVANCE PAYMENT OF PORTION OF INCREASED CHILD CREDIT FOR 2003.*

*"(a) IN GENERAL.—Each taxpayer who was allowed a credit under section 24 on the return for the taxpayer's first taxable year beginning in 2002 shall be treated as having made a payment against the tax imposed by chapter 1 for such taxable year in an amount equal to the child tax credit refund amount (if any) for such taxable year.*

*"(b) CHILD TAX CREDIT REFUND AMOUNT.—For purposes of this section, the child tax credit refund amount is the amount by which the aggregate credits allowed under part IV of subchapter A of chapter 1 for such first taxable year would have been increased if—*

*"(1) the per child amount under section 24(a)(2) for such year were $1,000,*

*"(2) only qualifying children (as defined in section 24(c)) of the taxpayer for such year who had not attained age 17 as of December 31, 2003, were taken into account, and*

*"(3) section 24(d)(1)(B)(ii) did not apply.*

*"(c) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before October 1, 2003. No refund or credit shall be made or allowed under this section after December 31, 2003.*

*"(d) COORDINATION WITH CHILD TAX CREDIT.—*

*"(1) IN GENERAL.—The amount of credit which would (but for this subsection and section 26) be allowed under section 24 for the taxpayer's first taxable year beginning in 2003 shall be reduced (but not below zero) by the payments made to the taxpayer under this section. Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).*

*"(2) JOINT RETURNS.—In the case of a payment under this section with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.*

*"(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.".*

*(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:*

*"Sec. 6429. Advance payment of portion of increased child credit for 2003.".*

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

### SEC. 102. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—The table contained in subparagraph (B) of section 1(f)(8) (relating to applicable percentage) is amended by inserting before the item relating to 2005 the following new item:

"2003 and 2004 ...................... 200".

(b) CONFORMING AMENDMENTS.—

(1) Section 1(f)(8)(A) is amended by striking "2004" and inserting "2002".

(2) Section 302(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "2004" and inserting "2002".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 103. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—The table contained in paragraph (7) of section 63(c) (relating to applicable percentage) is amended by inserting before the item relating to 2005 the following new item:

"2003 and 2004 ...................... 200".

(b) CONFORMING AMENDMENT.—Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "2004" and inserting "2002".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 104. ACCELERATION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) (relating to the initial bracket amount) is amended by striking "($12,000 in the case of taxable years beginning before January 1, 2008)" and inserting "($12,000 in the case of taxable years beginning after December 31, 2004, and before January 1, 2008)".

(b) INFLATION ADJUSTMENT.—Subparagraph (C) of section 1(i)(1) is amended to read as follows:

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2000—

"(i) except as provided in clause (ii), the Secretary shall make no adjustment to the initial bracket amounts for any taxable year beginning before January 1, 2009,

"(ii) there shall be an adjustment under subsection (f) of such amounts which shall apply only to taxable years beginning in 2004, and such adjustment shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof,

"(iii) the cost-of-living adjustment used in making adjustments to the initial bracket amounts for any taxable year beginning after December 31, 2008, shall be determined under subsection (f)(3) by substituting '2007' for '1992' in subparagraph (B) thereof, and

"(iv) the adjustments under clauses (ii) and (iii) shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) TABLES FOR 2003.—The Secretary of the Treasury shall modify each table which has been prescribed under section 1(f) of the Internal Revenue Code of 1986 for taxable years beginning in 2003 and which relates to the amendment made by subsection (a) to reflect such amendment.

### SEC. 105. ACCELERATION OF REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended to read as follows:

| "In the case of taxable years beginning during calendar year: | The corresponding percentages shall be substituted for the following percentages: | | | |
|---|---|---|---|---|
| | 28% | 31% | 36% | 39.6% |
| 2001 ........... | 27.5% | 30.5% | 35.5% | 39.1% |
| 2002 ........... | 27.0% | 30.0% | 35.0% | 38.6% |
| 2003 and thereafter | 25.0% | 28.0% | 33.0% | 35.0%". |

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 106. MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—

(1) Subparagraph (A) of section 55(d)(1) is amended by striking "$49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004" and inserting "$58,000 in the case of taxable years beginning in 2003 and 2004".

(2) Subparagraph (B) of section 55(d)(1) is amended by striking "$35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004" and inserting "$40,250 in the case of taxable years beginning in 2003 and 2004".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

### SEC. 107. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

## TITLE II—GROWTH INCENTIVES FOR BUSINESS

### SEC. 201. INCREASE AND EXTENSION OF BONUS DEPRECIATION.

(a) IN GENERAL.—Section 168(k) (relating to special allowance for certain property acquired after September 10, 2001, and before September 11, 2004) is amended by adding at the end the following new paragraph:

"(4) 50-PERCENT BONUS DEPRECIATION FOR CERTAIN PROPERTY.—

"(A) IN GENERAL.—In the case of 50-percent bonus depreciation property—

"(i) paragraph (1)(A) shall be applied by substituting '50 percent' for '30 percent', and

"(ii) except as provided in paragraph (2)(C), such property shall be treated as qualified property for purposes of this subsection.

"(B) 50-PERCENT BONUS DEPRECIATION PROPERTY.—For purposes of this subsection, the term '50-percent bonus depreciation property' means property described in paragraph (2)(A)(i)—

"(i) the original use of which commences with the taxpayer after May 5, 2003,

"(ii) which is acquired by the taxpayer after May 5, 2003, and before January 1, 2005, but only if no written binding contract for the acquisition was in effect before May 6, 2003, and

"(iii) which is placed in service by the taxpayer before January 1, 2005, or, in the case of property described in paragraph (2)(B) (as modified by subparagraph (C) of this paragraph), before January 1, 2006.

"(C) SPECIAL RULES.—Rules similar to the rules of subparagraphs (B) and (D) of paragraph (2) shall apply for purposes of this paragraph; except that references to September 10, 2001, shall be treated as references to May 5, 2003.

"(D) AUTOMOBILES.—Paragraph (2)(E) shall be applied by substituting '$7,650' for '$4,600' in the case of 50-percent bonus depreciation property.

"(E) ELECTION OF 30-PERCENT BONUS.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, subparagraph (A)(i) shall not apply to all property in such class placed in service during such taxable year.".

(b) EXTENSION OF CERTAIN DATES FOR 30-PERCENT BONUS DEPRECIATION PROPERTY.—

(1) PORTION OF BASIS TAKEN INTO ACCOUNT.—

(A) Subparagraphs (B)(ii) and (D)(i) of section 168(k)(2) are each amended by striking "September 11, 2004" each place it appears in the text and inserting "January 1, 2005".

(B) Clause (ii) of section 168(k)(2)(B) is amended by striking "PRE-SEPTEMBER 11, 2004" in the heading and inserting "PRE-JANUARY 1, 2005".

(2) ACQUISITION DATE.—Clause (iii) of section 168(k)(2)(A) is amended by striking "September 11, 2004" each place it appears and inserting "January 1, 2005".

(3) ELECTION.—Clause (iii) of section 168(k)(2)(C) is amended by adding at the end the following: "The preceding sentence shall be applied separately with respect to property treated as qualified property by paragraph (4) and other qualified property.".

(c) CONFORMING AMENDMENTS.—

(1) The subsection heading for section 168(k) is amended by striking "SEPTEMBER 11, 2004" and inserting "JANUARY 1, 2005".

(2) The heading for clause (i) of section 1400L(b)(2)(C) is amended by striking "30-PERCENT ADDITIONAL ALLOWANCE PROPERTY" and inserting "BONUS DEPRECIATION PROPERTY UNDER SECTION 168(k)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 5, 2003.

### SEC. 202. INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2006).".

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) (relating to reduction in limitation) is amended by inserting "($400,000 in the case of taxable years beginning after 2002 and before 2006)" after "$200,000".

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) (defining section 179 property) is amended to read as follows:

"(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means property—

"(A) which is—

"(i) tangible property (to which section 168 applies), or

"(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i), to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2006,

"(B) which is section 1245 property (as defined in section 1245(a)(3)), and

"(C) which is acquired by purchase for use in the active conduct of a trade or business.

Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.".

(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT THRESHOLD FOR INFLATION.—Subsection (b) of section 179 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) INFLATION ADJUSTMENTS.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003 and before 2006, the $100,000 and $400,000 amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—

"(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

"(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.".

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) (relating to election irrevocable) is amended by adding at the end the following new sentence: "Any such election or specification with respect to any taxable year beginning after 2002 and before 2006 may be revoked by the taxpayer with respect to any property, and such revocation, once made, shall be irrevocable.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

## TITLE III—REDUCTION IN TAXES ON DIVIDENDS AND CAPITAL GAINS

### SEC. 301. REDUCTION IN CAPITAL GAINS RATES FOR INDIVIDUALS; REPEAL OF 5-YEAR HOLDING PERIOD REQUIREMENT.

(a) IN GENERAL.—

(1) Sections 1(h)(1)(B) and 55(b)(3)(B) are each amended by striking "10 percent" and inserting "5 percent (0 percent in the case of taxable years beginning after 2007)".

(2) The following sections are each amended by striking "20 percent" and inserting "15 percent":

(A) Section 1(h)(1)(C).

(B) Section 55(b)(3)(C).

(C) Section 1445(e)(1).

(D) The second sentence of section 7518(g)(6)(A).

(E) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936.

(b) CONFORMING AMENDMENTS.—

(1) Section 1(h) is amended—

(A) by striking paragraphs (2) and (9),

(B) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively, and

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (8), (9), and (10), respectively.

(2) Paragraph (3) of section 55(b) is amended by striking "In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C).".

(3) Paragraph (7) of section 57(a) is amended—

(A) by striking "42 percent" the first place it appears and inserting "7 percent", and

(B) by striking the last sentence.

(c) TRANSITIONAL RULES FOR TAXABLE YEARS WHICH INCLUDE MAY 6, 2003.—For purposes of applying section 1(h) of the Internal Revenue Code of 1986 in the case of a taxable year which includes May 6, 2003—

(1) The amount of tax determined under subparagraph (B) of section 1(h)(1) of such Code shall be the sum of—

(A) 5 percent of the lesser of—

(i) the net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year on or after May 6, 2003 (determined without regard to collectibles gain or loss, gain described in section 1(h)(6)(A)(i) of such Code, and section 1202 gain), or

(ii) the amount on which a tax is determined under such subparagraph (without regard to this subsection),

(B) 8 percent of the lesser of—

(i) the qualified 5-year gain (as defined in section 1(h)(9) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) properly taken into account for the portion of the taxable year before May 6, 2003, or

(ii) the excess (if any) of—

(I) the amount on which a tax is determined under such subparagraph (without regard to this subsection), over

(II) the amount on which a tax is determined under subparagraph (A), plus

(C) 10 percent of the excess (if any) of—

(i) the amount on which a tax is determined under such subparagraph (without regard to this subsection), over

(ii) the sum of the amounts on which a tax is determined under subparagraphs (A) and (B).

(2) The amount of tax determined under subparagraph (C) of section (1)(h)(1) of such Code shall be the sum of—

(A) 15 percent of the lesser of—

(i) the excess (if any) of the amount of net capital gain determined under subparagraph (A)(i) of paragraph (1) of this subsection over the amount on which a tax is determined under subparagraph (A) of paragraph (1) of this subsection, or

(ii) the amount on which a tax is determined under such subparagraph (C) (without regard to this subsection), plus

(B) 20 percent of the excess (if any) of—

(i) the amount on which a tax is determined under such subparagraph (C) (without regard to this subsection), over

(ii) the amount on which a tax is determined under subparagraph (A) of this paragraph.

(3) For purposes of applying section 55(b)(3) of such Code, rules similar to the rules of paragraphs (1) and (2) of this subsection shall apply.

(4) In applying this subsection with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

(5) For purposes of applying section 1(h)(11) of such Code, as added by section 302 of this Act, to this subsection, dividends which are qualified dividend income shall be treated as gain properly taken into account for the portion of the taxable year on or after May 6, 2003.

(6) Terms used in this subsection which are also used in section 1(h) of such Code shall have the respective meanings that such terms have in such section.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to taxable years ending on or after May 6, 2003.

(2) WITHHOLDING.—The amendment made by subsection (a)(2)(C) shall apply to amounts paid after the date of the enactment of this Act.

(3) SMALL BUSINESS STOCK.—The amendments made by subsection (b)(3) shall apply to dispositions on or after May 6, 2003.

### SEC. 302. DIVIDENDS OF INDIVIDUALS TAXED AT CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) (relating to maximum capital gains rate), as amended by section 301, is amended by adding at the end the following new paragraph:

"(11) DIVIDENDS TAXED AS NET CAPITAL GAIN.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'net capital gain' means net capital gain (determined without regard to this paragraph) increased by qualified dividend income.

"(B) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified dividend income' means dividends received during the taxable year from—

"(I) domestic corporations, and

"(II) qualified foreign corporations.

"(ii) CERTAIN DIVIDENDS EXCLUDED.—Such term shall not include—

"(I) any dividend from a corporation which for the taxable year of the corporation in which the distribution is made, or the preceding taxable year, is a corporation exempt from tax under section 501 or 521,

"(II) any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.), and

"(III) any dividend described in section 404(k).

"(iii) COORDINATION WITH SECTION 246(C).—Such term shall not include any dividend on any share of stock—

"(I) with respect to which the holding period requirements of section 246(c) are not met (determined by substituting in section 246(c)(1) '60 days' for '45 days' each place it appears and by substituting '120-day period' for '90-day period'), or

"(II) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

"(C) QUALIFIED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified foreign corporation' means any foreign corporation if—

"(I) such corporation is incorporated in a possession of the United States, or

"(II) such corporation is eligible for benefits of a comprehensive income tax treaty with the United States which the Secretary determines is satisfactory for purposes of this paragraph and which includes an exchange of information program.

"(ii) DIVIDENDS ON STOCK READILY TRADABLE ON UNITED STATES SECURITIES MARKET.—A foreign corporation not otherwise treated as a qualified foreign corporation under clause (i) shall be so treated with respect to any dividend paid by such corporation if the stock with respect to which such dividend is paid is readily tradable on an established securities market in the United States.

"(iii) EXCLUSION OF DIVIDENDS OF CERTAIN FOREIGN CORPORATIONS.—Such term shall not include any foreign corporation which for the taxable year of the corporation in which the dividend was paid, or the preceding taxable year, is a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or a passive foreign investment company (as defined in section 1297).

"(iv) COORDINATION WITH FOREIGN TAX CREDIT LIMITATION.—Rules similar to the rules of section 904(b)(2)(B) shall apply with respect to the dividend rate differential under this paragraph.

"(D) SPECIAL RULES.—

"(i) AMOUNTS TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—Qualified dividend income shall *not include any amount which the taxpayer takes into account as investment income under section 163(d)(4)(B).*

*"(ii) EXTRAORDINARY DIVIDENDS.—If an individual receives, with respect to any share of stock, qualified dividend income from 1 or more dividends which are extraordinary dividends (within the meaning of section 1059(c)), any loss on the sale or exchange of such share shall, to the extent of such dividends, be treated as long-term capital loss.*

*"(iii) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—A dividend received from a regulated investment company or a real estate investment trust shall be subject to the limitations prescribed in sections 854 and 857.".*

*(b) EXCLUSION OF DIVIDENDS FROM INVESTMENT INCOME.—Subparagraph (B) of section 163(d)(4) (defining net investment income) is amended by adding at the end the following flush sentence:*

*"Such term shall include qualified dividend income (as defined in section 1(h)(11)(B)) only to the extent the taxpayer elects to treat such income as investment income for purposes of this subsection.".*

*(c) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—*

*(1) Subsection (a) of section 854 (relating to dividends received from regulated investment companies) is amended by inserting "section 1(h)(11) (relating to maximum rate of tax on dividends) and" after "For purposes of".*

*(2) Paragraph (1) of section 854(b) (relating to other dividends) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:*

*"(B) MAXIMUM RATE UNDER SECTION 1(h).—*

*"(i) IN GENERAL.—If the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the maximum rate under section 1(h)(11), rules similar to the rules of subparagraph (A) shall apply.*

*"(ii) GROSS INCOME.—For purposes of clause (i), in the case of 1 or more sales or other dispositions of stock or securities, the term 'gross income' includes only the excess of—*

*"(I) the net short-term capital gain from such sales or dispositions, over*

*"(II) the net long-term capital loss from such sales or dispositions.*

*"(iii) DIVIDENDS FROM REAL ESTATE INVESTMENT TRUSTS.—For purposes of clause (i)—*

*"(I) paragraph (3)(B)(ii) shall not apply, and*

*"(II) in the case of a distribution from a trust described in such paragraph, the amount of such distribution which is a dividend shall be subject to the limitations under section 857(c).*

*"(iv) DIVIDENDS FROM QUALIFIED FOREIGN CORPORATIONS.—For purposes of clause (i), dividends received from qualified foreign corporations (as defined in section 1(h)(11)) shall also be taken into account in computing aggregate dividends received.".*

*(3) Subparagraph (C) of section 854(b)(1), as redesignated by paragraph (2), is amended by striking "subparagraph (A)" and inserting "subparagraph (A) or (B)".*

*(4) Paragraph (2) of section 854(b) is amended by inserting "the maximum rate under section 1(h)(11) and" after "for purposes of".*

*(5) Subsection (b) of section 854 is amended by adding at the end the following new paragraph:*

*"(5) COORDINATION WITH SECTION 1(h)(11).—For purposes of paragraph (1)(B), an amount shall be treated as a dividend only if the amount is qualified dividend income (within the meaning of section 1(h)(11)(B)).".*

*(d) TREATMENT OF DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—Section 857(c) (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:*

*"(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—*

*"(1) SECTION 243.—For purposes of section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered a dividend.*

*"(2) SECTION 1(h)(11).—For purposes of section 1(h)(11) (relating to maximum rate of tax on dividends)—*

*"(A) rules similar to the rules of subparagraphs (B) and (C) of section 854(b)(1) shall apply to dividends received from a real estate investment trust which meets the requirements of this part, and*

*"(B) for purposes of such rules, such a trust shall be treated as receiving qualified dividend income during any taxable year in an amount equal to the sum of—*

*"(i) the excess of real estate investment trust taxable income computed under section 857(b)(2) for the preceding taxable year over the tax payable by the trust under section 857(b)(1) for such preceding taxable year, and*

*"(ii) the excess of the income subject to tax by reason of the application of the regulations under section 337(d) for the preceding taxable year over the tax payable by the trust on such income for such preceding taxable year.".*

*(e) CONFORMING AMENDMENTS.—*

*(1) Paragraph (3) of section 1(h), as redesignated by section 301, is amended to read as follows:*

*"(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means the sum of—*

*"(A) net capital gain (determined without regard to paragraph (11)) reduced (but not below zero) by the sum of—*

*"(i) unrecaptured section 1250 gain, and*

*"(ii) 28-percent rate gain, plus*

*"(B) qualified dividend income (as defined in paragraph (11)).".*

*(2) Subsection (f) of section 301 is amended adding at the end the following new paragraph:*

*"(4) For taxation of dividends received by individuals at capital gain rates, see section 1(h)(11).".*

*(3) Paragraph (1) of section 306(a) is amended by adding at the end the following new subparagraph:*

*"(D) TREATMENT AS DIVIDEND.—For purposes of section 1(h)(11) and such other provisions as the Secretary may specify, any amount treated as ordinary income under this paragraph shall be treated as a dividend received from the corporation.".*

*(4)(A) Subpart C of part II of subchapter C of chapter 1 (relating to collapsible corporations) is repealed.*

*(B)(i) Section 338(h) is amended by striking paragraph (14).*

*(ii) Sections 467(c)(5)(C), 1255(b)(2), and 1257(d) are each amended by striking ", 341(e)(12),".*

*(iii) The table of subparts for part II of subchapter C of chapter 1 is amended by striking the item related to subpart C.*

*(5) Section 531 is amended by striking "equal to" and all that follows and inserting "equal to 15 percent of the accumulated taxable income.".*

*(6) Section 541 is amended by striking "equal to" and all that follows and inserting "equal to 15 percent of the undistributed personal holding company income.".*

*(7) Section 584(c) is amended by adding at the end the following new flush sentence:*

*"The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 1(h)(11) applies shall be considered for purposes of such paragraph as having been received by such participant.".*

*(8) Paragraph (5) of section 702(a) is amended to read as follows:*

*"(5) dividends with respect to which section 1(h)(11) or part VIII of subchapter B applies,".*

*(f) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.*

*(2) REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—In the case of a regulated investment company or a real estate investment trust, the amendments made by this section shall apply to taxable years ending after December 31, 2002; except that dividends received by such a company or trust on or before such date shall not be treated as qualified dividend income (as defined in section 1(h)(11)(B) of the Internal Revenue Code of 1986; as added by this Act).*

### *SEC. 303. SUNSET OF TITLE.*

*All provisions of, and amendments made by, this title shall not apply to taxable years beginning after December 31, 2008, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.*

## *TITLE IV—TEMPORARY STATE FISCAL RELIEF*

### *SEC. 401. TEMPORARY STATE FISCAL RELIEF.*

*(a) $10,000,000,000 FOR A TEMPORARY INCREASE OF THE MEDICAID FMAP.—*

*(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this subsection.*

*(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2004.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for the first, second, and third calendar quarters of fiscal year 2004, before the application of this subsection.*

*(3) GENERAL 2.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Subject to paragraphs (5), (6), and (7), for each State for the third and fourth calendar quarters of fiscal year 2003 and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 2.95 percentage points.*

*(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to paragraphs (6) and (7), with respect to the third and fourth calendar quarters of fiscal year 2003 and the first, second, and third calendar quarters of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 5.90 percent of such amounts.*

*(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—*

*(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);*

*(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or*

*(C) any payments under XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).*

*(6) STATE ELIGIBILITY.—*

*(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.*

*(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.*

*(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).*

*(7) REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State shall not require that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for the third and fourth calendar quarters of fiscal year 2003 and the first, second and third calendar quarters of fiscal year 2004, than the percentage that was required by the State under such plan on April 1, 2003, prior to application of this subsection.*

*(8) DEFINITIONS.—In this subsection:*

*(A) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).*

*(B) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).*

*(9) REPEAL.—Effective as of October 1, 2004, this subsection is repealed.*

*(b) $10,000,000,000 TO ASSIST STATES IN PROVIDING GOVERNMENT SERVICES.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by inserting after title V the following:*

## *"TITLE VI—TEMPORARY STATE FISCAL RELIEF*

### *"SEC. 601. TEMPORARY STATE FISCAL RELIEF.*

*"(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments to States under this section, $5,000,000,000 for each of fiscal years 2003 and 2004.*

*"(b) PAYMENTS.—*

*"(1) FISCAL YEAR 2003.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, not later than the later of the date that is 45 days after the date of enactment of this Act or the date that a State provides the certification required by subsection (e) for fiscal year 2003, pay each State the amount determined for the State for fiscal year 2003 under subsection (c).*

*"(2) FISCAL YEAR 2004.—From the amount appropriated under subsection (a) for fiscal year 2004, the Secretary of the Treasury shall, not later than the later of October 1, 2003, or the date that a State provides the certification required by subsection (e) for fiscal year 2004, pay each State the amount determined for the State for fiscal year 2004 under subsection (c).*

*"(c) PAYMENTS BASED ON POPULATION.—*

*"(1) IN GENERAL.—Subject to paragraph (2), the amount appropriated under subsection (a) for each of fiscal years 2003 and 2004 shall be used to pay each State an amount equal to the relative population proportion amount described in paragraph (3) for such fiscal year.*

*"(2) MINIMUM PAYMENT.—*

*"(A) IN GENERAL.—No State shall receive a payment under this section for a fiscal year that is less than—*

*"(i) in the case of 1 of the 50 States or the District of Columbia, ½ of 1 percent of the amount appropriated for such fiscal year under subsection (a); and*

*"(ii) in the case of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, ⅒ of 1 percent of the amount appropriated for such fiscal year under subsection (a).*

*"(B) PRO RATA ADJUSTMENTS.—The Secretary of the Treasury shall adjust on a pro rata basis the amount of the payments to States determined under this section without regard to this subparagraph to the extent necessary to comply with the requirements of subparagraph (A).*

*"(3) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this paragraph is the product of—*

*"(A) the amount described in subsection (a) for a fiscal year; and*

*"(B) the relative State population proportion (as defined in paragraph (4)).*

*"(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—For purposes of paragraph (3)(B), the term "relative State population proportion" means, with respect to a State, the amount equal to the quotient of—*

*"(A) the population of the State (as reported in the most recent decennial census); and*

*"(B) the total population of all States (as reported in the most recent decennial census).*

*"(d) USE OF PAYMENT.—*

*"(1) IN GENERAL.—Subject to paragraph (2), a State shall use the funds provided under a payment made under this section for a fiscal year to—*

*"(A) provide essential government services; or*

*"(B) cover the costs to the State of complying with any Federal intergovernmental mandate (as defined in section 421(5) of the Congressional Budget Act of 1974) to the extent that the mandate applies to the State, and the Federal Government has not provided funds to cover the costs.*

*"(2) LIMITATION.—A State may only use funds provided under a payment made under this section for types of expenditures permitted under the most recently approved budget for the State.*

*"(e) CERTIFICATION.—In order to receive a payment under this section for a fiscal year, the State shall provide the Secretary of the Treasury with a certification that the State's proposed uses of the funds are consistent with subsection (d).*

*"(f) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.*

*"(g) REPEAL.—Effective as of October 1, 2004, this title is repealed.".*

## *TITLE V—CORPORATE ESTIMATED TAX PAYMENTS FOR 2003*

### *SEC. 501. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.*

*Notwithstanding section 6655 of the Internal Revenue Code of 1986, 25 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2003 shall not be due until October 1, 2003.*

And the Senate agree to the same.

WILLIAM M. THOMAS,
TOM DELAY,
*Managers on the Part of the House.*

CHUCK GRASSLEY,
ORRIN HATCH,
DON NICKLES,
TRENT LOTT,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2), to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting an clarifying changes.

### I. ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS

### A. Accelerate the Increase in the Child Tax Credit (Sec. 101 of the House Bill, Sec. 106 of the Senate Amendment, and Sec. 24 of the Code)

#### PRESENT LAW

*In general*

For 2003, an individual may claim a $600 tax credit for each qualifying child under the age of 17. In general, a qualifying child is an individual for whom the taxpayer can claim a dependency exemption and who is the taxpayer's son or daughter (or descendent of either), stepson or stepdaughter (or descendent of either), or eligible foster child.

The child tax credit is scheduled to increase to $1,000, phased-in over several years.

Table 1, below, shows the scheduled increases of the child tax credit as provided under the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").

TABLE 1.—SCHEDULED INCREASE OF THE CHILD TAX CREDIT

| Taxable year | Credit amount per child |
|---|---:|
| 2003–2004 | $600 |
| 2005–2008 | 700 |
| 2009 | 800 |
| 2010[1] | 1,000 |

[1] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

The child tax credit is phased-out for individuals with income over certain thresholds. Specifically, the otherwise allowable child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income over $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns.[1] The length of the phase-out range depends on the number of qualifying children. For example, the phase-out range for a single individual with one qualifying child is between $75,000 and $87,000 of modified adjusted gross income. The phase-out range for a single individual with two qualifying children is between $75,000 and $99,000.

The amount of the tax credit and the phase-out ranges are not adjusted annually for inflation.

*Refundability*

For 2003, the child credit is refundable to the extent of 10 percent of the taxpayer's earned income in excess of $10,500.[2] The percentage is increased to 15 percent for taxable years 2005 and thereafter. Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's earned income in excess of $10,500 (for 2003). The refundable portion of the child credit does not constitute income and is not treated as resources for purposes of determining eligibility or the amount or nature of benefits or assistance under any Federal program or any State or local program financed with Federal funds. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the rules allowing refundable child credits.

*Alternative minimum tax liability*

The child credit is allowed against the individual's regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the rules allowing the child credit against the alternative minimum tax.

### HOUSE BILL

Under the House bill, the amount of the child credit is increased to $1,000 for 2003 through 2005.[3] After 2005, the child credit will revert to the levels provided under present law. For 2003, the increased amount of the child credit will be paid in advance beginning in July, 2003, on the basis of information on each taxpayer's 2002 return filed in 2003. Such payments will be made in a manner similar to the advance payment checks issued by the Treasury in 2001 to reflect the creation of the 10-percent regular income tax rate bracket.

*Effective date.*—The House bill provision is effective for taxable years beginning after December 31, 2002, and before January 1, 2006.

### SENATE AMENDMENT

The amount of the child credit is increased to $1,000 for 2003 and thereafter. For 2003, the increased amount of the child credit will be paid in advance beginning in July 2003 on the basis of information on each taxpayer's 2002 return filed in 2003. Advance payments will be made in a similar manner to the advance payment checks issued by the Treasury in 2001 to reflect the creation of the 10-percent regular income tax rate bracket. The increase in the refundable portion of the credit from 10 percent to 15 percent of the taxpayer's earned income in excess of the threshold amount is accelerated to 2003 from 2005.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002.

### CONFERENCE AGREEMENT

Under the conference agreement, the amount of the child credit is increased to $1,000 for 2003 and 2004.[4] After 2004, the child credit will revert to the levels provided under present law. For 2003, the increased amount of the child credit will be paid in advance beginning in July, 2003, on the basis of information on each taxpayer's 2002 return filed in 2003. The IRS is not expected to issue advance payment checks to an individual who did not claim the child credit for 2002. Such payments will be made in a manner similar to the advance payment checks issued by the Treasury in 2001 to reflect the creation of the 10-percent regular income tax rate bracket.

*Effective date.*—The conference agreement provision is effective for taxable years beginning after December 31, 2002, and before January 1, 2005.

## B. Accelerate Marriage Penalty Relief (Secs. 102 and 103 of the House Bill, Secs. 104 and 105 of the Senate Amendment and Secs. 1 and 63 of the Code)

### 1. Standard deduction marriage penalty relief

### PRESENT LAW

*Marriage penalty*

A married couple generally is treated as one tax unit that must pay tax on the couple's total taxable income. Although married couples may elect to file separate returns, the rate schedules and other provisions are structured so that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

A "marriage penalty" exists when the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they were not married. A "marriage bonus" exists when the combined tax liability of a married couple filing a joint return is less than the sum of the tax liabilities of each individual computed as if they were not married.

*Basic standard deduction*

Taxpayers who do not itemize deductions may choose the basic standard deduction (and additional standard deductions, if applicable),[5] which is subtracted from adjusted gross income ("AGI") in arriving at taxable income. The size of the basic standard deduction varies according to filing status and is adjusted annually for inflation.[6] For 2003, the basic standard deduction for married couples filing a joint return is 167 percent of the basic standard deduction for single filers. (Alternatively, the basic standard deduction amount for single filers is 60 percent of the basic standard deduction amount for married couples filing joint returns.) Thus, two unmarried individuals have standard deductions whose sum exceeds the standard deduction for a married couple filing a joint return.

EGTRRA increased the basic standard deduction for a married couple filing a joint return to twice the basic standard deduction for an unmarried individual filing a single return.[7] The increase in the standard deduction for married taxpayers filing a joint return is scheduled to be phased-in over five years beginning in 2005 and will be fully phased-in for 2009 and thereafter. Table 2, below, shows the standard deduction for married couples filing a joint return as a percentage of the standard deduction for single individuals during the phase-in period.

TABLE 2.—SCHEDULED PHASE-IN OF INCREASE OF THE BASIC STANDARD DEDUCTION FOR MARRIED COUPLES FILING JOINT RETURNS

| Taxable year | Standard deduction for married couples filing joint returns as percentage of standard deduction for unmarried individual returns |
|---|---|
| 2005 | 174 |
| 2006 | 184 |
| 2007 | 187 |
| 2008 | 190 |
| 2009 and 2010[1] | 200 |

[1] The basic standard deduction increases are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

### HOUSE BILL

The House bill accelerates the increase in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective for 2003, 2004, and 2005. For taxable years beginning after 2005, the applicable percentages will revert to those allowed under present law, as described above.

*Effective date.*—The House bill provision is effective for taxable years beginning after December 31, 2002, and before January 1, 2006.

### SENATE AMENDMENT

The Senate amendment increases in the basic standard deduction amount for joint returns to 195 percent of the basic standard deduction amount for single returns effective for 2003. The Senate amendment also increases in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective for 2004. For taxable years beginning after 2004, the applicable percentages will revert to those allowed under present law, as described above.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002 and before January 1, 2005.

### CONFERENCE AGREEMENT

The conference agreement increases the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective for

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[1] Modified adjusted gross income is the taxpayer's total gross income plus certain amounts excluded from gross income (i.e., excluded income of: U.S. citizens or residents living abroad (sec. 911), residents of Guam, American Samoa, and the Northern Mariana Islands (sec. 931), and residents of Puerto Rico (sec. 933)).

[2] The $10,500 amount is indexed for inflation.

[3] The increase in refundability to 15 percent of the taxpayer's earned income, scheduled for calendar years 2005 and thereafter, is not accelerated under the provision.

[4] The increase in refundability to 15 percent of the taxpayer's earned income, scheduled for calendar years 2005 and thereafter, is not accelerated under the provision.

[5] Additional standard deductions are allowed with respect to any individual who is elderly (age 65 or over) or blind.

[6] For 2003, the basic standard deduction amounts are: (1) $4,750 for unmarried individuals; (2) $7,950 for married individuals filing a joint return; (3) $7,000 for heads of households; and (4) $3,975 for married individuals filing separately.

[7] The basic standard deduction for a married taxpayer filing separately will continue to equal one-half of the basic standard deduction for a married couple filing jointly; thus, the basic standard deduction for unmarried individuals filing a single return and for married couples filing separately will be the same after the phase-in period.

2003 and 2004. For taxable years beginning after 2004, the applicable percentages will revert to those allowed under present law, as described above.

*Effective date.*—The conference agreement provision is effective for taxable years beginning after December 31, 2002, and before January 1, 2005.

### 2. Accelerate the expansion of the 15-percent rate bracket for married couples filing joint returns

#### PRESENT LAW

*In general*

Under the Federal individual income tax system, an individual who is a citizen or resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

*Regular income tax liability*

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income and then is reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

In general, the bracket breakpoints for single individuals are approximately 60 percent of the rate bracket breakpoints for married couples filing joint returns.[8] The rate bracket breakpoints for married individuals filing separate returns are exactly one-half of the rate brackets for married individuals filing joint returns. A separate, compressed rate schedule applies to estates and trusts.

*15-percent regular income tax rate bracket*

EGTRRA increased the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for a single individual filing a single return. The increase is phased-in over four years, beginning in 2005. Therefore, this provision is fully effective (i.e., the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return is twice the size of the 15-percent regular income tax rate bracket for an unmarried individual filing a single return) for taxable years beginning after December 31, 2007. Table 3, below, shows the increase in the size of the 15-percent bracket during the phase-in period.

TABLE 3.—SCHEDULED INCREASE IN SIZE OF THE 15-PERCENT RATE BRACKET FOR MARRIED COUPLES FILING JOINT RETURNS

| Taxable year | End point of 15-percent rate bracket for married couples filing joint returns as percentage of end point of 15-percent rate bracket for unmarried individuals |
|---|---|
| 2005 | 180 |
| 2006 | 187 |
| 2007 | 193 |
| 2008 through 2010[1] | 200 |

[1] The increases in the 15-percent rate bracket for married couples filing a joint return are repealed for taxable years beginning after December 31, 2010, under the sunset of EGTRRA.

#### HOUSE BILL

The House bill accelerates the increase of the size of the 15-percent regular income tax rate bracket for joint returns to twice the width of the 15-percent regular income tax rate bracket for single returns for taxable years beginning in 2003, 2004, and 2005. For taxable years beginning after 2005, the applicable percentages will revert to those allowed under present law, as described above.

*Effective date.*—The House bill provision is effective for taxable years beginning after December 31, 2002, and before January 1, 2006.

#### SENATE AMENDMENT

The Senate amendment increases in the size of the 15-percent regular income tax rate bracket for joint returns to 195 percent of the size of the 15-percent regular income tax rate bracket for single returns effective for 2003. The Senate amendment also increases in the size of the 15-percent regular income tax rate bracket for joint returns to twice the size of the 15-percent regular income tax rate bracket for single returns effective for 2004. For taxable years beginning after 2004, the applicable percentages will revert to those allowed under present law, as described above.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2002 and before January 1, 2005.

#### CONFERENCE AGREEMENT

The conference agreement increases the size of the 15-percent regular income tax rate bracket for joint returns to twice the width of the 15-percent regular income tax rate bracket for single returns for taxable years beginning in 2003 and 2004. For taxable years beginning after 2004, the applicable percentages will revert to those allowed under present law, as described above.

*Effective date.*—The conference agreement provision is effective for taxable years beginning after December 31, 2002, and before January 1, 2005.

### C. Accelerate Reductions in Individual Income Tax Rates (Secs. 101, 102 and 103 of the House Bill, Secs. 101, 102 and 103 of the Senate Amendment, and Secs. 1 and 55 of the Code)

#### PRESENT LAW

*In general*

Under the Federal individual income tax system, an individual who is a citizen or a resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

*Regular income tax liability*

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income. This tax liability is then reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

For 2003, the regular income tax rate schedules for individuals are shown in Table 4, below. The rate bracket breakpoints for married individuals filing separate returns are exactly one-half of the rate brackets for married individuals filing joint returns. A separate, compressed rate schedule applies to estates and trusts.

TABLE 4.—INDIVIDUAL REGULAR INCOME TAX RATES FOR 2003

| If taxable income is over: | But not over: | Then regular income tax equals: |
|---|---|---|
| *Single Individuals* | | |
| $0 | $6,000 | 10% of taxable income. |
| $6,000 | $28,400 | $600, plus 15% of the amount over $6,000. |
| $28,400 | $68,800 | $3,960.00, plus 27% of the amount over $28,400. |
| $68,800 | $143,500 | $14,868.00, plus 30% of the amount over $68,800. |
| $143,500 | $311,950 | $37,278.00, plus 35% of the amount over $143,500. |
| Over 311,950 | | $96,235.50, plus 38.6% of the amount over $311,950. |
| *Head of Households* | | |
| $0 | $10,000 | 10% of taxable income. |
| $10,000 | $38,050 | $1,000, plus 15% of the amount over $10,000. |
| $38,050 | $98,250 | $5,207.50, plus 27% of the amount over $38,050. |
| $98,250 | $159,100 | $21,461.50, plus 30% of the amount over $98,250. |
| $159,100 | $311,950 | $39,716.50, plus 35% of the amount over $159,100. |
| Over 311,950 | | $93,214, plus 38.6% of the amount over $311,950. |
| *Married Individuals Filing Joint Returns* | | |
| $0 | $12,000 | 10% of taxable income. |

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[8] Under present law, the rate bracket breakpoint for the 38.6 percent marginal tax rate is the same for single individuals and married couples filing joint returns.

TABLE 4.—INDIVIDUAL REGULAR INCOME TAX RATES FOR 2003—Continued

| If taxable income is over: | But not over: | Then regular income tax equals: |
|---|---|---|
| $12,000 ............ | $47,450 | $1,200, plus 15% of the amount over $12,000. |
| $47,450 ............ | $114,650 | $6,517.50, plus 27% of the amount over $47,450. |
| $114,650 .......... | $174,700 | $24,661.50, plus 30% of the amount over $114,650. |
| $174,700 .......... | $311,950 | $42,676.50, plus 35% of the amount over $174,700. |
| Over 311,950 .... | | $90,714, plus 38.6% of the amount over $311,950. |

*Ten-percent regular income tax rate*

Under present law, the 10-percent rate applies to the first $6,000 of taxable income for single individuals, $10,000 of taxable income for heads of households, and $12,000 for married couples filing joint returns. Effective beginning in 2008, the $6,000 amount will increase to $7,000 and the $12,000 amount will increase to $14,000.

The taxable income levels for the 10-percent rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2008. The bracket for single individuals and married individuals filing separately is one-half for joint returns (after adjustment of that bracket for inflation).

The 10-percent rate bracket will expire for taxable years beginning after December 31, 2010, under the sunset provision of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").

*Reduction of other regular income tax rates*

Prior to EGTRRA, the regular income tax rates were 15 percent, 28 percent, 31 percent, 36 percent, and 39.6 percent.[9] EGTRRA added the 10-percent regular income tax rate, described above, and retained the 15-percent regular income tax rate. Also, the 15-percent regular income tax bracket was modified to begin at the end of the 10-percent regular income tax bracket. EGTRRA also made other changes to the 15-percent regular income tax bracket.[10]

Also, under EGTRRA, the 28 percent, 31 percent, 36 percent, and 39.6 percent rates are phased down over six years to 25 percent, 28 percent, 33 percent, and 35 percent, effective after June 30, 2001. The taxable income levels for the rates above the 15-percent rate in all taxable years are the same as the taxable income levels that apply under the prior-law rates.

Table 5, below, shows the schedule of regular income tax rate reductions.

TABLE 5.—SCHEDULED REGULAR INCOME TAX RATE REDUCTIONS

| Taxable year | 28% rate reduced to: | 31% rate reduced to: | 36% rate reduced to: | 39.6% rate reduced to: |
|---|---|---|---|---|
| 2001[1]–2003 ... | 27% | 30% | 35% | 38.6% |
| 2004–2005 ...... | 26% | 29% | 34% | 37.6% |
| 2006 thru 2010[2] .......... | 25% | 28% | 33% | 35.0% |

[1] Effective July 1, 2001.

[2] The reduction in the regular income tax rates are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

*Alternative minimum tax*

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $49,000 ($45,000 in taxable years beginning after 2004) in the case of married individuals filing a joint return and surviving spouses; (2) $35,750 ($33,750 in taxable years beginning after 2004) in the case of other unmarried individuals; (3) $24,500 ($22,500 in taxable years beginning after 2004) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

HOUSE BILL

*Ten-percent regular income tax rate*

The House bill accelerates the increase in the taxable income levels for the 10-percent rate bracket now scheduled for 2008 to be effective in 2003, 2004, and 2005. Specifically, for 2003, 2004, and 2005, the proposal increases the taxable income level for the 10-percent regular income tax rate brackets for unmarried individuals from $6,000 to $7,000 and for married individuals filing jointly from $12,000 to $14,000. The taxable income levels for the 10-percent regular income tax rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2003.

For taxable years beginning after December 31, 2005, the taxable income levels for the 10-percent rate bracket will revert to the levels allowed under present law. Therefore, for 2006 and 2007, the levels will revert to $6,000 for unmarried individuals and $12,000 for married individuals filing jointly. In 2008, the taxable income levels for the 10-percent regular income tax rate brackets will be $7,000 for unmarried individuals and $14,000 for married individuals filing jointly. The taxable income levels for the 10-percent rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2008.

*Reduction of other regular income tax rates*

The House bill accelerates the reductions in the regular income tax rates in excess of the 15-percent regular income tax rate that are scheduled for 2004 and 2006. Therefore, for 2003 and thereafter, the regular income tax rates in excess of 15 percent under the bill are 25 percent, 28 percent, 33 percent, and 35 percent.

*Alternative minimum tax exemption amounts*

The House bill increases the AMT exemption amount for married taxpayers filing a joint return and surviving spouses to $64,000, and for unmarried taxpayers to $43,250, for taxable years beginning in 2003, 2004, and 2005.

*Effective date*

The House bill provision is effective for taxable years beginning after December 31, 2002 and before January 1, 2006.

SENATE AMENDMENT

*Ten-percent regular income tax rate*

The Senate amendment accelerates the scheduled increase in the taxable income levels for the 10-percent rate bracket. Specifically, beginning in 2003, the Senate amendment increases the taxable income level for the 10-percent regular income tax rate brackets for single individuals from $6,000 to $7,000 and for married individuals filing jointly from $12,000 to $14,000. The taxable income levels for the 10-percent regular income tax rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2003.

*Reduction of other regular income tax rates*

The Senate amendment accelerates the reductions in the regular income tax rates in excess of the 15-percent regular income tax rate that are scheduled for 2004 and 2006. Therefore, for 2003 and thereafter, the regular income tax rates in excess of 15 percent under the bill are 25 percent, 28 percent, 33 percent, and 35 percent.

*Alternative minimum tax exemption amounts*

The Senate amendment increases the AMT exemption amount for married taxpayers filing a joint return and surviving spouses to $60,500, and for unmarried taxpayers to $41,500, for taxable years beginning in 2003, 2004 and 2005.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002 and before January 1, 2006.

CONFERENCE AGREEMENT

*Ten-percent regular income tax rate*

The conference agreement accelerates the increase in the taxable income levels for the 10-percent rate bracket now scheduled for 2008 to be effective in 2003 and 2004. Specifically, for 2003 and 2004, the conference agreement increases the taxable income level for the 10-percent regular income tax rate brackets for unmarried individuals from $6,000 to $7,000 and for married individuals filing jointly from $12,000 to $14,000. The taxable income levels for the 10-percent regular income tax rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2003.

For taxable years beginning after December 31, 2004, the taxable income levels for the 10-percent rate bracket will revert to the levels allowed under present law. Therefore, for 2005, 2006, and 2007, the levels will revert to $6,000 for unmarried individuals and $12,000 for married individuals filing jointly. In 2008, the taxable income levels for the 10-percent regular income tax rate brackets ,will be $7,000 for unmarried individuals and $14,000 for married individuals filing jointly. The taxable income levels for the 10-percent rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2008.

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[9] The regular income tax rates will revert to these percentages for taxable years beginning after December 31, 2010, under the sunset of EGTRRA.

[10] See the discussion of the provision regarding marriage penalty relief in the 15-percent regular income tax bracket, above.

*Reduction of other regular income tax rates*

The conference agreement follows the House bill and the Senate amendment.

*Alternative minimum tax exemption amounts*

The conference agreement increases the AMT exemption amount for married taxpayers filing a joint return and surviving spouses to $58,000, and for unmarried taxpayers to $40,250 for taxable years beginning in 2003 and 2004.

*Effective date*

The conference agreement generally is effective for taxable years beginning after December 31, 2002. The conferees recognize that withholding at statutorily mandated rates (such as pursuant to backup withholding under section 3406) has already occurred. The conferees intend that taxpayers who have been overwithheld as a consequence of this obtain a refund of this overwithholding through the normal process of filing an income tax return, and not through the payor. In addition, the conferees anticipate that the Treasury will provide a brief, reasonable period of transition for payors to implement these changes in these statutorily mandated withholding rates.

## II. DEPRECIATION AND EXPENSING PROVISIONS

### A. Special Depreciation Allowance for Certain Property (Sec. 201 of the House Bill and Sec. 168 of the Code)

#### PRESENT LAW

*In general*

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system ("MACRS"). Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 25 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

Section 280F limits the annual depreciation deductions with respect to passenger automobiles to specified dollar amounts, indexed for inflation.

Section 167(f)(1) provides that capitalized computer software costs, other than computer software to which section 197 applies, are recovered ratably over 36 months.

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment generally may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year (sec. 179). In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.

*Additional first year depreciation dedution*

The Job Creation and Worker Assistance Act of 2002[11] ("JCWAA") allows an additional first-year depreciation deduction equal to 30 percent of the adjusted basis of qualified property.[12] The amount of the additional first-year depreciation deduction is not affected by a short taxable year. The additional first-year depreciation deduction is allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service.[13] The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. In addition, there are no adjustments to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to property to which the provision applies. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

In order for property to qualify for the additional first-year depreciation deduction it must meet all of the following requirements. First, the property must be property (1) to which MACRS applies with an applicable recovery period of 20 years or less, (2) water utility property (as defined in section 168(e)(5)), (3) computer software other than computer software covered by section 197, or (4) qualified leasehold improvement property (as defined in section 168(k)(3)).[14] Second, the original use[15] of the property must commence with the taxpayer on or after September 11, 2001.[16] Third, the taxpayer must purchase the property within the applicable time period. Finally, the property must be placed in service before January 1, 2005. An extension of the placed in service date of one year (i.e., to January 1, 2006) is provided for certain property with a recovery period of ten years or longer and certain transportation property.[17] Transportation property is defined as tangible personal property used in the trade or business of transporting persons or property.

The applicable time period for acquired property is (1) after September 10, 2001 and before September 11, 2004, but only if no binding written contract for the acquisition is in effect before September 11, 2001, or (2) pursuant to a binding written contract which was entered into after September 10, 2001, and before September 11, 2004.[18] With respect to property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, the taxpayer must begin the manufacture, construction, or production of the property after September 10, 2001, and before September 11, 2004. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer. For property eligible for the extended placed in service date, a special rule limits the amount of costs eligible for the additional first year depreciation. With respect to such property, only the portion of the basis that is properly attributable to the costs incurred before September 11, 2004 ("progress expenditures") is eligible for the additional first-year depreciation.[19]

Property does not qualify for the additional first-year depreciation deduction when the user of such property (or a related party) would not have been eligible for the additional first-year depreciation deduction if the user (or a related party) were treated as the owner.[20] For example, if a taxpayer sells to a related party property that was under construction prior to September 11, 2001, the property does not qualify for the additional first-year depreciation deduction. Similarly, if a taxpayer sells to a related party property that was subject to a binding written contract prior to September 11, 2001, the property does not qualify for the additional first-year depreciation deduction. As a further example, if a taxpayer (the lessee) sells property in a sale-leaseback arrangement, and the property otherwise would not have qualified for the additional first-year depreciation deduction if it were owned by the taxpayer-lessee, then the lessor is not entitled to the additional first-year depreciation deduction.

The limitation on the amount of depreciation deductions allowed with respect to certain passenger automobiles (sec. 280F) is increased in the first year by $4,600 for automobiles that qualify (and do not elect out of the increased first year deduction). The $4,600 increase is not indexed for inflation.

#### HOUSE BILL

The House bill provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified property.[21] Qualified property is defined in the same manner as for purposes of the 30-percent additional first-year depreciation deduction provided by the JCWAA except that the applicable time period for acquisition (or self construction) of the property is modified. In addition, property must be placed in service before January 1, 2006 to qualify.[22]

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[11] Pub. Law No. 107-147, sec. 101 (2002).

[12] The additional first-year depreciation deduction is subject to the general rules regarding whether an item is deductible under section 162 or subject to capitalization under section 263 or section 263A.

[13] However, the additional first-year depreciation deduction is not allowed for purposes of computing earnings and profits.

[14] A special rule precludes the additional first-year depreciation deduction for any property that is required to be depreciated under the alternative depreciation system of MACRS.

[15] The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer.

If in the normal course of its business a taxpayer sells fractional interests in property to unrelated third parties, then the original use of such property begins with the first user of each fractional interest (i.e., each fractional owner is considered the original user of its proportionate share of the property).

[16] A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback.

If property is originally placed in service by a lessor (including by operation of section 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale. A technical correction may be needed so the statute reflects this intent.

[17] In order for property to qualify for the extended placed in service date, the property is required to have a production period exceeding two years or an estimated production period exceeding one year and a cost exceeding $1 million.

[18] Property does not fail to qualify for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to September 11, 2001.

[19] For purposes of determining the amount of eligible progress expenditures, it is intended that rules similar to sec. 46(d)(3) as in effect prior to the Tax Reform Act of 1986 shall apply.

[20] A technical correction may be needed so that the statute reflects this intent.

[21] A taxpayer is permitted to elect out of the 50 percent additional first-year depreciation deduction for any class of property for any taxable year.

[22] An extension of the placed in service date of one year (i.e., January 1, 2007) is provided for certain

Property for which the 50-percent additional first year depreciation deduction is claimed is not eligible for the 30-percent additional first year depreciation deduction.

Under the House bill, in order to qualify the property must be acquired after May 5, 2003 and before January 1, 2006, and no binding written contract for the acquisition is in effect before May 6, 2003.[23] With respect to property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, the taxpayer must begin the manufacture, construction, or production of the property after May 5, 2003. For property eligible for the extended placed in service date (i.e., certain property with a recovery period of ten years or longer and certain transportation property), a special rule limits the amount of costs eligible for the additional first year depreciation. With respect to such property, only progress expenditures properly attributable to the costs incurred before January 1, 2006 shall be eligible for the additional first year depreciation.[24]

The Committee wishes to clarify that the adjusted basis of qualified property acquired by a taxpayer in a like kind exchange or an involuntary conversion is eligible for the additional first year depreciation deduction.

The House bill also increases the limitation on the amount of depreciation deductions allowed with respect to certain passenger automobiles (sec. 280F of the Code) in the first year by $9,200 (in lieu of the $4,600 provided under the JCWAA) for automobiles that qualify (and do not elect out of the increased first year deduction). The $9,200 increase is not indexed for inflation.

For property eligible for the present law 30-percent additional first year depreciation, the House bill extends the date of the placed in service requirement to property placed in service prior to January 1, 2006 (from January 1, 2005). Thus, property otherwise qualifying for the 30-percent additional first year depreciation deduction will now qualify if placed in service prior to January 1, 2006. The House bill also extends the placed in service date requirement for certain property with a recovery period of ten years or longer and certain transportation property to property placed in service prior to January 1, 2007 (instead of January 1, 2006). In addition, progress expenditures eligible for the 30-percent additional first year depreciation is extended to include costs incurred prior to January 1, 2006 (instead of September 11, 2004).

*Effective date.*—The House bill applies to property placed in service after May 5, 2003.

#### SENATE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

The conference agreement follows the House bill provision with the following modifications. The conference agreement terminates the provision one year earlier than under the House bill provision. Thus, all references to January 1, 2007, and January 1, 2006, are modified to January 1, 2006, and January 1, 2005, respectively. In addition, the conference agreement provides that the increase on the amount of depreciation deductions allowed with respect to certain passenger automobiles (sec. 280F of the Code) in the first year is $7,650 for automobiles that qualify. The $7,650 increase is not indexed for inflation.

*Effective date.*—The conference agreement applies to taxable years ending after May 5, 2003.

### B. Increase Section 179 Expensing (Sec. 202 of the House Bill, Sec. 107 of the Senate Amendment, and Sec. 179 of the Code)

#### PRESENT LAW

Present law provides that, in lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $25,000 (for taxable years beginning in 2003 and thereafter) of the cost of qualifying property placed in service for the taxable year (sec. 179).[25] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. An election to expense these items generally is made on the taxpayer's original return for the taxable year to which the election relates, and may be revoked only with the consent of the Commissioner.[26] In general, taxpayers may not elect to expense off-the-shelf computer software.[27]

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

#### HOUSE BILL

The House bill provision provides that the maximum dollar amount that may be deducted under section 179 is increased to $100,000 for property placed in service in taxable years beginning in 2003, 2004, 2005, 2006, and 2007. In addition, the $200,000 amount is increased to $400,000 for property placed in service in taxable years beginning in 2003, 2004, 2005, 2006 and 2007. The dollar limitations are indexed annually for inflation for taxable years beginning after 2003 and before 2008. The provision also includes off-the-shelf computer software placed in service in a taxable year beginning in 2003, 2004, 2005, 2006, or 2007, as qualifying property. With respect to a taxable year beginning after 2002 and before 2008, the provision permits taxpayers to make or revoke expensing elections on amended returns without the consent of the Commissioner.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2002.

#### SENATE AMENDMENT

The Senate amendment is the same as the House bill.

#### CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment, with modifications. The conference agreement provides that the increase in the dollar limitations, as well as the provision relating to off-the-shelf computer software, apply for property placed in service in taxable years beginning in 2003, 2004, and 2005. The conference agreement provides that the dollar limitations are indexed annually for inflation for taxable years beginning after 2003 and before 2006. With respect to a taxable year beginning after 2002 and before 2006, the conference agreement permits taxpayers to make or revoke expensing elections on amended returns without the consent of the Commissioner.

*Effective date.*—Same as the House bill and the Senate amendment.

### C. Five-Year Carryback of Net Operating Losses (Sec. 203 of the House Bill and Secs. 172 and 56 of the Code)

#### PRESENT LAW

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's allowable deductions exceed the taxpayer's gross income. A carryback of an NOL generally results in the refund of Federal income tax for the carryback year. A carryforward of an NOL reduces Federal income tax for the carryforward year.

In general, an NOL may be carried back two years and carried forward 20 years to offset taxable income in such years.[28] Different rules apply with respect to NOLs arising in certain circumstances. For example, a three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback period applies to NOLs from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster area). Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction).

The alternative minimum tax rules provide that a taxpayer's NOL deduction cannot reduce the taxpayer's alternative minimum taxable income ("AMTI") by more than 90 percent of the AMTI (determined without regard to the NOL deduction).

Section 202 of the Job Creation and Worker Assistance Act of 2002[29] ("JCWAA") provided a temporary extension of the general NOL carryback period to five years (from two years) for NOLs arising in taxable years ending in 2001 and 2002. In addition, the five-year carryback period applies to NOLs from these years that qualify under present law for a

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property with a recovery period of ten years or longer and certain transportation property as defined for purposes of the JCWAA.

[23] Property does not fail to qualify for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to May 6, 2003. However, no additional first-year depreciation is permitted on any such component. No inference is intended as to the proper treatment of components placed in service under the 30% additional first-year depreciation provided by the JCWAA.

[24] For purposes of determining the amount of eligible progress expenditures, it is intended that rules similar to sec. 46(d)(3) as in effect prior to the Tax Reform Act of 1986 shall apply.

[25] Additional section 179 incentives are provided with respect to a qualified property used by a business in the New York Liberty Zone (sec. 1400(f)) or an empowerment zone (sec. 1397A).

[26] Section 179(c)(2). A taxpayer may make the election on the original return (whether or not the return is timely), or on an amended return filed by the due date (including extensions) for filing the return for the tax year the property was placed in service. If the taxpayer timely filed an original return without making the election, the taxpayer may still make the election by filing an amended return within six months of the due date of the return (excluding extensions). Treas. Reg. sec. 1.179-5.

[27] Section 179(d)(1) requires that property be tangible to be eligible for expensing; in general, computer software is intangible property.

[28] Sec. 172.

[29] Pub. L. No. 107-147.

three-year carryback period (i.e., NOLs arising from casualty or theft losses of individuals or attributable to certain Presidentially declared disaster areas).

A taxpayer can elect to forgo the five-year carryback period. The election to forgo the five-year carryback period is made in the manner prescribed by the Secretary of the Treasury and must be made by the due date of the return (including extensions) for the year of the loss. The election is irrevocable. If a taxpayer elects to forgo the five-year carryback period, then the losses are subject to the rules that otherwise would apply under section 172 absent the provision.[30]

JCWAA also provided that an NOL deduction attributable to NOL carrybacks arising in taxable years ending in 2001 and 2002, as well as NOL carryforwards to these taxable years, may offset 100 percent of a taxpayer's AMTI.[31]

### HOUSE BILL

The provision extends the provisions of the five-year carryback of NOLs enacted in JCWAA to NOLs arising in taxable years ending in 2003, 2004, and 2005.[32]

The provision also allows an NOL deduction attributable to NOL carrybacks arising in taxable years ending in 2003, 2004, and 2005, as well as NOL carryforwards to these taxable years, to offset 100 percent of a taxpayer's AMTI.

*Effective date.*—The five-year carryback provision is effective for net operating losses generated in taxable years ending in 2003, 2004 and 2005. The provision relating to AMTI is effective for NOL carrybacks arising in, and NOL carryforwards to, taxable years ending in 2003, 2004 and 2005.

### SENATE AMENDMENT

No provision.

### CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

## III. CAPITAL GAINS AND DIVIDENDS PROVISIONS

### A. REDUCE INDIVIDUAL CAPITAL GAINS RATES (SEC. 301 OF THE HOUSE BILL AND SEC. 1(H) OF THE CODE)

### PRESENT LAW

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of a capital asset, any gain generally is included in income. Any net capital gain of an individual is taxed at maximum rates lower than the rates applicable to ordinary income. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

Capital losses generally are deductible in full against capital gains. In addition, individual taxpayers may deduct capital losses against up to $3,000 of ordinary income in each year. Any remaining unused capital losses may be carried forward indefinitely to another taxable year.

A capital asset generally means any property except (1) inventory, stock in trade, or property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business, (2) depreciable or real property used in the taxpayer's trade or business, (3) specified literary or artistic property, (4) business accounts or notes receivable, (5) certain U.S. publications, (6) certain commodity derivative financial instruments, (7) hedging transactions, and (8) business supplies. In addition, the net gain from the disposition of certain property used in the taxpayer's trade or business is treated as long-term capital gain. Gain from the disposition of depreciable personal property is not treated as capital gain to the extent of all previous depreciation allowances. Gain from the disposition of depreciable real property is generally not treated as capital gain to the extent of the depreciation allowances in excess of the allowances that would have been available under the straight-line method of depreciation.

The maximum rate of tax on the adjusted net capital gain of an individual is 20 percent. In addition, any adjusted net capital gain which otherwise would be taxed at a 15-percent rate is taxed at a 10-percent rate. These rates apply for purposes of both the regular tax and the alternative minimum tax.

The "adjusted net capital gain" of an individual is the net capital gain reduced (but not below zero) by the sum of the 28-percent rate gain and the unrecaptured section 1250 gain. The net capital gain is reduced by the amount of gain that the individual treats as investment income for purposes of determining the investment interest limitation under section 163(d).

The term "28-percent rate gain" means the amount of net gain attributable to long-term capital gains and losses from the sale or exchange of collectibles (as defined in section 408(m) without regard to paragraph (3) thereof), an amount of gain equal to the amount of gain excluded from gross income under section 1202 (relating to certain small business stock),[33] the net short-term capital loss for the taxable year, and any long-term capital loss carryover to the taxable year.

"Unrecaptured section 1250 gain" means any long-term capital gain from the sale or exchange of section 1250 property (i.e., depreciable real estate) held more than one year to the extent of the gain that would have been treated as ordinary income if section 1250 applied to all depreciation, reduced by the net loss (if any) attributable to the items taken into account in computing 28-percent rate gain. The amount of unrecaptured section 1250 gain (before the reduction for the net loss) attributable to the disposition of property to which section 1231 applies shall not exceed the net section 1231 gain for the year.

The unrecaptured section 1250 gain is taxed at a maximum rate of 25 percent, and the 28-percent rate gain is taxed at a maximum rate of 28 percent. Any amount of unrecaptured section 1250 gain or 28-percent rate gain otherwise taxed at a 15-percent rate is taxed at the 15-percent rate.

Any gain from the sale or exchange of property held more than five years that would otherwise be taxed at the 10-percent rate is taxed at an 8-percent rate. Any gain from the sale or exchange of property held more than five years and the holding period for which begins after December 31, 2000, which would otherwise be taxed at a 20-percent rate is taxed at an 18-percent rate.

### HOUSE BILL

The House bill reduces the 10- and 20 percent rates on the adjusted net capital gain to five and 15 percent, respectively. These lower rates apply to both the regular tax and the alternative minimum tax. The lower rates apply to assets held more than one year.

*Effective date.*—The provision applies to taxable years ending on or after May 6, 2003, and beginning before January 1, 2013. For taxable years that include May 6, 2003, the lower rates apply to amounts properly taken into account for the portion of the year on or after that date. This generally has the effect of applying the lower rates to capital assets sold or exchanged (and installment payments received) on or after May 6, 2003. In the case of gain and loss taken into account by a pass-through entity, the date taken into account by the entity is the appropriate date for applying this rule.

### SENATE AMENDMENT

No provision.

### CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the 5-percent tax rate is reduced to zero percent for taxable years beginning after December 31, 2007.

*Effective date.*—The effective date is the same as the House bill, except that the provision does not apply to taxable years beginning after December 31, 2008.

### B. Treatment of Dividend Income of Individuals (Sec. 302 of the House Bill, Sec. 201 of the Senate Amendment, and Sec. 1(h) of the Code)

### PRESENT LAW

Under present law, dividends received by an individual are included in gross income and taxed as ordinary income at rates up to 38.6 percent.[34]

The rate of tax on the net capital gain of an individual generally is 20 percent (10 percent[35] with respect to income which would otherwise be taxed at the 10- or 15-percent rate).[36] Net capital gain means net gain from the sale or exchange of capital assets held for more than one year in excess of net loss from the sale or exchange of capital assets held not more than one year.

### HOUSE BILL

Under the House bill, dividends received by an individual shareholder from domestic corporations are taxed at the same rates that apply to net capital gain. This treatment applies for purposes of both the regular tax and the alternative minimum tax. Thus, under the provision, dividends will be taxed at rates of five and 15 percent.[37]

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[30] Because JCWAA was enacted after some taxpayers had filed tax returns for years affected by the provision, a technical correction is needed to provide for a period of time in which prior decisions regarding the NOL carryback may be reviewed. Similarly, a technical correction is needed to modify the carryback adjustment procedures of sec. 6411 for NOLs arising in 2001 and 2002. These issues were addressed in a letter dated April 15, 2002, sent by the Chairmen and Ranking Members of the House Ways and Means Committee and Senate Finance Committee, as well as in guidance issued by the IRS pursuant to the Congressional letter (Rev. Proc. 2002-40, 2002-23 I.R.B. 1096, June 10, 2002).

[31] Section 172(b)(2) should be appropriately applied in computing AMTI to take proper account of the order that the NOL carryovers and carrybacks are used as a result of this provision. See section 56(d)(1)(B)(ii).

[32] Because certain taxpayers may have already filed tax returns (or be in the process of filing tax returns) for taxable years ending in 2003, the proposal contains special rules to provide until November 1, 2003 in which prior decisions regarding the NOL carryback may be reviewed by taxpayers.

[33] This results in a maximum effective regular tax rate on qualified gain from small business stock of 14 percent.

[34] Section 105 of the bill reduces the maximum rate to 35 percent.

[35] An eight percent rate applies to property held more than five years.

[36] Section 301 of the bill reduces the capital gain rates to five percent (zero percent for taxable years beginning after 2007) and 15 percent, respectively.

[37] Payments in lieu of dividends are not eligible for the exclusion. See sections 6042(a) and 6045(d) relating to statements required to be furnished by brokers regarding these payments.

If a shareholder does not hold a share of stock for more than 45 days during the 90-day period beginning 45 days before the ex-dividend date (as measured under section 246(c)),[38] dividends received on the stock are not eligible for the reduced rates. Also, the reduced rates are not available for dividends to the extent that the taxpayer is obligated to make related payments with respect to positions in substantially similar or related property.

If an individual receives an extraordinary dividend (within the meaning of section 1059(c)) eligible for the reduced rates with respect to any share of stock, any loss on the sale of the stock is treated as a long-term capital loss to the extent of the dividend.

A dividend is treated as investment income for purposes of determining the amount of deductible investment interest only if the taxpayer elects to treat the dividend as not eligible for the reduced rates.

The amount of dividends qualifying for reduced rates that may be paid by a regulated investment company ("RIC") or real estate investment trust ("REIT"), for any taxable year that the aggregate qualifying dividends received by the RIC or REIT are less than 95 percent of its gross income (as specially computed), may not exceed the amount of the aggregate qualifying dividends received by the company or trust.

The reduced rates do not apply to dividends received from an organization that was exempt from tax under section 501 or was a tax-exempt farmers' cooperative in either the taxable year of the distribution or the preceding taxable year; dividends received from a mutual savings bank that received a deduction under section 591; or deductible dividends paid on employer securities.

The tax rate for the accumulated earnings tax (sec. 531) and the personal holding company tax (sec. 541) is reduced to 15 percent.

Amounts treated as ordinary income on the disposition of certain preferred stock (sec. 306) are treated as dividends for purposes of applying the reduced rates.

The collapsible corporation rules (sec. 341) are repealed.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2002, and beginning before January 1, 2013.

### SENATE AMENDMENT

Under the Senate amendment, an individual may exclude from gross income dividends received with respect to stock of a domestic corporation, and stock of a foreign corporation that is regularly tradable on an established securities market.

For taxable years beginning in 2003, 50 percent of the dividend may be excluded from income. For taxable years beginning after 2006, the exclusion no longer applies.

If a shareholder does not hold a share of stock for more than 45 days during the 90-day period beginning 45 days before the ex-dividend date (as measured under section 246(c)),[39] dividends received on the stock are not eligible for the exclusion. Also, the exclusion is not available for dividends to the extent that the taxpayer is obligated to make related payments with respect to positions in substantially similar or related property.

If an individual receives an extraordinary dividend (within the meaning of section 1059(c)) eligible for the exclusion with respect to any share of stock, the basis of the share is reduced by the amount of the dividend excludable from income.

A dividend is treated as investment income for purposes of determining the amount of deductible investment interest only if the taxpayer elects to treat the dividend as not eligible for the exclusion.

The amount of dividends qualifying for the exclusion that may be paid by a RIC or REIT, for any taxable year that the aggregate qualifying dividends received by the company or trust are less than 95 percent of its gross income (as specially computed), may not exceed the amount of such aggregate dividends received by the company or trust.

The exclusion does not apply to dividends received from an organization that was exempt from tax under section 501 or was a tax-exempt farmers' cooperative in either the taxable year of the distribution or the preceding taxable year; dividends received from a mutual savings bank that received a deduction under section 591; deductible dividends paid on employer securities; or dividends received from a foreign corporation that was a foreign investment company (a defined in section 1246(b)), a passive foreign investment company (as defined in section 1297), or a foreign personal holding company (as defined in section 552) in either the taxable year of the distribution or the preceding taxable year.

In the case of a nonresident alien, the exclusion applies only for purposes of determining the taxes imposed pursuant to sections 871(b) and 877.

No foreign tax credit, or deduction with respect to taxes paid, is allowable with respect to dividends excluded under this provision.

Dividends excluded under the proposal are included in modified adjusted gross income for purposes of the provisions of the Code determining the amount of any income inclusion, exclusion, deduction or credit based on the amount of that income.[40] Also in determining eligibility for the earned income credit, any dividends excluded from gross income under this provision are included in disqualified income for purposes of the determining whether the individual has excessive investment income.

The tax rate for the accumulated earnings tax (sec. 531) and the personal holding company tax (sec. 541) is the taxable percent (i.e., 100 percent less the excludable percentage applicable to dividends received in the taxable year) of the highest individual tax rate.

Amounts treated as ordinary income on the disposition of certain preferred stock (sec. 306) are treated as dividends for purposes of the exclusion.

The collapsible corporation rules (sec. 341) are repealed.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2002.

### CONFERENCE AGREEMENT

The conference agreement follows the House bill taxing dividends at the same rates as net capital gain with the following modifications:

The 45-day holding period requirement is increased to 60 days during the 120-day period beginning 60 days before the ex-dividend date.

Qualified dividend income includes otherwise qualified dividends received from qualified foreign corporations. The term "qualified foreign corporation" includes a foreign corporation that is eligible for the benefits of a comprehensive income tax treaty with the United States which the Treasury Department determines to be satisfactory for purposes of this provision, and which includes an exchange of information program. The conferees do not believe that the current income tax treaty between the United States and Barbados is satisfactory for this purpose because that treaty may operate to provide benefits that are intended for the purpose of mitigating or eliminating double taxation to corporations that are not at risk of double taxation. The conferees intend that, until the Treasury Department issues guidance regarding the determination of treaties as satisfactory for this purpose, a foreign corporation will be considered to be a qualified foreign corporation if it is eligible for the benefits of a comprehensive income tax treaty with the United States that includes an exchange of information program other than the current U.S.-Barbados income tax treaty. The conferees further intend that a company will be eligible for benefits of a comprehensive income tax treaty within the meaning of this provision if it would qualify for the benefits of the treaty with respect to substantially all of its income in the taxable year in which the dividend is paid.

In addition, a foreign corporation is treated as a qualified foreign corporation with respect to any dividend paid by the corporation with respect to stock that is readily tradable on an established securities market in the United States.[41]

Dividends received from a foreign corporation that was a foreign investment company (as defined in section 1246(b)), a passive foreign investment company (as defined in section 1297), or a foreign personal holding company (as defined in section 552) in either the taxable year of the distribution or the preceding taxable year are not qualified dividends.

Special rules apply in determining a taxpayer's foreign tax credit limitation under section 904 in the case of qualified dividend income. For these purposes, rules similar to the rules of section 904(b)(2)(B) concerning adjustments to the foreign tax credit limitation to reflect any capital gain rate differential will apply to any qualified dividend income. Additionally, it is anticipated that regulations promulgated under this provision will coordinate the operation of the rules applicable to qualified dividend income and capital gain.

In the case of a REIT, an amount equal to the excess of the income subject to the taxes imposed by section 857(b)(1) and the regulations prescribed under section 337(d) for the preceding taxable year over the amount of these taxes for the preceding taxable year is treated as qualified dividend income.

In the case of brokers and dealers who engage in securities lending transactions, short sales, or other similar transactions on behalf of their customers in the normal course of their trade or business, the conferees intend that the IRS will exercise its authority under section 6724(a) to waive penalties where dealers and brokers attempt in good faith to comply with the information reporting requirements under sections 6042 and 6045, but are unable to reasonably comply because of the period necessary to conform their information reporting systems to the retroactive rate reductions on qualified dividends provided by the conference agreement. In addition, the conferees expect that individual taxpayers who receive payments in lieu of dividends from these transactions may treat the payments as dividend income to the extent that the payments are reported to them as dividend income on their Forms 1099-DIV received for calendar year 2003, unless they know or have reason to know that the payments are in fact payments in lieu of dividends rather than actual dividends. The conferees expect that the Treasury Department will issue guidance as rapidly as possible on information reporting with respect to payments in lieu of dividends made to individuals.

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[38] In the case of preferred stock, the periods are doubled.

[39] In the case of preferred stock, the periods are doubled.

[40] These provisions include sections 86, 135, 137, 219, 221, 222, 408A, 469, 530, and the nonrefundable personal credits.

[41] For this purpose, a share shall be treated as so traded if an American Depository Receipt (ADR) backed by such share is so traded.

The conference agreement provides that the amendment to section 306 treating certain ordinary income as a dividend for purposes of the rate computation under section 1(h) may also apply to such other provisions as the Secretary may provide, including provisions at the corporate level.

*Effective date*.—The conference agreement applies to taxable years beginning after December 31, 2002, and beginning before January 1, 2009.

## IV. CORPORATE ESTIMATED TAXES

### A. Modification to Corporate Estimated Tax Requirements (Sec. 401 of the House Bill)

#### PRESENT LAW

In general, corporations are required to make quarterly estimated tax payments of their income tax liability (section 6655). For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

#### HOUSE BILL

With respect to corporate estimated tax payments due on September 15, 2003, 52 percent is required to be paid by October 1, 2003.

*Effective date*.—The provision is effective on the date of enactment.

#### SENATE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

With respect to corporate estimated tax payments due on September 15, 2003, 25 percent is required to be paid by October 1, 2003.

*Effective date*.—The provision is effective on the date of enactment.

## V. REVENUE PROVISIONS

### A. Provisions Designed To Curtail Tax Shelters

### 1. Clarification of the economic substance doctrine (sec. 301 of the Senate amendment and sec. 7701 of the Code)

#### PRESENT LAW

*In general*

The Code provides specific rules regarding the computation of taxable income, including the amount, timing, source, and character of items of income, gain, loss and deduction. These rules are designed to provide for the computation of taxable income in a manner that provides for a degree of specificity to both taxpayers and the government. Taxpayers generally may plan their transactions in reliance on these rules to determine the federal income tax consequences arising from the transactions.

In addition to the statutory provisions, courts have developed several doctrines that can be applied to deny the tax benefits of tax motivated transactions, notwithstanding that the transaction may satisfy the literal requirements of a specific tax provision. The common-law doctrines are not entirely distinguishable, and their application to a given set of facts is often blurred by the courts and the IRS. Although these doctrines serve an important role in the administration of the tax system, invocation of these doctrines can be seen as at odds with an objective, "rule-based" system of taxation. Nonetheless, courts have applied the doctrines to deny tax benefits arising from certain transactions.[42]

A common-law doctrine applied with increasing frequency is the "economic substance" doctrine. In general, this doctrine denies tax benefits arising from transactions that do not result in a meaningful change to the taxpayer's economic position other than a purported reduction in federal income tax.[43]

*Economic substance doctrine*

Courts generally deny claimed tax benefits if the transaction that gives rise to those benefits lacks economic substance independent of tax considerations—notwithstanding that the purported activity actually occurred. The tax court has described the doctrine as follows:

> The tax law * * * requires that the intended transactions have economic substance separate and distinct from economic benefit achieved solely by tax reduction. The doctrine of economic substance becomes applicable, and a judicial remedy is warranted, where a taxpayer seeks to claim tax benefits, unintended by Congress, by means of transactions that serve no economic purpose other than tax savings.[44]

*Business purpose doctrine*

Another common law doctrine that overlays and is often considered together with (if not part and parcel of) the economic substance doctrine is the business purpose doctrine. The business purpose test is a subjective inquiry into the motives of the taxpayer—that is, whether the taxpayer intended the transaction to serve some useful non-tax purpose. In making this determination, some courts have bifurcated a transaction in which independent activities with non-tax objectives have been combined with an unrelated item having only tax-avoidance objectives in order to disallow the tax benefits of the overall transaction.[45]

*Application by the courts*

*Elements of the doctrine*

There is a lack of uniformity regarding the proper application of the economic substance doctrine. Some courts apply a conjunctive test that requires a taxpayer to establish the presence of both economic substance (i.e., the objective component) and business purpose (i.e., the subjective component) in order for the transaction to sustain court scrutiny.[46] A narrower approach used by some courts is to invoke the economic substance doctrine only after a determination that the transaction lacks both a business purpose and economic substance (i.e., the existence of either a business purpose or economic substance would be sufficient to respect the transaction).[47] A third approach regards economic substance and business purpose as "simply more precise factors to consider" in determining whether a transaction has any practical economic effects other than the creation of tax benefits.[48]

*Profit potential*

There also is a lack of uniformity regarding the necessity and level of profit potential necessary to establish economic substance. Since the time of Gregory, several courts have denied tax benefits on the grounds that the subject transactions lacked profit potential.[49] In addition, some courts have applied the economic substance doctrine to disallow tax benefits in transactions in which a taxpayer was exposed to risk and the transaction had a profit potential, but the court concluded that the economic risks and profit potential were insignificant when compared to the tax benefits.[50] Under this analysis, the taxpayer's profit potential must be more than nominal. Conversely, other courts view the application of the economic substance doctrine as requiring an objective determination of whether a "reasonable possibility of profit" from the transaction existed apart from the tax benefits.[51] In these cases, in assessing whether a reasonable possibility of profit exists, it is sufficient if there is a nominal amount of pre-tax profit as measured against expected net tax benefits.

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[42] See, e.g., ACM Partnership v. Commissioner, 157 F.3d 231 (3d Cir. 1998), aff'g 73 T.C.M. (CCH) 2189 (1997), cert. denied 526 U.S. 1017 (1999).

[43] Closely related doctrines also applied by the courts (sometimes interchangeable with the economic substance doctrine) include the "sham transaction doctrine" and the "business purpose doctrine". See, e.g., Knetsch v. United States, 364 U.S. 361 (1960) (denying interest deductions on a "sham transaction" whose only purpose was to create the deductions).

[44] ACM Partnership v. Commissioner, 73 T.C.M. at 2215.

[45] ACM Partnership v. Commissioner, 157 F.3d at 256 n.48.

[46] See, e.g., *Pasternak* v. *Commissioner*, 990 F.2d 893, 898 (6th Cir. 1993) ("The threshold question is whether the transaction has economic substance. If the answer is yes, the question becomes whether the taxpayer was motivated by profit to participate in the transaction.")

[47] See, e.g., *Rice's Toyota World* v. *Commissioner*, 752 F.2d 89, 91–92 (4th Cir. 1985) ("To treat a transaction as a sham, the court must find that the taxpayer was motivated by no business purposes other than obtaining tax benefits in entering the transaction, and, second, that the transaction has no economic substance because no reasonable possibility of a profit exists."); *IES Industries* v. *United States*, 253 F.3d 350, 358 (8th Cir. 2001) ("In determining whether a transaction is a sham for tax purposes [under the Eighth Circuit test], a transaction will be characterized as a sham if it is not motivated by any economic purpose out of tax considerations (the business purpose test), and if it is without economic substance because no real potential for profit exists" (the economic substance test).") As noted earlier, the economic substance doctrine and the sham transaction doctrine are similar and sometimes are applied interchangeably. For a more detailed discussion of the sham transaction doctrine, see, e.g., Joint Committee on Taxation, Study of Present-Law Penalty and Interest Provisions as Required by Section 3801 of the Internal Revenue Service Restructuring and Reform Act of 1998 (including Provisions Relating to Corporate Tax Shelters) (JCS–3–99) at 182.

[48] See, e.g., *ACM Partnership* v. *Commissioner*, 157 F.3d at 247; *James* v. *Commissioner*, 899 F.2d 905, 908 (10th Cir. 1995); *Sacks* v. *Commissioner*, 69 F.3d 982, 985 (9th Cir. 1995) ("Instead, the consideration of business purpose and economic substance are simply more precise factors to consider . . . . We have repeatedly and carefully noted that this formulation cannot be used as a 'rigid two-step analysis'.").

[49] See, e.g., *Knetsch*, 364 U.S. at 361; *Goldstein* v. *Commissioner*, 364 F.2d 734 (2d Cir. 1966) (holding that an unprofitable, leveraged acquisition of Treasury bills, and accompanying prepaid interest deduction, lacked economic substance); *Ginsburg* v. *Commissioner*, 35 T.C.M. (CCH) 860 (1976) (holding that a leveraged cattle-breeding program lacked economic substance).

[50] See, e.g., *Goldstein* v. *Commissioner*, 364 F.2d at 739–40 (disallowing deduction even though taxpayer had a possibility of small gain or loss by owning Treasury bills); *Sheldon* v. *Commissioner*, 94 T.C. 738, 768 (1990) (stating, "potential for gain . . . is infinitesimally nominal and vastly insignificant when considered in comparison with the claimed deductions").

[51] See, e.g., *Rice's Toyota World* v. *Commissioner*, 752 F.2d at 94 (the economic substance inquiry requires an objective determination of whether a reasonable possibility of profit from the transaction existed apart from tax benefits); *Compaq Computer Corp.* v. *Commissioner*, 277 F.3d at 781 (applied the same test, citing *Rice's Toyota World*); *IES Industries* v. *United*

### HOUSE BILL

No provision.

### SENATE AMENDMENT

#### *In general*

The Senate amendment clarifies and enhances the application of the economic substance doctrine. The Senate amendment provides that a transaction has economic substance (and thus satisfies the economic substance doctrine) only if the taxpayer establishes that (1) the transaction changes in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and (2) the taxpayer has a substantial non-tax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.[52]

The Senate amendment does not change current law standards used by courts in determining when to utilize an economic substance analysis. Also, the Senate amendment does not alter the court's ability to aggregate or disaggregate a transaction when applying the doctrine. The Senate amendment provides a uniform definition of economic substance, but does not alter court flexibility in other respects.

#### *Conjunctive analysis*

The Senate amendment clarifies that the economic substance doctrine involves a conjunctive analysis—there must be an objective inquiry regarding the effects of the transaction on the taxpayer's economic position, as well as a subjective inquiry regarding the taxpayer's motives for engaging in the transaction. Under the Senate amendment, a transaction must satisfy both tests—i.e., it must change in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and the taxpayer must have a substantial non-tax purpose for entering into such transaction (and the transaction is a reasonable means of accomplishing such purpose)—in order to satisfy the economic substance doctrine. This clarification eliminates the disparity that exists among the circuits regarding the application of the doctrine, and modifies its application in those circuits in which either a change in economic position or a non-tax business purpose (without having both) is sufficient to satisfy the economic substance doctrine.

#### *Non-tax business purpose*

The Senate amendment provides that a taxpayer's non-tax purpose for entering into a transaction (the second prong in the analysis) must be "substantial," and that the transaction must be "a reasonable means" of accomplishing such purpose. Under this formulation, the non-tax purpose for the transaction must bear a reasonable relationship to the taxpayer's normal business operations or investment activities.[53]

In determining whether a taxpayer has a substantial non-tax business purpose, an objective of achieving a favorable accounting treatment for financial reporting purposes will not be treated as having a substantial non-tax purpose if the origin of such financial accounting benefit is a reduction of income tax. Furthermore, a transaction that is expected to increase financial accounting income as a result of generating tax deductions or losses without a corresponding financial accounting charge (i.e., a permanent book-tax difference)[54] should not be considered to have a substantial non-tax purpose unless a substantial non-tax purpose exists apart from the financial accounting benefits.[55]

By requiring that a transaction be a "reasonable means" of accomplishing its non-tax purpose, the Senate amendment broadens the ability of the courts to bifurcate a transaction in which independent activities with non-tax objectives are combined with an unrelated item having only tax-avoidance objectives in order to disallow the tax benefits of the overall transaction.

#### *Profit potential*

Under the Senate amendment, a taxpayer may rely on factors other than profit potential to demonstrate that a transaction results in a meaningful change in the taxpayer's economic position; the Senate amendment merely sets forth a minimum threshold of profit potential if that test is relied on to demonstrate a meaningful change in economic position. If a taxpayer relies on a profit potential, however, the present value of the reasonably expected pre-tax profit must be substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.[56] Moreover, the profit potential must exceed a risk-free rate of return. In addition, in determining pre-tax profit, fees and other transaction expenses and foreign taxes are treated as expenses.

A lessor of tangible property subject to a qualified lease shall be considered to have satisfied the profit test with respect to the leased property. For this purpose, a "qualified lease" is a lease that satisfies the factors for advance ruling purposes as provided by the Treasury Department.[57] In applying the profit test to the lessor of tangible property, certain deductions and other applicable tax credits (such as the rehabilitation tax credit and the low income housing tax credit) are not taken into account in measuring tax benefits. Thus, a traditional leveraged lease is not affected by the Senate amendment to the extent it meets the present law standards.

#### *Transactions with tax-indifferent parties*

The Senate amendment also provides special rules for transactions with tax-indifferent parties. For this purpose, a tax-indifferent party means any person or entity not subject to Federal income tax, or any person to whom an item would have no substantial impact on its income tax liability. Under these rules, the form of a financing transaction will not be respected if the present value of the tax deductions to be claimed is substantially in excess of the present value of the anticipated economic returns to the lender. Also, the form of a transaction with a tax-indifferent party will not be respected if it results in an allocation of income or gain to the tax-indifferent party in excess of the tax-indifferent party's economic gain or income or if the transaction results in the shifting of basis on account of overstating the income or gain of the tax-indifferent party.

#### *Other rules*

The Secretary may prescribe regulations which provide (1) exemptions from the application of the Senate amendment, and (2) other rules as may be necessary or appropriate to carry out the purposes of the Senate amendment.

No inference is intended as to the proper application of the economic substance doctrine under present law. In addition, except with respect to the economic substance doctrine, the Senate amendment shall not be construed as altering or supplanting any other common law doctrine (including the sham transaction doctrine), and the Senate amendment shall be construed as being additive to any such other doctrine.

#### *Effective date*

The provision applies to transactions entered into on or after May 8, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 2. Penalty for failure to disclose reportable transactions (sec. 302 of the Senate amendment and sec. 6707A of the Code)

### PRESENT LAW

Regulations under section 6011 require a taxpayer to disclose with its tax return certain information with respect to each "reportable transaction" in which the taxpayer participates.[58]

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*States*, 253 F.3d at 354 (the application of the objective economic substance test involves determining whether there was a "reasonable possibility of profit . . . apart from tax benefits.").

[52] If the tax benefits are clearly contemplated and expected by the language and purpose of the relevant authority, it is not intended that such tax benefits be disallowed if the only reason for such disallowance is that the transaction fails the economic substance doctrine as defined in this provision.

[53] See, Martin McMahon Jr., Economic Substance, Purposive Activity, and Corporate Tax Shelters, 94 Tax Notes 1017, 1023 (Feb. 25, 2002) (advocates "confining the most rigorous application of business purpose, economic substance, and purposive activity tests to transactions outside the ordinary course of the taxpayer's business—those transactions that do not appear to contribute to any business activity or objective that the taxpayer may have had apart from tax planning but are merely loss generators."); Mark P. Gergen, The Common Knowledge of Tax Abuse, 54 SMU L. Rev. 131, 140 (Winter 2001) ("The message is that you can pick up tax gold if you find it in the street while going about your business, but you cannot go hunting for it.").

[54] This includes tax deductions or losses that are anticipated to be recognized in a period subsequent to the period the financial accounting benefit is recognized. For example, FAS 109 in some cases permits the recognition of financial accounting benefits prior to the period in which the tax benefits are recognized for income tax purposes.

[55] Claiming that a financial accounting benefit constitutes a substantial non-tax purpose fails to consider the origin of the accounting benefit (i.e., reduction of taxes) and significantly diminishes the purpose for having a substantial non-tax purpose requirement. See, e.g., *American Electric Power, Inc.* v. *U.S.*, 136 F. Supp. 2d 762, 791–92 (S.D. Ohio, 2001), aff'd by 2003 Fed. App. para. 0125 (CCH) (6th Cir. 2003) ("AEP's intended use of the cash flows generated by the [corporate-owned life insurance] plan is irrelevant to the subjective prong of the economic substance analysis. If a legitimate business purpose for the use of the tax savings "were sufficient to breathe substance into a transaction whose only purpose was to reduce taxes, [then] every sham tax-shelter device might succeed," citing *Winn-Dixie* v. *Commissioner*, 113 T.C. 254, 287 (1999)).

[56] Thus, a "reasonable possibility of profit" will not be sufficient to establish that a transaction has economic substance.

[57] See Rev. Proc. 2001-28, 2001-19 I.R.B. 1156 which provides guidelines that must be present for a lease to be eligible for advance ruling purposes. It is intended that a lease that satisfies Treasury Department guidelines for advance ruling purposes would be treated as a qualified lease.

[58] On February 27, 2003, the Treasury Department and the IRS released final regulations regarding the disclosure of reportable transactions. In general, the regulations are effective for transactions entered into on or after February 28, 2003.

The discussion of present law refers to the new regulations. The rules that apply with respect to transactions entered into on or before February 28.

Continued

There are six categories of reportable transactions. The first category is any transaction that is the same as (or substantially similar to)[59] a transaction that is specified by the Treasury Department as a tax avoidance transaction whose tax benefits are subject to disallowance under present law (referred to as a "listed transaction").[60]

The second category is any transaction that is offered under conditions of confidentiality. In general, if a taxpayer's disclosure of the structure or tax aspects of the transaction is limited in any way by an express or implied understanding or agreement with or for the benefit of any person who makes or provides a statement, oral or written, as to the potential tax consequences that may result from the transaction, it is considered offered under conditions of confidentiality (whether or not the understanding is legally binding).[61]

The third category of reportable transactions is any transaction for which (1) the taxpayer has the right to a full or partial refund of fees if the intended tax consequences from the transaction are not sustained or, (2) the fees are contingent on the intended tax consequences from the transaction being sustained.[62]

The fourth category of reportable transactions relates to any transaction resulting in a taxpayer claiming a loss (under section 165) of at least (1) $10 million in any single year or $20 million in any combination of years by a corporate taxpayer or a partnership with only corporate partners; (2) $2 million in any single year or $4 million in any combination of years by all other partnerships, S corporations, trusts, and individuals; or (3) $50,000 in any single year for individuals or trusts if the loss arises with respect to foreign currency translation losses.[63]

The fifth category of reportable transactions refers to any transaction done by certain taxpayers[64] in which the tax treatment of the transaction differs (or is expected to differ) by more than $10 million from its treatment for book purposes (using generally accepted accounting principles) in any year.[65]

The final category of reportable transactions is any transaction that results in a tax credit exceeding $250,000 (including a foreign tax credit) if the taxpayer holds the underlying asset for less than 45 days.[66]

Under present law, there is no specific penalty for failing to disclose a reportable transaction; however, such a failure may jeopardize a taxpayer's ability to claim that any income tax understatement attributable to such undisclosed transaction is due to reasonable cause, and that the taxpayer acted in good faith.[67]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*In general*

The Senate amendment creates a new penalty for any person who fails to include with any return or statement any required information with respect to a reportable transaction. The new penalty applies without regard to whether the transaction ultimately results in an understatement of tax, and applies in addition to any accuracy-related penalty that may be imposed.

*Transactions to be disclosed*

The Senate amendment does not define the terms "listed transaction"[68] or "reportable transaction," nor does the Senate amendment explain the type of information that must be disclosed in order to avoid the imposition of a penalty. Rather, the Senate amendment authorizes the Treasury Department to define a "listed transaction" and a "reportable transaction" under section 6011.

*Penalty rate*

The penalty for failing to disclose a reportable transaction is $50,000. The amount is increased to $100,000 if the failure is with respect to a listed transaction. For large entities and high net worth individuals, the penalty amount is doubled (i.e., $100,000 for a reportable transaction and $200,000 for a listed transaction). The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only if: (1) the taxpayer on whom the penalty is imposed has a history of complying with the Federal tax laws, (2) it is shown that the violation is due to an unintentional mistake of fact, (3) imposing the penalty would be against equity and good conscience, and (4) rescinding the penalty would promote compliance with the tax laws and effective tax administration. The authority to rescind the penalty can only be exercised by the IRS Commissioner personally or the head of the Office of Tax Shelter Analysis. Thus, the penalty cannot be rescinded by a revenue agent, an Appeals officer, or any other IRS personnel. The decision to rescind a penalty must be accompanied by a record describing the facts and reasons for the action and the amount rescinded. There will be no taxpayer right to appeal a refusal to rescind a penalty. The IRS also is required to submit an annual report to Congress summarizing the application of the disclosure penalties and providing a description of each penalty rescinded under this provision and the reasons for the rescission.

A "large entity" is defined as any entity with gross receipts in excess of $10 million in the year of the transaction or in the preceding year. A "high net worth individual" is defined as any individual whose net worth exceeds $2 million, based on the fair market value of the individual's assets and liabilities immediately before entering into the transaction.

A public entity that is required to pay a penalty for failing to disclose a listed transaction (or is subject to an understatement penalty attributable to a non-disclosed listed transaction, a non-disclosed reportable avoidance transaction,[69] or a transaction that lacks economic substance) must disclose the imposition of the penalty in reports to the Securities and Exchange Commission for such period as the Secretary shall specify. The provision applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and treats any failure to disclose a transaction in such reports as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the Securities and Exchange Commission once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

*Effective date*

The provision is effective for returns and statements the due date for which is after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 3. Modifications to the accuracy-related penalties for listed transactions and reportable transactions having a significant tax avoidance purpose (sec. 303 of the Senate amendment and sec. 6662A of the Code)

### PRESENT LAW

The accuracy-related penalty applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement. If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 ($10,000 in the case of corporations), then a substantial understatement exists and a penalty may be imposed equal to 20 percent of the underpayment of tax attributable to the understatement.[70] The amount of any understatement generally is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment.[71]

Special rules apply with respect to tax shelters.[72] For understatements by non-corporate taxpayers attributable to tax shelters, the penalty may be avoided only if the taxpayer establishes that, in addition to having substantial authority for the position, the taxpayer reasonably believed that the treatment claimed was more likely than not

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2003, are contained in Treas. Reg. sec. 1.6011-4T in effect on the date the transaction was entered into.

[59] The regulations clarify that the term "substantially similar" includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. Further, the term must be broadly construed in favor of disclosure. Treas. Reg. sec. 1-6011-4(c)(4).

[60] Treas. Reg. sec. 1.6011-4(b)(2).

[61] Treas. Reg. sec. 1.6011-4(b)(3).

[62] Treas. Reg. sec. 1.6011-4(b)(4).

[63] Treas. Reg. sec. 1.6011-4(b)(5). IRS Rev. Proc. 2003-24, 2003-11 I.R.B. 599, exempts certain types of losses from this reportable transaction category.

[64] The significant book-tax category applies only to taxpayers that are reporting companies under the Securities Exchange Act of 1934 or business entities that have $250 million or more in gross assets.

[65] Treas. Reg. sec. 1.6011-4(b)(6). IRS Rev. Proc. 2003-25, 2003-11 I.R.B. 601, exempts certain types of transactions from this reportable transaction category.

[66] Treas. Reg. sec. 1.6011-4(b)(7).

[67] Section 6664(c) provides that a taxpayer can avoid the imposition of a section 6662 accuracy-related penalty in cases where the taxpayer can demonstrate that there was reasonable cause for the underpayment and that the taxpayer acted in good faith. On December 31, 2002, the Treasury Department and IRS issued proposed regulations under sections 6662 and 6664 (REG-126016-01) that limit the defenses available to the imposition of an accuracy-related penalty in connection with a reportable transaction when the transaction is not disclosed.

[68] The provision states that, except as provided in regulations, a listed transaction means a reportable transaction, which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011. For this purpose, it is expected that the definition of "substantially similar" will be the definition used in Treas. Reg. sec. 1.6011-4(c)(4). However, the Secretary may modify this definition (as well as the definitions of "listed transaction" and "reportable transactions") as appropriate.

[69] A reportable avoidance transaction is a reportable transaction with a significant tax avoidance purpose.

[70] Sec. 6662.

[71] Sec. 6662(d)(2)(B).

[72] Sec. 6662(d)(2)(C).

the proper treatment of the item. This reduction in the penalty is unavailable to corporate tax shelters.

The understatement penalty generally is abated (even with respect to tax shelters) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith.[73] The relevant regulations provide that reasonable cause exists where the taxpayer "reasonably relies in good faith on an opinion based on a professional tax advisor's analysis of the pertinent facts and authorities [that] * * * unambiguously concludes that there is a greater than 50-percent likelihood that the tax treatment of the item will be upheld if challenged" by the IRS.[74]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*In general*

The Senate amendment modifies the present-law accuracy related penalty by replacing the rules applicable to tax shelters with a new accuracy-related penalty that applies to listed transactions and reportable transactions with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction").[75] The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

*Disclosed transactions*

In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction or reportable avoidance transaction. The only exception to the penalty is if the taxpayer satisfies a more stringent reasonable cause and good faith exception (hereinafter referred to as the "strengthened reasonable cause exception"), which is described below. The strengthened reasonable cause exception is available only if the relevant facts affecting the tax treatment are adequately disclosed, there is or was substantial authority for the claimed tax treatment, and the taxpayer reasonably believed that the claimed tax treatment was more likely than not the proper treatment.

*Undisclosed transactions*

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is not available (i.e., a strict-liability penalty applies), and the taxpayer is subject to an increased penalty rate equal to 30 percent of the understatement.

In addition, a public entity that is required to pay the 30 percent penalty must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

Once the 30 percent penalty has been included in the Revenue Agent Report, the penalty cannot be compromised for purposes of a settlement without approval of the Commissioner personally or the head of the Office of Tax Shelter Analysis. Furthermore, the IRS is required to submit an annual report to Congress summarizing the application of this penalty and providing a description of each penalty compromised under this provision and the reasons for the compromise.

*Determination of the understatement amount*

The penalty is applied to the amount of any understatement attributable to the listed or reportable avoidance transaction without regard to other items on the tax return. For purposes of the Senate amendment, the amount of the understatement is determined as the sum of (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return),[76] and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item.

Except as provided in regulations, a taxpayer's treatment of an item shall not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of when the taxpayer is first contacted regarding an examination of the return or such other date as specified by the Secretary.

*Strengthened reasonable cause exception*

A penalty is not imposed under the Senate amendment with respect to any portion of an understatement if it show that there was reasonable cause for such portion and the taxpayer acted in good faith. Such a showing requires (1) adequate disclosure of the facts affecting the transaction in accordance with the regulations under section 6011,[77] (2) that there is or was substantial authority for such treatment, and (3) that the taxpayer reasonably believed that such treatment was more likely than not the proper treatment. For this purpose, a taxpayer will be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief (1) is based on the facts and law that exist at the time the tax return (that includes the item) is filed, and (2) relates solely to the taxpayer's chances of success on the merits and does not take into account the possibility that (a) a return will not be audited, (b) the treatment will not be raised on audit, or (c) the treatment will be resolved through settlement if raised.

A taxpayer may (but is not required to) rely on an opinion of a tax advisor in establishing its reasonable belief with respect to the tax treatment of the item. However, a taxpayer may not rely on an opinion of a tax advisor for this purpose if the opinion (1) is provided by a "disqualified tax advisor," or (2) is a "disqualified opinion."

*Disqualified tax advisor*

A disqualified tax advisor is any advisor who (1) is a material advisor[78] and who participates in the organization, management, promotion or sale of the transaction or is related (within the meaning of section 267 or 707) to any person who so participates, (2) is compensated directly or indirectly[79] by a material advisor with respect to the transaction, (3) has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained, or (4) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

A material advisor is considered as participating in the "organization" of a transaction if the advisor performs acts relating to the development of the transaction. This may include, for example, preparing documents (1) establishing a structure used in connection with the transaction (such as a partnership agreement), (2) describing the transaction (such as an offering memorandum or other statement describing the transaction), or (3) relating to the registration of the transaction with any federal, state or local government body.[80] Participation in the "management" of a transaction means involvement in the decision-making process regarding any business activity with respect to the transaction. Participation in the "promotion or sale" of a transaction means involvement in the marketing or solicitation of the transaction to others. Thus, an advisor who provides information about the transaction to a potential participant is involved in the promotion or sale of a transaction, as is any advisor who recommends the transaction to a potential participant.

*Disqualified opinion*

An opinion may not be relied upon if the opinion (1) is based on unreasonable factual or legal assumptions (including assumptions as to future events), (2) unreasonably relies upon representations, statements, finding or agreements of the taxpayer or any other person, (3) does not identify and consider all relevant facts, or (4) fails to meet any other requirement prescribed by the Secretary.

*Coordination with other penalties*

Any understatement upon which a penalty is imposed under this provision is not subject to the accuracy-related penalty under section 6662. However, such understatement is included for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1).

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[73] Sec. 6664(c).

[74] Treas. Reg. sec. 1.6662-4(g)(4)(i)(B); Treas. Reg. sec. 1.6664-4(c).

[75] The terms "reportable transaction" and "listed transaction" have the same meanings as used for purposes of the penalty for failing to disclose reportable transactions.

[76] For this purpose, any reduction in the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

[77] See the previous discussion regarding the penalty for failing to disclose a reportable transaction.

[78] The term "material advisor" (defined below in connection with the new information filing requirements for material advisors) means any person who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and who derives gross income in excess of $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons ($250,000 in any other case).

[79] This situation could arise, for example, when an advisor has an arrangement or understanding (oral or written) with an organizer, manager, or promoter of a reportable transaction that such party will recommend or refer potential participants to the advisor for an opinion regarding the tax treatment of the transaction.

[80] An advisor should not be treated as participating in the organization of a transaction if the advisor's only involvement with respect to the organization of the transaction is the rendering of an opinion regarding the tax consequences of such transaction. However, such an advisor may be a "disqualified tax advisor" with respect to the transaction if the advisor participates in the management, promotion or sale of the transaction (or if the advisor is compensated by a material advisor, has a fee arrangement that is contingent on the tax benefits of the transaction, or as determined by the Secretary, has a continuing financial interest with respect to the transaction).

The penalty imposed under this provision shall not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

*Effective date*

The provision is effective for taxable years ending after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 4. Penalty for understatements from transactions lacking economic substance (sec. 304 of the Senate amendment and sec. 6662B of the Code)

### PRESENT LAW

An accuracy-related penalty applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement. If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 ($10,000 in the case of corporations), then a substantial understatement exists and a penalty may be imposed equal to 20 percent of the underpayment of tax attributable to the understatement.[81] The amount of any understatement is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment.

Special rules apply with respect to tax shelters.[82] For understatements by non-corporate taxpayers attributable to tax shelters, the penalty may be avoided only if the taxpayer establishes that, in addition to having substantial authority for the position, the taxpayer reasonably believed that the treatment claimed was more likely than not the proper treatment of the item. This reduction in the penalty is unavailable to corporate tax shelters.

The penalty generally is abated (even with respect to tax shelters) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith.[83] The relevant regulations provide that reasonable cause exists where the taxpayer "reasonably relies in good faith on an opinion based on a professional tax advisor's analysis of the pertinent facts and authorities [that] . . . unambiguously concludes that there is a greater than 50-percent likelihood that the tax treatment of the item will be upheld if challenged" by the IRS.[84]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment imposes a penalty for an understatement attributable to any transaction that lacks economic substance (referred to in the statute as a "non-economic substance transaction understatement").[85] The penalty rate is 40 percent (reduced to 20 percent if the taxpayer adequately discloses the relevant facts in accordance with regulations prescribed under section 6011). No exceptions (including the reasonable cause or rescission rules) to the penalty would be available under the Senate amendment (i.e., the penalty is a strict-liability penalty).

A "non-economic substance transaction" means any transaction if (1) the transaction lacks economic substance (as defined in the earlier Senate amendment provision regarding the economic substance doctrine),[86] (2) the transaction was not respected under the rules relating to transactions with tax-indifferent parties (as described in the earlier Senate amendment provision regarding the economic substance doctrine),[87] or (3) any similar rule of law. For this purpose, a similar rule of law would include, for example, an understatement attributable to a transaction that is determined to be a sham transaction.

For purposes of the Senate amendment, the calculation of an "understatement" is made in the same manner as in the separate Senate amendment provision relating to accuracy-related penalties for listed and reportable avoidance transactions (new sec. 6662A). Thus, the amount of the understatement under the Senate amendment would be determined as the sum of (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return),[88] and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item. In essence, the penalty will apply to the amount of any understatement attributable solely to a non-economic substance transaction.

Except as provided in regulations, the taxpayer's treatment of an item will not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted regarding an examination of the return or such other date as specified by the Secretary.

A public entity that is required to pay a penalty under the Senate amendment (regardless of whether the transaction was disclosed) must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

Once a penalty (regardless of whether the transaction was disclosed) has been included in the Revenue Agent Report, the penalty cannot be compromised for purposes of a settlement without approval of the Commissioner personally or the head of the Office of Tax Shelter Analysis. Furthermore, the IRS is required to submit an annual report to Congress summarizing the application of this penalty and providing a description of each penalty compromised under this provision and the reasons for the compromise.

Any understatement to which a penalty is imposed under the Senate amendment will not be subject to the accuracy-related penalty under section 6662 or under new 6662A (accuracy-related penalties for listed and reportable avoidance transactions). However, an understatement under this provision would be taken into account for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1). The penalty imposed under this provision will not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

*Effective date.*—The provision applies to transactions entered into on or after May 8, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 5. Modifications to the substantial understatement penalty (sec. 305 of the Senate amendment and sec. 6662 of the Code)

### PRESENT LAW

*Definition of substantial understatement*

An accuracy-related penalty equal to 20 percent applies to any substantial understatement of tax. A "substantial understatement" exists if the correct income tax liability for a taxable year exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 ($10,000 in the case of most corporations).[89]

*Reduction of understatement for certain positions*

For purposes of determining whether a substantial understatement penalty applies, the amount of any understatement generally is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment.[90]

The Secretary is required to publish annually in the Federal Register a list of positions for which the Secretary believes there is not substantial authority and which affect a significant number of taxpayers.[91]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Definition of substantial understatement*

The Senate amendment modifies the definition of "substantial" for corporate taxpayers. Under the Senate amendment, a corporate taxpayer has a substantial understatement if the amount of the understatement for the taxable year exceeds the lesser of (1) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or (2) $10 million.

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[81] Sec. 6662.

[82] Sec. 6662(d)(2)(C).

[83] Sec. 6664(c).

[84] Treas. Reg. sec. 1.6662-4(g)(4)(i)(B); Treas. Reg. sec. 1.6664-4(c).

[85] Thus, unlike the new accuracy-related penalty under section 6662A (which applies only to listed and reportable avoidance transactions), the new penalty under this provision applies to any transaction that lacks economic substance.

[86] The provision provides that a transaction has economic substance only if: (1) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and (2) the transaction has a substantial non-tax purpose for entering into such transaction and is a reasonable means of accomplishing such purpose.

[87] The provision provides that the form of a transaction that involves a tax-indifferent party will not be respected in certain circumstances.

[88] For this purpose, any reduction in the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses that would (without regard to section 1211) be allowed for such year, would be treated as an increase in taxable income.

[89] Sec. 6662(a) and (d)(1)(A).

[90] Sec. 6662(d)(2)(B).

[91] Sec. 6662(d)(2)(D).

*Reduction of understatement for certain positions*

The Senate amendment elevates the standard that a taxpayer must satisfy in order to reduce the amount of an understatement for undisclosed items. With respect to the treatment of an item whose facts are not adequately disclosed, a resulting understatement is reduced only if the taxpayer had a reasonable belief that the tax treatment was more likely than not the proper treatment. The Senate amendment also authorizes (but does not require) the Secretary to publish a list of positions for which it believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper treatment (without regard to whether such positions affect a significant number of taxpayers). The list shall be published in the Federal Register or the Internal Revenue Bulletin.

*Effective date*

The provision is effective for taxable years beginning after date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 6. Tax shelter exception to confidentiality privileges relating to taxpayer communications (sec. 306 of the Senate amendment and sec. 7525 of the Code)

PRESENT LAW

In general, a common law privilege of confidentiality exists for communications between an attorney and client with respect to the legal advice the attorney gives the client. The Code provides that, with respect to tax advice, the same common law protections of confidentiality that apply to a communication between a taxpayer and an attorney also apply to a communication between a taxpayer and a federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney. This rule is inapplicable to communications regarding corporate tax shelters.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the rule relating to corporate tax shelters by making it applicable to all tax shelters, whether entered into by corporations, individuals, partnerships, tax-exempt entities, or any other entity. Accordingly, communications with respect to tax shelters are not subject to the confidentiality provision of the Code that otherwise applies to a communication between a taxpayer and a federally authorized tax practitioner.

*Effective date.*—The provision is effective with respect to communications made on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 7. Disclosure of reportable transactions by material advisors (secs. 307 and 308 of the Senate amendment and secs. 6111 and 6707 of the Code)

PRESENT LAW

*Registration of tax shelter arrangements*

An organizer of a tax shelter is required to register the shelter with the Secretary not later than the day on which the shelter is first offered for sale.[92] A "tax shelter" means any investment with respect to which the tax shelter ratio[93] for any investor as of the close of any of the first five years ending after the investment is offered for sale may be greater than two to one and which is: (1) required to be registered under Federal or State securities laws, (2) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State securities agency, or (3) a substantial investment (greater than $250,000 and at least five investors).[94]

Other promoted arrangements are treated as tax shelters for purposes of the registration requirement if: (1) a significant purpose of the arrangement is the avoidance or evasion of Federal income tax by a corporate participant; (2) the arrangement is offered under conditions of confidentiality; and (3) the promoter may receive fees in excess of $100,000 in the aggregate.[95]

In general, a transaction has a "significant purpose of avoiding or evading Federal income tax" if the transaction: (1) is the same as or substantially similar to a "listed transaction,"[96] or (2) is structured to produce tax benefits that constitute an important part of the intended results of the arrangement and the promoter reasonably expects to present the arrangement to more than one taxpayer.[97] Certain exceptions are provided with respect to the second category of transactions.[98]

An arrangement is offered under conditions of confidentiality if: (1) an offeree has an understanding or agreement to limit the disclosure of the transaction or any significant tax features of the transaction; or (2) the promoter knows, or has reason to know that the offeree's use or disclosure of information relating to the transaction is limited in any other manner.[99]

*Failure to register tax shelter*

The penalty for failing to timely register a tax shelter (or for filing false or incomplete information with respect to the tax shelter registration) generally is the greater of one percent of the aggregate amount invested in the shelter or $500.[100] However, if the tax shelter involves an arrangement offered to a corporation under conditions of confidentiality, the penalty is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of late registration. Intentional disregard of the requirement to register increases the penalty to 75 percent of the applicable fees.

Section 6707 also imposes (1) a $100 penalty on the promoter for each failure to furnish the investor with the required tax shelter identification number, and (2) a $250 penalty on the investor for each failure to include the tax shelter identification number on a return.

HOUSE BILL

No provision.

SENATE AMENDMENT

*Disclosure of reportable transactions by material advisors*

The Senate amendment repeals the present law rules with respect to registration of tax shelters. Instead, the Senate amendment requires each material advisor with respect to any reportable transaction (including any listed transaction)[101] to timely file an information return with the Secretary (in such form and manner as the Secretary may prescribe). The return must be filed on such date as specified by the Secretary.

The information return will include (1) information identifying and describing the transaction, (2) information describing any potential tax benefits expected to result from the transaction, and (3) such other information as the Secretary may prescribe. It is expected that the Secretary may seek from the material advisor the same type of information that the Secretary may request from a taxpayer in connection with a reportable transaction.[102]

A "material advisor" means any person (1) who provides material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and (2) who directly or indirectly derives gross income in excess of $250,000 ($50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons) for such advice or assistance.

The Secretary may prescribe regulations which provide (1) that only one material advisor has to file an information return in cases in which two or more material advisors would otherwise be required to file information returns with respect to a particular reportable transaction, (2) exemptions from the requirements of this section, and (3) other rules as may be necessary or appropriate to carry out the purposes of this section (including, for example, rules regarding the aggregation of fees in appropriate circumstances).

*Penalty for failing to furnish information regarding reportable transactions*

The Senate amendment repeals the present law penalty for failure to register tax shelters. Instead, the Senate amendment imposes a penalty on any material advisor who fails to file an information return, or who files a false or incomplete information return, with respect to a reportable transaction (including a listed transaction).[103] The amount of the penalty is $50,000. If the penalty is with respect to a listed transaction, the amount of the penalty is increased to the greater of (1) $200,000, or (2) 50 percent of the gross income of such person with respect to aid, assistance, or advice which is provided with respect to the transaction before the date the information return that includes the transaction is filed. Intentional disregard by a material advisor of the requirement to disclose a listed transaction increases the penalty to 75 percent of the gross income.

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[92] Sec. 6111(a).

[93] The tax shelter ratio is, with respect to any year, the ratio that the aggregate amount of the deductions and 350 percent of the credits, which are represented to be potentially allowable to any investor, bears to the investment base (money plus basis of assets contributed) as of the close of the tax year.

[94] Sec. 6111(c).

[95] Sec. 6111(d).

[96] Treas. Reg. sec. 301.6111-2(b)(2).

[97] Treas. Reg. sec. 301.6111-2(b)(3).

[98] Treas. Reg. sec. 301.6111-2(b)(4).

[99] The regulations provide that the determination of whether an arrangement is offered under conditions of confidentiality is based on all the facts and circumstances surrounding the offer. If an offeree's disclosure of the structure or tax aspects of the transaction are limited in any way by an express or implied understanding or agreement with or for the benefit of a tax shelter promoter, an offer is considered made under conditions of confidentiality, whether or not such understanding or agreement is legally binding. Treas. Reg. sec. 301.6111-2(c)(1).

[100] Sec. 6707.

[101] The terms "reportable transaction" and "listed transaction" have the same meaning as previously described in connection with the taxpayer-related provisions.

[102] See the previous discussion regarding the disclosure requirements under new section 6707A.

[103] The terms "reportable transaction" and "listed transaction" have the same meaning as previously described in connection with the taxpayer-related provisions.

The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only in exceptional circumstances.[104] All or part of the penalty may be rescinded only if: (1) the material advisor on whom the penalty is imposed has a history of complying with the Federal tax laws, (2) it is shown that the violation is due to an unintentional mistake of fact, (3) imposing the penalty would be against equity and good conscience, and (4) rescinding the penalty would promote compliance with the tax laws and effective tax administration. The authority to rescind the penalty can only be exercised by the Commissioner personally or the head of the Office of Tax Shelter Analysis; this authority to rescind cannot otherwise be delegated by the Commissioner. Thus, the penalty cannot be rescinded by a revenue agent, an Appeals officer, or other IRS personnel. The decision to rescind a penalty must be accompanied by a record describing the facts and reasons for the action and the amount rescinded. There will be no right to appeal a refusal to rescind a penalty. The IRS also is required to submit an annual report to Congress summarizing the application of the disclosure penalties and providing a description of each penalty rescinded under this provision and the reasons for the rescission.

*Effective date*

The Senate amendment requiring disclosure of reportable transactions by material advisors applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment. The Senate amendment imposing a penalty for failing to disclose reportable transactions applies to returns the due date for which is after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 8. Investor lists and modification of penalty for failure to maintain investor lists (secs. 307 and 309 of the Senate amendment and secs. 6112 and 6708 of the Code)

### PRESENT LAW

*Investor lists*

Any organizer or seller of a potentially abusive tax shelter must maintain a list identifying each person who was sold an interest in any such tax shelter with respect to which registration was required under section 6111 (even though the particular party may not have been subject to confidentiality restrictions).[105] Recently issued regulations under section 6112 contain rules regarding the list maintenance requirements.[106] In general, the regulations apply to transactions that are potentially abusive tax shelters entered into, or acquired after, February 28, 2003.[107]

The regulations provide that a person is an organizer or seller of a potentially abusive tax shelter if the person is a material advisor with respect to that transaction.[108] A material advisor is defined any person who is required to register the transaction under section 6111, or expects to receive a minimum fee of (1) $250,000 for a transaction that is a potentially abusive tax shelter if all participants are corporations, or (2) $50,000 for any other transaction that is a potentially abusive tax shelter.[109] For listed transactions (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A potentially abusive tax shelter is any transaction that (1) is required to be registered under section 6111, (2) is a listed transaction (as defined under the regulations under section 6011), or (3) any transaction that a potential material advisor, at the time the transaction is entered into, knows is or reasonably expects will become a reportable transaction (as defined under the new regulations under section 6011).[110]

The Secretary is required to prescribe regulations which provide that, in cases in which two or more persons are required to maintain the same list, only one person would be required to maintain the list.[111]

*Penalty for failing to maintain investor lists*

Under section 6708, the penalty for failing to maintain the list required under section 6112 is $50 for each name omitted from the list (with a maximum penalty of $100,000 per year).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Investor lists*

Each material advisor[112] with respect to a reportable transaction (including a listed transaction)[113] is required to maintain a list that (1) identifies each person with respect to whom the advisor acted as a material advisor with respect to the reportable transaction, and (2) contains other information as may be required by the Secretary. In addition, the Senate amendment authorizes (but does not require) the Secretary to prescribe regulations which provide that, in cases in which 2 or more persons are required to maintain the same list, only one person would be required to maintain the list.

*Penalty for failing to maintain investor lists*

The Senate amendment modifies the penalty for failing to maintain the required list by making it a time-sensitive penalty. Thus, a material advisor who is required to maintain an investor list and who fails to make the list available upon written request by the Secretary within 20 business days after the request will be subject to a $10,000 per day penalty. The penalty applies to a person who fails to maintain a list, maintains an incomplete list, or has in fact maintained a list but does not make the list available to the Secretary. The penalty can be waived if the failure to make the list available is due to reasonable cause.[114]

*Effective date*

The Senate amendment requiring a material advisor to maintain an investor list applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment. The Senate amendment imposing a penalty for failing to maintain investor lists applies to requests made after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 9. Actions to enjoin conduct with respect to tax shelters and reportable transactions (sec. 310 of the Senate amendment and sec. 7408 of the Code)

### PRESENT LAW

The Code authorizes civil action to enjoin any person from promoting abusive tax shelters or aiding or abetting the understatement of tax liability.[115]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment expands this rule so that injunctions may also be sought with respect to the requirements relating to the reporting of reportable transactions[116] and the keeping of lists of investors by material advisors.[117] Thus, under the Senate amendment, an injunction may be sought against a material advisor to enjoin the advisor from (1) failing to file an information return with respect to a reportable transaction, or (2) failing to maintain, or to timely furnish upon written request by the Secretary, a list of investors with respect to each reportable transaction.

*Effective date*.—The provision is effective on the day after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 10. Understatement of taxpayer's liability by income tax return preparer (sec. 311 of the Senate amendment and sec. 6694 of the Code)

### PRESENT LAW

An income tax return preparer who prepares a return with respect to which there is an understatement of tax that is due to a position for which there was not a realistic possibility of being sustained on its merits and the position was not disclosed (or was frivolous) is liable for a penalty of $250, provided that the preparer knew or reasonably should have known of the position. An income tax return preparer who prepares a return and engages in specified willful or reckless conduct with respect to preparing such a return is liable for a penalty of $1,000.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment alters the standards of conduct that must be met to avoid imposition of the first penalty. The Senate amendment replaces the realistic possibility standard with a requirement that there be a reasonable belief that the tax treatment of the position was more likely than not the proper treatment. The Senate amendment also replaces the not frivolous standard with the requirement that there be a reasonable basis for the tax treatment of the position.

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[104] The Secretary's present-law authority to postpone certain tax-related deadlines because of Presidentially-declared disasters (sec. 7508A) will also encompass the authority to postpone the reporting deadlines established by the provision.

[105] Sec. 6112.

[106] Treas. Reg. sec. 301-6112-1.

[107] A special rule applies the list maintenance requirements to transactions entered into after February 28, 2000 if the transaction becomes a listed transaction (as defined in Treas. Reg. 1.6011-4) after February 28, 2003.

[108] Treas. Reg. sec. 301.6112-1(c)(1).

[109] Treas. Reg. sec. 301.6112-1(c)(2) and (3).

[110] Treas. Reg. sec. 301.6112-1(b).

[111] Sec. 6112(c)(2).

[112] The term "material advisor" has the same meaning as when used in connection with the requirement to file an information return under section 6111.

[113] The terms "reportable transaction" and "listed transaction" have the same meaning as previously described in connection with the taxpayer-related provisions.

[114] In no event will failure to maintain a list be considered reasonable cause for failing to make a list available to the Secretary.

[115] Sec. 7408.

[116] Sec. 6707, as amended by other provisions of this bill.

[117] Sec. 6708, as amended by other provisions of this bill.

In addition, the Senate amendment increases the amount of these penalties. The penalty relating to not having a reasonable belief that the tax treatment was more likely than not the proper tax treatment is increased from $250 to $1,000. The penalty relating to willful or reckless conduct is increased from $1,000 to $5,000.

*Effective date.*—The provision is effective for documents prepared after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 11. Penalty for failure to report interests in foreign financial accounts (sec. 312 of the Senate amendment and sec. 5321 of Title 31, United States Code)

### PRESENT LAW

The Secretary of the Treasury must require citizens, residents, or persons doing business in the United States to keep records and file reports when that person makes a transaction or maintains an account with a foreign financial entity.[118] In general, individuals must fulfill this requirement by answering questions regarding foreign accounts or foreign trusts that are contained in Part III of Schedule B of the IRS Form 1040. Taxpayers who answer "yes" in response to the question regarding foreign accounts must then file Treasury Department Form TD F 90-22.1. This form must be filed with the Department of the Treasury, and not as part of the tax return that is filed with the IRS.

The Secretary of the Treasury may impose a civil penalty on any person who willfully violates this reporting requirement. The civil penalty is the amount of the transaction or the value of the account, up to a maximum of $100,000; the minimum amount of the penalty is $25,000.[119] In addition, any person who willfully violates this reporting requirement is subject to a criminal penalty. The criminal penalty is a fine of not more than $250,000 or imprisonment for not more than five years (or both); if the violation is part of a pattern of illegal activity, the maximum amount of the fine is increased to $500,000 and the maximum length of imprisonment is increased to 10 years.[120]

On April 26, 2002, the Secretary of the Treasury submitted to the Congress a report on these reporting requirements.[121] This report, which was statutorily required,[122] studies methods for improving compliance with these reporting requirements. It makes several administrative recommendations, but no legislative recommendations. A further report was required to be submitted by the Secretary of the Treasury to the Congress by October 26, 2002.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment adds an additional civil penalty that may be imposed on any person who violates this reporting requirement (without regard to willfulness). This new civil penalty is up to $5,000. The penalty may be waived if any income from the account was properly reported on the income tax return and there was reasonable cause for the failure to report.

*Effective date.*—The provision is effective with respect to failures to report occurring on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 12. Frivolous tax returns and submissions (sec. 313 of the Senate amendment and sec. 6702 of the Code)

### PRESENT LAW

The Code provides that an individual who files a frivolous income tax return is subject to a penalty of $500 imposed by the IRS (sec. 6702). The Code also permits the Tax Court[123] to impose a penalty of up to $25,000 if a taxpayer has instituted or maintained proceedings primarily for delay or if the taxpayer's position in the proceeding is frivolous or groundless (sec. 6673(a)).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment modifies the IRS-imposed penalty by increasing the amount of the penalty to up to $5,000 and by applying it to all taxpayers and to all types of Federal taxes.

The Senate amendment also modifies present law with respect to certain submissions that raise frivolous arguments or that are intended to delay or impede tax administration. The submissions to which the Senate amendment applies are requests for a collection due process hearing, installment agreements, offers-in-compromise, and taxpayer assistance orders. First, the Senate amendment permits the IRS to dismiss such requests. Second, the Senate amendment permits the IRS to impose a penalty of up to $5,000 for such requests, unless the taxpayer withdraws the request after being given an opportunity to do so.

The Senate amendment requires the IRS to publish a list of positions, arguments, requests, and submissions determined to be frivolous for purposes of these provisions.

*Effective date.*—The provision is effective for submissions made and issues raised after the date on which the Secretary first prescribes the required list.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 13. Penalties on promoters of tax shelters (sec. 314 of the Senate amendment and sec. 6700 of the Code)

### PRESENT LAW

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement, if in connection with such activity the person makes or furnishes a qualifying false or fraudulent statement or a gross valuation overstatement.[124] A qualified false or fraudulent statement is any statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter. A "gross valuation overstatement" means any statement as to the value of any property or services if the stated value exceeds 200 percent of the correct valuation, and the value is directly related to the amount of any allowable income tax deduction or credit.

The amount of the penalty is $1,000 (or, if the person establishes that it is less, 100 percent of the gross income derived or to be derived by the person from such activity). A penalty attributable to a gross valuation misstatement can be waived on a showing that there was a reasonable basis for the valuation and it was made in good faith.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment modifies the penalty amount to equal 50 percent of the gross income derived by the person from the activity for which the penalty is imposed. The new penalty rate applies to any activity that involves a statement regarding the tax benefits of participating in a plan or arrangement if the person knows or has reason to know that such statement is false or fraudulent as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

*Effective date.*—The provision is effective for activities after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 14. Extend statute of limitations for certain undisclosed transactions (sec. 315 of the Senate amendment and sec. 6501 of the Code)

### PRESENT LAW

In general, the Code requires that taxes be assessed within three years[125] after the date a return is filed.[126] If there has been a substantial omission of items of gross income that total more than 25 percent of the amount of gross income shown on the return, the period during which an assessment must be made is extended to six years.[127] If an assessment is not made within the required time periods, the tax generally cannot be assessed or collected at any future time. Tax may be assessed at any time if the taxpayer files a false or fraudulent return with the intent to evade tax or if the taxpayer does not file a tax return at all.[128]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends the statute of limitations to six years with respect to the entire tax return[129] if a taxpayer required to disclose a listed transaction[130] fails to do so in the manner required. For example, if a taxpayer entered into a transaction in 2005 that becomes a listed transaction in 2006 and the taxpayer fails to disclose such transaction in the manner required by Treasury regulations, the 2005 tax return will be subject to a six-year statute of limitations.[131]

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[118] 31 U.S.C. 5314.

[119] 31 U.S.C. 5321(a)(5).

[120] 31 U.S.C. 5322.

[121] A Report to Congress in Accordance with Sec. 361(b) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, April 26, 2002.

[122] Sec. 361(b) of the USA PATRIOT Act of 2001 (Pub. L. 107-56).

[123] Because in general the Tax Court is the only pre-payment forum available to taxpayers, it deals with most of the frivolous, groundless, or dilatory arguments raised in tax cases.

[124] Sec. 6700.

[125] Sec. 6501(a).

[126] For this purpose, a return that is filed before the date on which it is due is considered to be filed on the required due date (sec. 6501(b)(1)).

[127] Sec. 6501(e).

[128] Sec. 6501(c).

[129] The tax year extended is the tax year the transaction is entered into.

[130] The term "listed transaction" has the same meaning as described in a previous provision regarding the penalty for failure to disclose reportable transactions.

*Effective date.*—The provision is effective for transactions entered into in taxable years beginning after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 15. Deny deduction for interest paid to IRS on underpayments involving certain tax-motivated transactions (sec. 316 of the Senate amendment and sec. 163 of the Code)

### PRESENT LAW

In general, corporations may deduct interest paid or accrued within a taxable year on indebtedness.[132] Interest on indebtedness to the Federal government attributable to an underpayment of tax generally may be deducted pursuant to this provision.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment disallows any deduction for interest paid or accrued within a taxable year on any portion of an underpayment of tax that is attributable to an understatement arising from (1) an undisclosed reportable avoidance transaction, (2) an undisclosed listed transaction, or (3) a transaction that lacks economic substance.[133]

*Effective date.*—The provision is effective for underpayments attributable to transactions entered into in taxable years beginning after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## B. Enron-Related Tax Shelter Related Provisions

### 1. Limitation on transfer and importation of built-in losses (sec. 321 of the Senate amendment and secs. 362 and 334 of the Code)

### PRESENT LAW

Generally, no gain or loss is recognized when one or more persons transfer property to a corporation in exchange for stock and immediately after the exchange such person or persons control the corporation.[134] The transferor's basis in the stock of the controlled corporation is the same as the basis of the property contributed to the controlled corporation, increased by the amount of any gain (or dividend) recognized by the transferor on the exchange, and reduced by the amount of any money or property received, and by the amount of any loss recognized by the transferor.[135]

The basis of property received by a corporation, whether from domestic or foreign transferors, in a tax-free incorporation, reorganization, or liquidation of a subsidiary corporation is the same as the adjusted basis in the hands of the transferor, adjusted for gain or loss recognized by the transferor.[136]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Importation of built-in losses*

The Senate amendment provides that if a net built-in loss is imported into the U.S in a tax-free organization or reorganization from persons not subject to U.S. tax, the basis of each property so transferred is its fair market value.[137] A similar rule applies in the case of the tax-free liquidation by a domestic corporation of its foreign subsidiary.

Under the Senate amendment, a net built-in loss is treated as imported into the U.S. if the aggregate adjusted bases of property received by a transferee corporation exceeds the fair market value of the properties transferred. Thus, for example, if in a tax-free incorporation, some properties are received by a corporation from U. S. persons subject to tax, and some properties are received from foreign persons not subject to U.S. tax, this provision applies to limit the adjusted basis of each property received from the foreign persons to the fair market value of the property. In the case of a transfer by a partnership (either domestic or foreign), this provision applies as if the properties had been transferred by each of the partners in proportion to their interests in the partnership.

*Limitation on transfer of built-in-losses in section 351 transactions*

The Senate amendment provides that if the aggregate adjusted bases of property contributed by a transferor (or by a control group of which the transferor is a member) to a corporation exceed the aggregate fair market value of the property transferred in a tax-free incorporation, the transferee's aggregate basis of the properties is limited to the aggregate fair market value of the transferred property. Under the Senate amendment, any required basis reduction is allocated among the transferred properties in proportion to their built-in-loss immediately before the transaction. In the case of a transfer in which the transferor owns at least 80 percent of the vote and value of the stock of the transferee corporation, any basis reduction required by the provision is made to the stock received by the transferor and not to the assets transferred.

*Effective date*

The provision applies to transactions after February 13, 2003.

### CONFERENCE REPORT

The conference agreement does not include the Senate amendment provision.

### 2. No reduction of basis under section 734 in stock held by partnership in corporate partner (sec. 322 of the Senate amendment and sec. 755 of the Code)

### PRESENT LAW

*In general*

Generally, a partner and the partnership do not recognize gain or loss on a contribution of property to a partnership.[138] Similarly, a partner and the partnership generally do not recognize gain or loss on the distribution of partnership property.[139] This includes current distributions and distributions in liquidation of a partner's interest.

*Basis of property distributed in liquidation*

The basis of property distributed in liquidation of a partner's interest is equal to the partner's tax basis in its partnership interest (reduced by any money distributed in the same transaction).[140] Thus, the partnership's tax basis in the distributed property is adjusted (increased or decreased) to reflect the partner's tax basis in the partnership interest.

### ELECTION TO ADJUST BASIS OF PARTNERSHIP PROPERTY

When a partnership distributes partnership property, generally, the basis of partnership property is not adjusted to reflect the effects of the distribution or transfer. The partnership is permitted, however, to make an election (referred to as a 754 election) to adjust the basis of partnership property in the case of a distribution of partnership property.[141] The effect of the 754 election is that the partnership adjusts the basis of its remaining property to reflect any change in basis of the distributed property in the hands of the distributee partner resulting from the distribution transaction. Such a change could be a basis increase due to gain recognition, or a basis decrease due to the partner's adjusted basis in its partnership interest exceeding the adjusted basis of the property received. If the 754 election is made, it applies to the taxable year with respect to which such election was filed and all subsequent taxable years.

In the case of a distribution of partnership property to a partner with respect to which the 754 election is in effect, the partnership increases the basis of partnership property by (1) any gain recognized by the distributee partner (2) the excess of the adjusted basis of the distributed property to the partnership immediately before its distribution over the basis of the property to the distributee partner, and decreases the basis of partnership property by (1) any loss recognized by the distributee partner and (2) the excess of the basis of the property to the distributee partner over the adjusted basis of the distributed property to the partnership immediately before the distribution.

The allocation of the increase or decrease in basis of partnership property is made in a manner which has the effect of reducing the difference between the fair market value and the adjusted basis of partnership properties.[142] In addition, the allocation rules require that any increase or decrease in basis be allocated to partnership property of a like character to the property distributed. For this purpose, the two categories of assets are (1) capital assets and depreciable and real property used in the trade or business held for more than one year, and (2) any other property.[143]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that in applying the basis allocation rules to a distribution in liquidation of a partner's interest, a partnership is precluded from decreasing the basis of corporate stock of a partner or a related person. Any decrease in basis that, absent the proposal, would have been allocated to the stock is allocated to other partnership assets. If the decrease in basis exceeds the basis of the other partnership assets, then gain is recognized by the partnership in the amount of the excess.

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[131] However, if the Treasury Department lists a transaction in a year subsequent to the year a taxpayer entered into such transaction, and the taxpayer's tax return for the year the transaction was entered into is closed by the statute of limitations prior to the transaction becoming a listed transaction, this provision does not re-open the statute of limitations for such year.

[132] Sec. 163(a).

[133] The definitions of these transactions are the same as those previously described in connection with the provision to modify the accuracy-related penalty for listed and certain reportable transactions and the provision to impose a penalty on understatements attributable to transactions that lack economic substance.

[134] Sec. 351.

[135] Sec. 358.

[136] Secs. 334(b) and 362(a) and (b).

[137] The Senate Amendment also applies to transfers from a tax-exempt organization where gain or loss would not be subject to tax if the property were sold by the organization.

[138] Sec. 721(a).

[139] Sec. 731(a) and (b).

[140] Sec. 732(b).

[141] Sec. 754.

[142] Sec. 755(a).

[143] Sec. 755(b).

*Effective date.*—The provision applies to distributions after February 13, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 3. Repeal of special rules for FASITs (sec. 323 of the Senate amendment and secs. 860H through 860L of the Code)

#### PRESENT LAW

*Financial asset securitization investment trusts*

In 1996, Congress created a new type of statutory entity called a "financial asset securitization trust" ("FASIT") that facilitates the securitization of debt obligations such as credit card receivables, home equity loans, and auto loans.[144] A FASIT generally is not taxable: the FASIT's taxable income or net loss flows through to the owner of the FASIT.

The ownership interest of a FASIT generally is required to be entirely held by a single domestic C corporation. In addition, a FASIT generally may hold only qualified debt obligations, and certain other specified assets, and is subject to certain restrictions on its activities. An entity that qualifies as a FASIT can issue one or more classes of instruments that meet certain specified requirements and treat those instruments as debt for Federal income tax purposes. Instruments issued by a FASIT bearing yields to maturity over five percentage points above the yield to maturity on specified United States government obligations (i.e., "high-yield interests") must be held, directly or indirectly, only by domestic C corporations that are not exempt from income tax.

*Qualification as a FASIT*

To qualify as a FASIT, an entity must: (1) make an election to be treated as a FASIT for the year of the election and all subsequent years;[145] (2) have assets substantially all of which (including assets that the FASIT is treated as owning because they support regular interests) are specified types called "permitted assets;" (3) have non-ownership interests be certain specified types of debt instruments called "regular interests"; (4) have a single ownership interest which is held by an "eligible holder"; and (5) not qualify as a regulated investment company ("RIC"). Any entity, including a corporation, partnership, or trust may be treated as a FASIT. In addition, a segregated pool of assets may qualify as a FASIT.

An entity ceases qualifying as a FASIT if the entity's owner ceases being an eligible corporation. Loss of FASIT status is treated as if all of the regular interests of the FASIT were retired and then reissued without the application of the rule that deems regular interests of a FASIT to be debt.

*Permitted assets*

For an entity or arrangement to qualify as a FASIT, substantially all of its assets must consist of the following "permitted assets": (1) cash and cash equivalents; (2) certain permitted debt instruments; (3) certain foreclosure property; (4) certain instruments or contracts that represent a hedge or guarantee of debt held or issued by the FASIT; (5) contract rights to acquire permitted debt instruments or hedges; and (6) a regular interest in another FASIT. Permitted assets may be acquired at any time by a FASIT, including any time after its formation.

*"Regular interests" of a FASIT*

"Regular interests" of a FASIT are treated as debt for Federal income tax purposes, regardless of whether instruments with similar terms issued by non-FASITs might be characterized as equity under general tax principles. To be treated as a "regular interest", an instrument must have fixed terms and must: (1) unconditionally entitle the holder to receive a specified principal amount; (2) pay interest that is based on (a) fixed rates, or (b) except as provided by regulations issued by the Treasury Secretary, variable rates permitted with respect to REMIC interests under section 860G(a)(1)(B)(i); (3) have a term to maturity of no more than 30 years, except as permitted by Treasury regulations; (4) be issued to the public with a premium of not more than 25 percent of its stated principal amount; and (5) have a yield to maturity determined on the date of issue of less than five percentage points above the applicable Federal rate ("AFR") for the calendar month in which the instrument is issued.

*Permitted ownership holder*

A permitted holder of the ownership interest in a FASIT generally is a non-exempt (i.e., taxable) domestic C corporation, other than a corporation that qualifies as a RIC, REIT, REMIC, or cooperative.

*Transfers to FASITs*

In general, gain (but not loss) is recognized immediately by the owner of the FASIT upon the transfer of assets to a FASIT. Where property is acquired by a FASIT from someone other than the FASIT's owner (or a person related to the FASIT's owner), the property is treated as being first acquired by the FASIT's owner for the FASIT's cost in acquiring the asset from the non-owner and then transferred by the owner to the FASIT.

*Valuation rules.*—In general, except in the case of debt instruments, the value of FASIT assets is their fair market value. Similarly, in the case of debt instruments that are traded on an established securities market, the market price is used for purposes of determining the amount of gain realized upon contribution of such assets to a FASIT. However, in the case of debt instruments that are not traded on an established securities market, special valuation rules apply for purposes of computing gain on the transfer of such debt instruments to a FASIT. Under these rules, the value of such debt instruments is the sum of the present values of the reasonably expected cash flows from such obligations discounted over the weighted average life of such assets. The discount rate is 120 percent of the AFR, compounded semiannually, or such other rate that the Treasury Secretary shall prescribe by regulations.

*Taxation of a FASIT*

A FASIT generally is not subject to tax. Instead, all of the FASIT's assets and liabilities are treated as assets and liabilities of the FASIT's owner and any income, gain, deduction or loss of the FASIT is allocable directly to its owner. Accordingly, income tax rules applicable to a FASIT (e.g., related party rules, sec. 871(h), sec. 165(g)(2)) are to be applied in the same manner as they apply to the FASIT's owner. The taxable income of a FASIT is calculated using an accrual method of accounting. The constant yield method and principles that apply for purposes of determining original issue discount ("OID") accrual on debt obligations whose principal is subject to acceleration apply to all debt obligations held by a FASIT to calculate the FASIT's interest and discount income and premium deductions or adjustments.

*Taxation of holders of FASIT regular interests*

In general, a holder of a regular interest is taxed in the same manner as a holder of any other debt instrument, except that the regular interest holder is required to account for income relating to the interest on an accrual method of accounting, regardless of the method of accounting otherwise used by the holder.

*Taxation of holders of FASIT ownership interests*

Because all of the assets and liabilities of a FASIT are treated as assets and liabilities of the holder of a FASIT ownership interest, the ownership interest holder takes into account all of the FASIT's income, gain, deduction, or loss in computing its taxable income or net loss for the taxable year. The character of the income to the holder of an ownership interest is the same as its character to the FASIT, except tax-exempt interest is included in the income of the holder as ordinary income.

Although the recognition of losses on assets contributed to the FASIT is not allowed upon contribution of the assets, such losses may be allowed to the FASIT owner upon their disposition by the FASIT. Furthermore, the holder of a FASIT ownership interest is not permitted to offset taxable income from the FASIT ownership interest (including gain or loss from the sale of the ownership interest in the FASIT) with other losses of the holder. In addition, any net operating loss carryover of the FASIT owner shall be computed by disregarding any income arising by reason of a disallowed loss. Where the holder of a FASIT ownership interest is a member of a consolidated group, this rule applies to the consolidated group of corporations of which the holder is a member as if the group were a single taxpayer.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment repeals the special rules for FASITs. The Senate amendment provides a transition period for existing FASITs, pursuant to which the repeal of the FASIT rules would not apply to any FASIT in existence on the date of enactment to the extent that regular interests issued by the FASIT prior to such date continue to remain outstanding in accordance with their original terms.

*Effective date.*—Except as provided by the transition period for existing FASITs, the Senate amendment provision is effective after February 13, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 4. Expanded disallowance of deduction for interest on convertible debt (sec. 324 of the Senate amendment and sec. 163 of the Code)

#### PRESENT LAW

Whether an instrument qualifies for tax purposes as debt or equity is determined under all the facts and circumstances based on principles developed in case law. If an instrument qualifies as equity, the issuer generally does not receive a deduction for dividends paid and the holder generally includes such dividends in income (although corporate holders generally may obtain a dividends-received deduction of at least 70 percent of the amount of the dividend). If an instrument qualifies as debt, the issuer may receive a deduction for accrued interest and the holder generally includes interest in income, subject to certain limitations.

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[144] Sections 860H through 860L.

[145] Once an election to be a FASIT is made, the election applies from the date specified in the election and all subsequent years until the entity ceases to be a FASIT. If an election to be a FASIT is made after the initial year of an entity, all of the assets in the entity at the time of the FASIT election are deemed contributed to the FASIT at that time and, accordingly, any gain (but not loss) on such assets will be recognized at that time.

Original issue discount ("OID") on a debt instrument is the excess of the stated redemption price at maturity over the issue price of the instrument. An issuer of a debt instrument with OID generally accrues and deducts the discount as interest over the life of the instrument even though interest may not be paid until the instrument matures. The holder of such a debt instrument also generally includes the OID in income on an accrual basis.

Under present law, no deduction is allowed for interest or OID on a debt instrument issued by a corporation (or issued by a partnership to the extent of its corporate partners) that is payable in equity of the issuer or a related party (within the meaning of sections 267(b) and 707(b)), including a debt instrument a substantial portion of which is mandatorily convertible or convertible at the issuer's option into equity of the issuer or a related party.[146] In addition, a debt instrument is treated as payable in equity if a substantial portion of the principal or interest is required to be determined, or may be determined at the option of the issuer or related party, by reference to the value of equity of the issuer or related party.[147] A debt instrument also is treated as payable in equity if it is part of an arrangement that is designed to result in the payment of the debt instrument with or by reference to such equity, such as in the case of certain issuances of a forward contract in connection with the issuance of debt, nonrecourse debt that is secured principally by such equity, or certain debt instruments that are paid in, converted to, or determined with reference to the value of equity if it may be so required at the option of the holder or a related party and there is a substantial certainty that option will be exercised.[148]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment expands the present-law disallowance of interest deductions on certain convertible or equity-linked corporate debt that is payable in, or by reference to the value of, equity. Under the Senate amendment, the disallowance is expanded to include interest on corporate debt that is payable in, or by reference to the value of, any equity held by the issuer (or by any related party) in any other person, without regard to whether such equity represents more than a 50-percent ownership interest in such person. However, the Senate amendment does not apply to debt that is issued by an active dealer in securities (or by a related party) if the debt is payable in, or by reference to the value of, equity that is held by the securities dealer in its capacity as a dealer in securities.

*Effective date.*—The Senate amendment provision applies to debt instruments that are issued after February 13, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 5. Expanded authority to disallow tax benefits under section 269 (sec. 325 of the Senate amendment and sec. 269 of the Code)

### PRESENT LAW

Section 269 provides that if a taxpayer acquires, directly or indirectly, control (defined as at least 50 percent of vote or value) of a corporation, and the principal purpose of the acquisition is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance that would not otherwise have been available, the Secretary may disallow such tax benefits.[149] Similarly, if a corporation acquires, directly or indirectly, property of another corporation (not controlled, directly or indirectly, by the acquiring corporation or its stockholders immediately before the acquisition), the basis of such property is determined by reference to the basis in the hands of the transferor corporation, and the principal purpose of the acquisition is the evasion or avoidance of Federal income tax by securing a tax benefit that would not otherwise have been available, the Secretary may disallow such tax benefits.[150]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment expands section 269 by repealing (1) the requirement that the acquisition of stock be sufficient to obtain control of the corporation, and (2) the requirement that the acquisition of property be from a corporation not controlled by the acquirer. Thus, under the provision, section 269 disallows the tax benefits of (1) any acquisition of stock in a corporation,[151] and (2) any acquisition by a corporation of property from a corporation in which the basis of such property is determined by reference to the basis in the hands of the transferor corporation, if the principal purpose of such acquisition is the evasion or avoidance of Federal income tax.

*Effective date.*—The provision applies to stock and property acquired after February 13, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 6. Modification of controlled foreign corporation—passive foreign investment company coordination rules (sec. 326 of the Senate amendment and sec. 1297 of the Code)

### PRESENT LAW

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, whether derived in the United States or abroad. Income earned by a domestic parent corporation from foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax when the income is distributed as a dividend to the domestic corporation. Until such repatriation, the U.S. tax on such income generally is deferred. However, certain anti-deferral regimes may cause the domestic parent corporation to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by its foreign subsidiaries, regardless of whether the income has been distributed as a dividend to the domestic parent corporation. The main anti-deferral regimes in this context are the controlled foreign corporation rules of subpart F[152] and the passive foreign investment company rules.[153] A foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign-source income, whether earned directly by the domestic corporation, repatriated as an actual dividend, or included under one of the anti-deferral regimes.[154]

Generally, income earned indirectly by a domestic corporation through a foreign corporation is subject to U.S. tax only when the income is distributed to the domestic corporation, because corporations generally are treated as separate taxable persons for Federal tax purposes. However, this deferral of U.S. tax is limited by anti-deferral regimes that impose current U.S. tax on certain types of income earned by certain corporations, in order to prevent taxpayers from avoiding U.S. tax by shifting passive or other highly mobile income into low-tax jurisdictions. Deferral of U.S. tax is considered appropriate, on the other hand, with respect to most types of active business income earned abroad.

Subpart F,[155] applicable to controlled foreign corporations and their shareholders, is the main anti-deferral regime of relevance to a U.S.-based multinational corporate group. A controlled foreign corporation generally is defined as any foreign corporation if U.S. persons own (directly, indirectly, or constructively) more than 50 percent of the corporation's stock (measured by vote or value), taking into account only those U.S. persons that own at least 10 percent of the stock (measured by vote only).[156] Under the subpart F rules, the United States generally taxes the U.S. 10-percent shareholders of a controlled foreign corporation on their pro rata shares of certain income of the controlled foreign corporation (referred to as "subpart F income"), without regard to whether the income is distributed to the shareholders.[157]

Subpart F income generally includes passive income and other income that is readily movable from one taxing jurisdiction to another. Subpart F income consists of foreign base company income,[158] insurance income,[159] and certain income relating to international boycotts and other violations of public policy.[160] Foreign base company income consists of foreign personal holding company income, which includes passive income (e.g., dividends, interest, rents, and royalties), as well as a number of categories of non-passive income, including foreign base company sales income, foreign base company services income, foreign base company shipping income and foreign base company oil-related income.[161]

In effect, the United States treats the U.S. 10-percent shareholders of a controlled foreign corporation as having received a current distribution out of the corporation's subpart F income. In addition, the U.S. 10-percent shareholders of a controlled foreign corporation are required to include currently in income for U.S. tax purposes their pro rata shares of the corporation's earnings invested in U.S. property.[162]

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[146] Sec. 163(l), enacted in the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, sec. 1005(a).

[147] Sec. 163(l)(3)(B).

[148] Sec. 163(l)(3)(C).

[149] Sec. 269(a)(1).

[150] Sec. 269(a)(2).

[151] In this regard, the provision applies regardless of whether an acquisition results in an increase in the acquiror's ownership percentage in a corportion or involves the issuance of actual stock certificates or shares by a corporation to the acquiror.

[152] Secs. 951-964.

[153] Secs. 1291-1298.

[154] Secs. 901, 902, 960, 1291(g).

[155] Secs. 951-964.

[156] Secs. 951(b), 957, 958.

[157] Sec. 951(a).

[158] Sec. 954.

[159] Sec. 953.

[160] Sec. 952(a)(3)-(5).

[161] Sec. 954.

The Tax Reform Act of 1986 established an additional anti-deferral regime, for passive foreign investment companies. A passive foreign investment company generally is defined as any foreign corporation if 75 percent or more of its gross income for the taxable year consists of passive income, or 50 percent or more of its assets consists of assets that produce, or are held for the production of, passive income.[163] Alternative sets of income inclusion rules apply to U.S. persons that are shareholders in a passive foreign investment company, regardless of their percentage ownership in the company. One set of rules applies to passive foreign investment companies that are "qualified electing funds," under which electing U.S. shareholders currently include in gross income their respective shares of the company's earnings, with a separate election to defer payment of tax, subject to an interest charge, on income not currently received.[164] A second set of rules applies to passive foreign investment companies that are not qualified electing funds, under which U.S. shareholders pay tax on certain income or gain realized through the company, plus an interest charge that is attributable to the value of deferral.[165] A third set of rules applies to passive foreign investment company stock that is marketable, under which electing U.S. shareholders currently take into account as income (or loss) the difference between the fair market value of the stock as of the close of the taxable year and their adjusted basis in such stock (subject to certain limitations), often referred to as "marking to market."[166]

Under section 1297(e), which was enacted in 1997 to address the overlap of the passive foreign investment company rules and subpart F, a controlled foreign corporation generally is not also treated as a passive foreign investment company with respect to a U.S. shareholder of the corporation. This exception applies regardless of the likelihood that the U.S. shareholder would actually be taxed under subpart F in the event that the controlled foreign corporation earns subpart F income. Thus, even in a case in which a controlled foreign corporation's subpart F income would be allocated to a different shareholder under the subpart F allocation rules, a U.S. shareholder would still qualify for the exception from the passive foreign investment company rules under section 1297(e).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment adds an exception to section 1297(e) for U.S. shareholders that face only a remote likelihood of incurring a subpart F inclusion in the event that a controlled foreign corporation earns subpart F income, thus preserving the potential application of the passive foreign investment company rules in such cases.

*Effective date.*—The provision is effective for taxable years of controlled foreign corporations beginning after February 13, 2003, and for taxable years of U.S. shareholders in which or with which such taxable years of controlled foreign corporations end.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 7. Modify treatment of closely-held REITs (sec. 327 of the Senate amendment and sec. 856 of the Code)

### PRESENT LAW

In general, a real estate investment trust ("REIT") is an entity that receives most of its income from passive real estate related investments and that receives pass-through treatment for income that is distributed to shareholders. If an entity meets the qualifications for REIT status and elects to be taxed as a REIT, the portion of its income that is distributed to the investors each year generally is taxed to the investors without being subjected to tax at the REIT level.

A REIT must satisfy a number of tests on a year-by-year basis that relate to the entity's (1) organizational structure; (2) source of income; (3) nature of assets; and (4) distribution of income.

Under the organizational structure test, except for the first taxable year for which an entity elects to be a REIT, the beneficial ownership of the entity must be held by 100 or more persons. Generally, no more than 50 percent of the value of the REIT stock can be owned by five or fewer individuals during the last half of the taxable year. Certain attribution rules apply in making this determination.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The bill imposes as an additional requirement for REIT qualification that, except for the first taxable year for which an entity elects to be a REIT, no person can own stock of a REIT possessing 50 percent or more of the combined voting power of all classes of voting stock or 50 percent or more of the total value of all classes of stock of the REIT. For purposes of determining a person's stock ownership, rules similar to attribution rules for REIT qualification under present law apply (secs. 856(d)(5) and 856(h)(3)). A special rule prevents reattribution in certain circumstances.

The provision does not apply to ownership by a REIT of 50 percent or more of the stock (vote or value) of another REIT.

An exception applies for a limited period of time to certain "incubator REITs" that meet specified qualifications. A penalty is imposed on a corporation's directors if an "incubator REIT" election is made for a principal purpose other than as part of a reasonable plan to undertake a going public transaction (as defined in the bill).

*Effective date.*—The bill is effective for entities electing REIT status for taxable years ending after May 8, 2003. Any entity that elects (or has elected) REIT status for a taxable year including May 8, 2003 and which is both a controlled entity and has significant business assets or activities on such date, will not be subject to the bill. Under this rule, a controlled entity with significant business assets or activities on May 8, 2003, can be grandfathered even if it makes its first REIT election after that date with its return for the taxable year including that date.

For purposes of the transition rules, the significant business assets or activities in place on May 8, 2003 must be real estate assets and activities of a type that would be qualified real estate assets and would produce qualified real estate related income for a REIT.

### CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment provision.

## C. Other Corporate Governance Provisions

## 1. Affirmation of consolidated return regulation authority (sec. 331 of the Senate amendment and sec. 1502 of the Code)

### PRESENT LAW

An affiliated group of corporations may elect to file a consolidated return in lieu of separate returns. A condition of electing to file a consolidated return is that all corporations that are members of the consolidated group must consent to all the consolidated return regulations prescribed under section 1502 prior to the last day prescribed by law for filing such return.[167]

Section 1502 states:

> The Secretary shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income-tax liability and the various factors necessary for the determination of such liability, and in order to prevent the avoidance of such tax liability.[168]

Under this authority, the Treasury Department has issued extensive consolidated return regulations.[169]

In the recent case of *Rite Aid Corp.* v. *United States*,[170] the Federal Circuit Court of Appeals addressed the application of a particular provision of certain consolidated return loss disallowance regulations, and concluded that the provision was invalid.[171] The

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[162] Secs. 951(a)(1)(B), 956.

[163] Sec. 1297.

[164] Sec. 1293-1295.

[165] Sec. 1291.

[166] Sec. 1296.

[167] Sec. 1501.

[168] Sec. 1502.

[169] Regulations issued under the authority of section 1502 are considered to be "legislative" regulations rather than "interpretative" regulations, and as such are usually given greater deference by courts in case of a taxpayer challenge to such a regulation. See, S. Rep. No. 960, 70th Cong., 1st Sess. at 15, describing the consolidated return regulations as "legislative in character". The Supreme Court has stated that "* * * legislative regulations are given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute." *Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S, 837, 844 (1984) (involving an environmental protection regulation). For examples involving consolidated return regulations, *see, e.g., Wolter Construction Company* v. *Commissioner*, 634 F.2d 1029 (6th Cir. 1980); *Garvey, Inc.* v. *United States*, 1 Ct. Cl. 108 (1983), aff'd 726 F.2d 1569 (Fed. Cir. 1984), cert. denied 469 U.S. 823 (1984). *Compare, e.g., Audrey J. Walton* v. *Commissioner*, 115 T.C. 589 (2000), describing different standards of review. The case did not involve a consolidated return regulation.

[170] 255 F.3d 1357 (Fed. Cir. 2001), reh'g denied, 2001 U.S. App. LEXIS 23207 (Fed. Cir. Oct. 3, 2001).

[171] Prior to this decision, there had been a few instances involving prior laws in which certain consolidated return regulations were held to be invalid. See, e.g., American Standard, Inc. v. *United States*, 602 F.2d 256 (Ct. Cl. 1979), discussed in the text *infra. See also Union Carbide Corp.* v. *United States*, 612 F.2d 558 (Ct. Cl. 1979), and *Allied Corporation* v. *United States*, 685 F. 2d 396 (Ct. Cl. 1982), all three cases involving the allocation of income and loss within a consolidated group for purposes of computation of a deduction allowed under prior law by the Code for Western Hemisphere Trading Corporations. See also Joseph Weidenhoff v. *Commissioner*, 32 T.C. 1222, 1242–1244 (1959), involving the application of certain regulations to the excess profits tax credit allowed under prior law, and concluding that the Commissioner had applied a particular regulation in an arbitrary manner inconsistent with the wording of the regulation and inconsistent with even a consolidated group computation. *Cf. Kanawha Gas & Utilities Co.* v. *Commissioner*, 214 F.2d 685 (1954), concluding that the substance of a transaction was an acquisition of assets rather than stock. Thus, a regulation governing basis of the assets of consolidated subsidiaries did

Continued

particular provision, known as the "duplicated loss" provision,[172] would have denied a loss on the sale of stock of a subsidiary by a parent corporation that had filed a consolidated return with the subsidiary, to the extent the subsidiary corporation had assets that had a built-in loss, or had a net operating loss, that could be recognized or used later.[173]

The Federal Circuit Court opinion contained language discussing the fact that the regulation produced a result different than the result that would have obtained if the corporations had filed separate returns rather than consolidated returns.[174]

The Federal Circuit Court opinion cited a 1928 Senate Finance Committee Report to legislation that authorized consolidated return regulations, which stated that "many difficult and complicated problems, * * * have arisen in the administration of the provisions permitting the filing of consolidated returns" and that the committee "found it necessary to delegate power to the commissioner to prescribe regulations legislative in character covering them."[175] The Court's opinion also cited a previous decision of the Court of Claims for the proposition, interpreting this legislative history, that section 1502 grants the Secretary "the power to conform the applicable income tax law of the Code to the special, myriad problems resulting from the filing of consolidated income tax returns;" but that section 1502 "does not authorize the Secretary to choose a method that imposes a tax on income that would not otherwise be taxed."[176]

The Federal Circuit Court construed these authorities and applied them to invalidate Treas. Reg. Sec. 1.1502-20(c)(1)(iii), stating that:

> The loss realized on the sale of a former subsidiary's assets after the consolidated group sells the subsidiary's stock is not a problem resulting from the filing of consolidated income tax returns. The scenario also arises where a corporate shareholder sells the stock of a non-consolidated subsidiary. The corporate shareholder could realize a loss under I.R.C. sec. 1001, and deduct the loss under I.R.C. sec. 165. The subsidiary could then deduct any losses from a later sale of assets. The duplicated loss factor, therefore, addresses a situation that arises from the sale of stock regardless of whether corporations file separate or consolidated returns. With I.R.C. secs. 382 and 383, Congress has addressed this situation by limiting the subsidiary's potential future deduction, not the parent's loss on the sale of stock under I.R.C. sec. 165.[177]

The Treasury Department has announced that it will not continue to litigate the validity of the duplicated loss provision of the regulations, and has issued interim regulations that permit taxpayers for all years to elect a different treatment, though they may apply the provision for the past if they wish.[178]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The bill confirms that, in exercising its authority under section 1502 to issue consolidated return regulations, the Treasury Department may provide rules treating corporations filing consolidated returns differently from corporations filing separate returns.

Thus, under the statutory authority of section 1502, the Treasury Department is authorized to issue consolidated return regulations utilizing either a single taxpayer or separate taxpayer approach or a combination of the two approaches, as Treasury deems necessary in order that the tax liability of any affiliated group of corporations making a consolidated return, and of each corporation in the group, both during and after the period of affiliation, may be determined and adjusted in such manner as clearly to reflect the income-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such liability.

*Rite Aid* is thus overruled to the extent it suggests that there is not a problem that can be addressed in consolidated return regulations if application of a particular Code provision on a separate taxpayer basis would produce a result different from single taxpayer principles that may be used for consolidation.

The bill nevertheless allows the result of the *Rite Aid* case to stand with respect to the type of factual situation presented in the case. That is, the legislation provides for the override of the regulatory provision that took the approach of denying a loss on a deconsolidating disposition of stock of a consolidated subsidiary[179] to the extent the subsidiary had net operating losses or built in losses that could be used later outside the group.[180]

Retaining the result in the *Rite Aid* case with respect to the particular regulation section 1.1502-20(c)(1)(iii) as applied to the factual situation of the case does not in any way prevent or invalidate the various approaches Treasury has announced it will apply or that it intends to consider in lieu of the approach of that regulation, including, for example, the denial of a loss on a stock sale if inside losses of a subsidiary may also be used by the consolidated group, and the possible requirement that inside attributes be adjusted when a subsidiary leaves a group.[181]

*Effective date.*—The provision is effective for all years, whether beginning before, on, or after the date of enactment of the provision. No inference is intended that the results following from this provision are not the same as the results under present law.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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not apply to the case. See also General Machinery Corporation v. *Commissioner*, 33 B.T.A. 1215 (1936); *Lefcourt Realty Corporation*, 31 B.T.A. 978 (1935); *Helvering* v. *Morgans, Inc.*, 293 U.S. 121 (1934), interpreting the term "taxable year."

[172] Treas. Reg. Sec. 1.1502-20(c)(1)(iii).

[173] Treasury Regulation section 1.1502-20, generally imposing certain "loss disallowance" rules on the disposition of subsidiary stock, contained other limitations besides the "duplicated loss" rule that could limit the loss available to the group on a disposition of a subsidiary's stock. Treasury Regulation section 1.1502-20 as a whole was promulgated in connection with regulations issued under section 337(d), principally in connection with the so-called *General Utilities* repeal of 1986 (referring to the case of *General Utilities & Operating Company* v. *Helvering*, 296 U.S. 200 (1935)). Such repeal generally required a liquidating corporation, or a corporation acquired in a stock acquisition treated as a sale of assets, to pay corporate level tax on the excess of the value of its assets over the basis. Treasury regulation section 1.1502-20 principally reflected an attempt to prevent corporations filing consolidated returns from offsetting income with a loss on the sale of subsidiary stock. Such a loss could result from the unique upward adjustment of a subsidiary's stock basis required under the consolidated return regulations for subsidiary income earned in consolidation, an adjustment intended to prevent taxation of both the subsidiary and the parent on the same income or gain. As one example, absent a denial of certain losses on a sale of subsidiary stock, a consolidated group could obtain a loss deduction with respect to subsidiary stock, the basis of which originally reflected the subsidiary's value at the time of the purchase of the stock, and that had then been adjusted upward on recognition of any built-in income or gain of the subsidiary reflected in that value. The regulations also contained the duplicated loss factor addressed by the court in *Rite Aid*. The preamble to the regulations stated: "it is not administratively feasible to differentiate between loss attributable to built-in gain and duplicated loss." T.D. 8364, 1991-2 C.B. 43, 46 (Sept. 13, 1991). The government also argued in the *Rite Aid* case that duplicated loss was a separate concern of the regulations. 255 F.3d at 1360.

[174] For example, the court stated: "The duplicated loss factor * * * addresses a situation that arises from the sale of stock regardless of whether corporations file separate or consolidated returns. With I.R.C. secs. 382 and 383, Congress has addressed this situation by limiting the subsidiary's potential future deduction, not the parent's loss on the sale of stock under I.R.C. sec. 165." 255 F.3d 1357, 1360 (Fed. Cir. 2001).

[175] S. Rep. No. 960, 70th Cong., 1st Sess. 15 (1928). Though not quoted by the court in *Rite Aid*, the same Senate report also indicated that one purpose of the consolidated return authority was to permit treatment of the separate corporations as if they were a single unit, stating "The mere fact that by legal fiction several corporations owned by the same shareholders are separate entities should not obscure the fact that they are in reality one and the same business owned by the same individuals and operated as a unit." S. Rep. No. 960, 70th Cong., 1st Sess. 29 (1928).

[176] *American Standard, Inc.* v. *United States*, 602 F.2d 256, 261 (Ct. Cl. 1979). That case did not involve the question of separate returns as compared to a single return approach. It involved the computation of a Western Hemisphere Trade Corporation ("WHTC") deduction under prior law (which deduction would have been computed as a percentage of each WHTC's taxable income if the corporations had filed separate returns), in a case where a consolidated group included several WHTCs as well as other corporations. The question was how to apportion income and losses of the admittedly consolidated WHTCs and how to combine that computation with the rest of the group's consolidated income or losses. The court noted that the new, changed regulations approach varied from the approach taken to a similar problem involving public utilities within a group and previously allowed for WHTCs. The court objected that the allocation method adopted by the regulation allowed non-WHTC losses to reduce WHTC income. However, the court did not disallow a method that would net WHTC income of one WHTC with losses of another WHTC, a result that would not have occurred under separate returns. Nor did the court expressly disallow a different fractional method that would net both income and losses of the WHTCs with those of other corporations in the consolidated group. The court also found that the regulation had been adopted without proper notice.

[177] *Rite Aid*, 255 F.3d at 1360.

[178] See Temp. Reg. 1.1502-20T(i)(2). The Treasury Department has also indicated its intention to continue to study all the issues that the original loss disallowance regulations addressed (including issues of furthering single entity principles) and possibly issue different regulations (not including the particular approach of Treas. Reg. Sec. 1.1502-20(c)(1)(iii)) on the issues in the future. See Notice 2002-11, 2002-7 I.R.B. 526 (Feb. 19, 2002); T.D. 8984, 67 F.R. 11034 (March 12, 2002); REG-102740-02, 67 F.R. 11070 (March 12, 2002); see also Notice 2002-18, 2002-12 I.R.B. 644 (March 25, 2002).

[179] Treas. Reg. Sec. 1.1502-20(c)(1)(iii).

[180] The provision is not intended to overrule the current Treasury Department regulations, which allow taxpayers for the past to follow Treasury Regulations Section 1.1502-20(c)(1)(iii), if they choose to do so. Temp. Reg. Sec. 1.1502-20T(i)(2).

[181] *See, e.g.*, Notice 2002-11, 2002-7 I.R.B. 526 (Feb. 19, 2002); T.D. 8984, 67 F.R. 11034 (Mar.12, 2002); REG-102740-02, 67 F.R. 11070 (Mar.12, 2002); see also Notice 2002-18, 2002-12 I.R.B. 644 (Mar. 25, 2002). In exercising its authority under section 1502, the Secretary is also authorized to prescribe rules that protect the purpose of *General Utilities* repeal using presumptions and other simplifying conventions.

### 2. Chief Executive Officer required to sign corporate income tax returns (sec. 332 of the Senate amendment and sec. 6062 of the Code)

#### PRESENT LAW

The Code requires[182] that the income tax return of a corporation must be signed by either the president, the vice-president, the treasurer, the assistant treasurer, the chief accounting officer, or any other officer of the corporation authorized by the corporation to sign the return.

The Code also imposes[183] a criminal penalty on any person who willfully signs any tax return under penalties of perjury that that person does not believe to be true and correct with respect to every material matter at the time of filing. If convicted, the person is guilty of a felony; the Code imposes a fine of not more than $100,000[184] ($500,000 in the case of a corporation) or imprisonment of not more than three years, or both, together with the costs of prosecution.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment requires that the chief executive officer of a corporation sign that corporation's income tax returns.[185] If the corporation does not have a chief executive officer, the IRS may designate another officer of the corporation; otherwise, no other person is permitted to sign the income tax return of a corporation. It is intended that the IRS issue general guidance, such as a revenue procedure, to (1) address situations when a corporation does not have a chief executive officer, and (2) define who the chief executive officer is, in situations (for example) when the primary official bears a different title or when a corporation has multiple chief executive officers. It is intended that, in every instance, the highest ranking corporate officer (regardless of title) sign the tax return.

The provision does not apply to the income tax returns of mutual funds;[186] they are required to be signed as under present law.

*Effective date.*—The provision is effective for returns filed after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

### 3. Denial of deduction for certain fines, penalties, and other amounts (sec. 333 of the Senate amendment and sec. 162 of the Code)

#### PRESENT LAW

Under present law, no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or similar penalty to a government for the violation of any law (sec. 162(f)). The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines as ordinary and necessary business expenses on the grounds that "allowance of the deduction would frustrate sharply defined national or State policies proscribing the particular types of conduct evidenced by some governmental declaration thereof."[187]

Treasury regulation section 1.162-21(b)(1) provides that a fine or similar penalty includes an amount: (1) paid pursuant to conviction or a plea of guilty or nolo contendere for a crime (felony or misdemeanor) in a criminal proceeding; (2) paid as a civil penalty imposed by Federal, State, or local law, including additions to tax and additional amounts and assessable penalties imposed by chapter 68 of the Code; (3) paid in settlement of the taxpayer's actual or potential liability for a fine or penalty (civil or criminal); or (4) forfeited as collateral posted in connection with a proceeding which could result in imposition of such a fine or penalty. Treasury regulation section 1.162-21(b)(2) provides, among other things, that compensatory damages (including damages under section 4A of the Clayton Act (15 U.S.C. 15a), as amended) paid to a government do not constitute a fine or penalty.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment modifies the rules regarding the determination whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the bill generally provides that amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law[188] are nondeductible under any provision of the income tax provisions.[189] The bill applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation. An exception applies to payments that the taxpayer establishes are restitution.[190]

It is intended that a payment will be treated as restitution only if the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Thus, a payment to or with respect to a class broader than the specific persons or property that were actually harmed (e.g., to a class including similarly situated persons or property) does not qualify as restitution.[191] Restitution is limited to the amount that bears a substantial quantitative relationship to the harm caused by the past conduct or actions of the taxpayer that resulted in the payment in question. If the party harmed is a government or other entity, then restitution includes payment to such harmed government or entity, provided the payment bears a substantial quantitative relationship to the harm. However, restitution does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers.

Amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, any self-regulatory entity that regulates a financial market or other market that is a qualified board or exchange under section 1256(g)(7), and that is authorized to impose sanctions (e.g., the National Association of Securities Dealers) are likewise subject to the provision if paid in relation to a violation, or investigation or inquiry into a potential violation, of any law (or any rule or other requirement of such entity). To the extent provided in regulations, amounts paid or incurred to, or at the direction of, any other nongovernmental entity that exercises self-regulatory powers as part of performing an essential governmental function are similarly subject to the provision. The exception for payments that the taxpayer establishes are restitution likewise applies in these cases.

No inference is intended as to the treatment of payments as nondeductible fines or penalties under present law. In particular, the Senate amendment is not intended to limit the scope of present-law section 162(f) or the regulations thereunder.

*Effective date.*—The Senate amendment is effective for amounts paid or incurred on or after April 28, 2003; however the proposal does not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Any order or agreement requiring court approval is not a binding order or agreement for this purpose unless such approval was obtained on or before April 27, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 4. Denial of deduction for punitive damages (sec. 334 of the Senate amendment and sec. 162 of the Code)

#### PRESENT LAW

In general, a deduction is allowed for all ordinary and necessary expenses that are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business.[192] However, no deduction is allowed for any payment that is made to an official of any governmental agency if the payment constitutes an illegal bribe or kickback or if the payment is to an official or employee of a foreign government and is illegal under Federal law.[193] In addition, no deduction is allowed under present law for any fine or similar payment made to a government for violation of any law.[194] Furthermore, no deduction is permitted for two-thirds of any damage payments made by a taxpayer who is convicted of a violation of the Clayton antitrust law or any related antitrust law.[195]

In general, gross income does not include amounts received on account of personal physical injuries and physical sickness.[196] However, this exclusion does not apply to punitive damages.[197]

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[182] Sec. 6062.

[183] Sec. 7206.

[184] Pursuant to 18 U.S.C. 3571, the maximum fine for an individual convicted of a felony is $250,000.

[185] Because the provision amends section 6062, it applies only to the Form 1120 itself (or its equivalent) and any disclosures required under section 6662 or related provisions. It does not apply to any other schedules or attachments.

[186] The provision does, however, apply to the income tax returns of mutual fund management companies and advisors.

[187] S. Rep. 91-552, 91st Cong. 1st Sess., 273-74 (1969), referring to *Tank Truck Rentals, Inc.* v. *Commissioner*, 356 U.S. 30 (1958).

[188] The bill does not affect amounts paid or incurred in performing routine audits or reviews such as annual audits that are required of all organizations or individuals in a similar business sector, or profession, as a requirement for being allowed to conduct business. However, if the government or regulator raised an issue of compliance and a payment is required in settlement of such issue, the bill would affect that payment.

[189] The bill provides that such amounts are nondeductible under chapter 1 of the Internal Revenue Code.

[190] The bill does not affect the treatment of antitrust payments made under section 4 of the Clayton Act, which will continue to be governed by the provisions of section 162(g).

[191] Similarly, a payment to a charitable organization benefitting a broader class than the persons or property actually harmed, or to be paid out without a substantial quantitative relationship to the harm caused, would not qualify as restitution. Under the provision, such a payment not deductible under section 162 would also not be deductible under section 170.

[192] Sec. 162(a).

[193] Sec. 162(c).

[194] Sec. 162(f).

[195] Sec. 162(g).

[196] Sec. 104(a).

[197] Sec. 104(a)(2).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment denies any deduction for punitive damages that are paid or incurred by the taxpayer as a result of a judgment or in settlement of a claim. If the liability for punitive damages is covered by insurance, any such punitive damages paid by the insurer are included in gross income of the insured person and the insurer is required to report such amounts to both the insured person and the IRS.

*Effective date.*—The Senate amendment provision is effective for punitive damages that are paid or incurred on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

5. Criminal tax fraud (sec. 335 of the Senate amendment and secs. 7201, 7203, and 7206 of the Code)

### PRESENT LAW

*Attempt to evade or defeat tax*

In general, section 7201 imposes a criminal penalty on persons who willfully attempt to evade or defeat any tax imposed by the Code. Upon conviction, the Code provides that the penalty is up to $100,000 or imprisonment of not more than five years (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $500,000.

*Willful failure to file return, supply information, or pay tax*

In general, section 7203 imposes a criminal penalty on persons required to make estimated tax payments, pay taxes, keep records, or supply information under the Code who willfully fail to do so. Upon conviction, the Code provides that the penalty is up to $25,000 or imprisonment of not more than one year (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $100,000.

*Fraud and false statements*

In general, section 7206 imposes a criminal penalty on persons who make fraudulent or false statements under the Code. Upon conviction, the Code provides that the penalty is up to $100,000 or imprisonment of not more than three years (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $500,000.

*Uniform sentencing guidelines*

Under the uniform sentencing guidelines established by 18 U.S.C. 3571, a defendant found guilty of a criminal offense is subject to a maximum fine that is the greatest of: (a) the amount specified in the underlying provision, (b) for a felony[198] $250,000 for an individual or $500,000 for an organization, or (c) twice the gross gain if a person derives pecuniary gain from the offense. This Title 18 provision applies to all criminal provisions in the United States Code, including those in the Internal Revenue Code. For example, for an individual, the maximum fine under present law upon conviction of violating section 7206 is $250,000 or, if greater, twice the amount of gross gain from the offense.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Attempt to evade or defeat tax*

The Senate amendment increases the criminal penalty under section 7201 of the Code for individuals to $250,000 and for corporations to $1,000,000. The Senate amendment increases the maximum prison sentence to ten years.

*Willful failure to file return, supply information, or pay tax*

The Senate amendment increases the criminal penalty under section 7203 of the Code from a misdemeanor to a felony and increases the maximum prison sentence to ten years.

*Fraud and false statements*

The Senate amendment increases the criminal penalty under section 7206 of the Code for individuals to $250,000 and for corporations to $1,000,000. The Senate amendment increases the maximum prison sentence to five years. The Senate amendment also provides that in no event shall the amount of the monetary penalty under this provision be less than the amount of the underpayment or overpayment attributable to fraud.

*Effective date*

The provision is effective for offenses committed after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

6. Executive compensation reforms (sec. 336, 337 and 338 of the Senate amendment and sec. 83 and new sec. 409A of the Code)

### PRESENT LAW

*Property transferred in connection with the performance of services*

Section 83 applies to transfers of property in connection with the performance of services. Under section 83, if, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of the fair market value of such property over the amount (if any) paid for the property is includible in income at the first time that the property is transferable or not subject to substantial risk of forfeiture.

Stock granted to an employee (or other service provider) is subject to the rules that apply under section 83. When stock is vested and transferred to an employee, the excess of the fair market value of the stock over the amount, if any, the employee pays for the stock is includible in the employee's income for the year in which the transfer occurs.

The income taxation of a nonqualified stock option is determined under section 83 and depends on whether the option has a readily ascertainable fair market value. If the nonqualified option does not have a readily ascertainable fair market value at the time of grant, no amount is includible in the gross income of the recipient with respect to the option until the recipient exercises the option. The transfer of stock on exercise of the option is subject to the general rules of section 83. That is, if vested stock is received on exercise of the option, the excess of the fair market value of the stock over the option price is includible in the recipient's gross income as ordinary income in the taxable year in which the option is exercised. If the stock received on exercise of the option is not vested, the excess of the fair market value of the stock at the time of vesting over the option price is includible in the recipient's income for the year in which vesting occurs unless the recipient elects to apply section 83 at the time of exercise.

Other forms of stock-based compensation are also subject to the rules of section 83.

*Nonqualified deferred compensation*

The determination of when amounts deferred under a nonqualified deferred compensation arrangement are includible in the gross income of the individual earning the compensation depends on the facts and circumstances of the arrangement. A variety of tax principles and Code provisions may be relevant in making this determination, including the doctrine of constructive receipt, the economic benefit doctrine,[199] the provisions of section 83 relating generally to transfers of property in connection with the performance of services, and provisions relating specifically to nonexempt employee trusts (sec. 402(b)) and nonqualified annuities (sec. 403(c)).

In general, the time for income inclusion of nonqualified deferred compensation depends on whether the arrangement is unfunded or funded. If the arrangement is unfunded, then the compensation is generally includible in income when it is actually or constructively received. If the arrangement is funded, then income is includible for the year in which the individual's rights are transferable or not subject to a substantial risk of forfeiture.

Nonqualified deferred compensation is generally subject to social security and Medicare tax when it is earned (i.e., when services are performed), unless the nonqualified deferred compensation is subject to a substantial risk of forfeiture. If nonqualified deferred compensation is subject to a substantial risk of forfeiture, it is subject to social security and Medicare tax when the risk of forfeiture is removed (i.e., when the right to the nonqualified deferred compensation vests). This treatment is not affected by whether the arrangement is funded or unfunded, which is relevant in determining when amounts are includible in income (and subject to income tax withholding).

In general, an arrangement is considered funded if there has been a transfer of property under section 83. Under that section, a transfer of property occurs when a person acquires a beneficial ownership interest in such property. The term "property" is defined very broadly for purposes of section 83.[200] Property includes real and personal property other than money or an unfunded and unsecured promise to pay money in the future. Property also includes a beneficial interest in assets (including money) that are transferred or set aside from claims of the creditors of the transferor, for example, in a trust or escrow account. Accordingly, if, in connection with the performance of services, vested contributions are made to a trust on an individual's behalf and the trust assets may be used solely to provide future payments to the individual, the payment of the contributions to the trust constitutes a transfer of property to the individual that is taxable under section 83. On the other hand, deferred amounts are generally not includible in income in situations where nonqualified deferred compensation is payable from general corporate funds that are subject to the claims of general creditors, as such amounts are treated as unfunded and unsecured promises to pay money or property in the future.

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[198] Section 7206 states that making fraudulent or false statements under the Code is a felony. In addition, this offense is a felony pursuant to the classification guidelines of 18 U.S.C. 3559(a)(5).

[199] *See, e.g., Sproull* v. *Commissioner*, 16 T.C. 244 (1951), aff'd per curiam, 194 F.2d 541 (6th Cir. 1952); Rev. Rul. 60-31, 1960-1 C.B. 174.

[200] Treas. Reg. sec. 1.83-3(e). This definition in part reflects previous IRS rulings on nonqualified deferred compensation.

As discussed above, if the arrangement is unfunded, then the compensation is generally includible in income when it is actually or constructively received under section 451. Income is constructively received when it is credited to an individual's account, set apart, or otherwise made available so that it can be drawn on at any time. Income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions. A requirement to relinquish a valuable right in order to make withdrawals is generally treated as a substantial limitation or restriction.

### *Rabbi trusts*

Arrangements have developed in an effort to provide employees with security for nonqualified deferred compensation, while still allowing deferral of income inclusion. A "rabbi trust" is a trust or other fund established by the employer to hold assets from which nonqualified deferred compensation payments will be made. The trust or fund is generally irrevocable and does not permit the employer to use the assets for purposes other than to provide nonqualified deferred compensation, except that the terms of the trust or fund provide that the assets are subject to the claims of the employer's creditors in the case of insolvency or bankruptcy.

As discussed above, for purposes of section 83, property includes a beneficial interest in assets set aside from the claims of creditors, such as in a trust or fund, but does not include an unfunded and unsecured promise to pay money in the future. In the case of a rabbi trust, terms providing that the assets are subject to the claims of creditors of the employer in the case of insolvency or bankruptcy have been the basis for the conclusion that the creation of a rabbi trust does not cause the related nonqualified deferred compensation arrangement to be funded for income tax purposes.[201] As a result, no amount is included in income by reason of the rabbi trust; generally income inclusion occurs as payments are made from the trust.

The IRS has issued guidance setting forth model rabbi trust provisions.[202] Revenue Procedure 92–64 provides a safe harbor for taxpayers who adopt and maintain grantor trusts in connection with unfunded deferred compensation arrangements. The model trust language requires that the trust provide that all assets of the trust are subject to the claims of the general creditors of the company in the event of the company's insolvency or bankruptcy.

Since the concept of rabbi trusts was developed, arrangements have developed which attempt to protect the assets from creditors despite the terms of the trust. Arrangements also have developed which effectively allow deferred amounts to be available to individuals, while still meeting the safe harbor requirements set forth by the IRS.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

### *Taxation of nonqualified deferred compensation funded with assets located outside of the United States*

The Senate amendment provides that assets that are designated or otherwise available for the use of providing nonqualified deferred compensation and are located outside the United States (e.g., in a foreign trust, arrangement or account) are not treated as subject to the claims of general creditors. Therefore, to the extent of such assets, nonqualified deferred compensation amounts are not treated as unfunded and unsecured promises to pay, but are treated as property under section 83 and includible in income when the right to the compensation is no longer subject to a substantial risk of forfeiture, regardless of when the compensation is paid. No inference is intended that nonqualified deferred compensation assets located outside of the U.S. would be treated as subject to the claims of creditors under present law.

The Senate amendment does not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such foreign jurisdiction.

The Senate amendment is specifically intended to apply to foreign trusts and arrangements that effectively shield from the claims of general creditors any assets intended to satisfy nonqualified deferred compensation obligations. The Senate amendment provides the Secretary of the Treasury authority to prescribe regulations as are necessary to carry out the provision and to provide additional exceptions for specific arrangements which do not result in improper deferral of U.S. tax if the assets involved in the arrangement are readily accessible in any insolvency or bankruptcy proceeding.

### *Inclusion in gross income of funded deferred compensation of corporate insiders*

Under the Senate amendment, if an employer maintains a funded deferred compensation plan,[203] compensation of any disqualified individual which is deferred under the plan is includible in the gross income of the individual or beneficiary for the first taxable year in which there is no substantial risk of forfeiture.[204]

Under the Senate amendment, a plan is treated as a funded deferred compensation plan unless (1) the employee's rights to the compensation deferred under the plan, and all income attributable to such amounts, are no greater than the rights of a general creditor of the employer; (2) until made available to the participant or beneficiary, all amounts set aside (directly or indirectly) for the purposes of paying the deferred compensation, and all income attributable to such amounts, remain solely the property of the employer and are not restricted to the provision of benefits under the plan; (3) at all times (not merely after bankruptcy or insolvency), all amounts set aside are available to satisfy the claims of the employer's general creditors; and (4) investment options under which a participant may elect under the nonqualified deferred compensation plan are the same as those which may be elected by participants of the qualified employer plan that has the fewest investment options. Under the Senate amendment, if amounts are set aside for the exclusive purpose of paying deferred compensation benefits, the plan is treated as a funded plan. Amounts set aside in an employer's general assets, even if such assets are segregated for bookkeeping or accounting purposes, which are not restricted to the payment of deferred compensation, and are subject to the claims of general creditors, are not treated as funded if the other requirements under the provision are satisfied.

An employee's right to deferred compensation is treated as greater than the rights of general creditors unless (1) the deferred compensation, and all income attributable to such amounts, is payable only upon separation from service, disability, death, or at a specified time (or pursuant to a fixed schedule) and (2) the plan does not permit the acceleration of the time of such payments by reason of any event. Amounts payable upon a specified event are not treated as amounts payable at a specified time. For example, amounts payable when an individual attains age 65 are payable at a specified time, while amounts payable when an individual's child begins college are payable by reason of an event. Disability is defined as under the Social Security Act. Under such definition, an individual is considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A plan which allows payment of deferred compensation or earnings other than upon separation from service, disability, death, or specified time, or allows for any acceleration of payments, is treated as funded and compensation deferred under such plan is includible in income when the rights to such compensation are not subject to a substantial risk of forfeiture.

Even if an employee's rights are treated as no greater than the rights of general creditors in compliance with the previously discussed criteria, if the employer and employee agree to a modification of the plan that accelerates the time for payment of deferred compensation, then all compensation previously deferred is includible in gross income for the taxable year in which the modification takes effect. In addition, upon such a modification, the taxpayer is required to pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income on the earliest date that there is no substantial risk of forfeiture of the right to the compensation. Such interest is treated as interest on an underpayment of tax.

With respect to amounts set aside in a trust, a plan is treated as failing to meet the requirement that amounts set aside remain solely the property of the employer and are not restricted to the payment of benefits under the plan unless certain specified criteria are met: (1) the employee must have no beneficial interest in the trust; (2) assets in the trust must be available to satisfy the claims of general creditors at all times (not merely after bankruptcy or insolvency); and (3) no factor can exist which would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States. The location of the trust outside of the United States is such a prohibited factor, unless substantially all of the services to which the nonqualified deferred compensation relates are performed in such foreign jurisdiction. The Senate amendment provides the Secretary of the Treasury authority to provide additional exceptions from the requirement for specific arrangements which do not result in improper deferral of U.S. tax if the assets involved in the arrangement are readily accessible to general creditors. If any of the criteria are not satisfied, the trust is treated as a funded arrangement and compensation deferred is includible in gross income when such compensation is not subject to a substantial risk of forfeiture.

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[201] This conclusion was first provided in a 1980 private ruling issued by the IRS with respect to an arrangement covering a rabbi; hence the popular name "rabbi trust." Priv. Ltr. Rul. 8113107 (Dec. 31, 1980).

[202] Rev. Proc. 92-64, 1992-2 C.B. 422, modified in part by Notice 2000-56, 2000-2 C.B. 393.

[203] A plan includes an agreement or arrangement.

[204] Compensation is treated as subject to a substantial risk of forfeiture if the rights to such compensation are conditioned upon the future performance of substantial services by any individual. If an arrangement is treated as a funded deferred compensation plan under the provision, amounts may be includible in gross income before they are paid or made available. In determining the tax treatment of amounts available under the plan, the rules applicable to the taxation of annuities apply.

A disqualified individual is any individual who, with respect to a corporation, is subject to the requirements of section 16(a) of the Securities Act of 1934, or would be subject to such requirements if such corporation were an issuer of equity securities referred to in that section. Generally, disqualified individuals include officers (as defined by section 16(a)),[205] directors, or 10-percent owners of both private and publicly-held corporations.

A funded deferred compensation plan does not include a qualified retirement plan or annuity, a tax-sheltered annuity, a simplified employee pension, a simple retirement account, certain plans funded solely by employee contributions, a governmental plan, or a plan of a tax-exempt organization. Present law rules continue to apply to plans or arrangements not subject to the Senate amendment (*e.g.*, secs. 401(a), 403(b), and 457).

It is not intended that the Senate amendment change the tax treatment of trusts under section 402(b) or of any arrangements under which amounts are otherwise includible in income. It is not intended that the Senate amendment change the rules applicable to an employer's deduction for nonqualified deferred compensation.

The Senate amendment provides the Secretary of the Treasury authority to prescribe regulations as are necessary to carry out the provision.

*Denial of deferral of certain stock option and restricted stock gains*

Under the Senate amendment, gains attributable to stock options (including exercises of stock options), vesting of restricted stock, and other employer security based compensation cannot be deferred by electing to receive a future payment in lieu of such amounts. The Senate amendment applies even if the future right to payment is treated as an unfunded to promise to pay.

The Senate amendment is not intended to imply that such practices result in permissive deferral of income under present law.

*Effective date*

The Senate amendment relating to nonqualified deferred compensation assets located outside of the United States is effective for amounts deferred in taxable years beginning after December 31, 2003.

The Senate amendment requiring inclusion in income of funded nonqualified deferred compensation of corporate insiders is effective for amounts deferred in taxable years beginning after December 31, 2003.

The Senate amendment denying deferral of certain stock option and restricted stock gains is effective for exchanges after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provisions.

### 7. Increase in withholding from supplemental wage payments in excess of $1 million (sec. 339 of the Senate amendment and sec. 13273 of the Revenue Reconciliation Act of 1993)

### PRESENT LAW

An employer must withhold income taxes from wages paid to employees; there are several possible methods for determining the amount of income tax to be withheld. The IRS publishes tables (Publication 15, "Circular E") to be used in determining the amount of income tax to be withheld. The tables generally reflect the income tax rates under the Code so that withholding approximates the ultimate tax liability with respect to the wage payments. In some cases, "supplemental" wage payments (e.g., bonuses or commissions) may be subject to withholding at a flat rate,[206] based on the third lowest income tax rate under the Code (27 percent for 2003).[207]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, once annual supplemental wage payments to an employee exceed $1 million, any additional supplemental wage payments to the employee in that year are subject to withholding at the highest income tax rate (38.6 percent for 2003), regardless of any other withholding rules and regardless of the employee's Form W-4.

This rule applies only for purposes of wage withholding; other types of withholding (such as pension withholding and backup withholding) are not affected.

*Effective date.*—The provision is effective with respect to payments made after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## D. International Provisions

### 1. Impose mark-to-market on individuals who expatriate (sec. 340 of the Senate amendment and secs. 102, 877, 2107, 2501, 7701 and 6039G of the Code)

### PRESENT LAW

*In general*

U.S. citizens and residents generally are subject to U.S. income taxation on their worldwide income. The U.S. tax may be reduced or offset by a credit allowed for foreign income taxes paid with respect to foreign-source income. Nonresidents who are not U.S. citizens are taxed at a flat rate of 30 percent (or a lower treaty rate) on certain types of passive income derived from U.S. sources, and at regular graduated rates on net profits derived from a U.S. business.

*Income tax rules with respect to expatriates*

An individual who relinquishes his or her U.S. citizenship or terminates his or her U.S. residency with a principal purpose of avoiding U.S. taxes is subject to an alternative method of income taxation for the 10 taxable years ending after the expatriation or residency termination under section 877. The alternative method of taxation for expatriates modifies the rules generally applicable to the taxation of nonresident noncitizens in several ways. First, the individual is subject to tax on his or her U.S.-source income at the rates applicable to U.S. citizens rather than the rates applicable to other nonresident noncitizens. Unlike U.S. citizens, however, individuals subject to section 877 are not taxed on foreign-source income. Second, the scope of items treated as U.S.-source income for section 877 purposes is broader than those items generally considered to be U.S.-source income under the Code.[208] Third, individuals subject to section 877 are taxed on exchanges of certain types of property that give rise to U.S.-source income for property that gives rise to foreign-source income.[209] Fourth, an individual subject to section 877 who contributes property to a controlled foreign corporation is treated as receiving income or gain from such property directly and is taxable on such income or gain. The alternative method of taxation for expatriates applies only if it results in a higher U.S. tax liability than would otherwise be determined if the individual were taxed as a nonresident noncitizen.

The expatriation tax provisions apply to long-term residents of the United States whose U.S. residency is terminated. For this purpose, a long-term resident is any individual who was a lawful permanent resident of the United States for at least 8 out of the 15 taxable years ending with the year in which such termination occurs. In applying the 8-year test, an individual is not considered to be a lawful permanent resident for any year in which the individual is treated as a resident of another country under a treaty tie-breaker rule (and the individual does not elect to waive the benefits of such treaty).

Subject to the exceptions described below, an individual is treated as having expatriated or terminated residency with a principal purpose of avoiding U.S. taxes if either: (1) the individual's average annual U.S. Federal income tax liability for the 5 taxable years ending before the date of the individual's loss of U.S. citizenship or termination of U.S. residency is greater than $100,000 (the "tax liability test"), or (2) the individual's net worth as of the date of such loss or termination is $500,000 or more (the "net worth test"). The dollar amount thresholds contained in the tax liability test and the net worth test are indexed for inflation in the case of a loss of citizenship or termination of residency occurring in any calendar year after 1996. An individual who falls below these thresholds is not automatically treated as having a principal purpose of tax avoidance, but nevertheless is subject to the expatriation tax provisions if the individual's loss of citizenship or termination of residency in fact did have as one of its principal purposes the avoidance of tax.

Certain exceptions from the treatment that an individual relinquished his or her U.S. citizenship or terminated his or her U.S. residency for tax avoidance purposes may also apply. For example, a U.S. citizen who loses his or her citizenship and who satisfies either the tax liability test or the net worth test (described above) can avoid being deemed to have a principal purpose of tax avoidance if the individual falls within certain categories (such as being a dual citizen) and the individual, within one year from the date of loss of citizenship, submits a ruling request for a determination by the Secretary of the Treasury as to whether such loss had as one of its principal purposes the avoidance of taxes.

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[205] An officer is defined as the president, principal financial officer, principal accounting officer (or, if there is no such accounting officer, the controller), any vice-president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policymaking function, or any other person who performs similar policymaking functions.

[206] Sec. 13273 of the Revenue Reconciliation Act of 1993.

[207] Sec. 101(c)(11) of the Economic Growth and Tax Relief Reconciliation Act of 2001.

[208] For example, gains on the sale or exchange of personal property located in the United States, and gains on the sale or exchange of stocks and securities issued by U.S. persons, generally are not considered to be U.S.-source income under the Code. Thus, such gains would not be taxable to a nonresident noncitizen. However, if an individual is subject to the alternative regime under sec. 877, such gains are treated as U.S.-source income with respect to that individual.

[209] For example, a former citizen who is subject to the alternative tax regime and who removes appreciated artwork that he or she owns from the United States could be subject to immediate U.S. tax on the appreciation. In this regard, the removal from the United States of appreciated tangible personal property having an aggregate fair market value in excess of $250,000 within the 15-year period beginning five years prior to the expatriation will be treated as an "exchange" subject to these rules.

*Estate tax rules with respect to expatriates*

Nonresident noncitizens generally are subject to estate tax on certain transfers of U.S.-situated property at death.[210] Such property includes real estate and tangible property located within the United States. Moreover, for estate tax purposes, stock held by nonresident noncitizens is treated as U.S.-situated if issued by a U.S. corporation.

Special rules apply to U.S. citizens who relinquish their citizenship and long-term residents who terminate their U.S. residency within the 10 years prior to the date of death, unless the loss of status did not have as one its principal purposes the avoidance of tax (sec. 2107). Under these rules, the decedent's estate includes the proportion of the decedent's stock in a foreign corporation that the fair market value of the U.S.-situs assets owned by the corporation bears to the total assets of the corporation. This rule applies only if (1) the decedent owned, directly, at death 10 percent or more of the combined voting power of all voting stock of the corporation and (2) the decedent owned, directly or indirectly, at death more than 50 percent of the total voting stock of the corporation or more than 50 percent of the total value of all stock of the corporation.

Taxpayers are deemed to have a principal purpose of tax avoidance if they meet the five-year tax liability test or the net worth test, discussed above. Exceptions from this tax avoidance treatment apply in the same circumstances as those described above (relating to certain dual citizens and other individuals who submit a timely and complete ruling request with the IRS as to whether their expatriation or residency termination had a principal purpose of tax avoidance).

*Gift tax rules with respect to expatriates*

Nonresident noncitizens generally are subject to gift tax on certain transfers by gift of U.S.-situated property. Such property includes real estate and tangible property located within the United States. Unlike the estate tax rules for U.S. stock held by nonresidents, however, nonresident noncitizens generally are not subject to U.S. gift tax on the transfer of intangibles, such as stock or securities, regardless of where such property is situated.

Special rules apply to U.S. citizens who relinquish their U.S. citizenship or long-term residents of the United States who terminate their U.S. residency within the 10 years prior to the date of transfer, unless such loss did not have as one of its principal purposes the avoidance of tax (sec. 2501(a)(3)). Under these rules, nonresident noncitizens are subject to gift tax on transfers of intangibles, such as stock or securities. Taxpayers are deemed to have a principal purpose of tax avoidance if they meet the five-year tax liability test or the net worth test, discussed above. Exceptions from this tax avoidance treatment apply in the same circumstances as those described above (relating to certain dual citizens and other individuals who submit a timely and complete ruling request with the IRS as to whether their expatriation or residency termination had a principal purpose of tax avoidance).

*Other tax rules with respect to expatriates*

The expatriation tax provisions permit a credit against the U.S. tax imposed under such provisions for any foreign income, gift, estate, or similar taxes paid with respect to the items subject to such taxation. This credit is available only against the tax imposed solely as a result of the expatriation tax provisions, and is not available to be used to offset any other U.S. tax liability.

In addition, certain information reporting requirements apply. Under these rules, a U.S. citizen who loses his or her citizenship is required to provide a statement to the State Department (or other designated government entity) that includes the individual's social security number, forwarding foreign address, new country of residence and citizenship, a balance sheet in the case of individuals with a net worth of at least $500,000, and such other information as the Secretary may prescribe. The information statement must be provided no later than the earliest day on which the individual (1) renounces the individual's U.S. nationality before a diplomatic or consular officer of the United States, (2) furnishes to the U.S. Department of State a statement of voluntary relinquishment of U.S. nationality confirming an act of expatriation, (3) is issued a certificate of loss of U.S. nationality by the U.S. Department of State, or (4) loses U.S. nationality because the individual's certificate of naturalization is canceled by a U.S. court. The entity to which such statement is to be provided is required to provide to the Secretary of the Treasury copies of all statements received and the names of individuals who refuse to provide such statements. A long-term resident whose U.S. residency is terminated is required to attach a similar statement to his or her U.S. income tax return for the year of such termination. An individual's failure to provide the required statement results in the imposition of a penalty for each year the failure continues equal to the greater of (1) 5 percent of the individual's expatriation tax liability for such year, or (2) $1,000.

The State Department is required to provide the Secretary of the Treasury with a copy of each certificate of loss of nationality approved by the State Department. Similarly, the agency administering the immigration laws is required to provide the Secretary of the Treasury with the name of each individual whose status as a lawful permanent resident has been revoked or has been determined to have been abandoned. Further, the Secretary of the Treasury is required to publish in the Federal Register the names of all former U.S. citizens with respect to whom it receives the required statements or whose names or certificates of loss of nationality it receives under the foregoing information-sharing provisions.

*Immigration rules with respect to expatriates*

Under U.S. immigration laws, any former U.S. citizen who officially renounces his or her U.S. citizenship and who is determined by the Attorney General to have renounced for the purpose of U.S. tax avoidance is ineligible to receive a U.S. visa and will be denied entry into the United States. This provision was included as an amendment (the "Reed amendment") to immigration legislation that was enacted in 1996.

HOUSE BILL

No provision.

SENATE AMENDMENT

*In general*

The Senate amendment generally subjects certain U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who terminate their U.S. residence to tax on the net unrealized gain in their property as if such property were sold for fair market value on the day before the expatriation or residency termination. Gain from the deemed sale is taken into account at that time without regard to other Code provisions; any loss from the deemed sale generally would be taken into account to the extent otherwise provided in the Code. Any net gain on the deemed sale is recognized to the extent it exceeds $600,000 ($1.2 million in the case of married individuals filing a joint return, both of whom relinquish citizenship or terminate residency). The $600,000 amount is increased by a cost of living adjustment factor for calendar years after 2003.

*Individuals covered*

Under the Senate amendment, the mark-to-market tax applies to U.S. citizens who relinquish citizenship and long-term residents who terminate U.S. residency. An individual is a long-term resident if he or she was a lawful permanent resident for at least eight out of the 15 taxable years ending with the year in which the termination of residency occurs. An individual is considered to terminate long-term residency when either the individual ceases to be a lawful permanent resident (i.e., loses his or her green card status), or the individual is treated as a resident of another country under a tax treaty and the individual does not waive the benefits of the treaty.

Exceptions from the mark-to-market tax are provided in two situations. The first exception applies to an individual who was born with citizenship both in the United States and in another country; provided that (1) as of the expatriation date the individual continues to be a citizen of, and is taxed as a resident of, such other country, and (2) the individual was not a resident of the United States for the five taxable years ending with the year of expatriation. The second exception applies to a U.S. citizen who relinquishes U.S. citizenship before reaching age 18 and a half, provided that the individual was a resident of the United States for no more than five taxable years before such relinquishment.

*Election to be treated as a U.S. citizen*

Under the Senate amendment, an individual is permitted to make an irrevocable election to continue to be taxed as a U.S. citizen with respect to all property that otherwise is covered by the expatriation tax. This election is an "all or nothing" election; an individual is not permitted to elect this treatment for some property but not for other property. The election, if made, would apply to all property that would be subject to the expatriation tax and to any property the basis of which is determined by reference to such property. Under this election, the individual would continue to pay U.S. income taxes at the rates applicable to U.S. citizens following expatriation on any income generated by the property and on any gain realized on the disposition of the property. In addition, the property would continue to be subject to U.S. gift, estate, and generation-skipping transfer taxes. In order to make this election, the taxpayer would be required to waive any treaty rights that would preclude the collection of the tax.

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[210] The Economic Growth and Tax Relief Reconciliation Act of 2001 (the "Act") repealed the estate tax for estates of decedents dying after December 31, 2009. However, the Act included a "sunset" provision, pursuant to which the Act's provisions (including estate tax repeal) do not apply to estates of decedents dying after December 31, 2010.

The individual also would be required to provide security to ensure payment of the tax under this election in such form, manner, and amount as the Secretary of the Treasury requires. The amount of mark-to-market tax that would have been owed but for this election (including any interest, penalties, and certain other items) shall be a lien in favor of the United States on all U.S.-situs property owned by the individual. This lien shall arise on the expatriation date and shall continue until the tax liability is satisfied, the tax liability has become unenforceable by reason of lapse of time, or the Secretary is satisfied that no further tax liability may arise by reason of this provision. The rules of section 6324A(d)(1), (3), and (4) (relating to liens arising in connection with the deferral of estate tax under section 6166) apply to liens arising under this provision.

### *Date of relinquishment of citizenship*

Under the Senate amendment, an individual is treated as having relinquished U.S. citizenship on the earliest of four possible dates: (1) the date that the individual renounces U.S. nationality before a diplomatic or consular officer of the United States (provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality); (2) the date that the individual furnishes to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act (again, provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality); (3) the date that the State Department issues a certificate of loss of nationality; or (4) the date that a U.S. court cancels a naturalized citizen's certificate of naturalization.

### *Deemed sale of property upon expatriation or residency termination*

The deemed sale rule of the Senate amendment generally applies to all property interests held by the individual on the date of relinquishment of citizenship or termination of residency. Special rules apply in the case of trust interests, as described below. U.S. real property interests, which remain subject to U.S. tax in the hands of nonresident noncitizens, generally are excepted from the provision. Regulatory authority is granted to the Treasury to except other types of property from the provision.

Under the Senate amendment, an individual who is subject to the mark-to-market tax is required to pay a tentative tax equal to the amount of tax that would be due for a hypothetical short tax year ending on the date the individual relinquished citizenship or terminated residency. Thus, the tentative tax is based on all income, gain, deductions, loss, and credits of the individual for the year through such date, including amounts realized from the deemed sale of property. The tentative tax is due on the 90th day after the date of relinquishment of citizenship or termination of residency.

### *Retirement plans and similar arrangements*

Subject to certain exceptions, the Senate amendment applies to all property interests held by the individual at the time of relinquishment of citizenship or termination of residency. Accordingly, such property includes an interest in an employer-sponsored retirement plan or deferred compensation arrangement as well as an interest in an individual retirement account or annuity (i.e., an IRA).[211] However, the Senate amendment contains a special rule for an interest in a "qualified retirement plan." For purposes of the provision, a "qualified retirement plan" includes an employer-sponsored qualified plan (sec. 401(a)), a qualified annuity (sec. 403(a)), a tax-sheltered annuity (sec. 403(b)), an eligible deferred compensation plan of a governmental employer (sec. 457(b)), or an IRA (sec. 408). The special retirement plan rule applies also, to the extent provided in regulations, to any foreign plan or similar retirement arrangement or program. An interest in a trust that is part of a qualified retirement plan or other arrangement that is subject to the special retirement plan rule is not subject to the rules for interests in trusts (discussed below).

Under the special rule, an amount equal to the present value of the individual's vested, accrued benefit under a qualified retirement plan is treated as having been received by the individual as a distribution under the plan on the day before the individual's relinquishment of citizenship or termination of residency. It is not intended that the plan would be deemed to have made a distribution for purposes of the tax-favored status of the plan, such as whether a plan may permit distributions before a participant has severed employment. In the case of any later distribution to the individual from the plan, the amount otherwise includible in the individual's income as a result of the distribution is reduced to reflect the amount previously included in income under the special retirement plan rule. The amount of the reduction applied to a distribution is the excess of: (1) the amount included in income under the special retirement plan rule over (2) the total reductions applied to any prior distributions. However, under the provision, the retirement plan, and any person acting on the plan's behalf, will treat any later distribution in the same manner as the distribution would be treated without regard to the special retirement plan rule.

It is expected that the Treasury Department will provide guidance for determining the present value of an individual's vested, accrued benefit under a qualified retirement plan, such as the individual's account balance in the case of a defined contribution plan or an IRA, or present value determined under the qualified joint and survivor annuity rules applicable to a defined benefit plan (sec. 417(e)).

### *Deferral of payment of tax*

Under the Senate amendment, an individual is permitted to elect to defer payment of the mark-to-market tax imposed on the deemed sale of the property. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments. Under this election, the mark-to-market tax attributable to a particular property is due when the property is disposed of (or, if the property is disposed of in whole or in part in a nonrecognition transaction, at such other time as the Secretary may prescribe). The mark-to-market tax attributable to a particular property is an amount that bears the same ratio to the total mark-to-market tax for the year as the gain taken into account with respect to such property bears to the total gain taken into account under these rules for the year. The deferral of the mark-to-market tax may not be extended beyond the individual's death.

In order to elect deferral of the mark-to-market tax, the individual is required to provide adequate security to the Treasury to ensure that the deferred tax and interest will be paid. Other security mechanisms are permitted provided that the individual establishes to the satisfaction of the Secretary that the security is adequate. In the event that the security provided with respect to a particular property subsequently becomes inadequate and the individual fails to correct the situation, the deferred tax and the interest with respect to such property will become due. As a further condition to making the election, the individual is required to consent to the waiver of any treaty rights that would preclude the collection of the tax.

The deferred amount (including any interest, penalties, and certain other items) shall be a lien in favor of the United States on all U.S.-situs property owned by the individual. This lien shall arise on the expatriation date and shall continue until the tax liability is satisfied, the tax liability has become unenforceable by reason of lapse of time, or the Secretary is satisfied that no further tax liability may arise by reason of this provision. The rules of section 6324A(d)(1), (3), and (4) (relating to liens arising in connection with the deferral of estate tax under section 6166) apply to liens arising under this provision.

### *Interests in trusts*

Under the Senate amendment, detailed rules apply to trust interests held by an individual at the time of relinquishment of citizenship or termination of residency. The treatment of trust interests depends on whether the trust is a qualified trust. A trust is a qualified trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust.

Constructive ownership rules apply to a trust beneficiary that is a corporation, partnership, trust, or estate. In such cases, the shareholders, partners, or beneficiaries of the entity are deemed to be the direct beneficiaries of the trust for purposes of applying these provisions. In addition, an individual who holds (or who is treated as holding) a trust instrument at the time of relinquishment of citizenship or termination of residency is required to disclose on his or her tax return the methodology used to determine his or her interest in the trust, and whether such individual knows (or has reason to know) that any other beneficiary of the trust uses a different method.

*Nonqualified trusts.*—If an individual holds an interest in a trust that is not a qualified trust, a special rule applies for purposes of determining the amount of the mark-to-market tax due with respect to such trust interest. The individual's interest in the trust is treated as a separate trust consisting of the trust assets allocable to such interest. Such separate trust is treated as having sold its net assets as of the date of relinquishment of citizenship or termination of residency and having distributed the assets to the individual, who then is treated as having recontributed the assets to the trust. The individual is subject to the mark-to-market tax with respect to any net income or gain arising from the deemed distribution from the trust.

The election to defer payment is available for the mark-to-market tax attributable to a nonqualified trust interest. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments. A beneficiary's interest in a nonqualified trust is determined under all the facts and circumstances, including the trust instrument, letters of wishes, and historical patterns of trust distributions.

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[211] Application of the provision is not limited to an interest that meets the definition of property under section 83 (relating to property transferred in connection with the performance of services).

*Qualified trusts.*—If an individual has an interest in a qualified trust, the amount of unrealized gain allocable to the individual's trust interest is calculated at the time of expatriation or residency termination. In determining this amount, all contingencies and discretionary interests are assumed to be resolved in the individual's favor (i.e., the individual is allocated the maximum amount that he or she could receive). The mark-to-market tax imposed on such gains is collected when the individual receives distributions from the trust, or if earlier, upon the individual's death. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments.

If an individual has an interest in a qualified trust, the individual is subject to the mark-to-market tax upon the receipt of distributions from the trust. These distributions also may be subject to other U.S. income taxes. If a distribution from a qualified trust is made after the individual relinquishes citizenship or terminates residency, the mark-to-market tax is imposed in an amount equal to the amount of the distribution multiplied by the highest tax rate generally applicable to trusts and estates, but in no event will the tax imposed exceed the deferred tax amount with respect to the trust interest. For this purpose, the deferred tax amount is equal to (1) the tax calculated with respect to the unrealized gain allocable to the trust interest at the time of expatriation or residency termination, (2) increased by interest thereon, and (3) reduced by any mark-to-market tax imposed on prior trust distributions to the individual.

If any individual's interest in a trust is vested as of the expatriation date (e.g., if the individual's interest in the trust is non-contingent and non-discretionary), the gain allocable to the individual's trust interest is determined based on the trust assets allocable to his or her trust interest. If the individual's interest in the trust is not vested as of the expatriation date (e.g., if the individual's trust interest is a contingent or discretionary interest), the gain allocable to his or her trust interest is determined based on all of the trust assets that could be allocable to his or her trust interest, determined by resolving all contingencies and discretionary powers in the individual's favor. In the case where more than one trust beneficiary is subject to the expatriation tax with respect to trust interests that are not vested, the rules are intended to apply so that the same unrealized gain with respect to assets in the trust is not taxed to both individuals.

Mark-to-market taxes become due if the trust ceases to be a qualified trust, the individual disposes of his or her qualified trust interest, or the individual dies. In such cases, the amount of mark-to-market tax equals the lesser of (1) the tax calculated under the rules for nonqualified trust interests as of the date of the triggering event, or (2) the deferred tax amount with respect to the trust interest as of that date.

The tax that is imposed on distributions from a qualified trust generally is deducted and withheld by the trustees. If the individual does not agree to waive treaty rights that would preclude collection of the tax, the tax with respect to such distributions is imposed on the trust, the trustee is personally liable for the tax, and any other beneficiary has a right of contribution against such individual with respect to the tax. Similar rules apply when the qualified trust interest is disposed of, the trust ceases to be a qualified trust, or the individual dies.

#### *Coordination with present-law alternative tax regime*

The Senate amendment provides a coordination rule with the present-law alternative tax regime. Under the provision, the expatriation income tax rules under section 877, and the expatriation estate and gift tax rules under sections 2107 and 2501(a)(3) (described above), do not apply to a former citizen or former long-term resident whose expatriation or residency termination occurs on or after February 5, 2003.

#### *Treatment of gifts and inheritances from a former citizen or former long-term resident*

Under the Senate amendment, the exclusion from income provided in section 102 (relating to exclusions from income for the value of property acquired by gift or inheritance) does not apply to the value of any property received by gift or inheritance from a former citizen or former long-term resident (i.e., an individual who relinquished U.S. citizenship or terminated U.S. residency), subject to the exceptions described above relating to certain dual citizens and minors. Accordingly, a U.S. taxpayer who receives a gift or inheritance from such an individual is required to include the value of such gift or inheritance in gross income and is subject to U.S. tax on such amount. Having included the value of the property in income, the recipient would then take a basis in the property equal to that value. The tax does not apply to property that is shown on a timely filed gift tax return and that is a taxable gift by the former citizen or former long-term resident, or property that is shown on a timely filed estate tax return and included in the gross U.S. estate of the former citizen or former long-term resident (regardless of whether the tax liability shown on such a return is reduced by credits, deductions, or exclusions available under the estate and gift tax rules). In addition, the tax does not apply to property in cases in which no estate or gift tax return is required to be filed, where no such return would have been required to be filed if the former citizen or former long-term resident had not relinquished citizenship or terminated residency, as the case may be. Applicable gifts or bequests that are made in trust are treated as made to the beneficiaries of the trust in proportion to their respective interests in the trust.

#### *Information reporting*

The Senate amendment provides that certain information reporting requirements under present law (sec. 6039G) applicable to former citizens and former long-term residents also apply for purposes of the provision.

#### *Immigration rules*

The Senate amendment amends the immigration rules that deny tax-motivated expatriates reentry into the United States by removing the requirement that the expatriation be tax-motivated, and instead denies former citizens reentry into the United States if the individual is determined not to be in compliance with his or her tax obligations under the provision's expatriation tax provisions (regardless of the subjective motive for expatriating). For this purpose, the provision permits the IRS to disclose certain items of return information of an individual, upon written request of the Attorney General or his delegate, as is necessary for making a determination under section 212(a)(10)(E) of the Immigration and Nationality Act. Specifically, the provision would permit the IRS to disclose to the agency administering section 212(a)(10)(E) whether such taxpayer is in compliance with section 877A and identify the items of noncompliance. Recordkeeping requirements, safeguards, and civil and criminal penalties for unauthorized disclosure or inspection would apply to return information disclosed under this provision.

#### *Effective date*

The Senate amendment generally is effective for U.S. citizens who relinquish citizenship or long-term residents who terminate their residency on or after February 5, 2003. The provisions relating to gifts and inheritances are effective for gifts and inheritances received from former citizens and former long-term residents on or after February 5, 2003, whose expatriation or residency termination occurs on or after such date. The provisions relating to former citizens under U.S. immigration laws are effective on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 2. Provisions to discourage corporate expatriation (secs. 341-343 of the Senate amendment and secs. 845(a) and 275(a) and new secs. 7874 and 5000A of the Code)

### (a) Tax treatment of inverted corporate entities

### PRESENT LAW

#### *Determination of corporate residence*

The U.S. tax treatment of a multinational corporate group depends significantly on whether the top-tier "parent" corporation of the group is domestic or foreign. For purposes of U.S. tax law, a corporation is treated as domestic if it is incorporated under the law of the United States or of any State. All other corporations (i.e., those incorporated under the laws of foreign countries) are treated as foreign. Thus, place of incorporation determines whether a corporation is treated as domestic or foreign for purposes of U.S. tax law, irrespective of other factors that might be thought to bear on a corporation's "nationality," such as the location of the corporation's management activities, employees, business assets, operations, or revenue sources, the exchanges on which the corporation's stock is traded, or the residence of the corporation's managers and shareholders.

#### *U.S. taxation of domestic corporations*

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, whether derived in the United States or abroad. In order to mitigate the double taxation that may arise from taxing the foreign-source income of a domestic corporation, a foreign tax credit for income taxes paid to foreign countries is provided to reduce or eliminate the U.S. tax owed on such income, subject to certain limitations.

Income earned by a domestic parent corporation from foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax when the income is distributed as a dividend to the domestic corporation. Until such repatriation, the U.S. tax on such income is generally deferred. However, certain anti-deferral regimes may cause the domestic parent corporation to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by its foreign subsidiaries, regardless of whether the income has been distributed as a dividend to the domestic parent corporation. The main anti-deferral regimes in this context are the controlled foreign corporation rules of subpart F[212] and the passive foreign investment company rules.[213] A foreign tax credit is generally available to offset, in whole or in part, the U.S. tax owed on this foreign-source income, whether repatriated as an actual dividend or included under one of the anti-deferral regimes.

### *U.S. taxation of foreign corporations*

The United States taxes foreign corporations only on income that has a sufficient nexus to the United States. Thus, a foreign corporation is generally subject to U.S. tax only on income that is "effectively connected" with the conduct of a trade or business in the United States. Such "effectively connected income" generally is taxed in the same manner and at the same rates as the income of a U.S. corporation. An applicable tax treaty may limit the imposition of U.S. tax on business operations of a foreign corporation to cases in which the business is conducted through a "permanent establishment" in the United States.

In addition, foreign corporations generally are subject to a gross-basis U.S. tax at a flat 30-percent rate on the receipt of interest, dividends, rents, royalties, and certain similar types of income derived from U.S. sources, subject to certain exceptions. The tax generally is collected by means of withholding by the person making the payment. This tax may be reduced or eliminated under an applicable tax treaty.

### *U.S. tax treatment of inversion transactions*

Under present law, U.S. corporations may reincorporate in foreign jurisdictions and thereby replace the U.S. parent corporation of a multinational corporate group with a foreign parent corporation. These transactions are commonly referred to as "inversion" transactions. Inversion transactions may take many different forms, including stock inversions, asset inversions, and various combinations of and variations on the two. Most of the known transactions to date have been stock inversions. In one example of a stock inversion, a U.S. corporation forms a foreign corporation, which in turn forms a domestic merger subsidiary. The domestic merger subsidiary then merges into the U.S. corporation, with the U.S. corporation surviving, now as a subsidiary of the new foreign corporation. The U.S. corporation's shareholders receive shares of the foreign corporation and are treated as having exchanged their U.S. corporation shares for the foreign corporation shares. An asset inversion reaches a similar result, but through a direct merger of the top-tier U.S. corporation into a new foreign corporation, among other possible forms. An inversion transaction may be accompanied or followed by further restructuring of the corporate group. For example, in the case of a stock inversion, in order to remove income from foreign operations from the U.S. taxing jurisdiction, the U.S. corporation may transfer some or all of its foreign subsidiaries directly to the new foreign parent corporation or other related foreign corporations.

In addition to removing foreign operations from the U.S. taxing jurisdiction, the corporate group may derive further advantage from the inverted structure by reducing U.S. tax on U.S.-source income through various "earnings stripping" or other transactions. This may include earnings stripping through payment by a U.S. corporation of deductible amounts such as interest, royalties, rents, or management service fees to the new foreign parent or other foreign affiliates. In this respect, the post-inversion structure enables the group to employ the same tax-reduction strategies that are available to other multinational corporate groups with foreign parents and U.S. subsidiaries, subject to the same limitations. These limitations under present law include section 163(j), which limits the deductibility of certain interest paid to related parties, if the payor's debt-equity ratio exceeds 1.5 to 1 and the payor's net interest expense exceeds 50 percent of its "adjusted taxable income." More generally, section 482 and the regulations thereunder require that all transactions between related parties be conducted on terms consistent with an "arm's length" standard, and permit the Secretary of the Treasury to reallocate income and deductions among such parties if that standard is not met.

Inversion transactions may give rise to immediate U.S. tax consequences at the shareholder and/or the corporate level, depending on the type of inversion. In stock inversions, the U.S. shareholders generally recognize gain (but not loss) under section 367(a), based on the difference between the fair market value of the foreign corporation shares received and the adjusted basis of the domestic corporation stock exchanged. To the extent that a corporation's share value has declined, and/or it has many foreign or tax-exempt shareholders, the impact of this section 367(a) "toll charge" is reduced. The transfer of foreign subsidiaries or other assets to the foreign parent corporation also may give rise to U.S. tax consequences at the corporate level (e.g., gain recognition and earnings and profits inclusions under sections 1001, 311(b), 304, 367, 1248 or other provisions). The tax on any income recognized as a result of these restructurings may be reduced or eliminated through the use of net operating losses, foreign tax credits, and other tax attributes.

In asset inversions, the U.S. corporation generally recognizes gain (but not loss) under section 367(a) as though it had sold all of its assets, but the shareholders generally do not recognize gain or loss, assuming the transaction meets the requirements of a reorganization under section 368.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

### *In general*

The Senate amendment defines two different types of corporate inversion transactions and establishes a different set of consequences for each type. Certain partnership transactions also are covered.

### *Transactions involving at least 80 percent identity of stock ownership*

The first type of inversion is a transaction in which, pursuant to a plan or a series of related transactions: (1) a U.S. corporation becomes a subsidiary of a foreign-incorporated entity or otherwise transfers substantially all of its properties to such an entity;[214] (2) the former shareholders of the U.S. corporation hold (by reason of holding stock in the U.S. corporation) 80 percent or more (by vote or value) of the stock of the foreign-incorporated entity after the transaction; and (3) the foreign-incorporated entity, considered together with all companies connected to it by a chain of greater than 50 percent ownership (i.e., the "expanded affiliated group"), does not have substantial business activities in the entity's country of incorporation, compared to the total worldwide business activities of the expanded affiliated group. The provision denies the intended tax benefits of this type of inversion by deeming the top-tier foreign corporation to be a domestic corporation for all purposes of the Code.[215]

Except as otherwise provided in regulations, the provision does not apply to a direct or indirect acquisition of the properties of a U.S. corporation no class of the stock of which was traded on an established securities market at any time within the four-year period preceding the acquisition. In determining whether a transaction would meet the definition of an inversion under the provision, stock held by members of the expanded affiliated group that includes the foreign incorporated entity is disregarded. For example, if the former top-tier U.S. corporation receives stock of the foreign incorporated entity (e.g., so-called "hook" stock), the stock would not be considered in determining whether the transaction meets the definition. Stock sold in a public offering (whether initial or secondary) or private placement related to the transaction also is disregarded for these purposes. Acquisitions with respect to a domestic corporation or partnership are deemed to be "pursuant to a plan" if they occur within the four-year period beginning on the date which is two years before the ownership threshold under the provision is met with respect to such corporation or partnership.

Transfers of properties or liabilities as part of a plan a principal purpose of which is to avoid the purposes of the provision are disregarded. In addition, the Treasury Secretary is granted authority to prevent the avoidance of the purposes of the provision, including avoidance through the use of related persons, pass-through or other noncorporate entities, or other intermediaries, and through transactions designed to qualify or disqualify a person as a related person, a member of an expanded affiliated group, or a publicly traded corporation. Similarly, the Treasury Secretary is granted authority to treat certain non-stock instruments as stock, and certain stock as not stock, where necessary to carry out the purposes of the provision.

### *Transactions involving greater than 50 percent but less than 80 percent identity of stock ownership*

The second type of inversion is a transaction that would meet the definition of an inversion transaction described above, except that the 80-percent ownership threshold is not met. In such a case, if a greater-than-50-percent ownership threshold is met, then a second set of rules applies to the inversion. Under these rules, the inversion transaction is respected (i.e., the foreign corporation is treated as foreign), but: (1) any applicable corporate-level "toll charges" for establishing the inverted structure may not be offset by tax attributes such as net operating losses or foreign tax credits; (2) the IRS is given expanded authority to monitor related-party transactions that may be used to reduce U.S. tax on U.S.-source income going forward; and (3) section 163(j), relating to "earnings stripping" through related-party debt, is strengthened. These measures generally apply for a 10-year period following the inversion transaction. In addition, inverting entities are required to provide information to shareholders or partners and the IRS with respect to the inversion transaction.

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[212] Secs. 951–964.

[213] Secs. 1291–1298.

[214] It is expected that the Treasury Secretary will issue regulations applying the term "substantially all" in this context and will not be bound in this regard by interpretations of the term in other contexts under the Code.

[215] Since the top-tier foreign corporation is treated for all purposes of the Code as domestic, the shareholder-level "toll charge" of sec. 367(a) does not apply to these inversion transactions. However, with respect to inversion transactions completed before 2004, regulated investment companies and certain similar entities are allowed to elect to recognize gain as if sec. 367(a) did apply.

With respect to "toll charges," any applicable corporate-level income or gain required to be recognized under sections 304, 311(b), 367, 1001, 1248, or any other provision with respect to the transfer of controlled foreign corporation stock or other assets by a U.S. corporation as part of the inversion transaction or after such transaction to a related foreign person is taxable, without offset by any tax attributes (e.g., net operating losses or foreign tax credits). To the extent provided in regulations, this rule will not apply to certain transfers of inventory and similar transactions conducted in the ordinary course of the taxpayer's business.

In order to enhance IRS monitoring of related-party transactions, the provision establishes a new pre-filing procedure. Under this procedure, the taxpayer will be required annually to submit an application to the IRS for an agreement that all return positions to be taken by the taxpayer with respect to related-party transactions comply with all relevant provisions of the Code, including sections 163(j), 267(a)(3), 482, and 845. The Treasury Secretary is given the authority to specify the form, content, and supporting information required for this application, as well as the timing for its submission.

The IRS will be required to take one of the following three actions within 90 days of receiving a complete application from a taxpayer: (1) conclude an agreement with the taxpayer that the return positions to be taken with respect to related-party transactions comply with all relevant provisions of the Code; (2) advise the taxpayer that the IRS is satisfied that the application was made in good faith and substantially complies with the requirements set forth by the Treasury Secretary for such an application, but that the IRS reserves substantive judgment as to the tax treatment of the relevant transactions pending the normal audit process; or (3) advise the taxpayer that the IRS has concluded that the application was not made in good faith or does not substantially comply with the requirements set forth by the Treasury Secretary.

In the case of a compliance failure described in (3) above (and in cases in which the taxpayer fails to submit an application), the following sanctions will apply for the taxable year for which the application was required: (1) no deductions or additions to basis or cost of goods sold for payments to foreign related parties will be permitted; (2) any transfers or licenses of intangible property to related foreign parties will be disregarded; and (3) any cost-sharing arrangements will not be respected. In such a case, the taxpayer may seek direct review by the U.S. Tax Court of the IRS's determination of compliance failure.

If the IRS fails to act on the taxpayer's application within 90 days of receipt, then the taxpayer will be treated as having submitted in good faith an application that substantially complies with the above-referenced requirements. Thus, the deduction disallowance and other sanctions described above will not apply, but the IRS will be able to examine the transactions at issue under the normal audit process. The IRS is authorized to request that the taxpayer extend this 90-day deadline in cases in which the IRS believes that such an extension might help the parties to reach an agreement.

The "earnings stripping" rules of section 163(j), which deny or defer deductions for certain interest paid to foreign related parties, are strengthened for inverted corporations. With respect to such corporations, the provision eliminates the debt-equity threshold generally applicable under section 163(j) and reduces the 50-percent thresholds for "excess interest expense" and "excess limitation" to 25 percent.

In cases in which a U.S. corporate group acquires subsidiaries or other assets from an unrelated inverted corporate group, the provisions described above generally do not apply to the acquiring U.S. corporate group or its related parties (including the newly acquired subsidiaries or assets) by reason of acquiring the subsidiaries or assets that were connected with the inversion transaction. The Treasury Secretary is given authority to issue regulations appropriate to carry out the purposes of this provision and to prevent its abuse.

*Partnership transactions*

Under the proposal, both types of inversion transactions include certain partnership transactions. Specifically, both parts of the provision apply to transactions in which a foreign-incorporated entity acquires substantially all of the properties constituting a trade or business of a domestic partnership (whether or not publicly traded), if after the acquisition at least 80 percent (or more than 50 percent but less than 80 percent, as the case may be) of the stock of the entity is held by former partners of the partnership (by reason of holding their partnership interests), and the "substantial business activities" test is not met. For purposes of determining whether these tests are met, all partnerships that are under common control within the meaning of section 482 are treated as one partnership, except as provided otherwise in regulations. In addition, the modified "toll charge" provisions apply at the partner level.

*Effective date*

The regime applicable to transactions involving at least 80 percent identity of ownership applies to inversion transactions completed after March 20, 2002. The rules for inversion transactions involving greater-than-50-percent identity of ownership apply to inversion transactions completed after 1996 that meet the 50-percent test and to inversion transactions completed after 1996 that would have met the 80-percent test but for the March 20, 2002 date.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

(b) Excise tax on stock compensation of insiders in inverted corporations

PRESENT LAW

The income taxation of a nonstatutory[216] compensatory stock option is determined under the rules that apply to property transferred in connection with the performance of services (sec. 83). If a nonstatutory stock option does not have a readily ascertainable fair market value at the time of grant, which is generally the case unless the option is actively traded on an established market, no amount is included in the gross income of the recipient with respect to the option until the recipient exercises the option.[217] Upon exercise of such an option, the excess of the fair market value of the stock purchased over the option price is included in the recipient's gross income as ordinary income in such taxable year.

The tax treatment of other forms of stock-based compensation (e.g., restricted stock and stock appreciation rights) is also determined under section 83. The excess of the fair market value over the amount paid (if any) for such property is generally includable in gross income in the first taxable year in which the rights to the property are transferable or are not subject to substantial risk of forfeiture.

Shareholders are generally required to recognize gain upon stock inversion transactions. An inversion transaction is generally not a taxable event for holders of stock options and other stock-based compensation.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, specified holders of stock options and other stock-based compensation are subject to an excise tax upon certain inversion transactions. The provision imposes a 20 percent excise tax on the value of specified stock compensation held (directly or indirectly) by or for the benefit of a disqualified individual, or a member of such individual's family, at any time during the 12-month period beginning six months before the corporation's inversion date. Specified stock compensation is treated as held for the benefit of a disqualified individual if such compensation is held by an entity, e.g., a partnership or trust, in which the individual, or a member of the individual's family, has an ownership interest.

A disqualified individual is any individual who, with respect to a corporation, is, at any time during the 12-month period beginning on the date which is six months before the inversion date, subject to the requirements of section 16(a) of the Securities and Exchange Act of 1934 with respect to the corporation, or any member of the corporation's expanded affiliated group,[218] or would be subject to such requirements if the corporation (or member) were an issuer of equity securities referred to in section 16(a). Disqualified individuals generally include officers (as defined by section 16(a)),[219] directors, and 10–

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[216] Nonstatutory stock options refer to stock options other than incentive stock options and employee stock purchase plans, the taxation of which is determined under sections 421–424.

[217] If an individual receives a grant of a nonstatutory option that has a readily ascertainable fair market value at the time the option is granted, the excess of the fair market value of the option over the amount paid for the option is included in the recipient's gross income as ordinary income in the first taxable year in which the option is either transferable or not subject to a substantial risk of forfeiture.

[218] An expanded affiliated group is an affiliated group (under section 1504) except that such group is determined without regard to the exceptions for certain corporations and is determined applying a greater than 50 percent threshold, in lieu of the 80 percent test.

[219] An officer is defined as the president, principal financial officer, principal accounting officer (or, if there is no such accounting officer, the controller), any vice-president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions.

percent owners of private and publicly-held corporations.

The excise tax is imposed on a disqualified individual of an inverted corporation only if gain (if any) is recognized in whole or part by any shareholder by reason of either the 80 percent or 50 percent identity of stock ownership corporate inversion transactions previously described in the provision.

Specified stock compensation subject to the excise tax includes any payment[220] (or right to payment) granted by the inverted corporation (or any member of the corporation's expanded affiliated group) to any person in connection with the performance of services by a disqualified individual for such corporation (or member of the corporation's expanded affiliated group) if the value of the payment or right is based on, or determined by reference to, the value or change in value of stock of such corporation (or any member of the corporation's expanded affiliated group). In determining whether such compensation exists and valuing such compensation, all restrictions, other than non-lapse restrictions, are ignored. Thus, the excise tax applies, and the value subject to the tax is determined, without regard to whether such specified stock compensation is subject to a substantial risk of forfeiture or is exercisable at the time of the inversion transaction. Specified stock compensation includes compensatory stock and restricted stock grants, compensatory stock options, and other forms of stock-based compensation, including stock appreciation rights, phantom stock, and phantom stock options. Specified stock compensation also includes nonqualified deferred compensation that is treated as though it were invested in stock or stock options of the inverting corporation (or member). For example, the provision applies to a disqualified individual's deferred compensation if company stock is one of the actual or deemed investment options under the nonqualified deferred compensation plan.

Specified stock compensation includes a compensation arrangement that gives the disqualified individual an economic stake substantially similar to that of a corporate shareholder. Thus, the excise tax does not apply where a payment is simply triggered by a target value of the corporation's stock or where a payment depends on a performance measure other than the value of the corporation's stock. Similarly, the tax does not apply if the amount of the payment is not directly measured by the value of the stock or an increase in the value of the stock. For example, an arrangement under which a disqualified individual is paid a cash bonus of $500,000 if the corporation's stock increased in value by 25 percent over two years or $1,000,000 if the stock increased by 33 percent over two years is not specified stock compensation, even though the amount of the bonus generally is keyed to an increase in the value of the stock. By contrast, an arrangement under which a disqualified individual is paid a cash bonus equal to $10,000 for every $1 increase in the share price of the corporation's stock is subject to the provision because the direct connection between the compensation amount and the value of the corporation's stock gives the disqualified individual an economic stake substantially similar to that of a shareholder.

The excise tax applies to any such specified stock compensation previously granted to a disqualified individual but cancelled or cashed-out within the six-month period ending with the inversion transaction, and to any specified stock compensation awarded in the six-month period beginning with the inversion transaction. As a result, for example, if a corporation were to cancel outstanding options three months before the transaction and then reissue comparable options three months after the transaction, the tax applies both to the cancelled options and the newly granted options. It is intended that the Treasury Secretary issue guidance to avoid double counting with respect to specified stock compensation that is cancelled and then regranted during the applicable twelve-month period.

Specified stock compensation subject to the tax does not include a statutory stock option or any payment or right from a qualified retirement plan or annuity, a tax-sheltered annuity, a simplified employee pension, or a simple retirement account. In addition, under the provision, the excise tax does not apply to any stock option that is exercised during the six-month period before the inversion or to any stock acquired pursuant to such exercise. The excise tax also does not apply to any specified stock compensation which is sold, exchanged, distributed or cashed-out during such period in a transaction in which gain or loss is recognized in full.

For specified stock compensation held on the inversion date, the amount of the tax is determined based on the value of the compensation on such date. The tax imposed on specified stock compensation cancelled during the six-month period before the inversion date is determined based on the value of the compensation on the day before such cancellation, while specified stock compensation granted after the inversion date is valued on the date granted. Under the provision, the cancellation of a non-lapse restriction is treated as a grant.

The value of the specified stock compensation on which the excise tax is imposed is the fair value in the case of stock options (including warrants and other similar rights to acquire stock) and stock appreciation rights and the fair market value for all other forms of compensation. For purposes of the tax, the fair value of an option (or a warrant or other similar right to acquire stock) or a stock appreciation right is determined using an appropriate option-pricing model, as specified or permitted by the Treasury Secretary, that takes into account the stock price at the valuation date; the exercise price under the option; the remaining term of the option; the volatility of the underlying stock and the expected dividends on it; and the risk-free interest rate over the remaining term of the option. Options that have no intrinsic value (or "spread") because the exercise price under the option equals or exceeds the fair market value of the stock at valuation nevertheless have a fair value and are subject to tax under the provision. The value of other forms of compensation, such as phantom stock or restricted stock, are the fair market value of the stock as of the date of the inversion transaction. The value of any deferred compensation that could be valued by reference to stock is the amount that the disqualified individual would receive if the plan were to distribute all such deferred compensation in a single sum on the date of the inversion transaction (or the date of cancellation or grant, if applicable). It is expected that the Treasury Secretary issue guidance on valuation of specified stock compensation, including guidance similar to the revenue procedures issued under section 280G, except that the guidance would not permit the use of a term other than the full remaining term. Pending the issuance of guidance, it is intended that taxpayers could rely on the revenue procedures issued under section 280G (except that the full remaining term must be used).

The excise tax also applies to any payment by the inverted corporation or any member of the expanded affiliated group made to an individual, directly or indirectly, in respect of the tax. Whether a payment is made in respect of the tax is determined under all of the facts and circumstances. Any payment made to keep the individual in the same after-tax position that the individual would have been in had the tax not applied is a payment made in respect of the tax. This includes direct payments of the tax and payments to reimburse the individual for payment of the tax. It is expected that the Treasury Secretary issue guidance on determining when a payment is made in respect of the tax and that such guidance would include certain factors that give rise to a rebuttable presumption that a payment is made in respect of the tax, including a rebuttable presumption that if the payment is contingent on the inversion transaction, it is made in respect to the tax. Any payment made in respect of the tax is includible in the income of the individual, but is not deductible by the corporation.

To the extent that a disqualified individual is also a covered employee under section 162(m), the $1,000,000 limit on the deduction allowed for employee remuneration for such employee is reduced by the amount of any payment (including reimbursements) made in respect of the tax under the provision. As discussed above, this includes direct payments of the tax and payments to reimburse the individual for payment of the tax.

The payment of the excise tax has no effect on the subsequent tax treatment of any specified stock compensation. Thus, the payment of the tax has no effect on the individual's basis in any specified stock compensation and no effect on the tax treatment for the individual at the time of exercise of an option or payment of any specified stock compensation, or at the time of any lapse or forfeiture of such specified stock compensation. The payment of the tax is not deductible and has no effect on any deduction that might be allowed at the time of any future exercise or payment.

Under the provision, the Treasury Secretary is authorized to issue regulations as may be necessary or appropriate to carry out the purposes of the section.

*Effective date.*—The provision is effective as of July 11, 2002, except that periods before July 11, 2002, are not taken into account in applying the tax to specified stock compensation held or cancelled during the six-month period before the inversion date.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### (c) Reinsurance of United States risks in foreign jurisdictions

### PRESENT LAW

In the case of a reinsurance agreement between two or more related persons, present law provides the Treasury Secretary with authority to allocate among the parties or recharacterize income (whether investment income, premium or otherwise), deductions, assets, reserves, credits and any other items related to the reinsurance agreement, or make any other adjustment, in order to reflect the proper source and character of the items for each party.[221] For this purpose, related persons are defined as in section 482. Thus, persons are related if they are organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) that are owned or controlled directly or indirectly by the same interests. The provision may apply to a contract even if one of the related parties is not a domestic company.[222] In addition, the provision also permits such allocation, recharacterization, or other adjustments in a case in which one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of another party to the agreement, or a conduit between related persons.

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[220] Under the provision, any transfer of property is treated as a payment and any right to a transfer of property is treated as a right to a payment.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment clarifies the rules of section 845, relating to authority for the Treasury Secretary to allocate items among the parties to a reinsurance agreement, recharacterize items, or make any other adjustment, in order to reflect the proper source and character of the items for each party. The proposal authorizes such allocation, recharacterization, or other adjustment, in order to reflect the proper source, character or amount of the item. It is intended that this authority[223] be exercised in a manner similar to the authority under section 482 for the Treasury Secretary to make adjustments between related parties. It is intended that this authority be applied in situations in which the related persons (or agents or conduits) are engaged in cross-border transactions that require allocation, recharacterization, or other adjustments in order to reflect the proper source, character or amount of the item or items. No inference is intended that present law does not provide this authority with respect to reinsurance agreements.

No regulations have been issued under section 845(a). It is expected that the Treasury Secretary will issue regulations under section 845(a) to address effectively the allocation of income (whether investment income, premium or otherwise) and other items, the recharacterization of such items, or any other adjustment necessary to reflect the proper amount, source or character of the item.

*Effective date.*—The provision is effective for any risk reinsured after April 11, 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements (sec. 344 of the Senate amendment)

### PRESENT LAW

*In general*

The Code contains numerous civil penalties, such as the delinquency, accuracy-related and fraud penalties. These civil penalties are in addition to any interest that may be due as a result of an underpayment of tax. If all or any part of a tax is not paid when due, the Code imposes interest on the underpayment, which is assessed and collected in the same manner as the underlying tax and is subject to the same statute of limitations.

*Delinquency penalties*

*Failure to file.*—Under present law, a taxpayer who fails to file a tax return on a timely basis is generally subject to a penalty equal to 5 percent of the net amount of tax due for each month that the return is not filed, up to a maximum of five months or 25 percent. An exception from the penalty applies if the failure is due to reasonable cause. The net amount of tax due is the excess of the amount of the tax required to be shown on the return over the amount of any tax paid on or before the due date prescribed for the payment of tax.

*Failure to pay.*—Taxpayers who fail to pay their taxes are subject to a penalty of 0.5 percent per month on the unpaid amount, up to a maximum of 25 percent. If a penalty for failure to file and a penalty for failure to pay tax shown on a return both apply for the same month, the amount of the penalty for failure to file for such month is reduced by the amount of the penalty for failure to pay tax shown on a return. If a return is filed more than 60 days after its due date, then the penalty for failure to file tax shown on a return may not reduce the penalty for failure to pay below the lesser of $100 or 100 percent of the amount required to be shown on the return. For any month in which an installment payment agreement with the IRS is in effect, the rate of the penalty is half the usual rate (0.25 percent instead of 0.5 percent), provided that the taxpayer filed the tax return in a timely manner (including extensions).

*Failure to make timely deposits of tax.*—The penalty for the failure to make timely deposits of tax consists of a four-tiered structure in which the amount of the penalty varies with the length of time within which the taxpayer corrects the failure. A depositor is subject to a penalty equal to 2 percent of the amount of the underpayment if the failure is corrected on or before the date that is five days after the prescribed due date. A depositor is subject to a penalty equal to 5 percent of the amount of the underpayment if the failure is corrected after the date that is five days after the prescribed due date but on or before the date that is 15 days after the prescribed due date. A depositor is subject to a penalty equal to 10 percent of the amount of the underpayment if the failure is corrected after the date that is 15 days after the due date but on or before the date that is 10 days after the date of the first delinquency notice to the taxpayer (under sec. 6303). Finally, a depositor is subject to a penalty equal to 15 percent of the amount of the underpayment if the failure is not corrected on or before the date that is 10 days after the date of the day on which notice and demand for immediate payment of tax is given in cases of jeopardy.

An exception from the penalty applies if the failure is due to reasonable cause. In addition, the Secretary may waive the penalty for an inadvertent failure to deposit any tax by specified first-time depositors.

*Accuracy-related penalties*

The accuracy-related penalty is imposed at a rate of 20 percent of the portion of any underpayment that is attributable, in relevant, to (1) negligence, (2) any substantial understatement of income tax and (3) any substantial valuation misstatement. In addition, the penalty is doubled for certain gross valuation misstatements. These consolidated penalties are also coordinated with the fraud penalty. This statutory structure operates to eliminate any stacking of the penalties.

No penalty is to be imposed if it is shown that there was reasonable cause for an underpayment and the taxpayer acted in good faith. However, Treasury has issued proposed regulations that limit the defenses available to the imposition of an accuracy-related penalty in connection with a reportable transaction when the transaction is not disclosed.

*Negligence or disregard for the rules or regulations.*—If an underpayment of tax is attributable to negligence, the negligence penalty applies only to the portion of the underpayment that is attributable to negligence. Negligence is any failure to make a reasonable attempt to comply with the provisions of the Code. Disregard includes any careless, reckless or intentional disregard of the rules or regulations.

*Substantial understatement of income tax.*—Generally, an understatement is substantial if the understatement exceeds the greater of (1) 10 percent of the tax required to be shown on the return for the tax year or (2) $5,000. In determining whether a substantial understatement exists, the amount of the understatement is reduced by any portion attributable to an item if (1) the treatment of the item on the return is or was supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed on the return or on a statement attached to the return.

*Substantial valuation misstatement.*—A penalty applies to the portion of an underpayment that is attributable to a substantial valuation misstatement. Generally, a substantial valuation misstatement exists if the value or adjusted basis of any property claimed on a return is 200 percent or more of the correct value or adjusted basis. The amount of the penalty for a substantial valuation misstatement is 20 percent of the amount of the underpayment if the value or adjusted basis claimed is 200 percent or more but less than 400 percent of the correct value or adjusted basis. If the value or adjusted basis claimed is 400 percent or more of the correct value or adjusted basis, then the overvaluation is a gross valuation misstatement.

*Gross valuation misstatements.*—The rate of the accuracy-related penalty is doubled (to 40 percent) in the case of gross valuation misstatements.

*Fraud penalty*

The fraud penalty is imposed at a rate of 75 percent of the portion of any underpayment that is attributable to fraud. The accuracy-related penalty does not to apply to any portion of an underpayment on which the fraud penalty is imposed.

*Interest provisions*

Taxpayers are required to pay interest to the IRS whenever there is an underpayment of tax. An underpayment of tax exists whenever the correct amount of tax is not paid by the last date prescribed for the payment of the tax. The last date prescribed for the payment of the income tax is the original due date of the return.

Different interest rates are provided for the payment of interest depending upon the type of taxpayer, whether the interest relates to an underpayment or overpayment, and the size of the underpayment or overpayment. Interest on underpayments is compounded daily.

*Offshore Voluntary Compliance Initiative*

In January 2003, Treasury announced the Offshore Voluntary Compliance Initiative

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[221] Sec. 845(a).

[222] See S. Rep. No. 97-494, "Tax Equity and Fiscal Responsibility Act of 1982," July 12, 1982, 337 (describing provisions relating to the repeal of modified coinsurance provisions).

[223] The authority to allocate, recharacterize or make other adjustments was granted in connection with the repeal of provisions relating to modified coinsurance transactions.

("OVCI") to encourage the voluntary disclosure of previously unreported income placed by taxpayers in offshore accounts and accessed through credit card or other financial arrangements. A taxpayer had to comply with various requirements in order to participate in OVCI, including sending a written request to participate in the program by April 15, 2003. This request had to include information about the taxpayer, the taxpayer's introduction to the credit card or other financial arrangements and the names of parties that promoted the transaction. Taxpayers eligible under OVCI will not be liable for civil fraud, the fraudulent failure to file penalty or the civil information return penalties. The taxpayer will pay back taxes, interest and certain accuracy-related and delinquency penalties.

*Voluntary disclosure initiative*

A taxpayer's timely, voluntary disclosure of a substantial unreported tax liability has long been an important factor in deciding whether the taxpayer's case should ultimately be referred for criminal prosecution. The voluntary disclosure must be truthful, timely, and complete. The taxpayer must show a willingness to cooperate (as well as actual cooperation) with the IRS in determining the correct tax liability. The taxpayer must make good-faith arrangements with the IRS to pay in full the tax, interest, and any penalties determined by the IRS to be applicable. A voluntary disclosure does not guarantee immunity from prosecution. It creates no substantive or procedural rights for taxpayers.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment would increase the total amount of civil penalties, interest and fines applicable by a factor of two for taxpayers who would have been eligible to participate in either the OVCI or the Treasury Department's voluntary disclosure initiative, which applies to the taxpayer by reason of the taxpayer's underpayment of U.S. income tax liability through certain financing arrangement, but did not participate in either program.

*Effective date.*—The Senate amendment generally is effective with respect to a taxpayer's open tax years on or after May 8, 2000.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 4. Effectively connected income to include certain foreign source income (sec. 345 of the Senate amendment and sec. 864 of the Code)

### PRESENT LAW

Nonresident alien individuals and foreign corporations (collectively, foreign persons) are subject to U.S. tax on income that is effectively connected with the conduct of a U.S. trade or business; the U.S. tax on such income is calculated in the same manner and at the same graduated rates as the tax on U.S. persons.[224] Foreign persons also are subject to a 30-percent gross-basis tax, collected by withholding, on certain U.S.-source income, such as interest, dividends and other fixed or determinable annual or periodical ("FDAP") income, that is not effectively connected with a U.S. trade or business. This 30-percent withholding tax may be reduced or eliminated pursuant to an applicable tax treaty. Foreign persons generally are not subject to U.S. tax on foreign-source income that is not effectively connected with a U.S. trade or business.

Detailed rules apply for purposes of determining whether income is treated as effectively connected with a U.S. trade or business (so-called "U.S.-effectively connected income").[225] The rules differ depending on whether the income at issue is U.S-source or foreign-source income. Under these rules, U.S.-source FDAP income, such as U.S.-source interest and dividends, and U.S.-source capital gains are treated as U.S.-effectively connected income if such income is derived from assets used in or held for use in the active conduct of a U.S. trade or business, or from business activities conducted in the United States. All other types of U.S.-source income are treated as U.S.-effectively connected income (sometimes referred to as the "force of attraction rule").

In general, foreign-source income is not treated as U.S.-effectively connected income.[226] However, foreign-source income, gain, deduction, or loss generally is considered to be effectively connected with a U.S. business only if the person has an office or other fixed place of business within the United States to which such income, gain, deduction, or loss is attributable and such income falls into one of three categories described below.[227] For these purposes, income generally is not considered attributable to an office or other fixed place of business within the United States unless such office or fixed place of business is a material factor in the production of the income, and such office or fixed place of business regularly carries on activities of the type that generate such income.[228]

The first category consists of rents or royalties for the use of patents, copyrights, secret processes, or formulas, good will, trademarks, trade brands, franchises, or other like intangible properties derived in the active conduct of the U.S. trade or business.[229] The second category consists of interest or dividends derived in the active conduct of a banking, financing, or similar business within the United States, or received by a corporation whose principal business is trading in stocks or securities for its own account.[230] Notwithstanding the foregoing, foreign-source income consisting of dividends, interest, or royalties is not treated as effectively connected if the items are paid by a foreign corporation in which the recipient owns, directly, indirectly, or constructively, more than 50 percent of the total combined voting power of the stock.[231] The third category consists of income, gain, deduction, or loss derived from the sale or exchange of inventory or property held by the taxpayer primarily for sale to customers in the ordinary course of the trade or business where the property is sold or exchanged outside the United States through the foreign person's U.S. office or other fixed place of business.[232] Such amounts are not treated as effectively connected if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale or exchange.

The Code provides sourcing rules for enumerated types of income, including interest, dividends, rents, royalties, and personal services income.[233] For example, interest income generally is sourced based on the residence of the obligor. Dividend income generally is sourced based on the residence of the corporation paying the dividend. Thus, interest paid on obligations of foreign persons and dividends paid by foreign corporations generally are treated as foreign-source income.

Other types of income are not specifically covered by the Code's sourcing rules. For example, fees for accepting or confirming letters of credit have been sourced under principles analogous to the interest sourcing rules.[234] In addition, under regulations, payments in lieu of dividends and interest derived from securities lending transactions are sourced in the same manner as interest and dividends, including for purposes of determining whether such income is effectively connected with a U.S. trade or business.[235] Moreover, income from notional principal contracts (such as interest rate swaps) generally is sourced based on the residence of the recipient of the income.[236]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Each category of foreign-source income that is treated as effectively connected with a U.S. trade or business is expanded to include economic equivalents of such income (i.e., economic equivalents of certain foreign-source (1) rents and royalties, (2) dividends and interest, and (3) income on sales or exchanges of goods in the ordinary course of business). Thus, such economic equivalents are treated as U.S.-effectively connected income in the same circumstances that foreign-source rents, royalties, dividends, interest, or certain inventory sales are treated as U.S.-effectively connected income. For example, foreign-source interest and dividend equivalents are treated as U.S.-effectively connected income if the income is attributable to a U.S. office of the foreign person, and such income is derived by such foreign person in the active conduct of a banking, financing, or similar business within the United States, or the foreign person is a corporation whose principal business is trading in stocks or securities for its own account.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 5. Determination of basis amounts paid from foreign pension plans (sec. 346 of the Senate amendment and sec. 72 of the Code)

### PRESENT LAW

Distributions from retirement plans are includible in gross income under the rules relating to annuities[237] and, thus, are generally includible in income, except to the extent the amount received represents investment in the contract (i.e., the participant's basis). The participant's basis includes amounts contributed by the participant, together with certain amounts contributed by the employer, minus the aggregate amount (if any) previously distributed to the extent that such amount was excludable from gross income. Amounts contributed by the employer are included in the calculation of the participant's basis to the extent that such amounts were includible in the gross income of the participant, or to the extent that such amounts would have been excludable from the participant's gross income if they had been paid directly to the participant at the time they were contributed.

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[224] Sections 871(b) and 882.

[225] Section 864(c).

[226] Section 864(c)(4).

[227] Section 864(c)(4)(B).

[228] Section 864(c)(5).

[229] Section 864(c)(4)(B)(i).

[230] Section 864(c)(4)(B)(ii).

[231] Section 864(c)(4)(D)(i).

[232] Section 864(c)(4)(B)(iii).

[233] Sections 861 through 865.

[234] See *Bank of America* v. *United States*, 680 F.2d 142 (Ct. Cl. 1982).

[235] Treas. Reg. sec. 1.864-5(b)(2)(ii).

[236] Treas. Reg. sec. 1.863-7.

[237] Sections 72 and 402.

Distributions received by nonresidents from U.S. qualified plans and similar arrangements are generally subject to tax to the extent that the amount received is otherwise includible in gross income (i.e., is in excess of the basis) and is from a U.S. source. Employer contributions to qualified plans and other payments for services performed outside the United States generally are not treated as income from a U.S. source, and therefore generally are not subject to U.S. tax.

Under the 1996 U.S. model income tax treaty and many U.S. income tax treaties in force, pension distributions beneficially owned by a resident of a treaty country in consideration for past employment generally are taxable only by the individual recipient's country of residence.[238] Under the 1996 U.S. model income tax treaty and some U.S. income tax treaties, this exclusive residence-based taxation rule is limited to the taxation of amounts that were not previously included in taxable income in the other country. For example, if a treaty country had imposed tax on a resident individual with respect to some portion of a pension plan's earnings, subsequent distributions to a resident of the other country would not be taxable in that country to the extent the distributions were attributable to such amounts.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

An amount distributed from a foreign pension plan is included in the calculation of the recipient's basis only to the extent that the recipient previously has been subject to taxation, either in the United States or the foreign jurisdiction, on such amount.

*Effective date.*—The Senate amendment provision is effective for distributions occurring on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 6. Recapture of overall foreign losses on sale of controlled foreign corporation stock (sec. 347 of the Senate amendment and sec. 904 of the Code)

### PRESENT LAW

U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that may be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. The amount of foreign tax credits generally is limited to the portion of the taxpayer's U.S. tax which the taxpayer's foreign-source taxable income (i.e., foreign-source gross income less allocable expenses or deductions) bears to the taxpayer's worldwide taxable income for the year.[239] Separate limitations are applied to specific categories of income.

Special recapture rules apply in the case of foreign losses for purposes of applying the foreign tax credit limitation.[240] Under these rules, losses for any taxable year in a limitation category which exceed the aggregate amount of foreign income earned in other limitation categories (a so-called "overall foreign loss") are recaptured by resourcing foreign-source income earned in a subsequent year as U.S.-source income.[241] The amount resourced as U.S.-source income generally is limited to the lesser of the amount of the overall foreign losses not previously recaptured, or 50 percent of the taxpayer's foreign-source income in a given year (the "50-percent limit"). Taxpayers may elect to recapture a larger percentage of such losses.

A special recapture rule applies to ensure the recapture of an overall foreign loss where property which was used in a trade or business predominantly outside the United States is disposed of prior to the time the loss has been recaptured.[242] In this regard, dispositions of trade or business property used predominantly outside the United States are treated as having been recognized as foreign-source income (regardless of whether gain would otherwise be recognized upon disposition of the assets), in an amount equal to the lesser of the excess of the fair market value of such property over its adjusted basis, or the amount of unrecaptured overall foreign losses. Such foreign-source income is resourced as U.S.-source income without regard to the 50-percent limit. For example, if a U.S. corporation transfers its foreign branch business assets to a foreign corporation in a nontaxable section 351 transaction, the taxpayer would be treated for purposes of the recapture rules as having recognized foreign-source income in the year of the transfer in an amount equal to the excess of the fair market value of the property disposed over its adjusted basis (or the amount of unrecaptured foreign losses, if smaller). Such income would be recaptured as U.S.-source income to the extent of any prior unrecaptured overall foreign losses.[243]

Detailed rules apply in allocating and apportioning deductions and losses for foreign tax credit limitation purposes. In the case of interest expense, such amounts generally are apportioned to all gross income under an asset method, under which the taxpayer's assets are characterized as producing income in statutory or residual groupings (i.e., foreign-source income in the various limitation categories or U.S.-source income).[244] Interest expense is apportioned among these groupings based on the relative asset values in each. Taxpayers may elect to value assets based on either tax book value or fair market value.

Each corporation that is a member of an affiliated group is required to apportion its interest expense using apportionment fractions determined by reference to all assets of the affiliated group. For this purpose, an affiliated group generally is defined to include only domestic corporations. Stock in a foreign subsidiary, however, is treated as a foreign asset that may attract the allocation of U.S. interest expense for these purposes. If tax basis is used to value assets, the adjusted basis of the stock of certain 10-percent or greater owned foreign corporations or other non-affiliated corporations must be increased by the amount of earnings and profits of such corporation accumulated during the period the U.S. shareholder held the stock.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The special recapture rule for overall foreign losses that currently applies to dispositions of foreign trade or business assets is to apply to the disposition of controlled foreign corporation stock. Thus, dispositions of controlled foreign corporation stock are recognized as foreign-source income in an amount equal to the lesser of the fair market value of the stock over its adjusted basis, or the amount of prior unrecaptured overall foreign losses. Such income is resourced as U.S.-source income for foreign tax credit limitation purposes without regard to the 50-percent limit.

*Effective date.*—The Senate amendment provision is effective as of the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 7. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons (sec. 348 of the Senate amendment and secs. 163 and 267 of the Code)

### PRESENT LAW

Income earned by a foreign corporation from its foreign operations generally is subject to U.S. tax only when such income is distributed to any U.S. person that holds stock in such corporation. Accordingly, a U.S. person that conducts foreign operations through a foreign corporation generally is subject to U.S. tax on the income from such operations when the income is repatriated to the United States through a dividend distribution to the U.S. person. The income is reported on the U.S. person's tax return for the year the distribution is received, and the United States imposes tax on such income at that time. However, certain anti-deferral regimes may cause the U.S. person to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by the foreign corporations in which the U.S. person holds stock. The main anti-deferral regimes are the controlled foreign corporation rules of subpart F (sections 951-964), the passive foreign investment company rules (sections 1291-1298), and the foreign personal holding company rules (sections 551-558).

As a general rule, there is allowed as a deduction all interest paid or accrued within the taxable year with respect to indebtedness, including the aggregate daily portions of original issue discount ("OID") of the issuer for the days during such taxable year. However, if a debt instrument is held by a related foreign person, any portion of such OID is not allowable as a deduction to the payor of such instrument until paid ("related-foreign-person rule"). This related-foreign-person rule does not apply to the extent that the OID is effectively connected with the conduct by such foreign related person of a trade or business within the United States (unless such OID is exempt from taxation or is subject to a reduced rate of taxation under a treaty obligation). Treasury regulations further modify the related-foreign-person rule by providing that in the case of a debt owed to a foreign personal holding company ("FPHC"), controlled foreign corporation ("CFC") or passive foreign investment company ("PFIC"), a deduction is allowed for OID as of the day on which the amount is includible in the income of the FPHC, CFC or PFIC, respectively.

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[238] Some treaties permit source-country taxation but merely reduce the rate of tax imposed on pension benefits.

[239] Section 904(a).

[240] Section 904(f).

[241] Section 904(f)(1).

[242] Section 904(f)(3).

[243] Coordination rules apply in the case of losses recaptured under the branch loss recapture rules. Section 367(a)(3)(C).

[244] Section 864(e) and Temp. Treas. Reg. sec. 1.861-9T.

In the case of unpaid stated interest and expenses of related persons, where, by reason of a payee's method of accounting, an amount is not includible in the payee's gross income until it is paid but the unpaid amounts are deductible currently by the payor, the amount generally is allowable as a deduction when such amount is includible in the gross income of the payee. With respect to stated interest and other expenses owed to related foreign corporations, Treasury regulations provide a general rule that requires a taxpayer to use the cash method of accounting with respect to the deduction of amounts owed to such related foreign persons (with an exception for income of a related foreign person that is effectively connected with the conduct of a U.S. trade or business and that is not exempt from taxation or subject to a reduced rate of taxation under a treaty obligation). As in the case of OID, the Treasury regulations additionally provide that in the case of states interest owed to a FPHC, CFC, or PFIC, a deduction is allowed as of the day on which the amount is includible in the income of the FPHC, CFC or PFIC.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment generally provides that deductions for amounts accrued but unpaid (whether by U.S. or foreign persons) to related FPHCs, CFCs, or PFICs are allowable only to the extent that the amounts accrued by the payor are, for U.S. tax purposes, currently included in the income of the direct or indirect U.S. owners of the related foreign person. Deductions that have accrued but are not allowable under this provision are allowed when the amounts are paid.

*Effective date.*—The Senate amendment provision is effective for payments accrued on or after May 8, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 8. Sale of gasoline and diesel fuel at duty-free sales enterprises (Sec. 349 of the Senate amendment)

### PRESENT LAW

A duty-free sales enterprise that meets certain conditions may sell and deliver for export from the customs territory of the United States duty-free merchandise. Duty-free merchandise is merchandise sold by a duty-free sales enterprise on which neither federal duty nor federal tax has been assessed pending exportation from the customs territory of the United States. The duty-free statute does not contain any limitation on what goods may qualify for duty-free treatment.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment amends Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) to provide that gasoline or diesel fuel sold at duty-free enterprises shall be considered to entered for consumption into the United States and thus ineligible for classification as duty-free merchandise.

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 9. Repeal of earned income exclusion for citizens or residents living abroad (sec. 350 of the Senate amendment and sec. 911 of the Code)

### PRESENT LAW

U.S. citizens generally are subject to U.S. income tax on all their income, whether derived in the United States or elsewhere. A U.S. citizen who earns income in a foreign country also may be taxed on such income by that foreign country. However, the United States generally cedes the primary right to tax income derived by a U.S. citizen from sources outside the United States to the foreign country where such income is derived. Accordingly, a credit against the U.S. income tax imposed on foreign source taxable income is provided for foreign taxes paid on that income.

U.S. citizens living abroad may be eligible to exclude from their income for U.S. tax purposes certain foreign earned income and foreign housing costs. In order to qualify for these exclusions, a U.S. citizen must be either: (1) a bona fide resident of a foreign country for an uninterrupted period that includes an entire taxable year; or (2) present overseas for 330 days out of any 12-consecutive-month period. In addition, the taxpayer must have his or her tax home in a foreign country.

The exclusion for foreign earned income generally applies to income earned from sources outside the United States as compensation for personal services actually rendered by the taxpayer. The maximum exclusion for foreign earned income for a taxable year is $80,000 (for 2002 and thereafter). For taxable years beginning after 2007, the maximum exclusion amount is indexed for inflation.

The exclusion for housing costs applies to reasonable expenses, other than deductible interest and taxes, paid or incurred by or on behalf of the taxpayer for housing for the taxpayer and his or her spouse and dependents in a foreign country. The exclusion amount for housing costs for a taxable year is equal to the excess of such housing costs for the taxable year over an amount computed pursuant to a specified formula. In the case of housing costs that are not paid or reimbursed by the taxpayer's employer, the amount that would be excludible is treated instead as a deduction.

The combined earned income exclusion and housing cost exclusion may not exceed the taxpayer's total foreign earned income. The taxpayer's foreign tax credit is reduced by the amount of such credit that is attributable to excluded income.

Special exclusions apply in the case of taxpayers who reside in one of the U.S. possessions.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The exclusion for foreign earned income and the exclusion or deduction for housing expenses is repealed.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## E. Other Revenue Provisions

### 1. Extension of IRS user fees (sec. 351 of the Senate amendment and new sec. 7529 of the Code)

### PRESENT LAW

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104-117[245] extended the statutory authorization for these user fees[246] through September 30, 2003.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends the statutory authorization for these user fees through September 30, 2013. The Senate amendment also moves the statutory authorization for these fees into the Code.[247]

*Effective date.*—The Senate amendment provision, including moving the statutory authorization for these fees into the Code and repealing the off-Code statutory authorization for these fees, is effective for requests made after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 2. Add vaccines against hepatitis A to the list of taxable vaccines (sec. 352 of the Senate amendment and sec. 4132 of the Code)

### PRESENT LAW

A manufacturer's excise tax is imposed at the rate of 75 cents per dose[248] on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, varicella (chicken pox), rotavirus gastroenteritis, and streptococcus pneumoniae. The tax applied to any vaccine that is a combination of vaccine components equals 75 cents times the number of components in the combined vaccine.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment adds any vaccine against hepatitis A to the list of taxable vaccines. The Senate amendment also makes a conforming amendment to the trust fund expenditure purposes.

*Effective date.*—The Senate amendment provision is effective for vaccines sold beginning on the first day of the first month beginning more than four weeks after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[245] An Act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes (March 20, 1996).

[246] These user fees were originally enacted in section 10511 of the Revenue Act of 1987 (Pub. Law No. 100-203, December 22, 1987).

[247] The provision also moves into the Code the user fee provision relating to pension plans that was enacted in section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107-16, June 7, 2001).

[248] Sec. 4131.

### 3. Disallowance of certain partnership loss transfers (sec. 353 of the Senate Amendment and secs. 704, 734, and 743 of the Code)

#### PRESENT LAW

*Contributions of property*

Under present law, if a partner contributes property to a partnership, no gain or loss generally is recognized to the contributing partner at the time of contribution.[249] The partnership takes the property at an adjusted basis equal to the contributing partner's adjusted basis in the property.[250] The contributing partner increases its basis in its partnership interest by the adjusted basis of the contributed property.[251] Any items of partnership income, gain, loss, and deduction with respect to the contributed property is allocated among the partners to take into account any built-in gain or loss at the time of the contribution.[252] This rule is intended to prevent the transfer of built-in gain or loss from the contributing partner to the other partners by generally allocating items to the noncontributing partners based on the value of their contributions and by allocating to the contributing partner the remainder of each item.[253]

If the contributing partner transfers its partnership interest, the built-in gain or loss will be allocated to the transferee partner as it would have been allocated to the contributing partner.[254] If the contributing partner's interest is liquidated, there is no specific guidance preventing the allocation of the built-in loss to the remaining partners. Thus, it appears that losses can be "transferred" to other partners where the contributing partner no longer remains a partner.

*Transfers of partnership interests*

Under present law, a partnership does not adjust the basis of partnership property following the transfer of a partnership interest unless the partnership has made a one-time election under section 754 to make basis adjustments.[255] If an election is in effect, adjustments are made with respect to the transferee partner in order to account for the difference between the transferee partner's proportionate share of the adjusted basis of the partnership property and the transferee's basis in its partnership interest.[256] These adjustments are intended to adjust the basis of partnership property to approximate the result of a direct purchase of the property by the transferee partner. Under these rules, if a partner purchases an interest in a partnership with an existing built-in loss and no election under section 754 in effect, the transferee partner may be allocated a share of the loss when the partnership disposes of the property (or depreciates the property).

*Distributions of partnership property*

With certain exceptions, partners may receive distributions of certain partnership property without recognition of gain or loss by either the partner or the partnership.[257] In the case of a distribution in liquidation of a partner's interest, the basis of the property distributed in the liquidation is equal to the partner's adjusted basis in its partnership interest (reduced by any money distributed in the transaction).[258] In a distribution other than in liquidation of a partner's interest, the distributee partner's basis in the distributed property is equal to the partnership's adjusted basis in the property immediately before the distribution, but not to exceed the partner's adjusted basis in the partnership interest (reduced by any money distributed in the same transaction).[259]

Adjustments to the basis of the partnership's undistributed properties are not required unless the partnership has made the election under section 754 to make basis adjustments.[260] If an election is in effect under section 754, adjustments are made by a partnership to increase or decrease the remaining partnership assets to reflect any increase or decrease in the adjusted basis of the distributed properties in the hands of the distributee partner (or gain or loss recognized by the distributee partner).[261] To the extent the adjusted basis of the distributed properties increases (or loss is recognized), the partnership's adjusted basis in its properties is decreased by a like amount; likewise, to the extent the adjusted basis of the distributed properties decrease (or gain is recognized), the partnership's adjusted basis in its properties is increased by a like amount. Under these rules, a partnership with no election in effect under section 754 may distribute property with an adjusted basis lower than the distributee partner's proportionate share of the adjusted basis of all partnership property and leave the remaining partners with a smaller net built-in gain or a larger net built-in loss than before the distribution.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

*Contributions of property*

Under the Senate amendment, a built-in loss may be taken into account only by the contributing partner and not by other partners. Except as provided in regulations, in determining the amount of items allocated to partners other than the contributing partner, the basis of the contributed property is treated as the fair market value on the date of contribution. Thus, if the contributing partner's partnership interest is transferred or liquidated, the partnership's adjusted basis in the property is based on its fair market value at the date of contribution, and the built-in loss will be eliminated.[262]

*Transfers of partnership interests*

The Senate amendment provides that the basis adjustment rules under section 743 are mandatory in the case of the transfer of a partnership interest with respect to which there is a substantial built-in loss (rather than being elective as under present law). For this purpose, a substantial built-in loss exists if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the transferee partner's basis in the partnership interest.

Thus, for example, assume that partner A sells his partnership interest to B for its fair market value of $1 million. Also assume that B's proportionate share of the adjusted basis of the partnership assets is $1.3 million. Under the bill, section 743(b) applies, so that a $300,000 decrease is required to the adjusted basis of the partnership assets with respect to B. As a result, B would recognize no gain or loss if the partnership immediately sold all its assets for their fair market values.

*Distribution of partnership property*

The Senate amendment provides that a basis adjustment under section 734(b) is required in the case of a distribution with respect to which there is a substantial basis reduction. A substantial basis reduction means a downward adjustment of more than $250,000 that would be made to the basis of partnership assets if a section 754 election were in effect.

Thus, for example, assume that A and B each contributed $2.5 million to a newly formed partnership and C contributed $5 million, and that the partnership purchased LMN stock for $3 million and XYZ stock for $7 million. Assume that the value of each stock declined to $1 million. Assume LMN stock is distributed to C in liquidation of its partnership interest. Under present law, the basis of LMN stock in C's hands is $5 million. Under present law, C would recognize a loss of $4 million if the LMN stock were sold for $1 million.

Under the Senate amendment, however, there is a substantial basis adjustment because the $2 million increase in the adjusted basis of LMN stock (sec. 734(b)(2)(B)) is greater than $250,000. Thus, the partnership is required to decrease the basis of XYZ stock (under section 734(b)(2)) by $2 million (the amount by which the basis LMN stock was increased), leaving a basis of $5 million. If the XYZ stock were then sold by the partnership for $1 million, A and B would each recognize a loss of $2 million.

*Effective date*.—The provision applies to contributions, transfers, and distributions (as the case may be) after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not contain the provision in the Senate amendment.

### 4. Treatment of stripped bonds to apply to stripped interests in bond and preferred stock funds (sec. 354 of the Senate amendment and secs. 305 and 1286 of the Code)

#### PRESENT LAW

*Assignment of income in general*

In general, an "income stripping" transaction involves a transaction in which the right to receive future income from income-producing property is separated from the property itself. In such transactions, it may be possible to generate artificial losses from the disposition of certain property or to defer the recognition of taxable income associated with such property.

Common law has developed a rule (referred to as the "assignment of income" doctrine) that income may not be transferred without also transferring the underlying property. A leading judicial decision relating to the assignment of income doctrine involved a case in which a taxpayer made a gift of detachable interest coupons before their due date while retaining the bearer bond. The U.S. Supreme Court ruled that the donor was taxable on the entire amount of interest when paid to the donee on the grounds that the transferor had "assigned" to the donee the right to receive the income.[263]

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[249] Sec. 721.

[250] Sec. 723.

[251] Sec. 722.

[252] Sec. 704(c)(1)(A).

[253] Where there is an insufficient amount of an item to allocate to the noncontributing partners, Treasury regulations allow for reasonable allocations to remedy this insufficiency. Treas. Reg. sec. 1-704(c) and (d).

[254] Treas. Reg. 1.704-3(a)(7).

[255] Sec. 743(a).

[256] Sec. 743(b).

[257] Sec. 731(a) and (b).

[258] Sec. 732(b).

[259] Sec. 732(a).

[260] Sec. 734(a).

[261] Sec. 734(b).

[262] It is intended that a corporation succeeding to attributes of the contributing corporate partner under section 381 shall be treated in the same manner as the contributing partner.

[263] *Helvering* v. *Horst*, 311 U.S. 112 (1940).

In addition to general common law assignment of income principles, specific statutory rules have been enacted to address certain specific types of stripping transactions, such as transactions involving stripped bonds and stripped preferred stock (which are discussed below).[264] However, there are no specific statutory rules that address stripping transactions with respect to common stock or other equity interests (other than preferred stock).[265]

*Stripped bonds*

Special rules are provided with respect to the purchaser and "stripper" of stripped bonds.[266] A "stripped bond" is defined as a debt instrument in which there has been a separation in ownership between the underlying debt instrument and any interest coupon that has not yet become payable.[267] In general, upon the disposition of either the stripped bond or the detached interest coupons, the retained portion and the portion that is disposed of each is treated as a new bond that is purchased at a discount and is payable at a fixed amount on a future date. Accordingly, section 1286 treats both the stripped bond and the detached interest coupons as individual bonds that are newly issued with original issue discount ("OID") on the date of disposition. Consequently, section 1286 effectively subjects the stripped bond and the detached interest coupons to the general OID periodic income inclusion rules.

A taxpayer who purchases a stripped bond or one or more stripped coupons is treated as holding a new bond that is issued on the purchase date with OID in an amount that is equal to the excess of the stated redemption price at maturity (or in the case of a coupon, the amount payable on the due date) over the ratable share of the purchase price of the stripped bond or coupon, determined on the basis of the respective fair market values of the stripped bond and coupons on the purchase date.[268] The OID on the stripped bond or coupon is includible in gross income under the general OID periodic income inclusion rules.

A taxpayer who strips a bond and disposes of either the stripped bond or one or more stripped coupons must allocate his basis, immediately before the disposition, in the bond (with the coupons attached) between the retained and disposed items.[269] Special rules apply to require that interest or market discount accrued on the bond prior to such disposition must be included in the taxpayer's gross income (to the extent that it had not been previously included in income) at the time the stripping occurs, and the taxpayer increases his basis in the bond by the amount of such accrued interest or market discount. The adjusted basis (as increased by any accrued interest or market discount) is then allocated between the stripped bond and the stripped interest coupons in relation to their respective fair market values. Amounts realized from the sale of stripped coupons or bonds constitute income to the taxpayer only to the extent such amounts exceed the basis allocated to the stripped coupons or bond. With respect to retained items (either the detached coupons or stripped bond), to the extent that the price payable on maturity, or on the due date of the coupons, exceeds the portion of the taxpayer's basis allocable to such retained items, the difference is treated as OID that is required to be included under the general OID periodic income inclusion rules.[270]

*Stripped preferred stock*

"Stripped preferred stock" is defined as preferred stock in which there has been a separation in ownership between such stock and any dividend on such stock that has not become payable.[271] A taxpayer who purchases stripped preferred stock is required to include in gross income, as ordinary income, the amounts that would have been includible if the stripped preferred stock was a bond issued on the purchase date with OID equal to the excess of the redemption price of the stock over the purchase price.[272] This treatment is extended to any taxpayer whose basis in the stock is determined by reference to the basis in the hands of the purchaser. A taxpayer who strips and disposes the future dividends is treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to the taxpayer's adjusted basis in the stripped preferred stock.[273]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment authorizes the Treasury Department to promulgate regulations that, in appropriate cases, apply rules that are similar to the present-law rules for stripped bonds and stripped preferred stock to direct or indirect interests in an entity or account substantially all of the assets of which consist of bonds (as defined in section 1286(e)(1)), preferred stock (as defined in section 305(e)(5)(B)), or any combination thereof. The Senate amendment applies only to cases in which the present-law rules for stripped bonds and stripped preferred stock do not already apply to such interests.

For example, such Treasury regulations could apply to a transaction in which a person effectively strips future dividends from shares in a money market mutual fund (and disposes either the stripped shares or stripped future dividends) by contributing the shares (with the future dividends) to a custodial account through which another person purchases rights to either the stripped shares or the stripped future dividends. However, it is intended that Treasury regulations issued under the Senate amendment would not apply to certain transactions involving direct or indirect interests in an entity or account substantially all the assets of which consist of tax-exempt obligations (as defined in section 1275(a)(3)), such as a tax-exempt bond partnership described in Rev. Proc. 2002-68,[274] modifying and superseding Rev. Proc. 2002-16.[275]

No inference is intended as to the treatment under the present-law rules for stripped bonds and stripped preferred stock, or under any other provisions or doctrines of present law, of interests in an entity or account substantially all of the assets of which consist of bonds, preferred stock, or any combination thereof. The Treasury regulations, when issued, would be applied prospectively, except in cases to prevent abuse.

*Effective date.*—The Senate amendment provision is effective for purchases and dispositions occurring after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 5. Reporting of taxable mergers and acquisitions (sec. 355 of the Senate amendment and new sec. 6043A of the Code)

### PRESENT LAW

Under section 6045 and the regulations thereunder, brokers (defined to include stock transfer agents) are required to make information returns and to provide corresponding payee statements as to sales made on behalf of their customers, subject to the penalty provisions of sections 6721–6724. Under the regulations issued under section 6045, this requirement generally does not apply with respect to taxable transactions other than exchanges for cash (e.g., stock inversion transactions taxable to shareholders by reason of section 367(a)).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, if gain or loss is recognized in whole or in part by shareholders of a corporation by reason of a second corporation's acquisition of the stock or assets of the first corporation, then the acquiring corporation (or the acquired corporation, if so prescribed by the Treasury Secretary) is required to make a return containing:

(1) A description of the transaction;

(2) The name and address of each shareholder of the acquired corporation that recognizes gain as a result of the transaction (or would recognize gain, if there was a built-in gain on the shareholder's shares);

(3) The amount of money and the value of stock or other consideration paid to each shareholder described above; and

(4) Such other information as the Treasury Secretary may prescribe.

Alternatively, a stock transfer agent who records transfers of stock in such transaction may make the return described above in lieu of the second corporation.

In addition, every person required to make a return described above is required to furnish to each shareholder whose name is required to be set forth in such return a written statement showing:

(1) The name, address, and phone number of the information contact of the person required to make such return;

(2) The information required to be shown on that return; and

(3) Such other information as the Treasury Secretary may prescribe.

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[264] Depending on the facts, the IRS also could determine that a variety of other Code-based and common law-based authorities could apply to income stripping transactions, including: (1) sections 269, 382, 446(b), 482, 701, or 704 and the regulations thereunder; (2) authorities that recharacterize certain assignments or accelerations of future payments as financings; (3) business purpose, economic substance, and sham transaction doctrines; (4) the step transaction doctrine; and (5) the substance-over-form doctrine. See Notice 95-53, 1995-2 C.B. 334 (accounting for lease strips and other stripping transactions).

[265] However, in *Estate of Stranahan* v. *Commissioner*, 472 F.2d 867 (6th Cir. 1973), the court held that where a taxpayer sold an interest in stock dividends, with no personal obligation to produce the income supporting the dividends, the transaction was treated as a sale of an income interest.

[266] Sec. 1286.

[267] Sec. 1286(e).

[268] Sec. 1286(a).

[269] Sec. 1286(b). Similar rules apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis in the hands of a person who strips the bond.

[270] Special rules are provided with respect to stripping transactions involving tax-exempt obligations that treat OID (computed under the stripping rules) in excess of OID computed on the basis of the bond's coupon rate (or higher rate if originally issued at a discount) as income from a non-tax-exempt debt instrument (sec. 1286(d)).

[271] Sec. 305(e)(5).

[272] Sec. 305(e)(1).

[273] Sec. 305(e)(3).

[274] 2002-43 I.R.B. 753.

[275] 2002-9 I.R.B. 572.

This written statement is required to be furnished to the shareholder on or before January 31 of the year following the calendar year during which the transaction occurred.

The present-law penalties for failure to comply with information reporting requirements are extended to failures to comply with the requirements set forth under this proposal.

*Effective date.*—The Senate amendment provision is effective for acquisitions after the date of enactment of the proposal.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 6. Minimum holding period for foreign tax credit with respect to withholding taxes on income other than dividends (sec. 356 of the Senate amendment and sec. 901 of the Code)

#### PRESENT LAW

In general, U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that may be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. Separate limitations are applied to specific categories of income.

Present law denies a U.S. shareholder the foreign tax credits normally available with respect to a dividend from a corporation or a regulated investment company ("RIC") if the shareholder has not held the stock for more than 15 days (within a 30-day testing period) in the case of common stock or more than 45 days (within a 90-day testing period) in the case of preferred stock.[276] The disallowance applies both to foreign tax credits for foreign withholding taxes that are paid on the dividend where the dividend-paying stock is held for less than these holding periods, and to indirect foreign tax credits for taxes paid by a lower-tier foreign corporation or a RIC where any of the required stock in the chain of ownership is held for less than these holding periods. Periods during which a taxpayer is protected from risk of loss (e.g., by purchasing a put option or entering into a short sale with respect to the stock) generally are not counted toward the holding period requirement. In the case of a bona fide contract to sell stock, a special rule applies for purposes of indirect foreign tax credits. The disallowance does not apply to foreign tax credits with respect to certain dividends received by active dealers in securities. If a taxpayer is denied foreign tax credits because the applicable holding period is not satisfied, the taxpayer is entitled to a deduction for the foreign taxes for which the credit is disallowed.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment expands the present-law disallowance of foreign tax credits to include credits for gross-basis foreign withholding taxes with respect to any item of income or gain from property if the taxpayer who receives the income or gain has not held the property for more than 15 days (within a 30-day testing period), exclusive of periods during which the taxpayer is protected from risk of loss. The Senate amendment does not apply to foreign tax credits that are subject to the present-law disallowance with respect to dividends. The Senate amendment also does not apply to certain income or gain that is received with respect to property held by active dealers. Rules similar to the present-law disallowance for foreign tax credits with respect to dividends apply to foreign tax credits that are subject to the Senate amendment. In addition, the Senate amendment authorizes the Treasury Department to issue regulations providing that the Senate amendment does not apply in appropriate cases.

*Effective date.*—The Senate amendment provision is effective for amounts that are paid or accrued more than 30 days after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 7. Qualified tax collection contracts (sec. 357 of the Senate amendment and new sec. 6306 of the Code)

#### PRESENT LAW

In fiscal years 1996 and 1997, the Congress earmarked $13 million for IRS to test the use of private debt collection companies. There were several constraints on this pilot project. First, because both IRS and OMB considered the collection of taxes to be an inherently governmental function, only government employees were permitted to collect the taxes.[277] The private debt collection companies were utilized to assist the IRS in locating and contacting taxpayers, reminding them of their outstanding tax liability, and suggesting payment options. If the taxpayer agreed at that point to make a payment, the taxpayer was transferred from the private debt collection company to the IRS. Second, the private debt collection companies were paid a flat fee for services rendered; the amount that was ultimately collected by the IRS was not taken into account in the payment mechanism.

The pilot program was discontinued because of disappointing results. GAO reported[278] that IRS collected $3.1 million attributable to the private debt collection company efforts; expenses were also $3.1 million. In addition, there were lost opportunity costs of $17 million to the IRS because collection personnel were diverted from their usual collection responsibilities to work on the pilot.

The IRS has in the last several years expressed renewed interest in the possible use of private debt collection companies; for example, IRS recently revised its extensive Request for Information concerning its possible use of private debt collection companies.[279]

In general, Federal agencies are permitted to enter into contracts with private debt collection companies for collection services to recover indebtedness owed to the United States.[280] That provision does not apply to the collection of debts under the Internal Revenue Code.[281]

On February 3, 2003, the President submitted to the Congress his fiscal year 2004 budget proposal,[282] which proposed the use of private debt collection companies to collect Federal tax debts.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment permits the IRS to use private debt collection companies to locate and contact taxpayers owing outstanding tax liabilities[283] of any type[284] and to arrange payment of those taxes by the taxpayers. Several steps are involved. First, the private debt collection company contacts the taxpayer by letter.[285] If the taxpayer's last known address is incorrect, the private debt collection company searches for the correct address. The private debt collection company is not permitted to contact either individuals or employers to locate a taxpayer. Second, the private debt collection company telephones the taxpayer to request full payment.[286] If the taxpayer cannot pay in full immediately, the private debt collection company offers the taxpayer an installment agreement providing for full payment of the taxes over a period of as long as three years. If the taxpayer is unable to pay the outstanding tax liability in full over a three-year period, the private debt collection company obtains financial information from the taxpayer and will provide this information to the IRS for further processing and action by the IRS.

The Senate amendment specifies several procedural conditions under which the provision would operate. First, provisions of the Fair Debt Collection Practices Act apply to the private debt collection company. Second, taxpayer protections that are statutorily applicable to the IRS are also made statutorily applicable to the private sector debt collection companies. Third, the private sector debt collection companies are required to inform taxpayers of the availability of assistance from the Taxpayer Advocate.

The Senate amendment provides that the United States shall not be liable for any act or omission of any person performing services under a qualified debt collection contract. This is designed to encourage these persons to protect taxpayers' rights to the maximum extent possible, since they and their employers will be liable for violations; they will not be able to transfer liability for violations to the United States, which might cause them to be more lax in preventing violations.

The Senate amendment creates a revolving fund from the amounts collected by the private debt collection companies. The private debt collection companies would be paid out of this fund. The provision prohibits the payment of fees for all services in excess of 25 percent of the amount collected under a tax collection contract.[287]

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[276] Sec. 901(k).

[277] Sec. 7801(a).

[278] GAO/GGD-97-129R Issues Affecting IRS' Collection Pilot (July 18, 1997).

[279] TIRNO-03-H-0001 (February 14, 2003), at www.procurement.irs.treas.gov. The basic request for information is 104 pages, and there are 16 additional attachments.

[280] 31 U.S.C. sec. 3718.

[281] 31 U.S.C. sec. 3718(f).

[282] See Office of Management and Budget, Budget of the United States Government, Fiscal Year 2004 (H. Doc. 108-3, Vol. I), p. 274.

[283] There must be an assessment pursuant to section 6201 in order for there to be an outstanding tax liability.

[284] The Senate amendment generally applies to any type of tax imposed under the Internal Revenue Code. It is anticipated that the focus in implementing the provision will be: (a) taxpayers who have filed a return showing a balance due but who have failed to pay that balance in full; and (b) taxpayers who have been assessed additional tax by the IRS and who have made several voluntary payments toward satisfying their obligation but have not paid in full.

[285] Several portions of the provision require that the IRS disclose confidential taxpayer information to the private debt collection company. Section 6103(n) permits disclosure for "the providing of other services * * * for purposes of tax administration." Accordingly, no amendment to 6103 is necessary to implement the provision. It is intended, however, that the IRS vigorously protect the privacy of confidential taxpayer information by disclosing the least amount of information possible to contractors consistent with the effective operation of the provision.

[286] The private debt collection company is not permitted to accept payment directly. Payments are required to be processed by IRS employees.

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 8. Extension of customs user fees (sec. 358 of the Senate amendment)

#### PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99–272), authorized the Secretary of the Treasury to collect certain service fees. Section 412 (P.L 107–296) of the Homeland Security Act of 2002 authorized the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Provided for under 19 U.S.C. 58c, these fees include: processing fees for air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, merchandise, and Customs broker permits. COBRA was amended on several occasions but most recently by P.L. 103–182 which extended authorization for the collection of these fees through fiscal year 2003.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment extends the fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 through December 31, 2013.

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 9. Modify qualification rules for tax-exempt property and casualty insurance companies (sec. 359 of the Senate amendment and secs. 501 and 831 of the Code)

#### PRESENT LAW

A property and casualty insurance company is eligible to be exempt from Federal income tax if its net written premiums or direct written premiums (whichever is greater) for the taxable year do not exceed $350,000 (sec. 501(c)(15)).

A property and casualty insurance company may elect to be taxed only on taxable investment income if its net written premiums or direct written premiums (whichever is greater) for the taxable year exceed $350,000, but do not exceed $1.2 million (sec. 831(b)).

For purposes of determining the amount of a company's net written premiums or direct written premiums under these rules, premiums received by all members of a controlled group of corporations of which the company is a part are taken into account. For this purpose, a more-than-50-percent threshhold applies under the vote and value requirements with respect to stock ownership for determining a controlled group, and rules treating a life insurance company as part of a separate controlled group or as an excluded member of a group do not apply (secs. 501(c)(15), 831(b)(2)(B) and 1563).

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision modifies the requirements for a property and casualty insurance company to be eligible for tax-exempt status, and to elect to be taxed only on taxable investment income.

Under the Senate amendment provision, a property and casualty insurance company is eligible to be exempt from Federal income tax if (a) its gross receipts for the taxable year do not exceed $600,000, and (b) the premiums received for the taxable year are greater than 50 percent of the gross receipts. For purposes of determining gross receipts, the gross receipts of all members of a controlled group of corporations of which the company is a part are taken into account. The provision expands the present-law controlled group rule so that it also takes into account gross receipts of foreign and tax-exempt corporations.

The Senate amendment provision also provides that a property and casualty insurance company may elect to be taxed only on taxable investment income if its net written premiums or direct written premiums (whichever is greater) do not exceed $1.2 million (without regard to whether such premiums exceed $350,000) (sec. 831(b)). The provision retains the present-law rule that, for purposes of determining the amount of a company's net written premiums or direct written premiums under this rule, premiums received by all members of a controlled group of corporations of which the company is a part are taken into account.

No inference is intended that any company that is not an insurance company (i.e., any company that is not a company whose primary and predominant business activity during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies) can be eligible for tax-exempt status under present-law section 501(c)(15), or under the provision. It is intended that IRS enforcement activities address the misuse of present-law section 501(c)(15).

Further, it is not intended that the provision permitting a property and casualty insurance company to elect to be taxed only on taxable investment income become an area of abuse. While the bill retains the eligibility test based on premiums (rather than gross receipts), it is intended that regulations or other Treasury guidance provide for anti-abuse rules so as to prevent improper use of the provision, including by characterizing as premiums income that is other than premium income.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 10. Authorize IRS to enter into installment agreements that provide for partial payment (sec. 360 of the Senate amendment and sec. 6159 of the Code)

#### PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed (sec. 6159). An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.

Prior to 1998, the IRS administratively entered into installment agreements that provided for partial payment (rather than full payment) of the total amount owed over the period of the agreement. In that year, the IRS Chief Counsel issued a memorandum concluding that partial payment installment agreements were not permitted.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision clarifies that the IRS is authorized to enter into installment agreements with taxpayers that do not provide for full payment of the taxpayer's liability over the life of the agreement. The Senate amendment provision also requires the IRS to review partial payment installment agreements at least every two years. The primary purpose of this review is to determine whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.

*Effective date.*—The Senate amendment provision is effective for installment agreements entered into on or after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 11. Extend intangible amortization provisions to sports franchises (sec. 361 of the Senate amendment and sec. 197 of the Code)

#### PRESENT LAW

The purchase price allocated to intangible assets (including franchise rights) acquired in connection with the acquisition of a trade or business generally must be capitalized and amortized over a 15-year period.[288] These rules were enacted in 1993 to minimize disputes regarding the proper treatment of acquired intangible assets. The rules do not apply to a franchise to engage in professional sports and any intangible asset acquired in connection with such a franchise.[289] However, other special rules apply to certain of these intangible assets.

Under section 1056, when a franchise to conduct a sports enterprise is sold or exchanged, the basis of a player contract acquired as part of the transaction is generally limited to the adjusted basis of such contract in the hands of the transferor, increased by the amount of gain, if any, recognized by the transferor on the transfer of the contract. Moreover, not more than 50 percent of the consideration from the transaction may be allocated to player contracts unless the transferee establishes to the satisfaction of the Commissioner that a specific allocation in excess of 50 percent is proper. However, these basis rules may not apply if a sale or exchange of a franchise to conduct a sports enterprise is effected through a partnership.[290] Basis allocated to the franchise or to other valuable intangible assets acquired with the franchise may not be amortizable if these assets lack a determinable useful life.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment extends the 15-year recovery period for intangible assets to franchises to engage in professional sports and any intangible asset acquired in connection with such a franchise acquisitions of sports franchises (including player contracts). Thus, the same rules for amortization of intangibles that apply to other acquisitions under present law will apply to acquisitions of sports franchises.

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[287] It is assumed that there will be competitive bidding for these contracts by private sector tax collection agencies and that vigorous bidding will drive the overhead costs down.

[288] Sec. 197.

[289] Sec. 197(e)(6).

[290] *P.D.B. Sports, Ltd.* v. *Comm.*, 109 T.C. 423 (1997).

*Effective date.*—The Senate amendment provision is effective for acquisitions occurring after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 12. Deposits made to suspend the running of interest on potential underpayments (sec. 362 of the Senate amendment and new sec. 6603 of the Code)

### PRESENT LAW

Generally, interest on underpayments and overpayments continues to accrue during the period that a taxpayer and the IRS dispute a liability. The accrual of interest on an underpayment is suspended if the IRS fails to notify an individual taxpayer in a timely manner, but interest will begin to accrue once the taxpayer is properly notified. No similar suspension is available for other taxpayers.

A taxpayer that wants to limit its exposure to underpayment interest has a limited number of options. The taxpayer can continue to dispute the amount owed and risk paying a significant amount of interest. If the taxpayer continues to dispute the amount and ultimately loses, the taxpayer will be required to pay interest on the underpayment from the original due date of the return until the date of payment.

In order to avoid the accrual of underpayment interest, the taxpayer may choose to pay the disputed amount and immediately file a claim for refund. Payment of the disputed amount will prevent further interest from accruing if the taxpayer loses (since there is no longer any underpayment) and the taxpayer will earn interest on the resultant overpayment if the taxpayer wins. However, the taxpayer will generally lose access to the Tax Court if it follows this alternative. Amounts paid generally cannot be recovered by the taxpayer on demand, but must await final determination of the taxpayer's liability. Even if an overpayment is ultimately determined, overpaid amounts may not be refunded if they are eligible to be offset against other liabilities of the taxpayer.

The taxpayer may also make a deposit in the nature of a cash bond. The procedures for making a deposit in the nature of a cash bond are provided in Rev. Proc. 84-58.

A deposit in the nature of a cash bond will stop the running of interest on an amount of underpayment equal to the deposit, but the deposit does not itself earn interest. A deposit in the nature of a cash bond is not a payment of tax and is not subject to a claim for credit or refund. A deposit in the nature of a cash bond may be made for all or part of the disputed liability and generally may be recovered by the taxpayer prior to a final determination. However, a deposit in the nature of a cash bond need not be refunded to the extent the Secretary determines that the assessment or collection of the tax determined would be in jeopardy, or that the deposit should be applied against another liability of the taxpayer in the same manner as an overpayment of tax. If the taxpayer recovers the deposit prior to final determination and a deficiency is later determined, the taxpayer will not receive credit for the period in which the funds were held as a deposit. The taxable year to which the deposit in the nature of a cash bond relates must be designated, but the taxpayer may request that the deposit be applied to a different year under certain circumstances.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*In general*

The Senate amendment allows a taxpayer to deposit cash with the IRS that the may subsequently be used to pay an underpayment of income, gift, estate, generation-skipping, or certain excise taxes. Interest will not be charged on the portion of the underpayment that is paid by the deposited amount for the period the amount is on deposit. Generally, deposited amounts that have not been used to pay a tax may be withdrawn at any time if the taxpayer so requests in writing. The withdrawn amounts will earn interest at the applicable Federal rate to the extent they are attributable to a disputable tax.

The Secretary may issue rules relating to the making, use, and return of the deposits.

*Use of a deposit to offset underpayments of tax*

Any amount on deposit may be used to pay an underpayment of tax that is ultimately assessed. If an underpayment is paid in this manner, the taxpayer will not be charged underpayment interest on the portion of the underpayment that is so paid for the period the funds were on deposit.

For example, assume a calendar year individual taxpayer deposits $20,000 on May 15, 2005, with respect to a disputable item on its 2004 income tax return. On April 15, 2007, an examination of the taxpayer's year 2004 income tax return is completed, and the taxpayer and the IRS agree that the taxable year 2004 taxes were underpaid by $25,000. The $20,000 on deposit is used to pay $20,000 of the underpayment, and the taxpayer also pays the remaining $5,000. In this case, the taxpayer will owe underpayment interest from April 15, 2005 (the original due date of the return) to the date of payment (April 15, 2007) only with respect to the $5,000 of the underpayment that is not paid by the deposit. The taxpayer will owe underpayment interest on the remaining $20,000 of the underpayment only from April 15, 2005, to May 15, 2005, the date the $20,000 was deposited.

*Withdrawal of amounts*

A taxpayer may request the withdrawal of any amount of deposit at any time. The Secretary must comply with the withdrawal request unless the amount has already been used to pay tax or the Secretary properly determines that collection of tax is in jeopardy. Interest will be paid on deposited amounts that are withdrawn at a rate equal to the short-term applicable Federal rate for the period from the date of deposit to a date not more than 30 days preceding the date of the check paying the withdrawal. Interest is not payable to the extent the deposit was not attributable to a disputable tax.

For example, assume a calendar year individual taxpayer receives a 30-day letter showing a deficiency of $20,000 for taxable year 2004 and deposits $20,000 on May 15, 2006. On April 15, 2007, an administrative appeal is completed, and the taxpayer and the IRS agree that the 2004 taxes were underpaid by $15,000. $15,000 of the deposit is used to pay the underpayment. In this case, the taxpayer will owe underpayment interest from April 15, 2005 (the original due date of the return) to May 15, 2006, the date the $20,000 was deposited. Simultaneously with the use of the $15,000 to offset the underpayment, the taxpayer requests the return of the remaining amount of the deposit (after reduction for the underpayment interest owed by the taxpayer from April 15, 2005, to May 15, 2006). This amount must be returned to the taxpayer with interest determined at the short-term applicable Federal rate from the May 15, 2006, to a date not more than 30 days preceding the date of the check repaying the deposit to the taxpayer.

*Limitation on amounts for which interest may be allowed*

Interest on a deposit that is returned to a taxpayer shall be allowed for any period only to the extent attributable to a disputable item for that period. A disputable item is any item for which the taxpayer 1) has a reasonable basis for the treatment used on its return and 2) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

All items included in a 30-day letter to a taxpayer are deemed disputable for this purpose. Thus, once a 30-day letter has been issued, the disputable amount cannot be less than the amount of the deficiency shown in the 30-day letter. A 30-day letter is the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

*Deposits are not payments of tax*

A deposit is not a payment of tax prior to the time the deposited amount is used to pay a tax. Thus, the interest received on withdrawn deposits will not be eligible for the proposed exclusion from income of an individual. Similarly, withdrawal of a deposit will not establish a period for which interest was allowable at the short-term applicable Federal rate for the purpose of establishing a net zero interest rate on a similar amount of underpayment for the same period.

*Effective date*

The Senate amendment provision applies to deposits made after the date of enactment. Amounts already on deposit as of the date of enactment are treated as deposited (for purposes of applying this provision) on the date the taxpayer identifies the amount as a deposit made pursuant to this provision.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 13. Clarification of rules for payment of estimated tax for certain deemed asset sales (sec. 363 of the Senate amendment and sec. 338 of the Code)

### PRESENT LAW

In certain circumstances, taxpayers can make an election under section 338(h)(10) to treat a qualifying purchase of 80 percent of the stock of a target corporation by a corporation from a corporation that is a member of an affiliated group (or a qualifying purchase of 80 percent of the stock of an S corporation by a corporation from S corporation shareholders) as a sale of the assets of the target corporation, rather than as a stock sale. The election must be made jointly by the buyer and seller of the stock and is due by the 15th day of the ninth month beginning after the month in which the acquisition date occurs. An agreement for the purchase and sale of stock often may contain an agreement of the parties to make a section 338(h)(10) election.

Section 338(a) also permits a unilateral election by a buyer corporation to treat a qualified stock purchase of a corporation as a deemed asset acquisition, whether or not the seller of the stock is a corporation (or an S corporation is the target). In such a case, the seller or sellers recognize gain or loss on the stock sale (including any estimated taxes with respect to the stock sale), and the target corporation recognizes gain or loss on the deemed asset sale.

Section 338(h)(13) provides that, for purposes of section 6655 (relating to additions to tax for failure by a corporation to pay estimated income tax), tax attributable to a deemed asset sale under section 338(a)(1) shall not be taken into account.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment clarifies section 338(h)(13) to provide that the exception for estimated tax purposes with respect to tax attributable to a deemed asset sale does not apply with respect to a qualified stock purchase for which an election is made under section 338(h)(10).

Under the Senate amendment, if a transaction eligible for the election under section 338(h)(10) occurs, estimated tax would be determined based on the stock sale unless and until there is an agreement of the parties to make a section 338(h)(10) election.

If at the time of the sale there is an agreement of the parties to make a section 338(h)(10) election, then estimated tax is computed based on an asset sale. If the agreement to make a section 338(h)(10) election is concluded after the stock sale, such that the original computation was based on a stock sale, estimated tax is recomputed based on the asset sale election.

No inference is intended as to present law.

*Effective date*.—The Senate amendment is effective for transactions that occur after the date of enactment of the provision.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 14. Limit deduction for charitable contributions of patents and similar property (sec. 364 of the Senate amendment and sec. 170 of the Code)

### PRESENT LAW

In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization.[291] The amount of deduction generally equals the fair market value of the contributed cash or property on the date of the contribution.

For certain contributions of property, the taxpayer is required to reduce the deduction amount by any gain, generally resulting in a deduction equal to the taxpayer's basis. This rule applies to contributions of: (1) property that, at the time of contribution, would have resulted in short-term capital gain if the property was sold by the taxpayer on the contribution date; (2) tangible personal property that is used by the donee in a manner unrelated to the donee's exempt (or governmental) purpose; and (3) property to or for the use of a private foundation (other than a foundation defined in section 170(b)(1)(E)).

Charitable contributions of capital gain property generally are deductible at fair market value. Capital gain property means any capital asset or property used in the taxpayer's trade or business the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of capital gain property are subject to different percentage limitations than other contributions of property.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provision provides that the amount of the deduction for charitable contributions of patents, copyrights, trademarks, trade names, trade secrets, know-how, software, similar property, or applications or registrations of such property may not exceed the taxpayer's basis in the contributed property.

The Senate amendment provision provides the Secretary of the Treasury with the authority to issue regulations or other guidance to prevent avoidance of the purposes of the provision. In general, the provision is intended to prevent taxpayers from claiming a deduction in excess of basis with respect to charitable contributions of patents or similar property. A taxpayer would contravene the purposes of the provision, for example, by engaging in transactions or other activity that manipulated the basis of the contributed property or changed the form of the contributed property in order to increase the amount of the deduction. This might occur, for instance, if a taxpayer, for the purpose of claiming a larger deduction, engaged in activity that increased the basis of the contributed property by using related parties, pass-thru entities, or other intermediaries or means. The purpose of the provision also would be abused if a taxpayer changed the form of the property by, for example, embedding the property into a product, contributing the product, and claiming a fair market value deduction based in part on the fair market value of the embedded property. In such a case, any guidance issued by the Secretary of the Treasury may provide that the taxpayer is required to separate the embedded property from the related product and treat the charitable contribution as contributions of distinct properties, with each property subject to the applicable deduction rules.

*Effective date*.—The Senate amendment provision is effective for contributions made after May 7, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 15. Extension of provision permitting qualified transfers of excess pension assets to retiree health accounts (sec. 365 of the Senate amendment, sec. 420 of the Code, and secs. 101, 403, and 408 of ERISA)

### PRESENT LAW

Defined benefit plan assets generally may not revert to an employer prior to termination of the plan and satisfaction of all plan liabilities. In addition, a reversion may occur only if the plan so provides. A reversion prior to plan termination may constitute a prohibited transaction and may result in plan disqualification. Any assets that revert to the employer upon plan termination are includible in the gross income of the employer and subject to an excise tax. The excise tax rate is 20 percent if the employer maintains a replacement plan or makes certain benefit increases in connection with the termination; if not, the excise tax rate is 50 percent. Upon plan termination, the accrued benefits of all plan participants are required to be 100-percent vested.

A pension plan may provide medical benefits to retired employees through a separate account that is part of such plan. A qualified transfer of excess assets of a defined benefit plan to such a separate account within the plan may be made in order to fund retiree health benefits.[292] A qualified transfer does not result in plan disqualification, is not a prohibited transaction, and is not treated as a reversion. Thus, transferred assets are not includible in the gross income of the employer and are not subject to the excise tax on reversions. No more than one qualified transfer may be made in any taxable year.

Excess assets generally means the excess, if any, of the value of the plan's assets[293] over the greater of (1) the plan's full funding limit[294] or (2) 125 percent of the plan's current liability. In addition, excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. No deduction is allowed to the employer for (1) a qualified transfer or (2) the payment of qualified current retiree health liabilities out of transferred funds (and any income thereon).

Transferred assets (and any income thereon) must be used to pay qualified current retiree health liabilities for the taxable year of the transfer. Transferred amounts generally must benefit pension plan participants, other than key employees, who are entitled upon retirement to receive retiree medical benefits through the separate account. Retiree health benefits of key employees may not be paid out of transferred assets.

Amounts not used to pay qualified current retiree health liabilities for the taxable year of the transfer are to be returned to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversion and are subject to the 20-percent reversion tax.

In order for the transfer to be qualified, accrued retirement benefits under the pension plan generally must be 100-percent vested as if the plan terminated immediately before the transfer (or in the case of a participant who separated in the one-year period ending on the date of the transfer, immediately before the separation).

In order for a transfer to be qualified, the employer generally must maintain retiree health benefit costs at the same level for the taxable year of the transfer and the following four years.

In addition, the Employee Retirement Income Security Act of 1974 ("ERISA") provides that, at least 60 days before the date of a qualified transfer, the employer must notify the Secretary of Labor, the Secretary of the Treasury, employee representatives, and the plan administrator of the transfer, and the plan administrator must notify each plan participant and beneficiary of the transfer.[295]

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[291] Charitable deductions are provided for income, estate, and gift tax purposes. Secs. 170, 2055, and 2522, respectively.

[292] Sec. 420.

[293] The value of plan assets for this purpose is the lesser of fair market value or actuarial value.

[294] A plan's full funding limit is the lesser of (1) for years beginning before January 1, 2004, the applicable percentage of current liability and (2) the plan's accrued liability. The applicable percentage of current liability is 170 percent for 2003. The current liability full funding limit is repealed for years beginning after 2003. Under the general sunset provision of EGTRRA, the limit is reinstated for years after 2010.

[295] ERISA sec. 101(e). ERISA also provides that a qualified transfer is not a prohibited transaction under ERISA or a prohibited reversion.

No qualified transfer may be made after December 31, 2005.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment allows qualified transfers of excess defined benefit plan assets through December 31, 2013.

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 16. Proration rules for life insurance business of property and casualty insurance companies (sec. 366 of the Senate amendment and sec. 832 of the Code)

### PRESENT LAW

*Life insurance company proration rules*

A life insurance company is subject to tax on its life insurance company taxable income (LICTI) (sec. 801). LICTI is life insurance gross income reduced by life insurance deductions. For this purpose, a life insurance company includes in gross income any net decrease in reserves, and deducts a net increase in reserves. Because deductible reserve increases might be viewed as being funded proportionately out of taxable and tax-exempt income, the net increase and net decrease in reserves are computed by reducing the ending balance of the reserve items by the policyholders' share of tax-exempt interest (secs. 807(b)(2)(B) and (b)(1)(B)). Similarly, a life insurance company is allowed a dividends-received deduction for intercorporate dividends from nonaffiliates only in proportion to the company's share of such dividends (secs. 805(a)(4), 812). Fully deductible dividends from affiliates are excluded from the application of this proration formula, if such dividends are not themselves distributions from tax-exempt interest or from dividend income that would not be fully deductible if received directly by the taxpayer. In addition, the proration rule includes in prorated amounts the increase for the taxable year in policy cash values of life insurance policies and annuity and endowment contracts.

*Property and casualty insurance company proration rules*

The taxable income of a property and casualty insurance company is determined as the sum of its underwriting income and investment income (as well as gains and other income items), reduced by allowable deductions (sec. 832). Underwriting income means premiums earned during the taxable year less losses incurred and expenses incurred. In calculating its reserve for losses incurred, a property and casualty insurance company must reduce the amount of losses incurred by 15 percent of (1) the insurer's tax-exempt interest, (2) the deductible portion of dividends received (with special rules for dividends from affiliates), and (3) the increase for the taxable year in the cash value of life insurance, endowment or annuity contract (sec. 832(b)(5)(B)).

This 15-percent proration requirement was enacted in 1986. The reason the provision was adopted was Congress' belief that "it is not appropriate to fund loss reserves on a fully deductible basis out of income which may be, in whole or in part, exempt from tax. The amount of the reserves that is deductible should be reduced by a portion of such tax-exempt income to reflect the fact that reserves are generally funded in part from tax-exempt interest or from wholly or partially deductible dividends."[296]

*Property and casualty insurance companies with life insurance reserves*

Present law provides that a life insurance company means an insurance company engaged in the business of issuing life insurance, annuity, or noncancellable accident and health insurance, provided its reserves meet a 50-percent threshhold for its reserves (sec. 816). More than 50 percent of its reserves must constitute life insurance reserves or reserves for noncancellable accident and health policies. An insurance company that does not meet this 50-percent threshhold for reserves generally is subject to tax as a property and casualty insurance company. In determining the amount of premiums earned for purposes of calculating its taxable income, a property and casualty insurance company includes in unearned premiums the amount of life insurance reserves determined under the rules applicable to life insurance companies (secs. 832(b)(4), 807).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provision provides that the life insurance company proration rules, rather than the property and casualty insurance proration rules, apply with respect to life insurance reserves of a property and casualty company.

Specifically, the Senate amendment provision provides that any deduction attributable to life insurance reserves included in unearned premiums of a property and casualty company under section 832(b)(4) is reduced in the same manner as dividends received deductions of a life insurance company are reduced under the proration rules of section 805(a)(4).[297] In applying the policyholder's share and the company's share under this reduction, section 812 applies with respect to the life insurance business of the property and casualty company. For purposes of applying section 812(d), only the gross investment income attributable to the life insurance reserves referred to in section 832(b)(4) are taken into account. It is expected that Treasury will provide guidance as to reasonable methods of attributing gross investment income to such life insurance reserves.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 17. Modify treatment of transfers to creditors in divisive reorganizations (sec. 367 of the Senate amendment and secs. 357 and 361 of the Code)

### PRESENT LAW

Section 355 of the Code permits a corporation ("distributing") to separate its businesses by distributing a subsidiary tax-free, if certain conditions are met. In cases where the distributing corporation contributes property to the corporation ("controlled") that is to be distributed, no gain or loss is recognized if the property is contributed solely in exchange for stock or securities of the controlled corporation (which are subsequently distributed to distributing's shareholders). The contribution of property to a controlled corporation that is followed by a distribution of its stock and securities may qualify as a reorganization described in section 368(a)(1)(D). That section also applies to certain transactions that do not involve a distribution under section 355 and that are considered "acquisitive" rather than "divisive" reorganizations.

The contribution in the course of a divisive section 368(a)(1)(D) reorganization is also subject to the rules of section 357(c). That section provides that the transferor corporation will recognize gain if the amount of liabilities assumed by controlled exceeds the basis of the property transferred to it.

Because the contribution transaction in connection with a section 355 distribution is a reorganization under section 368(a)(1)(D), it is also subject to certain rules applicable to both divisive and acquisitive reorganizations. One such rule, in section 361(b), states that a transferor corporation will not recognize gain if it receives money or other property and distributes that money or other property to its shareholders or creditors. The amount of property that may be distributed to creditors without gain recognition is unlimited under this provision.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment limits the amount of money or other property that a distributing corporation can distribute to its creditors without gain recognition under section 361(b) to the amount of the basis of the assets contributed to a controlled corporation in a divisive reorganization. In addition, the Senate amendment provides that acquisitive reorganizations under section 368(a)(1)(D) are no longer subject to the liabilities assumption rules of section 357(c).

*Effective date.*—The Senate amendment provision is effective for transactions on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 18. Taxation of minor children (sec. 368 of the Senate amendment and sec. 1 of the Code)

### PRESENT LAW

*Filing requirements for children*

Single unmarried individuals eligible to be claimed as a dependent on another taxpayer's return generally must file an individual income tax return if he or she has (1) earned income only over $4,750 (for 2003), (2) unearned income only over the minimum standard deduction amount for dependents ($750 in 2003), or (3) both earned income and unearned income totaling more than the smaller of (a) $4,750 (for 2003) or (b) the larger of (i) $750 (for 2003), or (ii) earned income plus $250.[298] Thus, if a dependent child has less than $750 in gross income, the child does not have to file an individual income tax return for 2003.

A child who cannot be claimed as a dependent on another person's tax return (e.g., because the support test is not satisfied by any other person) is subject to the generally applicable filing requirements. That is, such an individual generally must file a return if the individual's gross income exceeds the sum of the standard deduction and the personal exemption amounts applicable to the individual.

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[296] H. R. Rep. No. 99-426, Report of the Committee on Ways and Means on H.R. 3838, The Tax Reform Act of 1985 (99th Cong., 1st Sess.), 670.

[297] As under present law, the reserve deduction determined under section 807 for life insurance reserves included in unearned premiums is reduced by the policyholder's share of tax-exempt interest and of the increase in policy cash values (sec. 807(b)(1)(B)).

[298] Sec. 6012(a)(1)(C). Other filing requirements apply to dependents who are married, elderly, or blind. See, Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 3, Table 1 (2002).

*Taxation of unearned income of minor children*

Special rules apply to the unearned income of a child under age 14. These rules, generally referred to as the "kiddie tax," tax certain unearned income of a child at the parent's rate, regardless of whether the child can be claimed as a dependent on the parent's return.[299] The kiddie tax applies if: (1) the child has not reached the age of 14 by the close of the taxable year, (2) the child's investment income was more than $1,500 (for 2003) and (3) the child is required to file a return for the year. The kiddie tax applies regardless of the source of the property generating the income or when the property giving rise to the income was transferred to or otherwise acquired by the child. Thus, for example, the kiddie tax may apply to income from property acquired by the child with compensation derived from the child's personal services or from property given to the child by someone other than the child's parent.

The kiddie tax is calculated by computing the "allocable parental tax." This involves adding the net unearned income of the child to the parent's income and then applying the parent's tax rate. A child's "net unearned income" is the child's unearned income less the sum of (1) the minimum standard deduction allowed to dependents ($750 for 2003), and (2) the greater of (a) such minimum standard deduction amount or (b) the amount of allowable itemized deductions that are directly connected with the production of the unearned income.[300] A child's net unearned income cannot exceed the child's taxable income.

The allocable parental tax equals the hypothetical increase in tax to the parent that results from adding the child's net unearned income to the parent's taxable income. If a parent has more than one child subject to the kiddie tax, the net unearned income of all children is combined, and a single kiddie tax is calculated. Each child is then allocated a proportionate share of the hypothetical increase.

If the parents file a joint return, the allocable parental tax is calculated using the income reported on the joint return. In the case of parents who are married but file separate returns, the allocable parental tax is calculated using the income of the parent with the greater amount of taxable income. In the case of unmarried parents, the child's custodial parent is the parent whose taxable income is taken into account in determining the child's liability. If the custodial parent has remarried, the stepparent is treated as the child's other parent. Thus, if the custodial parent and stepparent file a joint return, the kiddie tax is calculated using that joint return. If the custodial parent and stepparent file separate returns, the return of the one with the greater taxable income is used. If the parents are unmarried but lived together all year, the return of the parent with the greater taxable income is used.[301]

Unless the parent elects to include the child's income on the parent's return (as described below) the child files a separate return. In this case, items on the parent's return are not affected by the child's income. The total tax due from a child is the greater of:

(1) the sum of (a) the tax payable by the child on the child's earned income plus (b) the allocable parental tax or;

(2) the tax on the child's income without regard to the kiddie tax provisions.

*Parental election to include child's unearned income*

Under certain circumstances, a parent may elect to report a child's unearned income on the parent's return. If the election is made, the child is treated as having no income for the year and the child does not have to file a return. The requirements for the election are that:

(1) the child has gross income only from interest and dividends (including capital gains distributions and Alaska Permanent Fund Dividends);[302]

(2) such income is more than the minimum standard deduction amount for dependents ($750 in 2003) and less than 10 times that amount;

(3) no estimated tax payments for the year were made in the child's name and taxpayer identification number;

(4) no backup withholding occurred; and

(5) the child is required to file a return if the parent does not make the election.

Only the parent whose return must be used when calculating the kiddie tax may make the election. The parent includes in income the child's gross income in excess of twice the minimum standard deduction amount for dependents (i.e., the child's gross income in excess of $1,500 for 2003). This amount is taxed at the parent's rate. The parent also must report an additional tax liability equal to the lesser of: (1) $75 (in 2003), or (2) 10 percent of the child's gross income exceeding the child's standard deduction ($750 in 2003).

Including the child's income on the parent's return can affect the parent's deductions and credits that are based on adjusted gross income, as well as income-based phaseouts, limitations, and floors.[303] In addition, certain deductions that the child would have been entitled to take on his or her own return are lost.[304] Further, if the child received tax-exempt interest from a private activity bond, that item is considered a tax preference of the parent for alternative minimum tax purposes.[305]

*Taxation of child's compensation for services*

Compensation for a child's services, even though not retained by the child, is considered the gross income of the child, not the parent, even if the compensation is not received by the child (e.g. is the parent's income under local law).[306] If the child's income tax is not paid, however, an assessment against the child will be considered as also made against the parent to the extent the assessment is attributable to amounts received for the child's services.[307]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provision increases the age of minors to which the kiddie tax provisions apply from under 14 to under 18.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

19. Provide consistent amortization period for intangibles (sec. 369 of the Senate amendment and secs. 195, 248, and 709 of the Code)

### PRESENT LAW

At the election of the taxpayer, start-up expenditures[308] and organizational expenditures[309] may be amortized over a period of not less than 60 months, beginning with the month in which the trade or business begins. Start-up expenditures are amounts that would have been deductible as trade or business expenses, had they not been paid or incurred before business began. Organizational expenditures are expenditures that are incident to the creation of a corporation (sec. 248) or the organization of a partnership (sec. 709), are chargeable to capital, and that would be eligible for amortization had they been paid or incurred in connection with the organization of a corporation or partnership with a limited or ascertainable life.

Treasury regulations[310] require that a taxpayer file an election to amortize start-up expenditures no later than the due date for the taxable year in which the trade or business begins. The election must describe the trade or business, indicate the period of amortization (not less than 60 months), describe each start-up expenditure incurred, and indicate the month in which the trade or business began. Similar requirements apply to the election to amortize organizational expenditures. A revised statement may be filed to include start-up and organizational expenditures that were not included on the original statement, but a taxpayer may not include as a start-up expenditure any amount that was previously claimed as a deduction.

Section 197 requires most acquired intangible assets (such as goodwill, trademarks, franchises, and patents) that are held in connection with the conduct of a trade or business or an activity for the production of income to be amortized over 15 years beginning with the month in which the intangible was acquired.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment modifies the treatment of start-up and organizational expeditures. A taxpayer would be allowed to elect to deduct up to $5,000 each of start-up and organizational expenditures in the taxable year in which the trade or business begins. However, each $5,000 amount is reduced (but not below zero) by the amount by which the cumulative cost of start-up or organizational expenditures exceeds $50,000, respectively. Start-up and organizational expenditures that are not deductible in the year in which the trade or business begins would be amortized over a 15-year period consistent with the amortization period for section 197 intangibles.

*Effective date.*—The Senate amendment provision is effective for start-up and organizational expenditures incurred after the date of enactment. Start-up and organizational expenditures that are incurred on or before the date of enactment would continue to be eligible to be amortized over a period not to exceed 60 months. However, all start-up and organizational expenditures related to a particular trade or business, whether incurred before or after the date of enactment, would be considered in determining whether the cumulative cost of start-up or organizational expenditures exceeds $50,000.

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[299] Sec. 1(g).

[300] Sec. 1(g)(4).

[301] Sec. 1(g)(5); Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 6 (2002).

[302] Internal Revenue Service, Publication 929, Tax Rules for children andDependents, at 7 (2002).

[303] Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 8 (2002).

[304] Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 7 (2002).

[305] Sec. 1(g)(7)(B).

[306] Sec. 73(a).

[307] Sec. 6201(c).

[308] Sec. 195

[309] Secs. 248 and 709.

[310] Treas. Reg. sec. 1.195-1.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

20. Clarify definition of nonqualified preferred stock (sec. 370 of the Senate amendment and sec. 351 of the Code)

PRESENT LAW

The Taxpayer Relief Act of 1997 amended sections 351, 354, 355, 356, and 1036 to treat "nonqualified preferred stock" as boot in corporate transactions, subject to certain exceptions. For this purpose, preferred stock is defined as stock that is "limited and preferred as to dividends and does not participate in corporate growth to any significant extent." Nonqualified preferred stock is defined as any preferred stock if (1) the holder has the right to require the issuer or a related person to redeem or purchase the stock, (2) the issuer or a related person is required to redeem or purchase, (3) the issuer or a related person has the right to redeem or repurchase, and, as of the issue date, it is more likely than nor that such right will be exercised, or (4) the dividend rate varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or similar indices, regardless of whether such varying rate is provided as an express term of the stock (as in the case of an adjustable rate stock) or as a practical result of other aspects of the stock (as in the case of auction stock). For this purpose, clauses (1), (2), and (3) apply if the right or obligation may be exercised within 20 years of the issue date and is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision clarifies the definition of nonqualified preferred stock to ensure that stock for which there is not a real and meaningful likelihood of actually participating in the earnings and profits of the corporation is not considered to be outside the definition of stock that is limited and preferred as to dividends and does not participate in corporate growth to any significant extent.

As one example, instruments that are preferred on liquidation and that are entitled to the same dividends as may be declared on common stock do not escape being nonqualified preferred stock by reason of that right if the corporation does not in fact pay dividends either to its common or preferred stockholders. As another example, stock that entitles the holder to a dividend that is the greater of 7 percent or the dividends common shareholders receive does not avoid being preferred stock if the common shareholders are not expected to receive dividends greater than 7 percent.

No inference is intended as to the characterization of stock under present law that has terms providing for unlimited dividends or participation rights but, based on all the facts and circumstances, is limited and preferred as to dividends and does not participate in corporate growth to any significant extent.

*Effective date.*—The Senate amendment provision is effective for transactions after May 14, 2003.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

21. Establish specific class lives for utility grading costs (sec. 371 of the Senate amendment and sec. 168 of the Code)

PRESENT LAW

A taxpayer is allowed a depreciation deduction for the exhaustion, wear and tear, and obsolescence of property that is used in a trade or business or held for the production of income. For most tangible property placed in service after 1986, the amount of the depreciation deduction is determined under the modified accelerated cost recovery system (MACRS) using a statutorily prescribed depreciation method, recovery period, and placed in service convention. For some assets, the recovery period for the asset is provided in section 168. In other cases, the recovery period of an asset is determined by reference to its class life. The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87-56.[311] If no class life is provided, the asset is allowed a 7-year recovery period under MACRS.

Assets that are used in the transmission and distribution of electricity for sale are included in asset class 49.14, with a class life of 30 years and a MACRS recovery period of 20 years. The cost of initially clearing and grading land improvements are specifically excluded from asset class 49.14. Prior to adoption of the accelerated cost recovery system, the IRS ruled that an average useful life of 84 years for the initial clearing and grading relating to electric transmission lines and 46 years for the initial clearing and grading relating to electric distribution lines, would be accepted. However, the result in this ruling was not incorporated in the asset classes included in Rev. Proc. 87-56 or its predecessors. Accordingly such costs are depreciated over a 7-year recovery period under MACRS as assets for which no class life is provided.

A similar situation exists with regard to gas utility trunk pipelines and related storage facilities. Such assets are included in asset class 49.24, with a class life of 22 years and a MACRS recovery period of 15 years. Initial clearing and grade improvements are specifically excluded from the asset class, and no separate asset class is provided for such costs. Accordingly, such costs are depreciated over a 7-year recovery period under MACRS as assets for which no class life is provided.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment assigns a class life to depreciable electric and gas utility clearing and grading costs incurred to locate transmission and distribution lines and pipelines. The provision includes these assets in the asset classes of the property to which the clearing and grading costs relate (generally, asset class 49.14 for electric utilities and asset class 49.24 for gas utilities, giving these assets a recovery period of 20 years and 15 years, respectively).

*Effective date.*—The Senate amendment provision is effective for electric and gas utility clearing and grading costs incurred after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

22. Prohibition on nonrecognition of gain through complete liquidation of holding company (sec. 372 of the Senate amendment and secs. 331 and 332 of the Code)

PRESENT LAW

A U.S. corporation owned by foreign persons is subject to U.S. income tax on its net income. In addition, the earnings of the U.S. corporation are subject to a second tax, when dividends are paid to the corporation's shareholders.

In general, dividends paid by a U.S. corporation to nonresident alien individuals and foreign corporations that are not effectively connected with a U.S. trade or business are subject to a U.S. withholding tax on the gross amount of such income at a rate of 30 percent. The 30-percent withholding tax may be reduced pursuant to an income tax treaty between the United States and the foreign country where the foreign person is resident.

In addition, the United States imposes a branch profits tax on U.S. earnings of a foreign corporation that are shifted out of a U.S. branch of the foreign corporation. The branch profits tax is comparable to the second-level taxes imposed on dividends paid by a U.S. corporation to foreign shareholders. The branch profits tax is 30 percent (subject to possible income tax treaty reduction) of a foreign corporation's dividend equivalent amount. The "dividend equivalent amount" generally is the earnings and profits of a U.S. branch of a foreign corporation attributable to its income effectively connected with a U.S. trade or business.

In general, U.S. withholding tax is not imposed with respect to a distribution of a U.S. corporation's earnings to a foreign corporation in complete liquidation of the subsidiary, because the distribution is treated as made in exchange for stock and not as a dividend. In addition, detailed rules apply for purposes of exempting foreign corporations from the branch profits tax for the year in which it completely terminates its U.S. business conducted in branch form. The exemption from the branch profits tax generally applies if, among other things, for three years after the termination of the U.S. branch, the foreign corporation has no income effectively connected with a U.S. trade or business, and the U.S. assets of the terminated branch are not used by the foreign corporation or a related corporation in a U.S. trade or business.

Regulations under section 367(e) provide that the Commissioner may require a domestic liquidating corporation to recognize gain on distributions in liquidation made to a foreign corporation if a principal purpose of the liquidation is the avoidance of U.S. tax. Avoidance of U.S. tax for this purpose includes, but is not limited to, the distribution of a liquidating corporation's earnings and profits with a principal purpose of avoiding U.S. tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment generally would treat as a dividend any distribution of earnings by a U.S. holding company to a foreign corporation in a complete liquidation, if the U.S. holding company was in existence for less than five years

*Effective date.*—The Senate amendment would be effective for liquidations and terminations occurring on or after the date of enactment.

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[311] 1987-2 C.B. 674 (as clarified and modified by Rev. Proc. 88-22, 1988-1 C.B. 785).

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 23. Lease term to include certain service contracts (sec. 373 of the Senate amendment and sec. 168 of the Code)

#### PRESENT LAW

Under present law, "tax-exempt use property" must be depreciated on a straight-line basis over a recovery period equal to the longer of the property's class life or 125 percent of the lease term.[312] For purposes of this rule, "tax-exempt use property" is property that is leased (other than under a short-term lease) to a tax-exempt entity.[313] For this purpose, the term "tax-exempt entity" includes Federal, state and local governmental units, charities, and, foreign entities or persons.[314]

In determining the length of the lease term for purposes of the 125 percent calculation, a number of special rules apply. In addition to the stated term of the lease, the lease term includes: (1) Any additional period of time in the realistic contemplation of the parties at the time the property is first put in service; (2) any additional period of time for which either the lessor or lessee has the option to renew the lease (whether or not it is expected that the option will be exercised); (3) any additional period of any successive leases which are part of the same transaction (or series of related transactions) with respect to the same or substantially similar property; and (4) any additional period of time (even if the lessee may not continue to be the lessee during that period), if the lessee (a) has agreed to make a payment in the nature of rent with respect to such period or (b) has assumed or retained any risk of loss with respect to such property for such period.

Tax-exempt use property does not include property that is used by a taxpayer to provide a service to a tax-exempt entity. So long as the relationship between the parties is a *bona fide* service contract, the taxpayer will be allowed to depreciate the property used in satisfying the contract under normal MACRS rules, rather than the rules applicable to tax-exempt use property.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment requires lessors of tax-exempt use property to include the term of optional service contracts and other similar arrangements in the lease term for purposes of determining the recovery period.

*Effective date.*—The Senate amendment provision is effective for leases and other similar arrangements entered into after the date of enactment. No inference is intended with respect to the tax treatment of leases and other similar arrangements entered into before such date.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 24. Exclusion of like-kind exchange property from nonrecognition treatment on the sale or exchange of a principal residence (sec. 374 of the Senate amendment and sec. 121 of the Code)

#### PRESENT LAW

Under present law, a taxpayer may exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence.[315] To be eligible for the exclusion, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years prior to the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances is able to exclude an amount equal to the fraction of the $250,000 ($500,000 if married filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met. There are no special rules relating to the sale or exchange of a principal residence that was acquired in a like-kind exchange within the prior five years.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provides that the exclusion for gain on the sale or exchange of a principal residence does not apply if the principal residence was acquired in a like-kind exchange in which any gain was not recognized within the prior five years.

*Effective date.*—The Senate amendment provision is effective for sales or exchanges of principal residences after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## F. Other Provisions

### 1. Temporary State and local fiscal relief (sec. 381 of the Senate amendment)

#### PRESENT LAW

No provision.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment extends relief to States by establishing a temporary fund to provide $10 billion, divided among State and local governments, to be used for health care, education or job training; transportation or infrastructure; law enforcement or public safety; and other essential governmental services, and $10 billion for Medicaid (FMAP).

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement provides relief to States by establishing a temporary fund to provide $10 billion divided among the States to be used for essential government services, and $10 billion for Medicaid (FMAP). Nothing in this subsection shall be construed to preclude consideration of reforms to improve the Medicaid program.

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

### 2. Review of State agency blindness and disability determinations (sec. 382 of the Senate amendment)

#### PRESENT LAW

State agencies are required to conduct blindness and disability determinations to establish an individual's eligibility for: (1) Title II (Federal Old-Age, Survivors, and Disability Insurance (OASDI) benefits); and (2) Title XVI (Supplemental Security Income (SSI)). Disability determinations are made in accordance with disability criteria defined in statute as well as standards promulgated under regulations or other guidance.

Under present law, the Commissioner of Social Security is required to review the State agencies' Title II initial blindness and disability determinations in advance of awarding payment to individuals determined eligible. This requirement for review is met when: (1) at least 50 percent of all such determinations have been reviewed, or (2) other such determinations have been reviewed as necessary to ensure a high level of accuracy. Under present law, there is no similar review for Title XVI.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment extends the initial review requirements for Title XVI SSI blindness and disability determinations with those currently required under Title II.

*Effective date.*-The Senate amendment provision is effective on October 1, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 3. Prohibition on use of SCHIP funds to provide coverage for childless adults (sec. 383 of the Senate amendment)

#### PRESENT LAW

Title XXI of the Social Security Act provides states with allocations to provide health insurance for children through State Children Health Insurance Program (SCHIP). In this statute, Congress specified that SCHIP allocations could only be used "to enable [States] to initiate and expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner."[316]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment clarifies that SCHIP funds cannot be used for childless adults.

*Effective date.*-The Senate amendment provision is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 4. Increase Medicaid payments to states with extremely low disproportionate share hospitals (sec. 384 of the Senate amendment)

#### PRESENT LAW

Since 1981, States have been required to recognize, in establishing their Medicaid payment rates, the situation of hospitals that serve a disproportionate number of Medicaid beneficiaries and low-income patients. These hospitals are known as Disproportionate Share Hospitals ("DSH"). In State defined as extremely low DSH States, DSH payments are statutorily capped at one percent.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment increases the one percent cap on Medicaid payments to States defined as extremely low DSH States. The amendment increases that cap to three percent for fiscal year 2004. Twenty states benefit from this provision.

*Effective date.*-The Senate amendment provision is effective on the date of enactment for payments made in fiscal year 2004.

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[312] Sec. 168(g)(3)(A).

[313] Sec. 168(h)(1).

[314] Sec. 168(h)(2).

[315] Sec. 121.

[316] Social Security Act section 2101(a).

##### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## VI. SMALL BUSINESS AND AGRICULTURAL PROVISIONS

### A. Small Business Provisions

#### 1. Exclusion of certain indebtedness of small business investment companies from acquisition indebtedness (sec. 401 of the bill and sec. 514 of the Code)

##### PRESENT LAW

In general, an organization that is otherwise exempt from Federal income tax is taxed on income from a trade or business that is unrelated to the organization's exempt purposes. Certain types of income, such as rents, royalties, dividends, and interest, generally are excluded from unrelated business taxable income except when such income is derived from "debt-financed property." Debt-financed property generally means any property that is held to produce income and with respect to which there is acquisition indebtedness at any time during the taxable year.

In general, income of a tax-exempt organization that is produced by debt-financed property is treated as unrelated business income in proportion to the acquisition indebtedness on the income-producing property. Acquisition indebtedness generally means the amount of unpaid indebtedness incurred by an organization to acquire or improve the property and indebtedness that would not have been incurred but for the acquisition or improvement of the property.[317] Acquisition indebtedness does not include, however, (1) certain indebtedness incurred in the performance or exercise of a purpose or function constituting the basis of the organization's exemption, (2) obligations to pay certain types of annuities, (3) an obligation, to the extent it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons, or (4) indebtedness incurred by certain qualified organizations to acquire or improve real property. An extension, renewal, or refinancing of an obligation evidencing a pre-existing indebtedness is not treated as the creation of a new indebtedness.

##### HOUSE BILL

No provision.

##### SENATE AMENDMENT

The Senate amendment provision modifies the debt-financed property provisions by excluding from the definition of acquisition indebtedness any indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 that is evidenced by a debenture (1) issued by such company under section 303(a) of said Act, or (2) held or guaranteed by the Small Business Administration.

*Effective date.*—The Senate amendment provision applies to debt incurred after December 31, 2002, by a small business investment company described in the provision, with respect to property acquired by such company after such date.

##### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

#### 2. Repeal of occupational taxes relating to distilled spirits, wine, and beer (sec. 402 of the Senate amendment and secs. 5081, 5091, 5111, 5121, 5131, and 5276 of the Code)

##### PRESENT LAW

Under present law, special occupational taxes are imposed on producers and others engaged in the marketing of distilled spirits, wine, and beer. These excise taxes are imposed as part of a broader Federal tax and regulatory engine governing the production and marketing of alcoholic beverages. The special occupational taxes are payable annually, on July 1 of each year. The present tax rates are as follows:

Producers[318]:
Distilled spirits and wines (sec. 5081)—$1,000 per year, per premise.
Brewers (sec. 5091)—$1,000 per year, per premise.
Wholesale dealers (sec. 5111): Liquors, wines, or beer—$500 per year.
Retail dealers (sec. 5121): Liquors, wines, or beer—$250 per year.
Nonbeverage use of distilled spirits (sec. 5131)—$500 per year.
Industrial use of distilled spirits (sec. 5276)—$250 per year.

##### HOUSE BILL

No provision.

##### SENATE AMENDMENT

The special occupational taxes on producers and marketers of alcoholic beverages are repealed. The recordkeeping and inspection authorities applicable to wholesalers and retailers are retained. For purposes of the recordkeeping requirements for wholesale and retail liquor dealers, the provision provides a rebuttable presumption that a person who sells, or offers for sale, distilled spirits, wine, or beer, in quantities of 20 wine gallons or more to the same person at the same time is engaged in the business of a wholesale dealer in liquors or a wholesale dealer in beer. In addition, the provision retains present-law in that it continues to make it unlawful for any liquor dealer to purchase distilled spirits for resale from any person other than a wholesale liquor dealer subject to the recordkeeping requirements. Existing general criminal penalties relating to records and reports apply to wholesalers and retailers who fail to comply with these requirements.

*Effective date.*—The Senate amendment provision is effective on July 1, 2003. The provision does not affect liability for taxes imposed with respect to periods before July 1, 2003.

##### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

#### 3. Custom gunsmiths (sec. 403 of the Senate amendment and sec. 4182 of the Code)

##### PRESENT LAW

The Code imposes an excise tax upon the sale by the manufacturer, producer or importer of certain firearms and ammunition (sec. 4181). Pistols and revolvers are taxable at 10 percent. Firearms (other than pistols and revolvers), shells, and cartridges are taxable at 11 percent. The excise tax for firearms imposed on manufacturers, producers, and importers does not apply to machine guns and short barreled firearms (sec. 4182(a)). Sales of firearms, pistols, revolvers, shells and cartridges to the Department of Defense also are exempt from the tax (sec. 4182(b)).

##### HOUSE BILL

No provision.

##### SENATE AMENDMENT

The Senate amendment exempts from the firearms excise tax articles manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year. Controlled groups are treated as a single person in determining the 50-article limit.

*Effective date.*—The Senate amendment provision is effective for articles sold by the manufacturer, producer, or importer on or before the date the first day of the month beginning at least two weeks after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date sales.

##### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

#### 4. Simplification of excise tax imposed on bows and arrows (sec. 404 of the Senate amendment and sec. 4161 of the Code)

##### PRESENT LAW

The Code imposes an excise tax of 11 percent on the sale by a manufacturer, producer or importer of any bow with a draw rate of 10 pounds or more (sec. 4161(b)(1)(A)). An excise tax of 12.4 percent is imposed on the sale by a manufacturer or importer of any shaft, point, nock, or vane designed for use as part of an arrow which after its assembly (1) is over 18 inches long, or (2) is designed for use with a taxable bow (if shorter than 18 inches) (sec. 4161(b)(2)). No tax is imposed on finished arrows. An 11-percent excise tax also is imposed on any part of an accessory for taxable bows and on quivers for use with arrows (1) over 18 inches long or (2) designed for use with a taxable bow (if shorter than 18 inches) (sec. 4161(b)(1)(B)).

##### HOUSE BILL

No provision.

##### SENATE AMENDMENT

The Senate amendment increases the minimum draw weight for a taxable bow from 10 pounds to 30 pounds. The Senate amendment also imposes an excise tax of 12 percent on arrows generally. An arrow for this purpose is defined as an arrow shaft to which additional components are attached. The present law 12.4-percent excise tax on certain arrow components is unchanged by the provision. The Senate amendment provides that the 12-percent excise tax on arrows does not apply if the arrow contains an arrow shaft that was subject to the tax on arrow components. Finally, the Senate amendment subjects certain broadheads (a type of arrow point) to an excise tax equal to 11 percent of the sales price instead of 12.4 percent.

*Effective date.*—The Senate amendment provision is effective on the date of enactment for articles sold by the manufacturer, producer, or importer.

##### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[317] Special rules apply in the case of an exempt organization that owns a partnership interest in a partnership that holds debt-financed income-producing property. An exempt organization's share of partnership income that is derived from such debt-financed property generally is taxed as debt-financed income unless an exception provides otherwise.

[318] A reduced rate of tax in the amount of $500.00 is imposed on small proprietors (secs. 5081(b) and 5091(b)).

### B. Agricultural Provisions

### 1. Capital gains treatment to apply to outright sales of timber by landowner (sec. 411 of the Senate Amendment and sec. 631 of the Code)

PRESENT LAW

Under present law, a taxpayer disposing of timber held for more than one year is eligible for capital gains treatment in three situations. First, if the taxpayer sells or exchanges timber that is a capital asset (sec. 1221) or property used in the trade or business (sec. 1231), the gain generally is long-term capital gain; however, if the timber is held for sale to customers in the taxpayer's business, the gain will be ordinary income. Second, if the taxpayer disposes of the timber with a retained economic interest, the gain is eligible for capital gain treatment (sec. 631(b)). Third, if the taxpayer cuts standing timber, the taxpayer may elect to treat the cutting as a sale or exchange eligible for capital gains treatment (sec. 631(a)).

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, in the case of a sale of timber by the owner of the land from which the timber is cut, the requirement that a taxpayer retain an economic interest in the timber in order to treat gains as capital gain under section 631(b) does not apply. Outright sales of timber by the landowner will qualify for capital gains treatment in the same manner as sales with a retained economic interest qualify under present law, except that the usual tax rules relating to the timing of the income from the sale of the timber will apply (rather than the special rule of section 631(b) treating the disposal as occurring on the date the timber is cut).

*Effective date.*—The Senate amendment provision is effective for sales of timber after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the provision in the Senate amendment.

### 2. Special rules for livestock sold on account of weather-related conditions (sec. 412 of the Senate amendment and secs. 1033 and 451 of the Code)

PRESENT LAW

A taxpayer generally recognizes gain on the sale of property to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion.

The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or if earlier, the earliest date of the threat or imminence of requisition or condemnation of the converted property) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized (the "replacement period"). Special rules extend the replacement period for certain real property and principal residences damaged by a Presidentially declared disaster to three years and four years, respectively, after the close of the first taxable year in which gain is realized.

Section 1033(e) provides that the sale of livestock (other than poultry) that is held for draft, breeding, or dairy purposes in excess of the number of livestock that would have been sold but for drought, flood, or other weather-related conditions is treated as an involuntary conversion. Consequently, gain from the sale of such livestock could be deferred by reinvesting the proceeds of the sale in similar property within a two-year period.

In general, cash-method taxpayers report income in the year it is actually or constructively received. However, section 451(e) provides that a cash-method taxpayer whose principal trade or business is farming who is forced to sell livestock due to drought, flood, or other weather-related conditions may elect to include income from the sale of the livestock in the taxable year following the taxable year of the sale. This elective deferral of income is available only if the taxpayer establishes that, under the taxpayer's usual business practices, the sale would not have occurred but for drought, flood, or weather-related conditions that resulted in the area being designated as eligible for Federal assistance. This exception is generally intended to put taxpayers who receive an unusually high amount of income in one year in the position they would have been in absent the weather-related condition.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the applicable period for a taxpayer to replace livestock sold on account of drought, flood, or other weather-related conditions from two years to four years after the close of the first taxable year in which any part of the gain on conversion is realized. The extension is only available if the taxpayer establishes that, under the taxpayer's usual business practices, the sale would not have occurred but for drought, flood, or weather-related conditions that resulted in the area being designated as eligible for Federal assistance. In addition, the Secretary of the Treasury is granted authority to further extend the replacement period on a regional basis should the weather-related conditions continue longer than three years. For property eligible for the provision's extended replacement period, the provision provides that the taxpayer can make an election under section 451(e) until the period for reinvestment of such property under section 1033 expires.

*Effective date.*—The Senate amendment provision is effective for any taxable year with respect to which the due date (without regard to extensions) for the return is after December 31, 2002.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 3. Exclusion from gross income for amounts paid under National Health Service Corps loan repayment program (sec. 413 of the of the Senate amendment and sec. 108 of the Code)

PRESENT LAW

The National Health Service Corps Loan Repayment Program (the "NHSC Loan Repayment Program") provides loan repayments to participants on condition that the participants provide certain services. In the case of the NHSC Loan Repayment Program, the recipient of the loan repayment is obligated to provide medical services in a geographic area identified by the Public Health Service as having a shortage of health-care professionals. Loan repayments may be as much as $35,000 per year of service plus a tax assistance payment of 39 percent of the repayment amount.

Generally, gross income means all income from whatever source derived including income for the discharge of indebtedness. However, gross income does not include discharge of indebtedness income if: (1) the discharge occurs in a Title 11 case; (2) the discharge occurs when the taxpayer is insolvent; (3) the indebtedness discharged is qualified farm indebtedness; or (4) except in the case of a C corporation, the indebtedness discharged is qualified real property business indebtedness.

Because the loan repayments provided under the NHSC Loan Repayment Program are not specifically excluded from gross income, they are gross income to the recipient.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision excludes from gross income loan repayments provided under the NHSC Loan Repayment Program.

*Effective date.*—The Senate amendment provision is effective with respect to amounts received by an individual in taxable years beginning after December 31, 2002.

CONFERENCE AGREEMENT

The Conference agreement does not include the Senate amendment provision.

### 4. Payment of dividends on stock of cooperatives without reducing patronage dividends (sec. 414 of the Senate amendment and sec. 1388 of the Code)

PRESENT LAW

Under present law, cooperatives generally are entitled to deduct or exclude amounts distributed as patronage dividends in accordance with Subchapter T of the Code. In general, patronage dividends are comprised of amounts that are paid to patrons (1) on the basis of the quantity or value of business done with or for patrons, (2) under a valid and enforceable obligation to pay such amounts that was in existence before the cooperative received the amounts paid, and (3) which are determined by reference to the net earnings of the cooperative from business done with or for patrons.

Treasury Regulations provide that net earnings are reduced by dividends paid on capital stock or other proprietary capital interests (referred to as the "dividend allocation rule").[319] The dividend allocation rule has been interpreted to require that such dividends be allocated between a cooperative's patronage and nonpatronage operations, with the amount allocated to the patronage operations reducing the net earnings available for the payment of patronage dividends.

HOUSE BILL

No provision.

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[319] Treas. Reg. sec. 1.1388-1(a)(1).

### SENATE AMENDMENT

The Senate amendment provides a special rule for dividends on capital stock of a cooperative. To the extent provided in organizational documents of the cooperative, dividends on capital stock do not reduce patronage income and do not prevent the cooperative from being treated as operating on a cooperative basis.

*Effective date.*—The Senate amendment provision is effective for distributions made in taxable years ending after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## VII. SIMPLIFICATION AND OTHER PROVISIONS

### A. Establish Uniform Definition of a Qualifying Child (Secs. 501 Through 508 of the Senate Amendment and Secs. 2, 21, 24, 32, 151, and 152 of the Code)

### PRESENT LAW

*In general*

Present law contains five commonly used provisions that provide benefits to taxpayers with children: (1) the dependency exemption; (2) the child credit; (3) the earned income credit; (4) the dependent care credit; and (5) head of household filing status. Each provision has separate criteria for determining whether the taxpayer qualifies for the applicable tax benefit with respect to a particular child. The separate criteria include factors such as the relationship (if any) the child must bear to the taxpayer, the age of the child, and whether the child must live with the taxpayer. Thus, a taxpayer is required to apply different definitions to the same individual when determining eligibility for these provisions, and an individual who qualifies a taxpayer for one provision does not automatically qualify the taxpayer for another provision.

*Dependency exemption*[320]

*In general*

Taxpayers are entitled to a personal exemption deduction for the taxpayer, his or her spouse, and each dependent. For 2003, the amount deductible for each personal exemption is $3,050. The deduction for personal exemptions is phased out for taxpayers with incomes above certain thresholds.[321]

In general, a taxpayer is entitled to a dependency exemption for an individual if the individual: (1) satisfies a relationship test or is a member of the taxpayer's household for the entire taxable year; (2) satisfies a support test; (3) satisfies a gross income test or is a child of the taxpayer under a certain age; (4) is a citizen or resident of the U.S. or resident of Canada or Mexico;[322] and (5) did not file a joint return with his or her spouse for the year.[323] In addition, the taxpayer identification number of the individual must be included on the taxpayer's return.

*Relationship or member of household test*

*Relationship test.*—The relationship test is satisfied if an individual is the taxpayer's (1) son or daughter or a descendant of either (e.g., grandchild or great-grandchild); (2) stepson or stepdaughter; (3) brother or sister (including half brother, half sister, stepbrother, or stepsister); (4) parent, grandparent, or other direct ancestor (but not foster parent); (5) stepfather or stepmother; (6) brother or sister of the taxpayer's father or mother; (7) son or daughter of the taxpayer's brother or sister; or (8) the taxpayer's father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

An adopted child (or a child who is a member of the taxpayer's household and who has been placed with the taxpayer for adoption) is treated as a child of the taxpayer. A foster child is treated as a child of the taxpayer if the foster child is a member of the taxpayer's household for the entire taxable year.

*Member of household test.*—If the relationship test is not satisfied, then the individual may be considered the dependent of the taxpayer if the individual is a member of the taxpayer's household for the entire year. Thus, a taxpayer may be eligible to claim a dependency exemption with respect to an unrelated child who lives with the taxpayer for the entire year.

For the member of household test to be satisfied, the taxpayer must both maintain the household and occupy the household with the individual.[324] A taxpayer or other individual does not fail to be considered a member of a household because of "temporary" absences due to special circumstances, including absences due to illness, education, business, vacation, and military service.[325] Similarly, an individual does not fail to be considered a member of the taxpayer's household due to a custody agreement under which the individual is absent for less than six months.[326] Indefinite absences that last for more than the taxable year may be considered "temporary." For example, the IRS has ruled that an elderly woman who was indefinitely confined to a nursing home was temporarily absent from a taxpayer's household. Under the facts of the ruling, the woman had been an occupant of the household before being confined to a nursing home, the confinement had extended for several years, and it was possible that the woman would die before becoming well enough to return to the taxpayer's household. There was no intent on the part of the taxpayer or the woman to change her principal place of abode.[327]

*Support test*

*In general.*—The support test is satisfied if the taxpayer provides over one half of the support of the individual for the taxable year. To determine whether a taxpayer has provided more than one half of an individual's support, the amount the taxpayer contributed to the individual's support is compared with the entire amount of support the individual received from all sources, including the individual's own funds.[328] Governmental payments and subsidies (e.g., Temporary Assistance to Needy Families, food stamps, and housing) generally are treated as support provided by a third party. Expenses that are not directly related to any one member of a household, such as the cost of food for the household, must be divided among the members of the household. If any person furnishes support in kind (e.g., in the form of housing), then the fair market value of that support must be determined.

*Multiple support agreements.*—In some cases, no one taxpayer provides more than one half of the support of an individual. Instead, two or more taxpayers, each of whom would be able to claim a dependency exemption but for the support test, together provide more than one half of the individual's support. If this occurs, the taxpayers may agree to designate that one of the taxpayers who individually provides more than 10 percent of the individual's support can claim a dependency exemption for the child. Each of the others must sign a written statement agreeing not to claim the exemption for that year. The statements must be filed with the income tax return of the taxpayer who claims the exemption.

*Special rules for divorced or legally separated parents.*—Special rules apply in the case of a child of divorced or legally separated parents (or parents who live apart at all times during the last six months of the year) who provide over one half the child's support during the calendar year.[329] If such a child is in the custody of one or both of the parents for more than one half of the year, then the parent having custody for the greater portion of the year is deemed to satisfy the support test; however, the custodial parent may release the dependency exemption to the noncustodial parent by filing a written declaration with the IRS.[330]

*Gross income test*

In general, an individual may not be claimed as a dependent of a taxpayer if the individual has gross income that is at least equal to the personal exemption amount for the taxable year.[331] If the individual is the child of the taxpayer and under age 19 (or under age 24, if a full-time student), the gross income test does not apply.[332] For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child of the taxpayer, a foster child who resides with the taxpayer for the entire year, or a child placed with the taxpayer for adoption by an authorized adoption agency).

*Earned income credit*[333]

*In general*

In general, the earned income credit is a refundable credit for low-income workers. The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no "qualifying children." In order to be a qualifying child for the earned income credit, an individual must satisfy a relationship test, a residency test, and an age test. In addition, the name, age, and taxpayer identification number of the qualifying child must be included on the return.

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[320] Secs. 151 and 152. Under the statutory structure, section 151 provides for the deduction for personal exemptions with respect to "dependents." The term "dependent" is defined in section 152. Most of the requirements regarding dependents are contained in section 152; section 151 contains additional requirements that must be satisfied in order to obtain a dependency exemption with respect to a dependent (as so defined). In particular, section 151 contains the gross income test, the rules relating to married dependents filing a joint return, and the requirement for a taxpayer identification number. The other rules discussed here are contained in section 151.

[321] Sec. 151(d)(3).

[322] A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a dependent (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States. Sec. 152(b)(3).

[323] This restriction does not apply if the return was filed solely to obtain a refund and no tax liability would exist for either spouse if they filed separate returns. Rev. Rul. 54-567, 1954-2 C.B. 108.

[324] Treas. Reg. sec. 1.152-1(b).

[325] Id.

[326] Id.

[327] Rev. Rul. 66-28, 1966-1 C.B. 31.

[328] In the case of a son, daughter, stepson, or stepdaughter of the taxpayer who is a full-time student, scholarships are not taken into account for purpose of the support test. Sec. 152(d).

[329] For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child or foster child, or child placed with the taxpayer for adoption). Sec. 152(e)(1)(A).

[330] Special support rules also apply in the case of certain pre-1985 agreements between divorced or legally separated parents. Sec. 152(e)(4).

[331] Certain income from sheltered workshops is not taken into account in determining the gross income of permanently and totally disabled individuals. Sec. 151(c)(5).

[332] Sec. 151(c).

[333] Sec. 32.

*Relationship test*

An individual satisfies the relationship test under the earned income credit if the individual is the taxpayer's: (1) son, daughter, stepson, or stepdaughter, or a descendant of any such individual;[334] (2) brother, sister, stepbrother, or stepsister, or a descendant of any such individual, who the taxpayer cares for as the taxpayer's own child; or (3) eligible foster child. An eligible foster child is an individual (1) who is placed with the taxpayer by an authorized placement agency, and (2) who the taxpayer cares for as her or his own child. A married child of the taxpayer is not treated as meeting the relationship test unless the taxpayer is entitled to a dependency exemption with respect to the married child (e.g., the support test is satisfied) or would be entitled to the exemption if the taxpayer had not waived the exemption to the noncustodial parent.[335]

*Residency test*

The residency test is satisfied if the individual has the same principal place of abode as the taxpayer for more than one half of the taxable year. The residence must be in the United States.[336] As under the dependency exemption (and head of household filing status), temporary absences due to special circumstances, including absences due to illness, education, business, vacation, and military service are not treated as absences for purposes of determining whether the residency test is satisfied.[337] Under the earned income credit, there is no requirement that the taxpayer maintain the household in which the taxpayer and the qualifying individual reside.

*Age test*

In general, the age test is satisfied if the individual has not attained age 19 as of the close of the calendar year. In the case of a full-time student, the age test is satisfied if the individual has not attained age 24 as of the close of the calendar year. In the case of an individual who is permanently and totally disabled, no age limit applies.

*Child credit*[338]

Taxpayers with incomes below certain amounts are eligible for a child credit for each qualifying child of the taxpayer. The amount of the child credit is up to $600, in the case of taxable years beginning in 2003 or 2004. The child credit increases to $700 for taxable years beginning in 2005 through 2008, $800 for taxable years beginning in 2009, and $1,000 for taxable years beginning in 2010. The credit declines to $500 in taxable year 2011.[339] For purposes of this credit, a qualifying child is an individual: (1) with respect to whom the taxpayer is entitled to a dependency exemption for the year; (2) who satisfies the same relationship test applicable to the earned income credit; and (3) who has not attained age 17 as of the close of the calendar year. In addition, the child must be a citizen or resident of the United States.[340] A portion of the child credit is refundable under certain circumstances.[341]

*Dependent care credit*[342]

The dependent care credit may be claimed by a taxpayer who maintains a household that includes one or more qualifying individuals and who has employment-related expenses. A qualifying individual means (1) a dependent of the taxpayer under age 13 for whom the taxpayer is entitled to a dependency exemption, (2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself,[343] or (3) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself. In addition, a taxpayer identification number for the qualifying individual must be included on the return.

A taxpayer is considered to maintain a household for a period if over one half the cost of maintaining the household for the period is furnished by the taxpayer (or, if married, the taxpayer and his or her spouse). Costs of maintaining the household include expenses such as rent, mortgage interest (but not principal), real estate taxes, insurance on the home, repairs (but not home improvements), utilities, and food eaten in the home.

A special rule applies in the case of a child who is under age 13 or is physically or mentally incapable of caring for himself or herself if the custodial parent has waived his or her dependency exemption to the noncustodial parent.[344] For the dependent care credit, the child is treated as a qualifying individual with respect to the custodial parent, not the parent entitled to claim the dependency exemption.

*Head of household filing status*[345]

A taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half of the year of (1) an unmarried son, daughter, stepson or stepdaughter of the taxpayer or an unmarried descendant of the taxpayer's son or daughter, (2) an individual described in (1) who is married, if the taxpayer may claim a dependency exemption with respect to the individual (or could claim the exemption if the taxpayer had not waived the exemption to the noncustodial parent), or (3) a relative with respect to whom the taxpayer may claim a dependency exemption.[346] If certain other requirements are satisfied, head of household filing status also may be claimed if the taxpayer is entitled to a dependency exemption with respect to one of the taxpayer's parents.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Description of provision*

*In general*

The Senate amendment provision establishes a uniform definition of qualifying child for purposes of the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head of household filing status. A taxpayer may claim an individual who does not meet the uniform definition of qualifying child (with respect to any taxpayer) as a dependent if the present-law dependency requirements are satisfied. The Senate amendment provision does not modify other parameters of each tax benefit (e.g., the earned income requirements of the earned income credit) or the rules for determining whether individuals other than children qualify for each tax benefit.

Under the uniform definition, in general, a child is a qualifying child of a taxpayer if the child satisfies each of three tests: (1) the child has the same principal place of abode as the taxpayer for more than one half the taxable year; (2) the child has a specified relationship to the taxpayer; and (3) the child has not yet attained a specified age. A tie-breaking rule applies if more than one taxpayer claims a child as a qualifying child.

Under the Senate amendment provision, the present-law support and gross income tests for determining whether an individual is a dependent generally do not apply to a child who meets the requirements of the uniform definition of qualifying child.

*Residency test*

Under the uniform definition's residency test, a child must have the same principal place of abode as the taxpayer for more than one half of the taxable year. It is intended that, as is the case under present law, temporary absences due to special circumstances, including absences due to illness, education, business, vacation, or military service, would not be treated as absences.

*Relationship test*

In order to be a qualifying child under the Senate amendment provision, the child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. A legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, is treated as a child of such taxpayer by blood. A foster child who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction is treated as the taxpayer's child.[347]

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[334] A child who is legally adopted or placed with the taxpayer for adoption by an authorized adoption agency is treated as the taxpayer's own child. Sec. 32(c)(3)(B)(iv).

[335] Sec. 32(c)(3)(B)(ii).

[336] The principal place of abode of a member of the Armed Services is treated as in the United States during any period during which the individual is stationed outside the United States on active duty. Sec. 32(c)(4).

[337] IRS Publication 596, Earned Income Credit (EIC), at 13. H. Rep. 101-964 (October 27, 1990), at 1037.

[338] Sec. 24.

[339] Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), Pub. L. No. 107-16, sec. 901(a) (2001) (making, by way of the EGTRRA sunset provision, the increase in the child credit inapplicable to taxable years beginning after December 31, 2010).

[340] The child credit does not apply with respect to a child who is a resident of Canada or Mexico and is not a U.S. citizen, even if a dependency exemption is available with respect to the child. Sec. 24(c)(2). The child credit is, however, available with respect to a child dependent who is not a resident or citizen of the United States if: (1) the child has been legally adopted by the taxpayer; (2) the child's principal place of abode is the taxpayer's home; and (3) the taxpayer is a U.S. citizen or national. See sec. 24(c)(2) and sec. 152(b)(3).

[341] Sec. 24(d).

[342] Sec. 21.

[343] Although such an individual must be a dependent of the taxpayer as defined in section 152, it is not required that the taxpayer be entitled to a dependency exemption with respect to the individual under section 151. Thus, such an individual may be a qualifying individual for purposes of the dependent care credit, even though the taxpayer is not entitled to a dependency exemption because the individual does not meet the gross income test.

[344] Sec. 21(e)(5).

[345] Sec. 2(b).

[346] Sec. 2(b)(1)(A)(ii), as qualified by sec. 2(b)(3)(B). An individual for whom the taxpayer is entitled to claim a dependency exemption by reason of a multiple support agreement does not qualify the taxpayer for head of household filing status.

[347] The provision eliminates the present-law rule requiring that if a child is the taxpayer's sibling or stepsibling or a descendant of any such individual, the taxpayer must care for the child as if the child were his or her own child.

*Age test*

Under the Senate amendment provision, the age test varies depending upon the tax benefit involved. In general, a child must be under age 19 (or under age 24 in the case of a full-time student) in order to be a qualifying child.[348] In general, no age limit applies with respect to individuals who are totally and permanently disabled within the meaning of section 22(e)(3) at any time during the calendar year. The Senate amendment provision retains the present-law requirements that a child must be under age 13 (if he or she is not disabled) for purposes of the dependent care credit, and under age 17 (whether or not disabled) for purposes of the child credit.

*Children who support themselves*

Under the Senate amendment provision, a child who provides over one half of his or her own support generally is not considered a qualifying child of another taxpayer. The Senate amendment provision retains the present-law rule, however, that a child who provides over one half of his or her own support may constitute a qualifying child of another taxpayer for purposes of the earned income credit.

*Tie-breaking rules*

If a child would be a qualifying child with respect to more than one individual (e.g., a child lives with his or her mother and grandmother in the same residence) and more than one person claims a benefit with respect to that child, then the following "tie-breaking" rules apply. First, if only one of the individuals claiming the child as a qualifying child is the child's parent, the child is deemed the qualifying child of the parent. Second, if both parents claim the child and the parents do not file a joint return, then the child is deemed a qualifying child first with respect to the parent with whom the child resides for the longest period of time, and second with respect to the parent with the highest adjusted gross income. Third, if the child's parents do not claim the child, then the child is deemed a qualifying child with respect to the claimant with the highest adjusted gross income.

*Interaction with present-law rules*

Taxpayers may claim an individual who does not meet the uniform definition of qualifying child with respect to any taxpayer as a dependent if the present-law dependency requirements (including the gross income and support tests) are satisfied.[349] Thus, for example, a taxpayer may claim a parent as a dependent if the taxpayer provides more than one half of the support of the parent and the parent's gross income is less than the exemption amount.

Children who are U.S. citizens living abroad or non-U.S. citizens living in Canada or Mexico may qualify as a qualifying child, as is the case under the present-law dependency tests. A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a qualifying child (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States.

*Children of divorced or legally separated parents*

The Senate amendment provision generally retains the present-law rule that allows a custodial parent to release the claim to a dependency exemption and the child credit to a noncustodial parent. Thus, the Senate amendment provision generally grandfathers those custodial waivers that are in place and effective on the date of enactment, and generally retains the custodial waiver rule for purposes of the dependency exemption and the child credit for decrees of divorce or separate maintenance or written separation agreements that become effective after the date of enactment. Under the Senate amendment provision, the custodial waiver rules do not affect eligibility with respect to children of divorced or legally separated parents for purposes of the earned income credit, the dependent care credit, and head of household filing status.

*Other provisions*

The Senate amendment provision retains the applicable present-law requirements that a taxpayer identification number for a child be provided on the taxpayer's return. For purposes of the earned income credit, a qualifying child is required to have a social security number that is valid for employment in the United States (that is, the child must be a U.S. citizen, permanent resident, or have a certain type of temporary visa).

*Effect of Senate amendment provision on particular tax benefits*

*Dependency exemption*

For purposes of the dependency exemption, the Senate amendment provision defines a dependent as a qualifying child or a qualifying relative. The qualifying child test eliminates the support test (other than in the case of a child who provides more than one half of his or her own support), and replaces it with the residency requirement described above. Further, the present-law gross income test does not apply to a qualifying child. The rules relating to multiple support agreements do not apply with respect to qualifying children because the support test does not apply to them. Special tie-breaking rules (described above) apply if more than one taxpayer claims a qualifying child under the Senate amendment provision. These tie-breaking rules do not apply if a child constitutes a qualifying child with respect to multiple taxpayers, but only one eligible taxpayer actually claims the qualifying child.

The Senate amendment provision permits taxpayers to continue to apply the present-law dependency exemption rules to claim a dependency exemption for a qualifying relative who does not satisfy the qualifying child definition. In such cases, the present-law gross income and support tests, including the special rules for multiple support agreements, the special rules relating to income of handicapped dependents, and the special support test in case of students, continue to apply for purposes of the dependency exemption.

As is the case under present law, a child who provides over half of his or her own support is not considered a dependent of another taxpayer under the Senate amendment provision. Further, an individual shall not be treated as a dependent of a taxpayer if such individual has filed a joint return with the individual's spouse for the taxable year.

*Earned income credit*

In general, the Senate amendment provision adopts a definition of qualifying child that is similar to the present-law definition under the earned income credit. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The present-law tie-breaker rule applicable to the earned income credit is used for purposes of the uniform definition of qualifying child. The Senate amendment provision retains the present-law requirement that the taxpayer's principal place of abode must be in the United States.

*Child credit*

The present-law child credit generally uses the same relationships to define an eligible child as the uniform definition. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The age limitation under the Senate amendment provision retains the present-law requirement that the child must be under age 17, regardless of whether the child is disabled.

*Dependent care credit*

The present-law requirement that a taxpayer maintain a household in order to claim the dependent care credit is eliminated. Thus, if other applicable requirements are satisfied, a taxpayer may claim the dependent care credit with respect to a child who lives with the taxpayer for more than one half the year, even if the taxpayer does not provide more than one half of the cost of maintaining the household.

The rules for determining eligibility for the credit with respect to an individual who is physically or mentally incapable of caring for himself or herself are amended to include a requirement that the taxpayer and the dependent have the same principal place of abode for more than one half the taxable year.

*Head of household filing status*

Under the Senate amendment provision, a taxpayer qualifies for head of household filing status with respect to a child who is a qualifying child as defined under the Senate amendment provision. An individual who is not a qualifying child will qualify the taxpayer for head of household status only if, as is the case under present law, the individual is a dependent of the taxpayer and the taxpayer is entitled to a dependency exemption for such individual, or the individual is the taxpayer's father or mother and certain other requirements are satisfied. Thus, under the Senate amendment provision a taxpayer is eligible for head of household filing status only with respect to a qualifying child or an individual for whom the taxpayer is entitled to a dependency exemption.

The Senate amendment provision retains the present-law requirement that the taxpayer provide over one half the cost of maintaining the household.

*Effective date*

The Senate amendment provision is effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

B. Other Simplification Provisions

1. Consolidation of life insurance and nonlife companies (sec. 511 of the Senate amendment and sec. 1504 of the Code)

PRESENT LAW

Under present law, an affiliated group of corporations means one or more chains of includible corporations connected through stock ownership with a common parent corporation (sec. 1504(a)(1)). The stock ownership requirement consists of an 80-percent voting and value test. In general, an affiliated group of corporations may file a consolidated tax return for Federal income tax purposes.

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[348] The provision retains the present-law definition of full-time student set forth in section 151(c)(4).

[349] Individuals who satisfy the present-law dependency tests and who are not qualifying children are referred to as "qualifying relatives" under the provision.

Life insurance companies (subject to tax under section 801) generally are not treated as includible corporations, and therefore may not be included in a consolidated return of an affiliated group including nonlife-insurance companies, unless the common parent of the group elects to treat the life insurance companies as includible corporations (sec. 1504(c)(2)).

Under the election to treat life insurance companies as includible corporations of an affiliated group, two special 5-year limitation rules apply. The first 5-year rule provides that a life insurance company may not be treated as an includible corporation until it has been a member of the group for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed (sec. 1504(c)(2)). The second 5-year rule provides that any net operating loss of a nonlife-insurance member of the group may not offset the taxable income of a life insurance member for any of the first 5 years the life and nonlife-insurance corporations have been members of the same affiliated group (sec. 1503(c)(2)). This rule applies to nonlife losses for the current taxable year or as a carryover or carryback.

A separate 35-percent limitation also applies under the election to treat life insurance companies as includible corporations of an affiliated group (sec. 1503(c)(1)). This rule provides that if the non-life-insurance members of the group have a net operating loss, then the amount of the loss that is not absorbed by carrybacks against the nonlife-insurance members' income may offset the life insurance members' income only to the extent of the lesser of: (1) 35 percent of the amount of the loss; or (2) 35 percent of the life insurance members' taxable income. The unused portion of the loss is available as a carryover and is added to subsequent-year losses, subject to the same 35-percent limitation.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provision repeals the 5-year limitation providing that a life insurance company may not be treated as an includible corporation until it has been a member of the group for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed (sec. 1504(c)(2)). The provision also repeals the rule that a life insurance corporation is not an includible corporation unless the common parent makes an election to treat life insurance companies as includible corporations (sec. 1504(c)(1)). Thus, under the provision, a life insurance company is treated as an includible corporation starting with the first taxable year for which it becomes a member of the affiliated group and otherwise meets the definition of an includible corporation. The provision retains the 5-year rule of section 1503(c)(2), as well as the 35-percent limitation of present-law section 1503(c)(1) with respect to any life insurance company that is an includible corporation of an affiliated group.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2009. No affiliated group terminates solely by reason of the provision. Under regulations, the provision waives the 5-year waiting period for reconsolidation under section 1504(a)(3), in the case of any corporation that was previously an includible corporation, but was subsequently deemed not to be an includible corporation as a result of becoming a subsidiary of a corporation that was not an includible corporation solely by reason of the 5-year rule of section 1504(c)(2) (providing that a life insurance company may not be treated as an includible corporation until it has been a member of the group for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed).

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 2. Suspension of reduction of deductions for mutual life insurance companies and of policyholder surplus accounts of life insurance companies (sec. 512 of the Senate amendment and secs. 809 and 815 of the Code)

### PRESENT LAW

*Reduction in deductions for policyholder dividends and reserves of mutual life insurance companies (sec. 809)*

In general, a corporation may not deduct amounts distributed to shareholders with respect to the corporation's stock. The Deficit Reduction Act of 1984 added a provision to the rules governing insurance companies that was intended to remedy the failure of prior law to distinguish between amounts returned by mutual life insurance companies to policyholders as customers, and amounts distributed to them as owners of the mutual company.

Under the provision, section 809, a mutual life insurance company is required to reduce its deduction for policyholder dividends by the company's differential earnings amount. If the company's differential earnings amount exceeds the amount of its deductible policyholder dividends, the company is required to reduce its deduction for changes in its reserves by the excess of its differential earnings amount over the amount of its deductible policyholder dividends. The differential earnings amount is the product of the differential earnings rate and the average equity base of a mutual life insurance company.

The differential earnings rate is based on the difference between the average earnings rate of the 50 largest stock life insurance companies and the earnings rate of all mutual life insurance companies. The mutual earnings rate applied under the provision is the rate for the second calendar year preceding the calendar year in which the taxable year begins. Under present law, the differential earnings rate cannot be a negative number.

A company's equity base equals the sum of: (1) its surplus and capital increased by 50 percent of the amount of any provision for policyholder dividends payable in the following taxable year; (2) the amount of its nonadmitted financial assets; (3) the excess of its statutory reserves over its tax reserves; and (4) the amount of any mandatory security valuation reserves, deficiency reserves, and voluntary reserves. A company's average equity base is the average of the company's equity base at the end of the taxable year and its equity base at the end of the preceding taxable year.

A recomputation or "true-up" in the succeeding year is required if the differential earnings amount for the taxable year either exceeds, or is less than, the recomputed differential earnings amount. The recomputed differential earnings amount is calculated taking into account the average mutual earnings rate for the calendar year (rather than the second preceding calendar year, as above). The amount of the true-up for any taxable year is added to, or deducted from, the mutual company's income for the succeeding taxable year.

For a mutual life insurance company's taxable years beginning in 2001, 2002, or 2003, the differential earnings rate is treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount (true-up).

*Distributions to shareholders from policyholders surplus account (sec. 815)*

Under the law in effect from 1959 through 1983, a life insurance company was subject to a three-phase taxable income computation under Federal tax law. Under the three-phase system, a company was taxed on the lesser of its gain from operations or its taxable investment income (Phase I) and, if its gain from operations exceeded its taxable investment income, 50 percent of such excess (Phase II). Federal income tax on the other 50 percent of the gain from operations was deferred, and was accounted for as part of a policyholder's surplus account and, subject to certain limitations, taxed only when distributed to stockholders or upon corporate dissolution (Phase III). To determine whether amounts had been distributed, a company maintained a shareholders surplus account, which generally included the company's previously taxed income that would be available for distribution to shareholders. Distributions to shareholders were treated as being first out of the shareholders surplus account, then out of the policyholders surplus account, and finally out of other accounts.

The Deficit Reduction Act of 1984 included provisions that, for 1984 and later years, eliminated further deferral of tax on amounts (described above) that previously would have been deferred under the three-phase system. Although for taxable years after 1983, life insurance companies may not enlarge their policyholders surplus account, the companies are not taxed on previously deferred amounts unless the amounts are treated as distributed to shareholders or subtracted from the policyholders surplus account (sec. 815).

Under present law, any direct or indirect distribution to shareholders from an existing policyholders surplus account of a stock life insurance company is subject to tax at the corporate rate in the taxable year of the distribution. Present law provides that any distribution to shareholders is treated as made (1) first out of the shareholders surplus account, to the extent thereof, (2) then out of the policyholders surplus account, to the extent thereof, and (3) finally, out of other accounts.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Reduction in deductions for policyholder dividends and reserves of mutual life insurance companies (sec. 809)*

The Senate amendment provision provides that for a mutual life insurance company's taxable years beginning after December 31, 2003, and before January 1, 2009, the differential earnings rate is treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount (true-up), under the rules requiring reduction in certain deductions of mutual life insurance companies (sec. 809).

### *Distributions to shareholders from policyholders surplus account (sec. 815)*

The Senate amendment provision suspends for a life insurance company's taxable year beginning after December 31, 2003, and before January 1, 2009, the application of the rules imposing income tax on distributions to shareholders from the policyholders surplus account of a life insurance company (sec. 815). The Senate amendment provision also modifies the order in which distributions reduce the various accounts, so that distributions are treated as first made out of the policyholders surplus account, to the extent thereof, and then out of the shareholders surplus account, and lastly out of other accounts.

*Effective date.*—The Senate amendment provisions relating to section 809 and section 815 are effective for taxable years beginning after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provisions.

### 3. Section 355 "active business test" applied to chains of affiliated corporations (sec. 513 of the Senate amendment and sec. 355 of the Code)

### PRESENT LAW

A corporation generally is required to recognize gain on the distribution of property (including stock of a subsidiary) to its shareholders as if such property had been sold for its fair market value. An exception to this rule applies if the distribution of the stock of a controlled corporation satisfies the requirements of section 355 of the Code. To qualify for tax-free treatment under section 355, both the distributing corporation and the controlled corporation must be engaged immediately after the distribution in the active conduct of a trade or business that has been conducted for at least five years and was not acquired in a taxable transaction during that period.[350] For this purpose, a corporation is engaged in the active conduct of a trade or business only if (1) the corporation is directly engaged in the active conduct of a trade or business, or (2) the corporation is not directly engaged in an active business, but substantially all of its assets consist of stock and securities of a corporation it controls that is engaged in the active conduct of a trade or business.[351]

In determining whether a corporation satisfies the active trade or business requirement, the IRS position for advance ruling purposes is that the value of the gross assets of the trade or business being relied on must ordinarily constitute at least 5 percent of the total fair market value of the gross assets of the corporation directly conducting the trade or business.[352] However, if the corporation is not directly engaged in an active trade or business, then the IRS takes the position that the "substantially all" test requires that at least 90 percent of the fair market value of the corporation's gross assets consist of stock and securities of a controlled corporation that is engaged in the active conduct of a trade or business.[353]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, the active business test is determined by reference to the relevant affiliated group. For the distributing corporation, the relevant affiliated group consists of the distributing corporation as the common parent and all corporations affiliated with the distributing corporation through stock ownership described in section 1504(a)(1)(B) (regardless of whether the corporations are includible corporations under section 1504(b)). The relevant affiliated group for a controlled corporation is determined in a similar manner (with the controlled corporation as the common parent).

*Effective date.*—The Senate amendment applies to distributions after the date of enactment, with three exceptions. The Senate amendment does not apply to distributions (1) made pursuant to an agreement which is binding on the date of enactment and at all times thereafter, (2) described in a ruling request submitted to the IRS on or before the date of enactment, or (3) described on or before the date of enactment in a public announcement or in a filing with the Securities and Exchange Commission. The distributing corporation may irrevocably elect not to have the exceptions described above apply.

The Senate amendment also applies to any distribution prior to the date of enactment, but solely for the purpose of determining whether, after the date of enactment, the taxpayer continues to satisfy the requirements of section 355(b)(2)(A).[354]

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## C. Other Provisions

### 1. Civil rights tax relief (sec. 521 of the Senate amendment and sec. 62 of the Code)

### PRESENT LAW

Under present law, gross income generally does not include the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) by individuals on account of personal physical injuries (including death) or physical sickness.[355] Expenses relating to recovering such damages are generally not deductible.[356]

Other damages are generally included in gross income. The related expenses to recover the damages, including attorneys' fees, are generally deductible as expenses for the production of income,[357] subject to the two-percent floor on itemized deductions.[358] Thus, such expenses are deductible only to the extent the taxpayer's total miscellaneous itemized deductions exceed two percent of adjusted gross income. Any amount allowable as a deduction is subject to reduction under the overall limitation of itemized deductions if the taxpayer's adjusted gross income exceeds a threshold amount.[359] For purposes of the alternative minimum tax, no deduction is allowed for any miscellaneous itemized deduction.

In some cases, claimants will engage an attorney to represent them on a contingent fee basis. That is, if the claimant recovers damages, a prearranged percentage of the damages will be paid to the attorney; if no damages are recovered, the attorney is not paid a fee. The proper tax treatment of contingent fee arrangements with attorneys has been litigated in recent years. Some courts[360] have held that the entire amount of damages is income and that the claimant is entitled to a miscellaneous itemized deduction subject to both the two-percent floor as an expense for the production of income for the portion paid to the attorney and to the overall limitation on itemized deductions. Other courts have held that the portion of the recovery that is paid directly to the attorney is not income to the claimant, holding that the claimant has no claim of right to that portion of the recovery.[361]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides an above-the-line deduction for attorneys' fees and costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination or certain claims against the Federal Government. The amount that may be deducted above-the-line may not exceed the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.

Under the Senate amendment, "unlawful discrimination" means an act that is unlawful under certain provisions of any of the following: the Civil Rights Act of 1991, the Congressional Accountability Act of 1995, the National Labor Relations Act, the Fair Labor Standards Act of 1938, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Employee Retirement Security Income Act of 1974, the Education Amendments of 1972, the Employee Polygraph Protection Act of 1988, the Worker Adjustment and Retraining Notification Act, the Family and Medical Leave Act of 1993, chapter 43 of Title 38 of the United States Code, the Revised Statutes, the Civil Rights Act of 1964, the Fair Housing Act, the Americans with Disabilities Act of 1990, any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law, or any provision of State or local law, or common law claims permitted under Federal, State, or local law providing for the enforcement of civil rights or regulating any aspect of the employment relationship, including prohibiting the discharge of an employee, discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.

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[350] Section 355(b). If the distributing corporation had no assets other than stock or securities in the controlled corporations immediately before the distribution, then each of the controlled corporations must be engaged immediately after the distribution in the active conduct of a trade or business.

[351] Section 355(b)(2)(A).

[352] Rev. Proc. 2003-3, sec. 4.01(30), 2003-1 I.R.B. 113.

[353] Rev. Proc. 96-30, sec. 4.03(5), 1996-1 C.B. 696; Rev. Proc. 77-37, sec. 3.04, 1977-2 C.B. 568.

[354] For example, a holding company taxpayer that had distributed a controlled corporation in a spin-off prior to the date of enactment, in which spin-off the taxpayer satisfied the "substantially all" active business stock test of present law section 355(b)(2)(A) immediately after the distribution, would not be deemed to have failed to satisfy any requirement that it continue that same qualified structure for any period of time after the distribution, solely because of a restructuring that occurs after the date of enactment and that would satisfy the requirements of new section 355(b)(2)(A).

[355] Sec. 104(a)(2).

[356] Sec. 265(a)(1).

[357] Sec. 212.

[358] Sec. 67.

[359] Sec. 68.

[360] *Kenseth* v. *Commissioner*, 114 T.C. 399 (2000), *aff'd* 259 F.3d 881 (7th Cir. 2001); *Coady* v. *Commissioner*, 213 F.3d 1187 (9th Cir. 2000); *Benci-Woodward* v. *Commissioner*, 219 F.3d 941 (9th Cir. 2000); *Baylin* v. *United States*, 43 F.3d 1451 (Fed. Cir. 1995).

[361] *Cotnam* v. *Commissioner*, 263 F.2d 119 (5th Cir. 1959); *Estate of Arthur Clarks* v. *United States*, 202 F.3d 854 (6th Cir. 2000); *Srivastava* v. *Commissioner*, 220 F.3d 353 (5th Cir. 2000). In some of these cases, such as *Cotnam*, State law has been an important consideration in determining that the claimant has no claim of right to the recovery.

*Effective date.*—The Senate amendment is effective for fees and costs paid after the date of enactment with respect to any judgment or settlement occurring after such date.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 2. Increase section 382 limitation for certain corporations in bankruptcy (sec. 522 of the Senate amendment and sec. 382 of the Code)

#### PRESENT LAW

If a corporation with net operating losses experiences an ownership change, then the annual amount of pre-change net operating loss carryovers that it may use against post-change income is limited. The basic annual post-change limit is the value of the corporation's stock at the time of the ownership change, multiplied by the long-term tax-exempt rate (prescribed by the Treasury department) applicable to the time of the change.

In general, an ownership change occurs if, within a three-year period, there is a 50-percentage point increase in ownership by any one or more 5-percent shareholders. A special rule applies to bankruptcy situations. If a corporation is under the jurisdiction of a court in a title 11 or similar case, no ownership change will occur if the shareholders and creditors of the old loss corporation, as a result of owning stock or debt of the old corporation, own at least 50 percent of the stock of the new loss corporation. Only indebtedness held for at least 18 months prior to the date of filing the title 11 or similar case counts for this purpose. In effect, such "old and cold" creditors are treated as persons who had effectively become shareholders of the corporation prior to the ownership change, due to the impending bankruptcy of the corporation.

If "old and cold" creditors dispose of their debt to new persons and those persons become shareholders as a result of owning that debt, the receipt of stock by those persons will be treated as the acquisition of stock by new shareholders, and can trigger an ownership change that causes the section 382 limitation to apply.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

For a limited time period, the Senate amendment doubles the amount of the section 382 limitation applicable to corporations that experience an ownership change emerging from bankruptcy in a title 11 or similar case. The Senate amendment applies for a period of two taxable years to corporations that experience an ownership change in a title 11 or similar case after December 31, 2002.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning in 2004 and 2005.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 3. Increase in historic rehabilitation credit for residential housing for the elderly (sec. 523 of the Senate amendment and sec. 47 of the Code)

#### PRESENT LAW

*Rehabilitation credit*

Present law provides a credit for rehabilitation expenditures (sec. 47). A 20-percent credit is provided for rehabilitation expenditures with respect to a certified historic structure. For this purpose, a certified historic structure means any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district.

A building is treated as having been substantially rehabilitated only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the taxable year exceed the greater of the adjusted basis of the building (and its structural components), or $5,000. The taxpayer's depreciable basis in the property is reduced by any rehabilitation credit claimed.

*Low-income housing credit*

The low-income housing tax credit (sec. 42) may be claimed over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified expenditures. The credit percentage for new substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent of qualified expenditures. The aggregate credit authority provided annually to each State is $1.75 per resident, except in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit and certain carry-over amounts. The $1.75 per resident cap is indexed for inflation.

Qualified basis with respect to which the credit may be computed is generally determined as the portion of the eligible basis of the qualified low-income building attributable to the low-income rental units. Qualified basis generally is the taxpayer's depreciable basis in a qualified low-income building. In the case of a taxpayer who claims the rehabilitation credit for a qualified low-income building, the taxpayer's depreciable basis in the building is reduced by the amount of the rehabilitation credit claimed. In addition, eligible basis is reduced by any Federal grant received with respect to the building. A qualified low-income building is a building that meets certain compliance criteria and is depreciable under the modified accelerated cost recovery system ("MACRS").

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment increases the present-law 20-percent credit for historic rehabilitation expenses to 25 percent in the case of rehabilitation expenses incurred with respect to a building which is also a low-income housing credit property in which substantially all of the tenants, both those tenants in rent-restricted units and in other residential units, are age 65 or greater. The Senate amendment permits the 25-percent rehabilitation credit to be claimed with respect to all parts of the building, not only those parts on which the taxpayer also claims the low-income housing credit.[362]

*Effective date.*—The Senate amendment provision is effective for property placed in service after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 4. Modification of application of income forecast method of depreciation (sec. 524 of the Senate amendment and sec. 167 of the Code)

#### PRESENT LAW

The modified Accelerated Cost Recovery System ("MACRS") does not apply to certain property, including any motion picture film, video tape, or sound recording, or to any other property if the taxpayer elects to exclude such property from MACRS and the taxpayer properly applies a unit-of-production method or other method of depreciation not expressed in a term of years. Section 197 does not apply to certain intangible property, including property produced by the taxpayer or any interest in a film, sound recording, video tape, book or similar property not acquired in a transaction (or a series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof. Thus, the recovery of the cost of a film, video tape, or similar property that is produced by the taxpayer or is acquired on a "stand-alone" basis by the taxpayer may not be determined under either the MACRS depreciation provisions or under the section 197 amortization provisions. The cost recovery of such property may be determined under section 167, which allows a depreciation deduction for the reasonable allowance for the exhaustion, wear and tear, or obsolescence of the property. A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. Section 167(g) provides that the cost of motion picture films, sound recordings, copyrights, books, and patents are eligible to be recovered using the income forecast method of depreciation.

Under the income forecast method, a property's depreciation deduction for a taxable year is determined by multiplying the adjusted basis of the property by a fraction, the numerator of which is the income generated by the property during the year and the denominator of which is the total forecasted or estimated income expected to be generated prior to the close of the tenth taxable year after the year the property was placed in service. Any costs that are not recovered by the end of the tenth taxable year after the property was placed in service may be taken into account as depreciation in such year.

The adjusted basis of property that may be taken into account under the income forecast method only includes amounts that satisfy the economic performance standard of section 461(h). In addition, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or receive) interest based on a recalculation of depreciation under a "look-back" method.

The "look-back" method is applied in any "recomputation year" by (1) comparing depreciation deductions that had been claimed in prior periods to depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621 of the Code. Except as provided in Treasury regulations, a “recomputation year” is the third and tenth taxable year after the taxable year the property was placed in service, unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years.

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[362] The Senate amendment also repeals a transition rule to the Tax Reform Act of 1986 permitting the taxpayers who own the property described in sec. 251(d)(4)(X) of the Tax Reform Act of 1986 to use ACRS depreciation, in lieu of MACRS depreciation. This change enables such property to qualify for the provision.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment clarifies that, solely for purposes of computing the allowable deduction for property under the income forecast method of depreciation, participations and residuals may be included in the adjusted basis of the property beginning in the year such property is placed in service, but only if such participations and residuals relate to income to be derived from the property before the close of the tenth taxable year following the year the property is placed in service (as defined in section 167(g)(1)(A)). For purposes of the provision, participations and residuals are defined as costs the amount of which, by contract, varies with the amount of income earned in connection with such property. The Senate amendment also clarifies that the income from the property to be taken into account under the income forecast method is the gross income from such property.

The Senate amendment also grants authority to the Treasury Department to prescribe appropriate adjustments to the basis of property (and the look-back method) to reflect the treatment of participations and residuals under the provision.

In addition, the Senate amendment clarifies that, in the case of property eligible for the income forecast method that the holding in the Associated Patentees decision will continue to constitute a valid method of depreciation and may be used in connection with the income forecast method of accounting. Thus, rather than accounting for participations and residuals as a cost of the property under the income forecast method of depreciation, the taxpayer may elect to deduct those payments as they are paid as under the Associated Patentees decision. This election shall be made on a property-by-property basis and shall be applied consistently with respect to a given property thereafter. The Senate amendment also clarifies that distribution costs are not taken into account for purposes of determining the taxpayer's current and total forecasted income with respect to a property.

*Effective date.*—The Senate amendment provision applies to property placed in service after date of enactment. No inference is intended as to the appropriate treatment under present law. It is intended that the Treasury Department and the IRS expedite the resolution of open cases. In resolving these cases in an expedited and balanced manner, the Treasury Department and IRS are encouraged to take into account the principles of the bill.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 5. Additional advance refunding of certain governmental bonds (sec. 525 of the Senate amendment and sec. 149 of the Code)

#### PRESENT LAW

Interest on bonds issued by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (section 103). Interest on bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a revenue Act. These bonds are called private activity bonds. Present law includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities. One such exception is the provision of financing for activities of charitable organizations described in section 501(c)(3) of the Code (“qualified 501(c)(3) bonds”).

An advance refunding bond is issued to refund another bond more than 90 days before the redemption of the refunded bond. Under present law, governmental bonds and qualified 501(c)(3) bonds may be advanced refunded, subject to certain limitations described below. Private activity bonds (other than qualified 501(c)(3) bonds) may not be advanced refunded. Bonds eligible for advance refunding can be advance refunded once if the original bond was issued after 1985 or advance refunded twice if the original bond was issued before 1985. Special rules apply for advance refunding bonds under the New York Liberty Zone provisions of the Code (sec. 1400L(e)(3)). “Liberty Advance Refunding Bonds,” which may be advance refunded one additional time, are tax-exempt bonds for which all present-law advance refunding authority was exhausted before September 12, 2001, and with respect to which the advance refunding bonds authorized under present law were outstanding on September 11, 2001. In addition, at least 90 percent of the net proceeds of the original bond must have been used to finance facilities located in New York City and must be governmental general obligation bonds issued by either New York City or certain New York State Authorities.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Under the Senate amendment, certain governmental bonds are eligible for an additional advance refunding. To be eligible for an additional refunding, the original bond has to have been part of an issue 90 percent or more of the net proceeds of which were used to finance a public elementary or secondary school in any State in which the State's highest court ruled by opinion issued on November 21, 2002, that the State school funding system violates the State constitution and is constitutionally inadequate. The additional advance refunding bond must be issued before the date, which is two years after the date of enactment of the bill.

*Effective date.*—The Senate amendment provision is effective for advance refunding bonds issued after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 6. Exclusion of income derived from certain wagers on horse races from gross income of nonresident alien individuals (sec. 526 of the Senate amendment and sec. 872(b) of the Code)

#### PRESENT LAW

Under section 871, certain items of gross income received by a nonresident alien from sources within the United States are subject to a flat 30-percent withholding tax. Gambling winnings received by a nonresident alien from wagers placed in the United States are U.S.-source and thus generally are subject to this withholding tax, unless exempted by treaty. Currently, several U.S. income tax treaties exempt U.S.-source gambling winnings of residents of the other treaty country from U.S. withholding tax. In addition, no withholding tax is imposed under section 871 on the non-business gambling income of a nonresident alien from wagers on the following games (except to the extent that the Secretary determines that collection of the tax would be administratively feasible): blackjack, baccarat, craps, roulette, and big-6 wheel. Various other (non-gambling-related) items of income of a nonresident alien are excluded from gross income under section 872(b) and are thereby exempt from the 30-percent withholding tax, without any authority for the Secretary to impose the tax by regulation. In cases in which a withholding tax on gambling winnings applies, section 1441(a) of the Code requires the party making the winning payout to withhold the appropriate amount and makes that party responsible for amounts not withheld.

With respect to gambling winnings of a nonresident alien resulting from a wager initiated outside the United States on a pari-mutuel[363] event taking place within the United States, the source of the winnings, and thus the applicability of the 30-percent U.S. withholding tax, depends on the type of wagering pool from which the winnings are paid. If the payout is made from a separate foreign pool, maintained completely in a foreign jurisdiction (e.g., a pool maintained by a racetrack or off-track betting parlor that is showing in a foreign country a simulcast of a horse race taking place in the United States), then the winnings paid to a nonresident alien generally would not be subject to withholding tax, because the amounts received generally would not be from sources within the United States. However, if the payout is made from a “merged” or “commingled” pool, in which betting pools in the United States and the foreign country are combined for a particular event, then the portion of the payout attributable to wagers placed in the United States could be subject to withholding tax. The party making the payment, in this case a racetrack or off-track betting parlor in a foreign country, would be responsible for withholding the tax.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provides an exclusion from gross income under section 872(b) for winnings paid to a nonresident alien resulting from a legal wager initiated outside the United States in a pari-mutuel pool on a live horse race in the United States, regardless of whether the pool is a separate foreign pool or a merged U.S.-foreign pool.

*Effective date.*—The Senate amendment provision applies to proceeds from wagering transactions after September 30, 2003.

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[363] In pari-mutuel wagering (common in horse racing), odds and payouts are determined by the aggregate bets placed. The money wagered is placed into a pool, the party maintaining the pool takes a percentage of the total, and the bettors effectively bet against each other. Part-mutuel wagering may be contrasted with fixed-odds wagering (common in sports wagering), in which odds (or perhaps a point spread) are agreed to by the bettor and the party taking the bet and are not affected by the bets placed by other bettors.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 7. Federal reimbursement of emergency health services furnished to undocumented aliens (sec. 527 of the Senate amendment)

### PRESENT LAW

Section 4723 of the Balanced Budget Act of 1997, provided $25 million a year for fiscal years 1998–2001, with the funds allotted to the 12 States with the highest number of undocumented aliens (based on estimates by the Immigration and Naturalization Service for 1992 or later). From that allotment, the Secretary reimbursed each State, or political subdivision thereof, for certain emergency health services furnished to undocumented aliens.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides an entitlement of $48 million for fiscal year 2004 for the Federal reimbursement for providers of emergency health services to undocumented aliens.

Effective date.—The Senate amendment provision is effective beginning in fiscal year 2004.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 8. Treatment of premiums for mortgage insurance (sec. 528 of the Senate amendment and sec. 163 of the Code)

### PRESENT LAW

Present law provides that qualified residence interest is deductible notwithstanding the general rule that personal interest is nondeductible (sec. 163(h)).

Qualified residence interest is interest on acquisition indebtedness and home equity indebtedness with respect to a principal and a second residence of the taxpayer. The maximum amount of home equity indebtedness is $100,000. The maximum amount of acquisition indebtedness is $1 million. Acquisition indebtedness means debt that is incurred in acquiring constructing, or substantially improving a qualified residence of the taxpayer, and that is secured by the residence. Home equity indebtedness is debt (other than acquisition indebtedness) that is secured by the taxpayer's principal or second residence, to the extent the aggregate amount of such debt does not exceed the difference between the total acquisition indebtedness with respect to the residence, and the fair market value of the residence.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provision provides that premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness on a qualified residence of the taxpayer are treated as qualified residence interest and thus deductible. The amount allowable as a deduction under the provision is phased out ratably by 10 percent for each $1,000 by which the taxpayer's adjusted gross income exceeds $100,000 ($500 and $50,000, respectively, in the case of a married individual filing a separate return). Thus, the deduction is not allowed if the taxpayer's adjusted gross income exceeds $110,000 ($55,000 in the case of married individual filing a separate return).

For this purpose, qualified mortgage insurance means mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and private mortgage insurance (defined in section 2 of the Homeowners Protection Act of 1998).

Amounts paid for qualified mortgage insurance that are properly allocable to periods after the close of the taxable year are treated as paid in the period to which it is allocated. No deduction is allowed for the unamortized balance if the mortgage is paid before its term (except in the case of qualified mortgage insurance provided by the Veterans Administration or Rural Housing Administration).

Reporting rules apply under the provision.

*Effective date.*—The Senate amendment provision is effective for amounts paid or accrued after the date of enactment in taxable years ending after that date.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 9. Sense of the Senate on repealing the 1993 tax hike on Social Security Benefits (sec. 529 of the Senate Amendment)

### PRESENT LAW

Present law provides for a two-tier system of taxation of Social Security benefits. Under this system, up to either 50 percent or 85 percent of Social Security benefits and includible in gross income, depending on the taxpayer's income. The 85-percent tax was enacted in 1993.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment includes a sense of the Senate that the Senate Finance Committee should report out the Social Security Benefits Tax Relief Act of 2003[364] to repeal the tax on seniors not later than July 31, 2003, and that the Senate will consider such bill not later than September 30, 2003, in a manner consistent with the preservation of the Medicare Trust Fund.

*Effective date.*—The Senate amendment is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 10. Sense of the Senate relating to the flat tax (sec. 530 of the Senate amendment)

### PRESENT LAW

No provision.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment includes a sense of the Senate that the Senate Finance Committee and the Joint Economic Committee should undertake a comprehensive analysis of simplification or flat tax proposals, including appropriate hearings, and consider legislation providing for a flat tax.

*Effective date.*—The provision is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 11. Temporary rate reduction for certain dividends received from controlled foreign corporations (sec. 531 of the Senate amendment and new sec. 965 of the Code)

### PRESENT LAW

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, whether derived in the United States or abroad. Income earned by a domestic parent corporation from foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax when the income is distributed as a dividend to the domestic corporation. Until such repatriation, the U.S. tax on such income generally is deferred. However, certain anti-deferral regimes may cause the domestic parent corporation to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by its foreign subsidiaries, regardless of whether the income has been distributed as a dividend to the domestic parent corporation. The main anti-deferral regimes in this context are the controlled foreign corporation rules of subpart F[365] and the passive foreign investment company rules.[366] A foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign-source income, whether earned directly by the domestic corporation, repatriated as an actual dividend, or included under one of the anti-deferral regimes.[367]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, certain actual and deemed dividends received by a U.S. corporation from a controlled foreign corporation are subject to tax at a reduced rate of 5.25 percent. For corporations taxed at the top corporate income tax rate of 35 percent, this rate reduction is equivalent to an 85-percent dividends-received deduction. This rate reduction is available only for the first taxable year of an electing taxpayer ending 120 days or more after the date of enactment of the provision.

The reduced rate applies only to repatriations in excess of the taxpayer's average repatriation level over 3 of the 5 most recent taxable years ending on or before December 31, 2002, determined by disregarding the highest-repatriation year and the lowest-repatriation year among such 5 years.[368] The taxpayer may designate which of its dividends are treated as meeting the base-period average level and which of its dividends are treated as comprising the excess.

In order to qualify for the reduced rate, dividends must be described in a "domestic reinvestment plan" approved by the taxpayer's senior management and board of directors. This plan must provide for the reinvestment of the repatriated dividends in the United States, "including as a source for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation."

The Senate amendment provision disallows 85 percent of the foreign tax credits attributable to dividends subject to the reduced rate and removes 85 percent of the underlying income from the taxpayer's foreign tax credit limitation fraction under section 904.

In the case of an affiliated group, an election under the provision is made by the common parent on a group-wide basis, and all members of the group are treated as a single taxpayer. The election applies to all controlled foreign corporations with respect to which an electing taxpayer is a United States shareholder.

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[364] S. 514.

[365] Secs. 951–964.

[366] Secs. 1291–1298.

[367] Secs. 901, 902, 960, 1291(g).

[368] If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then the base period consists of all such taxable years, with none disregard.

*Effective date.*—The Senate amendment provision is effective for the first taxable year of an electing taxpayer ending 120 days or more after the provision's date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 12. Repeal of 10-percent rehabilitation tax credit (sec. 531 of the Senate amendment and section 47 of the Code)

### PRESENT LAW

Present law provides a two-tier tax credit for rehabilitation expenditures (sec. 47).

A 20-percent credit is provided for rehabilitation expenditures with respect to a certified historic structure. For this purpose, a certified historic structure means any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district.

A 10-percent credit is provided for rehabilitation expenditures with respect to buildings first placed in service before 1936. The pre-1936 building must meet certain requirements in order for expenditures with respect to it to qualify for the rehabilitation tax credit. In the rehabilitation process, certain walls and structures must have been retained. Specifically, (1) 50 percent or more of the existing external walls must be retained in place as external walls, (2) 75 percent or more of the existing external walls of the building must be retained in place as internal or external walls, and (3) 75 percent or more of the existing internal structural framework of the building must be retained in place. Further, the building must have been substantially rehabilitated, and it must have been placed in service before the beginning of the rehabilitation. A building is treated as having been substantially rehabilitated only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending with or within the taxable year exceed the greater of (1) the adjusted basis of the building (and its structural components), or $5,000.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provision repeals the 10-percent credit for rehabilitation expenditures with respect to buildings first placed in service before 1936. The provision retains the present-law 20-percent credit for rehabilitation expenditures with respect to a certified historic structure.

*Effective date.*—The provision is effective for expenditures incurred after December 31, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 13. Income inclusion for certain delinquent child support (sec. 532 of the Senate amendment and sec. 166 of the Code)

### PRESENT LAW

*Bad debt deduction*

Non-business bad debts may be deductible as short-term capital losses on Schedule D of the Form 1040. Non-business bad debts generally are debts that the taxpayer did not acquire or create in the course of operating the taxpayer's business. The present-law rule that capital losses (both short-term and long-term) may not exceed the sum of $3,000 plus any capital gains for any taxable year is applicable.

Non-business bad debts are only deductible only if: (1) the debt is wholly worthless (partially worthless debts are not deductible) and (2) the taxpayer has a tax basis in the debt that becomes bad. If these requirements are satisfied, the amount of the deductible non-business bad debt is the individual's basis in the bad debt. Generally, the amount of basis that a taxpayer has in a debt is the amount of the cash advance in the case of a loan or the amount of taxable income recognized by the taxpayer with reference to the debt. Deductions for bad debts are allowed only for the taxable year in which the debt becomes wholly worthless.

Custodial parents do not qualify for a non-business bad debt deduction on unpaid child support because, they have no basis in the debt and the debt may not be wholly worthless.

*Bad debt income inclusion*

There is no income inclusion for individuals who are delinquent in paying their child support obligations.

### HOUSE BILL

No provision

### SENATE AMENDMENT

The Senate amendment creates an income inclusion for a non-custodial parent for certain unpaid child support obligations at the close of a taxable year. The income inclusion is limited to the amount of unpaid child support at the end of the taxable year that equals or exceeds one-half of the non-custodial taxpayer's total child support obligation to the custodial parent for the year. This test is not applied on a child-by-child basis. For example, in the case of child support for two children, the test applies the one-half or more test to the combined child support obligations for both children.

Under the bill, any payments from the non-custodial parent to the custodial parent subsequent to the close of the taxable year are not deductible by the non-custodial parent (regardless of whether the non-custodial parent had a previous income inclusion with regard to such amounts).

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 14. Sense of the Senate regarding the low-income housing tax credit (sec. 533 of the Senate amendment)

### PRESENT LAW

The low-income housing tax credit may be claimed over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified expenditures. The credit percentage for new substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent qualified expenditures.

The aggregate credit authority provided annually to each State was $1.75 per resident in calendar year 2002. Beginning in calendar year 2003, the per-capita portion of the credit cap will be adjusted annually for inflation. For small States, a minimum annual cap of $2 million was provided for calendar year 2002. Beginning in calendar year 2003, the small State minimum is adjusted for inflation.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment includes a statement that it is the sense of the Senate that any reduction or elimination of the taxation on dividends should include provisions to preserve the success of the low-income housing tax credit.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 15. Expensing of investment in broadband equipment (sec. 534 of the Senate amendment and new sec. 191 of the Code)

### PRESENT LAW

Under present law, a taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. Tangible property generally is depreciated under the Modified Accelerated Cost Recovery System (MACRS) of section 168, which determines depreciation by applying specific recovery periods, placed-in-service conventions, and depreciation methods to the cost of various types of depreciable property.

Personal property is classified under MACRS based on the property's "class life" unless a different classification is specifically provided in section 168. The class life applicable for personal property is the asset guideline period (midpoint class life as of January 1, 1986). Based on the property's classification, a recovery period is prescribed under MACRS. In general, there are six classes of recovery periods to which personal property can be assigned. For example, personal property that has a class life of four years or less has a recovery period of three years, whereas personal property with a class life greater than four years but less than 10 years has a recovery period of five years. The class lives and recovery periods for most property are contained in Rev. Proc. 87-56, 1987-2 CB 674 (as clarified and modified by Rev. Proc. 88-22, 1988-1 CB 785).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that expenses incurred by the taxpayer for qualified broadband expenditures with respect to qualified equipment placed in service prior to January 1, 2005 may be deducted in full in the year in which the equipment is placed in service.

Qualified expenditures are expenditures incurred with respect to equipment with which the taxpayer offers current generation broadband services to qualified subscribers. In addition, qualified expenditures include qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers next generation broadband services to qualified subscribers. Current generation broadband services are defined as the transmission of signals at a rate of at least 1 million bits per second to the subscriber and at a rate of at least 128,000 bits per second from the subscriber. Next generation broadband services are defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber.

Qualified subscribers for the purposes of the current generation broadband deduction include nonresidential subscribers in rural or underserved areas, and residential subscribers in rural or underserved areas that are not in a saturated market. A saturated market is defined as a census tract in which current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing within such census tracts. For the purposes of the next generation broadband deduction, qualified subscribers include nonresidential subscribers in rural or underserved areas or any residential subscriber. In the case of a taxpayer who incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualifying expenditures are determined by multiplying otherwise qualifying expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualifying equipment would be capable of serving.

Qualifying equipment must be capable of providing broadband services a majority of the time during periods of maximum demand. Qualifying equipment is that equipment that extends from the last point of switching to the outside of the building in which the subscriber is located, equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber, equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located, or equipment that extends from a transmission/reception antenna to a transmission/reception antenna on the outside of the building used by the subscriber. Any packet switching equipment deployed in connection with other qualifying equipment is qualifying equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber. Also, multiplexing and demultiplexing equipment also is qualified equipment.

A rural area is any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area is any census tract which is located in an empowerment zone or enterprise community or any census tract in which the poverty level is greater than or equal to 30 percent and in which the median family income is less than 70 percent of the greater of metropolitan area median family income or Statewide median family income. A residential subscriber is any individual who purchases broadband service to be delivered to his or her dwelling.

*Effective date.*—The Senate amendment provision is effective for property placed in service after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 16. Income tax credit for cost of carrying tax-paid distilled spirits in wholesale inventories and in control State bailment warehouses (sec. 535 of the Senate amendment and new sec. 5011 of the Code)

#### PRESENT LAW

As is true of most major Federal excise taxes, the excise tax on distilled spirits is imposed at a point in the chain of distribution before the product reaches the retail (consumer) level. Tax on domestically produced and/or bottled distilled spirits arises upon production (receipt) in a bonded distillery and is collected based on removals from the distillery during each semi-monthly period. Distilled spirits that are bottled before importation into the United States are taxed on removal from the first U.S. warehouse where they are landed (including a warehouse located in a foreign trade zone).

No tax credits are allowed under present law for business costs associated with having tax-paid products in inventory. Rather, excise tax that is included in the purchase price of a product is treated the same as the other components of the product cost, i.e., deductible as a cost of goods sold.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment creates a new income tax credit for wholesale distributors, distillers, and importers, of distilled spirits. The credit is calculated by multiplying the number of cases of bottled distilled spirits by the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year. A case is 12 80-proof 750-milliliter bottles. The average tax-financing cost per case is the amount of interest that would accrue at corporate overpayment rates during an assumed 60-day holding period on an assumed tax rate of $25.68 per case of 12 750-milliliter bottles.

The wholesaler credit only applies to domestically bottled distilled spirits[369] purchased directly from the bottler of such spirits. For distillers and importers, the credit is limited to bottled inventory in a warehouse owned and operated by, or on behalf of, a State when title to such inventory has not passed unconditionally. The credit for distillers and importers applies to distilled spirits bottled both domestically and abroad.

The credit is in addition to present-law rules allowing tax included in inventory costs to be deducted as a cost of goods sold.

The credit cannot be carried back to a taxable year beginning before January 1, 2003.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 17. Contribution in aid of construction (sec. 536 of the Senate amendment and sec. 118 of the Code)

#### PRESENT LAW

Section 118(a) provides that gross income of a corporation does not include a contribution to its capital. In general, section 118(b) provides that a contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer and, as such, is includible in gross income of the corporation. However, for any amount of money or property received by a regulated public utility that provides water or sewerage disposal services, such amount shall be considered a contribution to capital (excludible from gross income) so long as such amount: (1) is a contribution in aid of construction, and (2) is not included in the taxpayer's rate base for rate-making purposes. If the contribution is in property other than water or sewerage disposal facilities, the amount is generally excludible from gross income only if the amount is expended to acquire or construct water or sewerage disposal facilities within a specified time period. A contribution in aid of construction does not include a customer connection fee or amounts paid as service charges for starting or stopping services.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment clarifies that water and sewer service laterals received by a regulated public utility that provides water or sewerage disposal services is considered a contribution to capital and excludible from gross income of such utility.

*Effective date.*—The Senate amendment provision is effective for contributions made after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 18. Travel expenses for spouses (sec. 537 of the Senate amendment and sec. 274 of the Code)

#### PRESENT LAW

In general, no deduction is permitted for the travel expenses of a spouse, dependent, or other individual accompanying a taxpayer (or an officer or employee of the taxpayer) on business travel.[370]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment repeals this provision generally prohibiting a deduction for the travel expenses of a spouse, dependent, or other person accompanying a taxpayer (or an officer or employee of a taxpayer). All other present-law limitations on these expenses continue to apply.

*Effective date.*—The Senate amendment provision is effective for expenses paid or incurred after the date of enactment and on or before December 31, 2004.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 19. Certain sightseeing flights exempt from taxes on air transportation (sec. 538 of the Senate amendment and sec. 4281 of the Code)

#### PRESENT LAW

The Code imposes a tax on amounts paid for the taxable transportation of persons ("the ticket tax") (sec. 4261(a)). Taxable transportation for purposes of imposing the ticket tax is transportation that begins and ends in the United States (sec. 4262(a)). Aircrafts having a maximum certificated takeoff weight of 6.000 pounds or less ("small aircraft") are not subject to the ticket tax unless such aircraft is operated on an established line (sec. 4281).

Treasury regulations define the term "operated on an established line" to mean operated with some degree of regularity between definite points (Treas. Reg. sec. 49.4263-5(c)). The term implies that the air carrier maintains control over the direction, routes, time, number of passengers carried, etc. The Treasury regulations also provide that transportation need not be between two definite points to be taxable. A payment for continuous transportation beginning and ending at the same point is subject to the tax (Treas. Reg. sec. 49.4261-1(c)). Thus, the ticket tax applies to regularly conducted sightseeing air tours that begin and end at the same point.[371]

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[369] Distilled spirits that are imported in bulk and then bottled domestically qualify as domestically bottled distilled spirits.

[370] Sec. 274(m)(3).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, small aircrafts are not considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.

*Effective date.*—The Senate amendment provision is effective with respect to transportation beginning on or after the date of enactment, but does not apply to any amount paid before such date.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 20. Required coverage for reconstructive surgery following mastectomies (sec. 539 of the Senate amendment and new sec. 9813 of the Code)

### PRESENT LAW

The Women's Health and Cancer Rights Act of 1998 amended ERISA and the Public Health Service Act to provide that health plans offering mastectomy coverage must also provide coverage for reconstructive breast surgery. Under ERISA, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to mastectomies is required to provide coverage for reconstructive surgery following mastectomies.[372] In the case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage is required for (1) all stages of reconstruction of the breast on which the mastectomy has been performed, (2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and (3) prostheses and physical complications of mastectomy, including lymphedemas, in a manner determined in consultation with the attending physician and the patient.

Coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of the coverage must be delivered to the participant upon enrollment and annually thereafter. Notice must be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and must be transmitted as specifically required.

A group health plan may not deny a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of the provision. In addition, a group health plan may not penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with the provision. Nothing in the section should be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with the section.

The Code imposes an excise tax on failures to meet certain group health plan requirements.[373] The excise tax is equal to $100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

Present law does not impose an excise tax relating to required coverage for reconstructive surgery following mastectomies.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment adds to the Code a provision requiring a group health plan that provides medical and surgical benefits with respect to a mastectomy to provide coverage for reconstructive surgery following the mastectomy. The requirements follow those of ERISA. A group health plan that does not comply with the requirements of the provision is subject to the excise tax on failures to meet certain group health plan requirements.[374]

Under the new Code section, a group health plan that provides medical and surgical benefits with respect to a mastectomy must provide, in the case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for (1) all stages of reconstruction of the breast of which the mastectomy has been performed, (2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and (3) prostheses and physical complications of mastectomy, including lymphedemas, in a manner determined in consultation with the attending physician and the patient.

Coverage may be subject to annual deductibles and coinsurance provisions as deemed appropriate and consistent with those established for other benefits under the plan. Written notification of the availability of such coverage must be delivered to the participant upon enrollment and annually thereafter. Unlike ERISA, the specific manner in which notice must be given is not included in the new Code provision.

Under the Senate amendment, a group health plan may not deny a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of the provision. In addition, a group health plan may not penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with the provision. Nothing in the provision should be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with the provision.

Under the Senate amendment, in the case of a group heath plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by the provision will not be treated as a termination of the collective bargaining agreement.

*Effective date.*—The Senate amendment provision is effective for plan years beginning on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 21. Renewal community modifications (secs. 540 and 541 of the Senate amendment and secs. 1400E and 1400H of the Code)

### PRESENT LAW

The Code authorizes the designation of 40 "renewal communities" within which special tax incentives will be available. The following is a description of the designation process and the tax incentives that will be available within the renewal communities.

#### *Designation process*

*Designation of 40 renewal communities.*—The Secretary of HUD, was authorized to designate up to 40 renewal communities from areas nominated by States and local governments. At least 12 of the designated communities must be in rural areas. The designation of an area as a renewal community terminates after December 31, 2009.

*Eligibility criteria.*—To be designated as a renewal community, a nominated area must meet the following criteria: (1) each census tract must have a poverty rate of at least 20 percent; (2) in the case of an urban area, at least 70 percent of the households have incomes below 80 percent of the median income of households within the local government jurisdiction; (3) the unemployment rate is at least 1.5 times the national unemployment rate; and (4) the area is one of pervasive poverty, unemployment, and general distress. Generally, those areas with the highest average ranking of eligibility factors (1), (2), and (3) above will be designated as renewal communities.

The boundary of a renewal community must be continuous. In addition, the renewal community must have a minimum population of 4,000 if the community is located within a metropolitan statistical area (at least 1,000 in all other cases), and a maximum population of not more than 200,000. The population limitations do not apply to any renewal community that is entirely within an Indian reservation.

In addition, certain State and local government commitments are necessary for an area to receive designation.

#### *Tax incentives for renewal communities*

The following tax incentives generally are available during the period beginning January 1, 2002, and ending December 31, 2009.

*Zero-percent capital gain rate.*—A zero-percent capital gains rate applies with respect to gain from the sale of a qualified community asset acquired after December 31, 2001, and before January 1, 2010, and held for more than five years. A "qualified community asset" includes: (1) qualified community stock (meaning original-issue stock purchased for cash in a renewal community business); (2) a qualified community partnership interest (meaning a partnership interest acquired for cash in a renewal community business); and (3) qualified community business property (meaning tangible property originally used in a renewal community business by the taxpayer) that is purchased or substantially improved after December 31, 2001.

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[371] See *Lake Mead Air Inc.* v. *United States*, 99-1 USTC par. 70,119 (D. Nev. 1997). The *Lake Mead* court found that that the tours started and ended at the same point without fail therefore, the flights were between definite points. Finding that the flights were operated with some degree of regularity and between definite points, the court found that the flights were operated on an established line. As a result, the exemption for small aircraft operating on nonestablished lines did not apply and the court concluded that the flights were taxable transportation for purposes of the ticket tax. However, the court found that Lake Mead was not a responsible person for collecting the tax for purposes of the 100 percent penalty imposed by section 6672.

[372] ERISA sec. 713. A similar provision is also included in the Public Health Service Act.

[373] Sec. 4980D.

[374] Sec. 4980D.

The termination of an area's status as a renewal community will not affect whether property is a qualified community asset, but any gain attributable to the period before January 1, 2002, or after December 31, 2014, is not eligible for the zero-percent rate.

*Renewal community employment credit.*—A 15-percent wage credit is available to employers for the first $10,000 of qualified wages paid to each employee who (1) is a resident of the renewal community, and (2) performs substantially all employment services within the renewal community in a trade or business of the employer. In general, any taxable business carrying out activities in the renewal community may claim the wage credit.

*Commercial revitalization deduction.*—Each State is permitted to allocate up to $12 million of "commercial revitalization expenditures" to each renewal community located within the State for each calendar year after 2001 and before 2010. The appropriate State agency will make the allocations pursuant to a qualified allocation plan. A "commercial revitalization expenditure" means the cost of a new building or the cost of substantially rehabilitating an existing building. The qualifying expenditures for any building cannot exceed $10 million.

*Additional section 179 expensing.*—A renewal community business is allowed an additional $35,000 of section 179 expensing for qualified renewal property placed in service after December 31, 2001, and before January 1, 2010. The section 179 expensing allowed to a taxpayer is phased out by the amount by which 50 percent of the cost of qualified renewal property placed in service during the year by the taxpayer exceeds $200,000.

*Extension of work opportunity tax credit ("WOTC").*—The provision expands the high-risk youth and qualified summer youth categories in the WOTC to include qualified individuals who live in a renewal community.

*Expiration date*

The tax benefits available in renewal communities are effective for the period beginning January 1, 2002, and ending December 31, 2009.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that an employee who resides in one area that is designated as a renewal community, but who works in a certain other area that also is designated as a renewal community qualifies for the renewal community employment credit. To qualify the area of residence and the area of employment must be in the same State and within five miles.

In addition, the Senate amendment provides that, at the request of the local community, the Secretary of Housing and Urban development may expand the size of an existing renewal community to include a census tract that satisfy eligibility standards based on the 2000 Census, but which did not qualify based on the 1990 Census solely by reason of applicable 1990 population or poverty requirements. The Senate amendment also permits, upon the request of the local community, the Secretary of Housing and Urban Development to expand the size of an existing renewal community to include certain adjacent census tracts populated with 100 or fewer persons.

*Effective date.*—The Senate amendment provisions are effective as if included in the Community Renewal Tax Relief Act of 2000.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

22. Combat zone expansions (secs. 542 and 543 of the Senate amendment and sec. 112 of the Code)

### PRESENT LAW

In general, gross income does not include compensation for active service in the armed forces of the United States below the grade of commissioned officer for any month during which the service person served in a combat zone.[375] For commissioned officers, the maximum excludible under this provision is the highest level of pay for an enlisted person. In general, the determination that an area is a combat zone is made by the President by an Executive Order.[376]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment removes the limitation on this exclusion for commissioned officers, so that their entire basic pay is excludible. The Senate amendment also provides that direct transit to and from a combat zone (not to exceed 14 days) is treated as service in a combat zone. The Senate amendment treats military service as part of Operation Iraqi Freedom in Guantanamo Bay, Cuba, and Diego Garcia as if it were in a combat zone.

*Effective date.*—The Senate amendment provision is effective on January 1, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

23. Ratable income inclusion for citrus canker tree payments (sec. 544 of the Senate amendment and sec. 451 and 1033 of the Code)

### PRESENT LAW

Generally, a taxpayer recognizes gain on the sale or exchange of property to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion. The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier) and generally ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized. Longer replacement periods are available in the case of real property and principal residences involuntarily converted as a result of Presidentially declared disaster.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment permits a taxpayer to elect to recognize any realized gain by reason of receiving a citrus canker tree payment ratably over a 10-year period beginning with the taxable year in which such payment is received or accrued by the taxpayer. The provision defines a citrus canker tree payment as a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations made by the final rule published in the Federal Register by the Secretary of the Agriculture on June 18, 2001. An election under the provision is made by attaching a statement to that effect in the taxpayer's return for the taxable year in which the payment is received or accrued in the manner as the Secretary prescribes. An election is binding for that taxable year and all subsequent taxable years.

The Senate amendment also extends the applicable period under section 1033 for a taxpayer to replace commercial citrus trees which are involuntarily converted under a public order as a result of citrus tree canker to four years. In addition, the Secretary of the Treasury is granted authority to further extend the replacement period on a regional basis if a State or Federal health authority determines that the land on which such trees grew is not free from the bacteria that causes citrus tree canker.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning before, on, or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

24. Exclusion of certain punitive damage awards (sec. 545 of the Senate amendment and sec. 104 of the Code)

### PRESENT LAW

Under present law, gross income generally does not include the amount of any damages received (whether by suit or agreement and whether as lump sums or as periodic payments) by individuals on account of personal physical injuries (including death) or physical sickness.[377] However, this exclusion does not apply to punitive damages.[378]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides an exclusion from gross income for any portion of an award of punitive damages in a civil action that is paid to a State under a split-award statute or any attorneys' fees or other costs incurred by the taxpayer in connection with obtaining such an award which are allocable to such portion.

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[375] Sec. 112.

[376] Sec. 112(c)(2).

[377] Sec. 104(a)(2).

[378] *Id.*

Under the Senate amendment, a "split-award statute" is a State law that requires a fixed portion of an award of punitive damages in a civil action to be paid to the State.

*Effective date.*—The Senate amendment applies to awards made in taxable years ending after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 25. Repeal of pre-1997 tax on certain imported recycled halons (sec. 546 of the Senate amendment and sec. 4682 of the Code)

### PRESENT LAW

An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals (sec. 4681). The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to each taxable chemical. The base tax amount was $5.80 per pound in 1996 and $6.25 per pound in 1997, and increased by $0.45 cents per pound per year thereafter. The ozone-depleting factors for taxable halons are three for halon-1211, 10 for halon-1301, and six for halon-2402.

In general, taxable chemicals that are recovered and recycled within the United States are exempt from tax. In addition, exemption is provided for imported recycled halon-1301 and halon-2402 if such chemicals are imported after December 31, 1996, from countries that are signatories to the Montreal Protocol on Substances that Deplete the Ozone Layer.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that no tax is liable for imported recycled halon-1301 or halon-2402 if such chemicals were imported after December 31, 1993, from countries that were signatories to the Montreal Protocol on Substances that Deplete the Ozone Layer at the time such chemicals were imported. In addition, the Senate amendment provides that no tax is liable for imported recycled halon-1211 if such chemicals were imported after December 31, 1993 and before August 5, 1997, from countries that were signatories to the Montreal Protocol on Substances that Deplete the Ozone Layer at the time such chemicals were imported. If, before the end of the one-year period commencing with the date of enactment, any taxpayer who previously paid tax under the then prevailing law files for a refund or credit of taxes paid, such refund or credit is to be made.

*Effective date.*—The Senate amendment provision is effective upon the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 26. Modification of involuntary conversion rules for businesses affected by the September 11, 2001 terrorist attacks (sec. 547 of the Senate amendment and sec. 1400L of the Code)

### PRESENT LAW

A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period (the "replacement period") property similar or related in service or use (section 1033). If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized. If the taxpayer elects to apply the rules of section 1033, gain on the converted property is recognized only to the extent that the amount realized on the conversion exceeds the cost of the replacement property. In general, the replacement period begins with the date of the disposition of the converted property and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.[379] The replacement period is extended to three years if the converted property is real property held for the productive use in a trade or business or for investment.[380]

The Jobs Creation and Worker Assistance Act of 2002[381] extends the replacement period to five years for a taxpayer to purchase property to replace property that was involuntarily converted within the New York Liberty Zone[382] as a result of the terrorist attacks that occurred on September 11, 2001. However, the five-year period is available only if substantially all of the use of the replacement property is in New York City. In all other cases, the present-law replacement period rules continue to apply.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

For property that was involuntarily converted within the New York Liberty Zone as a result of the terrorist attacks that occurred on September 11, 2001, the Senate amendment provides that if a taxpayer is a member of an affiliated group of corporations filing a consolidated return that replacement property may be purchased by any member of the affiliated group (in lieu of the taxpayer).[383]

*Effective date.*—The Senate amendment provision is effective for involuntary conversions in the New York Liberty Zone occurring on or after September 11, 2001.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## D. Medicare Provisions (Secs. 561–576 of the Senate Amendment)

### PRESENT LAW

*Standardized Amount Equalization*

Present law pays rural and small urban facilities 1.6 percent less on every inpatient discharge than their counterparts in urban areas of a million or more people.

*Equalization of Medicare Disproportionate Share (DSH) Payments*

Present law differentiates between rural and urban hospitals that treat vulnerable populations.

*Assistance for Low Volume Hospitals*

Present law fails to recognize the special costs incurred by hospitals with less than 2,000 discharges per year.

*Revision of Labor Share to 62 percent*

Medicare's standardized amounts are apportioned into a labor-related amount (which is then adjusted by the wage index value of the area where the hospital is located or to which it has been reassigned) and a nonlabor-related amount (which is generally not subject to geographical adjustment). Under present law, the labor-related amount comprises 71.1 percent of the national standardized amount.

*Extend Hold Harmless for Rural Hospitals under Hospital Outpatient Prospective Payment System*

Present law payments to outpatient hospital departments vary from year to year.

*Critical Access Hospital Improvements*

Many rural hospitals have elected to become critical access hospitals (CAHs) under present law.

*10-percent Add-on for Rural Home Health Agencies*

Special add-on payment to rural home health agencies expired on April 1, 2003.

*Five-percent Add-on for Clinic and Emergency Room Visits for Small Rural Hospitals*

Present law treats clinic and emergency room visits no differently than other services provided by the hospital.

*Five-percent Add-on for Rural Ground Ambulance Trips*

Present law fails to compensate for the long distances rural ambulances drive to treat patients.

*Exclusion of Services Provided By Rural Health Clinic-based Practitioners from SNF Consolidated Billing*

Present law requires providers based in a rural health clinic to submit their bills for services provided to nursing home patients to the nursing home rather than to Medicare.

*Make 10-percent Bonus Payments under Medicare Incentive Payment Program Automatic*

Present law requires physicians participating in the Medicare Incentive Payment program to apply for bonus payments when they elect to serve in Health Professional Shortage Areas.

*Two-Year Extension of Reasonable Cost Payments for Laboratory Tests in Sole Community Hospitals*

Present law allows laboratory tests performed in sole community hospitals to be paid at their reasonable cost, rather than under a fee schedule.

*Set Work, Practice Expense and Malpractice Geographic Indices for Physician Payments at 1.0*

Present law adjusts three components of physician payments under the physician fee schedule based on geography.

*10-Year Freeze in CPI Updates for Durable Medical Equipment, Prosthetics and Orthotics*

Present law produces payment updates equal to CPI for providers and suppliers in this category.

*Collect Coinsurance and Deductible Amounts for Clinical Laboratory Tests*

Present law includes no cost-sharing obligation for clinical laboratory tests.

*Limit Reimbursement for Currently Covered Drugs*

Present law pays for limited prescription drugs and biologicals at 95 percent of the product's average wholesale price.

### HOUSE BILL

No provision.

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[379] Section 1033(a)(2)(B).

[380] Section 1033(g)(4).

[381] Pub. Law No. 107-147, sec. 301 (2002).

[382] The "New York Liberty Zone" generally is the area located on or south of Canal street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, New York.

[383] It is anticipated that the Secretary of the Treasury will issue guidance as may be necessary to ensure that gain shall not be recognized under the consolidated return provisions and to ensure that any investment adjustments, or any other adjustments under the consolidated regulations, accurately reflect the implications of permitting another member of the consolidated group to purchase the replacement property.

SENATE AMENDMENT

*Standardized Amount Equalization*

The Senate amendment raises the inpatient base rate for hospitals in rural and small urban areas to the same rate as that in large urban areas.

*Equalization of Medicare Disproportionate Share (DSH) Payments*

The Senate amendment equalizes payments to both rural and urban hospitals that receive Medicare DSH payments.

*Assistance for Low Volume Hospitals*

The Senate amendment improves payments for those hospitals with extremely low annual patient volume.

*Revision of Labor Share to 62 percent*

The Senate amendment reduces the labor-related amount to 62 percent of the national standardized amount.

*Extend Hold Harmless for Rural Hospitals Under Hospital Outpatient Prospective Payment System*

The Senate amendment protects rural hospitals against possible reductions due to the new outpatient prospective payment system through 2006.

*Critical Access Hospital Improvements*

The Senate amendment (1) reinstates Periodic Interim Payment (PIP), which provides facilities with a steadier stream of payment in order to improve their cash flow; (2) eliminates the current requirement that CAH-based ambulance services be at least 35 miles from another ambulance service in order to receive cost-based payment; and (3) provides coverage for emergency on-call providers, and (4) excludes CAHs from the wage index calculation.

*10-percent Add-on for Rural Home Health Agencies*

The Senate amendment extends special add-on payments that expired April 1, 2003 to rural home health agencies and makes them permanent.

*Five-percent Add-on for Clinic and Emergency Room Visits for Small Rural Hospitals*

The Senate amendment increases Medicare payment for visits to small rural hospitals' outpatient clinics and emergency rooms, which serve a critical primary care function in rural areas.

*Five-percent Add-on for Rural Ground Ambulance Trips*

The Senate amendment extends a five-percent add-on payment for all ground ambulance trips provided in a rural area.

*Exclusion of Services Provided By Rural Health Clinic-based Practitioners From SNF Consolidated Billing*

The Senate amendment exempts practitioners based in rural health clinics from the requirement to submit their bills for services provided to nursing home patients to the nursing home rather than to Medicare, reducing administrative burdens and making their payments more predictable.

*Make 10-percent Bonus Payments Under Medicare Incentive Payment Program Automatic*

Present law requires physicians participating in the Medicare Incentive Payment program to apply for bonus payments when they elect to serve in Health Professional Shortage Areas. The Senate amendment makes bonus payments automatic to physicians participating in the Medicare Incentive Payment program, eliminating bureaucratic barriers to receipt of such funds.

*Two-Year Extension of Reasonable Cost Payments for Laboratory Tests in Sole Community Hospitals*

The Senate amendment extends the allowance for laboratory tests performed in sole community hospitals to be paid at their reasonable cost, rather than under a fee schedule for an additional two years.

*Set Work, Practice Expense and Malpractice Geographic Indices for Physician Payments at 1.0*

The Senate amendment sets a floor of 1.0 on geographic adjustments to the work, practice expense and professional liability insurance components of physician payment.

*10-Year Freeze in CPI Updates for Durable Medical Equipment, Prosthetics and Orthotics*

The Senate amendment freezes CPI updates for payment for durable medical equipment, prosthetics, and orthotics for ten years.

*Collect Coinsurance and Deductible Amounts for Clinical Laboratory Tests*

The Senate amendment extends the same coinsurance and deductible rules to clinical laboratory tests that apply to all other Part B services.

*Limit Reimbursement for Currently Covered Drugs*

The Senate amendment lowers that amount paid for limited prescription drugs and biologicals to 85 percent of the product's average wholesale price, or the amount payable for the product during the last quarter of the previous year, whichever is lower.

CONFERENCE AGREEMENT

The conference agreement does not in the Senate amendment provisions.

E. Provisions Relating to S Corporations (Secs. 581-594 of the Senate Amendment and Sections 1361-1379 of the Code)

1. Shareholders of an S corporation

PRESENT LAW

The taxable income or loss of an S corporation is taken into account by the corporation's shareholders, rather than by the entity, whether or not such income is distributed. A small business corporation may elect to be treated as an S corporation. A "small business corporation" is defined as a domestic corporation which is not an ineligible corporation and which does not have (1) more than 75-shareholders; (2) as a shareholder, a person (other than certain trusts, estates, charities, and qualified retirement plans) who is not an individual; (3) a nonresident alien as a shareholder; and (4) more than one class of stock. For purposes of the 75-shareholder limitation, a husband and wife are treated as one shareholder. An "ineligible corporation" means any corporation that is a member of an affiliated group, certain financial institutions that use the reserve method of accounting for bad debts, certain insurance companies, a section 936 corporation, or a DISC or former DISC.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision provides that all family members owning stock can elect to be treated as one shareholder. A family is defined as the lineal descendants of a common ancestor (and their spouses). The common ancestor cannot be more than six generations removed from the youngest generation of shareholder at the time the S election is made (or the effective date of this provision, if later). The election is made available to only one family per corporation, must be made with the consent of all shareholders of the corporation and remains in effect until terminated.

The Senate amendment provision increases the maximum number of eligible shareholders from 75 to 100.

Finally, under the Senate amendment nonresident aliens are allowed as beneficiaries of an electing small business trust.

*Effective date.*—The Senate amendment provisions apply to taxable years beginning after December 31, 2003, except that the provision relating to nonresident aliens is effective on date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Termination of election and additions to tax due to passive investment income

PRESENT LAW

An S corporation is subject to corporate-level tax, at the highest marginal corporate tax rate, on its net passive income if the corporation has (1) subchapter C earnings and profits at the close of the taxable year and (2) gross receipts more than 25 percent of which are passive investment income.

In addition, an S corporation election is terminated whenever the corporation has subchapter C earnings and profits at the close of three consecutive taxable years and has gross receipts for each of such years more than 25 percent of which are passive investment income.

For these purposes, "passive investment income" generally means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (to the extent of gains). "Passive investment income" generally does not include interest on accounts receivable, gross receipts that are derived directly from the active and regular conduct of a lending or finance business, gross receipts from certain liquidations, or gain or loss from any section 1256 contract (or related property) of an options or commodity dealer. "Net passive income" is defined as passive investment income reduced by the allowable deductions that are directly connected with the production of the income.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision increases the 25-percent threshold to 60 percent.

Also, the Senate amendment repeals capital gain as a category of passive income.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Treatment of S corporation shareholders

(a) In general

PRESENT LAW

In general, each S corporation shareholder takes into account its pro rata share of the S corporation income and loss for the taxable year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision makes the following changes in the treatment of S corporation shareholders:

Under the Senate amendment provision, if a shareholder's stock in an S corporation is transferred incident to a divorce decree, the pro rata share of any suspended corporate loss is transferred to the transferee spouse.

Under the Senate amendment provision, the beneficiary of a qualified subchapter S trust is allowed the suspended losses under the at-risk rules and the passive loss rules when the trust disposes of the stock.

*Effective date.*—The Senate amendment provisions apply to taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### (b) Electing small business trusts

#### PRESENT LAW

Under present law, an electing small business trust ("ESBT") may be an S corporation shareholder. In general, the beneficiaries of an ESBT must be individuals and others taxpayers that may own stock in an S corporation directly. Each potential current beneficiary of the trust is counted as a shareholder in determining whether or not the corporation meets the requirement that an S corporation have no more than 75 shareholders.

The portion of the trust consisting of S corporation stock is treated as a separate trust. The trust is taxed at the maximum trust tax rate (which is the same as the maximum individual tax rate) on the items of income, deduction, gain, or loss passing through from the S corporation. The remaining portion of the trust is treated as a separate trust taxed under the normal rules relating to the taxation of trusts and beneficiaries. In computing the amount of the distribution deduction for the trust, no subchapter S items are taken into account.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Under the Senate amendment provision, unexercised powers of appointment are disregarded in determining the beneficiaries of an electing small business trust.

Under the Senate amendment provision, the treatment of distributions from an electing small business trust is clarified by treating distributions from each portion (i.e., the portion attributable to the S corporation stock and the remaining portion) of the trust as separate distributions.

*Effective date.*—The Senate amendment provisions apply to taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the provision in the Senate amendment provision.

## 4. Provisions relating to banks

### (a) IRAs holding bank stock

#### PRESENT LAW

An individual retirement arrangement ("IRA") may not hold stock in an S corporation.

The Code contains rules prohibiting certain transactions between disqualified persons and certain tax-favored retirement arrangements, including IRAs. These rules are designed to prevent certain self-dealing transactions. For example, the sale of an asset held by an IRA to the beneficiary of the IRA is a prohibited transaction. In general, an excise tax is imposed on prohibited transactions. In the case of an IRA, however, if the IRA beneficiary engages in a prohibited transaction, the excise tax does not apply and, instead, the IRA ceases to be an IRA.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision provides that the sale of holding bank stock held in an IRA to the beneficiary of the IRA is not a prohibited transaction, in order to allow the corporation to be eligible to elect to be an S corporation.

*Effective date.*—The Senate amendment provision applies to stock held by an IRA on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### (b) Exclusion of investment securities income from passive income test for bank S corporations

#### PRESENT LAW

An S corporation is subject to corporate-level tax, at the highest marginal corporate tax rate, on its net passive income if the corporation has (1) subchapter C earnings and profits at the close of the taxable year and (2) gross receipts more than 25 percent of which are passive investment income.

In addition, an S corporation election is terminated whenever the corporation has subchapter C earnings and profits at the close of three consecutive taxable years and has gross receipts for each of such years more than 25 percent of which are passive investment income.

For these purposes, "passive investment income" generally means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (to the extent of gains). "Passive investment income" generally does not include interest on accounts receivable, gross receipts that are derived directly from the active and regular conduct of a lending or finance business, gross receipts from certain liquidations, or gain or loss from any section 1256 contract (or related property) of an options or commodity dealer. "Net passive income" is defined as passive investment income reduced by the allowable deductions that are directly connected with the production of the income.

#### HOUSE BILL

No amendment.

#### SENATE AMENDMENT

The Senate amendment provision provides that, in the case of a bank or bank holding company, passive income does not include interest and does not include dividends on assets required to be held by the bank or bank holding company.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### (c) Treatment of qualifying director shares

#### PRESENT LAW

A small business corporation may elect to be treated as an S corporation. A "small business corporation" is defined as a domestic corporation which is not an ineligible corporation and which does not have (1) more than 75 shareholders; (2) as a shareholder, a person (other than certain trusts, estates, charities, or qualified retirement plans) who is not an individual; (3) a nonresident alien as a shareholder; and (4) more than one class of stock.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Under the Senate amendment provision, shares held by reason of being a bank director that are subject to an agreement pursuant to which the holder is required to dispose of the shares upon termination of the holder's status as a director at the same price the individual acquired the shares are not treated as a second class of stock. Distributions are treated like interest payments.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 5. Qualified subchapter S subsidiaries

### (a) Relief from inadvertently invalid qualified subchapter S subsidiaries and elections and terminations

#### PRESENT LAW

Under present law, inadvertent subchapter S elections and terminations may be waived.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision allows inadvertent qualified subchapter S subsidiary elections and terminations to be waived by the IRS.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### (b) Information returns for qualified subchapter S subsidiaries

#### PRESENT LAW

Under present law, a wholly owned subsidiary of an S corporation may elect to be treated as not a separate corporation. The assets, liabilities, and items of income, deduction, and credit of the subsidiary are treated as assets, liabilities, and items of the parent S corporation.

#### HOUSE BILL

No provision

#### SENATE AMENDMENT

The Senate amendment provision provides authority to the Secretary of the Treasury to provide guidance regarding information returns of subchapter S subsidiaries.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 6. Elimination of all earnings and profits attributable to pre-1983 years

#### PRESENT LAW

The Small Business Job Protection Act of 1996 provided that if a corporation was an S corporation for its first taxable year beginning after 1996, the accumulated earnings and profits of the corporation were reduced as of the beginning of that year by the accumulated earnings and profits (if any) accumulated in a taxable year beginning before 1983 for which the corporation was an electing small business corporation under subchapter S.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision eliminates all accumulated earnings and profits of a corporation accumulated in a taxable year beginning before 1983 for which the corporation was an electing small business corporation under subchapter S.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### VIII. Blue Ribbon Commission on Comprehensive Tax Reform (Secs. 601–607 of the Senate Amendment)

#### PRESENT LAW

No provision.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment establishes the Blue Ribbon Commission on Comprehensive Tax Reform (the "Commission"). The Commission is composed of 12 members, of whom: (1) one is the Chairman of the Board of the Federal Reserve System; (2) two are appointed by the majority leader of the Senate; (3) two are appointed by the minority leader of the Senate; (4) two are appointed by the Speaker of the House of Representatives; (5) two are appointed by the minority leader of the House of Representatives; and (6) three are appointed by the President, of which no more than two will be of the same party as the President. Members of the Commission may be employees or former employees of the Federal Government. Appointments of Commission members will be made not later than July 30, 2003. Members of the Commission will be appointed for the life of the Commission. Any vacancy in the Commission will not affect its powers but will be filled in the same manner as the original appointment.

The Commission will hold its first meeting not later than 30 days after the date on which all Commission members have been appointed. The President will select a Commission Chairman ("Chairman") and Vice Chairman from among the members of the Commission. The Commission will meet at the call of the Chairman. A majority of the members of the Commission will constitute a quorum, but a lesser number of members may hold hearings (discussed below).

The Commission will conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems. The Commission will develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government. Not later than 18 months after the date on which all initial members of the Commission have been appointed, the Commission will submit a report to the President and Congress which will contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the amendment. Additionally, the Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the amendment. Upon request of the Chairman, the head of such department or agency will furnish such information to the Commission. The Commission may use the United States mails in the same manner and under the same condition as other departments and agencies of the Federal Government. The Commission may accept, use, and dispose of gifts or donations of services or property.

Each member of the Commission who is not an officer or employee of the Federal Government will be compensated at a rate equal to the daily equivalent of a prescribed annual rate of pay[384] for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States will serve without compensation in addition to that received for their services as officers or employees of the United States. Commission members will be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies while away from their homes or regular places of business in the performance of services for the Commission.[385]

The Chairman, without regard to the civil service laws and regulations, may appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director will be subject to confirmation by the Commission. The Chairman may fix the compensation of the executive director and other personnel without regard to classification of positions and general schedule pay rates,[386] except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the executive schedule.[387]

Any employee of the Federal Government may be detailed to the Commission without reimbursement, and such detail will be without interruption or loss of civil service status or privilege. The Chairman may procure temporary and intermittent services[388] at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the executive schedule.

The Commission will terminate 90 days after the date on which the Commission submits the report required by the provision. Such sums as are necessary to carry out the Senate amendment are appropriated.

*Effective date.*—The Senate amendment is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### IX. REIT Provisions

### A. REIT Modification Provisions (Secs. 701–707 of the Senate Amendment and Secs. 856 and 857 of the Code)

#### PRESENT LAW

*In general*

Real estate investment trusts ("REITs") are treated, in substance, as pass-through entities under present law. Pass-through status is achieved by allowing the REIT a deduction for dividends paid to its shareholders. REITs are generally restricted to investing in passive investments primarily in real estate and securities.

A REIT must satisfy four tests on a year-by-year basis: organizational structure, source of income, nature of assets, and distribution of income. Whether the REIT meets the asset tests is generally measured each quarter.

*Organizational structure requirements*

To qualify as a REIT, an entity must be for its entire taxable year a corporation or an unincorporated trust or association that would be taxable as a domestic corporation but for the REIT provisions, and must be managed by one or more trustees. The beneficial ownership of the entity must be evidenced by transferable shares or certificates of ownership. Except for the first taxable year for which an entity elects to be a REIT, the beneficial ownership of the entity must be held by 100 or more persons, and the entity may not be so closely held by individuals that it would be treated as a personal holding company if all its adjusted gross income constituted personal holding company income. A REIT is disqualified for any year in which it does not comply with regulations to ascertain the actual ownership of the REIT's outstanding shares.

*Income requirements*

In order for an entity to qualify as a REIT, at least 95 percent of its gross income generally must be derived from certain passive sources (the "95-percent income test"). In addition, at least 75 percent of its income generally must be from certain real estate sources (the "75-percent income test"), including rents from real property (as defined) and gain from the sale or other disposition of real property.

*Qualified rental income*

Amounts received as impermissible "tenant services income" are not treated as rents from real property.[389] In general, such amounts are for services rendered to tenants that are not "customarily furnished" in connection with the rental of real property.[390] Special rules also permit amounts to be received from certain "foreclosure property" treated as such for 3 years after the property is acquired by the REIT in foreclosure after a default (or imminent default) on a lease of such property or an indebtedness which such property secured.

Rents from real property, for purposes of the 95-percent and 75-percent income tests, generally do not include any amount received or accrued from any person in which the REIT owns, directly or indirectly, 10 percent or more of the vote or value.[391] An exception applies to rents received from a taxable REIT subsidiary ("TRS") (described further below) if at least 90 percent of the leased space of the property is rented to persons other than a TRS or certain related persons, and if the rents from the TRS are substantially comparable to unrelated party rents.[392]

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[384] The applicable rate of pay is the basic pay prescribed for level IV of the Executive Schedule under 5 U.S.C. 5315.

[385] Subchapter I of chapter 57 of title 5, U.S.C.

[386] Chapter 51 and subchapter III of chapter 53 of title 5, U.S.C.

[387] 5 U.S.C. 5316.

[388] 5 U.S.C. 3109(b).

[389] A REIT is not treated as providing services that produce impermissible tenant services income if such services are provided by an independent contractor from whom the REIT does not derive or receive any income. An independent contractor is defined as a person who does not own, directly or indirectly, more than 35 percent of the shares of the REIT. Also, no more than 35 percent of the total shares of stock of an independent contractor (or of the interests in net assets or net profits, if not a corporation) can be owned directly or indirectly by persons owning 35 percent or more of the interests in the REIT.

[390] Rents for certain personal property leased in connection are treated as rents from real property if the fair market value of the personal property does not exceed 15 percent of the aggregate fair market values of the real and personal property

[391] Section 856(d)(2)(B).

*Certain hedging instruments*

Except as provided in regulations, a payment to a REIT under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the REIT to acquire or carry real estate assets, and any gain from the sale or disposition of any such investment, is treated as income qualifying for the 95-percent income test.

*Tax if qualified income tests not met*

If a REIT fails to meet the 95-percent or 75-percent income tests but has set out the income it did receive in a schedule and any error in the schedule is due to reasonable cause and not willful neglect, then the REIT does not lose its REIT status but instead pays a tax measured by the greater of the amount by which 90 percent[393] of the REIT's gross income exceeds the amount of items subject to the 95-percent test, or the amount by which 75 percent of the REIT's gross income exceeds the amount of items subject to the 75-percent test.[394]

*Income or loss from prohibited transactions*

In general, a REIT must derive its income from passive sources and not engage in any active trade or business. A 100 percent tax is imposed on the net income of a REIT from "prohibited transactions". A prohibited transaction is the sale or other disposition of property described in section 1221(1) of the Code (property held for sale in the ordinary course of a trade or business) other than foreclosure property.[395] A safe harbor is provided for certain sales of rent producing real property that otherwise might be considered prohibited transactions. The safe harbor is limited to seven or fewer sales a year or, alternatively, any number of sales provided that the aggregate adjusted basis of the property sold does not exceed 10 percent of the aggregate basis of all the REIT's assets at the beginning of the REIT's taxable year. The safe harbor only applies to property that has been held by the REIT for at least 4 years. In addition, property is eligible for the safe harbor only if the aggregate expenditures made directly or indirectly by the REIT during the 4-year period prior to date of sale do not exceed 30 percent of the net selling price of the property.

*Certain timber income*

REITs have been formed to hold land on which trees are grown. Upon maturity of the trees, the standing trees are sold by the REIT to its taxable REIT subsidiary, which cuts and logs the trees and processes the timber to produce lumber, lumber products such a plywood or composite. The Internal Revenue Service has issued private letter rulings in particular instances stating that the income can qualify as REIT real property income because the uncut timber and the timberland on which the timber grew is considered real property and the sale of uncut trees can qualify as capital gain derived from the sale of real property.[396]

*Asset requirements*

To satisfy the asset requirements to qualify for treatment as a REIT, at the close of each quarter of its taxable year, an entity must have at least 75 percent of the value of its assets invested in real estate assets, cash and cash items, and government securities (the "75-percent asset test"). The term real estate asset is defined to mean real property (including interests in real property and mortgages on real property) and interests in REITs.

*Limitation on investment in other entities*

A REIT is limited in the amount that it can own in other corporations. Specifically, a REIT cannot own securities (other than Government securities and certain real estate assets) in an amount greater than 25 percent of the value of REIT assets. In addition, it cannot own such securities of any one issuer representing more than 5 percent of the total value of REIT assets or more than 10 percent of the voting securities or 10 percent of the value of the outstanding securities of any one issuer. Securities for purposes of these rules are defined by reference to the Investment Company Act of 1940.

*"Straight debt" exception*

Securities of an issuer that are within a safe-harbor definition of "straight debt" (as defined for purposes of subchapter S[397] are not taken into account in applying the limitation that a REIT may not hold more than 10 percent of the value of outstanding securities of a single issuer, if: (1) the issuer is an individual, or (2) the only securities of such issuer held by the REIT or a taxable REIT subsidiary of the REIT are straight debt, or (3) the issuer is a partnership and the trust holds at least a 20 percent profits interest in the partnership.

Straight debt is defined as a written or unconditional promise to pay on demand or on a specified date a sum certain in money if (i) the interest rate (and interest payment dates) are not contingent on profits, the borrower's discretion, or similar factors; (ii) there is no convertibility (directly or indirectly) into stock; and (iii) the creditor is an individual (other than a nonresident alien), an estate, certain trusts, or a person which is actively and regularly engaged in the business of lending money.

*Certain subsidiary ownership permitted with income treated as income of the REIT*

Under one exception to the rule limiting a REIT's securities holdings to no more than 10 percent of the vote or value of a single issuer, a REIT can own 100 percent of the stock of a corporation, but in that case the income and assets of such corporation are treated as income and assets of the REIT.

*Special rules for Taxable REIT subsidiaries*

Under another exception to the general rule limiting REIT securities ownership of other entities, a REIT can own stock of a taxable REIT subsidiary ("TRS"), generally, a corporation other than a real estate investment trust[398] with which the REIT makes a joint election to be subject to special rules. A TRS can engage in active business operations that would produce income that would not be qualified income for purposes of the 95-percent or 75-percent income tests for a REIT, and that income is not attributed to the REIT. For example a TRS could provide noncustomary services to REIT tenants, or it could engage directly in the active operation and management of real estate (without use of an independent contractor); and the income the TRS derived from these nonqualified activities would not be treated as disqualified REIT income. Transactions between a TRS and a REIT are subject to a number of specified rules that are intended to prevent the TRS (taxable as a separate corporate entity) from shifting taxable income from its activities to the pass through entity REIT or from absorbing more than its share of expenses. Under one rule, a 100 percent excise tax is imposed on rents, deductions, or interest paid by the TRS to the REIT to the extent such items would exceed an arm's length amount as determined under section 482.[399]

Rents subject to the 100 percent excise tax do not include rents for services of a TRS that are for services customarily furnished or rendered in connection with the rental of real property.

They also do not include rents from a TRS that are for real property or from incidental personal property provided with such real property.

*Income distribution requirements*

A REIT is generally required to distribute 90 percent of its income before the end of its taxable year, as deductible dividends paid to shareholders. This rule is similar to a rule for regulated investment companies ("RICs") that requires distribution of 90 percent of income. Both RICS and REITs can make certain "deficiency dividends" after the close of the taxable year, and have these treated as made before the end of the year. Deficiency dividends may be declared on or after the date of "determination". A determination is defined to include only (i) a final decision by the Tax Court or other court of competent jurisdiction, (ii) a closing agreement under section 7121, or (iii) under Treasury regulations, an agreement signed by the Secretary and the REIT.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes a number of modifications to the REIT rules.

*Straight debt modification*

The provision modifies the definition of "straight debt" for purposes of the limitation that a REIT may not hold more than 10 percent of the value of the outstanding securities of a single issuer, to provide more flexibility than the present law rule. In addition, except as provided in regulations, neither such straight debt nor certain other types of securities are considered "securities" for purposes of this rule.

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[392] Section 856(d)(8).

[393] Prior to 1999, the rule had applied to the amount by which 95 percent of the income exceeded the items subject to the 95 percent test.

[394] The ratio of the REIT's net to gross income is applied to the excess amount, to determine the amount of tax (disregarding certain items otherwise subject to a 100-percent tax). In effect, the formula seeks to require that all of the REIT net income attributable to the failure of the income tests will be paid as tax. Sec. 857(b)(5).

[395] Thus, the 100 percent tax on prohibited transactions helps to ensure that the REIT is a passive entity and may not engage in ordinary retailing activities such as sales to customers of condominium units or subdivided lots in a development project.

[396] See, e.g., PLR 200052021; PLR 199945055, PLR 19927021, PLR 8838016. A private letter ruling may be relied upon only by the taxpayer to which the ruling is issued. However, such rulings provide an indication of administrative practice.

[397] Section 1361(c)(5), without regard to paragraph (B)(iii) thereof.

[398] Certain corporations are not eligible to be a TRS, such as a corporation which directly or indirectly operates or manages a lodging facility or a health care facility or directly or indirectly provides to any other person rights to a brand name under which any lodging facility or health care facility is operated. Sec. 856(l)(3).

[399] If the excise tax applies, the item is not also reallocated back to the TRS under section 482.

*Straight debt securities*

"Straight-debt" is still defined by reference to section 1361(c)(5), however, without regard to subparagraph (B)(iii) thereof (limiting the nature of the creditor).

Special rules are provided permitting certain contingencies for purposes of the REIT provision. Any interest or principal shall not be treated as failing to satisfy section 1361(c)(5)(B)(i) solely by reason of the fact that the time of payment of such interest or principal is subject to a contingency, but only if one of several factors applies. The first type of contingency that is permitted is one that does not have the effect of changing the effective yield to maturity, as determined under section 1272, other than a change in the annual yield to maturity which either (i) does not exceed the greater of ¼ of 1 percent or 5 percent of the annual yield to maturity, or (ii) results solely from a default or the exercise of a prepayment right by the issuer of the debt.

The second type of contingency that is permitted is one under which neither the aggregate issue price nor the aggregate face amount of the debt instruments held by the REIT exceeds $1,000,000 and not more than 12 months of unaccrued interest can be required to be prepaid thereunder.

The bill eliminates the present law rule requiring a REIT to own a 20 percent equity interest in a partnership in order for debt to qualify as "straight debt". The bill instead provides new "look-through" rules determining a REIT partner's share of partnership securities, generally treating debt to the REIT as part of the REIT's partnership interest for this purpose, except in the case of otherwise qualifying debt of the partnership.

Certain corporate or partnership issues that otherwise would be permitted to be held without limitation under the special straight debt rules described above will not be so permitted if the REIT holding such securities, and any of its taxable REIT subsidiaries, holds any securities of the issuer which are not permitted securities (prior to the application of this rule) and have an aggregate value greater than 1 percent of the issuer's outstanding securities.

*Other securities*

Except as provided in regulations, the following also are not considered "securities" for purposes of the rule that a REIT cannot own more than 10 percent of the value of the outstanding securities of a single issuer: (i) any loan to an individual or an estate, (ii) any section 467 rental agreement, (as defined in section 467(d)), other than with a person described in section 856(d)(2)(B), (iii) any obligation to pay rents from real property, (iv) any security issued by a State or any political subdivision thereof, the District of Columbia, a foreign government, or any political subdivision thereof, or the Commonwealth of Puerto Rico, but only if the determination of any payment received or accrued under such security does not depend in whole or in part on the profits of any entity not described in this category, or payments on any obligation issued by such an entity, (v) any security issued by a real estate investment trust; (vi) any other arrangement that, as determined by the Secretary, is excepted from the definition of a security.

*Safe harbor testing date for certain rents*

The bill provides specific safe-harbor rules regarding the dates for testing whether 90 percent of a REIT property is rented to unrelated persons and whether the rents paid by related persons are substantially comparable to unrelated party rents. These testing rules are provided solely for purposes of the special provision permitting rents received from a related party to be treated as qualified rental income for purposes of the income tests.[400]

*Customary services exception*

The bill prospectively eliminates the safe harbor allowing rents received by a REIT to be exempt from the 100 percent excise tax if the rents are for customary services performed by the TRS[401] or are from a TRS and are for the provision of certain incidental personal property. Instead, such payments would be free of the excise tax if they satisfy the present law safe-harbor that applies if the REIT pays the TRS at least 150 percent of the cost to the TRS of providing any services.

*Hedging rules*

The rules governing the tax treatment of arrangements engaged in by a REIT to reduce interest rate risks are prospectively conformed to the rules included in section 1221.

*95-percent gross income requirement*

The bill prospectively amends the tax liability owed by the REIT when it fails to meet the 95-percent of gross income test by applying a taxable fraction based on 95 percent, rather than 90 percent of the REIT's gross income.

*Safe harbor from prohibited transactions for certain timberland sales*

The bill provides that a sale of a real estate asset will not be a prohibited transaction the following six requirements are met:

(1) The asset must have been held for at least 4 years in the trade or business of producing timber;

(2) The aggregate expenditures made the REIT (or a partner of the REIT) during the 4-year period preceding the date of sale that are includible in the basis of the property that are directly related to the operation of the property for the production of timber or for the preservation of the property for use as timberland must not exceed 30 percent of the net selling price of the property;

(3) The aggregate expenditures made the REIT (or a partner of the REIT) during the 4-year period preceding the date of sale that are includible in the basis of the property that do not qualify under the second requirement (i.e., those expenditures are not directly related to the operation of the property for the production of timber or the preservation of the property for use as timberland) must not exceed 5 percent of the net selling price of the property;

(4) The REIT either (i) does not make more than 7 sales of property (other than sales of foreclosure property or sales to which 1033 applies) or (ii) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property sold during the year (other than sales of foreclosure property or sales to which 1033 applies) does not exceed 10 percent of the aggregate bases (as determined for purposes of computing earnings and profits)of property of all assets of the REIT as of the beginning of the year;

(5) Substantially all of the marketing expenditure with respect to the property are made by persons who an independent contractor (as defined by section 856(d)(3) with respect to the REIT and from whom the REIT does not derive any income; and

(6) The sales price of the sale of the property to a taxable REIT subsidiary cannot be based in whole or in part on the income or profits that the subsidiary derives from the sales of such properties.

Costs that are not includible in the basis of the property are not counted towards either the 30 or 5 percent requirements.

*Capital expenditures counted towards 30-percent requirement*

Capital expenditures counted towards the 30-percent limit are those expenditures that are includible in the basis of the property (other than timberland acquisition expenditures), and that are directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland. These capital expenditures are those incurred directly in the operation of raising timber (i.e., silviculture), as opposed to capital expenditures incurred in the ownership of undeveloped land. In general, these capital expenditures incurred directly in the operation of raising timber include capital expenditures incurred by the REIT to create an established stand of growing trees. A stand of trees is considered established when a target stand exhibits the expected growing rate and is free of non-target competition (e.g., hardwoods; grasses, brush, etc.) that may significantly inhibit or threaten the target stand survival. The costs commonly incurred during stand establishment are: (1) site preparation including manual or mechanical scarification, manual or mechanical cutting, disking, bedding, shearing, raking, piling, broadcast and windrow/pile burning (including slash disposal costs as required for stand establishment); 2) site regeneration including manual or mechanical hardwood coppice; (3) chemical application via aerial or ground to eliminate or reduce vegetation; (4) nursery operating costs including personnel salaries and benefits, facilities costs, cone collection and seed extraction, and other costs directly attributable to the nursery operations (to the extent such costs are allocable to seedlings used by the REIT); (5) seedlings including storage, transportation and handling equipment; (6) direct planting of seedlings; (7) initial stand fertilization, up through stand establishment; (8) construction cost of road to be used for removal of logs or fire protection; (9) environmental costs (i.e., habitat conservation plans), (10) any post stand capital establishment costs (e.g., "mid-term fertilization costs)."

*Capital expenditures counted towards 5-percent requirement*

Capital expenditures counted towards the 5-percent limit are those capital expenditures incurred in the ownership of undeveloped land that are not incurred in the direct operation of raising timber (i.e., silviculture). This category of capital expenditures includes (1) expenditures to separate the REIT's holdings of land into separate parcels; (2) costs of granting leases or easements to cable, cellular or similar companies, (3) costs in determining the presence or quality of minerals located on the land; (4) costs incurred to defend changes in law that would limit future use of the land by the REIT or a purchaser from the REIT; and (5) costs incurred to determine alternative uses of the land (e.g., recreational use); and

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[400] The proposal does not modify any of the standards of section 482 as they apply to REITS and to taxable REIT subsidiaries.

[401] Although a REIT could itself provide such services and receive the income for them without receiving any disqualified income, in that case the REIT itself would be bearing the cost of providing the service. Under the present law exception for a TRS providing such service, there is no explicit requirement that the TRS be reimbursed for the full cost of the service.

(6) development costs of the property incurred by the REIT (e.g., engineering, surveying, legal, permit, consulting, road construction, utilities, and other development costs for use other than to grow timber).

*Effective date*

The bill is generally effective for taxable years beginning after December 31, 2000.

However, some of the provisions are effective for taxable years beginning after the date of enactment. These are: the new "look through" rules determining a REIT partner's share of partnership securities for purposes of the "straight debt" rules; the provision changing the 90-percent of gross income reference to 95 percent, for purposes of the tax liability if a REIT fails to meet the 95-percent of gross income test; the new hedging definition; the rule modifying the treatment of rents with respect to customary services; and the safe harbor from prohibited transactions relating to timberland sales.[402]

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## B. REIT Savings Provisions (Sec. 711 of the Senate Amendment and Secs. 856, 857 and 860 of the Code)

### PRESENT LAW

A REIT loses its status as a REIT, and becomes subject to tax as a C corporation, if it fails to meet specified tests regarding the sources of its income, the nature and amount of its assets, its structure, and the amount of its income distributed to shareholders.[403]

In the case of a failure to meet the source of income requirements, if the failure is due to reasonable cause and not to willful neglect, the REIT may continue its REIT status if it pays the disallowed income as a tax to the Treasury.[404]

There is no similar provision that allows a REIT to pay a penalty and avoid disqualification in the case of other qualification failures.

A REIT may make a deficiency dividend after a determination is made that it has not distributed the correct amount of its income, and avoid disqualification. The Code provides only for determinations involving a controversy with the IRS and does not provide for a REIT to make such a distribution on its own initiative.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, a REIT may avoid disqualification in the event of certain failures of the requirements for REIT status, provided that (1) the failure was due to reasonable cause and not willful neglect, (2) the failure is corrected, and (3) a penalty amount is paid.

One requirement of present law is that, with certain exceptions, (i) not more than 5 percent of the value of total REIT assets may be represented by securities of one issuer, and (ii) a REIT may not hold securities possessing more than 10 percent of the total voting power or 10 percent of the total value of the outstanding securities of any one issuer.[405] The requirements must be satisfied each quarter.

*Certain de minimis asset failures of 5percent or 10percent tests*

The bill provides that a REIT will not lose its REIT status for failing to satisfy these requirements in a quarter if the failure is due to the ownership of assets the total value of which does not exceed the lesser of (i) 1 percent of the total value of the REIT's assets at the end of the quarter for which such measurement is done or (ii) 10 million dollars; provided in either case that the REIT either disposes of the assets within 6 months after the last day of the quarter in which the REIT identifies the failure (or such other time period prescribed by the Treasury), or otherwise meets the requirements of those rules by the end of such time period.[406]

*Larger asset test failures (whether of 5-percent or 10-percent tests, or of 75-percent or other asset tests)*

If a REIT fails to meet any of the asset test requirements requirements for a particular quarter and the failure exceeds the de minimis threshold described above, then the REIT still will be deemed to have satisfied the requirements if: (i) following the REIT's identification of the failure, the REIT files a schedule with a description of each asset that caused the failure, in accordance with regulations prescribed by the Treasury; (ii) the failure was due to reasonable cause and not to willful neglect, (iii) the REIT disposes of the assets within 6 months after the last day of the quarter in which the identification occurred or such other time period as is prescribed by the Treasury (or the requirements of the rules are otherwise met within such period), and (iv) the REIT pays a tax on the failure.

The tax that the REIT must pay on the failure is the greater of (i) $50,000, or (ii) an amount determined (pursuant to regulations) by multiplying the highest rate of tax for corporations under section 11, times the net income generated by the assets for the period beginning on the first date of the failure and ending on the date the REIT has disposed of the assets (or otherwise satisfies the requirements).

Such taxes are treated as excise taxes, for which the deficiency provisions of the excise tax subtitle of the Code (subtitle F) apply.

*Conforming reasonable cause and reporting standard for failures of income tests*

The bill conforms the reporting and reasonable cause standards for failure to meet the income tests to the new asset test standards. However, the bill does not change the rule under section 857(b)(5) that for income test failures, all of the net income attributed to the disqualified gross income is paid as tax.

*Other failures*

The bill adds a provision under which, if a REIT fails to satisfy one or more requirements for REIT qualification, other than the 95-percent and 75-percent gross income tests and other than the new rules provided for failures of the asset tests, the REIT may retain its REIT qualification if the failures are due to reasonable cause and not willful neglect, and if the REIT pays a penalty of $50,000 for each such failure.

*Taxes and penalties paid deducted from amount required to be distributed*

Any taxes or penalties paid under the provision are deducted from the net income of the REIT in determining the amount the REIT must distribute under the 90 percent distribution requirement.

*Expansion of deficiency dividend procedure*

The Senate amendment expands the circumstances in which a REIT may declare a deficiency dividend, by allowing such a declaration to occur after the REIT unilaterally has identified a failure to pay the relevant amount. Thus, the declaration need not await a decision of the Tax Court, a closing agreement, or an agreement signed by the Secretary of the Treasury.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## X. EXTENSION OF CERTAIN EXPIRING PROVISIONS

## A. Tax on Failure To Comply With Mental Health Parity Requirements (Sec. 801 of the Senate Amendment and Sec. 9812 of the Code)

### PRESENT LAW

The Mental Health Parity Act of 1996 amended ERISA and the Public Health Service Act to provide that group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits. The provisions of the Mental Health Parity Act are effective with respect to plan years beginning on or after January 1, 1998, and expire with respect to benefits for services furnished on or after December 31, 2003.[407]

The Taxpayer Relief Act of 1997 added to the Internal Revenue Code the requirements imposed under the Mental Health Parity Act, and imposed an excise tax on group health plans that fail to meet the requirements. The excise tax is equal to $100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

The excise tax is applicable with respect to plan years beginning on or after January 1, 1998, and expires with respect to benefits for services provided on or after December 31, 2003.[408]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends the excise tax for failures to comply with mental health parity requirements through December 31, 2004.

*Effective date.*—The Senate amendment is effective for plan years beginning after December 31, 2002.

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[402] The provision relating to timberland sales is not intended to change present law regarding when structures involving timberland may qualify for REIT status.

[403] See description of Present Law under REIT modification provisions, supra.

[404] Sec. 856(c)(6) and Sec. 857(b)(5).

[405] Sec. 856(c)(4)(B)(iii). These rules do not apply to securities of a taxable REIT subsidiary, or to securities that qualify for the 75 percent asset test of section 856(c)(4)(A), such as real estate assets, cash items (including receivables), or Government securities.

[406] A REIT might satisfy the requirements without a disposition, for example, by increasing its other assets in the case of the 5 percent rule; or by the issuer modifying the amount or value of its total securities outstanding in the case of the 10 percent rule.

[407] Since enactment, the mental health parity requirements have been extended on more than one occasion.

[408] The excise tax does not apply to benefits for services furnished on or after September 30, 2001, and before January 10, 2002.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### B. EXTEND ALTERNATIVE MINIMUM TAX RELIEF FOR INDIVIDUALS (SEC. 802 OF THE SENATE AMENDMENT AND SEC. 26 OF THE CODE)

PRESENT LAW

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit,[409] the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the IRA credit, and the D.C. homebuyer's credit).

For taxable years beginning in 2003, all the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

Without an extension of these rules for taxable years beginning after 2003, these credits (other than the adoption credit, child credit and IRA credit) would be allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. The adoption credit, child credit, and IRA credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 ($49,000 in taxable years beginning before 2005) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($35,750 in taxable years beginning before 2005) in the case of other unmarried individuals; (3) $22,500 ($24,500 in taxable years beginning before 2005) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision extends the provisions allowing an individual to offset the entire regular tax liability and alternative minimum tax liability by the personal nonrefundable credits for one year.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### C. Extension of Electricity Production Credit for Electricity Produced from Certain Renewable Resources (Sec. 803 of the Senate Amendment and Sec. 45 of the Code)

PRESENT LAW

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities (sec. 45). The amount of the credit is 1.5 cents per kilowatt hour (indexed for inflation) of electricity produced.[410] The credit is allowable for production during the 10-year period after a facility is originally placed in service.

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the placed in service date for qualified facilities from facilities placed in service before January 1, 2004 to facilities placed in service before January 1, 2005.

*Effective date.*—The Senate amendment provision is effective for property placed in service after December 31, 2002.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### D. Extend the Work Opportunity Tax Credit (Sec. 804 of the Senate Amendment and Sec. 51 of the Code)

PRESENT LAW

*In general*

The work opportunity tax credit ("WOTC") is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of less than 400 hours) of qualified wages. Generally, qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer.

The maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

For purposes of the credit, wages are generally defined as under the Federal Unemployment Tax Act, without regard to the dollar cap.

*Targeted groups eligible for the credit*

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families ("TANF") Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income ("SSI") benefits.

The employer's deduction for wages is reduced by the amount of the credit.

*Expiration date*

The credit is effective for wages paid or incurred to a qualified individual who begins work for an employer before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the work opportunity tax credit for one year (through December 31, 2004).

*Effective date.*—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 2004, and before January 1, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### E. Extend the Welfare-To-Work Tax Credit (Sec. 805 of the Senate Amendment and Sec. 51A of the Code)

PRESENT LAW

*In general*

The welfare-to-work tax credit is available on an elective basis for employers for the first $20,000 of eligible wages paid to qualified long-term family assistance recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family that is no longer eligible for family assistance because of either Federal or State time limits, if they are hired within two years after the Federal or State time limits made the family ineligible for family assistance. Family assistance means benefits under the Temporary Assistance to Needy Families ("TANF") program.

For purposes of the credit, wages are generally defined under the Federal Unemployment Tax Act, without regard to the dollar amount. In addition, wages include the following: (1) educational assistance excludable under a section 127 program; (2) the value of excludable health plan coverage but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The employer's deduction for wages is reduced by the amount of the credit.

*Expiration date*

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the welfare-to-work tax credit for one year (through December 31, 2004).

*Effective date.*—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 2004, and before January 1, 2005.

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[409] A portion of the child credit may be refundable.

[410] The amount of the credit is 1.8 cents per kilowatt hour for 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### F. Taxable Income Limit on Percentage Depletion for Oil and Natural Gas Produced from Marginal Properties (Sec. 806 of the Senate Amendment and Sec. 613A of the Code)

### PRESENT LAW

*In general*

Depletion, like depreciation, is a form of capital cost recovery. In both cases, the taxpayer is allowed a deduction in recognition of the fact that an asset—in the case of depletion for oil or gas interests, the mineral reserve itself—is being expended in order to produce income. Certain costs incurred prior to drilling an oil or gas property are recovered through the depletion deduction. These include costs of acquiring the lease or other interest in the property and geological and geophysical costs (in advance of actual drilling). Depletion is available to any person having an economic interest in a producing property.

Two methods of depletion are allowable under the Code: (1) the cost depletion method, and (2) the percentage depletion method (secs. 611–613). Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the depletable property which is equal to the ratio of units sold from that property during the taxable year to the number of units remaining as of the end of the taxable year plus the number of units sold during the taxable year. Thus, the amount recovered under cost depletion may never exceed the taxpayer's basis in the property.

Under the percentage depletion method, generally, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year (section 613A(c)). The amount deducted generally may not exceed 100 percent of the net income from that property in any year (the "net-income limitation") (section 613(a)). The 100-percent-of-net-income limitation for production from marginal wells has been suspended for taxable years beginning after December 31, 1997, and before January 1, 2004. Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income (determined before such deduction and adjusted for certain loss carrybacks and trust distributions) (section 613A(d)(1)).[411] Because percentage depletion, unlike cost depletion, is computed without regard to the taxpayer's basis in the depletable property, cumulative depletion deductions may be greater than the amount expended by the taxpayer to acquire or develop the property.

A taxpayer is required to determine the depletion deduction for each oil or gas property under both the percentage depletion method (if the taxpayer is entitled to use this method) and the cost depletion method. If the cost depletion deduction is larger, the taxpayer must utilize that method for the taxable year in question (section 613(a)).

*Limitation of oil and gas percentage depletion to independent producers and royalty owners*

Generally, only independent producers and royalty owners (as contrasted to integrated oil companies) are allowed to claim percentage depletion. Percentage depletion for eligible taxpayers is allowed only with respect to up to 1,000 barrels of average daily production of domestic crude oil or an equivalent amount of domestic natural gas (section 613A(c)). For producers of both oil and natural gas, this limitation applies on a combined basis.

In addition to the independent producer and royalty owner exception, certain sales of natural gas under a fixed contract in effect on February 1, 1975, and certain natural gas from geopressured brine, are eligible for percentage depletion, at rates of 22 percent and 10 percent, respectively. These exceptions apply without regard to the 1,000-barrel-per-day limitation and regardless of whether the producer is an independent producer or an integrated oil company.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends for an additional year the suspension of the 100-percent net-income limit for marginal wells to include taxable years beginning after December 31, 2003 and before January 1, 2005.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### G. Qualified Zone Academy Bonds (Sec. 807 of the Senate Amendment and Sec. 1397E of the Code)

### PRESENT LAW

*Tax-exempt bonds*

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Activities that can be financed with these tax-exempt bonds include the financing of public schools (sec. 103).

*Qualified zone academy bonds*

As an alternative to traditional tax-exempt bonds, States and local governments are given the authority to issue "qualified zone academy bonds" ("QZABs") (sec. 1397E). A total of $400 million of qualified zone academy bonds may be issued annually in calendar years 1998 through 2003. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

"Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that: (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy", and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if: (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zone or enterprise community designated under the Code, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment authorizes issuance of up to $400 million of qualified zone academy bonds for calendar year 2004.

*Effective date.*—The provision is effective for obligations issued after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### H. Cover Over of Tax on Distilled Spirits (Sec. 808 of the Senate Amendment and Sec. 7652(e) of the Code)

### PRESENT LAW

A $13.50 per proof gallon[412] excise tax is imposed on distilled spirits produced in or imported (or brought) into the United States. The excise tax does not apply to distilled spirits that are exported from the United States or to distilled spirits that are consumed in U.S. possessions (e.g., Puerto Rico and the Virgin Islands).

The Code provides for coverover (payment) of $13.25 per proof gallon of the excise tax imposed on rum imported (or brought) into the United States (without regard to the country of origin) to Puerto Rico and the Virgin Islands during the period July 1, 1999 through December 31, 2003. Effective on January 1, 2004, the coverover rate is scheduled to return to its permanent level of $10.50 per proof gallon.

Amounts covered over to Puerto Rico and the Virgin Islands are deposited into the treasuries of the two possessions for use as those possessions determine.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends the $13.25-per-proof-gallon coverover rate for one additional year, through December 31, 2004.

*Effective date.*—The Senate amendment provision is effective for articles brought into the United States after December 31, 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[411] Amounts disallowed as a result of this rule may be carried forward and deducted in subsequent taxable years, subject to the 65-percent taxable income limitation for those years.

[412] A proof of gallon is a liquid gallon consisting of 50 percent alcohol.

### I. Extend Deduction for Corporate Donations of Computer Technology (Sec. 809 of the Senate Amendment and Sec. 170 of the Code)

#### PRESENT LAW

In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the charitable deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose. In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property.[413]

Under present law, a taxpayer's deduction for charitable contributions of scientific property used for research and for contributions of computer technology and equipment generally is limited to the taxpayer's basis (typically, cost) in the property. However, certain corporations may claim a deduction in excess of basis for a "qualified research contribution" or a "qualified computer contribution."[414] This enhanced deduction is equal to the lesser of (1) basis plus one-half of the item's appreciated value (i.e., basis plus one half of fair market value minus basis) or (2) two times basis.

A qualified computer contribution means a charitable contribution by a corporation of any computer technology or equipment, which meets standards of functionality and suitability as established by the Secretary of the Treasury. The contribution must be to certain educational organizations or public libraries and made not later than three years after the taxpayer acquired the property or, if the taxpayer constructed the property, not later than the date construction of the property is substantially completed.[415] The original use of the property must be by the donor or the donee,[416] and in the case of the donee, must be used substantially for educational purposes related to the function or purpose of the donee. The property must fit productively into the donee's education plan. The donee may not transfer the property in exchange for money, other property, or services, except for shipping, installation, and transfer costs. To determine whether property is constructed by the taxpayer, the rules applicable to qualified research contributions apply. That is, property is considered constructed by the taxpayer only if the cost of the parts used in the construction of the property (other than parts manufactured by the taxpayer or a related person) does not exceed 50 percent of the taxpayer's basis in the property. Contributions may be made to private foundations under certain conditions.[417]

The enhanced deduction for qualified computer contributions expires for any contribution made during any taxable year beginning after December 31, 2003.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision extends the enhanced deduction for qualified computer contributions to apply to contributions made during taxable years beginning on or before December 31, 2004.

*Effective date.*—The Senate amendment provision is effective for contributions made after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### J. Extension of Credit for Electric Vehicles (Sec. 810 of the Senate Amendment and Sec. 30 of the Code)

#### PRESENT LAW

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000 (sec. 30). A qualified electric vehicle is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, the original use of which commences with the taxpayer, and that is acquired for the use by the taxpayer and not for resale. The full amount of the credit is available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment delays the beginning of the phase out of the credit by one year and provides that the credit is available for purchases through December 31, 2007.

*Effective date.*—The Senate amendment provision is effective for property placed in service after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### K. Extension of Deduction for Clean-Fuel Vehicles and Clean-Fuel Vehicle Refueling Property (Sec. 811 of the Senate Amendment and Sec. 179A of the Code)

#### PRESENT LAW

*Clean-fuel vehicles*

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service (sec. 179A). Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for the clean-fuel vehicle deduction. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.

*Clean-fuel vehicle refueling property*

Clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel, if the storage or dispensing is the point at which the fuel is delivered into the fuel tank of a motor vehicle. Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles, but only if the property is located at a point where the electric vehicle is recharged. Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. The deduction is unavailable for costs incurred after December 31, 2006.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment delays the beginning of the phase down of the deduction for qualified clean-fuel vehicle property by one year and provides that the deduction is available through December 31, 2007. The Senate amendment extends the deduction for clean-fuel vehicle refueling property by one year to include equipment placed in service prior to January 1, 2008.

*Effective date.*—The Senate amendment provision is effective for property placed in service after December 31, 2003.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### L. Adjusted Gross Income Determined by Taking Into Account Certain Expenses of Elementary and Secondary School Teachers (Sec. 812 of the Senate Amendment and Sec. 62 of the Code)

#### PRESENT LAW

In general, ordinary and necessary business expenses are deductible (sec. 162), and unreimbursed employee business expenses are deductible only as an itemized deduction and only to the extent that the individual's total miscellaneous deductions (including employee business expenses) exceed two percent of adjusted gross income.

However, an above-the-line deduction is allowed for taxable years beginning in 2002 and 2003 for up to $250 annually of expenses paid or incurred by an eligible educator for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom. To be eligible for this deduction, the expenses must be otherwise deductible under section 162 as a trade or business expense. A deduction is allowed only to the extent the amount of expenses exceeds the amount of such expenses excludable from income under section 135 (relating to education savings bonds), section 529(c)(1) (relating to qualified tuition programs), and section 530(d)(2) (relating to Coverdell education savings accounts).

An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. A school means any school that provides elementary education or secondary education, as determined under State law.

An individual's otherwise allowable itemized deductions may be further limited by the overall limitation on itemized deductions, which reduces itemized deductions for taxpayers with adjusted gross income in excess of $139,500 (for 2003).[418] In addition, miscellaneous itemized deductions are not allowable under the alternative minimum tax.

#### HOUSE BILL

No provision.

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[413] Sec. 170(e)(1).

[414] Secs. 170(e)(4) and 170(e)(6).

[415] If the taxpayer constructed the property and reacquired such property, the contribution must be within three years of the date the original construction was substantially completed. Sec. 170(e)(6)(D)(i).

[416] This requirement does not apply if the property was reacquired by the manufacturer and contributed. Sec. 170(e)(6)(D)(ii).

[417] Sec. 170(e)(6)(C).

[418] The effect of this overall limitation is phased down beginning in 2006.

### SENATE AMENDMENT

The Senate amendment extends the present-law above-the-line deduction for eligible educators to include taxable years beginning in 2004.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## M. Extend Archer Medical Savings Accounts ("MSAs") (Sec. 813 of the Senate Amendment and Sec. 220 of the Code)

### PRESENT LAW

*In general*

Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently taxable. Distributions from an Archer MSA for medical expenses are not includible in gross income. Distributions not used for medical expenses are includible in gross income. In addition, distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

*Eligible individuals*

Archer MSAs are available to employees covered under an employer-sponsored high deductible plan of a small employer and self-employed individuals covered under a high deductible health plan.[419] An employer is a small employer if it employed, on average, no more than 50 employees on business days during either the preceding or the second preceding year. An individual is not eligible for an Archer MSA if he or she is covered under any other health plan in addition to the high deductible plan.

*Tax treatment of and limits on contributions*

Individual contributions to an Archer MSA are deductible (within limits) in determining adjusted gross income (i.e., "above-the-line"). In addition, employer contributions are excludable from gross income and wages for employment tax purposes (within the same limits), except that this exclusion does not apply to contributions made through a cafeteria plan. In the case of an employee, contributions can be made to an Archer MSA either by the individual or by the individual's employer.

The maximum annual contribution that can be made to an Archer MSA for a year is 65 percent of the deductible under the high deductible plan in the case of individual coverage and 75 percent of the deductible in the case of family coverage.

*Definition of high deductible plan*

A high deductible plan is a health plan with an annual deductible of at least $1,700 and no more than $2,500 in the case of individual coverage and at least $3,350 and no more than $5,050 in the case of family coverage. In addition, the maximum out-of-pocket expenses with respect to allowed costs (including the deductible) must be no more than $3,350 in the case of individual coverage and no more than $6,150 in the case of family coverage.[420] A plan does not fail to qualify as a high deductible plan merely because it does not have a deductible for preventive care as required by State law. A plan does not qualify as a high deductible health plan if substantially all of the coverage under the plan is for permitted coverage (as described above). In the case of a self-insured plan, the plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

*Cap on taxpayers utilizing Archer MSAs and expiration of pilot program*

The number of taxpayers benefiting annually from an Archer MSA contribution is limited to a threshold level (generally 750,000 taxpayers). The number of Archer MSAs established has not exceeded the threshold level.

After 2003, no new contributions may be made to Archer MSAs except by or on behalf of individuals who previously had Archer MSA contributions and employees who are employed by a participating employer.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends Archer MSAs through December 31, 2004.

*Effective date.*—The Senate amendment provision is effective on January 1, 2003.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## N. Extension of Expensing of Brownfield Remediation Expenses (Sec. 814 of the Senate Amendment and Sec. 198 of the Code)

### PRESENT LAW

Under Code section 198, taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred. The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site. In general, any expenditure for the acquisition of depreciable property used in connection with the abatement or control of hazardous substances at a qualified contaminated site does not constitute a qualified environmental remediation expenditure. However, depreciation deductions allowable for such property, which would otherwise be allocated to the site under the principles set forth in *Commissioner* v. *Idaho Power Co.* [421] and section 263A, are treated as qualified environmental remediation expenditures.

A "qualified contaminated site" (a so-called "brownfield") generally is any property that is held for use in a trade or business, for the production of income, or as inventory and is certified by the appropriate State environmental agency to be an area at or on which there has been a release (or threat of release) or disposal of a hazardous substance. Both urban and rural property may qualify. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") cannot qualify as targeted areas. Hazardous substances generally are defined by reference to sections 101(14) and 102 of CERCLA, subject to additional limitations applicable to asbestos and similar substances within buildings, certain naturally occurring substances such as radon, and certain other substances released into drinking water supplies due to deterioration through ordinary use.

Eligible expenditures are those paid or incurred before January 1, 2004.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends by one year the present-law deduction for environmental remediation expenditures to include expenditures incurred prior to January 1, 2005.

*Effective date.*—The Senate amendment provision is effective for expenditures incurred after December 31, 2002.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## XI. IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

## A. Exclusion of Gain on Sale of a Principal Residence by a Member of the Uniformed Services or the Foreign Service (Sec. 901 of the Senate Amendment and Sec. 121 of the Code)

### PRESENT LAW

Under present law, an individual taxpayer may exclude up to $250,000 ($500,000, if married filing a joint return) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances is able to exclude an amount equal to the fraction of the $250,000 ($500,000 if married filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met. There are no special rules relating to members of the uniformed services or the Foreign Service of the United States.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, an individual may elect to suspend for a maximum of ten years the five-year test period for ownership and use during certain absences due to service in the uniformed services, or the Foreign Service of the United States. The uniformed services include: (1) the Armed forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. If the election is made, the five-year period ending on the date of the sale or exchange of a principal residence does not include any period up to ten years during which the taxpayer or the taxpayer's spouse is on qualified official extended duty as a member of the uniformed services, or in the Foreign Service of the United States. For these purposes, qualified official extended duty is any period of extended duty by a member of the uniformed services, or the Foreign Service of the United States while serving at a place of duty at least 50 miles away from the taxpayer's principal residence or under orders compelling residence in Government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period. The election may be made with respect to only one property for a suspension period.

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[419] Self-employed individuals include more than two-percent shareholders of S corporations who are treated as partners for purposes of fringe benefit rules pursuant to section 1372..

[420] These dollar amounts are for 2003. These amounts are indexed for inflation in $50 increments.

[421] *Commissioner* v. *Idaho Power Co.*, 418 U.S. 1 (1974) (holding that equipment depreciation allocable to the taxpayer's construction of capital facilities must be capitalized under section 263(a)(1)).

*Effective date.*—The Senate amendment provision is effective for sales or exchanges after May 6, 1997.

###### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### B. Exclusion from Gross Income of Certain Death Gratuity Payments (Sec. 902 of the Senate Amendment and Sec. 134 of the Code)

###### PRESENT LAW

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income. Qualified military benefits include certain death gratuities. The amount of the death gratuity military benefit was increased to $6,000 but the amount of the exclusion from gross income was not increased to take into account this change.

###### HOUSE BILL

No provision.

###### SENATE AMENDMENT

The Senate amendment extends the exclusion from gross income to any adjustment to the amount of the death gratuity payable under Chapter 75 of Title 10 of the United States Code that is pursuant to a provision of law with respect to the death of certain members of the Armed services on active duty, inactive duty training, or engaged in authorized travel. Therefore, the amount of the exclusion is increased to $6,000.

*Effective date.*—The Senate amendment provision is effective with respect to deaths occurring after September 10, 2001.

###### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### C. Exclusion for Amounts Received Under Department of Defense Homeowners Assistance Program (Sec. 903 of the Senate Amendment and Sec. 132 of the Code)

###### PRESENT LAW

*HAP payment*

The Department of Defense Homeowners Assistance Program ("HAP") provides payments to certain employees and members of the Armed Forces to offset the adverse effects on housing values that result from a military base realignment or closure. The payments are authorized under the provisions of Title 42 U.S.C. section 3374.

In general, under HAP, eligible individuals receive either (1) a cash payment as compensation for losses that may be or have been sustained in a private sale, in an amount not to exceed the difference between (a) 95 percent of the fair market value of their property prior to public announcement of intention to close all or part of the military base or installation and (b) the fair market value of such property at the time of the sale, or (2) as the purchase price for their property, an amount not to exceed 90 percent of the prior fair market value as determined by the Secretary of Defense, or the amount of the outstanding mortgages.

*Tax treatment*

Unless specifically excluded, gross income for Federal income tax purposes includes all income from whatever source derived. Amounts received under HAP are received in connection with the performance of services. These amounts are includible in gross income as compensation for services to the extent such payments exceed the fair market value of the property relinquished in exchange for such payments. Additionally, such payments are wages for Federal Insurance Contributions Act ("FICA") tax purposes (including Medicare).

###### HOUSE BILL

No provision.

###### SENATE AMENDMENT

The Senate amendment generally exempts from gross income amounts received under the HAP (as in effect on the date of enactment of this Senate amendment). Amounts received under the program also are not considered wages for FICA tax purposes (including Medicare). The excludable amount is limited to the reduction in the fair market value of property.

*Effective date.*—The Senate amendment provision is effective for payments made after the date of enactment.

###### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### D. Expansion of Combat Zone Filing Rules to Contingency Operations (Sec. 904 of the Senate Amendment and Sec. 7508 of the Code)

###### PRESENT LAW

*General time limits for filing tax returns*

Individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year. The Secretary may grant reasonable extensions of time for filing such returns. Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty on April 15 of the following year (the otherwise applicable due date of the return) outside the United States. No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, this extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual timely filing that form and paying the amount of tax estimated to be due.

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

*Suspension of time periods*

In general, the period of time for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, is suspended for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities. An individual who becomes a prisoner of war is considered to continue in active service and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time of continuous qualified hospitalization resulting from injury received in the combat zone[422] or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

(1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);

(2) Payment of any income, estate, or gift tax (except employment and withholding taxes);

(3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(4) Allowance of a credit or refund of any tax;

(5) Filing a claim for credit or refund of any tax;

(6) Bringing suit upon any such claim for credit or refund;

(7) Assessment of any tax;

(8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(9) Collection of the amount of any liability in respect of any tax;

(10) Bringing suit by the United States in respect of any liability in respect of any tax; and

(11) Any other act required or permitted under the internal revenue laws specified by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension. Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

###### HOUSE BILL

No provision.

###### SENATE AMENDMENT

The Senate amendment applies the special suspension of time period rules to persons deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation or that becomes a contingency operation. A contingency operation is defined[423] as a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force, or results in the call or order to (or retention of) active duty of members of the uniformed services during a war or a national emergency declared by the President or Congress.

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[422] Two special rules apply to continuous hospitalization inside the United States. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event do the suspension of time provisions based on continuous hospitalization inside the United States extend beyond five years from the date the individual returns to the United States. These two special rules do not apply to continuous hospitalization outside the United States.

*Effective date.*—The Senate amendment provision applies to any period for performing an act that has not expired before the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### E. Modification of Membership Requirement for Exemption From Tax for Certain Veterans' Organizations (Sec. 905 of the Senate Amendment and Sec. 501 of the Code)

PRESENT LAW

Under present law, a veterans' organization as described in section 501(c)(19) of the Code generally is exempt from taxation. The Code defines such an organization as a post or organization of past or present members of the Armed Forces of the United States: (1) that is organized in the United States or any of its possessions; (2) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and (3) that meets certain membership requirements. The membership requirements are that (1) at least 75 percent of the organization's members are past or present members of the Armed Forces of the United States, and (2) substantially all of the remaining members are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets. No more than 2.5 percent of an organization's total members may consist of individuals who are not veterans, cadets, or spouses, widows, or widowers of such individuals.

Contributions to an organization described in section 501(c)(19) may be deductible for Federal income or gift tax purposes if the organization is a post or organization of war veterans.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment permits ancestors or lineal descendants of past or present members of the Armed Forces of the United States or of cadets to qualify as members for purposes of the "substantially all" test. The Senate amendment does not change the requirement that 75 percent of the organization's members must be past or present members of the Armed Forces of the United States.

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### F. Clarification of Treatment of Certain Dependent Care Assistance Programs Provided to Members of the Uniformed Services of the United States (Sec. 906 of the Senate Amendment and Sec. 134 of the Code)

PRESENT LAW

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies that dependent care assistance provided under a dependent care assistance program (as in effect on the date of enactment of this Senate amendment) for a member of the uniformed services by reason of such member's status or service as a member of the uniformed services is excludable from gross income as a qualified military benefit subject to the present-law rules. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. Amounts received under the program also are not considered wages for Federal Insurance Contributions Act tax purposes (including Medicare).

*Effective date.*—The Senate amendment provision is effective for taxable years beginning after December 31, 2002. No inference is intended as to the tax treatment of such amounts for prior taxable years.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### G. Treatment of Service Academy Appointments as Scholarships for Purposes of Qualified Tuition Programs and Coverdell Education Savings Accounts (Sec. 907 of the Senate Amendment and Secs. 529 and 530 of the Code)

PRESENT LAW

The Code provides tax-exempt status to qualified tuition programs, meaning programs established and maintained by a State or agency or instrumentality thereof or by one or more eligible educational institutions under which a person (1) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or (2) in the case of a program established by and maintained by a State or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account. Contributions to qualified tuition programs may be made only in cash. Qualified tuition programs must have adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of amounts necessary to provide for the qualified higher education expenses of the beneficiary.

The Code provides tax-exempt status to Coverdell education savings accounts ("ESAs"), meaning certain trusts or custodial accounts which are created or organized in the United States exclusively for the purpose of paying the qualified education expenses of a designated beneficiary. Contributions to ESAs may be made only in cash. Annual contributions to ESAs may not exceed $2,000 per beneficiary (except in cases involving certain tax-free rollovers) and may not be made after the designated beneficiary reaches age 18.

Earnings on contributions to an ESA or a qualified tuition program generally are subject to tax when withdrawn. However, distributions from an ESA or qualified tuition program are excludable from the gross income of the distributee to the extent that the total distribution does not exceed the qualified education expenses incurred by the beneficiary during the year the distribution is made.

If the qualified education expenses of the beneficiary for the year are less than the total amount of the distribution from an ESA or qualified tuition program, then the qualified education expenses are deemed to be paid from a pro-rata share of both the principal and earnings components of the distribution. In such a case, only a portion of the earnings is excludable (i.e., the portion of the earnings based on the ratio that the qualified education expenses bear to the total amount of the distribution) and the remaining portion of the earnings is includible in the beneficiary's gross income.

The earnings portion of a distribution from an ESA or a qualified tuition program that is includible in income is generally subject to an additional 10 percent tax. The 10 percent additional tax does not apply if a distribution is made on account of the death or disability of the designated beneficiary, or on account of a scholarship received by the designated beneficiary (to the extent it does not exceed the amount of the scholarship).

Service obligations are required of recipients of appointments to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy. Because of these service obligations, appointments to the Academies are not considered scholarships for purposes of the waiver of the additional 10 percent tax on withdrawals from ESAs and qualified tuition programs that are not used for qualified education purposes.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment permits penalty-free withdrawals from Coverdell education savings accounts and qualified tuition programs made on account of the attendance of the beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy.

The amount of funds that can be withdrawn penalty free is limited to the costs of advanced education as defined in 10 United States Code section 2005(e)(3) (as in effect on the date of the enactment of the Senate amendment) at such Academies.

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[423] The definition is by cross-reference to 10 U.S.C. 101.

*Effective date.*—The Senate amendment provision applies to taxable years beginning after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### H. Suspension of Tax-Exempt Status of Designated Terrorist Organizations (Sec. 908 of the Senate Amendment and Sec. 501 of the Code)

#### PRESENT LAW

Under present law, the Internal Revenue Service generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organization described in section 501(c)(3), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption. There is no procedure under current law for the IRS to suspend the tax-exempt status of an organization.

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision suspends the tax-exempt status of an organization that is exempt from tax under section 501(a) for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The provision also makes such an organization ineligible to apply for tax exemption under section 501(a). The period of suspension runs from the date the organization is first designated or identified (or from the date of enactment of the provision, whichever is later) to the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive order under which the designation or identification was made.

The Senate amendment provision describes a terrorist organization as an organization that has been designated or otherwise individually identified (1) as a terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive order that refers to the provision and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989). During the period of suspension, no deduction for any contribution to a terrorist organization is allowed under the Code, including under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the suspension of tax-exemption, the ineligibility to apply for tax-exemption, a designation or identification described above, the timing of the period of suspension, or a denial of deduction described above. The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax-exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including res judicata) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.

The Senate amendment provision directs the IRS to update the listings of tax-exempt organizations to take account of organizations that have had their exemption suspended and to publish notice to taxpayers of the suspension of an organization's tax-exemption and the fact that contributions to such organization are not deductible during the period of suspension.

*Effective date.*—The Senate amendment provision is effective for designations made before, on, or after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### I. Above-the-Line Deduction for Overnight Travel Expenses of National Guard and Reserve Members (Sec. 909 of the Senate Amendment and Sec. 162 of the Code)

#### PRESENT LAW

National Guard and Reserve members may claim itemized deductions for their nonreimbursable expenses for transportation, meals, and lodging when they must travel away from home (and stay overnight) to attend National Guard and Reserve meetings. These overnight travel expenses are combined with other miscellaneous itemized deductions on Schedule A of the individual's income tax return and are deductible only to the extent that the aggregate of these deductions exceeds two percent of the taxpayer's adjusted gross income. No deduction is generally permitted for commuting expenses to and from drill meetings.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provides an above-the-line deduction for the overnight transportation, meals, and lodging expenses of National Guard and Reserve members who must travel away from home more than 100 miles (and stay overnight) to attend National Guard and Reserve meetings. Accordingly, these individuals incurring these expenses can deduct them from gross income regardless of whether they itemize their deductions. The amount of the expenses that may be deducted may not exceed the general Federal Government per diem rate applicable to that locale.

*Effective date.*—The Senate amendment provision is effective with respect to amounts paid or incurred after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### J. Extension of Certain Tax Relief Provisions to Astronauts (Sec. 910 of the Senate Amendment and Secs. 101, 692, and 2201 of the Code)

#### PRESENT LAW

*In general*

The Victims of Terrorism Tax Relief Act of 2001 (the "Victims Act") provided certain income and estate tax relief to individuals who die from wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001, and April 19, 1995 (the bombing of the Alfred P. Murrah Federal Building in Oklahoma City) or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002.

*Income tax relief*

The Victims Act extended relief similar to the present-law treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Under the Victims Act, such individuals generally are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury occurred.[424] The exemption applies to these individuals whether killed in an attack (e.g., in the case of the September 11, 2001, attack in one of the four airplanes or on the ground) or in rescue or recovery operations.

Present law provides a minimum tax relief benefit of $10,000 to each eligible individual regardless of the income tax liability of the individual for the eligible tax years. If an eligible individual's income tax for years eligible for the exclusion under the provision is less than $10,000, the individual is treated as having made a tax payment for such individual's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not imposed under the provision.

Subject to rules prescribed by the Secretary, the exemption from tax does not apply to the tax attributable to (1) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or (2) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001. Thus, for example, the exemption does not apply to amounts payable from a qualified plan or individual retirement arrangement to the beneficiary or estate of the individual. Similarly, amounts payable only as death or survivor's benefits pursuant to deferred compensation preexisting arrangements that would have been paid if the death had occurred for another reason are not covered by the exemption. In addition, if the individual's employer makes adjustments to a plan or arrangement to accelerate the vesting of restricted property or the payment of nonqualified deferred compensation after the date of the particular attack, the exemption does not apply to income received as a result of that action.[425] Also, if the individual's beneficiary cashed in savings bonds of the decedent, the exemption does not apply. On the other hand, the exemption does apply, for example, to a final paycheck of the individual or dividends on stock held by the individual when paid to another person or the individual's estate after the date of death but before the end of the taxable year of the decedent (determined without regard to the death). The exemption also applies to payments of an individual's accrued vacation and accrued sick leave.

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[424] Present law does not provide relief from self-employment tax liability.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

### *Exclusion of death benefits*

The Victims Act generally provides an exclusion from gross income for amounts received if such amounts are paid by an employer (whether in a single sum or otherwise[426]) by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occured on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual had died for a reason other than the attack. The exclusion does apply, however, to death benefits provided under a qualified plan that satisfy the incidental benefit rule.

For purposes of the exclusion, self-employed individuals are treated as employees. Thus, for example, payments by a partnership to the surviving spouse of a partner who died as a result of the September 11, 2001 attacks may be excludable under the provision.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

### *Estate tax relief*

Present law provides a reduction in Federal estate tax for taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (sec. 2201). This provision also applies to active service members who die as a result of wounds, disease, or injury suffered while serving in a combat zone by reason of a hazard to which the service member was subjected as an incident of such service.

In general, the effect of section 2201 is to replace the Federal estate tax that would otherwise be imposed with a Federal estate tax equal to 125 percent of the maximum State death tax credit determined under section 2011(b). Credits against the tax, including the unified credit of section 2010 and the State death tax credit of section 2011, then apply to reduce (or eliminate) the amount of the estate tax payable.

Generally, the reduction in Federal estate taxes under section 2201 is equal in amount to the "additional estate tax." The additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2011(b) as in effect prior to its repeal by the Economic Growth and Tax Relief Reconciliation Act of 2001.

The Victims Act generally treats individuals who die from wounds or injury incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002, in the same manner as if they were active members of the U.S. Armed Forces killed in action while serving in a combat zone or dying as a result of wounds or injury suffered while serving in a combat zone for purposes of section 2201. Consequently, the estates of these individuals are eligible for the reduction in Federal estate tax provided by section 2201. The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

The Victims Act also changes the general operation of section 2201, as it applies to both the estates of service members who qualify for special estate tax treatment under present and prior law and to the estates of individuals who qualify for the special treatment only under the Act. Under the Victims Act, the Federal estate tax is determined in the same manner for all estates that are eligible for Federal estate tax reduction under section 2201. In addition, the executor of an estate that is eligible for special estate tax treatment under section 2201 may elect not to have section 2201 apply to the estate. Thus, in the event that an estate may receive more favorable treatment without the application of section 2201 in the year of death than it would under section 2201, the executor may elect not to apply the provisions of section 2201, and the estate tax owed (if any) would be determined pursuant to the generally applicable rules.

Under the Victims Act, section 2201 no longer reduces Federal estate tax by the amount of the additional estate tax. Instead, the Victims Act provides that the Federal estate tax liability of eligible estates is determined under section 2001 (or section 2101, in the case of decedents who were neither residents nor citizens of the United States), using a rate schedule that is equal to 125 percent of the pre-EGTRRA maximum State death tax credit amount. This rate schedule is used to compute the tax under section 2001(b) or section 2101(b) (i.e., both the tentative tax under section 2001(b)(1) and section 2101(b), and the hypothetical gift tax under section 2001(b)(2) are computed using this rate schedule). As a result of this provision, the estate tax is unified with the gift tax for purposes of section 2201 so that a single graduated (but reduced) rate schedule applies to transfers made by the individual at death, based upon the cumulative taxable transfers made both during lifetime and at death.

In addition, while the Victims Act provides an alternative reduced rate table for purposes of determining the tax under section 2001(b) or section 2101(b), the amount of the unified credit nevertheless is determined as if section 2201 did not apply, based upon the unified credit as in effect on the date of death. For example, in the case of victims of the September 11, 2001, terrorist attack, the applicable unified credit amount under section 2010(c) would be determined by reference to the actual section 2001(c) rate table.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment extends the exclusion from income tax, the exclusion for death benefits, and the estate tax relief available under the Victims of Terrorism Tax Relief Act of 2001 to astronauts who lose their lives on a space mission (including the individuals who lost their lives in the space shuttle Columbia disaster).

*Effective date.*—The Senate amendment provision is generally effective for qualified individuals whose lives are lost on a space mission after December 31, 2002.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## XII. SUNSET PROVISION

### A. Termination of Certain Provisions (Sec. 1001 of the Senate Amendment)

#### PRESENT LAW

Budget reconciliation is a procedure under the Congressional Budget Act of 1974 (the "Budget Act") by which Congress implements spending and tax policies contained in a budget resolution. The Budget Act contains numerous rules enforcing the scope of items permitted to be considered under the budget reconciliation process. One such rule, the so-called "Byrd rule," was incorporated into the Budget Act in 1990. The Byrd rule, named after its principal sponsor, Senator Robert C. Byrd, is contained in section 313 of the Budget Act. The Byrd rule generally permits members to raise a point of order against extraneous provisions (those which are unrelated to the goals of the reconciliation process) from either a reconciliation bill or a conference report on such bill.

Under the Byrd rule, a provision is considered to be extraneous if it falls under one or more of the following six definitions: (1) it does not produce a change in outlays or revenues; (2) it produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions; (3) it is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure; (4) it produces a change in outlays or revenues which is merely incidental to the nonbudgetary components of the provision; (5) it would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; or (6) it recommends changes in Social Security.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

To ensure compliance with the Budget Act, the Senate amendment provides that certain provisions of, and amendments made by, the bill do not apply for taxable years beginning after December 31, 2012.

*Effective date.*—The Senate amendment provision is effective on the date of enactment.

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[425] Such amounts may, however, be excludable from gross income under the death benefit exclusion provided in section 102 of the Victims Acts.

[426] Thus, for example, payments made over a period of years could qualify for the exclusion.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

The conference agreement does not modify the application of the Economic Growth Tax Reconciliation Relief Act of 2001 ("EGTRRA") sunset provision. The EGTRRA provision is contained in Title IX of Pub. L. No.107-16.

### XIII. TAX COMPLEXITY ANALYSIS

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and the Treasury Department regarding each of the provisions included in the complexity analysis, including a discussion of the likely effect on IRS forms and any expected impact on the IRS.

1. Increase the child tax credit (sec. 101 of the conference agreement)

*Summary description of provision*

The amount of the child credit is increased to $1,000 for 2003 and 2004, reverting to present law phase-in thereafter. For 2003, the increased amount of the child credit will be paid in advance beginning in July 2003 on the basis of information on each taxpayer's 2002 return filed in 2003. Advance payments will be made in a manner similar to the advance payment checks issued by the Treasury in 2001 to reflect the creation of the 10-percent regular income tax rate bracket.

*Number of affected taxpayers*

It is estimated that the provisions will affect approximately 27 million individual tax returns.

*Discussion*

Individuals should not have to keep additional records due to this provision, nor will additional regulatory guidance be necessary to implement this provision.

The IRS will need to add to the individual income tax forms package a new worksheet so that taxpayers can reconcile the amount of the check they receive from the Department of the Treasury with the credit they are allowed as an acceleration of the child tax credit for 2003. This worksheet should be relatively simple and many taxpayers will not need to fill it out completely because they will have received the full amount by check.

2. Expansion of the 15-percent rate bracket (sec. 102 of the conference agreement)

*Summary description of provision*

The bill accelerates the increase of the size of the 15-percent regular income tax rate bracket for married individuals filing joint returns to twice the width of the 15-percent regular income tax rate bracket for unmarried individual returns effective for 2003 and 2004, reverting to present-law phase-in for 2005 and thereafter.

*Number of affected taxpayers*

It is estimated that the provision will affect approximately 19 million individual tax returns.

*Discussion*

It is not anticipated that individuals will need to keep additional records due to this provision. The increased size of the 15-percent regular income tax rate bracket for married individuals filing joint returns should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision.

3. Standard deduction tax relief (sec. 103 of the conference agreement)

*Summary description of provision*

The conference agreement accelerates the increase in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for unmarried individual returns effective for 2003 and 2004, reverting to present-law phase-in for 2005 and thereafter.

*Number of affected taxpayers*

It is estimated that the provision will affect approximately 22 million individual returns.

*Discussion*

It is not anticipated that individuals will need to keep additional records due to this provision. The higher basic standard deduction should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase individuals' tax preparation costs.

Some taxpayers who currently itemize deductions may respond to the provision by claiming the increased standard deduction in lieu of itemizing. According to estimates by the staff of the Joint Committee on Taxation, approximately three million individual tax returns will realize greater tax savings from the increased standard deduction than from itemizing their deductions. In addition to the tax savings, such taxpayers will no longer have to file Schedule A to Form 1040 and a significant number of which will no longer need to engage in the record keeping inherent in itemizing below-the-line deductions. Moreover, by claiming the standard deduction, such taxpayers may qualify to use simpler versions of the Form 1040 (i.e., Form 1040EZ or Form 1040A) that are not available to individuals who itemize their deductions. These forms simplify the return preparation process by eliminating from the Form 1040 those items that do not apply to particular taxpayers.

This reduction in complexity and record keeping also may result in a decline in the number of individuals using a tax preparation service or a decline in the cost of using such a service. Furthermore, if the provision results in a taxpayer qualifying to use one of the simpler versions of the Form 1040, the taxpayer may be eligible to file a paperless Federal tax return by telephone. The provision also should reduce the number of disputes between taxpayers and the IRS regarding substantiation of itemized deductions.

4. Reduction in income tax rates for individuals (secs. 104 and 105 of the conference agreement)

*Summary description of provision*

The conference agreement accelerates the scheduled increase in the taxable income levels for the 10-percent rate bracket from 2008 to 2003 and 2004, reverting to the present-law phasein for 2005 and thereafter. Specifically, the conference agreement increases the taxable income level for the 10-percent regular income tax rate brackets for unmarried individuals from $6,000 to $7,000 and for married individuals filing jointly from $12,000 to $14,000. For taxable years beginning after 2004, the amounts will revert to the levels provided in present-law (e.g., $7,000 for unmarried individuals and $12,000 for married couples filing jointly for 2005).

Also, the conference agreement accelerates the reductions in the regular income tax rates in excess of the 15-percent regular income tax rate that are scheduled for 2004 and 2006. Therefore, the regular income tax rates in excess of 15 percent under the conference agreement are 25 percent, 28 percent, 33 percent, and 35 percent for 2003 and thereafter.

*Number of affected taxpayers*

It is estimated that the provision will affect approximately 76 million individual tax returns.

*Discussion*

It is not anticipated that individuals will need to keep additional records due to this provision. It should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase the tax preparation costs for most individuals. Reductions in the regular income tax as a result of these rate reductions as well as the expansion of the child credit, standard deduction, and 10-percent bracket, will cause some taxpayers to become subject to the alternative minimum tax.

The Secretary of the Treasury is expected to make appropriate revisions to the wage withholding tables to reflect the proposed rate reduction for calendar year 2003 as expeditiously as possible. To implement the effects of the additional amount of child tax credit for 2003, employers would be required to use a new (second) set of withholding rate tables to determine the correct withholding amounts for each employee. Switching to the new withholding rate tables during the year can be expected to result in a one-time additional burden for employers.

5. Bonus depreciation (sec. 201 of the conference agreement)

*Summary description of provision*

The conference agreement provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified property. Qualified property is defined in the same manner as for purposes of the 30-percent additional first-year depreciation deduction provided by the Job Creation and Workers Assistance Act of 2002, except that the applicable time period for acquisition (or self construction) of the property is modified. In general, in order to qualify the property must be acquired after May 5, 2003, and before January 1, 2005, and no binding written contract for the acquisition is in effect before May 6, 2003. Property eligible for the 50-percent additional first year depreciation deduction is not eligible for the 30-percent additional first year depreciation deduction.

*Number of affected taxpayers*

It is estimated that more than 10 percent of small businesses will be affected by the provision.

*Discussion*

It is not anticipated that small businesses will have to keep additional records due to this provision, nor will additional regulatory guidance be necessary to implement this provision. It is not anticipated that the provision will result in an increase in disputes between small businesses and the IRS. However, small businesses will have to perform additional analysis to determine whether property qualifies for the provision. In addition, for qualified property, small businesses will be required to perform additional calculations to determine the proper amount of allowable depreciation. Complexity may also be increased because the provision is temporary. For example, different tax treatment will apply for identical equipment based on the acquisition and placed in service date. Further, the Secretary of the Treasury is expected to have to make appropriate revisions to the applicable depreciation tax forms.

### 6. Capital gain rate reduction (sec. 301 of the conference agreement)

*Summary description of provision*

The conference agreement reduces the 10- and 20-percent rates on the adjusted net capital gain to five and 15 percent, respectively. These lower rates apply to both the regular tax and the alternative minimum tax. The lower rates apply to assets held more than one year. The five percent rate becomes zero percent for taxable years beginning after 2007. The conference agreement applies to taxable years ending on or after May 6, 2003, and beginning before January 1, 2009.

For taxable years that include May 6, 2003, the lower rates apply to amounts properly taken into account for the portion of the year on or after that date. This generally has the effect of applying the lower rates to capital assets sold or exchanged (and installment payments received) on or after May 6, 2003. In the case of gain and loss taken into account by a pass-through entity, the date taken into account by the entity is the appropriate date for applying this rule.

*Number of affected taxpayers*

It is estimated that the provisions will affect over 15 million individual tax returns.

*Discussion*

The elimination of the five-year holding period means that taxpayers with gains on assets held for more than 5 years will no longer need to separately compute tax for such gain on schedule D of Form 1040. Additionally, the form will not need to be expanded beginning in 2006 to separate out gain of capital assets held more than five years that were purchased after 2000. This may reduce tax preparation costs. Mutual fund reporting on the Form 1099 will be made easier by the elimination of the five-year holding period.

For 2003, multiple rates will be in effect depending on whether gain was realized before or after May 6, 2003. This will make the schedule D more complicated for tax year 2003, and may increase tax preparation costs.

### 7. Dividend tax relief (sec. 302 of the conference agreement)

*Summary description of provision*

Under the conference agreement, qualified dividends received by an individual shareholder from domestic and qualified foreign corporations are generally taxed at the rates that apply to net capital gain. This treatment applies for purposes of both the regular tax and the alternative minimum tax. Thus, under the conference agreement, dividends will be taxed at rates of five and 15 percent, the same rates applicable to net capital gain.

If a shareholder does not hold a share of stock for more than 60 days during the 120-day period beginning 60 days before the ex-dividend date, dividends received on the stock are not eligible for the reduced rates. Also, the reduced rates are not available for dividends to the extent that the taxpayer is obligated to make related payments with respect to positions in substantially similar or related property.

*Number of affected taxpayers*

It is estimated that the provisions will affect over 20 million individual tax returns.

*Discussion*

Individuals computing their tax will need to add qualified dividends to net capital gain in computing their income tax using the tax computation portion of Schedule D of Form 1040 (or other tax computation forms or schedules as the Internal Revenue Service may prescribe). Additional individuals will need to use the tax computation schedule, which may increase tax preparation costs.

New Form 1099s will need to differentiate qualified from nonqualified dividends, and additional burdens will be imposed on payors to comply with the new Form 1099 reporting. Additional record keeping will be necessary with respect to compliance with the 60-day holding period rules. It is likely that there will be increased taxpayer errors with respect to the proper reporting of dividends as a result.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
*Washington, DC.*

Ms. MARY SCHMITT,
*Acting Chief of Staff, Joint Committee on Taxation,*
*Washington, DC.*

DEAR MS. SCHMITT: Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department on the seven provisions from the House and Senate markup of H.R. 2, the "Jobs and Growth Tax Relief Reconciliation Act of 2003," that your staff identified for complexity analysis in their May 22, 2003 telephone calls to the IRS Legislative Affairs Division.

Our comments are based on the description of those provisions in the enclosed analysis. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provisions.

Sincerely,

MARK W. EVERSON,
*Commissioner.*

Enclosure.

## COMPLEXITY ANALYSIS OF THE JOBS AND GROWTH RECONCILIATION TAX ACT OF 2003

### ACCELERATION OF THE INCREASE IN THE CHILD TAX CREDIT

#### PROVISION

The amount of the child credit is increased to $1,000 for 2003 and 2004. For 2003, the increased amount ($400) will be paid in advance beginning in July 2003 on the basis of information on each taxpayer's 2002 return. Advance payments are to be made in a similar manner to the advance payment checks issued by the Treasury in 2001 to reflect the creation of the 10-percent regular income tax rate bracket. After 2005 the child credit will revert to the levels provided in present law (e.g., $700 for 2005).

#### IRS AND TREASURY COMMENTS

- No new forms would be required as a result of the child tax credit provisions mentioned above.
- The increased amount of the child tax credit and the increased refundable portion would be incorporated in the instructions for Forms 1040, 1040A, 1040NR, 1040-PR, and 1040-SS for 2003 and 2004.
- The applicable amount of the child tax credit for 2005 and later years would be incorporated in the instructions for Form 1040, 1040A, 1040NR, 1040-PR, and on Form 1040-ES for 2005 and later years.
- Subsequent to enactment, the IRS would have to advise taxpayers who make estimated tax payments for 2003 how they can adjust their estimated tax payments for 2003 to reflect the increased child tax credit, the increased refundable portion, and the required reduction for those who receive advance payments.
- Supplemental programming changes would be required for processing 2003 returns to reflect the increased child tax credit, the increased refundable portion, and the required reduction for those who receive advance payments.
- Programming changes would be required for 2004 and later years to reflect the reversion of the applicable child tax credit amount to the amounts currently scheduled for the years. Currently, the IRS computation programs are updated annually to incorporate mandated inflation adjustments. Programming changes necessitated by the provision would be included during that process.

#### ADVANCE PAYMENT FEATURE

- An estimated 26 million checks will be mailed beginning in July 2003.
- It will take three weeks to mail checks to those taxpayers whose 2002 tax returns have already been filed and processed. Checks for taxpayers whose returns are filed and processed later in the year will be mailed weekly, through the end of December 2003.
- Some taxpayers may be entitled to more than their advance payment checks due to changes in financial or family status between 2002 and 2003. For example, IRS will not know if a taxpayer gives birth to a child or adopts a child in 2003 until the taxpayer files the 2003 tax return. If they are entitled to a larger increase in the child tax credit than they received in their advance payment checks, they will get the additional amounts on their 2003 tax returns.
- Notice will be sent to taxpayers informing them of the amount of their advance payment, the number of children used to compute the amount, if the amount was limited due to the phase-out range, tax liability, or earned income. The notices will also advise taxpayers that this amount will have to be taken into account in determining the amount of their child tax credit on the 2003 tax return.
- Two lines will be added to the Child Tax Credit Worksheet for 2003. Based on experience with the 2001 rate reduction credit and advance payment, it is anticipated that a number of taxpayers will make errors in this computation on their 2003 tax returns.
- The advance payment will require programming changes to compute the amount and resources to answer taxpayer questions, print and mail notices, and correct errors made on 2003 returns as a result of the advance payment.

### ACCELERATION OF THE STANDARD DEDUCTION TAX RELIEF

*Provision*

The basic standard deduction amount for joint returns is increased to twice the basic standard deduction amount for unmarried individuals returns, effective for 2003 and 2004. After 2004, the applicable percentages will revert to present-law levels (e.g., 174 percent of the basic standards deduction for unmarried individuals for 2005).

*IRS and Treasury Comments*

- The increased basic standard deduction for married taxpayers would be incorporated in the instructions for Forms 1040, 1040A, 1040EZ, and on Forms 1040, 1040A, and 1040EZ for 2003, 2004 and 2005. No new forms would be required.

- The amount of the basic standard deduction for married taxpayers after 2004 (based on reversion to the currently scheduled levels) would be incorporated in the instructions for Forms 1040, 1040A, 1040EZ and on Forms W–4 1040, 1040A, 1040EZ and 1040–ES for 2005 and later years.
- Subsequent to enactment, the IRS would have to advise taxpayers how they can adjust their estimated tax payment of Federal income tax withholding for 2003 to reflect the increased basic standard deduction.
- Supplemental programming changes would be required to reflect the increased basic standard deduction for 2003.
- Programming changes would be required in 2005 and later to reflect the reversion of the standard deduction amounts to the currently scheduled amounts for those years. Currently, the IRS computation program are updated annually to incorporate mandated inflation adjustment. Programming changes necessitated by the provision would be increased during that process.
- The larger basic standard deduction would reduce the number of taxpayers who itemize their deductions in 2003 and 2004. It would also reduce the number of taxpayers who are required to file income tax returns in those years.

### ACCELERATION OF THE EXPANSION OF THE 15-PERCENT RATE BRACKET.

*Provision*

The width of the 15-percent regular income tax rate bracket for joint returns is increased to twice the width of the 15-percent regular income tax rate bracket for unmarried individual returns, effective for 2003 and 2004. After 2004, the end point of the 15-percent rate bracket for married couples filing joint returns (as a percentage of the end point of the 15-percent rate bracket for unmarried individuals) will revert to present-law levels (i.e., 180 percent of the end point of the 15-percent rate bracket for unmarried individuals for 2005).

*IRS and Treasury Comments*

- The expanded 15-percent rate bracket for married taxpayers would be incorporated in the tax tables and the tax rate schedules shown in the instructions for Forms 1040, 1040A, 1040EZ, and 1040NR for 2003 and 2004. No new forms would be required.
- The applicable width of the 15-percent rate bracket for married taxpayers after 2004 (based on reversion to the currently scheduled levels) would be incorporated in the tax table and tax rate schedules shown in the instructions for Forms 1040, 1040A, 1040EZ, and 1040NR and on Form 1040–ES for 2005 and later years.
- The expanded 15-percent rate bracket would also be incorporated in the tax rate schedules shown on Form 1040–ES for 2004. Subsequent to enactment, the IRS would have to advise taxpayers who make estimated tax payments for 2003 how they can adjust their estimated tax payments for 2003 to reflect the expanded 15-percent rate bracket.
- Supplemental programming changes would be required to reflect the expanded 15-percent rate bracket for 2003.
- Programming changes would be required to reflect the reversion to present law levels for determining the width of the 15-percent rate bracket for 2005 and later years. Currently, the IRS computation programs are updated annually to incorporate mandated inflation adjustments. Programming changes necessitated by the provision would be included during that process.
- New withholding rate tables and schedules to update the current Circular E for use by employers during the remainder of calendar year 2003 would be required.

### ACCELERATION OF THE REDUCTION OF REGULAR INDIVIDUAL INCOME TAX RATES

*Provision*

The conference agreement accelerates the scheduled increase in the taxable income levels for the 10-percent rate bracket from 2008 to 2003, and 2004, reverting to the present-law phase-in for 2005 and thereafter. Specially, the conference agreement increases the taxable income level for the 10-percent regular income tax rate brackets for unmarried individuals from $6,000 to $7,000 and for married individuals filing jointly from $12,000 to $14,000. For taxable years beginning after 2004, the amounts will revert to the levels provided in present-law (i.e., $6,000 for unmarried individuals and $12,000 for married couples filing jointly for 2005).

Also, the conference agreement accelerates the reductions in the regular income tax rates in excess of the 15-percent regular income tax rate that are scheduled for 2004 and 2006. Therefore, the regular income tax rates in excess of 15 percent under the conference agreement are 25 percent, 28 percent, 33 percent, and 35 percent for 2003 and thereafter.

*IRS and Treasury Comments*

- No new forms would be required as a result of the above-mentioned provisions.
- The increased taxable income levels for the 10-percent rate bracket would be incorporated in the tax tables and tax rate schedules shown in the instructions for Forms 1040, 1040A, 1040EZ, 1040NR, and 1040NR–EZ 2003 and 2004.
- The reduced tax rates would be incorporated in the tax tables and tax rate schedules shown in the instructions for Forms 1040, 1040A, 1040EZ, 1040NR, 1040NR–EZ, and 1041 for 2003 and 2004.
- Changes to the 10-percent rate bracket for tax years beginning after 2004 resulting from the reversion to the present-law phase-in schedule would be incorporated in the tax tables and tax rate schedules shown in the instructions for Forms 1040, 1040A, 1040EZ, 1040NR, and 1040NR–EZ and on Form 1040–ES for 2005 and later years. Currently, the IRS computation programs are updated annually to incorporate mandated inflation adjustments. Programming changes necessitated by the provision would be included during that process.
- The increased taxable income levels for the 10-percent rate bracket and the reduced tax rates would also be incorporated in the tax rate schedules shown on Form 1040–ES for 2004. Subsequent to enactment, the IRS would have to advise taxpayers who make estimated tax payments for 2003 how they can adjust their estimated tax payments for 2003 to reflect the increased taxable income levels for the 10-percent rate bracket and the reduced rates.

### SPECIAL DEPRECIATION ALLOWANCES FOR CERTAIN PROPERTY

*Provision*

The bill provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified property. Qualified property is defined in the same manner as for purposes of the 30-percent additional first-year depreciation deduction provided by the Job Creation and Workers Assistance Act of 2002, except that the applicable time period for acquisition (or self construction) of the property is modified. In general, in order to qualify, the property must be acquired after May 5, 2003, and before January 1, 2006, and no binding written contract for the acquisition can be in effect before May 6, 2003. Property eligible for the 50-percent additional first-year depreciation deduction is not eligible for the 30-percent additional first-year depreciation deduction.

*IRS and Treasury Comments*

- The increase and extension of additional first-year depreciation would have no significant impact on Form 4562 or any other tax forms. The instructions for Form 4562 and other instructions and publications would be expanded to explain and implement the new rules.
- No programming changes would be required by this provision.

### REDUCED INDIVIDUAL CAPITAL GAINS RATES

*Provision*

The 10- and 20-percent rates on the adjusted net capital gain are reduced to 5 and 15 percent, respectively, effective in taxable years ending on or after May 6, 2003, and beginning before January 1, 2009.

For taxable years that include May 6, 2003, the lower rates apply to amounts properly taken into account for the portion of the year on or after that date. This generally has the effect of applying the lower rates to capital assets sold or exchanged (and installment payments received) on or after May 6, 2003.

*IRS and Treasury Comments*

- The mid-year effective date of May 6, 2003, creates complexity and burden for taxpayers, and will likely result in a large number of errors (as occurred in 1997 when similar mid-year changes were made to the capital gains tax rate). A January 1, 2003, effective date would greatly simplify matters for 2003 (instead of adding 8 lines to several products for 2003 as described below, 4 lines would be removed).
- To figure the amount of gain taxed at 5% and 15% for 2003, 8 lines would be added to: Schedule D (Form 1040); the Schedule D Tax Worksheet; Form 6251 (alternative minimum tax); and Form 8801 (credit for prior year minimum tax).
- Column (g) of Schedule D would be revised to request information for amounts applicable to the portion of the tax year after May 5, 2003. Additional instructions and a 6-line worksheet would be added to figure 28% rate gain or loss, as that amount is currently figured in column (g).
- Rules would have to be developed and applied for 2003 to account for the limit on net section 1231 losses, capital loss carryforwards, carryforwards not allowed due to passive activity rules or at-risk rules, etc.
- The amount of net capital gain for the portion of the tax year after May 5, 2003, would have to be transcribed from the tax return and programming changes would be required to figure the amount of gain taxed at 5% and 15%.
- For 2003, Form 1099–DIV filers would be required to figure and report to recipients the amount of gain after May 5, 2003.
- Taxpayers whose only capital gains are capital gain distributions would not be able to use the shorter Capital Gain Tax Worksheet in the instructions for Form 1040 and Form 1040A, but instead would be required to

file Form 1040 and attach Schedule D, to report the amount of their capital gain distributions properly taken into account after May 5, 2003, and figure their tax using the 5%, 10%, 15%, and 20% capital gains tax rates. This provision would therefore increase the number of taxpayers filing Schedule D by up to 6 million.

- For 2004, the 8 lines added for 2003 and 4 current lines (used to figure the 8% rate) would be removed from: Schedule D; the Schedule D Tax Worksheet; Form 6251; and Form 8801.
- The 8-line Qualified 5-Year Gain Worksheet in the Instructions for Schedule D would not be necessary after 2003.
- For 2006, when the 18% capital gains tax rate becomes effective for individuals, this provision would also save us from having to add 4 lines to Schedule D, the Schedule D Tax Worksheet, Form 6251, Form 8801, and the Qualified 5-Year Gain Worksheet.
- Form 1099–DIV filers would not be required to report qualified 5-year gain after 2003, and would not be required in 2005 to begin reporting qualified 5-year gain eligible for the 18% rate.
- For tax years beginning after 2008, the 5% and 15% rates would cease to apply, the 8% rate on qualified 5-year gain would again apply, and the 18% rate on qualified 5-year gain on property acquired after 2000 would begin to apply. At least 8 lines would have to be added to the 2009 Schedule D (Form 1040) and 2009 Schedule D Tax Worksheet, 2009 Form 6251, and Form 8801. A worksheet of at least 8 lines would be required to figure the 8% and 18% qualified 5-year gain amounts. Several million taxpayers, filing Form 1040 or 1040A, whose only capital gains are capital gain distributions and dividends would no longer be eligible to figure their tax using a short Capital Gain Tax Worksheet, but instead would be required to file Form 1040 and Schedule D. Form 1099–DIV filers would again have to track and report 8% qualified 5-year gain, and would have to begin reporting 18% qualified 5 year gain.

DIVIDEND INCOME OF INDIVIDUALS

*Provision*

Dividends received by an individual shareholder from domestic corporations are taxed at the rates for net capital gain (5 or 15 percent per the above reduction in the capital gains rate), effective for taxable years beginning after 2002 and before 2013.

If a shareholder does not hold a share of stock for more than 60 days during the 90-day period beginning 60 days before the ex-dividend date, dividends received on the stock are not eligible for the capital gain rates. Also, the capital gain rates are not available for dividends to the extent that the taxpayer is obligated to make related payments with respect to positions in substantially similar or related property. Other rules apply.

*IRS and Treasury Comments*

- No new forms would be required as a result of the above-mentioned provision.
- A box to report qualified dividends would be added to Form 1099–DIV for 2004 through 2012.
- Subsequent to enactment, the IRS would have to issue a revised Form 1099–DIV for 2003 and advise taxpayers who make estimated tax payments for 2003 how they can adjust their estimated tax payments to reflect the new rates applicable to qualified dividends.
- Two lines would be added to Part IV of Schedule D (and the Schedule D Tax Worksheet) for 2003 through 2012 to increase net capital gain by the amount of qualified dividends.
- The new tax rates applicable to qualified dividends would be reflected in the instructions for Forms 1040 and 1040A for 2003 through 2012.
- Taxpayers who have qualified dividends would be required to report them on Schedule D and complete up to 19 lines (23 lines for 2003) in Part IV of Schedule D to figure their tax using the 15% and 5% capital gains tax rates, even if they did not otherwise have a net capital gain. For example, taxpayers whose only income was wages, interest, and dividends reported on Form 1040A would now be required to file Form 1040 and attach Schedule D to report the amount of qualified dividends and figure their tax.
- Supplemental programming changes would be required to reflect the new tax rates applicable to qualified dividends for 2003.
- Programming changes would be required to reflect the tax rates applicable to qualified dividends after 2012. Currently, the IRS tax computation programs are updated annually to incorporate mandated inflation adjustments. Programming changes necessitated by the provision would be included during that process.
- Technical guidance (regulations, revenue rulings, etc.) will probably be needed to implement the anti-abuse rules.
- For tax years beginning after 2008, the additional lines added for 2003–2007—one line for Form 1040 and two lines in each place tax is figured using capital gains tax rates (Schedule D, Schedule D Tax Worksheet, and Capital Gain Tax Worksheets)—would be removed.

EFFECT OF ALL BILL PROVISIONS ON AMT

Despite specific changes which tend to increase the number of AMT taxpayers, the bill's increase in the AMT exemption amounts for 2003–2004 would significantly reduce the number of AMT taxpayers in those years relative to current law.

ESTIMATED BUDGET EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 2
THE "JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003"

Fiscal Years 2003 - 2013

*[Millions of Dollars]*

| Provision | Effective | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2003-08 | 2003-13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Acceleration of Certain Previously Enacted Tax Reductions** | | | | | | | | | | | | | | |
| 1. Expand the child credit to $1,000 for 2003 through 2004; revert to present-law phase in for 2005 [1] | tyba 12/31/02 | -13,712 | -5,820 | -12,956 | --- | --- | --- | --- | --- | --- | --- | --- | -32,488 | -32,488 |
| 2. Accelerate the expansion of the 15% individual income tax rate bracket and the increase in the standard deduction for married taxpayers filing joint returns; revert to present-law phase in for 2005 | tyba 12/31/02 | -4,936 | -24,904 | -5,234 | --- | --- | --- | --- | --- | --- | --- | --- | -35,074 | -35,074 |
| 3. Accelerate the expansion of the 10% bracket; revert to present-law phase in for 2005 | tyba 12/31/02 | -1,549 | -8,445 | -1,912 | --- | --- | --- | --- | --- | --- | --- | --- | -11,906 | -11,906 |
| 4. Accelerate the 2006 rate schedule | tyba 12/31/02 | -9,531 | -38,809 | -19,930 | -5,915 | --- | --- | --- | --- | --- | --- | --- | -74,185 | -74,185 |
| 5. Increase individual AMT exemption amount by $4,500 single and $9,000 joint for 2003 and 2004 | tyba 12/31/02 | -1,176 | -10,346 | -6,260 | --- | --- | --- | --- | --- | --- | --- | --- | -17,782 | -17,782 |
| **Total of Acceleration of Certain Previously Enacted Tax Reductions** | | **-30,904** | **-88,324** | **-46,292** | **-5,915** | **—** | **—** | **—** | **—** | **—** | **---** | **—** | **-171,435** | **-171,435** |
| **Growth Incentives for Business** | | | | | | | | | | | | | | |
| 1. Increase bonus depreciation to 50% and extend through 12/31/04 | ppisa 5/5/03 [2] | -9,918 | -33,298 | -11,684 | 9,414 | 9,300 | 8,112 | 6,648 | 4,987 | 3,586 | 2,212 | 1,447 | -28,074 | -9,194 |
| 2. Increase section 179 expensing - increase the amount that can be expensed from $25,000 to $100,000 and increase the phaseout threshold amount from $200,000 to $400,000; include software in section 179 property; and index both the deduction limit and the phaseout threshold after 2003 (sunset after 2005) | tyba 12/31/02 | -1,647 | -2,681 | -3,690 | -1,027 | 2,724 | 1,842 | 1,290 | 937 | 647 | 410 | 243 | -4,479 | -952 |
| **Total of Growth Incentives for Business** | | **-11,565** | **-35,979** | **-15,374** | **8,387** | **12,024** | **9,954** | **7,938** | **5,924** | **4,233** | **2,622** | **1,690** | **-32,553** | **-10,146** |
| **Reductions in Taxes on Dividends and Capital Gains** | | | | | | | | | | | | | | |
| 1. Tax capital gains with a 15%/5% rate structure for 2003 though 2007, and 15%/0% in 2008 (sunset 12/31/08) | so/a 5/6/03 | -62 | -928 | -1,335 | -3,042 | -4,454 | -3,544 | 509 | -9,532 | --- | --- | --- | -13,365 | -22,386 |
| 2. Tax dividends with a 15%/5% rate structure for 2003 though 2007, and 15%/0% in 2008 (sunset 12/31/08) [3] | dri tyba 12/31/02 | -4,250 | -17,506 | -19,215 | -20,081 | -21,263 | -23,203 | -19,689 | -493 | --- | --- | --- | -105,518 | -125,700 |
| **Total of Reductions in Taxes on Dividends and Capital Gains** | | **-4,312** | **-18,434** | **-20,550** | **-23,123** | **-25,717** | **-26,747** | **-19,180** | **-10,025** | **---** | **---** | **—** | **-118,883** | **-148,086** |

| Provision | Effective | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2003-08 | 2003-13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Temporary State Fiscal Relief Fund (outlay effects) [4]** ...... | DOE | -7,730 | -12,270 | --- | --- | --- | --- | --- | --- | --- | --- | --- | -20,000 | -20,000 |
| **Special Estimated Tax Rules for Certain Corporate Estimated Tax Payments (25% of estimated payments otherwise due on September 15 are payable on October 1, 2003)** ........ | DOE | -6,325 | 6,325 | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Total, Net of Outlays** ........ | | -49,489 | -135,370 | -77,567 | -20,575 | -13,648 | -16,749 | -11,190 | -4,101 | 4,233 | 2,622 | 1,690 | -313,398 | -320,142 |
| **Total Outlay Effects** ........ | | -11,347 | -13,312 | -4,649 | -76 | -45 | -44 | -52 | --- | --- | --- | --- | -29,473 | -29,525 |
| **TOTAL [5]** ........ | | -60,836 | -148,682 | -82,216 | -20,651 | -13,693 | -16,793 | -11,242 | -4,101 | 4,233 | 2,622 | 1,690 | -342,871 | -349,667 |

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
DOE = date of enactment
dri = dividends received in
ppisa = property placed in service after
so/a = sales on or after
tyba = taxable years beginning after

[1] Advance payment of 2003 child credit paid by rebate with safe harbor.

[2] Does not apply to any property with binding contract in place before May 6, 2003.

[3] Any dividend described in Internal Revenue Code section 404(k) would be taxed at ordinary rates. RIC and REIT shareholders receive tax relief to the extent that dividends paid by the RIC or REIT are qualified dividends received by the RIC or REIT. Taxed REIT income would receive the preferential tax rates when distributed as dividends. The provision excludes qualified dividends from investment income for the purpose of Internal Revenue Code Section 163(d). Certain anti-abuse rules, including the imposition of a 60-day holding period, apply. Certain foreign dividends would qualify for the preferential rates.

[4] Estimate provided by the Congressional Budget Office.

[5] Returns with AMT liability (millions):

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Present law ........ | 2.2 | 3.7 | 9.7 | 14.9 | 19.2 | 23.8 | 26.8 | 30.0 | 14.2 | 17.3 | 20.3 |
| Change due to proposal ........ | 0.2 | -0.8 | 1.6 | --- | --- | --- | --- | --- | --- | --- | --- |

WILLIAM M. THOMAS,
TOM DELAY,
*Managers on the Part of the House.*

CHUCK GRASSLEY,
ORRIN HATCH,
DON NICKLES,
TRENT LOTT,
*Managers on the Part of the Senate.*

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 21 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2239

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 10 o'clock and 39 minutes p.m.

## REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT TO ACCOMPANY H.R. 2, JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–129) on the resolution (H. Res. 253) waiving points of order against the conference report to accompany the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, which was referred to the House Calendar and ordered to be printed.

## CONFERENCE REPORT ON H.R. 2, JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 253 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 253

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit. The yeas and nays shall be considered as ordered on the question of adoption of the conference report. Clause 5(b) of rule XXI shall not apply to the conference report.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 253 is an appropriate rule providing for 1 hour of debate for consideration of the conference report accompanying H.R. 2, the Jobs and Growth Reconciliation Act of 2003.

The rule waives all points of order against the conference report and against its consideration.

Mr. Speaker, taxes now claim a greater share of the median two-income family's budget than food, clothing, housing, and transportation combined. That just is not right. Families need the flexibility to dedicate their hard-earned resources towards their most pressing concerns. While some may need more money to help pay off their debts, others may need extra money to pay tuition for their child or to invest for their retirement.

The same can be said for small business owners, the entrepreneurial backbone of America. They should be empowered to allocate their resources however they see fit, whether it be hiring more employees, reinvesting, or expanding their business in order to create jobs.

The point is, people should be making decisions on how to best spend their hard-earned dollars, not the government, nor should government punish them with job-killing, unfair taxes.

Today's legislation is not just about tax relief; it is about creating jobs and stimulating the economy. The fact is jobs do not create themselves. And we, in this Congress, have both the ability and responsibility to help create those jobs. Through his consistent and immediate attention to growth and prosperity for working Americans, the President has once again guided Congress to foster job creation and ease the outrageous tax burden on working Americans. Under his direction, we will be helping countless Americans achieve a greater parity in the Tax Code and realize the fulfillment of employment.

No one knows the current job struggle like my constituents and fellow New Yorkers across the State. For my part of the State, which never shared in the economic boom of the 1990s, job growth remains the number one priority. And this type of positive impact is what this and so many other parts of our country need.

On average, over 30,000 new jobs will be created in New York every year for the next 5 years. Instead of an unemployment check, these workers will get a paycheck that they want and they deserve.

The bill recognizes that we cannot create employees if we do not work with employers to create jobs. For example, small businesses will have an option of immediately deducting up to $100,000 in expenses, a significant increase over the current $25,000 deductions. Because most small businesses pay taxes as individuals, accelerating the top rate reduction means lower taxes for small business owners. This means that millions of entrepreneurs will have more money to spend on employees, supplies, or expansion efforts.

The conference report also drastically reduces the dividend tax burden, making stocks more valuable and increasing expected rates of return. By lowering the rates of dividend and capital gains, people will be more willing to invest because they will pay less tax on the returns to their investments.

What this bill also recognizes is the need for an immediate infusion of direct aid to States facing dire fiscal crises. Budget shortfalls and sharply rising Medicaid costs have crippled local governments, restricting access to vital services, such as health care, that our constituents greatly rely on.

By coupling State relief with tax relief and job creation, we can alleviate the strain on State revenues, and further stimulate the economy with direct aid to our States and localities that need it most.

☐ 2245

Whether creating jobs, relieving the tax burden, increasing investment, or fostering State and local stability, this bill acknowledges the need for all-encompassing approaches to growing the economy.

Mr. Speaker, former President Ronald Reagan once said the current Tax Code is a daily mugging. This is not what our political science teachers meant by participation in government. Let us not rob the American people of their hard-earned money. This country was founded upon individuals who stretched their imaginations, fostered ingenuity, and broke their backs for freedom and justice. Americans throughout history have not toiled resiliently just to fork over all their earnings to the Federal Government. This was not the intent of our forefathers, nor should it be ours now.

Mr. Speaker, I urge my colleagues to join me in supporting this rule as well as the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here we are again, at quarter to eleven, the shades of darkness have fallen, and we have to ask ourselves a question, at least I do: Is the other side not particularly competent? Is that why we are here this late at night, as we always are on major pieces of legislation? Or have they intentionally put us here late at night so no one will watch this on television, so the American public will not know what is going on?

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I will complete my statement, and then my friend, the chairman, will have plenty of time to respond.

Mr. DREIER. I just wanted to respond to the query that was put forth.

Mr. FROST. I understand, but my friend will have plenty of time to speak.

Mr. Speaker, it is more than a coincidence that the major pieces of legislation that this Congress does are always done late at night when not very many people are watching. Tonight, Mr. Speaker, the House will pass and send to the Senate the "Leave No Millionaire Behind Tax Act." Yet at the same time around the country millions of Americans are looking for work.

This country is still suffering from the second Bush recession in just over a decade, the third Republican recession in the past 20 years. The Federal deficit is spiraling even higher. The public debt is growing. Every penny of this tax bill have will to be borrowed. But Republicans in Washington, from the President on down, are busy patting themselves on the back for successfully pulling off another rip-off of the Federal Treasury.

Make no mistake, that is all this conference report is, a welfare package for the very wealthy and a big fat bill for future generations. When you borrow money, you generally have to pay it back. This conference report is the latest attempt to give the average American's Social Security payments and their Medicare payments to a small elite group of very wealthy individuals.

Republicans have argued among themselves about how much this bill costs, but it hardly matters because they are basically making up numbers at this point. After all, the Senate Republicans attached a number to their tax bill last week and then had to admit it was $70 billion too low. And this week the House majority leader, the gentleman from Texas (Mr. DELAY), was in the newspapers bragging about how easy it is to fudge the numbers to make their tax plan look less expensive than it really is.

They can fudge the numbers to pay for a tax bill, but they will not extend unemployment benefits to every American who continues to look for work with no success. They can fudge the numbers to pay for a tax cut, but they kick 1.4 million veterans to the curb and out of the VA health system. They can fudge the numbers to pay for a tax cut, but they cannot hide a record $400 billion deficit.

Mr. Speaker, since George W. Bush became President, some 2.7 million Americans have lost their jobs. Unemployment is the highest it has been since the last Bush administration, and only Herbert Hoover lost more jobs than George W. Bush has. Of course, President Bush still has a year and a half to go to top the Great Depression President in this contest.

Mr. Speaker, the stock market is down. Republicans have driven America's deficit so high that the Bush administration's own Treasury Department has twice asked to raise the debt limit so they can borrow more money. Not only does the administration need to borrow more money, they want to borrow nearly a trillion dollars, the largest increase in the history of the debt limit. This is not a record to be proud of, Mr. Speaker. This is not a record to run for reelection on, Mr. Speaker. It is a record of shame.

After all, 2 years ago, the Republican majority in the House did not sell their economic package as a budget buster. But they were wrong. And they are wrong today. The "Leave No Millionaires Behind Act" will not create jobs or stimulate the economy, any more than Part I did 2 years ago. But it will drive this country deeper into debt, raising the debt tax on all Americans to pay for more tax breaks for the richest few. The true cost of this particular bill is closer to a trillion dollars than to any fake numbers Republicans trot out today.

That trillion dollars is about what the administration and the Republican leadership want us to raise the public debt by so they will not have to face up to the failed economic policies before the next election. The Republican leadership wants to force that record-setting debt limit increase through the Congress, along with this tax bill, while they skip town and leave millions of Americans who cannot find work in the lurch. This is reprehensible behavior, Mr. Speaker, but certainly not behavior that surprises Democrats one little bit.

We have a responsibility to govern with the needs of the present and the future in mind. This tax bill thinks of neither the present nor the future in a responsible manner. What the President and the Republican leadership are advocating is a failed economic paradigm that will borrow against the future to pay a few millionaires today, and the Republican Party does not have a clue how they are going to pay this money back and keep this government solvent.

That is why we have to defeat this rule and this conference report. Until someone makes President Bush and the Republicans stop ruining the economy, they will keep raiding ordinary taxpayers to pay for more tax breaks for the wealthiest of the wealthy. This is just wrong, Mr. Speaker. You know it and I know it.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my memory serves that at the time, had we not done the tax cuts that we passed in 2001, we might have been in a deeper recession, a slower economy. And, quite frankly, that was part of the stimulus that has moved us to a shallow recession. In moving forward with this tonight, my hope is the economic stimulus will continue to advance.

Quite frankly, I think the Republican agenda, led by our President, has done the job, and I am hoping that we can continue moving on that agenda. I will be happy to take that record to the voters of this land and let them make a decision.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule, and I rise to say that this has been a great day for us. We have been able to pass out, in a bipartisan way, with an overwhelming vote, a spectacular defense authorization bill. We have been able to deal with one of the most pressing needs out thereby extending unemployment benefits to those who are really hurting. And now we are dealing with what truly is the number one priority for us economically, and that is we are going to be putting into place a measure which is designed to create jobs and increase economic growth in this country.

I am looking at the clock. It is now 6 minutes before 11 p.m. Now, I know my friend from Texas has described this as the dead of night. But I have to say that it is 6 minutes before 8 p.m. in California, and I suspect that there may even be a broader audience following the debate at this hour across the Nation than there might be at noon following a debate that takes place here in the House of Representatives.

I also have to say that I know there are Members on both sides of the aisle who are anxious for us to complete our work and get this done so that we can create jobs for the American people, which is what this measure is going to do.

Now, I am very proud to be a Republican, and by virtue of being a Republican, I was born to cut taxes. And I am proud. I am proud of the fact that we are putting this measure into place. The "Leave No Millionaires Behind Act" was a great line that I heard. I thought that was very creative. But if we are using it on the model of "No Child Left Behind," I guess it should be broadly bipartisan. And, frankly, this is a measure which cuts taxes for virtually everyone who pays taxes.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, my friend says it cuts taxes for almost everybody. The last tax proposal the gentleman brought up here gave as much in tax breaks to the richest one-tenth of 1 percent, those people who are millionaires, as to the bottom 89 percent of the people. Does my friend think that is fair?

Mr. DREIER. Reclaiming my time, Mr. Speaker, I thank my friend for his question. And what I will say is that, frankly, as we look at the numbers, 1 percent of the American people provide 37 percent of the tax revenues that are paid in this country, and 5 percent of the American taxpayers provide over 52 percent of the tax revenues.

But what I wanted to say, Mr. Speaker, and I will say it again, is that this measure will cut taxes for virtually every American who pays taxes. And I am so excited about the fact that it cuts taxes not only for those job creators by dramatically increasing expensing for small businesses, by bringing about the kind of increased depreciation which is very important and necessary, but also I am enthused about cutting the top rate on the capital gains tax.

I am very privileged to have worked for years and years and years here. In fact, I have a bipartisan bicameral Zero Capital Gains Tax Caucus. And guess what? This measure creates a zero capital gains, and not for those who are in the highest income tax brackets, not for those who are out there creating huge numbers of jobs, but this measure will, in the year 2008, establish a zero capital gains tax rate for whom? For those who are in the 10 percent tax bracket and those who are in the 15 percent tax bracket. And, Mr. Speaker, it also provides a zero tax in the year 2008 for those who have dividend income. And there are many Americans who fall in that category.

So we are achieving, with passage of this measure, a zero capital gains rate for those who are at the lowest end of the economic spectrum. And, yes, we are, in fact, cutting it for those in the higher end as well. We are cutting it from 20 percent to 15 percent.

We also know, as we look at the broad cross-section of the American people who are going to be benefitted by this expanding and making permanent the marriage tax penalty, that that relief is very, very important. Also expanding the child credit up to $1,000, another very important provision, will be helpful to middle-income wage earners in this country. So while I hear this measure described by my friend from Texas as only benefiting millionaires, that is an absolutely preposterous description of this very important legislation.

I also have to say, Mr. Speaker, that I am very proud of the fact that we have stepped forward, acknowledging that there are real challenges that our States are facing. My State of California has, tragically, a $38.2 billion deficit. And what is it that we do in this measure? We step up to the plate and provide $20 billion in assistance for those States that have come to us and talked about the very important needs that they face.

So, Mr. Speaker, I am convinced that we have done the right thing. We are going to lay the groundwork to provide a tax-defined effort to create jobs and growth in this country. This measure deserves strong bipartisan support. The President of the United States stood here at the Capitol this morning and said he looks forward to signing this bill.

While it is not exactly what we wanted from the beginning, we have said that we are excited about the fact that the argument has been over what the size of the tax cut will be, because we know that when our friends on the other side of the aisle were in the majority the debate was so often over what the size of the tax increase would be.

□ 2300

Mr. Speaker, we have all heard the lines about the desire to keep these dollars in the pockets of the American people because they have earned them. We all know that is the case; but we also have to realize that these proposals which have come forward from the other side of the aisle to increase taxes, which is the proposal that we had last week that came from that side, would do nothing to create jobs and encourage economic growth.

In fact, as my friend from New York has so eloquently said, it would have exacerbated the economic challenges that we face. The downturn began in the last two quarters of the year 2000. That was before President Bush was elected President of the United States. Since that time this Nation has faced all three of the factors that the President outlined in his campaign that indicated that he possibly would have to lead into deficit spending: war, recession, national emergency.

No one needs to have September 11 redefined for them. We all lived through that right here in the Capitol; and tragically, many of us lost friends on that day. We also have just gone through a war liberating the people of Iraq, and we know it has been very costly.

We also know, as we have looked at this deficit, the real problem is the fact that we have seen a slow economy. How is it that we are going to generate the revenues to deal with these very important priorities that we have? It is to generate a flow of revenues that we need.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Speaker, I am just curious as a Member of the body and as a voter, when does it become President Bush's economy? You said this started back with Bill Clinton.

Mr. DREIER. That is a very good question. I think what I have basically said was this downturn began in the last two quarters of 2000. I did not say whose economy this is or is not. I would say we are all in this together as the American people. We all together stood outside the Capitol as Members of Congress following the tragedy of September 11. We all have been faced with the war with Iraq, and we have all been faced with a downturn that began in the last two quarters of 2000, and we are struggling to emerge. We are struggling to get this economy back on track.

That is why the measure that we passed in 2001 which the gentleman from New York (Mr. REYNOLDS) was talking about did play a role in mitigating the economic downturn. Virtually every economist indicated had we not passed that measure, the problems would have been worse than they are today. I believe that passage of this measure will go a long way towards creating the kind of revenue flow that we need. As I was saying, every single time we have cut the top rate on capital gains, we have seen an increase in the flow of revenues to the Federal Treasury.

We saw it when John F. Kennedy did it and when Ronald Reagan did it. We doubled the flow of revenues to the Treasury during the 1980s when Ronald Reagan brought about that reduction. In fact, we saw a 500 percent increase in the flow of revenues when the top rate on capital gains was reduced from 28 to 20 percent in 1981.

Unfortunately, in the 1986 tax bill, we saw that rate go back up. That 500 percent increase in the flow of revenues that came by unleashing that potential that was there, unfortunately we saw a diminution of it once we increased that rate.

Mr. Speaker, I am convinced that we are going to observe a dramatic increase in the flow of revenues to the Federal Treasury once we put into place this measure that cuts for most Americans the rate from 20 to 15 percent, and for those in the 10 to 15 percent bracket, reduces it to a great big zero.

When I think about those at the lower end of the spectrum, I think about those individuals who are starting their businesses, maybe have a home that has appreciated, they want to be able to have the chance to create jobs and get onto that first rung of the economic ladder.

This measure is designed to create the opportunity for people to do just that. This is a very good start. It is a good piece of legislation. I am very proud of the work that has been done by the gentleman from California (Mr. THOMAS) and the Committee on Ways and Means, our colleagues in the other body, and of course President Bush in providing stellar leadership for this, as well as Speaker HASTERT who has constantly pushed in the direction of trying to reduce that burden.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been listening to the gentleman from California (Mr. DREIER), who has a very interesting description of the bill.

I have a table here, table 5.1, "Conference Agreement on Jobs and Growth Tax Relief Reconciliation Act of 2003." This table has some very interesting information in it. An American who makes a million dollars or more would get $93,530 of tax cuts on the average. If you make between $20,000 and $30,000 a year, you get $15 a month. If you make between $30,000 and $40,000 a year, you get a little bit less than $30 a month. Let me just comment, the gentleman is trying to say this is a wonderful thing for people in the lower income brackets.

I suggest to Members that the great spread here of $93,530 for the millionaires and $15 a month for the fellow or woman making between $20,000 and $30,000 and less than $30 for the family of between $30,000 and $40,000, I am not sure what the gentleman is trying to say here.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would like to ask my friend, does he propose that that American who is earning between $20,000 and $40,000 a year, does he propose that they receive a $93,000 tax cut? Is that what the gentleman is proposing?

Mr. FROST. Reclaiming my time, I am just proposing that we not try and tell them they are getting a really good deal here, that they are getting a really big tax cut, because the people who are getting the really big tax cut are the folks who are the millionaires, and the average folks out there are just getting a little bit.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Speaker, I would like to say to the distinguished chairman that last quarter that he talked about in 2000, the tax measure had not been passed at that time, actually did not pass until June of 2001.

I would also like to say to the chairman who said that he is proud to be a Republican, he was born to cut taxes, the gentleman from California (Mr. DREIER) said. Well, I am proud to be a Democrat, and I was born to help those who cannot help themselves.

When we talk about people who pay taxes receiving benefits, there are people in this country who want to pay taxes, but cannot get a job.

Mr. Speaker, do my colleagues realize that this body will spend a meager 2 hours debating this tax cut? That is the House will dish out more than $2.4 billion to America's wealthiest for every minute it has debated this irresponsible proposal. Let me repeat myself for those who did not hear me the first time: $2.4 billion per minute of debate.

Mark Twain said there are two things you should never watch being made: sausage and legislation. The development of the Republican tax cut plan exemplifies the similarities between the nastiness and ramdomness of sausage-making and law-making. Those on the other side of the aisle have dismembered competing packages into a speculative $318 billion collage. The tax cut conference report is incomprehensible, politically motivated, and fiscally irresponsible. Outside of these hallowed halls is a visitors' center that is being built. Right now it is a big old hole, and what the Republicans are proposing is a $1 trillion hole that is a great metaphor for that big old hole right outside.

This ugly tax sausage is the product of the President and the Republican majority's troubling tax cut fixation. The tax cut conference report is a collection of various misplaced, gruesome, and dishonest provisions. The Frankenstein result is an offensive tax proposal with no legs to stand on, no eyes to see beyond the present, no voice of truth, and no heart with compassion for America's neediest.

For President Bush and the Republican majority, tax cuts are a one-size-fits-all solution. Last year's obese, obtuse, and downright obnoxious tax cut was, according to the majority, correct for the then-existing surplus.

This year while the economy is ailing, the President, House majority, and Senate majority all have professed that their own version of a tax cut plan will solve the current economic problems. Now we are being asked to subscribe to the untruthful claim that this fifth tax cut version more mangled and distorted with gimmicks than the previous four, will restart the economy. I ask that Members do not support this rule and underlying principle of the bigger the wallet, the bigger the benefit.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are getting to the heart of it. The heart of it is that the left is filing in here to talk about we need bigger government and more spending. We need more of that central Federal Government.

And the debate will happen after this rule is passed of those who want to see a tax cut, those who want to put that money back in the American people's pocket. And then we will begin to look at some of the facts in this debate.

Mr. Speaker, a married couple with two children, an income of $40,000 will see their taxes decline under the Jobs and Growth Tax Relief Act of $1,133 in 2003. That is a decline of 96 percent.

In 2003, 91 million taxpayers will receive on average a tax cut of $1,126 under the Jobs and Growth Act of 2003. And 68 million women will see their taxes decline on average by $1,338; 45 million married couples will receive an average tax cut of $1,786; 34 million families with children will benefit from an average tax cut of $1,549; 6 million single women with children will receive an average tax cut of $558; 12 million elderly taxpayers will receive an average tax cut of $1,401; 23 million small business owners will receive tax cuts averaging $2,209; 3 million individuals and families will have their income tax liability completely eliminated by this act.

I will repeat that again. Mr. Speaker, 3 million individuals and families will have their income tax liability completely eliminated by this act. Half of the tax relief package in 2003 is directed to the child tax credit, expanding a 10 percent bracket eliminating the marriage penalty, accelerating the marginal rate cuts, and ensuring that middle-class families do not face AMT. Ten million seniors will receive some type of dividend income, will be able to make their golden years more secure by keeping more of what their dividend income is.

When I have this vote cast for this rule and then when I vote on the underlying legislation, I am happy to take those facts back to my district and stand before my constituents. Do Americans want more Federal Government and bureaucrats creating programs, or do they want that money in their pocket for them to make that decision?

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Vermont.

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Mr. SANDERS. I thank my friend for yielding. I appreciate that.

Mr. REYNOLDS. For a point of a question.

Mr. SANDERS. Here is my question. The Wall Street Journal poll today showed massive opposition to this tax proposal and that more than half of the American people, 55 percent, said they would prefer the government to spend more money on health care coverage. The people want health care. They want Social Security.

Can my friend respond to that?

Mr. REYNOLDS. Mr. Speaker, I also saw a poll that says that the American people want a tax cut. And, quite frankly, as the President traveled the country in the week that we were on recess, he raised the polling numbers for that tax cut by 10 percent.

Mr. SANDERS. But he is still losing. The polls are very clear. The people want health care and Social Security.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

I have been listening to the gentleman from New York and, of course, he offers a false choice. He says, do you want tax cuts or do you want bigger government? The people that I talk to do not want a government that puts them in debt. They do not want their children and grandchildren to be paying, having to bail out the country for this tax cut that is being passed this year because of the size of the debt that this is causing. No, they do not necessarily want bigger government, but they do not want that debt hanging over their children and grandchildren for several generations.

Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I have to wonder if our good friend from New York, when he tells his constituents about their benefits, will tell them that the child tax credit will expire in 2004, that the 10 percent bracket expansion will expire in 2004, that the AMT exemption and that the marriage penalty negation provision will expire in a year. We give with one hand and take away almost immediately with the next. The sun rises and the sun sets.

Let me dispel, first of all, one myth about this tax bill, the myth that the President is putting out that this is an itty-bitty tax bill. $350 billion by itself would not be itty-bitty, particularly when you have a deficit as we do. But this is not a $350 billion tax bill. If you assume, as we must, that these sunsets are a sham, and why should we not, because the architects of this bill are all saying, they will be extended, we just put them in there to shoehorn this thing into the budget. If you assume that, then this is what this total tax cut will be, not $350 billion but, in the next 10 years, $1 trillion. That is the result. And since the budget is now in deficit, all of this amount, all $1 trillion, will go to the bottom line and will swell the deficit. That means we will have a deficit this year, a record deficit of $425 billion and the deficit will hover in that range, ratcheted at that range, of 3 to $400 billion for as far out as we forecast.

But we do not stop here. Because Republicans have told us, proudly, that they are going to make tax cuts an annual event. If you look in their budget, you will see there are more unreconciled tax cuts still on the back burner yet to be brought forward. If you look in the President's budget, you will see that there are a lot of tax cuts left on the cutting room floor waiting there for next round.

Here are three known tax cuts that are yet to come off the agenda.

First of all, we all know the tax cuts passed in 2001 have to be made permanent, will be made permanent by the majority if it stays the majority in this House. That will cost 6 to $650 billion in revenues.

Second, there is another 2 to $300 billion of various tax cuts lying on the cutting room floor waiting for the next round.

Third, there is the alternative minimum tax. We all know that politically it has to be fixed in the next 10 years or else 25 million Americans are going to pay much higher taxes than they now pay. They will pay the alternative minimum tax. The cost of fixing it is reasonably 650 to $680 billion.

If you add all of these tax cuts together and make a few modest adjustments for the likely cost of defense and homeland security and Medicare/prescription drugs, here are the results. I have got a piece of paper. I am going to leave it here on the desk. We have calculated them on this sheet of paper. If anybody takes exception with them, come down here and refute it.

Here are the results per our reckoning of what is going to happen to the budget.

First, from 2004 until 2013, deficits will total, get this, deficits will total $3.959 trillion. Without Social Security, deficits will total $6.527 trillion. Debt held by the public will increase from $3.5 trillion to $7.9 trillion. Total statutory debt will go up to $14 trillion.

You can overlook and dispute a lot of these facts, but there are two facts you cannot dispute. They will not go away.

First of all, 77 million baby boomers are marching to their retirement, and they are going to double the number of beneficiaries on Social Security and Medicare, and those programs will not sustain their benefits in their current situation.

Secondly, what you sow, our children and their children are going to reap. They will have to support the underfunded Social Security program, the underfunded Medicare program, and they will have to bear the burden of $14 trillion in statutory debt that you are incurring as you move down this path tonight. That is the course you choose. That is the moral decision you make tonight if you vote for these tax cuts.

If you do it in the name of creating jobs, I do not think this is going to create that many jobs, with one exception, I will grant you. It is going to create a lot of jobs for tax lawyers and accountants. This bill will be a bonanza for those who specialize in tax avoidance; and the real cost, believe me, is going to be beyond calculation.

Mr. Speaker, I include the following for the RECORD:

### BUDGET OUTLOOK WITH CONFERENCE TAX CUTS

CBO Assumptions, Fiscal Years, Billions of Dollars; Surplus Is Positive

| **March 2003 Baseline** | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Unified Surplus | -158 | -246 | -200 | -123 | -57 | -9 | 27 | 61 | 96 | 231 | 405 | 459 | 891 | -377 |
| On-Budget Surplus | -317 | -408 | -373 | -317 | -269 | -240 | -224 | -207 | -190 | -73 | 88 | 128 | -1,678 | -2,619 |
| Off-Budget Surplus | 160 | 163 | 173 | 195 | 212 | 231 | 250 | 268 | 286 | 304 | 318 | 331 | 2,568 | 2,241 |
| **Technical Reestimate** | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
| Receipts | 0 | -67 | -59 | -54 | -52 | -51 | -51 | -50 | -50 | -50 | -50 | -50 | -517 | -484 |
| **Legislation** | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
| Iraq War Supplemental | 0 | -38 | -27 | -7 | -1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -36 | -75 |
| Conference Tax Cuts | 0 | -61 | -149 | -82 | -21 | -14 | -17 | -11 | -4 | 4 | 3 | 2 | -289 | -354 |
| Debt Service on Above | 0 | -1 | -9 | -22 | -31 | -37 | -43 | -49 | -55 | -61 | -66 | -73 | -445 | -307 |
| **Possible August Baseline** | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
| Unified Surplus | -158 | -413 | -443 | -288 | -162 | -111 | -84 | -49 | -13 | 124 | 292 | 338 | -396 | -1,596 |
| On-Budget Surplus | -317 | -576 | -616 | -483 | -374 | -342 | -334 | -317 | -300 | -179 | -26 | 6 | -2,965 | -3,838 |
| **Omitted Costs** | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
| DISCRETIONARY | | | | | | | | | | | | | | |
| Bush Defense Increase | -- | 0 | 0 | -2 | -8 | -13 | -22 | -28 | -32 | -34 | -36 | -38 | -212 | -139 |
| Further Cost of War | -- | 0 | -30 | -20 | -10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -60 | -60 |
| REVENUES | | | | | | | | | | | | | | |
| Extend Conference Agreement | -- | 0 | -1 | -15 | -78 | -78 | -71 | -72 | -82 | -85 | -86 | -89 | -656 | -480 |
| Bush Tax Cut (Over Conference) | -- | -3 | -10 | -23 | -27 | -32 | -37 | -47 | -46 | -180 | -283 | -296 | -981 | -404 |
| AMT Repair | -- | 0 | -4 | -12 | -27 | -41 | -56 | -73 | -89 | -107 | -126 | -146 | -680 | -408 |
| MANDATORY | | | | | | | | | | | | | | |
| Medicare Rx | -- | 0 | 0 | 0 | -22 | -34 | -39 | -44 | -50 | -63 | -70 | -78 | -400 | -252 |
| Debt Service on Above | 0 | 0 | -1 | -4 | -11 | -22 | -34 | -50 | -68 | -92 | -126 | -167 | -574 | -281 |
| RESULTING DEFICIT | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
| Unified Surplus | -158 | -416 | -489 | -364 | -345 | -329 | -343 | -363 | -380 | -436 | -435 | -476 | -3,959 | -3,621 |
| On-Budget Surplus | -317 | -579 | -662 | -558 | -557 | -560 | -594 | -631 | -666 | -740 | -753 | -807 | -6,527 | -5,863 |
| DEBT HELD BY THE PUBLIC | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2004-2013 | 2002-2011 |
| CBO 2001 Baseline Debt | 2,870 | 2,537 | 2,157 | 1,738 | 1,246 | 682 | 54 | -651 | -1,444 | -2,314 | N.A. | N.A. | N.A. | N.A. |
| CBO Current Baseline Debt | 3,540 | 3,766 | 3,927 | 4,013 | 4,045 | 4,034 | 3,983 | 3,894 | 3,766 | 3,501 | 3,062 | 2,565 | N.A. | N.A. |
| Debt With Policy | 3,540 | 3,956 | 4,445 | 4,809 | 5,154 | 5,483 | 5,826 | 6,189 | 6,568 | 7,004 | 7,439 | 7,915 | N.A. | N.A. |
| Difference | 670 | 1,419 | 2,288 | 3,071 | 3,908 | 4,801 | 5,772 | 6,840 | 8,012 | 9,318 | N.A. | N.A. | N.A. | N.A. |
| Debt With Policy, % of GDP | 34% | 37% | 39% | 40% | 41% | 41% | 42% | 42% | 42% | 43% | 44% | 44% | N.A. | N.A. |
| Spending of Medicare | -32 | -26 | -27 | -28 | -33 | -33 | -34 | -35 | -36 | -34 | -37 | -33 | -330 | -317 |
| Spending of Social Security | -160 | -163 | -173 | -195 | -212 | -231 | -250 | -268 | -286 | -304 | -318 | -331 | -2,568 | -2,241 |
| Excess Deficit | -158 | -416 | -489 | -364 | -345 | -329 | -343 | -363 | -380 | -436 | -435 | -476 | -3,959 | -3,621 |

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I stated a number of facts of how many millions of Americans benefit from this plan. I realize it was my party that started the graphs and bringing those very scientific presentations before us. I respect listening to the gentleman as he brought some of those today, but there are two important messages that I know I have been taught and trained by my constituents when I go home each week that is drilled into my graph of my mind and my views here.

One is: Keep and create jobs. That is what this bill does.

The other is: Tax cut now. That is what we are going to have the opportunity to vote on.

There is going to be a great debate after this rule on the Thomas tax bill that he will present, but the reality is, at the end of the day, we are going to pass that legislation and we are going to help people go back to work.

We have also done some important things with the unemployment insurance today. We are moving forward. It is a good Bush agenda. It is an agenda that the American people want, and they are going to have it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. I thank my friend for yielding me this time.

Mr. Speaker, this bill is a fraud. It will do devastating harm to this country. It is an embarrassment that the Republican leadership brings it up, and it should be defeated.

Mr. Speaker, point number one. This bill is grossly unfair. My Republican friends, it is not the millionaires and billionaires who are struggling. It is the middle class. It is working families who are struggling. Yet your bill gives $93,000 a year in tax breaks to the millionaires, but 36 percent of the American people get nothing, and 53 percent of the households would receive a tax cut of under $100. So the people who need the help get nothing; the millionaires get the lion's share.

Number two. When you give hundreds of billions of dollars in tax breaks, you endanger the middle class. This will lead to drastic cutbacks in education, in Medicare, in Medicaid, in Head Start, in the programs that working families depend upon. Shame. Cutting back on education and Head Start to give tax breaks to billionaires.

Number three. What a legacy to leave to our children and grandchildren. The national debt now is almost $6 trillion, huge debt payments every single year. Your tax breaks for the rich will drive the national debt up by several trillion dollars. What a gift to give to our grandchildren.

Fourth point. You talk about creating jobs. That is what you told us 2 years ago when you brought forth your tax breaks for the rich. You told America it was going to create jobs. In the last 2 years, we have lost 2 million jobs after your tax breaks for the rich. This proposal will do nothing more. If you want to create decent-paying jobs, build affordable housing. Protect workers right now who will lose their jobs at the State and city levels. Tax breaks for the rich do not create jobs.

Lastly, and maybe most importantly, the American people are seeing through this fraud. The Wall Street Journal/NBC poll says today nearly two-thirds, 64 percent, of the people who were polled said there were better ways to boost the economy than tax cuts. Only 29 percent said tax cuts were the answer. These guys say, big government, terrible, terrible.

What you are really saying is you do not want the elderly to have prescription drugs. You do not want the kids to have an education. That is what you mean when you rant and rave against the government.

But here is what the people say. Fifty-five percent said they would prefer the government to spend more money on providing health care coverage, compared to 36 percent who said no.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

This is not a new debate for me. I came from the New York legislature. I listened to liberals every day tell me how government was going to solve all of New Yorkers' problems. I will not go through all those facts of the millions and millions of Americans that benefit from this bill as I cited earlier, but I want to remind my colleagues of one simple fact: A married couple with two children and an income of $40,000 will see their taxes decline under the Jobs and Growth Tax Relief Reconciliation Act of 2003 by $1,133 in 2003. It is a decline of 96 percent.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 15 seconds.

The gentleman makes a very interesting point. Of course, that is sunset almost immediately. They may get that for a year or two, and then it is sunset.

Mr. REYNOLDS. Will the gentleman yield?

Mr. FROST. I do not have enough time, but I just observed that the gentleman says, oh, we are going to do this thousand dollars, but they take it away in the next year or two.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Well, Mr. Speaker, here we are back at the rubber-stamp Congress. Bring the bill out, rubber-stamp it and go on home. The American people have to understand, these guys are bringing out $1 trillion worth of tax cuts and say that you are going to get 1 million jobs out of that. That is $1 million for every job you are going to get. The bill was dropped on the desk out here at 9:20. So we have had just about 2 hours to look at how they are spending $1 trillion.

The gentleman from New York stands up here and very confidently says, da-da-da-da, we're going to get a thousand for this and a thousand for that and all this kind of stuff. Not a soul on this floor knows whether that is right or wrong. Nobody has had any time to look at this bill. You do not want anybody to have any time to look at this bill, because if they did they would find out just how fraudulent it is.

The theory behind it, that is, give the money to the rich and they will go out and invest. The people at the bottom buy most of the stuff that the people at the top make. If the people at the bottom have no money and no job, you could have given a payroll tax holiday and given the money to the people on the bottom. They would spend every nickel of it.

But no. You are going to give it to the top, and then you are going to pray, please, Lord, have them invest and create a new job for some poor person in my district. The million that you left on the table in the last bill, in the bill on unemployment insurance, when you would not take care of the people who were unemployed, you would not give them any money there, you would not give them any money with a tax break, you are going to give them $325 if they make 30,000 bucks. That is a fraud. It will not work, and the American people know it. That is why the Wall Street poll looks the way it looks. You try to fool them. You can fool them once in a while, but after a while it really does not work.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, history is a harsh judge. In years to come, our children will be called to judge what happened here tonight, May 22, 2003. When they learn that you have put $1 trillion of debt on their young children, something they do not understand tonight, their first instinct will be to forgive you. That will be their first instinct. But they will not forgive you for putting $1 trillion on our children's backs because that is unforgivable.

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It is unforgivable on a moral basis. This is not an economic issue. These children are going to be dug into a hole deeper than the hole out in front of the Capitol. It is unforgivable because they know you are handing out crumbs as you deliver your tax breaks to the wealthy. It is unforgivable, and our children are forgiving people, but this they will not forgive.

Mr. REYNOLDS. Mr. Speaker, I yield 1½ minutes to the gentleman from Kentucky (Mr. FLETCHER), my good friend and classmate.

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me this time.

Mr. Speaker, when we look at this bill and I think about the people back in Kentucky and what they want, I think of three things particularly they want: One, they want jobs; two, they want healthcare; and, three, they want education.

The people on the other side believe that they can hand out all of those things through government. But let me tell the Members what this bill does. This bill provides the resources for those individuals to make sure that they can get a job, to make sure there is a job available. Ninety-seven percent of the educational dollars come from the State revenue. The way we provide increased funding for education is to create more jobs, more revenue by having more jobs in the State. The way we create healthcare is to provide more jobs in employer-based healthcare.

We have also provided $20 billion for the States. States are facing some difficult times, and this bill addresses that. It addresses the Medicaid problem which we have in Kentucky. This addresses the problem of other revenue shortages we have.

They are still following the old mantra, and that is that we can spend ourselves into prosperity. These Keynesian economics have proven to fail. I remember when I was in the military when President Carter was in office. We had a terrible problem of funding the Department of Defense, and I remember when Ronald Reagan came in and instituted some of the principles that JFK had which was reducing capital gains. We saw prosperity then. We were able to provide jobs, education and defense money.

Pass this rule and this bill.

Mr. FROST. Mr. Speaker, may I inquire about the time remaining?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. FROST) has 7¾ minutes, and the gentleman from New York (Mr. REYNOLDS) has 5½ minutes.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, since when did creating the largest deficit in American history become a conservative value? The same House leadership that has led us in just 2 years from the largest surplus in American history to the largest deficit in American history now proudly digs that hole deeper tonight.

The dirty little secret of that bill is that every single dollar of this tax cut is paid by borrowing, borrowing from our children's future rather than investing in it, borrowing from the Social Security Trust Fund rather than strengthening it.

This is a growth bill all right. It will grow our national debt by trillions. It will grow taxes for future generations who will have to pay interest costs on that new huge debt. It will grow the cost of doing business for our family businesses and farmers, for buying a home or a car when interest rates are pushed up by your historic deficits. If our values in Congress are reflected by our priorities, what does it say when the Republicans on the House Committee on the Budget voted just 2 months ago to cut veterans' benefits by $28 billion, Medicare by $262 billion, and Medicaid for poor children by $110 billion? Whoops, tonight they say we can afford a $350 billion tax cut. Is that what compassionate conservatism is all about?

In a few hours I will go to sleep knowing that Republican campaign operatives are already happily preparing their attack press releases for those of us who will oppose this irresponsible bill, but, quite frankly, I really do not care. Because when my 5- and 7-year-old sons wake up in the morning, I can look them in the eyes knowing that I did not vote tonight to mortgage their futures.

Congress did it in 1981, and it repeated the mistake in 2001. Tonight, our Republican leaders once again make the mistake by offering the false promise of huge increases in defense spending, balanced budgets, and massive tax cuts. It did not work then. It is bad policy now. This is a bad bill for our children and their future.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I cannot speak for the gentleman's constituency as a whole, but I know there is one constituent down there who wants a tax cut.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 15 seconds.

Is the gentleman talking about the multimillionaire who lives in Crawford, Texas? I think that is who he was talking about. I do recall that the net worth of the resident in Crawford, Texas, is somewhere around $15 to $20 million.

Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, it is not easy to oppose a tax cut if one holds public office. It does not take a lot of courage to vote for a tax cut. That is something that everybody who seeks public office likes to do, and it is no fun to oppose a tax cut. But who in the world do you all think is going to pay for the ships that are in the Persian Gulf tonight? Who is going to pay for veterans' benefits for people who come back with one leg or one arm off? Who is going to pay to educate the children? We have a $6.4 trillion deficit. You are raising the debt of this country $980 billion. You borrowed every dime for the Persian Gulf War, and nobody wants to pay for anything.

It is not easy to oppose a tax cut. But I will say one thing. It does not take a whole lot of courage to vote for it because you can go home and get patted on the back tonight. But we are digging a hole that is going to haunt this country this terms of future interest payments.

Who is going to pay the bill? All these young people around here, they are the ones that are getting the bill because they are going to pay interest on every dime that is in this bill tonight.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

We are nearing the end of our hour debate on the rule, and we have heard a number of different viewpoints. But I want to remind the colleagues as they look at the rule that gives us an opportunity to move forward on a tax cut and also a $20 billion stimulus to our States and localities. The child credit increases our child credit to $1,000 for 2003 and 2004. Families will receive a child credit check this year for up to $400 per child. It accelerates the expansion of the 10 percent bracket for 2003. The marriage penalty relief begins in 2003, individual rate cuts where we accelerate the 2006 individual rate cuts scheduled to 2003. The individual increase of AMT exemptions where that will be increased by an amount of $4,500 for single persons and $9,000 for joint filers.

But I look at jobs and small businesses. I have come up through the elected route of legislative bodies from county to county to State, our Federal Government. All of my working adult life I have been a small businessman. When I go back home to those Chambers of Commerce and, yes, it will not be Waco, Texas, or Crawford, Texas. It is going to be Clarence, New York, or Amherst or Batavia, Greece. I am going to talk about the fact that in small business that they have the opportunity to expense at $100,000 versus $25,000. Not because I thought so, but because they told me, as small businessmen and women, that is what they needed. That is what they needed to first retain their jobs, that is what they needed to grow jobs.

And, by gosh, the Congress heard them, the President heard them, and there is a new law of the land that this Congress will enact tonight. That small business expensing increases the amount that they can expense from $25,000 to $100,000.

Some of you are going to go home to the Chambers of Commerce, and I hope, as they get a chance to look at that, you can answer the question: "You are right. I have heard your call across America, and I am going to do that

$100,000 expensing in the vote I cast here tonight."

And in dividends and capital gains, I hear all this class warfare on the rich. Where I come from and in that real estate business I owned for 25 years, I knew a lot of working men and women that built a little capital gains in that second property they owned or the double that they rented out up the street, and they just want an opportunity to have that money come back to them versus the government gobbling it up for more government programs to give you a solution of how to spend the money versus sending it back to the American people.

This debate is, as we pass the rule and moving on to the debate, we will hear a lot from the left. We will hear a lot from those who cast that 1993 vote to have the largest tax increase in America's history defend it then and then defend it tonight. But, Mr. Speaker, I do not care how we cut it. The American people want to create jobs and jobs growth, and they know tax cuts are the route to get there.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield to the gentleman from New York to answer a question.

Is or is not the $350 billion tax cut that you have raved about all night going to be paid for by borrowed money? Yes or no?

Mr. REYNOLDS. Mr. Speaker, we are going to pay for it by giving it back to the American people. Will there be deficits? There are deficits.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, I have heard that rhetoric all night. That dog will not hunt. That is borrowed money. Right now you are asking the Senate to approve a $984 billion debt ceiling increase. This tax cut tonight is paid for by borrowed money, and if you say you are going to grow your way out of it, why do your own economists, why does your own budget, why does your own rhetoric behind your words tonight not back up what you say?

□ 2345

What you are reading to us time and time again is not factual. It is borrowed money. We are increasing the debt. Since you have taken over this House, you have increased our Nation's debt by 54 percent. You will increase it by 167 percent by 2013, following the game plan you are talking about tonight.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believed when I voted for a $726 billion tax decrease, for tax cuts, that we would have moved our economy even faster. I believed it when I did $550 billion. I am supporting $350 billion with the other things we are doing today for an economic stimulus package because I believe it will create jobs, and those jobs and earning power will more than keep our country running, if we do not let the big spenders in Congress spend our money.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, this job-killer bill will lead to a continuation of the Bush recession. We are told we need to end the double taxation of corporate income, but one-third of corporate income earned by U.S. corporations is not even subject to corporate tax because of the loopholes in that tax. But, of course, their new provision applies to foreign corporations. Their income is not even taxed once.

We are told this is going to encourage investment in new issues of corporate stock. But it is a temporary provision, so who is going to buy corporate stock, just to find the taxes go up on the dividends? But if it does encourage investment, it will encourage investment of American capital in foreign corporations issuing stock. Those foreign corporations are paying 12 cents an hour to their employees and stealing our jobs.

We are told the low zero percent rate or 5 percent rate will apply to working families. But working families, if they own stock at all, own it in their 401(k) plans that are unaffected by this bill. In fact, when the dividend income is paid out, it is subject to a high rate of tax. The big beneficiaries of that zero percent rate will be rich kids with trust funds earning $10,000 or $20,000 of dividend income and paying zero percent tax.

The corporate tax rate, once you move the corporation to the Bahamas, zero percent.

Individual income taxes on dividends from the Bahamas corporation, 15 percent.

Individual income tax when the stock is held by a trust for rich kids, zero percent.

Knowing that working families are paying about 30 percent tax, FICA and income tax, on their wages—priceless.

There are some things campaign contributions just can't buy. For everything else, there is RepubliCard. Accepted at the finest country clubs in the Bahamas.

And you will want to get the Deficit Express Card, now that the Senate has increased the credit limit by another $981 billion. The Deficit Express Card: Do not leave the House without it.

Mr. Speaker, this job-killer bill will lead to a continuation of the Bush recession.

We are told we need to end the double taxation of corporate income, but one-third of corporate income earned by U.S. corporations is not even subject to corporate tax because of the loopholes in that tax. But, of course, their new provision applies to foreign corporations. Their income is not even taxed once.

We are told this is going to encourage investment in newly issued corporate stock. But the dividend exclusion provision is a temporary provision, so who is going to buy corporate stock, just to find the taxes go up on the dividends? But if it does encourage investment, it will encourage investment of American capital in foreign corporations issuing stock. Those foreign corporations are paying 12 cents an hour to their employees and stealing American jobs.

We are told the low zero percent rate or 5 percent rate on dividend income will apply to working families. But working families, if they own stock at all, own it in their 401(k) plans, and those plans are unaffected by this bill. In fact, even if we pass this bill, when the dividend income is paid out of a 401(k) it will be subject to a high rate of tax. The big beneficiaries of the 5 percent or zero percent rate on dividend, will be rich kids with trust funds earning $10,000 or $20,000 of dividend income and paying virtually no tax.

The corporate tax rate, once you move the corporation to the Bahamas, zero percent.

Individual income taxes on dividends from the Bahamas corporation, 15 percent.

Individual income tax when the stock is held by a trust for rich kids, zero percent.

Knowing that working families are paying about 30 percent tax, FICA and income tax, on their wages—Priceless.

There are some things campaign contributions just can't buy. For everything else, there is Republicard. Accepted at the finest country clubs in the Bahamas.

And you will want to get the Deficit Express Card, now that the Senate has increased the credit limit by another $981 billion. The Deficit Express Card: Do not leave the House without it.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will allow the House to consider H.R. 2156, a bill introduced by the gentleman from New York (Mr. RANGEL) that would require the administration and the Congress to do something about the budget disaster their economic policies are creating.

The Rangel bill attempts to avert the train wreck Republican economic policies are steering us towards. His bill would permit a temporary debt limit increase of $375 billion, on the condition that the administration and Congress come up with a serious plan to balance the budget by the year 2008. The Rangel bill would give the Republicans the opportunity to show some real leadership on economic issues.

Mr. Speaker, let me make it very clear that a "no" vote on the previous question will not keep the House from considering the conference agreement. What a "no" vote will do is allow the House to consider the Rangel balanced budget proposal as a separate bill. However, a "yes" vote on the previous question will prevent the House from taking up this responsible proposal.

Mr. Speaker, the debt tax is not a tax we can repeal or sunset. This vote is the only opportunity the House will have to show some real economic leadership and consider the Rangel balanced budget plan. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of H.R. 2156 be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, my two posters are really simple, as I said before: Create and Keep Jobs and Tax Cuts Now.

I want to say that this is not a partisan thing. It is either you believe that bigger government and more government spending is how we solve our problems in America, or you believe it is the people's money and you give it back to them. It is important to really note that in the bipartisan aspect of reality, either you believe one or the other. As President Kennedy said, it is a paradoxical truth that tax rates are too high today and tax revenues are too low, and the soundest way to raise the revenues in the long run is to cut the tax rates now.

Mr. Speaker, if we move ahead on this rule and we move ahead on the underlying legislation, we are going to do just that; and that is what America wants, that is what they deserve. And I think in every poll in America that has been cited in every different direction here, the bottom line is the people, and I go home every week and I know, want to create jobs, and they are going to do it by our cutting taxes, and that is what we are going to do.

Mr. Speaker, let us have a tax cut.

The material previously referred to by Mr. FROST is as follows:

### PREVIOUS QUESTION FOR H. RES. 253, RULE FOR CONSIDERING THE CONFERENCE REPORT ON H. RES. 2

At the end of the resolution add the following new section:

"SEC. . Immediately after disposition of the conference report accompanying H.R. 2, it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2156) to provide for a temporary increase in the public debt limit. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the Chairman and ranking Minority Member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions."

### H.R. 2156

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

(a) TEMPORARY INCREASE IN DEBT LIMIT.—During the debt limit increase period, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $375,000,000,000.

(b) BALANCED BUDGET REQUIREMENT.—Not later than August 31, 2003, the President shall submit a 10-year plan to the Congress that will bring the Federal unified budget into balance by fiscal year 2008 and, thereafter, make uninterrupted progress in reducing the use of Social Security trust fund surpluses to finance a deficit in the non-Social-Security budget.

(c) DEBT LIMIT INCREASE PERIOD.—For purposes of this section, the term "debt limit increase period" means the period beginning on the date of the enactment of this Act and ending on—

(1) August 31, 2003, in the case that the President fails to comply with subsection (b), or

(2) September 30, 2003, in the case that the President complies with subsection (b).

Mr. REYNOLDS. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 221, nays 205, not voting 9, as follows:

[Roll No. 224]

YEAS—221

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—205

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy

Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Boehner
Bonilla
Boucher
Combest
Cox
Emerson
Gillmor
Peterson (PA)
Stearns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). There are 2 minutes to go on this vote.

☐ 0007

Messrs. CARDOZA, STUPAK, and OBERSTAR, Ms. WOOLSEY, and Mrs. CAPPS changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETERSON of Pennsylvania. Mr. Speaker, on rollcall No. 224 I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 253, I call up the conference report on the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 253, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the beginning of the debate, I do want to thank the staffs, the majority staff, the minority staff, and the institutional staffs for something that has to happen before the Members can stand before the Speaker and the House in the Chamber and the American people and debate measures in front of us; that is, do an enormous amount of paperwork, double-checking to make sure that what is the desire of the House and Senate actually is produced in the document.

It happens on every bill that comes up. It especially happens on a very difficult and complex conference report, and I do want to acknowledge the tremendous service that our staffs perform for us on a daily basis.

Mr. Speaker, I also want to say that, as is the want of legislative bodies, one of the easier ways to gain enough votes to pass a measure is to tend to listen to what people believe are either their needs or wants, collect that in an amalgam, and move forward.

It is my real pleasure to tell the Members of the House that if they have read the text, they will search in vain for any particular provision that is attributed to any particular Member of either body. In the vernacular, this is a clean bill.

I say that because it is very difficult to get people to look from the individual to the collective. That is, when we are talking about reducing something like people's taxes, it is oftentimes very, very difficult to look to the larger, more fundamental societal needs.

☐ 0015

And I know we will have a very vigorous and healthy debate on this issue, and everyone will use numbers on both sides. All I request is primarily out of my friends on the other side of the aisle, and listening to the debate that went on on the rule, one individual would stand up and say this was less filling because it only was going to last for 3 years and then it was going to disappear. Only to be followed by another speaker who said this really tastes great because it is going to cost a trillion dollars, and it is going to last an entire decade.

Now, really, I do not care whether you feel it is less filling and it is only going to last 3 years or it tastes great and it is going to last for a decade; but for those of us who also want to participate, you ought to pick one way or the other. When you are arguing on both sides of the same argument, it is a little difficult to really shed light for the American people what this is all about.

If someone is going to watch this debate and they have a child under 17, there is one irrefutable fact. In calendar year 2003, $14 billion is going to be sent to those Americans with children under 17. They are going to be sent checks. They are going to be sent by the middle of July and by August. They will have that money in their hands. If they have children, one single aspect of this aspect of this bill, and we will go on and debate a number of other aspects, this bill puts money in Americans' hands immediately.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this, I hope, is going to be an evening and a day that we will all remember as legislators. It is true that the majority tries desperately hard to bring these bills up in the middle of the night so that sunshine will never see what it is.

It is also true, it is also true that conferences do not mean what they used to mean. It means after a dozen Republicans get together in some room somewhere and decide what they want to do, they then come around and pass out a paper and ask you to sign it.

So I have been accustomed to that on the Committee on Ways and Means. But guess what, a lot of Democrats on this side have been saying forget all of this $726 billion and $550 billion and $300 billion. This is all a game they are playing, and they said that this bill was so full of gimmicks, that the Republicans were trying to fool the American people because we said that this was really a trillion dollar tax cut. And my friends over there started booing and saying this was so unfair and that we were just distorting the numbers.

Well, there is one person in this House that when he says something, people do not point their finger at him. They say the man makes a lot of sense. He is a straight shooter, and he is respected by both sides of the aisle.

Now, I do not normally read statements, but since it involves the Speaker of this great House, I thought it might start off the debate on a high level rather than wait for just the heavy people to come down at the end of debate and start talking about how we should salute the flag and do the right thing. And this is a bill that we have worked on and we have done it within the budget.

Now, it says here that House Speaker HASTERT told the Congress Daily Thursday that the final package incorporates key features of the House-passed bill and positions Congress to pass much greater tax relief in the near future. The $350 billion number takes us through the next 2 years basically, HASTERT said. HASTERT, meaning the Speaker of this august body. But it also could end up being a trillion dollar tax bill because the stuff, that is what the chairman was working with, because the stuff is extendable.

That is the fight we are going to have, and it is not a bad fight to have. This goes on and says, Congressional Journal, HASTERT said the final package is front loaded and will boost the economy in the short term but it includes nearly all of the content of the House's original bill. Now, I do not know how far in debt you guys want to take us, but listen, because this is important stuff. This is history-making stuff.

Now, this is what the Speaker said about this bill. That at the end of the day it is not 350, it is not 550, it is not 726. It is a trillion. But guess what? It gets better, to show you just how deep they would want to get us in the hole. I never knew they hated Social Security and Medicare that badly. But at the so-called conference, there was a period of time that I was the only Democrat there on the House side beside the minority leader. The chairman came in later. And so there was opening statements made before the conference report was just passed around to sign. And our distinguished majority leader said, while we are doing this bill and you have done a lot of good work on it and praised the Republican leadership and the House and Senate, he said, before this year is over we will be coming back to pick up the rest of it to make certain we get another trillion.

Now, I mention these names because the only thing that they did not mention was that they were going to borrow the money in order to give the rich these tax cuts, and they want to stick the rest of society with paying the interest on the money that they are borrowing at the expense of the Social Security system. I am so happy and pleased that at the end of this day that we do not have to point fingers and say that it is gimmicks that you are doing or you are trying to hoodwink the people because if the Speaker said it, and you applauded it, so therefore I do not have any apprehensions; and if the majority leader came back and said, you are coming back to raid us again and you applaud that, well, thank God for your honesty in what you are doing.

And one day somebody is going to ask, when this deficit just grew, when the programs were collapsing, when people were just paying more interest on the debt than all of the programs that we have together, all of the discretionary programs, they may ask, and just what were you doing when this happened, when you shifted the responsibility for paying taxes to the working people that do not have the exclusions that you provided today?

So to the Republican leadership, thank you for making our day. I thank the Speaker for being so honest and saying what these people have done; and to the leader, come back again for the next trillion dollars and maybe some day soon the American people can see what you are doing to them.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, what I really heard in that quote, which I did not hear after it was said, was the Speaker said, And we are really going to have to fight for it because that is exactly what occurs.

We want to help Americans by letting them keep their own money and we are going to have to fight you to do it, because you want to hang on to their money just as hard as you can.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget, a member of the Committee on Ways and Means.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding me time.

The question we have to ask ourselves after we heard that very interesting dissertation is where is this money that he is talking about? And that is what I thought I heard.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will suspend.

The Chair would ask Members to afford courtesy to the Member who is speaking. If the Members want order, the way to keep order is for Members in the back of the Chamber and staff to take seats so we can have order. So the Chair would ask Members and staff in the back of the Chamber to take seats or go to the cloakroom.

The Chair would also ask Members to afford courtesy to their colleagues, so that while they are speaking, they be given an opportunity to finish their remarks.

The gentleman from Iowa (Mr. NUSSLE) may proceed.

Mr. NUSSLE. The question is, where is the money? The money is in the pockets of the people that earn it. The government earns no money. Tax cuts do not cost the government. And that is the argument you are going to hear tonight. It is that if you believe when you reduce taxes somehow that costs government, then you believe that you have to borrow.

But the interesting thing about what we believe on the majority side is that the money comes from the people that earn it, and we are leaving it in their pockets. And the only reason we would need to borrow money is for excess spending in Washington, D.C. So if you want to continue to borrow and if you want to continue to spend and if you want to continue to waste the taxpayers' dollars, then continue to consider the arguments of the minority.

But if you want to grow the economy, if you know that the economy starts with people working in America earning a living and paying a little bit, sometimes too much of it to Washington, D.C., if you believe that, and if you know that based on that, getting the economy going is the most important thing we can do, not only for our short-term budget and our long-term budget but getting the economy going is the most important thing we can do to the long-term health of Medicare, Social Security and our country, let us pass this bill tonight, let us realize whose money this is in the first place. It is the American people's money. Let us leave it in their pockets.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. STARK), an outstanding, hard-working member of the Committee on Ways and Means.

Mr. STARK. Mr. Speaker, I just wanted to suggest that people talked about belief, and I guess if I were appointed President I would think I had a message from God. If I was not too bright, I might think I was God. But before I would ask you to pray to me, I would hope that you would think I knew your name.

Now, our Republican leaders and our President do know a few names related to this tax bill and they are called beneficiaries. I have here a list from Citizens for Tax Justice, who compiled estimates based on our most recent financial disclosures: the name Snow for an income of $6 million-plus; Rumsfeld, $14 million-plus; Evans, $4.4 million; Powell for $10.7 million; Whitman for $3.1 million; Zoellick for $900,000; Chaney for $4.5 million; Ashcroft for $3.1 million; and the list goes on.

There are 20 top administration officials with $52,391,000 estimated income. They are the beneficiaries of this bill.

In this Chamber there is a list: Northup, $3,168,000; Petri with $897,000; Taylor with $1,378,000; Boehner with $769,000; Portman with $883,000; Sensenbrenner with $419,000; Shaw with $843,000; Leach with $958,000; Dreier with $772,000. A total of 36 of us in here with $27.5 million in income.

Those are the beneficiaries and this Republican god knows your name; but unfortunately he does not know one name among the 12 million children who will not have health care because they cannot afford health insurance.

You cannot name any of the 8 million seniors who will be denied health care because you are wasting the money on the rich and not providing a prescription drug benefit for the seniors. You cannot name them. You cannot name one of the 8 million jobless in this country. You cannot. You know the rich. You know the beneficiaries. You know the contributors who last night paid you $18 million to give the rich this break; and you cannot name one of the poor people without health care or without a job in your district or in this country. Shame on you. That is immoral.

You ought not to vote for this bill. You ought to vote it down and do something to help the millions of people in this country who count. Vote "no" on the bill.

□ 0030

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN), a member of the Committee on Ways and Means.

And, Mr. Speaker, my colleagues have a very limited playing deck. I am surprised this early in the debate they have already played the class warfare card.

Mr. RYAN of Wisconsin. Mr. Speaker, what we are hearing tonight are two different philosophies, two different emotions. Over here on this side of the aisle, we are hearing the emotions of fear, envy, and hate. Over here we are hearing the emotions of hope, growth, and prosperity. That is what this is about.

Their philosophy is, you cannot send more than enough to Washington because we can spend it better than you can. That is what we are hearing on this side of the aisle. What we believe is that you can better spend your money yourself. That is what works in this country. That is what freedom is all about.

What we are doing in this tax bill, and many people say this is such a huge tax cut, what we are doing in this tax bill is letting Americans keep more of their hard-earned money. We are cutting income tax rates across the board. We are cutting taxes on investment and businesses for job creation.

When we look at what has happened in this economy, when we look at the recession we are coming out of, when we look at all those things that hit this economy, the stock market, all the shenanigans at the corporate level, at the 9/11 problems, the terrorist attacks, we need growth in this economy. We need jobs in this economy. And when we see that investment in this economy has been declining for 8 consecutive years, we need to fix that. That is exactly what this tax bill does.

If anyone thinks that this tax cut is too big, this tax cut is a 1 percent tax cut. We are cutting taxes 1 percent of revenues. Out of a $28 trillion budget that we are going to spend over the next 10 years, we are simply cutting taxes $350 billion to try to move an economy that during this decade will kick off, at a standstill, $140 trillion in output. We are trying to move it from a standstill to growing and giving our people jobs.

That is what this tax bill is all about, and it is rooted in the philosophy that people ought to be able to keep more of what they earn so they can be free to spend it as they see fit.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the House Committee on the Budget.

Mr. SPRATT. Mr. Speaker, when the President sent his budget up this year, OMB sent with it a message in which they said that the surplus of $5.6 trillion, which they projected just 2 years ago, was a mistake; that now, from 2002 through 2011, they revised downward that surplus from $5.6 trillion to $2.4 trillion. They made an egregious mistake.

We warned our colleagues then not to bet the budget on a blue sky estimate, but they did not take our warning. Now you can blame that on 9/11, you can blame that on this sluggish economy, you can blame it on lots of things, but tonight the buck stops here. The blame rests right there in the well of this House and these meters where you push your card. Because tonight, when you vote for a trillion dollars in tax relief, it goes straight to the bottom line. There is nothing to offset it. It creates a deficit this year which will be a record deficit in the fiscal history of this country, $425 billion, and the deficit stays ratcheted in that range for as far out as we forecast.

Those are the consequences of the policy choices you make tonight. You cannot blame it on 9/11. You cannot blame it on the economy. It will be attributed to what you do tonight, unless some economic miracle happens as a result.

Here is a chart in which we have calculated this tax cut, the tax cuts to come, other likely actions to be taken, Medicare, prescription drugs, a bit more for defense; and we think it is a fair and honest and even conservative statement. I will leave it here for anybody to refute, but this is what we see as a consequence of what you are doing tonight.

We foresee deficits of $3.959 trillion over the next 10 years. Back out Social Security, and those deficits come to $6.527 trillion, a consequence of what you are doing tonight. The debt of this country today, held by the public, is at about $3.5 trillion, $3.6 trillion. This will increase it to $7.9/11 trillion. The total statutory debt will go up to $14 trillion.

That is the course you choose to take tonight if you vote for this tax cut. You cannot blame it on the economy. You cannot blame it on 9/11. You can only blame it on yourself.

Mr. THOMAS. Mr. Speaker, it is now my pleasure to yield 2 minutes to the gentleman from Illinois (Mr. WELLER), a member of the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, what is this all about? What this is all about is 1.2 million new jobs. Economists tell us that this plan will create 1.2 million new jobs over the next 18 months. How? By putting extra money in the pocketbooks of workers and giving incentives to invest in the creation of new jobs.

If you pay taxes, you benefit from this plan. We lower rates for everybody. We double the child tax credit, if you have children. We eliminate the marriage penalty, all this year, benefiting every taxpayer. Think about what an extra thousand dollars will mean for the average family in Illinois and in our congressional districts across this country.

We also create jobs by encouraging investment. The bonus depreciation, for example, allows companies to deduct an extra 50 percent to recover their costs of purchasing an asset, a company car. We create jobs in manufacturing to encourage investment in new company cars and machine tools and bulldozers. We create jobs in the technology sector by encouraging greater investment in computers and telecommunications equipment. We create construction jobs by encouraging business to rehab commercial buildings, whether office buildings or shopping centers. And we also encourage business to invest in security, making private sector buildings safer for workers and visitors and customers, by again encouraging investment in security-related equipment such as surveillance equipment or computers or other types of equipment to make private sector buildings more secure.

The bottom line, my colleagues, and what this is all about, is creating 1.2 million jobs. We have a choice tonight. Do we vote to get this economy moving again or do we do the old-fashioned thing and just spend more money here in Washington? Let us create jobs, let us give American workers the opportunity to go back to work, and let us raise take-home pay and encourage investment and the creation of jobs.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), the senior member of the Committee on Ways and Means.

Mr. LEVIN. Mr. Speaker, my colleagues talk about jobs. They are doing a job on the American people tonight. That is what they are doing. That is what they are doing.

My colleagues are borrowing from my children's generation for a tax cut that will not benefit them primarily. My colleagues are borrowing from my grandchildren's generation for a tax cut. Where is it going? Mainly to the very wealthy in this society. And they get away from this by averaging. Okay, for the person with a million bucks, $93,000; someone with $45,000, $50,000, 211 bucks this year. When we add those together, the average tax cut for those two people is 46,000 bucks. The trouble is one is getting $95,000 and one is getting $200.

Alchemy does not work outside of Washington, D.C., and you alchemists are not going to prevail ultimately in the District of Columbia and this Congress. You have performed what some may say is a miracle. You have united the Democrats in this institution. And the reason you have done it is not because of political reasons on our part, because you are robbing future generations for a tax cut for the very wealthy, and we are going to stand together to say to the President, to you, no, no, no, no, and we are going to do it in 45 minutes.

Mr. THOMAS. Mr. Speaker, I yield myself 10 seconds.

I said they had very few cards in the deck. We may see several come up during the debate, but they just played the class warfare card once again.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a valued member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the committee for yielding me this time, and I thank my colleagues on the left for their warm reception tonight. Indeed, Mr. Speaker, maybe so far left they will come back to the right, but they will never be correct.

It is an interesting situation, Mr. Speaker. One is tempted to ask, who is jobbing whom? Because with a fanciful flight of rhetoric, mixed with an equal portion of scold, my good friend from Michigan fails to capture the essence of what is at stake here, and it is a lesson that is essentially nonpartisan. Indeed, Mr. Speaker, one of our leading news weeklies, on its cover, asserted just the other day "They Don't "make Democrats Like They Used to." And that is true.

Forty years ago, Jack Kennedy said a rising tide lifts all boats. He said by reducing marginal tax rates, you actually increase revenues to the government because you get the economy working and you put people to work. Ronald Reagan proved that again 20 years ago. And, indeed, just a short time ago, in 2001, we cushioned the horrible blow of a recession that started and was compounded by the attacks of 9/11. Yet much more remains to be done.

While some subject us to the poison of class warfare, we embrace the promise of economic opportunity, because we believe a rising tide does lift all boats. And even at this hour, with the disappointment and frustration born of a long and strange trip by our friends in the minority, we still extend our hand.

Join us in this opportunity. Increase jobs and economic growth. And even if you believe in the power of government, there will be more revenues eventually to the government, and we will succeed. Vote "yes" on jobs and growth. Vote "yes" on tax relief. Join us in this great enterprise for the American people.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY), a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time.

My colleague recently asked, what has it all about? I suggest what it is all about is the Senate action tonight or tomorrow morning to increase the borrowing authority of this country to $984 billion. So many words, so many figures, but really the truth of the action is measured by the increase requested in the borrowing authority of this country.

If this is going to produce the kind of wonderful effects they suggest, why do they need to authorize the Treasury to borrow an additional trillion dollars? The reality is that we are going to fund this on the debt.

I do not know of a family I represent that plans for their retirement by blowing everything they have got, running up the debt on their credit cards, with the hope that their children will bail them out. That is exactly the action we take tonight as we pass this tax cut, not paid for in any way but funded on the debt.

The truth is the Senate action. An additional trillion dollars of borrowing authority. We should not put this on our kids. We should reject this package.

Mr. THOMAS. Mr. Speaker, might I inquire of the remaining time on either side?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. THOMAS) has 17½ minutes remaining, and the gentleman from New York (Mr. RANGEL) has 16½ minutes remaining.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, common sense tells us the best way to balance the budget and pay down the debt is to get people back to work. Everyone knows when you are unemployed, you are not paying your Federal taxes, you are not paying any Social Security, you are not paying into Medicare, you are not helping States balance their budgets either. The best way to balance a budget and pay down our debt is to get people back to work.

This jobs bill creates more than a million new jobs in America at a time we desperately need them. Every State is going to see new job creation. In our State, we will create, over the next 2 years, 42,000 new jobs each year.

□ 0045

That is equivalent of building two new Pentagons in our State and filling it with new Texas workers every year. That is real jobs.

Our belief in the President's jobs bill is if we help people afford the cost of raising children, if we stop penalizing people for being married so they have more money to go to the mall, more money to buy new tires, it is good for the economy. We believe if you help small businesses buy that new piece of equipment and hire that new worker, and say yes to that new sales force, it is good for the economy. We are convinced if we help people rebuild their retirement nest egg, to keep more of what they are saving for, that is good for the economy.

We do not believe that spending more is the answer. We do not think it helps the economy to buy more $300 hammers, to spend millions of dollars helping more salmon swim upstream, and we do not believe that you need to create the hundredth new program to duplicate the 99 that are already in existence.

We believe creating jobs, getting people back to work is going to balance this budget, pay down this deficit and get this economy going. America creates jobs; Washington gets in the way of it.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, well, here we are, one more time, rubber-stamping whatever the President says he wants.

They come out here with a 43-page bill and 302 pages of explanations, and there is not a soul in here who knows what is in it. Let me tell Members what is here. You are spending a trillion dollars, which is almost exactly what is estimated as the shortfall in Social Security and Medicare. You are going to come back after this break, and you are going to privatize Medicare. We know what you are going to do.

What is nice for the American people about this rubber-stamp Congress out of White House, the junta gets its orders, they bring it to the Committee on Ways and Means or Committee on Rules, and zoom, out it comes. The American people are getting a clear, unadulterated picture of what the Republicans are all about. Every single Member comes from a State where they are cutting their State budget. They are cutting the living daylights out of their budget. If you are from Texas, it is 275,000 kids who will not have health care. In my State, they threw 60,000 people off of health care programs. Every State in the Union is doing that.

The estimated cost of that, $100 billion. That is what States are cutting out of their budget. No, you cannot give that money to them. You give them $20 billion, and I know you are going to stand up and say $20 billion is better than nothing. Yes, it is better than nothing, but it is not going to fix the problem.

When some kid is sick in the State of Washington, and they now have waiting lists in Medicaid, and you are a mother with your kid in the waiting room, maybe you will get into the hospital and maybe you will not, then you have to ask yourself, is this the country that you and I believe in? Is this the common good? I say it is not. You really ought to be ashamed of what you are doing because what you are doing is sticking it to the kids of this country. The President says Leave No Child Behind. My God, not only in education are you leaving them behind, you are leaving them behind in the hospitals and the environment and everywhere else in this society. Vote "no."

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentlewoman from

Washington (Ms. DUNN), a very responsible member of the Washington delegation and a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, I do not know whether to give my speech on tax relief or Medicare, but I am going to choose tax relief tonight. I certainly do hope that the gentleman from Washington realizes that this bill is practically identical to the one that was in his committee, the Committee on Ways and Means, and my committee, that we passed last week; and he should know this bill very well. Certainly we do on this side of the aisle.

Earlier this week, Alan Greenspan testified before the Joint Economic Committee on which I serve. He pointed out that taxing capital discourages investment, so when we reduce taxes on dividends and capital gains, we are encouraging saving, and we are reducing the cost of capital for companies, and we are also producing and promoting economic growth.

One of the most important issues facing our country today is the need to stimulate economic growth to create jobs. The best way we achieve this goal is to pass a jobs and growth package, one that leaves money in the pockets of individuals and families and encourages businesses to invest in business.

This package will quickly lower everybody's tax rates. It will send rebate checks to millions of parents with children, and it will assist seniors who depend on dividend income to supplement their Social Security benefits. This bill goes a long way towards promoting capital investment by allowing small businesses to deduct the cost of major purchases. It increases productivity, increases demand in our economy, and it stimulates production. In all, we expect to create over 1 million new jobs by the end of next year.

While we work to stimulate our economy, we also need to help those still seeking jobs. Unemployment in the State of Washington is above the national average. Unfortunately, in fact, we are consistently in the top three States with the highest unemployment, and I am very happy today we were able to pass legislation to extend unemployment benefits so that people will have more time to get the training and the financial assistance they need to find jobs. It is time to pass this jobs and growth package. It helps workers, families, low-income and middle-income taxpayers. I urge its adoption.

Mr. RANGEL. Mr. Speaker, I yield 15 seconds to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, what the responsible gentlewoman from Washington failed to say is that this bill does nothing to return $500 million to the people of her own State of Washington by reinstating sales tax deductibility.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Here we are on the brink of a Memorial Day recess debating the jobs and growth tax bill of 2003. Let us memorialize that at a time when unemployment is at its all time high, we are giving tax relief to the wealthiest of all Americans. Let us memorialize that this tax cut will not allow young men and women who need Head Start to go to school.

Let us memorialize that using the chairman's terms, we are using a clean bill. The bill that will clean the clocks of the poor to enrich the wealthy. Let us memorialize that the same jobs promise, the same stimulus promise, the same economy boost promise made in 2001 has yet to materialize. Let us memorialize that in 2003 it will not come either.

The chairman talked about sending $14 billion in checks to Americans with children under 17. Let us memorialize that the checks sent to senior citizens who need a prescription drug benefit will be marked insufficient funds. Let us memorialize that the people who are on unemployment whose unemployment will not be extended because they have run out of benefits will get an NSF check. Let us memorialize that the people of America who have no health care will get an NSF check. Let us memorialize that tax cuts do hurt government. Let us memorialize that we will create a deficit.

Someone said earlier that there was fear, anger and hate on this side of the floor. There is a fear that seniors and workers will continue to be disappointed. There is anger and hate that we, the people of this House who could do more, are not doing more.

We talk about growth. There is growth for those who already have it, hope for those who believe that government is not a safety net, and prosperity for those who already prosper. Let us memorialize that this tax bill is not benefiting those who need it most.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CAMP) for the purpose of a colloquy.

Mr. CAMP. Mr. Speaker, my question concerns the treatment of variable annuity contracts under the bill. Sellers of variable annuity contracts have expressed concerns about the effect of the dividend and capital gain tax rate reductions on the market for variable annuities. Is the chairman willing to continue to examine this area?

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I would tell the gentleman, the goal of this bill, and other bills we will pursue in the future, is to promote economic growth. Increasing retirement savings will promote economic growth by contributing to our Nation's capital stock. Of course we will monitor the way in which annuity sellers adjust to the new, more efficient financial product market conditions that H.R. 2 will create. As we proceed, we can determine whether adjustments are justified.

Mr. CAMP. I thank the gentleman.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip of the House.

Mr. HOYER. Mr. Speaker, the chairman of the committee has talked about us talking about class warfare. Warren Buffett talked about it just a couple of years ago, America's second richest person, and he said that his class was winning. It wins again tonight, not average Americans.

One of the Republicans came, as they so often do, to quote John Kennedy. I voted for John Kennedy for President, the first President I ever had the opportunity to vote for. Republicans almost to a person opposed him. He said, "Ask not what your country can do for you, but what you can do for your country."

That was a call to contribute to the welfare of our society. It was a call not to the greedy, but to the great. It was a call to those who understood the value as the President said of lifting up all people when he said if we cannot save the many who are poor, we will never save the few who are rich.

The gentleman spoke the truth. This is a trillion dollar bill. Some Members of the other body said they would not vote for a bill over $350 billion, and so the other side of the aisle has constructed a sham, a ruse, a trick.

As the gentleman from Michigan (Mr. LEVIN) said, the sadness is that our children will pay that bill because you will not cut spending, you will not cut spending to comply with this tax bill, and you know it. In 1981 I was on this floor, and Republicans claimed if they passed their economic program, we would balance the budget by October 1, 1983. And I was on this floor in 1990 when you railed against your own President, President Bush, who contributed to creating the surplus that was to come some 6 years later. And I was on this floor in 1993 when Dick Armey and John Kasich, the predecessor to the gentleman from Iowa (Mr. NUSSLE), claimed that if we enacted the 1993 bill, the economy would go to the Dumpster, unemployment would rise, and the deficit would go through the ceiling. He was wrong on every count.

And I was on this floor in 2001, just 2 years ago, when so many of you stood on this floor and said if we pass this bill, we will create jobs. And you have said it today, and you are wrong.

□ 0100

In 1981, in 1990, in 1993, and in 2001, not any one of those times were you correct in your predictions. And you cost my three daughters a lot of money and my five grandchildren a lot of money because the tax you are putting on them is the debt tax that they will have to pay and they will not get a nickel of defense, not a nickel of education, not a nickel of health care while they are paying the interest that you put upon their heads.

Mr. THOMAS. Mr. Speaker, I yield myself 15 seconds in case there are any students actually out there in the audience. I believe, if anyone wants to check an almanac, the election of 1960 resulted in the election of President Kennedy with less than 50 percent of the vote and there was some concern about whether or not a recount would reduce that. The argument that somehow there was a significant wave of votes simply is not accurate any more than most of the structures.

Mr. HOYER. You do recall that he got more votes, however, than Mr. Nixon. Unlike Mr. Bush, who got less votes than Mr. Gore.

Mr. THOMAS. Mr. Speaker, prior to yielding 2 minutes to the gentleman from Louisiana (Mr. McCRERY), I yield myself 10 seconds. I am just concerned that if people are really worried about not having enough taxes, I understand you can voluntarily write a check to the Treasury and at least you will feel real good about making sure that more of your money stays in Washington.

Mr. McCRERY. Mr. Speaker, my good friend, the gentleman from Maryland, the previous speaker, as I think has been the case with the debate generally this evening, was respectful and made some points that he thinks are legitimate. They are in most cases, I think, factual. I would remind him that in 1995 when Republicans took over this Chamber and we cut taxes and we were running deficits, his side of the aisle made several charges that turned out to be false as well; and, in fact, we did cut taxes, balance the budget, and run a surplus for several years. So there have been a lot of statements made on both sides over the years that have turned out to be inaccurate when history judged them.

I believe Democrats and Republicans in this House want to do what is best for the country. We want this country to be a better place for our children and our grandchildren. The reason we have two different political parties in this country, thank goodness, is that we can have a debate and we can fight it out, choose a path and then be held responsible. We are willing to be held responsible. We believe that the answer to the long-term problems of this country, the really tough ones, Medicare, Social Security, part of the answer is strong economic growth. If we do not have strong economic growth in this country for a long time, those problems are going to be not only intractable; they are going to be impossible.

So this bill we bring before the House tonight, and we hope you will pass tonight, is one that we think will do the best job to give this country the best chance to have strong economic growth for the long term, short term and long term. This jobs bill, this growth bill gives us the best chance to solve the long-term problems of this country. We ought to vote for it. We ought to support it and hope it works.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DeLAURO), the head of the Democratic Steering Committee.

Ms. DeLAURO. Mr. Speaker, this giveaway to the wealthiest taxpayers will not create jobs, nor will it reduce the highest rate of unemployment in a decade. It will not provide our stagnant economy with any stimulus. For the taxpayer, it will not reduce their tax liability. In fact, State taxes and property taxes are increasing because of this reckless plan.

Today, States are in the midst of the worst fiscal crisis in 60 years trying to close a budget shortfall of $100 billion. States have been forced to not only increase taxes but release prisoners, shut down libraries, and cut back health benefits. In my State of Connecticut, Governor John Rowland, a Republican, has already approved an increase in the State's income tax rate. Passage of this tax cut means cutting education by $9 billion to give a tax cut to those who earn over $375,000. It means cutting Social Security to pay for a tax cut for those who earn over $375,000. Under this plan, households with incomes of over $1 million receive an average tax cut of $93,000. What you would do is you would starve this government of the revenue that it needs to carry its commitments out to the American people. It is insidious, it is wrong, shameful, reckless, and irresponsible.

Mr. THOMAS. Mr. Speaker, now another view from the State of Connecticut. It is my pleasure to yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the chairwoman of the Subcommittee on Health of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for giving me this opportunity to support what I think is a very strong tax bill that will stimulate the economy, provide the jobs we need in Connecticut, but most importantly address the crisis that manufacturing is facing in Connecticut. We have never on this floor passed such extraordinary bonuses for investment in capital equipment. As chairman of the oversight subcommittee my first term in the majority on the oversight subcommittee on the Committee on Ways and Means, I held a hearing and small businesses said, if you could just increase the amount we could expense, if you would increase it to $50,000, you would see us take off. If you could increase it to $100,000, you would see what would happen. This bill does that for small businesses. This bill allows the expensing of 50 percent of capital investment for all other companies. This bill goes to the heart of what it takes to create jobs. And that is why this bill is about restoring opportunity to people in Connecticut who are unemployed.

I am very proud of my Governor who just vetoed the second tax bill in 6 months passed by the Democrat-controlled House and Senate in Connecticut. You cannot tax your way out of recession. You have to help people change their lives.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Dear Dad:

My day began when a guy who was taking a thousand-dollar contribution from an alleged Chinese spy decided that I could not offer an amendment to keep American military bases open. Later on this same guy who took a thousand-dollar contribution from an alleged Chinese spy said it was a swell idea to sell supercomputers to the Chinese.

It got more bizarre. The fellows who run this House and the Senate and the White House suddenly said I was the reason that we were spending too much money. Gee, I thought it was their President who submitted the first $2 trillion budget in American history and they passed it. Their President submitted the first $2.1 trillion budget in American history.

But, Dad, it got more bizarre by the hour, because as the gentleman from California (Mr. THOMAS) told me I did not have good cards, I guess he did not want to see this one. Because 2 years ago, and 2 weeks ago, he told me he could cut taxes and balance the budget.

Mr. THOMAS, you got an $817 billion credibility gap. That is as much debt as this Nation incurred in the first 180 years, and you are telling me now the way to prosperity is to stick my kids with more borrowing and more debt. You were wrong then. You are wrong now.

I love you, Dad.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Louisiana (Mr. McCRERY).

Mr. McCRERY. Mr. Speaker, just to make sure everyone knows the record of the Republican Congress since we took over in 1995, the entire accumulation of debt in this country is due to debt that we owe the Social Security system and the Medicare system and other trust funds. The publicly held debt has actually gone down since Republicans took control of this House in January of 1995.

Mr. RANGEL. Mr. Speaker, I would like to agree with the gentleman from Louisiana. It certainly did go down because they stole the money out of the Social Security trust fund in order to make it go down. So he scores there.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER), the ranking member of the Select Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Speaker, I think that what we on our side of the aisle want tonight is just a little honesty. And we believe that instead of saying you are giving the American people something, you need to be honest with them and let them know that whatever you are giving them, you are borrowing the money from them in the future that they have got to pay back. If you are going to be honest, you ought to come down here and sign this credit application, because you really need a pretty big loan to grant this tax cut. And I am not sure there are too many bankers in this country that would give this loan, because if you look at our credit history, we owe $6.4 trillion; we know we are going to owe, by your budget, $12 trillion in 10 years. That means, if you can imagine, we are going to pay $650 billion in interest 10 years from now just to service that debt that you are creating. And do you know what? That is more money than we are going to be spending on the entire Department of Defense. Your budget says we are going to spend about $500 billion on defense 10 years from now, but we are going to spend $650 billion in interest on the debt.

The truth of the matter is you need to come down here and put your name on the line and see if you can get this loan; and when you walk out of this building tonight, look at that big hole out there just at the bottom of the steps because that is the deficit hole that you are digging deeper tonight.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I do not know how many of my colleagues listened to Warren Buffett last night. The gentleman from Maryland (Mr. HOYER) mentioned it. He talked about the fact that this bill is going to give him $310 million of additional revenue. It is going to bring his effective tax rate down to 3 percent. But he looked at his secretary and he realizes that her effective tax rate is still going to be 30 percent. He says, yeah, this is class warfare and my class is winning. But it is wrong. I am going to win, whatever happens. I want the people of America to be as productive as possible. And to be productive, they need to be well educated. They need to have decent health care. They need to be able to provide for their families. And they cannot be saddled by trillions of dollars of debt.

He is opposed to this because he knows it is wrong for America and he knows it is not fair. We offered something that was fair. We offered something that was fiscally responsible. That is what America wants. But America is not going to get it because here it is at 1 a.m. in the morning talking about a tax cut of hundreds of billions of dollars, $1 trillion over the next decade. That is not the way to treat the people that elected us.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I am interested to know that Warren Buffett has become the icon of the Democrat Party. I hope he will use all that money that he is going to get from this tax bill to invest. I was just informed that he just started a new business in Texas, a retail store, where he is going to employ 100 people. That is what we want him to do with the money. That is the idea. This is all about jobs and savings and investment.

We have heard a lot of conversation tonight about how it is going to grow the deficit. When I was first elected after 40 years of Democrat control, our deficit was about 4.7 percent of our budget. This year even if we take the figures of the gentleman from South Carolina (Mr. SPRATT), which I think are pessimistic because he does not see the growth that comes out of this bill, it will be about 3 percent of our budget. Every economist will tell you, right, left or center, what is important is what is it as a percentage of our economy, how much of our economy is represented by deficit.

How do we get out of that? Let us go back to the gentleman from Maryland's history. I was not here when John Kennedy was elected. I did not know him. I was here in 1997 when this House courageously passed the balanced budget agreement. I did see John Kasich down there on the floor talking about the need to keep our spending under control. You know what he did? He said, we are going to try to get to a balanced budget, if we can, by the year 2002.

□ 0115

We all applauded because we were spending too much money, and we needed to get our budget under control. Just restrain spending. What happened? Two years later, by 1999, we did not have a deficit. The next year we had a surplus. Why did it happen? It happened because the economy grew, because we had more savings and more investment, and that is what is lacking right now.

If we ask the economists, Alan Greenspan, and say did the 2001 tax cuts help? It made us have the most shallow recession in history rather than a deep recession. If we ask people what is going to happen when we provide more capital to small business to expand plant and equipment and create more jobs, they are going to say it is not only going to create over 1.2 million jobs within the next year, it is going to be create more revenue for the Federal Government.

We are not cutting our budget, Mr. Speaker. Our budget is going to be about 4 percent. What we are doing is we are creating growth in this bill. What we are doing is in this bill we are creating jobs and growth and opportunity, increasing consumer demand, increasing business investment. We can differ on what this bill is going to create in terms of the numbers of jobs, but I have not heard one economist say it is not going to create jobs. And that is what we are going to do in this bill, 1.2 million jobs. It is all about jobs. It is all about growth. It is not about Warren Buffett. It is about the small business people out there who are going to be creating those jobs that are going to make America a better country.

Mr. RANGEL. Mr. Speaker, I yield 5 seconds to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I would like to tell the gentleman that Warren Buffett said that money can be better spent when it is kept in corporations, not with individuals. Corporations can build jobs faster, and they will. That is why this dividend tax cut does not work.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, even the most favorable assessments conclude that few jobs are going to be produced by this tax cut. This President could become the first President in 64 years to preside over a net loss of jobs during a single term in office. The President's party staked its future on smaller government, balanced budgets, and fiscal responsibility. This administration refuses to understand that Americans will not invest in this economy because we lack confidence in corporate America. Democrats have spoken forcefully on the issue of corporate greed and corporate welfare, corporate corruption, which resulted in the stealing of American working retirement funds.

When the President proposed his budget in 2001, the administration actually claimed that there was a danger that the Government would pay off the debt held by the public too quickly. We have selective memory. That is the problem on the opposition side. And we cannot pass this tonight because there will be a scourge on our children and our grandchildren.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

I really do wish some Members, and we do not often do this, although we vote on it every day, would read the CONGRESSIONAL RECORD, especially the day that we debated the tax bill in this House for the first time. Because included in that CONGRESSIONAL RECORD was a historic first. The bipartisan Joint Committee on Taxation analyzed this tax bill, and they said it was going to create jobs, more than 900,000 jobs over the next several years. Read it.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, since everybody liked to quote President Kennedy, I would like to quote President Reagan: "Facts are a stubborn thing."

After the 2001 tax cut, 2.5 million Americans have lost their jobs, 5 million Americans have lost their healthcare, $1 trillion worth of corporate assets have been foreclosed on, and 2 million Americans have walked out of the middle class into poverty. Facts are stubborn things.

We can produce economic growth if we reduce the deficit, open up markets to American-made products and invest in education and healthcare. That is what we proved collectively in the 1990s, both the government, the private sector and the American people. They invested in their economic future. They invested in their children. We gave college education grants and tax credits so they can do that. That is an approach that is proven time and again.

Rather than change course and invest in our future, we are putting our foot on the accelerator pedal to get the same results that we have produced to date: 2.5 million Americans without work. And on June 6 a new unemployment number will come out, and we will get 3 million people without work. That will be the net result. Facts are stubborn things.

Mr. THOMAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. COLLINS), a member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I never have met Mr. Buffett. But if he is going to get $358 million out of this tax bill, I hope he will sign the check on the back, give me a call, and I will go pick it up and bring it back and give it to Mr. Snow at Treasury. That will maybe please him and please a lot of other folks.

Let me tell the Members about a young couple in Georgia, making about $40,000 a year, three children. The wife does not work. She is raising the children. She called today and said, Momma, I heard on the radio that we are going to get a refund check on the child tax credit. Is that true? We sure could use it.

It is true. But not only is that true, but the bottom line of her husband's paycheck will be better because of the repeal of the marriage penalty, because of the reduction in the marginal rate, and they are going to enjoy those few extra dollars that they earn whether Mr. Buffett enjoys his or not, but I bet he will invest it. He will not send it back.

There are millions of families like that across this country that are going to benefit from this tax bill, this growth and jobs bill. And it is a jobs bill. It is a workers' bill. Because we are changing provisions of the tax law that will make us more competitive with foreign nations, and our workforce in this country competes with the workforce in those nations. This is going to benefit millions of people who get up every day and go to work. They work hard to provide for their families. They work hard to provide to the community and to contribute to their church. They pay their taxes. They play by the rules, millions of families like that just like the girl that called today and said, Momma, is it true? We sure could use the money. And my wife says, yes, it is.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

There is a whole lot to this bill I did not see, but if that wife is going to benefit from the marriage penalty and she is not working, this is an exciting tax bill.

Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from New York, the ranking member, for yielding me this time.

For the history of this Congress, may I remind you that in the spring of 2001, because of President William Jefferson Clinton, we had a $5.6 trillion surplus that you have busted. I rise to oppose the job bust tax program of 2003.

Many of you think I may not know that you say that you have a $350 billion tax cut. That is because it is smoke and mirrors. There is a 50 percent increase in the loss of jobs in the United States. You only create two jobs per $1 million. If you did the Democratic plan and invested in transportation, it would be 13 jobs; invested in rail, it would be 15 jobs; invested in healthcare, 26 jobs; public education, 28 jobs; and other, 27 jobs, first responders, police.

All you are doing is taking the money and putting it in the pockets of the rich folks so they can run to the vacation spots of the world.

I want to create jobs. Vote against the bust job program of 2003.

Mr. Speaker, the American people are suffering right now. Unemployment is up 50 percent, with millions of jobs being lost in our "jobless recovery." Even the new 6 percent unemployment figure is a gross underestimate of the problem, since it does not include the millions of people who have been out of work for long periods of time, or who have given up on finding work until the situation improves.

Coupled to the unemployment is the fact that every year 75 million Americans find themselves without health insurance for some part of that year. That is a disgrace.

Our States have billions of dollars of budget shortfalls. We have states that are firing teachers while politicians in D.C. are on stage talking about "leaving no child behind."

We have states that are cutting kids out of SCHIP programs to provide mental health care, dental care, all kinds of medical treatment to children. In my District in Houston, mental health clinics are shutting down. What kind of compassionate conservatism is that?

We have about 200,000 young soldiers fighting for this nation in Iraq and Afghanistan, who will soon be Veterans. And we are cutting Veterans benefits.

There are 40 million people suffering with HIV/AIDS in Africa and we have offered them $15 billion, which is a good start but is just a fraction of what they need.

We have made commitments to the people of Afghanistan and Iraq to get them on the road to stability and prosperity, and that will cost money.

And what is the Republican answer to all of these pressing needs? A massive tax cut, skewed toward the richest in America.

During the Presidential Campaign, then Governor Bush proclaimed that the economy was perfect, the Dow and NASDAQ were off the charts, unemployment was low, and growth good, and we were generating surplus revenues. Therefore, he said it was the perfect time for a $1.6 trillion dollar tax cut. Then once he was elected, President Bush informed us that the markets were crashing, we were entering a recession, and therefore it was the perfect time for a $1.6 trillion dollar tax cut.

Regardless of the question, the answer is the same. That frightens me. One journalist I heard last week suggested that if an asteroid were about to strike the planet, the Republicans would suggest tax cuts.

Last month, we were told by the President's press secretary Ari Fleischer that tax cuts for the rich were the way to support the troops. This week, they are the way to create jobs. This argument does not hold water. Let's look at the numbers on this chart. Of course these are last week's numbers, since only one or two Members in this Chamber have actually had a chance to see the bill that we are now being forced to vote on. According to the President himself, a $550 billion tax cut would produce 1 million jobs. That is $550,000 per job! What kinds of jobs are these? That translates to only 2 jobs for every $1 million dollars of federal investment. And that is a terrible return.

On the other hand, $1 million invested in state/local health care programs supports 26 jobs, instead of just 2. In public education, $1 million creates 28 jobs. In other state and local programs such as homeland security, police, fire—1 million dollars can produce 27 jobs. These programs thus create more than 10 times as many jobs as the Republican plan. I keep hearing from my Republican colleagues that we have to give rich people money, because poor people don't give people jobs.

This is exactly wrong. When you give money to people who really need it, they spend it. They buy food, and clothes, and health care, cars, even homes if they are lucky. Who do they buy those things from? Businesses of all sorts. And those businesses grow, and that makes jobs. Why wait for a trickle down, when we can shoot a geyser up and stimulate this economy?

And in addition to the jobs, these programs improve quality of life, they make our neighborhoods safer, they help our children grow up happy, and healthy, and well-educated.

Instead, here we are in the wee hours of the night watching our colleagues across the aisle rubber-stamping another poorly-thought-out plan from the President. As usual, it does not help the people who need it. As with the last tax cut, economists predict that it will not stimulate growth.

This tax-cut focuses almost all of the benefits on the rich, which didn't work last time. More than half of the cuts go to the richest 5 percent of Americans. The lower 60 percent of Americans get a mere 8.1 percent of the benefits. The people who need it, and who will spend it, get almost nothing.

And what makes it worse is the gimmicks. The Republicans used smoke and mirrors to make this tax cut look cheaper than it really is. It is really almost the same as the $550 billion cut from last week. They did it by making their tax cuts expire in a few years. Of course they assume that the tax cuts will be extended, because if you cut taxes on dividends and then raise them again, a lot of people might dump their stocks before taxes come back to normal and that would hurt the markets. As many economists have noted, uncertainty about the future of taxes is worse than taxes, so this is a dangerous strategy. Adding insult to injury, they make the tax cuts on dividends—the ones that help the rich—expire in 6 years, but they make the child care credits, marriage penalty relief, and relief for low-income taxpayers—which help the middle class and working poor—expire in 2 years.

Again, their priorities are all wrong. And the Republicans found no room for smart provisions that would have helped those truly suffering. For example, I offered an amendment to protect honest workers losing their jobs due to dishonest corporations. The amendment would have helped thousands in Houston whose lives were ravaged by the Enron scandal, by exempting from taxes funds paid in severance packages from corporations going into bankruptcy due to corporate malfeasance or criminal activity. People who are blind-sided like that deserve a break, but the Republicans chose to deny them.

Mr. Speaker, I will vote against this bill. Let's put federal money to work for all of the American people—in schools, in health care, in homeland security, in paying down the debt. Let's not give the rich a lavish gift on the credit of our children and grand-children. Let's make a plan that will really stimulate confidence and growth, and jobs for the American people. First, let us vote this bill down. We can wait a week to do this right.

Mr. THOMAS. Mr. Speaker, I yield myself 1 minute.

I do so try to explain to some folks here apparently that currently in the Tax Code, if we have two people in the 15-percent bracket, their combined tax obligation, and they are both single, is less than two people in the same tax bracket that are married. There is no requirement under current law that they both work. One cannot work and one can work. But when they are married, they are filing a joint return. In filing a joint return, they actually pay more in taxes than they do with two single returns.

And I make this statement with some shock and awe that the ranking member of the tax writing committee apparently does not understand that.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

It is really great if someone can get in the 15-percent bracket and not have a job. The IRS is really working overtime.

But I know you are not really trying to take care of these people. Basically, this is a Republican plan that came long before the gentleman became chairman of the committee. It has very, very little to do with taxes. It is just the Republican belief that the Federal Government should not be in the business of providing service to American citizens, that they should just take care of national defense and to provide the wealth and protection for the investors. And for those people who are less fortunate, they should rely on local and State governments. For that reason, we find this enormous increase in taxes for working people that work in our cities and work in our States.

We also find our charitable organizations in deep trouble as the Federal Government will be providing less assistance to them in Medicaid and Medicare. And even our heroic veterans who come home will find that the benefits will be sharply reduced for them. Leave No Child Behind? Take a look at the budget and see how many people are left behind.

We know that some of these programs have been described as "third rails." We do not want to touch them. Leave Social Security alone. But at the end of the day, when we see that you borrowed all of the money that you can and that our great Nation is now paying interest on the debt that you have caused not only tonight but you promise that you will come back again and again and again and we will find ourselves in more debt, we will be okay, those of us in this Chamber. But what about our children and our children's children? Do we not owe it to them to at least provide the same type of America that our fathers and grandfathers provided for us?

What happened with the surplus that we have? How did we have such a tremendous swing from $5 trillion there with our hopes and our dreams where we could do something? What do you leave us with now? A deficit as far as we can see, programs that we will never be able to initiate? And what will you say? The money is just not there?

You say that this tax bill is going to create jobs. Why do we not pull the RECORD about what you said the last time you came with a $1 trillion tax bill and find out where are the jobs that you promised then?

□ 0130

We know there is a philosophical difference between Republicans and Democrats. We believe the people should be served, and not just the investor class.

Is it class warfare? You bet your life. But you declared it against the working people.

The SPEAKER pro tempore (Mr. LAHOOD). The time of the gentleman from New York has expired.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield the balance of my time to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, this has been a real interesting debate. It certainly laid out clearly the differences between the two parties, and I appreciate that. I think it is good for America, to lay out the differences between the two parties.

But one of the things I noticed in the debate is the differences in interpretation of history. Let me just start by saying, the gentleman from Maryland laid out the history all the way back from Jack Kennedy's time. I would just as soon do it in my time in the legislative body.

The gentleman talked about the fact that Ronald Reagan cut taxes in 1981 and the deficits went through the roof. The problem was there was a Democrat Senate, a Democrat House, and they spent $2 for every $1 cut in taxes; and the deficits went through the roof.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I believe the gentleman understands that when President Reagan became President, under the Constitution the purse strings are controlled by the House of Representatives, and the Democrats were in control of the House.

Mr. DELAY. Mr. Speaker, reclaiming my time, following this history, I did not hear all the claims of the born-again deficit hawks about deficits during those periods of time. They just wanted to keep spending money.

Then, I have to admit, I voted against President Bush's tax increase. Do you know what happened after Bush's tax increase? We had a recession that cost him his election.

I can always remember who won that election and came in, never talking about balancing the budget, who was not a born-again deficit hawk like those we have seen tonight. It was a President that wanted to keep spending it. So he passed another tax increase in 1993. Now, that one I voted against too. I am very proud of that.

The problem was for this side of the aisle, as the American people did not like all the spending in 1993 and 1994, they did not like the vision laid out for the American people, so they gave the Republicans the responsibility of being in the majority in the House of Representatives.

The born-again deficit hawks say that the 1993 increase gave them surpluses. I do not remember it that way. What I remember was we came in and we told the American people in the Contract with America that we would balance the budget. We did. We had the Balanced Budget Act of 1997. None of you born-again deficit hawks voted for that, if I remember, or some did. I take that back, some of you did. The vast majority of you did not, and told us that there would be just horrible things; we will not be able to spend any more, crying, tears coming down your faces, We cannot spend anymore; we cannot spend any more.

Yet we balanced the budget and deficits were going down, and the debt went down, because we paid off over $1 trillion on the debt on our children.

Now, for the first time in my legislative career, when George W. Bush took over, revenues to the government actually turned down. Revenues had been going up ever since I have been in the legislative body. But for the first time the revenues actually turned down, which created the problem that we face.

Now, if you would have worked with us, you new budget deficit hawks, and made permanent that tax cut in 2001, maybe we would not be losing the jobs that you quote that we are losing, and if those tax cuts would have been implemented immediately, rather than stretching them out, we would have had a better economy than we find now. So we have to come back to the well.

What is really interesting to me is the ranking member was very concerned about the fact that there is a conspiracy out there, that this is not the only tax cut that there is going to be this year.

There is no conspiracy. We are very, very proud of the fact that this House of Representatives has passed tax cuts every year we have been in the majority. Every year. And do you know what? In 8½ years there has not been a Federal increase in taxes in this country. That is even more meaningful. And do you know what? This year, this ain't the end of it. We are going to have some more, because our budget says we can do $1.3 trillion in tax relief for the American people, and you bet we are coming back with more tax cuts.

So there has been a lot of talk in this Chamber about this bill and what it would do to the government. In fact, one Member of the other side of the aisle said cutting taxes hurts the government. I heard her say that, cutting taxes hurts the government.

But the American people want to know what this bill will do for them, because we are here for them. And do you know what? We have an answer to that. The jobs and growth package will create more than 1 million new jobs. It is not as large as some of us wanted; but I remind you, it is just the first step.

At any rate, the proof is in the policy, not the price tag. As many of you know, I used to be a small businessman; and I know, as you do, that tax relief for small business means expansion, and to most small businesses, that means one thing, hiring new people.

The accelerated rate reductions will increase the purchasing and hiring power of millions of small businesses this year. Add the expensing and depreciation reforms, and you are looking at the circulation of billions of dollars, this year; and these billions of dollars will be in the hands of small business men and women responsible for creating over 70 percent of all new jobs.

Now, the $500 increase in the child tax credit invested over the course of 18 years could actually enable a high school senior to look at colleges instead of want-ads. The dividend and capital gains reforms will help steady the stock market and encourage new investment at the very moment that working Americans will start taking home, start taking home, more of what they earn.

Economist Lawrence Kudlow said this today about this package. He said it would contribute mightily to the rebuilding of capital and wealth that was decimated in the nearly 3-year stock market plunge, 3 long years.

In that time, the American people have faced unprecedented challenges; but they have persevered, and now they are poised to fuel an unprecedented recovery. Interest rates and inflation remain low, anxiety about the war in Iraq have been eased and consumer confidence is on the rise. All the American people need right now is the opportunity that they deserve, not the government, that they deserve. They deserve that opportunity to get this economy going again.

So I urge my colleagues to do the right thing. Pass this jobs and growth package and give Americans that chance.

Mr. HASTERT. Mr. Speaker, I rise in strong support of this jobs bill and I urge all my colleagues to support it.

Earlier today, we voted to extend unemployment compensation once again. I favored that legislation because I think that was the right thing to do. But it was not the only thing to do. We also must pass this jobs bill. Because most unemployed Americans don't want another unemployment check. They want a payroll check. They want a job. Some of my Democratic colleagues will oppose this jobs bill and support even more unemployment compensation. They will oppose this bill because it increases the deficit as they demand that we spend trillions of dollars in bigger government. This misguided philosophy will lead us only to bigger government, bigger deficits and no jobs. When will you learn that it is the private sector that creates jobs in this country? That cutting taxes on investment will lead to more investors and more jobs? That putting more money in the hands of the people means putting more people back to work? When I was a high school teacher, I used to teach these simple lessons. Now, it is time to apply these lessons to the task at hand.

This bill doesn't go far enough, but it is a strong start. It cuts investment taxes by more than half, so that investors are not penalized for their efforts. It increases small business expensing and increases bonus depreciation, so that small businesses can hire more workers. It accelerates earlier tax cuts so that real money will go to middle class taxpayers. This helps families pay for home improvements, college education, or anything else then want.

These tax cuts are front-loaded so the economy will get the biggest bang for the buck. Some of them are phased out in a couple of years in order to fit into the $350 billion budget requirement. We will have plenty of time to discover if these tax cuts are popular enough to extend. My guess is they will be, but Democrats who want to raise revenues to pay for bigger government will have their chance to make their case. I look forward to that debate. But for now, we have a job to do. And that job is to create jobs. Vote for this bill. Vote to put the American people back to work.

Mr. BLUMENAUER. Mr. Speaker, when facing a 2003 budget deficit that will likely exceed a record $400 billion, Congress should be looking for ways to cut red ink. Instead the Republican leadership is cutting taxes by $350 billion and adding more to our debt. Neutral observers agree this tax cut package will do little to stimulate our sagging national economy and do little to help the 139,800 unemployed Oregonians. This tax cut package and the new budget is leading us towards a $1 trillion deficit over the next 10 years.

My constituents are clear about their priorities as witnessed by a difficult decision to raise taxes that will provide the necessary local revenues to help fund education, social services and safety programs. Oregon understands that targeted infrastructure investments can put people to work tomorrow and better our communities. Oregon's crumbling bridges, which jeopardize the economy and safety, will cost over $4 billion to repair but would provide 190,000 jobs and $25 billion in economic activity. The Federal Government should be helping States and communities address these types of needs with targeted investments and programs.

The budget gimmicks, sunsets, and deficits created by this bill prevent me from supporting it. I will continue to fight for a sample course of fiscal responsibility and domestic security that can be achieved by taking common sense actions. We should not mortgage the future by playing fast and loose with the truth today and the economy tomorrow.

Mr. UDALL of Colorado. Mr. Speaker, I have tried to review the provisions of this conference report, so far as that has been possible in the very brief time available. I did so in the hope that I would find it enough of an improvement over the bill the House passed by the House earlier this month that I would be able to support it.

Regrettably, however, I have decided that it does not meet that test.

I do think the conference report is better than the House-passed bill in several respects. I am especially glad to note that, unlike the House bill, it provides for giving Colorado and the other States some much-needed assistance with meeting Medicaid costs and paying for other services. And it also includes some other things I support, including the refundable increase in the child credit and the elimination of the "marriage penalty" aspects of the income tax.

However, these good features of the conference report are outweighed by its major shortcomings.

For one thing, the aid to the states comes with a price—a number of States will lose some State revenue as a result of the depreciation and small business expensing provisions, due to linkages between federal and state tax codes. In fact, according to one estimate I have seen, if those provisions are extended and remain in effect through 2013, States will lose an estimated $15 billion over the decade as a result of the provisions.

Further, even the child-credit provisions could be better. The conference report evidently drops a Senate provision that was targeted on working families with children with incomes in the $10,000 to $30,000 range. This jettisoned Senate provision would have benefited 11.9 million low-income children and their families—one of every six children in the Nation. As it is, data compiled by the Urban Institute-Brookings Institution Tax Policy Center show that while under the Senate bill 18 percent of married and head-of-household filers with children would have received no tax cut in 2003, under the conference report that will rise to 29 percent. To put it another way, married filers with two children and incomes between $10,500 and $21,325 will receive no tax cut under the conference agreement—although all such households would have received a tax cut under the Senate bill.

And, like the House-passed bill, the conference report will do little to increase jobs in the near future.

The Urban Institute-Brookings Institution Tax Policy Center estimates that 36 percent of all U.S. households would receive no tax cut whatsoever in 2003 under the conference agreement, and 53 percent of households would receive a tax cut of $100 or less. They also say the average tax cut in 2003 for households in the middle of the income spectrum, i.e., the middle fifth of Households, would be $217. Based on this, it seems clear that the conference report, being so focused on high-income filers, is likely to be limited effectiveness in boosting the economy in the near term. That's because high-income households are likely to spend a smaller share of their tax cuts than households of more modest means—and only if tax cuts are spent will they boost the economy in the near term.

On the other hand, it seems beyond dispute that the conference report will lead to a very large increase in the federal deficit and thus to a very large, long-term increase in the national debt.

So, like the House-passed bill, it does too little to address the real needs of the economy and the country, and it does too much to make our budgetary problems worse.

Just as they did when the House debated its bill, its supporters are reciting from the White House's cue cards that say it will create jobs. They know that is what the American people want to hear—because we need to begin to make up for the millions of jobs that have disappeared over the last two years.

But I am not persuaded, because no analysis I have seen—whether by the Congressional Budget Office, Federal Reserve Chairman Alan Greenspan, or any other expert—supports the claim that enacting this conference report will help put very many people back to work anytime soon.

On the other hand, there is no doubt about how the bill will affect the Federal budget—it will throw it further out of balance and lead to much deeper deficits.

Like the House-passed bill, the conference report includes many gimmicks that cloak its true cost. Every provision in the bill but one is designed to expire between the end of 2004 and the end of 2008. More provisions expire at earlier points in time than under either the House or Senate bills. If the provisions scheduled to terminate in a few years are extended—and I am confident that the bill's supporters will be pushing for that—its total cost will be much greater that the amounts its supporters have claimed.

In fact, according to one estimate I have seen, if the bill's provisions (except the one providing relief through the Alternative Minimum Tax) ultimately are extended, the cost through 2013 will be $810 billion to $1.06 trillion, depending on how one measures the cost of extending the bill's business depreciation tax cut.

But even if I were to suspend my disbelief and take it at face value, I would think the cost of the conference report—in terms of the deficit and the debt—exceeded its benefits.

As I said when the House first considered this tax bill, I think we need to take deficits seriously—as Chairman Greenspan reminded us again earlier this week, and as was earlier spelled out by Peter G. Peterson, President of the Concord Coalition, to the Committee on Financial Services.

As Mr. Peterson put it, "A future of mounting deficits is a cause for grave concern. Mounting deficits can slow and even halt the steady growth in material living standards that has always nourished the American Dream. When such deficits are incurred in order to fund a rising transfer from young to old, they also constitute an injustice against future generations . . . This policy, after all, constitutes an explicit decision by today's adults to collectively shift the current cost of government from themselves to their children and grandchildren."

In other words, by leading to deeper deficits and bigger debts, this bill would do just what President Bush, in his State of the Union address, said we should not do—instead of meeting today's challenges, it would simply create new problems for our children.

I don't think that is sound policy—especially when a better alternative is available. That is why I objected to the Republican leadership's refusal to allow the House to consider the alternative developed by Representative RANGEL.

That alternative included very meaningful tax cuts. It included an increase in the child tax credit to $800 per child, an immediate expansion of the 10-percent tax-rate bracket to levels that under the 2001 tax will would be reached in 2008, and immediate elimination of the "marriage penalty" aspect of the income tax. It also included investment tax credits for small businesses, such as business expensing up to $75,000 and bonus depreciation. Those cuts would immediately put money into the pockets of middle-income Americans, who are the people most likely to spend it promptly, boosting consumer demand and thus helping set the stage for an increase business investment needed to meet that demand.

The alternative also had other important provisions to respond to the immediate needs of our country and the American people, including a provision to create a permanent, revenue-neutral corporate tax deduction to encourage American manufacturing companies to expand their operations, as well as a new tax incentive to provide a tax credit of up to $2,400 to businesses that hire people who now are unemployed.

And, just as important as everything else, the alternative was fiscally responsible—fully paid for over 10 years. So, it would have added as many as a million new jobs without adding anything to the deficit.

Mr. Speaker, I still don't know why the Republican leadership refused to let the House even consider that alternative. Instead, they insisted on pushing through a bill that I could not support. And, unfortunately, this conference report, while better, is not enough better to deserve enactment. So, I must vote "no."

Mr. LEACH. Mr. Speaker, tax cut initiatives must meet two tests: appropriateness and fairness.

On appropriateness grounds, the question is whether the country can afford $400 billion a year deficits over the next decade, $600 billion a year if Social Security is removed from the equation.

On fairness grounds, the question is whether the $93,000, which will be saved by an individual with a million dollars of income, is credible when the savings for a middle income carpenter is likely to be substantially less than 1 percent of this amount.

While tax cuts, of course, benefit those who pay taxes, higher income individuals particularly, the approach the House is advancing today may be the most regressive in American history.

For the past century the American consensus has been that our tax system should have graduation. The well-to-do should pay a somewhat higher rate than the less well-to-do.

This tax cut reverses this consensus. The middle class will pay more than the poor, but the rich will pay at a lower rate than the middle class and in some cases the working poor.

This is not fair. Indeed, it is unconscionable. Wealth divisions in America will be accentuated by this tax approach and the burden of supporting government will be so shifted that according to Warren Buffet, it will amount to class welfare for high income Americans.

There are in this bill certain attractive features. But on balance and on the whole, the case for it is thoroughly uncompelling. It may be good politics, but it is dubious economics.

Mr. PASTOR. Mr. Speaker, I rise this evening to express my opposition to this Conference Agreement.

This country needs jobs. Since Inauguration Day in January, 2001, more than 2.7 million people in this country have lost their jobs. Though we took the important step today in this House to extend unemployment benefits for those still unable to find work, the most important piece of legislation we will pass today, the duplicitously named Jobs and Growth Reconciliation Tax Act, is one that will do nothing to help them get another job. It will do nothing to stimulate the economy. It will do nothing to cause the large corporations in this country to create jobs. It will do nothing to convince the small businessman to add a position or two to his payroll.

The only thing this bill will do is put this nation further in debt and create bitter fiscal hardships for future generations. I suppose if there is a bright side to this bill it is that it increases the debt by only $350 billion, whereas the President initially wanted to add another $726 billion in deficit spending.

But, don't be fooled. This $350 billion still comes at the cost of the Social Security Trust Fund. It still comes at the cost of missing another opportunity to help elder Americans buy their prescription drugs. It still comes at the cost of falling down schools and the falling down dreams of the working single mother trying to find a way to put her children through college.

The President has once again found a way to take care of the people who need taking care of the least. He has promoted a tax bill that makes the wealthy wealthier, while doing nothing for the working men and women of America. And, while the working class is left further behind, the people who are unable to find work, the unemployed, are completely abandoned.

Difficult economic times require bold and innovative solutions. This bill is only bold in its unfairness, and only innovative in its injustice.

I urge my colleagues to reject this misguided legislation.

Mr. CASTLE. Mr. Speaker, I rise in support of the conference report on H.R. 2, the Jobs and Economic Growth Reconciliation Tax Act of 2003. This bill is a responsible effort to address the economic needs and concerns of all Americans. This bill is a dramatic improvement over the tax legislation previously considered by the House, which I opposed. It is more targeted to help American workers and families now and it is lower in cost and more fiscally responsible.

This bill will provide $330 billion in tax relief to American taxpayers and $20 billion in fiscal aid to the States. More than 272,000 households in Delaware will receive tax relief and hundreds of millions of dollars will be pumped into the Delaware economy to create jobs. To complement this effort, at my urging, Congress has also just voted to extend unemployment benefits for an additional 13 weeks bringing another $16.5 million to our State and much needed relief to Delawareans looking for work.

The final agreement is a fair compromise that reduced the overall cost of the legislation to a level that is fiscally responsible. This final tax relief legislation meets the key tests that I urged the House and Senate to achieve.

First, I urged that this tax relief be better targeted to provide an immediate boost to the economy. The final compromise will provide immediate relief to working Americans to put more money in their pockets now to help strengthen the economy this year. As soon as this legislation is enacted, American workers will have fewer taxes withheld from their paychecks, giving 88,000 Delaware households more money for the daily needs of their families. In addition, this bill will increase the child tax credit from $600 to $1,000 giving 77,000 Delaware families with dependent children a rebate check this summer of up to $400 per child. This additional disposable income spent by families will in turn help our businesses, communities and the economy this year.

The legislation will provide tax relief to all working Americans. It speeds the reduction in tax rates for all Americans to give them more income as soon as possible. By expanding the 10 percent tax bracket immediately, this legislation will benefit 212,000 Delaware households, including low and moderate income workers by taxing the first $14,000 of income for couples and $7,000 for single people at a lower 10 percent rate. In addition, it accelerates relief from the marriage penalty tax to 105,000 Delaware married couples.

The bill will help small businesses by immediately increasing the amount they can deduct for new equipment and other expenses. That will encourage business owners to buy equipment now and make other investments that will build their businesses and create new jobs.

The tax relief provisions in this revised legislation are geared to have the most immediate impact in the next 2 years. I had urged that these changes be made to help boost the economy now without adding unnecessary long-term costs to our government.

Second, the final bill also recognizes that there are other pressing needs in our Nation that must be addressed in addition to tax relief. This compromise will provide our states with financial assistance that will support programs to help individuals in need. Most States, including my home State of Delaware, are experiencing difficult budgetary times that has caused them to limit spending on important programs. This legislation will provide $20 billion in aid to the States over the next 2 years. This aid includes $10 billion for essential government services, of which Delaware is estimated to receive $50 million, and $10 billion specifically for Medicaid, the federal-state partnership to provide important medical care to low-income individuals. Delaware's share of the Medicaid funds could be as high as $28 million. This $78 million in aid to Delaware was not included in the original House-passed bill and I am pleased it was added in this final version.

Third, I had urged that the original proposal to eliminate the double taxation of dividends be modified to have a greater immediate economic stimulus and to limit the impact of this tax cut on the federal budget deficit. This issue has been addressed. I opposed the original proposal to eliminate the taxation of dividends because I did not believe we could afford the original $395 billion cost of that single proposal at this time. This compromise would not eliminate the tax on dividends, but it would reduce the rates on capital gains and dividends through 2008. This will provide an incentive for investment, at a much lower cost than the original proposal. With new investment in business ventures, new jobs will be created.

Finally, I am pleased that the cost this final legislation has been significantly reduced from earlier proposals and represents a more fiscally responsible effort to provide tax relief to create jobs and strengthen our economy. This was a top priority for me because I am a strong advocate of balancing the federal budget, and I believe that any effort to stimulate the economy must be weighed against other needs and the importance of returning the federal budget to balance. I opposed the original House Budget Resolution which called for $750 billion in tax relief because I did not believe it was affordable at a time when we have critical new national security requirements and other needs. That budget plan called for a $750 billion tax cut as well as unfair and unsustainable reductions in important programs like health care, education and the environment. I opposed those and was pleased that the final budget plan did not include those cuts. I also opposed the first tax relief bill passed by the House because its cost of $550 billion was still too great for our current budget limits. In response to the concerns expressed by me and others in the Senate and House, a fair compromise has been reached that will provide $330 billion in tax relief to all working Americans, as well as $20 billion in direct aid to the States.

Some of the tax relief in this bill is temporary, to stimulate the economy now and reduce the long-term cost of the legislation. Those provisions are part of the compromise and are certainly not a perfect solution. Some argue that if future Congresses extend these provisions, the long-term costs of the tax relief to the government are far higher. The sunsets act as a budget trigger that will force Congress to revisit these issues with new information and debate the best course of action on whether to extend the tax cuts beyond the years contained in this bill.

Earlier this month, I called on Congress to put together a bill that would provide tax relief now to individual Americans, families and small businesses in a fiscally responsible manner. I stressed that a package could be assembled that did not exceed $350 billion. Those tests have been met. As I stated, effective governing requires careful decisions and painful compromises. All of us involved in the debate have had to make compromises. That effort has produced a bill that will return more of their hard-earned money to working Americans, create jobs for unemployed Americans, and help our state governments meet the budget challenges they are facing. I am proud to have worked hard to ensure that this bill fairly addresses the need to provide tax and financial relief now, while recognizing that we must not jeopardize our efforts to maintain fiscal responsibility in our government in the future. This bill is a fair effort to meet those tests and I support its passage to help all Americans and our nation.

Ms. McCARTHY of Missouri. Mr. Speaker, our economy is on the ropes, with unemployment rising, investments eroding, and families feeling increasingly insecure about their futures. We have serious problems. But they will not be solved by wrong remedies.

I will vote against this bill tonight for two reasons: First, it is bad tax policy and questionable politics. And second, it is reckless and irresponsible fiscal policy, and we can't afford it.

Basic principles of tax policy include certainty and fairness.

This bill isn't certain. It undermines rational tax planning or responsible budgeting. It shoehorns a size ten tax cut into a size three budget. That may be impressive acrobatics, with enough twists and turns to rival a pretzel. But it's bad policy, as even the sponsors candidly acknowledge.

To fit under the budget caps, the bill has more sunsets than a Florida vacation: now you see the tax break; now you don't. Here for two years; gone tomorrow. Every provision but one in the bill expires between 2004 and 2008, sinking beneath the horizon.

Taxpayers are confused now by our Tax Code. This adds complexity. Indeed, it's complexity on stilts. How can taxpayers plan with disappearing provisions? They can't. That's an antigrowth policy.

One thing is certain, however. The bill invites tax shelters. It's a bonanza for them. The Senate's curb on tax shelter abuses by corporations vanished in the conference. And loophole hunters will surely shift income from wages to capital gains when possible to take advantage of lower rates.

Nor is the bill fair. Look at the numbers. Over half of the tax cuts go to the wealthiest five percent of taxpayers. Almost two-thirds goes to the top 10 percent. But the bottom 60 percent of taxpayers get only 8 percent of the tax cuts, averaging less than $100 a year over the next 4 years.

An Urban-Brookings Institution Tax Policy Center analysis shows that 36 percent of all U.S. households would receive no tax cut at all in 2003 under the conference bill, and 53 percent of households would receive a tax cut of $100 or less.

For households in the middle of the income spectrum—the middle fifth of households—the average tax cut in 2003 would be $217. But taxpayers with incomes about $1 million a year would average over $90,000. That's not fair.

Someone once said that you need to set a banquet table for the rich to get a few crumbs for the poor. This isn't even a few crumbs.

The child credit increases from $600 to $1,000 in the bill. But the refundable part of the child tax credit, targeted to working families with incomes between $10,000 and $30,000, isn't accelerated. Twelve million low-income children and their families—one of every six children in the Nation—were dropped by the conferees.

Fair? Here's what the Center for Budget and Policy Priorities said: "The final agreement is, in fact, tilted against lower-income working families with children. The conference agreement accelerates all of the child tax credit and marriage penalty relief provisions of the 2001 tax-cut legislation that benefit middle- and upper-income families, while failing to accelerate either of the child tax credit and marriage penalty relief provisions enacted in 2001 that are targeted on low- and moderate-income working families. The consequence is that low-income working families—the very group most likely to spend rather than save any tax-cut dollars they receive—are largely left out of the legislation."

There was also a case to be made for eliminating the double taxation of dividends—also good tax policy, if we could afford it. But this bill skipped that, too.

So it is bad tax policy, lacking fairness or certainty, and missing the reforms and balance so essential to good legislation.

And I will vote against this bill also because it's irresponsible fiscal policy.

I think America knows we're borrowing money to pay for this, that it deepens our budget deficit, that it risks our future. And the polls reflect that. So America understands.

But our citizens may not realize how reckless this tax cut really is. President Bush proposed a $726 billion tax cut over 10 years. We couldn't afford that since our surpluses have evaporated. But this bill will cost far, far more. It's a Trojan Horse of hidden costs.

This bill is advertised as costing $350 billion, less than half of Mr. Bush's cuts. But if the bill's provisions, except the Alternative Minimum Tax brief relief, are extended, as all observers seem to expect, the cost through 2013 will be $807 billion to $1.06 trillion. And we clearly can't afford that—deficits as far as the eye can see, as we hand the bill to our children and grandchildren.

Mr. Speaker, the goals originally set for this bill are noble, and needed: jobs, growth, tax relief. Unfortunately, the result in this conference bill falls short. There are measures we could have passed that would have provided the right balance and the right help. But this isn't one of them. Instead, it is the height of fiscal folly.

And so, Mr. Speaker, this bill is bad tax policy, bad fiscal policy, unfair, and unwise. It helps those who don't need help. It hurts those who do. And we can't afford it.

I urge my colleagues to vote no on H.R. 2.

Mr. FALEOMAVAEGA. Mr. Speaker, I want to thank my distinguished friend and colleague from New York, the Ranking Member of the Ways and Means Committee, for giving me this opportunity to define the congressional intent of the temporary fiscal relief fund for American Samoa.

Congressman RANGEL, based on our discussions and as a result of our bi-partisan efforts, it is my understanding that American Samoa will receive a temporary payment of approximately $5 million in fiscal year 2003 and $5 million in fiscal year 2004 under the provisions of the Jobs and Growth Reconciliation Tax Act of 2003 to improve education, health care services, transportation, law enforcement and for maintaining other essential government services.

Based on my discussions with the gentleman from New York and distinguished members of the Ways and Means Committee, it is also my understanding that in the case of American Samoa it is the intent of Congress that these temporary funds should be used for the following purposes and in the following way. For fiscal year 2003, $1 million shall be used for feasibility studies for harbor renovations at Tau and Anuu, $1.5 for village water renovation projects in Leone, Olosega/Sili, and Tau, $1 million for the LBJ Medical Center to train nurses and doctors, and $1.5 million to improve high school libraries. For fiscal year 2004, $5 million shall be used to purchase a ferry to transport passengers and cargo between the islands of Manua and Tutuila.

I want to thank the gentleman from New York and I also want to thank the Chairman, the gentleman from California, for offering me this time to clarify the intended use of American Samoa's temporary fiscal relief funds.

Again, I appreciate and thank the gentleman from New York and the gentleman from California for supporting my request to include the intent of the Collins amendment in the conference report which was helpful in providing flex aid to the States and Territories. I am also appreciative to you both for clarifying the intended use of American Samoa's funds.

Mr. ETHERIDGE. Mr. Speaker, I rise in strong opposition to this Republican tax bill that will add a trillion dollars to the national debt, raise interest rates and will do nothing to create jobs, build schools, expand health care or jump-start our Nation's economy. The American people deserve better. The Democratic plan will responsibly create one million jobs and provide for a strong economic recovery and a prosperous America.

Let me state that I strongly support some provisions of this bill. The child tax credit increase to $1,000 has been a priority of mine, and the marriage penalty relief, expanding the lowest tax bracket and some of the small business incentives are good public policy. But, although I strongly support these provisions, they cannot overcome the fundamental flaws of this bill.

Mr. Speaker, too many people in my home state are hurting. More than 129,000 North Carolina workers have lost their jobs in the past 2 years. The Raleigh News and Observer reported this morning that as many as 60 percent of North Carolina families do not make enough money to meet even basic living standards. The story cites a report titled, "Working Hard Is Still Not Enough" that describes an economy split between well-paid, well-educated workers on the one hand, and low-paid, low-skilled workers on the other. We need a responsible plan to jump-start the economy now, create new jobs and provide for prosperity for hard-working Americans.

One of my first votes as a Member of this House was to put the federal government on the path to a balanced budget. I am very proud that the fiscal discipline we demonstrated in my first term helped to balance the budget for the first time in generation and contributed to the economic strength of the 1990s that included 22 million new jobs created and the greatest migration of American families from poverty to the middle class in our nation's history. Unfortunately, the record of the last several years has been a dramatic movement in the wrong direction. We've lost nearly 3 million jobs since the beginning of 2001, and a million people have fallen out of the middle class and into poverty. We can do better, and the American people deserve better than that sorry record.

I have joined my Democratic colleagues in support of a better plan. The fiscally responsible Rebuilding America Through Jobs Act will provide real help to those who have lost their jobs, help families weather this economic storm and jump-start the economy to create new jobs and generate greater prosperity for all Americans.

Specifically, the Democratic bill will continue and expand extended unemployment benefits for nine months, providing 26 weeks of federal benefits for dislocated workers. It expands the work opportunity tax credit to give up to a $2,400 credit to employs for hiring long-term unemployed workers. It increases the child tax credit and expands the number of families receiving the credit. It accelerates the marriage penalty relief and the widening of the 10 percent tax rate bracket to allow more taxpayers to pay at the lower rate.

The Democratic bill provides $18 billion in assistance to the states for Medicaid and provides $26 billion for homeland security, transportation infrastructure and education. It expands to $75,000 for 2 years the amount of new investments small businesses can deduct from their taxes, allows all firms an accelerated bonus depreciation of 50 percent for 12 months and reduces the corporate tax rate by 3.5 percentage points. And the Democratic bill maintains fiscal responsibility by suspending future tax cuts for the wealthiest few in this country.

Mr. Speaker, with the national debt spiraling out of control, the first step Congress should take is to stop the hemorrhaging. Today the national debt stands at $6.4 trillion, and this Republican tax bill will immediately add $350 billion to that debt. That $350 billion could be used to hire 32,369 teachers in my state or provide health care to 921,620 North Carolina children. Today's Charlotte Observer called the tax bill "as Texans might say, all hat and no cattle."

Finally, Mr. Speaker, as leaders of our national government, our job is to honor the values of the American people by being responsible stewards of our society, nurturing our children and building a stronger America. This bill fails on all counts. It is a massively irresponsible giveaway of the public treasury. It leaves our children and grandchildren a crushing national debt that condemns them to endless struggle. And it handcuffs our ability to address national priorities like providing national security, protecting the homeland, building quality schools, providing health care for our families and creating jobs for American workers.

America deserves better. I urge my colleagues to vote against this bill.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in strong opposition to H.R. 2, the so-called Jobs Growth Tax Act. This legislation embraces President Bush's failed economic policies that have damaged the economy. This legislation is in fact a job killing package put forth by the Republican job killing machine that has already cost our country over 2 million jobs and $7 trillion.

When President Bush first came to office to promote his $1.2 trillion tax cut he promised that it would create jobs and help strengthen our economy. Now 2 years later, it is clear that the President has failed to deliver on his promises. The numbers prove that his economic policies have completely failed our country.

Since President Bush came to office we have lost 2.7 million private sector jobs. Illinois has lost over 109,000 jobs since Bush took office—93,000 from the Chicago area. Nationwide, the number of people who have been out of work for 6 months or more has tripled under the President's leadership.

Our State and local governments are paying the price for the President's failures. States budget shortfalls are expected to reach as high as $80 billion in 2004. In Illinois the figure is $5 billion, it may actually be higher. State and local governments have been forced to raise sales and property taxes to keep their schools open and to pay for the most basic of services. Working families and seniors are forced to pay more in taxes to pay for Republican tax cuts.

When President Bush took office we had a $5.6 trillion 10-year surplus. We now have a $2 trillion deficit over the same period of time. According to CBO, the President's tax cut not the war on terrorism accounts for the growth in deficit.

Corporate greed and conflicts of interest have hurt our economy. Approximately $4.6 trillion in stock market wealth has evaporated since President Bush took office. Many workers and retirees have lost all their savings. Meanwhile, politically connected CEO's have escaped with billions. Corporate fraud and greed have undermined confidence in our financial markets.

Given all of these facts, it should come as no surprise that consumer confidence is at its lowest level in a decade. It should also come as no surprise that the chairman of SEC, Secretary of the Treasury, and director of the OMB have all stepped down.

So how do the President and Republican leaders in Congress respond to this crisis? By proposing more of the same failed policies that put us in this predicament in the first place. It is often said that insanity is defined as doing the same thing over and over again and hoping for a different result.

History has proven time and time again that the Republican tax plan will do nothing to help those who really need it and it will fail to give the economy the immediate boost it needs. The proposal to lower taxes on dividends will only generate nine cents of stimulus for every dollar spent. This is a sham growth package. It will cost us in dollars and in jobs.

Over 400 economists oppose cutting taxes on dividends, including many Nobel laureates. Republicans and Democrats alike have criticized the proposal to lower taxes on dividends. Former Federal Reserve Chairman Volker and former Treasury Secretaries Peter G. Peterson and Robert Rubin have called the proposal to reduce taxes in dividends, "ill-logical" and "not useful for short-term fiscal stimulus . . . nor would (the tax cuts) spur long-term economic growth."

Meanwhile this legislation fails to embrace policies that will stimulate the economy. For example, extending unemployment produces at least $1.73 of spending for every dollar spent. But this plan provides no aid for the unemployed who have exhausted their benefits. In contrast, the Democratic alternative, which the Republican majority did not allow us to debate a few weeks ago an alternative that would include $27 billion for extending unemployment. Our plan would create 1 million jobs over 10 years without increasing debt.

This conference report does little to help working families. According to the Wall Street Journal, 53 percent of taxpayers would get less than $100. This legislation provides only $20 billion for the States over the next 2 years. When this bill was passed a few weeks ago, House Democrats wanted to provide $44 billion in State aid for health care, education, infrastructure improvements and homeland security. Once again, we were denied an opportunity to vote on our plan, and the American people will pay the price.

The Republican plan does nothing to close corporate loopholes. Corporate taxes are only 1.3 percent of GDP. This is the lowest they have been since the early 1980s. Last year, less than half of actual total corporate profits were subject to corporate income tax. CSX, under Treasury Secretary Snow's leadership, paid no Federal income taxes on its $934 million in profits; instead it got a tax rebate of $164 million. And Secretary Snow will benefit from this legislation to the tune of $100,000.

This conference report is yet another reckless plan to cut taxes for the rich and do nothing for the rest. It is class warfare with the Bush class waging war against the middle class.

This ill-conceived plan will place more of a burden on working families who are struggling to make ends meet to pay for housing, prescription drugs, and other necessities. I agree with my Republican colleague, STEVE LATOURETTE, who recently said, "Nobody in my district is screaming for tax cuts, they are screaming for a prescription drug benefit." In the 9th Congressional District my constituents will tell you they want jobs and prescription drug coverage any day over tax cuts for the wealthiest Americans.

I would like to remind my colleagues on the other side of the aisle, that you cannot have it both ways. By spending money on tax cuts for the wealthiest 1 percent of earners and tax dodging corporations we will raise the debt and have less money to pay for prescription drugs, veterans' health, and keeping Social Security solvent.

I urge all my colleagues to vote against this conference report and to instead support the Democratic plan to create jobs and spur economic growth. Democrats want to help our economy by putting money in the hands of people that will spend it. I urge all my colleagues to oppose this conference report.

Ms. KILPATRICK. Mr. Speaker, I rise tonight in opposition to H.R. 2, the conference report that gives a tax cut to people earning over $300,000 per year, and robs the Federal Treasury of needed revenue to fund health care, education, and unemployment opportunities for millions of Americans.

The conference report does nothing to significantly improve the financial plight of destitute and dispirited unemployed and underemployed workers. Over 2.7 million jobs have been lost over the past 2 years, and H.R. 2 will not provide relief to them. The conference report is still terribly skewed towards the wealthy. The measure before us contains a useful provision that increases the child credit from $600 to $1,000. The increase is premised on the flawed notion that a tax credit is equivalent to disposable income. The bottom line is, unemployed and poor people need employment and disposable income, not the expansion of a tax credit.

I also want to emphasize that States around the country, and in particular, Michigan, will still have to confront the reality of escalating budget deficits and fewer dollars from the Federal Government to fund needed services.

As we debate the issues before us, I must emphasize that I do not subscribe to supply-side economic theory, and apparently, neither does Federal Reserve Chairman Alan Greenspan, who has criticized the efficacy and timing of the tax cut that is about to be enacted.

Mr. Speaker, I continue to be outraged that the majority persists in engaging in backroom negotiations devoid of input from Democratic conferees. Democrats have been marginalized at every juncture in the conference process. I remain resolute in my refusal to yield. I also want to advise my colleagues and the American public of a critical point—Republicans are making grandiose promises that will never be realized. In the near future, we will all witness the folly of H.R. 2, and experience the inevitable economic pain that will befall our Nation in the aftermath of this massive and ill-advised tax cut. For these reasons, I urge my colleagues to vote no on H.R. 2.

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 253, the previous question is ordered.

The question is on the conference report.

Pursuant to House Resolution 253, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 231, nays 200, not voting 4, as follows:

[Roll No. 225]

YEAS—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—4

Boehner
Bonilla
Combest
Emerson

☐ 0156

Mrs. CUBIN changed her vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DELAY. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 191) and ask for its immediate consideration.

The Clerk will report the concurrent resolution.

The Clerk read as follows:

H. CON. RES. 191

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, May 22, 2003, Friday, May 23, 2003, or Saturday, May 24, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, June 2, 2003, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Friday, May 23, 2003, or Saturday, May 24, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 2, 2003, or at such other time on that day as may be specified by it Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER. The concurrent resolution is not debatable.

The question is on the concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 213, nays 195, not voting 27, as follows:

[Roll No. 226]

YEAS—213

Aderholt
Akin
Bachus
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Platts
Pombo
Porter
Portman
Putnam
Quinn
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—195

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Whitfield
Woolsey
Wu
Wynn

NOT VOTING—27

Baker
Bonilla
Clay
Combest
Dicks
Dooley (CA)
Doolittle
Emerson
Fossella
Gutierrez
Jones (NC)
Lantos
Lipinski
Matsui
Murtha
Neal (MA)
Paul
Pitts
Pryce (OH)
Radanovich
Schrock
Smith (WA)
Stark
Tiahrt
Velázquez
Waxman
Young (FL)

□ 0214

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 2.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 4, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, June 4, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 0215

## CONDITIONAL ADJOURNMENT OF THE HOUSE TO TUESDAY, MAY 27, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m. on Tuesday, May 27, 2003, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 191, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

## APPOINTMENT OF THE HONORABLE TOM DAVIS OF VIRGINIA, OR THE HONORABLE MIKE PENCE, TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JUNE 2, 2003

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*May 23, 2003.*

I hereby appoint the Honorable TOM DAVIS or, if not available to perform this duty, the Honorable MIKE PENCE to act as Speaker pro tempore to sign enrolled bills and joint resolutions through June 2, 2003.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

## DECLARATION OF NATIONAL EMERGENCY TO PROTECT THE DEVELOPMENT FUND FOR IRAQ AND CERTAIN OTHER PROPERTY IN WHICH IRAQ HAS AN INTEREST—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-76)

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

*To the Congress of The United States:*

Consistent with section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), section 5 of the United Nations Participation Act (22 U.S.C. 287c) (UNPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my authority to declare a national emergency to deal with the unusual and extraordinary threat posed to the national security and foreign policy of the United States by the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein.

A major national security and foreign policy goal of the United States is to ensure that the newly established Development Fund for Iraq and other Iraqi resources, including Iraqi petroleum and petroleum products, are dedicated for the well-being of the Iraqi people, for the orderly reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, for the costs of indigenous civilian administration, and for other purposes benefiting the people of Iraq. The Development Fund for Iraq and other property in which Iraq has an interest may be subject to attachment, judgment, decree, lien, execution, garnishment, or other judicial process, thereby jeopardizing the full dedication of such assets to purposes benefiting the people of Iraq. To protect these assets, I have ordered that, unless licensed or otherwise authorized pursuant to my order, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is prohibited, and shall be deemed null and void, with respect to the following:

(a) the Development Fund for Iraq, and

(b) all Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale and marketing thereof, and interests therein, in which any foreign country or a national thereof has any interest, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons.

In addition, by my memorandum to the Secretary of State and Secretary of Commerce of May 7, 2003 (Presidential Determination 2003-23), I made inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87-195, as amended, and any other provision of law that applies to countries that have supported terrorism. Such provisions of law that apply to countries that have supported terrorism include, but are not limited to, 28 U.S.C. 1605(a)(7), 28 U.S.C. 1610, and section 201 of the Terrorism Risk Insurance Act.

I also have ordered that Executive Order 12722 of August 2, 1990, and Executive Order 12724 of August 9, 1990, which blocked property and interests in property of the Government of Iraq, its agencies, instrumentalities and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, and Executive Order 13290 of March 20, 2003, which confiscated and vested certain Government of Iraq accounts, shall not apply to the Development Fund for Iraq or to Iraqi petroleum or petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale and marketing thereof, and interests therein.

I have delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the authority to take such actions as may be necessary to carry out the purposes of the Executive Order, including the promulgation of rules and regulations. I have also authorized the Secretary of the Treasury to employ all powers granted to the President by IEEPA and UNPA to carry out the purposes of the Executive Order. I am enclosing a copy of the Executive Order I have issued.

GEORGE W. BUSH.

The White House, *May 22, 2003.*

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## PRESIDENT BUSH'S TAX CUT PROPOSAL

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. EMANUEL. Mr. Speaker, under the new tax cut agreement, some investors could cut their tax liability to zero.

I want to read a few excerpts today from the Wall Street Journal:

"After Congress gets through with President Bush's tax cut proposal, some rich investors may be able to avoid paying almost any taxes . . ."

" . . . This relatively simple strategy could become more attractive and convenient for wealthy investors because investors could obtain tax advantages . . ."

These quotes provided by one of our papers, major papers, the Wall Street Journal.

I would like to read the headline: "Some Investors Could Trim Their Tax Bills to Near Zero."

It will give rich investors tax advantages that the rest of us do not enjoy. So if they are not part of the select elite, they will see their taxes, property taxes and others, go up to make up the difference for the privileged few. If they do not pay zero this year, they actually end up paying taxes. They should know that a tax bill was never intended to help them.

So I would like to submit into the RECORD the Wall Street Journal article and its headline "Some Investors Could Trim Their Taxes to Near Zero." Others of us will not be able to have that advantage.

[From the Wall Street Journal, May 22, 2003]

### SOME INVESTORS COULD TRIM THEIR TAX BILLS TO NEAR ZERO

(By John D. McKinnon and Ann Davis)

After Congress gets through with President Bush's tax proposal, some rich investors may be able to avoid paying almost any taxes.

The latest tax-cut proposal being honed by House and Senate leaders Wednesday night would reduce tax rates for most investors to 15 percent from the current 38.6 percent maximum for dividends; the typical 20 percent for capital gains would also shrink to 15 percent. A Senate plan would go further, allowing taxes on dividends to disappear, at least temporarily.

Those are juicy breaks by themselves, but some experts warned the potent changes could combine with other existing tax-law provisions—particularly the deductibility of interest on funds borrowed for capital investments—to give some investors very low effective tax rates or even no tax. For example, well-to-do taxpayers could borrow large sums, sheltering much of their income from personal-tax rates that would run as high as 35 percent under the bill, and invest the money in stocks paying dividends that would be taxed at very low rates. (Taxpayers may have to review some other popular investment plans.)

"I guarantee it produces very, very low [tax] rates," possibly even zero, says Ronald Pearlman, a tax-law professor at Georgetown University.

The strategy is available not for investors willing to borrow and invest in growth stocks that produce capital-gains income. Deductions are somewhat limited by current tax rules. Still, without changes in the rules, this relatively simple strategy could become more attractive and convenient for wealthy individuals, because investors could obtain tax advantages from investing in dividend-paying stocks as well.

And experts warned of still-more-complicated games. Officials estimated that for 2003, about $290 billion in capital-gains income and $120 billion in dividends would be subject to the new 15 percent rate. Pamela Olson, the assistant Treasury secretary for tax policy, dismissed many of the concerns as "hyperventilating" by congressional critics opposed to the bill.

Other experts also played down the risk of gaming the new tax rules under the emerging House-Senate compromise. Much of current tax-shelter alchemy involves trying to turn ordinary income like dividends—now taxed at the highest rates—into capital gains, which enjoy a preferential tax rate. Equalizing the rate for dividends and capital gains at 15 percent would eliminate much of that gaming and could actually simplifying the tax code somewhat.

But Ms. Olson said there are specific avoidance schemes that could be of concern in the new system, without citing examples. The Treasury might need broad authority to write rules to prevent abuses, she said. Wednesday, congressional aides were working on language that would deny the tax break for some foreign personal holding companies, which often are located in tax havens. Foreign companies with U.S. shareholders generally were going to get the break, but some further exceptions were possible.

Another potential loophole, some experts said, would allow shareholders to significantly reduce their capital-gains taxes. That would happen because the proposal as now envisioned wouldn't limit companies to distribute their current earnings. For example, a company might issue new shares as dividends until all its historical earnings and profits are distributed. Under the tax code, shareholders could be able to avoid tax on future cash dividends. This is because dividends are taxable as income only to the extent a company has any accumulated earnings and profits.

Ms. Olson said she doubted many companies would try such a move because investors would shun firms whose dividend payouts gyrated enormously from year to year.

"I just don't see how that would happen in the real world," she said. During debate in Congress, the administration embraced a provision that would allow companies to accumulate earnings over several years that could be used to pay out tax-free dividends, but would impose some limit on the fund.

Meanwhile, many ordinary investors also could realize more garden-variety tax savings, for example by trading in their taxable bonds for tax-advantaged stock. That would also generate a new wave of business for investment banks, whose underwriting business has been moribund.

"All manner of preferred stocks will become more popular for the retail investor" if the plan becomes law, because of their newly tax-advantaged dividends, said Robert Willens, managing director and tax and accounting analyst for Lehman Brothers. And many companies will consider replacing their debt with equity to take advantage of the demand.

One of the products that could get a boost, he said, is convertible preferred. Another product he expects to see, which he says hasn't been issued recently, is called "discounted preferred stock." It is a product similar to a zero-coupon bond, where an investor buys preferred stock at, say, $25 and can redeem it at $50 after a seven-year maturation period. The difference between the purchase price and the redemption price is treated as dividend income. In the old tax scheme, this wasn't attractive because the "phantom" income of $25 had to be taxed on an "economic accrual basis" over the seven-year period at high rates. "But at 15%, it begins to look a lot more attractive," he said.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Bonilla (at the request of Mr. DeLay) for today and the balance of the week on account of family reasons.

Mrs. Emerson (at the request of Mr. DeLay) for today after 4:30 p.m. and the balance of the week on account of attending the graduation of her stepson at West Point, New York.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 515. An act to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency; to the Committee on Energy and Commerce.

## ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1298. An act to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 330. An act to further the protection and recognition of veterans' memorials, and for other purposes.

## ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, pursuant to House Concurrent Resolution 191, 108th Congress, I move that the House do now adjourn.

The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 2 p.m. on Tuesday, May 27, 2003, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 191, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at 2 o'clock and 17 minutes a.m., Friday, May, 23, 2003), pursuant to the previous order of the House of today, the House adjourned until 2 p.m. on Tuesday, May 27, 2003, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 191, in which case the House shall stand adjourned pursuant to that concurrent resolution.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2344. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — 2002 Farm Bill — Conservation Reserve Program — Long-Term Policy (RIN: 0560-AG74) received May 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2345. A communication from the President of the United States, transmitting a request to make available funds for the disaster relief program of the Department of Homeland Security; (H. Doc. No. 108–75); to the Committee on Appropriations and ordered to be printed.

2346. A letter from the Secretary, Department of Energy, transmitting the Department's Annual Report for the Strategic Petroleum Reserve, covering calendar year 2002, pursuant to 42 U.S.C. 6245(a); to the Committee on Energy and Commerce.

2347. A letter from the Chair, Commission on International Religious Freedom, transmitting the Commission's 2003 Annual Report, pursuant to 22 U.S.C. 6412 Public Law 105–292 section 102; to the Committee on International Relations.

2348. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to obligate funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities; to the Committee on International Relations.

2349. A letter from the Secretary, Department of Health and Human Services, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2350. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–92, "Fiscal Year 2003 Budget Support Temporary Act of 2003" received May 22, 2003, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2351. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–91, "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2003" received May 22, 2003, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2352. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–90, "Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2003" received May 22, 2003, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2353. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–81, "Central Detention Facility Monitoring Temporary Amendment Act of 2003" received May 22, 2003, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2354. A letter from the Director of Human Resources Management, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2355. A letter from the Secretary, Department of Housing and Urban Development, transmitting the Department's FY 2002 Report on Performance and Accountability; to the Committee on Government Reform.

2356. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2357. A letter from the Human Resources Officer, Selective Service System, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2358. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Establishment of Nonessential Experimental Population Status and Reintroduction of Black-Footed Ferrets in South-Central South Dakota (RIN: 1018–AI60) received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2359. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures Correction [Docket No. 020718172–3062–03; I. D. 051402C] (RIN: 0648–AQ08) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2360. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Catcher Vessels less than 60 Feet Length Overall Using Hook-and-line or Pot Gear in the Bering Sea and Aleutian Islands [Docket No. 021212307–3037–02; I.D. 041803C] received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2361. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No. 021122286–3036–02; I.D. 042203A] received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2362. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Pacific Halibut Fisheries; Catch Sharing Plan; Correction [Docket No. 030124019–3040–02; I.D. 010703B] (RIN: 0648–AQ67) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2363. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 021212307 3037–02; I.D. 042903A] received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2364. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the 2002 report on the Status of Fisheries of the United States; to the Committee on Resources.

2365. A letter from the Director, Administrative Office of the U.S. Courts, transmitting two reports on the 2002 Activities of the Administrative Office of the United States Courts and the 2002 Judicial Business of the United States Courts, pursuant to 28 U.S.C. 604(a)(4), (h)(2), and 2412(d)(5); to the Committee on the Judiciary.

2366. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report pursuant to the Assets for Independence Act of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998, Pub. L. 105–285, as amended; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1086. A bill to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes (Rept. 108–125). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee of Conference. Conference report on H.R. 2. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth (Rept. 108–126). Ordered to be printed.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 1119. A bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector (Rept. 108–127). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 238. A bill to provide for Federal energy research, development, demonstration, and commercial application activities, and for other purposes; with an amendment (Rept. 108–128 Pt. 1). Ordered to be printed.

Mr. REYNOLDS: Committee on Rules. House Resolution 253. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004 (Rept. 108–129). Referred to the House Calendar.

## TIME LIMITATION OF REFERRED BILL PURSUANT TO RULE XII

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 238. Referral to the Committee on Resources extended for a period ending not later than June 27, 2003.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. ESHOO (for herself, Mr. English, Ms. DeLauro, Mr. George Miller of California, Mrs. Napolitano, Ms. Baldwin, Mr. Udall of New Mexico, Ms. Slaughter, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, and Mr. Waxman):

H.R. 2203. A bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANZULLO:

H.R. 2204. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Georgia (for himself and Mr. Kingston):

H.R. 2205. A bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CALVERT (for himself, Mr. Lewis of California, Mrs. Bono, Mr. Issa, and Mr. Baca):

H.R. 2206. A bill to designate a Prisoner of War/Missing in Action National Memorial at Riverside National Cemetery in Riverside, California; to the Committee on Veterans' Affairs.

By Mr. MARKEY (for himself, Mr. George Miller of California, Mr. Pascrell, Mr. Frank of Massachusetts, Mr. Pallone, Mr. Neal of Massachusetts, Ms. Schakowsky, Mr. McGovern, Mrs. Maloney, and Mr. Tierney):

H.R. 2207. A bill to restore the jurisdiction of the Consumer Product Safety Commission over amusement park rides which are at a fixed site, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DELAY (for himself, Mr. Hill, Mr. Alexander, Mr. Ballenger, Mr. Ballance, Mr. Barrett of South Carolina, Mr. Barton of Texas, Mr. Beauprez, Mr. Bell, Mr. Bilirakis, Mr. Bishop of Georgia, Mrs. Blackburn, Mr. Boehner, Mr. Boucher, Mr. Brady of Texas, Ms. Ginny Brown-Waite of Florida, Mr. Burgess, Mr. Burr, Mr. Burton of Indiana, Mr. Buyer, Mr. Camp, Mr. Carson of Oklahoma, Ms. Carson of Indiana, Mr. Carter, Mr. Chocola, Mr. Coble, Mr. Collins, Mr. Combest, Mr. Conyers, Mr. Culberson, Mr. Davis of Florida, Mr. Davis of Tennessee, Mr. Deal of Georgia, Mr. DeMint, Mr. Lincoln Diaz-Balart of Florida, Mr. Dingell, Mr. Doggett, Mr. Edwards, Mr. Ehlers, Mr. Etheridge, Mr. Feeney, Mr. Ferguson, Mr. Foley, Mr. Forbes, Mr. Ford, Mr. Frost, Mr. Franks of Arizona, Mr. Gillmor, Mr. Gingrey, Mr. Goode, Mr. Gordon, Mr. Goss, Mr. Green of Texas, Mr. Hall, Ms. Harris, Mr. Hastings of Florida, Mr. Hayes, Mr. Hensarling, Mr. Hinojosa, Mr. Hoekstra, Mr. Hostettler, Mr. Isakson, Mr. Jefferson, Mr. Jenkins, Mr. John, Ms.

EDDIE BERNICE JOHNSON of Texas, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KELLER, Mr. KILDEE, Ms. KILPATRICK, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAMPSON, Mr. LATOURETTE, Mr. LEVIN, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. MCCOTTER, Mr. MCINTYRE, Ms. MAJETTE, Mr. MARSHALL, Mr. MEEK of Florida, Mr. MILLER of North Carolina, Mrs. MILLER of Michigan, Mr. MILLER of Florida, Mr. MORAN of Virginia, Mrs. MYRICK, Mr. NEY, Mr. NORWOOD, Mr. ORTIZ, Mr. OXLEY, Mr. PAUL, Mr. PENCE, Mr. PORTMAN, Mr. PRICE of North Carolina, Mr. PUTNAM, Mr. RODRIGUEZ, Mr. ROGERS of Michigan, Ms. ROS-LEHTINEN, Mr. SANDLIN, Mr. SCHROCK, Mr. SCOTT of Georgia, Mr. SESSIONS, Mr. SHAW, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SOUDER, Mr. SPRATT, Mr. STENHOLM, Mr. STEARNS, Mr. STRICKLAND, Mr. STUPAK, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. TIBERI, Mr. TURNER of Texas, Mr. TURNER of Ohio, Mr. UPTON, Mr. VISCLOSKY, Mr. WAMP, Mr. WATT, Mr. WEXLER, Mr. WILSON of South Carolina, and Mr. WOLF):

H.R. 2208. A bill to amend title 23, United States Code, relating to the minimum guarantee program; to the Committee on Transportation and Infrastructure.

By Mr. DINGELL:

H.R. 2209. A bill to require that diesel fuel sold in the United States meet specifications designed to facilitate the widespread introduction of clean diesel vehicles in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE (for himself, Mr. BOEHNER, Mr. REGULA, Mr. WILSON of South Carolina, Mr. CUNNINGHAM, Mr. MURPHY, Mr. ISAKSON, Mr. MCKEON, and Mr. BROWN of South Carolina):

H.R. 2210. A bill to reauthorize the Head Start Act to improve the school readiness of disadvantaged children, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GINGREY (for himself, Mr. BOEHNER, Mr. MCKEON, and Mr. WILSON of South Carolina):

H.R. 2211. A bill to reauthorize title II of the Higher Education Act of 1965; to the Committee on Education and the Workforce.

By Mr. CONYERS (for himself, Mr. HINCHEY, Ms. JACKSON-LEE of Texas, Mr. CUMMINGS, Mr. CASE, Ms. SLAUGHTER, Ms. LEE, Mr. FILNER, Ms. WATSON, Ms. SOLIS, Mr. MICHAUD, Mr. MCDERMOTT, Mr. PETERSON of Minnesota, Mrs. JONES of Ohio, and Mr. WATT):

H.R. 2212. A bill to require the Federal Communications Commission to comply with the Administrative Procedures Act and to adhere to the policies and purposes of Communications Act of 1934 favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. BERMAN, Mr. DELAHUNT, Mr. WATT, Ms. WATERS, Ms. JACKSON-LEE of Texas, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. LEE, Mr. MCDERMOTT, Mr. FILNER, Ms. MILLENDER-MCDONALD, Mrs. JONES of Ohio, and Mr. HONDA):

H.R. 2213. A bill to study the incidence of downward departures in criminal cases and repeal provisions of the PROTECT Act that do not specifically deal with the prevention of the exploitation of children; to the Committee on the Judiciary.

By Mr. BURR (for himself, Mr. SENSENBRENNER, Mr. TAUZIN, Mr. GOODLATTE, Mr. UPTON, Ms. HART, Mr. STEARNS, and Mr. CANNON):

H.R. 2214. A bill to prevent unsolicited commercial electronic mail; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BISHOP of New York (for himself, Mr. GRIJALVA, Mrs. MALONEY, Mr. ISRAEL, Mr. ACEVEDO-VILÁ, Mrs. MCCARTHY of New York, Mr. PALLONE, Mr. LANTOS, Ms. LEE, Mr. CONYERS, and Mr. MARKEY):

H.R. 2215. A bill to amend the Federal Water Pollution Control Act to ensure that sewage treatment plants monitor for and report discharges of raw sewage, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BACA:

H.R. 2216. A bill to provide for greater recognition of Veterans Day each year; to the Committee on Veterans' Affairs.

By Ms. BERKLEY:

H.R. 2217. A bill to amend title 38, United States Code, to increase burial benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOOZMAN (for himself, Mr. WAXMAN, Mr. NORWOOD, Mr. SNYDER, Mr. FLETCHER, Mr. WELDON of Florida, Mr. BURGESS, and Mr. BILIRAKIS):

H.R. 2218. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of noncorrective contact lens as medical devices, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BOSWELL:

H.R. 2219. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs pharmacies to dispense medications on prescriptions written by private practitioners to veterans who are currently awaiting their first appointment with the Department for medical care, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BURGESS (for himself and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2220. A bill to amend the Transportation Equity Act for the 21st Century with respect to NAFTA corridor planning and development and coordinated border infrastructure and safety; to the Committee on Transportation and Infrastructure.

By Mr. BURR (for himself, Mr. TAUZIN, Mr. SENSENBRENNER, and Mr. MATHESON):

H.R. 2221. A bill to provide for availability of contact lens prescriptions to patients; and for other purposes; to the Committee on Energy and Commerce.

By Mr. BUYER:

H.R. 2222. A bill to amend title I of the Employee Retirement Income Security Act and the Internal Revenue Code to allow for alienation of benefits to satisfy court judgments, decrees, or orders requiring restitution for embezzlement of State or local government funds; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP:

H.R. 2223. A bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received an organ transplant; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPITO (for herself, Mr. GOODE, and Mr. CAMP):

H.R. 2224. A bill to provide for the payment of claims of United States prisoners of war in the First Gulf War, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS (for herself, Mr. WAXMAN, Mr. TURNER of Ohio, Ms. WOOLSEY, Mr. RYAN of Ohio, Ms. DELAURO, Mr. SCHIFF, Ms. LOFGREN, Mr. WYNN, Mr. ISRAEL, Mr. MCNULTY, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SANDERS, Mr. HINCHEY, Ms. NORTON, Mr. ABERCROMBIE, and Mr. KUCINICH):

H.R. 2225. A bill to authorize the Director of the Centers for Disease Control and Prevention to make grants to local educational agencies to support the purchase or lease and use of vending machines that offer for sale healthy foods and beverages in schools; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASE (for himself and Mr. ABERCROMBIE):

H.R. 2226. A bill to amend title XVIII of the Social Security Act to permit reasonable cost reimbursement for emergency room services provided by Federally qualified health centers; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE:

H.R. 2227. A bill to encourage innovative school-based activities to help reduce and prevent obesity among children, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE (for himself, Mr. Matsui, Mr. Shaw, Mr. Rangel, Mrs. Johnson of Connecticut, Mr. Houghton, Mr. Herger, Mr. Ramstad, Mr. Sam Johnson of Texas, Mr. Collins, Mr. Portman, Mr. English, Mr. Hulshof, Mr. McInnis, Mr. Lewis of Kentucky, Mr. Foley, Mr. Brady of Texas, Mr. McNulty, Mr. Becerra, and Mr. Pomeroy):

H.R. 2228. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 2229. A bill to amend the Internal Revenue Code of 1986 to allow nonitemizers a deduction for a portion of their charitable contributions; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 2230. A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 2231. A bill to amend the Internal Revenue Code of 1986 to exempt the deduction for charitable contributions from the phaseout of itemized deductions; to the Committee on Ways and Means.

By Mrs. EMERSON (for herself and Mr. Berry):

H.R. 2232. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts (for himself, Mr. Paul, Mr. Rohrabacher, Ms. Schakowsky, Mr. Andrews, Ms. Baldwin, Mr. Blumenauer, Mr. Capuano, Mr. Case, Mr. Conyers, Mr. Delahunt, Ms. Eshoo, Mr. Farr, Mr. Hinchey, Mr. Honda, Ms. Lee, Mr. McDermott, Mr. George Miller of California, Mr. Nadler, Ms. Norton, Mr. Sanders, Mr. Stark, Mr. Thompson of California, Mr. Waxman, and Ms. Woolsey):

H.R. 2233. A bill to provide for the medical use of marijuana in accordance with the laws of the various States; to the Committee on Energy and Commerce.

By Mr. FRANKS of Arizona (for himself, Mr. Boehner, Mrs. Musgrave, Mr. Doolittle, Mr. King of Iowa, Mr. Cantor, Mr. Feeney, Mr. Akin, Mr. Tancredo, Mr. Vitter, Mr. Hoekstra, Mr. DeMint, Mr. Souder, Mr. Garrett of New Jersey, Mr. Barrett of South Carolina, Mr. Bartlett of Maryland, Mr. Beauprez, Mr. Paul, Mr. Pitts, Mr. Renzi, Mr. Hayworth, and Mrs. Myrick):

H.R. 2234. A bill to amend the Internal Revenue Code of 1986 to provide for a credit which is dependent on enactment of State qualified scholarship tax credits and which is allowed against the Federal income tax for charitable contributions to education investment organizations that provide assistance for elementary and secondary education; to the Committee on Ways and Means.

By Mr. GRAVES:

H.R. 2235. A bill to suspend certain nonessential visas, in order to provide temporary workload relief critical to the successful reorganization of the immigration and naturalization functions of the Department of Homeland Security, to ensure that the screening and monitoring of arriving immigrants and nonimmigrants, and the deterrence of entry and settlement by illegal or unauthorized aliens, is sufficient to maintain the integrity of the sovereign borders of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. GREEN of Texas (for himself, Mr. Fletcher, Mr. Waxman, Mr. Serrano, Mr. Rodriguez, Mr. Bell, Mr. Weldon of Pennsylvania, Ms. Jackson-Lee of Texas, Mr. Frost, Mr. Towns, Mr. Hinojosa, Mr. Gutierrez, Ms. Kaptur, Mr. Kildee, Mr. Ackerman, Mr. McNulty, Mr. George Miller of California, Mr. Hoeffel, Ms. Slaughter, Mr. Hall, Mr. Paul, Mr. Nethercutt, Ms. Eshoo, Mr. Becerra, Mr. Reyes, Mr. Burgess, Mr. Wynn, Mr. Menendez, Ms. Lee, Mr. Boswell, Mr. Sanders, Mr. Boozman, Ms. DeGette, and Mr. Kennedy of Rhode Island):

H.R. 2236. A bill to amend title XVIII of the Social Security Act to provide coverage under the Medicare Program for diabetes laboratory diagnostic tests and other services to screen for diabetes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. Neal of Massachusetts, Mr. Boehlert, Mr. McNulty, and Mrs. Jo Ann Davis of Virginia):

H.R. 2237. A bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative program, and for other purposes; to the Committee on Resources.

By Mr. HINOJOSA (for himself, Mr. Acevedo-Vilá, Mr. Baca, Mr. Becerra, Mr. Cardoza, Mr. Gonzalez, Mr. Grijalva, Mr. Gutierrez, Mr. Menendez, Mrs. Napolitano, Mr. Pastor, Mr. Ortiz, Mr. Reyes, Mr. Rodriguez, Ms. Roybal-Allard, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Serrano, Ms. Solis, Ms. Velázquez, Mr. Allen, Mr. Andrews, Mr. Bell, Mr. Bishop of New York, Mr. Bonilla, Mr. Capuano, Mr. Conyers, Mr. Davis of Illinois, Mr. DeFazio, Ms. DeGette, Mr. Lincoln Diaz-Balart of Florida, Mr. Mario Diaz-Balart of Florida, Mr. Green of Texas, Mr. Filner, Mr. Frost, Mr. Hoeffel, Mr. Holt, Mr. Israel, Ms. Jackson-Lee of Texas, Mr. Kildee, Mr. Langevin, Ms. Lofgren, Mr. McGovern, Mr. George Miller of California, Mr. Nunes, Mr. Payne, Ms. Ros-Lehtinen, Ms. Schakowsky, Mr. Tierney, Mr. Udall of New Mexico, Ms. Waters, Mrs. Wilson of New Mexico, Ms. Woolsey, Mr. Van Hollen, Mr. Schiff, Mr. Rothman, Mr. Udall of Colorado, Mr. Wu, Mr. Sherman, Mr. Snyder, Mrs. Capps, Mr. Berman, Mr. Crowley, Mr. Moran of Virginia, Mr. Nadler, Mr. Larson of Connecticut, Mr. Farr, Mr. Delahunt, Mr. Frank of Massachusetts, Ms. McCarthy of Missouri, Mr. Waxman, Mrs. Maloney, Mr. Owens, Ms. Millender-McDonald, Mr. Kennedy of Rhode Island, Mr. Meek of Florida, Mr. Boswell, Mr. Thompson of California, Mr. Cramer, and Mr. Costello):

H.R. 2238. A bill to expand and enhance post-baccalaureate opportunities at Hispanic-Serving Institutions, and for other purposes; to the Committee on Education and the Workforce.

By Mr. HOLT:

H.R. 2239. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on House Administration.

By Ms. HOOLEY of Oregon (for herself and Mr. Walden of Oregon):

H.R. 2240. A bill to amend the Internal Revenue Code of 1986 to assist individuals who have lost their 401(k) savings to make additional retirement savings through individual retirement account contributions, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island (for himself, Mr. Hoyer, Mr. Serrano, Ms. Jackson-Lee of Texas, Mr. Kildee, Mr. Wynn, Mrs. Napolitano, Mr. Frost, Mr. McNulty, Mr. Acevedo-Vilá, Mr. Lipinski, Ms. Lee, Mr. Menendez, and Mr. Waxman):

H.R. 2241. A bill to amend the Public Health Service Act with respect to mental health services for elderly individuals; to the Committee on Energy and Commerce.

By Mr. KENNEDY of Rhode Island (for himself, Mr. Camp, Mr. Kildee, Mr. Pallone, Mr. Baca, Ms. Norton, Mr. Carson of Oklahoma, Mr. Foley, Mr. Hayworth, Mr. Frost, Mr. Udall of New Mexico, Mr. Rangel, Mr. Filner, Ms. Lee, Mr. George Miller of California, Ms. Bordallo, Mr. Faleomavaega, and Mr. Frank of Massachusetts):

H.R. 2242. A bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes; to the Committee on Resources, and in addition to the Committees on the Judiciary, the Budget, Intelligence (Permanent Select), and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself and Mrs. Maloney):

H.R. 2243. A bill to provide for the participation of the United States in the thirteenth replenishment of the resources of the International Development Association, the seventh replenishment of the resources of the Asian Development Fund, and the ninth replenishment of the resources of the African Development Fund, and for other purposes; to the Committee on Financial Services.

By Mr. LoBIONDO (for himself, Mr. Ferguson, Mr. Smith of New Jersey, and Mr. Saxton):

H.R. 2244. A bill to prohibit the Secretary of the Interior from issuing oil and gas leases on portions of the Outer Continental Shelf located off the coast of New Jersey; to the Committee on Resources.

By Mr. LoBIONDO (for himself and Mr. Lampson):

H.R. 2245. A bill to amend the Water Resources Development Act of 1986 to limit the non-Federal share of the cost of shore protection projects; to the Committee on Transportation and Infrastructure.

By Mr. LoBIONDO (for himself, Mr. Frost, Mr. Saxton, Mr. Bradley of New Hampshire, Mr. McNulty, Mr. Pallone, Mr. Payne, Mr. Smith of New Jersey, Mr. Menendez, Mr. Garrett of New Jersey, Mr. Andrews, and Mr. Neal of Massachusetts):

H.R. 2246. A bill to direct the Secretary of Health and Human Services to modify treatment categories for qualification as a rehabilitation hospital or unit for purposes of reimbursement under the Medicare prospective payment system for inpatient rehabilitation facilities; to the Committee on Ways and Means.

By Ms. LOFGREN (for herself, Mr. Rothman, Mr. Conyers, Ms. Slaughter, Mr. Towns, Mr. Filner, Mr. George Miller of California, Mr. Frost, Mr. Frank of Massachusetts, Mr. Olver, Ms. Carson of Indiana, and Ms. Loretta Sánchez of California):

H.R. 2247. A bill to provide additional punishment for certain crimes against women when the crimes cause an interruption in the normal course of their pregnancies, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. McCOLLUM (for herself, Mr. Abercrombie, Ms. Eddie Bernice Johnson of Texas, Mrs. Christensen, Mrs. Davis of California, Mr. Hinojosa, Mr. Hoekstra, Ms. McCarthy of Missouri, Mr. McGovern, Mr. Menendez, Mr. Nadler, Mr. Sabo, and Ms. Slaughter):

H.R. 2248. A bill to expand coverage under the Arts and Artifacts Indemnity Act; to the Committee on Education and the Workforce.

By Mr. McHUGH (for himself, Mr. Davis of Illinois, Mr. Tom Davis of Virginia, Mr. Burton of Indiana, Mr. Van Hollen, Mr. Manzullo, Mr. Peterson of Minnesota, Mr. Terry, Mr. English, Mr. Tancredo, Mr. Larsen of Washington, Mr. LoBiondo, Mrs. Maloney, Mrs. Miller of Michigan, Mr. Janklow, Mr. Murphy, Mr. Schrock, Mr. Owens, and Mr. Clay):

H.R. 2249. A bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters' organizations in the process for the development and planning of certain personnel policies, schedules, and programs of the United States Postal Service, and for other purposes; to the Committee on Government Reform.

By Mr. MEEK of Florida (for himself, Mr. Turner of Texas, Mr. Thompson of Mississippi, Ms. Ros-Lehtinen, Mr. Reyes, Mrs. Lowey, Ms. Norton, and Ms. Lee):

H.R. 2250. A bill to amend the Homeland Security Act of 2002 to direct the Secretary of Homeland Security to develop and implement the READICall emergency alert system; to the Committee on Energy and Commerce, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas:

H.R. 2251. A bill to amend the Internal Revenue Code of 1986 to treat as a qualified use for purposes of section 2032A land rented on a net cash basis to any member of the decedent's family; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 2252. A bill to amend the Internal Revenue Code of 1986 to increase the taxes on certain alcoholic beverages and to provide additional funds for alcohol abuse prevention programs; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMBO:

H.R. 2253. A bill to amend section 211 of the Clean Air Act to prohibit the use of certain fuel additives; to the Committee on Energy and Commerce.

By Mr. PORTER (for himself, Mr. Gibbons, and Ms. Berkley):

H.R. 2254. A bill to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building"; to the Committee on Government Reform.

By Mr. PRICE of North Carolina:

H.R. 2255. A bill to extend the suspension of certain payments to be made by noncommercial webcasters under sections 112 and 114 of title 17, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. RAMSTAD:

H.R. 2256. A bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REHBERG:

H.R. 2257. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the appurtenant Irrigation Districts; to the Committee on Resources.

By Mr. RODRIGUEZ (for himself, Ms. Solis, Mr. Gonzalez, Mr. Baca, Mr. Pastor, Mr. Gutierrez, Mrs. Napolitano, Ms. Roybal-Allard, Mr. Ortiz, Mr. Becerra, Mr. Cardoza, Mr. Reyes, Mr. Acevedo-Vilá, Mr. Serrano, Ms. Velázquez, Mr. Hinojosa, Ms. Linda T. Sánchez of California, Mr. Menendez, Ms. DeGette, Mr. Pallone, Mrs. Christensen, and Mr. Israel):

H.R. 2258. A bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER:

H.R. 2259. A bill to prohibit funds appropriated for the Export-Import Bank of the United States, any international financial institution, or the North American Development Bank from being used for loans to a country, or for a project or activity in a country, and to prohibit the Overseas Private Investment Corporation from supporting projects in a country, until the government of the country has honored all United States requests to extradite criminals who have committed a crime punishable by life imprisonment or death; to the Committee on Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. Boucher, Ms. Corrine Brown of Florida, Mr. Conyers, Mr. Lincoln Diaz-Balart of Florida, Mrs. Jones of Ohio, Mr. LaTourette, Mr. Lynch, Mr. Matheson, Mr. Meek of Florida, Mrs. Napolitano, Mr. Pomeroy, Mr. Sessions, Mr. Weller, Mr. Wexler, and Ms. Woolsey):

H.R. 2260. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include assistant United States attorneys within the definition of a law enforcement officer, and for other purposes; to the Committee on Government Reform.

By Ms. LINDA T. SÁNCHEZ of California:

H.R. 2261. A bill to amend the Small Business Act to increase the maximum amount for which a loan can be made under the Microloan Program; to the Committee on Small Business.

By Mr. SANDERS (for himself, Mr. Ney, Mr. Holden, Mrs. Emerson, Mr. Filner, Mr. George Miller of California, Mr. Brown of Ohio, Mr. Boswell, Mr. Rodriguez, Mr. McNulty, Mr. Hoeffel, Mr. Hinchey, Ms. Roybal-Allard, Ms. Corrine Brown of Florida, Mr. Frank of Massachusetts, Mr. Costello, Mrs. McCarthy of New York, Mr. Green of Texas, Mr. Inslee, Ms. Kaptur, Ms. Norton, Mr. Farr, Mr. Lynch, Mr. LaTourette, Ms. Watson, Mr. Stark, Mr. Israel, Mr. English, Mr. Kildee, Mr. Kanjorski, Mr. Ross, Mr. Frost, Mr. Pallone, Mr. Olver, Mr. McHugh, Ms. Solis, Mr. Wexler, Mr. Lucas of Kentucky, Mr. Kucinich, Mr. DeFazio, Mr. Deutsch, Mr. Rothman, Mr. Waxman, Mr. Oberstar, Mr. McIntyre, Mr. Markey, Ms. Slaughter, Mr. Holt, Ms. Lee, Mrs. Lowey, Mr. Simmons, Ms. Jackson-Lee of Texas, Mr. Doyle, Ms. Schakowsky, Mr. Pascrell, Mr. Murtha, Mr. Gordon, Mrs. Napolitano, Mr. Towns, Mrs. Jo Ann Davis of Virginia, Mr. Lantos, Ms. McCollum, Ms. Loretta Sanchez of California, Mr. Duncan, Mr. Payne, Mr. Abercrombie, Mr. Hall, Mr. Davis of Illinois, Mr. Crowley, Mr. Ryan of Ohio, Ms. Kilpatrick, Ms. Woolsey, Mr. Jackson of Illinois, Mr. Marshall, Mr. Thompson of Mississippi, Mr. Weiner, Mr. Gonzalez, Mr. Cummings, Ms. Linda T. Sánchez of California, and Mr. McGovern):

H.R. 2262. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security and Medicare benefits under titles II and XVIII of the Social Security Act; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS:

H.R. 2263. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from minimum wage and maximum hours requirements for certain seasonal fireworks employees; to the Committee on Education and the Workforce.

By Mr. SHAW (for himself, Mr. Royce, and Mr. Houghton):

H.R. 2264. A bill to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes; to the Committee on International Relations.

By Mr. SHAW (for himself, Mr. Tanner, Mr. Sandlin, Mr. Foley, Mr. LoBiondo, Mr. English, Mrs. Jones of Ohio, Mrs. Musgrave, Mr. Lewis of Georgia, Mr. Lewis of Kentucky, Mr. Kleczka, Mr. Stark, Mr. Levin, Mr. Matsui, Mr. Grijalva, Mr. Collins, Mr. Deutsch, and Mr. Ramstad):

H.R. 2265. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers; to the Committee on Ways and Means.

By Mr. SIMPSON (for himself and Mr. Otter):

H.R. 2266. A bill to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River; to the Committee on Resources.

By Mr. SMITH of Washington (for himself and Mr. Dooley of California):

H.R. 2267. A bill to extend certain trade benefits to countries of the greater Middle East; to the Committee on Ways and Means.

By Mr. STRICKLAND (for himself, Mr. Ney, Mrs. Napolitano, Mr. Towns, Mrs. Christensen, Mr. McNulty, and Mr. Farr):

H.R. 2268. A bill to amend titles XIX and XXI of the Social Security Act to expand or add coverage of pregnant women under the Medicaid and State children's health insurance program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SULLIVAN:

H.R. 2269. A bill to preserve open competition and Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded construction projects; to the Committee on Government Reform.

By Mr. THORNBERRY:

H.R. 2270. A bill to amend the Agricultural Marketing Act of 1946 to extend the country of origin labeling requirements of such Act to additional agricultural commodities, to provide for the implementation of such requirements to certain covered commodities, and for other purposes; to the Committee on Agriculture.

By Mr. TIAHRT (for himself and Mr. Boswell):

H.R. 2271. A bill to enable the United States to maintain its leadership in aeronautics and aviation; to the Committee on Science, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS (for himself, Mr. Scott of Virginia, Mr. Bishop of Georgia, Ms. Watson, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. Owens, Mr. Davis of Illinois, and Ms. Millender-McDonald):

H.R. 2272. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico (for himself, Mrs. McCarthy of New York, Mr. Blumenauer, Mr. Ryan of Ohio, and Mr. George Miller of California):

H.R. 2273. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to authorize the Secretary of Agriculture to order the recall of meat and poultry that is adulterated, misbranded, or otherwise unsafe; to the Committee on Agriculture.

By Mr. UDALL of New Mexico (for himself, Mr. Serrano, Mr. Grijalva, Mr. Reyes, Mr. Menendez, Ms. Solis, Mr. Rodriguez, and Mr. Pastor):

H.R. 2274. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. VAN HOLLEN (for himself and Mrs. McCarthy of New York):

H.R. 2275. A bill to reinstate the requirement that firearms dealers comply with the Freedom of Information Act by providing information about firearms purchasers; to the Committee on Government Reform.

By Mr. VAN HOLLEN (for himself, Mr. Tom Davis of Virginia, Mr. Waxman, Mrs. Jo Ann Davis of Virginia, Mr. Davis of Illinois, Ms. Norton, Mr. Wynn, Mr. Cardin, Ms. Jackson-Lee of Texas, Mr. McDermott, Mr. Frost, Mr. Kildee, and Mr. Bishop of New York):

H.R. 2276. A bill to provide for the establishment of the National Institutes of Health Police, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself and Ms. Schakowsky):

H.R. 2277. A bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska:

H.R. 2278. A bill to establish the Kenai Mountains-Turnagain Arm National Heritage Corridor in the State of Alaska, and for other purposes; to the Committee on Resources.

By Ms. ROYBAL-ALLARD (for herself, Mr. Rohrabacher, Mr. Baca, Mr. Becerra, Mr. Berman, Mrs. Bono, Mr. Calvert, Mrs. Capps, Mr. Cardoza, Mr. Cox, Mr. Cunningham, Mrs. Davis of California, Mr. Dooley of California, Mr. Doolittle, Mr. Dreier, Ms. Eshoo, Mr. Farr, Mr. Filner, Mr. Gallegly, Ms. Harman, Mr. Herger, Mr. Honda, Mr. Hunter, Mr. Issa, Mr. Lantos, Ms. Lee, Mr. Lewis of California, Ms. Lofgren, Mr. Matsui, Mr. McKeon, Ms. Millender-McDonald, Mr. Gary G. Miller of California, Mr. George Miller of California, Mrs. Napolitano, Mr. Nunes, Mr. Ose, Ms. Pelosi, Mr. Pombo, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Radanovich, Mr. Schiff, Mr. Sherman, Ms. Solis, Mr. Stark, Mrs. Tauscher, Mr. Thomas, Mr. Thompson of California, Mr. Royce, Ms. Waters, Ms. Watson, Mr. Waxman, and Ms. Woolsey):

H.J. Res. 57. A joint resolution expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center; to the Committee on Science.

By Mr. TANCREDO:

H.J. Res. 58. A joint resolution disapproving the rules submitted by the Secretary of the Treasury relating to section 326(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; to the Committee on Financial Services.

By Mr. DREIER (for himself and Mr. Frost):

H. Con. Res. 190. Concurrent resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people; to the Committee on Rules.

By Mr. DeLAY:

H. Con. Res. 191. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. BOEHLERT (for himself, Mr. Lampson, Mr. Towns, Mrs. McCarthy of New York, Mr. Hinchey, Mr. Meeks of New York, Mr. Serrano, Mr. King of New York, Mr. Houghton, Mr. Rangel, Mr. Fossella, Mr. McNulty, Mr. Bishop of New York, Mrs. Maloney, Mr. McHugh, Mr. Owens, Mr. Quinn, Mr. Israel, Mr. Walsh, Mr. Sweeney, Mr. Engel, Mrs. Lowey, Mr. Nadler, Ms. Slaughter, Mr. Reynolds, Mrs. Kelly, Mr. Crowley, Ms. Velázquez, Mr. Weiner, Ms. Lofgren, Ms. Eddie Bernice Johnson of Texas, Mr. Weldon of Pennsylvania, Mr. Gordon, Ms. Jackson-Lee of Texas, Ms. Woolsey, Ms. Norton, Mr. Pallone, Mr. Foley, Ms. DeLauro, Mr. Green of Texas, Mr. Bradley of New Hampshire, Mr. Frost, Mr. Langevin, Mr. Wamp, Mr. Payne, Ms. Dunn, Mr. Sandlin, Mr. Ross, Mr. Acevedo-Vilá, Mr. LaTourette, Mrs. Johnson of Connecticut, Mr. Moran of Virginia, Mr. Terry, and Mr. Gutierrez):

H. Con. Res. 192. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued as a testimonial to the Nation's tireless commitment to reuniting America's missing children with their families, and to honor the memories of those children who were victims of abduction and murder; to the Committee on Government Reform.

By Mr. BROWN of South Carolina (for himself, Mr. DeMint, Mr. Wilson of South Carolina, and Mr. Barrett of South Carolina):

H. Con. Res. 193. Concurrent resolution encouraging employers who employ members of the National Guard and Reserve components of the Armed Forces to provide a pay differential benefit and an extension of employee benefits to such members while they serve on active duty, and commending employers who already provide such benefits; to the Committee on Education and the Workforce.

By Ms. CORRINE BROWN of Florida (for herself, Mr. Abercrombie, Ms. Baldwin, Mr. Bishop of New York, Mr. Boehlert, Mr. Brady of Pennsylvania, Mrs. Christensen, Mr. Conyers, Mr. Cummings, Mr. Davis of Illinois, Mr. Emanuel, Mr. Engel, Mr. Etheridge, Mr. Foley, Mr. Frost, Mr. Grijalva, Mr. Gutierrez, Mr. Hayworth, Mr. Holden, Mr. Hoyer, Mr. Hyde, Mr. Jackson of Illinois, Ms. Kilpatrick, Mr. LaHood, Mr. Lantos, Ms. Lee, Mrs. Maloney, Mr. McNulty, Ms. Millender-McDonald, Mr. Moran of Virginia, Mr. Ney, Mr. Owens, Mr. Pastor, Mr. Payne, Mr. Rangel, Ms. Ros-Lehtinen, Mr. Sandlin, Mr. Stark, Mr. Towns, and Mr. Waxman):

H. Con. Res. 194. Concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging funding for epilepsy research and service programs; to the Committee on Energy and Commerce.

By Mr. CLAY (for himself, Mr. Acevedo-Vilá, Mr. Payne, Mrs. Christensen, Mr. Pallone, Mr. Oberstar, Mr. Costello, Mrs. Emerson, Ms. Linda T. Sánchez of California, Ms. Kaptur, Mr. Berry, Mr. Frost, Mr. Sandlin, Mr. Ross, Mr. Graves, Ms. Jackson-Lee of Texas, and Mr. Strickland):

H. Con. Res. 195. Concurrent resolution expressing the sense of Congress that a minute of silence should be observed annually at 11:00 a.m. on Veterans Day, November 11, in honor of the veterans of all United States wars and to memorialize those members of the Armed Forces who gave their lives in the defense of the United States; to the Committee on Veterans' Affairs.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. Hobson):

H. Con. Res. 196. Concurrent resolution expressing the sense of Congress that the United States should provide assistance for women and women's organizations in Iraq in order to strengthen and stabilize the emerging Iraqi democracy; to the Committee on International Relations.

By Mr. KOLBE (for himself, Mr. Neal of Massachusetts, Mr. Davis of Florida, Mr. Dooley of California, Mr. Frost, Mr. Hoyer, Mr. Gary G. Miller of California, Mr. Moore, Mr. Green of Texas, Mr. Dreier, Mr. Bass, Mr. Bilirakis, Mrs. Bono, Mr. Brady of Texas, Mr. Cunningham, Mrs. Kelly, Mr. Knollenberg, Mr. Manzullo, Mr. Price of North Carolina, Mr. Ramstad, Mr. Terry, and Mr. Weller):

H. Con. Res. 197. Concurrent resolution expressing the sense of Congress regarding housing affordability and urging fair and expeditious review by international trade panels to ensure a competitive North American market for softwood lumber; to the Committee on Ways and Means.

By Mrs. LOWEY:

H. Con. Res. 198. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of Helen Hayes; to the Committee on Government Reform.

By Mr. ROGERS of Michigan (for himself, Mr. Quinn, Mr. Upton, Mrs. Miller of Michigan, Mr. McCotter, Mr. Ehlers, Mr. Camp, and Mr. Reynolds):

H. Con. Res. 199. Concurrent resolution recognizing and affirming the efforts of the Great Lakes Governors and Premiers in developing a common standard for decisions relating to withdrawal of water from the Great Lakes and urging that management authority over the Great Lakes should remain vested with the Governors and Premiers; to the Committee on International Relations.

By Ms. LORETTA SANCHEZ of California (for herself, Mr. Becerra, Mr. Reyes, Mr. Rodriguez, Mr. Frost, Mr. Case, Mr. Capuano, Ms. Linda T. Sánchez of California, Ms. Jackson-Lee of Texas, Mrs. Napolitano, Mr. Gonzalez, Mr. Lincoln Diaz-Balart of Florida, Mr. Hinojosa, Mr. Brown of Ohio, Mr. Larson of Connecticut, Mr. Meeks of New York, Mr. Menendez, Mr. Ortiz, Mr. Grijalva, Mr. Pastor, Ms. Solis, Mr. Kind, Mr. Udall of New Mexico, Mr. Udall of Colorado, Ms. Millender-McDonald, Mr. Serrano, Mr. Farr, Mr. George Miller of California, Mr. Hinchey, Ms. Majette, Ms. Kaptur, Mr. Delahunt, Mr. Sandlin, Mr. Ford, and Mr. Scott of Virginia):

H. Con. Res. 200. Concurrent resolution recognizing Gonzalo and Felicitas Mendez for ending segregation in schools in Orange County, California, and for setting the precedent for the historic Brown v. Board of Education case, which ended segregation in schools across the United States; to the Committee on the Judiciary.

By Mr. WELDON of Pennsylvania (for himself and Mr. Wilson of South Carolina):

H. Con. Res. 201. Concurrent resolution congratulating the Russian Federation and the citizens of St. Petersburg on the 300th anniversary of the founding of the city; to the Committee on International Relations.

By Mr. LANTOS (for himself and Mr. Blunt):

H. Res. 250. A resolution condemning the terrorist bombings in Saudi Arabia, Morocco, and Israel, urging strengthened efforts in the fight against terrorism, and calling upon the Palestinian Authority to take effective action against terrorism; to the Committee on International Relations.

By Mr. MARSHALL:

H. Res. 251. A resolution providing for consideration of the bill (H.R. 303) to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Rules.

By Mr. BLUNT (for himself, Mr. Hastert, Mr. DeLay, Ms. Pryce of Ohio, Mr. Goodlatte, Mr. Stenholm, and Mr. Cardoza):

H. Res. 252. A resolution expressing the sense of the House of Representatives supporting the United States in its efforts within the World Trade Organization (WTO) to end the European Union's protectionist and discriminatory trade practices of the past five years regarding agriculture biotechnology; to the Committee on Ways and Means.

By Mr. PALLONE (for himself, Mr. Lampson, Mr. Foley, Mr. Acevedo-Vilá, Ms. Corrine Brown of Florida, Mr. Frost, Ms. Millender-McDonald, Ms. Kaptur, Mr. Payne, Mr. Rothman, Mr. Schiff, Mr. Wilson of South Carolina, and Mr. Wexler):

H. Res. 254. A resolution recognizing the "Code Adam" child safety program, commending retail businesses and public establishments that have implemented programs to protect children from an abduction or lost scenario, and urging retail businesses and public establishments that have not implemented such programs to consider doing so; to the Committee on Energy and Commerce.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ANDREWS:

H.R. 2279. A bill for the relief of Mohammed Manir Hossain, Ferdous Ara Manir, and Maish Samiha Manir; to the Committee on the Judiciary.

By Ms. ESHOO:

H.R. 2280. A bill for the relief of Yevgeniya Dobrovolska and Mykola Dobrovolskyy; to the Committee on the Judiciary.

By Mr. McNULTY:

H.R. 2281. A bill for the relief of Asad Mohamed Alkurabi; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mrs. Johnson of Connecticut.

H.R. 25: Mr. Wilson of South Carolina.

H.R. 44: Mr. Latham and Mr. Wilson of South Carolina.

H.R. 57: Mr. Ramstad, Mr. Gilchrest, Mr. Lampson, Mrs. Blackburn, Mr. Nunes, Mr. Hyde, Mr. Ose, Mr. Goodlatte, Mrs. Biggert, Mr. Chabot, and Mr. DeLay.

H.R. 91: Mr. Barton of Texas, Mr. Bell, Mr. Brady of Texas, Mr. Burgess, Mr. Carter, Mr. Culberson, Mr. Doggett, Mr. Edwards, Mr. Frost, Mr. Gonzalez, Ms. Granger, Mr. Green of Texas, Mr. Hall, Mr. Hinojosa, Ms. Eddie Bernice Johnson of Texas, Mr. Sam Johnson of Texas, Mr. Lampson, Mr. Paul, Mr. Reyes, Mr. Rodriguez, Mr. Sessions, Mr. Sandlin, Mr. Smith of Texas, Mr. Stenholm, Mr. Thornberry, Mr. Turner of Texas, Mr. Ortiz, and Mr. Hensarling.

H.R. 106: Mr. Bishop of Utah.

H.R. 107: Mr. Price of North Carolina.

H.R. 120: Mr. Garrett of New Jersey and Mr. Franks of Arizona.

H.R. 125: Ms. Watson, Ms. Norton, Mr. Inslee, Mr. Lewis of Georgia, Mr. Berman, and Mr. Stark.

H.R. 130: Mr. Andrews, Ms. Linda T. Sánchez of California, and Mr. Thompson of Mississippi.

H.R. 148: Mr. Meeks of New York.

H.R. 149: Mr. Peterson of Minnesota.

H.R. 208: Ms. Slaughter and Mr. Emanuel.

H.R. 218: Mr. Garrett of New Jersey and Mr. Mario Diaz-Balart of Florida.

H.R. 223: Mr. Franks of Arizona.

H.R. 235: Mr. Rogers of Michigan, Mr. LaHood, Mr. Flake, Mr. Weldon of Pennsylvania, and Mr. Ney.

H.R: 277: Mr. Calvert, Ms. Ginny Brown-Waite of Florida, and Mr. Barrett of South Carolina.

H.R. 278: Mr. Chabot.

H.R. 282: Mr. Lucas of Kentucky and Mr. Franks of Arizona.

H.R. 284: Mr. Ehlers, Mrs. Lowey, Mr. Frank of Massachusetts, Mr. Crowley, Mr. Quinn, Mr. Andrews, Mr. Taylor of North Carolina, Mr. Matheson, Mr. Barrett of South Carolina, and Mr. Green of Wisconsin.

H.R. 290: Mr. Cardin.

H.R. 296: Mr. Pallone.

H.R. 300: Mr. Chocola.

H.R. 303: Mr. Kind and Mr. Sweeney.

H.R. 328: Mr. Sherman, Mr. Dingell, Mr. Hayes, Mr. Collins, Ms. McCollum, and Mr. Hinojosa.

H.R. 336: Mr. McCotter and Mr. Abercrombie.

H.R. 347: Mr. Green of Texas.

H.R. 348: Mr. Green of Texas and Mr. Pallone.

H.R. 375: Ms. Kilpatrick.

H.R. 401: Mr. Ryun of Kansas.

H.R. 414: Mr. Ryan of Ohio, Mr. DeFazio, Ms. Kilpatrick, Mr. Pascrell, Mr. Brown of Ohio, and Ms. Woolsey.

H.R. 424: Mr. Souder and Mr. Wexler.

H.R. 433: Mr. Honda.

H.R. 434: Mr. Culberson, Ms. Ginny Brown-Waite of Florida, Mr. Hensarling, and Ms. Pryce of Ohio.

H.R. 438: Ms. Ginny Brown-Waite of Florida.

H.R. 442: Mr. Boucher.

H.R. 466: Ms. Loretta Sanchez of California, Ms. Linda T. Sánchez of California, Mr. Bass, Mr. Dooley of California, Mr. Van Hollen, Mr. Meek of Florida, and Mr. Davis of Florida.

H.R. 490: Mr. Moran of Virginia.

H.R. 502: Mr. Otter.

H.R. 513: Mrs. Northup.

H.R. 527: Mr. Berman.

H.R. 528: Mr. Garrett of New Jersey.

H.R. 548: Ms. Roybal-Allard, Mr. Cantor, Mr. Bishop of Utah, Mr. Kirk, Mr. Cooper, and Mr. Kind.

H.R. 574: Mr. Wilson of South Carolina.

H.R. 583: Mr. Whitfield.

H.R. 586: Mr. Gingrey, Mr. Hall, Mr. Gordon, and Mr. Michaud.

H.R. 589: Mr. Visclosky.

H.R. 591: Mr. Frost.

H.R. 594: Ms. DeGette, Mr. Crowley, and Mr. Quinn.

H.R. 615: Mr. Barrett of South Carolina.

H.R. 645: Mr. Leach, Mr. Peterson of Minnesota. Mr. Baker, Mr. Tanner, and Mr. Simpson.

H.R. 660: Mr. DeLay, Mr. Brady of Texas, Mr. Barton of Texas, Mr. Thornberry, Mr. Culberson, Mr. Paul, and Mr. Renzi.

H.R. 661: Ms. Baldwin.

H.R. 664: Mrs. Davis of California and Mr. McDermott.

H.R. 669: Mr. McIntyre, Mr. Cramer, Mr. Hill, Mr. Dicks, and Mr. Gallegly.

H.R. 687: Mr. Tancredo.

H.R. 713: Mr. Rehberg.

H.R. 714: Mr. Vitter.

H.R. 720: Mr. Cox.

H.R. 721: Mr. Paul.

H.R. 736: Mr. Pascrell.

H.R. 742: Mr. Ose, Mr. Isakson, Mr. Grijalva, Mr. Walden of Oregon, Mr. Cannon, Mr. Vitter, Mr. Gingrey, and Mr. Kind.

H.R. 806: Mr. Simpson, Mr. Davis of Illinois, and Mrs. Davis of California.

H.R. 819: Mr. Hinojosa.

H.R. 834: Ms. Linda T. Sánchez of California and Ms. Solis.

H.R. 839: Mr. Gibbons, Mr. Carson of Oklahoma, Mrs. Biggert, Mr. Johnson of Illinois, Mr. Cunningham, and Mr. Whitfield.

H.R. 847: Mr. Peterson of Minnesota and Mr. Janklow.

H.R. 871: Mr. Boozman.

H.R. 876: Mr. Coble.

H.R. 882: Mr. Hall and Mr. Wilson of South Carolina.

H.R. 898: Mr. Payne, Mr. Olver, Mr. Schiff, Mr. Ryan of Ohio, Mr. Murtha, Mr. Pascrell, Mr. Jefferson, Mr. Franks of Arizona, Mr. Sabo, Mr. Ackerman, Mr. Sherman, Mr. Boozman, Mr. Gephardt, and Ms. Waters.

H.R. 919: Mr. Visclosky, Mr. Boehlert, Mr. Murtha, Mr. Snyder, Mr. Brady of Texas, Mr. Burns, Mr. Brady of Pennsylvania, and Mr. Dingell.

H.R. 926: Mr. Barrett of South Carolina.

H.R. 932: Mr. Rehberg.

H.R. 937: Mr. Bishop of Georgia.

H.R. 956: Ms. Linda T. Sánchez of California.

H.R. 970: Mr. Michaud and Mr. Allen.

H.R. 977: Mr. Dooley of California.

H.R. 983: Mr. Lewis of California.

H.R. 990: Mr. Wicker, Mr. Bonilla, Mr. Franks of Arizona, Mr. Bilirakis, Mr. Ross, Mr. Jones of North Carolina, Mr. Young of Alaska, and Mr. Alexander.

H.R. 996: Mr. Sandlin, Mr. Bonilla, Mr. Wamp, Mr. Vitter, Mr. Shimkus, Mr. Ballenger, Mr. Lincoln Diaz-Balart of Florida, Mr. Nethercutt, Mr. Hulshof, Mr. English, Mr. Burgess, Mr. Cooper, Mr. Leach, and Mr. Hall.

H.R. 1008: Mrs. Emerson.

H.R. 1031: Mr. Meeks of New York, Ms. Eddie Bernice Johnson of Texas, Mr. Oberstar, and Mr. Mario Diaz-Balart of Florida.

H.R. 1032: Mr. Case.

H.R. 1043: Mr. Wynn.

H.R. 1046: Ms. Harman and Mr. Coble.

H.R. 1059: Mr. Garrett of New Jersey.

H.R. 1063: Mr. Thornberry, Mr. Hostettler, and Mr. Jones of North Carolina.

H.R. 1068: Mr. Lynch, Mrs. Northup, and Mr. Wexler.

H.R. 1096: Mr. Nethercutt.

H.R. 1102: Mr. Pickering, Ms. Loretta Sanchez of California, Ms. Majette, Mr. Visclosky, and Mr. Wu.

H.R. 1105: Mr. Gonzalez, Mr. Cooper, and Mr. Davis of Florida.

H.R. 1111: Mr. Wamp.

H.R. 1119: Mr. Cox, Mrs. Cubin, Mr. Gibbons, Mr. Burr, Mr. Coble, Mr. Goss, Mr. Herger, Mr. Knollenberg, Mr. Turner of Ohio, Mr. Foley, Mr. Sessions, Mr. Gary G. Miller of California, Mr. Radanovich, Mr. Bereuter, Mr. Shaw, Mr. Smith of Texas, and Ms. Harris.

H.R. 1120: Mr. Meeks of New York, Mr. Goode, and Mr. Kingston.

H.R. 1130: Mr. Kildee.

H.R. 1157: Mr. Young of Alaska.

H.R. 1162: Mr. Honda.

H.R. 1196: Ms. Linda T. Sánchez of California.

H.R. 1209: Ms. Loretta Sanchez of California and Mr. McGovern.

H.R. 1210: Mr. Baird.

H.R. 1213: Mr. Holden.

H.R. 1229: Mr. Lipinski.

H.R. 1250: Mr. Crane.

H.R. 1264: Mr. Wynn and Mr. Pallone.

H.R. 1275: Mr. Schiff.

H.R. 1288: Mr. Gonzalez, Mr. Wexler, Mr. Schrock, and Ms. Woolsey.

H.R. 1294: Mr. Markey, Mrs. Capps, Mr. Engel, Ms. McCarthy of Missouri, Mr. Lantos, and Mr. McGovern.

H.R. 1304: Mr. Sandlin.

H.R. 1305: Mr. Nethercutt and Mr. Chabot.

H.R. 1306: Mr. Deutsch and Mr. Sandlin.

H.R. 1323: Mr. Owens.

H.R. 1336: Mr. Beauprez.

H.R. 1345: Ms. Lee.

H.R. 1347: Mr. Doyle.

H.R. 1348: Mr. Strickland.

H.R. 1367: Mr. Cooper and Mr. Gordon.

H.R. 1377: Mr. Garrett of New Jersey and Mr. Rush.

H.R. 1381: Mr. Bishop of Georgia, Mr. Jefferson, Mr. Hoeffel, Ms. Loretta Sanchez of California, and Mr. Clay.

H.R. 1385: Ms. Watson, Mrs. Davis of California, Mr. Pastor, Mr. Moore, Mr. Boyd, and Mr. Price of North Carolina.

H.R. 1406: Mr. Terry, Mr. Andrews, and Mr. Frost.

H.R. 1414: Mr. Davis of Illinois and Mr. Tierney.

H.R. 1421: Mr. Kennedy of Rhode Island.

H.R. 1422: Mr. Emanuel, Mr. Fattah, and Mr. Wexler.

H.R. 1425: Mr. Pascrell.

H.R. 1429: Ms. Linda T. Sánchez of California.

H.R. 1430: Mr. Blumenauer and Mr. Lantos.

H.R. 1472: Mr. Peterson of Pennsylvania, Mr. Deutsch, and Ms. Baldwin.

H.R. 1479: Mr. Neal of Massachusetts.

H.R. 1510: Mr. Reyes.

H.R. 1511: Mr. Cunningham, Mr. Ose, Mr. Rogers of Kentucky, Mr. Aderholt, Mr. Barton of Texas, Mr. Bonilla, Mr. Sandlin, Mr. Dicks, Mr. Berman, Mr. Gephardt, Mr. Lipinski, Ms. Majette, Mr. Frost, Mr. Clay, Mr. Towns, Mr. Bowsell, Mr. Murtha, Mrs. McCarthy of New York, and Mr. Davis of Tennessee.

H.R. 1543: Mr. Sensenbrenner.

H.R. 1551: Ms. Slaughter, Ms. Kaptur, Ms. Jackson-Lee of Texas, Mr. Waxman, Mr. Davis of Illinois, Ms. Lee, Mr. Grijalva, Mr. Lantos, Ms. Millender-McDonald, and Mr. Kildee.

H.R. 1554: Mr. Kildee.

H.R. 1592: Mr. Grijalva, Mr. Souder, Mr. Evans, Mr. Brown of Ohio, and Mr. Frost.

H.R. 1606: Mrs. Jo Ann Davis of Virginia.

H.R. 1622: Mr. Hall, Mr. Davis of Illinois, Mr. Wamp, Mr. Owens, Mr. Wolf, Mrs. Northup, Mr. Sanders, Mr. Abercrombie, Mr. Inslee, Mr. Tanner, Mr. Thompson of Mississippi, Mr. English, Mr. Thornberry, Mr. Moran of Virginia, Mr. Frank of Massachusetts, Mr. Emanuel, Mr. Deal of Georgia, Mr. Lipinski, and Mr. Duncan.

H.R. 1628: Mr. Young of Alaska.

H.R. 1634: Mr. Holt.

H.R. 1643: Mr. Hobson.

H.R. 1653: Mr. Wamp and Mr. Platts.

H.R. 1657: Mr. McNulty, Mr. Boswell, Mr. Frost, Ms. Millender-McDonald, Ms. Harman, and Ms. Jackson-Lee of Texas.

H.R. 1675: Mr. Hall and Mr. Ryun of Kansas.

H.R. 1676: Ms. Schakowsky.

H.R. 1688: Mr. Larsen of Washington, Ms. Velázquez, Mr. Rothman, Mrs. Jones of Ohio, and Mr. Ryan of Ohio.

H.R. 1694: Mr. Emanuel, Mr. Tierney, and Mr. Snyder.

H.R. 1710: Mr. Platts, Mr. Lynch, Mr. Delahunt, Mr. Weiner, and Mr. Peterson of Minnesota.

H.R. 1717: Ms. Solis.

H.R. 1721: Mr. Markey.

H.R. 1738: Mr. Rush and Mr. Strickland.

H.R. 1746: Mr. Houghton and Mr. Watt.

H.R. 1749: Mr. Wexler.

H.R. 1767: Mr. Renzi, Mr. Kingston, and Mr. Cantor.

H.R. 1769: Mr. Ney, Mr. McHugh, Mr. Graves, and Mr. Moran of Kansas.

H.R. 1776: Mr. Royce.

H.R. 1779: Mr. Foley.

H.R. 1783: Mr. Franks of Arizona.

H.R. 1784: Mr. Kildee, Mr. Upton, Ms. Berkley, and Mr. Matsui.

H.R. 1787: Mr. Stearns.

H.R. 1811: Ms. Kaptur, Mr. Pomeroy, Mr. Cooper, Mr. Rehberg, Mr. Frank of Massachusetts, Mr. Wexler, Mr. Snyder, Mr. LoBiondo, Mr. Tierney, and Ms. Lofgren.

H.R. 1813: Mr. Walsh and Mr. Delahunt.

H.R. 1824: Mr. Clay, Mr. Hinchey, Mrs. Lowey, Mr. Owens, Mr. Boehlert, Mr. McNulty, Ms. Woolsey, Mr. Souder, and Mr. Peterson of Minnesota.

H.R. 1828: Mr. Knollenberg, Mr. Wynn, Mr. Schrock, Ms. Majette, Mr. Costello, Mr. Olver, Mr. Cramer, Mrs. Miller of Michigan, Mr. Bradley of New Hampshire, Mr. Green of Texas, Mr. English, Mr. Hoyer, Mr. Stupak, Mr. Souder, Mr. Gutierrez, Mr. Wamp, Mr. Shadegg, Mrs. Musgrave, Mr. Cole, and Mr. Lampson.

H.R. 1873: Mr. Franks of Arizona and Mr. Paul.

H.R. 1886: Mr. Scott of Georgia.

H.R. 1889: Mr. Baird, Mr. Frank of Massachusetts, Ms. DeGette, Ms. Lee, Mr. Delahunt, Ms. Jackson-Lee of Texas, Mr. Bishop of New York, Mr. Wu and Ms. Lofgren.

H.R. 1902: Mr. Quinn, Mr. Owens, and Mr. Wexler.

H.R. 1905: Mr. Doyle.

H.R. 1910: Mr. Watt, Mr. Wu, Mr. Payne, and Mr. Andrews.

H.R. 1913: Mr. McHugh.

H.R. 1917: Mr. Frost and Mr. Rahall.

H.R. 1918: Mr. Frost and Mr. Rahall.

H.R. 1919: Mr. Frost, Mr. Rahall, and Mr. Andrews.

H.R. 1933: Mr. Abercrombie and Ms. Lee.

H.R. 1951: Mrs. McCarthy of New York.

H.R. 1956: Mr. Hoeffel, Mr. Peterson of Minnesota, and Mr. Wexler.

H.R. 1963: Mr. Bachus and Mr. Boswell.

H.R. 1981: Mr. Delahunt.

H.R. 1990: Ms. Baldwin.

H.R. 1997: Mr. Bishop of Utah, Mr. Alexander, Mr. Boozman, Mr. Sessions, Mr. Knollenberg, Mr. Putnam, Mr. Davis of Tennessee, and Mr. Rehberg.

H.R. 2000: Mr. Green of Texas, Mr. Davis of Florida, Mr. Wynn, and Ms. Solis.

H.R. 2011: Mrs. Capps, Ms. McCarthy of Missouri, Ms. Slaughter, Mr. Stupak, Mr. Platts, Mr. Sanders, Mr. Boyd, and Ms. Schakowsky.

H.R. 2023: Ms. Ginny Brown-Waite of Florida and Mr. Paul.

H.R. 2030: Mr. Ose and Mr. Burton of Indiana.

H.R. 2035: Mr. Holt and Mr. Blumenauer.

H.R. 2046: Mr. Meehan.

H.R. 2047: Mr. Green of Texas.

H.R. 2052: Mr. Etheridge, Mrs. Wilson of New Mexico, Mr. Miller of North Carolina, Mr. Jenkins, Mr. Holt, Mr. Ballenger, Mr. Farr, Mr. Wamp, Mr. Boucher, Mr. Pitts, Mr. Lucas of Kentucky, Mr. Jones of North Carolina, Mr. Stupak, Mr. Hayes, Mr. Wynn, Mr. Wicker, Mr. Allen, Mr. Platts, Mr. Davis of Florida, Mr. Grijalva, Mr. Case, Mr. Gordon, Ms. DeGette, Ms. Slaughter, Mr. Strickland, Mr. Conyers, Ms. Schakowsky, Mr. Waxman, Ms. Carson of Indiana, Mr. John, Mr. McIntyre, Mr. Kind, Ms. Eshoo, Mr. Cardoza, Mr. Carson of Oklahoma, Mr. Nunes, and Mr. Brown of Ohio.

H.R. 2079: Mr. Cramer and Mr. Dicks.

H.R. 2085: Mr. Paul.

H.R. 2114: Mr. Paul and Mr. Sessions.

H.R. 2118: Mr. Rush, Mr. Andrews, and Mr. Berman.

H.R. 2120: Mr. Watt.

H.R. 2125: Mr. Emanuel, Mrs. Lowey, and Mr. Ryan of Ohio.

H.R. 2127: Ms. Schakowsky, and Ms. Solis.

H.R. 2131: Mr. Calvert, Mr. Simmons, and Mr. Baca.

H.R. 2134: Mr. Ross and Mr. Strickland.

H.R. 2156: Mr. Hastings of Florida.

H.R. 2161: Mr. Gutknecht.

H.R. 2169: Ms. Loretta Sanchez of California.

H.R. 2180: Mr. Rothman.

H.R. 2185: Mr. LoBiondo, Mr. Shimkus, and Mr. Walden of Oregon.

H.R. 2197: Mr. Stark, Ms. DeLauro, and Ms. Lee.

H.J. Res. 4: Mr. Pomeroy, and Mr. Hastings of Washington.

H. Con. Res. 21: Mr. Culberson.

H. Con. Res. 49: Mr. Langevin, Mr. Baird, Mr. Terry, Mr. Porter, Mr. Saxton, Mr. Fattah, and Mr. Sessions.

H. Con. Res. 93: Mr. Norwood and Mr. Rohrabacher.

H. Con. Res. 94: Mr. Tierney and Mr. Olver.

H. Con. Res. 99: Mr. Watt, Mr. Serrano, and Mr. Lantos.

H. Con. Res. 116: Mr. Platts.

H. Con. Res. 152: Mr. Etheridge.

H. Con. Res. 155: Mr. Ryan of Ohio and Mr. Abercrombie.

H. Con. Res. 175: Mr. Kennedy of Rhode Island.

H. Res. 38: Ms. Millender-McDonald and Mr. Stark.

H. Res. 136: Mr. Payne.

H. Res. 193: Mr. Wilson of South Carolina, Mr. Abercrombie, Ms. Woolsey, Mr. Frost, Mr. DeFazio, Mr. Bishop of New York, Mr. Deutsch, and Mr. Ryan of Wisconsin.

H. Res. 199: Mr. Engel, Mr. Ford, Mr. Mario Diaz-Balart of Florida, Mr. Stark, Ms. Ros-Lehtinen, and Mr. Souder.

H. Res. 218: Mr. Sandlin, Mr. Lampson, Mr. Obey, Mr. Cooper, Mr. Levin, Ms. Lofgren, Mr. Boehlert, Mr. Larson of Connecticut, Mr. Baird, Mr. Moore, Mr. Ballance, Mr. Wu, Mr. Clyburn, Mr. Lynch, Mr. Honda, Mr. Mollohan, Mr. Kleczka, Mr. Udall of Colorado, Mrs. Tauscher, Ms. Majette, Mr. Markey, Mr. Payne, Mr. Rush, Mr. Israel, Mr. Cummings, Mr. Davis of Florida, and Mr. Blumenauer.

H. Res. 228: Mr. Hastings of Florida, Mr. Schrock, Mr. Boyd, Mr. McGovern, and Mr. McNulty.

H. Res. 234: Mr. Levin, Mr. Frost, Mr. Udall of New Mexico, Ms. Lee, Mr. Frank of Massachusetts, and Mr. Rohrabacher.

H. Res. 237: Mr. Royce.

H. Res. 242: Mr. Knollenberg.

H. Res. 244: Mr. Payne.

H. Res. 246: Mr. George Miller of California, Mr. Frost, Mr. McDermott, Ms. Lee, Ms. Jackson-Lee of Texas, and Mr. McNulty.

# EXTENSIONS OF REMARKS

## RECOGNITION OF CHESTER CONNAWAY

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Chester Connaway of Jefferson County, Illinois. Chet was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Chet received this honor for his lifelong service to others. Upon his graduation from Mt. Vernon Township High School he joined the Army. He then served forty years in the Illinois Army National Guard. He now is the district director for Veterans Affairs Southern Division where he works to secure benefits for deserving veterans. Chet also is a member of the Field Grade School Board of Education and he served twenty years as treasurer of Wesley United Methodist Church. Chet and his wife Barbara have been married fifty years and have raised three daughters.

I want to congratulate and thank Chet for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

## IN RECOGNITION OF SIDNEY BAUMGARTEN

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to Colonel Sidney Baumgarten, in recognition of his outstanding service and dedication to the Military and the City of New York, and for his 25 years of service to The East Side Chamber of Commerce and to New York Therapeutic Communities.

A native of Far Rockaway Beach, Mr. Baumgarten attended Brown University in Providence, Rhode Island, where he was elected to the Student Governing Council and earned three varsity letters. After receiving his Bachelor's degree, Mr. Baumgarten attended New York Law School, where he was a member of the Law Review and recipient of an American Jurisprudence Award.

After attending Brown University, Mr. Baumgarten entered military service, attending Signal School at Fort Dix. He served for 18 months in Europe with the 7th Army Command and was awarded 4 commendations. As an active member of the U.S. Army Reserve, he served as Detachment Commander, Company Commander and Adjutant for the 99th Signal Battalion and as Material Officer for the 518th Maintenance Battalion. At an early age, Mr. Baumgarten began his lifelong commitment to serving in the United States military, and recently retired as a Colonel in the New York Guard, Chief of Staff of the Army Division at Camp Smith, New York. For his exceptional services in the aftermath of the World Trade Center attack, Mr. Baumgarten was presented with the NY State Conspicuous Service Medal by Governor Pataki in June 2002. Mr. Baumgarten has earned numerous other medals recognizing his service to the nation and the state.

In addition to his law profession and military service, Mr. Baumgarten's many interests led him to act as Chairman of the Board of Trustees of the Rockaway Cultural Society and President of the Regular Democratic Club of the Rockaways. He was also Post Judge Advocate of the VFW Post 1948, a member of the PAL Youth Council, and a director of the Queens Council on the Arts.

Professionally, Mr. Baumgarten was engaged in the private practice of law for 5 years, and was appointed Assistant District Attorney in 1967. As a member of the Appeals Bureau, he argued numerous criminal appeals before the State and Federal courts and expertly handled numerous cases involving prosecution of major crime figures. From November 1968 to December 1973, Mr. Baumgarten was Law Secretary to Justice Charles Margett, Associate Justice of the Appellate Term of the New York State Supreme Court and Administrative Judge of the Eleventh Judicial District.

Mr. Baumgarten has shared his expertise with colleagues as a lecturer on the subject of firearms and firearms legislation at the New York City Police Academy, and on the subject of appeals at the Queens County Bar Association and at Hofstra University School of Law.

In January 1974, Mr. Baumgarten was appointed Deputy to the Mayor with responsibility for programs and policies involving the Criminal Justice System, the Midtown Enforcement Project, gun control legislation, the Correction Department and many other matters. His expertise has made him a popular guest on many local and network radio and television programs including ABC News and the McNeil-Leherer Report. His successes were recently recognized by former Mayor Giuliani at a ceremony to celebrate the revitalization of Times Square. The Mayor credited Mr. Baumgarten with closing more than 200 illegal establishments during his tenure as head of Midtown enforcement.

Currently, Mr. Baumgarten is President of Spectral BioScience Corp, a company specializing in advanced medical devices and serves as Board Chairman of the East Side Chamber of Commerce and Chairman Emeritus of New York Therapeutic Communities, Inc. He continues to lead and serve my community, tirelessly working towards the betterment of the quality of life for New York City residents and, indeed, all Americans.

In recognition of these outstanding contributions, I ask my colleagues to join me in honoring Sidney Baumgarten for his outstanding service and dedication to the Military and the City of New York.

## HONORING STAFF SGT. WILBERT DAVIS, SGT. FIRST CLASS PAUL R. SMITH, LANCE CORPORAL ANDREW JULIAN AVILES AND CPL. JOHN T. RIVERO

### HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of four brave soldiers from the Tampa Bay area who lost their lives while serving our country in Iraq. These four men went to war to protect us and our liberty and ultimately gave their lives to preserve our inalienable rights.

On April 3, Staff Sgt. Wilbert Davis, 40, of the 3rd Battalion, 69th Armor, 3rd Infantry Division, died when his vehicle ran off the road as he was driving journalist Michael Kelly to Baghdad. A native of Tampa, Davis grew up in College Hill, pitched for the Belmont Heights Little League team, all the way to the World Series, and graduated from Tampa Bay Tech High School. A devoted husband and father of four, friends and family recall how dedicated Davis was to service. Joining the Army in 1985, he served in the Persian Gulf War and in Bosnia, Kosovo, Korea and Germany.

Just one day later, Tampa lost Sgt. First Class Paul R. Smith, 33, of the 11th Engineer Battalion. Also a graduate of Tampa Bay Tech, Smith knew early on that he wanted to serve as a professional soldier and raise a family. This husband and father of two enlisted right out of high school and served in the Gulf War, Bosnia and Kosovo. A man who is remembered for his dedication to the soldiers he led, Smith has been nominated for the prestigious Medal of Honor for saving dozens of lives before losing his own. During a surprise Iraqi assault, Smith died while manning a .50-caliber machine gun to fend off the attackers.

On April 7, Lance Cpl. Andrew Julian Aviles, 18, of the 4th Assault Amphibian Battalion, 4th Marine Division, was killed when an enemy artillery round struck his amphibious assault vehicle. A young man with an infectious sense of humor and a promising future in store, Aviles was the student government president of Robinson High School, played on the football and wrestling teams and graduated third in his class. A member of JROTC, Aviles passed up a full academic scholarship to Florida State University to enlist because he felt an obligation to serve his country.

On April 17, another bright future was lost when Cpl. John T. Rivero, 23, of the Florida

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

National Guard's C Company, 2nd Battalion, 124th Infantry Regiment was killed when his Humvee overturned on a mission with Special Forces. A computer science and engineering student at USF, Rivero grew up in Gainesville and joined the Guard in 1998. He was promoted to Corporal during his service in the Middle East. Friends and family remember his big smile and even bigger heart and talk about his dedication to doing his best at everything he tried.

On behalf of the Tampa Bay community, I would like to extend my deepest sympathies to the families and friends of these four courageous soldiers. These men shared a dedication to the ideals that have made this country great. Their bravery and patriotism makes us all proud, and we will never forget their sacrifice.

## TRIBUTE TO SAM SUPLIZIO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. McINNIS. Mr. Speaker, it is my pleasure to stand before this body of Congress to honor a man known as Colorado's "Mr. Baseball." Sam Suplizio of Grand Junction, Colorado has spent his life playing, coaching, and promoting the game. As he retires from his position as Director and Chairman of the National Junior College World Series, I would like to pay tribute to this outstanding leader.

Fifty years ago, Sam was one of the top amateur baseball players in the nation. Following a brilliant collegiate career in which he became the University of New Mexico's first All-American baseball player, the New York Yankees signed Sam and quickly labeled him as their top prospect. As a minor leaguer in 1955, Sam hit more home runs than Roger Maris, and the next year the Yankees called him up to the big leagues. Unfortunately, only three days after joining the team, Sam suffered a career-ending injury while sliding into second base.

Despite the setback, Sam rebounded to become a professional scout, coach, and manager with the California Angels and Milwaukee Brewers. He coached superstars Paul Molitor, Robin Yount, and Bo Jackson, participated in selecting members of the U.S. Olympic Baseball Team, and earned a World Series Ring in 1982 with the Brewers.

While his association with professional baseball lasted 50 years, Sam always took the time to give back to the community. In addition to four decades of leadership with the Junior College World Series, thousands of little leaguers, high school, and college players in Colorado benefited from the free clinics Sam frequently conducted. As co-chairman of the Colorado Baseball Commission, Sam led the effort to bring the Rockies to Colorado and was instrumental in the building of Coors Field. He was so effective in that role that Colorado's Governor appointed him to help build a new stadium for the Denver Broncos as well.

Mr. Speaker, athletics teach our young people important life lessons about dedication, sacrifice, and teamwork, and I am proud to pay tribute to a man who has spent five decades imparting these values to our youth. Sam is a true public servant who has done so much for the game of baseball and the state of Colorado, and I am proud to honor him before this body of Congress today.

## THE 300TH ANNIVERSARY OF THE FOUNDING OF ST. PETERSBURG

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. LANTOS. Mr. Speaker, in just a few days President Bush and President Putin, as well as leaders from a number of other countries from around the world, will meet in St. Petersburg, Russia for meetings on contemporary international political and economic issues. But at the same time, these world leaders will join in the celebration of the 300th anniversary of the founding of St. Petersburg. This significant milestone gives us an opportunity to reflect on the history and the significance of this key Russian metropolis.

The city was known as Petrograd during World War One and as Leningrad during the Soviet era, but from its very founding the extraordinary city of St. Petersburg has stood for Russia's Western-facing hopes and dreams. Russian Czar Peter the Great, St. Petersburg's founder, saw clearly that Russia's future lay in engagement with Europe, and believed that the creation of a Russian city with a distinctly European orientation was critical to Russia's development.

St. Petersburg was constructed as Peter's new capital despite the gravest of difficulties, a city that generations of Russians would toil to transform from a swampy wilderness into Europe's "Venice of the North." The effort to create St. Petersburg drew upon the Russian traditions of sacrifice and fortitude that the world would see and respect during World War Two in our common struggle against European fascism.

Since its founding in 1703, St. Petersburg has embodied Russian dreams of all their country could become. Under Catherine the Great the city became one of the grandest centers of science, culture and art in Europe, with European and Russian traditions converging to produce a uniquely Russian style of social and urban development.

St. Petersburg's Hermitage museum is one of the largest and most respected art museums in the world. Catherine the Great founded it to house Russia's collection of many of the world's most precious artistic masterpieces. Russia's intellectual class, rising at that time, also centered in St. Petersburg, attracted by the spirit of liberal development and progress.

Mr. Speaker, St. Petersburg under Catherine the Great firmly made claim to its reputation as a European city of substance, and Russians had and continue to have reason to be proud of all that St. Petersburg represents in Russian society.

The Soviet era again brought great hardships to the people of St. Petersburg, but without the benefit of the freedoms and hope that had originally been the cornerstone of St. Petersburg's appeal. As the center of Russian intellectual activity, it should be no surprise that Stalin's crackdown on artists and thinkers hit St. Petersburg particularly hard. To have lived in the heart of Russian intellectual life, the city of Pushkin and Dostoyevsky, and then to watch the forces of repression and intolerance take hold must have been incredibly painful to bear.

Yet the strength and fortitude of the people of St. Petersburg would before long be on display for the world once again, as Hitler's armies encircled the city in September 1941. Thus began a siege and blockade of the city that lasted over 2½ years.

Yet never did this city of nearly three million, including hundreds of thousands of children, even contemplate surrender to Hitler and his abhorrent regime. The treasures of the Hermitage museum were hidden in basements, protected by sandbags, and university students continued to go to school and even to be awarded their degrees. The famous Russian composer Dmitry Shostakovich wrote his seventh "Leningrad" symphony during the siege and it was performed in the embattled city.

Mr. Speaker, this spirit of defiance and strength played a key part in the allied victory over fascism, and earned for Russia the respect of the free world.

St. Petersburg has now retaken its original name, one of the first decisions made by popular vote among residents in 1991. The city has also undergone a massive renovation project in preparation for this remarkable milestone, to restore to its buildings their original grandeur and dust off the cobwebs of Soviet neglect once and for all. One of Russia's true national treasures, St. Petersburg is among the country's most important cultural, industrial, tourist, transport and scientific centers.

Today, Mr. Speaker, as in the 300 years of struggle that now lie behind St. Petersburg, the city represents Russia's sense of optimism, its hopes and dreams for its future, and its firm belief that prosperity and national development lie in a strengthened commitment to its relationship with the West.

It is in America's national interest to support this relationship, to give meaning to Russian hopes and dreams, and to see St. Petersburg continue to emerge as a freedom-loving and democratic example to post-Communist societies everywhere. I invite my colleagues to support Russian transition by doing everything possible to achieve these goals, and by promoting the peaceful integration of Russia into the community of free and democratic peoples.

Mr. Speaker, it is with great pleasure and respect that I applaud the people of St. Petersburg as the city begins its fourth century on Russia's political, social and intellectual frontier. Theirs is a history of sacrifice and of devotion to the principle of intellectual freedom.

St. Petersburg's tradition of academic debate and intellectual freedom is also America's tradition, and Americans look forward to continuing to share with Russia in this vital and productive institution. I invite my colleagues in Congress to join me in congratulating the citizens of St. Petersburg and the people of all Russia on the 300th birthday of this extraordinary city.

## RECOGNITION OF CLARA SONSINI

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Clara Sonsini of Jefferson County, Illinois. Clara was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Clara received this honor for her lifelong service to others. At the onset of World War II she left home and traveled to San Francisco to work for the government in homeland security. Later, Clara and her husband, Dan, moved to Mt. Vernon where they raised three children. Upon their high school graduation she began work at a local nursing home as a nurse's aid and eventually as activity director. Clara's other numerous community activities include Girl Scout Leader, Cub Scout Den Mother, YMCA volunteer, grade school homeroom leader, president of the PTA, and American Cancer Society and Red Cross volunteer. She remains vigorously involved with the St. Mary's/Good Samaritan Regional Health Center Auxiliary.

I want to congratulate and thank Clara for all she has done and will continue to do for the people in her community. She is a saint to all who know her and is deserving of this prestigious honor.

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## IN RECOGNITION OF USO OF METROPOLITAN NEW YORK

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to USO of Metropolitan New York on the occasion of their 37th Annual Luncheon. This year, the USO is honoring Lorraine Bracco as Entertainer of the Year and Patricia Fili-Krushel, Vice President of Administration at AOL Time Warner, as Woman of the Year. Both women have made outstanding contributions to the New York City community.

The USO, founded in 1941 in response to a request by President Franklin D. Roosevelt, is dedicated to providing morale, welfare and recreation type services to uniformed military Personnel. They remain committed to extending a "touch of home" to military members through numerous programs and activities. The USO currently operates throughout the United States and overseas in 121 centers worldwide.

Lorraine Bracco, perhaps best known for her portrayal of psychiatrist Dr. Jennifer Melfi on the HBO hit series "the Sopranos", has earned multiple Emmy, Golden Globe, and Screen Actors Guild Award nominations for Best Actress in a Drama. Ms. Bracco was also nominated for an Academy Award for her performance in the movie "Goodfellas". A student at Stella Adler and the Actors Studio in New York City, Ms. Bracco made her American feature film debut in the 1987 Ridley Scott's thriller, "Someone to Watch Over Me." In addition to extensive film and television credits, Ms. Bracco is a member of the Board of Directors of the environmental organization Riverkeeper, which serves to safeguard the Hudson River, its tributaries and the watershed of New York City against environmental violations by tracking down and stopping polluters. She is also a member of the Board of New York Council for the Humanities.

Patricia Fili-Krushel is the Executive Vice President of Administration of AOL Time Warner. In this role, Ms. Fili-Krushel works closely with AOL Time Warner's senior management team. Her responsibilities include human resources, employee development and growth, compensation and benefits, as well as security. Before joining AOL Time Warner, Ms. Fili-Krushel was President of the ABC Television network from 1998 to 2000 and was responsible for improving the ABC television ranking from number 3 to number 1. In 1996, she received the prestigious Vision Award for her contributions to the arts. In 1998, Ms. Fili-Krushel was featured by Fortune Magazine among its "50 Most Powerful Women" and in 1999, she received the Women's Project and Productions' Women of Achievement award. Ms. Fili-Krushel currently sits on the Board of Directors for Second Stage Theater, the Board of the Central Park Conservancy, the Board of Center for Communication and was recently named to Mayor Bloomberg's Commission on Women's Issues as Co-Chair of the Child Care initiative. She has made outstanding contributions to the field of communications as well as to improving the New York City community through numerous community service organizations.

In recognition of these outstanding contributions, I ask my colleagues to join me in honoring the USO of Metropolitan New York on the occasion of their 37th Annual Luncheon as well as in honoring Lorraine Bracco and Patrician Fili-Krushel for their efforts in improving the New York City community.

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## HONORING MARVIN DAVIES

### HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Marvin Davies, a longtime civil rights leader in Florida, who lost his life to cancer last month.

Davies began his battle for equality at an early age. By the time he was a college student at Florida Agricultural and Mechanical University, Davies was participating in protests with Dr. Martin Luther King Jr. and boycotts in Tallahassee, St. Augustine and Montgomery, Alabama. Chosen as Student of the Year, he graduated from FAMU ranked second in his class.

At age 32, Davies was offered the position of Field Secretary for Florida's NAACP. He served Florida's 138 NAACP branches for seven years and became a leader in the fight for equal opportunities for all Americans in employment, schools, hospitals and all other public places.

Later, Davies served as a special assistant and advisor to Senator BOB GRAHAM during his terms as Florida Governor and U.S. Senator, and worked as the state coordinator of the Martin Luther King, Jr. Foundation. Throughout his entire career, Davies was a public voice for minorities and improving the lives of young people in minority communities.

However, the people of St. Petersburg will remember him best for his work in our community. In 1968, Davies returned to St. Petersburg in support of city sanitation workers who were on strike for better wages and benefits. He served on the Coalition of African-American Leadership, created following the St. Petersburg city riots in 1996, as well as the Citizens Advisory Commission, appointed by the Clinton Administration to oversee the Federal assistance to the city after the civil unrest.

On behalf of the Tampa Bay area, I extend my deepest sympathies to Marvin Davies' family and friends. His life work will never be forgotten.

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## TRIBUTE TO KRISTOPHER ENTZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I honor the life and memory of an outstanding young man from my district. Kristopher Entz, a 17-year-old student from Center, Colorado passed away recently. As his family and friends mourn their loss, I would like to pay tribute to the memory of Kristopher before this body of Congress and this nation.

Kristopher was a well-rounded, perpetually happy, all-American teenager, liked and admired by all. His sense of humor and penchant for pranks made him one of the most popular students at Sangre de Cristo High School. He was an outstanding student, as evidenced by his membership in the National Honor Society and his participation in Knowledge Bowl, an extra-curricular academic competition. Kristopher excelled in athletics as well, and was a terrific football player who also liked snowboarding, golf, and lifting weights.

Kristopher is survived by his parents Mike and Rhonda, his older sister Brynna, and a loving extended family, and my thoughts and prayers are with them during this difficult time. Kristopher's good-natured spirit will live on in the many lives he has touched in the San Luis Valley. His love, laughter, and dedication to his family, friends, school, and community will be greatly missed.

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## A TRIBUTE TO MIKE JENDRZEJCZYK

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. LANTOS. Mr. Speaker, today I rise to express my fundamental sadness over the sudden and tragic death of my good friend and fellow human rights defender, Mike Jendrzejczyk. Mike died unexpectedly on May 1 in Washington, D.C., at the age of 53. I would also like to take this opportunity to express the condolences of the entire Chamber to Mike's wife, Janet. I thank Mike for his indefatigable efforts in the defense of human rights, which was his service not only to this country but the entire world community. Mike's death leaves a void in the human rights community that we will continue to feel.

Mr. Speaker, we all knew Mike as the Washington Director of Human Rights Watch for the Asia division. In this capacity, Mike has worked with many of my colleagues and our staffs. In his 13 years with Human Rights Watch, all of us have relied on his expert opinions, his professional insights, and his undying commitment to human rights, which was an inspiration to all of us. His testimonies were a fixture of all committee proceedings dealing with Asia, as well as the Congressional Human Rights Caucus. Mike's range of expertise was astounding by any standards, and included China, Japan, Burma, the World Bank, trade policy and human rights as well as the entire range of U.S. foreign policy in Asia. He was the leading human rights voice condemning the 1989 Chinese military crackdown in Tiananmen Square, he was the most vocal advocate of ethnic groups such as the Tibetans in China and the Montagnards in Vietnam. Increasingly, Mike raised our awareness for issues pertaining to Afghanistan, the consequences of the military coup in Pakistan and the increase in religious fundamentalism in this area.

Mike, we all will miss you terribly. We will miss your voice of reason, your expertise, your enthusiasm and your humor, and most of all, your guidance, as we face new and troubling challenges and dangers emanating from a region of the world which is not easy to understand, but which had become a second home to you. Your life will be a constant reminder and challenge to all of us to try harder, to reach further in the defense of human rights, to believe in a better world and to never accept things as they are, unchallenged.

## RECOGNITION OF CLIFF FIELDS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Cliff Fields of Jefferson County, Illinois. Cliff was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Cliff received this honor for his lifelong service to others. Whether it was his service in World War II or his work to bring business and industry to Mt. Vernon, he is known as an unselfish person who works tirelessly for the benefit of others. Fifty years ago Cliff founded the architectural firm of Fields, Goldman, and Magee. He has also served on the Summersville Grade School Board, Mt. Vernon Airport Authority, Economic Development Commission, Director for Mt. Vernon Savings & Loan and First Bank & Trust, and a Trustee for Mitchell Museum.

I want to congratulate and thank Cliff for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

## THE FCC AND THE TRIENNIAL REVIEW

### HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. FROST. Mr. Speaker, it has been over 3 months since the FCC completed their Triennial Review and voted on new rules for the telecommunications industry, the most significant change for that industry since the adoption of the 1996 Telecommunications Act. Yet, the FCC has still not issued the details.

This is a shame. So long as the FCC delays, uncertainty will reign in the telecommunications sector. For one whole quarter now, investment and growth in the sector have been stalled.

Mr. Speaker, the economy remains weak, showing no real signs of recovery, and numerous companies continue to lay off their employees. The current recession has been hard on workers. Telecommunications companies are set to invest billions of dollars in network infrastructure—investment that will help the weak economy and create and preserve jobs—but the current regulatory environment restricts growth and investment in the telecom sector.

The FCC needs to act quickly and issue a ruling to help the telecommunications industry grow their networks, and help get America back to work.

## IN HONOR OF GEORGE M. SCALISE

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor George M. Scalise, who was recently named chairman of the Federal Reserve Bank of San Francisco.

George Scalise is a highly respected business leader in the high technology and semiconductor industries. As president of the Semiconductor Industry Association, SIA, George has distinguished himself as one of the premiere experts on the issues of international trade, competition, environmental safety and health, as well as workforce issues. In addition to his leadership of SIA, George Scalise serves on President George W. Bush's Council of Advisors on Science and Technology and on the boards of Cadence Design Systems and iSuppli Corporation. George previously served on the Boards of SEMATECH, the Semiconductor Research Corporation, and the Bay Area Economic Forum.

George Scalise is dedicated to investing in the education of future science and technology leaders. A graduate of Purdue University, George is on the advisory committees at the Leavey School of Business at Santa Clara University, the School of Engineering at the University of Southern California, the Engineering Visiting Committee at Purdue University and a member of the California Council on Science and Technology Fellows Program. He is also actively involved in the University Research Fund.

Mr. Speaker, I'm proud to have George Scalise as a constituent and my friend. He is one of the most effective and respected leaders in our country and our community, with a deep commitment to the betterment of our Nation. I ask the entire House of Representatives to join me in congratulating George M. Scalise on his chairmanship of the Federal Reserve Bank of San Francisco and wish him every success in shaping sound monetary policies for our country.

## RECOGNITION OF DOROTHY BAKER

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Dorothy Baker of Jefferson County, Illinois. Dottie was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Dottie received this honor for her lifelong service to others. She is a wife and mother who raised three children. Today she is a regular participant in the Sweet Corn & Watermelon Festival, the American Cancer Society's Relay for Life, Jefferson County's Crime Watch program, Memorial Day services, the Mt. Vernon City Wide Cleanup, and the National Day of Prayer. She has also assisted with the Emergency 911 Telephone Testing process. Dottie is active in her church where she helps the elderly and assists others in any way possible.

I want to congratulate and thank Dottie for all she has done and will continue to do for the people in her community. She is a saint to all who know her and is deserving of this prestigious honor.

## INTRODUCTION OF "BAN ASBESTOS IN AMERICA ACT OF 2003"

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. WAXMAN. Mr. Speaker, I am very pleased to introduce the "Ban Asbestos in America Act of 2003" in the House of Representatives. This is the companion bill to a bill that Senator Murray is reintroducing today in the Senate. Senator Murray has been a real leader in addressing the harm that Americans continue to suffer from exposure to asbestos. I thank her for her hard work on this serious problem.

We all know that asbestos can be deadly. It is a notorious carcinogen and causes other devastating diseases and disability. But what most Americans don't know is that this dangerous substance is still added, on purpose, to numerous products sold in this country. In 2001, companies in the United States used 13,000 metric tons of asbestos.

Sometimes it seems that people trust their government too much. Many Americans reasonably assume that since asbestos is harmful and unnecessary, and since Congress and EPA have taken action on asbestos, it must be illegal to add it to products. They assume that new products are safe in terms of risks from asbestos. In fact, EPA tried to ban asbestos years ago, but was sued and lost on some technical grounds.

The result is that people don't even know that some new products contain asbestos. And people don't realize that they still need to protect themselves against asbestos from these products. For example, many mechanics don't realize that asbestos is used in many brakes, exposing them and the public to dangerous asbestos dust. Asbestos is also still used in many roofing products and in gaskets. Continued exposure from new products is entirely avoidable—and this bill would fix the problem.

The "Ban Asbestos in America Act" also addresses other urgent needs related to harm from asbestos. It requires EPA, the Consumer Product Safety Commission, and the Department of Labor to establish a national public education program about the dangers posed by products with asbestos. For example, many homes in the United States contain vermiculite insulation in their attics—but most homeowners don't know that this vermiculite is often contaminated with asbestos. Homeowners and workers need to be made aware of the risk. People must be informed that they should not disturb this insulation. Yesterday EPA issued a brochure, but we need to do more to get the word out on this and other risks.

This bill also establishes a national registry for mesothelioma, a usually fatal form of cancer caused by exposure to asbestos. The registry will help scientists to better track and treat this terrible illness. The bill also authorizes funding for mesothelioma research and treatment.

We have not yet finished our job of protecting Americans from exposure to asbestos. We need a ban and public education about the risks that will remain. I'm introducing this bill to get the job done and make this country a safer place for people to work and live.

## A TRIBUTE TO LUANA LAMKIN, AN ANGEL FOR CANCER PATIENTS IN OHIO

### HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to pay tribute to Luana Lamkin from Hilliard, Ohio, a former member of the Oncology Nursing Society's Board of Directors, and to celebrate May as the ninth annual Oncology Nursing Month. Oncology Nursing Month recognizes oncology nurses, educates the public about oncology nursing, provides an opportunity for special educational events for oncology nurses, and celebrates the accomplishments of oncology nurses.

The Oncology Nursing Society (ONS), the largest professional oncology group in the United States composed of more than 30,000 nurses and other health professionals, exists to promote excellence in oncology nursing and the provision of quality care to those individuals affected by cancer. As part of its mission, the Society honors and maintains nursing's historical and essential commitment to advocacy for the public good. ONS was founded in 1975, and held its first Annual Congress in 1976. Since the Society was established, 218 local chapters have been formed to provide a network for education and peer support at the community level.

In my State of Ohio there are more than 1,226 oncology nurses and health professionals that care for individuals with cancer and their families. In addition, Ohio has 9 local Oncology Nursing Society chapters located in the areas of Columbus, Cincinnati, Cleveland, Mansfield, Cuyahoga Falls, Lima, Zanesville, Whitehouse, and Dayton.

Luana Lamkin has been helping cancer patients and their families for the last thirty years. Luana is currently the Administrator of Cancer Services at the Grant/ Riverside Methodist Hospitals in Columbus, Ohio. Luana has been active in the Oncology Nursing Society since 1976 and recently served as National Treasurer for the ONS' Board of Directors. She has received numerous awards for her work on behalf of individuals with cancer including the "Excellence in Nursing Administration" from the Oncology Nursing Society and the "Lane Adams Award" from the American Cancer Society for Outstanding Nursing Leadership.

Luana has also worked with the National Dialogue on Cancer on nursing workforce issues. A number of studies and articles that Luana has written on the impact of the nursing shortage on cancer care have been published in distinguished publications such as the Oncology Nursing Forum, Cancer Nursing: Practices and Principles, Seminars in Oncology Nursing, and the Journal of Nursing Research. Since 1982, Luana has presented thirty papers to national and international audiences on a host of cancer care issues such as staff support systems, role development, community resources, patient and caregiver perspectives, strategic planning, issues and trends in cancer nursing, epidemiology, screening, detection, negotiating professional rewards and nursing shortage issues.

Over the last ten years, the setting where treatment for cancer is provided has changed dramatically. An estimated 80 percent of all Americans receive cancer care in community settings including cancer centers, physicians' offices, and hospital outpatient departments. Treatment regimens are as complex, if not more so, than regimens given in the inpatient setting a few short years ago. Oncology nurses are on the front-lines of the provision of quality cancer care for individuals with cancer. Nurses are involved in the care of a cancer patient from the beginning through the end of treatment. Oncology nurses are the front-line providers of care by administering chemotherapy, managing patient therapies and side-effects, working with insurance companies to ensure that patients receive the appropriate treatment, provide counseling to patients and family members, in addition to many other daily acts on behalf of cancer patients.

With an increasing number of people with cancer needing high quality health care coupled with an inadequate nursing workforce, our nation could quickly face a cancer care crises of serious proportion with limited access to quality cancer care, particularly in traditionally underserved areas. Without an adequate supply of nurses there will not be enough qualified oncology nurses to provide the quality cancer care to a growing population of people in need. I was proud to support the passage of the "Nurse Reinvestment Act" in the 107th Congress. This important piece of legislation, signed into law by President Bush, expanded and implemented programs at HRSA to address the multiple problems contributing to the nationwide nursing shortage, including the decline in nursing student enrollments, shortage of faculty, and dissatisfaction with nurse workplace environments.

I commend Luana Lamkin and the Oncology Nursing Society for all of their hard work to prevent and reduce suffering from cancer and to improve the lives of those 1.3 million Americans who will be diagnosed with cancer in 2003. I wish Luana and the Oncology Nursing Society the best of luck in all of their endeavors.

## RECOGNITION OF DONALD BAKER

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize, Donald Baker of Jefferson County, IL. Don was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Don received this honor for his lifelong service to others. He served his country for 4 years in the U.S. Navy on the USS *Remy* during the Korean war. Today he is a regular participant in the Sweet Corn & Watermelon Festival, the American Cancer Society's Relay for Life, Jefferson County's Crime Watch program, Memorial Day services, the Mt. Vernon City Wide Cleanup, and the National Day of Prayer. He has also assisted with the Emergency 911 Telephone Testing process.

I want to congratulate and thank Don for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is very deserving of this prestigious honor.

## NEW SOCIAL SECURITY OFFICE IN HALLANDALE

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise today to call to the attention of my colleagues the grand opening of a new Social Security office within my Congressional District in Hallandale, FL.

The new office will serve a total of 16,400 Social Security beneficiaries and 1,678 Supplemental Security Income beneficiaries in the cities of Hallandale, Hollywood and Dania Beach, FL. These cities, renowned for their thriving senior citizen populations, have shared a Social Security office in Hallandale since 1973. However, because this population has grown significantly over the decades, a new, more modern facility was needed in order to better serve the community.

The new office, located at 1000 West Hallandale Beach Boulevard, will include many innovative improvements, such as front-end interviewing and interactive video training by satellite from Social Security national headquarters in Baltimore, Maryland, and other locations.

I work closely with the Social Security Administration in answering questions and solving problems brought to my attention by my constituents, and I look forward to working for many years to come with Lee Rojas, the manager of this new facility, his full-time staff of 12 and his four special employees.

I applaud the Social Security Administration for its decision to expand its services and improve its proximity to the more than 18,000 retirees who have earned Social Security benefits and rely on Social Security's services.

## PERSONAL EXPLANATIONS

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BECERRA. Mr. Speaker, on Wednesday, May 21, 2003, I was unavoidably detained, and therefore unable to cast my floor vote on rollcall Nos. 201 through 204. The votes I missed include rollcall vote 201 on the procedural vote of ordering the previous question; rollcall vote 202 on Agreeing to H. Res. 245 on Agreeing to the Resolution providing consideration of H.R. 1588; rollcall vote 202 on the Motion to Suspend the rules and pass H.R. 1170; and rollcall vote 203 on the Motion to Suspend the rules and pass H.R. 1911.

Had I been present for the votes, I would have voted "aye" on rollcall votes 203 and 204, and "nay" on roll call votes 201 and 202.

## RECOGNITION OF JOHN NELSON COWEN

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize John Nelson Cowen of Jefferson County, IL. John was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

John received this honor for his lifelong service to others. Throughout his life John raised a family, sang for community events with the Barbershop Chorus, annually served at the Kiwanis Pancake and Sausage Breakfast, provided inexpensive housing to low income families, and contributed to the education of underprivileged children. He is still actively involved as a Sunday School teacher at Park Avenue Baptist Church where he has taught for 70 years. John also loves his country so much he chose to not draw Social Security so that others in need can benefit from it.

I want to congratulate and thank John for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

## TELECOMMUNICATIONS INDUSTRY

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I come to the floor today to highlight the benefits that competition in the telecommunications industry has bestowed upon this nation.

In the seven years since the passage of the Telecommunications Act, millions of consumers and thousands of businesses have been given choices and enjoyed savings never before experienced during more than a century of monopoly control. In fact, it is estimated that if telecom competition were allowed to flourish across the nation, our citizens could save more than $9 billion a year on their telephone bills.

Take, for example, LDMI Telecommunications, a competitive telecom provider who offers services in Michigan. LDMI's President & CEO, Patrick O'Leary, has files full of letters from customers who are grateful to have a choice among providers and are able to save a significant amount of money in the process.

Here's what some of LDMI's customers have to say:

> "When long distance was a monopoly we could only afford five inside sales reps due to the high cost of phone calls. Thanks to the lowest phone rates we've ever enjoyed, we now have sixteen inside sales reps and our market is now the continental United States. Our sales are over five million dollars. None of this growth would have been possible without competition in the telecommunications industry."—a supplier of paper rolls for business machines in New Hudson, Michigan
>
> "Since we became an LDMI customer in August, 1994, we have enjoyed not only excellent rates and saving, but have also experienced extremely courteous and overly competent customer service and technical support. To say that we are satisfied with the high quality of service and incredible savings would have to be considered an understatement."—a law firm in Saginaw, Michigan

These reactions are extremely common among the millions of customers who are relying on competitive telecommunications providers for their voice and data communications services. LDMI, and many other small competitive companies who offer the same quality and cost-effective services to consumers and small businesses, would not exist but for the rules that require the Bell companies to provide competitors access to the public switched telephone network at reasonable, non-discriminatory rates.

Telecom competition serves as an economic catalyst, as well. As you can see from these customer testimonials, consumers and business owners have a great incentive to re-invest the savings on their telephone bills into new equipment or services. Moreover, the economy is bolstered by the spending of competitors and the Bell companies themselves on new technology, new networks, and innovative service packages. In fact, studies show that since passage of the 1996 Act, alternative telecom service providers have generated more than $100 billion in capital expenditures on state-of-the art infrastructure, while the Bells have accounted for another $50 billion in spending as a direct result of competition in their markets.

We must work to ensure that consumer benefits and economic stimulus are not stifled by government actions over voice and broadband services. The FCC is poised to issue an order that would preserve competition through the use of the Unbundled Network Element Platform—or UNE-P. The Commission should be thorough in its consideration of the details of the rules it is about to issue to ensure that competition remains viable, consumer choice is protected and technological innovation is allowed to blossom.

## INTRODUCTION OF H.R. 2210. THE SCHOOL READINESS ACT OF 2003

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BOEHNER. Mr. Speaker, I am pleased to have the opportunity to congratulate the Gentleman from Delaware, Mr. CASTLE, on the introduction of the School Readiness Act of 2003, which reauthorizes the Head Start program. This legislation demonstrates a tremendous commitment to strengthening Head Start. It represents a great accomplishment not only for Mr. CASTLE, but for disadvantaged children and their families from across this nation.

As many of you know, President Bush's biggest domestic priority has consistently been education reform. In his State of the Union address in January 2002 the President outlined his plan (known as the Good Start, Grow Smart initiative) for ensuring that children are prepared to read and succeed in school. This proposal focused on strengthening Head Start, increasing partnerships with States, and providing information to teachers, caregivers and parents. The Bush Administration's proposal laid the foundation for many of the reforms in this legislation. I would like to take this opportunity to thank President Bush for his leadership on this issue.

I think we all recognize that Head Start is a great program that has helped millions of low-income children access the resources they need in order to help them succeed in school and later in life. I was troubled to learn, however, that while children in Head Start show improvement when compared to other disadvantaged children who are not enrolled in the program those same children are still far behind their more advantaged peers when it comes time to enter school. The School Readiness Act of 2003 will address this "readiness gap” in much the same way that the No Child Left Behind Act addressed the “achievement gap” between low income and middle class students.

I am particularly pleased that this legislation increases Head Start's emphasis on school readiness and allows us to align the goals of Head Start with recent reforms of K–12 education, while continuing to maintain the comprehensive services that are provided by the program. The No Child Left Behind Act made it clear that children should be reading successfully by the end of the 3rd grade. The School Readiness Act of 2003 makes it clear that Head Start should be providing economically disadvantaged children with the opportunity to enter school with the literacy, prereading, and pre-math skills that are essential for success in school.

I am also pleased that the School Readiness Act of 2003 focuses on improving teacher quality in Head Start. Research has demonstrated that having a well qualified teacher in the classroom is one of the best predictors of student success. This is why the School Readiness Act of 2003 requires 100 percent of all new Head Start teachers to have at least an Associate's Degree in early childhood education or a related field within three years. The legislation also requires 50 percent of Head Start teachers nationwide to hold at least a Bachelor's Degree in early childhood education or a related field by 2008.

In order to provide an incentive for states to continue investing in early childhood education, the School Readiness Act of 2003 also creates a state demonstration project that allows a limited number of states to voluntarily apply for and receive the option of coordinating Head Start programs with their own early childhood education programs, in exchange for an agreement to maintain or expand funding for early childhood education. This state demonstration project would be limited to states with a demonstrated investment in early childhood education and an established, pre-existing preschool system. Participating states would be barred from making funding cuts to early childhood education programs as a condition of their participation. Current Head Start grantees in participating states would be guaranteed funding during the first year of implementation of the demonstration project. In addition, States would be strongly encouraged to continue utilizing current service providers that have demonstrated the capacity to provide high quality Head Start services consistent with State guidelines for school preparedness for children entering kindergarten.

I am confident that this type of state control and collaboration will allow states to increase all-day Head Start classes, better coordinate state pre-school programs with Head Start, and improve the alignment of Head Start instruction with state K–12 standards. These types of reforms will not only improve the school readiness of participating children, but will also allow States that are held accountable for student performance under the No Child Left Behind Act to have the opportunity to do everything possible to ensure that their students succeed.

Once again, I would like to congratulate Mr. CASTLE on the introduction of this legislation. I look forward to working with him, and other members of the House, as we continue our efforts to strengthen Head Start and ensure that our nation's neediest children are prepared to succeed in school.

## RECOGNITION OF JACK GOLDMAN

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Jack Goldman of Jefferson County, Illinois. Jack was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Jack received this honor for his lifelong service to others. He served in World War II as a combat engineer in the United States Army. Jack participated in the invasions of Leyte and Okinawa. After serving his country he returned to Mt. Vernon where he has literally and figuratively changed his community. Jack became involved with the Acquisition Committee for the Arts in the City Foundation and as chairman of the Sculpture Committee for Cedarhurst. He was named Counselor Emeritus for Mitchell Museum in 1995. Jack is an architect with Fields, Goldman, and Magee; and is also a member of the Mt. Vernon Rotary Club and the Downtown Development Corporation. He and his wife, Joan, are members of United Methodist Church.

I want to congratulate and thank Jack for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

## INTRODUCTION OF H.R. 2210, THE SCHOOL READINESS ACT OF 2003

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CASTLE. Mr. Speaker, I rise today to introduce the School Readiness Act of 2003, which reauthorizes the Head Start program. This legislation improves the Head Start Act by emphasizing that every child, regardless of their economic status, should have the best chance possible to succeed. I would like to thank the gentleman from Ohio (Mr. BOEHNER), the Chairman of the Committee on Education and the Workforce, for his assistance in developing this legislation.

In 1965, Head Start was created to give economically disadvantaged children access to the same educational, health, nutritional, social, and other services that were enjoyed by their more affluent peers. The goal of the program was, as it remains today, to provide children a solid foundation that will prepare them for success in school and later in life. As the centerpiece of the Federal government's efforts to support quality early childhood education for our nation's most disadvantaged youth, Head Start has served nearly 20 million low-income children and their families. Currently, Head Start serves over 900,000 children every day and has nearly 1,500 grantees across the United States. In my home state of Delaware, Head Start programs serve 1,594 children, with an additional 464 four year olds receiving assistance through state government funding.

We all can agree on the need for Head Start and its astounding successes. We must also recognize that Head Start can produce even greater results for children. Students who attend Head Start programs do start school more prepared than those with similar backgrounds that do not attend Head Start. However, Head Start students continue to enter kindergarten well below national norms in school readiness. By moving to close this school readiness gap, this bill will improve results for almost a million Head Start students across the nation.

The School Readiness Act of 2003 strengthens Head Start's academic focus while maintaining its comprehensive nature, eliminates out of date requirements and unnecessary demands on local grantees, improves teacher quality, demands grantee accountability while providing assistance to those that are underachieving, increases funding for Head Start, requires collaboration between early childhood education and care providers, and creates a demonstration project allowing some states to further coordinate state early childhood programs with Head Start.

Under this bill, Head Start children will enter school with demonstrated prereading, language, and pre-mathematics skills, as well as the benefits from the nutritional and health services that Head Start has always provided. Children's progress will no longer be based on arbitrary and out of date performance measures, but on scientifically based and clear criteria that will enable parents and teachers to accurately view a child's progress.

This bill will also require Head Start teachers to be more prepared to equip young children for school. By 2008, 50 percent of all Head Start teachers must have a baccalaureate degree, and after three years no new teachers will be hired without an associate degree.

This bill also improves the accountability of Head Start programs. As under current law, local grantees will be responsible for their use of the federal funds. Those that are identified as underachieving, however, will receive additional assistance. This bill demonstrates our commitment to Head Start by authorizing a $202 million increase, making it a $6.87 billion program.

Additionally, Head Start centers will now increase the likelihood of children starting kindergarten at the same level. This will be done through the efforts of Head Start programs to coordinate and reach out to other early childhood education and care providers, local school districts, local museums and libraries, and community and faith-based organizations. These efforts will be focused on the improved instruction and school readiness of children, as well as teacher training and quality improvement.

For some states, this bill will also provide the opportunity for increased integration of preschool programs with Head Start. This opportunity will only be available to states that have exhibited a substantial dedication to early childhood education and care through financial investment, the creation of statewide school readiness standards, professional development requirements for early childhood teachers, and have demonstrated inter-agency coordination. States that take advantage of this opportunity will be required to maintain their current investment, thus protecting Head Start from state budget cuts. In addition, Head Start grantees that have not exhibited any egregious or uncorrected deficiencies on Health and Human Services evaluations over the last five years would continue to receive funding during the first year of the state demonstration program.

The School Readiness Act of 2003 builds upon the reforms of previous reauthorizations of Head Start, as well as the recommendations of President Bush. I would like to take this opportunity to thank President Bush, and First Lady Laura Bush, for their leadership on this issue. The success of the White House Summit on Early Childhood Cognitive Development, which brought together hundreds of educators, researchers, librarians, business leaders and federal officials to help us better understand the issues surrounding early childhood learning, is a credit to this Administration.

I look forward to working with the members of the Education and Workforce Committee and other members of Congress as we work to craft this legislation that will improve the school readiness of disadvantaged children. I urge my colleagues to join me and the other original cosponsors in support of the School Readiness Act of 2003.

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## RECOGNITION OF NANCY GERMANN

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Nancy Germann of Jefferson County, Illinois. Nancy was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Nancy received this honor for her lifelong service to others. For thirty-three years she made a positive difference in the lives of students. She loves teaching so much she returned to the classroom after her retirement as a special education aide. Nancy is extremely involved in her church and community. Some of her activities include singing in the church choir, assisting with the soup kitchen and Thanksgiving dinner for the needy, and serving as a director for Cedarhurst Chamber Music along with helping with other Cedarhurst activities.

I want to congratulate and thank Nancy for all she has done and will continue to do for the people in her community. She is a saint to all who know her and is deserving of this prestigious honor.

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## HONORING CHARLES MIXSON

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor an outstanding constituent of mine from the Fifth Congressional District of Florida who has, because of his extraordinary achievement, been named by the Florida Professional Engineers in Government as the 2003 Government Engineer of the Year.

Charles Mixson is the County Engineer and Public Works Director in my home town of Brooksville. He is a published author, his work having appeared in American Public Works Magazine in 2002. He graduated from the University of Florida in 1977 with a civil engineering degree and has since completed several continuing education courses.

He is a member of the Florida and National Engineering Societies, the Florida and National Association of County Engineers, the American Public Works Association, and the Florida Department of Transportation Greenbook Advisory Committee. He has served in leadership roles in several of these organizations.

In addition to his professional achievements, Mr. Mixson is an upstanding community leader, as he is an active supporter of the Boy Scouts and is the immediate past president of the Kiwanis Club of Brooksville.

Mr. Speaker, it is easy to see why the Florida Professional Engineers in Government chose Mr. Mixson as their Government Engineer of the Year. Mr. Mixson has certainly worked hard to earn this honor and he is deserving of every accolade I or his peers could bestow on him.

Mr. Speaker, I ask you to join me in congratulating and honoring a fine American and a man whom I am proud to represent in this chamber.

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## RECOGNITION OF ALFRED "MUGSY" BEAN

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Alfred "Mugsy" Bean of Jefferson County, Illinois. Mugsy was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Mugsy received this honor for his lifelong service to others. On the bombing of Pearl Harbor, Mugsy immediately volunteered for service to his country. He was embroiled in World War II for close to four years. For the past 25 years Mugsy has served as a member of American Legion Post 141 Funeral Detail and has worked on the Jefferson County Veteran's Memorial Committee. He is known to treat all with the same respect and to reach out to those in need. Mugsy has been married to Louise for 58 years and has raised four children.

I want to congratulate and thank Mugsy for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

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## ARMY SPECIALIST BRANDON JACOB ROWE

### HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MANZULLO. Mr. Speaker, I recently had the honor of attending the memorial service for a heroic young man from Roscoe, Illinois, who selfishly gave his life to protect our families and our freedoms in the United States and to give the Iraqi people a future without terror and oppression.

Brandon Jacob Rowe would have turned 21 years old on April 14, 2003. But on March 31, the Army Specialist from the 101st Airborne Division was killed in an ambush near Najaf, Iraq. Brandon, who earned a waiver and was promoted to Specialist early, was one of two machine gunners in his infantry rifle platoon. According to Major Gen. Robert T. Clark, who presented Brandon's mother with her son's Purple Heart at the memorial service, machine gunners are the most important soldiers in a rifle platoon because they provide the firepower that protects the rest of the men. As Brandon's older brother, Brent, so aptly put it, "He was my short little brother, but he was one hell of a man."

I never met Brandon Rowe. But I learned of his character and his love for his country after meeting his courageous family. Brandon's mother, his father, his brothers, his sister, and his aunts, uncles and cousins are obviously in tremendous pain right now after losing him. Even amid that anguish, their pride for Brandon and their support of his mission shines through. Brandon made a tremendous impression on his family and all who knew him. I wish I had known him, Mr. Speaker.

I have enclosed a tribute to Brandon written by his Aunt Cecile shortly after his death. Brandon's sister, Leah, read the tribute at his memorial service on April 12 at Hononegah High School in Rockton, Illinois:

UNNAMED SOLDIER, ROSCOE, ILLINOIS

Now we can tell his name. His name is Brandon Jacob Rowe. He had other names—our son, our stepson, our grandson, our brother and brother-in-law, our nephew, our cousin, our boyfriend, our dear friend, our co-worker, our comrade-in-arms, our buddy, our neighbor and more. For what seemed to us a long, long while, though it was only a few days, he was known through media reports only as the first combat casualty from the 101st Airborne in Operation Iraqi Freedom.

His name is Brandon Jacob Rowe and he died in Iraq because he was committed to a cause. His death is not senseless, but full of purpose and meaning. He appreciated his freedom, and felt that everyone deserved to be free. He was proud of the job he was doing to serve his country.

He died trying to make life better for others, trying to do his part to rid the world of those who oppress the innocent. Brandon put his life, his heart, on the line so others he didn't even know wouldn't have to continue to live in terror. He had great admiration for his grandfather, who fought for our country's freedom and earned a Purple Heart as an Army paratrooper during the Second World War. Brandon wanted to do something with his life that had real value and merit. Brandon's life certainly had both.

Brandon was known for his sense of humor and fun, but he had a quiet, deep spirituality that others did not always see. They did know he was strong, and kind, and always looking out for others' welfare before his own. He sensed when others were lacking, or hurting, or needing a friend; he became that friend. Brandon always put others before himself, concerned about the welfare of his buddies, his teammates, his family and friends.

From his first smile to his last, the kindness and sweetness in his face shone out of him. His goodness drew people to him for all of his nearly 21 years. One could not see his smile without feeling happier, without feeling glad to know him.

We in his family love and honor Brandon, and thank all those who have shown love and support at this difficult time. We are grateful to his hometown friends and the members of the 101st Airborne he was so proud to be associated with, and with whom he served his country. He offered up the ultimate sacrifice. It was not in vain, Brandon, and we will not ever forget.

## RECOGNITION OF WILMA KIMMEL

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Wilma Kimmel of Jefferson County, Illinois. Wilma was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Wilma received this honor for her lifelong service to others. She is known as a dedicated wife and mother. She and her husband, Ardell, raised three children. In order to help send her children to college she began work as a secretary for the Mt. Vernon School System where she worked for twenty years. Wilma has been involved with the 4–H Club, Rend Lake Piecemakers Quilt Guild, and Herbs for Health and Fun. No one can say that Wilma is not devoted to her church. At Central Christian Church she is known as a ready and willing hand for wherever there is a need. She is described as one who gets the job done and one who never complains.

I want to congratulate and thank Wilma for all she has done and will continue to do for the people in her community. She is a saint to all who know her and is deserving of this prestigious honor.

## A BILL TO AMEND THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act, and grant the Secretary of Agriculture the power to order the recall of meat and poultry that is adulterated, misbranded, or otherwise unsafe. I am pleased to be joined in introducing this legislation by CAROLYN MCCARTHY (NY), EARL BLUMENAUER (OR), TIM RYAN (OH) and GEORGE MILLER (CA).

The announcement of the discovery of Bovine Spongiform Encephalopathy, also known as "mad cow disease," in Canada this week, further highlights the importance of this legislation. Let me be clear that there is no evidence that our domestic meat products are compromised in any way. However, if they were ever found to be tainted, the Secretary currently has no authority to mandate the recall of these products. This is unacceptable today, more than ever.

I cannot overstate the importance of the nature of this legislation. It is imperative to the health and welfare of the American public that we bolster the regulation of the meat and poultry industry. The number of people affected annually from ingesting tainted meat and poultry products illuminates this proposition: 5,000 people die from food-borne illnesses each year. Furthermore, nearly 76 million people get sick annually from eating tainted food, of which 325,000 require hospitalization.

The Jack in the Box E. coli outbreak of 1993 prompted the imposition of a new regulatory system on the meat and poultry industry designed to help eliminate future deadly food-borne illness outbreaks. The Hazard Analysis and Critical Control Point (HACCP) program shifted the responsibility for ensuring meat safety from USDA inspectors to the meat companies themselves and instituted microbial tests for harmful bacteria. Since the implementation of the HACCP regulations, however, controversy has erupted over whether the new rules place too much power in the hands of the meat industry to regulate itself.

Due to the huge political clout of the meatpacking industry, USDA does not have, nor seem to want, the power to issue mandatory recalls of tainted meat and poultry products. Complying with agency recalls, therefore, is at the industry's discretion. The meat industry says that it has never failed to cooperate with a recall request from the USDA, thus mandatory recalls of tainted meat are not needed. I disagree.

Whenever there is a recall, press releases issued by these companies make very clear that the recall is voluntary. However, when USDA asks for a recall, a negotiation process ensues between the agency and the industry. Meanwhile, thousands of people would continue to eat potentially harmful meat. This is not a trivial matter. This is meat that is potentially contaminated and could result in death.

This is a question of accountability. Somebody must be held responsible for the quality and safety of the meat we consume. The government must ensure that the meatpacking industry produces only safe meat products. My bill will facilitate this need by amending the Federal Meat Inspection Act and the Poultry Products Inspection Act. My bill authorizes the Secretary of Agriculture to order the recall of meat and poultry that is adulterated, misbranded, or otherwise unsafe or tainted from the market. The time has come for this necessary step.

## HONORING THE USS "PLATTE"

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the USS *Platte* (AO–24) Navy Ship. On this day, the bell from the ship will be permanently loaned to the Platte County-KCI Area Convention and Visitors Bureau and the Platte County commission for display. Platte County has worked very hard to honor the service and the memory of the ship and those who served on board.

The USS *Platte* was built by the Bethlehem Steel Company in Baltimore, Maryland and commissioned at Norfolk, Virginia on December 1, 1939. On March 27, 1940, the ship was sent out to support the Panama Canal Zone fleet. After its service to this fleet, the USS *Platte* was reassigned to the base at San Pedro, California and carried liquid cargo, passengers and freight to and from Pearl Harbor. On December 7, 1941, during the attack on Pearl Harbor, the USS *Platte* was fortunately stationed in San Pedro. The USS *Platte* continued its service and on January 11, 1942 was assigned as a fueling ship for the Carrier Task Force Eight, which comprised of ships including the Aircraft Carrier Enterprise, flagship of Admiral William F. Halsey Jr.

Subsequently, the USS *Platte* served in World War II supporting the U.S. Pacific Fleet in the Coral Sea, New Guinea, the Solomon Islands, Western Aleutians, Gilbert Islands, Marshall Islands, Marianas Islands and the Philippine Islands. Additionally, the USS *Platte* provided logistical support during the Korean and Vietnam wars and refueled the aircraft Carrier Enterprise task force group off the Korean shore during the Pueblo crisis. For its service, the ship received eleven battle stars for World War II and 6 battle stars for Korean war service.

On May 17, 2002, the County Commission of Platte County, Missouri recognized the outstanding accomplishments and achievements of the USS *Platte* by hosting USS *Platte* veterans, families, and friends to declare the day as USS *Platte* Day for Platte County, Missouri.

Mr. Speaker, I proudly ask you to join me in commending the USS *Platte*, the men who served this great ship, and the Platte County Commission for their efforts in remembering this important ship and its many missions.

## CONGRATULATIONS TO COMMONS LANE ELEMENTARY SCHOOL FOR RECEIVING A "GOLD STAR" AWARD

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CLAY. Mr. Speaker, I rise to honor excellence personified by a public school in my district—Commons Lane Elementary School, in the Ferguson-Florissant School District.

In April the school was named 1 of 15 elementary schools in the State of Missouri to receive the "Gold Star" award for academic excellence. I proudly enter their name into the CONGRESSIONAL RECORD as part of a national celebration of their achievement.

The feat by Commons Lane was one of three schools in my District so honored. Some 35 public schools competed for the awards, for the 2002–2003 academic year.

Chosen by a panel of school administrators and other educators from across the State, all applications were evaluated and winners were selected during the month of April. The 15 schools were formally honored May 7 at a forum in Jefferson City, MO, the State Capital.

To be eligible for the award, schools had to meet academic performance criteria established by the U.S. Department of Education for the "No Child Left Behind-Blue Ribbon Schools" program.

Established in 1991, the Gold Star Schools program is sponsored by the Department of Elementary and Secondary Education, with financial support from State Farm Insurance Companies, Inc.

In the program, elementary and secondary schools are recognized in alternating years. Mr. Speaker, I submit to you that success in education can be achieved at all levels, and sometimes where it is least expected.

As we celebrate 15 Gold Star schools in the State of Missouri, with 3 in my district alone, I also hope and plan for the day that the majority of schools in the State achieve "Gold Star" status and we can happily raise the academic bar again, for the next generation of students.

If the students of today are a, barometer, then the students of the future will most assuredly defy the odds against them and take their place in the modern world as well-educated leaders and decision-makers solving future problems.

As leaders in government, it is our responsibility to provide them the tools, the gifted teachers and the inspiration to achieve against great odds for even greater successes.

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## INTRODUCING THE ACCESS TO DIABETES SCREENING SERVICES ACT OF 2003

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. GREEN of Texas. Mr. Speaker, I rise today to introduce the Access to Diabetes Screening Services Act of 2003. This common-sense legislation will ensure that Medicare beneficiaries with diabetes are diagnosed and treated as soon as possible.

Diabetes is a serious, debilitating chronic illness that afflicts more than 17 million Americans, including 7 million Medicare beneficiaries. This sometimes silent disease causes many serious complications, including heart disease, stroke, blindness, kidney failure, and lower limb amputation. Unfortunately, more than one-third of people with diabetes won't realize it until they develop one of its deadly complications.

Diabetes imposes an enormous financial burden on our health care system. More than 25 percent of the Medicare budget is currently devoted to providing medical care to seniors living with diabetes. Congress recognized the need to address this problem when it required Medicare coverage of blood-glucose monitors and diabetes education services in the Balanced Budget Act. While this was a positive development in our fight against diabetes, it has done little to help us diagnose and treat the 2.3 million seniors who do not realize they have diabetes, or the 20 percent of Medicare beneficiaries who have pre-diabetes, a condition which, if left untreated, will develop into diabetes.

While diabetes is sometimes a silent disease, the risk factors are often obvious. Diabetes is prevalent among individuals who are overweight, aging, and lead a sedentary lifestyle. Other health conditions, such as gestational diabetes, high cholesterol, and hypertension often lead to diabetes. It is also more common in certain racial and ethnic groups, including Hispanics, African Americans, and certain Native Americans.

Currently, Medicare does not cover diabetes screening, even if a patient has some of these risk factors. We must strengthen the Medicare program to ensure that individuals get treatment before it is too late. By testing high-risk individuals, we will be able to diagnose and treat individuals earlier on, and subsequently prevent many complications. Studies have shown that people with pre-diabetes can prevent or delay the onset of type 2 diabetes by up to 58 percent through lifestyle interventions, including modest weight loss and increased physical activity.

That is why I am introducing this legislation, which would require Medicare to cover diabetes screening under Part B. Diagnosing diabetes and pre-diabetes through testing would improve the lives of our Nation's seniors and prevent an increase over the already huge amount of Medicare budget devoted to seniors with diabetes. In addition to improving the health and quality of life for millions of Americans, extending coverage to cover simple testing would save Medicare money in the long run by lowering the incidence of complications.

I urge my colleagues to support this legislation.

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## HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, I rise in opposition to H.R. 1904, the Healthy Forests Restoration Act of 2003.

I cannot overstate the importance of the nature of this legislation. As a Member of Congress from the west, I take very seriously the need to find a balanced approach to reduce the threat of catastrophic wildfire. The Cerro Grande fire, which occurred within my district in 2000, scorched over 40,000 acres and consumed over 400 homes and businesses in Los Alamos, NM. This tragic example highlights the importance of this issue in New Mexico.

Wildfire prevention and protection is of such grave importance that I am extremely concerned about, and strongly object to, the manner that this legislation was brought before us today. A Committee Print of this bill was received in my office, during a recess period, five days before it was scheduled for Resources Committee markup. Not only did we, nor the public, have time to analyze and digest its content, but the importance and depth of this issue was further undermined by the fact that this committee did not even hold any hearings on the bill before proceeding straight to mark-up.

In the past, I have worked with Mr. MCINNIS on fire issues and had hoped to be able to do so again this Congress. I believe that by working together on a bill in a bipartisan manner, we could have crafted legislation that protects our communities from catastrophic fires without the perceived need to impose unprecedented deadlines and standards for injunctive relief on the federal judiciary, and without emasculating our environmental laws. However, due to the manner in which this bill was presented to us, the opportunity to work together, or at least consider any viable alternatives to H.R. 1904, did not arise.

Considering this, I would like to point out that H.R. 1904 was not the sole option available to Congress for the protection of our at-risk communities from wildfire devastation. Similar to H.R. 1904's Section 104, which essentially eliminates any public alternatives to agency action as set out in NEPA, the majority did not allow us to consider any alternatives to H.R. 1904, aside from the Miller/DeFazio Substitute offered here today. For example, in February Mr. UDALL of Colorado and I introduced H.R. 1042, the Forest Restoration and Fire Risk Reduction Act. Had we had an opportunity to hold hearings on our bill, Mr. UDALL and I would have been able to formally raise some of the issues not addressed in H.R. 1904, but that are critically important to wildfire prevention and protection.

H.R. 1042 refocuses the implementation of the National Fire Plan (NFP) to areas designated as "wildland/urban interface," the critical zones that are of the highest risk to people, property and water supplies, by redirecting NFP funding and hazardous fuels reduction projects through state selection panels. H.R. 1042 would accomplish this through the collaboration between state and federal land managers, and local and tribal communities in both decision and implementation activities. Through their individual contributions, we could develop cost-effective restoration activities, and empower these diverse organizations to implement activities that value local and traditional knowledge, build ownership and civic pride, and ensure healthy, diverse, and productive forests and watersheds. Such collaboration would result in the efficient restoration of areas distressed by wildfires and help protect our homeowners and businesses from future losses.

While I agree with the general consensus that thinning our forests—by controlled burns or mechanical means—will lessen the likelihood of unusually severe fires, I cannot support the contention of the Bush Administration and the majority that to facilitate such projects we need to expunge our environmental laws and procedures for public comment and participation. The exemption of fire-risk reduction projects from environmental review and administrative appeals, and to deny the public the full and fair opportunity to have viable alternatives to agency action considered, circumvents established policy of public participation, an important aspect of our democratic process for making decisions affecting public lands. Excluding public comment does not assist in developing sound forest management.

H.R. 1042 makes some relatively innocuous procedural concessions that can expedite the process of resolving appeals, but, unlike H.R. 1904, it maintains these sound principles of law and public policy, and does not affect the traditional judicial review process and standards of equity inherent in our legal system.

H.R. 1904 contains unwarranted judicial review standards. Not only does it impose unreasonable time limits for filing cases in federal court after final agency action, H.R. 1904 contains an unprecedented provision that changes the fundamental legal standard of equitable relief. H.R. 1904 directs the court, when considering a motion for injunctive relief, to determine whether there would be harm to the defendant and whether the injunction would be in the public interest. In effect, these provisions tip the scales of justice in favor of the administrative agency.

The equitable balancing of competing claims has historically been part of the court's province. Injunctions are intrinsic to our federal judiciary's ability to remedy wrongs. Consequently, H.R. 1904's judicial review provisions serve to diminish the court's ability to balance competing interests, and blur the line separating the legislative role and the role of our courts.

In conclusion, I believe, as all of us from the western United States would likely agree, that it is imperative to support proactive programs that reduce the risk of catastrophic wildfires and aid in the restoration of lands that have met the same unfortunate fate as the Cerro Grande. However, such programs should be community-based and should not gut our environmental protection laws, nor affect existing standards of judicial review.

H.R. 1024 had the capacity to meet these important objectives. However, we were not offered the opportunity to consider that alternative. For this reason, and those reasons stated above, I must oppose H.R. 1904.

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## RECOGNIZING THE FARMERS AND MERCHANTS BANK OF HALE, MISSOURI ON THEIR 75TH ANNIVERSARY

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the 75th anniversary of the Farmers and Merchants Bank of Hale. The bank is one of the oldest continuously operating businesses in Hale, Missouri and I take this opportunity to commend their dedication and service to their community.

On May 2, 1928, the Farmers and Merchants Bank of Hale was commissioned and opened for business on the 9th of the month. Since its opening, the bank has only had six presidents. In addition, the Cowherd, Haynes and Franken families have all been involved with the bank from its beginning. When it was first starting out, the bank began with a capital of $20,000; today, the bank's capital exceeds $1,300,000 and has deposits of $13,250,000.

The bank has truly evolved with the times. Photographs taken of the bank in 1906 and 1977 show that the building remained the same. However, in 1978, the bank celebrated its 50th anniversary and the raising of a new building. Artifacts from the original bank were taken and displayed in the new building, including the original vaults, the black iron swinging gate and the big old clock that graced the main lobby. These artifacts remain with the bank to this day.

Mr. Speaker, I proudly ask you to join me in commending the Farmers and Merchants Bank of Hale, Missouri on their 75th anniversary and for their many contributions to the 6th District and the State of Missouri.

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## CONGRATULATIONS TO CONWAY ELEMENTARY SCHOOL FOR RECEIVING A "GOLD STAR" AWARD

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CLAY. Mr. Speaker, I rise to honor excellence personified by a public school in my District—Conway Elementary School, in the Ladue School District.

In April the school was named one of 15 elementary schools in the State of Missouri to receive the "Gold Star" award for academic excellence. I proudly enter their name into the CONGRESSIONAL RECORD as part of a national celebration of their achievement.

The feat by staff and students at Conway Elementary School was one of three schools in my District so honored. Some thirty-five public schools competed for the awards, for the 2002–2003 academic year. Chosen by a panel of school administrators and other educators from across the state, all applications were evaluated and winners were selected during the month of April. The 15 schools were formally honored May 7 at a forum in Jefferson City, Mo., the State Capital. To be eligible for the award, schools had to meet academic performance criteria established by the U.S. Department of Education for the "No Child Left Behind-Blue Ribbon Schools" program.

Established in 1991, the Gold Star Schools program is sponsored by the Department of Elementary and Secondary Education, with financial support from State Farm Insurance Companies, Inc.

In the program, elementary and secondary schools are recognized in alternating years. Mr. Speaker, I submit to you that success in education can be achieved at all levels, and sometimes where it is least expected.

As we celebrate 15 Gold Star schools in the state of Missouri, with three in my district alone, I also hope and plan for the day that the majority of schools in the state achieve "Gold Star" status.

If that happens, we can happily raise the academic bar again, for the next generation of students. If the students of today are a barometer, then the students of the future will most assuredly defy the odds against them and take their place in the modern world as well-educated leaders and decision-makers solving future problems.

As leaders in government, it is our responsibility to provide them the tools, the gifted teachers and the inspiration to achieve against great odds for even greater successes.

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## UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

SPEECH OF

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 21, 2003*

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of H.R. 1298, the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.

There is no doubt that sub-Saharan Africa is in the midst of a crisis because of the HIV/AIDS epidemic. Although only 10 percent of the world's population resides in this area, it is home to more than 70 percent of individuals infected by HIV/AIDS. According to the United Nations, 29.4 million adults and children are infected with the HIV virus in the region, including 3 million children under the age of 15.

Although HIV/AIDS has become a treatable disease here in the United States, the public health infrastructure in Africa is ill-equipped to deal with this pandemic. This is evidenced by the fact that, of the 4 million individuals who have reached an advanced stage of the disease, only 50,000 individuals are receiving anti-retroviral treatment.

This problem is compounded by the increased spread of comorbidities such as tuberculosis and malaria. Tuberculosis is a leading cause of death for individuals with HIV/AIDS, causing one out of every three deaths for individuals with HIV/AIDS. Incidences of malaria have increased dramatically in recent years due to resistance of the malaria parasite to once effective drugs, and increasing resistance of mosquitoes to insecticides. The World

Health Organization estimates between 300 million and 500 million new cases of malaria each year.

That is why this legislation is so important. This measure makes a substantial investment in our Nation's efforts to help Africa combat this horrible epidemic. The legislation provides up to $1 billion specifically for the Global Fund to Fight AIDS, TB and Malaria in 2004—a key multilateral mechanism for expanding prevention and treatment. It also allows the U.S. share of total contributions to the Global Fund of up to 33 percent, which solidifies our country's leadership and commitment to eradicating these diseases worldwide.

This legislation is carefully crafted, bipartisan, and will be truly effective in our efforts to combat HIV/AIDS, Tuberculosis and Malaria. I applaud the efforts of the Chairman and Ranking Member of the International Relations Committee for their work on this important legislation.

## SIEFERT ELEMENTARY SCHOOL CELEBRATES 100TH YEAR ANNIVERSARY

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. KLECZKA. Mr. Speaker, on Thursday, May 29, 2003, Siefert Elementary School will be celebrating its 100th Year Anniversary, a historic event in the education of Milwaukee's youth.

Originally called Ninth District #1 when its doors were opened in 1903, the school was renamed Siefert Elementary School after Henry O.R. Siefert, who served as principal for 16 years. Siefert retired from Milwaukee Public Schools in 1922 at the age of 82, after serving Milwaukee area students for 63 years in numerous capacities, including teacher, principal and superintendent of the Milwaukee Public School System.

Located in the Midtown Neighborhood of Milwaukee, a community with diversity at its core, the school currently serves students from Head Start through 5th grade, and its mission is to ensure that all students reach their academic potential and become responsible, well-rounded citizens. The curriculum trains children to become competent, creative problem solvers, particularly in science and mathematics, and to be familiar with current technological advances.

Siefert Elementary challenges its young people, helping them develop the independent thinking skills they will need as they move beyond the halls of this outstanding school. It encourages each student to be an active partner in his or her individualized education program, working to achieve personal excellence in academics, communications, emotional intelligence and life planning in order to become a self-directed, contributing member of society. This Milwaukee Public School begins the process of equipping students with the tools required to function successfully in the global economy of the 21st century.

Celebrating 100 years of public education is a testament to how great things can be accomplished when students, teachers, administrators and parents work together. I salute Siefert Elementary efforts, and extend my best wishes for continued success in providing quality education for young people in our community.

## LEGISLATION TO DESIGNATE THE FEDERAL COURTHOUSE IN SANTA FE, NM, AFTER JUDGE SANTIAGO CAMPOS

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to memorialize an outstanding jurist, an honorable man, and a leading Hispanic in the field of law by introducing legislation to name the Federal Courthouse in Santa Fe, NM, after Judge Santiago Campos. I am pleased to be joined in introducing this legislation by my colleagues, Mr. SERRANO, Mr. GRIJALVA, Mr. REYES, Mr. MENENDEZ, Ms. SOLIS, Mr. RODRIGUEZ, and Mr. PASTOR.

Judge Santiago Campos was the first Hispanic appointed to the Federal bench in New Mexico, serving from 1978 until his death in 2001, including as chief judge from 1987 through 1989. Judge Campos' career of public service only culminated with his service as a U.S. District Court Judge, as he also served in the U.S. Navy as a Seaman First Class from 1944 to 1946, as the Assistant and First Assistant Attorney General of New Mexico from 1954 to 1957, and as a District Court Judge from 1971 to 1978 in the First Judicial District in the State of New Mexico. Judge Campos served with distinction on the bench and displayed both firmness and compassion with those who entered his courtroom. He was a life long resident of New Mexico and graduated first in his law school class at the University of New Mexico.

Judge Campos was very active in his courtroom, often exercising his right to question witnesses in the middle of cross-examinations. Many agree that he became more involved in a case than other judges, but still let a lawyer try his own case. One of his most memorable cases ordered the Gannett Co. to return The New Mexican, Santa Fe's daily newspaper, to its former owner, Robert McKinney due to a breach of contract.

During his career, Campos was an honorary member of the Order of the Coif. He also received the Distinguished Achievement Award of the State Bar of New Mexico in 1993, and in the same year the University of New Mexico honored him with a Distinguished Achievement Award.

Sadly, Judge Campos passed away on January 20th, 2001. Following his passing, the New Mexico State Legislature passed a joint memorial requesting Congress to name the Federal Courthouse in Santa Fe, New Mexico, after Judge Campos who had his chambers in the courthouse for over 22 years. In addition, the judges of the Tenth Circuit Court of Appeals who reside in New Mexico and the district judges of the District of New Mexico unanimously requested and support Congressional action to name the Federal Courthouse after Judge Campos. I am pleased to take up this effort.

Last Congress I introduced this legislation and was able to work to get it passed by the House. Unfortunately the Senate did not act on this legislation. This year, however, I am hopeful that we will be able to get this legislation signed into law and honor this great man with a small token of appreciation for the remarkable life that he lived.

## MEMBERS OF EAST NORRITON ENGINE COMPANY WITH OVER 30 YEARS OF SERVICE

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. GERLACH. Mr. Speaker, I rise today to honor seven members of the East Norriton Fire Engine Company. For over 30 years these fine individuals—Joseph Rothwein, George Myers, Joseph M. Pfizenmayer, Douglas Lindberg Sr., Donald Huston, Henry M. Carneavale, and Joseph T. Lesinski—have dedicated over a third of their lives, 242 years total, to saving life and property for East Norriton Township and the surrounding communities.

Joseph Rothwein is a 30-year member who has held numerous positions within the Company. He served on and chaired the Board of Trustees, held elected office as Financial Secretary for over 20 years, and was a recipient of the Life Membership Award in 1995.

George Myers, a 31-year member, is the current Assistant Fire Chief and Chairman of the Board of Trustees. He has held such positions as Fire Chief and Chief Engineer of the Company and presently is a training instructor at the Montgomery County Fire Academy and Pennsylvania Fire Academy. George is a two-time recipient of the Fire Fighter of the Year Award and received the Life Membership Award in 1991.

Joseph M. Pfizenmayer, a 32-year member, and current East Norriton Township Fire Marshall, has served as Chairman of the Board of Trustees and held numerous elected positions including Assistant Fire Chief. He was a training instructor at the Montgomery County Fire Academy and was Chairman of the Montgomery Fire Advisory Board. Joe is a recipient of the Fighter of the Year Award and was presented the Life Membership Award in 1991.

Douglas Lindberg Sr., a 33-year member, and current Vice Chairman of the Board of Trustees, has held numerous elected offices including Fire Chief and is currently a training officer at both the Montgomery County Fire Academy and the Pennsylvania Fire Academy. Doug was the first member of his Company to pass the Pennsylvania State Certification of Fire Fighter Level one and is a three-time recipient of the Fire Fighter of the Year Award. He received the Life Membership Award in 1989.

Donald Huston, a 36-year member, has held several elected positions including that of Fire Police Chief as well as serving on the Board of Trustees. Donald received the Life Membership Award in 1986.

Henry M. Carneavale, a 43-year member, has held numerous elected positions, most notably that of Fire Police Chief while also serving on the Board of Trustees. Hank is a recipient of the Life Membership Award in 1979.

Joseph T. Lesinski Sr., the senior member of this group at 47 years, and former Fire Chief and a 17-year line officer, has held several elected positions during his tenure, including Chairman of the Board of Trustees. Joe has the distinction of founding the first fire school in East Norriton. He is a current Senior Training Instructor at the Montgomery County Fire Academy and Pennsylvania Fire Academy and two-time recipient of the Fire Fighter of the Year Award and in 1975 he received the Life Membership Award.

The contributions of these fine men cannot be honored or praised enough by their fellow citizens. Their ongoing leadership and commitment to the East Norriton Fire Engine Company has made their community a safer place to live now and in the future.

## TRIBUTE TO PRESIDENT CHEN SHUI-BIAN OF TAIWAN

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. TIAHRT. Mr. Speaker, President Chen Shui-bian will soon be marking his third anniversary in office. His performance as leader of Taiwan has received widespread praise around the world. In dealing with China, President Chen has sought to assuage Beijing's anxieties about Taiwan's declaration of independence. Moreover, President Chen has taken major steps to reduce tension in the Taiwan Straits. Travel between Taiwan and the Chinese mainland has been made much easier. We hope that Taiwan and China will soon resume their dialogue on issues affecting both sides. Peace in the Straits is in everyone's interest.

President Chen was instrumental in making Taiwan's accession to the World Trade Organization a reality. We hope Taiwan will be successful in joining the International Civil Aviation Organization (ICAO) in the not too distant future. We also hope that Taiwan will be successful in gaining observer status at the World Health Assembly this May, especially with SARS affecting so many countries in Asia. As Secretary of State Colin Powell recently said, "infectious disease knows no borders and requires an effective and coordinated response at local, national, and international levels." Taiwan is part of the world that has been severely affected by SARS. Taiwan belongs to the World Health Organization and must be included in all World Health Organization activities in curtailing the spread of SARS.

Relations between Taiwan and the United States have been growing stronger everyday. Taiwan is a strong ally of ours. To reduce their trade surplus, Taiwan has bought many types of American agricultural and consumer products. Their tourists choose the United States as their number one destination and many of their students have selected our colleges and universities for advanced study. I am particularly pleased to see Taiwan giving us full support in our campaign against global terrorism and their pledge for humanitarian assistance to post-war Iraq. We must treasure Taiwan's friendship and learn from President Chen's longstanding motto: "Do your best for whatever the job requires."

On the eve of President Chen's third anniversary in office, I salute President Chen for his many accomplishments and wish him good luck and good health.

## TAIWAN'S ENTRY AS AN OBSERVER TO THE WHO

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. ROS-LEHTINEN. Mr. Speaker, this week, the World Health Organization met in Geneva to discuss its agenda and the tentative observer status of Taiwan into the Organization. This meeting came on the heels of a terrible outbreak now known as Severe Acute Respiratory Syndrome (SARS).

The people of Taiwan are courageously and resiliently combating this dreadful epidemic. Although their efforts have not gone unheard in the halls of Congress, as my colleagues and I have fought for H.R. 441 and final passage of S. 243, other nations that do not respect basic human rights have opposed the entry of Taiwan into the WHO.

SARS has dreadfully demonstrated to all nations that epidemics do not have borders. Unlike its neighbor to the North, Taiwan is an open and transparent nation that has committed its efforts to truthfully divulging the impact of SARS on its population.

The entry of Taiwan as an observer to the WHO will give its people a superior chance in combating this evil malady. Nations that support freedom, a democratic and transparent form of government must support Taiwan's observer status to the World Health Organization.

Mr. Speaker, I would like to express my heartfelt sympathy to the people of Taiwan for the profound loss they are experiencing due to the malevolence known as SARS and reiterate my full support for Taiwan's entry as an observer to the WHO.

## FACILITIES-BASED COMPETITION IS GOOD FOR U.S. SECURITY

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BLUNT. Mr. Speaker, the U.S. economy rides on the telecommunications network now more than ever. We are ever more dependent on the Internet and our telecommunications networks to conduct business. This makes our telecommunications infrastructure a potential terrorist target.

One way to guard against the destruction of our telecommunications network is to have multiple, competing networks in place. If one goes down, the other can be used. While telecommunications companies often build in redundancy in their networks, it would be better from a security standpoint to have separate, independently operated networks.

Government policy should encourage facilities-based telecommunications competition. This was one of the main goals of the Telecommunications Act of 1996. A Federal Communications Commission regulation, however, actually discourages facilities-based competition. This regulation known as the Unbundled Network Element Platform (UNE–P) allows a competitor to use an incumbent's network at a steep discount, sometimes up to 55 percent. Since this is a platform, the competitors do not have to build any of their own facilities.

The huge discount makes it much more economical for a competitor to use the incumbent's network than to build its own facilities. It also makes it more difficult for an incumbent to financially justify the expense of deploying new facilities, as competitors will be able to piggyback off the facilities and take customers away from the incumbent, without the competitors spending any money for capital improvements.

The Chairman of the FCC tried to get rid of this policy in February, but was stymied by a 3 to 2 vote of his fellow Commissioners. The FCC needs to rethink this policy. Without competing facilities-based networks available, a major terrorist hit to an incumbent's telecommunications network could bring the U.S. economy to a standstill.

## INTRODUCTION OF THE MEDIA (MAINTAINING AND ENSURING DIVERSITY AND INTEGRITY ON THE AIRWAVES) ACT OF 2003

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CONYERS. Mr. Speaker, today I am introducing the "MEDIA (Maintaining and Ensuring Diversity and Integrity on the Airwaves) Act of 2003," legislation that would provide greater protection to small and minority-owned businesses in the media industry.

Access to the media is at the foundation of our democracy. As part of its effort to advance one of its primary strategic goals of promoting competition, diversity and localism, the FCC has strived to ensure that every person has equal access and that small and minority owned businesses are fairly and adequately represented in the media.

To accomplish this objective, under Section 257 of the 1996 Telecommunications Act, the FCC is required to identify and eliminate market entry barriers for small telecommunications businesses. Section 257 also requires the FCC to report every three years on any regulations prescribed to eliminate any such barriers. Section 257 was written to ensure that greater consolidation in the media industry would not occur without concern for diversity in ownership and content. Specifically, the section was meant to address barriers involving race and gender discrimination.

The FCC has not yet completed its Section 257 Report to Congress. At the same time, the FCC is one short week away from significantly relaxing its current media ownership rules, which may permit networks to own stations that can reach 90 percent of the nation, allow companies to own three television stations in a market, and abolish the ban on cross-ownership between TV stations and newspapers. These new rules are likely to have significant negative consequences for many small and minority owned businesses, but the FCC has not provided its report demonstrating that it has analyzed the impact on these businesses and has not provided adequate assurance that steps are being taken to eliminate any negative consequences. Adding fuel to the fire, the FCC is embarking on this course without providing *any* notice and opportunity to respond to the specific rules it is considering.

The MEDIA Act addresses these concerns. First, the Act requires the FCC to publish and seek comment on its proposed rules prior to enactment. Second, responding to the concern that requiring a biennial review places an undue burden on the FCC as well as the many small and minority owned companies who need greater certainty to grow their businesses, the Act instructs the FCC to review its media ownership rules every five years instead of every two years. Third, the Act prevents the FCC from repealing its media ownership rules or approving mergers in excess of $50 million until it has completed its 2003 Section 257 report to Congress identifying and eliminating market entry barriers for small telecommunications businesses, as well as analyzing how any change of the existing regulations would be consistent with the national policy of promoting diversity and competition and how any change would affect barriers to entry for small businesses.

The vast majority of public responses regarding the FCC's decision to change its media ownership rules have criticized the FCC for so hastily running through the process without affording adequate time for a meaningful analysis and public comment on concerns with the new rules. If the FCC will not Act to ensure that any changes are in the public interest and that small and minority owned businesses are adequately represented in the media, Congress must step in.

I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

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## POSITIVE AGING ACT OF 2003

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. KENNEDY of Rhode Island. Mr. Speaker, May is both Mental Health Month and Older Americans Month, and no time to make sure that older adults are getting the mental health care they need. Not only do we owe our seniors dignity and good health, but providing good mental health care to older Americans is good policy. Failure to treat mental disorders leads to functional dependence, nursing homes, poorer health outcomes for other chronic conditions, and suicide.

According to the National Institutes of Health, seniors commit suicide at a higher rate than any other age group. And in 20 percent of those cases, seniors killed themselves the same day they visited their primary care doctor. Seventy percent of senior suicides have been to a primary care physician the same month.

There is a severe misunderstanding of mental illness in older adults, even among those with medical training. The President's New Freedom Commission on Mental Health has identified the failure of seniors to receive mental health care as a major problem. The Surgeon General's Report on Mental Health found that almost one in five adults over 55 experiences a specific mental disorder that is not part of the "normal" aging process.

That's why today, my good friend from Maryland, our Minority Whip, and I are introducing the "Positive Aging Act of 2003"—to improve the accessibility and quality of mental health services for our rapidly growing population of older Americans. While we have made great strides in extending the life span, we continue to face the challenge of improving the quality of life for America's senior citizens. This legislation is designed to integrate mental health services with other primary care services in community settings that are easily accessible to the elderly.

We can effectively treat many of the mental disorders common in older Americans, but in far too many instances we are not making such treatments available. Unrecognized and untreated mental illness among elderly adults can be traced to gaps in training of health professionals, and in our failure to fully integrate mental illness identification and treatment with other health services. Mental illnesses are poorly recognized in many care settings and knowledge about effective interventions is simply not reaching primary care practitioners. Research has shown that treatment of mental illnesses can reduce the need for other health services and can improve health outcomes for those with other chronic diseases. These missed opportunities to diagnose and treat mental diseases are taking a huge toll on the elderly and increasing the burden on their families and our health care system.

Mr. Speaker, I recognize that the stigma associated with mental illness, the lack of Medicare coverage for prescription medicines, and Medicare benefit discrimination related to mental health services also limit appropriate care for the elderly. I am committed to address these broader problems through Medicare reform legislation as soon as possible. In the meantime, we can and we must take other steps. We must increase opportunities for effective diagnosis and treatment of mental illness among the elderly. This legislation is intended to do just that.

Mr. Speaker, I strongly believe there are immediate opportunities to improve mental health care for older Americans. This legislation can help to target our resources on identifying and treating a population at high risk for disability and dependence. We have an obligation to take what is known about effective treatments and improve the quality of life and overall health of millions of seniors. It's not only the right thing to do; it's also an investment that will return enormous dividends in terms of more economical use of health resources, improved patient outcomes, a better quality of life for older Americans.

I am grateful for the support of my colleagues who have joined me in introducing this bill, particularly the gentleman from Maryland, and for the many advocates out in our communities across the country who are leading the way with strong initiatives and good examples. I particularly would like to recognize the American Association for Geriatric Psychiatry for their tireless leadership in the area of mental health for seniors.

I hope that this House will join me in honoring the citizens who have built this great country by ensuring that they get the full range of health services they need.

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## INTRODUCING THE NATIONAL AMUSEMENT PARK RIDE SAFETY ACT OF 2003

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MARKEY. Mr. Speaker, Memorial Day is the beginning of the season when American families take their children to our amusement parks for a day of fun and sun. Unfortunately, it is also the case that over 75 percent of the serious injuries suffered on these rides occur between the months of May and September. Most of America thinks that the rides at these parks are subject to oversight by the nation's top consumer safety watchdog—the Consumer Product Safety Commission (CPSC.). But this is not true. The industry used to be subject to federal safety regulation, but in 1981 it succeeded in carving out a special-interest political exemption in the law—the so-called Roller Coaster Loophole.

It is time to put the safety of our children first—it is time to close the Roller Coaster Loophole.

Today I am introducing the NATIONAL AMUSEMENT PARK RIDE SAFETY ACT, to restore safety oversight to a largely unregulated industry. I am joined in this effort by Representatives George Miller, Bill Pascrell, Barney Frank, Frank Pallone, Richard Neal, Jan Schakowsky, Jim McGovern, Carolyn Maloney and John Tierney.

SUPPORT FOR THE BILL

We are supported in this endeavor by the nation's leading consumer-protection advocates, including Consumer's Union, the Consumer Federation of America, the National SAFE KIDS Campaign, Saferparks.org, and the U.S. Public Interest Research Group.

Moreover, the nation's pediatricians—the doctors who treat the injuries suffered by children on amusement park rides—have endorsed our bill. According the American Academy of Pediatrics, "a first step to prevention of these injuries is adopting stronger safety regulations that allow for better inspection and oversight of the fixed-rides."

THE PROBLEM WITH STATE-ONLY REGULATION

"Fixed" or "fixed-site" rides are found predominantly in destination theme parks. When an accident occurs on such rides, the law actually prevents the CPSC from even setting foot in the park to find out what happened. In some states, an investigation may occur, but in many, there is literally no regulatory oversight at all. And no matter how diligent a particular state might be, there is no substitute for federal oversight of an industry where park visitors often come from out-of-state; a single manufacturer will sell versions of the same ride to park operators in many different states; no state has the jurisdiction, resources or mission to ensure that the safety lessons learned within its borders are shared systematically with every other state.

RIDES CAN KILL, NOT JUST THRILL

Although the overall risk of death on an amusement park ride is very small, it is not zero. Fifty-five fatalities have occurred on amusement park rides in the last 15 years, and over two-thirds occur on "fixed-site" rides in our theme parks. In August 1999, 4 deaths occurred on roller coasters in just one week, "one of the most calamitous weeks in the history of America's amusement parks," according to U.S. News and World Report:

August 22—a 12-year-old boy fell to his death after slipping through a harness on the Drop Zone ride at Paramount's Great America Theme Park in Santa Clara, California;

August 23—a 20-year-old man died on the Shockwave roller coaster at Paramount King's Dominion theme park near Richmond, Virginia;

August 28—a 39-year-old woman and her 8-year-old daughter were killed when their car slid backward down a 30-foot ascent and crashed into another car, injuring two others on the Wild Wonder roller coaster at Gillian's Wonderland Pier in Ocean City, New Jersey.)

Since that week, there have been six more fatalities on amusement park rides, including an 11-year-old girl just over two weeks ago at Six Flags Great America in Gurnee, Illinois.

Every one of these is an unspeakable horror for the families. It is simply inexcusable that when a loved one dies or is seriously injured on these rides, there is no system in place to ensure that the ride is investigated, the causes determined, and the flaws fixed, not just on that ride, but on every similar ride in every other state. The reason this system does not exist is the Roller Coaster Loophole.

Every other consumer product affecting interstate commerce—a bicycle or a baby carriage, for example—endures CPSC oversight. But the theme park industry acts as if its commercial success depends on remaining exempt from CPSC oversight. As a result, when a child is injured on a defective bicycle, the CPSC can prevent similar accidents by ensuring that the defect is repaired. If that same child has an accident on a faulty roller coaster, no CPSC investigation is allowed. That's just plain wrong.

FATALITIES PER MILE COMPARED TO TRAINS, PLANES, BUSES AND AUTOS

The industry attempts to justify their special-interest exemption by pretending that there is no risk in riding machines that carry human beings 70, 80 or 90 miles an hour. The rides are very short, and most people are not injured. But in fact, the number of fatalities per passenger mile on roller coasters is higher than on passenger trains, passenger buses, and passenger planes. The National Safety Council uses a standard method of comparing risk of injury per distance traveled. As can be seen from the following table, riding on a roller coaster is generally safer than driving a car, but is not generally safer than riding a passenger bus, train or airplane:

| | Fatalities | | | | Fatalities per 100 mil miles |
|---|---|---|---|---|---|
| | 1997 | 1998 | 1999 | 2000 | |
| Automobiles | 21,920 | 21,099 | 20,763 | 20,444 | 0.86 |
| Roller Coasters | 3 | 4 | 6 | 1 | 0.70 |
| Railroad Passenger Trains | 6 | 4 | 14 | 4 | 0.05 |
| Scheduled Airlines | 42 | 1 | 17 | 87 | 0.01 |
| Buses | 4 | 26 | 39 | 3 | 0.04 |

Fatalities are just the tip of problem, however. Broken bones, gashes, and other serious injuries have been rising much faster than attendance. Neither the CPSC is prohibited from requiring the submission of injury data directly from ride operators, so it is forced to fall back on an indirect method, the National Electronic Injury Surveillance System (NEISS), which gathers information from a statistical sample of hospital emergency rooms and then estimates national numbers. Nevertheless, NEISS has been gathering these statistics systematically over many years, so that trends become clear over time.

SOARING INJURY RATES IN OUR PARKS

Beginning in 1996, a sharp upward trend can be seen in hospital emergency room visits by passengers on "fixed" rides—the category of rides exempt from CPSC regulation under the Roller Coaster Loophole. These injuries soared 96 percent over the next five years. Meanwhile, such emergency room visits were falling for passengers on rides that the CPSC still regulates.

Here are the year-by-year estimates of non-occupational amusement ride injuries, 1996–2001, from the CPSC:

| Year | Fixed ("unregulated") | Mobile ("regulated") |
|---|---|---|
| 1996 | 3419 | 2963 |
| 1997 | 5353 | 2562 |
| 1998 | 6523 | 2751 |
| 1999 | 7629 | 2788 |
| 2000 | 6595 | 3985 |
| 2001 | 6704 | 1609 |

The theme park industry likes to tell the public that its rides are safer than the mobile rides because they are overseen by a permanent park staff, but according to this independent government safety agency report, the mobile parks have less of an injury problem than the theme parks.

Why has this startling increase in amusement park rides occurred recently? No one knows for sure. If the facts were known to the CPSC, it could do its job. But the facts are kept from the CPSC, so we are left to speculate.

We know, for example, that new steel technology and the roller coaster building boom of the 1990s resulted in an increase in the speed almost as dramatic as the increase in serious injuries. All of the nation's 15 fastest coasters have been built in the last 10 years.

In 1980, the top speed hit 60 mph. In 1990, it hit 70 mph. The top speed today is 120 mph.

For the most part, these rides are designed, operated and ridden safely. But clearly, the margin for error is much narrower for a child on a ride traveling at 100 mph than on a ride traveling 50 mph. Children often do foolish things, and the operators themselves are often teenagers. People make mistakes. The design of these rides must anticipate that their patrons will act like children, because they often are children.

THE BILL RESTORES BASIC SAFETY OVERSIGHT TO THE CPSC

The bill we are introducing today will close the special-interest loophole that prevents effective federal safety oversight of amusement park rides. It would, therefore, restore to the CPSC the standard safety jurisdiction over "fixed-site" amusement park rides that it used to have before the Roller Coaster Loophole was adopted. There would no longer be an artificial and unjustifiable split between unregulated "fixed-site" rides and regulated "mobile" rides. When a family traveled to a park anywhere in the United States, a mother or father would know that their children were being placed on a ride that was subject to basic safety regulations by the CPSC.

It would restore CPSC's authority to:

1. Investigate accidents,
2. Develop an enforce action plans to correct defects, and
3. Act as a national clearinghouse for accident and defect data.

The bill would also authorize appropriations of $500 thousand annually to enable the CPSC to carry out the purposes of the Act.

I urge my colleagues to join us in this effort to make this the safest summer ever in our theme parks. Let's pass the National Amusement Park Ride Safety Act.

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## IN MEMORY OF LANCE CORPORAL MATTHEW SMITH

### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. PENCE. Mr. Speaker, it is with equal amounts of profound pride and sympathy that I come to the floor this morning. I rise to honor a noble American, Lance Corporal Matthew R. Smith, a Marine Corps reservist from Anderson, IN, killed Saturday, May 10, while serving his country in Kuwait. Lance Corporal Smith lost his life in a vehicle collision while running supply missions between Iraq and Kuwait. Lance Cpl. Smith was just 20 years old. He is survived by his father David, his mother Patricia, and by his brother Mason.

Lance Corporal Smith was assigned to Detachment 1, Communications Company, Headquarters and Service Battalion, 4th Force Service Support Group based in Peru, IN, an outfit he had served selflessly and courageously since enlisting in June of 2001.

Lance Corporal Smith's father David said that his son had an intense love for the Corps, and his fellow Marines. Mr. Smith told the Indianapolis Star, "How many people on this Earth die doing the job they know they were put here to do." His Aunt Vicki added, "He died doing what he believed in."

Lance Corporal Smith was a student of history—he was enrolled at Indiana University before he was called to active duty—an interest he vigorously embraced in his free time, in the classroom, and as a member of the Social Studies Academic Team. His school teachers recall a young man often expressing blunt, straight-forward and in-your-face viewpoints which they always found to be well researched and sophisticated for his age. He was also an accomplished athlete; he spent time during high school playing rugby and was active in other outdoor activities.

Mr. Speaker, Lance Corporal Smith joins the 137 other proud and distinguished Americans who have made the ultimate sacrifice—these wonderful men and women gave their lives in defense of freedom, a freedom we all too often take for granted.

May God bless the family of Lance Corporal Smith during this difficult time, and may they experience the prayers and thanks of a grateful nation. May they rest upon the promise of Jeremiah 31:13, "I will turn their mourning into gladness.I will give them comfort and joy instead of sorrow."

## A TRIBUTE TO PRESIDENT CHEN SHUI-BIAN

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. LANTOS. Mr. Speaker, it is my distinct honor and a true privilege as the ranking Member in the House International Relations Committee, to congratulate President Chen Shui-bian and the people of Taiwan upon the third anniversary of his election.

President Chen has been an instrumental component as Taiwan moves along the path of democratization and wide economic reform. Moreover, President Chen deserves recognition for repeatedly demonstrating his commitment to human rights and rule of law. These are no small accomplishments, and are but one of the litany of achievements that that President Chen has scored while in office. In this regard, I would like to share with my colleagues a small sample of the highlights of President Chen's first three years in office.

First, President Chen has shown a continued commitment to the long-standing economic and cultural relationship that exists between the United States and Taiwan. Today, Taiwan remains a top ten trading partner and the strength of our cultural ties can be clearly seen by the number of Taiwanese students, currently at more than 30,000, who attend U.S. colleges and universities.

Second, President Chen has been a quiet yet fiercely determined leader in bringing Taiwan greater exposure and admittance to the global community nations. His success in this area is evident by the recent entrance of Taiwan into the World Trade Organization (WTO). Mr. Speaker, future goals include seeking membership in the World Health Organization and the International Civic Aviation Organization.

Third, President Chen has exhibited great diplomacy with his cautious and measured comments and actions toward the People's Republic of China. Mr. Speaker, I personally believe that President Chen demonstrated great courage when he promised that Taiwan would not seek independence as long as Beijing refrains from using force against Taiwan.

Mr. Speaker, this short list is but illustrative of President Chen's achievements to date. I strongly urge all of my colleagues to join me in congratulating President Chen Shui-ban on the first three years of his presidency, and wish him continued success on all of his future endeavors.

## TRIBUTE TO MARY ROSE CLARK WALKER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I stand before this body of Congress to pay tribute to an outstanding woman from my district. Mary Clark Walker passed away recently at the amazing age of 108. Mary was one of a small number who had witnessed the dawn of two centuries, and the astounding advancement of technology in the United States over that time. Mary was lucky enough to see the beginning of the airplane, the television, and the modern automobile.

At a very young age, Mary moved from California to Ouray, Colorado where her original house on Oak Street still stands today. Mary gained a reputation as a hard worker. At a very young age, Mary began working to provide her family with extra spending money. She would often travel by train to Montrose, Colorado, where she would work a week at a time for the Ashenfelter Ranch. Mary sometimes stayed at the ranch for up to a month before she would return home to her family. It was this kind of work ethic that garnered Mary the respect of her town, which congratulated her by throwing a special 100th birthday party in her honor. Mary was also blessed with two sons, Jack and Lester, who claim her secret for a long and healthy life was nothing more than clean living and hard work.

Mr. Speaker, it is people like Mary that constitute the heart of our great nation as well as the spirit of the West and I am honored to recognize her life before this body of Congress and this nation. While we are all saddened by the loss of such a great woman, we can take some solace in knowing that she lived a long and happy life. My thoughts and prayers go out to Mary's friends and family during their time of mourning.

## TRIBUTE TO TAIWANESE PRESIDENT CHEN SHUI-BIAN

### HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. KING of New York. Mr. Speaker, today I rise to pay tribute to the leadership demonstrated by Taiwanese President Chen Shuibian. During his three years in office, President Chen has worked diligently to strengthen the friendship between Taiwan and the United States. I have had the privilege meeting with President Chen in the United States and in Taiwan. The relationship between our countries stands as a great example of the cooperation and understanding that can be reached between two nations that share the goals of fostering democracy and human rights, protecting the world against terrorism, and expanding the global economy through trade.

We are extremely grateful for the friendship and support Taiwan has extended us during our own country's very difficult times. President Chen immediately and publicly lent his country's unwavering support to the War on Terrorism. Taiwan has also agreed to devote financial resources and other humanitarian assistance to the recently freed peoples of Afghanistan and Iraq.

As Taiwan and Asia experience the threat of SARS, we see how critical it is to admit Taiwan (or at least allow it observer status) into the World Health Organization (WHO). While some nations suppressed information about this outbreak, Taiwan reported freely on it and offered to work with WHO in combating SARS. The 23 million people of Taiwan ought to be included in the international medical community's efforts to control infectious diseases and the world not deprived of the benefits Taiwan can offer it.

Mr. Speaker, under this President's guidance, Taiwan's vibrant democracy has continued to thrive, human rights have been safeguarded, and freedom of the press has never been stronger. For these reasons I urge all my colleagues to join me in congratulating President Chen.

## HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Mr. ETHERIDGE. Mr. Speaker, today the House considers legislation to address the susceptibility of our national forests to insects, diseases, and wildfires. In 2000, 8.4 million acres of land burned, costing approximately $1.3 billion in suppression costs. In 2001, 3.6 million acres burned, costing more than $900 million. Last year, 6.9 million acres burned, costing approximately $1.6 billion. This year, conditions are ripe for another big fire season.

From 1960 through 1990, the Southern Pine Beetle has caused $900 million in damage to pine forests. Red and White Oak Borers have devastated 33% of standing Red and White Oak timber in Arkansas, Missouri, and Oklahoma. These insects and others are threatening forests throughout the South and East, including in my state of North Carolina.

H.R. 1904 proposes to give the U.S. Forest Service and the U.S. Bureau of Land Management authority to treat our public forests so they will be less susceptible to fire, insects, and diseases. The bill certainly is not a perfect bill; it is not everything I would have wanted. However, it is a noteworthy attempt to deal with these threats to the health of our public forests.

If used properly, the tools provided in this bill will ease the path of projects designed to reduce the risk of fire in those areas where fire would most threaten lives, homes, and water supplies. It will also allow the federal government to better respond to insect and disease infestations before they spread out of control. However, it is not my intent for this authority to be used to increase commercial logging or circumvent public interest in our national forest.

Should this bill become law, I would caution the agencies not to use their new authority for expedited treatment and review except in the most dire cases and on lands in desperate need for attention. Over 190 million acres of public forests are at risk to damage from insect, disease, and wildfire. However, the bill limits this new authority to less than 21 million acres. This clearly demonstrates Congress' interest in ensuring that the Forest Service and Bureau of Land Management do not use their new authority as a mandate for clear cutting or sacrificing healthy old growth forests.

The provisions in H.R. 1904 dealing with biomass, the Healthy Forest Reserve Program, the establishment of a new remote sensing program to diagnose insect and disease threats to forestry, and watershed management will benefit private landowners in my state. They also promote environmentally responsible practices, which in turn will generate healthier forests. While not perfect, H.R. 1904 will go a long way to protect our nation's forests, which is why I will vote for final passage.

## REGARDING FCC TREATMENT OF UNBUNDLED NETWORK ELEMENTS

### HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today to comment on the Federal Communications Commissions recent ruling regarding unbundled network elements. It seems the FCC just can't learn from past mistakes since their network unbundling rules have twice been found by the courts to be contrary to Congressional intent under the 96 Telecommunications Act. Now, these rules have led to massive job cuts among carriers and their suppliers, discouraged investments in new plant and equipment, and slowed the introduction of new, innovative services to consumers.

I call on the FCC to implement strong, regulatory reform that will fix its unbundling rules, to help restore this vital sector of the economy. Among the needed reforms is the removal of switching as an unbundled element. Switching is competitive and widely available. FCC policies should promote real facilities based competition not false, parasitical, government regulated competition. Real competition stimulates investment and benefits consumers and should be encouraged.

It is important that any reform the FCC undertakes should undermine its earlier decisions on special access services, particularly on safe harbors that have been approved by the courts.

When addressing wireline DSL, or broadband, the FCC must arrive at new rules that reflect the state of intermodal competition from cable providers, who have the dominant share of today's broadband marketplace. Competition is needed in broadband and I hope the FCC rules will stimulate that.

Not updating the regulations further discourages investment and undermines a national broadband policy that would benefit rural areas like those in my district. Congress gave the FCC the responsibility to address these issues and it is time the FCC moves forward.

## HONORING WESLEY UHLAND

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MCINNIS. Mr. Speaker, I stand before this body of Congress today to honor a man who has been wounded on the field of battle while in the service of his nation. Wesley Uhland, a 26-year-old Army Specialist, is a mechanic who received a bullet to the abdomen after an ambush by Iraqi soldiers. However, doctors have assured Wesley and his family that he will make a full recovery. As he recuperates, I would like to recognize his admirable service before this Congress and this nation today.

Wesley graduated from Canon City High School in 1994 and joined the Army in 2000. He was stationed out of Fort Carson and was deployed in Operation Iraqi freedom on April 11, 2003. As a mechanic, Wesley is responsible for the care and maintenance of tanks, Humvees, and Bradley Fighting Vehicles. During the ambush in which he was shot, four of Wesley's companions were also wounded, though all were lucky enough to survive the incident. Wesley is recuperating in an Iraqi hospital and is to be transferred to Germany before traveling home to Colorado.

Mr. Speaker, I cannot fully express the gratitude and respect I feel for Wesley Uhland. Each generation must renew its commitment to defend our liberties. Today in Iraq, a new generation of young Americans is fighting bravely for the freedom of others. I know that those who seek the true meaning of duty, honor, and sacrifice will find it in dedicated servants like Wesley Uhland. This Congress and all Americans should feel proud that we have soldiers like Wesley Uhland defending our great Nation. Thank you, Wesley, for putting your life on the line to honorably serve our country.

## CONDEMNING BURMESE GENERAL THAN SHWE

### HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. KING of New York. Mr. Speaker, I rise today to condemn the recent harassment and intimidation of Burmese citizens carried out by General Than Shwe and his military regime. Various attacks have been committed under his command against Daw Aung San Suu Kyi and members of the National League for Democracy (NLD). This is yet another example of how Than Shwe's regime continues to employ terror and brutality as a means of retaining power over the Burmese people.

While traveling outside of Rangoon recently, Daw Aung San Suu Kyi's convoy was attacked by members of the Union Solidarity and Development Association (USDA), the political arm of Than Shwe's military regime. Yielding machetes, hundreds of USDA members forcibly stopped the convoy, surrounded it, and beat on the doors with their fists and other objects.

Mr. Speaker, in Burma's most recent election, Daw Aung San Suu Kyi and the NLD were elected to represent the people of Burma winning 82 percent of the seats in parliament. But Than Shwe has refused to honor their will and let those who have been legitimately elected govern. His military regime continues to systematically abuse the human rights of the Burmese people through its campaign of torture, imprisonment, forced child labor, and murder.

Daw Aung San Suu Kyi and the democracy movement have never resorted to the use of violence despite the savage treatment it receives. In fact, for her peaceful efforts to bring about change, Daw Aung San Suu Kyi has won the Nobel Peace Prize, the Sakharov Prize, and the Presidential Medal of Freedom.

Mr. Speaker, we must continue to support Daw Aung San Suu Kyi and the NLD while at the same time increasing political pressure upon Burma's military regime. Democracy must be restored to this country. I would like to thank President Bush for his strong statement to this effect last April and I urge my colleagues to join in this effort.

## TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Mr. ETHERIDGE. Mr. Speaker, I rise today to extend my best wishes to LARRY COMBEST as he embarks on a new direction in life. Mr. COMBEST has served the people of Texas' 19th district with distinction and honor for almost two decades.

During the last four years, I had the privilege of working with him in his role as Chairman of the Committee on Agriculture. I can safely say it is probably the most bipartisanship committee in Congress. This tradition of bipartisan is long standing, and Mr. COMBEST exemplified this tradition as Chairman.

It is because of his bipartisan leadership that Congress was able to pass a new farm bill last year, garnering a huge bipartisan majority in the U.S. House of Representatives. It was also during his tenure as Chairman that the Committee passed legislation through Congress to improve university research on agriculture and the federal crop insurance program. It is not a stretch to say that Mr. COMBEST made a significant impact on U.S. agriculture in brief time as Chairman. There can be no doubt that he has been a strong voice in Congress and a consistent advocate for our nation's agriculture community.

LARRY, we wish you and Sharon all the best; and know that your kind of leadership will be sorely missed in Congress.

## IN HONOR OF THE ROMAN CATHOLIC DIOCESE OF COVINGTON'S 150TH ANNIVERSARY

### HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today in recognition of the Roman Catholic Diocese of Covington's 150th anniversary.

On July 29th, 1853, his Holiness Pope Pius IX issued the papal bull, Apostolici Miniserii, establishing the Roman Catholic Diocese of Covington. For the past 150 years, the Roman Catholic Diocese of Covington has contributed to and has met the spiritual, academic, and social needs of individuals from childhood through adulthood in Kentucky.

Today, the Roman Catholic Diocese of Covington consists of forty-seven parishes, six missions, three Catholic hospitals, four homes for the elderly, two residential care facilities for children, three special centers for social services, a retreat center, a diocesan college, seven high schools, two private high schools, twenty-seven diocesan and parochial elementary schools, two private elementary schools, and five diocesan cemeteries. The total Catholic population of the Roman Catholic Diocese of Covington is over 88,000.

The Roman Catholic Diocese of Covington has been able to use its vast resources to enhance the quality of life for all individuals that live in Northern Kentucky. A portion of what they have been able to do includes assisting those in need through adoption and pregnancy services, counseling services, community and volunteer organizing services, and substance abuse treatment services. The actions of organizations such as the Roman Catholic Diocese of Covington are what define a community. Mr. Speaker, I am proud to represent this community.

I ask my colleagues to join me to honor the Roman Catholic Diocese of Covington which has changed the lives of thousands of Kentuckians throughout the past 150 years.

## HONORING THE SACRIFICE OF JORDAN FERRELL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. McINNIS. Mr. Speaker, as the battle for freedom rages across the globe, the United States has stepped forward to defend the world against tyranny and aggression. This includes sending forth brave men and women to protect the sovereignty that we hold dear. One of these brave souls has been wounded in battle, and his courageous actions and determination deserve the admiration of this body of Congress and of this nation.

Jordan Ferrell, a 19-year-old soldier from Moffat County, Colorado was wounded in the service of his country during Operation Iraqi Freedom. As a member of the Army's 82nd Airborne, Jordan was wounded by shrapnel when a grenade exploded on the roof of his Jeep. After being injured, Jordan wanted nothing more than to return to active duty, so he began the long road to recovery. I am proud to say that through hard work and determination, Jordan has resumed active duty, and is once again protecting the freedoms we enjoy.

Upon completion of his military service, Jordan wants to pursue a career in computers. His mother hopes he might consider creative writing. Regardless of the profession he chooses, if Jordan displays the same determination and drive, I know he will achieve much success in his life.

Mr. Speaker, I cannot fully express my deep sense of gratitude for the sacrifice and heroism of this soldier and his family. Jordan has served his country well, and it is soldiers like him who make the United States military the best in the world. Jordan has done all Americans proud and I know he has the respect, admiration, and gratitude of all of my colleagues here today. Thank you, Jordan, for your honorable and admirable service to this nation.

## WOMEN IN THE MILITARY

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mrs. CAPITO. Mr. Speaker, I rise today on behalf of myself, Representative SLAUGHTER and the rest of the Congressional Caucus for Women's Issues. Today, the 6th Annual Women in Military Wreath Laying Ceremony hosted by the Caucus was held at Arlington Cemetery. The purpose is to honor our nation's servicewomen and women veterans for their courage and achievements, and to remember women who have died in service to the United States.

I would like to take some time to recognize the five honorees of this ceremony. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

Command Sergeant Major Michele S. Jones, U.S. Army Reserve, has held many leadership positions within the Department of the Army. She entered the Army in September of 1982. As the first woman to serve as class president at the United States Sergeants Major Academy (Class 48), she distinguished herself and went on to be the first woman to serve as the CSM of the Army Reserve.

CSM Jones has held every key NCO position, to include squad leader, section leader, platoon sergeant, first sergeant and command sergeant major. Her awards and decorations include the Legion of Merit, Meritorious Service Medal, Army Commendation Medal, and Army Achievement Medal just to name a few.

Master Chief Petty Officer Darlene M. Gemuend was honored, representing the United States Naval Reserve. She completed Basic Training in January 1978 and went on to attend Personnelman "A" school.

Master Chief Gemuend has served the Navy at a variety of duty stations and capacities. She is currently serving as the Naval Operations Reserve Battle Force Integration Manpower Analyst at the Arlington Navy Annex. Master Chief Gemuend's personal awards include the Navy and Marine Corps Commendation Medal, Navy and Marine Corps Achievement Medal, Navy Recruiting Excellence Awards and various other service and campaign awards.

Master Sergeant Leandria L. Hollinshead is the superintendent of the Command Post, 347th Rescue Wing, Moody Air Force Base, Georgia. She was awarded the Humanitarian Service Medal for her sustained efforts of Hurricane Elena. From 1990 to 1992 she continued to sharpen her Command and Control skills as Combat Alert Center Controller, King Salmon AFS, Alaska. As the single point of contact between NORAD and the alert aircrews, she was solely responsible to decode emergency orders, scramble, and launch alert aircraft to intercept Soviet Union air vehicles attempting to penetrate U.S. borders. Following the incident of the USS *Cole*, she deployed to Saudi Arabia to establish theater command post operations for the Commander of the Joint Task Force—Southwest Asia.

Continuing to excel in her professional education, she captured the John L. Levitow award at her NCO Academy graduation in June 1999 and was soon after promoted to Master Sergeant. MSgt Hollinshead is the recipient of the AF Meritorious Service Medal, AF Commendation Medal, AF Outstanding Unit Award, and the AF Good Conduct Medal.

Master Gunnery Sergeant Carole A. Hawkins enlisted in the Marine Corps in February of 1973. Currently, she is the senior enlisted female in the Marine Corps, and the senior enlisted administrator. Master Gunnery Sergeant Hawkins is assigned as the Administrative Chief for the Personnel Management Division, Manpower and Reserve Affairs Department, Headquarters, U.S. Marine Corps, Quantico, VA.

Master Gunnery Sergeant Hawkins has been awarded the Meritorious Service Medal, Navy and Marine Corps Commendation Medal and the Navy, Marine Corps Achievement Medal and the Outstanding Volunteer Service Medal.

Master Chief Linda Reid enlisted in the Coast Guard Reserve in 1975. She drilled at Coast Guard Reserve Unit Seattle before moving to the Washington, DC, area in 1977. Master Chief Reid has been with the Coast Guard's Sea Partners Campaign since its beginning in 1994. As director, she oversees policy, budget and operations for this nationwide environmental public outreach program. Master Chief Reid coordinated Coast Guard participation in the 1985, 1989 and 1993 Presidential Inaugurals.

Master Chief Reid was advanced to the grade of Master Chief Petty Officer in May 1993, the first woman in the Storekeeper rating to achieve that rank in the Coast Guard. She is a Silver Lifetime Member of the U.S.

Coast Guard Chief Petty Officers Association (CPOA) and a member of the Foreign Joint Service Non-Commissioned Officers Association, the Fleet Reserve Association and the Non-Commissioned Officers Association.

Mr. Speaker, it is with great admiration and pride that the Congressional Caucus for Women's Issues honor the five servicewomen and their accomplishments. We are living in a day and age when the thought of a woman serving in the military is not the exception, it's the norm. There are over 2 million women serving and they are making a huge contribution to America's military operations around the world . . . as so many us have seen from America's recent victory in Iraq.

It is an honor for each member of the Caucus to highlight these exceptional women. The Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard are well represented by our 2003 Women in Military Service Honorees.

## A PROCLAMATION RECOGNIZING ERIC WAGNER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. NEY. Mr. Speaker,

Whereas, Eric Wagner has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Eric Wagner has shared his time and talent with the community in which he resides; and

Whereas, Eric Wagner has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Eric Wagner must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 85, the residents of Yorkville, and the entire 18th Congressional District in congratulating Eric Wagner as he receives the Eagle Scout Award.

## INTRODUCTION OF THE ALCOHOL TAX EQUALIZATION ACT

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. NORTON. Mr. Speaker, as Congress adjourns for Memorial Day, I am introducing the Alcohol Tax Equalization Act because of my special concern that beer and wine will take a high toll in human life and injury, especially among teens and other young people this very weekend, because these alcoholic beverages are less costly than they should be. Congress is complicit in this carnage by winking at beer and wine through the Tax Code. We have just renewed vigilance for seat buckling because of growing concern about teen deaths due to driving mishaps. It's time we also focused on alcohol abuse, a much greater cause of traffic deaths among teens and young people.

The Memorial Day holiday often begins a season of tragedies resulting from alcohol abuse, particularly beer and wine. In an effort to reduce alcohol-related fatalities, my bill would require that beer and wine be taxed according to their alcohol content, as is hard liquor. Alcohol abuse is the leading cause of death among teens and young adults. The need to provide appropriate disincentives is urgent.

The bill creates a substance abuse prevention trust fund for alcohol prevention programs. The kinds of programs that work best include cross-peer mentoring by high school students about alcohol and drug abuse and traffic safety; teen courts to decide appropriate penalties for other teens who abuse alcohol; community-based prevention programs for pregnant women and high-risk populations; and 100 percent drug and alcohol-free clubs. The programs would be implemented through grants from the National Highway Traffic Safety Administration and the Substance Abuse and Mental Health Services Administration.

It is impossible to explain today why a can of beer, a 5-ounce glass of wine, and a shot of hard liquor, all of which have the same alcohol content, should not be taxed equally. However, the beer and wine industries want it that way. Expect them to fight to preserve the enormous tax break they enjoy compared to their competitors in the distilled liquor industry.

Beer and wine have long replaced hard liquor in alcohol consumption and sales, but tax policy is still lost somewhere in the 1940s. Hard liquor is far behind beer and wine in consumption and sales. More than half of all alcohol sold today is beer, much of it to teens and college students; 15 percent of alcohol sales is wine. America, especially young America, is getting drunk on beer and wine, in no small part because badly outdated taxing policy make beer and wine cheap. If a can of beer, a 5 ounce glass of wine, a wine cooler, and a shot of vodka have the same alcohol content, they should be taxed equally. The resulting transfer of tax burdens to others at a time of dangerous deficits is particularly untenable in the case of alcohol and calls for attention of this inequity now.

In 1997, the Senate Finance Committee proposed substantially raising taxes on cigarettes to discourage teenage smoking. Many states have done just that. The very same reasoning should apply to beer and wine. Minors consume more than 1 billion beers each year. Teens are price sensitive because they have less disposable income. By taxing beer and wine substantially less than liquor, we bring the price down and encourage teens to make these the drinks of choice.

Because the Federal excise taxes on liquor are substantially higher than taxes on beer, Congress is sending the message to teens that these drinks are okay and are not as dangerous and addictive. Congress therefore bears a heavy part of the responsibility for the fact that alcohol abuse is the leading cause of death among teenagers and young adults.

Throughout the country, taxing beer and wine fairly would be an important step in reducing alcohol-related traffic fatalities, accidents and disease. The need here is urgent. The bill I introduce today will take the District of Columbia and the entire country closer to the national goal of significantly reducing alcohol-related fatalities.

## COMMEMORATING THE RETIREMENT OF STUART AND SANDY SLETTEN

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. KIND. Mr. Speaker, when the term milk man is mentioned, it brings back to me the memory of early morning noises such as the low throb of an idling delivery truck's engine and the rattling of milk bottles coming and going from our front porch. This piece of "Americana", familiar to so many, will be coming to an end this month in my hometown of La Crosse, Wisconsin. On May 30, 2003 the era and service tradition of "to-the-door milk delivery" will come to an end with the retirement of Stuart and Sandy Sletten.

It is with great pleasure I wish a happy, healthy and fulfilling retirement to Stuart and Sandy Sletten as they look forward to taking their first vacation since 1990. This dedicated husband and wife team provided excellent and trusted service for their dairy products route for the past 27 years. For the last 27 of their 42 years of marriage they have worked shoulder to shoulder loading and delivering to their thousands of customers. The life and dedication of this couple represents the positive work ethic and values that Wisconsin citizens deeply respect.

Thank you Stuart and Sandy for keeping alive for many years a small and beautiful piece of our American way of life.

# SENATE—*Friday, May 23, 2003*

The Senate met at 8:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

The PRESIDENT pro tempore. Once again, today's prayer will be offered by the guest Chaplain, Father Charles V. Antonicelli of St. Joseph's Catholic Church on Capitol Hill.

## PRAYER

The guest Chaplain offered the following prayer:

Almighty God, we bow before Your majesty this day. You are God: we praise You; You are the Lord: we acclaim You; You are the eternal Father: all creation worships You.

We give You thanks, Lord, for the many blessings You have bestowed upon us and our families. Continue to guide us in the ways of Your justice and peace. Help us to be compassionate and caring to others, especially those most neglected, those most forgotten.

Bless the men and women of this Senate in their deliberations today, Lord. Be their constant guide and protection, so that they may shine forth Your glory to Your people.

We ask this in Your holy Name. Amen.

The PRESIDENT pro tempore. May I ask the distinguished chairman of the Finance Committee, Senator GRASSLEY, to lead us in the Pledge of Allegiance.

## PLEDGE OF ALLEGIANCE

The Honorable CHARLES E. GRASSLEY, a Senator from the State of Iowa, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Iowa is recognized.

## SCHEDULE

Mr. GRASSLEY. Mr. President, I have the opening script that the majority leader would usually give. I will do it in his stead.

The Senate will begin debate in relation to the conference report to accompany H.R. 2, the jobs and economic growth bill. Under the previous order, the Senate will vote on the adoption of the conference report at 9:30 a.m.

Following the disposition of the conference report, the Senate will consider H.J. 51, the debt limit extension legislation. Amendments to the measure are expected throughout the day. Therefore, rollcall votes will occur into the afternoon. If Members show restraint in the number of amendments offered, the Senate could complete action on this necessary measure early in the afternoon.

Following completion of the debt limit extension, the Senate will take up the unemployment insurance extension.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT, 2003—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 2, which the clerk will report.

The legislative clerk read as follows:

> The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2), to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the RECORD of May 22, 2003)

The PRESIDENT pro tempore. Under the previous order, there is 1 hour of debate.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, the only thing I want to say is that there is a limited amount of time. If people are not here to use their time, they just don't get that time. The two managers are here. As I indicated late last night, the order was entered for a certain amount of time for individual Senators. If they are not here, they will not be able to use that time later on today.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

I would like to refer to the capital gains provisions of the compromise bill. I discussed last night the benefits of seeing capital gains reduced to 15 percent, and 5 percent for low-income families and individuals. But I also want to emphasize the simplification that we are bringing to the capital gains rates. While we still have the 1-year division between short-term and long-term capital gains, we have eliminated the 5-year holding period and the 18-percent rate.

It is a small but very important step in actually eliminating lots of lines and lots of calculations that taxpayers face in their annual returns. The Joint Tax Committee has stated that there is much need for simplification of capital gains. The Joint Tax Committee notes that Congress has received continual testimony that capital gains is a source of enormous complexity. So in this compromise, we make a very good start on an important source of complexity in the Tax Code.

Let me make clear for my colleagues that for many middle-and low-income families, we make capital gains as simple as possible. At the end of the time period of this bill, middle- and low-income families will pay zero capital gains. Of course, it doesn't get much simpler than that because zero brings it down to nothing.

I now would like to deal with the issue of corporate governance that was a significant part of the Senate bill.

The Senate bill contained several major provisions that seek to put an end to the Enron abuses and corporate shell games that we have all learned so much about recently. These con artists who had keys to the executive washrooms have devastated the lives of millions of workers and shareholders.

I am proud to have worked closely with my colleague, Senator BAUCUS, on so many of these provisions with the goal of addressing and reforming corporate governance. While I very much wish we could have seen these reforms incorporated in the House-Senate conference committee, let me be very clear that the snake oil salesmen should not be celebrating. I intend to continue to work very hard to press to have these provisions incorporated into other tax legislation and ultimately placed into the statute books.

For example, some of the critical corporate tax shelter provisions that were in the Senate bill are already included in the Charitable Giving Act—what we call the CARE Act—because these are used for "pay-fors" in this legislation. The CARE Act will soon go to conference with the House.

In addition, I expect us to soon revisit provisions regarding corporate inversions where corporations set up overseas offices, basically simply a file drawer. They do this simply to escape taxation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Other legislation that I expect we will have a chance to consider again would include the Baucus-Grassley provisions dealing with fines and penalties—ending the loopholes that allow Wall Street firms to escape the real costs of their own wrongdoing.

I am very proud of the bipartisan efforts of the Senate Finance Committee to shut down corporate tax shelters and promote proper corporate governance.

I apologize to my colleagues if it is immodest. But I suggest the legislation contained in the Senate finance bill probably represents the most sweeping tax reforms in a generation to seek to clean up corporations and shut down the pin-striped con artists.

I will continue to push for these needed reforms, and I expect that we will have step-by-step success in stopping corporate shelters and providing greater protection to the shareholders and workers.

I yield the floor and reserve my time.

The PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Minnesota, Mr. DAYTON.

The PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota for 10 minutes.

Mr. DAYTON. Thank you, Mr. President. I thank my colleague from Montana.

Mr. President, this tax bill is one of the most dangerous, destructive, and dishonorable acts of Government that I have ever seen. It is a shameful looting of the Federal Treasury by the rich and powerful in America—compliments of their friends in Congress. It uses every trick in the budget book to line the pockets of the upper class. It cuts the top tax rates immediately, retroactively, and permanently. It lowers the top rate by almost twice as much as the next three. That gives the most rate reduction to people who are making over $370,000 a year, only half of that rate reduction to people making over $150,000 a year, and no rate reduction at all to people in the bottom two brackets—the 10 and 15 percent rates. There is just a tweaking of the bottom 10-percent bracket, which provides $100 a year to couples and $50 a year to individuals. That is also the only change to a tax bracket which is temporary. The top rate cuts are all permanent.

So let me repeat. An individual with an annual income of less than $35,000 gets a tax cut of $50 a year. A married couple, without dependents, with an annual income of less than $50,000 gets a tax cut of $100. A person with an annual income of over $1 million receives a tax cut averaging over $93,000 in the first year alone.

Now, one of the very few good provisions in the bill is an increase in the child tax credit of $400 per child. That is the one provision of any real benefit to middle-income families. But the conference report drops the Senate provision to improve the part of the child tax credit going to families making $10,000 to $30,000 a year. There evidently was not enough room in this $350 billion tax giveaway to help them. They get nothing so the rich get more.

The conferees also threw out the Senate's elimination of tax avoidance loopholes, as the chairman of the Finance Committee just described, and he deserves great credit for making the best effort possible, along with his Senate conferees, to keep these good Senate provisions in the final report but they did not make it.

So Americans working overseas are continued to be allowed to pay no taxes on their first $80,000 of income—$80,000 tax free off the top, regardless of expenses or circumstances. They kept the loopholes allowing many corporations to move offshore and pay little or no taxes on their income.

You see how perverse this tax bill is. Every part of it is carefully constructed to give as much as possible to the rich and as little as possible to everyone else.

According to the Brookings Institution Tax Policy Center, over half of all American households will get a tax cut of $100 or less. The households in the middle-income range will get tax cuts averaging $217, and households with incomes above $1 million will get tax cuts averaging $93,500 a year.

It is like the White House is having a big banquet for the gobbling up of America and everybody is invited—except there is one menu for the rich of America and there is another one for the rest of America. The rich start with oysters on the half shells. After they are done, the rest get the shells. Then the rich are served prime rib and filet mignon. The rest get Hamburger Helper. The rich wash it down with Dom Perignon champagne, and the rest with Boone's Farm. Then the rest are asked to leave before dessert because it is too rich for them.

Dessert is a dividends and capital gains tax cut. The unearned income of the rich and super-rich is to be taxed at only 15 percent rather than between 20 and 35 percent, although, in fact, many of the rich and super-rich will pay even less than that.

Yesterday's Wall Street Journal had a headline: "Some Investors Could Cut Tax to Zero or Close." Ronald Pearlman, a tax law professor at Georgetown University, is quoted in the Wall Street Journal as saying of the conference report:

> I guarantee it produces very, very low tax rates, possibly even zero.

So the wealthiest Americans will pay little or no personal income taxes. This tax bill ends this country's progressive Tax Code, and it replaces it with a perverse Tax Code.

It was said earlier that lower and lower-middle income taxpayers are going to get a zero-percent rate on their dividends and capital gains—for all three of them who can use it. While we are at it, why don't we eliminate their taxes on private jets, ski chalets, and gifts of over $500,000?

Most lower income or middle-income taxpayers have their dividends in tax-free accounts today. There is no additional benefit to them. Very few of them have capital gains of any sizable amount to benefit from this reduction. These are reductions targeted right toward the rich and the super-rich, the wealthiest 5 percent, the wealthiest 1 percent of Americans and their unearned income, the income they did not work for every day—get out of bed, go to work, punch a clock, work, come out, and go home to their families—they pay at a lower rate on their unearned income than working Americans pay on their earned income.

There is something wrong here—very wrong here. This conference report is also dishonest. It is intentionally deceptive. It was required to be limited to a cost of $350 billion. That is what the Senate said: $350 billion; that meant of reduced revenues over 10 years. Well, evidently that was not nearly enough for the House conferees to feed the greed of everyone lined up at the public trough over there. So the conferees and the White House officials decided to cheat on the rules, not just a little but a lot.

They created these fictions, transparently ridiculous pretenses, that these big tax cuts would take effect there, run for 2 or 3 years, and then stop—end entirely.

Well, I guarantee you—because everyone here knows—Congress will act next year to make those new tax cuts permanent, just as this tax bill that we are passing today—I expect we will—contains an additional tax cost of $1.3 trillion over the next 10 years. That is the cost during that time of making tax cuts in the 2001 tax bill—the one 2 years go—permanent. If and when these new tax cuts that are in this bill today are made permanent, then their 10-year cost will be another $1 trillion.

Where will that extra $2.3 trillion come from? From raiding the surplus of the Social Security trust fund for the next 10 years and then so-called "borrowing" the rest of it. But "borrowing" isn't really the right term, because we have no intention of paying it all back ourselves. If we did, we would not be behaving this way. No, most of our borrowing will be paid by the generation who are children today and by generations yet unborn.

Borrowing money from future generations without their knowledge or their consent—reducing their future incomes and standards of living—is not borrowing. There are a lot of people now in American prisons who are doing serious prison time for that kind of borrowing.

This is a tax bill that will cost about $2.3 trillion during the next 10 years that we do not have, so the rich and the super-rich can have their taxes reduced or eliminated. No wonder we can't get a copy of it. I have not seen a copy. I couldn't get a copy last night of the conference report. They don't want anybody to see it. They shouldn't. It shouldn't be passed, either.

When I arrived in the Senate almost 2½ years ago, I was so optimistic that we would make lives better throughout America by sharing our abundance. President Clinton and Congress, at that time, with an expanding economy, produced the first budget surplus in the on-budget account in 40 years, and the surpluses were projected to continue for each of the next 10 years.

The other big fund of the Federal Government, the Social Security Trust Fund, was also expected to run sizeable surpluses for the next decade. What a great opportunity. There could be prescription drug coverage for seniors, the long-promised Federal share of 40 percent funding for special education, and more important work, and still be fiscally responsible. Now it has all been thrown away—or given away—to those who do not need it and kept away from those who do.

This year's combined Federal budget deficit will be around $400 billion, even though the Social Security Trust Fund will be running a $160 billion surplus. That means the non-Social Security account of the Federal Government, the so-called on-budget account, which is almost all the rest of the Federal Government's operations, will run a deficit of about $550 billion—after running a surplus just 3 years ago.

The PRESIDENT pro tempore. The Senator from Minnesota has used his 10 minutes.

Mr. DAYTON. Mr. President, I ask unanimous consent that I be given 1 minute more.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. DAYTON. Thank you, Mr. President.

In fiscal year 2000, the Federal on-budget revenues, which come almost entirely from personal and corporate income taxes, from estate taxes, capital gains taxes, and excise taxes, totaled 101 percent of expenditures. This year, they will scarcely cover two-thirds of expenditures.

The tax base of the Federal Government is being destroyed. Who will tell the American people? It is hard for anyone to discern the truth from all of the conflicting words and numbers; but the American people must learn the truth. They also must act, because the looting of America will not stop until Americans stop it.

It is not too late. It is almost, but not quite, too late.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDENT pro tempore. The Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the committee for a job well done. This has been difficult. When I hear people talking about the tax bill and saying it is really amazing that we sunset some of these taxes and then bring them back—no one wanted to do that. The reason we have to sunset some of these taxes is that we had to work within an artificial constraint of $350 billion. That is why we have sunsets. What we certainly hope to do is not to sunset these tax cuts, the tax relief for hard-working American families, but instead to allow these to go forward. We will have to pass new legislation to do it.

Even with these modest tax cuts, we are going to spur the economy. People seem to forget that the purpose of this bill is to stimulate the economy. Eighty percent of the benefit of lowering the top rate to 35 percent goes to small businesses, and small businesses are going to reap the benefits. Small business is the job creator of America. It is small business we want to spur to create jobs. We want to put people back to work. The purpose of the legislation is to put people back to work and, in addition, to bring a little equity into the system.

Why in the world would we have a penalty on marriage? Why would a couple in Abilene, TX, who make $65,000 a year pay $1,000 more in taxes just because they got married? We go a long way toward eliminating the marriage penalty tax with this bill, and we are going to do everything we can to keep that in place from now on. There should not be a penalty for marriage. We should treat everyone equally. The marriage penalty bill was mine. It is a part of this legislation. I am going to do everything in my power to keep it forever, doubling the standard deduction and doubling the 15 percent bracket when people get married. That is for the lowest income and moderate-income people.

We are making a giant leap for child tax credits, from $600 to $1,000, because it is our families who are suffering so much today. We are going to do everything in our power to make the child tax credit absolutely permanent.

I want to discuss the State aid package because as we speak this morning, the Texas Legislature is in the last days of its regular session. They meet every other year for 6 months. They are in the last days of that session, and they are grappling with over $500 million. I spoke to Lt. Gov. David Dewhurst yesterday. He and the Speaker of the House, Tom Craddick, are working diligently to cut the budget, to try to be fair, try not to cut services too much.

Help is on the way. My State of Texas is going to receive more than $1.2 billion in aid over the next 2 years. Under this proposal we are going to pass today, more than $510 million will go for Medicaid help. That is one of the biggest problems my State and many others have. $710 million will go in block grants for essential government services so they will be able to put this money where it is most needed—$510 million for Medicaid. $710 million in block grants. And it is going to be this year and next year. I hope this will resolve the problems of my State, as it has done as much as it can right now. The legislature is grappling with it. We are going to help my State and every State in America.

We understand the hard times because the Federal Government is feeling it, too. We have increased national defense responsibilities, increased homeland security, and our States have as well. So help is on the way.

I am very pleased to have been part of the group who worked on the State aid package to try to help. I have been reading the Texas papers. I see the problems we face.

The committee did an outstanding job. I commend the House. I commend the President of the United States for his leadership. The President didn't just sit on his laurels after doing a great job in Iraq, a wonderful job protecting the young men and women of our country; he said: We are going to put people back to work. The President deserves credit. The Senate and House deserve credit. We will put people back to work in this country.

The PRESIDING OFFICER (Mr. BENNETT). Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the ranking member.

Mr. President, this bill I call the policy of the three Ds. This is a policy of debt, deficits, and decline.

This policy is reckless and irresponsible as fiscal policy. It will hurt, not help, economic growth and it is totally unfair. In terms of irresponsibility, nothing says it better than this chart.

Two years ago, the President told us we would virtually pay off the debt of this country by 2008. Now instead we see, by adopting his policy, we will have a debt of over $5 trillion by 2008. That is just the beginning of the story because that is the publicly held debt. The gross debt of the United States is skyrocketing as well, from over $6 trillion at the end of this year to $12 trillion at the end of this budget period, and all of this occurs at the worst possible time. We are about to see a demographic time-bomb hit this country called the baby boom generation.

This chart shows the Medicare and Social Security trust funds and the cost of the tax cuts. What it shows is that when the trust fund goes cash negative in the next decade as the baby boomers retire, at that very time the cost of these tax cuts explodes, driving us deep into deficits and debt at levels that are utterly unsustainable.

The irony of this package is that it is looting the Social Security trust fund of virtually every dime over the next 10 years to pay for these tax cuts. Of the $2.7 trillion in surpluses in Social Security over the next decade, this policy takes $2.698 trillion to pay for tax cuts and other expenses—again, at the worst possible time.

The news from the Treasury Department is that things are getting much worse. Already this year, revenue is running $100 billion below forecast. If that continues, we will have the lowest revenue as a percentage of gross domestic product since 1959. Two years ago, the President justified the tax cuts on the basis that revenue was high as a percentage of GDP. Now it is low, and yet his answer is the same.

On this very day when our colleagues on the other side are pushing a tax plan that, without gimmicks, would cost $1 trillion, they are also advocating nearly a $1 trillion increase in the national debt—much higher than the last increase in the national debt of $450 billion. This is the biggest increase in the national debt in our history—all at the same time they are advocating a tax cut which they say will cost $350 billion but which we have already heard from colleagues in the Chamber is disguised in its true cost. It will cost up to $1 trillion if the gimmicks are eliminated.

It is ineffective as stimulus because very little of this plan is effective this year. Only $55 billion is effective this year. That is about 16 percent of the advertised cost. It is only about 5 percent of the real cost if the gimmicks are eliminated.

This plan is grossly unfair. Those who earn over $1 million get a $93,000 tax break this year on average. Those in the middle income range get $217. Our colleagues on the other side will say: The rich pay more in taxes, so they should get more of a tax break. They don't pay that much more. This is what the wealthiest among us pay in terms of all Federal taxes. They pay 23 percent. But under this plan, they get 38 percent of the benefit. It is a pretty good investment for them. And, unfortunately, unfair to the vast majority of Americans. Our colleagues say it is a growth plan, a jobs plan. No, it is not. This is not a jobs-and-growth plan. In fact, the people who have been hired by the White House and the CBO to do that kind of analysis tell us this plan is worse than doing nothing after 2004. You get a little bit of a bump in 2003 and 2004—just a little bit—one-half of 1 percent of GDP, which is about half as much as you would get with a well-designed stimulus package.

But the outyear effect is negative because it is all borrowed money. Here are what the economists are telling us. Ten Nobel laureates:

> The tax cut proposed by President Bush is not the answer to our problems.

It is not just 10 Nobel laureates. It is the Joint Committee on Taxation saying:

> The simulations indicate that eventually the effect of the increasing deficit will outweigh the positive effects of the tax policy. . . .

Mr. President, this thing is so loaded with gimmicks that it is a now-you-see-it-now-you-don't tax policy.

On dividends, it goes from 38.6 percent down to 15 percent. It stays there for 6 years and then jumps up to 35 percent. There is no consistency. The same on small business exemptions. That goes from $25,000 to $100,000 in 3 years and then back down to $25,000. It's the same thing on the 10 percent bracket. It wanders around and goes down to nothing in 2011, 2012, 2013—all to hide the true cost of this plan. Here is the child tax credit. It goes up to $1,000 for 2 years. Then it goes back to $700 for 4 years, then up to $800, then up to $1,000, and then back down to $500 for the last 3 years.

Mr. President, this gives credibility a bad name.

Marriage penalty. For 2 years, it is at $9,500 to eliminate the marriage penalty, and it drops down to $8,265, giving people a big tax increase in the third year. Then it goes back up to $9,500 in 2009 and in 2010, and then it plunges to $7,950.

Even a mother could not love this child. This is a bad plan—bad for the economy, bad for the fiscal future of the country. It is going to weaken America, not strengthen it.

I urge my colleagues to think twice. People are going to be held accountable for this vote. This is a scandal in the making. We are going to read that there are perverse results from this tax policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. I want to respond to the statements just made because it brings up the issue of the Federal debt.

We have heard from the other side that we are unconcerned about the Federal debt, as if they are concerned about it. I want to remind my colleagues—particularly those on the other side of the aisle—of how many amendments we had during the budget debate and during the omnibus appropriations bill debate back in January where there was amendment after amendment after amendment after amendment on the other side of the aisle to spend more money—spend more money.

When it came to the budget, there was amendment after amendment after amendment to take money away from the part of the budget of giving authority for tax relief and reducing that amount of money. Did it go against the bottom line? No. They took the money they wanted to take away from tax relief and spent it someplace else.

So don't give me this sort of lesson that they are concerned about the deficit and we are unconcerned about the deficit. If they were concerned about the deficit and they wanted to cut the amount of money we are going to give for tax relief and put it against the bottom line, then I would believe them. But it is just the opposite. When they want to spend it someplace else, the bottom line stays the same, the bottom line of the budget is not reduced.

The problem here is they don't want any tax relief because they want to spend it. They think they know better how to spend it than the taxpayers. It isn't going to do as much economic good if the 535 members of Congress decide how to spend it. If the people back home spend it, it is going to turn over more times in the economy and create more jobs.

They think the American taxpayers are undertaxed and that is why we have a budget deficit. The American people are not undertaxed, and it is not undertaxation that is the cause of the deficit. The cause of the deficit is the overspending, and that overspending is best exemplified by amendment after amendment. Two times this year we have had those vote-aramas, with amendment after amendment to spend more money.

This is about giving money back to the American taxpayers. If we are worried about the deficit, we will express that worry by spending less.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, let me take on the spending argument because I have heard it over and over, and it is the biggest canard offered on this floor. We have heard before that on our side we offered $500 billion of amendments on the supplemental. We did not. They have taken 1-year amendments that were offered singly and accumulated them and made them 10-year amendments. We offered $32 billion of amendments separately. They were not offered as a package.

Interestingly enough, what our Republican colleagues did is they went into conference committee—which they excluded us from—and they added $60 billion in spending. Who are the big spenders? Let's set the record straight.

On the budget resolution, we did offer a series of amendments to do things such as fund the war, which wasn't in the budget, and to fund homeland security, which was inadequately funded in the budget. But we offset every one of those amendments. We paid for them, and the overall budget we offered was $1.2 trillion less in debt than the President's budget plan.

Let's talk about who is serious about fiscal responsibility. Who offered the serious plans to reduce the growth of deficits and debt? I say to my friends, they told America 2 years ago they had a plan to pay off virtually all of the debt by 2008. Do you know what we see now? We have adopted their plan and, instead of paying off the debt, it is going to be $5.2 trillion of publicly held debt by 2008.

The gross debt of the U.S. is going to double during this budget period—at the worst possible time, right before the baby boomers retire. The outcome is as clear as it can be; as clear as it can be. We have record deficits now. The President's budget increases spending by $600 billion above the baseline, cuts revenue by $1.6 trillion. There can only be one result: deeper and deeper deficits and debt, and at the worst possible time, right before the baby boomers retire.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, he just admitted I was right. He said every time they took money away from our tax cut allotment in the budget, they took it to offset spending someplace else. That is exactly my point. They never did take any money away from it to put against the bottom line. They took it away because they wanted to spend it someplace else. They want to continue that money coming into Washington. They want more money to spend. I will take them seriously when they want to reduce the amount of money in the budget for tax cuts and put it against the bottom line.

Mr. CONRAD. Will the Senator yield for a question? Mr. President, may I have 30 seconds.

Mr. BAUCUS. I yield 30 seconds more to the Senator from North Dakota.

Mr. CONRAD. Mr. President, facts are stubborn things, I say to the chairman of the Finance Committee. The budget we offered on our side did exactly what you were challenging us to do. We had $1.2 trillion less in deficits in our plan than the plan offered on your side. You said you want to cut back on the tax cuts, bring it to the bottom line. That is what we did. As a result, we would have had $1.2 trillion less in deficit if our plan had been adopted.

Mr. KYL. Mr. President, I rise today to express my support for H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Former President Ronald Reagan often said, "If you want more of something, subsidize it. If you want less of it, tax it." In recent polls, the American people have consistently said they want more job creation and more economic growth. This legislation, which President Bush is expected to sign into law this weekend, is specifically tailored to achieve these very important goals—by reducing taxes in the right way, it will enable businesses to create jobs and it will spur greater economic growth. It will also help American families keep more of their hard-earned money to spend or save, as they see fit.

One of the most important things the legislation does is accelerate the tax rate cuts already scheduled to take effect. In 2001, Congress passed a law that set in motion a series of income tax rate reductions that were scheduled to be phased in over the next several years. Because of the slow phase-in, the 2001 tax cuts had a muted impact on the U.S. economy and taxpayers felt little benefit. The bill we pass today will make all of those rate reductions effective this year. Taxpayers will see their withholding adjusted almost immediately and will begin reaping the benefits right away.

A key component of this provision is that it brings the top tax rate down to 35 percent—the same rate that corporations pay. While opponents claim this will only benefit wealthy taxpayers, I suggest that they look at what kind of taxpayers fall into the top bracket. The overwhelming majority—nearly 80 percent—of taxpayers in the top bracket have small business income. Small businesses, which are pass-through entities that are taxed at individual rates, are responsible for the creation of at least half of all jobs in the economy; reducing their tax burden will help them expand and create more jobs. Fairness and sound economics dictate that we should not tax small businesses at a higher rate than we tax big corporations. This bill fixes this so that the top small business rate will be the same as the top corporate rate.

Our bill also significantly reduces the taxes individuals pay on dividends they receive from corporations. In order to change investment behavior—and we know that the ongoing economic troubles are almost exclusively related to a collapse in business investment, not to a problem of consumer demand—taxpayers must see a meaningful and permanent reduction in rates at the margins. The bill we pass today does that.

Under current law, a corporation pays taxes on its earnings, usually at a rate of 35 percent, and its shareholders will pay ordinary income rates—currently, the top rate is 38.6 percent, on any dividends distributed by the corporation. President Bush said we should end this double taxation by eliminating entirely the tax on individuals. I fought hard for the original Senate bill that would have done this, and I still believe that is the best tax and economic policy. However, the conferees from the House were unwilling to agree. The compromise we settled on will reduce the individual tax rate for dividends to 15 percent—a significant improvement over current law. I will continue to work to eliminate the double tax on dividends.

The bill we pass today also reduces the capital gains rate from 20 percent to 15 percent, the same rate we will now apply to dividends. I believe this is also good policy and I hope we can work to eliminate the tax on capital gains too. The dividend and capital gains tax relief should boost stock values significantly and should make it much less costly for businesses to expand and create jobs. Nearly 420,000 Arizona taxpayers will benefit from the dividends and capital gains tax relief.

This legislation also includes a number of provisions designed to provide much-needed tax relief to American families. It increases the child tax credit to $1,000 per child, with a good portion of the tax benefits being sent to families as early as this summer. It also provides additional relief from the marriage penalty. In Arizona alone, nearly 450,000 families will benefit from the child credit increase and more than 600,000 will benefit from the marriage penalty relief.

As I have said, I believe this is a very good bill that will do much to encourage job creation and economic growth, but I believe it could have been better. If the House had been willing to accept some offsets, we could have paid for the $20 billion in temporary State aid this bill provides. I also believe we should have held firm to the Senate position and eliminated the double tax on dividends. Regardless, I am very proud of the business, individual and family tax relief we have provided in this bill.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, on occasion it sounds as if we are redebating the budget. That is not what we are debating. We are debating a growth package. The fact is, last year we did not have a budget. This year we do have a budget. This year we have a tax bill to help grow the economy.

Some of my colleagues on the Democratic side offered a tax bill as well. It was $152 billion. This tax bill is $316 billion. It is not even $350 billion. I keep hearing it is $350 billion, but there is about $34 billion in spending. One of the amendments passed with 97 votes. It did not have my vote.

My point is, it is a $316 billion tax cut over 10 years. Over those 10 years, we are going to have revenues of about $25 trillion, $26 trillion. We did load it upfront because we want to have as much economic impact as we possibly can. The economy is very soft, and we wanted to grow the economy. We did things to help encourage investments and jobs. We were taxing capital investment far too much. We tax dividends higher than any country in the world. That is absurd.

Basically, we are cutting the dividend tax a little bit more than half. We did not do as well, in my opinion, as we did in the Senate. That is part of the compromise. We took part of the House provision. We are going to tax capital gains at 15 percent and tax dividends at 15 percent. I think there is common sense in taxing both at that level.

I heard someone say there is nothing in here for low-income people. That is not true. A couple who have two kids get $800 additional in child credit. If they have a combined income of $56,000, they get another $1,200 in marriage penalty relief. That is $2,000. So if someone says that is nothing, that may mean their tax bracket, one, does not exceed 15 percent and also, percentagewise, it is probably well over half their tax liability. I just make those points.

We also accelerated the rates, as we should. I keep hearing this is a tax cut for the wealthy. The maximum tax rate in 1992 was 31 percent. When we are done with this, the maximum tax rate is going to be 35 percent—still significantly higher, still about 13 percent higher than it was in 1991. We hear all this demagoguery of class warfare and people trying to play on other people. I disagree.

The State aid program is $20 billion. I want to make sure everybody understands that this is a temporary program—I want that in the RECORD for—for the States. I have a feeling States may be coming a year from now saying: We need this to be extended, either the FMAP portion or assistance going directly to the States.

All persons who sponsored this and were critical for getting it in this bill said it is temporary. It is temporary. It shall not be extended. Everyone agreed to that—House and Senate. The House did not want it in. Many on this side did not want it in. We agreed to have it in as a temporary program. I wanted to allude to that. Finally, I compliment Senator GRASSLEY for his leadership because, without his leadership, we would not have had this bill. We might not have had a budget. Frankly, we have a budget, and we have a bill. Many people are throwing rocks and stones saying this is terrible. We do have a budget, and we are trying to do a growth package. We are doing a growth package just about double what the Democrats proposed, except the Democrats in their growth package proposed almost all spending. I think three-fourths is spending. This package has real incentives for growth, investment, and jobs. Let's help the economy. The economy is far too soft. We want to encourage the economy to grow. I think this proposal will do that. Again, I thank my colleague from Iowa for his leadership in making that happen. I also thank our leader, Senator FRIST. This has been a challenging process to get both the budget and reconciliation through. We did the budget on time, almost in record time, and this reconciliation bill is the earliest I have seen Congress act. We should act because the economy is soft now. It needs assistance.

Mr. President, I yield the floor.

Mrs. BOXER. Mr. President, this bill is called the "Jobs and Growth Tax Relief Reconciliation Act." That name is wrong. This bill is not about creating jobs and stimulating economic growth. It is about helping the elite few with large tax cuts, while burdening the majority of Americans with a huge debt.

Fairness is an American value. And this bill is far from fair.

Those making $1 million per year will get a $93,000 tax cut—more than twice the annual income of the typical working family. Meanwhile, 53 percent of Americans will get less than $100. The average tax cut in 2003 for those in the middle of the income spectrum will be $217. And married couples with two children and incomes between $10,000 and $21,000 receive no tax cut at all.

To make matters worse, the marriage penalty relief that was in this bill—something that would have helped most working families—was scaled back in order to provide larger tax cuts on dividends and capital gains—something that helps only the elite few. Only about 25 percent of Americans receive taxable dividends. And, according to the Center on Budget and Policy Priorities, 39 percent of the benefits of that initiative would go to millionaires; another 44 percent would go to the top 10 percent of taxpayers; and only 17 percent of the benefit would go to the bottom 89 percent of taxpayers.

If most Americans are not getting tax relief in this bill, what are most Americans getting? Debt. This bill is fiscally irresponsible. The federal budget deficit stands at $400 billion—the largest deficit ever. And our national debt is spiraling upward. In fact, later today, the Senate will vote on a bill to increase the debt limit by nearly $1 trillion.

These numbers sound abstract. But they have an impact on all Americans. Because of the higher long-term interest rates that will result, economists have estimated that the rising deficits and debts will, by 2012, take $1000 every year out of the pockets of working Americans.

And, the Republican leadership has indicated that they intend to come back and extend the tax cuts that are sunset in this bill. If those provisions are extended, the cost through 2013 will be between $807 billion and $1.06 trillion—even more deficit and even greater debt.

This robs Social Security and Medicare surpluses and borrows from our children's future. And it denies us the resources we need to defend our homeland from terrorists and educate our children.

In these bad economic times—times of high unemployment, slow growth, and fragile consumer confidence—our first priority should be to stimulate the economy. That is why I believe we need a tax and growth bill. The problem is, this bill does not do it.

In fact, the one provision in the Senate-passed bill that would have provided a big boost to our economy—the Ensign-Boxer amendment—was taken out of the bill.

Our amendment would have lowered the tax rate, for one year only, on the earnings of the foreign subsidiaries of American companies—if those earnings were brought back to the United States and invested in jobs and the economy. Current official estimates conclude that between $140 and $300 billion in domestic foreign subsidiary income would have been brought back into the American economy during the one-year period. These funds would have helped create American jobs and American opportunities with billions of dollars currently left overseas.

But that provision, even though it had broad bipartisan support and passed the Senate 75-25, was stripped from the bill. The one provision that would have done the most to stimulate the economy was dropped from the bill.

I am also disappointed that this bill drops my amendment to require those who fail to pay the child support they owe, to add the amount they owe to their taxable income. It was the morally right thing to do.

The conferees also failed to close the business tax loophole for giant Sport Utility Vehicles (SUVs). In fact, this bill quadruples that loophole. Under this bill, small businesses will be able to deduct up to $100,000 of the cost of these huge passenger vehicles in one year at least through 2005. Smaller SUVs and cars are limited to a deduction of $7,660 in the first year, and $4,900 in the second year after the purchase. This cap is not changed in the bill. But the SUV cap is. As a result, people who do not need a giant SUV for business purposes will buy giant SUVs to take advantage of the much larger tax break.

We should scrap this bill and start over. We should pass a bill that would cut taxes for every working American, providing an average benefit of over $1,600 to a family of four making $50,000 a year. We should pass a bill that would provide real assistance to the 8.8 million Americans who are currently unemployed. We should accelerate the refundability of the child tax credit, accelerate the elimination of the marriage penalty, and extend and expand unemployment insurance for those looking for work, including the one million people who have already exhausted their benefits.

We should pass a bill that really sparks economic growth. It should include the Ensign-Boxer Invest in the U.S.A. proposal. It should, as the Democratic plan did, assist small businesses with their health care expenses by providing a 50 percent tax credit in 2003. And very important for California, it should provide $40 billion in immediate aid to state and local governments.

That would be a good bill to stimulate the economy, provide help to the vast majority of working Americans, and not plunge this nation deeper into debt or plunder the Social Security surpluses. That is a bill we should pass.

This bill before us should be defeated.

Mr. ROCKEFELLER. I have said from the beginning of this debate that my guiding principle would be the best interests of the people of West Virginia. I cannot support the deal that has been reached because it is so clearly designed to benefit the elite members of our society at the expense of average taxpayers in West Virginia and across the Nation. Proposals that could have stimulated the economy and helped working families got shortchanged to make room for enormous tax cuts for wealthy investors. I have little hope that this bill will stimulate economic growth; on the other hand, our national debt will be guaranteed to grow if we pass the bill.

I would also like to comment briefly on the process that has brought us to this point. I am extremely disappointed that this deal was struck behind closed doors in an entirely partisan manner. Since it adds hundreds of billions of dollars to our national debt, it affects every American now and for the next generation. Whenever we are considering something of such tremendous importance, the process ought to be bipartisan and inclusive. This is not how Americans expect us to conduct business.

For 2 years, I have fought to ensure adequate fiscal relief to States that are struggling with crippling budget deficits. I am pleased that this bill provides $20 billion in State aid. Our most vulnerable citizens are at risk when States cut Medicaid and other services. And any effort that we make to stimulate economic growth would be futile if States are forced to cut spending and increase taxes. Yet this legislation still falls well short of what 80 Senators voted for during debate on the budget resolution earlier this year. I am disappointed that we did not fulfill our commitment to $30 billion in State aid.

If we were truly interested in stimulating economic growth and creating jobs we would have not only provided more aid to States, we would have focused tax relief on working families who are the most likely to immediately spend any tax cut. But tax cuts that help working families got squeezed to make room for more tax cuts for wealthy investors. The proponents of this bill may talk a lot about the acceleration of the child tax credit, marriage penalty relief, and the expansion of the 10 percent bracket. But all of these provisions are set to expire after next year, and they pale in comparison to the new tax breaks provided to millionaire stockholders.

I fought to expand the child tax credit to serve more families, and to provide a greater benefit to those families who currently qualify for only a partial credit. I am disappointed that no such provisions are included in this final bill. While I am pleased that the size of the child tax credit increases from $600 to $1,000, albeit for only the next 2 years, I am still worried about the 130,000 children in West Virginia who will see no benefit from this increase. We should be doing more to help our neediest families.

I am also disappointed that we are spending $35 billion, 10 percent of the cost of the bill, to reduce the highest marginal income tax rate. Only Americans with more than $312,000 of annual income are affected by the highest rate. That is less than 2 percent of our taxpayers nationwide, and in my State of West Virginia it is less than 1 percent of taxpayers. The income tax cut that had the most potential to help hard-working people in my State is the expansion of the 10 percent bracket. But this provision, like so many other good ideas, was reduced in order to make room for other things. The expansion of the 10 percent bracket expires after next year, while the income tax cuts for the wealthiest few stay in place much longer. I cannot condone such misplaced priorities.

The most expensive part of this bill is the tax cuts for investors, estimated to cost more than $150 billion. These tax cuts are the least likely to help average Americans. While many Americans today are invested in the stock market, they typically hold these assets in retirement accounts that already enjoy preferential tax treatment. Only one-quarter of America's taxpayers will get any benefit from tax reductions on dividends or capital gains. And for the vast majority, the benefit will be very small. So why then does it cost so much? Because the wealthy few will receive enormous tax cuts. More than 40 percent of all dividend income is claimed by the top 2 percent of taxpayers. Capital gains are even more concentrated among wealthy Americans. I cannot justify huge cuts in dividends and capital gains taxes when the benefits to average Americans are so small.

Too many important proposals have been completely left out of this package. Despite the fact that more than 8 million Americans are currently out of work, many of them for extended periods of time, this bill provides no assistance for the unemployed. Incentives for investment in the construction of new schools or the deployment of broadband services—proposals that could have created new jobs immediately—are completely absent. For a bill euphemistically referred to as a "Jobs and Growth Package" there is very little here that will create jobs or growth.

Finally, this bill cannot be justified in the contest of our Government's current fiscal situation. Later today, Congress will be asked to increase the debt limit by almost $1 trillion, an unprecedented increase. Yet we are about to approve a tax package that will increase the deficit by $350 billion over the next 10 years—more when interest expenses are included. If this legislation really had the potential to help working families and reinvigorate our economy, we could justify increasing deficits. But instead we have shortchanged the most important provisions to make room for $150 billion in tax cuts to investors. It is unconscionable to ask the next generation of Americans to foot the bill for this legislation. I cannot support it.

Mr. KENNEDY. Mr. President, this conference report reflects the real priorities of the Republican Party. It cuts back tax relief for working families in order to expand tax breaks for the wealthiest taxpayers. The child credit and marriage penalty relief were both reduced so that more money could be spent on dividend and capital gains tax cuts. As a result of this backroom Republican deal, an average family of four will face a tax increase of $850 in 2005, right after the election; while tax breaks for the wealthy continue for additional years. The bill employs so many gimmicks to help the rich that even the Wall Street Journal called it "the Great Tax Shelter Act" of 2003. No wonder this legislation was put together behind closed doors and is being rushed through Congress with little time for scrutiny. The Republican leaders who authored it know that this bill could not survive in the light of day. Clearly, their priorities are not the American people's priorities.

The Bush administration apparently believes that the biggest problem in today's economy is that the rich are not rich enough. Republicans think that if you give tax breaks to the wealthiest taxpayers, they will invest more and the economy will grow. It is called "trickle-down" economics. The problem with this theory is that the wealthy may not use the money in ways that create jobs and expand production. If there is no demand because consumers are not buying, companies will not produce more. They will just wait until the economic climate improves.

Democrats believe that tax relief and public resources should go to America's working families. They are the ones who are struggling most in this brutal economy, and they will quickly spend the money. That will create a demand which is needed to get the economy moving again.

Two very different approaches to stimulating the economy. Republicans keep making the same mistake. If "trickle-down" economics worked, the economy would not be stagnating today. In 2001, at President Bush's insistence, Congress passed one of the largest tax cuts in history, and wealthy taxpayers got the lion's share of the tax benefits. America has lost more than two and a half million jobs since the first Bush tax cut passed. The Republican response is more of the same. This conference report provides more of the same. But the American people want a new approach.

Over 400 respected economists—including 10 Nobel laureates—say the Bush plan is the wrong way to go. Unfortunately, the President has repeatedly rejected the pragmatic advice of mainstream economists, and opted instead for an ideologically rigid and ineffective strategy.

His single-minded commitment to ever larger tax cuts for the wealthy as the cure for every economic ailment has made a bad situation worse. The administration has ignored remedies that would provide a significant stimulus this year, while implementing policies that will undermine our future economic strength. As a result, the economy continues to stagnate, and the number of families facing hardship continues to grow.

Unemployment is still on the rise. It climbed to 6.0 percent in April. There are now 8.8 million men and women unemployed across America. The economy has lost more than half a million jobs in just the past 3 months, and there is no end in sight. In the absence of an effective stimulus from the Federal Government, the economy is not likely to improve quickly.

Behind such disturbing statistics are people who need our help. A strong economy allows working men and women to have greater control over their lives, and more opportunity to pursue their personal dreams. A stagnate economy takes much of that control out of their hands, leaving families vulnerable to circumstances they cannot control.

Across America, in the last 2 years, workers have lost their job security. As layoffs mount, they live in fear of being the next to be let go. There are 2.7 million fewer private sector jobs in America today than there were in January 2001. Those looking for a job are finding it increasingly difficult to obtain one. The number of long-term unemployed has tripled. The average time it takes an unemployed worker to find a new job is the longest it has taken in 19 years. Yet this bill does nothing to directly help these unemployed men and women and their families.

The pain caused by this destructive wave of economic stagnation is not limited to those who have lost their jobs.

Health insurance is becoming less and less affordable for workers and their families across the country. The Congressional Budget Office now estimates that over the course of a year, 60 million Americans go without health insurance. Nationally, the average cost of health insurance is rising at double digit rates—up by 11 percent in 2001 and another 12.7 percent in 2002—nearly four times the rate of inflation. The health care squeeze on working families is getting tighter and tighter.

Senior citizens who desperately need prescription drug coverage are suffering, too. The cost of prescription drugs is escalating at double digit rates—increasing an average of 16 percent each year.

Children who are being asked to do more in school are receiving less support. School districts, faced with declining local tax receipts and the failure of the Federal Government to provide promised resources, have been forced to increase class sizes, cut weeks from school calendars, and lay off teachers.

The cost of higher education is rising beyond the reach of more families. The gap between the cost of college tuition and the tuition assistance provided by the Federal Government has grown by $1,900 in the last 2 years.

Millions of families have seen their retirement savings seriously eroded. The value of savings in 401(k) plans and other defined contribution plans has declined by $473 billion in the last 2 years.

These are the realities American families face today.

It is imperative that the National Government respond to the growing economic crisis. There is much that Government can do to stimulate economic growth in the near-term without generating huge deficits that will undermine prosperity in the long term. Unfortunately, the Bush administration has consistently refused to follow such a course of action.

The Republican plan does not maximize the economic impact in 2003. Only 17 percent of the $350 billion cost of their legislation would reach the economy this year, when it is needed to jumpstart a sluggish economy. We could create many more jobs sooner by better targeting the resources provided in the legislation.

The conference report spends $150 billion reducing dividend and capital gains taxes and $35 billion lowering the tax rate on the highest incomes. These cuts, which constitute more than half of the entire cost of the bill, do not provide effective stimulus and they take resources away from proposals that would. It is incredible that Republicans could not find the dollars to extend unemployment benefits and to provide tax relief for low-income workers, but they could find the money to pay for these tax breaks benefitting the wealthiest taxpayers.

According to an analysis by the Urban-Brookings Tax Policy Center, the provisions in the conference report would provide an average tax cut of $93,500 to taxpayers with an annual income over $1 million. In stark contrast, 53 percent of American households would receive a tax cut of $100 or less. The Republican conferees plan is even more tilted to the wealthiest taxpayers than the original Bush plan.

The few provisions that benefit middle-class families have been limited to just 2 years, while the dividend and capital gains tax cuts extend much longer. The conferees also eliminated a Senate provision that would have benefitted 11.9 million low-income children and their families, one of every six children in the Nation.

The richest 5 percent of taxpayers would receive 75 percent of the tax benefits from the dividend and capital gains tax cuts. All of the tax benefits from reducing the tax rate on the top income bracket will go to the richest 1 percent of taxpayers. They are certainly not the ones who are struggling to make ends meet in the faltering economy. They are not the ones who need our help. Nor are they the ones who will quickly spend the money they receive, creating an immediate economic stimulus.

The Republican plan is simply not an effective stimulus. The reduction of the income tax on corporate dividends, the centerpiece of their plan, is one of the least effective forms of stimulus, generating less than a dime of stimulus for every dollar of Federal revenue lost.

A well-designed stimulus plan could generate far more economic activity at a small fraction of the cost of the Republican conference report. The Senate Democratic plan would inject $125 billion into the economy this year, and is designed to maximize the stimulus effect of each dollar. That is more than twice as much in 2003 as the conference report, and three times as much as the Bush administration's plan.

Three widely respected economic models all show that the Democratic plan would generate substantially more growth in 2003 and create a half million more jobs this year than the President's plan.

One of the few positive provisions in the conference report is the $20 billion in assistance to States, $10 billion through the Medicaid Program, and $10 billion in general financial aid. The current fiscal crisis in the States is the most severe in decades.

It is important to remember that more people need to rely on State and local programs in an economic downturn. The number of people eligible for Medicaid grows substantially in times of recession, and many other costs rise as well. Without jobs and without health care, families have nowhere else to turn. We have an obligation to make certain that the needed resources are available to them. While the $20 billion of financial assistance to the States is a step in the right direction, the level of aid is clearly inadequate. Congress should be providing at least double this amount. A number of States will also lose significant State tax revenue due to the impact of tax cuts contained in the conference report. Thus, the net amount States will receive will be below even the $20 billion.

The Republican authors of the dividend and capital gain tax cuts in the conference report intend those tax breaks to be permanent. They have repeatedly said so. If not arbitrarily sunsetted after 2008, the dividend and capital gains provisions alone would exceed the $350 billion which is supposed to be the total cost of the entire bill over the next 10 years. The real cost of the bill before us is far in excess of $350 billion. If all its provisions were extended for the full decade, as our Republican colleagues intend, the real cost would be closer to $1 trillion.

The conferees have resorted to this "sunsetting" subterfuge in order to evade the requirements of the Budget Act. But, what they cannot evade is the adverse economic impact their one-trillion-dollar raid on the public Treasury would have. It will not stimulate the economy. In fact, it could well prolong the recession by leading to an increase in long-term interest rates, harming the ability of businesses to create new jobs. It will add enormously to the deficit, making it much more difficult for us to effectively address the Nation's urgent needs in job creation, in education, in health care, and in homeland security. Those are the real priorities of the American people. Unfortunately, they are obviously not the priorities of the Bush administration and the Republican majority.

An NBC News/Wall Street Journal public opinion survey conducted over the past week shows that a substantial majority of the American people do not believe these tax cuts are the way to create jobs. By a margin of 64 percent to 29 percent, they think there are better ways to improve the economy than to cut taxes. Sixty-eight percent believe the President's economic policy "relies too heavily on tax cuts and not enough on direct job creation"; and 66 percent believe his plan "benefits the wealthy more than average people." The American people are not being fooled by this bill. They know precisely what it will do—benefit the wealthy; and what it will not do—stimulate the economy. They also understand that extravagant tax breaks for the rich mean that the resources will not be available to address America's real needs. By a margin of 55 percent to 36 percent, they would prefer to use limited public dollars to help pay for health care than to finance a tax cut.

The conference report which the Senate is about to pass by the narrowest of margins does not reflect the priorities of the American people. Unfortunately, their voices were unable to penetrate the closed room where the Republican leadership wrote this irresponsible bill. If a majority of Senators would have the courage to vote no, we could defeat it and begin work on a genuine stimulus bill.

Mr. LEAHY. Mr. President, I rise today to oppose the tax reconciliation bill conference report that is being considered by the Senate today because this tax cut bill is not fiscally responsible. When President Bush entered the White House, our country enjoyed a record budget surplus, but the fiscal irresponsibility of this administration has quickly turned that surplus into record deficits. And now this bill that was cooked up in secret between the White House and Congressional Republicans without any input from Congressional Democrats will bring our country further into debt, lead to more hard-working Americans losing their jobs, and put a greater share of the tax receipts in the pockets of the Nation's most privileged.

I voiced several concerns about this tax bill when the Senate voted on it last week. Now that the conference report is finished, I have even more. First, while I am pleased to see that this bill does contain $20 billion in financial assistance to ailing State and local governments, I am very concerned that the tax cuts in this bill will once again wreak havoc on our already disastrous State budgets around the country. In my home State of Vermont, the State legislature stopped basing its State income tax on the Federal rates because of the costly cuts called for in the 2001 tax bill. Now, Vermont is going to be faced with somehow making up an additional $35 million in revenue because of the dividends and capital gains rate reductions in this bill. This is a very large amount of money for a State whose population is only 609,000. How will Vermont and the other States possibly make up these lost revenues without massive cuts to essential health, education, and homeland security services?

Second, these tax cuts are tilted even more heavily to the very wealthy than the tax cuts the President championed in 2001. Just look at the rate reductions. For the middle three income brackets in this country, rates would drop by 2 percentage points, but the top rate will fall by 3.6 percentage points. And according to the Center on Budget and Policy Priorities, 80 percent of dividend income goes to households with incomes over $100,000. Sadly, this administration has chosen to support tax policies where affluent people will reap enormous benefits, while working families will receive very little tax relief.

Third, this plan is riddled with Enron-like tax gimmickry by pretending that most of the provisions will sunset or expire at some arbitrary date in the future—dates chosen not to make good tax policy, but rather to make all the revenue losses fit into the $350 billion pot. The income tax rates and business expensing provisions will expire in 2006, and the dividends and capital gains rates will expire in 2009. By doing so, this bill attempts to jam in as much of the President's misguided dividend tax proposal as possible into the Senate's $350 billion limit at the expense of more reasonable tax reform provisions aimed at low- and middle-income working families. It is obvious that proponents of these tax cuts have no intention of allowing any of these provisions to expire and, in fact, will come back to the floors of the House and Senate again and again asking for them to be made permanent. Instead of acting in a fiscally responsible manner, they are masking from the American people the true, astronomical costs of this bill.

And fourth, these cuts will push our country deeper in debt. Earlier this month, the nonpartisan Congressional Budget Office increased its Federal budget deficit projections for fiscal year 2003 from $246 billion to a record $304 billion. When the Bush administration came into office, there was a projected $5.6 trillion 10-year surplus. Before this latest irresponsible tax bill, the $5.6 trillion surplus had shrunk to $20 billion. If this bill is enacted, that $20 billion will become a $1.8 trillion deficit—a fiscal swing in the wrong direction of $7.3 trillion in just 2 years.

Passing another enormous tax cut this year will only amplify this trend of growing deficits and add to the economic burdens our children and grandchildren will inherit. Increasing deficits will decrease national savings and increase long-term interest rates—effectively lowering the incomes of working Americans. At the same time the Bush administration is pushing for Congress to pass a $1 trillion increase in the Federal debt limit—the largest single jump ever—that does not account for the $350 billion in additional tax cuts that are part of this tax bill. I just do not think we can afford another large tax cut at this time until we get our own fiscal house in order.

Clearly, this tax cut plan is not about growing the economy or creating jobs. It is about starving the Government and wooing some voters. In fact, leading economists have stated repeatedly that the elimination of taxes on dividends paid to investors—the centerpiece of the President's tax cut proposal—would do very little to spur economic growth or reduce the Nation's jobless rate. Even Federal Reserve Chairman Alan Greenspan has questioned the long-term implications of the President's proposal by stating in testimony before the Senate Banking Committee in February: "I am one of the few people who still are not as yet convinced that stimulus is a desirable policy at this particular point."

In 2001, I voted against the Bush tax cut bill because it was too skewed toward the wealthiest Americans and too fiscally irresponsible. Since then, we have gone from record surpluses to record deficits, and the economy is still floundering. In fact, over 2,200 jobs have been lost in Vermont since the beginning of the Bush administration. Passing another enormous tax cut this year will only continue this trend and increase the economic problems that our children and grandchildren will inherit.

Earlier this year, the President said we should not pass our fiscal problems on to future Presidents, Congresses, and generations. I agree with him. Unfortunately, this tax cut bill will drive us deeper into debt and will do exactly what the President says we should avoid, burden our children.

As I said when this bill passed the Senate, I have two of the world's most perfect grandchildren. And while the promise of another tax cut sounds great, I am not going to ask my grandchildren and everyone else's grandchildren to pay for it. It is not right. It is not fair. And it is not the American way.

Mr. HATCH. Mr. President, I rise to speak in support of the growth and jobs tax bill conference report before the Senate today. I first wish to congratulate and thank the chairman of the Finance Committee and the majority leader for their tireless efforts in working out a very difficult compromise. Their hard work made it possible for us to vote on this major tax cut legislation today—legislation that will make a big difference in the lives of Utahans and Americans across the Nation.

The conference report before us is a major accomplishment, for the U.S. economy, for the American people, and for President Bush and Vice President CHENEY. It is the culmination of months of very hard work that began with the President's release of his jobs and growth plan late last year. This was a bold and brilliant plan designed to help our economy over the next year while also removing long-standing barriers to long-term growth.

At the heart of the plan was one overriding objective—to kick our sputtering economic engine into high gear so we could finally shake off the listlessness that has lingered since the double whammy when recession hit in 2000 and terrorists struck our homeland in September 2001. Although we have emerged from recession, the recovery has been very slow and new job creation has not kept up pace with jobs that have been lost.

I am seeing this in Utah, where our State's economy has been hit harder than many by the downturn. My State has a highly educated workforce, and we have more high-tech jobs, more commercial construction jobs, and more tourism jobs than many other States. Those sectors have suffered. Utah's unemployment rate was 5.3 percent last month. Compared to the 3 percent unemployment rate we had just a couple of years ago, this is unacceptable. Along with the President and many of our colleagues, I have been calling for a strong prescription to help get our economy, in Utah and across the country, back to its full potential.

To accomplish this, the Bush plan focused on three actions—accelerating the already enacted but yet to be phased in tax cuts from 2001, increasing incentives for businesses to invest in productive equipment and grow, and addressing the debilitating and unfair effects of taxing the profits of corporations twice. I am happy to report that all three of these elements are present in the conference report.

The conference report speeds up the tax rate cuts that Congress, on a bipartisan basis, passed just 2 years ago. The small amount of rate reduction from the 2001 Tax Act that has already taken effect has served to lessen the blow of the recession. These across-the-board rate reductions were the right remedy, but their phase-in has been too slow. By accelerating the remainder of these cuts, effective this year, we can put the full dosage of medicine to work on what remains a sick economy.

This tax bill will cut taxes for practically every American who pays income tax. This will provide great assistance to our economy in two ways. First, it will put cash into the pockets of American workers immediately. Almost as soon as this bill is signed into law by the President, the Internal Revenue Service will release new tax withholding tables that will reflect the lower tax rates. This means an immediate raise in pay for almost every U.S. worker.

Second, lower tax rates will encourage Americans to work harder, to save more, and invest a higher amount of their income. This serves us will both in the short run and over the longer term.

We cannot forget the huge effect these tax rate reductions will have on the small businesses of America. It seems that many of our colleagues on the other side of the aisle refuse to recognize the fact that about 80 percent of small businesses pay taxes at the individual tax rates. Rather than being the giveaway to the so-called "wealthy" that opponents of this tax cut accuse it of being, this is a first-class jobs creation bill.

Moreover, the bill before us includes significant tax relief for married couples suffering from chronic marriage tax penalties. While we still cannot say these unconscionable tax effects are totally eliminated from the Internal Revenue Code after the effective date of this measure, we are making major strides in this endeavor.

The acceleration of the child tax credit included in the conference report will make a big difference to families in Utah and all across America. To families struggling to raise their children, this bill spells relief, both immediately and also for 2004.

The second objective accomplished in the Jobs and Growth Tax Act is to spur investment by business entities. Our recent recession was not one born of the lack of consumer spending, but of the dearth of business investment.

Last year's economic stimulus bill included a provision that has proven effective in increasing business investment—a 30-percent bonus depreciation deduction for the first year. The bill before us includes a feature that builds on this provision, and increases the incentive to 50 percent. I have been a strong proponent of bonus depreciation, and despite this not being in the Senate version of the bill, I am pleased that this provision survived in the conference report.

And this is not all. One of the most important elements of the bill before us is the increase in the amount of new equipment purchased that smaller businesses can write off immediately. Not only is the amount of investment allowed to be expensed quadrupled under the bill, but larger businesses can now take advantage of the incentive. This bipartisan and bicamerally supported feature should result in some quick job creation.

The third objective of President Bush's tax plan was to address the onerous and unfair double taxation of corporate dividends. Although the dividend provision in the conference report is not the same as that envisioned by the President, it is a very significant tax cut that will have positive ramifications for the economy and for corporations and their shareholders, for years to come.

The President's original plan called for the elimination of the double taxation of corporate dividends by providing an exclusion for corporate earnings passed through to shareholders to the extent that the corporation paid tax on those earnings. This was a bold and laudable goal that would have far-reaching effects on the very nature of how corporations are established, operated, and governed in this Nation. This was tax reform in the truest sense. And like all real reform, it was met with jeers, criticism, and legitimate concerns.

I want to congratulate many of my Senate colleagues for achieving the difficult task of passing the Senate version of the bill, which included the full exclusion of corporate dividends at the individual level, albeit for a relatively short time. This was a major legislative accomplishment, and Senators NICKLES, KYL, LOTT, and many others deserve our gratitude, along with Chairman GRASSLEY and the leadership, for its attainment.

The complete elimination of the double tax on dividends should remain our long-term goal. It was not achieved in this conference report. The political and time constraints placed on the Senate made this impossible. However, I want to emphasize that our inability to achieve this lofty goal, which has been the objective of policymakers for decades, should not overshadow the huge triumph we have achieved in the conference report—the very substantial reduction of tax on both dividends and capital gains for all taxpayers.

Investors in this country—and this now includes over half of all Americans—will wake up tomorrow to find a far greater reward for their investments, whether it be in stocks, bonds, real estate, or other productive assets. A basic economic axiom is that if we want more of something, we should tax it less. By lowering the tax on the fruits of investment, both in the form of capital gains and of dividends, we will get more investment. This tax cut on investments will bode well for our economy both in the next few months and years, and for decades to come.

The conference report before us cuts the tax on dividends by more than half for taxpayers in the higher tax brackets, and it eventually eliminates the tax altogether for those in the lower two brackets. For taxes on capital gains, it cuts the top rate by 25 percent for most investors, and again, eventually eliminates them for millions of taxpayers in the lower tax brackets, who might be just starting out with their first investments. This is a huge change, and it will have a huge impact on investment in America by lowering the cost of capital and giving a huge boost to the stock market.

We should not underestimate the positive effects these changes will have on our economy. When we lowered the maximum capital gains tax rate from 28 percent to 20 percent in the 1997 tax act, the effect on the stock market, and on receipts to the Treasury, was very significant. In fact, a Standard and Poor's DRI study on the effects of the 1997 capital gains tax cut indicated that 25 percent of the increase in stock prices that was enjoyed after 1997 was due to the cut in the capital gains tax. Treasury receipts soared from capital gains realizations and we were able to balance the Federal budget.

Moreover, the study showed that the 1997 capital gains tax cut also had a significant impact on the lives of average Americans by increasing productivity growth, which caused the standard of living to rise. There is no reason to think that the reductions on taxes on capital gains and dividends included in this bill will not have similar effects in 2003 and beyond.

All in all, we should be very pleased with this bill's dividends and capital gains provisions. They will have a very positive effect on economic growth and serve as a substantial platform from which to seek further progress in the future, even that of the total elimination of the double tax on dividends.

The happiness with which I greet this conference report is not complete. It is not perfect, by any means. Like all of my colleagues, I suppose, I would have written a different bill.

For example, I am disappointed that the conference report does not include the Medicare geographic equity provisions approved by the Senate. These provisions, which I strongly support, would have provided more equitable reimbursement rates to Medicare providers in rural States.

However, I am encouraged that the President has signaled his support for addressing this matter through the Medicare legislation that the Senate will be considering in the next month. To me, it is absolutely critical that Medicare beneficiaries in rural States like Utah have access to quality health care. In my opinion, the best way to accomplish this goal is by passing legislation which ensures that Medicare providers in rural areas are fairly compensated. I will continue to work with my Senate colleagues on this crucial issue until this legislation is signed into law by the President.

Moreover, there are many other tax provisions that were included in the Senate version of the bill that would have made excellent additions to this conference report. Among these are provisions supported in an amendment on which I was joined by a bipartisan group of our colleagues that would have provided significant benefits to small businesses operating under subchapter S of the Internal Revenue Code. I hope we can find a way to address these important issues in another bill later this year.

In conclusion, the recession that began in 2000 was real, and our slow recovery is leaving behind pockets of real suffering, both in Utah and across our Nation. But thanks to our President's policies, the Federal Reserve's aggressive, preemptive, rate-cutting, and the flexibility of our free-market system, our Nation has had unemployment rates much lower than in past recessions. But Congress needs to do more, and to act now, and this conference report is a vital part of the solution.

If we combine this growth and jobs package with some modest restraint on the spending side and some commonsense legal liability reforms, we can grow the economy faster over the next year, and we can set the stage for another decade of record job growth.

Again, I thank Chairman GRASSLEY and the Senate leadership for their hard work, and I urge my colleagues to support the conference report.

Mr. LEVIN. Mr. President, I cannot support the fiscally irresponsible and unfair tax cut which is before the Senate because it is not what our country needs. It is ironic that on the same day that a final vote is being taken on this huge tax cut package, the Republican majority also is bringing to the floor legislation that would raise the limit on the national debt by $984 billion, the largest in our Nation's history.

This tax cut bill has more deceptions in it than an Enron financial statement. It purports to cost only $350 billion over the next 10 years, but its true costs are masked by multiple "now you see them, now you don't" gimmicks that will in reality cost up to a trillion dollars over the next 10 years. With deficits of over $300 billion projected for this year and the next, the last thing we need are huge tax cuts that will serve to dig us that much further into the deficit ditch. Future generations deserve better.

Furthermore, this approach will be largely ineffective in providing our economy the immediate jumpstart it needs. By giving too much to those who need it the least—the average 2003 tax cut for a millionaire will be about $93,500; the average 2003 tax cut for someone in the middle of the income spectrum will be $217—the bill will be far less effective in stimulating the economy than it would be if the tax cuts were directed to taxpayers of more modest means who would spend the tax cut now. In addition, only 17 percent of this package goes into effect in 2003, when we need it, but instead will take place years down the road. Our economy is struggling right now. Eight-and-a-half million Americans are out of work; 2.7 million private sector jobs have been lost since the beginning of this administration. Michigan lost 17,000 jobs just last month, the most of any State in the country. What we need are immediate jobs and relief, not more of the same "trickle-down" policies that have been tried and that failed in the past.

Expert commentators have pointed out that this bill will make it easier for corporate and upper income taxpayers to use tax shelters to even further reduce their tax bills. Instead of ending the so-called double taxation of dividends, this bill provides those with the means to accomplish it a roadmap to no taxation. That's just plain wrong. Providing large tax cuts to the wealthy in the hopes that the benefits with trickle down to everybody else hasn't worked before, and there's little reason to think that it will work now. Following the same approach that failed time and again just doesn't make sense. Just 2 years ago, President Bush was promising that his first massive tax cut of $1.4 trillion would jumpstart the economy and create jobs. It didn't.

Moreover, I am disappointed that the conference report stripped out provisions that were included in the Senate-passed bill that would have cracked down on corporations who engage in sham transactions involving offshore tax havens. Loopholes like these encourage investment overseas, not here in America. We should be closing down corporate loopholes, not preserving them.

While I am pleased that this bill contains some funds to assist our struggling State and local governments, it does not do nearly enough. Our States currently are facing their worst fiscal crisis in over 50 years, with many being forced to raise taxes or cut vital services like Medicaid in order to balance their budgets. Instead of doing all that we should to assist them, this bill includes a dividends reduction provision that will actually strip States of revenues, something which will stimulate neither jobs nor growth.

I supported and voted for an alternative tax package that was about creating jobs now, when we need it, in a way that did not mortgage our future.

The plan I supported was estimated to put more than 1 million people back to work by the end of 2004 at a fraction of this bill's costs. It would have cut taxes for every taxpaying American, providing a tax cut of $1,630 to a family of four through a wage credit, an acceleration of the child tax credit, and an elimination of the marriage penalty. I would have helped small businesses by providing them with a 50 percent tax credit to help employers maintain health coverage for their workers, and would have provided large and small companies with incentives to invest and create jobs by allowing small businesses to immediately write-off more investments and providing bonus depreciation to all companies. It also would have provided unemployment benefits for nearly 4 million laid-off workers, including those who have already exhausted their benefits. What our sagging economy needs right now is immediate jobs, growth, and stimulus, and that's what the plan I supported offered.

Instead, what will pass today is a package that is the wrong medicine for our ailing economy. It will create fewer jobs than what is needed. It will slight middle-class families in favor of the wealthy. And it will dramatically increase the deficit and national debt and drive up interest rates which will make it more expensive in the future to buy a house, pay for college, or pay off credit card debt. This is not what Americans need. I cannot support this legislation.

Ms. SNOWE. Mr. President, I rise today regarding the conference agreement on the jobs and growth tax package that is before the Senate.

I very much regret I am unable to support this final conference report, specifically as it relies on artifical "sunsets" to mask the true size of the tax cuts. Regrettably, it represents neither sound fiscal nor economic policies and could balloon Federal budget deficits even further. Indeed, at its heart, this is a trillion-dollar tax cut masquerading as a $350 billion tax cut, and in keeping with the principles I have outlined from the outset of this debate, I cannot support it.

From the beginning, I have stated my concern not only about the size but also the content of any tax cut package. Because we need a strong stimulus to create jobs and grow the economy—while accomplishing this with sound policy and without creating deficits in perpetuity. While I am pleased this bill technically adheres to the agreement I reached to limit the overall size of the growth package of $350 billion over 10 years, it shortchanges some of the most stimulative aspects with sunsets that could lead to larger Federal deficits.

Even proponents of the package acknowledge that they do not expect the tax cuts to expire or sunset as anticipated, so this package will likely grow to a true 10-year cost of at least $650 billion or even $1 trillion. In other words, with the sunsets, it can be said this is more like $350 billion over 2 years. And indeed, nonpartisan public policy organizations like the Tax Policy Center at the Brookings Institution, and the Center for Budget and Policy Priorities, have estimated the overall 10-year cost of the tax cut legislation ranging from $659 billion to more than $1 trillion.

At a time when we are facing historically high budget deficits expected to exceed $400 billion this year alone—the largest in history—this tax cut may grow deficits to levels economists fear will be unsustainable. As Federal Reserve Chairman Alan Greenspan said again just this week, "deficits do matter", and could reduce future economic growth.

Furthermore, I have made a priority of providing the type of short-term economic boost needed to encourage job creation and spur growth in the economy. I have based my approach to this package on the stimulative portions of the President's jobs and growth package, which totaled $329 billion, and fiscal relief for States and local communities, which totaled $20 billion.

Moreover, the conference package reduces the size and impact of proposals such as acceleration of the child tax credit, marriage penalty relief, and the duration of proposals to spur investment by small business, with hidden costs of between $319 billion and $709 billion if the tax cuts were extended for the life of the bill.

I would also note for the record that the conference agreement eliminates the refundable portion of the child tax credit that I sponsored along with Senator LINCOLN that extends the reach of the tax package to all full-time working families. The elimination of this provision, estimated to cost about $4 billion over the life of the bill, will exclude about 12 million children nationwide, and 40,000 children in Maine, who would otherwise benefit from the legislation.

I have made clear from the start that I agree with President Bush's goal of passing a stimulus plan to encourage growth in the economy and create jobs. I have also discussed my concern that creating unsustainable, long-term deficits would seriously inhibit our ability to address pressing domestic challenges—such as strengthening Social Security and Medicare—as well as subject future generations to the corrosive effects of the higher interests rates that result from deficits.

As a result, I joined with Senators VOINOVICH, BAUCUS, and BREAUX in signing a letter before consideration of the budget resolution to limit the size of the tax package. In that letter, we stated our belief that "our nation would benefit from an economic growth package that would effectively and immediately create jobs and encourage investment." But we also expressed our belief that "any growth package that is enacted through reconciliation this year must be limited to $350 billion in deficit financing over 10 years and any tax cuts beyond this level must be offset." This has been a critical guiding principle for me during this process.

That is why I supported the strong stimulus plan I helped craft in the Senate Finance Committee, which incorporated—within the $350 billion 10-year framework—all of the stimulative aspects of the President's growth package in their entirety, provided significant dividend tax relief that would have reached all investors, and eliminated the double tax on dividends for 84.7 percent of all taxpayers.

Senator GORDON SMITH and I were also able to secure within that Finance Committee package a measure that conveyed $20 billion in fiscal relief to States and local communities—and I am disappointed that this conference report limits this relief to States only, ignoring the needs of our municipalities. Under the conference report, the $20 billion is divided equally between the Federal Medicaid Assistance Percentage, or "FMAP", and $10 billion in flexible grants to State governments.

As I have stated in the past, State fiscal relief is crucial to stimulating the economy—as 46 of the 50 States, including Maine, are facing budget shortfalls due to lower than predicted revenues because of the depressed economy and September 11; increased costs associated with Federal mandates; and, increasing health care costs. There is no question the Federal Government must provide fiscal relief—and this will go a long way toward stimulating growth in the economy. Yet I remain distressed that conferees chose to omit aid for local governments.

Finally, this legislation will quadruple the amount a small business can expense, from $25,00 to $100,000. As Chair of the Senate Committee on Small Business, I certainly support this. However, regrettably, this legislation before us will also sunset this provision after just 3 years. I am disappointed there are those who chose to tap this stimulative measure to finance long-term changes to law.

Mr. President, in conclusion, I would like to be able to say I support this package—I would like to vote for it, but I am unable, as it runs counter to the principles I have laid out during this entire process in terms of the size of the cuts and the content of the package. Therefore, I will not be supporting this conference report.

Mr. McCAIN. Mr. President, I am extremely disappointed for our brave military men and women that the conferees for the Jobs and Growth Tax Relief Reconciliation Act of 2003 decided to omit the Senate-passed Armed Forces Tax Fairness Act of 2003 from the conference report.

I offered an amendment to the tax bill that would add the Armed Forces Tax Fairness Act of 2003, which has been previously passed by the Senate. The amendment was accepted by unanimous consent. Since this legislation has already passed numerous times in the Senate, I believed that the conferees would include this important legislation for our military in the conference report without hesitation. But again, politics ruled the day.

Despite the recent successful war in Iraq, which highlighted the bravery and sacrifice of our military, the conferees provided nothing for them in this so-called growth bill. The only thing growing will be the tax breaks for the wealthiest citizens of this country. And in a time where we are also facing growing deficits and must also pay for the cost of the war, what the conferees did in the interest of "getting a deal" was the height of irresponsibility.

What the conferees denied was much-needed tax relief for our men and women in uniform whose sacrifice and commitment are the foundation upon which the freedom we all enjoy has been built. How they can deny these committed men and women who defend our country simple fairness is beyond understanding.

One of the provisions in the legislation that the conferees dismissed from inclusion in the conference report is what is popularly known as the Military Homeowners Equity Act. This legislation would allow service members, who are away on extended active duty, to qualify for the same tax relief on the profit generated when they sell their main residence as other Americans. Secretary of State Colin Powell fully supports this legislation, and this legislation enjoys overwhelming support by the senior uniformed leadership—the Joint Chiefs of Staff—as well as outgoing Office of Management and Budget Director Mitch Daniels, the 31-member associations of The Military Coalition, the American Foreign Service Association, and the American Bar Association.

The average American citizen participates in our Nation's growth through home ownership. Appreciation in the value of a home allows everyday Americans to participate in our country's prosperity. Fortunately, the Taxpayer Relief Act of 1997 recognized this and provided this break to lessen the amount of tax most Americans will pay on the profit they make when they sell their homes. Unfortunately, the 1997 home sale provision unintentionally discourages home ownership among service members and Foreign Service officers.

What we are doing is not creating a new tax benefit. We are merely modifying current law to include the time members of the military are away from home on active duty when calculating the number of years the homeowners has lived in their primary residence. In short, this bill is narrowly tailored to remedy a specific dilemma.

The Taxpayer Relief Act of 1997 delivered sweeping tax relief to millions of Americans through a wide variety of important tax changes that affect individuals, families, investors, and businesses. It was also one of the most complex tax laws enacted in recent history.

As with any complex legislation, there are winners and losers. But in this instance, there are unintended losers: members of the military and Foreign Services.

The 1997 act gives taxpayers who sell their principal residence a much-needed tax break. Prior to the 1997 act, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale. This provision primarily benefited elderly taxpayers while not providing any relief to younger taxpayers and their families.

Fortunately, the 1997 act addressed this issue. Under this law, taxpayers who sell their principal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale, joint filers are not taxed on the first $500,000 of profit they make from selling their principal residence. The taxpayer must meet two requirements to qualify for this tax relief. The taxpayer must, one, own the home for at least 2 of the 5 years preceding the sale, and, two, live in the home as their main home for at least 2 years of the last 5 years.

The bipartisan cooperation that resulted in this much-needed form of tax relief is commendable. The home sales provision sounds great, and it is. Unfortunately, the second part of this eligibility test unintentionally and unfairly prohibits many service men and women who are deployed overseas from qualifying for this beneficial tax relief.

Constant travel across the United States and abroad is inherent in the military and Foreign Service. Nonetheless, some service members and Foreign Service officers choose to purchase a home in a certain local, even though they will not live there much of the time. Under the new law, if they do not have a spouse who resides in the house during their absence, they will not qualify for the full benefit of the new home sales provision because no one "lives" in the home for the required period of time. The law is prejudiced against families who serve our Nation abroad. They would not qualify for the home sales exclusion because neither spouse "lives" in the house for enough time to qualify for the exclusion.

This bill simply remedies an inequality in the 1997 law. The bill amends the Internal Revenue Code so that members of the military and Foreign Service will be considered to be using their house as their main residence for any period that they are assigned overseas in the execution of their duties. In short, they will be deemed to be using their house as their main home, even if they are stationed in Iraq, Afghanistan, Bosnia, the Persian Gulf, in the "no man's land," commonly called the DMZ between North and South Korea, or anywhere else they are assigned.

In the wake of September 11, our Armed Forces are now deployed to an unprecedented number of locations. They are away from their primary homes, protecting and furthering the freedoms we Americans hold so dear. We cannot afford to discourage military service by penalizing military personnel with higher taxes merely because they are doing their job. Military service entails sacrifice, such as long periods of time away from friends and family and the constant threat of mobilization into hostile territory. We must not use the Tax Code to heap additional burdens upon our women and men in uniform.

The Taxpayers' Relief Act of 1997 was designed to provide sweeping tax relief to all Americans, including those who serve this country abroad. It it true that there are winners and losers in any tax code, but this inequity was unintended. Enacting this narrowly tailored remedy to grant equal tax relief to the members of our military and Foreign Services restores fairness and consistency to our increasingly complex Tax Code.

Mr. President, the case is clear. The conferees should have included the Armed Forces Tax Fairness Act of 2003 in the conference report for this tax relief bill. If they can look into the eyes of all the men and women in our military who have committed themselves to the defense of this country in Iraq and elsewhere around the world, and justify how they spent billions of Federal dollars to cut taxes for our Nation's wealthiest at their expense, then the process is clearly broken. And that is a disgrace for which they are solely responsible.

Mr. DODD. Mr. President, I rise today to express my opposition to the conference report on the tax cut legislation that the Senate just considered.

I find it regrettable that we were forced to speed through debate on the tax cut bill last week, and were once again forced to hurry through this conference report. This is probably the most important bill that we will be debating and voting on this year. Its repercussions will be felt for years to come, and yet it seems that very little thought has really been given to it.

Regrettably, I could not in good faith support this Reconciliation in its current form for three reasons.

First, it will be ineffective in reviving the economy now.

Second, it is irresponsible insofar as it adds tremendously to the national debt for no compelling purpose.

Third, it is unfair to working families across the country insofar as it drains resources from investments in education and health care to fund tax breaks that overwhelmingly benefit the most affluent.

I will discuss these points in turn.

First, the resolution we have before us fails to effectively address the needs of our country. Instead of investing in a stronger economy for the future, the conference agreement provides little assistance and stimulus to our struggling economy now.

In the nearly 2½ years since the President has come into office, our nation has suffered a dramatic decline. We went from unparalleled job creation, economic growth, and opportunity to skyrocketing deficits and national debt, high unemployment, and uncertainty about the future.

Contrary to the claims of its proponents, it is by no means certain this conference agreement will create jobs or provide millions of working families with the relief they need. What is certain, however, is that it will drastically increase the national debt, and severely weaken key national priorities including homeland security, education, and health care.

According to Economy.com, the massive deficits that will be caused by the administration's tax cut will decrease gross domestic product by 0.25 percent annually beginning in 2005. GDP will be lower by 1.0 percent in 2013 than it would be without the Bush plan. The result is a loss of 750,000 jobs by 2013 according to Mark Zandi, a well-respected, non-partisan economist at Economy.com.

The administration's policies are not considered to be ineffective on a partisan basis, they are considered to be ineffective on a bipartisan basis, as well.

Republican Senators have voiced concern about the ineffectiveness and irresponsibleness of this proposal.

The Chairman of the Federal Reserve has said that these large tax cuts, if not paid for by offsetting cuts in spending, will drive us deeper into deficit and that such high deficits and debt will actually hurt our long-term economic growth.

Other respected conservative economists have also warned us about the direction we are taking. For instance, AEI economist Kevin Hasset stated that the proposal, by cutting taxes in one year and then raising them in another, "is one of the most patently absurd tax policies ever proposed," Similarly, Robert Bixby of the Concord Coalition said that the tax plan passed by the Senate just keeps "building one gimmick on top of another gimmick."

However, this administration continues to turn a deaf ear to their warnings, as it pursues its discredited economic theories.

Second, this conference agreement is irresponsible.

Two years ago, economists projected record surpluses; now they forecast record deficits. Recently the Congressional Budget Office raised its estimate of the deficit this year to more than $300 billion. This is the largest federal deficit ever in the history of our country. And it does not include the tax cut that is before us.

It is a fact that high deficits mean an increase in long-term interest rates on small business loans, families' mortgages, and education loans. These deficits therefore act as a hidden tax on working people.

Also the cost of all of the President's tax cuts and the deficits will explode just as baby boomers start to retire. Over the next ten years, more than $2 trillion will be raided from Social Security in order to pay for the President's tax cuts and spending plans. The Social Security surplus is going to be consumed.

Last month, Congressional Budget Office Director Douglas Holtz-Eakin said that the retirement of the baby boomers will drive spending on Social Security, Medicare and Medicaid alone from 8 percent of the economy's output today to 14 percent in 2030, and to 21 percent by 2075. When you also consider national defense, homeland security, education, health care, and other vital national priorities, you are left with a fiscal breakdown. But again, the administration is ignoring these warnings.

At the very time the President is asking for massive tax reductions, he is also asking for the largest debt limit increase in the history of the United States. He is seeking an increase of $984 billion. The President has dug this economy into a debt hole. He needs to stop digging. Yet, instead, he is reaching for a bigger shovel.

From coast to coast, states are facing the most serious fiscal crisis since World War II. States are in need of fiscal relief now. In Connecticut, we know that all too well. While there is a State relief package in the conference agreement, the overall agreement is going to hurt States not help them since this legislation will mean less resources for Connecticut and other States to invest in infrastructure, education, homeland security, and health care for needy children and the elderly.

Americans all over the country have expressed their opinions in poll after poll. They believe that we should not be passing a massive tax cut if it means cutting Medicare, if it means cutting social security, and if it means cutting education. This conference agreement ignores the concerns of the American people.

Third, this tax bill is unfair to working families.

Yesterday's Wall Street Journal had an article that says that through the President's tax proposal, some affluent investors may be able to avoid paying almost any taxes. Their tax bill would be almost near zero. This is unfair to middle-class Americans.

It is bad enough that we are going to force our children and grandchildren to shoulder the costs of this tax cut.

It is bad enough that this costly and irresponsible tax cut will bring about an average tax cut of $93,500 to tax filers who earn more than $1 million, while those households in the middle of the income spectrum, which includes the average family in Connecticut, would receive a tax cut of about $217.

It is bad enough that according to an analysis done by the Tax Policy Center, 36 percent of all U.S. households would receive no tax cut whatsoever in 2003 under the conference agreement, and 53 percent of households would receive a tax cut of $100 or less.

This bill also fails to address a crisis affecting Americans and small businesses—the burden of the high costs of health insurance. In the past year alone, health care premiums for businesses have risen more than 13 percent. This is extremely burdensome for small businesses, which employ 50 percent of the workers in this country. The Democratic alternative to the tax bill, which did not pass, provided small businesses with a 50 percent tax credit in 2003 to help pay their share of insurance premiums. This conference agreement that is before us contains nothing to assist small businesses that are struggling to keep their employees insured during these times when cash is tight and health care costs are rising.

In order to fit the massive tax breaks for the most privileged into the $350 billion limit that was agreed upon, the marriage penalty relief and the child tax credit increase will expire next year, which means a tax increase of $850 for a family of four with an income of $40,000 in 2005. Also, the small business expensing and bonus depreciation provisions, which would encourage business investments and provide them with needed relief, will also expire. This is essentially increasing taxes on small business owners.

In closing, I believe that the conference agreement before the Senate fails the test of common sense. It also fails the test of common decency. At a time of war, at a time of economic stagnation, at a time of rising national debt, and of rising national concern about how we will educate America's children and care for the health needs of our people, one might expect our national leaders to pursue policies calling for shared sacrifice to achieve shared benefits. Regrettably, that is not the case. This administration has a clear vision: to benefit the privileged few even if it means sacrificing the hopes and aspirations of the rest of the people. We can do better as a Senate, and do better for our country.

### CEO SIGNATURE LEGISLATION

Mr. MILLER. Mr. President, as you know I have had a longstanding interest in an issue that requires chief executive officers to sign their company's tax returns. My amendment has been made part of the corporate inversion provisions as well as the CARE Act. I am hopeful to have this provision enacted into law because I believe that if Joe Sixpack is required to sign his tax return for his family and sign the oath that says "Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements and to the best of my knowledge and belief they are true, correct and complete", why shouldn't Josepheus Chardonnay be required to sign that same oath for his big corporation?

I understand my CEO provision came into the current tax bill when the underlying corporate shelter language was included and that it has been taken out at the same time that the corporate inversion language was taken out of the tax bill.

I would just like to reiterate that I am still interested in getting this CEO signature provision enacted into law. I think it is an important tool for improving corporate accountability. I would like to ask my colleague Senator GRASSLEY if we may continue to work with the Committee on Finance to get this amendment enacted in either the CARE Act or the next best legislative opportunity.

Mr. GRASSLEY. Mr. President, I am very much aware of Senator MILLER's interest in this provision. As you know, the Finance Committee has supported his provision by including it in two separate pieces of legislation that our committee considered this year. We had hoped to include it in this bill, even if the corporate shelter language was not included. Unfortunately, this measure has a negligible revenue effect and could possibly violate the Byrd rule. Accordingly, we were obliged to remove it from the bill. I give Senator MILLER my commitment, however, that we will continue to work with him on opportunities to get this amendment enacted into law this year. I would also add that I discussed this provision with Mr. THOMAS, the chairman of the House Ways and Means Committee, and his staff, and they indicated a willingness to examine and explore the measure in conferences on future bills.

Mr. MILLER. I thank the Senator and look forward to having this measure brought back to the Senate floor before the end of this year.

### CHILD CARE FUNDING WITHIN STATE AID

Mr. HATCH. Mr. President, the Senator from Iowa has shown remarkable leadership abilities by stewarding through the Senate a tremendous economic stimulus bill, the Jobs and Growth Tax Relief Reconciliation Act of 2003. I recognize this was no easy task and I want to compliment the Senator on his hard work and successful negotiations in getting the bill through a difficult conference with the House. The Nation and the economy will benefit from this great work.

I understand the final version of this bill we are considering today contains $20 billion for State aid, with $10 billion of that aid going to States to help them pay for a state's essential government services. I believe the States will be very grateful for Congress' willingness to provide these funds.

Although the bill clearly says that States may spend these funds on "essential government services," I believe that the States would appreciate some clarification as to the definition of "essential government services." I refer specifically to whether these funds may be used to pay for child care. In my home State of Utah, there is a great need for child care funding to help parents in or near poverty have a safe place for their children to stay while they work to provide money for their families. However, I believe this need is not a Utah-specific issue, but a nationwide problem that needs to be addressed.

I understand the distinguished Senate Finance Committee chairman has a long history of supporting initiatives which not only help children, but help families who may be on the cusp of self-sufficiency and I thank you for your efforts in this regard.

To this end, I would just like to clarify for the record that it is the intent of Congress to include child care expenses as an acceptable expense under the "essential government services" clause in the legislation, ensuring that States may use the $10 billion provided in the bill for child care expenses?

Mr. GRASSLEY. I would say that as my good friend, the Senator from Utah, knows, the Jobs and Growth Tax Relief Reconciliation Act of 2003 is first and foremost an economic stimulus bill. The most effective aid the Federal Government can give to States or individuals is a healthy economy with a robust job market. Without jobs, families with children won't need child care services and won't have any way to pay the family bills.

I thank the good chairman of the Judiciary Committee and understand his concern over the State aid portion of the legislation. We have tried to provide as much leeway as possible to the States. However, it would be impossible to list all of the acceptable activities for which a state could use his money. Therefore, the Congress has broadly defined the allowable activities for which States could spend their temporary fiscal relief dollars.

Therefore, my answer to the question posed to me from the Senator from Utah is yes. We did intend for child care expenses to be included as an element of "essential government services" provided that a state is currently operating a child care program and expenditures for child care were permitted under the most recently approved budget for the State.

Mr. HATCH. I am very appreciative to the Senator from Iowa for this clarification. I know it will be very helpful to those families who rely on these services. I thank the distinguished Finance Chairman for his time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, as this debate on the budget reconciliation bill comes to a close, I congratulate the chairman of the Finance Committee, CHUCK GRASSLEY. He has done a very good job with a very difficult task. For him, the race has not been easy. Even though some may not have thought it possible, he has come to the finish line today.

In some ways, the conference report has responded to the debate in the Senate. For example, the conference report did move roughly three-fifths of the benefits of the package into the first 2 years. That is clearly more stimulative than the structure of the bill that went to conference.

I also wish to commend Senator GRASSLEY, Senator VOINOVICH, and Senator SNOWE for doing what they could to restrain the total size of the bill. Senator VOINOVICH kept his promise and forced the conferees to keep the conference report, on its face, within the $350 billion Senate agreement.

Unfortunately, this tax bill busts through the $350 billion with a series of gimmicks to hide the true cost of the bill. In this time of increasing deficits, we must live within limits. This conference report fails to do so. Instead, it uses a series of sunsets to shoehorn large tax cuts into a small budget window. In the words of a conservative tax cut advocate, Stephen Moore, "It's bigger than it looks."

The conferees have designed a tax cut that is one big yo-yo. Now you see it, now you don't. Child credit is increased for 2003 and 2004. Then it is taken away. Part of the marriage penalty is eliminated for 2003 and 2004, and then the penalty comes back. The 10-percent tax bracket is expanded for 2003. Then it reverts back. Even the dividend tax cut disappears after 2008. If accounting gimmicks and financial statement manipulations were intolerable for corporate America, then why not for the Congress?

Further, this conference report is not fair to working Americans or to our military personnel. The benefits of this bill are skewed heavily to the elite. One of the beauties of America is that we work to treat people equally, but this bill does not treat all Americans alike. We are not being brought together as Americans.

The bill lowers the rate for dividends, it lowers the tax on capital gains, and it increases the tax on 1.6 million more Americans by forcing them into the alternative minimum tax in 2005. The bill says it is a priority to ensure that only the people who pay full freight are those hard-working Americans who earn their income in wages.

The bill that returned from conference also stripped out provisions to provide tax relief for those serving our country in the armed services—those serving in Iraq, Afghanistan, and across the globe.

This conference report does less than it could to rebuild the American economy. It misdirects its tax breaks to those more likely to save them and less likely to spend them immediately.

The bill increases the budget deficit and lays the bill at the door of our children and our grandchildren, it fails to follow in the American tradition of fairness, and the bill is simply not structured to be effective in rebuilding the American economy.

This week, Alan Greenspan expressed his dismay at the lack of budget discipline in Washington, especially with the failure to take seriously the significant budget problems looming because of the aging and baby boom generations. In his words, "The silence is deafening." I will not be part of that silence.

I urge Senators to consider what they are doing today. I urge my colleagues to vote against this conference report.

I reserve the remainder of my time, Mr. President.

Mr. GRASSLEY. Mr. President, I yield 1 minute to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the chairman and the ranking member for the hard work they have done. We can go into great details. We have been doing that for weeks. The point is, we have a problem with the economy. Our purpose here is to do something to stimulate that economy. This bill will do that.

We have been through all the details. We have been through it in committee. We have been through it on the floor. We have been through it on the conference committee. Now we are back. It is time to do something to create jobs in this country. This bill will do it.

I thank the leadership for their help.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. I yield myself such time as I might consume.

As we wind down debate on this bill, it is very important that I give appropriate thank-yous to people who have worked so hard on putting this bill together. I am talking about the staff of the Finance Committee and the Joint staff, both Republican and Democrat: Chief tax counsel, Mark Prater; chief of staff, Kolan Davis; Ed McClellan, Dean Zerbe, Christy Mistr, Diann Howland, Elizabeth Paris, and Brad Cannon; members of the health staff of the Finance Committee: Colin Rosky, Jennifer Bell; members from the Budget Committee staff: Chief of staff, Hazen Marshall; Cheri Reidy, Beth Felder, and Rachel Jones; Staff of Majority Leader FRIST and Assistant Majority Leader MCCONNELL, including Lee Rawls, Eric Ueland, Rohit Kumar, Bill Hoagland, and Mike Solon.

All of the staff of the Joint Committee on Taxation worked through the night on many occasions. As one who was caught in the crossfire on this bill, I can appreciate when they take the heat from both sides on revenue estimates.

I would especially like to thank George Yin, Mary Schmitt, and Bernie Schmitt of the Joint Tax Committee. I wish more of the participants in the tax legislative process realized how tough the Joint Tax's job is: conferee staff, including Evan Liddiard and Garett Jones with Senator HATCH's office; Laura O'Neill with Senator LOTT's office; Lisa Wolski and Lawrence Willcox of Senator KYL's staff.

Senate legislative counsel, these folks, of course, are true legal wizards who do excellent work under amazing pressure. This group includes Jim Fransen, Mark Mathiesen, and Ruth Ernst. Then a team of people who worked on the State aid issue so much: Ted Totman, Steve Robinson, Becky Shipp, Leah Kegler, Michaela Sims, and Amy Tejra with BEN NELSON's staff, and Michael Bopp with Senator COLLINS; Treasury Department staff, including Pam Olson, Greg Jenner, J.T. Young, and Drew Lyon; the administration staff, including Ziad Odjakli, O. Jack Lee, Christine Burgeson, Candi Wolff, and David Hobbs.

Finally, I would like to thank Senator BAUCUS's Finance Committee staff who assisted in the creation of a better product during times when we were able to work collaboratively: Jeff Forbes, Bill Dauster, Russ Sullivan, Matt Jones, Pat Heck, Anita Horn-Rizek, Liz Liebschutz, and Jonathan Selib. I really appreciate all of that.

I am very pleased with the bill that is before us today. We have given the country some very good tax relief and investment incentives. But there is one provision in the bill that I intend to change, and that is to let the inverters of the world know they better be on notice, as far as I am concerned.

The new 15 percent tax rate applies to dividends paid by foreign corporations to their U.S. shareholders. That is good policy.

What is not good policy is when those dividends are paid by a phony foreign shell corporation created by a U.S. corporate inversion. In an inversion, a U.S. corporation pretends to move its headquarters to a phony shell corporation that is nothing more than a folder in a filing cabinet or a post box in a tax haven. With this phony tax haven parent corporation in place, the U.S. company is positioned to rip its taxable income out of the United States through artificial interest payments to the tax haven shell, which are legally deductible on its U.S. return. This structure also allows the corporate inverter to move U.S. assets offshore and outside the reach of the IRS on a tax-free basis.

I question whether it is proper to allow a tax cut for dividends from a corporate inversion. The House blocked my efforts to insert this ban in today's legislation. Because the President wanted the Jobs & Growth bill on his desk by Memorial Day, I chose not to block the legislation over this issue.

I acknowledge that it is the shareholders who would be denied the rate reduction, and not the corporate management that engineered the inversion. But an inversion requires shareholder consent. Usually around 60 percent must approve of the inversion. So do not let it be said that all shareholders are innocent bystanders in an inversion. Those who disapprove of the transaction are always free to sell their shares.

We should not give a tax cut that benefits an inversion, and I will continue to examine this issue and hopefully put a stop to it.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I commend the chairman for raising this issue at conference. It is a very serious issue; that is, whether corporations that invert should enjoy the privileges of some of the provisions of the bill about to be passed and soon signed by the President.

I say to my good friend that I want to work with the chairman in defining what the proper way is to deal with dividends paid by corporations who invert. I hope to find a good solid solution.

I yield back the remainder of my time.

Mr. GRASSLEY. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The chairman and the ranking member have both consumed all of their time.

The Democratic leader.

Mr. DASCHLE. Mr. President, I know we are about to vote. Prior to the time we cast our vote, I wanted to make some final comments on this bill. We have been debating this issue now for several months. Above and beyond anything else, economists from virtually all philosophical backgrounds have urged us to be responsible. They have said if you are going to do anything regarding fiscal policy, make sure you do not make the problem worse. They advised us to be immediate, make sure we have the greatest impact immediately.

Finally, they said whatever you do, make sure you attempt to be effective. There are a lot of ways to cut taxes. Some are effective in stimulating the economy and others are not.

I firmly believe this bill fails on all counts. What is more remarkable is that this bill represents, in my view, a strategy that was employed just 2 years ago, with disastrous results. In the name of economic stimulus, the administration demanded that we pass a tax bill to stimulate jobs 2 years ago, and the result, of course, is now obvious to us all: 2.7 million jobs have been lost since 2001.

Economy.com, one of the prestigious analytical firms that has looked at this bill, predicts this bill might create 600,000 jobs for 2004, but then, according to Economy.com, we could see the loss of 750,000 jobs as a result of the passage of this bill during the next 9 years.

Not only is this bill grossly ineffective, I believe it is irresponsible, unfair, and duplicitous. First, it is irresponsible because the money for this plan comes directly from Social Security. How many businesses would borrow from pension funds to pay a dividend? Yet that is exactly what this bill does. It borrows the money to pay out tax cuts in large measure just as pension funds would be borrowed to pay a dividend.

It is irresponsible because we are cutting taxes by approximately $800 billion, if there were no sunset, with a $400 billion deficit this year. It is irresponsible because just as we pass this bill, we will be asked to vote on a debt limit increase of $984 billion sometime later today. It is irresponsible because this tax cut means less investment in education, less investment in homeland security, less investment in prescription drug coverage.

Second, this bill is remarkably unfair. It is steeply tilted against the middle class and toward the elite few but provides little or no benefit to the vast majority of Americans. A typical South Dakotan, according to all the analyses I have seen, would receive less than $100 when this bill passes.

Finally, this bill is duplicitous. The gimmickry in this bill has enough sleight-of-hand budget tricks to make an Enron accountant blush. Economists say the now-you-see-it, now-you-don't kind of tax cut is the worst kind. What they want is stability. What they want is certainty. What they want is an absolute assurance that they are not going to see changes year in and year out with the Tax Code. That is exactly what this Tax Code does. I believe our colleagues did the tax equivalent of a triple back flip off the high dive and they belly-flopped. It is a belly flop we will all feel.

Americans have said in poll after poll we ought to be very careful about passing tax breaks if it means cutting Medicare; that they oppose new tax breaks if it means cutting Social Security; that we ought not have new tax breaks if it means cutting homeland security; that we should not see new tax breaks if it means cutting education. This bill turns its back on the American people. That is why I will vote no.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I take this opportunity prior to this important, significant vote to thank and congratulate the chairman of the Finance Committee, Chairman CHUCK GRASSLEY, and his staff on the tremendous work they have done over the past several days but really over the past 30 days to bring the Senate to this conclusion in 3 minutes or so. I also thank the ranking member and his staff and especially the staff of the Joint Tax Committee for the long hours and work they have devoted to legislation that is straightforward in what it accomplishes, to create jobs and grow the economy, which is quite complex when you look at the moving parts where we have had to marry the House bill with the Senate bill.

In many ways, in large part because of a number of discussions that seem a long time ago, it was just 2 weeks ago the Finance Committee met its instructions under this year's budget resolution to report a tax reconciliation bill to the Senate, a bill complying with this year's budget instructions to craft an economic tax stimulus bill. That was just 2 weeks ago. It was just 1 week ago last night that the full Senate passed and sent to conference a revised tax reconciliation bill.

We are here this morning with an opportunity to pass and send to the President a bill that will provide immediate relief to millions of American families, businesses and, indeed, States. And it will create jobs.

Economists say again and again our economy in this country is like a great ship that cannot be turned around quickly, but while our economy today is moving in the right direction and it does not need to be turned all the way around, it clearly needs to pick up pace. We need to stoke those boilers in that ship, that ship being the economy, in order to create those jobs.

Of the $350 billion stimulus and growth provided in the bill before the Senate this morning, nearly 60 percent, or $200 billion of this tax and fiscal relief is provided this year and next. It is immediate. It is short-term stimulus to grow the economy and jobs. I add that this is more stimulus in the first few years than either the President's original proposal or the House bill or the Senate bill. This is a major stoking of those boilers in that economy, in that ship of the economy.

In a few moments I believe we will pass what is the third largest tax relief package in history. This is a great victory for the American people. Why? We talk about the big numbers and I talked about the $350 billion, but the wonderful thing is it boils down to greater job security for people who may be listening at this moment, people who are looking for jobs or want jobs. It elevates that sense of security for them. Why? Because it creates jobs. It grows the economy. It means if you do not have a job and you wake up and open the newspaper and you are looking through those classified ads, you are more likely to get a job after passage of this bill. It means if you have a job today but you feel insecure about it because the economy is not moving quite as fast or quite as quickly, it is more likely you will be able to keep that job and it will be with you long term and you do not have to worry every morning when you wake up about losing that job. The bill stimulates the economy and it stimulates job creation. What we have been able to fashion after a lot of negotiation, a lot of compromise on both sides of the aisle and in this body, with the other body, and in addressing the President's initial proposal, is a bill that does it now; it moves the stimulus up to now when people want it.

If you are a schoolteacher, you will this year have more money to spend on your children's clothes or you will be able to make those mortgage payments a little bit easier than you did 6 months ago or last year. If you are a mom and dad and you have three children, it means you will receive $3,000 this year. You will receive $3,000, if you have 3 children, in child tax credits to spend on their needs. Maybe you will be able to buy them each that computer they need, that they deserve, to stay in tune with what we can provide in education today.

Twenty-five million Americans will receive this child tax credit this year, now, with passage of this bill. If a policeman and a teacher are married and are unfairly paying more in taxes—you are paying more in taxes because you are married than if you were not married—relief is on the way when we pass this bill.

As we all know, most jobs—probably 70 percent or 80 percent is the figure we use—most jobs are created by small businesses. That is a fact. It is not the large corporations that provide jobs; it is the small businesses. It is the small businesses where ideas arise, where innovation takes place, where capital is consumed, is invested, where expansion takes place, and jobs are created. They are the engines of economic growth and will be in this bill we will pass in a few moments. The small businesses are directly and specifically stimulated in terms of growth, investment, and expansion. They will hire more people, they will create more jobs.

With passage of this bill, if you have a job, no matter what the job is, whether it is a low-paying job or a high-paying job, you will be better off. Your family will be better off. You will have more money. Our Government is simply saying, We trust you with the money you earn. We are saying, once again, It is your money. We are saying, You are the best steward of the resources that you earn, to save, to invest, to spend on your family, on your small business. Today, after the President signs this bill that was passed by the House last night and will be passed by the Senate today—and you can say this to every single American—you will have more money and will pay less in taxes.

In closing, I thank the President of the United States and the Vice President. The President has shown remarkable leadership in putting forth this jobs-and-growth package, in promoting it in every step long the way. True leadership.

I also thank the Vice President, our own leader in the Senate, who has worked literally nonstop over the last several days to help us marry the original House proposal with that Senate proposal. We thank them for their leadership.

Indeed, this bill accomplishes the goals we all share in this body; that is, to move America forward, to grow the economy, and to create jobs and job security for all Americans. Now let's move to pass this bill that will, indeed, benefit all Americans.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report accompanying H.R. 2.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—50

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boyer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the conference report to accompanying H.R. 2, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, is agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, before we turn to the debt limit bill, I just have a couple of remarks to make.

Putting this tax bill together that was just passed has been a difficult task and made more difficult by the politics involved. Nonetheless, the Finance Committee staff—both Democrats and Republicans—worked very well together, I think in a bipartisan fashion, to help get us where we are.

I thank the Finance Committee staff for their counsel and for their hard work. They spent many long hours on this legislation.

I appreciate the cooperation we received from the Republican staff, particularly Kolan Davis, Ted Totman, Mark Prater, Christy Mistr, Ed McClellan, Elizabeth Paris, Diann Howland, and Dean Zerbe.

I also thank my staff for their hard work and dedication, including Jeff Forbes, Russ Sullivan, Bill Dauster, Matt Jones, Liz Liebschutz, Patrick Heck, Anita Horn Rizek, Jonathan Selib, Lara Birkes, Liz Fowler, Alan Cohen, Tom Klouda, and Kate Kirchgraber.

I also thank our dedicated fellows: Alisa Blum, Mark Kirbabas, Rhonda Sinkfield, and Renee Johnson.

Finally, I thank our intern, Mike Wiedrick, who joined the Finance Committee the week of the markup of this bill and did not miss a step.

Particularly, I thank the staff of the Joint Committee on Taxation for their invaluable service. They worked very hard under very difficult circumstances. I know I speak for all Members in commending them.

Mr. KOHL. Mr. President, the Senate voted today on a so-called "jobs and growth" package. I voted against this package, Mr. President, because I'm still looking for the part of the package that will result in jobs and economic growth. In fact, I would like to take this opportunity to explain to my colleagues, and the people of Wisconsin, what exactly it is that I have found in this package, and what it's lacking.

As I look through the conference report before us, I have found proposals that fall far short of helping to boost our economy and creating jobs for the American people. The cost of this package, which is much higher than estimated due to the gimmick of sunsetting provisions, will only increase our already record-setting debt. As great an economic authority as Alan Greenspan has made it clear that growing debt and increasing interest rates will do nothing to create jobs or benefit the economy. In fact, just the opposite will result.

In addition, this package includes provisions that will overwhelmingly benefit the wealthy, again to the detriment of the economy and the jobless. How do you create consumer demand by giving money to those least likely to spend it? How do you create jobs by rewarding those who are so rich they obviously have high paying jobs or don't even need them?

Those are a few of the provisions that are included in this bill. What is not included? There is not enough money going to help the States out of their fiscal crises. My State of Wisconsin is facing a budget gap of nearly $300 million. How can I vote for a package that does so little to close that? While I support the meager amount that was included in the final bill, I am disappointed when I compare it to what we could and should have done. In addition, I strongly oppose the dividend tax provisions that, in States such as Wisconsin, which tie their definition of taxable income to the federal definition, will suck back over half of the state aid the bill includes. Our struggling States don't need that kind of legerdemain—sending a small, temporary cash infusion while enacting a long-term erosion in their tax base.

In addition, I am equally disappointed that many of the provisions that would have actually helped middle and lower class families will sunset after 2004, providing little or no benefit to the families who need it the most. The bill drops a Senate provision to accelerate a component of the child tax credit that would have directly benefited working families across the country. The bill does not have real relief from the alternative minimum tax, a provision that will increasingly affect middle class families over the coming years. Finally, in the long list of examples of what this bill lacks, several of the loopholes that would have been closed under the Senate bill have been left out of the conference report, allowing companies to continue to use a myriad of tax shelters.

As I review what is in this bill, and what isn't, I am confident that the majority of the people of Wisconsin will not benefit from what we have done here today. It is for their interests that I have to work, and I cannot in good conscience support a bill that will not benefit them.

Mrs. FEINSTEIN. Mr. President, I rise in strong opposition to the final version of the reconciliation bill, which has emerged from conference committee.

Last week I came to this floor to express my opposition to the tax cut which emerged from the Senate. And I believe that the bill which passed the House was no better. Unfortunately, this conference report has even less to recommend it than either of those bills.

This bill will add an additional $350 billion to our deficit over the next 5 years, all of which will be paid for by future generations of taxpayers. Even worse, it contains so many sunsets and phase-outs that it makes a mockery of our tax code.

Some provisions last only through the end of next year and others phase out in each subsequent year, until the whole tax cut is finished by the end of 2008. This bill is a patchwork quilt of temporary cuts and provides neither short-term stimulus nor long-term structural tax relief. Indeed, all it provides is a great deal of uncertainty to the average American taxpayer.

Rather than view the reluctance of the Senate to pass a large tax cut as a sign of concern over our historic federal budget deficits, the conferees used a grab-bag of tricks to stuff a $1.1 trillion tax cut into a $350 billion package. Many of those cuts are likely to become permanent, which will further increase deficits and the federal debt.

Quite frankly, I am not fooled by this sleight of hand, and I am sure that the average American will not be either.

By lowering tax rates on both dividends and capital gains, the Conferees ensured that this bill is even more regressive than the President's original proposal, because capital gains income is skewed even more to the wealthiest Americans than dividend income.

Between now and 2006, the period during which the majority of the tax cuts are in effect, 54 percent of the tax cuts will go to the 5 percent of Americans who earn over $150,000 annually. The top one percent of Americans, who earn an average of just over $1 million annually, will take away 37 percent of the tax cuts.

In those areas that count most, this bill provides very little relief. It provides $20 billion in state aid, which is a start, but which is much less than the $40 billion which is required to have a meaningful impact on state budget deficits, which in many cases have reached crisis proportions.

At the same time, this bill strips out a provision in the Senate-passed bill which would accelerate the refundability of the Child Tax Credit for families earning $10,000 to $30,000 per year. In fact, 29 percent of married and head of household filers will receive no tax cut in 2003 under the bill, while higher-earning families will receive a $400 rebate check this year.

And this bill preserves the most regressive portion of the tax cut—the cut to taxes on dividends and capital gains—through 2008, while cuts targeted at middle income families, such as marriage penalty relief, are only provided for 2 years.

Mr. President, this tax cut makes no sense—no sense at all. It provides little benefit to those taxpayers who are likely to generate new consumer demand, and instead boosts the income of wealthy taxpayers who will spend little if any of it on goods or services.

Keep in mind that the 2001 tax cuts are only now coming into full effect. In June of 2001, I voted in favor of a $1.35 trillion tax cut, which remains the largest tax cut in history. That tax cut will return $300 billion to American taxpayers by the end of next year, and will provide $90 billion in tax relief this year alone.

The top 1 percent of taxpayers, who will receive 37 percent of the benefits included in the Reconciliation bill, are already scheduled to receive an average of $11,300 in tax relief this year.

There is simply no reason to add another tax cut on top of what was already the largest cut in history, particularly when every dollar in tax cuts must be paid for by new debt.

Gross Federal debt currently stands at $6.7 trillion. If the provisions in this tax cut are permanently extended, as this Administration intends, then our federal debt will rise to $12 trillion by the end of the decade.

The President claimed that any deficits created by his fiscal policy would be "small and short-term." It does not take an accountant to understand that the deficits now projected by the Congressional Budget Office are neither small, nor short-term, and, in fact, will not fall below $300 billion before 2013, if the Social Security surplus is excluded.

Our on-budget deficit in 2003 alone will exceed $500 billion. That means that nearly one-quarter of our $2.2 trillion in gross Federal spending is financed through deficit spending. There is nothing cyclical about a deficit of one-quarter of your total spending—rather, it is a structural deficit that cannot be sustained.

Deficits of the magnitude we are now incurring will drive up long-term interest rates and stifle economic growth.

If you or I were to walk into a bank and ask for a loan, and we told our bank officer that we expected to earn $30,000 per year for the next decade, but spend $40,000 per year over the same period, we would be laughed out of the building. But that is exactly what our Federal Government is now planning to do.

This is unconscionable, and this is why I have voted against this tax bill.

The fact that, later today, we must vote to increase the Federal debt limit stands as a clear indication of the very grave fiscal straits in which we now find ourselves.

It has taken just 2 years to squander our hard won budget surplus, and we are forced to vote to increase the debt limit because this administration, along with this Congress, are placing irresponsible tax cuts ahead of fiscal discipline and common sense.

In this year's State of the Union message, President Bush stated: "We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other presidents, and other generations."

Well, Mr. President, by voting to increase our debt limit, we are now handling an additional $984 billion dollar debt as our gift to those future generations.

This is why I am voting for an amendment offered by Senator BAUCUS that would increase the Federal debt limit by $350 billion, an amount which will ease the current pressure on our Treasury but force us to review our fiscal policy within the next 9 months.

This, to me, is the prudent course given our current fiscal straits. To increase the debt limit by $984 billion all at once is to write ourselves a 2 year free pass at the expense of regular review. It is, without question, the wrong thing to do.

Mr. FRIST. Mr. President, putting this bill together has been a challenging task. Many Senators have played important roles in this legislation but it could not have been done without the contributions of our staff. Without the aid of these individuals, the work of this institution would be impossible to accomplish. I would like to recognize the hard work and dedication of those staff members whose contributions to this legislation have been critical and without whom we would not have been able to pass this very important bill.

On the Finance Committee, I want to recognize the contributions of Chairman GRASSLEY's staff. On the tax side, I want to especially thank the committee's chief tax counsel, Mark Prater, the committee's staff director Kolan Davis as well as Ed McClellan, Dean Zerbe, Christy Mistr, Diann Howland, Elizabeth Paris, and Brad Cannon. I also want to thank Ted Totman, Steve Robinson, Leah Kegler, and Becky Shipp for their work on the State aid provisions.

I would also like to acknowledge the contributions of Chairman NICKLES' Budget Committee staff, including Rachel Jones, Hazen Marshall, Beth Felder, and Cheri Reidy. I should also thank Lisa Wolski and Lawrence Willcox of Senator KYL's staff, whose efforts were integral to the success of this bill.

Also integral to our efforts was the work of the entire staff of the Joint Committee on Taxation and the Senate Legislative Counsel's office. Specifically, George Yin, Mary Schmitt, and Bernie Schmitt of the Joint Committee and Jim Fransen, Mark Mathiesen, and Ruth Ernst at Legislative Counsel. They have all put in long hours to help bring this bill to completion.

I would also like to acknowledge the efforts of those individuals from the administration, all of whom dedicated significant time and effort to this bill. From the White House, I would like to thank Ziad Ojakli and Christine Burgeson from the Legislative Affairs Office and Pam Olson, J.T. Young, John Kelly, and Greg Jenner from the Department of Treasury. Without their efforts and cooperation, this bill could not have come to pass.

Finally, I would like to thank my staff and Senator MCCONNELL's staff for their work in getting both a bill and then a conference report through the Senate in just over a week's time. From Senator MCCONNELL's office, I would like to especially thank Kyle Simmons and Michael Solon. From my office, I would like to thank Lee Rawls, Eric Ueland, Bill Hoagland, and Rohit Kumar.

These staff members have worked diligently and largely in anonymity. Given all that they have done in service to their country, I think it is appropriate to recognize their work publicly so the rest of the country knows, as we all know, how well we are served by our staff.

The VICE PRESIDENT. The Democratic leader.

## ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, having passed the tax cut, our attention now turns to increasing the debt limit. We will have a number of amendments. I just thought it would be helpful for Senators to know we will not stack these votes. We will offer them, and there will be short time limits, maybe 10 minutes per amendment.

The first one will be offered by the distinguished Senator from Montana, the ranking member, Mr. BAUCUS. Senator KENNEDY will have one on unemployment. I will have a sense of the Senate on Social Security. There will be a couple of others. But these amendments will be offered and debated and then voted on as we go through the morning. So Senators will probably want to stay close to the floor in order to be here to vote so we can expedite consideration of these amendments.

Mr. President, I ask unanimous consent that the Baucus amendment be limited to 10 minutes equally divided, with no second degrees.

The VICE PRESIDENT. Is there objection?

Mr. THOMAS. No objection.

The VICE PRESIDENT. Without objection, it is so ordered.

## INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT

The VICE PRESIDENT. The clerk will report the next order of business.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 51) increasing the statutory limit on the public debt.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Montana.

Mr. BAUCUS. Mr. President, today we are discussing legislation to raise the statutory limit on the Federal debt, the ceiling on how much the Treasury Department can borrow. It is a very important matter.

The Federal debt is like the family credit card. Sooner or later you have to pay down the debts that you have already incurred. If you don't, your credit rating will suffer. The way the Government raises the debt limit is also like a family who just keeps calling the bank every time they hit the credit limit and asks the bank over and over again for an increase in their credit limit without regard to anything else. Rather than pay down their debt, they just keep on asking for a higher debt limit.

When the credit card bill comes, it is a time to reassess the family's budget. It is a time to review the debts and to control the future spending. The fiscally responsible approach is that of the typical Montana family who, rather than just ask for an increase in their credit limit, sits down at the kitchen table and reassesses their budget. And so should we.

Let's put this in perspective. This debt limit increase is one big bill. This bill calls for an increase of almost $1 trillion. I have a chart behind me that shows the increase of the debt limit. This bill calls for an increase of $984 billion in the debt ceiling, nearly $1 trillion. This will be the largest debt limit increase in history. This will be an increase of about $3,400 in debt for every man, woman, and child in America. That is signified by the column on the right, which is the debt limit increase being asked for here.

That is just the increase. The debt subject to limit is already more than $22,000 per person. This $3,400 increase would come on top of that. Before this bill, the largest increase was in 1990, under the first Bush administration. Then the Government increased the debt limit by $915 billion.

Since 1990, the Government has increased the debt limit five times. The average of those five increases was about $450 billion. So $984 billion is a very large number. It is out of line with the most recent precedents. It is too large a number for us to make now.

As this debt limit increases, it is just the tip of the iceberg. The budget resolution lays out the fiscal course on which we are headed. Page 4 of the budget resolution says in black and white: If we follow the budget resolution, the debt will grow to $12,040,000,000,000 in 2013. That is page 4 of the budget resolution Congress passed. That would be $39,000 in debt for every man, woman, and child in the country in 2013, 10 years from now. Following the budget resolution, of course, would leave a legacy of nearly $40,000 in debt for every American child coming into the world about the time the baby boomers arrive.

I come from a State where the average income per person is about $22,000. So these are large numbers. This large debt means that the Federal Government has to spend the first dollars it receives to pay interest on past debts. Before the Government can spend a cent on national defense, education, it would have to set aside $157 billion a year on net interest on the debt. More than 11 cents on every on-budget tax dollar has to go directly to pay net interest before the Government can spend on any current needs.

That is a debt tax that every taxpayer has to pay. It is a debt tax that robs this generation and future generations of the ability to make their own fiscal choices.

The time has come for us to reassess our budget. This is a time to look to see where we are and how we got here.

Not long ago our country was paying down the debt. When the Government ran budget surpluses in the late 1990s and the beginning of this decade, it reduced the Government's demand on the credit markets.

From 1998 to 2001, the Government reduced debt held by the public by $448 billion. That is demonstrated by the chart behind me to my immediate left. It shows from 2000 to 2003, about 33.1 percent was the debt ratio to GDP; that is, we were paying down the debt. That is that steep declining solid red line with the debt being paid down.

When the Government returned to budget deficits at 2002, it began, once again, to mount up debt held by the public. In 2002, the Government ran a deficit of $158 billion. The deficit this current year will be much higher.

In January 2001, the Congressional Budget Office projected surpluses of $5.6 trillion for the next decade. That was 2001. Now CBO projects that the President's budget will result in deficits of $2.1 trillion for the same period. Thus, CBO's projections of the decade to come have changed by almost $8 trillion in just 2 years. Imagine, an $8 trillion difference in just 2 years—from a $5.6 trillion surplus to a $2.1 trillion deficit.

These are times of great uncertainty for budget projections. The recent budget projections have continued this trend. In its May budget review, CBO made a new larger deficit projection for fiscal year 2003. According to that new review, the most recent, CBO now expects that the Government will end 2003 with a deficit of over $300 billion. That is compared with its March baseline of $246 billion. So the budget resolution projection of $12 trillion debt limit for 2013 may understate the debt we will pass along to future generations. That is certainly clear if we stay on the present course. And all these deficit figures are for the total budget deficit before netting out the surpluses contributed by Social Security.

Since the Social Security reforms of 1983, Social Security has been running surpluses. I will never forget Alan Greenspan headed that commission; Senators Dole and Moynihan were on it. They came up with good suggestions for the Congress to pass, and we did. Consequently, since the recommendations, Social Security has been running surpluses. The goal of doing so was to increase national savings in anticipation of the retirement of the baby boom generation starting in the next decades. Senator Moynihan would constantly remind us of that date. If we had balanced the rest of the budget, we would have increased national savings.

But the rest of the budget has not been in surplus. It is not in surplus now. So these trust fund surpluses have masked the size of Government deficits.

The Government's deficits are thus much larger than they appear. As the baby boom generation begins to retire, Social Security's annual surpluses will eventually turn into deficits. Moreover, CBO projects deficits for the rest of the Government will continue as far as the eye can see. So the true larger size of the Government's budget deficits will become all too apparent in the next decade.

This debt limit bill is very much related to our budget deficits and the coming budget pressure from the retirement of the baby boom generation. Think of our children and our grandchildren trying to make ends meet in their lives. When this generation piles up debt, it is imposing a tax on them. It is raising their taxes. We have a moral obligation, I believe, to act as good stewards of what we have been given, whether it is in the environment or the economy. We have an obligation to leave things for our children and grandchildren in at least as good shape as we found them.

This is a great country of which we can be proud. We have weathered many storms in the past—economic and otherwise.

We live in times of great uncertainty and great challenges. A good steward would not tempt the fate. A good steward would ensure that we do not add to the challenges our children will have to face.

In too many spheres, there has been too much seeking after rewards for this generation, for now. Rather, we should exercise responsibility. We should ensure that we act as guardians of future generations. After all, we are not all going to be here forever.

It is time to reassess. It is time to change course. First, we need to stop making the deficits and the debt worse. We need to put the brakes on the size of spending increases and tax cuts.

This debate is very much related to the one just concluded on the tax bill. We need to limit the size of future tax cuts. And wherever possible, we need to pay for tax cuts, as we did with the CARE act and the military tax bill. Stop the gimmicks. Be honest about long-term costs.

Second, we need to extend and strengthen our budget process constraints. The pay-as-you-go rule and the appropriations caps contributed to the fiscal responsibility of the 1990s. We need to follow the rules.

Third, the debt limit itself should provide a much needed brake on fiscal irresponsibility. We should not increase the debt limit by the large amount that the House of Representatives proposes. Rather, we should force the Government to reassess its fiscal situation again later this year—not next year as the House contemplates—when we will have a clearer picture of how the economy and budget are faring.

Returning to the analogy of the family credit card, the credit limit on the credit card is a check on future spending. Similarly, with the debt limit, a smaller increase now will ensure that we in Congress address the Government's fiscal policy again later this year.

So this is an important debate. It may not be a glamorous issue, but it is a very important one. We have a weighty responsibility. This is an issue that the Senate should debate. Certainly, we should not hide behind the rules to avoid votes, as the House of Representatives has done. Certainly, we should not flee from the issues, and to a recess, without full consideration of this issue.

We will address it best if we do not simply approve this bill without amendment. Rather, we need to debate and understand why we are here. We need to scale back this too large amount. If the Senate doesn't reduce the size of the debt increase, I will oppose it. And we should add procedures to ensure greater fiscal responsibility in the future.

Only by taking these steps will we be meeting our responsibility. I urge my colleagues to join me in that effort.

At the appropriate time, I will offer an amendment to reduce the increase in the debt limit.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. I have just a couple of remarks. I think we need to understand where we are. I think most of us do, as a matter of fact. We have heard from the Secretary of the Treasury, of course, on the final action by the Treasury to provide room for the debt limit. It has to be done by May 28, which is very soon.

The House has acted. The House is no longer there. I think the amendment we will soon hear about would tide us over until maybe August, instead of doing it for another fiscal year, so we know where we are.

There is a very big difference between public debt and the debt held by the trust funds. I will wait until the chairman comes back to go into that in detail.

I think those who are proposing these amendments ought to explain how this is going to work, since the House is not there and they have already acted. Of course, it just ruins the system we are in now. The fact is, we need to go forward. I suggest we move on with the amendments. I have to say to my friends that I hope we reject these amendments because it doesn't make sense not to go ahead with what has been passed in the House. We know we have to do it. It has to be there. Then I will be interested, as we go through time, in talking about spending with the Senator from Montana because that has not been something that has been under control on the other side of the aisle.

I yield the floor.

Mr. BYRD. Mr. President, the Senate is considering legislation to raise the statutory debt limit by $1 trillion.

This increase is the largest in the history of the Republic—surpassing by a whopping $100 billion the record that was set by the first President Bush in 1990. What's more, it would be the second increase in the debt ceiling since this President took office in January 2001.

The Treasury Secretary recently wrote to the Congress stating that the current statutory debt ceiling would only be adequate to ensure the operations of Government through the end of May. The administration has tried to excuse the need to raise the level of borrowing authority. Among its scapegoats, the administration blames economic weakness. It blames the September 11 attacks. It blames the corporate accounting scandals of last summer.

That scapegoating may help this administration to explain how it lost $5.6 trillion of budget surpluses in less than 2 years, but it doesn't explain why they need to increase the national debt by an additional $1 trillion. It doesn't explain why this administration is pushing for new tax cuts when we don't even have the money to pay for tax cuts that have already been enacted into law.

To quote President Ronald Reagan, "the American people deserve a President who has the courage to give answers instead of mak[ing] excuses."

So far, only $202 billion of the $1.35 trillion tax cut package signed into law in 2001 has gone into effect. That means $1.15 trillion in tax cuts are set to phase in over the next 8 years. In addition, the President is pushing for $1.5 trillion in new tax cuts. That is a total of $2.65 trillion in tax cuts that would have to be paid for in the coming years under the President's policies.

But there is no money to pay for them. The cupboard is bare. The vault is empty. There is nothing left under the mattress. The moths are flying out of the wallet of the U.S. Government.

The Congressional Budget Office reported a $248 billion deficit for the first 6 months of the current fiscal year. That deficit is expected to increase to nearly $400 billion before the end of the fiscal year. That is $400 billion—$110 billion higher than the record set in 1992 during the first Bush administration.

We will have to borrow the money not only to pay for new tax cuts, but to pay 85 percent of the tax cuts already enacted into law and scheduled to become effective in the coming years.

That is why the administration is pushing the Congress to increase the statutory debt limit by $1 trillion—so that we can borrow the money to pay for these tax cuts.

The ship is sinking and this administration is drilling more holes in the bottom of the boat. Administration officials are already beginning to jump ship. Paul O'Neill left the Treasury Department last December, along with the President's economic adviser, Larry Lindsey. White House economist Glenn Hubbard left last February. And now Mitch Daniels is fleeing the budgetary quagmire he helped to create.

The Republican-passed budget, which assumes the President's budget proposals are enacted into law, estimates that the statutory debt limit will increase from its current level of $6.4 trillion to $12 trillion by 2013. This legislation to increase the debt ceiling by $1 trillion is just the beginning of an administration effort currently underway to double the size of the national debt by $6 trillion in just 10 years.

And that rise in the debt limit does not include the total costs of the war in Iraq. It does not include necessary investments that must be made to protect the Nation from terrorists. Nor does it include an adequate prescription drug benefit, or a host of other urgent investments that need to be made in education, health care, veterans services, and other essential infrastructure.

Most alarmingly, that debt limit increase does not include the costs of providing for the soon-to-be-retiring baby boomers, and the resulting financial pressures on the Social Security Program.

According to the latest Social Security Trustees Report, Social Security trust fund expenditures will exceed revenues beginning in 2018, when there will be an estimated 65 million Social Security beneficiaries. The President's budget said "These high and perpetual deficits make it obvious that Social Security and Medicare are in deep trouble." Yet there is nothing in the President's budget or the Republican-passed budget resolution that sets aside a single dime to deal with the impending Social Security funding crisis.

When this President took office, he told the American people that every dollar of the Social Security surplus would be saved. But taking into account the President's proposed $1.5 trillion in new tax cuts, we will not only spend every dollar of the $2.2 trillion Social Security surplus through 2011, but we also will have to borrow more than $1.7 trillion to cover the President's spending and tax cut proposals.

It took the entire history of the Nation to accumulate $5.6 trillion in debt by fiscal year 2001. Under the President's budget proposals, as incorporated in the fiscal year 2004 budget resolution, this debt would grow by over 100 percent in just 10 years. The United States fought World War II, the Korean war, and the Vietnam war, and even then our national debt grew only by $865 billion, from $43 billion in 1940 to $908 billion in 1980. Under President Bush's budget proposals, it will grow by almost seven times that amount in just 10 years.

A national debt of that size amounts to $41,370.54 for every man, woman, and child in this country. That is more money than is annually earned by over half of the households in this Nation. That is enough money to put a down payment on half a dozen houses in West Virginia, to pay for a 4-year college education at West Virginia University, with money left over, or to pay eight times over for the annual health care insurance of a family of four.

Like a carney at a circus sideshow, the Bush administration is asking the American people to step up to a barrel, and slap down $41,340 to win a $1,083 tax cut prize. The American people are being lured into the tent by big promises and folksy talking. In his January 28 State of the Union address, the President said, "We will not pass on our problems to other Congresses, other Presidents, and other generations."

What will happen when the carney pulls back the curtain and the American people realize that they have been swindled? We hear much rhetoric about providing the American people with tax relief. Yet nothing is said about debt relief for the American public, which will be borne by generations to come long after the tax refund checks have been cashed.

So when the administration tells the American people that this debt increase was brought on by factors beyond its control, the American public should also realize that the administration, with eyes wide open, has chosen to strap this crushing debt burden to their backs. No matter how fair and equitable this administration claims its tax cut proposals to be, the tax refund checks will do nothing to save Social Security, and to cover the costs of the debt burden that American families will be paying for decades to come.

Mr. KERRY. Mr. President, since December 2002, the Treasury Department has made three requests to Congress for an unspecified increase in the debt limit. Last year, the administration asked for a $700 billion increase, but Congress wisely trimmed it to $450 billion. The $984 billion increase we will pass today will be the largest increase in the debt limit ever, and it is twice as high as the average for the last five increases. This level of increase represents about $3,400 for every man, woman and child in the United States—or more than 17 times what the median American family will receive in tax cuts under the conference agreement passed earlier today by one vote.

We need to be clear about a few things here in the Senate. The economy is growing very slowly, and every American has experienced the current slowdown in very personal ways: 2.5 million jobs have been lost, long-term unemployment has skyrocketed; lifetime savings have been wiped out by greed, bad judgment, and criminal activity; personal debt has increased and bankruptcies are up; and the stock market has plunged more than 30 percent. Record budget surpluses have turned into deficits as far as the eye can see—nearly $500 billion this fiscal year alone when Social Security is excluded, the largest deficit in history. We have seen the weakest level of economic growth and business investment in 50 years. We are spending the entire Social Security surplus in every year of the President's budget plan and failing to make necessary investments in education, infrastructure, and homeland security. Yet we have the money to drastically cut the tax on stock dividends, giving millionaires an average annual tax cut of about $90,000. It makes no sense given the current state of the economy and the world. We are governing based on ideology rather than pragmatism.

President Bush, who inherited large and rising surpluses totaling $5.6 trillion over 10 years, likes to say that the change in the budget picture—and frequent requests for increases in the statutory debt limit—are a result of a slow economy and September 11. Those factors undoubtedly play a role, but every single independent analysis shows that the largest factor behind the long-term change in the budget outlook is the President's tax policies. The rising deficits and debt that will result in higher taxes on our children can be laid squarely at his feet, because most Republicans in Congress are too afraid to say no to this President.

If there are any doubts, just add up the numbers. Not including interest, President Bush has proposed nearly $3 trillion in tax cuts over 13 years since taking office. It is worth pointing out that more than half of this total—$1.63 trillion—was proposed this year, after the budget returned to perpetual deficits. Adding interest, the total jumps to $3.8 trillion. What happened to the promise not to spend the Social Security surplus? We are borrowing from our children for every dollar of these tax cuts—tax cuts that will go predominantly to those earning more than $200,000 per year. And the tax cut we passed today, because of its gimmicky phase-outs that future Congresses may not allow to happen, is really a trillion-dollar tax bill. The Speaker of the House admitted as much. When do we admit that we are cutting taxes too much? What happened to the Republican Party of the 1980s, that railed against deficits and insisted on balanced budgets? What happened to the true conservatives, those who look to cut spending and taxes in order to stand for "less government"? Where is the principle, when almost every Republican in the Senate votes for every spending increase and every tax cut? We should call it what it is: borrow-and-spend economics. And our kids will pay for it for decades to come.

Mr. SARBANES. Mr. President, I rise today to express my concern about the pending legislation, which raises the Federal debt limit by almost $1 trillion. In my view, this legislation shows very clearly that the fiscal policies the President has pursued over the last 2 years are imprudent and reckless.

We are considering today an increase of $984 billion in the Federal debt ceiling, which is expected to carry the Government through to September 2004. In other words, the Treasury Department will need to borrow almost $1 trillion more than is currently authorized—some $6.4 trillion—over the next 16 months to fund Government operations. This would be the largest single increase in the debt limit ever. We are really talking about an increase of historic proportions in our Federal debt.

It is enlightening to look back at where we were when President Bush took office. In January 2001, the Congressional Budget Office projected that our net debt to the public would decline to $36 billion by 2008. At that time, the President claimed that his budget would allow us to achieve "maximum possible debt retirement."

Now, only two years later, the President is seeking to increase the debt limit. In fact, under the President's policies, publicly-held debt will rise to $5 trillion in 2008—a staggering 36.4% of GDP. Gross Federal debt, which includes our commitments to Social Security and Medicare, will nearly double from $6.7 trillion this year to $12 trillion 10 years from now. Instead of achieving "maximum possible debt retirement," the President is asking for historically high debt increases.

It is critically important to understand how seriously our economic situation has deteriorated under this administration. When the President took office, he inherited a 10-year surplus estimated at $5.6 trillion. Now with the policies that he has enacted and the policies that he is proposing—in particular, this very heavily weighted tax cut for the benefit of upper-income people—we will go from projecting a $5.6 trillion surplus to projecting a $2.1 trillion deficit over that same period. That is a seismic shift in our position.

I want to underscore one other thing that has happened. Twenty years ago, the United States was a creditor nation, internationally, to the tune of about 10 percent of our GDP. So we were in a strong economic position internationally.

Now, because of the deterioration of our position over those intervening two decades, we are a debtor nation, to the tune of about 25 percent of our GDP. Again, a seismic shift in our international position, which places us very much in the hands of others. Because we are running these huge deficits year-in and year-out, we have become enormously, inordinately dependent on the influx of capital from abroad in order to sustain ourselves.

I am reminded of Tennessee Williams's Blance Dubois in "A Streetcar Named Desire," where she had that wonderful line: "I have always depended on the kindness of strangers." That is what has happened to the United States in the international economic scene. We have deteriorated into this debtor status so that we are now dependent upon the kindness of strangers. That is not where the world's leading power should find itself.

Of course, the years since President Bush took office had been difficult. The economic downturn, combined with the attacks of September 11 and the war with Iraq, have contributed to the decline in Federal revenues that have led to the need to increase the debt limit. Another cause of that decline as the massive tax cut the President pushed through in 2001. As many of us said at the time, enacting such a large tax cut based on optimistic projections of a surplus that may never appear was the height of recklessness.

But the recklessness we saw in 2001 may actually be exceeded by what we are seeing today. Now, we are facing massive deficits, not surpluses. In fact, CBO's most recent projection is for a deficit of over $300 billion this year, the largest one-year deficit in our Nation's history. The Treasury Department recently reported a deficit of over $200 billion in the first 7 months of fiscal year 2003, more than three times the level at this point last year. We are so deeply in debt that we are being called upon to raise the debt limit by almost a trillion dollars. This increase comes on top of a $450 billion increase just last year. Our debt is skyrocketing with no end in sight.

Despite the change in our fiscal circumstances, the President is pushing for exactly the same economic policy he put forward in 2001: yet another round of massive tax cuts skewed toward the wealthy. Our colleagues across the aisle have been in such a hurry to enact this large tax cut that they chose to pass it through the Senate ahead of consideration of the debt limit, as if trillions of dollars in Federal debt is irrelevant to the decision to cut taxes.

Our economy is facing serious difficulties. Over the past six months, we have grown at an average rate of only 1½ percent, far less growth than what we ought to experience. Unemployment is up to 6.0 percent; it has not been higher since July 1994.

Despite these realities, the administration has not yet supported sensible economic programs, but has continued to push for massive new tax cuts, skewed towards the very wealthiest Americans, which will leave us with record deficits and debt. The increase in Federal debt that we are considering today will have a real impact on our economy, putting upward pressure on interest rates, and siphoning off resources that could be used for other purposes simply to pay the interest on our debt.

What we need is responsible approaches to put our economy back on track, not another round of massive tax cuts to benefit the wealthiest among us. Senator DASCHLE and other Democratic leaders have offered a responsible package that would create twice as many jobs as the President's package over the remainder of this year, extend unemployment insurance benefits, and provide aid to State and local governments to forestall devastating program cuts and tax increases on millions of Americans. This alternative would provide over one million jobs at only a fraction of the cost of the President's proposal or those put forth by Congressional Republicans. It would create real jobs and economic growth without mortgaging our future through tremendous increases in deficits and debt.

The fact that the President is pushing for massive tax cuts at the same time the Congress is being asked to add almost a trillion dollars to the Federal debt ceiling is beyond reckless—it places in jeopardy our future economic strength and the economic security of all Americans.

Mr. LEVIN. Mr. President, it is ironic that on the same day that the Republican majority passed a huge tax cut package that will cost, without the gimmicks, up to a trillion dollars over the next 10 years, they also are asking us to raise the limit on the national debt by $984 billion, which would be the largest increase in our Nation's history.

Just 2 years ago, the President asserted that passage of his massive $1.4 trillion in tax cuts would still allow us to eliminate our publicly held debt by 2008. Under the budget resolution that was passed recently, it's estimated that our publicly held debt will be over $5 trillion by 2008. So, under this Administration's fiscal policies, we have gone from an estimate of zero in publicly held debt in 2008 to an estimate over $5 trillion in publicly held debt in 2008. That's an astounding reversal by any measure.

The President also said that his past tax cuts would create jobs. That doesn't jibe with the fact that we've lost 2.7 million private sector jobs since President Bush took office, many of those since his last tax program was adopted.

We need to increase the debt limit, but we need to do it in a fiscally responsible way. Instead of increasing it by a trillion dollars, let's make the increase more reasonable, like the $350 billion increase that Senator BAUCUS is advocating. This will give us the opportunity to assess our fiscal policies sooner rather than later, to review our economic situation prior to making significant decisions which could harm us down the road. In light of our struggling economy and the huge deficit ditch that we find ourselves in, an opportunity for review sooner rather than later is essential to the economic and fiscal health of our Nation.

Mr. DODD. Mr. President, I rise today to speak about the vote that just took place to increase the debt ceiling.

The national debt is growing larger and larger, and yet just several hours ago the Senate passed another massive irresponsible tax cut that will add to our debt and lead this Nation down a fiscally perilous path.

Two years ago, the President assured the Nation that if we adopted his tax cut, we would see job growth, and we would still be able to eliminate the publicly held debt by 2008. The result was far from this.

In the more than 2 years that he has been President, 2.7 million jobs have been lost, and we are now having to increase the debt to $7.384 trillion, an increase of $984 billion—almost $1 trillion. This is the largest debt increase in the history of our country.

The debt limit was last increased on June 28 of last year by $450 billion. Prior to that increase, the limit had not been raised since August 1997.

The administration's request to raise the debt limit by almost $1 trillion confirms that it is unwise to make long-term commitments to tax cuts based on shaky projections and gimmicks. I truly think this increase is a mistake, and for that reason I voted against the debt limit increase.

Just several hours ago, the Senate approved a $350 billion tax cut that will further deteriorate our fiscal outlook. It will worsen the already skyrocketing deficit and our national debt.

Increasing deficits will decrease national savings and increase long-term interest rates, which effectively lowers the incomes of working Americans. Also, the national debt is not free. The hard working men and women in this country have to pay interest on the debt for decades, and when the deficit is high, it requires so much Federal borrowing that it displaces private investment and pushes up interest rates on mortgages, consumer credit, business borrowing, and capital investment. This in turn leads to less private investment, which reduces the size of the economy and future standards of living in the long run.

There are consequences to our actions, and yet the administration and the majority of this Congress are turning a blind eye to these consequences.

We unfortunately are in a position where we have to increase the debt, because we do not want to see the country in default. But we should be doing it in a responsible manner which is why I voted in support of an amendment which would have increased the debt limit by $350 billion.

An amendment was also proposed today that would have prohibited the Treasury Department from disinvesting the Social Security trust fund to stay under the debt limit. This amendment would have kept the Social Security trust fund safe for our retirees, and yet it was defeated by this body under the leadership of the majority party.

I believe we have a responsibility in the Senate to always do what is right for future generations. I think that the tax cut that was passed earlier today, and the debt increase that was passed several moments ago, fails to take the needs and hopes of future generations into consideration.

Mr. LAUTENBERG. Mr. President, President Bush inherited the strongest economy in history and has run it into the ground. When he took office in January 2001, the Congressional Budget Office, CBO, was forecasting a cumulative, 10-year budget surplus of $5.6 trillion. Now, the CBO is forecasting a 10-year deficit of $2.1 trillion.

You can't mangle the economy that badly by accident; it has to be by design.

The design is something that President Bush's father once called "voodoo economics." The theory behind "voodoo economics" is that massive tax cuts for the wealthiest among us will somehow "stimulate" the economy.

The theory should be discredited by now. It certainly didn't work in 2001. Since the 2001 tax cuts, unemployment has risen by nearly 50 percent. Two point seven million Americans have lost their private sector jobs under the Bush administration; that is about 3,100 people each and every day since he took office, 129 people each and every hour, or more than 2 people each and every minute.

And yet, as Ronald Reagan would say, "there you go again." Just a short while ago, the Republicans passed another ill-advised tax cut skewed to the rich, this one costing $318 billion over 10 years.

The only people who will get jobs under the reconciliation bill the Republicans just adopted are lawyers and accountants. As Warren Buffett put it the other day in the Washington Post, "Overall, it's hard to conceive of anything sillier than the schedule the Senate has laid out. . . . The manipulation of enactment and sunset dates of tax changes is Enron-style accounting . . ."

Mr. Buffett went on to point out that "giving one class of taxpayer a 'break' requires—now or down the line—that an equivalent burden be imposed on other parties."

That brings us to H.J. Res. 51. Apparently without embarrassment, the Republicans are willing to vote for another tax cut at a time when we are looking at record budget deficits, and then—on the very same day—vote for the biggest debt ceiling increase in history, $984 billion.

The Republicans' strategy has been to back up the consideration of H.J. Res. 51 so that it is the only thing standing between us and the Memorial Day recess. They want to pass it with as little debate and as quickly as possible.

They certainly don't want to amend it. That would send it back to the House, which would be a problem. House Republicans didn't have the courage—and probably didn't have the votes—to pass H.J. Res. 51. So, in a bit of legerdemain that would make President Bush's close friend Ken Lay proud, they "deemed" themselves to have passed it as part of the fiscal year 2004 budget resolution.

Let me try to put this debt ceiling increase in perspective. President Bush wants $984 billion. That is more than the total debt outstanding when Ronald Reagan took office. In other words, it took this country 200 years to get its debt up to the amount that President Bush wants to add in the 11 months since the last debt ceiling increase.

Because of the disciplined economic policies that congressional Democrats and the Clinton administration enacted between 1993 and 2000, the debt ceiling stayed at $5.95 trillion from 1997 to 2001. Debt held by the public actually declined from $3.7 trillion to $3.3 trillion.

President Bush's "voodoo economics" necessitated a debt ceiling increase for the first time in 5 years to $6.4 trillion last June and now he is back for another $984 billion.

In essence, President Bush inherited a "credit card" with a $5.95 trillion "limit." He wanted to borrow more to pay for his first round of tax cuts, so he went to the "bank"—which I call the Bank of Our Children's Future—and got a credit increase last June. But it wasn't enough, so he is back again, asking for another, bigger credit increase.

But here's the rub: we all get stuck paying his bill. Right now, that bill is over $22,200 for every man, woman, and child in America. President Bush wants to add another $3,400 to your share of the bill in one fell swoop. For a family of four, that is a total of $102,400.

And don't forget: when you run up charges on your credit card and don't pay the balance in full, you get stuck paying interest, too. For that family of four, the interest cost would add another $33,000 over the next 10 years.

President Bush just can't wait to get that credit increase so he can pay for his newest tax cuts. That is why I think we should stamp credit card "Over the Limit."

I think it is important that each and every American understand what is at stake here.

Each year, when Americans get their Social Security account statements, I think those statements ought to include, in plain language, information about the public debt, each person's share of that debt, and the extent to which the Social Security trust fund is being raided.

Then, they can make an informed decision about whether they want tax cuts that do nothing to help the economy but do contribute to budget deficits "as far as the eye can see" and put a knife to the throat of Social Security, Medicare, and other vital programs.

I don't have the time today to discuss why the President and his Republican allies in Congress are pushing policies that deliberately cause deficits; suffice it to say, for now, that it is part of their grand strategy to cripple government permanently.

I will have more to say about that on another day.

In the interim, I urge my colleagues to vote against bailing out the Bush administration and its allies here in the House and Senate. They have mishandled our economy in a monumental way. People ought to be informed.

### AMENDMENT NO. 833

Mr. BAUCUS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 833.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce the amount by which the statutory limit on the public debt is increased)

Strike "7,384,000,000,000" and insert: "6,750,000,000,000".

Mr. BAUCUS. Mr. President, this amendment is simple. This amendment would reduce the amount by which we are raising the debt limit to $350 billion. That is $634 billion less than the underlying bill.

The legislation the House sent to us would raise the debt limit by $984 billion. That would be the largest debt limit increase in history. The previous record was $915 billion in 1990, under President George Herbert Walker Bush.

The average of the five debt ceiling increases since 1990 has been $450 billion. Plainly, the debt limit increase in the bill before us is out of proportion with recent precedent.

We should not raise the debt limit by so much. We should increase it by an amount significantly smaller than $984 billion.

It is very easy to explain why we have a smaller increase. It is because we are living in uncertain times, unpredictable times. I have sort of a pet theory that increases in technology, particularly communications technology, which makes our society much more complex and uncertain—not only for the U.S. but for the world—and we are experiencing the effects of actions in the world, from terrorism and SARS—make it difficult for the U.S. to rely on the best of projections.

The best of projections indicate that the fiscal condition of the country is unhealthy for both the current year and future years. This is especially troubling because the baby boom generation will begin to retire in a few short years. Social Security, Medicare, and Medicaid expenditures will soar, putting enormous strains on the Federal budget.

And new projections of even the short run keep showing conditions worsening, even when only a short time has elapsed since the previous estimate. Most recently, the CBO increased its forecast of the current year deficit by more than $55 billion. That is over just 2 months. If you project that out, that means in a year—6 times 55—that is about a $330 billion difference.

Under these circumstances, Congress should reexamine the fiscal situation later this year. To ensure that this occurs, the size of the debt limit increase must be significantly smaller than $984 billion. We cannot wait until next year—late next year or in the summer of next year as contemplated by the underlying proposal—to examine and reexamine our budgetary problems. A $984 billion debt limit increase is just not responsible.

I made the credit card analogy a couple of times. I will say it once again. A $984 billion debt limit increase is like a family that wants the credit card bill to come only once a year. If the credit card bill came only once a year, the family might well not talk about the family budget quite so often. As a result, they would probably not maintain as good control of the budget as they would with a monthly statement. There is reason the bank sends bills more frequently, sends statements out monthly. It ensures more frequent review of the debt limit. That is all my amendment would require. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, the fact is, it is great to talk about all the options, but the Treasury faces a payment obligation in late May. That cannot be met without an increase in the statutory debt limit. If we amend the resolution, we will have to go back to the House of Representatives and possibly require a conference that would delay it until June. We cannot wait until June. The Secretary made it clear. He has taken all prudent and legal steps to avoid reaching the statutory debt limit. Treasury will only provide room until May 28, as I have said, next Wednesday, in the middle of the Memorial Day recess period when Congress will be out of town. Failure to act puts in jeopardy over $40 billion in Social Security and Medicare benefits the first week in June. I repeat, we have no choice. We must act today.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute 29 seconds.

Mr. BAUCUS. Mr. President, I want to make clear that I have not heard one substantive reason against this, not one. Rather, the argument against this is the House is gone. We all know the House has gone because they do not want to vote on this issue. They planned to have the Senate bring the debt limit up at this time. The House planned to leave before the debt limit came up. They planned that so they do not have to vote on the issue. The other side plans to vote down all amendments so they do not have to go back to the House. It is a gimmick. It is a game.

There is not one word of substance as to why we should not have a smaller debt ceiling rather than a full year. I think it is time to call it as it is and explain what has happened here. What I explained is what is happening.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I have one comment. The fact that the Secretary of the Treasury cannot meet the bills before we come back is pretty good evidence, and I hope we vote that way.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAUCUS. Mr. President, I yield back my time. I believe the yeas and nays have already been ordered.

Mr. THOMAS. I yield back our time.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 833. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Byrd

The amendment (No. 833) was rejected.

Mr. BAUCUS. These are important amendments. I believe Senators should listen to debate.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Vermont.

Mr. LEAHY. Madam President, I will take a couple of minutes and enter into a colloquy on a very important subject with the senior Senator from Connecticut.

I yield to him for that purpose.

### ASBESTOS LAWSUITS LEGISLATION

Mr. DODD. Madam President, yesterday there were reports in the stock market that companies facing asbestos-related lawsuits had falling stock prices, some of them rather precipitously, in the New York stock exchange. USG fell more than $2, 17 percent; Georgia Pacific, Crown Holdings, R.W. Grace, and on and on, companies that have the potential of significant lawsuits.

The Senator from Vermont and the Senator from Utah and the Senator from Nebraska, as well as the Senator from Delaware, are trying to pull a bill together. We have not done that yet.

I thought it important before we leave on this break to express to our colleagues that we are working very hard to come up with a compromise proposal on the asbestos issue. We have taken major steps in that direction, working with organized labor, with the insurance industry, with the insured, and many others that have a stakeholding in the outcome of this particular effort. It is a critically important effort.

We say to those out there wondering whether or not we will be able to get a bill, we believe we will. It will take time. It is hard work to pull this together properly. It is a lot of detailed work that needs to be done. We thought it was important to send a message to those interested in the subject matter that we are confident it can be done. We will have to work very hard in the coming days, particularly over this break, to try to resolve the differences that exist, and they are not insignificant. We believe there is such good will on the part of all to resolve this matter that it is in our interests to spend the time and effort.

I thank the distinguished Senator from Vermont, Mr. LEAHY, who has been tremendously helpful and productive in working with us. I yield to him for any comments he may want to make. We are all determined to get a bill. We believe we can get that done. It will take hard work.

Mr. LEAHY. Madam President, I thank the senior Senator from Connecticut for his words. We need to come together to craft effective legislation. If we do, we will resolve this asbestos litigation crisis.

The senior Senator from Connecticut has done yeoman service in bringing together the affected industries—the insurance companies, labor, and others—in meeting after meeting. I convened the first Senate Judiciary Committee hearing last September on asbestos litigation. We wanted to begin a bipartisan dialog about the best way to provide fair and efficient compensation, both to current victims and those yet to come.

Since last fall we have learned a lot about the harm wreaked by asbestos exposure. The victims continue to suffer, the numbers continue to grow, but the businesses involved in the litigation, along with their employees and their retirees, are suffering from the economic uncertainty surrounding this issue.

More than 50 companies have filed for bankruptcy because of asbestos-related bills. We have a lose-lose situation. The victims who deserve fair compensation do not receive it, and the bankrupt companies cannot create new jobs or invest in the economy. That is why Senator DODD and I have been working for months with Senator HATCH, Senator CARPER, Senator NELSON, Senator DEWINE, and others trying to bring together industry and labor and others for a national trust fund solution. The summit Senator DODD had last month of all the stakeholders is bringing them closer together to find common ground.

We have made great progress since that summit. I have heard from all the parties involved since Senator DODD brought them together. They found that some of the differences they had started to go away. Chairman HATCH has worked hard drafting asbestos legislation. He put in a draft yesterday.

I agreed to take all these cases, if we can, out of the tort system, and establish a national trust fund. I agree the national trust fund has to contain medical criteria to quickly compensate legitimate victims and weed out frivolous claims. Our effort is so unprecedented that we have to work closely together.

I close with this: The only kind of legislation that will pass through here this year or next is going to be consensus legislation. If we are going to have consensus legislation, we must all continue to work on a final plan. We are not there yet. We are getting closer. We are still not there.

I commend the Senators on both sides of the aisle. We will work together throughout the recess in the hopes we can get back to that.

Mr. DODD. Madam President, if I may just conclude, I thank again the Senator from Vermont for his comments. He has outlined this very well. It must truly be a no fault system. It must be truly no fault so both industry as well as victims have certainty. Medical criteria, medical monitoring—a variety of other provisions must be part of the effort.

Those are major agreements that have already been struck. Getting down to the details is the hard part. We are confident it will happen. It will require a lot of work. It can't be done on the fly, if we are going to take the unprecedented step dealing with the asbestos issue.

AMENDMENT NO. 834

Mr. DASCHLE. I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 834.

Mr. DASCHLE. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered..

The amendment is as follows:

(Purpose: To express the sense of the Senate that Social Security cost-of-living adjustments should not be reduced)

At the appropriate place add the following:

**SEC. PROTECTING SOCIAL SECURITY BENEFICIARIES FROM COLA CUTS**

(a) FINDINGS.—The Senate finds that:

(1) Social Security provides a relatively modest insurance benefit for seniors—many of whom rely on Social Security for part or all of their monthly income. Without Social Security, forty-eight percent of beneficiaries would be in poverty today.

(2) In order to protect benefit levels against inflation, Social Security beneficiaries receive an annual cost-of-living adjustment (COLA) based on Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

(3) The January 2003 COLA provided only a 1.4 percent increase in Social Security benefits, increasing the average monthly benefit for all retired workers by only $13 (from $882 to 895).

(4) Annual growth in Medicare premiums and out-of-pocket health care costs for retired individuals on fixed incomes far exceeded the small COLA increases provided to Social Security beneficiaries.

(5) Reducing COLAs will disproportionately harm low-income Social Security beneficiaries and push millions of seniors into poverty.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Social Security cost-of-living adjustments should not be reduced.

Mr. DASCHLE. I ask unanimous consent that there be a 10-minute timeframe, equally divided, with no second-degree amendments.

Mrs. BOXER. I cannot hear the unanimous consent request.

Mr. THOMAS. I object.

The PRESIDING OFFICER. Will the Senator restate his unanimous consent request?

Mr. DASCHLE. I asked first that the amendment be considered as read.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THOMAS. Are we talking about the time limit? I objected to the time limit.

The PRESIDING OFFICER. Without objection, it is so ordered. We dispensed with the reading of the amendment.

Mr. DASCHLE. I then asked that the amendment be considered under a time limit of 10 minutes, equally divided, with no second degrees.

The PRESIDING OFFICER. There is objection?

Mr. GREGG. I object.

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senate will please come to order so we can hear all Senators who request to speak.

The Senator from California.

Mrs. BOXER. Madam President, I just want to ask my leader if he can give me 60 seconds in the debate to speak in favor of the amendment.

Mr. DASCHLE. Since we are not working under a time agreement, I will be happy to provide whatever time the Senator may require.

Mrs. BOXER. I thank the Senator for his generosity.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Madam President, we all understand how critical the Social Security Program is to senior citizens. It is now estimated that 48 percent of all seniors today would live in poverty were it not for Social Security. It is a critical program for all of us and for our parents.

It is a program of extraordinary import to people in rural and urban areas alike. Obviously, over the course of the years, the Social Security Administration has seen fit to offer cost-of-living adjustments in order to ensure that the purchasing power of our seniors is not eroded. Every year, that cost-of-living adjustment is based on the consumer price index for urban wage earners and clerical workers.

Unfortunately, over the last couple of years, that index has been very low. As a matter of fact, in 2003 the cost-of-living allowance provided only a 1.4 percent increase in Social Security benefits. That amounts to an average monthly benefit of about $13, from $882 to $895. The growth in the Medicare premiums and out-of-pocket health care costs for retired individuals on fixed incomes far exceeded that meager cost-of-living adjustment.

So we find ourselves in a situation where a number of our colleagues have suggested that perhaps one way to deal with what they call Social Security reform is to reduce the cost-of-living adjustment; in fact, in some cases to eliminate the cost-of-living adjustment.

That is the purpose of this amendment. As we consider increasing the debt limit by $894 billion, as we consider all of the different approaches to how we are going to reduce that debt, there is a growing number of those who are suggesting that perhaps one way to do it is to limit benefits under the Social Security Administration.

This amendment simply says, as we consider all of the options, let us at least agree on one thing. Let us at least agree that we are not going to touch the cost-of-living allowance for seniors when that allowance is only $13, on average, if we look at the last couple of years.

It is a simple amendment. It is a reaffirmation, however, of the importance of Social Security, our affirmation of the importance of maintaining the Social Security purchasing power, our affirmation of the importance of a cost-of-living adjustment. That is all it is. Certainly it is directly relevant as we consider the implications of raising the debt limit by some $894 billion.

I hope we can get unanimous support for an amendment of this kind, and I yield the floor and yield such time as the Senator from California may require—I yield the floor and, since we are not working under a time agreement, I recognize I cannot yield the floor for a certain time so I just yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I will not be long at all, but I just want to support this amendment by my leader, Senator DASCHLE. It is really simple. It says it is the sense of the Senate that Social Security recipients should not be denied their cost-of-living adjustment.

We have just, unfortunately, passed the tax break for the wealthiest few in this country. It is astounding to me, it is sad to me, to think that those in this country who work hard every single day, the average American family, maybe will get $100—but, by the way, probably might not even get that much—whereas the millionaires, the people who seem to touch the heartstrings of the Republicans, are going to get thousands of dollars every single year. And by some magic—magic—this is going to create jobs.

We have been there and we have done that. What do my Republican friends say now? Oh, my God, we just did the tax break for the wealthy few. We had better increase the debt burden on all Americans so we can really come through with our promise. This debt, this additional debt is almost $1 trillion more.

What is my leader saying? He is saying: At least, at the minimum, there are a few things we should hold dear. One of those is a commitment to the people who are on Social Security. If my colleagues vote no against this—and, by the way, what an excuse they have: The House has gone home.

Well, too bad. Let the Speaker of the House bring back the people of the House. Let the Republican Speaker of the House, DENNIS HASTERT, bring back the people of the House to vote for the people of this country. What an excuse. They are going to vote no, and they are going to go home and say: I was really for you, but I had to vote no because if I voted yes, then DENNY HASTERT would have had to bring back the people who represent you in the House.

It is time we stood up here for the people, not the wealthiest, the millionaires, and giving excuses as to why what you are doing here is good for the people.

I support my leader, and I will support a number of amendments here to keep a commitment to the average working families, and to seniors, and the children of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, the amendment offered by the distinguished Senator from South Dakota has merit. I support the amendment. However, the adoption of the amendment to the resolution will require it to be sent back to the House, which would delay the increase in the statutory debt ceiling and jeopardize the payment on time of benefits such as Social Security and Medicare, as well as meeting Government obligations. Ironically, it probably has more threat to payments on Social Security than not doing it.

Therefore, I ask unanimous consent that the amendment be withdrawn, that upon the passage of H.J. Res. 51, the withdrawn amendment be considered offered as an original resolution, that the Senate proceed to immediate consideration of the resolution, that it be deemed to have been read three times and, without intervening debate or motion, the resolution be deemed agreed to and the motion to reconsider be deemed to be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. I object.

Madam President, if I could be heard on the objection, we have no objection to taking up the legislation freestanding. But because of the intricate relationship between Social Security and increasing the debt limit, we see no reason to separate these. This should be an amendment on debt limit. I believe the House ought to take up this matter. There is no reason why they can't vote on it this morning. There is no reason why this can't be addressed prior to the end of the week. We hope we can have a vote, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. THOMAS. Madam President, I move to table the amendment.

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DASCHLE. Madam President, I ask for a count.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

Mr. NICKELS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Madam President, a vote in favor of the amendment offered by my colleague, Mr. DASCHLE, would prevent timely enactment of H.J. Res. 51. Swift passage of a clean bill allows the measure to move as quickly as possible to the President for his signature. Any delay will lead to a default on the national debt and the inability of our government to meet its financial obligations, including its obligation to pay Social Security checks on time.

With the House adjourned for the Memorial Day recess, I am concerned that any further delay in enactment of the debt limit bill will cause Social Security beneficiaries to receive their monthly checks much later than scheduled. While I agree with Senator DASCHLE that the COLA should not be reduced, ironically, his amendment would immediately hurt those seniors for whom Social Security is a lifeline by delaying receipt of their checks. I would never vote to cut or tax Social Security benefits. With far too many seniors on limited budgets, I cannot support adoption of an amendment that could lead to a delay in the delivery of these vital benefits.

Mr. NICKLES. Madam President, I have just a couple of comments.

This resolution says please don't cut cost-of-living adjustments on Social Security. No one in either House—either body—contemplated cutting COLAs. Our colleague from Wyoming said we are willing to pass this but pass it freestanding—not as an amendment to the debt limit.

Just so we know what the facts are, the House worked really late last night—until 2 o'clock or 3 o'clock in the morning, and they have left town. So we have to pass a debt limit clean. If we don't pass it clean, you are jeopardizing Social Security. You are jeopardizing Medicare.

We should do exactly what the Senator from Wyoming said. Let us pass this freestanding and not as an amendment to the debt limit.

The Senator from Wyoming asked unanimous consent to pass this separately from the debt limit. That was objected to by the Democrat leader.

I will just tell our colleagues that it is our intention to table this amendment at this point, because for whatever reason—political purposes—they want a rollcall vote. Just to tell our colleagues, when we conclude passage of the debt limit, we will pass this freestanding.

The PRESIDING OFFICER. The Republican whip.

Mr. McCONNELL. Madam President, I move to table the amendment, and I ask for the yeas and nays.

Mr. DASCHLE. Madam President, parliamentary inquiry: I thought the yeas and nays had already been ordered on the amendment.

The PRESIDING OFFICER. The yeas and nays were ordered on the underlying amendment. That does not preclude a motion to table.

Is there a sufficient second?

Mrs. BOXER. Parliamentary inquiry.

The PRESIDING OFFICER. There is a sufficient second.

The Senator from California.

Mrs. BOXER. May I state an inquiry? Would it be possible under the rules of the Senate to hear from our leader for 1 minute since this tables his amendment and he has not had a chance to say why it is being tabled.

The PRESIDING OFFICER. It is possible by unanimous consent.

Mrs. BOXER. I would so move.

Mr. NICKLES. I object.

The PRESIDING OFFICER. There is objection.

The clerk will call the roll on agreeing to the motion.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Byrd

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 832

Mr. KENNEDY. Mr. President, I call up my amendment No. 832.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 832.

Mr. KENNEDY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the Temporary Unemployment Compensation Act of 2002, to provide additional weeks of temporary extended unemployment compensation for individuals who have exhausted such compensation, and to make extended unemployment benefits under the Railroad Unemployment Insurance Act temporarily available for employees with less than 10 years of service)

At the end add the following:

**SEC. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.**

(a) In General.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking "before June 1" and inserting "on or before December 31";

(2) in subsection (b)(1), by striking "May 31, 2003" and inserting "December 31, 2003";

(3) in subsection (b)(2)—

(A) in the heading, by striking "MAY 31, 2003" and inserting "DECEMBER 31, 2003"; and

(B) by striking "May 31, 2003" and inserting "December 31, 2003"; and

(4) in subsection (b)(3), by striking "August 30, 2003" and inserting "March 31, 2004".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

**SEC. 3. ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION FOR EXHAUSTEES.**

(a) Additional Weeks.—Section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by adding at the end the following:

"(d) Increased Amounts in Account for Certain Exhaustees.—

"(1) In general.—In the case of an eligible exhaustee, this Act shall be applied as follows:

"(A) Subsection (b)(1)(A) shall be applied by substituting '100 percent' for '50 percent'.

"(B) Subsection (b)(1)(B) shall be applied by substituting '26 times' for '13 times'.

"(C) Subsection (c)(1) shall be applied by substituting '7 times the individual's average weekly benefit amount for the benefit year' for 'the amount originally established in such account (as determined under subsection (b)(1))'.

"(D) Section 208(b) shall be applied—

"(i) in paragraph (1), as if ", including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section" were inserted before the period at the end;

"(ii) as if paragraph (2) had not been enacted; and

"(iii) in paragraph (3), by substituting "October 18, 2003" for "March 31, 2004".

"(2) Eligible exhaustee defined.—For purposes of this subsection, the term 'eligible exhaustee' means an individual—

"(A) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this subsection; and

"(B) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account, including amounts deposited in such account by reason of subsection (c)) before such date of enactment.".

(b) Effective Date and Application.—

(1) In general.—The amendment made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X amounts deposited in account prior to date of enactment deemed to be the additional TEUC amounts provided by this section.—In applying the amendment made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an eligible exhaustee's (as defined in section 203(d)(2) of the Temporary Extended Unemployment Compensation Act of 2002, as added by subsection (a)) temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as "TEUC–X amounts") prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as "TEUC amounts").

(3) Redetermination of eligibility for augmented amounts for all eligible exhaustees.—The determination of whether the eligible exhaustee's (as so defined) State was in an extended benefit period under section 203(c) of such Act that was made prior to the date of enactment of this Act shall be disregarded and the determination under such section, as amended by subsection (a) with respect to eligible exhaustees (as so defined), shall be made as follows:

(A) Eligible exhaustees who received and exhausted TEUC–X amounts.—In the case of an eligible exhaustee whose temporary extended unemployment account was augmented under such section 203(c) before the date of enactment of this Act, the determination shall be made as of such date of enactment.

(B) Eligible exhaustees who exhausted TEUC amounts but were not eligible for TEUC–X amounts.—In the case of an eligible exhaustee whose temporary extended unemployment account was not augmented under such section 203(c) as of the date of enactment of this Act, the determination shall be made at the time that the individual's account established under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28), as amended by subsection (a), is exhausted.

**SEC. 4. TEMPORARY AVAILABILITY OF EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT FOR EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.**

Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

"(D) Temporary availability of extended unemployment benefits for employees with less than 10 years of service.—

"(i) In general.—Subject to clause (ii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph applies to an employee who has 10 or more years of service (as so defined).

"(ii) Application.—Clause (i) shall apply to—

"(I) an employee who received normal benefits for days of unemployment under this Act during the period beginning on July 1, 2002, and ending on November 30, 2003; and

"(II) days of unemployment beginning on or after the date of enactment of this subparagraph.".

Mr. REID. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. Madam President, the Senator from Massachusetts has agreed to 15 minutes equally divided on this amendment.

Mr. KENNEDY. We would like to have 12 minutes on our side.

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Madam President, this is an issue with which this body should be familiar, the whole issue of unemployment compensation. Let me tell you exactly what this proposal does. It has two parts. First of all, it extends the current program of 13 weeks of benefits until December 31, just as the House did last night by a vote of 409 to 19. That is what the House passed last night. That is one of the two provisions.

The second provision is it provides 13 weeks of benefits to the long-term unemployed who have exhausted their benefits and still cannot find a job. That is $2.5 billion. The total cost is $9 billion.

Madam President, just to review very quickly, we have 8.8 million unemployed. We have 2.8 million job openings. These are the figures from the Department of Labor. So, obviously, it has been very difficult for millions of Americans who have held unemployment compensation to continue to be able to find any jobs, so they have exhausted their benefits. This particular proposal will provide those benefits for about a million of the unemployed.

Madam President, I just draw the attention of the Senate to the actions that were taken on a similar issue by Presidents Dwight Eisenhower, John Kennedy, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, both Presidents Bush and Bill Clinton. Every one of those Presidents signed extended unemployment compensation—most included the individuals who had exhausted their unemployment compensation. Every one of those Presidents has done that. That is exactly what we are proposing to do here in a modest program, to reach those who have already exhausted their unemployment.

I will not take a great deal of time to talk about the hardship many unemployed are facing. These are the facts: More than half of the unemployed adults have had to postpone medical treatment—57 percent—or cut back on the spending for food—56 percent; 1 out of 4 have had to move out of their house and move in with friends and relatives; 38 percent lost telephone service or are worried about losing their phone; and more than a third have had trouble paying their gas or electric bills.

These are real American families who have worked hard, paid into the fund, and are in hard times. The fund itself is in surplus. It can afford this kind of a commitment.

Finally, when you look at what the Senate has done a few hours ago—given some $350 billion in tax breaks, primarily to the wealthiest individuals—we are asking for fairness for workers in this country who need this helping hand. Other Republican and Democrat Presidents have found reasons to do that. That is simply what this amendment is about.

The point has been raised: Senator, you have had your vote on this. You have had your vote once, twice, or three times. That is right. We are going to have a vote on it four times, five times, six times, or seven times until we are able to get this passed.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, the decisions we are making in the Senate today say a lot about our values, who we are, what we care about. Earlier today, the Vice President cast the tie-breaking vote that enabled wealthy investors to cut their taxes by tens of billions of dollars. It does virtually nothing for ordinary Americans.

If you look at this bill, for the next 5 years, the very little help working people get gets smaller and smaller, while the help for people who live off of their wealth gets bigger and bigger.

So this bill values wealth over work. It is just that simple. Now we have an amendment from the Senator from Massachusetts that is about helping people who are hurting today. This is not an abstraction. I have been all over this country. Anywhere you go in America, you meet people who are looking for work, and they cannot find it. These are good, salt-of-the-earth people. They want to work. They have worked all their lives. There is no job available for them. They are trying to feed their families, trying to pay the rent. These are people who cannot find a job because this administration—President Bush's administration—has killed over 2 million jobs. They are going from factory to factory and store to store trying to find work—whether it is at a textile mill, drycleaner, or McDonald's. They cannot find work. They have been looking for months.

So the question for the Senate is very simple: Will we help a million people who are unemployed, through absolutely no fault of their own—good, working people who have worked all their lives? The Senate has already proven today that it cares about the wealthy. Now the question is, Do we care about people who have spent months looking for work, who have worked all their lives, who want to take care of their families, put food on the table, pay the rent but they cannot find a job? That is the question presented by this amendment. The response will show the values of the Senate.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I join my colleagues in supporting the Kennedy amendment. We are trying to help over 1.1 million Americans who exhausted their benefits. These are hard-working Americans who paid into the unemployment trust fund. Now is our opportunity to help them. I believe it is our obligation. Here is an interesting point on this recession. In the 20th century, the average bottoming out of unemployment comes within 15 months of the beginning of the recession, but we have seen 25 months of continuing unemployment. This, indeed, is the longest in terms of the persistence of long-term unemployment that we have seen since the 1930s.

These people need our help. The trust fund has the resources. We should vote today to give these people benefits. As Senator KENNEDY pointed out, in every other recession every other President has done it. There should be no exception today. If we want to help 1.1 million Americans, just as we helped lots of fortunate Americans today, we should support this amendment.

Mr. SARBANES. Will the Senator yield for a question?

Mr. REED. Yes.

Mr. SARBANES. What are the people to do? They have exhausted their unemployment insurance benefits in a labor market that, instead of opening up so there are opportunities for jobs, is actually closing down. The unemployment rate has now risen to 6 percent. The number of long-term unemployed is at a near 20-year record. The other side is talking about doing some kind of an extension, but as I understand it, they will not cover exhaustees; is that correct? Is that the Senator's understanding?

Mr. REED. Yes. It is my understanding that 1.1 million Americans have exhausted their benefits, and they are still looking. They are well-trained, well-skilled people. The jobs are gone. They want to work. We are ignoring them—we are not, but the other side's proposal totally ignores them.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I think it is imperative to focus on the fact that we have people who have exhausted their benefits for the time period given to them, and they are not able to get a job. The argument is always made that they ought to get out and find a job. That is one of the premises of the system. But the job market is getting worse, not better.

Where are they going to find these jobs? How are they going to support their families? Furthermore, money has been paid into the unemployment insurance trust fund to build up a balance in order to make payments when we hit hard economic times.

Those surpluses that have been paid in are now about $20 billion. The purpose of paying them in to the fund is to draw on them when we hit economic times such as we are now confronting. This economy remains soggy. It is not picking up. We have the very human problem of people who have worked that are now left out. You do not collect unemployment insurance benefits unless you have built up a work record. In order to get the benefits, you must have an established work record. So we are not talking about nonworkers. By definition, we are talking about workers, people who have an employment record.

Through no fault of their own hardworking people have lost their jobs because the economy has gone soft. If you are at blame, you do not get unemployment; that is another provision of the system. They have drawn unemployment insurance benefits for a limited period of time. They then exhaust them. What are they to do?

The answer, "You ought to go find a job," might be an answer in a time when the job market is opening up, but the job market is closing down. The unemployment rate is rising, and the proposal of the able Senator from Massachusetts which would encompass these exhaustees is extremely important.

Furthermore, it would provide an impetus to the economy in providing some stimulus to get the economy moving again.

Ms. CANTWELL. Will the Senator from Maryland yield for a question?

Mr. SARBANES. Certainly, I yield for a question.

Ms. CANTWELL. I am interested in your——

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland has the floor and has yielded for a question.

Mr. SARBANES. I yield for a question.

Ms. CANTWELL. The Senator's understanding of Senator KENNEDY's amendment. I am concerned with the point you are making because just today the Boeing Company has announced it is sending warrant notices to another 1,150 employees. We have already had thousands—5,000—bringing the total to 3,000 employees laid off, and now we are hearing about another 1,100 today who will receive layoff notices probably in June or July.

This amendment would cover both employees—those who have already exhausted their benefits and employees who, in the next several months, will run out of benefits; is that your understanding?

Mr. SARBANES. That is my understanding, but the Senator makes a very important point in the context in which she presented it. Typically, after the earlier layoffs that the Senator talked about at Boeing, the economy would have picked up again. Boeing would have resumed work and would have started hauling people back in off of the unemployment rolls and putting them back to work.

The fact that they are now laying off additional people confronts us with providing for them, which the extension the other side is talking about may do, but it does not provide for going back and picking up the previous people who were laid off and who have exhausted their benefits.

The economy is not working the way it has traditionally worked. It is a very serious concern. The earlier people, instead of being called back because Boeing's job orders are picking up, in fact confront a situation in which Boeing is now laying off even more people.

Ms. CANTWELL. I thank the Senator for that clarification because that is the point.

Mr. NICKLES. Regular order.

Ms. CANTWELL. We have to take care of those who have lost their benefits. The reason we should do that is your very point in your clarification that it is not getting better. I thank you for your clarification.

The PRESIDING OFFICER. The Senator may only yield for questions.

Mr. SARBANES. Have we answered the able Senator's question, I hope, in the course of this discussion?

Mrs. CLINTON. Will the Senator from Maryland yield for an additional question?

Mr. SARBANES. Certainly.

Mrs. CLINTON. As I look at the proposal of the Senator from Massachusetts and the specific financial hardships of unemployment, is it the position of the Senator from Maryland that in the absence of extending unemployment benefits to those who have already exhausted their benefits, there is no opportunity on the horizon for them to have income because the jobs are just not there?

Mr. SARBANES. Exactly. These people, in effect, will fall off the cliff, and they are hard-working people. They would not have gotten the unemployment benefits to begin with if they had not had a job record, I say to the able Senator from New York.

Mrs. CLINTON. Does the Senator from Maryland have any idea how many of the people who have exhausted their benefits have children in their homes?

Mr. NICKLES. Regular order.

Mr. SARBANES. I do not.

The PRESIDING OFFICER. The Senator is yielding for a question.

Mrs. CLINTON. Would it surprise the Senator from Maryland that the number of parents who have been unemployed for 6 months or longer has increased 245 percent?

Mr. SARBANES. I think that is consistent with the economic slowdown——

The PRESIDING OFFICER. The Senator will suspend. Senators are reminded to address questions through the Chair.

Mrs. CLINTON. Madam President, if I can continue in this line of questioning with the Senator from Maryland. Is the Senator from Maryland aware that in the year 2000, there were approximately 176,000 long-term unemployed parents but that last month there were 607,000?

Mr. SARBANES. I did not know the exact figures but I knew there has been a very significant increase. That reflects the broader fact that the number of the long-term unemployed has now risen, not just parents, which was the thrust of the Senator's question, but the number of long-term unemployed has risen to just under 2 million. These are the highest numbers we have had in almost 10 years.

Mrs. CLINTON. Is it correct that the Senator from Massachusetts——

Mr. NICKLES. Regular order.

Mrs. CLINTON. Madam President, a further question to the Senator from Maryland: Is it correct that in previous years with previous Presidents and Congresses, the concern about long-term unemployment has let us, as a nation, provide benefits for those people who have exhausted their source of income and cannot find a job?

Mr. SARBANES. That is my understanding, and it is further my understanding that the extensions which have been done thus far in this recession compare very poorly with what was consistently done in previous economic downturns under both Republican and Democratic administrations. It is a very marked contrast that the response this time to the unemployed problem falls far short of what occurred in previous economic downturns.

Mrs. CLINTON. Finally, Madam President, to the Senator from Maryland, is the Senator from Maryland aware that the rate at which people are exhausting their unemployment benefits, without finding a job in this jobless economy that we are currently experiencing, was at its highest level ever recorded in February and its second highest level ever recorded in March, and that for 23 straight months the private sector has lost jobs, the longest stretch since World War II; is the Senator from Maryland aware of that?

Mr. SARBANES. That is a very dramatic statement of what is happening out there in terms of the shrinking of the job market and the incredibly difficult situation in which the unemployed find themselves. As the Senator has emphasized in particular, those who are parents are confronted with how they are going to provide for the needs of their families. The Senator is absolutely correct.

Mr. KENNEDY. I would like to, if I can, ask the Senator a question as well. Is the Senator aware that there are 18,000 members of the Armed Forces who have left the military and are now unemployed?

These are men and women who were serving in the military in recent times, are now unemployed, are now depending upon unemployment compensation, brave men and women who served this country gallantly and are now dependent upon unemployment compensation. They will be at risk as well.

Mr. SARBANES. In response to the Senator's question, that is just another dimension with respect to this problem. This problem really reaches throughout our society. As the able Senator from North Carolina stated earlier, he is encountering it all across the country. The former military personnel bring another dramatic dimension to this problem and the necessity, in my view, to enact the amendment the Senator from Massachusetts has offered.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I yield to the Senator from Oklahoma.

Mr. NICKLES. This has been a very interesting dialog, but it has absolutely nothing to do with this bill. Yesterday we made a unanimous consent request to pass a clean extension of unemployment compensation. The House has now passed a bill. We will ask unanimous consent again to pass a clean extension of unemployment compensation.

Mr. SARBANES. Will the Senator yield?

Mr. NICKLES. I will not yield. We have voted on this three times already this year. Some people on the other side say this is such a great issue, we are just going to get to vote on it a lot, and so now they offer it on a debt limit bill. Incidentally, they happen to know the House has already left. They know we have to pass a clean debt limit bill. They know a budget point of order lies against it. They know it is nothing but political gamesmanship.

I told our colleagues yesterday that they jeopardized passing a clean extension of unemployment comp. We could have done it yesterday. I hope we can do it today. Instead, they do not want to pass just a clean extension, they want to increase the program.

This amendment we are looking at today is a little different than the amendment we looked at last time. It has not had a hearing. It has not been vetted. It is not the bill that passed the House. The House has already left town. So if my colleagues want to do something to help people who are losing their unemployment compensation, they have to pass the House bill—and they are not in session, they have left. So we——

Mr. REID. Will the Senator yield?

Mr. NICKLES. No. I am not yielding. If we take this modification, this change, on the debt limit bill, it will complicate the debt limit bill. If we amend unemployment comp that we are going to try to pass later by unanimous consent, that will not pass. We want to provide assistance to them, and we can pass a clean extension for the next 7 months. That happens to be nearly the same thing the Senator from New York and I did in January. It happens to be nearly the same thing the Senator from New York and I did last November.

So if my colleagues want to help people who have lost their unemployment benefits, we can pass a clean extension. We are not going to pass a major expansion, as this amendment would propose. This amendment would allow some people to receive 59 weeks of benefits—of unemployment comp. We are not going to do it. I will tell my colleagues that right now. So they can make all the speeches they want, but some of us want to pass this bill and move on.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. BYRD) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—50

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—49

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Campbell
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Wyden

NOT VOTING—1

Byrd

The motion was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THOMAS. Mr. President, I ask before the next vote that we have 10-minute votes in the future. I ask unanimous consent the following votes be 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. The next amendment we have in order is that offered by Senator FEINGOLD, but Senator KENNEDY is here, wishing to present a unanimous consent request.

Mr. NICKLES. Mr. President, just for the information of our colleagues, I think we stated this before, but I want to repeat it. It is our intention to ask unanimous consent to pass the House-passed bill on unemployment compensation upon completion of the debt limit extension. It is also our intention again to ask unanimous consent to pass the sense-of-the-Senate resolution that the Senate would not curtail COLAs. No one was planning on doing it, but because we had an amendment earlier I think we want to clarify that. We will pass both of those on freestanding items upon completion of the debt limit extension.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, having listened to the leader, I ask unanimous consent the Senate proceed to the consideration of the House unemployment compensation bill, H.R. 2185, which the House passed last night by a vote of 409 to 19, that the bill be read a third time and passed, the motion to reconsider be laid on the table, and the preceding all occur without intervening action or debate.

Mr. McCONNELL. Mr. President, reserving the right to object, and I will object, we are in the process, I think the Senator from Massachusetts knows, of trying to clear that on this side of the aisle. The Senator from Oklahoma has indicated we expect to be able to pass the House-passed unemployment extension later in the day. We cannot, however, clear it at this particular moment. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

Mr. NICKLES. Just to repeat, I tried to do that yesterday, and the Senator from Massachusetts objected—or somebody from the other side of the aisle objected. I just want to make that point as well. Some of us tried to pass a clean extension yesterday and I urged my colleagues to do it and it was objected to. Now we have had a couple of votes. I hope we can clear it and will pass the House-passed bill.

Mr. KENNEDY. Mr. President, as I understand it, the objection is coming from the Republican side to the bill that passed last night in the House of

Representatives 409 to 19. We are prepared. We believe it should include exhaustees. But we want to find the earliest time to let those people who are unemployed know that the Senate is going to be responsive. It passed last night. We are asking now that it be passed right now.

If there is going to be an objection by the Republican leadership, the RECORD ought to reflect that. We are prepared.

This is our first priority—to say to those who are receiving unemployment compensation that they will continue to receive it.

Do I understand there has been an objection by the Republican leadership?

The PRESIDING OFFICER. There was.

Mr. KENNEDY. Otherwise, I renew the request.

The PRESIDING OFFICER. Objection was heard.

Mr. REID. Mr. President, will the majority be willing to enter into a time agreement on the amendment offered by Senator FEINGOLD in relation to pay-go? He has agreed to 15 minutes on our side. I ask that in the form of a unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, 15 minutes on that side. How much on this side?

Mr. REID. Whatever you want—15 minutes.

Mr. NICKLES. Ten minutes on this side would be more than sufficient.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. REID. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. FEINGOLD. I yield for the purpose of a question.

Mr. REID. The distinguished Senator from Oklahoma wouldn't yield for a question that I wanted to ask earlier but he said the reason we can't amend this bill even a little bit is because the House was not here. I ask my friend from Wisconsin: Does he think it would be a good idea to ask the House leadership to call on Governor Ridge to send all the airplanes he has available to see if they can return?

Mr. FEINGOLD. It sounds like a good plan. I hope that is done while I offer my amendment.

Mr. NICKLES. Mr. President, I appreciate so much the concerns of my friend and colleague from Nevada about being able to find legislators who have wondered afar from the legislative field. We did have a slight invasion in our State by a few Democrat legislators who were somewhat fretting but I am happy to report they returned safely to the State of Texas, much to the appreciation of both States.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 835

Mr. FEINGOLD. Thank you, Mr. President.

I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. CARPER, Mrs. FEINSTEIN, and Ms. CANTWELL, proposes an amendment numbered 835.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the current-law pay-as-you-go requirement)

At the appropriate place, insert the following:

**SEC. . EXTENSION OF PAY-AS-YOU-GO.**

(a) IN GENERAL.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended by striking "2006" and inserting "2008".

(b) EXTENSION OF PAY-AS-YOU-GO.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended—

(1) in subsection (a), by striking "2002" and inserting "2008"; and

(2) in subsection (b), by striking "2002" and inserting "2008".

(c) APPLICATION.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), as amended by this section, shall not apply to direct spending and receipts legislation enacted prior to the enactment of this section.

(d) EFFECTIVE DATE.—the amendments made by this section shall take effect September 30, 2002.

Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Delaware, Mr. CARPER, the Senator from Washington, Ms. CANTWELL, and the Senator from California, Mrs. FEINSTEIN, in offering this straightforward amendment. Our amendment would simply extend the pay-as-you-go law that has been in force in one way or another since 1990.

On October 16 of last year, Senators CONRAD, DOMENICI, GREGG, and I joined to offer an amendment to extend the budget process. The Senate agreed to our amendment, but with a modification that limited the extension to April 15.

During debate on the budget resolution, a number of us offered an amendment to extend the critical budget process rules, known as pay-go, and I was pleased that the Chairman of the Budget Committee, Mr. NICKLES, accepted our amendment.

I regret that this absolutely critical budget rule was dropped in the final version of the budget resolution. In its place, the conference committee approved a far weaker set of rules. In fact, instead of acting to restrain the fiscal appetites of Congress, the rules established in the budget resolution actually whet those appetites.

They carve out an enormous exception in the pay-go rules, exempting over one-and-a-half trillion dollars in tax cuts and spending increases from the sensible restraints we had long imposed on ourselves.

The result is that we are currently legislating in an environment that is almost completely unconstrained by any budget discipline at all.

Were our budget position stronger than it is, the lack of budget restraint would be troubling enough. But given the extremely serious fiscal challenges we face, the inadequate budget rules adopted in the budget resolution are simply and grossly irresponsible.

The last two years have seen a dramatic deterioration in the government's ability to perform one of its most fundamental jobs—balancing the nation's fiscal books.

In January of 2001, the Congressional Budget Office projected that in the 10 years thereafter, the government would run a unified budget surplus of more than $5 trillion.

With the adoption of the budget resolution, we are now facing unified budget deficits of $1.7 trillion through 2013. That is a dramatic swing of nearly $7 trillion, just in the space of a little more than two years.

And without counting Social Security, we are expected to run deficits of $4.5 trillion through 2013 under the policies outlined in the budget resolution. And many have noted that the assumptions on which those projections are based are overly optimistic, that in particular they assume spending levels that Congress is unlikely to observe.

This kind of budgeting is absolutely reckless. There is no other word for it. And the lack of adequate rules compound the damage.

We must stop running these debilitating deficits.

We must stop running deficits because they cause the government to use the surpluses of the Social Security trust fund for other government purposes, rather than to pay down the debt and help our nation prepare for the coming retirement of the baby boom generation.

We must stop running deficits because every dollar that we add to the Federal debt is another dollar that we are forcing our children to pay back in higher taxes or fewer government benefits.

When the government in this generation chooses to spend on current consumption and to accumulate debt for our children's generation to pay, it does nothing less than rob our children of their own choices. We make our choices to spend on our wants, but we saddle our kids with debts that they must pay from their tax dollars and their hard work. And that is not right.

That is why I am offering this amendment to reinstate the budget statute under which we operated for many years. We need a strong budget process. We need to exert fiscal discipline.

This amendment would simply return us to the pay-go budget discipline that was in effect until September of last year. It would reinstate the across-the-board sequester law that imposed some useful budget discipline during the 1990s.

That is what this amendment would do. It is the least that we should do to ensure fiscal responsibility and sound budgeting.

We must stop using Social Security surpluses to fund other government programs. We must stop piling up debt for our children to pay off. We must continue the discipline of the budget process.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD. Mr. President, I yield 5 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I express my gratitude to Senator FEINGOLD and join with him and Senators CANTWELL and FEINSTEIN in offering this amendment today.

The budget enforcement requirements first established in the Budget Enforcement Act of 1990 were important factors in the successful bipartisan effort over the course of the 1990s to bring our Federal budget deficit under control.

At a time now when our deficit is again growing rapidly, it is most unfortunate that these budgetary constraints have been allowed to lapse.

One of the most important of the 1990 controls was the so-called pay-go law. The pay-go law requires the Congress to live under the same constraints as most typical American families.

American families—at least most of us—understand very well that if they want to spend more lavishly, they must find some way to bring in more income. Similarly, if one parent decides to leave the workforce to stay at home, then the family must find a way to make do with less.

Put simply, pay-go required that we acknowledge these same simple realities of life. It required the Congress come up with the revenues to pay for any new entitlement spending or else find ways to accommodate that new spending by tightening our belts somewhere else. It required that should Congress decide to reduce the revenues we use to pay for Federal spending, either we have to cut the spending those revenues financed or else find new revenues to pay for that same spending.

The purpose of pay-go is to prevent Congress and the President from running up the bill on our Nation's credit card, which is exactly what we are doing today, to the tune of nearly $1 trillion.

The pay-go law expired last fall, as Senator FEINGOLD has said, as did the discretionary spending caps that were also part of the successful formula that brought the deficit under control by the end of the 1990s.

A related pay-go rule that we had here in the Senate was extended until this April 15. It was then replaced with new rules that are widely acknowledged to be weak and porous. The statutory pay-go requirement—the legally binding requirement—has not been renewed at all. This is a serious mistake.

We cannot undo today all the actions over the last 2 years that have led us to the point we are, but here we are preparing to raise the ceiling on the Federal debt by nearly $1 trillion. Today alone, we will pay $1 billion in interest on our national debt—not on debt service, not on principal payment—just on interest, $1 billion today alone.

By this time next year, some 20 cents of every revenue dollar we collect for the Federal Treasury will go to pay just for interest alone—20 cents of every dollar just to pay for interest alone.

While we cannot today retrace the steps that we need to, to ensure that all those wrongs will be righted, we can take a step to ensure that we will not be back here in a few months or a year to charge lavishly on the Nation's credit card once again.

Senators FEINGOLD, CANTWELL, FEINSTEIN, and myself are proposing a first step in that direction—restoring one of the most important constraints that helped instill fiscal discipline in this place in the 1990s.

I hope our colleagues will join us and support this amendment.

I thank the Senator from Wisconsin for his leadership and for yielding time to me.

## RESTORING THE PAY-GO RULE

Ms. CANTWELL. Mr. President, I rise today to offer my support for the Feingold amendment reinstating the Senate's pay-go rule. The premise underlying this amendment is that we as a body must return to using the budget enforcement measures that have helped us be fiscally responsible in the past.

We have responsibilities to live up to and commitments to fulfill, but we also must have fiscal discipline as we make budget decisions. We must have a framework and strict budget enforcement rules to guide through this difficult, and as we have seen this week, contentious and politically charged process.

This amendment helps us at a time when we have seen a multitrillion-dollar surplus turn into a multitrillion-dollar deficit. Perhaps now more than ever, it is critical that we exercise fiscal restraint. Reinstating the pay-go rule by approving this amendment is a good first step.

This amendment would extend the "pay as you go" budget rule that expired on April 15. The pay-go would subject any tax cuts or new mandatory spending to a 60-vote point of order unless those cuts or spending increases are fully offset. Pay-go had been in effect from 1990 until just a few weeks ago when our colleagues across the aisle allowed it to expire, choosing to replace it with a far weaker provision. The pay-go provision proposed in Senator FEINGOLD's amendment would restore the stronger rule, which in the past decade has proven an important tool for the Senate to maintain fiscal discipline and keep Federal spending within reasonable limits.

The actions of the Senate today made clear the absence of fiscal discipline in our Government under this administration. I hope the American people see this morning's tax vote and this subsequent effort to increase the debt limit by nearly $1 trillion—the largest increase in our Nation's history—for what it is: A poor decision that will burden taxpayers with an outrageous debt load for years to come.

We know the current and ever-growing deficit is a direct result of the 2001 tax cut, the ongoing recession, and the tragic events of September 11, 2001. For us to enact another poorly targeted tax cut is a mistake. And it is outrageous that minutes after the tax cuts were approved, the Senate began the debate to raise the Government debt limit by more than $900 billion. This is proof that fiscal discipline is not the guiding principle when making decisions about the country's future financial health. This is the second time in 2 years we have been faced with this issue, a clear indication that current fiscal policies are not improving the economic reality.

One of the most important actions we can take for the Nation's future economic stability is to pay down the National debt. According to the Chairman of the Federal Reserve Board, Alan Greenspan, paying down the National debt lowers interest rates and keeps the capital markets and investment going.

I want to make it clear that I do support efforts to provide hardworking Washingtonians and all Americans with tax relief such as eliminating the marriage penalty, making college tuition tax deductible, allowing States with no State income tax to deduct their sales taxes from their Federal income tax return, and assisting workers in savings for their retirement. But we must look at all budget issues—taxes and spending alike—from a total and comprehensive view.

Our total budget must be crafted within a framework that maintains fiscal discipline, and stimulates economic growth through continued Federal investment in education and job training, while also protecting the environment. Furthermore, we need to invest in our Nation's economic future by making a commitment to public research and development in science and technology—maintaining our status as a global leader.

It is a balance. We need to make these investments, but within a framework that ensures we don't spend beyond our means. If we want our economy to be strong, if we want revenues, and if we want to make the right decisions, we need to keep paying down the debt.

We must have fiscal discipline in the budget and appropriations process. We cannot focus solely on the individual items and programs in our budget but must look at the whole picture. The budget enforcement procedures such as pay-go help us do this, and help us keep our spending under a reasonable amount of control.

Budget enforcement rules like pay-go worked successfully as we struggled to get out of the deficit spending in the 1990s, and it will work as we struggle to get out of the recession and deficit financing we face today. I urge my colleagues to support the Feingold amendment and reinstate the Senate's pay-go rule.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I yield time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I inquire of my colleagues—I am going to make a budget point of order shortly. You have not used all your time. I will not use all our time. Maybe we can move forward a little quicker.

Is there anybody else on your side who wishes to speak?

Mr. FEINGOLD. Mr. President, if Senator CANTWELL wishes to speak, I would want to reserve an opportunity for that.

Mr. NICKLES. Mr. President, I will proceed. She is not on the floor right now.

Mr. President, first a couple comments.

I have had the pleasure of working with Senator FEINGOLD in the Budget Committee and on several occasions on the floor, and we have shared an interest, at various times, being a coalition, trying to curb the growth of Federal spending. I say that to my colleague. I appreciate his work and how sincere he is with this amendment and with budget process.

As chairman of the Budget Committee, I will tell you, budget process should come through the Budget Committee. The Senator has an amendment. It is not perfect. It needs to be improved. It needs to go through the Budget Committee. Actually, the Budget Act says it should go through the Budget Committee.

I would like to consult with all Members—Democrats and Republicans—on budget reform. I think we need budget reform, both in process and in implementation.

Now, in pay-go, a lot of people get confused, but we actually have pay-go in Senate rules, and we used to have statutory pay-go. One is in the statutes of the United States Code. One is in Senate rules. We have pay-go in Senate rules. We had—past tense—pay-go in the statutes.

I am willing to reinstate pay-go and maybe change the way it is drafted to some extent. The former chairman of the Budget Committee, Senator DOMENICI, is in the Chamber, and he utilized it, but the statute had not been utilized very often in the past. It was very seldom. It actually had a sequester. It was hardly ever used. Maybe the threat of it is worthwhile, but, anyway, it had not been used. We also have pay-go in Senate rules. That has been used quite frequently.

So I just make the comment that we need some budgetary changes in rules. I think we certainly do. The way that the budgets are managed with the vote-aramas—we ended up having 51 votes, most of which were stacked in the last day or so of the management of the budget—I think is demeaning to the Senate. The same thing in reconciliation; and that actually is done under the budget procedure. Again, we had a limited number of hours for consideration of the reconciliation bill and then a vote-arama.

Again, maybe it is not the best way to be considering legislation of such importance. So I am willing to work with my colleagues on both sides, and I appreciate the interest of the Senator from Delaware and the Senator from Wisconsin in passing budget reform, and I will work with them. If we do a bill dealing with budget reform, in my opinion, it is going to take bipartisan support.

I see the former chairman of the Budget Committee. It is going to take a bipartisan effort or it will not happen. I recognize that. I realize that. I happen to think there are enough of us around wrestling with budgets who know that procedures need to be improved.

We also want them to be effective: To have a Budget Act with enforcement, but not have it be ineffective, i.e. you can waive it on account of emergency, you can waive it on a lot of things where they are not effective. We do not want to do that. We want to be effective in exhibiting some discipline.

I might also mention, just for the information of our colleagues, in the budget we did pass there is a direction to all the authorizing committees to report back to the Budget Committee by September 2 for ideas on curbing wasteful spending, with at least a target of 1 percent.

I mentioned this to some of my colleagues, and I will mention it on the floor, because some authorizers are going to say: Wait a minute. What are you doing telling us to come up with some savings? But a lot of programs have waste or fraud or accounting errors that need to be stopped. The House actually had a mandatory cut. We ended up saying: Well, we are going to request the committees to report back to us. We expect and look forward to their cooperation.

We did not do anything in this last year's budget, frankly, on entitlements. We probably should. We need to look at all Federal spending. We need to eliminate waste. It bothers me to look at a program, such as the earned income tax credit, and have Treasury report back to us that 30 percent of the program is a mistake—some of it fraud, some of it a mistake, accounting errors, you name it. We should not have programs which are that wasteful, that much of a mistake. We need to improve management of our Government.

I told the former chairman of the Budget Committee, Senator CONRAD, that I hope to do a lot of oversight to make Government work better. We will be doing some of that as well.

I say to my colleagues, I do not believe this amendment on the debt limit—without going through the committee—is the proper approach.

So, Mr. President, I am going to make a point of order that the amendment offered by the Senator from Wisconsin, Mr. FEINGOLD, contains matter—

Mr. FEINGOLD addressed the Chair.

Mr. NICKLES. I am not going to ask for the vote now.

Mr. FEINGOLD. Will the Senator withhold?

Mr. NICKLES. I will withhold.

I was not going to push for the vote on it until you completed your time. I will make the point of order. I know Senator DOMENICI wishes to speak, as well.

Mr. President, I make a point of order that the amendment offered by the Senator from Wisconsin, Mr. FEINGOLD, contains matter within the jurisdiction of the Committee on the Budget, and the underlying bill was not reported from the committee. Therefore, I raise a point of order against the amendment under section 306 of the Congressional Budget Act of 1974.

I make that point of order, and I now wish for the Senator to complete his time. I also ask that——

Mr. FEINGOLD. Mr. President, is it necessary for me to move to waive the point of order at this point?

The PRESIDING OFFICER. The Senator may use his time first.

Mr. NICKLES. I say to the Senator, you can use your time. You can move to waive, and we can still debate.

Mr. REID. Mr. President, even though the motion by my friend from Oklahoma has been made too early, I ask unanimous consent that when Senator FEINGOLD completes all the time he has been allotted, the request made by the Senator from Oklahoma be valid, and then Senator FEINGOLD could move to waive.

Mr. NICKLES. Mr. President, reserving the right to object, I ask to modify that request, and that the Senator from New Mexico be entitled to speak for 2 minutes.

The PRESIDING OFFICER. There is still time remaining for debate on the amendment.

Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, those of us who came here in the early 1990s found an incredible fiscal mess in this country. And we believed—so many of us worked on both sides of the aisle; and it was bipartisan—that without these kinds of budget rules, we never would have been able to get the deficit eliminated and actually have a surplus by the early part of this decade.

That is why it is so important that we restore this statutory language and move in the direction of fiscal discipline.

I do appreciate the words and the actions of the chairman of the Budget Committee. He has shown a genuine interest in trying to get these rules in place. I appreciate his commitment to work with us on a bipartisan basis to do it. I can tell you that this is not the first effort in this regard. I worked all last year with Senators from both sides of the aisle to try to figure this out. Senator GREGG, Senator Phil Gramm, and others tried every approach we could to make sure these rules would be in place. Unfortunately, it did not work. So there is no lack of willingness on this side of the aisle to work together to restore these budget rules. I think a good chance to do that is right now, on this amendment today, on a bipartisan basis to get some fiscal discipline to return.

I thank the Senator from Delaware. He has been absolutely determined since he came to the Senate to help us restore these kinds of rules and have some kind of fiscal discipline.

Finally, as I yield time to the Senator from North Dakota, who in my view has been the leading advocate for fiscal discipline in this body over many years. I am grateful to his leadership and commitment to have these rules in place. Even though it is possible that we won't prevail on this amendment today, I do believe there is a bipartisan interest in trying to resolve this problem.

I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. BURNS). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Wisconsin. I especially commend him for his leadership on this issue. It has been over an extended period of time that he has tried to remind our colleagues repeatedly of the need for fiscal discipline.

The Budget Enforcement Act of 1990 first established what we called pay-go. Pay-go has two separate enforcement mechanisms: a 60-vote point of order in the Senate, and sequestration. The majority extended the pay-go point of order but they included a huge loophole for all of the policies assumed in this year's budget resolution, including its tax cuts. So we have pay-go, but we are closing the barn door after the cows have all left. They did not extend sequestration, which expired on September 30 of last year. Therefore, we are currently operating without the key tools that have been used to help enforce budget discipline over a dozen years.

Given the huge loophole that now exists in the pay-go point of order, we need pay-go sequestration all the more.

Under sequestration, mandatory spending and tax legislation that reduced surpluses or increased deficits had to be fully offset with mandatory savings or revenue increases in order to avoid across-the-board cuts in mandatory spending at the end of a fiscal year. The threat of these cuts helped prevent the enactment of costly and fiscally irresponsible legislation that was not paid for, such as today's tax bill that just passed that is going to dramatically deepen the deficit and debt of this country.

I support the amendment of the Senator from Wisconsin. I urge my colleagues to do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. NICKLES. Mr. President, if this amendment were adopted, it would more than complicate the debt limit extension. We have already mentioned that. Senators are aware of that.

I have already said I will work with members of the committee. I will work with other Members for budget process reform. I welcome ideas and input. We can do a better job. Under present law, if this passed, for those people who have an interest in passing a prescription drug bill, it won't happen. The budget resolution says we can have a prescription drug bill within $400 billion reported by the Finance Committee. A budget point of order would not lie against it. If this amendment passed, every penny of it would have to be paid for with either revenue increases or cuts, presumably in Medicare or Medicaid. My guess is you would not have it.

I yield the balance of my time to the Senator from New Mexico, who was chairman or ranking member of the Budget Committee for 25 years.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I want to say my congratulations to the other side for attempting to tighten up the Budget Act, particularly Senator FEINGOLD. On the other hand, this is not the way to do it nor the time to do it.

The motion that has been made by the distinguished chairman that this amendment must fail is not a frivolous one. To have this kind of a change in the Budget Act requires hearings. That is what this is about. The statute says before you change this law—and we thank the Lord all the time that they put this in this law—on the floor, you have to send it to the committee. That is kind of new around here but it is very good stuff. So that you know the ramifications before you do the amending. The ramifications of this amendment are so farfetched that it is not farfetched to say you are voting against prescription drug reform if you vote for this amendment or to override the motion by the chairman who says we should not do this.

Secondly, I want to offer an explanation. Today there is much talk about the tax bill, and people are saying that the tax bill, since many of the tax proposals do not go on forever, is jiggering the Tax Code. I should remind everyone that the tax bill we have done is done under the Budget Act. In turn, it is done under a reconciliation instruction. It is not done under the ordinary law of the Senate. Therefore, we are bound by the law not to pass permanent tax law changes. So it is not anybody trying to play with the Tax Code. It is the law that says, if you want the benefit of the Budget Act under reconciliation, which means no filibuster and minimal amendments, then you cannot make the tax changes permanent. In other words, it gives you a benefit, and it is a safeguard of permanency not being available at the same time.

That is the explanation for those who are writing and talking about the fact that these tax provisions are not permanent.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I want to make a point. Of course, my amendment does not prevent the prescription drug benefit. It just means that we have to actually pay for it. It seems to me that is reasonable. The amendment in no way prevents a paid-for prescription drug benefit. I would not support such an amendment if I were given that.

How much time remains?

The PRESIDING OFFICER. One minute 40 seconds.

Mr. FEINGOLD. Let me again thank not only the current chairman but the previous chairman of the Budget Committee. They have sincerely shown an interest—I am a member of the committee—in trying to get these budget rules back in place. I understand why this motion is being made. The point is, the chairman has indicated a willingness to move forward. I understand he will hold those hearings the Senator from New Mexico was just referring to that are a part of the process. I want them to know I sincerely would like to see us come together on this in the coming months.

It was absolutely essential for the American people to have the confidence that we cared about the deficit issue, that we finally gave the American people that wonderful sense of confidence that it mattered to us that we were running deficits. It helped everybody's mood. It helped the economy. It was a terrific thing for this country.

That confidence is now gone. The way you rebuild it is by getting these rules in place so people can point to those rules and say: We can't go beyond these limits.

That is what we need. I think we need it in statute as well as in the rules of the Senate.

Mr. President, I reserve the remainder of my time.

Mr. THOMAS. Mr. President, we yield back our time.

Mr. FEINGOLD. I yield back my time, Mr. President. I assume this would be the appropriate time for me to move to waive the point of order?

The PRESIDING OFFICER. The Senator is correct.

Mr. FEINGOLD. Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. THOMAS. Mr. President, can we make sure people know this is a 10-minute vote?

The PRESIDING OFFICER. The Chair reminds Senators this is a 10-minute vote.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. At this time, I renew the unanimous consent request on unemployment insurance earlier offered by the Senator from Massachusetts, Mr. KENNEDY.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCONNELL. I did not hear the Senator.

Mr. REID. Earlier today, Senator KENNEDY asked that the Senate approve the unemployment insurance legislation which was sent from the House to the Senate early this morning. I have asked to renew the request of the Senator from Massachusetts that that be adopted by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, I do object simply because there may be somebody on this side of the aisle who may want to make that motion. So if we could go ahead and process another amendment, we will have further discussions.

The PRESIDING OFFICER. The objection is heard. The Senator from Nevada.

Mr. REID. I certainly understand, and that would be satisfactory. We do not need to make the request, but we would hope that it would be made very quickly.

In the interim, the next amendment we would ask to be considered is that of the Senator from South Carolina, Mr. HOLLINGS. He has agreed to 20 minutes for himself. We ask if there would be a like time agreed to by the majority? That would be 40 minutes equally divided, with no second-degree amendments in order. There have not been any offered so far. I ask that in the form of a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

Mr. HOLLINGS. I have an amendment at the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 836.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

**SECTION 1. APPLICABILITY OF PUBLIC DEBT LIMIT TO SOCIAL SECURITY TRUST FUNDS.**

(a) PROTECTION OF SOCIAL SECURITY TRUST FUNDS.—

(1) DELAY OR FAILURE TO INVEST.—No officer or employee of the United States shall—

(A) delay the deposit of any amount into (or delay the credit of any amount to) any social security trust fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits; or

(B) refrain from the investment in public debt obligations of amounts in any such fund.

(2) EARLY REDEMPTION.—No officer or employee of the United States shall redeem prior to maturity amounts in any social security trust fund which are invested in public debt obligations for any other purpose other than payment of benefits or administrative expenses from such fund.

(b) DEFINITION.—In this section, the term "public debt obligation" means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

**SEC. 2. CONFORMING AMENDMENTS.**

Subsections (j), (k), and (l) of section 8348 and subsections (g) and (h) of section 8438 of title 5, United States Code, are repealed.

Mr. HOLLINGS. Mr. President, this merely stops the Secretary of the Treasury from looting the Social Security trust fund in order to make the national debt appear smaller than it actually is. On Sixth Avenue in New York, they have a debt clock showing, day to day, the increase of the national debt.

On March 5 of this year, that debt clock stopped, courtesy of the Secretary of the Treasury, who immediately started using trust funds, particularly Social Security trust funds—

Enron accounting—to make the debt appear smaller.

I ask unanimous consent that the daily history of debt results be printed in the RECORD.

THE DAILY HISTORY OF DEBT RESULTS—HISTORICAL RETURNS FOR 3/4/2003 THROUGH 5/22/2003

| Date | Amount |
|---|---|
| 3/4/2003 | $6,445,657,357,431.67 |
| 3/5/2003 | 6,460,621,838,679.66 |
| 3/6/2003 | 6,460,801,790,956.35 |
| 3/7/2003 | 6,460,766,227,729.85 |
| 3/10/2003 | 6,460,659,531,541.01 |
| 3/11/2003 | 6,460,621,340,512.27 |
| 3/12/2003 | 6,460,585,777,680.29 |
| 3/13/2003 | 6,460,744,895,144.64 |
| 3/14/2003 | 6,460,709,229,897.82 |
| 3/17/2003 | 6,460,602,930,313.42 |
| 3/18/2003 | 6,460,568,106,011.18 |
| 3/19/2003 | 6,460,533,569,239.51 |
| 3/20/2003 | 6,460,712,491,314.69 |
| 3/21/2003 | 6,460,674,090,486.67 |
| 3/24/2003 | 6,460,570,026,872.52 |
| 3/25/2003 | 6,460,535,345,690.24 |
| 3/26/2003 | 6,460,500,338,259.08 |
| 3/27/2003 | 6,460,683,851,496.24 |
| 3/28/2003 | 6,460,649,275,186.23 |
| 3/31/2003 | 6,460,776,256,578.16 |
| 4/1/2003 | 6,460,741,982,363.11 |
| 4/2/2003 | 6,460,707,711,622.02 |
| 4/3/2003 | 6,460,883,083,990.99 |
| 4/4/2003 | 6,460,848,478,613.52 |
| 4/7/2003 | 6,460,744,653,570.51 |
| 4/8/2003 | 6,460,697,206,431.50 |
| 4/9/2003 | 6,460,664,200,138.40 |
| 4/10/2003 | 6,460,828,617,061.12 |
| 4/11/2003 | 6,460,792,544,188.95 |
| 4/14/2003 | 6,460,686,804,499.03 |
| 4/15/2003 | 6,460,651,308,615.55 |
| 4/16/2003 | 6,460,617,585,976.91 |
| 4/17/2003 | 6,460,780,111,309.05 |
| 4/18/2003 | 6,460,747,047,775.30 |
| 4/21/2003 | 6,460,647,854,361.95 |
| 4/22/2003 | 6,460,605,341,148.70 |
| 4/23/2003 | 6,460,572,277,868.61 |
| 4/24/2003 | 6,460,743,188,902.46 |
| 4/25/2003 | 6,460,710,818,047.88 |
| 4/28/2003 | 6,460,613,708,360.89 |
| 4/29/2003 | 6,460,581,338,149.98 |
| 4/30/2003 | 6,460,380,745,789.28 |
| 5/1/2003 | 6,460,544,146,581.37 |
| 5/2/2003 | 6,460,512,105,716.15 |
| 5/5/2003 | 6,460,415,978,242.13 |
| 5/6/2003 | 6,460,377,391,988.34 |
| 5/7/2003 | 6,460,345,350,371.45 |
| 5/8/2003 | 6,460,497,884,145.02 |
| 5/9/2003 | 6,460,466,362,233.10 |
| 5/12/2003 | 6,460,371,786,677.29 |
| 5/13/2003 | 6,460,340,581,249.18 |
| 5/14/2003 | 6,460,308,855,091.23 |
| 5/15/2003 | 6,460,444,642,526.75 |
| 5/16/2003 | 6,460,414,110,545.71 |
| 5/19/2003 | 6,460,322,505,519.43 |
| 5/20/2003 | 6,460,276,922,875.71 |
| 5/21/2003 | 6,460,247,153,270.68 |

Note: The debt is published each business day. If there is no debt value for the date(s) you requested, the value for the preceding business day will be displayed.

Mr. HOLLINGS. Mr. President, my distinguished colleague, the Senator from Oklahoma, Mr. NICKLES, raised this particular point back in 1995. He cosponsored a bill along with Senator SANTORUM, Senator SHELBY, and Senator THOMAS. I refer my colleagues to page S. 18819 of the RECORD of December 18, 1995, at the introduction of S. 1484, a bill to enforce the public debt limit and to protect the Social Security trust funds. It is just the darnedest thing you have ever seen. We are using Enron accounting. We are looting the Social Security funds, and the debt goes up, up, and away.

The Congressional Budget Office already reports, Senator DOMENICI, where we had a $428 billion deficit last year. We are running $138 billion ahead, so it is up to $566 billion this minute.

Let's understand what we are all about. This week, the Republicans are asking the Congress to casually vote to raise the limit on the national debt by $984 billion, from $6.4 trillion to $7.384 trillion. I say casually because the seriousness of this move is passed over and barely discussed. It took us 200 years of our history and the cost of all of the wars to ever get to a trillion-dollar debt. Today, by a vote, we are going to add $1 trillion to the debt.

It was not always this way. Just over 2 years ago, in his first speech to Congress, President Bush bragged he wanted to pay down $2 trillion in debt. Earlier, there was a crowd standing on the Capitol steps hailing their Contract with America to stop deficit spending. There was the balanced budget amendment to the Constitution cry-out that went so far as to forbid deficits.

Some Republicans may not realize the reason for this 180-degree turn, but Carl Rove knows. It is about getting rid of the Democratic Party. Republicans hope this increase in the debt limit is large enough so that any further increase will not be needed until after the 2004 Presidential election. In the meantime, the Government will be able to borrow money for all the tax cuts the President wants to get reelected.

Borrow, we will. This is the first installment of the Republican-passed budget that increases the debt from $6 trillion to $12 trillion over the next 10 years. That is an average of $600 billion deficit each and every year for a decade. It took 38 Presidents and 192 years to reach $1 trillion in debt. It took Ronald Reagan 4 years, and it has taken George W. Bush just halfway through his term.

The Bush policy takes Reaganomics to the extreme. If it means getting rid of the Government at the same time, so be it.

I hesitate to add that the President is not alone in his mission. The Democratic Party is in lockstep with him. When President Bush says, we need not pay for the war, the Democrats agree. This is the first time we have sent GIs to fight a war and then want them to hurry back to pay the bill. We in Congress are not going to pay for it. We need a tax cut to get elected next year.

When the President says, increase the debt, we Democrats say, yes, that is what the country needs, just not as much as the President wants.

The President calls for fast-track trade negotiating authority to export America's jobs faster and the Democratic leadership says, right on. Both parties triangulate, so, as George Wallace used to say, there is not a dime's worth of difference between the two major parties. We are bogged down in the needs of the campaign rather than the needs of the country.

The country needs fiscal discipline, and we are getting it at the State level. Fourteen Republican Governors are increasing taxes to provide for the States' needs, but the cost of the war does not move Washington. We already are spending $500 billion to $600 billion more than we are taking in. Alan Greenspan, Paul Volcker, and Robert Ruben believe this is enough stimulus.

The President's tax cut merely increases the debt which will increase the interest costs, which increases waste. Before long, all the Government will be able to afford is defense, Social Security, health care, and interest costs that must be paid.

Karl Rove knows the more we spend on interest charges, the less there is for programs. The Democrats thrive on programs and their constituencies. Less programs equals less supporters, which equals less Democratic Party.

Already the Democratic Party is in a fix. Labor, its main supporter, is being shipped overseas. And money, the main support of the Republican Party, is flourishing. The only thing to save the Democratic Party and the country is the free press.

But the free press is worse than both parties. The media is charged with telling the truth but they avoid it. The other day, when the Congressional Budget Office reported the government would hit a record in deficit spending for the year, the Washington Post buried the news on the bottom of page A5; but it gave front page billing to President Bush's tax cuts, which the President claims has no impact on those record deficits. Recently, when I offered an amendment to stop tax cuts and limit the explosion of the debt, nobody in the press wrote a story.

James Fallows in his book, Breaking the News, tells of the debate for a democracy between Walter Lippman and the educator John Dewey. Lippman allowed that the way to provide for a strong democracy is to gather around the table the experts in defense, health, highways, foreign policy, and the economy. Let them hammer out the needs of the country and give it to the congress for enactment. "No", said Dewey. Let the free press report the truth to the American people and the people will reflect these truths and needs through their representatives in Congress.

The press avoids the truth. They are completely bemused by politics, promoting conflict between the candidates and the parties. The increase in the debt before us reflects the true national debt, but hereafter the press will obscure the national debt by Ernon accounting, making the debt and deficit look smaller than they are.

The press will report the "on-budget deficit", "unified deficit", and "public debt" as separated from the "government debt"—numbers that do not take into account what the government loots from Social Security and other trust funds, which is the true deficit and debt. The taxpayers can't follow this, they can't know. Little do they realize the deficit last year exceeded the sum total of 30 years of deficits during the Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford years. We are spending and cutting taxes like drunken sailors.

Europe's fiscal discipline requires a nation's debt not to exceed 60 percent of its gross national product before it can become a member of the European Union. Our national debt exceeds 60 percent, and is rising. We don't even qualify to enter the European Union.

Today interest costs are almost $1 billion a day, and with $600 billion deficits it will exceed $400 billion a year. Without this waste we could double the defense budget or give everybody in America the best health care. But with this waste, the dollar drops in value, interest costs rise, and the Nation is impoverished.

For the first time in history our generation will leave a lesser nation for the next generation. But rather than report on the state of the Union, all the free press can report is that Gary Hart is not running.

In the interest of time, I ask unanimous consent to have printed in the RECORD the budget realities demonstrating the state of the Union.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### HOLLINGS' BUDGET REALITIES

[In billions]

| Presidents and fiscal years | U.S. budget (outlays) | Borrowed trust funds | Unified deficit with trust funds | Actual deficit without trust funds | National debt | Annual increases in spending for interest |
|---|---|---|---|---|---|---|
| Truman: | | | | | | |
| 1947 | 34.5 | −9.9 | 4.0 | +13.9 | 257.1 | |
| 1948 | 29.8 | 6.7 | 11.8 | +5.1 | 252.0 | |
| 1949 | 38.8 | 1.2 | 0.6 | −0.6 | 252.6 | |
| 1950 | 42.6 | 1.2 | −3.1 | −4.3 | 256.9 | |
| 1951 | 45.5 | 4.5 | 6.1 | +1.6 | 255.3 | |
| 1952 | 67.7 | 2.3 | −1.5 | −3.8 | 259.1 | |
| Eisenhower: | | | | | | |
| 1953 | 76.1 | 0.4 | −6.5 | −6.9 | 266.0 | |
| 1954 | 70.9 | 3.6 | −1.2 | −4.8 | 270.8 | |
| 1955 | 68.4 | 0.6 | −3.0 | −3.6 | 274.4 | |
| 1956 | 70.6 | 2.2 | 3.9 | +1.7 | 272.7 | |
| 1957 | 76.6 | 3.0 | 3.4 | +0.4 | 272.3 | |
| 1958 | 82.4 | 4.6 | −2.8 | −7.4 | 279.7 | |
| 1959 | 92.1 | −5.0 | −12.8 | −7.8 | 287.5 | |
| 1960 | 92.2 | 3.3 | 0.3 | −3.0 | 290.5 | |
| Kennedy: | | | | | | |
| 1961 | 97.7 | −1.2 | −3.3 | −2.1 | 292.6 | |
| 1962 | 106.8 | 3.2 | −7.1 | −10.3 | 302.9 | 9.1 |
| Johnson: | | | | | | |
| 1963 | 111.3 | 2.6 | −4.8 | −7.4 | 310.3 | 9.9 |
| 1964 | 118.5 | −0.1 | −5.9 | −5.8 | 316.1 | 10.7 |
| 1965 | 118.2 | 4.8 | −1.4 | −6.2 | 322.3 | 11.3 |
| 1966 | 134.5 | 2.5 | −3.7 | −6.2 | 328.5 | 12.0 |
| 1967 | 157.5 | 3.3 | −8.6 | −11.9 | 340.4 | 13.4 |
| 1968 | 178.1 | 3.1 | −25.2 | −28.3 | 368.7 | 14.6 |
| Nixon: | | | | | | |
| 1969 | 183.6 | 0.3 | 3.2 | +2.9 | 365.8 | 16.6 |
| 1970 | 195.6 | 12.3 | −2.8 | −15.1 | 380.9 | 19.3 |
| 1971 | 210.2 | 4.3 | −23.0 | −27.3 | 408.2 | 21.0 |
| 1972 | 230.7 | 4.3 | −23.4 | −27.7 | 435.9 | 21.8 |
| 1973 | 245.7 | 15.5 | −14.9 | −30.4 | 466.3 | 24.2 |
| 1974 | 269.4 | 11.5 | −6.1 | −17.6 | 483.9 | 29.3 |
| Ford: | | | | | | |
| 1975 | 332.3 | 4.8 | −53.2 | −58.0 | 541.9 | 32.7 |
| 1976 | 371.8 | 13.4 | −73.7 | −87.1 | 629.0 | 37.1 |
| Carter: | | | | | | |
| 1977 | 409.2 | 23.7 | −53.7 | −77.4 | 706.4 | 41.9 |
| 1978 | 458.7 | 11.0 | −59.2 | −70.2 | 776.6 | 48.7 |
| 1979 | 504.0 | 12.2 | −40.7 | −52.9 | 829.5 | 59.9 |
| 1980 | 590.9 | 5.8 | −73.8 | −79.6 | 909.1 | 74.8 |
| Reagan: | | | | | | |
| 1981 | 678.2 | 6.7 | −79.0 | −85.7 | 994.8 | 95.5 |
| 1982 | 745.8 | 14.5 | −128.0 | −142.5 | 1,137.3 | 117.2 |
| 1983 | 808.4 | 26.6 | −207.8 | −234.4 | 1,371.7 | 128.7 |
| 1984 | 851.9 | 7.6 | −185.4 | −193.0 | 1,564.7 | 153.9 |
| 1985 | 946.4 | 40.5 | −212.3 | −252.8 | 1,817.5 | 178.9 |
| 1986 | 990.5 | 81.9 | −221.2 | −303.1 | 2,120.6 | 190.3 |
| 1987 | 1,004.1 | 75.7 | −149.8 | −225.5 | 2,346.1 | 195.3 |
| 1988 | 1,064.5 | 100.0 | −155.2 | −255.2 | 2,601.3 | 214.1 |
| Bush: | | | | | | |
| 1989 | 1,143.7 | 114.2 | −152.5 | −266.7 | 2,868.3 | 240.9 |
| 1990 | 1,253.2 | 117.4 | −221.2 | −338.6 | 3,206.6 | 264.7 |
| 1991 | 1,324.4 | 122.5 | −269.4 | −391.9 | 3,598.5 | 285.5 |
| 1992 | 1,381.7 | 113.2 | −290.4 | −403.6 | 4,002.1 | 292.3 |
| Clinton: | | | | | | |
| 1993 | 1,409.5 | 94.2 | −255.1 | −349.3 | 4,351.4 | 292.5 |
| 1994 | 1,461.9 | 89.0 | −203.3 | −292.3 | 4,643.7 | 296.3 |
| 1995 | 1,515.8 | 113.3 | −164.0 | −277.3 | 4,921.0 | 332.4 |
| 1996 | 1,560.6 | 153.4 | −107.5 | −260.9 | 5,181.9 | 344.0 |
| 1997 | 1,601.3 | 165.8 | −22.0 | −187.8 | 5,369.7 | 355.8 |
| 1998 | 1,652.6 | 178.2 | 69.2 | −109.0 | 5,478.7 | 363.8 |
| 1999 | 1,703.0 | 251.8 | 124.4 | −127.4 | 5,606.1 | 353.5 |
| 2000 | 1,789.0 | 258.9 | 236.2 | −22.7 | 5,628.8 | 362.0 |
| Bush: | | | | | | |
| 2001 | 1,863.9 | 268.2 | 127.1 | −141.1 | 5,769.9 | 359.5 |
| 2002 | 2,011.0 | 270.7 | −157.8 | −428.5 | 6,198.4 | 332.5 |
| 2003 | 2,137.0 | 222.6 | 246.0 | 468.6 | 6,667.0 | 323.0 |

* Historical Tables, Budget of the US Government; Beginning in 1962, CBO's The Budget and Economic Outlook: Fiscal Years 2004–2013.

Mr. HOLLINGS. I ask unanimous consent to have printed in the RECORD another article from the Financial Times today that the U.S. administration throws prudence out the window.

[From the Financial Times, May 23, 2003]

### TAX LUNACY

President George W. Bush declared victory yesterday in the long-running congressional wrangle over his tax proposals. "This is a Congress which is able to identify problems facing the American people and get things done," he said after House and Senate Republicans struck a deal on a $350bn tax cut over 10 years. If only that were true.

The long-run costs of financing huge US fiscal deficits, which stretch far into the future, will weigh heavily on future generations. With little of the tax cut having an immediate effect, the necessary short-run economic stimulus will be negligible.

Democrats are prone to exaggerate the culpability of the current administration in the deterioration of the US public finances from a surplus of 1.4 per cent of gross domestic product in 2000 to a projected 4.6 per cent deficit this year. The Congressional Budget Office estimates that only a third of this deterioration is due to legislative changes, the rest being either due to the cyclical downturn or excessive optimism in previous tax forecasts. The fiscal loosening over the past few years has mitigated the economic slowdown. But those caveats aside, on the management of fiscal policy, the lunatics are in charge now of the asylum.

Including "sunsetting" provisions to cut the 10-year cost of the tax measures is an insult to the intelligence of US people. Anyone who genuinely believes that in 2007 Congress will automatically reverse these tax cuts needs therapy. Much of Mr. Bush's 2001 tax-cutting package was also deemed temporary, only for the measures to be made permanent later.

Long-run US fiscal forecasts are still based on unrealistic assumptions of spending restraint that have not been met, either by this administration or by its predecessor.

And the latest wheeze in Republican circles is to dismiss forecasts of fiscal deficits because they rely on "static" forecasting techniques. "Dynamic scoring" which takes account of the effect of tax cuts on economic growth would transform the picture, they insist. But the evidence is not so kind to these assertions. The 1990s, when taxes were raised, was one of the more dynamic in US history: and fiscal deficits raise the cost of capital, reducing growth.

Never mind these facts, more extreme Republicans often say, big deficits are in our interests. Proposing to slash federal spending, particularly on social programs, is a tricky electoral proposition, but a fiscal crisis offers the tantalizing prospect of forcing such cuts through the back door.

For them, undermining the multilateral international order is not enough, long-held views on income distribution also require radical revision. In response to this onslaught, there is not much the rational majority can do: reason cuts no ice; economic theory is dismissed; and contrary evidence is ignored. But watching the world's economic superpower slowly destroy perhaps the world's most enviable fiscal position is something to behold.

Mr. HOLLINGS. Mr. President, I draw the attention of my colleagues to an article in the Wall Street Journal of May 23, 2003 by J.D. McKinnon entitled "Get Ready for Era of Budget Deficits." It says it better than I can.

Finally, as has been related in David Hale's column in today's Financial Times, what we have is those who were telling the truth like Lawrence Lindsey and Paul O'Neill. They have gotten rid of them. For those who avoid the truth or get tired of trying to avoid it, like Mitch Daniels and Ari Fleischer, they are on the way out.

As the Financial Times reported here yesterday, the Secretary of the Treasury is merely a salesman and the true Secretary of the Treasury is Karl Rove. Mr. Hale writes:

> "Economic policy appears to be under the control of the political advisers. The White House will not be able to encourage a dollar rally until Karl Rove holds a press conference on the subject."

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Financial Times, May 20, 2003]

### WASHINGTON'S WEAK DOLLAR POLICY

(By David Hale)

The circumstances now confronting the US economy are unique in the modern era. The Federal Reserve has warned about the risk of deflation after a year in which the US dollar has fallen by nearly 30 per cent against many leading currencies. Despite the weakness of the currency, US Treasury bond yields have fallen to 45-year lows and are 37 basis points under the yields of German government debt.

The dollar's decline has been painless for US financial markets because investors are complacent about inflation. The failure of bond yields to rise has also produced a policy of benign neglect in Washington. Federal Reserve officials say the falling dollar is a European problem, not a US one. John Snow, the US Treasury secretary, effectively abandoned the previous administration's strong dollar policy over the weekend by issuing his own definition of what constitutes a strong currency. It does not include market prices.

The dollar began to weaken more than a year ago but its decline has accelerated during recent weeks for three reasons.

First, the markets are concerned that the Bush administration's fiscal policy could boost the federal budget deficit to $400bn–$500bn and create a domestic savings imbalance that will expand the current account deficit to $600bn.

Second, the markets are alarmed that the US is embarking upon an imperialist foreign policy that will have unknown consequences for its fiscal position, foreign trade and relationship with other countries. In the heyday of empire, the UK ran large current account surpluses. There is no precedent for a country playing the role of global superpower with a large external payments deficit. During the cold war, the US was able to finance its defence spending in part through offset programmes with other countries. The Bundesbank, for example, stockpiled dollars as a quid pro quo for US defence spending in Germany. During the 1991 Gulf war the US received large subsidies from Japan, Saudi Arabia and other countries. With the US pursuing a more unilateralist foreign policy it will have to absorb all of the costs without help from traditional allies.

Last, the markets perceive a vacuum at the centre of US economic policymaking. In this administration power is highly centralised at the White House. The only highly visible cabinet ministers are at the departments of state and defence. The Treasury's stature and influence declined during the tenure of Paul O'Neill because of his caustic comments about many issues and his poor relationship with Congress. Mr. Snow has worked hard to improve ties with Congress but the markets see him as a salesman, not an architect of policy. Larry Lindsey and Glenn Hubbard, the people who created the administration's economic policy, have resigned.

The other institutions of economic policy are also weak. The new director of the national economic policy council is focused on internal administration rather than influencing markets. Mitch Daniels, director of the Office of Management and Budget, is leaving to pursue a political career in Indiana. The Council of Economic Advisors is being evicted from the White House. Economic policy appears to be under the control of White House political advisers, not the traditional institutions of government. In fact, the White House will not be able to encourage a dollar rally until Karl Rove holds a press conference on the subject.

As Mr. Snow's recent comments have made clear, Washington will do nothing to stabilise the dollar until there is a big correction in bond prices that might jeopardise the boom in the US housing market. But in the absence of a threat to the US housing market, the burden of adjustment will fall elsewhere. Asia will resist dollar depreciation through large-scale market intervention. China's foreign exchange reserve will expand from $280bn to $330bn this year. Japan's foreign exchange reserves will mushroom from $500bn to $600bn this year and reach $1,000bn by 2008.

If Asia is able to stabilise its exchange rates, the US will have to reduce its current account deficit through larger devaluations against other currencies. This pressure for devaluation will set in motion a process of competitive monetary reflation with the eurozone, Britain, Canada, South Africa and other countries with variable exchange rates. These countries will be compelled to cut interest rates to prevent their currencies from appreciating against the dollar.

The Bush administration is prepared to pursue aggressive fiscal and monetary policies to ensure a healthy recovery in the run-up to the 2004 presidential election. Its new weak dollar policy is designed to put pressure on other countries to reinforce this domestic growth agenda. During the late 1980s Japan created a bubble economy with rocketing prices for land and equities by pursuing a monetary policy designed to stabilise the dollar. The coming round of competitive monetary reflation is also likely to force central banks to pursue far more aggressive interest rate cuts than they expect. If it does, President George W. Bush will not win re-election. There could be Bush bubbles in many asset markets during late 2004 and 2005.

Mr. HOLLINGS. I yield the floor.

Mr. ROCKEFELLER. Mr. President, I rise today in strong support of extending the Temporary Extended Unemployment Compensation (TEUC) program. Congress created this program in March of last year to provide federally funded unemployment benefits for millions of Americans who have exhausted their regular State-funded benefits after falling victim to our weakening economy. This vital program is nearing expiration and now millions of Americans need our help.

If Congress and the President do not act before May 31, 2003, nearly 4 million long-term unemployed workers will lose benefits, including almost 14,000 West Virginians. These unemployed workers and their families need and deserve an extension—every one of them. Unless immediate action is taken, American workers who have lost their jobs through no fault of their own will be left vulnerable to economic hardship, and without a safety net. How will these families pay their mortgages and provide for their children? During these difficult economic times, how can we turn our backs on 4 million Americans?

Earlier this month, the Department of Labor announced that the Nation's unemployment rate had risen to 6 percent, representing 8.79 million Americans out of work. This is the highest national unemployment rate we have witnessed in nearly a decade. When President Bush released his growth and stimulus package, he maintained that creating jobs was his No. 1 priority. Yet, despite rising unemployment—500,000 more Americans in February and March alone—and unprecedented fiscal crises in our States, the President's proposal fails to provide assistance for unemployed workers, adequate State fiscal relief, and neglects Americans who need help the most.

West Virginia families will soon be faced with some very difficult choices. Choices between paying their mortgage or defaulting; between having health insurance or going without; between sending their children to college or dipping into their pensions to cover everyday living expenses while ruining their retirement. These are West Virginians who want to work—who are trying to work—but simply cannot find a job in the current economy. I urge my colleagues to act swiftly so that American families aren't forced to make these kinds of decisions so this dire situation is not further exacerbated.

I feel strongly about this issue because of the very real impact inaction could have on my constituents. Just recently, I was contacted by Janice Walters from Mercer County in my home state of West Virginia. She called my office searching for help. Ms. Walters truly epitomizes the American worker that we must help.

In September of last year, Ms. Walters was laid off from a communications company. As a 49-year-old single mother of two with many cost-of-living expenses, she now has no income and no health insurance coverage, forcing her to face some of the stark choices I discussed earlier. To support her family, she began collecting unemployment insurance. In addition, she took a part-time job and began taking classes in computer sciences at a local college to learn new skills that she could apply to a new career. Unfortunately, she will not exhaust her State benefits until the week after the current TEUC program expires, leaving her ineligible for TEUC benefits. If the TEUC program is permitted to expire, Ms. Walters, and millions like her, will be left unemployed and unassisted.

Fortunately, such a tragedy is preventable. If we act on an extension today, Ms. Walters will get an extension and she will receive benefits. This is progress. It is good to pass an extension for 2.5 million workers, including about 9,000 West Virginians. This is good news for families in need.

One particular extension leaves out and leaves behind the long-term unemployed families. A simple extension, which is all that the majority will consider, excludes 1.1 million unemployed workers, and 3,900 of those people live in West Virginia. They face real hardship, and they too deserve help.

Throughout this debate, I have supported the efforts of Senator KENNEDY and others to provide comprehensive unemployment benefits to all 3.6 million unemployed workers. If we can enact a huge tax cut targeted to the wealthiest Americans, shouldn't we also help every unemployed worker?

Providing unemployment benefits helps the unemployed, and it also helps our economy as a stimulus. History tells us that unemployment benefits are spent quickly, and every $1 of such benefits generates $1.73 in economic activity. This is a real and an immediate stimulus for local economies. There is no certainty about how changes in corporate dividends will affect the economy. This administration should recognize the urgent needs of all unemployed workers.

I am pleased that we are taking action to help many unemployed workers, like Ms. Walters. I also believe we should help the 1.1 million long-term unemployed. This is the definition of real economic stimulus and real compassion.

Mr. KOHL. Mr. President, today the Senate passed up yet another opportunity to extend and expand unemployment benefits. Instead we passed a necessary, but inadequate, 13-week extension of eligibility for extended benefits. Unfortunately, this extension will not help the 1.1 million long-term unemployed workers in this country who have already exhausted 26 weeks of unemployment. Senator KENNEDY's attempt to give these hard-working folks who have not been able to find a job for over 6 months additional benefits has been voted down once again by the other side of the aisle.

The Congress has been talking for weeks and months about the importance of stimulating the economy and putting money into the hands of consumers. It is clear, however, that the Republicans are not interested in giving all consumers a little extra money but only those who have high paying jobs. What can be more stimulating to the economy than putting money in the hands of people who need it tomorrow, instead of waiting months or years for tax cuts to have an impact? Why can't the Congress give the same benefits to unemployed workers today that they have received in the past? Benefits that these workers have paid for by paying into the unemployment insurance fund? Not only have today's workers earned these additional benefits but they have paid for them as well. The unemployment trust fund can afford an extension of an additional 13 weeks of benefits for those who have exhausted the 26 currently provided, and Congress should do it again as we have in the past.

I do not understand the priorities of those who are willing to let working families lose their benefits and go into debt while handing out tax cuts to people who do not need them. It is a shame to turn our backs on the people who helped fuel the strong economy in the 1990s. We owe them more for making this country successful and prosperous. We owe them a strong secure safety net when they lose their jobs through no fault of their own. Thirteen additional weeks of unemployment benefits is only a small tribute to the strength and perseverance of the American worker, and I am disappointed that this Congress has once again denied them the respect they deserve.

Ms. SNOWE. Mr. President, I rise today in support of legislation to extend Federal emergency unemployment benefits to the millions of Americans who have exhausted their regular benefits.

I strongly believe that, given the state of the economy, Congress has an obligation to extend the Federal Temporary Extended Unemployment Compensation, TEUC, program before we leave for the Memorial Day recess. This is especially urgent when considering the U.S. Department of Labor has estimated that by the end of 2003 more than 2.1 million workers will have exhausted their State unemployment compensation benefits without finding work. In my State of Maine, almost 11,000 unemployed Maine workers are projected to exhaust their State and Federal unemployment benefits in the next 6 months and more than one-quarter of these workers, 26 percent, will have exhausted all benefits available under the extension and still be unable to find work.

The bill before us today is similar to Senator MURKOWSKI's legislation, S. 1079, of which I am a cosponsor, and is an extension of the current Federal TEUC program due to expire at the end of May. H.R. 2185 will extend TEUC for an additional 7 months, to December 31, 2003, and will provide benefits to an estimated 2.1 million Americans.

But we must think of these many millions of unemployed Americans as more than just numbers. In Maine, they live in towns like Millinocket, Old Town, and Sanford, where large, established employers have either closed their doors or downsized, and in the process forced longtime workers onto the unemployment rolls. If the program is not extended, according to the Maine Department of Labor, 6,000 Maine workers will exhaust their State unemployment benefits without ever receiving any Federal benefits. Extending temporary Federal benefits is particularly important for hard-hit mill towns like Millinocket, where every store and every landlord has been affected by the layoffs. The TEUC program can get help to those individuals and those communities that need it most.

In closing, Mr. President, I believe that it is critical for Congress to continue to provide the temporary support to families who have been hurt by the economic downturn, and give these families access to the resources they need to stay afloat until they can find new, gainful employment. As such, I am proud to be a cosponsor of the Senate version of H.R. 2185, and urge my colleagues to join me in support of this effort.

## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2185 to extend the Temporary Extended Unemployment Compensation Act of 2002; providing further that the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

Mr. HOLLINGS. I object.

Let me get it straight. Do we have the yeas and nays?

Mr. REID. We will take care of you. Let's get this done.

Mr. HOLLINGS. I withdraw my objection.

Mr. REID. If I might, I appreciate very much the consideration of the Senator from South Carolina because we have not finished his amendment. We failed to tell him that the Senator from Alaska was going to offer this request.

This is, as I understand it, the House passed unemployment insurance compensation action; is that true?

Ms. MURKOWSKI. That is correct.

Mr. REID. We have no objection.

We are very grateful this is completed. As we indicated earlier, we are sorry it is not an extended benefit but we are better off than we were an hour and a half or 2 hours ago. We extend our appreciation to the majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2185) was ordered to a third reading, read the third time, and passed.

## INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT—Continued

### AMENDMENT NO. 836

Mr. HOLLINGS. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I say to the Senator from South Carolina, the Senator from Iowa will speak for a very brief period of time and then he is going to, I understand, move to table your amendment.

I wonder, is the Senator going to yield back his time?

Mr. HOLLINGS. I am happy to yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRASSLEY. I will yield back my time.

I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. GRASSLEY. The Hollings amendment would prevent the "disinvestment" of the Social Security Trust Fund. What that means is if we did not increase the debt limit, the Social Security Trust Fund could not be used to pay Social Security benefits. We need to defeat this amendment and pass a clean debt limit bill so Social Security checks can go out on time.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 836.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from North Carolina (Mr. EDWARDS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Edwards
Kennedy

The motion was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### SENATOR PETE V. DOMENICI'S TWELVE-THOUSANDTH VOTE

Mr. FRIST. Mr. President, may I have the attention of the Senate. On the last rollcall vote, No. 201, the one we just completed, the distinguished senior Senator from New Mexico, current chairman of the Energy and Natural Resources Committee, and the former long-serving chairman of the Budget Committee, Senator PETE V. DOMENICI, cast his twelve-thousandth vote in this Chamber—12,000 votes.

(Applause, Senators rising.)

Senator DOMENICI now joins a very historic and select club of Senators who can claim this distinction. Senators now cast more votes in each Congress than they did in the past. So while historical records are not perfect, our Senate Librarian says we are safe to conclude that among all Senators who have served since the beginning of the Republic, Senator DOMENICI is in a class of only ten.

Since the beginning of the Republic, only nine other U.S. Senators have similarly cast more than 12,000 votes in their careers in the Senate. Five of them are serving today. The Club of Nine now becomes the Club of Ten with Senator DOMENICI's last vote today.

The Club of Nine has been: Senator Claiborne Pell; Senator William Roth; Senator William Proxmire; the current President pro tempore, Senator TED STEVENS; Senator EDWARD KENNEDY; Senator DANIEL INOUYE; Senator ERNEST HOLLINGS, Senator Strom Thurmond; and—with over 16,685 votes—the all-time record, Senator ROBERT C. BYRD.

Senator DOMENICI, I know I speak for all of your colleagues, all of your fellow Senators, when I say: Congratulations on this achievement. But, more importantly, thank you for your tremendous service over the years to New Mexico, to your country, and, most importantly, to the U.S. Senate.

Mr. DOMENICI. Thank you.

(Applause, Senators rising.)

I thank you very much. I know people are ready to catch airplanes, and we are on a time schedule, and I should say only a couple of words, if any. So I will say that sometimes it seems as if I am just starting. Sometimes late at night, it seems as if I have been here forever. I don't know how my wife, who is watching, is taking this. It may be that she might be thinking it is going to come to an end soon and perhaps we will not be here any longer. I hope not.

But let me say to all of you: Thank you for your kind words. But, most of all, thanks to the Senate. It did not take 12,000 votes to learn how to be a Senator but it took some time. Once you get there, you know you are. Once you are a Senator, there is just nothing like it. Once you know what the Senate is, you know there is nothing like it. I have been given enough time for both.

I believe I know how to be a Senator, and I believe I know what the Senate is. Both have been heralded and written about. Whatever it is that has been said is all true. It is a rather fantastic place. You cannot serve with a greater group of people. There is no conceivable way that I, as an American, could spend time with 100 men and women of the caliber that we have here, whatever that is in terms of their variety of skills, measures, and attributes; and that is for sure.

With that, and for that, I thank all of you. In particular today, for doing this, I thank our distinguished majority leader.

Thank you very much.

(Applause, Senators rising.)

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in the interest of time—I want to turn to the Democratic leader for his comment—but I have asked all of our colleagues to withhold further comments on this celebration, to submit them for the RECORD or to give them after we complete the voting today. We are trying to keep the bill moving.

Again, I want the Democratic leader to comment but then I do ask our colleagues to wait to speak on this celebration. They will have an opportunity to do so later.

Mr. REID. Will the majority leader yield?

Mr. FRIST. Yes.

Mr. REID. Mr. President, I ask unanimous consent that all Senators wishing to make statements regarding Senator DOMENICI be allowed to do so, and at such time as they are completed, that they be put in a proper cover and given to Senator DOMENICI.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Democratic leader.

Mr. DASCHLE. Mr. President, I add my heartfelt congratulations, as well, as we celebrate this special moment in the distinguished career of our friend and colleague, Senator DOMENICI.

It was Teddy Roosevelt who once said: Life has no blessing like that of the ability to work hard at work worth doing. No one knows that better than Senator DOMENICI. He has worked hard at work worth doing now for all of these years.

I remember I was a young staff person in 1973, and he was a newly elected Senator from New Mexico, formerly the mayor of Albuquerque. Even back then many of us recognized—because of his intelligence, his good will, and the way he was able to demonstrate his ability to work across the aisle—that we would have the good fortune to work with him for a long, long time.

He has now cast more votes than 1,877 of our colleagues, including most of us on the Senate floor.

As we mark this occasion—knowing he has many more years to go, knowing he has many more thresholds to break—we congratulate him, we wish him good fortune, and we recognize this extraordinary achievement today.

I yield the floor and, again, congratulate him heartily.

Mr. DOMENICI. Thank you very much.

Mr. DASCHLE. Mr. President, we have three Senators who are seeking recognition to offer amendments. Senator DORGAN has an amendment that will take 10 minutes; Senator HARKIN, 10 minutes; and Senator DURBIN, 5 minutes. They will all ask for a voice vote on their amendments. Following that, we will be ready to go to final passage.

Mr. REID. Mr. President, could I ask unanimous consent those be the only amendments in order.

The PRESIDING OFFICER (Mr. ROBERTS). Is there objection?

The Chair hears none, and it is so ordered.

The distinguished Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, let me also congratulate my colleague from New Mexico: A hearty congratulations to you.

### AMENDMENT NO. 837

Mr. President, I know airplanes are waiting and jet engines are idling, and there are some Members wishing to leave this Chamber quickly.

Let me, in a matter of a couple minutes, say a word about the national debt and then about the trade debt.

We worry a lot about the national debt, as a result of budget policy in the Congress. So we actually come to the Congress, and we come to the floor of the Senate, and we vote on putting a limit on Federal debt. We have a debt limit. However, there is another debt, and there is no limit on that debt. I am referring to the foreign debt—the debt that results from trade deficits.

We have a Federal budget deficit this year that is expected to be somewhere around $317 billion. That is the current estimate. But if last year's figures are any guide, our trade deficit this year will be much higher than the federal budget deficit, well over $435 billion. And that trade deficit means an increase on our foreign debt.

There is no limit on the foreign debt. Whatever it is, it is. Wherever it goes, it goes. That is just the way we, apparently, have decided to live with it as country, for as long as we can get away with it.

Well, in my judgment, we ought to have some basic limitation with respect to trade debt, or at least some mechanism that triggers actions if the trade debt exceeds a certain level.

My amendment, which I have at the desk, would say that when U.S. foreign debt exceeds 25 percent of GDP, or the trade deficit exceeds 5 percent of the GDP, it triggers the following: USTR will be required to, within 15 days of such a breach, convene an emergency meeting of the Trade Policy Review Group, and within 45 days present to Congress, from that group, a report detailing the Trade Policy Review Group's trade deficit reduction plan.

My feeling is we ought to have some basic limitation on what we are doing with respect to international trade. I do not suggest we put borders around this country or we, in any way, inhibit trade. But trade needs to be fair trade—and it is not.

As shown on this chart, this is what has been happening to our trade deficit. The ink is all red and it is escalating at a very serious rate.

Let me use one example to show the absurdity of what is happening in international trade. It involves the country of South Korea.

I just picked this but I could pick China, Europe, Japan, Canada, Mexico. I just happen to pick South Korea.

In 2001, Korea shipped 618,000 vehicles into our country—Hyundais, Daewoos, etc.—all around our country. Do you know how many cars we were able to ship to South Korea? We shipped 2,800 American cars to South Korea.

Why is that the case? South Korea does not want our cars sold in that country. They put up every kind of imaginative trade barrier you can think of.

We just had an example in the first part of this year with the Dodge Dakota pickup. Daimler-Chrysler started to sell the Dodge Dakota pickup in Korea. They were actually fairly successful. They had 60 orders in February and they had 60 orders in March. They don't make a pickup that is equivalent to the Dodge Dakota in South Korea. So at an annualized rate, that would have been almost a 50-percent increase in U.S. car imports alone in that country just with the Dodge Dakota pickup.

Guess what happened.

In March, an official from the Ministry of Construction and Transportation decided: Enough of those Dodge Dakotas. He said people were going to put optional cargo covers on them and that might make them dangerous if passengers rode in the back. He announced that cargo covers on pickups and Dodge Dakotas are illegal. South Korean newspapers had big headlines: "Government Ministry Finds Dodge Dakota Covers Illegal."

Guess what happened. Immediately, Korean customers cancelled their orders for Dodge Dakotas. And all of a sudden, we were not selling Dodge Dakota pickup trucks in Korea anymore. So here we are, 618,000 cars headed to the United States, and we only get to sell 2,800 in Korea.

I could talk about China and wheat, Europe and beef, Canada and durum. I could talk about Mexico. I don't have the time today because several of you want to leave. I respect that. But I do want to at least offer this amendment. I will accept a voice vote.

I will come back with this amendment because this country ought to have the spine to stand up for fairness in trade. One of the reasons we are hemorrhaging in red ink is that trade circumstances with our major trading partners are simply not fair to American producers and to American workers. We need to change this.

We can attempt to ignore this forever, but we do it at our peril. You can make a case that budget deficits we owe to ourselves, and we will repay ourselves. You cannot make a similar case with the trade deficit. We inevitably will repay a trade deficit with a lower standard of living in the United States. This country should be about the business of having fair trade, requiring fair trade, and requiring enforcement of existing trade agreements.

I have a lot more to say. I will say it at some future time.

I ask that the amendment be called up. It is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 837.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To impose limits on United States foreign debt)

At the appropriate place, insert the following:

**SEC. . FOREIGN DEBT CEILING.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has become the world's largest net debtor Nation, having run up massive trade deficits in the 1990s.

(2) At the end of 2001, the net United States foreign debt stood at over $2,300,000,000,000.

(3) The United States foreign debt position worsened in 2002, when the United States had a record trade deficit of over $436,000,000,000, equivalent to 4.1 percent of the United States GDP that year.

(4) The large and growing United States foreign debt represents claims on United States assets by foreign nationals, which will eventually have to be repaid. If unchecked, the foreign debt could seriously undermine our children's future standard of living.

(5) Moreover, the growing accumulation of foreign claims on United States assets, including nearly $1,200,000,000,000 in United States Treasury securities, makes the United States economy vulnerable to the whims of foreign investors.

(6) Congress presently places a ceiling on United States public debt, but does not place a ceiling on United States foreign debt.

(7) Just as Congress recognized the importance of placing a ceiling on the United States public debt, it is appropriate that Congress place a limit on the United States foreign debt.

(b) ACTIONS TRIGGERED BY UNITED STATES FOREIGN DEBT.—

(1) IN GENERAL.—Not later than the 15th day of the second month after the date of enactment of this Act, and every 3 months thereafter, the United States Trade Representative shall determine if—

(A) the net United States foreign debt for the preceding 12-month period is more than 25 percent of United States GDP for the same period; or

(B) the United States trade deficit for the preceding 12-month period is more than 5 percent of United States GDP for the same period.

(2) ACTION BY USTR.—Whenever an affirmative determination is made under paragraph (1) (A) or (B), the United States Trade Representative shall—

(A) within 15 days of the determination, convene an emergency meeting of the Trade Policy Review Group to develop a plan of action to reduce the United States trade deficit; and

(B) within 45 days of the determination, present to Congress a report detailing the Trade Policy Review Group's trade deficit reduction plan.

(c) MEASUREMENT OF FOREIGN DEBT.—

(1) STATISTICAL SOURCES.—For purposes of the calculations described in subsection (b)(1), the United States Trade Representative shall rely on the most recent period for which the following data, published by the Department of Commerce, is available:

(A) In the case of United States foreign debt, the United States Trade Representative shall use the net international investment position of the United States, with direct investment positions determined at market value, as compiled by the Bureau of Economic Analysis.

(B) In the case of the United States trade deficit, the United States Trade Representative shall use the goods and services trade deficit data compiled by the United States Census Bureau.

(C) In the case of the United States GDP, the United States Trade Representative shall use the nominal gross domestic product data compiled by the Bureau of Economic Analysis.

(2) ADJUSTMENT.—The United States Trade Representative may adjust the data described in paragraph (1) to ensure that the determination is made for comparable time periods.

The PRESIDING OFFICER. Does any Senator wish to speak to the amendment? The distinguished Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I want to speak in opposition to the amendment. I think the information the Senator from North Dakota wants, and wants in one document or one report, is a very legitimate bit of information, not just a small bit but a legitimate amount of information that he wants, and it is a reasonable request. I think a lot of it exists in the Department of Commerce and maybe it is just a case of bringing it all together. But that can't be the issue today. The issue today is, if we amend this bill, it goes back to the House, and then we are in a situation where we are not able to operate Government. We can't wait until the month of June to get a conference with the House on this issue. The Secretary of Treasury has made it very clear that he has taken all prudent and legal steps available to him to avoid reaching the statutory debt limit.

I urge everybody to vote against the amendment regardless of the merits.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will take a voice vote and say, this amendment will be visiting the floor of the Senate again soon on another matter. I appreciate the comments from the Senator from Iowa. I believe this is an important issue. I hope my colleagues will support it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 837.

The amendment (No. 837) was rejected.

### AMENDMENT NO. 838

The PRESIDING OFFICER. The other distinguished Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the debt resolution that we have before us raises the debt limit by $984 billion—a record, the biggest ever in the history of the United States. What does that mean for the average American family? It means we are adding the equivalent of $3,500 to the credit card of every man, woman, and child in America. For a family of four, you just got $14,000 added to your family's debt. These are new charges. That is just what we are about to vote on here. This is the new debt on top of the old debt. Now that is the debt.

How about the interest charges? Under the President's budget, we will see interest on the debt rise from an estimated $240 billion this year to $514 billion in 10 years under the assumptions of the budget pushed through by the majority that closely followed the President's plan in many respects. That is $1,800 a year for every person in the country. That is just on the interest, $7,200 a year for a family of four in 2013 and higher sums thereafter. The ranking member of the Finance Committee, the Senator from Montana, said it right: We are imposing, No. 1, a debt tax on our children and grandchildren. But we are also imposing an interest debt tax on our families.

We just went through this whole thing about this tax bill that skews everything to the wealthy. We all know that. Yet what about our families? I am sure they will say: We got some good things for families. We got a little marriage penalty thing there; we have a child credit, all that. But in 10 years, the interest just on the debt we are voting on today will be $7,200 a year for a family of four, right out of their taxes, $7,200 a year. Tell me about how much we have helped our families with this crazy tax bill we just passed this morning?

And right now, I think the vote we are about to take on this debt bill says it all. Tax cuts for those at the top, a few little things for working families, but we are going to gouge the working families of this country by making them pay the interest on the national debt—$7,200 a year for a family of four, just on the interest.

More and more every year we go down the pike, more and more of the taxes that our hard-working Americans pay will go for what? To pay the interest on the national debt. Will we get any more education? No. Will we pay our teachers better? No. Will we invest more in medical research? No. Will we have better prescription drugs for the elderly? No. We won't do all those things because it is going to go to pay the interest on the national debt. That is what we are about to vote on right here.

Just the other day I went over to the Cannon House Office Building. They had a big demonstration there of fuel cells, renewable energy. That is what we ought to be investing in. That is what the Government should be investing in to make us energy independent. Guess what. We won't put the resources into that important need like we should. We will dribble a little bit here and there, but we won't do it right. Why? Because we are paying interest on the national debt. And why are we raising the debt? Because we have this big tax cut. Why do we have this big tax cut? It does please the wealthy contributors of the Republican Party. That is a part of it.

Now we are going to vote to increase the national debt, put it on the backs of every man, woman, and child in the Nation.

Well, there is one other thing. Because of this exploding debt and the interest on the debt that we will have to pay, it is a threat to the solvency of Social Security and Medicare. The President's tax plan is larger, if made permanent, then the entire 75 year estimated shortfall in both Social Security and Medicare. Later this year, the President says he wants us to work a prescription drug benefit for the elderly for $400 billion. He is going to squeeze everybody into HMOs type organizations. Why? Because we don't have enough money to pay for a good plan because it is going to pay the interest on the national debt so we can cover outrageous giveaways to the very wealthy.

I might talk about Medicare fairness. We voted this week on an amendment offered by my colleague from Iowa to take care of some Medicare fairness. Eighty-six Senators voted for it. It was not in the President's plan. The President said, no, we can't do that now. It is squeezing everything out.

I want to talk about the specifics of my amendment, to provide for a true cost of tax bills requirement. The official score or estimate of what the tax bill is supposed to cost is $350 billion. But, that is not what really occurred. Don't take my word for it, take the word of the Speaker of the House. This was in Congress Daily today:

> Although the $350 billion tax cut bill moving toward President Bush's desk is half of the original request, House Speaker HASTERT told Congress Daily Thursday that the final package incorporates key features of the House plan. "The 350 billion number takes us through the next 2 years basically," HASTERT said. "But also it could end up being a trillion-dollar bill because this stuff is extendable. That is a fight we are going to have to have, and it is not a bad fight to have."

There you go. It is not $350 billion. It is closer to $1 trillion. The editorial in the Washington Post this morning said the same thing.

According to the Center on Budget and Policy Priorities, if we keep these tax breaks going, the total cost will be a minimum of $815 billion. And now, after all of that, what are we asked to do? Go to the well and vote for the largest increase in the national debt ever held paying for this tax break for the wealthy.

My amendment is very simple. I call it the "telling the true cost of the tax bill" requirement. The premise is that Congress and the American people should know the real cost of major tax provisions—not the Enron kind of budgeting we have had for this tax bill.

My amendment would require the Joint Tax Committee to reveal the true 10-year cost of provisions in the tax bill that cost over $1 billion a year when fully in effect. In other words, to show the full cost, the Joint Tax Committee would provide true costs regardless of the variety of gimmicks we have seen used in the 2001 tax bill, as well as the tax bill being passed this morning.

If a provision sunsets early, the cost will be provided as if it is in place for the full 10-year period. That is what this amendment does. I have the amendment here. I will send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 838.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Requiring estimates of certain decreases in Federal revenues for periods after the decrease is sunset)

At the appropriate place, insert:

**SEC. . TELLING THE TRUTH ABOUT THE LONG-TERM COST OF TAX CHANGES.**

(a) IN GENERAL.—If the Joint Committee on Taxation prepares an estimate of any applicable proposed change in Federal revenue law, the committee shall include with such estimate an estimate of the decrease in Federal revenues which—

(1) in the case of an applicable proposed change described in subsection (b)(1), would have occurred without regard to the reduction or termination described in such subsection during the portion of the period covered by the estimate after the reduction or termination, and

(2) in the case of an applicable proposed change described in subsection (b)(2), will occur during the 10-fiscal year period beginning with the fiscal year following the first fiscal year in which the proposed change becomes fully effective.

(b) APPLICABLE PROPOSED CHANGE.—For purposes of this section, the term "applicable proposed change" means any of the following proposed changes in Federal revenue law:

(1) SUNSET OR REDUCED CHANGES.—Any proposed change which—

(A) when fully effective will have an estimated decrease in Federal revenues of more than $1,000,000,000 in each fiscal year, and

(B) provides for the termination of such change, or a reduction in such revenue decrease, on or before the close of the period covered by the estimate which the Joint Committee on Taxation is otherwise preparing for such proposed change.

(2) DELAY IN FULL EFFECT.—Any proposed change which—

(A) becomes fully effective at any time during the last 4 years of the period covered by the estimate which the Joint Committee on Taxation is otherwise preparing for such proposed change, and

(B) when fully effective will have an estimated decrease in Federal revenues of more than $1,000,000,000 in each fiscal year.

Mr. GRASSLEY. Mr. President, as well intentioned as the amendment is to bring information to the Congress from the Joint Committee on Taxation, to bring a greater degree of transparency to where we are on certain tax legislation, I have to ask my colleagues to vote against this amendment because if it were adopted, it would force the bill back to the House and we would not be able to fund Government. We would also have a situation of having to have a conference. I urge my colleagues to vote against it.

The PRESIDING OFFICER. Does any other Senator wish to speak on the amendment?

The Senator from Iowa.

Mr. HARKIN. Mr. President, look, one more time. The reason we cannot have amendments to this bill is because the House has gone home? We are going to have the biggest increase in the national debt this country has ever seen and the House went home? That is why we cannot amend it?

Please explain that to my constituents in Iowa, or anywhere in the country, that somehow it makes sense that we cannot amend it because the House went home and we are going to have the biggest increase in debt in this country.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 838) was rejected.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 839

Mr. DURBIN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 839.

Mr. DURBIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a CBO report on any new debt created by a budget resolution upon the reporting of that budget resolution)

At the end of the resolution, insert the following:

**SEC. . CBO REPORT ON DEBT IMPACT OF BUDGET RESOLUTION.**

Section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632) is amended by adding at the end the following:

"(j) CBO DEBT IMPACT REPORT.—Each budget resolution reported out by the Committee on the Budget of the House of Representatives or the Senate shall be accompanied by a report from CBO containing CBO's best estimate of the following:

"(1) The amount of new debt subject to limit, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that would be created if the budget resolution is adhered to, assuming reserve funds are spent and reconciliation instructions are fully complied with.

"(2) The amount of new debt subject to limit, if any, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that would have been created if the budget resolution simply reflected the CBO baseline without policy changes.

"(3) The difference between paragraphs (1) and (2).

"(4) Of the amount determined in paragraph (3)—

"(A) the amount of new debt subject to limit, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that is attributable to tax changes; and

"(B) the amount of new debt subject to limit, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that is attributable to policy changes other than tax changes.".

Mr. DURBIN. Mr. President, today, the once proud Senate is no longer a voice, it is an echo—an echo of a bygone era when giants in the Senate strode the halls of this great institution. But not today. On amendment after amendment, we are told that the Senate is voiceless, the Senate is powerless, the House has left and there is nothing we can do. We have turned into a unicameral legislature before your eyes.

Now a majority of the Senators parade in the halls of this great institution with signs that read "me, too," signs that read "the House of Representatives knows best," signs that read "the Senate no longer has time to think or to act. We just do what the House tells us to do."

No matter how good the suggestion or amendment on the floor of the Senate today, it has been summarily rejected by the majority. Efforts to protect Social Security, rejected; efforts for accountability in budgeting, rejected; efforts for accountability of this White House and future Presidents, rejected. Why? Because the House told us to take it or leave it.

Well, I have hope for the Senate and the Members. I give you an amendment now that you can embrace to show you still believe in the Senate as it once reigned on Capitol Hill, embrace because you understand that on its face it is so logical, straightforward, so easy that you can embrace this amendment with the full knowledge that when you vote on final passage and go home, at least once today you stood up for the dignity of this great institution; at least once today, you thought for yourself; at least once today, common sense prevailed.

What does this amendment do? It simply calls for accountability. Once each year, the CBO will tell us what our actions have done to add to the national debt. It will tell us whether tax increases are going to create more debt for our children. It will publish that number and put it into terms so every single American will know whether we have increased the mortgage on America for our children and grandchildren to carry. That is it. It is so simple, straightforward.

My friend from Iowa, the chairman of the Senate Finance Committee, from that commonsense bastion in the Midwest, that great State of Iowa, I know he believes in accountability, he believes in standing up for a report card on Congress, and that he will stand with me shoulder to shoulder, bipartisan, proud to tell the American people what we have done, proud to admit to the American people if we have added to their debt. I know he will be with me on this and he will break the shackles of the House of Representatives, and we will finally come together in a bipartisan fashion for the future of the Senate. I will applaud him for standing in support of the amendment.

I am only going to ask for a voice vote because I know it is going to be unanimous.

The PRESIDING OFFICER. Does any other Senator wish to speak to the Senator's embracing amendment?

Mr. GRASSLEY. Mr. President, I want to speak the common sense of Iowa to the Senator from the political machine of Chicago and to express a simple statement of fact: If, in fact, we had adopted the minority's budget, the Democrat budget, earlier this year, we would be facing the exact same increase in the debt ceiling now and by almost the same exact amount of money throughout the rest of the year. So it doesn't matter whether you are in the majority or we are, we would be doing about the same thing right now. So don't try to fool the people of America. You cannot do it even if you are from Chicago.

The PRESIDING OFFICER. Any other Senators wishing to be heard? The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, Chicago can handle itself, whether we are playing Iowa in sports or in politics, but I ask my friend from Iowa, if you believe the deficits don't count, stand tall, stand proud, and admit that to the American people. Just go ahead and tell them once a year whether you have added to the national debt by the actions in Congress. It is that simple. It is a report card on what we do. I am sure the Senator from Iowa is in favor and doesn't want to leave any taxpayer behind.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 839) was rejected.

The PRESIDING OFFICER. If there be no further amendments to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 51) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. FRIST. Mr. President, once again, I thank the chairman of the Finance Committee for his hard work yesterday and today. In addition, I thank all Members for their patience and cooperation throughout this legislative period, a very productive few weeks of session. We have had busy days and long nights. It was worth the effort.

The next vote will be the last vote prior to the Memorial Day recess. The Senate will reconvene on Monday, June 2. However, no rollcall votes will occur that day. Members can expect the next rollcall vote on Tuesday at approximately 12 noon. That vote most likely will be in relation to an amendment to the energy bill.

I wish everyone a safe recess, and I look forward to working with everybody following this recess.

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The joint resolution having been read the third time, the question is, Shall it pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—53

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed (RI)
Reid (NV)
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—3

Edwards
Kennedy
Kerry

The joint resolution (H.J. Res. 51) was passed.

Mr. FRIST. I move to reconsider that vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## UNANIMOUS CONSENT AGREEMENT—DEFENSE AUTHORIZATION

Mr. FRIST. I ask unanimous consent when the Senate receives from the House the companion to S. 1050, the Defense authorization bill, the Senate proceed to its consideration at a time determined by the majority leader, after consultation with the Democratic leader; provided further that all after the enacting clause be stricken and the text of S. 1050 as passed be inserted in lieu thereof; and further, any other amendments in order be: Warner, two amendments regarding BRAC; Dorgan-Lott, BRAC amendment, 30 minutes equally divided, no second degrees; Kennedy-Cornyn-Brownback-McCain, immigration, 30 minutes, equally divided; Reid-Inhofe, concurrent receipts; that the amendments be subject to relevant second degrees under the same debate limitation except where noted.

I further ask consent that following the disposition of the above mentioned amendments, the bill be read the third time and the Senate then proceed to a vote on passage of the House measure, as amended; finally, I ask that the Senate then insist on its amendment, requesting a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I think the Senator from West Virginia requested 20 minutes and I ask the unanimous consent request be modified to accommodate Senator BYRD's request.

Mr. FRIST. Mr. President, I will ask unanimous consent that the Senator from New Hampshire have 5 minutes, followed by Senator BYRD for 20 minutes, followed by Senators BOND and TALENT for 10 minutes, and prior to the Senator from New Hampshire, 30 seconds to Senator SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROTECTING SOCIAL SECURITY BENEFICIARIES FROM COLA CUTS

Mr. SPECTER. I ask unanimous consent that the Daschle amendment numbered 834 be modified to be placed in the form of a Senate resolution; that the resolution, be adopted the preamble be adopted, with a motion to reconsider being laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, this resolution provides that Social Security cost-of-living adjustments shall be maintained.

I thank the Chair. I thank my colleagues. I thank the Democratic leader.

The resolution (S. Res. 155) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 155

(a) FINDINGS.—The Senate finds that:

(1) Social Security provides a relatively modest insurance benefit for seniors—many of whom rely on Social Security for part or all of their monthly income. Without Social Security, forty-eight percent of beneficiaries would be in poverty today.

(2) In order to protect benefit levels against inflation, Social Security beneficiaries receive an annual cost-of-living adjustment (COLA) based on Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

(3) The January 2003 COLA provided only a 1.4 percent increase in Social Security benefits, increasing the average monthly benefit for all retired workers by only $13 (from $882 to 895).

(4) Annual growth in Medicare premiums and out-of-pocket health care costs for retired individuals on fixed incomes far exceeded the small COLA increases provided to Social Security beneficiaries.

(5) Reducing COLAs will disproportionately harm low-income Social Security beneficiaries and push millions of seniors into poverty.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Social Security cost-of-living adjustments should not be reduced.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

## MEDICARE VISION REHABILITATION SERVICES ACT OF 2003

Mr. SUNUNU. Mr. President, today I rise to ask my colleagues to join me in supporting the Medicare Vision Rehabilitation Services Act of 2003. This is legislation I introduced in the Senate this past week to deal with vision impairment, one of the most common disabilities affecting seniors today.

Millions of Americans currently have impaired vision. The number of people in the United States with vision impairments continues to increase. The vision impairment is a loss of vision that is not correctable by standard glasses, contact lenses, medicine or surgery. One of the leading causes of vision impairment and blindness in the United States is age-related disease and that is why it is important we begin to deal with this serious illness under our Medicare system.

Vision rehabilitation assists individuals with this serious vision loss so they can safely navigate in their own homes and within their local environments. Vision rehabilitation services help people avoid medication errors, help them cook and use kitchen utensils safely, and help avoid burns and falls; in short, help them to be more independent in their own community and enable them to enjoy a better quality of life.

Importantly, vision rehabilitation services promote safety and that all-important independence for our elderly. This legislation would ensure that Medicare coverage for vision rehab services would be made available to all of our elderly citizens in the United States.

It would make the coverage available nationwide. It would establish strict qualifications in the Medicare Program for specially trained vision rehabilitation professionals who operate under physician supervision and allow them to provide the highest possible quality services in the home when deemed medically necessary.

One in five older Americans, over 7 million people, report some degree of serious vision impairment. More than 700,000 older Americans are legally blind. According to the CDC, falls among older people cost the Government more than $20 billion a year, and vision problems were specifically cited as one of the leading causes of these falls. If only one in five of the hip fractures due to vision impairment were prevented, each year the annual cost savings would be hundreds of millions of dollars.

Nearly anyone suffering from vision loss can benefit from vision rehabilitation services that can help patients make the most of whatever vision they do have remaining.

Specifically, this bill takes a number of important actions. It establishes national coverage under Medicare for the provision of rehabilitation services. It defines rehabilitation services as services provided to a person with a vision impairment under a plan of care developed by a physician, allowing these services to be furnished both in-office and in a patient's home. It defines a vision rehabilitation professional as well as setting out the educational criteria these providers must have.

This legislation ensures payment under the existing physician fee schedule. That is important. There was an awful lot of work put into developing this legislation, so we did not have to create a new or separate physician fee schedule. The legislation also requires the patient care plan be developed by a physician in order to receive reimbursement under Medicare. That plan has to attest that vision rehabilitation services are medically necessary, and is a plan that periodically is reviewed by a physician.

It is a strong, focused program that provides coverage for these very important services under Medicare. In over a 5-year period, the independently estimated cost is less than $10 million—less than $10 million, to begin to address one of the leading causes of accidents that disable our elderly citizens in their homes. It is less than $10 million over a 5-year period to increase independence, to increase quality of life, and to provide a better quality of care in a home setting.

I think this is an important piece of legislation that can make an enormous difference for millions of older Americans under Medicare.

I do thank the cosponsors who have already agreed to support this legislation—Senator STEVENS, Senator McCAIN, Senator COLLINS, Senator BUNNING, Senator SPECTER, Senator BURNS, Senator ALLEN, Senator KERRY, Senator LINCOLN, Senator MILLER, Senator ROCKEFELLER, Senator CANTWELL, Senator KENNEDY, and Senator LANDRIEU.

It is a strong, bipartisan coalition that will work throughout this year to see that this legislation is signed into law, making a difference by adding vision rehabilitation services to Medicare and making that difference in the lives of millions of elderly Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

## MEMORIAL DAY

Mr. BYRD. Mr. President, this coming Monday is the last Monday in May. Since the adoption of the National Holiday Act, Public Law 90-363, the last Monday in May has been celebrated as Memorial Day. The origins of Memorial Day extend far earlier than 1971, stretching back to the Civil War, when the practice of decorating the graves of fallen soldiers became widely practiced in the United States. And in the earlier years, the people, particularly the people of the southern states, celebrated this as Decoration Day.

Honoring the fallen in battle is an ancient custom, extending at least to the ancient Greeks. Thucydides provides us with one example. It was the custom in Athens to conduct an elaborate funeral for all those killed in battle. A sacrifice would be made, the fallen laid to rest with ceremony, and then a funeral oration would be given. After the first battles of the Peloponnesian War, the brilliant politician and general, Pericles, was the orator. He used his speech to honor the dead but also to pay homage to the state for which they had fought. His love and admiration for Athens reflects the feelings of patriotism, pride, and love for the United States that have swelled in our breasts since the terrible events of September 11, 2001, and since the brave performance put on by U.S. forces in Iraq this spring.

Pericles said, in part:

> . . . fix your eyes upon the greatness of Athens, until you become filled with the love of her; and when you are impressed by the spectacle of her glory, reflect that this empire has been acquired by men who knew their duty and had the courage to do it, who in the hour of conflict had the fear of dishonor always present in them, and who, if ever they failed in an enterprise, would not allow their virtues to be lost to their country, but freely gave their lives as the fairest offering which they could present at her feast. The sacrifice which they collectively made was individually repaid to them; for they received again each one for himself praise which grows not old, and the noblest of all tombs, I speak not of that in which their remains are laid, but that in which their glory survives, and is proclaimed always and on every fitting occasion both in word and in deed. For the whole earth is the tomb of famous men; not only are they commemorated by columns and inscriptions in their own country, but in foreign lands there dwells also an unwritten memorial of them, graven not on stones but in the hearts of men.

So in the hearts of every family reunited, every child now free to attend school, everyone of every faith now allowed to worship freely, dwell the unwritten memorials to American fighting men and women. In France, in Flanders field, in Belgium, in Austria, Sweden, all across Europe, in the Philippines and across Southeast Asia, still beat hearts that remember the faces of American G.I.s who liberated them.

At home, as well, the fallen live on. In the hearts of their families, in the caring hands that place poppies on graves in military cemeteries, in the flags snapping proudly in the breeze at doorsteps around the Nation, the Nation's fallen heroes are remembered. Without them, our Nation and our history would be forever altered. Without the heroes of Bunker Hill and Lexington and Yorktown, we might still be a British colony. Without the heroes of Gettysburg and Appomattox, we might not be a United States but two separate nations. Without the heroes of the Ardennes and Ypres, of Normandy and Tarawa, the globe would be redrawn in very different shapes. Without the heroes at the Yalu River and at Da Nang, the Iron Curtain might have encircled the globe.

To each generation of heroes, we offer our silent thanks. And to the Creator, we must offer our prayers that the succeeding generations will be equally brave and equally patriotic, as ready to meet the rigors and challenges to come as are our soldiers, sailors, airmen and Marines today. We must hope that we bequeath to our future generations a nation worthy of such sacrifice, a nation, as Pericles proclaimed of Athens ". . . for whose sake these men nobly fought and died; they could not bear the thought that she might be taken from them; and every one of us who survive should gladly toil on her behalf."

The United States' guiding philosophy, our signal principles of freedom, liberty, opportunity, of government by the people—these are the enduring monuments of America's greatness. They are our greatest treasure, to be guarded most jealously and defended most zealously. For them have the fallen filled our military cemeteries. Even as we continue the so-called "war on terror," we must guard against undermining our principles for the sake of some gossamer illusion of security.

Our government must operate openly, before the view of the people. The people's branch—here it is. The people's branch, the Congress, must defend its prerogatives lest the Executive assume the powers of a tyrant. We must deal freely and fairly and honestly on the world stage, using our strength for the common good and maintaining the friendship built upon freely spilled blood and shared sacrifice. And we must treat our people as citizens, not potential terrorists, to be profiled and bugged and tapped and taped and held indefinitely without the full protections of the law. All the law enforcement techniques and technologies in the world will not eliminate all risk. If we are to honor the greatness of our Nation and the sacrifice of all those who have laid down their lives in her defense, we must be careful not to frighten ourselves into some kind of quasi police state.

This Memorial Day, we honor the fallen from our wars by marking their graves with flowers and flags. In life, they were just like us. They came from all walks of life, from every State and territory, from farms and city streets. They were young, and funny, and brave. They were our children, our brothers and sisters, our fathers and mothers. They were members of many families and members of the American family. In death, they are a silent reminder of the high price some must pay so that the rest of us might enjoy the benefits of living in this great Nation. Put a flag or a flower down this weekend, but for the rest of the year, guard dearly the principles of the Nation they fought and died for. The greatest and most lasting memorial to our Nation's dead is to cherish and pass what is best about our Nation.

I close with the words of Van Dyer in his poem "America For Me."

As schoolchildren, we all memorized this poem and others like it:

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study Rome,
But when it comes to living, there is no place like home.

I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In the friendly western woodland where Nature has her way!

I know that Europe's wonderful, yet something seems to lack!
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,—
We love our land for what she is and what she is to be.

Oh, it's home again, home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri.

## UNANIMOUS CONSENT REQUEST—S. RES. 154

Mr. BOND. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 154 regarding the European Union action against agricultural biotechnology, a resolution submitted earlier today by me and Senators TALENT, LINCOLN, LUGAR, and BAUCUS. I further ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I object to the request made by my good friend from Missouri, that land from which Old Crumb, that great hunting dog, came. I believe it is Warrensburg, MO, where that statue stands today, the statue of Old Crumb, that great hunting dog.

But I must on this occasion object. I do it at the behest of another Senator. I assure the distinguished Senator that I bear no ill will toward him, certainly. But, on this occasion, I have promised that I would object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. BOND. Mr. President, I understand how this place works. We knew there was to be an objection. But we have submitted a resolution which will be referred to committee because it is a matter of great importance. While apparently 99 Senators did not have an objection, we will have an opportunity when this matter is reported out of the appropriate committee to deal with what I think is a very serious issue.

This resolution before us today expresses strong support for President Bush's decision to stand up for our trade rights before the World Trade Organization. The action taken by our President is right on principle, right on law, right on science, and it is morally right.

Two years ago, the European Environment Commissioner, Margot Wallstrom, told a news conference the following:

> We have already waited too long to act. The moratorium is illegal and not justified. The value of biotechnology is poorly appreciated in Europe and there's a risk the biotechnology industry will not develop.

In short, we could not have said it better. We appreciate the Commissioner's courage to be so candid.

Since reason has not prevailed in Europe, it is time for our overtaxed patience to give way to the need to exercise our rights before the World Trade Organization. If the Europeans had been satisfied to exist as a "plant technology free zone" without aggressively attempting to influence other nations, this action would not have become as imperative as it is.

Mr. President, this European ban on plant biotechnology is a lesson about the serious harm that can come in the form of unintended consequences. Too-clever politicians in Europe, coupled with the hysterical anticommercial activists, decided they could whip their public into a frenzy and shield the European Union producers from U.S. competition by suggesting that the new technology is not safe.

Even perhaps more venal—if that is possible—certain left wing organizations decided they could raise fears and cause unfounded scares in the public and raise money through solicitations to fund their own salaries by spreading lies about the food that we in the United States eat every day.

But now that the European Union politicians are listening to their scientists and realize that the technology is safe, they say they cannot accept it because their public is against it. In other words, they now claim to be hostage to the misinformation they created and, indeed, fostered.

Consequently, we now have a major trade infraction. Our farmers have lost $300 million a year in corn exports. The European public doubts the credibility of their science community. European investment in new plant science is in sharp decline. Their farmers do not have access to new technology. Most importantly, world-renowned scientists are leaving the European Union.

They are coming to Missouri, where our leading scientists, such as Dr. Roger Beachy and Dr. Peter Raven, are hiring them and providing them a refuge where they can practice their science free from the Luddite hysteria or "Eurosclerosis" from which they came.

But most tragically—most tragically—the countries in the developing world have been frightened into refusing to feed their starving people the food we have sent them—which is food we eat—because they fear the hysterical European rejection is more serious than death by starvation. We have sent food, humanitarian efforts, to aid and keep these people alive. Unfortunately, their leaders have been frightened by Europeans who say they will never import from them again.

Regrettably, I would say that Europe's fastest-growing exports are hysteria and underappreciated plant scientists. We would like Europe to join us in our efforts to help feed the hungry in the world, not scare the world into needless, wanton starvation.

I do not believe this is where the Europeans wanted to be when they started this nonsense but this is where it has predictably taken them.

This technology was developed, studied, tested, reviewed, approved, planted on several hundred million acres over 7 years, rereviewed and reapproved, using a strict and science-based system. We are basing our review on science and on experience—lots of experience.

All of us in America today are eating the food that has been improved by genetic modification. We recognize that no technology will ever be 100-percent safe. We must regulate this and other technologies aggressively and thoroughly and scientifically. But this has been the most scrutinized new food technology of our age—or any age—and it has been planted on several hundred million acres around the world for many years. The naysayers still have not identified a single stomachache coming from biotechnology, despite their desperate search.

Our findings are not unique in the world. The case we have taken against the EU is joined by the Governments of Argentina, Canada, Egypt, Australia, Chile, Colombia, El Salvador, Honduras, Mexico, New Zealand, Peru, and Uruguay.

The U.S. National Academy of Sciences completed a report that "emphasized it was not aware of any evidence suggesting foods on the market today are unsafe to eat as a result of genetic modification."

I can list those which agree with us: the World Health Organization, France's Academy of Sciences, the American Medical Association, the French Academy of Medicine, the Royal Society of London, the Brazilian Academy of Sciences, the Chinese Academy of Sciences, the Indian National Science Academy, the Mexican Academy of Sciences, and many others.

Twenty Nobel laureates, including Dr. Norman Borlaug, known as "the father of the Green revolution," with whom I spoke earlier this week on this subject, has come out in strong support. All of the major U.S. scientific societies are behind this technology. Dr. Patrick Moore, founding member of Greenpeace and a trained biologist, said directly:

> I believe we are entering an era now where pagan beliefs and junk science are influencing public policy. GM foods and forestry are both good examples where policy is being influenced by arguments that have no basis in factor logic.

The scientific consensus on this matter is overwhelming. In this country, farmers, scientists, regulators, courts, shareholders, elected officials, editorial boards, and consumers have all ratified the product and process and future of biotechnology in their own ways. For all practical purposes, it is a settled issue, and remains so.

In my office last week I had a South African cotton farmer who said that new technology in a seed has changed his life. He now has a harvest. He produces profitably. He has a savings account. And now all his neighbors are using that technology.

U.S. agriculture continues to be on the forefront of the application of modern science. In 1940, it took one farmer to feed 19 people. Now one farmer feeds 129 people. But tragically, 800 million children in the world remain hungry. New applications of biotechnology in the U.S. have increased crop yields by 4 billion pounds, saved growers $1.2 billion, and reduced pesticide use by 46 million pounds in the year 2001 alone.

If wealthy citizens in Europe want to shop at trendy expensive food boutiques, that is their right, but their government should not be preventing the public from choosing their diet, and it most certainly should not be discouraging the developing world from trying to eat well to grow and live a better life.

I am very proud of the work President Bush and Ambassador Zoellick, Administrator Natsios, Under Secretary Larson, Ambassador Hall, and many others have done to preserve the viability of this new technology. The EU has made agreements with us to abide by rules they are now flagrantly ignoring. These promises should be kept.

I appreciate the cosponsors of this resolution, the support of farm groups, including the National Corn Growers, Missouri Farm Bureau, and Missouri Soybean Association.

The best arguments on behalf of this are contained in Wednesday's article in the Wall Street Journal by U.S. trade ambassador, Robert Zoellick. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 21, 2003]

### UNITED STATES V. EUROPEAN UNION

(By Robert B. Zoellick)

The U.S.—joined by Argentina, Canada and Egypt, and supported by nine other countries—last week asked the European Union to lift its moratorium on approving agricultural biotech products, in accordance with the rules of the World Trade Organization.

The world stands on the threshold of an agricultural revolution. The science of biotechnology can make crops more resistant to disease, pests and drought. By boosting yields, biotechnology can increase farmers productivity and lower the cost of food for consumers. It can help the environment by reducing pesticide use and preventing soil erosion. And new crops offer the promise of something greater still: foods fortified with nutrients that could help stem disease—including saving the eyesight of over 500,000 children who go blind each year because they lack Vitamin A. Where food is scarce, or climates harsh, increased agricultural productivity could spell the difference between life and death, between health and disease for millions. Biotech rice, for example, is twice as resistant to drought and saltwater, while withstanding temperatures about 10 degrees lower than other varieties.

For almost five years, the EU has violated its own rules and procedures—and disregarded the advice of its scientific committees and commissioners—by arresting action on applications for biotech food products. This moratorium violates the EU's basic WTO obligations to maintain a food approval process that is based on "sufficient scientific evidence" and that acts without "undue delay."

Some Europeans have asked why the U.S. and its 12 partners would not wait longer. Yet the European commissioners working to lift the moratorium are the hostages of their member states. As Environment Commissioner Margot Wallstrom concluded last October: "I have stopped guessing when the moratorium would be lifted—[S]ome member states are opposed—and will have to move the goal posts." We stopped guessing, too.

As we have waited patiently for European leaders to step forward and to deploy reason and science, the EU moratorium has sent a devastating signal to developing countries that stand to benefit most from innovative agricultural technologies. This dangerous effect of the EU's moratorium became evident last fall, when some famine-stricken African countries refused U.S. food aid because of fabricated fears—stoked by irresponsible rhetoric—about food safety.

As a major importer of food, Europe's decisions ripple far beyond its borders. Uganda refused to plant a disease-resistant type of banana because of fears it would jeopardize exports to Europe. Namibia will not buy South Africa's biotech corn for cattle feed to avoid hurting its beef exports to Europe. India, China and other countries in South America and Africa have expressed the same trepidation. "Thirty-four percent of the children [in Africa] are malnourished," says Dr. Diran Makinde of the University of Venda in South Africa. Yet Africans are told of biotech crops: "Don't touch them."

For five years, the world has waited patiently, assured by European officials that a change in policy is "just around the corner." But around every corner we have found a new roadblock. First, we were asked to wait until new biotech approval regulations were drafted. Then it was to wait for a labeling scheme, then for rules on legal liability, and then for new regulations on where biotech crops can and cannot be planted.

While Europe has added barrier after barrier to fight fictions, biotechnology has demonstrated benefit after benefit based on facts. "No till" biotech farming has reduced soil erosion by one billion tons a year. Over the past eight years, biotech cotton and corn have reduced pesticide use by 46 million pounds of active ingredients. The Chinese Academy of Science estimates biotech could reduce China's pesticide use by 80%.

Overwhelming scientific research shows that biotech foods are safe and healthy—a conclusion that the EU's own Directorate-General for Research reached two years ago. The National Academies of Science and Medicine in France concur. So do the scientific Academies of Brazil, China, India, Mexico, the U.K. and the U.S. Dr. C.S. Prakash of Tuskegee University presented me with a statement signed by more than 3,200 scientists world-wide, including 20 Nobel laureates, supporting agricultural biotechnology.

Some claim that we are "forcing" biotech foods on European consumers. Yet all we ask is for consumers to have the right to make their own decisions, a right they are now denied because the EU is blocking access to foods that EU regulators and scientific associations acknowledge are safe. The legal case for biotechnology is clear, the science overwhelming, and the humanitarian call to action compelling. We hope this debate will lead the EU to finally lift its moratorium without imposing new barriers.

Mr. BOND. I join with many of my colleagues in commending the President and his team as they go to Europe aggressively to press their case before the G–8 meeting in France next week.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I ask unanimous consent that Senator BUNNING be added as a cosponsor of this resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. TALENT. Mr. President, I spoke on this last night, and my friend and colleague from Missouri has covered the ground well, but I wish to say a couple things that I think are important to emphasize.

The first is, it is becoming increasingly obvious to everyone around the world that there is no reason, other than market protection, not to permit a biotech product into Europe. It is not bad for the environment. It is good for the environment.

In 2001 alone, biotechnology reduced the application of pesticides by 46 million pounds in addition to reducing soil erosion and creating an environment more hospitable to wildlife.

It would be good for the environment of Europe and the world to allow a biotech product there. It would be good for them, frankly, to start using it in raising their own product.

It is also increasingly obvious that there is no safety hazard. Practically everybody in America has eaten biotech corn or product made from biotech soybeans. There has not been a single case or suspicion of anybody being hurt by it. And, of course, there would not be because producers have been adjusting plant genetics for decades and decades and decades. This is just a new way of doing a very old and a time-honored thing that is very important to the production of the agriculture and to the advancement of human welfare.

I congratulate the administration on filing this WTO action. It is, if anything, overdue. I congratulate my friend and colleague for his comments. I hope the Senate can get behind the resolution just as quickly as possible and support the administration in this effort.

I know the support for biotech is bipartisan in this Chamber. I believe very strongly that it is overwhelming. I know we have tried to do this quickly this week, and maybe too quickly. Maybe we will not get it done today but I hope we can get it done soon and the Senate can go on record.

I close by saying, it is not just a question anymore of fairness and fair trade and the truth prevailing—as important as all those issues are. It is a question of hunger in the world. To me, the turning point was when the European Union countries not only refused to take the biotech product themselves, which I don't even think is defensible, but then they began trying to convince African countries that are in danger of famine to turn down shipments of safe, nutritious U.S. humanitarian biotech food aid.

This is now a question of trying to get food to people who are starving. That is too much, even for the European Union. I think it is time we said it. That is the point of this WTO action. That is the point of our resolution. That is the reason my colleague from Missouri has spoken on this important issue late at the end of this week. That is the reason I wanted to come down to the floor and join him in his comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, before I begin, I should note my good friend, the senior Senator from Missouri, is on the floor. He had to put a unanimous consent request earlier, knowing that under the procedures we follow, it would be objected to by the senior Senator from West Virginia.

I will tell my friend from Missouri that in my 29 years here, I have never heard an objection so eloquently stated as was stated by the senior Senator from West Virginia. I think of the number of times we all make these requests, and most of the time unanimous consent requests are granted, as the Senator knows. For example, he recently made one allowing the junior Senator to speak and for me to follow. I can't help but think it would be nice if sometimes it wouldn't get so rancorous around here, if we could hear more of the words of Senator BYRD in this regard. He included a history, geography and literature lesson, all in a simple "I object." It makes life better.

I wish my friend from Missouri a good break, as I do my friend, the distinguished Presiding Officer. He will soon, I am sure, be heading to New Hampshire, as I will to Vermont.

## GLOBAL HEALTH AND THE PRESIDENT'S BUDGET

Mr. LEAHY. Mr. President, I rise to speak on a far more serious matter. I listened to the speech the President gave at the Coast Guard Academy a few days ago. I must say that this Democrat agrees with so many of the things the President said. I was especially pleased to hear him speak about the importance of foreign aid to America's security. But I became concerned after I looked behind the rhetoric of the President's speech. I wanted to see if the President's own budget request reflected his words. It does not.

At the Coast Guard Academy, the President spent a good deal of time talking about the global AIDS crisis, the worst public health threat in human history. I commend President Bush for that. He has shown great leadership on AIDS, although a bipartisan group in Congress has been pushing for action on AIDS for years.

The bill we passed last week, an authorization bill, authorized $15 billion over 5 years to combat AIDS , tuberculosis and malaria. It is an important step forward. It showed that we are beginning to take the AIDS pandemic seriously. But before we all applaud ourselves and pat ourselves on the back, let's have a dose of reality. This was an authorization bill. It does not appropriate any money.

For all intents and purposes, it is like writing a check without enough money in the bank. I can recall a meeting on a different subject where someone was offering a pledge of close to $1 billion to fund an initiative. Kidding around, I said: I will double that. I will give you my check for $2 billion. In fact, I had $138 in a checking account.

That is what we have done here. By passing the AIDS authorization bill, we have promised to write a check without enough money in the bank.

Let me explain. The President's budget request contains only about half of the $3 billion authorized for AIDS for fiscal year 2004. It remains to be seen whether the promise of that bill—a promise with which I agree—will be fulfilled. To do that, the President is going to have to submit a budget amendment for the balance of these funds.

It also remains to be seen whether the Foreign Operations Subcommittee will get the allocation that supports that amount.

The bill we passed also authorized $1 billion for the global fund to fight AIDS and TB and malaria. Again, another promise. For fiscal year 2004, the President has only budgeted $200 million for the Global Fund, that is one-fifth of the amount we authorized. In addition, it is a cut of $150 million from what was appropriated last year.

There is another problem. While the President's fiscal year 2004 budget for foreign operations does include approximately $1.2 billion to combat HIV/AIDS, it robs Peter to pay Paul to pay for increases in HIV/AIDS programs, as the President's budget cuts other essential international health programs anywhere from 5 to 63 percent.

Let's take a look at the chart. The information on this chart, incidentally, is from the United States Agency for International Development.

Child survival and maternal health programs are cut by 12 percent. These are the programs that provide lifesaving child immunizations. They also help to reduce needless pregnancy-related deaths each year. People will be astounded when they hear how many of these types of deaths occur each year. Six hundred thousand deaths. Many of these deaths could be easily prevented if we just put more resources into these programs. Instead, the President's budget cuts these programs by 12 percent.

It would cut programs for vulnerable children by 63 percent.

It would cut programs to combat other infectious diseases such as measles.

Measles kill 1 million children—not 100,000 or 200,000—but 1 million children a year. Again, this is something which is easily preventable. Every one of us can just go to the doctor's office and get our children and grandchildren immunized against measles. In many poor nations, parents and grandparents do not have that luxury. They need our help.

Does the President's budget show leadership on this issue? No. It cuts the programs which help combat measles, as well as polio, SARS, and other deadly diseases by 32 percent.

These are not my numbers, these are the administration's numbers. These numbers are in the President's budget.

Are we in favor of stopping children in poor countries from dying of measles? Of course we are. Are we in favor of fighting SARS? Of course we are. Are we in favor of fighting polio? Of course we are. Who is going to say they are against it? No one.

But, when you look at this budget, there are cuts to these and other critical international health programs. These cuts also include programs for disease surveillance. In the past, these funds for disease surveillance have been used to strengthen the World Health Organization's ability to respond quickly to outbreaks like SARS.

Everybody in this Chamber knows we will have another outbreak of either SARS or, perhaps, something far worse. There is no question that we need disease surveillance programs, because every one of these diseases is just one airplane trip away from the United States. Why would we want to cut funds for these programs?

The President's budget would also cut funds for drug resistance, which is a looming public health crisis. Many lifesaving antibiotics are already virtually useless because of resistance caused by the misuse of these drugs. The President's budget cuts funds to combat drug resistance.

While the President's budget would increase funding to combat AIDS—although nowhere near the amount promised in the bill we passed last week—it does so by cutting the budget for other global health programs.

These cuts will hurt children the most in countries where vaccines costing a few pennies make the difference between life and death. That is not acceptable.

If somebody said to us, look at those five children, you can save their lives by spending a dollar, would we do it? Of course, we would do it. Why then does the President's budget do the opposite by cutting these programs? I find this deeply troubling.

These are not Democratic or Republican programs. I have been joined time and again by colleagues on the other side of the aisle who support these initiatives in both the Senate and the House.

Mr. President, anyone who knows anything about public health knows that building the health infrastructure in developing countries is essential if you are going to effectively combat AIDS. It is the same thing with child nutrition. It is the same thing with maternal and reproductive health. You don't fight AIDS in a vacuum. It isn't an either/or proposition. People who are malnourished, who are in poor health, who have weak immune systems, who are at risk of other infections, are far more vulnerable to AIDS. It is common sense.

In addition to helping to combat AIDS, these international health programs are vitally important for their own sake. They save millions of lives for very little money. They fight diseases that we eradicated in the U.S. years ago. When I was growing up, the municipal pool would close in the summer because of polio. You never hear of such things anymore. We should be doing the same thing overseas with these types of diseases—making them a thing of the past.

Over the past 5 years, we have built up these global health programs, and each year they yield more and more results. It would be unconscionable to cut these programs. But that is exactly what the President is asking Congress to do—cut these programs.

Last week, Republicans opposed our amendments to correct some serious problems in the AIDS bill—problems they acknowledged. They said we could not take time to get the bill right, because we needed to act quickly so the President could point to this bill as a sign of U.S. leadership at the Group of Eight meeting in France next month.

Let's be serious. If the White House had wanted, they easily could have supported those amendments and made this a better bill. We also could have made sure that this bill got to the President's desk in plenty of time. It is clear to me that the other side's opposition had a lot more to do with political ideology than the President's travel schedule. And, that is simply not enough to justify the provisions in the bill that are going to make it more difficult to prevent the spread of AIDS. As a result, the President will go to France with an AIDS bill that is only half funded.

In addition, he is going to use that bill to urge other nations to do more to fight AIDS. Now, I agree that other nations should do more. This is not something the U.S. could or should do alone. But the world should ask the President, the leader of the wealthiest nation on earth, whether he is going to back up his own words with deeds.

When he asks others to do more, as he should, his own budget should not slash funding for the Global Fund to Fight AIDS and for other international health programs. The world should also ask why the United States is spending less than 1 percent on programs to combat poverty, including global health. After all, we are the wealthiest Nation on Earth. It is not only in our security interests, but also our moral responsibility, to do more.

Mr. President, at the Coast Guard Academy, President Bush spoke about other important foreign aid programs, such as the Peace Corps, Famine Fund, and the Millennium Challenge initiative. Not surprisingly, these are some of the programs his foreign aid budget favors.

But he did not mention that his budget not only slashes funding for global health but also for development assistance, which pays for everything from children's education, to agriculture research, to democracy building. His budget cuts food aid and assistance to refugees—the world's most vulnerable people. And, we have all seen the images of refugee camps around the world. People pushed from their homes because of famine or war or natural disasters often end up living in horrendous conditions.

This is not compassionate conservatism. It may conserve money, but it is not compassionate. It is shameful.

More to the point, the President's national security strategy recognizes the essential role of foreign aid. While we read about the importance of foreign aid in his national security strategy, we don't see it in his budget request.

Look at this chart. Food aid is cut by 17 percent. International disaster assistance for floods and earthquakes and wars is cut by 18 percent.

We hear a lot of speeches on the floor talking about our moral responsibility to the rest of the world.

While we may feel good about giving these speeches, I do not feel good about the lofty rhetoric that bears little resemblance to reality. And, unfortunately, we have another great example of this in the President's budget request. Great speeches, bad reality.

The President should do what he says. He should do what he is asking others to do. He should submit a budget amendment for the $3 billion authorized to fight AIDS. He also should request the funds to prevent the cuts to other vital global health programs.

Most importantly, he should start treating foreign aid for what it is: a critical investment in America's security. Less than 1 percent of the Federal budget is used to combat the conditions that cause poverty and conflict around the world. This is woefully inadequate. It shortchanges America's future. It invites insecurity.

One would have thought that if September 11 taught us anything, it was that business as usual is no longer tolerable. As I have said before, the President deserves credit for his Millennium

Challenge initiative. It provides some additional foreign aid funds.

But, I ask Senators to look behind the curtain to see how it is funded. Some is new money. Sadly, the rest is from cuts to other essential programs.

And let's keep things in perspective. Before we congratulate ourselves too much, let's remind everyone that the Millennium Challenge, on an annual basis, amounts to less than what my own little State of Vermont of 600,000 people spends on public education. That is not a serious response to the challenges we face.

I also credit the President for his famine fund initiative, but I question what the real point is. He already has the authority he needs to respond to famines. The problem is that his fiscal year 2004 budget would cut title II food aid by more than the amount the famine fund would add. Again, robbing Peter to pay Paul. Unfortunately, both Peter and Paul are starving.

If we are going to lead, and especially if we are going to ask others to do more, we are going to have to stop playing shell games with the foreign aid budget. Leadership is good policy. Leadership means resources. Leadership means ideas. Leadership is not a press release.

Senator FEINSTEIN, Senator HAGEL, Senator SMITH, and so many others, Democrats and Republicans, have spoken out about the need for substantially more resources to protect America's interests abroad. When are we going to stop talking and start acting?

As I have told the President before, I would strongly support him on these issues. But, I am not going to support empty rhetoric. I want to see the money. It is one thing to go on foreign trips and talk to leaders and say: Look at this AIDS authorization bill I have. But, it does not make much sense if the money is not there. And, in this budget, the money is not there.

I call on the President: Let's forget the politics. Let's come up with the right ideas on AIDS. Let's come up with the right ideas on the Millennium Challenge Account. But, once we have the right policies, let's put real resources behind these policies. And, to pay for these increases, we should not cut programs for global health, disaster assistance, refugees, food aid, development assistance, and immunizations.

Let's get rid of the rhetoric. Let's put some reality in there. If we do that, then the United States can show the promise and the moral leadership a great Nation should show.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## GENETIC INFORMATION NONDISCRIMINATION ACT OF 2003

Mr. FRIST. Mr. President, last Wednesday marked an important day in the progress of medicine and national policy. I am pleased to note that on that day the Health, Education, Labor, and Pensions Committee voted unanimously to report out S. 1053, the Genetic Information Nondiscrimination Act of 2003.

For more than 6 years, I have had the opportunity to work with Senators SNOWE, JEFFORDS, ENZI, GREGG, HAGEL, COLLINS, and DEWINE on this important legislation. I believe with the invaluable contributions of Senators DASCHLE and KENNEDY that we brought to the forefront of the congressional agenda solid legislation that will provide patients with real protection against genetic discrimination in health insurance.

I will first express how much I appreciate the work of my colleague on this issue, the Senator from New Hampshire, Mr. JUDD GREGG, who is chairman of the Health, Education, Labor and Pensions Committee. It is his commitment and dedication to this issue that is primarily responsible for getting us to this point of reporting out this Genetic Information Nondiscrimination Act.

At this juncture, I also commend President Bush for his commitment to ensuring strong protections against genetic discrimination and for calling attention to this critical matter.

We began work on this issue many years ago. It was interesting when we started this work—well, not many years, about 5 years ago. But when we started this work, it was way off in the future that we anticipated decoding of the human genome would actually occur, but we were able to identify the problem, recognizing that the advances in technology, this unraveling of the genetic code, which was so revolutionary in thought at the time, would indeed introduce new challenges to the way we handled health information.

So we jump a few years later and now we can look back, and over the last few weeks the complete decoding of the human genome has been announced. That is about three billion bits of information that we did not know about a year ago. Now we know.

Just last month, America celebrated two wonderful milestones in medical science. Scientists working in collaboration with the National Human Genome Research Institute at the NIH, National Institutes of Health, published a final draft documenting that entire sequence of the human genetic code. The publication occurred more than 2 years ahead of schedule. I should also add, it came under budget. There are very few things we do in Washington that are completed ahead of schedule and under budget. This tremendous discovery, this unraveling of the genetic code of the human genome, is one of them.

The publication of this occurred more than 2 years ahead of schedule, as I mentioned, but also almost 50 years to the day from the historic publication by two icons in terms of science, Dr. James Watson and Dr. Francis Crick. The helix, called the DNA, which is a double helix—all of us have seen pictures of almost a figure 8, a three dimensional helix which was described now a little over 50 years ago. The dazzling accomplishment of this decoding of the human genome has ushered in a new era which we will see unfold over the next few years, next 5, 10 years, which will enable us to better understand diseases, how the human body functions but, importantly, how diseases affect that functioning of the human body.

This decoding has also begun to expand our understanding of human development throughout life, health, and disease processes. Specifically, the discovery of disease genes—that is, variations in the genetic code that can be associated with the manifestation of symptoms and what becomes disease—brings promises for hope for ultimately not just prevention of those diseases but also treatment and cure. Scientists very likely will be able to design drugs to treat specific genes or the manifestation of these genes. In my own field of heart and lung transplantation and other types of transplantation of tissues, organs may be specifically engineered for use in the field of transplantation. Even preventive care, where we are woefully inadequate in terms of knowledge but also in application of that knowledge today, may potentially be based in large part to genetic testing.

This potential explosion of knowledge, which is exciting to me as a scientist and as a physician, is also associated with risk. When I first joined my distinguished colleague from Maine, Senator SNOWE, in this effort several years ago, almost one-third of women who were offered a test for breast cancer risk—and this is a genetic test—at the National Institutes of Health declined. They said, no. They say: I understand that test may be able to tell whether I will get breast cancer but I decline.

You ask why. They say: The only reason, and the reason I say no, is the risk that information will be used by a health insurance company or an employer against me. What if that information got out?

I strongly believe then, as I do now, that we have an obligation, a responsibility, to protect people from the threat that their genetic information can be used against them in any way. I would say that from a medical standpoint, and from a societal standpoint, this is a moral responsibility. It is a practical responsibility. If unchecked, the fear of genetic discrimination will prevent individuals from participating, whether it is in research studies, or in the gathering of information that can be used and applied more broadly to people, either in this country or indeed across the globe. It will prevent people from taking advantage of the new technologies which can be and, in fact, almost certainly will be lifesaving. It will keep people from getting tests, even from discovering that they are not at risk for genetically related diseases. Also, the fear of genetic discrimination has the potential to prevent citizens from making informed health decisions.

If one does not have that information, they simply are not going to be able to make informed health care decisions, whether it is in lifestyle or to determine whether or not they need an annual cardiac or heart catheterization once a year, or if they have the gene for breast cancer so that they would go and get mammographies more often. If they refused to get the test because of the fear of the discrimination, clearly they are not able to make informed health decisions for themselves.

In the past, Congress has taken on the battle against broad discrimination in all sorts of legislation. We think back to the 1964 Civil Rights Act; to 1990, the American with Disabilities Act; more recently to the Health Insurance Portability and Accountability Act.

Today, we extend those protections to citizens with genetic markers, a move that has the power, I would argue, to save lives.

As I have implied, this whole field of genetic research and testing will undoubtedly unleash thrilling advances and better health care. It will lead almost certainly to cures for diseases that we cannot even imagine can be cured today. The potential medical advances that emerge from our knowledge and our understanding and that definition of the human genome that was spelled out just a couple of months ago, I know will be more dramatic than the changes I have seen in over 20 years practicing medicine, that I witnessed in my own medical career. Clearly, there will be much more advancing and pioneering than my dad saw after 55 years practicing medicine from about the 1930s to the 1980s.

As we greet the future, the excitement, the thrill of discovering what emerges from this new body of information, this definition of the human genetic code, we have a responsibility in this body to protect our body politic. I am pleased by the progress we have made thus far.

I come to the floor to speak today because I have watched this debate, I have watched this discussion, and I have seen in a bipartisan way in the Health, Education, Labor, and Pensions Committee tremendous progress being made this past week, and hopefully it can be made in the Senate as we look at discrimination in genetic testing.

I congratulate my colleagues on their persistence and dedication to the issue. It gives us an opportunity, in advance of there being a problem, in advance of the new genetic tests, to address that potential for discrimination which, in turn, if it occurred—and I believe there is a high likelihood unless we act—would be a disservice to mankind.

This legislation stands squarely on our time-tested civil rights laws establishing comprehensive, consistent, practical, reasonable, and fair protections. I strongly support this compromise bill. I am speaking today primarily because it is a compromise bill taking the very best out of the pieces of legislation that have been proposed in the past. I strongly support this compromise bill. I look forward to its swift passage.

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## EQUALITY IN HEALTH CARE

Mr. FRIST. Mr. President, I speak for a moment on the issue of equality in health care and what I have personally been able to observe, which we as a body have tried to address—in fact, have taken some major steps forward—but which stands as a major challenge which I believe we can address in this body. That is the subject of health care disparities.

In the 21st century, Americans are among the healthiest, the longest living, and robust citizens in the history of the world. We have conquered diseases that were once untreatable. Our remarkable scientists continue to develop new drugs, therapies, treatments, and procedures that every day are bringing new hope and, indeed, saving the lives of millions around the country and millions around the world. We have much of which to be proud.

At the same time, there is something we should be ashamed of because despite the dazzling medical and social progress of the last century, there remains wide health disparities and inequalities between minority and nonminority citizens. I will cite a few examples. Infant mortality rates are twice as high among African Americans versus Whites. The prevalence of HIV/AIDS in Latino populations is four times higher. And the prevalence of AIDS among African Americans is nine times higher than among Whites. African-American children are twice as likely to have asthma. They are six times more likely to die from asthma than others. And mortality rates related to diabetes are more than twice as high among African Americans and Native Americans.

The question is, why? We have made progress in understanding why, but we cannot answer that question, Why? Even when we control our access to medical services and we control for other socioeconomic factors, Americans from minority backgrounds still receive unequal care. They suffer lower quality care and, consequently, worse health outcomes. That is the challenge. The response to that challenge is we can eliminate that. We can reverse these health care disparities.

Progress has been made in recent years to close the health gap between minority and White patients. We are boosting Federal research into the cause of health disparities. We are identifying barriers to care in our communities. We are expanding the number of health professionals who have a strong commitment to the needs of minority and underserved patients. Much more, however, needs to be done.

That is why I am proposing the Health Care Gap Act of 2003. This legislation, which I plan to introduce later this year, builds on successful prior legislation to ultimately eliminate such disparities in health care. This legislation will address key areas necessary to close the health care gap in America. These include expanding access to quality health care, improving national leadership and coordination, increasing the diversity of health professionals, promoting more aggressive professional education, promoting research to identify sources of racial and ethnic disparities, identifying promising interventions, and improving and expanding programs to prevent, too manage, and to treat diseases and conditions that disproportionately impact minority and underserved populations. As I mentioned in the data I quoted, these include asthma, they include HIV/AIDS, prostate cancer, and other types of cancer.

Last weekend, I have the privilege, as so many Members—in fact, many Members departed an hour or so ago to deliver commencement speeches at high schools, elementary schools, secondary schools, colleges, and graduate schools all over the country.

I had the privilege last week of speaking at two commencement ceremonies. One was for the School of Medicine at Morehouse College in Atlanta, and also the George Washington School of Medicine here in the Washington area. In my address, I challenged these hard-working and young people—our future doctors, our future health professionals, our scientists—to become active, to actively shape and mold our profession. I told them that in this day and time in the field of medicine, we simply can no longer, as health professionals, solely practice medicine. They must lead in medicine. The same is true of us.

This bill on health care disparities, this legislation which will be introduced later this year, will do just that.

In the Senate, we must help to create a medical system that treats all patients equitably. Our national creed, that all are created equal, dictates that we must.

## HONORING BOB HOPE

Mr. FRIST. Mr. President, I take a moment to honor a great American who is celebrating his 100th birthday. Bob Hope was born one of six boys in a London suburb on May 29, 1903. His family made their way to America when he was 3, and they settled in Cleveland, OH. We can only be grateful to the Hope family for making that journey.

Growing up, Bob Hope was a shoeshine boy, butcher's mate, stock boy, newspaper boy, golf caddie, shoe salesman, and even a prizefighter—all of these things before he became one of America's most beloved and successful entertainers.

As a performer, Bob Hope had the rare and miraculous gift of being able to touch our common humanity. His famous road pictures with Bing Crosby and Dorothy Lamour were the quintessential expressions of the adventure of being an American.

But he is most loved, of course, for the thousands of hours and millions, literally millions of miles he spent in selfless devotion to our troops. World War II, South Korea, Vietnam, from the Far East to Northern Africa, the Indonesian peninsula to the heart of Europe, in refugee camps, on Air Force bases, Navy ships, jungles, forward bases, demilitarized zones, Bob Hope went wherever we needed him, and he conveyed to our troops the commitment and love of the American people.

The front rows would be filled with soldiers injured in battle, limbs destroyed, bodies wrapped in bandages. And he would manage to make them laugh. He was able, for those moments while he was on stage, giving his best to our best, to lift those young men and women out of their war-torn bodies and help them forget the fatigue, the fear, and the loneliness of battle.

Bob Hope is a giant. Bob Hope is a national treasure. We will never, ever forget his service to the United States of America.

Happy birthday, Mr. Hope.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STATE AID MEDICAID TEMPORARY

Mr. FRIST. Mr. President, one of the many interesting challenges this Congress will face is that of fundamental Medicaid reform. The President unveiled an innovative and exciting proposal earlier this year, and the budget that we adopted in April anticipates Congressional action by creating a reserve fund of resources for modernizing Medicaid.

Of course, the jobs and growth package presently before us contains a temporary state aid program of $20 billion. Under this interim plan, up to $10 billion will flow through the Medicaid program over the next 18 months. This time-limited spending, proposed in the Senate by Senators COLLINS and NELSON, as well as Senator ROCKEFELLER, is provisional, lasting only until September 30, 2004. Further, Mr. President, my three colleagues entered a colloquy in the RECORD on May 14, 2003, to that effect. The language that passed the Senate, and the language contained in the conference report, clearly states that the program itself is repealed in 2004. The Senate sponsors of this provision have acknowledged that the program is not to be permanent, and both the chairman of the Finance Committee, Senator GRASSLEY, and the chairman of the Budget Committee, Senator NICKLES, agree that this program is to last no longer than September 30, 2004. As the program unfolds, based on the commitment of its sponsors and the chairmen, I will be monitoring to ensure that the program is indeed transient, and will work with colleagues to keep it temporary.

Further, in no way does this provision in the state aid package obstruct the opportunity provided in the budget resolution for the Senate Committee on Finance and the House Energy and Commerce Committee to move ahead on Medicaid modernization. Since the administration detailed its plan, various committees in the House and Senate have explored its features, and Medicaid modernization that enhances flexibility and responsiveness is a goal many share as we move into the 21st century. I look forward to the creativity and ingenuity of the chairmen of the relevant committees, Senator GRASSLEY and Mr. TAUZIN, as they move forward in the coming weeks and months.

## ALEUTIAN ISLAND VETERANS

Mr. STEVENS. Mr. President, as Memorial Day approaches, our Nation reflects upon the courage and heroism of our Armed Forces. During this time of reflection, I hope the Congress and the Nation remember those who defended Alaska during World War II.

The Aleutian Islands were a key part of our victory in World War II. The battle fought at Dutch Harbor contributed indirectly to our success at Midway, and the fight to reclaim Attu and Kiska deprived the Japanese of a base from which to raid Alaska and limit North Pacific operations. The geography, weather, and location of the islands made these missions particularly dangerous and difficult, and the members of the military who served there deserve special recognition.

The Voice of Anchorage Times recently reported that these veterans will be traveling back to Alaska this month. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Voice of the Times, May 4, 2003]

### THOSE ALEUTIAN ISLAND VETERANS ARE BACK

(By William J. Tobin)

Once again, as regular as the return of the long days of summer, a six-man contingent of veterans of the Thousand Mile War are back in town, preparing to leave tomorrow afternoon for Kodiak, the first stop on a journey to revisit the battlegrounds of Attu, where U.S. forces fought Japanese invaders in 1943. The 60th anniversary reunion is being led by Al King of Sunrise, Fla., who keeps Aleutian Island vets in touch with each other through his Willawaw Letter—a periodic newsletter packed with names and addresses of those who served here back in those days. Each issue also is filled with personal stories and photos provided by Willawaw warriors sharing their war stories with their fellow vets. Part of the reunion ritual again will be breakfast tomorrow morning at Gwennies Old Alaska Restaurant on Spenard Road, close by their Anchorage headquarters, the Puffin Inn.

Veterans who fought with the 11th Air Force during the Aleutian campaign and members of "Americans Home from Siberia" will hold their annual reunion later this year in a spot a bit more tourist friendly than Attu. They're going to get together at the Riviera Resort and Racquet Club at Palm Spring, Calif., for a four-day Halloween weekend beginning Oct. 30. The "Home from Siberia" fliers include members of the Doolittle Raiders, the 20th Air Force and Fleet Air Wing 4, all of whom shared in the aerial battles of World War II. Herman Thompson of Talkeetna, secretary of the national 11th Air Force Association, is the reunion treasurer. He's collecting the $110-a-person registration fees that cover a Friday luncheon at the Desert Willows Country Club and a Palm Springs celebrity tour, a Saturday tour of the Palm Springs Air Museum and an evening banquet at the Riviera. Thompson's phone number, for those seeking more information, is (907) 733–2626.

## MEMORIAL DAY

Ms. LANDRIEU. Mr. President, as we reflect upon this Memorial Day, Americans throughout the country should take time to remember all the brave men and women who gave their lives in the defense of freedom and to preserve the liberties we cherish in this great Nation. We must never forget our fallen heroes, and we should continue to praise them for their service and commitment to country.

This year, in particular, we must be ever reverent because America lost some of her greatest sons and daughters in Operations Iraqi Freedom and

Enduring Freedom. Those who died did so in the defense of America from her enemies and to deliver downtrodden nations from the oppression of tyrants. I am both grateful and sorrowful this Memorial Day.

I want to express my deepest sympathies to the families and friends of those who only recently gave their lives fighting on behalf of the United States. My words cannot erase your pain, but please know my prayers are with you during this most difficult time.

It is said of those who fought in wars to defend America that "All gave some and some gave all." On this Memorial Day, I hope every American will pay tribute to those who gave all.

## IN TRIBUTE TO MAJOR GENERAL LEROY BARNIDGE, JR.

Mr. DASCHLE. Mr. President, our Nation's Air Force will soon lose one of its exceptional leaders, MG Leroy Barnidge, Jr., who is retiring in the next few weeks after 32 years of outstanding service to this country.

Many in Congress have become acquainted with General Barnidge due to his service since 2001 as director of the Air Force Office of Legislative Liaison. I have had the great pleasure of meeting and working with Leroy much longer, due to his two tours of duty at Ellsworth Air Force Base, the last as base commander from August 1995 to February 1997.

There is no finer gentleman, nor one with a better sense of humor or more likable personality than Leroy Barnidge. As commander of the largest military installation in South Dakota, Leroy impressed me with his candor, his integrity, and his competence. Knowing and working with him has always been a joy, and Leroy will be missed not only in the Air Force but also by many of us in the Congress.

General Barnidge began his Air Force service as I did, through the Reserve Officer Training Corps, and was commissioned as an officer in 1971. Since then, he has held a variety of operations and maintenance assignments, including major command and joint staff billets. He is experienced in aircrew operations, flight line maintenance and combat support activities. The general has also performed major command staff and executive support functions, as well as duties as a force planner and division chief in the joint staff. He has commanded a combat crew training squadron, a logistics group, an operations group, a B–1B bomb wing at Ellsworth, and the B–2 wing at Whiteman Air Force Base, Missouri.

General Barnidge also completed the program for senior officials in national security at the John F. Kennedy School of Government, Harvard University, and Seminar XXI, Foreign Political and International Relations, at the Massachusetts Institute of Technology. He received special recognition in 1999 as the winner of the Air Combat Command Moller Trophy, recognizing him as the best among all 28 wing commanders. General Barnidge has amassed over 2,900 hours in the T–37, T–38, OV–10, B–52G, B–1B, and B–2 aircraft.

In his years of working with the Congress, General Barnidge provided a clear and credible voice for the Air Force, consistently providing accurate, concise and timely information. HIs integrity, professionalism, and expertise enabled him to develop and maintain an exceptional rapport between the Air Force and the Congress.

On behalf of the Congress and the country, I thank General Barnidge, his wife Sandy, and his entire family for their commitment and many sacrifices. Sandy always went out of her way to make my staff and me feel welcome, and I know she, too, has done much for the Air Force and her country during the past 32 years. Thanks to both of you for a job well done. On behalf of a grateful nation, we wish you all the best during your retirement.

## AFRICAN AMERICAN MUSEUM OF HISTORY AND CULTURE

Mr. STEVENS. Mr. President, I am pleased to join Senators BROWNBACK and DODD to introduce legislation authorizing the establishment of the National Museum of African American History and Culture within the Smithsonian Institution.

The effort to construct a museum dedicated to African American history and culture began in the early 1900's by an association working to commemorate the valor and deed of Negro soldiers and sailors who fought in American wars and contributions of African Americans in science, art, literature, business and other endeavors.

I have conferred with African American constituents in Alaska regarding the significance of this bill—the late JP Jones, Bill Sykes, and James Hayes to name a few.

Today, we are taking an important step toward bringing this overdue effort closer to a reality.

The provisions of the bill direct the Smithsonian Institution Board of Regents to consult with the Commission on Fine Arts, the National Capitol Planning Commission, and three members of President Bush's Commission on the National Museum of African American History and Culture when selecting the museum site. The legislation directs the Board of Regents to complete this work within 18 months.

The legislation authorizes $17 million in federal funds for the museum in fiscal year 2004. The funding for the museum will be fifty percent federal funding and the remaining fifty percent will come from non-federal sources.

I look forward to working with my colleagues as this bill moves through the legislative process.

## PRESIDENTIAL SUPPORT OF REAUTHORIZATION OF ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, in 1994 President Clinton signed into law a ban on the production of certain semiautomatic assault weapons and high-capacity ammunition magazines. The 1994 law banned a list of 19 specific weapons as well as a number of other weapons incorporating certain design characteristics, such as bayonets and pistol grips. This law is scheduled to sunset on September 13, 2004. If the law is not reauthorized, the production of military-style semiautomatic weapons can legally resume.

In March of this year, in testimony before the Senate Judiciary Committee, Attorney General John Ashcroft indicated the Bush administration's support for the current ban on assault weapons but would not indicate support for reauthorization of the ban. Recently, the White House indicated the President does support reauthorizing the ban. However, a senior White House adviser reportedly said that this bill would never make it to the President's desk. And a spokesperson for House Majority Leader TOM DELAY recently said "we have no intentions of bringing it up."

Failure to reauthorize the legislation would be irresponsible because the assault weapon ban works. According to National Institute of Justice statistics reported by the Brady Campaign to Prevent Gun Violence, gun trace requests for assault weapons declined 20 percent in the first calendar year after the ban took effect, dropping from 4,077 in 1994 to 3,268 in 1995. Over the same time period, gun murders declined only 10 percent and trace requests for all types of guns declined 11 percent.

Given the firepower of these firearms, it is not surprising that so many law enforcement organizations supported the Federal assault weapons ban and worked for its passage. Among the many that supported the ban were the Law Enforcement Steering Committee, the Fraternal Order of Police, the National Sheriffs' Association, the International Association of Chiefs of Police, the Major City Chiefs Association, the International Brotherhood of Police Officers, the National Association of Police Organizations, the Hispanic American Police Command Officers Association, the National Black Police Association, the National Organization of Black Law Enforcement Executives, the Police Executive Research Forum, and the Police Foundation.

It is critical that we reauthorize the assault weapons ban. Absent such action, AK47s, UZIs, and other semi-automatic weapons will again become easily obtainable weapons of choice for gang members, drug dealers, and other dangerous criminals. I urge the President to show his support for this bill by asking the House Republican Leadership to pass this bill in the House and the Senate Leadership to pass it in the Senate.

## MEMORIAL DAY 2003

Mr. DOMENICI. Mr. President, on this Memorial Day, I encourage New Mexicans to take a few moments to remember those Americans who have given their lives in the name of freedom. It is upon the sacrifice of these Americans—from all generations—that the freedom we enjoy today is built.

From the Bataan Peninsula to Normandy, from the Ia Drang Valley to Inchon, from Afghanistan to Iraq, and many other conflicts, American men and women have fought and died because they believed in their country and believed in preserving its many blessings.

As we enjoy this holiday weekend with our families and friends, let us take a few minutes to recognize the courage with which so many of our soldiers, sailors, airmen, and marines have fought when called upon by their country. Let us also remember all those who never made it back to the country they loved because they gave their lives for it in a far away land.

At this moment in America's history, I could not be more proud of our men and women in uniform. I think it is important to note that in the wake of successful combat operations in Iraq and Afghanistan, the same courage and commitment shown by Americans of generations past lives on today in the men and women of the U.S. Armed Forces.

Mr. GRAHAM of Florida. Mr. President, I rise to observe the significance of Memorial Day—and to pay tribute to the Americans we honor on this day. Three days from now, we will, as a nation, remember those who lost their lives in service to our country. They secured our freedom with the most precious gifts they could offer—their love for this country and their lives.

America has honored its fallen soldiers with a Memorial Day, sometimes called Decoration Day, since the Civil War. Though we are grateful to these heroes every day of the year, we recognized that we ought to set aside one day in particular, the last Monday in May, to be especially mindful of the brave men and women who paid the ultimate price for our freedom.

At a time when our Nation mourns more sons and daughters than it did just a year ago, many of whom came from my State of Florida, this Memorial Day takes on additional poignancy. My heart is full of solemn gratitude to each new generation willing to risk their lives for the security of strangers.

We cannot merely make promises on this earnest occasion. We must reaffirm our commitment to the veteran soldiers still with us. We must provide full funding for veterans health care. At this moment in our Nation's history, how can we possibly justify anything but a significant increase in VA's health care budget? Not only have we been engaged in a war overseas, but, just this year, VA cut off enrollment to an entire category of veterans.

During a time when 240,000 veterans nationwide—44,000 in my home State of Florida alone—are being told they have to wait 6 months or longer just to see a doctor, how can we possibly turn our backs on these men and women? These veterans have come to VA seeking care—care we promised them they would get—and we owe it to them to fulfill that promise.

Memorial Day has a duality—at once provoking feelings of both somber meditation for those we have lost in battle and the joyous anticipation of celebrating with family and friends during a holiday weekend. Both reactions are fitting to the memories of those who are no longer with us—we remember and revere their service, and we honor what their sacrifice has brought us—the freedom to be with the people we love and hold dear.

As we and other citizens of this country prepare to enjoy the long weekend, let us take a moment to thank those who gave us a future, at the expense of their own.

## JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, the Senate has confirmed 127 judges nominated by President Bush, including 100 in the 17 months in which Democrats comprised the Senate majority. Twenty-seven have now been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 127 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997—the 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 14 percent and the circuit court total by 33 percent before Memorial Day and with 7 months remaining this year.

The fact is that when Democrats became the Senate majority in the summer of 2001, we inherited 110 judicial vacancies. Over the next 17 months, despite constant criticism from the administration, the Senate proceeded to confirm 100 of President Bush's nominees, including several who were divisive and controversial, several who had mixed peer review ratings from the ABA and at least one who had been rated not qualified. Despite the additional 40 vacancies that arose, we reduced judicial vacancies to 60, a level below that termed "full employment" by Senator HATCH. Since the beginning of this year, in spite of the Republicans' fixation on the President's most controversial nominations, we have worked hard to reduce judicial vacancies even further. As of today, the number of judicial vacancies has been reduced to 44 and is the lowest it has been in 13 years. That is lower than at any time during the entire 8 years of the Clinton administration. We have already reduced judicial vacancies from 110 to 44, in 2 years. We have reduced the vacancy rate from 12.8 percent to 5.1 percent, the lowest it has been in the last two decades. With some cooperation from the administration think of the additional progress we could be making.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995 to 1997. In addition, the 44 vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. Of course, the Senate is not adjourning for the year and Chairman HATCH continues to hold hearings for Bush judicial nominees at a rate of between two and four times as many as he did for President Clinton's.

Unfortunately, far too many of this President's nominees raise serious concerns about whether they will be fair judges to all parties on all issues. Those types of nominees should not be rushed through the process. I invite the President to work with us and to nominate more mainstream individuals with proven records and bipartisan support.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on February 22, 2003. An Arab-American teenager in Yorba Linda, CA, was badly beaten by a group of teenagers with bats and golf clubs who were yelling racial slurs. He suffered head injuries, a broken jaw, and stab wounds. Metal plates had to be inserted into his face during reconstructive surgery, and his jaw was wired shut for nearly two months.

I believe that government's first duty is to defend it citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## SENIOR HEALTH AND FITNESS

Mr. CRAIG. Mr. President, I rise as chairman of the Senate Special Committee on Aging to discuss senior health and fitness. May is Older Americans Month and I feel that it is especially appropriate to mention two events occurring this month that help highlight healthy aging.

First, for the past 10 years, the last Wednesday in May has been designated as National Senior Health and Fitness Day. This year is no different and on Wednesday, May 28, 1,500 local organizations in every State of the Union, will again celebrate National Senior Health and Fitness Day, the Nation's largest annual health promotion event for older adults. Local organizations will host a variety of activities tailored to the needs and interests of their communities. Last year these activities included health walks, health screening, and a wide variety of other events. National Senior Health and Fitness Day is an excellent opportunity for seniors of all fitness levels to take part in locally organized health and fitness events. In my home State of Idaho, the Southwest Idaho Area Agency on Aging, the local YMCA, and a host of other organizations have teamed up to hold a walk in Boise. Idaho seniors will walk anywhere from 2 years, to 2 miles, depending on the participant's ability, a reminder that walking and being active are far more important than how far or how fast we travel.

Second, the 2003 Summer National Senior Games, the Senior Olympics, opens Monday, May 26, in Hampton Roads, VA. An estimated 10,000 senior athletes will come together to compete in a wide variety of sporting events ranging from horseshoes and shuffleboard to track and field and the triathlon. It is one of the largest mutlisport athletic competitions in the world. I especially salute the 15 Idahoans who will be competing. The Senior Olympians are examples to all of us.

The goals for Senior Day are to make exercise fun, to increase awareness of the benefits of a regular exercise program for older adults, and to encourage all older adults to take advantage of the many health and fitness programs offered in their communities. As chairman of the Senate Special Committee on Aging, I share these goals. It is important to highlight fitness and nutrition for seniors as a way of life. This is a concept that is very important to our ever-growing aging population.

I salute all athletes participating in the National Senior Games and all those involved in the National Senior Health and Fitness program in their communities.

## SUNSHINE IN IRAQI RECONSTRUCTION CONTRACTING AMENDMENT

Mr. WYDEN. Mr. President, with the adoption of my amendment as part of the Defense authorization bill, the Senate is shining much needed sunshine on the process of awarding contracts for the reconstruction of Iraq. This amendment will ensure that Congress and the public will not be kept in the dark about the billions of dollars of contracts for reconstruction of Iraq that have already been awarded or will be awarded under the auspices of the Department of Defense.

This amendment is also critical for ensuring the taxpayers get the best value for their money. An article in yesterday's Wall Street Journal confirms that the Senate has done the right thing. The Journal reports that in "selecting subcontractors to help with hundreds of millions of dollars in repairs and rebuilding, the work is gearing up under a cloud of politics and distrust." The article goes on to say, "Officially, the U.S. government is saying the subcontractor awarding process is going to be fair and open and that nobody will be discriminated against because of politics. But in unofficial conversations, U.S. officials display quite a different attitude."

This latest report raises troubling questions about how U.S. agencies and their contractors are playing favorites when it comes to awarding contracts and subcontracts for Iraq reconstruction.

There are two primary reasons American taxpayers deserve additional details about what has been up until now a closed bid process. First, there is a lot of money on the line—a projected $100 billion in taxpayer funds for rebuilding. Second, the U.S. General Accounting Office, GAO, has reported that sole-source or limited-source contracts usually aren't the best buy. In my view, the need for explanation increases one hundred-fold if Federal agencies are going to employ a process that may expose taxpayers to additional cost.

Yet sole-source and limited-source contracts seem to be the rule, not the exception, for rebuilding Iraq. On March 24, the Army Corps of Engineers announced a sole-source contract to control Iraqi oil fires. It was later reported that the amount of that contract was up to $7 billion. The details of that contract have yet to be made public.

The U.S. Agency for International Development, USAID, has also announced that it would limit competition to companies with demonstrated technical ability, proven accounting mechanisms, ability to field a qualified technical team on short notice, and authority to handle classified national security material. But when it came time to actually award these contracts, USAID ignored or circumvented the Agency's own publicly stated criteria for limiting the pool of applicants.

Under the new structure for rebuilding Iraq, these contracts will be overseen by the Office of Reconstruction and Humanitarian Assistance in the Department of Defense. In addition, the Defense Department has awarded and will continue to award its own contracts for Iraq rebuilding.

So more than ever, I believe that if the Federal Government chooses not to use free market competition to get the most reasonable price from the most qualified contractor, then, at a minimum, they should have to tell the American people why. Sunlight is the best disinfectant—and the recent news reports have shown the need for a clearing of the air.

I do understand the argument that these contracts need to be awarded quickly. I do understand that in many cases the companies receiving them have a long history of international work with USAID and other Federal agencies. I simply believe that if the need for speed can adequately justify these closed-bid processes that may expose American taxpayers to additional expenditures, then that justification should be made public. That is why our legislation says that any Federal entity bypassing competitive bidding for Iraqi reconstruction projects has to reveal the justifying documents they have prepared.

As it turns out, when it comes to their contracts USAID even seems to think that sunlight is a pretty good policy. One of the requirements for the $680 million contract with the main U.S. contractor for Iraq reconstruction Bechtel, requires that it justify to USAID any subcontract awarded without open bids. If USAID can ask that of its main contractor, surely the American people can make the same demand of Federal agencies awarding these contracts.

According to news reports, in 1999, USAID's own inspector general reported that at that time USAID's evaluation program didn't provide sufficient assurance that they were picking the best contractors. Although a follow-up report indicated some improvement, I think that is an argument in and of itself to insist on disclosure of the facts.

Here is my bottom line: There are too many questions and the stakes are too high for Congress not to demand public disclosure of this information. The American people are footing the bill for repairs in Iraq that they often can't get in their own cities and towns on U.S. soil. The least Federal agencies can do is be a little clearer about who is getting the money and why.

I am pleased to be joined by a distinguished and bipartisan group of colleagues in this effort. I particularly thank the chair of the Government Affairs Committee, Senator COLLINS of Maine. As chair of the committee that oversees contracting legislation, she is an expert in procurement law, a real authority on the very issue addressed by this bill. Her qualities of leadership on the committee and incredible proficiency on this topic give me great confidence that this bill is the right move for our constituents, the right move for the Senate, and the right move for America. I thank her for her support and participation in this effort.

I am also indebted to the other cosponsors of this legislation—Senator CLINTON, Senator BYRD, Senator LIEBERMAN, Senator LAUTENBERG, and Senator HARKIN. In particular, Senator CLINTON has been a strong and steadfast voice on this issue. I appreciate her support and the support of all the cosponsors.

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## INTRODUCTION OF THE WOMEN'S SMALL BUSINESS PROGRAMS IMPROVEMENT ACT OF 2003

Mr. KERRY. Mr. President, women business owners do not get the recognition they deserve for their contribution to our economy: 18 million Americans would be without jobs today if it weren't for these entrepreneurs who had the courage and the vision to strike out on their own. For 18 years, as a member of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase the opportunities for these enterprising women in a variety of ways, leading to greater earning power, financial independence and asset accumulation. These are more than words. For these women, it means having a bank account, buying a home, sending their children to college, calling the shots.

As the ranking member of the Committee on Small Business and Entrepreneurship, I rise today to say a few words about a bill that my colleague on the committee, our chair, Senator SNOWE, intends to introduce today, the Women's Small Business Programs Improvement Act.

First, however, I commend Senator SNOWE for taking this first step in crafting legislation that addresses many of the problems faced by women entrepreneurs in receiving assistance through the SBA's programs designed to assist them. I applaud Senator SNOWE for working diligently on these issues and for giving women business owners such attention in this SBA Reauthorization process.

Second, I express my sincere and steadfast support for the growing community of women entrepreneurs across the Nation and for the invaluable programs at the SBA that provide women with the tools they need to succeed in business. As a longtime advocate for women entrepreneurs and SBA's programs, my record in support of the SBA's women's programs and for women business owners speaks for itself. I have continually fought for increased funding of the women's programs at the SBA, for sustaining and expanding the women's business centers, for adequately staffing and improving the National Women's Business Council, and for giving women entrepreneurs their deserved representation within the Federal procurement process, to name a few. With respect to laws assisting women-owned businesses, I have been proud to either introduce the underlying legislation or advocate strongly to ensure their passage and adequate funding.

Today, it is my sincere regret that I cannot sponsor this bill. Senator SNOWE and I both support these programs, agree on many of the changes needed to strengthen these programs, and we have worked together on these issues for many years. However, having only received a copy of the bill this morning, I have not had adequate time to review the proposal and to vet it with the women's business experts that represent the women and the businesses that will be affected by these proposed changes.

One example of a troublesome provision in the proposal is its treatment of existing women's business centers. When our committee was considering my 1999 legislation on this subject, the Women's Business Centers Sustainability Act, I fought to secure a nationwide infrastructure of Women's Business Centers that was in jeopardy because their matching grants from the SBA for the most experienced centers were going to expire. The sustainability legislation allowed 29 Women's Business Centers to continue to operate, serving together with new centers 85,000 women-owned business just in 2002. In this new bill, Senator SNOWE proposes to build on the success of that law by making the existing centers permanent, and I fully support this. If we had written the bill jointly, I would have done exactly the same.

While I praise Senator SNOWE for recognizing the success of centers operating with sustainability grants and the need to make them permanent, I understand her legislation will also establish a process that may create additional and unnecessary administration burdens and costs—thus hindering the centers' ability to deliver critical services to eager entrepreneurs. In some cases, this may cause existing Women's Business Centers to close their doors, eliminating access to women business owners in those locales to critical services. This and other key issues need to be carefully addressed, and I look forward to working with Senator SNOWE and other members of our Committee to do so.

I am not alone in my reservations. Just yesterday, both the Association of Women's Business Centers and the National Women's Business Council, while still endorsing many of the bill's concepts, expressed concerns about its details and their desire to work together to craft a bill that addresses those concerns and accomplishes our mutual goal for these important women's initiatives.

Once we have had an opportunity to thoroughly examine today's bill, I am confident that all the Democratic members of our Committee stand ready to do just that.

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## GRANTS TO HIRE FIREFIGHTERS

Mr. DODD. Mr. President, I rise today to thank my colleagues, especially Chairman WARNER and Senator LEVIN, for their support in approving amendment No. 785 that I offered to help America's firefighters and ensure that our Nation will be prepared to respond to future acts of terrorism, should they occur. The amendment, which was approved by the Senate yesterday as part of the Department of Defense Authorization Act, will authorize the creation of a grant initiative to help local governments hire the firefighters they need to address the threat of terrorism and the dangers posed by more ordinary crises.

This amendment, Senate Amendment No. 785, is nearly identical to the Staffing for Adequate Fire and Emergency Response, SAFER, Act, which I am pleased to have co-authored with the distinguished Senator and chairman of the Senate Armed Services Committee—Mr. WARNER. I am happy to say that this amendment has enjoyed strong support on both sides of the aisle.

The amendment I offered will help ensure that America's local fire agencies have the human resources they need to meet the challenge of an extended war against terrorism. The amendment authorizes the President to provide up to $3 billion in firefighter staffing grants to State and local governments over the next 3 years. These grants will provide a portion of the salary for new firefighters hired by State and local agencies.

Many of us in Congress have long understood that America's firefighters make extraordinary contributions to their communities every day. But on September 11, 2001, we got a glimpse of the larger role that the men and women of the fire service play. The National role of our firefighters has become apparent and our firefighters have made the Nation proud.

After September 11, we know that America needs its firefighters to be better prepared to respond to deliberate acts of mass destruction. The fire service needs to be better prepared to deal with acts of bioterrorism and it needs to be prepared to help save people who have been attacked with toxic chemical weapons. In short, America's fire departments need to be prepared for what once seemed unthinkable.

Despite the increasingly important role firefighters play as part of our National homeland defense system, communities over the years have not been able to maintain the level of staffing necessary to ensure the safety of the public of our firefighters themselves. Since 1970, the number of firefighters as a percentage of the U.S. workforce has steadily declined and the budget crises that our State and local governments are now enduring have only made matters worse. Across the country today, firefighter staffing is being cut and fire stations are even being closed because of State and local budget shortfalls.

That is not to say that we haven't made progress—we have. In recent years, the Federal Government has recognized that it can and should be a better partner with local firefighters. In 2000, my colleagues Senator DEWINE, Senator LEVIN, Senator WARNER, and I worked successfully on this floor to help create the FIRE Act. The FIRE Act was the first Federal grant program explicitly designed to help fire departments throughout America obtain better equipment, improved training, and much needed personnel. Since September 11, 2001, Congress and the administration have provided billions of dollars to help local firefighters purchase equipment and training to respond to acts of terrorism, accidental fires, chemical spills, and natural disasters. Over the last 2 years, the Federal FIRE Act grant initiative has provided nearly $1½ billion in direct assistance to local fire departments across the country and will provide another $750 million this year. We are beginning to significantly improve the quality of the equipment available to firefighters in every State and in communities large and small.

Today, with passage of the SAFER provision, we have taken a giant step forward toward improving staffing conditions for America's fire service. The need for this legislation is abundantly clear. Currently two-thirds of all fire departments operate with inadequate staffing. Experts believe that previous hiring limitations and the increased demands for first responder services have resulted in a shortage of 85,000 firefighters.

According to a "Needs Assessment Study" recently released by the U.S. Fire Administration, USFA, and the National Fire Protection Association, NFPA, understaffing contributes to enormous problems. For example, USFA and NFPA have found that only 11 percent of our Nation's fire departments have the personnel and equipment they need to respond to a building collapse involving 50 or more occupants. I am delighted that the Senate has taken steps to address these problems and, again, I thank my colleagues for joining me in this important effort.

In closing, let me say that this legislation honors America's firefighters. It acknowledges the men and women who charge up the stairs while everybody else is running down. But it does more than that. This legislation is an investment in America's security, an investment to ensure the safety of our firefighters, our families, our homes, and our businesses.

Both the International Association of Firefighters and the International Association of Fire Chiefs have expressed their strong support for this legislation.

## MCI/WORLDCOM

Mr. BREAUX. Mr. President, I rise today to express my grave concerns about the actions of MCI/Worldcom. MCI committed fraud on a scale that is offensive. It deceived everyone—its employees and retirees, its shareholders and State and Federal officials. The SEC took a step in the right direction by punishing this company with the largest fine in corporate history.

But I fear the rest of the Federal Government may not be following the lead of the SEC. For example, I understand that MCI has been given a contract, valued between $23 to $35 million, to build advanced wireless networks in Iraq. The Federal Government should not be rewarding bad actors with precious government contracts.

Other press reports indicate MCI is also using the Tax Code to reap benefits that should not be available to companies that have committed such egregious fraud. I urge the Senate Finance Committee to investigate these allegations as soon as possible.

## CONSTITUTION DAY

Mr. DEWINE. Mr. President, each and every Member of the Senate has taken an oath to uphold and protect the sacred document that has guided Our nation well over 200 years: the Constitution. Indeed, we all hold the Constitution near and dear to our hearts here in the Senate, and yet I rise today to let my colleagues know that the students of Lynchburg-Clay High School in Highland County, OH, have done us one better.

You see, I received several letters late last year from students at Lynchburg-Clay High School asking me a simple question: "Why don't we have a holiday to pay tribute to the Constitution?" We have commemorative days to celebrate a great many things in this country, but amazingly enough, we don't have one to honor what is one of our Nation's greatest contributions to democracy. The students at Lynchburg-Clay High School set out to change that, and I was honored to recently introduce a resolution, cosponsored by my friend and colleague from Utah, Senator HATCH, to give life to the idea these student wrote to me about not long ago. I am very pleased that yesterday my Senate colleagues agreed to pass this very important resolution.

Our resolution is simple: It recognizes the special place the Constitution has in our National history, as well as the extremely vital role it continues to play today. Also, it formally designates September 17, 2003, as "Constitution Day." September 17th, of course, marks the anniversary of the day in 1787 when 39 brave men signed the final draft of the Constitution at the final meeting of the convention.

An appropriate tribute to the Constitution requires more than simply attaching a name to a day on the calendar, however. The students from Lynchburg-clay High School wrote to me, one of the two Senators representing them in the Senate and one of 20 Ohioans fortunate enough to serve on their behalf in Congress, about their respect for the Constitution. In doing so, the students embraced exactly the kind of democratic values and citizen involvement that the Constitution stands for, and I congratulate them for their effort.

It is my intention that by passing this resolution, many more Americans might come to learn about the Constitution, and that as a result, their love and respect for the Constitution might come to match that held by the fine students and fellow Ohioans at Lynchburg-Clay High School.

## SENATOR AND MRS. ROBERT C. BYRD'S SIXTY-SIXTH ANNIVERSARY

Mr. ROCKEFELLER. Mr. President, today I would like to congratulate Senator and Mrs. ROBERT C. BYRD on their 66th anniversary, which they will celebrate on May 29. What a wonderful occasion this is—a truly joyous celebration.

Senator and Mrs. BYRD's devotion to one another is truly powerful. In a world that is far from old-fashioned, they have shown that old-fashioned dedication and commitment can go a long way. The BYRDs have risen from humble beginnings, and proven to our State and country that honesty and devotion comes first. Senator BYRD said earlier this year on the Senate floor, "There are only two duties that will exceed my duties in the Senate. One is my duty to God and the second is duty to my family. I think my duty is to my wife." Many of us heard this speech and were struck by that line. We know that with Erma's recent illness, Senator BYRD on occasion had to request an absence from the Senate to be by the side of his lifelong sweetheart. The devotion he has shown to Erma is plain, and these last few weeks have simply been an extension of 60-plus years of love between these two people. This couple is a real gift to the State of West Virginia. We are more than lucky to have them as leaders of our State.

I have had the honor of serving in the Senate with Senator BYRD for the last 18 years, and in that time I have had the pleasure of getting to know Erma as well. Erma is a positively delightful woman. Senator and Mrs. BYRD's dedication to one another is genuine and should be inspiring to us all. They have been devoted to one another from an early age. In recalling his high school days when he got a candy from a classmate to give to his sweetheart Erma, Senator BYRD said, "I never chewed the gum; I never ate the candy. But when the classes changed, I found Erma in the hall and gave her that candy and chewing gum. I never told her someone had given it to me, but that's the way you court a girl—with another boy's bubble gum." Erma and their family has been the top priority in the Senator's life from the start.

When the valedictorian of Mark Twain High School married his sweetheart, Erma Ora James, in May of 1937, no one knew that the coal miner's daughter and adopted young boy would together become one of the most influential couples in the history of West Virginia. Even though Senator BYRD could not afford to go to college, he persisted as a young West Virginian working for his family—pumping gas, working as a produce salesman, and serving his country as a shipbuilder and welder. Mrs. Byrd became the head of the family's finances, and the glue that held their household together as she remains today. Starting as a family of two, the couple worked together to succeed.

While Senator BYRD was spending endless hours at the Capitol building serving his State and country, Mrs. Byrd raised their two lovely daughters, Mona and Marjorie. To this day, Mrs. Byrd continues to remain the stronghold in her family, proudly helping to raise their six grandchildren, and three great-granddaughters. Mrs. Byrd quietly stays out of the spotlight, and instead focuses on her responsibilities as a wife, mother, grandmother, and great-grandmother. Senator BYRD once said, "She [Erma] has been my anchor all of these years. I don't know what I would have amounted to if it wasn't for her steadfastness, her integrity, her strength," It is evident that the Senator and Mrs. BYRD have so much respect for one another, and enjoy their lives together every day. Senator and Mrs. BYRD have devoted their lives to better their family and fellow West Virginians. They have proven that working together as a team, husband and wife, can accomplish so much.

It is positively refreshing to see such an amazing couple recognized for their leadership and because of their caring. They truly exemplify a loving and happy marriage. The BYRDs are both leaders, grandparents, and great-grandparents, and compassionate and honorable West Virginians. Senator and Mrs. BYRD have set a great standard. Please join me in congratulating this wonderful couple on their 66th year together.

### SALUTE TO LIBERTY: MANY JOURNEYS, ONE DREAM

Mr. LAUTENBERG. Mr. President, I would like to take this opportunity to highlight the achievements and experiences of Asian Pacific Americans in our country. Asian Pacific American Heritage month, observed during the month of May, celebrates the diverse cultures represented by the over 13 million Americans of Asian and Pacific Island heritage in our country. The theme for this year's APA month, "Salute to Liberty: Many Journeys, One Dream" represents Asian Pacific Americans' diverse paths to achieving their goals. In New Jersey, where Asians are the fastest growing racial group, this month is particularly significant. Asian Pacific Americans in my State play important roles such as educating our students, owning small businesses, working on new technologies, and holding public office.

The difficult journeys of Asian Pacific Americans include the Chinese laborers who built our Nation's railroads, Japanese Americans who were sent to internment camps during WWII, refugees from Vietnam and other Southeast Asian nations, immigrants from the Indian subcontinent, and Filipino farm workers. Despite the great obstacles faced on these journeys, Asian Pacific Americans have accomplished a great deal and have made major contributions to our country.

First and foremost, I would like to recognize the service of Asian Pacific Americans in our Armed Forces, especially as we celebrate Memorial Day. The history of Asian Pacific Americans in military service stretches from William Ah Hang, who enlisted in the U.S. Navy during the Civil War, to the more than 25,000 Japanese Americans who served during World War II, to the young APA men and women fighting terrorism today. In particular, I would like for us to remember Lance Corporate Alan Dinh Lam, a 19 year old Vietnamese-American from North Carolina and Corporal Kempahoom A. Chanawongse, a 22 year old Thai-American who moved from Thailand to Connecticut at age 9. These two young men recently gave their lives for our country during the war with Iraq.

I would also like to take this opportunity to acknowledge the contributions of Asian Pacific Americans in space exploration. Kalpana Chawla was the first Indian-American woman to go into space. Although she lost her life during the recent space shuttle Columbia disaster, Ms. Chawla will be remembered for her work in the field of aerospace engineering. Currently, another Asian Pacific American, Eric Lu, is working on the International Space Station. His work is certain to inspire many young men and women interested in space.

The brave men and woman I mentioned today are only a small example of the difficult endeavors undertaken by Asian Pacific Americans. It is my hope that recognizing the heritage and accomplishments of Asian Pacific Americans will inspire the next generation to embark upon challenging journeys and reach their dreams.

### BETTY BROWN CASEY

Mr. LEAHY. Mr. President, Washington is, without a doubt, one of the most beautiful cities in our country. It is also a city rich in history and cultural advantages.

Many people have, over the years, added to Washington's achievements and glories. One very special person who has done that is Betty Brown Casey. I have had the opportunity to meet Mrs. Casey because my wife, Marcelle, serves on the Board of the Washington Opera. Mrs. Casey has been one of the greatest supporters the Washington Opera has ever known

On Sunday, April 13, Mrs. Casey threw a party for the Washington Opera. This will go down as one of the greatest and most memorable parties thrown in this city. Marcelle and I were fortunate to attend, and when we left Washington before dawn the next morning, we had the joy of reading Roxanne Roberts' article about Mrs. Casey, titled "Phenom of the Opera."

I hope my fellow Senators will enjoy this as much as I did, and I ask unanimous consent that this article about this extraordinarily generous woman be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 14, 2003]

#### PHENOM OF THE OPERA: PATRON BETTY BROWN CASEY GIVES A PARTY

(By Roxanne Roberts)

As fairy godmothers go, Betty Brown Casey is pretty nice to have on your team.

The low-key philanthropist has a passion for the Washington Opera, a passion that has translated into millions in donations and support for the organization. Last night Casey threw a gala concert for 2,500 fellow lovers of the opera—and picked up the entire tab herself.

"We're here to say thank you to all of you for all the years in the Washington Opera family," she told the audience. Casey ticked off a list of the thankees: Volunteers, staff, board members, subscribers and "those of you who sat—year after year—quietly, patiently and resignedly, in seats next to those who loved opera—and you didn't. "Long-suffering husbands in tuxedos broke into huge grins as knowing laughter rippled through DAR Constitution Hall.

The program included mezzo-soprano Denyce Graves, soprano Veronica Villarroel, bass Rene Pape, conductor Valery Gergiev and the Three Mo' Tenors. (Artistic Director Placido Domingo was scheduled to conduct and sing at the gala, but was sidelined by stomach flu.)

"Tonight is wonderful," said Betty Vertiz, a Washington Opera subscriber since the 1960s. "We even like our seats!"

Three generations of her family attended the gala: husband Oscar Vertiz, his daughter Virginia Cameron and granddaughter Carrie Gouskos. "It's nice for people who are faithful to the opera to feel they're appreciated," she said.

All because Casey wanted to do "something nice" after the risky move to Constitution Hall, the Washington Opera's temporary home this year while the Kennedy Center Opera House undergoes renovations. The cost of last night's soiree? "It's a private party," she demurred, but a savvy eye would chalk up seven figures.

"She's been the absolute soul of the company," Domingo said last week. "She always wants to do more and thank anybody who's been involved with the company in any capacity."

Casey, sitting nearby, flushed with embarrassment. The philanthropist shrinks from anything that smacks of self-promotion, and agreed to speak to a reporter only to highlight the contributions of everybody else.

"It's just that this company went through some hard times and there were many, many people who worked very hard to not only keep us going and to make us better and better over the years. I just felt it was a good time to say thank you to Placido—who has been the real spark plug for everything that has happened to us—and to everybody. We really feel like a family, so I felt we should have a family reunion."

Casey, 75, has had a soft spot for opera since she was a teenager. "I just love the music," she said with a smile. "I get into the music and I'm just there. Terrible as it may seem, Placido, there are times when I don't care who's singing. I just love the music."

Luckily for the opera, Casey is in a position to nurture that love. After 31 years of marriage to legendary Maryland developer Eugene Bernard Casey, she inherited an estate of more than $200 million when he died in 1986. She has led a very private life since then, quietly doling out donations to her pet projects.

"I just think that everybody in life does what they can do," she said. "I'm naturally shy, and I'm just more comfortable when people don't think I do anything—because I don't feel like I do. I only do things that I really believe in. I only do things that I can afford, and I don't do things I ask other people to give to. I don't start something and then ask other people to give me money to do that project. So I don't try to bother anybody, so to speak."

"Betty knows, and some of us, we know it," said Domingo. "And that's enough."

Her support is funneled through the Eugene B. Casey Foundation to the Salvation Army, Suburban Hospital, George Washington University and Georgetown University and its hospital. She generated more than a few headlines when she offered to build an official residence for the District's mayor on a 17-acre estate in Northwest Washington, and created a $50 million endowment to plant and tend the city's trees.

Casey has a special affection for the Washington Opera. She joined the board in 1974 and has been a member ever since; she now holds the title of life chairman. In 1996, she spent $18 million to buy the Woodward & Lothrop building with the idea of converting it into a state-of-the-art opera house in the heart of downtown Washington. When the opera decided to remain at the Kennedy Center instead, the company was allowed to sell the building and keep the profits.

"She's terrific," said Opera President Michael Sonnenreich. "She's stepped up and exhibited a leadership role for the opera beyond financial. She's setting examples for others to follow."

Last night's gala comes after the company's successful move to Constitution Hall—an artistic experiment that, so far, has generated praise from critics and subscribers alike.

The evening began with a standing ovation for Casey, who thanked everyone who had contributed to the success of the 47-year-old company. She asked for whistles, bravos and bravas for two individuals who had carried the opera during the tough times: former general director Martin Feinstein and longtime board member Christine Hunter.

The program was full of familiar material—and a few surprises. The strongest applause came for Pape, who sang two arias for his Washington debut: "Le veau d'or" from Gounod's "Faust," and "Ella giammai m'amo" from Verdi's "Don Carlo." Tenor John Matz had his role unexpectedly expanded when he filled in for Domingo in "Granada." Washington native Graves had the widest repertoire, with a French aria and an American spiritual, and the Three Mo' Tenors were also all over the map with the classic "La donna e mobile" followed by "Let the Good Times Roll."

The good times kept rolling after the concert, when 300 guests joined Casey for dinner and dancing at the Organization of American States across the street. The grand ballroom was lavishly decorated with spring bouquets, Peter Duchin kept the dance floor hopping, and the speeches were short but sincere. "I am so impressed by Betty," said Washington Opera Chairman Jim Kimsey. "Without her the opera would not be what it is today."

The hostess was characteristically low-key about the evening. "I thought it was wonderful, really great," she said, "Perfect, really, except for Placido" not being here.

Washington Post music critic emeritus Joseph McLellan contributed to this report.

## ADDITIONAL STATEMENTS

### RECOGNITION OF OLDER AMERICANS MONTH

• Mr. SARBANES. Mr. President, I rise today to pay tribute to America's senior citizens. In 1963, President John F. Kennedy designated May "Older Americans Month" to acknowledge the accomplishments of our Nation's elder generations. I welcome this opportunity to pause and reflect on the contributions of those individuals who have played such a major role in shaping our great Nation. For those of us in the Senate who have worked to ensure that the members of America's "greatest generation" will be able to enjoy their later years with dignity and independence, this is a chance to honor them for their hard work and the countless sacrifices they have made during their lifetimes, and to look forward to their continued contributions to the welfare of our country.

Today's senior citizens have witnessed more technological advances than any other generation in our Nation's history. Seniors today have lived through times of extreme economic depression and prosperity, times of war and peace, and have seen incredible advancements in the fields of science, medicine, transportation and communications. They have embraced these new technologies and used them to further develop their vital roles in America's communities. Older Americans are working and volunteering far beyond the traditional retirement age to give younger generations the benefit of their wisdom and experience. Moreover, they are in much better health than their counterparts in previous generations and far less likely to be impoverished, disabled, or confined to nursing homes.

Recent census figures reveal that the number of older Americans continues to grow. The population of those 85 and older grew 37 percent during the 1990s, while the Nation's overall population increased only 13 percent. Approximately 35 million people 65 and older were counted in the 2000 census as well as 50,500 Americans who were 100 or older. Baby boomers, who represented one-third of all Americans in 1994, will enter the 65-years-and-older category over the next 13 to 34 years, substantially increasing this segment of our population.

These figures reinforce the need to demonstrate our commitment to programs such as Medicare and Social Security, and to stimulate investment in biomedical research and treatments that are improving the lives of older Americans. One of our national goals must be to ensure all older Americans benefit from these improvements. In Congress, we must ensure our legislative priorities reflect our dedication to the support that older Americans deserve. This includes expanding and strengthening those programs that effectively aid older Americans, and addressing those that fall short of assisting this valuable and constantly expanding segment of our society. I have worked with my colleague from Maryland, Senator MIKULSKI, in her efforts to provide a $5,000 tax credit for individuals with chronic care needs. I regret this credit was not included in this year's budget resolution but I will continue to support her efforts to see that Congress passes the Family Caregivers Tax Credit Act.

By 2020, Medicare will be responsible for covering nearly 20 percent of the population. Though Medicare meets the health care needs of millions of Americans, it was created in a different time before the benefits of prescription medicines had become such an integral part of health care. Sixty percent of Medicare beneficiaries lack affordable, prescription drug coverage. Although people 65 and older are 12.5 percent of the population, they fill 34 percent of all prescriptions. Today it is impossible to imagine quality health care coverage that does not include affordable medicines to treat and prevent illness.

I have and will continue to fight for Medicare prescription drug coverage for all seniors. Earlier this year, I again cosponsored legislation to provide coverage of outpatient prescription drugs under the Medicare program and to provide greater access to affordable medications. I recognize the predicament of many older Americans as they struggle to live independently on a fixed income and at the same time spend money on costly prescription drugs. The tremendous advances in biomedical research that have led to lifesaving drugs and treatments are of little use if the population that stands to benefit the most cannot afford them. It is imperative that we address the needs of the Americans who have sacrificed so much for the benefit of our society. Like all Americans, they deserve access to comprehensive health care.

One of the strengths that I admire most about older generations is their devotion and concern for younger Americans. As we face the dilemma of funding Social Security and some of my colleagues make proposals to privatize the program, older Americans have been the most outspoken advocates of ensuring its existence for future generations. Their determination to preserve this important social insurance program is not weakened by questionable reports that privatization proposals would not alter or reduce their benefits. Instead, they fight on, trying to ensure the benefits of Social Security will be there for others for years to come. I support their efforts and strongly oppose altering the fundamental social insurance nature of the current system, the strength of which is the guaranteed benefit concept. It is our responsibility as legislators to make certain that this Nation's fiscal priorities reflect our enormous appreciation for America's senior citizens.

I continue to be impressed with the degree to which our elders contribute to American society. Our Nation's older generations are an ever-growing resource that deserve our attention, our gratitude, and our heartfelt respect. In accordance with President Kennedy's vision of Older Americans Month as a time to honor our older generations, I look forward to working with my colleagues in the Senate to implement public policies that recognize their contributions to our society. We have the opportunity to ensure the well-being of this Nation's most respected citizens, and it is my sincere hope that we pursue it with the same vigor that America's seniors have demonstrated throughout their many years of service to our country.•

## FEDEX CORPORATION AND HYBRID VEHICLES

• Mrs. BOXER. Mr. President, I want to bring to my colleague's attention to great step forward for the environment that the FedEx Corporation is undertaking. The company recently bought 20 hybrid trucks and has announced that it is planning to replace 30,000 of its delivery trucks with hybrid vehicles over the next 10 years.

This means that the FedEx Corporation is one of the first big commercial fleets to move toward using environmentally friendly hybrid vehicles.

The 20 hybrid trucks that have already been purchased are the delivery trucks that we see in cities across the Nation every day. These low-emission, hybrid electric-powered delivery vehicles will decrease particulate emissions by 90 percent, reduce smog-causing emissions by 75 percent and increase fuel efficiency by 50 percent.

FedEx Express, a subsidiary of FedEx Corporation, has been working on this project for 3 years with Environmental Defense. The company and the environmental organization worked together as partners to develop the concept for manufacturers to create an "environmentally progressive commercial delivery vehicle."

I own two hybird cars. They are amazing because as the driver I do not have to change anything. I still fill up the car—although less often—at any gas station. I don't need to change how I drive my car.

Similarly, these new hybrid delivery trucks will have no impact how FedEx does its day-to-day business. But it will improve the environment and ultimately save the company money in fuel costs. It is a win-win situation and shows yet again that what is good for the environment can also be good for the economy and business.

I congratulate FedEx Corporation for this action, and I urge other companies with large fleets to follow FedEx's lead in transforming their fleets to protect our environment.•

## RECOGNIZING THE LIFE OF CHARLES E. "BUCK" CONRAD

• Ms. MIKULSKI. Mr. President, I rise today to honor a member of "the greatest generation," a World War II veteran who passed away on January 11, 2003. Buck Conrad was born in my hometown of Baltimore in 1921 and was raised just blocks from my childhood home. He is survived by a former neighbor of mine, Evelyn Dasch Conrad, his loving wife of 61 years, who now resides in Alexandria, VA. He was the proud father of two daughters, Karlene Conrad and Cindy Schafer, and Cindy's husband George Schafer, formerly of Catonsville, MD, as well as three grandchildren and great-grandchildren. He is also survived by numerous relatives in the Baltimore area, including his brother and sister-in-law, Tom and Joyce Ronci of Glen Burnie.

Buck graduated from Baltimore Polytechnic Institute and received his undergraduate degree from the University of Maryland. He was an avid Terrapins fan who would not let his illness stop him from cheering the Terps on to their victory last year in the Peach Bowl.

Buck entered the Army in 1944 and retired as a regular Army colonel in 1974. He was involved in personnel and logistics for most of his career, which included tours of duty in the Office of the Joint Chiefs of Staff and as Chief of the Ordnance Branch. Overseas and wartime assignments included the Philippines, Germany, France, Korea, and Vietnam. His military decorations include the Legion of Merit with oak leaf cluster, the Bronze Star with oak-leaf cluster, the Joint Service Commendation, and the Army Commendation with oak-leaf cluster. He was a member of the Infantry OCS Hall of Fame and was designated a Department of the Army Logistician in 1970.

COL Conrad was well educated by the Army. He was a graduate of the Artillery School, the Chemical School, the Infantry School, the Command and General Staff College, and the Naval War College. He received a master's degree in business management from Babson College and received a second master's degree in international relations from George Washington University.

After retiring from the Army, Buck moved on to a successful career in the private sector and later served as a faculty member of the University of Maryland, University College.

Funeral Services were held at the Fort Myer Chapel on Wednesday, February 5, 2003 and COL Conrad was buried at Arlington National cemetery with full military honors.

We owe a debt of gratitude to men such as Buck Conrad who quietly served their country when our freedom was in peril. His son-in-law informed me that up to his dying day, COL Conrad expressed concern about the United States becoming embroiled in a war in the Middle East that could take the lives of thousands of our soldiers. Having witnessed personally the impact that war has on our young people and, just as importantly, their families, COL Conrad was hopeful that a peaceful resolution to this conflict could be achieved before any lives are lost, both our own troops and innocents in Iraq and throughout that region.•

## JAMES C. McALLISTER III

• Mr. EDWARDS. Mr. President, I rise to acknowledge the accomplishments of Mr. James C. McAllister III of Chapel Hill, NC. Mr. McAllister has been a leader in pharmaceutical management for decades. June 3, 2003, he will receive the American Society of Health-System Pharmacists' 2003 Harvey A.K. Whitney Lecture Award.

As director of pharmacy at the University of North Carolina, Mr. McAllister established a pre-residency program for pharmacy students to work at local hospitals. This provides students with hands-on experience and gives hospitals extra resources to better assist patients. Prior to his successes at the University of North Carolina, Mr. McAllister worked at Duke University, where he served as associate chief operating officer overseeing the pharmacy.

Mr. McAllister is well known for his expertise dealing with many pharmaceutical issues, particularly pharmacy practice and medication safety. He is also widely respected for his knowledge of pharmaceutical efficiencies such as automation and information technology, which save money and save lives by reducing medical errors. Mr. McAllister is the first American pharmacist to implement an operating room pharmacy and a medication dispensing robot.

Mr. President, I ask that my colleagues join me in recognizing the contributions of James C. McAllister III.•

## SOUTH CANYON ELEMENTARY SCHOOL CELEBRATES 50 YEARS

• Mr. JOHNSON. Mr. President, it is with great honor that I rise today to congratulate the South Canyon Elementary School in Rapid City, SD, which celebrates its fiftieth anniversary of service on Friday May 16, 2003.

Plans for South Canyon Elementary began in June 1949, when the current school area was a quiet alfalfa field. An area rancher, Ernest Schleuning, herded his livestock down Nordbye Lane, where the school is now. Due to overcrowding at Upper Rapid School, previously on West Main Street, South Canyon Elementary School was built in 1952 and opened for the 1952-1953 school year, with 25 to 30 students in each class. Fifty years later, the school continues to serve Rapid City and the needs of its citizens.

South Canyon Elementary School commemorated its fiftieth anniversary of service in the Rapid City school district with an all-school assembly, potluck picnic, and evening program. During the evening activities, the school was also open for tours, inviting all current and former teachers, staff members, students, parents, and alumni to attend. Attendees and guest speakers included South Canyon Elementary student council members, State Representative Ed McLaughlin, and Police Chief Craig Tieszen.

Over the last half century, the South Canyon Elementary School has provided quality educational services to the children of Rapid City. Their vision, "expecting excellence to happen, we affirm that all children can learn," has been carried out in all the children who have graduated and gone on to excel in their school careers. Not only has this school encouraged learning, but South Canyon Elementary School also strives to bring the community together in the education of its children. Their mission states just this in that, "In partnership with staff, parents, and neighborhood, we provide each child an opportunity to reach his/her potential and become a contributing member of the community."

I am pleased to announce that the South Canyon Elementary School is planning to commemorate this occasion by burying a time capsule. The capsule includes a current photo album of the school and items chosen by the students. Students from each class collected items from their classroom, such as popular books and baseball cards, and one second-grade class added a collection of popular snack wrappers to the capsule. Graduation speeches written by each fifth-grade student describing what school is presently like at South Canyon Elementary School were also added.

I am proud to have this opportunity to honor Principal Charles McLain and the South Canyon Elementary School for its 50 years of outstanding service. It is an honor for me to share with my colleagues the exemplary leadership and strong commitment to education South Canyon Elementary School has provided. I strongly commend their years of hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.•

## THE 250TH ANNIVERSARY OF KEENE, NEW HAMPSHIRE

• Mr. SUNUNU. Mr. President, I rise today to honor a truly great American community, the city of Keene, NH, which will celebrate its 250th Anniversary during a week of festivities beginning Tuesday, May 27 and culminating on Saturday, May 31, 2003.

On September 18, 1734, a group of eight individuals eager to expand the growing colonies settled on the outer edge of New Hampshire in an area that was then called Upper Ashuelot. In 1753, when the colony of New Hampshire granted a new township in the southwest section of the province, the Royal Governor, Benning Wentworth, named the town "Keene" out of gratitude and respect for his friend and business associate, Sir Benjamin Keene, a career diplomat and one time British Ambassador to the court of Spain.

Although agriculture was an important part of the region's early economy, Keene gained a reputation as an important glass producing center. In 1814, the New Hampshire Glass Factory was founded, producing mostly window glass for the New England region for nearly 40 years. Other glass manufacturers soon opened, making bottles and flasks that are now known as "Keene Glass," and which remains highly valued today.

With the arrival of the railroad in 1848, Keene's stature as an economic center grew. Rail lines between Boston and New York allowed Keene to thrive and by the end of the 1850s, Keene had seen the addition of some 100 buildings. During the 19th century, such industrial commodities as flannel, pottery, and furniture were being produced in Keene, and at the beginning of the 20th century, Keene even made automobiles.

As Keene's economic growth expanded, so to, did its population. At the beginning of the century, the population was about 1,650 people. by 1850, there were nearly 3,400 people in Keene and by 1870, that number expanded to almost 6,000. In 1874, the citizens of Keene passed a measure which established the city of Keene—9 years after the New Hampshire State legislature voted to allow Keene to become a city and after the citizens had twice voted down the idea.

Today, more than 125 years later, Keene is still a vibrant city, home to many diverse industries, well renowned institutions of higher learning, and an acclaimed performing arts community.

Each year, students from across the State and the Nation flock to southwest New Hampshire in order to expand their horizons at Keene State College, founded in 1909, and Antioch New England Graduate School. These and other quality institutions of higher learning throughout the region educate some of America's premier students.

Culturally, Keene thrives, boasting the Redfern Arts Center on Brickyard Pond at Keene State College as well as the non-profit Colonial Theater on Main Street and numerous singers and musicians who perform at a number of other locations in Keene. The region's largest newspaper, the Keene Sentinel, is also the Nation's fifth oldest. Having been in publication since 1799, it continues to serve as a vital source of news and information for the people of Keene.

Surrounded by mountains, lakes, and forest, in terms of quality of life, Keene is a community that has it all. In fact, the National Trust for Historic Preservation recently named Keene one of America's Dozen Distinctive Destinations, which is no surprise since the Elm City is often times described as the "suburb without the big city next door." With its commitment to historic preservation, attractive architecture, and diversity of businesses, Keene epitomizes the quaint New England municipality it has grown to be.

I congratulate Keene, New Hampshire on its 250th anniversary, and I extend my best wishes to its more than 22,000 citizens in celebration of this splendid milestone.●

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## THE NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARDS

● Mr. SUNUNU. Mr. President, I rise today to congratulate this year's winners of the New Hampshire Excellence in Education Awards. The "ED"ies are awarded to those individuals, schools and educational programs that have made significant contributions to public education and have met the highest standards of excellence. Educators and schools are measured on criteria, including curriculum and instruction, teaching and learning process, student achievement, leadership and decision-making, community and parental involvement, and school climate. On June 7, 2003, 35 individuals and 5 schools will be recognized for their leadership and outstanding achievements in preparing New Hampshire students for success in the 21st century, and I believe I represent my State well in conveying our appreciation and respect for the professionals they are and the sacrifices and contributions they make every day in classrooms throughout the Grantie State.

The "ED"ies are presented in various categories of excellence, such as art education, world languages, school nursing, counseling and technology. The specific criteria for the "ED"ies, which is developed by the board of directors for the New Hampshire Excellence in Education Awards, has been applied to elementary, middle, and secondary schools, along with teachers, administrators, and other education professionals performing at each of these levels, as well as higher education. Selection committees are charged with the responsibility of applying these standards and evaluating nominees, and consist of some of New Hampshire's finest educators and community leaders. The committees carefully review nominees, study school applications and conduct assessments through on-site visitations.

I have very fond memories of so many teachers that had a profound impact on my life. Their work that created a positive learning environment and provided me with the direction necessary to succeed, made an enormous difference in my growth as a person and as a public servant. They allowed me to appreciate the importance of a sound public education, as well as the need for individuals to make a contribution to their community. In my most important job—that of being a parent—I realize how delicate the task of educating can be, and understand more now than ever the vital resource our schools and teachers provide to the parents in the towns and cities of New Hampshire.

Similar to the classroom heroes I knew growing up in Salem, the group of educators chosen this year for the "ED"ies have demonstrated superior dedication and service to their students, schools and communities, and deserve this prestigious honor for the important roles they play in helping our children reach their goals and succeed in school. The teachers, principals, counselors, librarians, and other school leaders being commended this year have provided students with the tools they need to become productive and engaged citizens, and have been some of our State's most treasured role models—setting positive examples for the children that surround them, teaching personal responsibility and hard work, and shaping the character of young minds. For these achievements, our State and our country owe them a great deal of gratitude.

I am proud of the strides that the President and Congress have made in working to reform our Nation's public education system. Since first elected to Congress in 1996, I have made improving education a legislative priority of mine. However, I am cognizant of the fact that the men and women on the front lines of our classrooms tackle the toughest of challenges and enable our country to realize the promise of leaving no child behind. The State of New Hampshire's education system is a true model to be highlighted, and I am confident that the success we enjoy in our State is due in large measure to the contributions and leadership of the many educators and schools being recognized here today.

Mr. President, I ask unanimous consent that the list of the 2003 New Hampshire Excellence in Education Award winners be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

NH Art Educators Association—Award: Art Educator of the Year—Luci Prawdzik, Peter Woodbury School.

NH Association for Gifted Education—Award: Educator of the Gifted Award—Barbara DeVore, Reeds Ferry Elementary School, Merrimack.

NH Association for Supervision and Curriculum Development—Award: Supervision & Curriculum Development Award—Marianne MacCarthy True, Plymouth State College.

NH Association of Family & Consumer Services—Award: Family & Consumer Services—Katherine Shoubash, Bow High School.

NH Association of School Principals—Award: Assistant Principal—Francis McNally, Dover High School.

NH Association of School Principals—Award: Secondary Principal—Deborah Brooks, Newmarket High School.

NH Association of School Principals—Award: Middle School Principal—Dr. John O'Connor, Dover Middle School.

NH Association of School Principals—Award: Elementary Principal—Kevin Johnson, Kearsarge Regional Elementary School.

NH Association of School Psychologists—Award: NH School Psychologist of the Year—Kristen Thibodeau, Derry School District.

NH Association of Special Education Administrators—Award: Special Education Administrator of the Year—Frances Gonsalves, SAU #48—Plymouth.

NH Association of World Languages—Award: NH Association of World Languages Teacher of Excellence Award—Connie Evans, Bow High School.

NH Business Education Association—Award: NH Business Education Association Achievement Award—Beverly S. Lannan, Pinkerton Academy.

NH Charitable Foundation/Christa McAuliffe—Award: Christa McAuliffe Sabbatical Award—Daniel E. Reidy, Moultonborough Central School.

NH College and University Council—Award: NH College and University Council Faculty Member Award—Dr. Ockle Johnson, Keene State College.

NH Council for the Social Studies—Award: Social Studies Teacher of the Year—Joan O'Donnell, ConVal High School.

NH Council of Secondary Administrators of Vocational Education—Award: Vocational Education Teacher of the Yeaer—William Wood, Pinkerton Academy.

NH Council of Teachers of English—Award: English Teacher of the Year—Heidi Pauer, Bow High School.

NH DARE—Award: D.A.R.E. Officer of the Year—Barbara Mack-Keeney, Woodstock Police Department.

NH Driver Education Teachers Association—Award: Driver Education Teacher of the Year—Paul Ingersoll, Ingersoll Driving School.

NH Environmental Educators—Award: Middle School Level—Linda Carson, Hillsboro-Deering Middle School; and—Award: Elementary Level—Wendy Oellers, Gilford Elementary School.

NH Humanities Council—Award: Treat Award—Christopher Brooks, Souhegan High School.

NH Music Educators Association—Award: Distinguished Music Educator of the year—David Bresnahan, Memorial High School.

NH School Administrators Association—Award: NH School Administrators Association Outstanding Service Award—Mary Heath, SAU #19—Goffstown.

NH School Administrators Association—Award: Superintendent of the Year—Phillip G. McCormack, SAU #29—Keene.

NH School Boards Association—Award: School Board Excellence Award—Shaker Regional School Board, Belmont.

NH School Counselor Association—Award: NH School Counselor of the Year—Kellie Monroe, Bristol Elementary School.

NH School Nurses Association—Award: NH School Nurse of the Year—Susan A. Reiss, Sanborn Regional Middle School.

NH Society for Technology in Education—Award: Pat Keyes Technology Educator of the Year—Beth Haarlander, North Elementary School, Londonderry.

NH Society for Technology in Education—Award: NH Society for Technology in Education Impact Award—Karen Switzer, Pleasant Street School, Laconia.

NH Teacher of the Year—Award: NH Teacher of the Year—Marilyn "Lin" Benz Lindquist, Lamprey River Elementary School, Raymond.

NH Technology Education Association—Award: NH Technology Education Association Teacher of the Year—Wayne Bartels, Monadnock Regional Jr./Sr. High School, Swanzey.

NH Technology Education Assocation—Award: NH Technology Education Association Program Excellence Award—The Whitefield School, Whitefield.

Presidential Awards for Excellence in Math and Science—Award: Elementary Science—Stacy Jo Stapleton, Washington Elementary School—Award: Secondary Science—Kevin Andrew Lavigne, Hanover High School.

Presidential Awards for Excellence in Math and Science—Award: Elementary Math—Suzy Michelle Gagnon, Mast Way Elementary School, Lee—Award: Secondary Math—Joshua Christian Frost, Cooperative Middle School, Stratham.

NH Schools of Excellence—Award: Elementary School of the Year—New Boston Central Elementary School, New Boston.

NH Schools of Excellence—Award: Middle School of the Year—West Running Brook Middle School, Derry.

NH Schools of Excellence—Award: Secondary School of the Year—Merrimack Valley High School, Penacook.●

## TRIBUTE TO DETECTIVE RUSSELL NICHOLS

● Mr. BUNNING. Mr. President, I rise today in the Senate to honor and pay tribute to Kentucky State Police Detective Russell Nichols for being named the Trooper of the Year for Post 16 in Henderson.

This is the second time that this honor was bestowed upon Detective Nichols. As a 18-year veteran of the Kentucky State Police, he has proven himself over and over again to be a exemplary law enforcement officer. Detective Nichols was nominated for this prestigious award because of his investigations into crimes ranging from burglaries to homicides. Detective Nichols is also a field training officer who uses his expertise to train and mentor rookie troopers.

The citizens of western Kentucky are fortunate to have Detective Nichols protecting their communities. His example of leadership, hard work, and compassion should be an inspiration to all throughout the Commonwealth.

Congratulations, Detective Nichols, for receiving this award. Detective Nichols is just one of the many Kentucky State Police officers who put others before themselves by vowing to protect and serve Kentuckians. They have earned our admiration and respect, and for this we will always be grateful.●

## TRIBUTE TO MR. THOMAS "BUDDY" MORGAN OF MONTGOMERY, AL, PRESIDENT OF THE AMERICAN METROPOLITAN SEWERAGE ASSOCIATION

● Mr. SHELBY. Mr. President, I rise today in honor of Mr. Thomas "Buddy" Morgan, the general manager of the Montgomery Water Works and Sanitary Sewer Board in Montgomery, AL. Mr. Morgan serves as their representative to the Association of Metropolitan Sewerage Agencies, AMSA. On May 19, 2030, the members of AMSA elected Mr. Morgan to be the first president of the association from Alabama. Mr. Morgan was selected for his exemplary commitment and dedication to a clean-water community.

AMSA's mission is to effectively maintain a strong leadership role in the development and implementation of scientifically sound, cost-effective, and environmentally friendly policies for the protection of the health of the public and the environment. In May of 2003, AMSA will celebrate 33 years of service to the clean-water community and the Nation.

Mr. Morgan has worked on many projects on behalf of the city of Montgomery. His distinguished background includes his service on the U.S. Environmental Protection Agency's Urban Wet Weather Flows Federal Advisory Committee and the Sanitary Sewer Overflow Federal Advisory Committee. He also served as chair of the Catoma Creek Watershed Committee and as a board member of the Alabama Clean Water Partnership. As a result of his involvement, Montgomery and surrounding areas of the Great State of Alabama are directly represented in national policy discussions.

Mr. Morgan was instrumental in creating the Montgomery County Water Festival, which is now in its third year. As a result of his efforts, the water festival brings together local students for a day of activities and entertainment that instills in them a sense of environmental stewardship and awareness.

Alabama is honored to be the home to Mr. Morgan. It is no secret that he is a man who, day in and day out, goes above and beyond the call of duty. He is to be commended for his extraordinary efforts on behalf of the Montgomery Water Works and Sanitary Sewer Board and his election to lead the Association of Metropolitan Sewerage Agencies.●

## MESSAGE FROM THE HOUSE

At 8:30 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 191. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

## ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed on today, May 23, 2003, by the President pro tempore (Mr. STEVENS):

H.R. 1298. An act to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1104. A bill to amend title 10, United States Code, to provide for parental involvement in abortions of dependent children of members of the Armed Forces.

## PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–126. A Senate concurrent resolution adopted by the Legislature of the State of Louisiana relative to the food imports that contain the use of banned antibiotics, especially in foreign imported shrimp; to the Committee on Health, Education, Labor, and Pensions.

### SENATE CONCURRENT RESOLUTION NO. 18

Whereas, it is the concern of the Legislature of Louisiana that the presence of chloramphenicol and other banned veterinary drugs in imported shrimp and the legislature calls on the federal government to take immediate and focused efforts to improve enforcement of food import restrictions of seafood imports in order to protect American consumers and ensure safety of the food supply; and

Whereas, chloramphenicol, a potent antibiotic, can cause severe toxic effects in humans, including hypoplastic and aplastic anemia, which is usually irreversible and fatal; and

Whereas, because of these human health impacts, chloramphenicol, nitrofurans, and similar veterinary drugs are not approved for use in food-producing animals in the United States; and

Whereas, countries such as Thailand, Vietnam, and China have been found to use these drugs in the aquaculture of shrimp and other seafood; and

Whereas, the United States imports over four hundred thousand metric tons of shrimp annually, and Thailand and Vietnam are the top two exporters of shrimp to the United States, and China is the fifth largest exporter of shrimp to the United States; and

Whereas, upon detection of chloramphenicol using testing protocols that detect such substances as low as zero point three-tenths (0.3) parts per billion in certain shipments of seafood from China and other nations, in 2002 the European Union and Canada severely restricted imports of shrimp and other food from these nations; and

Whereas, the United States Food and Drug Administration inspects only two percent of all seafood imports into the country and utilizes a testing procedure that cannot detect the presence of chloramphenicol below one part per billion; and

Whereas, the Food and Drug Administration import testing did not detect chloramphenicol in shrimp imported from these nations in 2002; and

Whereas, independent testing performed by the states of Alabama, Florida, Louisiana, Mississippi, and Texas detected the presence of chloramphenicol in samples of imported shrimp from China, as well as from other countries, that were at levels considered harmful to human beings; and

Whereas, imports of seafood from nations that utilize substances banned in the United States such as chloramphenicol, nitrofuran, and other veterinary drugs pose potential threats to American consumers; and

Whereas, denial of entry to contaminated shrimp and other seafood products to the European Union and Canada will likely redirect imports to the United States of contaminated products turned away from these countries; and

Whereas, United States based companies involved in the importation and processing of shrimp are opposed to the use of chloramphenicol and are working with the domestic shrimp industry and the Food and Drug Administration to develop effective protocols, including in-country testing, certification of foreign testing facilities and other means to detect banned antibiotics and to exclude all tainted products from the United States marked: Therefore be it

*Resolved* That the Legislature of Louisiana expresses its concern about the presence of chloramphenicol, nitrofurans, and other veterinary drugs in seafood products especially imported shrimp and its potential impact on the safety of the food, and calls for immediate and focused efforts by the government of the United States to improve enforcement of food import restrictions of seafood imports containing chloramphenicol, nitrofurans, and other banned veterinary drugs in order to protect American consumers and ensure the safety of the food supply and further urges the Food and Drug Administration to continue to work with importers and domestic stakeholders to develop effective methods of excluding such banned antibiotics.

*Be it further resolved* That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 1149. An original bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives, and for other purposes (Rept. No. 108–54).

## NOMINATIONS DISCHARGED AND CONFIRMED

The following nominations were discharged from the Committee on Health, Education, Labor, and Pensions and confirmed en bloc by unanimous consent.

NATIONAL SCIENCE FOUNDATION

Steven C. Beering, of Indiana, to be a Member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 2004.

Ray M. Bowen, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Elizabeth Hoffman, of Colorado, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Mrs. LINCOLN, Ms. COLLINS, Mr. DASCHLE, Mr. JEFFORDS, Ms. CANTWELL, Mrs. CLINTON, and Mr. JOHNSON):

S. 1142. A bill to provide disadvantaged children with access to dental services; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. CAMPBELL, Mr. BIDEN, Mr. SMITH, Mr. DODD, Mr. CORNYN, Mr. BINGAMAN, Mr. DASCHLE, Mr. BREAUX, Mr. JOHNSON, Mr. SCHUMER, Mrs. CLINTON, and Mr. JEFFORDS):

S. 1143. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. ROCKEFELLER, Mrs. MURRAY, and Mr. BUNNING):

S. 1144. A bill to name the health care facility of the Department of Veterans Affairs located at 820 South Damen Avenue in Chicago, Illinois, as the "Jesse Brown Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1145. A bill to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building"; to the Committee on Governmental Affairs.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1146. A bill to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota; to the Committee on Indian Affairs.

By Mrs. BOXER:

S. 1147. A bill to protect United States ports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. GREGG, Mr. BREAUX, Mr. FEINGOLD, and Ms. COLLINS):

S. 1148. A bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1149. An original bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mrs. FEINSTEIN:

S. 1150. A bill to establish the Bob Hope American Patriot Award; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 1151. A bill to rescind the Department of Veterans Affairs memorandum of July 18, 2002, in which Directors of health service networks in the Department of Veterans Affairs are directed to ensure that no marketing activities to enroll new veterans occur within their networks; to the Committee on Veterans' Affairs.

By Mr. McCAIN (for himself and Mr. HOLLINGS):

S. 1152. A bill to reauthorize the United States Fire Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself and Mr. BOND):

S. 1153. A bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BURNS):

S. 1154. A bill to provide for the reauthorization of programs administered by the Small Business Administration that assist small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. GRASSLEY:

S. 1155. A bill to repeal section 801 of the Revenue Act of 1916; to the Committee on Finance.

By Mr. SPECTER:

S. 1156. A bill to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWNBACK (for himself, Mr. DODD, Mr. STEVENS, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BIDEN, Mrs. BOXER, Mr. CAMPBELL, Mr. CHAFEE, Mrs. CLINTON, Ms. COLLINS, Mr. CORNYN, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mrs. DOLE, Mr. DURBIN, Mr. EDWARDS, Mr. FRIST, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Ms. MIKULSKI, Mr. MILLER, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. SANTORUM, Mr. SCHUMER, Mr. SMITH, Ms. STABENOW, Mr. CRAIG, and Mr. LEAHY):

S. 1157. A bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes; to the Committee on Rules and Administration.

By Mrs. BOXER:

S. 1158. A bill to exempt bookstores and libraries from orders requiring the production of tangible things for foreign intelligence investigations, and to exempt libraries from counterintelligence access to certain records, ensuring that libraries and bookstores are subjected to the regular system of court-ordered warrants; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mrs. BOXER, and Mrs. LINCOLN):

S. 1159. A bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TALENT (for himself, Mrs. LINCOLN, Mr. BOND, Mr. LUGAR, Mr. BAUCUS, Mr. BUNNING, and Mr. ROBERTS):

S. Res. 154. A resolution expressing the support of the Senate of United States efforts in the World Trade Organization to end the unwarranted moratorium imposed by the European Union on the approval of agricultural biotechnology products; considered and agreed to.

By Mr. SPECTER (for himself, Ms. COLLINS, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 155. A resolution protecting social security beneficiaries from cola cuts; considered and agreed to.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 156. A resolution to authorize representation by the Senate Legal Counsel in the case of Judicial Watch, Inc. v. United States, et al; considered and agreed to.

By Mr. LOTT:

S. Res. 157. A resolution to authorize the printing of the prayers of Reverend Lloyd John Ogilvie; to the Committee on Rules and Administration.

By Mr. HAGEL (for himself and Mr. NELSON of Nebraska):

S. Con. Res. 47. A concurrent resolution recognizing the outstanding efforts of the individuals and communities who volunteered or donated items to the North Platte Canteen in North Platte, Nebraska, during World War II from December 25, 1941, to April 1, 1946; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 442

At the request of Ms. LANDRIEU, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 442, a bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes.

S. 478

At the request of Mr. SARBANES, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 478, a bill to grant a Federal charter to the Korean War Veterans Association, Incorporated, and for other purposes.

S. 517

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

S. 567

At the request of Ms. SNOWE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 567, a bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants.

S. 575

At the request of Mr. INOUYE, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 575, a bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes.

S. 583

At the request of Mrs. HUTCHISON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 583, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 593

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 593, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred.

S. 595

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 622

At the request of Mr. GRASSLEY, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 632

At the request of Mr. CRAIG, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 632, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease.

S. 652

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 654

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 654, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 678

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 852

At the request of Mr. DEWINE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 874

At the request of Mr. TALENT, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 876

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 876, a bill to require public disclosure of noncompetitive contracting for the reconstruction of the infrastructure of Iraq, and for other purposes.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 899

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 899, a bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes.

S. 899

At the request of Mrs. HUTCHISON, the names of the Senator from New York (Mrs. CLINTON), the Senator from Washington (Mrs. MURRAY) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 899, supra.

S. 922

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 922, a bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 985

At the request of Mr. DODD, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1019

At the request of Mr. DEWINE, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oregon (Mr. SMITH) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1023

At the request of Mr. HATCH, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 1023, a bill to increase the annual salaries of justices and judges of the United States.

S. 1033

At the request of Mr. BINGAMAN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1033, a bill to amend titles XIX and XXI of the Social Security Act to expand or add coverage of pregnant women under the medicaid and State children's health insurance program, and for other purposes.

S. 1046

At the request of Mr. STEVENS, the names of the Senator from California (Mrs. BOXER) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1061

At the request of Mr. BIDEN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1061, a bill to authorize 36 additional bankruptcy judgeships, and for other purposes.

S. 1076

At the request of Mr. HAGEL, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1119

At the request of Mr. GRAHAM of Florida, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1119, a bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit.

S. 1120

At the request of Mr. BAUCUS, the names of the Senator from Connecticut (Mr. DODD), the Senator from California (Mrs. FEINSTEIN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1120, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1126

At the request of Mr. JOHNSON, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), the Senator from Washington (Ms. CANTWELL), the Senator from Washington (Mrs. MURRAY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1126, a bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

S. 1127

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1127, a bill to establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes.

### S. RES. 140

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 140, a resolution designating the week of August 10, 2003, as "National Health Center Week".

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Mrs. LINCOLN, Ms. COLLINS, Mr. DASCHLE, Mr. JEFFORDS, Ms. CANTWELL, Mrs. CLINTON, and Mr. JOHNSON):

S. 1142. A bill to provide disadvantaged children with access to dental services; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators COCHRAN, LINCOLN, COLLINS, DASCHLE, JEFFORDS, CLINTON, CANTWELL, and JOHNSON is entitled the Children's Dental Health Improvement Act of 2003. This legislation is designed to improve the access and delivery of dental health services to our Nation's children through Medicaid, the State Children's Health Insurance Program, (SCHIP), the Indian Health Services, IHS, and our Nation's safety net of community health centers.

The oral health problems facing children are highlighted in a landmark report issued by the Surgeon General and the Department of Health and Human Services, HHS, in 2000 entitled "Oral Health in America: A report of the Surgeon General" in which he observed that our Nation is facing what amounts to "a 'silent epidemic' of dental and oral diseases."

In fact, dental caries, which refers to both decayed teeth or filled cavities, is the most common childhood disease. According to the Surgeon General,"Among 5- to 17-years olds, dental caries is more than 5 times as common as a reported history of asthma and 7 times as common as hay fever." In short, dental care is, as the Surgeon General adds,"the most prevalent unmet health need among American children."

I was pleased to chair a hearing in the Health, Education, Labor and Pensions Committee on June 25, 2002, entitled "The Crisis in Children's Dental Health: A Silent Epidemic" in which the Surgeon General, Dr. David Satcher, testified. Dr. Satcher's testimony was strong and compelling.

In his words, "Over 108 million children and adults lack dental insurance, which is over 2.5 times the number who lack medical insurance." Dr. Satcher also highlighted the following information specific to the oral health problems in children:

There are striking disparities in dental disease by income. Poor children suffer twice as much dental caries as their more affluent peers, and their disease is more likely to be untreated. These poor-nonpoor differences continue into adolescence. One out of four children in America is born into poverty, and children living below the poverty line—annual income of $17,000 for a family of four—have more severe and untreated decay.

Other birth defects such as hereditary ectodermal dysplasias, where all or most teeth are missing or misshapen, cause lifetime problems that can be devastating to children and adults.

Unintentional injuries, many of which include head, mouth, and neck injuries, are common in children.

Intentional injuries commonly affect the craniofacial tissues.

Tobacco-related oral lesions are prevalent in adolescents who currently use smokeless—spit tobacco.

Professional care is necessary for maintaining oral health, yet 25 percent of poor children have not seen a dentist before entering kindergarten.

Medical insurance is a strong predictor of access to dental care. Uninsured children are 2.5 times less likely than insured children to receive dental care. Children from families without dental insurance are three times more likely to have dental needs than children with either public or private insurance. For each child without medical insurance, there are at least 2.6 children without dental insurance.

Medicaid has not been able to fill the gap in providing dental care to poor children. Fewer than one in five Medicaid-covered children received a single dental visit in a recent year-long study period. While recent CMS data indicate progress in this area with 1 million more Medicaid-eligible children now receiving annual dental care than was the case in 1996, there is still a long way to go to ensuring greater access. Although new programs such as the State Children's Health Insurance Program, SCHIP, may increase the number of insured children, many will still be left without effective dental coverage.

The social impact of oral diseases in children is substantial. More than 51 million school hours are lost each year to dental-related illness. Poor children suffer nearly 12 times more restricted-activity days than children from higher income families. Pain and suffering due to untreated diseases can lead to problems in eating, speaking, and attending to learning.

Over 50 percent of 5- to 9-year-old children have at least one cavity or filling, and that proportion increases to 78 percent among 17-year-olds. Nevertheless, these figures represent improvements in the oral health of children compared to a generation ago.

The Senate also heard the testimony of Dr. Burton Edelstein, founding director of the Children's Dental Health Project; Dr. Gregory Chadwick, president of the American Dental Association; Dr. Lynn Douglass Moundon, director of oral health in the Arkansas Department of Health; Ed Martinez, chief executive officer at San Ysidro Health Center in California; and, Dr. Timothy Shriver, president and chief executive officer of Special Olympics, Inc.

Dr. Edelstein underscored the need for more attention to this issue. As he said, "The too-widespread belief that childhood dental disease has been vanquished states in contrast to the thousands upon thousands of toothaches and acute abscesses experienced daily by America's children—many as young as 2 years of age."

In endorsing this legislation, Dr. Chadwick added, ". . . we cannot forget the fact that millions of people in this country—particularly children—aren't getting even basic preventive and restorative dental care. These children are out there suffering."

The Children's Dental Health Improvement Act of 2003 seeks to end that suffering. One important provision in the bill would grant States flexibility to provide dental coverage to low-income children through the State Children's Health Insurance Program, or SCHIP, just as States currently are able to do through Medicaid.

Unfortunately, SCHIP law prohibits coverage of children for services unless they are completely uninsured. As authors Ruth Almeida, Ian Hill, and Genevieve Kenney of an Urban Institute report entitled "Does SCHIP Spell Better Dental Care for Children? An Early Look at New Initiatives" write, ". . . many low-income children are covered by employer-based or other private health insurance for their medical care, but do not have a comprehensive dental benefit. Because these children are privately insured, they are not eligible for SCHIP and cannot avail themselves of dental coverage under SCHIP. Expanding SCHIP to furnish dental services on a wraparound basis to private covered low-income children without dental coverage could help achieve broader improvements in children's oral health."

For low-income children with medical coverage but no dental insurance through the private sector, their only option would be to completely dump their private coverage for their children in order to access SCHIP coverage.

Instead, the Children's Dental Health Improvement Act of 2003 creates an option for States to provide low-income families with the ability to receive wraparound dental coverage through SCHIP without having to completely drop their private insurance. This reduces the crowd-out of private insurance, which was a priority of the Congress during passage of SCHIP, and it provides low-income children with dental services that other children in the same economic circumstance are already receiving through SCHIP.

In implementing such a change, I want to make it clear that I am in strong support of providing additional funding to SCHIP to ensure that these services are provided without reducing current levels of SCHIP funding. With those additional funds, I strongly believe that SCHIP, just as Medicaid, should provide services to low-income children who are both uninsured and underinsured. Children need a comprehensive set of child health services, including dental services, to ensure their appropriate health and development.

However, coverage for these services is often not enough. Even when children do have dental coverage, the access to care is often sorely lacking. Medicaid is the largest insurer of dental coverage to children. Yet despite the design of the Medicaid Program to ensure access to comprehensive services for children, including dental care, the inspector general of the Department of Health and Human Services reported in 1996 that only 18 percent of children eligible for Medicaid received even a single preventive dental service. The same report shows that no State provides preventive services to more than 50 percent of eligible children. The factors are complex but the primary one is due to limited dental participation in Medicaid.

According to GAO, in its September 2000 report entitled "Oral Health: Factors Contributing to Low Use of Dental Services by Low-Income Populations", "Of 39 states that provided information about dentists' participation in Medicaid, 23 reported that fewer than half of the states' dentists saw at least one Medicaid patient during 1999." Even worse, a 1998 survey by the National Conference of State Legislatures indicates that fewer than 20 percent of dentists participate in the Medicaid Program nationwide.

The GAO concludes poor participation rates by dentists is due in large part to poor reimbursement rates in Medicaid. As the GAO points out, "Our analysis showed that Medicaid payment rates are often well below dentists' normal fees. Only 13 states had Medicaid rates that exceeded two-thirds of the average regional fees dentists charged. . . ."

Clearly, Medicaid is chronically underfunded with respect to dental care. The Surgeon General's report notes, "On average, state Medicaid agencies contribute only 2.3 percent of their child health expenditures to dental care, whereas nationally, the percentage of all child health expenditures dedicated to dental care is more than 10 times that rate, almost 30 percent."

The good news is that many States, including New Mexico, have taken recent actions to improve the participation of dentists in the Medicaid Program by raising low payment rates and reducing administrative requirements. These efforts were highlighted by the GAO in its September 2000 report. To further encourage such efforts, the "Children's Dental Health Improvement Act of 2003" provides $50 million annually as financial incentives and planning grants to States to undertake additional improvements in their Medicaid Programs delivery of dental health services to children.

In addition to Medicaid and SCHIP, the Federal Government administers other health care programs providing dental services or providers for low-income children and their families, including services administered by community health centers and the Indian Health Service, or IHS. Unfortunately, both of these programs are underfunded and, as the GAO found, "report difficulty in meeting the dental needs of their target populations."

For example, the GAO found that "HHS and health center officials report that the demand for dental services significantly exceeds the [urban and rural health] centers' capacity to deliver it. In 1998 . . . . a little more than half of the nearly 700 health center grantees funded under this program had active dental programs." This is also true for public health departments across the country.

To assist the health centers and public health departments with this need, the Children's Dental Health Improvement Act of 2003 provides $40 million to community health centers and public health departments to expand dental health services through the hiring of additional dental health professionals to serve low-income populations.

This is particularly a problem that needs to be addressed in areas with severe dental health professional shortages, such as New Mexico. For example, New Mexico ranked next to last in the Nation with just 32.1 dentists per 100,000 population in 1998, according to HHS. This compares to the national average of 48.4 per 100,000. Moreover, the number of dentists in New Mexico declined by 7 percent between 1991 and 1998 while the State's population grew 12 percent. The result was a 17 percent decline in dentists per capita during the period.

With regard to American Indian and Alaska Native populations, the need is so great and the funding so little that a comprehensive solution is required throughout the IHS system. With respect to the unmet need, the GAO notes that "American Indian and Alaska Native children aged 2 to 4 years old have five times the rate of decay that all children have."

Unfortunately, the GAO adds, ". . . about one-fourth of IHS' dentist positions at 269 IHS and tribal facilities were vacant in April 2000. Vacancies have been chronic at IHS facilities—in the past 5 years, at least 67 facilities have had one or more dentist positions vacant for at least a year. According to IHS officials, the primary reason for these vacancies is that IHS is unable to provide a competitive salary for new dentists . . ."

The GAO continues, "The IHS' dental personnel shortages translate into a large unmet need for dental services among American Indians and Alaska Natives. IHS reports that only 24 percent of the eligible population had a dental visit in 1998. The personnel shortages have also reduced the scope of services that facilities are able to provide. According to IHS officials, available services have concentrated more on acute and emergency care, while routine and restorative care have dropped as a percentage of workload. Emergency services increased from one-fifth of the workload in 1990 to more than one-third of the workload in 1999."

To help alleviate this workforce shortage, the Children's Dental Health Improvement Act of 2003 provides IHS with the authority to offer multiyear retention bonuses to dental providers offering services through the IHS and tribal programs.

The bill also provides for some technical amendments to ensure that tribal organizations and community health centers are allowed to apply for school-based dental sealant funding from the Centers for Disease Control and Prevention, or CDC.

The legislation also has a new provision that addresses a technical and unintended problem with the implementation of provisions changing the way Medicare graduate medical education, or GME, is funded. As background in the Balanced Budget Act of 1997, or BBA, Congress recognized the unfairness of subjecting dentistry to GME policies based on the oversupply of physician specialists by exempting dental residency positions from caps placed on the number of residents supported by Medicare GME.

However, the two provisions in that law—both enacted primarily to alleviate the impact on hospitals that decrease physician slots—have had the opposite impact on hospitals that increase their dental residency positions. While successful in achieving the purpose of reducing the number of physicians being trained, these provisions have hurt dentistry and access to oral health care in the United States and are contrary to the congressional goal in 1997 to increase the number of postgraduate dental residency slots. As a result, the legislation would exempt dental residency training positions from the 3-year rolling average provision used to calculate the number of residents for Medicare GME payments.

The bipartisan legislation I am introducing today would improve the access and delivery of dental health services to our Nation's children through Medicaid, SCHIP, IHS, and our Nation's safety net of community health centers. These problems are well documented and call out for congressional action as soon as possible.

I would like to thank the American Dental Association, the American Dental Education Association, the American Academy of Pediatric Dentistry, the National Association of Community Health Centers, Inc., the National Association of Children's Hospitals, the American Dental Hygienists' Association, and the Children's Dental Health Project for their outstanding support and/or their technical advice on this legislation. This bill is a result of their outstanding work.

In particular, I want to thank Dr. Burt Edelstein, Libby Mullin, and Ann De Biasi of the Children's Dental Health Project for their vast knowledge and technical assistance on this issue. I want to thank Judy Sherman of the American Dental Association, Myla Moss and Jack Bresch of the American Dental Education Association, Dr. Herber Simmons and Scott Litch of the American Academy of Pediatric Dentistry, Karen Sealander of the American Dental Hygienists' Association, Dr. Jim Richeson and Judy Kloss Bynum of the Academy of General Dentistry, Dr. Stephen Corbin of Special Olympics, Inc., and Dan Hawkins, Chris Koppen, and Roger Schwartz of the National Association of Community Health Centers, Inc., for their valuable insight, technical advice, and continued support for this legislation. I look forward to working with them all to ensure that we achieve increased access to oral health care for our children.

In addition to those organizations, I would like to thank the following groups for their support of the bill, whether in the past session of Congress or this year. They include: the Academy of General Dentistry, American Academy of Child and Adolescent Psychiatry, American Academy of Oral and Maxillofacial Pathology, American Academy of Periodontology, American Association of Dental Examiners, American Association of Dental Research, American Association of Endodontists, American Association of Public Health Dentistry, American Association of Oral and Maxillofacial Surgeons, American Association of Orthodontists, American Association of Women Dentists, American College of Dentists, American College of Preventive Medicine, American Dental Trade Association, American Public Health Association, American Society of Dentistry for Children, American Student Dental Association, Association of Clinicians for the Underserved, Association of Maternal and Child Health Programs, Association of State and Territorial Dental Directors, Dental Dealers of America, Dental Manufacturers of America, Inc., Family Voices, Hispanic Dental Association, International College of Dentists—USA, March of Dimes, National Association of City and County Health Officers, National Association of Local Boards of Health, National Dental Association, National Health Law Program, New Mexico Department of Health, Partnership for Prevention, Society of American Indian Dentists, Special Care Dentistry, and United Cerebral Palsy Associations.

Mr. President, I ask unanimous consent for the text of the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1142

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Children's Dental Health Improvement Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER MEDICAID AND SCHIP

Sec. 101. Grants to improve the provision of dental services under medicaid and SCHIP.
Sec. 102. State option to provide wrap-around SCHIP coverage to children who have other health coverage.

TITLE II—CORRECTING GME PAYMENTS FOR DENTAL RESIDENCY TRAINING PROGRAMS

Sec. 201. Limitation on the application of the 1-year lag in the indirect medical education ratio (IME) changes and the 3-year rolling average for counting interns and residents for IME and direct graduate medical education (D-GME) payments under the medicare program.

TITLE III—IMPROVING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER COMMUNITY HEALTH CENTERS, PUBLIC HEALTH DEPARTMENTS, AND THE INDIAN HEALTH SERVICE

Sec. 301. Grants to improve the provision of dental health services through community health centers and public health departments.
Sec. 302. Dental officer multiyear retention bonus for the Indian Health Service.
Sec. 303. Demonstration projects to increase access to pediatric dental services in underserved areas.
Sec. 304. Technical correction.

TITLE IV—IMPROVING ORAL HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS

Sec. 401. Oral health initiative.
Sec. 402. CDC reports.
Sec. 403. Early childhood caries.
Sec. 404. School-based dental sealant program.
Sec. 405. Basic oral health promotion.

## TITLE I—IMPROVING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER MEDICAID AND SCHIP

### SEC. 101. GRANTS TO IMPROVE THE PROVISION OF DENTAL SERVICES UNDER MEDICAID AND SCHIP.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following:

### "SEC. 511. GRANTS TO IMPROVE THE PROVISION OF DENTAL SERVICES UNDER MEDICAID AND SCHIP.

"(a) AUTHORITY TO MAKE GRANTS.—In addition to any other payments made under this title to a State, the Secretary shall award grants to States that satisfy the requirements of subsection (b) to improve the provision of dental services to children who are enrolled in a State plan under title XIX or a State child health plan under title XXI (in this section, collectively referred to as the 'State plans').

"(b) REQUIREMENTS.—In order to be eligible for a grant under this section, a State shall provide the Secretary with the following assurances:

"(1) IMPROVED SERVICE DELIVERY.—The State shall have a plan to improve the delivery of dental services to children, including children with special health care needs, who are enrolled in the State plans, including providing outreach and administrative case management, improving collection and reporting of claims data, and providing incentives, in addition to raising reimbursement rates, to increase provider participation.

"(2) ADEQUATE PAYMENT RATES.—The State has provided for payment under the State plans for dental services for children at levels consistent with the market-based rates and sufficient enough to enlist providers to treat children in need of dental services.

"(3) ENSURED ACCESS.—The State shall ensure it will make dental services available to children enrolled in the State plans to the same extent as such services are available to the general population of the State.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided under this section may be used to provide administrative resources (such as program development, provider training, data collection and analysis, and research-related tasks) to assist States in providing and assessing services that include preventive and therapeutic dental care regimens.

"(2) LIMITATION.—Funds provided under this section may not be used for payment of direct dental, medical, or other services or to obtain Federal matching funds under any Federal program.

"(d) APPLICATION.—A State shall submit an application to the Secretary for a grant under this section in such form and manner and containing such information as the Secretary may require.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section $50,000,000 for fiscal year 2004 and each fiscal year thereafter.

"(f) APPLICATION OF OTHER PROVISIONS OF TITLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the other provisions of this title shall not apply to a grant made under this section.

"(2) EXCEPTIONS.—The following provisions of this title shall apply to a grant made under subsection (a) to the same extent and in the same manner as such provisions apply to allotments made under section 502(c):

"(A) Section 504(b)(6) (relating to prohibition on payments to excluded individuals and entities).

"(B) Section 504(c) (relating to the use of funds for the purchase of technical assistance).

"(C) Section 504(d) (relating to a limitation on administrative expenditures).

"(D) Section 506 (relating to reports and audits), but only to the extent determined by the Secretary to be appropriate for grants made under this section.

"(E) Section 507 (relating to penalties for false statements).

"(F) Section 508 (relating to nondiscrimination).

"(G) Section 509 (relating to the administration of the grant program).".

### SEC. 102. STATE OPTION TO PROVIDE WRAP-AROUND SCHIP COVERAGE TO CHILDREN WHO HAVE OTHER HEALTH COVERAGE.

(a) In General.—

(1) SCHIP.—

(A) State option to provide wrap-around coverage.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(i) in paragraph (1)(C), by inserting ", subject to paragraph (5)," after "under title XIX or"; and

(ii) by adding at the end the following:

"(5) State option to provide wrap-around coverage.—A State may waive the requirement of paragraph (1)(C) that a targeted low-income child may not be covered under a group health plan or under health insurance coverage, if the State satisfies the conditions described in subsection (c)(8). The State may waive such requirement in order to provide—

"(A) dental services;

"(B) cost-sharing protection; or

"(C) all services.

In waiving such requirement, a State may limit the application of the waiver to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.".

(B) Conditions described.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following:

"(8) Conditions for provision of wrap-around coverage.—For purposes of section 2110(b)(5), the conditions described in this paragraph are the following:

"(A) Income eligibility.—The State child health plan (whether implemented under title XIX or this XXI)—

"(i) has the highest income eligibility standard permitted under this title as of January 1, 2002;

"(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

"(iii) provides benefits to all children in the State who apply for and meet eligibility standards.

"(B) No waiting list imposed.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

"(C) No more favorable treatment.—The State child health plan may not provide more favorable coverage of dental services to the children covered under section 2110(b)(5) than to children otherwise covered under this title.".

(C) State option to waive waiting period.—Section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) at State option, may not apply a waiting period in the case of a child described in section 2110(b)(5), if the State satisfies the requirements of section 2105(c)(8).".

(2) Application of enhanced match under Medicaid.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (b), in the fourth sentence, by striking "or subsection (u)(3)" and inserting "(u)(3), or (u)(4)"; and

(B) in subsection (u)—

(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

"(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 2110(b)(5), but only in the case of a State that satisfies the requirements of section 2105(c)(8).".

(3) Application of secondary payor provisions.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) Section 1902(a)(25) (relating to coordination of benefits and secondary payor provisions) with respect to children covered under a waiver described in section 2110(b)(5).".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on January 1, 2003, and shall apply to child health assistance and medical assistance provided on or after that date.

## TITLE II—CORRECTING GME PAYMENTS FOR DENTAL RESIDENCY TRAINING PROGRAMS

### SEC. 201. LIMITATION ON THE APPLICATION OF THE 1-YEAR LAG IN THE INDIRECT MEDICAL EDUCATION RATIO (IME) CHANGES AND THE 3-YEAR ROLLING AVERAGE FOR COUNTING INTERNS AND RESIDENTS FOR IME AND DIRECT GRADUATE MEDICAL EDUCATION (D-GME) PAYMENTS UNDER THE MEDICARE PROGRAM.

(a) IME Ratio and Rolling Average.—Section 1886(d)(5)(B)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(vi)) is amended by adding at the end the following new sentence: "For cost reporting periods beginning during fiscal years beginning on or after October 1, 2003, subclauses (I) and (II) shall be applied only with respect to a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine.".

(b) D-GME Rolling Average.—Section 1886(h)(4)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(G)) is amended by adding at the end the following new clause:

"(iv) Application for FY 2004 and subsequent years.—For cost reporting periods beginning during fiscal years beginning on or after October 1, 2003, clauses (i) through (iii) shall be applied only with respect to a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine.".

## TITLE III—IMPROVING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER COMMUNITY HEALTH CENTERS, PUBLIC HEALTH DEPARTMENTS, AND THE INDIAN HEALTH SERVICE

### SEC. 301. GRANTS TO IMPROVE THE PROVISION OF DENTAL HEALTH SERVICES THROUGH COMMUNITY HEALTH CENTERS AND PUBLIC HEALTH DEPARTMENTS.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by insert before section 330, the following:

### "SEC. 329. GRANT PROGRAM TO EXPAND THE AVAILABILITY OF SERVICES.

"(a) In General.—The Secretary, acting through the Health Resources and Services Administration, shall establish a program under which the Secretary may award grants to eligible entities and eligible individuals to expand the availability of primary dental care services in dental health professional shortage areas or medically underserved areas.

"(b) Eligibility.—

"(1) Entities.—To be eligible to receive a grant under this section an entity—

"(A) shall be—

"(i) a health center receiving funds under section 330 or designated as a Federally qualified health center;

"(ii) a county or local public health department, if located in a federally-designated dental health professional shortage area;

"(iii) an Indian tribe or tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(iv) a dental education program accredited by the Commission on Dental Accreditation;

"(v) a community-based program whose child service population is made up of at least 33 percent of children who are eligible children, including at least 25 percent of such children being children with mental retardation or related developmental disabilities, unless specific documentation of a lack of need for access by this sub-population is established; and

"(B) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information concerning dental provider capacity to serve individuals with developmental disabilities.

"(2) Individuals.—To be eligible to receive a grant under this section an individual shall—

"(A) be a dental health professional licensed or certified in accordance with the laws of State in which such individual provides dental services;

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require; and

"(C) provide assurances that—

"(i) the individual will practice in a federally-designated dental health professional shortage area; or

"(ii) not less than 25 percent of the patients of such individual are—

"(I) receiving assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) receiving assistance under a State plan under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.); or

"(III) uninsured.

"(c) Use of Funds.—

"(1) Entities.—An entity shall use amounts received under a grant under this section to provide for the increased availability of primary dental services in the areas described in subsection (a). Such amounts may be used to supplement the salaries offered for individuals accepting employment as dentists in such areas.

"(2) Individuals.—A grant to an individual under subsection (a) shall be in the form of a $1,000 bonus payment for each month in which such individual is in compliance with the eligibility requirements of subsection (b)(2)(C).

"(d) Authorization of Appropriations.—

"(1) In general.—Notwithstanding any other amounts appropriated under section 330 for health centers, there is authorized to be appropriated $40,000,000 for each of fiscal years 2004 through 2008 to hire and retain dental health care providers under this section.

"(2) Use of funds.—Of the amount appropriated for a fiscal year under paragraph (1), the Secretary shall use—

"(A) not less than 65 percent of such amount to make grants to eligible entities; and

"(B) not more than 35 percent of such amount to make grants to eligible individuals.".

### SEC. 302. DENTAL OFFICER MULTIYEAR RETENTION BONUS FOR THE INDIAN HEALTH SERVICE.

(a) Terms and Definitions.—In this section:

(1) Creditable service.—The term "creditable service" includes all periods that a dental officer spent in graduate dental educational (GDE) training programs while not on active duty in the Indian Health Service and all periods of active duty in the Indian Health Service as a dental officer.

(2) Dental officer.—The term "dental officer" means an officer of the Indian Health Service designated as a dental officer.

(3) Director.—The term "Director" means the Director of the Indian Health Service.

(4) Residency.—The term "residency" means a graduate dental educational (GDE) training program of at least 12 months leading to a specialty, including general practice residency (GPR) or an advanced education general dentistry (AEGD).

(5) Specialty.—The term "specialty" means a dental specialty for which there is an Indian Health Service specialty code number.

(b) Requirements for Bonus.—

(1) In general.—An eligible dental officer of the Indian Health Service who executes a written agreement to remain on active duty for 2, 3, or 4 years after the completion of any other active duty service commitment to the Indian Health Service may, upon acceptance of the written agreement by the Director, be authorized to receive a dental officer multiyear retention bonus under this section. The Director may, based on requirements of the Indian Health Service, decline to offer such a retention bonus to any specialty that is otherwise eligible, or to restrict the length of such a retention bonus contract for a specialty to less than 4 years.

(2) Limitations.—Each annual dental officer multiyear retention bonus authorized under this section shall not exceed the following:

(A) $14,000 for a 4-year written agreement.

(B) $8,000 for a 3-year written agreement.

(C) $4,000 for a 2-year written agreement.

(c) Eligibility.—

(1) In general.—In order to be eligible to receive a dental officer multiyear retention bonus under this section, a dental officer shall—

(A) be at or below such grade as the Director shall determine;

(B) have completed any active duty service commitment of the Indian Health Service incurred for dental education and training or have 8 years of creditable service;

(C) have completed initial residency training, or be scheduled to complete initial residency training before September 30 of the fiscal year in which the officer enters into a dental officer multiyear retention bonus written service agreement under this section; and

(D) have a dental specialty in pediatric dentistry or oral and maxillofacial surgery.

(2) Extension to other officers.—The Director may extend the retention bonus to dental officers other than officers with a dental specialty in pediatric dentistry, as well as to other dental hygienists with a minimum of a baccalaureate degree, based on demonstrated need.

(d) Termination of Entitlement to Special Pay.—The Director may terminate, with cause, at any time a dental officer's multiyear retention bonus contract under this section. If such a contract is terminated, the unserved portion of the retention bonus contract shall be recouped on a pro rata basis. The Director shall establish regulations that specify the conditions and procedures under which termination may take place. The regulations and conditions for termination shall be included in the written service contract for a dental officer multiyear retention bonus under this section.

(e) Refunds.—

(1) In general.—Prorated refunds shall be required for sums paid under a retention bonus contract under this section if a dental officer who has received the retention bonus fails to complete the total period of service specified in the contract, as conditions and circumstances warrant.

(2) Debt to united states.—An obligation to reimburse the United States imposed under paragraph (1) is a debt owed to the United States.

(3) No discharge in bankruptcy.—Notwithstanding any other provision of law, a discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of a retention bonus contract under this section does not discharge the dental officer who signed such a contract from a debt arising under the contract or under paragraph (1).

### SEC. 303. DEMONSTRATION PROJECTS TO INCREASE ACCESS TO PEDIATRIC DENTAL SERVICES IN UNDERSERVED AREAS.

(a) Authority To Conduct Projects.—The Secretary of Health and Human Services, through the Administrator of the Health Resources and Services Administration and the Director of the Indian Health Service, shall establish demonstration projects that are designed to increase access to dental services for children in underserved areas, as determined by the Secretary.

(b) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

### SEC. 304. TECHNICAL CORRECTION.

Section 340G(b)(1)(B) of the Public Health Service Act (42 U.S.C. 256g(b)(1)(B)) is amended by striking "and" at the end and inserting "or".

## TITLE IV—IMPROVING ORAL HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS

### SEC. 401. ORAL HEALTH INITIATIVE.

(a) Establishment.—The Secretary of Health and Human Services shall establish an oral health initiative to reduce the profound disparities in oral health by improving the health status of vulnerable populations, particularly low-income children and children with developmental disabilities, to the level of health status that is enjoyed by the majority of Americans.

(b) Activities.—The Secretary of Health and Human Services shall, through the oral health initiative—

(1) carry out activities to improve intra- and inter-agency collaborations, including activities to identify, engage, and encourage existing Federal and State programs to maximize their potential to address oral health;

(2) carry out activities to encourage public-private partnerships to engage private sector communities of interest (including health professionals, educators, State policymakers, foundations, business, and the public) in partnerships that promote oral health and dental care;

(3) carry out activities to reduce the disease burden in high risk populations through the application of best-science in oral health, including programs such as community water fluoridation and dental sealants; and

(4) carry out activities to improve the oral health literacy of the public through school-based education programs.

(c) Coordination.—The Secretary of Health and Human Services shall—

(1) through the Administrator of the Centers for Medicare & Medicaid Services, establish the Chief Dental Officer for the medicaid and State children's health insurance programs established under titles XIX and XXI, respectively, of the Social Security Act (42 U.S.C. 1396 et seq. 1397aa et seq.);

(2) through the Administrator of the Health Resources and Services Administration, establish the Chief Dental Office for all oral health programs within the Health Resources and Services Administration;

(3) through the Director of the Centers for Disease Control and Prevention, establish the Chief Dental Officer for all oral health programs within such Centers; and

(4) carry out this section in collaboration with the Administrators and Chief Dental Officers described in paragraphs (1), (2), and (3).

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year.

### SEC. 402. CDC REPORTS.

(a) Collection of Data.—The Director of the Centers for Disease Control and Prevention, in collaboration with other organizations and agencies, shall collect data through State-based oral health surveillance systems describing the dental, craniofacial, and oral health of residents of all 50 States and certain Indian tribes.

(b) Reports.—The Director of the Centers for Disease Control and Prevention shall compile and analyze data collection under subsection (a) and annually prepare and submit to the appropriate committees of Congress a report concerning the oral health of States and Indian tribes.

### SEC. 403. EARLY CHILDHOOD CARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall—

(1) expand existing surveillance activities to include the identification of children at high risk of early childhood caries, including sub-populations such as children with developmental disabilities;

(2) assist State, local, and tribal health agencies and departments in collecting, analyzing and disseminating data on early childhood caries; and

(3) provide for the development of public health nursing programs and public health education programs on early childhood caries prevention.

(b) APPROPRIATENESS OF ACTIVITIES.—The Secretary of Health and Human Services shall carry out programs and activities under subsection (a) in a culturally appropriate manner with respect to populations at risk of early childhood caries.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each fiscal year.

### SEC. 404. SCHOOL-BASED DENTAL SEALANT PROGRAM.

Section 317M(c) of the Public Health Service Act (as added by section 1602 of Public Law 106-310)) is amended—

(1) in paragraph (1), by inserting "and school-linked" after "school-based";

(2) in the first sentence of paragraph (2)—

(A) by inserting "and school-linked" after "school-based"; and

(B) by inserting "or Indian tribe" after "State"; and

(3) by striking paragraph (3) and inserting the following:

"(3) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), an entity shall—

"(A) prepare and submit to the State or Indian tribe an application at such time, in such manner and containing such information as the State or Indian tribe may require; and

"(B) be a—

"(i) public elementary or secondary school—

"(I) that is located in an urban area in which more than 50 percent of the student population is participating in Federal or State free or reduced meal programs; or

"(II) that is located in a rural area and, with respect to the school district in which the school is located, the district involved has a median income that is at or below 235 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); or

"(ii) public or non-profit organization, including a grantee under section 330 and urban Indian clinics under title V of the Indian Health Care Improvement Act, that is under contract with an elementary or secondary school described in subparagraph (B) to provide dental services to school-age children.".

### SEC. 405. BASIC ORAL HEALTH PROMOTION.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and in consultation with dental organizations (including organizations having expertise in the prevention and treatment of oral disease in underserved pediatric populations), shall award grants to States and Indian tribes to improve the basic capacity of such States and tribes to improve the oral health of children and their families.

(b) REQUIREMENTS.—A State or Indian tribes shall use amounts received under a grant under this section to conduct one or more of the following activities:

(1) Establish an oral health plan, policies, effective prevention programs, and accountability measures and systems.

(2) Establish and guide coalitions, partnerships, and alliances to accomplish the establishment of the plan, policies, programs and systems under paragraph (1).

(3) Monitor changes in oral disease burden, disparities, and the utilization of preventive services by high-risk populations.

(4) Identify, test, establish, support, and evaluate prevention interventions to reduce oral health disparities.

(5) Promote public awareness and education in support of improvements of oral health.

(6) Support training programs for dental and other health professions needed to strengthen oral health prevention programs.

(7) Establish, enhance, or expand oral disease prevention and disparity reduction programs.

(8) Evaluate the progress and effectiveness of the State's oral disease prevention and disparity reduction program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

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By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. CAMPBELL, Mr. BIDEN, Mr. SMITH, Mr. DODD, Mr. CORNYN, Mr. BINGAMAN, Mr. DASCHLE, Mr. BREAUX, Mr. JOHNSON, Mr. SCHUMER, Mrs. CLINTON, and Mr. JEFFORDS):

S. 1143. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1143

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Hepatitis C Epidemic Control and Prevention Act".

### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Over 3,000,000 individuals in the United States are chronically infected with the hepatitis C virus (referred to in this section as "HCV"), making it the Nation's most common blood borne virus infection.

(2) Nearly 2 percent of the population of the United States have been infected with HCV.

(3) Conservative estimates indicate that approximately 35,000 Americans are newly infected with HCV each year.

(4) HCV infection can cause life-threatening liver disease.

(5) Individuals infected with HCV serve as a source of transmission to others and, since few individuals are aware they are infected, are unlikely to take precautions to prevent the spread or exacerbation of their infection.

(6) There is no vaccine available to prevent HCV infection.

(7) Treatments are available to slow the progression of chronic hepatitis C.

(8) An estimated 2,400,000 to 2,700,000 people who are chronically infected with hepatitis C are receiving no treatment.

(9) Conservative estimates place the costs of lost productivity and medical care arising from chronic hepatitis C in the United States at more than $600,000,000 annually and such costs will undoubtedly increase in the absence of expanded prevention and treatment efforts.

(10) To combat the HCV epidemic in the United States, the Centers for Disease Control and Prevention developed *Recommendations for Prevention and Control of Hepatitis C Virus (HCV) Infection and HCV-Related Chronic Disease* in 1998 and the *National Hepatitis C Prevention Strategy* in 2001, and the National Institutes of Health convened Consensus Development Conferences on the Management of Hepatitis C in 1997 and 2002. These recommendations and guidelines provide a framework for hepatitis C prevention, control, research, and medical management referral programs.

(11) Federal support is necessary to increase knowledge and awareness of hepatitis C and to assist State and local prevention and control efforts.

### SEC. 3. PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

## "PART R—PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C

### "SEC. 399AA. FEDERAL PLAN FOR THE PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

"(a) IN GENERAL.—The Secretary shall develop and implement a plan for the prevention, control, and medical management of hepatitis C which includes strategies for education and training, surveillance and early detection, and research.

"(b) INPUT IN DEVELOPMENT OF PLAN.—In developing the plan under subsection (a), the Secretary shall—

"(1) be guided by existing recommendations of the Centers for Disease Control and Prevention and the National Institutes of Health; and

"(2) consult with—

"(A) the Director of the Centers for Disease Control and Prevention;

"(B) the Director of the National Institutes of Health;

"(C) the Director of the Health Resources and Services Administration;

"(D) the heads of other Federal agencies or offices providing services to individuals with hepatitis C virus (referred to in this part as 'HCV') infections or the functions of which otherwise involve hepatitis C;

"(E) medical advisory bodies that address issues related to HCV; and

"(F) the public, including—

"(i) individuals infected with the HCV; and

"(ii) advocates concerned with issues related to HCV.

"(c) BIENNIAL UPDATE OF PLAN.—

"(1) IN GENERAL.—The Secretary shall conduct a biennial assessment of the plan developed under subsection (a) for the purpose of incorporating into such plan new knowledge or observations relating to HCV and chronic HCV (such as knowledge and observations that may be derived from clinical, laboratory, and epidemiological research and disease detection, prevention, and surveillance outcomes) and addressing gaps in the coverage or effectiveness of the plan.

“(2) Publication of Notice of Assessments.—Not later than October 1 of the first even numbered year beginning after the date of enactment of this part, and October 1 of each even numbered year thereafter, the Secretary shall publish in the Federal Register a notice of the results of the assessments conducted under paragraph (1). Such notice shall include—

“(A) a description of any revisions to the plan developed under subsection (a) as a result of the assessment;

“(B) an explanation of the basis for any such revisions, including the ways in which such revisions can reasonably be expected to further promote the original goals and objectives of the plan; and

“(C) in the case of a determination by the Secretary that the plan does not need revision, an explanation of the basis for such determination.

### “SEC. 399BB. ELEMENTS OF THE FEDERAL PLAN FOR THE PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

“(a) Education and Training.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall implement programs to increase awareness and enhance knowledge and understanding of hepatitis C. Such programs shall include—

“(1) the conduct of health education, public awareness campaigns, and community outreach activities to promote public awareness and knowledge about risk factors, the transmission and prevention of infection with HCV, the value of screening for the early detection of HCV infection, and options available for the treatment of chronic hepatitis C;

“(2) the training of health care professionals regarding the prevention, detection, and medical management of hepatitis B and hepatitis C, and the importance of vaccinating HCV-infected individuals and those at risk for HCV infection against the hepatitis A virus and hepatitis B virus (referred to in this part as ‘HBV’); and

“(3) the development and distribution of curricula (including information relating to the special needs of individuals infected with HBV or HCV, such as the importance of early intervention and treatment and the recognition of psychosocial needs) for individuals providing hepatitis counseling, as well as support for the implementation of such curricula by State and local public health agencies.

“(b) Early Detection and Surveillance.—

“(1) In general.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall support activities described in paragraph (2) to promote the early detection of HCV infection, identify risk factors for infection, and conduct surveillance of HCV infection trends.

“(2) Activities.—

“(A) Voluntary testing programs.—

“(i) In general.—The Secretary shall support and promote the development of State, local, and tribal voluntary hepatitis C testing programs to aid in the early identification of infected individuals.

“(ii) Confidentiality of test results.—The results of a hepatitis C test conducted by a testing program developed or supported under this subparagraph shall be considered protected health information (in a manner consistent with regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note)) and may not be used for any of the following:

“(I) Issues relating to health insurance.

“(II) To screen or determine suitability for employment.

“(III) To discharge a person from employment.

“(B) Counseling regarding viral hepatitis.—The Secretary shall support State, local, and tribal programs in a wide variety of settings, including those providing primary and specialty health care services in the private and the public sectors, to—

“(i) provide individuals with information about ongoing risk factors for hepatitis C virus infection with client-centered education and counseling which concentrates on changing behaviors that place them at risk for infection; and

“(ii) provide individuals infected with hepatitis C virus with education and counseling to reduce the risk of harm to themselves and transmission of the virus to others.

“(C) Vaccination against viral hepatitis.—With respect to individuals infected, or at risk for infection, with HCV, the Secretary shall provide for—

“(i) the vaccination of such individuals against hepatitis A virus, HBV, and other infectious diseases, as appropriate, for which such individuals may be at increased risk; and

“(ii) the counseling of such individuals regarding hepatitis A, hepatitis B, and other viral hepatides.

“(D) Medical referral.—The Secretary shall support—

“(i) referral of persons infected with or at risk for HCV, for drug or alcohol abuse treatment where appropriate; and

“(ii) referral of persons infected with HCV—

“(I) for medical evaluation to determine their stage of chronic hepatitis C and suitability for antiviral treatment; and

“(II) for ongoing medical management of hepatitis C.

“(3) Hepatitis C coordinators.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, upon request, provide a Hepatitis C Coordinator to a State health department in order to enhance the additional management, networking, and technical expertise needed to ensure successful integration of hepatitis C prevention and control activities into existing public health programs.

“(c) Surveillance and Epidemiology.—

“(1) In general.—The Secretary shall promote and support the establishment and maintenance of State HCV surveillance databases, in order to—

“(A) identify risk factors for HCV infection;

“(B) identify trends in the incidence of acute and chronic HCV;

“(C) identify trends in the prevalence of HCV infection among groups that may be disproportionately affected by hepatitis C, including individuals living with HIV, military veterans, emergency first responders, racial or ethnic minorities, and individuals who engage in high risk behaviors, such as intravenous drug use; and

“(D) assess and improve HCV infection prevention programs.

“(2) Seroprevalence studies.—The Secretary shall conduct a population-based seroprevalence study to estimate the current and future impact of hepatitis C. Such studies shall consider the economic and clinical impacts of hepatitis C, as well as the impact of hepatitis C on quality of life.

“(3) Confidentiality.—Information contained in the databases under paragraph (1) or derived through studies under paragraph (2) shall be de-identified in a manner consistent with regulations under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(d) Research Network.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall—

“(1) conduct epidemiologic research to identify best practices for HCV prevention;

“(2) establish and support a Hepatitis C Clinical Research Network for the purpose of conducting research related to the treatment and medical management of hepatitis C; and

“(3) conduct basic research to identify new approaches to prevention (such as vaccines) and treatment for HCV.

“(e) Referral for Medical Management of Chronic Hepatitis C.—The Secretary shall support and promote State, local, and tribal programs to provide HCV-positive individuals with referral for medical evaluation and management, including currently recommended antiviral therapy when appropriate.

“(f) Underserved and Disproportionately Affected Populations.—In carrying out this section, the Secretary shall provide expanded support for individuals with limited access to health education, testing, and health care services and groups that may be disproportionately affected by hepatitis C.

“(g) Evaluation of Program.—The Secretary shall develop benchmarks for evaluating the effectiveness of the programs and activities conducted under this section and make determinations as to whether such benchmarks have been achieved.

### “SEC. 399CC. GRANTS.

“(a) In General.—The Secretary may award grants to, or enter into contracts or cooperative agreements with, States, political subdivisions of States, Indian tribes, or non-profit entities that have special expertise relating to HCV, to carry out activities under this part.

“(b) Application.—To be eligible for a grant, contract, or cooperative agreement under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

### “SEC. 399DD. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $90,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

### SEC. 4. LIVER DISEASE RESEARCH ADVISORY BOARD.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

### “SEC. 409J. LIVER DISEASE RESEARCH ADVISORY BOARD.

“(a) Establishment.—Not later than 90 days after the date of enactment of this section, the Director of the National Institutes of Health shall establish a board to be known as the Liver Disease Research Advisory Board (referred to in this section as the ‘Advisory Board’).

“(b) Duties.—The Advisory Board shall advise and assist the Director of the Centers for Disease Control and Prevention concerning matters relating to liver disease research, including by developing and revising the Liver Disease Research Action Plan.

“(c) Voting Members.—The Advisory Board shall be composed of 18 voting members to be appointed by the Director of the

National Institutes of Health, in consultation with the Director of the Institute of Allergy and Infectious Diseases, of whom 12 such individuals shall be eminent scientists and 6 such individuals shall be lay persons. The Director of the National Institutes of Health, in consultation with the Director of the Institute, shall select 1 of the members to serve as the Chair of the Advisory Board.

"(d) Ex Officio Members.—The Director of the National Institutes of Health shall appoint each director of a national research institute that funds liver disease research to serve as a nonvoting, ex officio member of the Advisory Board. The Director of the National Institutes of Health shall invite 1 representative of the Centers for Disease Control and Prevention, 1 representative of the Food and Drug Administration, and 1 representative of the Department of Veterans Affairs to serve as such a member. Each ex officio member of the Advisory Board may appoint an individual to serve as that member's representative on the Advisory Board.

"(e) Liver Disease Research Action Plan.—

"(1) Development.—Not later than 15 months after the date of the enactment of this section, the Advisory Board shall develop (with appropriate support from the Director and staff of the Center) a comprehensive plan for the conduct and support of liver disease research to be known as the Liver Disease Research Action Plan. The Advisory Board shall submit the Plan to the Director of NIH and the head of each institute or center within the National Institutes of Health that funds liver disease research.

"(2) Content.—The Liver Disease Research Action Plan shall identify scientific opportunities and priorities of liver disease research necessary to increase understanding of and to prevent, cure, and develop better treatment protocols for liver diseases.

"(3) Revision.—The Advisory Board shall revise every 3 years the Liver Disease Research Action Plan, but shall meet annually to review progress and to amend the Plan as may be appropriate because of new scientific discoveries.".

Mr. KENNEDY. Mr. President, It's a privilege to join my colleague, Senator Kay Bailey Hutchison, in introducing this legislation to address the growing problem of Hepatitis C. Senator Hutchison's leadership has been essential in preparing this proposal to help establish nationwide programs for Hepatitis C that have been so effective in Texas. We are also indebted to the leadership of Senator Smith, Senator Campbell, Senator Daschle, and many other colleagues on both sides of the aisle for taking action to reduce the serious toll of Hepatitis C on so many of our fellow citizens.

Hepatitis C is a rapidly growing health care crisis. More than 3.9 million Americans are infected with the virus, making it the nation's most common blood-borne viral illness, and the numbers continue to rise. 10,000 Americans die each year of chronic complications related to the virus. Hepatitis C virus infection is a major cause of death in AIDS patients, and nearly 40 percent of all HIV-positive people are also infected with Hepatitis C virus.

Hepatitis C leads to life-threatening conditions, including cirrhosis and liver cancer, which cost our country more than $600 million every year. This bill supports liver disease research to encourage the development of an effective vaccine against the virus.

Unlike Hepatitis A and B, there is currently no vaccine available to prevent this epidemic. It is critical that infected individuals are identified early, so that they can obtain treatment and take other steps to reduce the likelihood that the disease will lead to permanent liver damage or spread of the virus to others.

The bill we are introducing today takes a new approach to fighting this virus by establishing a nationwide plan to provide the most effective ways of prevention, control and medical management of Hepatitis C. The bill also seeks to increase knowledge and awareness of the infection by patients, health care professionals, and the public.

This strategy was successfully implemented in Texas. Public health counseling and testing sites were established to reach people at high risk for Hepatitis C, and to make referrals to health and social services. In the first year, more than 13,000 clients received counseling services, one-third of whom tested positive for Hepatitis C. In addition, media campaigns were conducted to alert the public to the dangers of Hepatitis C. The savings for Texas were estimated to be almost $500,000 a year.

Using this model, the Department of Health and Human Service will develop a plan to combat the Hepatitis C epidemic, with advice from the public including physicians, researchers, patients, and advocates. Confidential counseling and voluntary testing programs will be offered, as well as immunization against Hepatitis A and B. Individuals at high risk will be referred for further evaluation and management, including treatment with antiviral therapy.

Our bill calls for Hepatitis C coordinators, to be assigned by CDC, at state, local, and tribal levels to carry out education and supervision of local health care workers. The Liver Disease Research Advisory Board will be established to assist and advise CDC on liver disease research. A confidential database will be created to enhance studies the epidemiology of the illness.

The fight against Hepatitis C must begin with the underserved populations who are disproportionately affected by the virus, especially minority populations, the uninsured, and veterans. We must also do all we can to protect hemophiliacs, renal dialysis patients, and AIDS patients.

Hepatitis C is a devastating disease, and this bill can be a major step in fighting it. I look forward to working with my colleagues to enact this bill into law.

Mr. JOHNSON. Mr. President, I rise today with my colleagues, Senators Kennedy, Clinton, Daschle, Breaux, Jeffords, Biden, Dodd, Bingaman, Hutchison, Campbell, Schumer, and Smith to introduce the Hepatitis C Epidemic Control and Prevention Act of 2003. I thank my colleagues for joining me in introducing this legislation that will improve the prevention, control, and medical management of hepatitis C.

Hepatitis C is the most common chronic bloodborne viral infection in the United States, and it is the seventh leading cause of death in our country. Almost 4 million U.S. citizens are infected with hepatitis C, and of those 2.7 million are chronically infected and at least 2.5 million do not receive any treatment, which results in the continued spread of this devastating, yet preventable illness. The estimated direct and indirect costs of hepatitis C infection are at least $600 million annually.

Symptoms of hepatitis C can include jaundice, fatigue, loss of appetite, and abdominal pain. While this disease may be asymptomatic in most patients initially, between 50 and 80 percent will develop a chronic infection, and of these half will eventually develop cirrhosis or cancer of the liver. While diagnostic tests are available to identify the disease, there is no vaccine to prevent hepatitis C, which makes prevention and control measures crucial to reducing its incidence and prevalence.

The importance of improving hepatitis C prevention and control activities was brought to my attention this past year by the family of Christen Graeber Winter. Christen was from Aberdeen, SD, and passed away 5 years ago at the age of 42. She had been very ill two decades earlier and required a blood transfusion. Christen became very sick a little over 5 years ago and was diagnosed with hepatitis C, a disease that she had contracted from that blood transfusion that she had so many years earlier. Christen died in 1998, and during the last months of her life she remained as active as possible and was committed to finishing up her bachelor's degree at Presentation College, even though she was very ill.

Everyone who knew Christen said she was a warm and caring person, and even towards the end of her life, she remained strong and was determined not to burden others with her deteriorating health. After her death, Christen's sister Carey started conducting research to learn about hepatitis C. She knew nothing of the disease and was surprised to learn how many people suffered from it. She learned that physicians are largely unaware of hepatitis C and therefore cases often go undetected. Carey is now a strong advocate of promoting increased funding for education, treatment, and prevention of this disease and has helped me understand how important it is that we in Congress establish the programs and appropriate the funds necessary to prevent needless deaths like the death of Christen.

The hepatitis C Epidemic Prevention and Control Act will help reduce the number of people affected by this horrible illness and prevent stories like Carey's sister from continuing. The bill requires that the Department of Health and Human Services develop and implement an integrated plan to combat hepatitis C. While we know how to prevent the spread of this disease, there have been limited programs to educate health professionals, at-risk populations, and the general public on how to do so. This bill will focus on increasing knowledge and awareness of such infections among providers and patients.

In addition to education, surveillance, early detection, and counseling are important tools that must be used in order to control this disease. Less than 50 percent of local health departments providing counseling and only 23 percent provide testing for hepatitis C. This bill will require that CDC promote confidential testing programs by working with State and local governments in order to catch hepatitis C cases early. It will also provide access to important counseling activities in a variety of private and public health care settings to help patients reduce the risk of harm to themselves and others.

This important legislation is supported by a tripartisan coalition of my colleagues. We have recognized that hepatitis C is a preventable disease that can be halted with a strong emphasis on prevention and control. I do not want to see more cases like that of Carey's sister. We have an opportunity to make a real difference here, and I urge the Senate to support this bill.

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By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1146. A bill to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota; to the Committee on Indian Affairs.

Mr. CONRAD. Mr. President, I rise today, joined by my colleague Senator DORGAN, to introduce the Three Affiliated Tribes Health Facility Compensation Act. This legislation fulfills a longstanding Federal commitment to the Three Affiliated Tribes of Fort Berthold in my State of North Dakota.

In 1949, the Three Affiliated Tribes lost 156,000 acres of land, one-quarter of its land base, for the construction of the Garrison Dam along the Missouri River. Three hundred twenty five families—eighty percent of the tribal membership—were forcibly relocated. Ninety-four percent of the agricultural lands of these farmers and ranchers was destroyed. The Indian Health Service's hospital at the community of Elbowoods was completely flooded. At the time, the Federal Government committed to replacing the hospital.

On May 10, 1985, then Interior Secretary Donald P. Hodel signed a charter creating the Garrison Unit Joint Tribal Advisory Committee, which was charged with examining the effects of the construction of the Garrison Dam and Reservoir on the tribe and making recommendations on compensation. In its final report released on May 23, 1986, the committee found that the Three Affiliated Tribes were entitled to financial compensation as well as the replacement of lost infrastructure including its health facility. The committee specifically noted that the replacement of the health facility was an "emergency need."

In 1992, Congress acted on some of the committee's recommendations by passing the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act. However, at the time, due to budget limitations, Congress was not able to fulfill the commitments on infrastructure replacement. The Senate Committee on Indian Affairs in its report on the Act specifically noted that "every effort should be made by the Administration and Congress to provide additional federal funding for these infrastructure priorities." More than 10 years later, many of the infrastructure priorities still have not been met.

The legislative history on this matter is clear, a commitment was made to the tribe that must be kept. The bill I am introducing will authorize $20 million to construct for a health facility on the Fort Berthold Indian Reservation to fulfill this longstanding promise to the Three Affiliated Tribes.

Mrs. BOXER. Mr. President, today I am introducing a bill to increase security and prevent terrorist attacks at our Nation's ports.

Ports are extremely important to our nation's economy, especially to my State of California. The ports of LA, Long Beach, and Oakland handle 40 percent of our Nation's cargo and generate billions of dollars in economic activity each year in California alone.

The tragic events of September 11 demonstrated that we needed to make improvements in our nation's security. Our ports are no exception.

We have begun to make improvements. As a member of the Senate Commerce Committee, I served as a conferee on the port security bill that became law last November. This legislation mandated the creation of national and regional port security plans and better coordination of Federal, State, local, and private enforcement agencies. It also established a grant program for port authorities, waterfront operators, and state and local agencies to provide security infrastructure improvements such as video cameras and more secure fencing. In addition, it calls for the development of regulations to determine secure areas in ports and to limit access through background checks and a transportation security identification card.

This legislation was a good first step. But, we need to do more. And I believe we should harness the best of our high-tech capabilities to improve port security. That is why today I am introducing the High-Tech Port Security Act.

This legislation has three high tech improvements for our nation's ports.

First, the bill would require that all containers used in our Nation's ports be blast resistant. The U.S. Department of Homeland Security would develop a standard for such containers and would work with shipping companies to ensure that all new containers are blast resistant.

Second, the bill would require that all containers be inspected with advanced technology before leaving our ports and entering our roads, highways, and communities. The Department of Homeland Security would establish a standard for cargo screening technology and ensure that this technology is installed at all ports, so every incoming container is screened before it leaves the port. This is extremely important because currently only two to three percent of all containers are inspected.

Third, this bill will focus protection on the Nation's largest ports by establishing high tech command and control centers to coordinate and monitor security at the 20 busiest ports in the United States.

The technologies needed to secure our Nation's vital ports are available today, and they should start being used now. There is no time to lose. The vulnerability of our seaports is no secret; it is a well known gap in our homeland defense. This legislation will help close that gap.

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By Mrs. FEINSTEIN:

S. 1150. A bill to establish the Bob Hope American Patriot Award; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Bob Hope American Patriot Award Act of 2003. This legislation would create a presidential commemorative award for an individual or organization that demonstrates "extraordinary love of this Nation and devotion to its citizens in the form of true patriotism."

In addition, this legislation would honor one of the most respected figures in America, who for seven decades has served our Nation with his talents in entertainment. As many are familiar, I am speaking today of Bob Hope.

To celebrate Bob Hope's 100th birthday on May 29, 2003, this legislation would give the President the opportunity to annually recognize the wonderful trait of "patriotism," so well exemplified by Hope throughout his lifetime. Mr. Hope has long demonstrated that entertainment can positively influence "love of country and dedication to the spiritual well-being of America's troops."

A master of the skills of acting and singing, Bob Hope may be the most talented and prolific entertainer of our time. Many of us will recall his work in the series of "Road" films with Bing Crosby and Dorothy Lamour. His expansive career has involved stage musical comedy, motion pictures, and live appearances at the USO shows.

On May 6, 1941, Bob Hope began a 50-year service with the United States Armed Forces, in which he did approximately 60 USO tours. He has toured U.S. military stations all over the world, including Germany, the South Pacific, and Vietnam. Veterans and U.S. soldiers alike will always remember his variety shows, which included skits, dancers, specialty acts, and comedic monologues. These monologues were particularly touching as they commiserated with the daily travails of a soldier's life.

Over the years, Bob Hope has received well-deserved recognition for his dedication to our Nation. He has been honored with numerous awards, including the Congressional Gold Medal, the Presidential Medal of Freedom, and the Distinguished Service Medal from each of the branches of the military. Several years ago, I co-sponsored legislation naming him an Honorary Veteran for his humanitarian services to the U.S. Armed Forces.

Bob Hope epitomizes true patriotism and service to our country, and I cannot think of anybody better to name this new award after.

This legislation is important because it would not only carry on the name of such an honorable figure, but would recognize future individuals or organizations who have dedicated themselves to promoting the values of freedom, democracy, and goodwill. This award would be the first of its kind—honoring American civilians specifically for patriotism.

This legislation would give the President the authority to annually select either one individual or one organization to receive this commemorative award at a White House ceremony. The President would also be given the power to interpret the selection criteria and determine the form that the award would take, such as a plaque, medal or flag.

I believe this legislation is timely and befitting of both Mr. Hope and the great citizens of our Nation. In these challenging times, it is important to encourage and recognize Americans who have given so much to the cause of patriotism, asking for nothing in return.

My hope is that this award, established through this legislation, will both carry on the wonderful legacy of Bob Hope and bring awareness to the magnanimous spirit of our fellow citizens. I call on this body to enact this legislation promptly.

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By Mr. FEINGOLD:

S. 1151. A bill to rescind the Department of Veterans Affairs memorandum of July 18, 2002, in which Directors of health service networks in the Department of Veterans Affairs are directed to ensure that no marketing activities to enroll new veterans occur within their networks; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing legislation that would restore a valuable—and statutorily mandate—service to our Nation's veterans and their families.

In July 2002, Department of Veterans Affairs Deputy Under Secretary for Health for Operations and Management Laura Miller sent a memo to Veterans Integrated Service Network Directors ordering them to "ensure that no marketing activities to enroll new veterans occur within [their] networks."

This memo cited an increased demand for VA health care services as the reason for this change in policy. While it is clear that more funding should be provided for VA health care and other programs, it is inappropriate for the VA to institute a policy to stop making veterans aware of the health care services for which they may be eligible.

I joined with a number of our colleagues last year in sending a letter to the President asking that this policy be immediately reversed. I regret that the VA's reply indicated that the Secretary of Veterans Affairs stands by this policy, which remains in effect.

The bill that I am introducing today, Veterans Outreach Protection Act, would rescind the policy issued in this memorandum and prohibit the VA from using Federal funding to enforce this policy. This bill is a companion to legislation introduced in the House by Congressman PAUL KANJORSKI earlier this year.

I have long been concerned that tens of thousands of our veterans are unaware of federal health care and other benefits for which they may be eligible. We can and should do more to educate our veterans and their families about these benefits, and to provide adequate funding to ensure that all veterans who wish to take advantage of their benefits are able to do so. Halting health care marketing activities is not the answer. Our brave veterans have earned these benefits. The Federal department that is charged with advocating for and providing benefits to our veterans should not be allowed to continue to restrict health care outreach activities.

In addition to this bill, I am currently working to draft legislation to improve VA-wide outreach efforts. Our veterans and their families have made great personal sacrifices to protect our freedoms. We owe them a great debt of gratitude. Making sure that our veterans know about the benefits that they have earned is an important first step in starting to reply this debt.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1151

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans Outreach Protection Act".

**SEC. 2. RESCISSION OF DEPARTMENT OF VETERANS AFFAIRS MEMORANDUM.**

(a) RESCISSION OF MEMORANDUM.—The memorandum of the Department of Veterans Affairs dated July 18, 2002, from the Deputy Under Secretary for Health for Operations and Management with the subject "Status of VHA Enrollment and Associated Issues" is hereby rescinded. Marketing activities of Directors of health service networks (known as "Veterans Integrated Service Networks") of the Department of Veterans Affairs to enroll new veterans within their respective networks shall be carried out without regard to such memorandum.

(b) FUNDING LIMITATION.—No funds available to the Department of Veterans Affairs may be used to carry out the memorandum referred to in subsection (a) or otherwise to implement the policy contained in that memorandum.

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By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1152. A bill to reauthorize the United States Fire Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined this morning by Senators HOLLINGS in introducing legislation to reauthorize the United States Fire Administration, USFA, for fiscal year 2004 through fiscal year 2006. This legislation would also re-establish the position of the U.S. Fire Administrator, which would serve in the new Department of Homeland Security.

USFA's mission is to reduce the loss of life and property because of fire and related emergencies. Each year, fire injures and kills more Americans than all other natural disasters combined. Death rates by fire in the Unites States are among the highest in the industrialized world.

The U.S. Fire Administration utilizes a number of tools to fulfill its mission. USFA's National Fire Data Center administers a national system for collecting, analyzing, and disseminating data and information on fire and other emergency incidents to state and local governments and the fire community.

The National Fire Academy, NFA, is the premiere training academy for fire services. It is estimated that since 1975, over 1.4 million firefighters and other first-responders have benefitted from NFA training classes in emergency management, fire prevention, and anti-terrorism. USFA also engages in research, testing, and evaluation activities with public and private entities to promote and improve fire and life safety. Finally, USFA administers the popular Assistance to Firefighters Grant Program, which provides competitive grants to local fire departments for training, wellness and fitness programs, vehicles, firefighting equipment, and fire prevention.

The U.S. Fire Administrator plays an important role in our nation's fire control policy and homeland security initiatives by serving as the point-of-contact for the fire services. This position was eliminated in last year's legislation that established the Department of Homeland Security. On April 30, 2003, the Senate Committee on Commerce, Science, and Transportation heard testimony from many of the major fire service organizations regarding the importance of the U.S. Fire Administrator position, and the need for the Administrator to serve as a representative of the fire services within the Department of Homeland Security. This legislation would re-establish this position.

Firefighting remains one of the most dangerous professions in the Unites States. We rely on firefighters to aid us in fires, accidents, and natural disasters. However, we have also witnessed the role that firefighters play as the first responders on the scene of any possible terrorist attack. It is important that we pass this legislation to ensure that the Federal government continues its appropriate role in helping our fire services adapt to this new challenge.

I urge my colleagues to support this legislation, and look forward to working with them to ensure timely passage of this legislation. I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1152

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States Fire Administration Reauthorization Act of 2003".

**SEC. 2. RE-ESTABLISHMENT OF POSITION OF UNITED STATES FIRE ADMINISTRATOR.**

Section 1513 of the Homeland Security Act of 2002 does not apply to the position or office of Administrator of the United States Fire Administration, who shall continue to be appointed and compensated as provided by section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)) after the functions vested by law in the Federal Emergency Management Agency have been transferred to the Directorate of Emergency Preparedness and Response in accordance with section 503 of the Homeland Security Act of 2002.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended to read as follows: "(1) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, there are authorized to be appropriated to carry out the purposes of this Act—

"(A) $52,000,000 for fiscal year 2004;

"(B) $53,560,000 for fiscal year 2005; and

"(C) $55,166,800 for fiscal year 2006.".

By Mr. SPECTER (for himself and Mr. BOND):

S. 1153. A bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to explain the provisions of the "Veterans Prescription Drugs Assistance Act of 2003," a bill that I have introduced today to assist Medicare-eligible veterans struggling with the costs of prescription medications.

I fully understand that Congress, and the President, are working very hard on legislation to take on the larger issue of providing a prescription drug benefit for all American seniors. I applaud that effort, and I will continue to work with my colleagues to see that Congress enacts legislation to help all seniors who struggle with the ever-increasing costs of necessary medications. But in the meantime, as Chairman of the Committee on Veterans Affairs, I offer legislation to allow Medicare-eligible veterans to obtain prescription drugs from the Department of Veterans Affairs, VA, at the significantly discounted costs that VA, as a high-volume purchaser of prescriptions medications, is able to secure in the marketplace.

Earlier this year, VA Secretary Anthony J. Principi was forced to limit access to VA care by suspending new enrollments of non-service-disabled middle and higher income veterans who were not enrolled for care as of January 17, 2003. The Secretary was forced to so act because the number of patients provided care by VA has more than doubled in just five years. And as a result, VA's medical care system has been overwhelmed and, as a consequence, VA has been unable to provide timely access to healthcare for all veterans who have sought it and appointment waiting times have grown to alarming levels. But in almost every news story that followed the Secretary's difficult decision, it was noted that many of the new enrollees who had overwhelmed VA's capacity to provide care were Medicare-eligible veterans who were able to get Medicare-financed care elsewhere—but who were seeking access to the relatively generous prescription drug program provided to veterans under VA care.

Currently, VA provides enrolled patients with prescription medications for $7.00 for each 30-day supply. But to get such prescriptions, the veteran must obtain the full range of medical care from VA. This fact, coupled with the Secretary's decision to close enrollment, means that veterans who are now—or who will be—eligible for Medicare who had not enrolled for VA care prior to January 17, 2003, will be unable to access VA's generous prescription drug benefits. This legislation would provide some relief for those veterans. In addition, I anticipate that it may induce some VA-enrolled Medicare-eligible veterans—those who were happy with their Medicare-financed care but who enrolled for VA care to gain access to VA-supplied drugs—to return to non-VA care with knowledge that they will be able to get their non-VA prescriptions filled through VA. Enactment of this provision, then, would reduce—not exacerbate—VA patient backlog numbers.

The premise of this legislation is straightforward: VA fills and distributes more than 100 million prescriptions each year for its 4.5 million veteran-patients. As a result, it has significant purchasing power—power which, coupled with VA's formulary program, allows it to negotiate very favorable prices for prescription drugs. According to the National Association of Chain Drug Stores, the average "cash cost" of a prescription in 2001 was $40.22. The average VA per-prescription cost in 2001 was $22.87—almost 50 percent less. The average per-prescription price paid by VA this year is up to just under $25—a slower growth rate than the 6.7 percent annual growth experienced in the population at large since 2001.

My purpose is to afford Medicare-eligible veterans access to such discounts. I do not propose that VA be directed to supply drugs to all Medicare-eligible veterans at VA expense, or even with a partial VA subsidy. VA has stated that such a mandate would divert VA funding—which, clearly, is already stretched to the limit—away from VA priority patients: the service-connected, the poor, and those with special needs. I accept VA's statement of concern: I accept and I insist—that scarce funding be directed, first, to meet the needs of priority patients. This legislation, therefore, requires that VA recover the costs of drugs it supplies under this program from veterans who bring their prescriptions from outside doctors to VA.

I do not propose to tell VA in this bill how to recover these costs. VA is better positioned than I to make such judgments. Thus, my legislation provides flexibility to VA to design and test payment mechanisms to best accomplish cost recovery while still easing veterans' access to the drugs they need. It might be that enrollment fees, a copayment structure, or a simple “cost-plus”—for administrative expenses pricing format—or some combination of those mechanisms—works best. And it might be that different approaches work best in different regions of the country. I intend for the VA to experiment with different pricing structures to determine what works best. But I also intend that veterans get a break on prescription drug pricing.

Those who would benefit from this program are World War II and Korean War veterans who answered their country's call over 50 years ago. As they age, many desperately need relief from high drug prices. My purpose is not to disparage the drug companies; their discoveries have truly been marvels. But that is precious little comfort to a Medicare participant who, whatever the drug's overall utility might be, cannot afford both the drug and food or shelter or heat. Many such persons reside in the Commonwealth of Pennsylvania where, just last month, a genuine titan in the industrial history of the United States, Bethlehem Steel, ceased to exist. Many retired steelworkers who are also veterans—and who never needed VA because of company-paid benefits—have lost their health insurance coverage and, with it, prescription drug benefits. These people need a break. This bill could provide it.

The premise of this legislation is simple: veteran access to VA market-driven discounts. Yet, the assistance it could provide might be profound. I do hope that Congress will find a way to provide prescription drug benefits to all seniors. But for now, I urge my colleagues to support this bill so that the problem might be solved—or at least reduced—for seniors who served. They deserve it, and we should do it.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1153

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Veterans Prescription Drugs Assistance Act”.

**SEC. 2. ELIGIBILITY OF MEDICARE-ELIGIBLE VETERANS FOR OUT-PATIENT MEDICATION BENEFIT.**

(a) Restatement of Current Law on Drugs and Medications and Provision of Out-Patient Medication Benefit.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1710B the following new section:

**“§ 1710C. Drugs and medications; vaccines**

“(a)(1) The Secretary shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of a period of war, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran.

“(2) The Secretary shall continue to furnish such drugs and medicines ordered under paragraph (1) to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

“(b)(1) Any medicare-eligible veteran may elect to be furnished by the Secretary, on an out-patient basis, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran.

“(2) In this subsection, the term ‘medicare-eligible veteran’ means any veteran who—

“(A) is entitled to or enrolled in hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); or

“(B) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.).

“(3) The Secretary shall furnish to any veteran who makes an election under paragraph (1), on an out-patient basis, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran.

“(4)(A) Notwithstanding any other provision of law and except as provided in subparagraph (B), a veteran who makes an election under paragraph (1) shall not be eligible for care and services under this chapter during the year covered by the election.

“(B) Subparagraph (A) shall not apply with respect to any veteran who has a compensable service-connected disability.

“(5) The furnishing of drugs and medicines under this subsection shall be subject to the provisions of section 1722A(b) of this title.

“(6)(A) An election under paragraph (1) shall be for a calendar year, and shall be irrevocable for the year covered by such election. An election may be renewed.

“(B) The Secretary shall prescribe the form, manner, and timing of an election.

“(7) Before permitting a veteran to make an election under paragraph (1), the Secretary shall provide the veteran such educational materials and other information on the furnishing and receipt of drugs and medicines under this subsection as the Secretary considers appropriate to inform the veteran of the benefits and costs of being furnished drugs and medicines under this subsection, including materials and information on the consequences of making an election under paragraph (1) and on the fees, copayments, or other amounts required under section 1722A(b) of this title for drugs and medicines furnished under this subsection.

“(c)(1) In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Secretary may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Department health care facility.

“(2) Any immunization under paragraph (1) shall be made using vaccine furnished by the Secretary of Health and Human Services at no cost to the Department. For such purpose, notwithstanding any other provision of law, the Secretary of Health and Human Services may provide such vaccine to the Department at no cost.

“(3) Section 7316 of this title shall apply to claims alleging negligence or malpractice on the part of Department personnel granted immunity under such section.”.

(b) Copayment Requirements.—

(1) In general.—Section 1722A of such title is amended—

(A) in subsection (a)(1), by inserting “(other than a veteran covered by subsection (b))” after “require a veteran”;

(B) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively;

(C) by inserting after subsection (a) the following new subsection (b):

“(b)(1) In the case of a veteran who is furnished medications on an out-patient basis under section 1710C(b) of this title, the Secretary shall require the veteran to pay, at the election of the Secretary, one or more of the following:

“(A) An annual enrollment fee in an amount determined appropriate by the Secretary.

“(B) A copayment for each 30-day supply of such medications in an amount determined appropriate by the Secretary.

“(C) An amount equal to the cost to the Secretary of such medications, as determined by the Secretary.

“(2)(A) In determining the amounts to be paid by a veteran under paragraph (1), and the basis of payment under one or more subparagraphs of that paragraph, the Secretary shall ensure that the total amount paid by veterans for medications under that paragraph in a year is not less than the costs of the Department in furnishing medications to veterans under section 1710C(b) of this title during that year, including the cost of purchasing and furnishing medications, and other costs of administering that section.

“(B) The Secretary shall take appropriate actions to ensure, to the maximum extent practicable, that amounts paid by veterans under paragraph (1) in a year are equal to the costs of the Department referred to in subparagraph (A) in that year.

“(3) In determining amounts under paragraph (1), the Secretary may take into account the following:

“(A) Whether or not the medications furnished are generic medications or brand name medications.

“(B) Whether or not the medications are furnished by mail.

“(C) Whether or not the medications furnished are listed on the National Prescription Drug Formulary of the Department.

“(D) Any other matters the Secretary considers appropriate.

“(4) The Secretary may from time to time adjust any amount determined by the Secretary under paragraph (1), as previously adjusted under this paragraph, in order to meet the purpose specified in paragraph (2).”; and

(D) in subsection (d), as so redesignated—

(i) by striking “subsection (a)” and inserting “subsections (a) and (b)”; and

(ii) by striking "subsection (b)" and inserting "subsection (c)".

(2) DEPOSIT OF COLLECTIONS IN MEDICAL CARE COLLECTIONS FUND.—Paragraph (4) of section 1729A(b) of such title is amended to read as follows:

"(4) Subsection (a) or (b) of section 1722A of this title.".

(c) CONFORMING AMENDMENTS.—(1) Section 1707 of such title is amended by adding at the end the following new subsection:

"(c) Notwithstanding any other provision of law, a veteran who makes an election authorized by section 1710C(b) of this title (other than a veteran covered by paragraph (4)(B) of that section) shall not, for the period of such election, be eligible for care and services under this chapter, except as provided in that section.".

(2) Section 1712 of such title is amended by striking subsections (d) and (e).

(d) CLERICAL AMENDMENTS.—(1) The heading for section 1712 of such title is amended to read as follows:

**"§ 1712. Dental care".**

(2) The table of sections at the beginning of chapter 17 of such title is amended—

(A) by inserting after the item relating to section 1710B the following new item:

"1710C. Drugs and medications; vaccines.";

and

(B) by striking the item relating to section 1712 and inserting the following new item:

"1712. Dental care.".

Mr. BOND. Mr. President, I rise today to express my strong support for the Veterans Prescription Drugs Assistance Act of 2003. As an original cosponsor, I am pleased to join my colleague, the Chairman of the Veterans Affairs Committee, Senator SPECTER in introducing this important legislation that addresses the medical care needs of Medicare-eligible veterans. I applaud Senator SPECTER for his leadership on this important issue.

For several years, many veterans have not been able to receive timely health care from the Department of Veterans Affairs due to the long waiting lines created by the huge demand for prescription drugs. Under current policy, veterans are required to see a VA doctor before receiving their medication even when they have already had a prescription written by a privately licensed physician. This policy has not only contributed to the long waiting lines, but it has denied care to service-connected and lower income veterans. It is a moral imperative that we correct this problem and I believe that this legislation is a step in the right direction.

As Chair of the VA-HUD and Independent Agencies Appropriations Subcommittee, my top priority is ensuring that the VA has adequate funding to provide accessible and quality care for our Nation's veterans. Unfortunately, despite record funding increases over the past few years, veterans must still wait for several months to see a VA doctor.

This past January, VA Secretary Principi had to take the unfortunate but necessary step of closing new enrollments to middle and higher income veterans who do not have service-connected disabilities. Many of these so-called Priority 8 veterans have Medicare insurance but do not have a prescription drug benefit. I recognize that the Congress and the President are trying to address the prescription drug issue for all American seniors and I will continue to fight to ensure that a Medicare prescription drug bill is enacted. Nevertheless, I believe that we need to raise awareness of the tragedy that many veterans suffer today to ensure that no matter what occurs during this session of Congress, they are not left behind.

This bill contains a number of important provisions but I highlight one particular measure. As I mentioned earlier, current policy requires veterans to see a VA doctor before having their prescription filled, even if they have had already seen a private doctor. This legislation allows eligible veterans to fill their prescriptions at the VA without having to see a VA doctor. This not only greatly streamlines the process and time for veterans to receive much-needed medications, but it also provides relief to the waiting lines so that our higher priority veterans can receive timely care. In other words, this legislation is a win-win for all veterans.

This legislation may not be perfect but it is important to begin a dialogue on the prescription drug needs of our nation's veterans. I welcome my colleagues' comments and comments from the Administration. I believe that we can resolve this matter this year. I thank my colleagues for their attention to this matter and I look forward to working with all of you over the next several weeks.

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By Ms. SNOWE (for herself, Mr. BOND, and Mr. BURNS):

S. 1154. A bill to provide for the reauthorization of programs administered by the Small Business Administration that assist small business concerns owned and controlled by women; and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise to introduce the "Women's Small Business Programs Improvement Act of 2003" in recognition of the critical potential that women entrepreneurs hold for the Nation's economic welfare. I am pleased to be joined by Senators BOND and BURNS in offering this important legislation.

Today, women own nearly a third of the Nation's small businesses—totaling nearly 7 million women-owned enterprises that contribute approximately $1.2 trillion to be economy annually. That number, however, does not include jointly owned businesses in which women play a major role but hold less than fifty percent of the ownership rights. So, the actual number of women with significant roles in business goes well beyond 7 million—and they are growing rapidly.

These figures reflect the successes that women entrepreneurs are having despite facing the same challenges for the past twenty years—access to business assistance, access to capital, and access to Federal Government contract opportunities. The "glass ceiling" in corporate America that led many women to start a small business has been transformed into a another obstacle—"a glass doorway"—between women who want to start and grow businesses and the lending and Federal contract markets these women entrepreneurs seek to enter. Overcoming these obstacles requires that women are provided the business assistance tools they need, which we can ensure through the programs and services established within the Small Business Administration, SBA, specifically for women.

As the new Chair of the Committee on Small Business, I have been carefully examining the SBA's programs with a particular focus on the agency's initiatives that are intended to foster women-owned businesses. During the past year, witnesses and participants of the Committee's hearings and roundtables clearly identified the concerns of women business owners: the lack of business assistance programs for existing small businesses; scarcity of financial resources for start-up or expansion; limited opportunities for Federal Government contracts; and the need for specific research on women's business ownership.

In addition, we heard concerns from the Women's Business Centers and their advocates about the Women's Business Centers Sustainability Grants Program, which sunsets in 2003. These centers have been extraordinarily successful in providing assistance to women in all walks of life—those who once received public assistance but now operate businesses and create jobs; women transitioning from employee to small business employer; and establish women-business owners who create and manufacture products for sale at home and abroad. The Centers nurture women entrepreneurs through business and financial planning and help with critical issues like securing funding for startup and expansion. Despite these successes, however, funding questions have long plagued the program.

Adding to the information gained from its official activities, the Committee staff also conducted a review of all SBA funded and sponsored activities for women entrepreneurs, held discussions with women business leaders, and obtained information in the process of preparing for the reauthorization of SBA Non-Credit Programs.

Our findings support specific changes to ensure that the SBA will be more accountable in its delivery of programs and services through the Office of Women's Business Ownership. Specifically, based on the need and the impressive record of the Women's Business Centers, there is strong support for making the program permanent, provided that the SBA streamlines the grants administration processes. Improvements in the focus and operations for the National Women's Business Council and the Women's Interagency Committee on Women's Business Enterprise would also enhance their missions and ability to serve women entrepreneurs.

The bill I introduce today is designed to address these issues and improve the programs and services that the SBA delivers across the nation for women business owners through the Office of Women's Business Ownership, the Women's Business Centers Program, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise. The key elements of the bill's improvements will provide direction, consolidation and integration of existing programs that have been previously created to offer opportunities for women through their entrepreneurial endeavors.

The "Women's Small Business Programs Improvement Act of 2003" would improve the entrepreneurial environment for women seeking assistance and opportunity through Federal Government sponsored programs. A key to the success of this bill is the integration of all internal and external SBA programs and partnerships. The provisions in this bill are timely and in response to the many concerns of women business owners that I have received from my constituents in Maine and from across the country through the Small Business Committee.

Additionally, the bill makes the Women's Business Center a permanent program for existing eligible Centers so that women can depend on the experienced services of small business long-term counseling and small business education and training. The Centers have proven to be a great value the communities they serve so we must ensure that their programs and services continue to be available.

The "Women's Small Business Programs Improvement Act of 2003" ensure that women entrepreneurs at all stages of business ownership get the assistance they need so that success through business growth is more easily obtained. And it achieves that goal, not by establish costly new initiatives, but by building on successful establish programs within the SBA and improving their delivery for the benefit of current and future women entrepreneurs.

As the Small Business Committee continues its work on legislation to reauthorize the SBA, we will be addressing all of the agency's programs. I look forward to working with my colleagues in the Senate to ensure that the provisions of this bill are included so the growth of women owned business in America can reach its full potential.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1154

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Women's Small Business Programs Improvement Act of 2003".

**SEC. 2. OFFICE OF WOMEN'S BUSINESS OWNERSHIP.**

Section 29(g) of the Small Business Act (15 U.S.C. 656(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)(i), by striking "in the areas of—

"(I) starting and operating"; and inserting the following:

"to solve problems concerning operations, manufacturing, technology, finance, international trade, and other disciplines required for—

"(I) starting, operating, and growing";

(B) in subparagraph (C), by inserting ", the National Women's Business Council, and the Association of Women's Business Centers" before the period at the end; and

(2) by adding at the end the following:

"(3) PROGRAMS AND SERVICES FOR WOMEN-OWNED SMALL BUSINESSES.—The Assistant Administrator, in consultation with the Association of Women's Business Centers, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise, shall develop programs and services for women-owned businesses (as defined in section 408 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)) that provide goods or services in the areas of—

"(A) manufacturing;

"(B) technology;

"(C) professional services;

"(D) travel and tourism;

"(E) international trade; and

"(F) Federal Government contract business development.

"(4) TRAINING.—The Administration shall provide sufficient training for business ownership representatives and technical representatives within the district offices of the Administration to enable these staffs to carry out their responsibilities under this section.".

**SEC. 3. WOMEN'S BUSINESS CENTER PROGRAM.**

(a) WOMEN'S BUSINESS CENTER GRANTS PROGRAM.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by striking subsection (b) through (f) and inserting the following:

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Administration is authorized to award grants, to be known as 'Women's Business Center Grants', to private nonprofit organizations to conduct 3-year projects for the benefit of small business concerns owned and controlled by women. At the end of the initial 3-year grant period, and every 3 years thereafter, the grant recipient may apply to renew the grant in accordance with this subsection and subsection (e)(2).

"(2) CONTRACT AUTHORITY.—

"(A) IN GENERAL.—The Administration may enter into annual contracts with grant recipients under this subsection to perform the services described under paragraph (3) only to the extent and in the amount provided by appropriated funds.

"(B) TERMINATION.—If any grant recipient under this subsection does not fulfill its contractual obligations during the 3-year period of the grant, the Administration may terminate the grant.

"(3) USE OF FUNDS.—Grants awarded under paragraph (1) shall be used to provide—

"(A) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(B) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(4) MATCHING REQUIREMENT.—

"(A) WOMEN'S BUSINESS CENTER GRANTS.—As a condition of receiving financial assistance under this section, the grant recipient shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(i) In the first and second years, 1 non-Federal dollar for each 2 Federal dollars provided under the grant.

"(ii) In the third year, 1 non-Federal dollar for each Federal dollar provided under the grant.

"(iii) In each renewal period, 1 non-Federal dollar for each Federal dollar provided under the grant.

"(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than ½ of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

"(C) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—If any grant recipient fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to subparagraph (D) during the remainder of that project, or for any other project for which it is or may be funded by the Administration. Before approving assistance to the grant recipient for any other projects, the Administration shall specifically determine whether the Administration believes that the grant recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(D) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a grant recipient after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

"(5) APPLICATION SUBMISSION.—Each organization desiring a grant under this subsection, shall submit to the Administration an application that contains—

"(A) a certification that the applicant—

"(i) is a private nonprofit organization;

"(ii) employs an executive director or program manager to manage the center; and

"(iii) as a condition of receiving a grant under this subsection, agrees—

"(I) to receive a site visit as part of the final selection process;

"(II) to undergo an annual programmatic and financial examination; and

"(III) to the maximum extent practicable, to remedy any problems identified pursuant to the site visit or examination under subclauses (I) and (II);

"(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a grant is sought, including the ability to comply with the matching requirement under paragraph (4);

"(C) information relating to assistance provided by the women's business center site for which a grant is sought in the area in which the site is located, including—

"(i) the number of individuals assisted;

"(ii) the number of hours of counseling, training, and workshops provided; and

"(iii) the number of startup business concerns created;

"(D) information demonstrating the effective experience of the applicant in—

"(i) conducting financial, management, and marketing assistance programs, as described under paragraph (3), which are designed to teach or upgrade the business skills of women who are business owners or potential business owners;

"(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged; and

"(iii) using resource partners of the Administration and other entities, such as universities;

"(E) a 3-year plan that projects the ability of the women's business center site for which a grant is sought—

"(i) to serve women business owners or potential owners in the future by improving training and counseling activities; and

"(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

"(F) any additional information that the Administration may reasonably require.

"(6) REVIEW AND APPROVAL OF APPLICATIONS.—

"(A) IN GENERAL.—The Administration shall—

"(i) review each application submitted under paragraph (5) based on the information provided in such paragraph and the criteria set forth under subparagraph (B); and

"(ii) as part of the final selection process, conduct a site visit at each women's business center for which a grant is sought.

"(B) SELECTION CRITERIA.—

"(i) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration.

"(ii) REQUIRED CRITERIA.—The selection criteria under clause (i) shall include—

"(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(II) the ability of the applicant to commence a project within a minimum amount of time;

"(III) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

"(IV) the location for the women's business center site proposed by the applicant.

"(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

"(7) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (g), each women's business center site that is awarded a grant shall, to the maximum extent practicable, collect information relating to—

"(A) the number of individuals assisted;

"(B) the number of hours of counseling and training provided and workshops conducted;

"(C) the number of startup business concerns formed;

"(D) any available gross receipts of assisted concerns; and

"(E) the number of jobs created, maintained, or lost at assisted concerns.

"(8) SAVINGS PROVISION.—Notwithstanding any other provision of law, a contract or cooperative agreement, in effect on the date of enactment of the Women's Small Business Programs Improvement Act of 2003, that awards a sustainability grant to a Women's Business Center, shall remain in full force and effect under the terms, and for the duration, of such contract or agreement.

"(c) ASSOCIATION OF WOMEN'S BUSINESS CENTERS.—

"(1) RECOGNITION.—The Administration shall recognize the existence and activities of an association formed by the Women's Business Centers to address matters of common concern.

"(2) CONSULTATION.—The Administration shall consult with the association described under paragraph (1) to develop—

"(A) a request for proposal to deliver assistance under this section;

"(B) a training program for the staff of the Women's Business Centers; and

"(C) policies and procedures for governing the general operations and administration of the Women's Business Center Program.".

(b) CONFORMING AMENDMENTS.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) by redesignating subsections (g), (h), (i), (j), and (k) as subsections (d), (e), (f), (g), and (h), respectively.

(2) in subsection (e)(2), as redesignated by paragraph (1), by striking "to award a contract (as a sustainability grant) under subsection (l) or";

(3) in subsection (h), as redesignated by paragraph (1)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this section, to remain available until expended—

"(A) $14,500,000 for fiscal year 2004;

"(B) $16,000,000 for fiscal year 2005; and

"(C) $17,500,000 for fiscal year 2006."; and

(B) by striking paragraph (4); and

(4) by striking subsection (l).

**SEC. 4. NATIONAL WOMEN'S BUSINESS COUNCIL.**

(a) COSPONSORSHIP AUTHORITY.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

"(e) COSPONSORSHIP AUTHORITY.—The Council is authorized to enter into cosponsorship agreements with public and private entities to carry out its duties under this section.".

(b) MEMBERSHIP.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

"(j) REPRESENTATION OF MEMBER ORGANIZATIONS.—Notwithstanding subsection (b), a national women's business organization or small business that is represented on the Council may replace its representative member on the Council at any time during the service term to which that member was appointed.".

(c) ESTABLISHMENT OF COMMITTEES.—The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by inserting after section 407, the following new section:

**"SEC. 408. COMMITTEES.**

"(a) ESTABLISHMENT.—There are established within the Council—

"(1) the Committee on Manufacturing, Technology, and Professional Services;

"(2) the Committee on Travel, Tourism, and International Trade; and

"(3) the Committee on Federal Procurement and Contracting.

"(b) DUTIES.—The Committees established under subsection (a) shall perform such duties as the chairperson shall direct.".

(d) REPOSITORY FOR HISTORICAL DOCUMENTS.—Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

"(c) REPOSITORY FOR HISTORICAL DOCUMENTS.—The Council shall establish a repository for historical documents relating to women's ownership of small businesses in the United States.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 410(a) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking "2001 through 2003, of which $550,000" and inserting "2004 through 2006, of which 30 percent".

**SEC. 5. INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE.**

(a) CHAIRPERSON.—Section 403(b) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Not later" and inserting the following:

"(1) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(2) VACANCY.—In the event that a chairperson is not appointed under paragraph (1), the Deputy Administrator of the Small Business Administration shall serve as acting chairperson of the Interagency Committee until a chairperson is appointed under paragraph (1).".

(b) POLICY ADVISORY GROUP.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "There" and inserting the following:

"(a) IN GENERAL.—There"; and

(2) by adding at the end the following:

"(b) POLICY ADVISORY GROUP.—

"(1) ESTABLISHMENT.—There is established within the Interagency Committee a Policy Advisory Group to assist the chairperson in developing policies and programs under this Act.

"(2) MEMBERSHIP.—The Policy Advisory Group shall be composed of—

"(A) 1 representative from the Small Business Administration;

"(B) 1 representative from the Department of Commerce;

"(C) 1 representative from the Department of Labor;

"(D) 1 representative from the Department of Defense;

"(E) 1 representative from the Association of Women's Business Centers; and

"(F) 2 representatives from the National Women's Business Council.".

(c) ESTABLISHMENT OF SUBCOMMITTEES.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note), as amended by subsection (b), is further amended by adding at the end the following:

"(c) SUBCOMMITTEES.—

"(1) ESTABLISHMENT.—There are established within the Interagency Committee—

"(A) the Subcommittee on Manufacturing, Technology, and Professional Services;

"(B) the Subcommittee on Travel, Tourism, and International Trade; and

"(C) the Subcommittee on Federal Procurement and Contracting.

"(2) DUTIES.—The Subcommittees established under paragraph (1) shall perform such duties as the chairperson shall direct.".

**SEC. 6. ANNUAL MANAGEMENT REPORT.**

Section 29(g)(1) of the Small Business Act, as amended by this Act, is further amended by striking "The Administration" and inserting "Not later than November 1st of each year, the Administration".

**SEC. 7. EFFECTIVE DATE.**

This Act, and the amendments made by this Act, shall take effect on October 1, 2003.

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## THE WOMEN'S SMALL BUSINESS PROGRAMS IMPROVEMENT ACT OF 2003—EXPLANATION OF PROVISIONS

### I. SBA OFFICE OF WOMEN'S BUSINESS OWNERSHIP

This section of the bill reflects the Committee's recognition of the achievements and challenges of women small business owners. The hearings and reauthorization roundtables, held during 2003, provided the opportunity to identify the Small Business Administration (SBA) non-credit programs that most interest or concern women advocates and business owners.

Hearing witnesses and Roundtables participants identified the following concerns held by women business owners:

The concern for the Women's Business Center Program's sustainability grants pilot program that fund centers beyond the maximum 5-year funding periods;

The need to expand the SBA non-credit programs (Entrepreneurial Development and Government Contracting);

The need for current research on women-owned small businesses;

The lack of progress for women to gain access to start-up and expansion capital, and

The limited opportunities available to women-owned small businesses for Federal government contracts.

In followup meetings and discussions, women business advocates and leaders indicated their interests in positive changes for the SBA sponsored programs through the Women's Business Centers program, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise. The SBA Office of Women's Business Ownership is in a position to take the "real world problems" faced by women on a day-to-day basis and work with all of its partners and public and private resources to expand its menu of programs and services.

The bill will direct the SBA Office of Women's Business Ownership to develop and make available new programs and services for established women owned businesses—adding to the SBA menu of small business start-up programs.

The new programs and services for women would assist women-owned small business solve problems concerning business operations, manufacturing, technology, finance, Federal government contracting and international trade and other disciplines required for starting, operating, and growing small business in changing economies. New programs would be based on recommendations by the National Women's Business Council, the Women's Business Centers, and the Interagency Committee on Women's Business Enterprise, these programs and services would be developed by the SBA in partnership with its funded resource partners and private sector cosponsors.

The bill will direct the SBA to provide training for District Office Women Business Ownership Representatives (existing staff who carry out marketing and outreach activities) and District Office of Technical Representatives (existing staff who carry out grant programmatic and financial oversight) and to provide resources for the District Offices to carry out their responsibilities in support of women's business ownership programs.

The bill will direct the SBA to submit a report on data collections on women's programs and services to the Congress no later than November 1st of each year.

The bill will direct the SBA to work with the Association of Women's Business Centers, the National Women's Business Council and the Interagency Committee on Women Business Enterprise to develop marketing and outreach programs, as well as procurement training programs, on Federal government contracting and business development opportunities.

### II. WOMEN'S BUSINESS CENTER PROGRAM

The Women's Business Center Program, established in 1988, provides long-term training and counseling to encourage small business ownership through nonprofit organizations. The competitive grant award programs is administered through the SBA Headquarters Office of Women's Business Ownership (OWBO) Grants Management Division, with oversight designated to the SBA District Office Technical Representative. The Women's Business Center program has been well received by the recipient users and the program has been a tremendous marketing and outreach tool for the SBA in recent years. The SBA estimated in Fiscal Year 2002, the Women's Business Center program had an approximate return of $161 for every $1 invested in the program.

The bill makes the Women's Business Centers a permanent grant program with renewal options, replacing the Pilot Sustainability Grants Program. The Pilot program sunsets in 2003.

Existing Women's Business Centers will be eligible to submit proposals every 3 years. The program improvements are modeled after the SBDC grant program and several provisions contained in the Sustainability Grant Program. Eligibility and evaluation criteria will be establish that encourages existing productive Centers to continue to participate in the program.

The bill recognizes the Association of Women's Business Centers (AWBCs) and directs the SBA Office of Women's Business Ownership to partner with the Association in developing and administering the programs delivered through the Centers (modeled after the SBA's current partnership with the Association of Small Business Development Centers with regard to the Small Business Development Center program).

The bill directs the SBA to streamline the reporting requirements of the Centers recognizing the limited grant award and limited human resources within the Centers.

### III. INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE

The Interagency Committee on Women's Business Enterprise was created in 1977, as an interagency task force. By Executive Order 112138, in May 1979, the name was changed to the Interagency Council. In 1988, the Women's Business Ownership Act (Public Law 100-533) replaced the Interagency Council with a joint public-private sector National Women's Business Council. The SBA Reauthorization and Amendment Act of 1997 (Public Law 103-403) revised the Council's structure, returning to all public-sector participants to comprise an expanded Interagency Committee on Women's Business Enterprise.

Under current law, there is no authorization for appropriations to support the activities on the Interagency Committee. Nor are there clear directives on the operations and interaction of the Federal agency and department representatives. The Federal agencies and departments represented on the Interagency Committee allocate existing personnel and resources to support participation on the Interagency Committee. The Interagency Committee is required to submit, through SBA, an annual report to the President and Congress, but there is no record of such annual reports being prepared or delivered for the past three years.

In addition, the President has not appointed a Chairperson to carry out the mission of the Interagency Committee, and therefore, it is inactive.

The bill will direct that the SBA Deputy Administrator temporarily fulfill the needs of the Interagency Committee Chair if vacant until the President makes an appointment. When the Interagency Committee is active and a Chair is in place, the SBA Office of Women's Business Ownership serves as Co-Chair. This action will provide for the continuity of activities and avoid the periods of time of inactivity.

The bill will direct the Interagency Committee to conduct three official meetings each year:

In October to plan upcoming fiscal year activities;

In February to track year-to-date agency contracting goals; and

In August to evaluate fiscal year progress and begin the report process.

The bill creates a Policy Advisory Group consisting of representatives from the SBA, the Department of Commerce, the Department of Labor, the Department of Defense, Association of Women's Business Centers, and two individuals and two organizations that are members of the National Women's Business Council. Creating the Policy Advisory Group will return the Interagency to a mix of public/private members to provide the energy and direction so badly needed to revive the intent of the Interagency Committee.

The bill will create three subcommittees:

Subcommittee on Manufacturing, technology and Professional Services;

Subcommittee on Travel and International Trade; and

Subcommittee on Procurement and Federal Contracting.

These subcommittees will create the opportunity for smaller groups to work on specific issues. Each subcommittee will meet once a quarter and report their minutes to the National Women's Business Council, the SBA Office of Women's Business Ownership, and the SBA Contract Assistance for Women Business Ownership Office. In addition to the Policy Advisory Group members, all Federal departments and agencies may participate at will.

IV. NATIONAL WOMEN'S BUSINESS COUNCIL

The National Women's Business Council was created by the Women's Business Ownership Act of 1988 to serve as an advisory body because the Interagency Committee had been criticized for inactivity. By separating the Council from the Interagency Committee (1994 Act), the Council was able to focus on its mission. The 1997 Reauthorization Act provided for improved reporting duties and Council appointments.

The 1988 Act required the Council to conduct studies on issues relating to women-owned businesses, including the award of Federal prime contracts to women-owned businesses and access to credit and investment capital by women entrepreneurs. In general, the National Women's Business Council's statutory mandate is broad and lacks an integration with other women's business ownership programs.

Although the Council has not received its authorized level of $1 million in funding, it has been required to designate $550,000 of its appropriated funding to research studies. The level of funding for Fiscal Year 2003 was $750,000. The Administration has proposed a change in the amount that can be spent on research studies—from a set amount of dollars allocated to a 55 percentage of appropriated funds.

The bill supports full funding for the National Women's Business Council and full authority for the Chairperson to conduct the Council's activities. In addition, the bill establishes an allocation of appropriated funds for research.

The change will provide the opportunity for the Council to engage in activities, conferences and the development of programs and services, at the direction of the Chairperson, and be more pro-active in the years 2004 through 2006.

The bill creates three Sub-committees on the Council (which parallel the new subcommittees that the bill establishes for the Interagency Committee on Women's Business Enterprise):

Subcommittee on Manufacturing, Technology and Professional Services;

Subcommittee on Travel and International Trade; and

Subcommittee on Procurement and Federal Contracting.

These subcommittees will create the opportunity for smaller groups to work on specific issues and interact with the Interagency Committee on Women's Business Enterprise and the SBA Office of Women's Business Ownership. Recognizing that the membership of the Council includes very active business owners and leaders, rather than establish official meetings for the Committees, the participants may participate via conference calls or video conferencing.

The bill will provide the Council with cosponsorship authority. The SBA advised the Council in 2003 that the Council did not have sufficient authority to engage in cosponsored activities (such conferences, training activities, and materials). The inability to engage in cosponsored activities would seriously impede the works of the Council in the future. It is through cosponsored activities, partially funded by the private-sector or other government agencies, that the Council is able to conduct research as well as produce activities for women-owned small businesses.

The bill will clarify the membership representation. At present, there is a problem with the interpretation of Council membership as applied to an organization, business or individual. Clarification language is needed to allow an organization or business to change the names of individuals representing the organization or business on the Council without interruption.

The bill directs the Council to establish a repository, at the direction of the Chairperson, of information and research on women's entrepreneurship.

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By Mr. GRASSLEY:

S. 1155. A bill to repeal section 801 of the Revenue Act of 1916; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am introducing a bill to bring the United States into compliance with its obligations under the World Trade Organization.

The basic thrust of the bill is simple—it repeals section 801 of the Revenue Act of 1916 which the WTO Appellate Body found to be inconsistent with our responsibilities under Article VI of the GATT 1994 and the WTO Antidumping Agreement. Repealing section 801 will therefore bring the United States into conformity with its WTO obligations.

Section 801, which has been referred to as the Antidumping Act of 1916, allows private parties to sue importers of dumped imports in U.S. district courts, and also establishes criminal liability for importing dumped goods. While the provision is seldom used, there are several recent court cases pending in the United States where litigants have sued under the Antidumping Act of 1916.

I am introducing this legislation because I believe it is important that the United States comply with its WTO obligations. While we may not agree with each and every decision that comes out of the WTO, we should not pick and choose which decisions we will comply with. The bottom line is that the United States benefits greatly from a rules-based world trading system. We have had considerable success in bringing down foreign import barriers, and this has resulted in increased trade, economic growth, and more jobs right here in the United States. When we comply with adverse decisions we only strengthen our position in other cases where we challenge the impermissible import restraints of our trading partners, such as the de facto biotechnology moratorium adopted by the European Union, which continues to hurt farmers in Iowa and is now under challenge before the WTO. I want other countries to comply when we win, so I think it is important to comply when we lose.

I would also like to point out an important aspect of the bill I am introducing. The bill brings us into compliance with our WTO obligations, but it does not apply retroactively. I think retroactive application of repeal would be wrong in this case for a number of reasons.

First, the U.S. Supreme Court has held that under the constitutional due process standard, retroactive application of economic legislation is acceptable only where it is justified by a rational legislative purpose. To my knowledge, no one has yet articulated any reason, let alone a rational legislative purpose, for depriving litigants in U.S. courts of the opportunity for final adjudication of their disputes in this case. In fact, the Appellate Body Ruling itself does not call for a retroactive repeal of section 801 in order for the United States to conform to its WTO obligations. It seems to me that no rational legislative purpose is served by retroactive repeal of section 801 when the Appellate Body Report does not ask for retroactive repeal and the Administration has not explained why retroactive repeal is necessary.

The Supreme Court has also held that the justification for prospective application of legislation may not suffice for retroactive application of the same legislation. The justification for repeal of section 801 is to conform to our WTO obligations; again, if WTO compliance does not call for retroactive repeal, then the justification for repealing section 801 should not extend to a retroactive repeal of this provision.

Second, the administration and Congress have consistently taken the position that retroactive repeal is not necessary to ensure compliance with our WTO obligations in all cases, particularly in cases dealing with U.S. trade remedy laws. The Joint Report of the Committee of Finance, Committee on Agriculture, Nutrition, and Forestry, Committee on Government Affairs of the U.S. Senate which accompanied the legislation implementing the Uruguay Round Agreements Act explicitly noted that compliance with WTO panels in trade remedy cases applied prospectively only. The Joint Report continued that prospective application "is consistent with the general principle in the GATT, and in the future WTO, that panel decisions do not have retroactive effect."

This principle is fully consistent with the text of the WTO agreement itself. Article 19.1 of the Dispute Settlement Understanding states only that "¦w¦here a panel or the Appellate Body concludes that a measure is inconsistent with a covered agreement, it shall recommend that the Member concerned bring the measure into conformity with that Agreement. In addition to its recommendations, the panel or Appellate Body may suggest ways in which the Member concerned could implement the recommendations." Thus, the text of the WTO calls only for "bringing the measure into conformity" and not retroactive application of an Appellate Body decision.

To my knowledge, this is the position which has consistently been taken by the U.S. Government and the WTO Appellate Body. In fact, with the exception of one aberrant decision by a panel in the case of Australian Automotive Leather, WTO panels and the Appellate Body have continued to adhere to the general principle that retroactive compliance measures are inappropriate.

The panel ruling in Australian Automotive Leather is instructive. The WTO Dispute Settlement Body adopted a panel report that recommended the Australian recipient of a subsidy pay back the entire amount of the $30 million Australian dollar subsidy it had received. This recommendation went far beyond what the United States asked for. The United States sought only the return of the prospective value of the subsidy that the Australian automotive leather company had received. The United States argued that repayment of the entire subsidy was inappropriate and ultimately settled the dispute with Australia in a deal that required the automotive leather company to pay back $7.2 million Australian dollars to the Government of Australia, which reflected the prospective value of the subsidy. Thus, both U.S. law and U.S. trade policy conform to the general principle that compliance measures should be prospective in nature.

Finally, I believe that as a general matter, attempts at retroactive compliance with WTO rulings can make for bad trade policy. The intent of the rules-based trading system established under the WTO is to bring Members into compliance so that going forward international trade can be conducted on a level playing field. There is just no telling where efforts at retroactive compliance may lead. While in this instance the retroactive repeal of section 801 may seem clear-cut to some, it could set a dangerous precedent for future cases. Imagine if the WTO Appellate Body required or the U.S. Government advocated for retroactive application of a measure repealing the Extraterritorial Income Act/Foreign Sales Corporation tax regime. The result would be ludicrous.

Rather than foster the establishment of a level playing field, efforts at retroactive compliance may well distort markets to an extent even greater than the underlying measure that was found to be WTO inconsistent. We need to carefully consider whether retroactive repeal of a statutory provision is appropriate. I believe that considerations of judicial precedent, legislative intent, established practice under the GATT and the WTO, as well as good trade policy, all mitigate against the retroactive repeal of section 801.

I call upon my colleagues to support this bill repealing section 801. Passing the bill will bring us into compliance with our WTO obligations, demonstrate our continued commitment to the rules-based trading system, and strengthen our position in future cases where we prove successful in challenging impermissible import restraints erected by our trading partners.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1155

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. REPEAL OF ANTIDUMPING PROVISION OF REVENUE ACT OF 1916.

(a) REPEAL.—Section 801 of the Act entitled "An Act to increase the revenue, and for other purposes", approved September 8, 1916 (15 U.S.C. 72), is repealed.

(b) EFFECT OF REPEAL.—The repeal made by subsection (a) shall not affect any action under section 801 of the Act referred to in subsection (a) that was commenced before the date of the enactment of this Act and is pending on such date.

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By Mr. SPECTER:

S. 1156. A bill to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to explain briefly the provisions of the "Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003," a bill that I have introduced today.

Title I of the bill would extend through calendar year 2008 authorities that now specify that the Department of Veterans Affairs, VA, will provide to veterans enrolled for VA medical care outpatient-based long-term care services, such as Adult Day Health Care, Home Health Aide assistance, Non-Institutional Respite Care, and Home-based Primary Care. These services provide alternatives to institutional care and, in many cases, they obviate the need for institutional care by allowing veterans to remain in their own homes with care-giving assistance provided by VA.

In addition, this bill would lower, from 70 percent to 50 percent, the threshold level of service-connected disability that would qualify a veteran for highest-priority for institutional care should he or she need it. VA currently provides highest-priority access to hospital and outpatient clinic-based care to veterans who have suffered a service-connected disability rated by VA as 50 percent disabling or higher. Highest-priority access to inpatient-based long-term care services, however, is only granted by law to veterans who are 70 percent or more disabled, unless such care is needed specifically to treat a less-disabling service-connected disability. When this provision of law was enacted in 1999, Congress set the threshold for priority access to nursing home care at 70 percent, rather than at 50 percent, due primarily to concerns that a lower threshold—which was actively considered—might cause VA to be faced with an unforeseen level of demand that could not be met. Since then, however, VA has reported that "there was only a small increase in the numbers of veterans 70 percent service-connected or greater who were estimated to need nursing home care but who actually received that care from VA." In light of that, I see no compelling reason to continue distinguishing between nursing home care and all other types of care that are made available to 50 percent or higher service-connected veterans on a highest-priority basis. This bill would provide, in effect, that hospital care, outpatient clinic-based care, and nursing home care will equally be made available to all such enrolled veterans.

Title I of the bill would also make technical changes to VA authority to contract for nursing home and adult day health care services by allowing VA to enter into agreements with providers under standards similar to those allowed by Medicare. According to VA, these changes will allow a greater number of smaller community-based providers to contract with VA by reducing the regulatory burdens placed upon them as a condition to contracting eligibility.

Title II of the bill authorizes major construction for long-term care facilities in Beckley, WV and Lebanon, PA. Each of these states has a substantial elderly population and each is need of expansion to their VA long-term care programs.

Title III of the bill would change current law to allow VA to more easily hire and retain certain clinical staff members. Under current law, VA hires many clinical professionals, such as physicians and nurses, under streamlined authorities set forth in title 38 of U.S. Code. But other key clinical professionals, such as clinical social workers, psychologists, and pharmacists, may only be hired through the standard "civil service" authorities specified in Title 5, U.S. Code. Further, members of such professions may only be paid and promoted in accordance with the standard civil service General Schedule, GS, pay scale. The process of hiring staff under these procedures is arduous and lengthy, consuming three months or more and placing VA at great competitive disadvantage in securing the services of best qualified candidates. This bill would convert many of these positions into "hybrid Title 38" status and permit VA greatly increased hiring and promotion flexibility, and compensation at special, locally-based, pay scales. Such clinicians, however, would retain their standard civil service grievance, vacation, and discipline protections.

Title III of the bill also contains provisions to correct a long-standing inequity relating to retirement benefits for certain part-time VA nurses; to expand a successful pilot program allowing for contract-physician disability compensation medical examinations; and to afford certain wage-grade canteen workers an opportunity to compete favorably for VA employment.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1156

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003".

## TITLE I—EXTENSION AND ENHANCEMENT OF AUTHORITIES

### SEC. 101. EXTENSION AND MODIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.

(a) Treatment of Noninstitutional Extended Care Services as Medical Services.—Section 1701(a)(10)(A) of title 38, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2008".

(b) Required Nursing Home Care.—(1) Subsection (a) of section 1710A of such title is amended by striking "70 percent" and inserting "50 percent".

(2) Subsection (c) of such section is amended by striking "December 31, 2003" and inserting "December 31, 2008".

### SEC. 102. ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

Section 1720 of title 38, United States Code, is amended—

(1) in subsection (c)—

(A) by designating the existing text as paragraph (2); and

(B) by inserting before paragraph (2), as so designated, the following new paragraph (1):

"(1) In furnishing nursing home care or adult day health care under this section, the Secretary may enter into agreements for furnishing such care utilizing such authorities relating to agreements for the provision of services under section 1866 of the Social Security Act (42 U.S.C. 1395cc) that the Secretary considers appropriate."; and

(2) in subsection (f)(1)(B), by inserting "or agreement" after "contract" each place it appears.

## TITLE II—CONSTRUCTION AUTHORIZATION

### SEC. 201. AUTHORIZATION OF MAJOR, MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in an amount not to exceed the amount specified for that project:

(1) Construction of a long-term care facility in Lebanon, Pennsylvania, $14,500,000.

(2) Construction of a long-term care facility in Beckley, West Virginia, $20,000,000.

### SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2004 for the Construction, Major Projects, account, a total of $34,500,000 for the projects authorized in paragraphs (1) and (2) of section 201.

(b) Limitation.—The projects authorized in section 201 may only be carried out using—

(1) funds appropriated for fiscal year 2004 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004 for a category of activity not specific to a project.

## TITLE III—PERSONNEL

### SEC. 301. MODIFICATION OF AUTHORITIES ON APPOINTMENTS OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION.

(a) Positions Treatable as Hybrid Status Positions.—Section 7401 of title 38, United States Code, is amended—

(1) in paragraph (2), by striking "Psychologists" and all that follows through "other scientific" and inserting "Other scientific"; and

(2) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) Audiologists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical technologists, nuclear medicine technologists, occupational therapists, occupational therapy assistants, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technicians, therapeutic radiologic technicians, social workers, and personnel in such other positions as the Secretary designates (subject to section 7403(f)(4) of this title) for purposes of this paragraph as necessary for the medical care of veterans.".

(b) Report on Proposal To Designate Additional Positions as Hybrid Status Positions.—Section 7403(f) of such title is amended by adding at the end the following new paragraph:

"(4) Not later than 45 days before the date on which the Secretary proposes to designate a position as a position necessary for the medical care of veterans for which appointment may be made under section 7401(3) of this title, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the proposed designation.".

(c) Temporary, Part-Time, and Without Compensation Appointments.—Section 7405 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

"(B) Positions listed in section 7401(3) of this title.

"(C) Librarians."; and

(B) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph (B):

"(B) Positions listed in section 7401(3) of this title."; and

(2) in subsection (c)(1), by striking "section 7401(1)" and inserting "paragraphs (1) and (3) of section 7401".

(d) Authority for Additional Pay for Certain Health Care Professionals.—Section 7454(b)(1) of such title is amended by striking "certified or registered" and all that follows through "occupational therapists," and inserting "individuals in positions listed in section 7401(3) of this title,".

### SEC. 302. COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS.

Section 7802(5) is amended by inserting before the semicolon the following: ". Employees and personnel under this clause may be considered for appointment in Department positions in the competitive service in the same manner that Department employees in the competitive service are considered for transfer to such positions. An employee or individual appointed as personnel under this clause who is appointed to a Department position under the authority of the preceding sentence shall be treated as having a career appointment in such position once such employee or individual meets the three-year requirement for career tenure (with any previous period of employment or appointment in the Service being counted toward satisfaction of such requirement)".

### SEC. 303. EFFECTIVE DATE OF MODIFICATION OF TREATMENT FOR RETIREMENT ANNUITY PURPOSES OF CERTAIN PART-TIME SERVICE OF CERTAIN DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROFESSIONALS.

(a) Effective Date.—The effective date of the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (Public Law 107–135; 115 Stat. 2454) shall be as follows:

(1) January 23, 2002, in the case of health care professionals referred to in subsection (c) of section 7426 of title 38, United States Code (as so amended), who retire on or after that date.

(2) The date of the enactment of this Act, in the case of health care professionals referred to in such subsection (c) who retired before January 23, 2002, but after April 7, 1986.

(b) Recomputation of Annuity.—The Office of Personnel Management shall recompute the annuity of each health-care professional described in the first sentence of subsection (c) of section 7426 of title 38, United States Code (as so amended), who retired before January 23, 2002, but after April 7, 1986, in order to take into account the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. Such recomputation shall be effective only with respect to annuities paid after the date of the enactment of this Act, and shall apply beginning the first day of the first month beginning after the date of the enactment of this Act.

### SEC. 304. PERMANENT AUTHORITY FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS.

(a) Permanent Authority.—Section 504 of the Veterans' Benefits Improvements Act of 1996 (Public Law 104–275; 110 Stat. 3341; 38 U.S.C. 5101 note) is amended—

(1) in subsection (a), by striking "may conduct a pilot program" and all that follows through "may be made by" and inserting "may carry out examinations with respect to the medical disability of applicants for benefits under the laws administered by the Secretary through"; and

(2) in subsection (c), by striking "the pilot program under".

(b) REPEAL OF LIMITATION AND OBSOLETE AUTHORITY.—That section is further amended—

(1) by striking subsections (b) and (d); and

(2) by redesignating subsection (c), as amended by subsection (a) of this section, as subsection (b).

(c) CONFORMING AMENDMENT.—The heading for that section is amended to read as follows:

**"SEC. 504. AUTHORITY FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS.".**

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By Mr. BROWNBACK (for himself, Mr. DODD, Mr. STEVENS, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BIDEN, Mrs. BOXER, Mr. CAMPBELL, Mr. CHAFEE, Mrs. CLINTON, Ms. COLLINS, Mr. CORNYN, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mrs. DOLE, Mr. DURBIN, Mr. EDWARDS, Mr. FRIST, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Ms. MIKULSKI, Mr. MILLER, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. SANTORUM, Mr. SCHUMER, Mr. SMITH, Ms. STABENOW, Mr. CRAIG, and Mr. LEAHY):

S. 1157. A bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes; to the Committee on Rules and Administration.

Mr. BROWNBACK. Mr. President, over 200 years ago, there was a dream that was America for a group of individuals who were brought to our shores in shackles. A dream so powerful that compelled a race of people to fight for the liberty of others when they were in bondage themselves. A dream that not only served as a catalyst for physical liberation in the African-American community but removed societal shackles from our culture and enabled us to realize the ideals set before us in the constitution—that all men are created equal under God.

Today, we celebrate this magnificent history. A history of people's quest for freedom that shaped this Nation into a symbol of freedom and democracy around the world. I am proud to stand here today with my colleagues and introduce once again to this body a bill that will create the National Museum of African American History and Culture.

I would specifically like to thank Senator DODD, who is committed to honoring this history and has worked hard to get us to this point today. I look forward to working with him on this bill.

I would also like to thank Senator TED STEVENS for his leadership and commitment to this project as well. It means a great deal to have his support and I am grateful.

Senator SANTORUM has always been a supporter of this legislation and has given unwavering enthusiasm to this project since the 107th Congress. I look forward to working with him as well to finally complete this museum.

And I am grateful to all of the original cosponsors of this bill—this is fantastic.

Mr. President, the national Museum of African American History and Culture Presidential Commission—signed into law by President Bush, stated that the time is now. Indeed the time is now to honor this incredible history that has shaped this great Nation.

I thank the Presidential Commission for their hard work and effort in recommending to Congress that we should build this museum and that there is sufficient interest in the philanthropic community to financially support this museum and that there are sufficient artifacts to fill this museum.

So many Americans will be able to share in the celebration of this museum—a uniquely American museum one that we can celebrate. I remember when I met with the dean of the Afro-American studies at Howard University.

He told me of a story about his grandfather who finished a bowl the day the Emancipation Proclamation was authorized.

His grandfather decided to keep the bowl because it no longer was the property of a slave master but the man who made it—his grandfather.

Mr. President, the dean has this bowl in his home—an incredible piece of history and I am sure there are many more pieces out there waiting for a home—a national home.

Today, we are not just introducing a bill, we are completing a piece of American history by introducing the National Museum of African American History and Culture, which will create a museum to honor African-American contributions to this Nation—which is an extraordinary story of sacrifice and triumph.

This bill will create this museum within the Smithsonian Institution—America's premier museum complex. We have worked very had with the Smithsonian Institution to craft a bill that will compliment their programs—and indeed we have done just that.

This bill is very similar to the American Indian Museum, slated to open next year. And I know that the Smithsonian Institution will create another national treasure one that tells the story of African-Americans in this country—a proud history, a rich history.

This bill charges the board of regents of the Smithsonian Institution along with the Council of the National Museum to plan, build and construct a museum dedicated to celebrating nationally African-American history—which is American history.

In addition, this bill charges the Board of Regents with choosing a site on or adjacent to the national mall for the location of the museum.

Additionally, the bill establishes an education and program liaison section designed to work with educational institutions and museums across the country in order to promote African-American history.

Finally, the bill sets forth a Federal-private partnership for funding the museum and authorizes $17 million for the first year in order to begin implementation of the museum council, which will be comprised from a mixture of leading African-Americans from the museum, historical, and business communities.

Mr. President, it has been well over 70 years since the first commission was formed to seek ways to honor nationally the contributions of African-Americans.

It has always been my hope that this museum will not only showcase nationally the accomplishments of African-Americans—which are great—but will also serve as a catalyst for racial reconciliation for our Nation. Indeed we have triumphed over our difficulties in this area, but we must continue to do more.

I do not pretend that this museum is a panacea for racial reconciliation. It is, however, a productive step in recognizing the important contributions and the debt all Americans owe to African-Americans.

Dr. Martin Luther King, Jr. once expressed his desire for this Nation, "that the dark clouds of [misconceptions] will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty." We are one step closer today—God bless.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1157

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Museum of African American History and Culture Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) since its founding, the United States has grown into a symbol of democracy and freedom around the world, and the legacy of African Americans is rooted in the very fabric of the democracy and freedom of the United States;

(2) there exists no national museum within the Smithsonian Institution located on the National Mall that—

(A) is devoted to the documentation of African American life, art, history, and culture; and

(B) encompasses, on a national level—

(i) the period of slavery;

(ii) the era of reconstruction;

(iii) the Harlem renaissance;

(iv) the civil rights movement; and

(v) other periods associated with African American life, art, history, and culture; and

(3) a National Museum of African American History and Culture would be dedicated to the collection, preservation, research, and exhibition of African American historical and cultural material reflecting the breadth and depth of the experiences of individuals of African descent living in the United States.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) Board of Regents.—The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) Council.—The term "Council" means the National Museum of African American History and Culture Council established by section 5.

(3) Museum.—The term "Museum" means the National Museum of African American History and Culture established by section 4.

(4) Secretary.—The term "Secretary" means the Secretary of the Smithsonian Institution.

**SEC. 4. ESTABLISHMENT OF MUSEUM.**

(a) Establishment.—There is established within the Smithsonian Institution a museum to be known as the "National Museum of African American History and Culture".

(b) Purpose.—The purpose of the Museum shall be to provide for—

(1) the collection, study, and establishment of programs relating to African American life, art, history, and culture that encompass—

(A) the period of slavery;

(B) the era of reconstruction;

(C) the Harlem renaissance;

(D) the civil rights movement; and

(E) other periods of the African American diaspora;

(2) the creation and maintenance of permanent and temporary exhibits documenting the history of slavery in America and African American life, art, history, and culture during the periods referred to in paragraph (1);

(3) the collection and study of artifacts and documents relating to African American life, art, history, and culture; and

(4) collaboration between the Museum and other museums, historically black colleges and universities, historical societies, educational institutions, and other organizations that promote the study or appreciation of African American life, art, history, or culture, including collaboration concerning—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections; and

(C) training of museum professionals.

**SEC. 5. COUNCIL.**

(a) Establishment.—There is established within the Smithsonian Institution a council to be known as the "National Museum of African American History and Culture Council".

(b) Duties.—

(1) In general.—The Council shall—

(A) make recommendations to the Board of Regents concerning the planning, design, and construction of the Museum;

(B) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(C) recommend annual operating budgets for the Museum to the Board of Regents;

(D) report annually to the Board of Regents on the acquisition, disposition, and display of objects relating to African American life, art, history, and culture; and

(E) adopt bylaws for the operation of the Council.

(2) Principal responsibilities.—The Council, subject to the general policies of the Board of Regents, shall have sole authority to—

(A) purchase, accept, borrow, and otherwise acquire artifacts and other property for addition to the collections of the Museum;

(B) loan, exchange, sell, and otherwise dispose of any part of the collections of the Museum, but only if the funds generated by that disposition are used for—

(i) additions to the collections of the Museum; or

(ii) programs carried out under section 7(a); and

(C) specify criteria with respect to the use of the collections and resources of the Museum, including policies on programming, education, exhibitions, and research with respect to—

(i) the life, art, history, and culture of African Americans;

(ii) the role of African Americans in the history of the United States from the period of slavery to the present; and

(iii) the contributions of African Americans to society.

(3) Other responsibilities.—The Council, subject to the general policies of the Board of Regents, shall have authority—

(A) to provide for preservation, restoration, and maintenance of the collections of the Museum; and

(B) to solicit, accept, use, and dispose of gifts, bequests, and devises of services and property, both real and personal, for the purpose of aiding and facilitating the work of the Museum.

(c) Composition and Appointment.—

(1) In general.—The Council shall be composed of 19 voting members as provided under paragraph (2).

(2) Voting members.—The Council shall include the following voting members:

(A) The Secretary of the Smithsonian Institution.

(B) 1 member of the Board of Regents, appointed by the Board of Regents.

(C) 17 individuals appointed by the Board of Regents—

(i) taking into consideration individuals recommended by organizations and entities that are committed to the advancement of knowledge of African American life, art, history, and culture; and

(ii) taking into consideration individuals recommended by the other members of the Council.

(3) Initial appointments.—The Board of Regents shall make initial appointments to the Council under paragraph (2) not later than 180 days after the date of enactment of this Act.

(4) Special rule for certain members.—Of the total number of members of the Council appointed under subparagraph (C) of paragraph (2), not fewer than 9 shall be of African-American descent.

(d) Terms.—

(1) In general.—Except as provided in this subsection, each appointed member of the Council shall be appointed for a term of 6 years.

(2) Initial appointees.—As designated by the Board of Regents at the time of appointment, of the voting members first appointed under subparagraph (C) of subsection (c)(2)—

(A) 6 members shall be appointed for a term of 2 years;

(B) 6 members shall be appointed for a term of 4 years; and

(C) 5 members shall be appointed for a term of 6 years.

(3) Reappointment.—A member of the Council may be reappointed, except that no individual may serve on the Council for a total of more than 2 terms.

(4) Vacancies.—

(A) In general.—A vacancy on the Council—

(i) shall not affect the powers of the Council; and

(ii) shall be filled in the same manner as the original appointment was made.

(B) Term.—Any member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(e) Compensation.—

(1) In general.—Except as provided in paragraph (2), a member of the Council shall serve without pay.

(2) Travel expenses.—A member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Council.

(f) Chairperson.—By a majority vote of its voting members, the Council shall elect a chairperson from its members.

(g) Meetings.—

(1) In general.—The Council shall meet at the call of the chairperson or on the written request of a majority of the voting members of the Council, but not fewer than twice each year.

(2) Initial meetings.—During the 1-year period beginning on the date of the first meeting of the Council, the Council shall meet not fewer than 4 times for the purpose of carrying out the duties of the Council under this Act.

(h) Quorum.—A majority of the voting members of the Council holding office shall constitute a quorum for the purpose of conducting business, but a lesser number may receive information on behalf of the Council.

(i) Voluntary Services.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Council may accept for the Council voluntary services provided by a member of the Council.

**SEC. 6. DIRECTOR AND STAFF OF THE MUSEUM.**

(a) Director.—

(1) In general.—The Museum shall have a Director who shall be appointed by the Secretary, taking into consideration individuals recommended by the Council.

(2) Duties.—The Director shall manage the Museum subject to the policies of the Board of Regents.

(b) Staff.—The Secretary may appoint 2 additional employees to serve under the Director, except that such additional employees may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(c) Pay.—The employees appointed by the Secretary under subsection (b) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

**SEC. 7. OFFICE OF EDUCATION AND LIAISON PROGRAMS.**

(a) In General.—

(1) ESTABLISHMENT.—There is established within the Museum the Office of Education and Liaison Programs.

(2) FUNCTIONS.—The Office of Education and Liaison Programs shall—

(A) carry out educational programs relating to African American life, art, history, and culture, including—

(i) programs using digital, electronic, and interactive technologies; and

(ii) programs carried out in collaboration with elementary schools, secondary schools, and postsecondary schools; and

(B) consult with the Director of the Institute of Museum and Library Services concerning the grant and scholarship programs carried out under subsection (b).

(b) GRANT AND SCHOLARSHIP PROGRAMS.—

(1) IN GENERAL.—In consultation with the Council and the Office of Education and Liaison Programs, the Director of the Institute of Museum and Library Services shall establish—

(A) a grant program with the purpose of improving operations, care of collections, and development of professional management at African American museums;

(B) a grant program with the purpose of providing internship and fellowship opportunities at African American museums;

(C) a scholarship program with the purpose of assisting individuals who are pursuing careers or carrying out studies in the arts, humanities, and sciences in the study of African American life, art, history, and culture;

(D) in cooperation with other museums, historical societies, and educational institutions, a grant program with the purpose of promoting the understanding of modern-day practices of slavery throughout the world; and

(E) a grant program under which an African-American museum (including a nonprofit education organization the primary mission of which is to promote the study of African-American diaspora) may use the funds provided under the grant to increase an endowment fund established by the museum (or organization) as of May 1, 2003, for the purposes of—

(i) enhancing educational programming; and

(ii) maintaining and operating traveling educational exhibits.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the Institute of Museum and Library Services to carry out this subsection—

(A) $15,000,000 for fiscal year 2004; and

(B) such sums as are necessary for each fiscal year thereafter.

### SEC. 8. BUILDING FOR THE NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE.

(a) IN GENERAL.—

(1) LOCATION.—

(A) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Board of Regents shall designate a site for the Museum.

(B) SITES FOR CONSIDERATION.—In designating a site under subparagraph (A), the Board of Regents shall select from among the following sites in the District of Columbia:

(i) The area bounded by Constitution Avenue, Pennsylvania Avenue, and 1st and 3rd Streets, Northwest.

(ii) The Arts and Industries Building of the Smithsonian Institution, located on the National Mall at 900 Jefferson Drive, Southwest, Washington, District of Columbia.

(iii) The area bounded by Constitution Avenue, Madison Drive, and 14th and 15th Streets, Northwest.

(iv) The site known as the "Liberty Loan site", located on 14th Street Southwest at the foot of the 14th Street Bridge.

(C) AVAILABILITY OF SITE.—

(i) IN GENERAL.—A site described in subparagraph (B) shall remain available until the date on which the Board of Regents designates a site for the Museum under subparagraph (A)(i).

(ii) TRANSFER TO SMITHSONIAN INSTITUTION.—Except with respect to a site described in clause (i) or (ii) of subparagraph (B), if the site designated for the Museum is in an area that is under the administrative jurisdiction of a Federal agency, as soon as practicable after the date on which the designation is made, the head of the Federal agency shall transfer to the Smithsonian Institution administrative jurisdiction over the area.

(D) CONSULTATION.—The Board of Regents shall carry out its duties under this paragraph in consultation with—

(i) the Chair of the National Capital Planning Commission;

(ii) the Chair of the Commission on Fine Arts;

(iii) the Chair and Vice Chair of the Presidential Commission referred to in section 10;

(iv) the Chair of the Building and Site Subcommittee of the Presidential Commission referred to in section 10; and

(v) the Chairman and Ranking Member of each of—

(I) the Committee on Rules and Administration of the Senate;

(II) the Committee on House Administration of the House of Representatives;

(III) the Committee on Transportation and Infrastructure of the House of Representatives;

(IV) the Committee on Appropriations of the House of Representatives; and

(V) the Committee on Appropriations of the Senate.

(2) CONSIDERATION.—The Board of Regents shall take into consideration the recommendations of the Council concerning the planning, design, and construction of the Museum.

(3) CONSTRUCTION OF BUILDING.—The Board of Regents, in consultation with the Council, may plan, design, and construct a building for the Museum, which shall be located at the site designated by the Board of Regents under this paragraph.

(b) COST SHARING.—The Board of Regents shall pay—

(1) 50 percent of the costs of carrying out this section from Federal funds; and

(2) 50 percent of the costs of carrying out this section from non-Federal sources.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

### SEC. 9. CONGRESSIONAL BUDGET ACT COMPLIANCE.

Authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year only to the extent provided in advance in an appropriations Act, except as provided under section 11(b).

### SEC. 10. CONSIDERATION OF RECOMMENDATIONS OF PRESIDENTIAL COMMISSION.

In carrying out their duties under this Act, the Council and the Board of Regents shall take into consideration the reports and plans submitted by the National Museum of African American History and Culture Plan for Action Presidential Commission under the National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001 (Public Law 107-106).

### SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Smithsonian Institution to carry out this Act, other than sections 7(b) and 8—

(1) $17,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

(b) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

Mr. DODD. Mr. President, I rise to join with my colleague, Senator BROWNBACK, in introducing legislation to create a National Museum of African American History and Culture within the Smithsonian Institution.

This legislation will help ensure that the compelling stories and invaluable contributions of African Americans to our national fabric will no longer be ignored, but shared with all Americans, indeed, all peoples of the world.

Senator BROWNBACK introduced similar legislation in the last Congress, and I was pleased to be an original cosponsor of that bill. During my tenure as chairman of the Senate Rules Committee, I was pleased to work with my colleagues to pass legislation to establish the Presidential Commission on the National Museum of African American History and Culture Action Plan.

That Presidential Commission spent a year traveling across the nation, and at more than 50 meetings, heard the voices of African Americans calling for a national place to tell their individual and collective stories. This long overdue legislation will provide such a place.

In their report issued last month, the Presidential Commission identified a mission statement for the proposed museum that states, in part:

> The museum will give voice to the centrality of the African American experience and will make it possible for all people to understand the depth, complexity, and promise of the American experience.

It is that very goal of completing the American story of our quest for freedom and truth by publicly incorporating the experience and contributions of African Americans—that is the essence of this legislation. This museum offers the promise and hope that all Americans can come to understand the full story of how this nation was formed.

Since 1929, efforts have been made to recognize the contributions and unique history of Americans of African descent. This museum offers an historic opportunity to document, preserve, and educate this history for generations to come. It is past time that we publicly acknowledge and incorporate the African American experience into our collective identity and this museum will provide the appropriate means for accomplishing that goal.

In brief, within 18 months of enactment, the Smithsonian Board of Regents will choose a site for this museum from among four sites listed in the bill. The bill directs that, prior to the selection, the Board of Regents will consult with the National Capital Planning Commission, the chairman of the Presidential Commission, Congressional oversight committees, and others.

In the meantime, the Smithsonian Board of Regents will appoint a 19 member council, comprised of leaders within the African-American community and others, to advise the regents on the development, design and construction of the museum. The museum will include exhibits and programs relating to all aspects of African American life, art, history, and culture from the time of slavery through present day.

The museum will also provide leadership to other museums and will collaborate with historically black colleges and universities and educational organizations to ensure the integrity of the exhibits and programming and to broaden the reach of its story and mission.

I am honored to be the lead Democratic sponsor of this legislation, and I look forward to working with my colleagues on the Rules Committee to seeing this bill enacted this year.

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By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mrs. BOXER, and Mrs. LINCOLN):

S. 1159. A bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today, I am introducing a bill with Senators DASCHLE, BOXER, and LINCOLN that will be jointly introduced by Representatives CIRO RODRIGUEZ, HILDA SOLIS, and others in the House of Representatives entitled the "Hispanic Health Improvement Act of 2003." This bill addresses the tremendous health disparities that confront the Hispanic community in our Nation.

Even if you know the statistics, they remain shocking. Over one-third, a 35 percent of Hispanic adults lack health insurance. Despite that passage of the Children's Health Insurance Program, 27 percent of Latino children remain uninsured, which is sharp comparison to 9 percent of white, 18 percent of black and 17 percent of Asian/Pacific Islander children.

In testimony before the Senate Health, Education, Labor and Pensions Committee on September 23, 2002, on Hispanic health issues, Dr. Glenn Flores, chair of the Latin Consortium of the American Academy of Pediatrics Center for Child Health Research, added: "Among uninsured poor children in the U.S., Latinos outnumber all other racial/ethnic groups, including whites: there are 1 million poor, uninsured Latino children, compared with 766,000 white, and 533,000 African-American poor, uninsured children. Although 1999 marked the first time in many years that the proportion of uninsured Latino children actually decreased (from 30 percent to 27 percent), recent national data suggest that outreach efforts to enroll Latino children have largely been unsuccessful. A Kaiser Commission report found that only 26 percent of parents of eligible uninsured children said that they had ever talked to someone or received information about Medicaid enrollment, and 46 percent of Spanish-speaking parents were unsuccessful at enrolling their uninsured children in Medicaid because materials were unavailable in Spanish."

In order to address the lack of health care coverage, the legislation would expand CHIP to cover pregnant women and parents of children enrolled in CHIP. The legislation provides $50 million in grants to community-based groups to improve outreach and enrollment of children in Medicaid and CHIP with the grants targeted to Hispanic communities.

In addition, the bill eliminates a number of enrollment barriers within Medicaid.

And finally, it provides States the option to enroll legal immigrant pregnant women and children in Medicaid or CHIP. This comes from legislation introduced by Senator GRAHAM earlier in this Congress.

In addition to poor coverage rates, according to the Centers for Disease Control and Prevention, or CDC, the Hispanic population has morbidity and mortality rates that more often than not exceed that of any other ethnic groups. For example, age-adjusted mortality rates for diabetes are over 50 percent higher among Hispanic persons than non-Hispanic whites. HIV infection rates are over 3 times those of non-Hispanic whites. Tuberculosis rates among Latino children are 13 times that of whites.

The legislation addresses these problems in a number of ways. In the area of access and affordability, our bill requires an annual report to Congress on how federal programs are responding to improve the health status of Hispanic individuals with respect to diabetes, cancer, asthma, HIV infection, AIDS, substance abuse, and mental health. The bill provides $100 million for targeted diabetes prevention, education, school-based programs, and screening activities in the Hispanic community.

In addition, the legislation specifically addresses the problems facing communities along the U.S.-Mexico border, a 2,000-mile stretch of land that contains 11 million people, 5 of the 7 poorest metropolitan statistical areas in the country, and disease rates in some areas that are extraordinary. If the region were a state, the border would rank 1st in the number of uninsured, last in terms of per capita income, and 1st in a number of diseases.

As Dr. Francisco Cigarroa, president of the University of Texas Health Sciences Center at San Antonio, noted in testimony at the hearing last year on Hispanic health, "Germs respect no INS regulations. We truly must work with our neighbors to the South if we are to avoid a major influx of new conditions and diseases. It can be seen so clearly on a map. Just as there are 'rivers of commerce' there are 'rivers of infectious disease' and though they may start at the Border, they are eventually seen all the way to the northern Border that we share with Canada."

In response, the bill provides $200 million to border communities to improve health services and infrastructure along the U.S.-Mexico border.

The numbers I have cited thus far indicate what we do know. Almost as much of a concern is what we do not know with respect to the status of Hispanic health in this Nation. According to one study, only 22 percent of all articles published in major medical journals included non-English-speaking patients.

The bill provides funding to do additional research and work on reducing health disparities in this Nation. The various provisions include efforts to improve the recruitment and retention of Hispanic health professionals and programs that support training health professionals who can provide culturally competent and linguistically appropriate care. With respect to training more minority health professionals, Dr. Cigarroa said at last year's hearing, "We should do this because it is the smart thing to do. If we fail to take steps to address the gap between the health of the majority population and the health of the Nation's rapidly growing minority populations, we are on a court leading to a collision. We are far too great a nation to allow this to happen."

Representative CIRO RODRIGUEZ, chairman of the Congressional Hispanic Caucus, and I, have worked together on this legislation to respond to the challenge before us with regard to coverage, access, and health disparities in the last Congress and have reintroduced the bill with the hope to move it forward this year.

Before closing, it should be noted that while the legislation puts forth a number of initiatives to address what are disproportionately Hispanic problems, each section of the bill, including those to reduce the number of uninsured and to improve access to care, would improve the overall health of our entire Nation regardless of race or ethnicity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

(The bill was not available at time of printing.)

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 154—EXPRESSING THE SUPPORT OF THE SENATE OF UNITED STATES EFFORTS IN THE WORLD TRADE ORGANIZATION TO END THE UNWARRANTED MORATORIUM IMPOSED BY THE EUROPEAN UNION ON THE APPROVAL OF AGRICULTURAL BIOTECHNOLOGY PRODUCTS

Mr. TALENT (for himself, Mrs. LINCOLN, Mr. BOND, Mr. LUGAR, Mr. BAUCUS, Mr. BUNNING, and Mr. ROBERTS) submitted the following resolution; which was considered and agreed to:

S. RES. 154

Whereas agricultural biotechnology is subject to the strictest Federal review in the United States, based on sound science, by the Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration prior to planting and human consumption;

Whereas agricultural biotechnology has made considerable contributions to the protection of the environment by creating an environment more hospitable to wildlife and reducing the application of pesticides by 46,000,000 pounds in 2001 alone;

Whereas agricultural biotechnology holds tremendous promise for greatly increasing the world's supply of nutritious and wholesome foods which will improve the quality of life and health in the developing world;

Whereas there is objective and experience-based consensus in the international scientific community, including the National Academy of Sciences, the American Medical Association, the Royal Society of London, the French Academy of Medicine, the French Academy of Sciences, the Brazilian Academy of Sciences, the Chinese Academy of Sciences, the Indian National Science Academy, and the Mexican Academy of Science, that agricultural biotechnology is safe;

Whereas policy decisions regarding agricultural biotechnology in the European Union are being driven by politics and not by sound science;

Whereas since the late 1990s, the European Union has pursued policies that shelter its markets from competition by opposing the use of agricultural biotechnology;

Whereas agricultural biotechnology policies of the European Union have frustrated the development of modern scientific tools and plant technology that could expand the production of indigenous food products by addressing problems related to local pests, weather conditions, and vitamin deficiencies;

Whereas since its implementation in October 1998, the moratorium has blocked more than $300,000,000 annually in United States corn exports to countries in the European Union;

Whereas the European Union's unjustified moratorium on agricultural biotechnology approvals has ramifications far beyond the United States and Europe, forcing a slowdown in the adoption and acceptance of beneficial biotechnology to the detriment of farmers and consumers around the world, and especially to starving people in the developing world;

Whereas in the fall of 2002, famine-stricken African countries rejected healthy, wholesome, United States humanitarian offers of food aid because of ill-informed health and environmental concerns and fears that future exports to Europe would be jeopardized; and

Whereas the 5-year moratorium on the approval of new agricultural biotechnology products entering the European market is not science based, effectively prohibits most United States corn exports to Europe, violates European Union law, and clearly breaches the rules of the World Trade Organization: Now, therefore, be it

*Resolved*, That the Senate supports and applauds the efforts of the Administration on behalf of the Nation's farmers challenging the long-standing, unwarranted moratorium imposed by the European Union on the approval of agricultural biotechnology products and encourages the President to continue to press this issue at the G–8 Summit in Evian, France, on June 1 through 3, 2003.

### SENATE RESOLUTION 155—PROTECTING SOCIAL SECURITY BENEFICIARIES FROM COLA CUTS

Mr. SPECTER (for himself, Ms. COLLINS, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. 155

*Resolved*, That the Senate finds that:

(1) Social Security provides a relatively modest insurance benefit for seniors—many of whom rely on Social Security for part or all of their monthly income. Without Social Security, forty, forty eight percent of beneficiaries would be in poverty today.

(2) In order to protect benefit levels against inflation, Social Security beneficiaries receive an annual cost-of-living adjustment (COLA) based on Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W).

(3) The January 2003 COLA provided only a 1.4 percent increase in Social Security benefits, increasing the average monthly benefit for all retired workers by only $13 (from $882 to $895).

(4) Annual growth in Medicare premiums and out-of-pocket health care costs for retired individuals on fixed incomes far exceeded the small COLA increases provided to Social Security beneficiaries.

(5) Reducing COLAs will disproportionately harm low-income Social Security beneficiaries and push millions of seniors into poverty.

**SEC. 2.**

Sense of the Senate. It is the sense of the Senate that Social Security cost-of-living adjustments should not be reduced.

### SENATE RESOLUTION 156—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF JUDICIAL WATCH, INC. V. UNITED STATES, ET AL.

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 156

Whereas, the United States Senate, Emily J. Reynolds, Secretary of the Senate, and William H. Pickle, Senate Sergeant at Arms, have been named as defendants in the case of *Judicial Watch, Inc.* v. *United States Senate, et al.*, No. 1:03CV01066, now pending in the United States District Court for the District of Columbia;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288(a)(1), the Senate may direct its counsel to defend the Senate and officers of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the United States Senate, Emily J. Reynolds, Secretary of the Senate, and William H. Pickle, Senate Sergeant at Arms, in the case of *Judicial Watch, Inc.* v. *United States Senate, et al.*

### SENATE RESOLUTION 157—TO AUTHORIZE THE PRINTING OF THE PRAYERS OF REVEREND LLOYD JOHN OGILVIE

Mr. LOTT submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 157

*Resolved*,

**SECTION 1. AUTHORIZATION OF PRINTING.**

(a) IN GENERAL.—There shall be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Lloyd John Ogilvie, Doctor of Divinity, the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the One

Hundred and Fifth Congress, One Hundred and Sixth Congress, One Hundred and Seventh Congress, and One Hundred and Eighth Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate.

(b) Additional Copies.—There shall be printed such additional copies not to exceed $3,000 in cost of such documents for the use of the Joint Committee on Printing.

**SEC. 2. OVERSIGHT OF PRINTING.**

The copy of the document authorized under section 1 shall be prepared under the direction of the Joint Committee on Printing.

## SENATE CONCURRENT RESOLUTION 47—RECOGNIZING THE OUTSTANDING EFFORTS OF THE INDIVIDUALS AND COMMUNITIES WHO VOLUNTEERED OR DONATED ITEMS TO THE NORTH PLATTE CANTEEN IN NORTH PLATTE, NEBRASKA, DURING WORLD WAR II FROM DECEMBER 25, 1941, TO APRIL 1, 1946

Mr. HAGEL (for himself and Mr. Nelson of Nebraska) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. Con. Res. 47

Whereas, at the beginning of World War II, residents of North Platte, Nebraska, received information that members of the Nebraska National Guard from the North Platte area would be traveling through the community of North Platte on a troop train en route to the west coast;

Whereas residents of the North Platte community met the troop train with food and other gifts for the troops when the train arrived at the Union Pacific train station on December 17, 1941;

Whereas, although the troop train carried young men from Kansas instead of members of the Nebraska National Guard, the residents of North Platte presented the young men from Kansas with the food and other items that were donated;

Whereas Rae Wilson, of North Platte, proposed to her community the idea of establishing the North Platte Canteen so that residents could greet every troop train that traveled through North Platte and provide the military troops en route to serving their country in World War II with comforts from home;

Whereas, on December 25, 1941, the North Platte Canteen began serving food and other items to the United States military troops traveling across the United States to either the east or west coast before being shipped overseas;

Whereas, during World War II, the North Platte Canteen greeted and served food to approximately 6,000,000 men and women from every State in the Union;

Whereas individuals from 125 communities in Nebraska, Colorado, and Kansas donated food and volunteered at the North Platte Canteen during the approximately 5-year period in which it operated;

Whereas the North Platte Canteen operated strictly with volunteers from local communities, organizations, churches, schools, and other groups, and without any Federal assistance;

Whereas the North Platte Canteen received $137,000 in cash contributions from benefit dances, scrap-metal drives, school victory clubs, donation cans in local businesses, and relatives of servicemembers who traveled through the Canteen to help maintain the Canteen's operations for about 5 years;

Whereas the North Platte Canteen served each month about 40,000 homemade cookies, 30,000 hard-boiled eggs, 6,500 doughnuts, 4,000 loaves of bread, 3,000 pounds of meat, 450 pounds of cheese, 60 quarts of peanut butter, 1,350 pounds of coffee, 1,200 quarts of cream, 750 dozen rolls, and 600 birthday cakes; and

Whereas the North Platte Canteen was honored by the United States Army with the presentation of the Meritorious Wartime Service Award by the Secretary of War: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) recognizes the outstanding efforts of the individuals and communities involved with the North Platte Canteen to dispense food and good cheer to the approximately 6,000,000 members of the United States Armed Forces who traveled on troop trains through North Platte, Nebraska, from December 25, 1941, through April 1, 1946, during World War II; and

(2) requests the President to issue a proclamation recognizing the heroic efforts of those patriotic Americans who made enormous sacrifices to make the North Platte Canteen a successful expression of the warmth and caring of home for soldiers, sailors, airmen, and Marines of our Nation making their way to war.

## AMENDMENTS SUBMITTED & PROPOSED

SA 832. Mr. KENNEDY (for himself, Mrs. Clinton, Mr. Sarbanes, Mr. Durbin, Mr. Reed, Mr. Dayton, Ms. Cantwell, Mr. Daschle, and Mr. Reid) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt.

SA 833. Mr. BAUCUS proposed an amendment to the joint resolution H.J. Res. 51, supra.

SA 834. Mr. DASCHLE proposed an amendment to the joint resolution H.J. Res. 51, supra.

SA 835. Mr. FEINGOLD (for himself, Mr. Carper, Ms. Cantwell, and Mrs. Feinstein) proposed an amendment to the joint resolution H.J. Res. 51, supra.

SA 836. Mr. HOLLINGS proposed an amendment to the joint resolution H.J. Res. 51, supra.

SA 837. Mr. DORGAN proposed an amendment to the joint resolution H.J. Res. 51, supra.

SA 838. Mr. HARKIN proposed an amendment to the joint resolution H.J. Res. 51, supra.

SA 839. Mr. DURBIN proposed an amendment to the joint resolution H.J. Res. 51, supra.

## TEXT OF AMENDMENTS

**SA 832.** Mr. KENNEDY (for himself, Mrs. Clinton, Mr. Sarbanes, Mr. Durbin, Mr. Reed, Mr. Dayton, Ms. Cantwell, Mr. Daschle, and Mr. Reid) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the end add the following:

**SEC. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.**

(a) In General.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking "before June 1" and inserting "on or before December 31";

(2) in subsection (b)(1), by striking "May 31, 2003" and inserting "December 31, 2003";

(3) in subsection (b)(2)—

(A) in the heading, by striking "MAY 31, 2003" and inserting "DECEMBER 31, 2003"; and

(B) by striking "May 31, 2003" and inserting "December 31, 2003"; and

(4) in subsection (b)(3), by striking "August 30, 2003" and inserting "March 31, 2004".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

**SEC. 3. ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION FOR EXHAUSTEES.**

(a) Additional Weeks.—Section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by adding at the end the following:

"(d) Increased Amounts in Account for Certain Exhaustees.—

"(1) In general.—In the case of an eligible exhaustee, this Act shall be applied as follows:

"(A) Subsection (b)(1)(A) shall be applied by substituting '100 percent' for '50 percent'.

"(B) Subsection (b)(1)(B) shall be applied by substituting '26 times' for '13 times'.

"(C) Subsection (c)(1) shall be applied by substituting '7 times the individual's average weekly benefit amount for the benefit year' for 'the amount originally established in such account (as determined under subsection (b)(1))'.

"(D) Section 208(b) shall be applied—

"(i) in paragraph (1), as if ", including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section" were inserted before the period at the end;

"(ii) as if paragraph (2) had not been enacted; and

"(iii) in paragraph (3), by substituting "October 18, 2003" for "March 31, 2004".

"(2) Eligible exhaustee defined.—For purposes of this subsection, the term 'eligible exhaustee' means an individual—

"(A) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this subsection; and

"(B) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account, including amounts deposited in such account by reason of subsection (c)) before such date of enactment.".

(b) Effective Date and Application.—

(1) In general.—The amendment made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC-X amounts deposited in account prior to date of enactment deemed to be the additional TEUC amounts provided by this section.—In applying the amendment made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the

Secretary of Labor shall deem any amounts deposited into an eligible exhaustee's (as defined in section 203(d)(2) of the Temporary Extended Unemployment Compensation Act of 2002, as added by subsection (a)) temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as "TEUC-X amounts") prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as "TEUC amounts").

(3) Redetermination of eligibility for augmented amounts for all eligible exhaustees.—The determination of whether the eligible exhaustee's (as so defined) State was in an extended benefit period under section 203(c) of such Act that was made prior to the date of enactment of this Act shall be disregarded and the determination under such section, as amended by subsection (a) with respect to eligible exhaustees (as so defined), shall be made as follows:

(A) Eligible exhaustees who received and exhausted TEUC-X amounts.—In the case of an eligible exhaustee whose temporary extended unemployment account was augmented under such section 203(c) before the date of enactment of this Act, the determination shall be made as of such date of enactment.

(B) Eligible exhaustees who exhausted TEUC amounts but were not eligible for TEUC-X amounts.—In the case of an eligible exhaustee whose temporary extended unemployment account was not augmented under such section 203(c) as of the date of enactment of this Act, the determination shall be made at the time that the individual's account established under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28), as amended by subsection (a), is exhausted.

### SEC. 4. TEMPORARY AVAILABILITY OF EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT FOR EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.

Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

"(D) Temporary availability of extended unemployment benefits for employees with less than 10 years of service.—

"(i) In general.—Subject to clause (ii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph applies to an employee who has 10 or more years of service (as so defined).

"(ii) Application.—Clause (i) shall apply to—

"(I) an employee who received normal benefits for days of unemployment under this Act during the period beginning on July 1, 2002, and ending on November 30, 2003; and

"(II) days of unemployment beginning on or after the date of enactment of this subparagraph.".

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**SA 833.** Mr. BAUCUS proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

Strike "7,384,000,000,000" and insert "6,750,000,000,000".

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**SA 834.** Mr. DASCHLE proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the appropriate place add the following:

### SEC. . PROTECTING SOCIAL SECURITY BENEFICIARIES FROM COLA CUTS.

(a) Findings.—The Senate finds that:

(1) Social Security provides a relatively modest insurance benefit for seniors—many of whom rely on Social Security for part or all of their monthly income. Without Social Security, forty eight percent of beneficiaries would be in poverty today.

(2) In order to protect benefit levels against inflation, Social Security beneficiaries receive an annual cost-of-living adjustment (COLA) based on Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

(3) The January 2003 COLA provided only a 1.4 percent increase in Social Security benefits, increasing the average monthly benefit for all retired workers by only $13 (from $882 to 895).

(4) Annual growth in Medicare premiums and out-of-pocket health care costs for retired individuals on fixed incomes far exceeded the small COLA increases provided to Social Security beneficiaries.

(5) Reducing COLAs will disproportionately harm low-income Social Security beneficiaries and push millions of seniors into poverty.

(b) Sense of the Senate.—It is the sense of the Senate that Social Security cost-of-living adjustments should not be reduced.

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**SA 835.** Mr. FEINGOLD (for himself, Mr. Carper, Ms. Cantwell, and Mrs. Feinstein) proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the appropriate place, insert the following:

### SEC. . EXTENSION OF PAY-AS-YOU-GO.

(a) In General.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended by striking "2006" and inserting "2008".

(b) Extension of Pay-As-You-Go.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended—

(1) in subsection (a), by striking "2002" and inserting "2008"; and

(2) in subsection (b), by striking "2002" and inserting "2008".

(c) Application.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), as amended by this section, shall not apply to direct spending and receipts legislation enacted prior to the enactment of this section.

(d) Effective Date.—The amendments made by this section shall take effect September 30, 2002.

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**SA 836.** Mr. HOLLINGS proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the appropriate place, insert the following:

### SECTION 1. APPLICABILITY OF PUBLIC DEBT LIMIT TO SOCIAL SECURITY TRUST FUNDS.

(a) Protection of Social Security Trust Funds.—

(1) Delay or failure to invest.—No officer or employee of the United States shall—

(A) delay the deposit of any amount into (or delay the credit of any amount to) any social security trust fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits; or

(B) refrain from the investment in public debt obligations of amounts in any such fund.

(2) Early redemption.—No officer or employee of the United States shall redeem prior to maturity amounts in any social security trust fund which are invested in public debt obligations for any other purpose other than payment of benefits or administrative expenses from such fund.

(b) Definition.—In this section, the term "public debt obligation" means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

### SEC. 2. CONFORMING AMENDMENTS.

Subsections (j), (k), and (l) of section 8348 and subsections (g) and (h) of section 8438 of title 5, United States Code, are repealed.

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**SA 837.** Mr. DORGAN proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the appropriate place, insert the following:

### SEC. . FOREIGN DEBT CEILING.

(a) Findings.—Congress makes the following findings:

(1) The United States has become the world's largest net debtor Nation, having run up massive trade deficits in the 1990s.

(2) At the end of 2001, the net United States foreign debt stood at over $2,300,000,000,000.

(3) The United States foreign debt position worsened in 2002, when the United States had a record trade deficit of over $436,000,000,000, equivalent to 4.1 percent of the United States GDP that year.

(4) The large and growing United States foreign debt represents claims on United States assets by foreign nationals, which will eventually have to be repaid. If unchecked, the foreign debt could seriously undermine our children's future standard of living.

(5) Moreover, the growing accumulation of foreign claims on United States assets, including nearly $1,200,000,000,000 in United States Treasury securities, makes the United States economy vulnerable to the whims of foreign investors.

(6) Congress presently places a ceiling on United States public debt, but does not place a ceiling on United States foreign debt.

(7) Just as Congress recognized the importance of placing a ceiling on the United States public debt, it is appropriate that Congress place a limit on the United States foreign debt.

(b) Actions Triggered by United States Foreign Debt.—

(1) In general.—Not later than the 15th day of the second month after the date of enactment of this Act, and every 3 months thereafter, the United States Trade Representative shall determine if—

(A) the net United States foreign debt for the preceding 12-month period is more than 25 percent of United States GDP for the same period; or

(B) the United States trade deficit for the preceding 12-month period is more than 5 percent of United States GDP for the same period.

(2) Action by USTR.—Whenever an affirmative determination is made under paragraph (1) (A) or (B), the United States Trade Representative shall—

(A) within 15 days of the determination, convene an emergency meeting of the Trade

Policy Review Group to develop a plan of action to reduce the United States trade deficit; and

(B) within 45 days of the determination, present to Congress a report detailing the Trade Policy Review Group's trade deficit reduction plan.

(c) MEASUREMENT OF FOREIGN DEBT.—

(1) STATISTICAL SOURCES.—For purposes of the calculations described in subsection (b)(1), the United States Trade Representative shall rely on the most recent period for which the following data, published by the Department of Commerce, is available:

(A) In the case of United States foreign debt, the United States Trade Representative shall use the net international investment position of the United States, with direct investment positions determined at market value, as compiled by the Bureau of Economic Analysis.

(B) In the case of the United States trade deficit, the United States Trade Representative shall use the goods and services trade deficit data compiled by the United States Census Bureau.

(C) In the case of the United States GDP, the United States Trade Representative shall use the nominal gross domestic product data compiled by the Bureau of Economic Analysis.

(2) ADJUSTMENT.—The United States Trade Representative may adjust the data described in paragraph (1) to ensure that the determination is made for comparable time periods.

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**SA 838.** Mr. HARKIN proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the appropriate place, insert:

**SEC. . TELL THE TRUE COST OF TAX BILLS.**

(a) IN GENERAL.—If the Joint Committee on Taxation prepares an estimate of any applicable proposed change in Federal revenue law, the committee shall include with such estimate an estimate of the decrease in Federal revenues which—

(1) in the case of an applicable proposed change described in subsection (b)(1), would have occurred without regard to the reduction or termination described in such subsection during the portion of the period covered by the estimate after the reduction or termination, and

(2) in the case of an applicable proposed change described in subsection (b)(2), will occur during the 10-fiscal year period beginning with the fiscal year following the first fiscal year in which the proposed change becomes fully effective.

(b) APPLICABLE PROPOSED CHANGE.—For purposes of this section, the term "applicable proposed change" means any of the following proposed changes in Federal revenue law:

(1) SUNSET OR REDUCED CHANGES.—Any proposed change which—

(A) when fully effective will have an estimated decrease in Federal revenues of more than $1,000,000,000 in each fiscal year, and

(B) provides for the termination of such change, or a reduction in such revenue decrease, on or before the close of the period covered by the estimate which the Joint Committee on Taxation is otherwise preparing for such proposed change.

(2) DELAY IN FULL EFFECT.—Any proposed change which—

(A) becomes fully effective at any time during the last 4 years of the period covered by the estimate which the Joint Committee on Taxation is otherwise preparing for such proposed change, and

(B) when fully effective will have an estimated decrease in Federal revenues of more than $1,000,000,000 in each fiscal year.

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**SA 839.** Mr. DURBIN proposed an amendment to the joint resolution H.J. Res. 51, increasing the statutory limit on the public debt; as follows:

At the end of the resolution, insert the following:

**SEC. . CBO REPORT ON DEBT IMPACT OF BUDGET RESOLUTION.**

Section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632) is amended by adding at the end the following:

"(j) CBO DEBT IMPACT REPORT.—Each budget resolution reported out by the Committee on the Budget of the House of Representatives or the Senate shall be accompanied by a report from CBO containing CBO's best estimate of the following:

"(1) The amount of new debt subject to limit, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that would be created if the budget resolution is adhered to, assuming reserve funds are spent and reconciliation instructions are fully complied with.

"(2) The amount of new debt subject to limit, if any, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that would have been created if the budget resolution simply reflected the CBO baseline without policy changes.

"(3) The difference between paragraphs (1) and (2).

"(4) Of the amount determined in paragraph (3)—

"(A) the amount of new debt subject to limit, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that is attributable to tax changes; and

"(B) the amount of new debt subject to limit, in aggregate and divided by the most recent estimate of the United States population, according to the Bureau of the Census, that is attributable to policy changes other than tax changes.".

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## PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE.

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H. Con. Res. 191, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 191) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 191) was agreed to, as follows:

H. CON. RES. 191

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Thursday, May 22, 2003, Friday, May 23, 2003, or Saturday, May 24, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, June 2, 2003, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Friday, May 23, 2003, or Saturday, May 24, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 2, 2003, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## SENATE ACCOMPLISHMENTS

Mr. McCONNELL. Mr. President, as we go into the Memorial Day recess, I thought it might be appropriate to take a few moments and look back at the accomplishments of the Congress in which we currently find ourselves. We know that last year the Senate did not pass 11 of the 13 appropriation bills, and never passed a budget. It was, in fact, the first time the budget did not pass since the Budget Act passed back in 1974.

We have now completed 5 months of the 108th Congress, a Senate narrowly controlled, 51–49, by the Republican Party—certainly not a huge margin from which to function. But, nevertheless, it has been an extraordinarily productive 5 months.

Just to run down the list: Extension of unemployment benefits to those who need them, not once but twice, the second time being today. We did, back in January, pass 11 appropriation bills that were never passed for the previous year—in fact, the year in which we are currently operating. We funded Operation Iraqi Freedom, which allowed our military to have the resources to win, as the President put it, the battle for Iraq, the battle in the larger war on terrorism. We preserved our military strength by passing a Department of Defense authorization bill just this week in the Senate. We initiated the protection of our homeland by confirming the nomination of the first Secretary of the new Department of Homeland Security.

As I made reference a few moments ago, we passed a budget which distinguishes this Senate from the previous one. We have enacted the President's plan to create jobs and stimulate the economy. We just passed that today and it is on the way to the President for signature. I think the Washington Post depicted it as the third largest tax relief package in history. If that is accurate, that sounds perfectly good to me.

We have also, in the first 5 months this year, banned the horrific practice of partial-birth abortion. It passed the Senate by a very large margin.

We passed the President's faith-based initiative. We funded the effort to eradicate the scourge of global AIDS, which gives the President the opportunity to go to the G–8 meeting next week and challenge our European allies to do likewise so that we all work collectively to deal with this plague which has affected all of the world, but in particular the continent of Africa.

To guard our children against abduction and exploitation, we passed the PROTECT Act in the first 5 months of this year. We have improved safeguards from foreign terrorists by enacting the FISA bill. We engaged in our second historic NATO expansion to include the remaining members of the Warsaw Pact which were not in the first tranche that came in—Poland, Hungry, and the Czech Republic, six more countries on top of the original three to further expand NATO to complete virtually the entire area that used to make up the Warsaw Pact.

We passed the significant arms reduction treaty with our former enemy turned ally, the Russians.

We are bridging the digital divide by providing needed funds to historically black colleges.

We affirmed the constitutionality of the use of the term "under God" in the Pledge of Allegiance.

We awarded a Congressional Gold Medal to Prime Minister Tony Blair, who richly deserved it.

And we provided tax equity to the men and women in our Nation's Armed Forces.

This has been an extraordinarily productive first five months of the 108th Congress.

Particularly to be commended is our leader BILL FRIST, who stepped into a new job at the beginning of this Congress, and has done an extraordinary job of holding us together and advancing the ball. Those are the two principal responsibilities of the majority leader—holding together at least his own side, if he can, and advancing the ball.

We have been able to reach out to the other side and have critical Democratic support when that was necessary in order to achieve success.

So as we go into the Memorial Day recess, I think we can all feel proud that we have accomplished a great deal for our constituents and made this a better country in many clearly discernible ways.

Having recounted those accomplishments of the 108th Congress, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, in a few moments we will be completing our work for today—indeed for the week—after what has been a productive process in completing a lot of legislation today with a number of votes, but following really about 2 or 3 months of very consistent, steady progress, as was just outlined by the assistant majority leader a few moments ago.

It caused me, as I listened to my distinguished colleague from Kentucky, to think back to 5 months ago, when we began the 108th Congress, and what we were thinking then as we projected forward what we hoped to accomplish.

I recall at that time, on the floor, committing this body, working together in a bipartisan way, to achieve results for the American people—the type of results that would push America forward, focusing on action, on getting things done. We said that this Congress would be a Congress defined by action, defined by accomplishment, and I believe that indeed we have kept that pledge.

Whether working to create jobs, increasing our Nation's economic growth, fighting global terror, protecting our homeland and making our homeland more secure, or helping to stem the spread of HIV/AIDS, this Congress has been quietly, steadily, and consistently getting the job done for the American people.

As my colleagues leave today to return to their homes across the country and spend this Memorial Day holiday with their friends and families, I do want to take this opportunity, in these final moments, to thank them for their patience and their hard work. They have been extremely productive. They have been prolific.

First and foremost, we have enacted measures to stoke America's great economic engine and to create new jobs for our workers. The 11 appropriations bills left over from last year we passed in 1 omnibus appropriations bill, finishing the work left unfinished from the last Congress.

We passed the budget for the upcoming fiscal year. And we passed that budget in near record time. Indeed, it was only the fourth time in the history of our budgeting process that we actually met the statutory deadline.

Also, today we approved President Bush's jobs and growth plan, a plan which will put more money in the pockets of everybody listening right now, and more money in the pockets of all American families, thereby creating thousands and thousands of new jobs.

It is progress. It shows action. It shows we are delivering to the American people. The package we passed just a few hours ago includes the third-largest tax cut in our Nation's history. I believe it will help turbocharge the economy because 60 percent of the $350 billion stimulus package will hit home this year and next year, in this timeframe, over the next 18 months.

Working with President Bush, we have strived to make our homeland more secure and fight the global war against terror. In addition to the funds approved in the budget, the $80 billion supplemental appropriations bill, passed in April, not only helped pay for the cost of the Iraq campaign, but it provided funds to protect our own borders as well.

In what may someday, I believe, be considered our most far-reaching initiative, Congress has approved—and the President, next Tuesday, will sign—a 5-year, $15 billion commitment to combat the global spread of that deadly HIV/AIDS virus—a virus we knew nothing about 25 years ago, a virus that represents, in the pandemic that has ensued, the greatest public health challenge of our time, killing more than 23 million people, infecting more than 40 million people alive today, ultimately killing, in all likelihood—even if we discovered a vaccine today—another 60 million people over the next 20 to 30 years.

But now, because of the action of this body, following the leadership of the President of the United States, working hand in hand with the House of Representatives, America is now—and proudly so—the global leader in HIV/AIDS funding and has brought the lamp of hope to millions of people threatened by this devastating disease.

I have been privileged, as a physician, to be able to perform medical mission work in various places around the world, but specifically in Africa, and I can tell you how desperately—how desperately—needed is this leadership, is this funding. This legislation is a manifestation of the caring spirit—that spirit of compassion—that spirit of caring and compassion on behalf of the United States of America. It shows our commitment to the less fortunate in the world and that we are, indeed, a nation of moral courage.

In foreign policy, we supported the Moscow Treaty, which calls for the most dramatic reduction of nuclear weapons between Russia and America in history. Under the terms of this treaty, the number of nuclear weapons will be lower than at any point since 1954.

Also in foreign policy, we supported the expansion of NATO, bringing seven new democracies into the alliance: Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia.

At home, we have not only acted to spur the economy to create jobs but we have looked after those who do not have a job but who are looking for a job. Today, again, just a few hours ago, we once again extended the unemployment insurance to ensure that families will have the economic support they need while they continue to look for a job.

On issues here at home, we voted to end that abhorrent practice of partial-birth abortion. We approved the CARE Act to encourage charitable giving to charitable and nonprofit organizations. These are just a few of the many accomplishments of this Congress. I could go on: AMBER Alert, air cargo security, a national "Do Not Call" list to stymie unwanted phone solicitors, military tax relief—and the list continues.

I mention all this because as we focus on our day-to-day activities, it is rare that we look at that large picture from 30,000 feet as to what we have accomplished. And, indeed, we have done much. It has been a productive 5 months. It has not always been a smooth road, but in a closely divided Senate few paths are easy. It takes working in a bipartisan way.

Before I close, I do want to say, as part of a new leadership team on the Republican side of the aisle, it has been extremely important for me to have developed a positive working relationship with the other side of the aisle, both in terms of leadership and really throughout the Senate. I do want to thank the corresponding leaders on the other side of the aisle for working with me in a bipartisan way as we have set out this agenda and as, indeed, we have completed the agenda that has been set out.

I do hope my colleagues on both sides of the aisle enjoy the break and come back from their time refreshed because we have a lot of work to do. On the top of that list will be to bring our Medicare Program up to date so we can include prescription drugs as part of the armamentarium for health care delivery and health care security for our seniors. That is going to require bipartisan cooperation if we are truly to accomplish what I know we will accomplish, what we can accomplish, and what our seniors deserve; that is, a strengthening and improvement of our Medicare Program.

We will do that the month we come back. It will be hard work, but in the end I know we can approve a plan to improve the current system, to strengthen it, to guarantee all seniors access to prescription drugs in a plan that can best meet their health care needs.

I do want to thank my own Republican leadership team. We heard a few moments ago from my colleague, the assistant majority leader, our whip, Senator MCCONNELL. Our working relationship has been such that it excites me, as we look to the future, again, having worked hand in hand to address these many issues in the past.

As our colleagues go home, I know they will all be paying tribute to the men and women who have returned to their own communities after representing the best that we have in the United States of America, as they have fought for freedom and democracy—those freedoms that we are able to enjoy each and every day.

We have done much, but we have much to do.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 134, 176, 177, 206 through 217, and nominations on the Secretary's desk in the Army, Foreign Service, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

### DEPARTMENT OF EDUCATION

Karen Johnson, of Virginia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

### RAILROAD RETIREMENT BOARD

Michael Schwartz, of Illinois, to be a Member of the Railroad Retirement Board for a term expiring August 28, 2007.

### NATIONAL MUSEUM SERVICES BOARD

John E. Buchanan, Jr., of Oregon, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

### ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Jerry L. Sinn, 7044

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Steven W. Boutelle, 1030

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Ricardo S. Sanchez, 9260

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Anthony R. Jones, 7571

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. John R. Vines, 5345

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

*To be major general*

Brig. Gen. Emile P. Bataille, 3318

The following named officer for appointment as the Chief of Chaplains, United States Army and for appointment to the grade indicated under title 10, U.S.C., section 3036:

*To be major general*

Brig. Gen. David H. Hicks, 1012

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

*To be major general*

Brig. Gen. Brian L. Tarbet, 0965

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

Chaplain (Col.) Jerome A. Haberek, 0306

### NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Michael J. McCabe, 0987

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral*

Rear Adm. (lh) John P. Debbout, 9101

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Craig O. McDonald, 8124

### ARMY

PN283 Army nominations (13) beginning CHARLES R BAILEY, and ending DAVID W SMARTT, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 2003

FOREIGN SERVICE

PN356-1 Foreign Service nominations (23) beginning Anne H. Aarnes, and ending Edward W. Birgells, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003

MARINE CORPS

PN637 Marine Corps nominations (871) beginning BENJAMIN T ACKISON, and ending ROBERT B ZWAYER, which nominations were received by the Senate and appeared in the Congressional Record of May 14, 2003

NAVY

PN588 Navy nominations (39) beginning AMADO F. ABAYA, and ending SHANNON J. WELLS, which nominations were received by the Senate and appeared in the Congressional Record of May 1, 2003

## NOMINATIONS DISCHARGED

Mr. FRIST. Mr. President, in executive session. I ask unanimous consent that the HELP Committee be discharged from further consideration of the following nominations for the National Science Board: Steven Beering, PN44; Ray Bowen, PN46; Elizabeth Hoffman, PN50. I further ask unanimous consent that the Senate proceed to their consideration, the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL SCIENCE BOARD

Steven C. Beering, of Indiana, to be a Member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 2004.

Ray M. Bowen, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Elizabeth Hoffman, of Colorado, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

## LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

## ANIMAL DRUG USER FEE ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 104, S. 313.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 313) to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 313

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Animal Drug User Fee Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) Prompt approval of safe and effective new animal drugs is critical to the improvement of animal health and the public health.

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of new animal drug applications.

(3) The fees authorized by this title will be dedicated toward expediting the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions as set forth in the goals identified, for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

**SEC. 3. FEES RELATING TO ANIMAL DRUGS.**

Subchapter C of chapter VII of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

**["PART 3—FEES RELATING TO ANIMAL DRUGS]**

***"PART 4—FEES RELATING TO ANIMAL DRUGS***

**["SEC. 738. DEFINITIONS.**

["For purposes of this subchapter:]

***"SEC. 739. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.***

"*(a) DEFINITIONS.—For purposes of this subchapter:*

"(1) The term 'animal drug application' means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

"(2) The term 'supplemental animal drug application' means—

"(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

"(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

"(3) The term 'animal drug product' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or 'distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

"(4) The term 'animal drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

"(5) The term 'investigational animal drug submission' means—

"(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

"(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

"(6) The term 'animal drug sponsor' means either an applicant named in an animal drug application, except for an approved application for which all subject products have been removed from listing under Section 510, or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

"(7) The term 'final dosage form' means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

"(8) The term 'process for the review of animal drug applications' means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

"(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

"(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary's review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(F) Development of standards for products subject to review.

"(G) Meetings between the agency and the animal drug sponsor.

"(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not such activities after an animal drug has been approved.

"(9) The term 'costs of resources allocated for the process for the review of animal drug applications' means the expenses incurred in connection with the process for the review of animal drug applications for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

“(B) management of information, and the acquisition, maintenance, and repair of computer resources,

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

“(D) collecting fees under section 739 and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

“(10) The term ‘adjustment factor’ applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator year being 2003.

“(11) The term ‘affiliate’ refers to the definition set forth in section 735(9).

**[“SEC. 739. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.**

“[(a)] *(b)* TYPES OF FEES.—Beginning in fiscal year 2004, the Secretary shall assess and collect fees in accordance with this section as follows:

“(1) ANIMAL DRUG APPLICATION AND SUPPLEMENT FEE.—

“(A) IN GENERAL.—Each person that submits, on or after September 1, 2003, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

“(i) A fee established in subsection [(b)] *(c)* for an animal drug application; and

“(ii) A fee established in subsection [(b)] *(c)* for a supplemental animal drug application for which safety or effectiveness data are required, in an amount that is equal to 50 percent of the amount of the fee under clause (i).

“(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

“(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

“(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

“(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph B if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

“(2) ANIMAL DRUG PRODUCT FEE.—Each person—

“(A) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under Section 510, and

“(B) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application;

shall pay for each such animal drug product the annual fee established in subsection [(b)] *(c)*. Such fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under Section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.

“(3) ANIMAL DRUG ESTABLISHMENT FEE.—Each person—

“(A) who owns or operates, directly or through an affiliate, an animal drug establishment, and

“(B) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under Section 510, and

“(C) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application

shall be assessed an annual fee established in subsection [(b)] *(c)* for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee shall be paid on or before January 31 of each year. The establishment shall be assessed only one fee per fiscal year under this section, provided, however, that where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

“(4) ANIMAL DRUG SPONSOR FEE.—Each person—

“(A) who meets the definition of an animal drug sponsor within a fiscal year; and

“(B) who, after September 1, 2003, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission,

shall be assessed an annual fee established under subsection [(b)] *(c)*. The fee shall be paid on or before January 31 of each year. Each animal drug sponsor shall pay only one such fee each fiscal year.

“[(b)] *(c)* FEE AMOUNTS.—Except as provided in subsection [(a)(1)] *(b)(1)* and subsections [(c), (d), (f), and (g),] *(d), (e), (g), and (h)*, the fees required under subsection [(a)] *(b)* shall be established to generate fee revenue amounts as follows:

“(1) TOTAL FEE REVENUES FOR APPLICATION AND SUPPLEMENT FEES.—The total fee revenues to be collected in animal drug application fees under subsection [(a)(1)(A)(i)] *(b)(1)(A)(i)* and supplemental animal drug application fees under subsection [(a)(1)(A)(ii)] *(b)(1)(A)(ii)* shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection [(a)(2)] *(b)(2)* shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(3) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection [(a)(3)] *(b)(3)* shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(4) TOTAL FEE REVENUES FOR SPONSOR FEES.—The total fee revenues to be collected in sponsor fees under subsection [(a)(4)] *(b)(4)* shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“[(c)] *(d)* ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection [(b)] *(c)* shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year according to the formula set forth in section 736(c)(1).

“(2) WORKLOAD ADJUSTMENT.—After the fee revenues are adjusted for inflation in accordance with subparagraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2004 to reflect changes in review workload. With respect to such adjustment:

“(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

“(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection [(b),] *(c)*, as adjusted for inflation under subparagraph [(c)(1)] *(d)(1)*.

“(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2007, the Secretary may further increase the fees to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first 3 months of fiscal year 2008. If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of 3 months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2007.

“(4) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the start of each fiscal year that begins after September 30, 2003, for that fiscal year, animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees based on the revenue amounts established under subsection [(b)] *(c)* and the adjustments provided under this subsection.

"(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

"[(d)] *(e)* FEE WAIVER OR REDUCTION.—

"(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection [(a)] *(b)* where the Secretary finds that—

"(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

"(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

"(C) the animal drug application or supplemental animal drug application is intended solely to provide for use of the animal drug in—

"(i) a Type B medicated feed (as defined in section 558.3(b)(3) of title 21, Code of Federal Regulations (or any successor regulation)) intended for use in the manufacture of Type C free-choice medicated feeds, or

"(ii) a Type C free-choice medicated feed (as defined in section 558.3(b)(4) of title 21, Code of Federal Regulations (or any successor regulation)),

"(D) the animal drug application or supplemental animal drug application is intended solely to provide for a minor use or minor species indication, or

"(E) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

"(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

"(3) RULES FOR SMALL BUSINESSES.—

"(A) DEFINITION.—In paragraph (1)(D), the term "small business" means an entity that has fewer than 500 employees, including employees of affiliates.

"(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(D) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

"(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver under paragraph (1)(D) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

"[(e)] *(f)* EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection [(a)] *(b)* shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 738(5)(B) that is submitted by a person subject to fees under subsection [(a)] *(b)* shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

"[(f)] *(g)* ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 2003 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection [(a)] *(b)* during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"[(g)] *(h)* CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees authorized under subsection [(a)] *(b)* shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—

"(A) IN GENERAL.—The fees authorized by this section—

"(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

"(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2003 multiplied by the adjustment factor.

"(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of animal drug applications—

"(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

"(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

"(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $5,000,000 for fiscal year 2004;

"(B) $8,000,000 for fiscal year 2005;

"(C) $10,000,000 for fiscal year 2006; and

"(D) $10,000,000 for fiscal year 2007;

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees.

"(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriations Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

"[(h)] *(i)* COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection [(a)] *(b)* within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"[(i)] *(j)* WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection [(d),] *(e)*, or for a refund of any fee collected in accordance with subsection [(a),] *(b)*, a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

"[(j)] *(k)* CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.

"[(k)] *(l)* ADMINISTRATIVE PROCEDURE.—The Secretary shall—

"(1) to the extent practicable, segregate the review of abbreviated new animal drug applications from the process for the review of animal drug applications, and

"(2) adopt other administrative procedures to ensure that review times of abbreviated new animal drug applications do not increase from their current level due to activities under the user fee program.".

### SEC. 4. ACCOUNTABILITY AND REPORTS.

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to Congress for the goals and plans for meeting the goals for the process for the review of animal drug applications for the fiscal years after fiscal year 2007, and for the reauthorization of section 738 and 739 of the Federal Food, Drug, and Cosmetic Act (as added by section 3), the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall consult with the Committee on Energy and Commerce of the House of Representatives,

the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, veterinary professionals, representatives of consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall—

(A) publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry;

(B) present the recommendations to the Committees referred to in that paragraph;

(C) hold a meeting at which the public may comment on the recommendations; and

(D) provide for a period of 30 days for the public to provide written comments on the recommendations.

(b) PERFORMANCE REPORTS.—Beginning with fiscal year 2004, not later than 60 days after the end of each fiscal year during which fees are collected under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2(3) of this Act toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

(c) FISCAL REPORT.—Beginning with fiscal year 2004, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

**SEC. 5. SUNSET.**

The amendments made by section 3 shall not be in effect after October 1, 2007 and section 4 shall not be in effect after 120 days after such date.

Mr. FRIST. Mr. President, I ask unanimous consent the committee amendments be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 313), as amended, was read the third time and passed, as follows:

S. 313

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Animal Drug User Fee Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) Prompt approval of safe and effective new animal drugs is critical to the improvement of animal health and the public health.

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of new animal drug applications.

(3) The fees authorized by this title will be dedicated toward expediting the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions as set forth in the goals identified, for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

**SEC. 3. FEES RELATING TO ANIMAL DRUGS.**

Subchapter C of chapter VII of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

### "PART 4—FEES RELATING TO ANIMAL DRUGS

**"SEC. 739. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.**

(a) DEFINITIONS.—For purposes of this subchapter:

"(1) The term 'animal drug application' means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

"(2) The term 'supplemental animal drug application' means—

"(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

"(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

"(3) The term 'animal drug product' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

"(4) The term 'animal drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

"(5) The term 'investigational animal drug submission' means—

"(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

"(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

"(6) The term 'animal drug sponsor' means either an applicant named in an animal drug application, except for an approved application for which all subject products have been removed from listing under section 510, or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

"(7) The term 'final dosage form' means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

"(8) The term 'process for the review of animal drug applications' means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

"(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

"(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary's review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(F) Development of standards for products subject to review.

"(G) Meetings between the agency and the animal drug sponsor.

"(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not such activities after an animal drug has been approved.

"(9) The term 'costs of resources allocated for the process for the review of animal drug applications' means the expenses incurred in connection with the process for the review of animal drug applications for—

"(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources, “(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

“(D) collecting fees under section 739 and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

“(10) The term ‘adjustment factor’ applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator year being 2003.

“(11) The term ‘affiliate’ refers to the definition set forth in section 735(9).

“(b) Types of Fees.—Beginning in fiscal year 2004, the Secretary shall assess and collect fees in accordance with this section as follows:

“(1) Animal drug application and supplement fee.—

“(A) In general.—Each person that submits, on or after September 1, 2003, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

“(i) A fee established in subsection (c) for an animal drug application; and

“(ii) A fee established in subsection (c) for a supplemental animal drug application for which safety or effectiveness data are required, in an amount that is equal to 50 percent of the amount of the fee under clause (i).

“(B) Payment.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

“(C) Exception for previously filed application or supplement.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

“(D) Refund of fee if application refused for filing.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

“(E) Refund of fee if application withdrawn.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph B if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

“(2) Animal drug product fee.—Each person—

“(A) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

“(B) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application;

shall pay for each such animal drug product the annual fee established in subsection (c). Such fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.

“(3) Animal drug establishment fee.—Each person—

“(A) who owns or operates, directly or through an affiliate, an animal drug establishment, and

“(B) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

“(C) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application,

shall be assessed an annual fee established in subsection (c) for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee shall be paid on or before January 31 of each year. The establishment shall be assessed only one fee per fiscal year under this section, provided, however, that where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

“(4) Animal drug sponsor fee.—Each person—

“(A) who meets the definition of an animal drug sponsor within a fiscal year; and

“(B) who, after September 1, 2003, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission,

shall be assessed an annual fee established under subsection (c). The fee shall be paid on or before January 31 of each year. Each animal drug sponsor shall pay only one such fee each fiscal year.

“(c) Fee Amounts.—Except as provided in subsection (b)(1) and subsections (d), (e), (g), and (h), the fees required under subsection (b) shall be established to generate fee revenue amounts as follows:

“(1) Total fee revenues for application and supplement fees.—The total fee revenues to be collected in animal drug application fees under subsection (b)(1)(A)(i) and supplemental animal drug application fees under subsection (b)(1)(A)(ii) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(2) Total fee revenues for product fees.—The total fee revenues to be collected in product fees under subsection (b)(2) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(3) Total fee revenues for establishment fees.—The total fee revenues to be collected in establishment fees under subsection (b)(3) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(4) Total fee revenues for sponsor fees.—The total fee revenues to be collected in sponsor fees under subsection (b)(4) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006 and 2007.

“(d) Adjustments.—

“(1) Inflation adjustment.—The fees and total fee revenues established in subsection (c) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year according to the formula set forth in section 736(c)(1).

“(2) Workload adjustment.—After the fee revenues are adjusted for inflation in accordance with subparagraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2004 to reflect changes in review workload. With respect to such adjustment:

“(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

“(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (c), as adjusted for inflation under subparagraph (d)(1).

“(3) Final year adjustment.—For fiscal year 2007, the Secretary may further increase the fees to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first 3 months of fiscal year 2008. If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of 3 months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2007.

“(4) Annual fee setting.—The Secretary shall establish, 60 days before the start of each fiscal year that begins after September 30, 2003, for that fiscal year, animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees based on the revenue amounts established under subsection (c) and the adjustments provided under this subsection.

“(5) Limit.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

“(e) Fee Waiver or Reduction.—

“(1) In general.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (b) where the Secretary finds that—

"(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

"(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

"(C) the animal drug application or supplemental animal drug application is intended solely to provide for use of the animal drug in—

"(i) a Type B medicated feed (as defined in section 558.3(b)(3) of title 21, Code of Federal Regulations (or any successor regulation)) intended for use in the manufacture of Type C free-choice medicated feeds, or

"(ii) a Type C free-choice medicated feed (as defined in section 558.3(b)(4) of title 21, Code of Federal Regulations (or any successor regulation)),

"(D) the animal drug application or supplemental animal drug application is intended solely to provide for a minor use or minor species indication, or

"(E) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

"(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

"(3) RULES FOR SMALL BUSINESSES.—

"(A) DEFINITION.—In paragraph (1)(D), the term "small business" means an entity that has fewer than 500 employees, including employees of affiliates.

"(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(D) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

"(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver under paragraph (1)(D) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

"(f) EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection (b) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 738(5)(B) that is submitted by a person subject to fees under subsection (b) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

"(g) ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 2003 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (b) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(h) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees authorized under subsection (b) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—

"(A) IN GENERAL.—The fees authorized by this section—

"(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

"(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2003 multiplied by the adjustment factor.

"(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of animal drug applications—

"(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

"(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

"(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $5,000,000 for fiscal year 2004;

"(B) $8,000,000 for fiscal year 2005;

"(C) $10,000,000 for fiscal year 2006; and

"(D) $10,000,000 for fiscal year 2007;

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees.

"(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriations Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

"(i) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (b) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"(j) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (e), or for a refund of any fee collected in accordance with subsection (b), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

"(k) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.

"(l) ADMINISTRATIVE PROCEDURE.—The Secretary shall—

"(1) to the extent practicable, segregate the review of abbreviated new animal drug applications from the process for the review of animal drug applications, and

"(2) adopt other administrative procedures to ensure that review times of abbreviated new animal drug applications do not increase from their current level due to activities under the user fee program.".

**SEC. 4. ACCOUNTABILITY AND REPORTS.**

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to Congress for the goals and plans for meeting the goals for the process for the review of animal drug applications for the fiscal years after fiscal year 2007, and for the reauthorization of section 738 and 739 of the Federal Food, Drug, and Cosmetic Act (as added by section 3), the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, veterinary professionals, representatives of consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall—

(A) publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry;

(B) present the recommendations to the Committees referred to in that paragraph;

(C) hold a meeting at which the public may comment on the recommendations; and

(D) provide for a period of 30 days for the public to provide written comments on the recommendations.

(b) PERFORMANCE REPORTS.—Beginning with fiscal year 2004, not later than 60 days after the end of each fiscal year during which fees are collected under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2(3) of this Act toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

(c) FISCAL REPORT.—Beginning with fiscal year 2004, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

**SEC. 5. SUNSET.**

The amendments made by section 3 shall not be in effect after October 1, 2007 and section 4 shall not be in effect after 120 days after such date.

## ABRAHAM LINCOLN BICENTENNIAL COMMISSION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 108, S. 858.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 858) to extend the Abraham Lincoln Bicentennial Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 858) was read the third time and passed, as follows:

S. 858

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ABRAHAM LINCOLN BICENTENNIAL COMMISSION.**

(a) DUTIES.—Section 4 of the Abraham Lincoln Bicentennial Commission Act (36 U.S.C. note prec. 101; Public Law 106–173) is amended—

(1) in paragraph (1)(D), by striking "redesignation" and inserting "rededication"; and

(2) by adding at the end the following:

"(3) To recommend to Congress a plan to carry out the activities recommended under paragraph (2).

"(4) To carry out other related activities in support of the duties carried out under paragraphs (1) through (3).".

(b) EXTENSION.—Section 8 of such Act (36 U.S.C. note prec. 101; Public Law 106–173) is amended—

(1) in subsection (a), by striking "The" and inserting "In addition to the interim report required under subsection (b), the";

(2) in subsection (b)—

(A) in the subsection heading, by striking "FINAL REPORT.—" and inserting "REQUIRED INTERIM REPORT.—";

(B) by striking the first sentence and inserting: "Not later than June 24, 2004, the Commission shall submit an interim report to Congress."; and

(C) in the second sentence, by striking "final"; and

(3) by adding at the end the following:

"(c) FINAL REPORT.—Not later than April 30, 2010, the Commission shall submit a final report to Congress. The final report shall contain final statements, recommendations, and information described under subsection (b)(1), (2), and (3).".

## RECOGNIZING THE 140TH ANNIVERSARY OF THE FOUNDING OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 110, S. Res. 136.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 136) recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's achievements.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider laid upon the table, with no intervening action or debate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 136) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 136

Whereas the Brotherhood of Locomotive Engineers was founded on May 8, 1863, as a secret, fraternal labor organization and its first meetings were held clandestinely for fear of reprisals from railroad management;

Whereas the climate toward labor organizations at that time was extraordinarily hostile, and many of the other newly founded labor organizations failed to withstand the negative pressures placed upon them and disbanded in their infancies;

Whereas the Brotherhood of Locomotive Engineers began to thrive despite the climate into which it was born;

Whereas the Brotherhood of Locomotive Engineers has grown from its original 13 members, all from the Michigan Central Railroad, to 59,000 active and retired members employed throughout the United States and Canada;

Whereas the Brotherhood of Locomotive Engineers is North America's oldest rail labor union;

Whereas the Brotherhood of Locomotive Engineers' members have contributed, both directly through their railroad activity and in private capacities, to the war effort in all of the battles of the United States dating back to the Civil War;

Whereas their efforts to improve rail safety for both their members and the public have resulted in a dramatic decrease in the number of railroad accidents in the years since their inception;

Whereas, in 1964, the Brotherhood of Locomotive Engineers launched an apprentice engineer program to assure the Nation of a stable supply of well-trained locomotive engineers, and to assure stable employment and earnings to apprentices;

Whereas, after accepting only promoted locomotive engineers in its early years, the Brotherhood of Locomotive Engineers enlarged its membership goals to include other rail employees;

Whereas, in 1993, the 2,500 member American Train Dispatchers Association officially affiliated with the Brotherhood of Locomotive Engineers in order to unite the two key railway professions that facilitate the efficient and safe movement of passengers and freight;

Whereas, in 1995, the Rail Canada Traffic Controllers union also chose to merge into the Brotherhood of Locomotive Engineers, adding another 700 members;

Whereas, in addition to providing representation for its members, the Brotherhood of Locomotive Engineers aggressively participates in the labor movement with other unions and organizations in promoting the interests of working men and women and their families;

Whereas the Brotherhood of Locomotive Engineers is an extraordinary union whose leadership still works hard every day—just as it did in 1863—to protect members' health and safety, to guard their financial interests, to give them an effective voice on the job, and to ensure dignity, respect, and security for railway workers in the workplace; and

Whereas the efforts of the Brotherhood of Locomotive Engineers are deserving of our attention and admiration: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the union which has made a tremendous contribution to the structural development and building of the United States, and to the well-being of tens of thousands of workers;

(2) congratulates the union for its many achievements and the strength of its members; and

(3) expects that the union will continue its dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and working environment for rail workers and other laborers in generations to come.

## AUTHORIZING REPRESENTATION OF SENATE LEGAL COUNSEL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 156, which was submitted earlier today.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 156) authorizing representation by Senate legal counsel in the case of Judicial Watch, Inc. v. United States Senate, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 156) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 156

Whereas, the United States Senate, Emily J. Reynolds, Secretary of the Senate, and William H. Pickle, Senate Sergeant at Arms, have been named as defendants in the case of *Judicial Watch, Inc.* v. *United States Senate, et al.*, No. 1:03CV01066, now pending in the United States District Court for the District of Columbia;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend the Senate and officers of the Senate in civil actions relating to their official responsibilities: Now, therefore be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the United States Senate, Emily J. Reynolds, Secretary of the Senate, and William H. Pickle, Senate Sergeant at Arms, in the case of *Judicial Watch, Inc.* v. *United States Senate, et al.*

## SUPPORTING ACTIVITIES TO PROVIDE DECENT HOMES TO PEOPLE IN THE UNITED STATES

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. Con. Res. 43, and the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 43) expressing the sense of the Congress that Congress should participate in and support activities to provide decent homes for the people of the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 43) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 43

Whereas the United States promotes and encourages the creation and revitalization of sustainable and strong neighborhoods in partnership with States, cities, and local communities;

Whereas the United States promotes and encourages the creation and revitalization of sustainable and strong neighborhoods in partnership with States, cities, and local communities and in conjunction with the independent and collective actions of private citizens and organizations;

Whereas establishing a housing infrastructure strengthens neighborhoods and local economies and nurtures the families who reside in them;

Whereas an integral element of a strong community is a sufficient supply of affordable housing;

Whereas affordable housing may be provided in traditional and nontraditional forms, including apartment buildings, transitional and temporary homes, condominiums, cooperatives, and single family homes;

Whereas for many families a home is not merely shelter, but also provides an opportunity for growth, prosperity, and security;

Whereas homeownership is a cornerstone of the national economy because it spurs the production and sale of goods and services, generates new jobs, encourages savings and investment, promotes economic and civic responsibility, and enhances the financial security of all people in the United States;

Whereas although the United States is the first nation in the world to make owning a home a reality for a vast majority of its families, ⅓ of the families in the United States are not homeowners;

Whereas a disproportionate percentage of families in the United States that are not homeowners are low-income families;

Whereas 74.2 percent of Caucasian Americans own their own homes, only 47.1 percent of African Americans, 47.2 percent of Hispanic Americans, and 55.8 percent of Asian Americans and other races are homeowners;

Whereas the community building activities of neighborhood-based nonprofit organizations empower individuals to improve their lives and make communities safer and healthier for families;

Whereas one of the best known nonprofit housing organizations is Habitat for Humanity, which builds simple but adequate housing for less fortunate families and symbolizes the self-help approach to homeownership;

Whereas Habitat for Humanity is organized in all 50 States with 1,655 local affiliates and its own section 501(c)(3) Federal tax-exempt status and locally elected completely voluntary board of directors;

Whereas Habitat for Humanity has built nearly 150,000 houses worldwide and endeavors to complete another 50,000 homes by the year 2005;

Whereas Habitat for Humanity provides opportunities for people from every segment of society to volunteer to help make the American dream a reality for families who otherwise would not own a home; and

Whereas the month of June has been designated as "National Homeownership Month": Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that—

(1) everyone in the United States should have a decent home in which to live;

(2) Members of the Senate and the House of Representatives should demonstrate the importance of volunteerism;

(3) during the years of the 108th and 109th sessions of Congress, Members of the Senate and the House of Representatives, Habitat for Humanity, and contributing organizations, should sponsor and construct 2 homes in the Washington, D.C., metro area each as part of the "Congress Building America" program;

(4) each Congress Building America house should be constructed primarily by Members of the Senate and the House of Representatives, their families and staffs, and the staffs of sponsoring organizations working with local volunteers involving and symbolizing the partnership of the public, private, and nonprofit sectors of society;

(5) each Congress Building America house should be constructed with the participation of the family that will own the home;

(6) in the future, Members of the Senate and the House of Representatives, their families, and their staff should participate in similar house building activities in their own States as part of National Homeownership Month; and

(7) these occasions should be used to emphasize and focus on the importance of providing decent homes for all of the people in the United States.

## ENDING UNWARRANTED EUROPEAN UNION MORATORIUM ON AGRICULTURAL BIOTECHNOLOGY PRODUCTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 154, which was submitted earlier today.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 154) expressing the support of the Senate of the United States efforts in the World Trade Organization to end the unwarranted moratorium imposed by the European Union on the approval of agricultural biotechnology products.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 154) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 154

Expressing the support of the Senate of United States efforts in the World Trade Organization to end the unwarranted moratorium imposed by the European Union on the approval of agricultural biotechnology products.

Whereas agricultural biotechnology is subject to the strictest Federal review in the United States, based on sound science, by the Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration prior to planting and human consumption;

Whereas agricultural biotechnology has made considerable contributions to the protection of the environment by creating an environment more hospitable to wildlife and reducing the application of pesticides by 46,000,000 pounds in 2001 alone;

Whereas agricultural biotechnology holds tremendous promise for greatly increasing the world's supply of nutritious and wholesome foods which will improve the quality of life and health in the developing world;

Whereas there is objective and experience-based consensus in the international scientific community, including the National Academy of Sciences, the American Medical Association, the Royal Society of London, the French Academy of Medicine, the French Academy of Sciences, the Brazilian Academy of Sciences, the Chinese Academy of Sciences, the Indian National Science Academy, and the Mexican Academy of Science, that agricultural biotechnology is safe;

Whereas policy decisions regarding agricultural biotechnology in the European Union are being driven by politics and not by sound science;

Whereas since the late 1990s, the European Union has pursued policies that shelter its markets from competition by opposing the use of agricultural biotechnology;

Whereas agricultural biotechnology policies of the European Union have frustrated the development of modern scientific tools and plant technology that could expand the production of indigenous food products by addressing problems related to local pests, weather conditions, and vitamin deficiencies;

Whereas since its implementation in October 1998, the moratorium has blocked more than $300,000,000 annually in United States corn exports to countries in the European Union;

Whereas the European Union's unjustified moratorium on agricultural biotechnology approvals has ramifications far beyond the United States and Europe, forcing a slowdown in the adoption and acceptance of beneficial biotechnology to the detriment of farmers and consumers around the world, and especially to starving people in the developing world;

Whereas in the fall of 2002, famine-stricken African countries rejected healthy, wholesome, United States humanitarian offers of food aid because of ill-informed health and environmental concerns and fears that future exports to Europe would be jeopardized; and

Whereas the 5-year moratorium on the approval of new agricultural biotechnology products entering the European market is not science based, effectively prohibits most United States corn exports to Europe, violates European Union law, and clearly breaches the rules of the World Trade Organization: Now, therefore, be it

*Resolved*, That the Senate supports and applauds the efforts of the Administration on behalf of the Nation's farmers challenging the long-standing, unwarranted moratorium imposed by the European Union on the approval of agricultural biotechnology products and encourages the President to continue to press this issue at the G-8 Summit in Evian, France, on June 1 through 3, 2003.

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## AMENDING THE SELF-RELIANCE ACT OF 2000 AND THE FOREIGN ASSISTANCE ACT OF 1961

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 106, H.R. 192.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 192) to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (H.R. 192) was read the third time and passed.

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## APPOINTMENTS

The PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, pursuant to Public Law 105–292, as amended by Public Law 106–55, and as further amended by Public Law 107–228, appoints the following individuals to the United States Commission on International Religious Freedom: Preeta D. Bansal of Nebraska, vice Charles Richard Stith, for a term of one year, May 15, 2003–May 14, 2004; Most Reverend Ricardo Ramirez, C.S.B. of New Mexico, vice Dr. Firuz Kazemzadeh, for a term of two years, May 15, 2003–May 14, 2005.

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## MEASURE PLACED ON THE CALENDAR—S. 1104

Mr. FRIST. Mr. President, I understand that S. 1104 is at the desk and is due for a second reading.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1104) to amend title 10, United States Code, to provide for parental involvement in abortions of dependent children of members of the Armed Forces.

Mr. FRIST. I ask unanimous consent that the Senate proceed to the measure, and I object to further proceedings.

The PRESIDENT pro tempore. Objection is heard.

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## AUTHORITY FOR COMMITTEES TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. FRIST. Mr. President, I ask unanimous consent that, notwithstanding the recess or adjournment of the Senate, committees be authorized to report legislative and executive matters on Thursday, May 29, 2003, from 10 a.m. to 12 noon.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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## AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader or the assistant majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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## AUTHORIZATION TO MAKE APPOINTMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President pro tempore of the Senate, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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## ORDERS FOR MONDAY, JUNE 2, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Monday, June 2. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of procedures be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until 1 p.m. with the time equally divided between the two leaders or their designees; provided that at 1 p.m., the Senate resume consideration of Calendar No. 79, S. 14, the energy bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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## PROGRAM

Mr. FRIST. For the information of all Senators, when the Senate reconvenes on Monday, June 2, there will be a period for morning business until 1 p.m. Following morning business, the Senate will resume consideration of S. 14, the energy bill. Pending to the bill is an amendment relating to ethanol. Members who wish to speak to the amendment or the bill itself are encouraged to do so during Monday's session. There will be no votes on Monday.

The next vote will be on Tuesday, June 3, and Members will be notified when that vote is scheduled.

As I mentioned earlier, we had a very productive 4 weeks. Again, I thank my colleagues for their hard work. I wish everyone a safe and restful recess.

## ADJOURNMENT UNTIL MONDAY, JUNE 2, 2003

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 191.

There being no objection, the Senate, at 4:57 p.m., adjourned until Monday, June 2, 2003, at 12 noon.

## CONFIRMATIONS

Executive nominations confirmed by the Senate May 23, 2003:

### RAILROAD RETIREMENT BOARD

MICHAEL SCHWARTZ, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM EXPIRING AUGUST 28, 2007.

### NATIONAL MUSEUM SERVICES BOARD

JOHN E. BUCHANAN, JR., OF OREGON, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

### NATIONAL SCIENCE FOUNDATION

STEVEN C. BEERING, OF INDIANA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR THE REMAINDER OF THE TERM EXPIRING MAY 10, 2004.

RAY M. BOWEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008.

ELIZABETH HOFFMAN, OF COLORADO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008.

### DEPARTMENT OF EDUCATION

KAREN JOHNSON, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JERRY L. SINN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. STEVEN W. BOUTELLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. RICARDO S. SANCHEZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. ANTHONY R. JONES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN R. VINES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. EMILE P. BATAILLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF CHAPLAINS, UNITED STATES ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3036:

*To be major general*

BRIG. GEN. DAVID H. HICKS

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. BRIAN L. TARBET

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

CHAPLAIN (COL.) JEROME A. HABEREK

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. MICHAEL J. MCCABE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. , SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) JOHN P. DEBBOUT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. CRAIG O. MCDONALD

ARMY NOMINATIONS BEGINNING CHARLES R BAILEY AND ENDING DAVID W SMARTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 29, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING ANNE H. AARNES AND ENDING EDWARD W. BIRGELLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING CHARLES A. FORD AND ENDING IRA E. KASOFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 2, 2003.

MARINE CORPS NOMINATIONS BEGINNING BENJAMIN T ACKISON AND ENDING ROBERT B ZWAYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 14, 2003.

NAVY NOMINATIONS BEGINNING AMADO F. ABAYA AND ENDING SHANNON J. WELLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 1, 2003.

# EXTENSIONS OF REMARKS

## INTRODUCTION OF THE OBESITY PREVENTION ACT

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CASTLE. Mr. Speaker, in my career as Governor and as a Member of Congress, I have been fortunate to spend time in schools all across the State of Delaware. During my visits, I have recognized a growing and frightening trend where more and more children are becoming obese. Health, nutrition, and physical exercise professionals indicate that childhood obesity has become a national problem which is reaching epidemic proportions. For that reason, I am introducing the Obesity Prevention Act which aims to curb the rise of obesity among our nation's children.

The statistics are alarming: According to the U.S. Centers for Disease Control and Prevention (CDC) there are nearly twice as many overweight children and almost three times as many overweight adolescents as there were in 1980. Based on the agency's 1999–2000 data, the percentage of children who are overweight has nearly doubled (from 7 to 13 percent) in the past two decades, and the percentage of adolescents who are overweight has almost tripled (from 5 to 14 percent.)

Dr. Nancy Krebs, chairwoman of the American Academy of Pediatrics' Committee on Nutrition found that over 60 percent of overweight children between 5 and 10 years of age already have at least one factor for cardiovascular disease.

The Surgeon General indicates that overweight children and adolescents are more likely to become overweight or obese adults.

The Surgeon General's Call To Action To Prevent and Decrease Overweight and Obesity 2001 found that overweight and obesity are increasing in both genders and among all population groups. In 1999, an estimated 61 percent of U.S. adults were overweight or obese.

A recent analysis, underwritten by the CDC, found that the treatment of illnesses related to obesity costs America $93 billion a year, rivaling the financial toll of smoking-related disease. Health care for overweight and obese individuals costs an average of 37 percent more than for people of normal weight, adding an average of $732 to the annual medical bills of every American. We know a lot of children who are overweight grow up to be overweight or obese adults, and thus a greater risk for some major health problems.

For the vast majority of individuals, overweight and obesity result from excess calorie consumption and/or inadequate physical activity. Thus, a healthy diet and regular physical activity, consistent with the Dietary Guidelines for Americans, should be promoted. Although obesity-associated problems occur most frequently in adults, important consequences of excess weight as well as antecedents of adult disease occur in overweight children and adolescents. It seems to me that we should be finding ways to help our children be healthy and fit. The Obesity Prevention Act, which I am introducing today, encourages activities to educate our nation's children about nutrition and promote physical fitness. This is accomplished with:

State Nutrition and Physical Fitness Projects—This title amends the National School Lunch Act to provide 20 state demonstration programs for the creation of model nutrition education and fitness programs for students. States may use funds, after consulting with others in state government and industry who have an interest in obesity treatment and prevention, for a variety of purposes. Unlike other programs, which function as national activities of the CDC and USDA, these grant programs will give a few states the opportunity to think comprehensively about the problem of childhood obesity—not just from a health or food perspective.

Local Nutrition and Physical Fitness Project—This title creates a new pilot program for 100 school districts—at least one in each state—to promote healthy eating habits and increase physical fitness. Local Education Agencies may use funds, after consulting with individuals who represent public health, nutrition and fitness organizations, for a variety of purposes.

State Children's Health Insurance Program Incentive—This section creates an incentive for states that have, as part of their state health insurance plan, activities to treat or prevent childhood obesity. This is an effective way to intervene early with an at-risk population.

Commission on Obesity Treatment and Prevention—The Commission will facilitate coordination between federal agencies and identify ways to streamline the process through which federal departments can aid in the treatment and prevention of obesity. Members include representatives from US Health and Human Services, USDA, US Department of Education, Center for Medicaid and Medicare Services, CDC, the President's Council on Physical Fitness and Sports, National Institute of Health, and Surgeon General as well as representatives from private sector nutrition and public health organizations and food, fitness, and other appropriate industries. In addition, they must consult with state and local government, educators and community based organizations. They will meet at least twice annually and prepare a report on actions taken to treat and prevent obesity and make recommendations for legislative and regulatory action.

President's Health and Fitness Awards—This is a new section to recognize schools for overall fitness and demonstrated improvements in student fitness and nutrition awareness. In this way, we're not simply awarding athletes who are already fit but rather schools and students that are making progress toward fitness and health. Also, it provides an award for teachers or coaches who create innovative and effective fitness and nutrition programs.

Afterschool Programs—Finally, the bill adds nutrition and health education programs to the list of allowable activities for afterschool programs.

The time for action is now. We need to promote innovative ideas to help our children stay healthy and fit. Children are the future of America, and we must help to ensure they understand the importance of healthy living. I am confident that the Obesity Prevention Act is a positive first step to help reduce and prevent obesity among children, and I ask my colleagues to cosponsor.

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## TRIBUTE TO BRADLEY RUSSELL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I stand before you today to recognize an individual who exemplifies the spirit, determination, and resolve that constitutes the backbone of this great nation. Bradley Russell of Cortez, Colorado was involved in a severe automobile accident in July of 2001, forcing him to leave high school and engage in daily physical therapy. Bradley was diagnosed with a brain injury that has affected coordination, motor skills, strength, and endurance. Bradley's injuries were so severe that he was told he could never walk again. Bradley has been working diligently towards recovery with the goal of high school graduation firmly on his mind.

While Bradley knew his brain injury was serious, he set out from the beginning to accomplish his most important goal: walking across the stage at graduation. This goal caused him to work harder then he ever had before. Bradley was forced to overcome his lack of balance; his biggest fear was that he might fall. Bradley's doctors compared his rehabilitation with that of a newborn child; he was forced to learn numerous skills all over again. Bradley was lucky enough to have a caring support group helping him through his ordeal. He is also blessed with great parents who exemplify the compassion and love that wonderful parents across this nation show to their children. Tammy and Ron Russell lived outside of the hospital in a camper so that they could be by their son at all times. Tammy even quit her job so that she could be closer to her son.

Mr. Speaker, I proudly stand before this Congress today to express my respect and admiration for Bradley Russell. Bradley should be an example to us all, and I hope that his recovery continues to go well. Walking across

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the stage at graduation has become a reality for Bradley, an accomplishment of which he should be very proud. Today, May 22, 2003, the Seniors of Montezuma-Cortez High School are taking the next step in their lives; and Bradley Russell is right by their side.

## TRIBUTE TO CHARLES HILGER

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. FARR. Mr. Speaker, I rise today to honor Charles Hilger, a talented artist and dedicated historian, upon the occasion of his retirement as the Director of the Santa Cruz Museum of Art and History (MAH). For twenty years, Mr. Hilger has dedicated his time and energy into building a museum that has become a significant cultural anchor for the Santa Cruz community as well as a quality destination for tourists and visitors. Mr. Hilger's expertise and enthusiasm will be missed by associates and visitors alike.

Mr. Hilger's participation in the art world has stretched to nearly all facets of the Santa Cruz community. Mr. Hilger's passion for art was evident when he was honored as the 1989 Santa Cruz "Artist of the Year." Over the past twenty years, Mr. Hilger transformed a small exhibit of art featured at the public library into the museum we enjoy today, now located at the McPherson Center. He personally recruited a highly professional staff and a dedicated team of docents and volunteers to aid him in managing over 150 installations, representing many diverse expressions of artists from around the world. Despite earthquakes, economic hardships and various other calamities, Mr. Hilger never lost sight of his goal to provide an institution that could educate many generations about the beauty and mystery in the world of art.

Mr. Speaker, on behalf of the United States Congress, I would like to honor the accomplishments of Charles Hilger and express sincere gratitude for his commitment to the community. I wish Mr. Hilger and his family well as he enjoys his much-deserved retirement.

## INTRODUCTION OF THE JUDICIAL USE OF DISCRETION TO GUARANTEE EQUITY IN SENTENCING ACT OF 2003

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CONYERS. Mr. Speaker, today I am introducing the "Judicial Use of Discretion to Guarantee Equity in Sentencing Act of 2003" or "JUDGES Act," legislation that restores the independence and integrity of the federal judiciary by repealing many of the criminal sentencing provisions recently enacted in section 401 of the PROTECT Act of 2003. I am joined by Representatives BERMAN, DELAHUNT, WATT, WATERS, JACKSON-LEE, LINDA SÁNCHEZ, SANDERS, LEE, MCDERMOTT, FILNER, MILLENDER-MCDONALD, TUBBS JONES, and HONDA.

Section 401 of the PROTECT Act was passed into law despite the many concerns raised by several legal scholars and experts including, Chief Justice Rehnquist, the U.S. Judicial Conference, the American Bar Association, the Federal Bar Association, the Leadership Council on Civil Rights and various other law school professors and legal commentators. When asked to comment on the legislation, Chief Justice Rehnquist best described the major problems with the controversial provisions when he wrote that the, "legislation, if enacted, would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences."

The JUDGES Act of 2003 seeks to address these concerns by repealing most of the provisions of section 401, except those that specifically deal with the prevention of the exploitation of children. More specifically, the bill repeals the burdensome reporting requirements imposed on judges, restores the "due deference" standard of review, reforms the sentencing guidelines governing the acceptance of responsibility and repeals the changes that section 401 made to the composition of the sentencing commission. The bill also directs the Sentencing Commission to carefully study the issue of downward departures and report its findings to Congress within 180 days.

Judges should be free to impose fair and just sentences completely devoid of the political process. The JUDGES Act of 2003 helps to achieve this goal. I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

## TRIBUTE TO MR. JIM CULVER

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. PAYNE. Mr. Speaker, I rise today to recognize a great man, Mr. Jim Culver. An involved constituent in my district, Mr. Culver will be recognized on June 1, 2003 by Saint Paul's Calvary United Church of God in Union, New Jersey with their Lifetime Achievement Award as Usher of the Year.

An active member of Saint Paul's Calvary United Church for the past thirty-five years, Mr. Culver has served as Secretary of the Usher board for the past thirty-one years. In this capacity he has been a great supporter of all activities of the church as well as lending a helping hand to the entire community of Union. A hard and reliable worker, he continues to give selflessly of himself to all of those whom he encounters.

Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me today in recognizing Mr. Jim Culver for his innumerable contributions to the town of Union as well as to his congregation. I wish to congratulate him as he is recognized with the Lifetime Achievement Award as Usher of the Year and wish him the very best for the future.

## UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

SPEECH OF

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 21, 2003*

Ms. PELOSI. Mr. Speaker, I rise in strong support of H.R. 1298, The United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003. The statistics on AIDS are staggering. According to the United Nations, AIDS has killed over 20 million people since the epidemic began. Every day nearly 14,000 people become infected with HIV, primarily in the developing world and another 8,500 people die.

It's almost too much to comprehend, but we can respond. And we must. Experts say that a strong global response could prevent nearly two-thirds of the 45 million new infections that are projected by 2020, saving tens of millions of lives.

This legislation will strengthen our response to the global AIDS pandemic by improving coordination among relevant U.S. agencies, establishing additional accountability mechanisms, and fostering international cooperation through increased contributions to the multilateral Global Fund to Combat HIV/AIDS, Tuberculosis, and Malaria. The increased contribution of up to $1 billion for the Global Fund in FY2004 is accompanied by a 33 percent cap on the U.S. contribution to challenge other donor countries to match our increased commitment.

The promises made in H.R. 1298, however, must be matched by real resources. Planning and coordination alone will not solve this monumental crisis. Prevention and treatment require money. This is a good first step, now we must appropriate the funds necessary to enact this plan and demonstrate the depth of our commitment to the world.

H.R. 1298 authorizes $15 billion for our multilateral and bilateral efforts, including $3 billion in FY2004. Unfortunately, the Bush budget provides only $1.6 billion in FY2004, with only $200 million going to the Global Fund. We must do better.

I also have deep reservations about the provision that gives abstinence programs a third of USAID's prevention funding. This crisis is too severe and our response is too critical to let our efforts be undermined by catering to ideological pressure.

The fight against AIDS is far from over, and this legislation provides an important opportunity to strengthen our commitment to a future where AIDS is no longer a threat. I urge my colleagues to support the motion to concur.

## HONORING THE CITY AND PEOPLE OF SUN PRAIRIE, WI

### HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. BALDWIN. Mr. Speaker, I rise today in recognition of the city and people of Sun Prairie, Wisconsin, and their celebration of the life and work of one of the most important artists of the 20th Century, Georgia O'Keeffe.

Georgia O'Keeffe was born on a small dairy farm right outside the city of Sun Prairie—near Highway T and Town Hall Road—on November 15, 1887. She grew up on the farm together with her parents and six siblings. While growing up she received art lessons both at home and at school, and she was certain she wanted to be an artist by the age of nine. As Georgia's artistic ability grew, she began to receive more advanced training in art, and it eventually became an important part of her life.

Her work was first exhibited in 1916 at the avant-garde gallery, 291, of Alfred Stieglitz. Initially, the famous gallery included only ten of Georgia O'Keeffe's charcoal abstractions, but within a year the gallery stopped showing any other artists and was devoted to exhibiting all of O'Keeffe's works. Not long after Georgia O'Keeffe moved to New York, she and Alfred Stieglitz fell in love and then married in 1924.

Georgia O'Keeffe wanted her art to express as she said "the wideness and wonder of the world as I live in it." Today, everyone can instantly recognize the paintings with intensely colorful large-scale flowers, sun-bleached animal bones, and the dramatic landscapes of the Southwest as Sun Prairie's own Georgia O'Keeffe. She became the most famous American woman artist and an influential modernist, receiving many awards, including medals from two U.S. presidents and ten honorary doctorates.

As a historical marker is dedicated on the spot where Georgia O'Keeffe spent her formative years, I join Sun Prairie in its celebration of the life and contributions of the pioneering artist Georgia O'Keeffe.

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## INTRODUCTION OF READICALL NATIONAL EMERGENCY ALERT SYSTEM

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MEEK of Florida. Mr. Speaker, I am today introducing a bill that will greatly improve the federal government's ability to communicate with our citizens when there is a terrorist attack or other serious emergency at the national, regional or local levels.

My bill will require the Department of Homeland Security to set up an emergency alert system which can contact virtually every telephone subscriber in the United States within minutes, to convey to them vital information about what's happening and what they should do.

Up until now, we have been somewhat less targeted in our approach to emergency warning systems, because we have relied on the mass media.

Until now, we have used 20th century technology—television, radio, cable TV—to communicate with our people in times of emergency. It works fine if you are near a TV. But if the electricity goes out, most TVs and radios don't work.

I don't want to eliminate the existing early warning system; I want to improve it and build on it.

What I propose to do is establish a national emergency communications system based on 19th century technology, the telephone, which virtually every American has nearby, both at home and at work, and which usually works even when the lights go out.

According to the Federal Communications Commission, roughly 104 million households out of 109 million have landline telephone service—over 95%. Another roughly 1.2 million have only wireless telephone services. Further, nearly every business in the United States has phone service and almost 141 million of us have cellular phones. There are few options for dissemination of information better than our telephone system, which is widely considered the best in the entire world.

The system I am proposing would make it possible for the government to let people know of imminent threats, transmit official warnings, provide accurate information about an attack and also provide instructions to people in the affected areas.

The system I propose today has an additional advantage over the present emergency warning system, because it could be activated at the block, neighborhood, city, county, state or national levels, as needed.

I would envision perhaps a special ring on the phone, so people would know that an alert call is not an ordinary call. Cell phones could be included in the system.

The system would be activated by order of the Secretary of Homeland Security, so there would be accountability in its use.

And once a message is approved, it could go out in a very short period of time, by live operators or by taped message. Because the system I propose is based on technology and techniques that have already been perfected by the teleservices industry.

I want to harness this technology to improve our homeland security.

Emergency information is critical to all of us. When an emergency situation happens, you want to know who is in charge; who can, and will, give you accurate, reliable information; and what you should do, if anything, to protect yourself.

Officials from local, county, state, federal and volunteer agencies work together during emergency situations. That means information may be available from a number of sources—different people know about different parts of the response effort..

Protecting the health and safety of our fellow Americans is the primary goal of everyone working on the situation. Part of that effort focuses on giving you accurate, coordinated information about the emergency and what you should do to protect yourself.

The existing National Emergency Alert System was set up several decades ago to allow for public notification of emergency situations. The system was designed to provide immediate access to the public for the President in times of crisis. The U.S. leadership requires a reliable means for communicating with the American public on short notice during periods of national crisis or major emergency to provide reassurance and direction regarding response and recovery.

But the EAS system was developed to provide the ability to address the Nation on AM and FM radio, as well as television and cable television audio. In addition, the President or other official must be able to address the Nation on live television, audio and video, upon arrival at a designated television studio.

Today, emergency officials rely on mass media because they have the technology, communications equipment, trained staff, proven ability and commitment to get information to the public in an emergency. Indeed, television reaches 98% of the homes in the United States of America. But, that is part of the problem that this bill hopes to fix. Television reaches 98% of the HOMES in the U.S. If we were all sitting at home, with our televisions on, tuned to a channel with a direct link to the Department of Homeland Security, we could all feel secure that we would know what to do in the event of another horrible tragedy like the 9/11 attacks.

This bill seeks to develop and implement an emergency telephone alert system so that, in the event of a terrorist attack, all telephone subscribers within the affected areas or, if need be, within the entire United States, can receive from the Department of Homeland Security immediate official warnings, accurate information, notifications of an attack and instructions on what to do.

The technology currently exists that would allow the Department of Homeland Security to notify every telephone subscriber in the United States within a few hours or states, cities or communities within minutes, giving potentially life-saving information to our citizens.

The Secretary would collaborate with other government agencies and with the private sector to use existing telephone technology and infrastructure to relay official information to all telephone subscribers within an endangered area within the United States—ideally with a distinct ring so that the receiver of the call will instantly be aware of its nature and importance.

The aim of this legislation is to keep our citizens informed in the terrible event that there is a national, regional or local terrorist emergency and present sources of communication are not simply available. Minutes can make a huge difference in an attack or disaster; accurate information pin-pointed to the affected area can make all the difference.

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## TRIBUTE TO CHIEF LEN SMITH

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. VISCLOSKY. Mr. Speaker, at a time when crime concerns are on every citizen's mind, those who have dedicated their lives to law enforcement are to be commended. I would like to make a special commendation to Chief Len Smith, a devoted law enforcement officer from Indiana's First Congressional District. Chief Smith will be retiring on June 1, 2003, after having served the people of Porter for 34 years. Chief Smith will be honored by his family, friends, and members of the Porter Police Department at an open house on Sunday, May 25, 2003 at the Porter Community Building.

Len Smith, a native of Porter County and a resident of the Town of Porter for 42 years, has always been a man of compassion. He began his adult life by serving in the United States Army from 1966–1968. Upon his return to Northwest Indiana, Chief Smith thought that he would be a school teacher, having degrees in both biology and anthropology. He began police work because it afforded him the opportunity to work afternoons and midnights, allowing him to spend quality time with his family.

Smith's distinguished career in law enforcement has made his community and nation a better place in which to live and work. His outstanding motivational skills and unmatched charisma helped mold him into a natural leader. For more than 34 years, Len Smith has worked for the Porter Police Department and he has served as the town's police chief from 1974 to 1993 and from 1996 to the present. In 1993, when a former Town Council appointed a new chief from outside the town, over 200 people packed the Porter municipal building to support Smith. The next Town Council immediately reinstated the popular Smith.

During his tenure with the Department, Chief Smith has demonstrated a sincere love for the community in which he lives. While on the force, Smith was presented with the American Legion Life Saving Award for saving two men from drowning. While Chief Smith has dedicated considerable time and energy to his work with the Porter Police Department and protecting the lives of others, he has never limited the time he gives to his most important interest, his family. He and his wife Diana have two children, Todd and Molly.

On this special day, I offer my heartfelt congratulations to Chief Smith. His large circle of family and friends can be proud of the contributions this prominent individual has made to the law enforcement community and the First Congressional District. Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending Chief Smith for his lifetime of service and dedication to the people of Northwest Indiana and the citizens of the United States. He worked hard to make the Town of Porter a safer place in which to live and work. I sincerely wish him a long, happy, healthy, and productive retirement.

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## TRIBUTE TO CAS CARES, INC.

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CRAMER. Mr. Speaker, I rise today to honor a company headquartered in my hometown of Huntsville, Alabama which is presenting a $20,000 check to Huntsville's Community Free Clinic to help the Clinic sustain its free prescription drug program. This donation is not only significant because of the help it will provide Huntsville residents who cannot afford prescription drugs, but it also marks the $1 million milestone for the company's charitable grants.

The employees of CAS and its leaders, Bill Stender and Fred Clark, are to be commended, Mr. Speaker, for this great accomplishment. In 1991, the CAS employees and management organized a non-profit entity called CAS Cares, Inc. in order to promote volunteer activities and provide funding to local charities in our North Alabama community as well as the Texas and Virginia communities that are home to CAS branch offices.

In the Huntsville community alone, CAS Cares has given grants to over 60 charitable agencies in the past twelve years. Over 85% of all CAS, Inc. employees donate to the CAS Cares program. In February, a committee of CAS employees reviewed the grant applications for 2003, which will result in over $130,000 in assistance for charities this year alone.

Mr. Speaker, I believe CAS, Inc. serves as an example to businesses across the nation, and I am pleased that Huntsville is home to such an outstanding corporate citizen. I send my sincere congratulations to the management team and employees at CAS, Inc. for their $1 million milestone today that continues to make a difference in the lives of many North Alabama residents.

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## RECOGNIZING CAPTAIN ANDREW D. LA MONT, USMC, WHO WAS KILLED IN ACTION IN IRAQ 19 MAY 2003

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. THOMPSON of California. Mr. Speaker, it is with a heavy heart that I rise today to pay tribute to Captain Andrew D. La Mont, USMC, who was killed in action in Iraq, 19 May 2003. Captain La Mont, a 32-year-old resident of Humboldt County, California, answered his country's call and paid the ultimate price.

Captain La Mont served as a pilot with the Marine Medium Helicopter Squadron 364, Marine Air Group 39, 3rd Marine Aircraft Wing. His CH–46 Sea Knight helicopter was on a resupply mission in central Iraq when it crashed into the Shatt Al Hallah River. All four crewmembers perished, as well as a Marine Sgt. who drowned trying to rescue the crewmembers.

Captain La Mont was born at Andrews Air Force Base in Washington, DC, and moved to Humboldt County when he was 2 years old. He loved his country and chose to serve in the Marines Corps. He entered the Marines as an officer following graduation from San Diego State University, ROTC program. He served in Desert Storm and is a hero to his family and to the nation. He had a special influence on the life of his nephew, Sgt. Christopher La Mont, who is also serving in Iraq.

Captain La Mont is one of nine children born to Lt. Col. (Ret.) James and Mrs. Vivian La Mont. Lt. Col. James La Mont was a career officer in the United States Air Force.

Captain Andrew D. La Mont's tragic death reminds us that however just the cause, war brings tragedy to many families and that any casualty is one too many. He died serving the country he loved, with comrades he loved and with the love of his family in his heart. Our nation is humbled and grateful for his sacrifice.

Mr. Speaker, it is appropriate at this time that we recognize Captain Andrew D. La Mont, USMC, who gave his life in service to his country.

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## HART-DOLE-INOUYE FEDERAL CENTER

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SMITH of Michigan. Mr. Speaker, the newly renamed Hart-Dole-Inouye Federal Center has long been a Battle Creek landmark. Under many names, from the Sanitarium to Percy Jones, to the Federal Center to the Hart-Dole-Inouye Federal Center, it will continue as a historic site serving the community and the nation.

Ever since its opening as a nationally renowned health center started by John Harvey Kellogg, brother of cereal pioneer W.K. Kellogg, the Hart-Dole-Inouye Federal Center has proudly served the State of Michigan and the United States. Purchased by the U.S. Army in 1942 the Sanitarium became the Percy Jones Army Hospital. The hospital, specializing in neurosurgery and the fitting of artificial limbs, treated over 100,000 World War II and Korean war veterans. The many veterans served here include the late Senator Hart, Senator Bob Dole, and Senator INOUYE.

Today, the Hart-Dole-Inouye Federal Center provides vital support to our nation's war fighters as part of the Department of Defense. The Center serves as the premier facility for the cataloging of 6.5 million supply items needed by the U.S. military as well as the re-utilization and disposition of those items upon their federal obsolescence.

As a nation we can be rightly proud of the work done here by the highly trained and award-winning workforce who serve within these historic walls. I am honored to have such a facility in my district and look forward to another 100 years of history being made.

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## "CODE ADAM" CHILD SAFETY PROGRAM

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. PALLONE. Mr. Speaker, as the father of three young children, I know the feeling of horror that a parent can face when you are out shopping with your kids and you turn around, only to realize your child has disappeared. In most cases, you find them in a matter of moments. They could have been distracted and wandered off or even may have been hiding in the racks of clothing.

However, what if the unthinkable happens? What if they can't find them? What option does a parent have?

Code Adam is a special alert issued through a store's public address system when a customer reports a missing child. Code Adam, which was created by Wal-Mart, is a special alert issued through a store's public address system when a customer reports a missing child. A brief description of the child is obtained and provided to all designated employees who immediately stop their normal work to search for the child, and monitor all exits to help prevent the child from leaving the store. If the child is not found within 10 minutes of initiating a storewide search, or if the child is seen accompanied by someone other than a parent or guardian, store personnel contact the local police department and request assistance.

The Code Adam measure was established by Wal-Mart and Sam's Clubs and named in memory of six-year-old Adam Walsh, whose abduction from a Hollywood, Florida shopping mall and murder in 1981 brought the horror of child abduction to national attention. Since the program went nationwide in 1994, it has been a powerful preventative tool against child abductions and lost children in more than 40,000 stores and public buildings making it the largest child safety program in the nation.

Over the past year, child abduction has once again been brought to the forefront of public attention. It is critical that retailers and parents alike remain engaged and committed to protecting our children.

I am encouraged by new survey results released this week by the National Center for Missing and Exploited Children (NCMEC) and ADVO, Inc., which showed more parents are reviewing safety precautions with their children and have developed a plan of action with their children should they be abducted.

Parents are responding proactively to the increased media attention and are taking the necessary steps to help keep their children safe. It is my hope that the Code Adam resolution will encourage our nation's retailers to follow suit. There is no reason why every large retail store should not be implementing this program.

That is why today I am introducing a resolution that commends those retail and public establishments that have instituted the Code Adam program and encourages all retailers across the nation to do the same. Companies like Wal-Mart, KMART, Gap and Marshall's should be commended for implementing the program and training employees to follow the proven Code Adam formula.

Mr. Speaker, I urge my colleagues to join with me and cosponsor this resolution. I would also like to take this opportunity to recognize the original cosponsors: Representatives Lampson, Foley, Kaptur, Millender-McDonald, Brown of Florida, Acevedo-Vilá, Frost, Payne, Rothman, Schiff, Wilson of South Carolina, and Wexler.

One of society's greatest responsibilities is to protect our children. We owe it to our kids to do everything we can to ensure their safety.

## HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Mr. STUPAK. Mr. Speaker, I would like to state my support for H.R. 1904 The Healthy Forests Restoration Act. Unfortunately, due to matters in my district I was not able to participate in this vote.

As a co-sponsor of H.R. 1904 I support this legislation because of the relief it provides to combat the challenges facing our forest system today. From hazardous fuel reduction to insect and disease infestation research, this bill gives our forest managers and our private citizens the money and technical assistance they need to help bring our forests back to health.

I believe H.R. 1904 will work to help alleviate the fire hazards that currently plague our forests. Our nation's forest system is overwhelmed with excess brush and foliage which create dangerous conditions with the dry summer season just around the corner. This bill provides thinning programs for up to 20 million acres of at-risk federal lands near communities and their water supplies.

H.R. 1904 also provides money and technical assistance to stop the growing problem of insect and disease infestation. In Southeastern Michigan for example, Forest Service managers are battling the Emerald Ash Borer. This insect has decimated the population of ash trees located in a six county area. Luckily officials have responded quickly and we are in the process of containing that threat. H.R. 1904 will assist in our fight against invasive species like the Emerald Ash Borer and others around our country.

I am hopeful that the Senate will act quickly on this important legislation.

## PERSONAL EXPLANATION

### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, yesterday afternoon, May 21, 2003, I was not able to cast my vote on rollcall vote 204. That vote was on a motion to suspend the rules and pass H.R. 1911, to amend title 38, United States Code, to enhance cooperation and the sharing of resources between the Department of Veterans Affairs and the Department of Defense. Had I been present for the vote, I would have voted "aye."

## VETERANS' MEMORIAL PRESERVATION AND RECOGNITION ACT OF 2003

SPEECH OF

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Mrs. LOWEY. Mr. Speaker, I rise in support of S. 330, the Veterans' Memorial Preservation and Recognition Act of 2003. This bill incorporates many provisions of the Veterans' Memorials Protection Act, which I first introduced in the 104th Congress, and have fought to pass ever since.

Recently a memorial dedicated to the memory of soldiers killed in World War I was desecrated in Rockland County, New York, an area which I am proud to represent. Soldiers who made the ultimate sacrifice have no ability to defend their honor against senseless desecration, so we must do it for them. That is why I am so pleased that this measure is before the House today for our consideration.

Recognition of our veterans is an integral part of our national heritage. While veterans may not have created our democracy, they have continuously defended it and renewed America's promise through their efforts. While our memorials and monuments to veterans may not be as imposing as the Lincoln Memorial or the Washington Monument, the dedication and protection we provide them should be no less zealous.

We live in a greater and safer nation because of the dedication and bravery of our veterans. We are indebted to our veterans, because we know that freedom is not free, and it is our veterans who have paid a severe price for the freedom we enjoy. The memorials created in this honor deserve the greatest protection we can afford them.

Protecting the memory of their sacrifice is one manner in which we can repay our veterans. It is both fitting and proper that we should pass this legislation before the Congress recesses for Memorial Day. As a new generation of veterans return from the Persian Gulf, I am hopeful that this is a first step in Congress toward fulfilling our promises and obligations to these heroes. Mr. Speaker, I am very pleased that these protections will soon be passed by the House, so that this grateful nation can further preserve the memory of those who preserved our nation.

## PUBLIC EMPLOYER'S RESTITUTION ACT

### HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BUYER. Mr. Speaker, as Representatives in the United States Congress, we are tasked with finding solutions to problems that face our constituents. Sometimes these problems take a series of phone calls to the appropriate agencies for action; sometimes the solution is more complicated and requires legislative action. This is one such problem.

Earlier this year, I learned that the town of Clermont, Indiana had been a victim of embezzlement. The former treasurer of the town embezzled over seventy thousand dollars. A small amount when this body deals in billions of dollars, but I assure you Mr. Speaker it is a significant sum of money to Clermont.

The town's treasurer was subsequently prosecuted, found guilty and charged with financial restitution to the Town in the amount of over fifty-one thousand dollars. As of the end of 2002, the Town received only five hundred and ten dollars in restitution.

The former employee has a private pension as his only source of income. He has no incentive to find work, as any wages would be garnished. Under ERISA, civil judgment for restitution cannot be attached to the pension. So, Clermont loses out on fifty thousand dollars and the guilty avoids complying with the judgment.

The legislation I am offering, the "Public Employer's Restitution Act of 2003" is a narrowly tailored bill that would allow States and local governments to obtain restitution for the embezzlement of State and local funds.

Mr. Speaker, while we cannot make Clermont whole again, this legislation will prevent other small towns and communities across the countries from being a victim of a circumvention of the law.

## TRIBUTE TO CHARLES R. BRANSON, RECIPIENT OF THE SHEPHERD COLLEGE PRESIDENT'S AWARD FOR A LIFETIME OF COMMUNITY SERVICE

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. TOWNS. Mr Speaker, today I rise to pay tribute to Charles R. Branson, who on May 6th was the recipient of the 2003 Shepherd College President's Award for a Lifetime of Community Service.

Mr. Branson attended Shadyside Elementary School in Shepherdstown's West End. In 1937, he took the state proficiency exam for 8th graders (he was in the 7th grade at the time), passed with the highest score and was named the valedictorian of his class despite having started elementary school two years later than his peers because of an injury to his legs.

The only black high school in Jefferson County was at Storer College in Harpers Ferry, W.Va. Mr. Branson enrolled at Storer, and his family struggled to pay the $16 a month board. His mother's untimely death, when Mr. Branson was a junior, put a financial strain on the family and he could no longer afford to stay on campus. He got a job at a tourist home that paid $2 a month and provided him lodging in the basement furnace room, which was permeated with coal dust.

Despite these unpleasant conditions, he had the determination to continue his education. Mr. Branson graduated from Storer College's High School program in 1941 and returned to Shepherdstown. The quest for a job took him to New York City and Connecticut but he eventually returned to Shepherdstown where he briefly worked at Shepherd College.

In 1942, he married Ruby Washington and shortly thereafter was inducted into the U.S. Army and stationed at Fort Hood, Texas. He was an assistant gunner in the 827th Tank Destroyer Battalion, Company C, Third Platoon. After training in North Africa, Mr. Branson was sent to Europe. He landed in Marseilles. He and his battalion took part in the invasion and liberation of Southern France. Within the next few days, they moved north towards the battle front. Despite waist deep snow, they finally reached Strasbourg and headed toward Luxembourg. From December to January he fought in the Battle of the Bulge, the last great effort of the Nazi war machine to avoid defeat. After a month of fighting on the ground, the air support arrived and the tide began to turn in favor of the allied forces.

After fighting in the European theater for several months, Mr. Branson found himself on a ship headed for the Pacific theater to join that fight. However, while on route, to Japan, a voice on the ship's loudspeaker announced the end of the war. The ship returned to the United States. Mr. Branson was honorably discharged from the Army on October 3, 1945.

Upon returning to Shepherdstown, he and his wife purchased the home in which they still live. After working for a year in local orchards and at the local Army hospital, he was persuaded by his wife to attend college. He graduated from Storer College with a bachelor's degree. He served as a teacher and football coach in the Luray, Virginia public schools until 1956, when he returned to Shepherdstown once again. He worked in the patient relations department of the local Veterans' Hospital until his retirement in 1985.

In addition to working and raising a family, Mr. Branson served on the Shepherdstown Town Council from 1974 to 2002. During his tenure on the council, he spearheaded the cleaning of Back Alley and the paving of streets in the predominantly African American East and West End communities within the town. He insured that the interests of the African American community were not forgotten in the deliberations and the decisions of the council and fought to preserve the small-town environment of Shepherdstown while assuring that all members of the community had access to basic services. Mr. Branson is a member of St. John the Baptist Church and is chairperson emeritus of St. John's Deacon Board.

Mr. Branson was given the President's Award in recognition of his service to the community. I want to recognize him because of the odds he overcame and his determination to make a difference for ordinary people.

## INTRODUCTION OF THE READY TO TEACH ACT OF 2003

### HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. McKEON. Mr. Speaker, I rise in support of the Ready to Teach Act, a bill I am cosponsoring along with Mr. GINGREY, to help improve the quality of our nation's teacher preparation programs.

There is widespread awareness that the subject matter knowledge and teaching skills of teachers play a central role in the success of elementary and secondary education reform. More than half of the 2.2 million teachers that America's schools will need to hire over the next 10 years will be first-time teachers, and they will need to be well-prepared for the challenges of today's classrooms. For these reasons, the nation's attention has increasingly focused on the role that institutions of higher education and States play in ensuring that new teachers have the content knowledge and teaching skills they need to ensure that all students are held to higher standards.

Accordingly, the Ready to Teach Act authorizes three types of teacher training grants that each play a unique, yet critical role in the education of tomorrow's teachers. State grant funds must be used to reform teacher preparation requirements and ensure that current and future teachers are highly qualified. Partnership grants allow effective partners to join together, combining strengths and resources to train highly qualified teachers and achieve success where it matters most—in the classroom. Teacher recruitment grants will help bring high quality individuals into teacher programs, and ultimately put more highly qualified teachers into classrooms. This legislation addresses key objectives to improve the quality of teacher preparation:

1. Accountability: While current higher education law contains some annual reporting requirements, these reporting measures have proven ineffective in measuring the true quality of teacher preparation programs. In fact, the current requirements have often been manipulated, leaving data skewed and often irrelevant. The Ready to Teach Act includes accountability provisions that will strengthen reporting measures and hold teacher preparation programs accountable for providing accurate and useful information.

2. Flexibility: The Ready to Teach Act recognizes that flexibility should exist in methods used for training highly qualified teachers, and for that reason, would allow funds to be used for innovative methods in teacher preparation programs, such as charter colleges of education, which can provide an alternative gateway for teachers to become highly qualified. Pioneering programs such as charter colleges of education would also implement systems to gauge a true measure of teacher effectiveness—the academic achievement of students.

3. Effectiveness: In addition to strengthening accountability measures, the Ready to Teach Act increases the effectiveness and quality in teacher training programs by including provisions to focus training on the skills and knowledge needed to prepare highly qualified teachers. The bill places a renewed emphasis on a broad range of skills required for effective teaching, such as the use of advanced technology in the classroom, rigorous academic content knowledge, scientifically based research, and challenging state student academic content standards.

Institutions of higher education have a great deal of responsibility in contributing to the preparation of our nation's teachers—this bill will make sure they're meeting their responsibilities. I commend Congressman GINGREY for introducing the Ready to Teach Act, I believe this bill will help to ensure that the best and the brightest teachers are teaching our children.

## INTRODUCTION OF THE READY TO TEACH ACT OF 2003

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BOEHNER. Mr. Speaker, I rise in support of the Ready to Teach Act of 2003, introduced today by Representative GINGREY. The Ready to Teach Act is the first, in what will be a series of bills, the Committee on Education and the Workforce will consider in our continuing efforts to reauthorize the Higher Education Act.

The No Child Left Behind Act calls for a highly qualified teacher in every classroom by the end of the 2005–2006 school year, lending new urgency to the reauthorization of the Higher Education Act as we seek to ensure that teacher colleges are producing highly qualified graduates. Provisions in the Ready to Teach Act complement the No Child Left Behind Act and will help to improve the quality and accountability of teacher preparation programs to ensure that highly qualified teachers are teaching our children.

As we work to place highly qualified teachers in classrooms across the nation, I am particularly pleased that this legislation allows for innovative programs that provide alternative options to the traditional teacher training programs. Proposals outlined in the bill, such as charter colleges of education, provide a much-needed alternate route to training highly qualified and effective teachers. This bill takes the important step of recognizing that individuals seeking to enter the teaching profession often have varied backgrounds—and by creating flexible approaches that step outside the box, these individuals can become highly qualified teachers through training programs as unique as their individual experiences.

The key to producing highly qualified teachers is not the path by which they travel, but the destination they reach. Teachers trained through innovative options, or certified through alternate means, will still be held to the same standards of accountability and quality, but will not be constrained by artificial requirements that could place barriers between high quality individuals and the classrooms where they are desperately needed.

In addition to innovative options such as alternative training and certification options to prepare highly qualified teachers, the Ready to Teach Act makes several improvements to the programs responsible for training the teachers of tomorrow. The bill authorizes three types of grants, each with a specific and important role to play in the training of America's teachers.

State and partnership grants under the Act must be used to reform teacher preparation requirements, coordinate with teacher activities under Title II of the No Child Left Behind Act, and ensure that current and future teachers are highly qualified. Authorized grant activities will place a renewed emphasis on the skills needed to meet the highly qualified standard: the use of advanced technology in the classroom, rigorous academic content knowledge, scientifically based research, and challenging state student academic content standards. In particular, states are authorized to use grant funds for innovative methods for teacher preparation programs, such as charter colleges of education, that exchange flexibility in meeting state requirements for institutional commitments to produce results-based outcomes for teacher education graduates—measured based on increased student academic achievement.

The Ready to Teach Act authorizes partnership grants to enable effective partners to join together, combining strengths and resources to train highly qualified teachers and achieve success in the classroom. These partnerships will require faculty of participating teacher preparation programs to serve with a highly qualified teacher in the classroom, allowing effective in-class experience to ensure that highly qualified teachers are truly prepared to teach.

Teacher recruitment grants under the Act will help bring high quality individuals into teacher preparation programs and gives a funding priority for applicants that will emphasize measures to recruit minorities into the teaching profession, providing a teaching workforce that is both highly qualified and diverse.

The Ready to Teach Act will also hold teacher preparation programs accountable for preparing highly qualified teachers. While current higher education law contains annual reporting requirements, these reporting measures have proven ineffective in measuring the true quality of teacher preparation programs. In fact, the current requirements have often been manipulated, leaving data skewed and often irrelevant. The Ready to Teach Act includes accountability provisions that will strengthen reporting measures and hold teacher preparation programs accountable for providing accurate and useful information.

This bill makes needed reforms to improve the quality and accountability of our nation's teacher preparation programs. I would like to commend Mr. GINGREY for his work on the Ready to Teach Act. I would also like to thank Mr. MCKEON, Chairman of the Subcommittee on 21st Century Competitiveness, for his continuing efforts to improve all aspects of our country's higher education system. I look forward to working with my colleagues on both sides of the aisle and believe that this legislation will enjoy broad support in the Congress.

## INTRODUCTION OF THE READY TO TEACH ACT OF 2003

### HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. GINGREY. Mr. Speaker, today I am introducing the Ready to Teach Act of 2003 to reauthorize teacher quality provisions under Title II of the Higher Education Act through fiscal year 2008. The first in what will be a series of bills to reauthorize the Higher Education Act, the Ready to Teach Act seeks to meet the call of the No Child Left Behind Act to place a highly qualified teacher in every classroom by making improvements that will help ensure teacher training programs are producing well-prepared teachers to meet the needs of America's students.

The caliber of teacher education programs at institutions of higher education has come under increased scrutiny over the past several years. Among other things, teacher preparation programs have been criticized for providing prospective teachers with inadequate time to learn subject matter; for teaching a superficial curriculum; and for being unduly fragmented, with courses not linked to practice teaching and with education faculty isolated from their arts and sciences faculty colleagues.

Accordingly, the Ready to Teach Act authorizes competitively awarded grants to: (1) increase student academic achievement; (2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities; (3) hold institutions of higher education accountable for preparing highly qualified teachers; (4) and recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching force. As in current law, funds for these grants will be distributed in the following manner: 45 percent of the funds are reserved for State grants; 45 percent of the funds are reserved for partnership grants; and 10 percent of the funds are reserved for teacher recruitment grants.

State grants under the Act must be used to reform teacher preparation requirements, coordinate with teacher activities under Title II of the No Child Left Behind Act, and ensure that current and future teachers are highly qualified. Programs administered through state grants would focus on effective teacher preparation, placing a renewed emphasis on the skills needed to meet the highly qualified standard: the use of advanced technology in the classroom, rigorous academic content knowledge, scientifically based research, and challenging state student academic content standards.

In addition, states are authorized to use grant funds for innovative methods for teacher preparation programs, such as charter colleges of education, which can provide an alternative gateway for teachers to become highly qualified. Teacher advancement and retention initiatives will also be created, such as merit-based performance systems and professional growth opportunities. These activities will help ensure that schools are able to recruit highly qualified teachers while having the necessary flexibility to remove incompetent or unqualified teachers.

The Ready to Teach Act authorizes partnership grants so educational entities can combine expertise and resources to improve teacher training. Each eligible partnership must include at least: (1) a high quality teacher preparation program at an institution of higher education; (2) a school of arts and sciences; (3) a high need LEA; and (4) a public or private educational organization. Among other things, partnership activities will help to ensure that teachers are able to use advanced technology effectively in the classroom, address the needs of students with different learning styles (particularly students with disabilities), and receive training in methods of improving student behavior in the classroom.

Teacher recruitment grants under the Ready to Teach Act will help bring high quality individuals into teacher programs, and ultimately put more highly qualified teachers into classrooms. The Ready to Teach Act recognizes the need to ensure that high need local educational agencies are able to effectively recruit highly qualified teachers, and will help answer that need by increasing the number of teachers being trained. Additionally, this legislation places a priority on applicants that will emphasize measures to recruit minorities into the teaching profession.

Current law provisions in Title II of the Higher Education Act include annual reporting requirements to hold states and teacher preparation programs accountable for producing a competent teaching force. The Ready to Teach Act strengthens these reporting requirements to ensure complete and effective information is available to determine the effectiveness of teacher preparation programs. Under this legislation:

States must report annually to the Secretary of Education on the percentage of students passing state certification or licensure and rank the quality of all teacher preparation programs in the state.

The Secretary of Education must analyze teacher qualifications and preparation in the United States, providing: a comparison of states' efforts to improve teaching quality; and the national mean and median scores on any standardized test that is used in 1 or more state for teacher certification or licensure.

Institutions of higher education with teacher preparation programs must report on the number of students passing state certification requirements, with improved reporting requirements that will prevent "gaming" of data that leave results without meaning. Additionally, institutions must compare both pass rates and average scores of their program participants with those of other programs in the state, making effective comparison data available to measure program quality.

The Ready to Teach Act of 2003 will improve the quality and accountability of our nation's teacher preparation programs. I ask my colleagues to support this legislation and look forward to working with the distinguished Chairman of the Subcommittee on 21st Century Competitiveness, Mr. McKEON, and the Ranking Member of the Subcommittee, Mr. KILDEE, to move this bill so we can ensure our children are receiving a world class education.

## INTRODUCTION OF THE HISPANIC HEALTH IMPROVEMENT ACT

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. SOLIS. Mr. Speaker, I rise today to join my colleague, Congressman CIRO RODRIGUEZ, in introducing the Hispanic Health Improvement Act of 2003.

Every 24 hours in this country, over 2,700 people are diagnosed with diabetes, just one of the multitude of diseases and illnesses plaguing our Nation. And of these 2,700 daily new cases of diabetes, minority groups like Latinos are disproportionately affected.

But diabetes is not the only illness that burdens Hispanic communities more than non-Hispanic populations. Diseases like asthma, HIV/AIDS, cardiovascular disease, obesity and cancer consistently plague Latino communities at rates that are simply unacceptable.

As many of you will recall, in 1999, Congress petitioned the Institute of Medicine to conduct a report to assess the extent of racial and ethnic disparities in health care and the resulting disease outcomes. We have been given our answers.

Some of the top research institutions in the country continually report that the health of Hispanics in the U.S. is deteriorating and must be addressed.

For example, 37 percent of non-elderly Latinos are uninsured—a rate twice that of non-Hispanic whites, and most come from working families. The incidence of AIDS among Hispanics is around 200 per 100,000, while it is only 60 per 100,000 among non-Latino whites. The list goes on and on.

Latinos are now 16 percent of the total population, so it is imperative that we address the increasing trends in poor Latino health. The need to act on behalf of our Latino communities is great, and today we are being presented with the opportunity to help.

The Hispanic Health Improvement Act is our chance to respond to the data and to commit to the health of our Latino communities across the U.S. This bill is a comprehensive measure focusing exclusively on improving the health among Latino populations. This bill expands the important State Children's Health Insurance Program, S–CHIP, to cover low-income pregnant women and parents, and it gives States the option to cover any individual below 100 percent of poverty under their Medicaid program. It provides for an enhanced 90 percent Federal matching rate to States through Medicaid and S–CHIP to provide language services—like oral interpretation, or translation of written materials—for individuals with limited English proficiency.

These services are extremely critical when one third of Latinos and over 40 percent of Spanish-speaking Latinos report having problems communicating with their health care provider.

The bill also addresses health disparities by establishing programs and grants to respond to diabetes, cancer, asthma, HIV infection, AIDS, obesity, oral health, mental health, and other illnesses. It also recognizes the need to strengthen the diversity in our health care work force by supporting Hispanic-serving health professional schools and training health providers in cultural competency.

As you can see, this legislation is the critical pivot point whereby we can reverse the sliding health of our Latino population.

In conclusion, I want to applaud the leadership of my good friend Congressman CIRO RODRIGUEZ in championing this bill for several years.

I am pleased to be part of this effort and I urge my colleagues to seize this opportunity to protect the future health of Latinos—and all Americans—by cosponsoring this bill.

## OBSERVER STATUS FOR TAIWAN

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BURGESS. Mr. Speaker, I rise today in recognition of the World Health Organization's 56th World Health Assembly in Geneva, Switzerland this week, and to voice my support of granting Taiwan observer status for WHO functions.

In her opening address to the Assembly, WHO Director General Dr. Gro Harlem Brundtland outlined the key lessons learned so far from the outbreak of Severe Acute Respiratory Syndrome (SARS) and called for expanded surveillance and rapid response to save lives and protect economies against new diseases in the future.

In February, the world was introduced to this dangerous new disease. It is believed that the current epidemic originated in China, rapidly spread to East and Southeast Asia, and then on to Europe, the United States, Canada, and the rest of the world in a manner that left many in the medical community searching for answers.

Global infection rates seemed to peak in mid-March, but the persistent nature of SARS continues to raise concern among both medical professionals and government officials.

The United States has been able to keep this disease at bay—but other members of the international community have had more difficulty dealing with the disease and some international organizations have hindered the sharing of information and resources, most notably with Taiwan.

The World Health Organization has reported over 7,800 cases of SARS worldwide in 33 countries, with more than 600 deaths. More than 7,000 of these cases have been reported in Asia. The people of Taiwan have been especially affected. They have recorded 344 cases of SARS and 40 deaths, but have no representation in the World Health Organization. The international community does not largely recognize theirs as a legitimate government, thus limiting the degree of help that is available to this tiny, democratic nation. If Taiwan was able to participate as an observer of WHO, additional resources could be brought to bear to address their domestic health crisis.

More needs to be done to contain this disease and a good first step would be to grant WHO observer status to Taiwan.

On June 17, 2003, WHO plans to hold an international conference in Kuala Lumpur, Malaysia to review the epidemiological, clinical management and laboratory findings on SARS and to discuss global control strategies. Key participants in the response to the current outbreaks and other public health authorities will be invited to attend the conference. But since Taiwan is not even granted observer status in WHO, it has not been invited to participate in this vital convention. This is especially troubling, since recent reports show that Taiwan is at the epicenter of this epidemic.

I hope my colleagues will join me in supporting the admittance of Taiwan's health minister to attend the WHO's conference on infectious diseases next month in Malaysia.

## TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

### HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Mr. BONILLA. Mr. Speaker, I would like to express the deep admiration I share with each member of the Texas Delegation for Representative LARRY COMBEST. It is with a heavy heart that I stand here today to send off my friend from West Texas. LARRY and his lovely wife Sharon have truly made a difference to his constituents, the state of Texas and the nation.

While serving as Chairman of the Committee on Agriculture, LARRY proved his true leadership during the deliberation of the 2002 Farm Bill. Through long, hard days and nights working tirelessly on the measure, LARRY never lost sight of the true reason for the bill. The farmers and ranchers of this nation owe LARRY a great debt of gratitude for his distinguished service. That being said, the true measure of LARRY COMBEST may not be his astute knowledge of agriculture and politics, but the balance he has kept between his public life and his private life. It is apparent to anyone who knows LARRY that his family has always been his top priority.

I commend LARRY for his great service, and wish him the best as he and Sharon embark together on their next adventure in life.

## TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Mr. PENCE. Mr. Speaker, when America's farmers and ranchers found themselves devoid of a proper safety net while facing record low prices, they found an advocate in LARRY COMBEST. As Chairman of the House Agriculture Committee, LARRY utilized his trademark discipline to develop a balanced farm bill, seeking the input of countless producers.

His efforts resulted in a flexible farm policy that will provide stability to American agriculture producers for years to come. LARRY'S leadership and strong voice will be sorely missed not only by his constituents in West Texas, but by all of rural America.

Further, Mr. Speaker, those of us who have had the pleasure of working with LARRY hold him in the highest regard not only as the visionary behind American farm policy, but also as a friend.

LARRY and his lovely wife Sharon were among the first people to welcome my wife and me to Washington when I arrived for the 107th Congress. They extended neighborly compassion and sound guidance, the very things you'd expect from a West Texas couple. Karen and I are truly grateful for their friendship.

Mr. Speaker, I wish LARRY COMBEST the best in his coming retirement.

## THE FEDERAL COMMUNICATIONS COMMISSION'S REVISION OF MEDIA OWNERSHIP RULES

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. ISRAEL. Mr. Speaker, I rise today to support H. Res. 218, a resolution that expresses the sense of the House of Representatives that the Federal Communications Commission (FCC) should not revise its media ownership rules without more extensive review and without a public comment period. The FCC is scheduled to announce their decision on June 2, 2003.

I am proud to be a cosponsor of this important resolution because the proposed media ownership rules will undoubtedly be a drastic rewrite that would place huge limits on what Americans hear on the radio, watch on television or read in the newspaper. We should invite more review and public comment on the consequences of these changes before the rule is implemented.

Among other things, these proposed rules would permit a television corporation to own a radio station and a newspaper in the same market. They would also increase the number of stations a television company can own from two to three. These rules will result in increased mergers activity and ultimately, in many markets, Americans will get all aspects of their news and information from one company.

The legislated goals of the FCC include fostering competition, local control and an array of voices. But these proposed rules go against the FCC's own objectives by allowing a massive concentration of power and putting local stations out of business. These rules would create homogenized programming.

The United States prides itself on diversity and freedom of the press. My constituents have expressed concern at the thought of one media outlet controlling all of the news and information they receive about their government, their fellow citizens and their culture.

I am hopeful that by June 2, 2003, FCC Chairman Michael Powell will hear the voices of Americans and postpone implementation of his rule so that he can hold public discussions and conduct a more extensive review.

## TRIBUTE TO CHI CHI RODRIGUEZ

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. SERRANO. Mr. Speaker, I am pleased to pay tribute to Mr. Juan "Chi Chi" Rodriguez, one of the great showmen in sports history. In a career that spans four decades, Chi Chi has won eight times on the PGA Tour and now boasts twenty-two Senior Tour victories. His colorful performances still make him a gallery favorite, while his shotmaking skills have earned him the respect of his peers.

Chi Chi was born in 1935 in Rio Piedras, Puerto Rico, and he grew up in the hot, dusty sugar cane fields of Rio Piedras, where he helped his father tend the fields. He began caddying at the age of six and actually learned how to play golf with clubs fashioned out of Guava tree limbs and tin cans hammered into balls. At the age of 12, he shot a 67. He became known for his hand-eye coordination and imagination, skills that for more than forty years have helped him overcome all types of obstacles. But Chi Chi's talents extend beyond what he is able to do with a golf ball. From his matador routine to his good-natured impersonations of fellow competitors, Chi Chi is an entertainer at heart.

Mr. Speaker, what truly separates Chi Chi from his peers is that he has coupled his success on the golf course with a strong personal desire to make a positive impact. This has manifested itself in the countless hours he spends at the Chi Chi Rodriguez Youth Foundation in Clearwater, Florida. This foundation serves as a safe haven for troubled and abused youngsters. Chi Chi's philosophy is simple; he wants kids to have a chance. Based on love and respect, the program builds confidence, instills discipline and provides positive educational experiences.

Clearly, Chi Chi Rodriguez is a champion golfer, but he is a greater champion in the lives of youths and the Hispanic community.

I ask my colleagues to join me in honoring Chi Chi Rodriguez for his illustrious and distinguished career and for his extraordinary contributions to the Hispanic community and to young people in the United States.

## CONGRATULATORY REMARKS TO THE WINNERS OF THE "WHAT MAKES AMERICA GREAT" ESSAY CONTEST

### HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BAKER. Mr. Speaker, I rise today to congratulate four outstanding students from the 6th district of Louisiana who won an essay contest titled "What Makes America Great."

As you know, Mr. Speaker, following the terrorism of September 11, when Americans were attacked for who we are, and at a time when young Americans are defending our freedoms on foreign soil, it is important to recall what America is all about and what we stand for. In an effort to remind us all of the greatness of our country, I turned to high school students in my district to draft essays and poetry that expresses their feelings of "What Makes America Great." I would now like to read the winning submissions to the members of Congress.

The honorable mention of the essay contest is Alexander Edelen who attends Bishop Sullivan High School in Baton Rouge and is in the 10th grade. Alexander writes:

> What makes America great? The great diversity of cultures, religions, and people make the United States a unique melting pot. This diversity brings different voices with different views to the government, allowing the United States to prosper. There were many cultures that came to America, including the French, English, African and Spanish. Each culture brought its technology, religion, and livelihood to America. The blending of these cultures made the United States evolve into the America seen today. America also has many religious denominations, such as Native Indian religions, and the Roman Catholic and Protestant Christian denominations. These varied beliefs give the United States a unique background for viewing the world from different perspectives. America's many cultures and religions have influenced the development of the United States, but it was the amazing cooperation of the people that held the United States together through good and bad times. The bravery, strength, wisdom, and willpower of the people have made life better for the United States and for the rest of the world. It was the people who chose this republican form of government, the people who saved the Union, the people who saved the world during the World Wars, and the people who now wish to see the end of terrorism. Is the United States a great place in which to live? Yes. In the United States of America, citizens and legal aliens are free to be diverse; it is this diversity that makes America a strong and proud nation.

Our third place winner from Denham Springs High School is Steven Sikes. Steven writes:

> What makes America great is not its military might or the strength of its industry or even some kind of technological superiority. It is something less tangible but at the same time much more powerful that makes America great. It is the unconquerable spirit of its inhabitants that makes this country so special. The nature of this American spirit is demonstrated in revolutionary war slogans such as, "Give me liberty or give me death!" It is the belief that the personal freedoms of the individual are more important than anything else and should be fought for no matter what the cost. It is embodied in the nature of our government, which is unique in that it exists only as a tool for achieving the will of the American people and not for its own sake. Finally, the true nature of the American spirit is most evident in the courage and strength of the ordinary American citizen. The powerful and enduring American spirit is what makes this nation so incredible. Without it America would not be what it is today. It is what has enabled America to withstand all of the trials it has faced so far, and it is what will guide our country into a prosperous future.

Mallory Braud of East Ascension High School placed second with her poem America the Great:

Greatness comes in many forms
Not just brains and brawn
Like now in this time of war
We keep on, keeping on

United our nation stands
Always proud and true
We show our heroic pride
Through the red, white, and blue

Our strength is in our numbers
We stand together now
A band of faithful brothers
Our freedom shows us how

We live in peaceful harmony
Unless we choose to fight
We welcome all these strangers
To try to do what's right

We are too united to fail
And too determined to fall
We lend our helping hands
So our nation may stand tall

The people who all live here
By chance, choice, or fate
All come together to form
America the Great.

Colleen Wesley wrote our first place essay and she attends Denham Springs High School. Colleen writes:

> What makes America great? Is it the stock market or the government? Is it the culture or the food on our plates? Many people have different views on what makes America great, but to me, freedom is the only answer. Without freedom, we would not be able to choose our religion. Without freedom, we would not be able to state our opinions. Without freedom, we would not be able to express the many talents God has given us. As Americans, we have laws protecting us against religious persecution. We are free to worship as we choose. We are also free to choose to not worship. We are able to criticize our government without being thrown in jail and we are able to decide our future career. There are many things that make America great, but freedom is most important to me. I stand strong saying, "I'm proud to be an American!"

I ask my colleagues to join me in honoring the students who participated in the "What Makes America Great" essay contest, and also in offering a special word of congratulations to our four finalists.

## BIRTH OF SANTIAGO ROYBAL OLIVAREZ

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today for the best and most notable announcement a Member of Congress can ever make about a constituent: my grandson, Santiago Roybal Olivarez was born on Friday, May 16, 2003.

Santiago is blessed to have a full contingent of doting family members ready to spoil him as soon as circumstances allow. My husband, Ed Allard, and I constitute one pair of loving grandparents. We are joined in our admiration of little Santiago by his maternal grandmother, Josefita Prietto. Santiago's great-grandparents—my father, former Representative Edward Roybal, and my mother, Lucille Beserra Roybal—and all his aunts and uncles, help complete the circle of Santiago's extensive admiration society.

Better yet, Santiago has an admiring big brother in 1-year-old Diego. Diego has undergone major health problems since his own birth, causing real worries for his parents, Ricardo and Rory Olivarez. I hope very few parents will ever know the anxiety that Ricardo and Rory have experienced as the parents of a child inexplicably and unexpectedly born with an undiagnosed birth defect as they went forward faithfully with a second pregnancy. So everyone in the Roybal family, as well as Ricardo's and Rory's many friends who understand what they have gone through during the past 18 months, now share their joy that 7 pound, 6 ounce Santiago is healthy and happy.

Last Friday, I was fortunate to be with Rory and Ricardo on the wonderful day of Santiago's birth, and I intend to exercise my prerogatives as grandmother, to be first in line for babysitting duty for newborn Santiago and big brother Diego.

Speaking on behalf of baby Santiago, I know that he is well prepared, along with big brother Diego, to provide Ricardo and Rory many joyous days and sleepless nights in the weeks and months to come. I know my colleagues join me in wishing the Olivarez family the very best in the years ahead.

## ASIAN PACIFIC AMERICAN HERITAGE MONTH

SPEECH OF

### HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Ms. MILLENDER-McDONALD. Mr. Speaker, it is with great pleasure that I rise today to express my support for Asian Pacific American Heritage Month. Made possible through an act of the United States Congress in 1978, Asian Pacific American Heritage Week was then expanded into a month long celebration in 1992. The month of May was appropriately chosen to commemorate the arrival of the first Japanese immigrants to the United States and the completion of the transcontinental railroad. As we celebrate the 25th year, this May is an excellent opportunity for all Americans to celebrate, honor and reflect on the many accomplishments and contributions of the Asian Pacific American community.

From the transcontinental railroad to the halls of Congress, Asian Pacific Americans have played a major role in the development of our nation with an increasing presence in the Federal government. I would like to acknowledge the many accomplished leaders of Asian descent currently serving our country. In the President's Cabinet alone, we have two prominent leaders, Secretary of Labor Elaine Chao and Secretary of Transportation Norman Mineta, the first Asian Pacific American to serve in the President's Cabinet. Congressman BOB MATSUI, Chair of the Democratic Congressional Campaign Committee, is the first Asian Pacific American to serve in the House Democratic leadership. Washington Governor Gary Locke, Chair of the Democratic Governors Association, is the first Asian Pacific American to deliver the Democratic response to the President's State of the Union Address.

And of course, one cannot have a discussion about leadership within the Asian Pacific American community without reflecting on the career and accomplishments of my dear friend, the late Congresswoman PATSY MINK.

We must continue on in this tradition by encouraging more Asian Pacific Americans to forge ahead in non-traditional sectors as my friend PATSY MINK did. PATSY was a true trailblazer. She was the first Asian Pacific American woman to practice law in Hawaii and the first woman of color elected to Congress. The APA community has come far from its humble beginnings, but there is still much work we need to do.

While APAs as a whole have flourished in the United States, there are still challenges facing certain segments of the community. Recent immigrants and refugees are still working to achieve the American dream. My district is home to Southeast Asian and Pacific Islander populations whose challenges include post-war stress and inadequate job skills. I urge my colleagues not to forget those who are struggling to overcome language and cultural barriers, as well as discrimination.

Mr. Speaker, I am proud to introduce legislation that will ensure the Asian Pacific American community continues to thrive. In the 108th Congress, I have introduced the following bills:

H.R. 1984, the Filipino Veterans Fairness Act, provides veteran benefits to the Filipino veterans who fought side by side with American soldiers during World War II. In addition to providing desperately needed health care to veterans, this bill calls for home loan assistance for U.S. based Filipino veterans, educational assistance for U.S. and Philippine based dependents, vocational rehabilitation, and employment services, job counseling, training, and placement services for U.S. based veterans.

H.R. 1486 urges the Secretary of Education to commission a study to examine ways to increase the graduation rate for Native American and Native Hawaiian secondary school students, as well as for students residing in American Samoa, the Northern Mariana Islands, and Guam.

H.R. 1983, the Amerasian Justice Act, will amend the Immigration and Nationality Act to facilitate the immigration to the United States of children born in the Philippines or Japan who were fathered by United States citizens. There are now more than 50,000 Amerasian children in the Philippines and 6,000 Amerasian children in Japan burdened by social stigma and psychological stress which affect viable opportunities for employment, education or family life.

H. Con. Res. 83 honors the victims of the Cambodian genocide that took place between 1975 and 1979, and pays tribute to the survivors who made their way to the United States. It also expresses the sense of Congress's commitment to pursue justice for the victims.

Mr. Speaker, I am proud to represent a district that reflects America's greatest strength—our rich cultural diversity. As we commemorate May as Asian Pacific American Heritage Month, we must celebrate the culture, traditions and achievements of Asian Pacific Americans, but we must also reflect on how to meet the challenges that will face the community in years to come.

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## HONORING JOHN MILBURN

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. PORTER. Mr. Speaker, I rise today to honor my friend and constituent, John Milburn, his retirement from the Meadows School in Las Vegas.

John was born in Waga Wag, Australia. He moved to the United States in 1961 to attend the University of Oregon. John was the first Australian to be recruited for a college basketball team. John became a United States Citizen in 1990.

After completing his undergraduate work and a Masters in Education at the University of Oregon, he moved to Nevada and became at teacher at Boulder City High School. He spent 30 years at Boulder City High, teaching Physics, Chemistry, AP Physics, and AP Chemistry.

He coached the boys basketball team for 28 years at Boulder City High School, and led them to 8 State Championships. John was honored this year by being inducted in the Boulder City Coaches Hall of Fame.

John left Boulder City High School to become a teacher at the Meadows School in Las Vegas. He is now retiring after having spent 10 years at the Meadows school teaching AP Physics and coaching the girls basketball team.

John Milburn is a wonderful teacher, athlete, and citizen. I am honored to join his wife Christine, his students at Meadows and Boulder City High School, and all Nevadans in congratulating him on his exceptional career.

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## HONORING OUR FALLEN HEROES ON MEMORIAL DAY

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, on Memorial Day, we will somberly celebrate the lives of a new generation of fallen heroes and honor American soldiers who paid the ultimate price in battle. We can only offer our gratitude as a small measure of comfort to the families of the young American men and women who will not be returning home from Afghanistan or Iraq.

Like those Americans before them, these brave men and women heeded our Nation's call to duty and followed their Commander-in-Chief's orders to go to battle, willingly and dutifully. They sacrificed their lives in wars and conflicts that their comrades are still fighting today.

As we pay tribute to the lost soldiers, we hope for the safe return of the men and women still on the battlefield, overseas and in hostile territory. To serve their country, they left behind families and loved ones, jobs and communities. But like millions of American soldiers through the years, they will be back on U.S. soil soon enough.

It is our duty to live up to the promises that we made to each and every one of those soldiers and to every veteran who served his or her nation. Unfortunately, the painful truth is veterans' critical needs are being ignored each day. It is shameful that 200,000 veterans must wait 6 months or more for their first appointment at a VA medical facility. It is disgraceful that the current Republican budget calls for cutting veterans' health care by $6.2 billion over the next ten years. It is unpatriotic to burden our retired soldiers and their families with extra costs for prescription drugs and doctor visits.

Is this what our soldiers have to look forward to? A litany of broken promises? Congress and the President must keep their promises to the nation's veterans and make adequate investments in veterans' health care. Because of President Bush's budget priorities and tax breaks for millionaires, veterans will continue to suffer the consequences. Democrats have offered a plan to roll back health care cost increases imposed by the Bush Administration and the Republican Congress, expand health care access for veterans and educational opportunities for reservists, and provide cash bonuses to soldiers serving in Iraq and Afghanistan. In addition, families of those killed on active duty would receive higher benefits under the Democratic proposal.

Our brave men and women have met all kinds of threats and have defeated unspeakable dangers, but they must not be forced to fight for what is rightfully theirs here at home. Our veterans may be gone from the military, but they must not be forgotten.

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## RURAL AFRICA AND THE KYOTO PROTOCOL

### HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. POMBO. Mr. Speaker, as someone who has visited rural Africa, I was fascinated by the testimony of Dr. John Christy at a recent hearing I chaired on the Kyoto Protocol. Dr. Christy, who is the Alabama State Climatologist, worked as a missionary to Kenya in the 1970's. He observed the great hardships faced by rural men and women living in villages without electricity.

Dr. Christy noted that, "With only three to five acres on the family shamba, every square inch was utilized for food production and living space, so the search for fuel was a daily chore for the women and young girls. I would see them daily set out to the edge of the nearest forest, usually several miles away, to cut down wet, green trees, chop the branches into suitable lengths, tie them into 80 pound bundles and load them on their backs for the trek home. Many of these women were either pregnant or carrying babies in blankets tied in front of them."

He further observed, "The typical home was a mud-walled, thatched-roof structure. Smoke from the cooking fire fueled by undried wood was especially irritating to breathe as one entered the home. The fine particles and toxic emissions from these in-house, open fires assured serious lung and eye diseases for a lifetime."

Dr. Christy concludes by stating, "Providing energy from sources other than biomass (wood and dung), such as coal-produced electricity, would bring longer and better lives to the people of the developing world and greater opportunity for the preservation of their natural ecosystems. Let me assure you, notwithstanding the views of extreme environmentalists, that Africans do indeed want a higher standard of living. They want to live longer and healthier with less burden bearing and with more opportunities to advance. New sources of affordable, accessible energy would set them down the road of achieving such aspirations."

The Kyoto Protocol and other efforts to reduce carbon dioxide emissions have potential to substantially increase human pain and suffering in undeveloped countries while doing very little to stop the destruction of forests. I encourage climate policy makers from wealthy counties to carefully read the following letter from Dr. Christy and avoid the unintended consequences that cause pain and suffering to rural people in developing countries.

THE UNIVERSITY OF ALABAMA,
*Huntsville, AL, May 22, 2003.*

Hon. RICHARD POMBO,
*Chairman, House Committee on Resources, Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN POMBO: It was a pleasure participating in your 13 May 2003 hearing regarding the Kyoto Protocol. As you requested, I am happy to provide this letter to clarify and expand on your question during the hearing about how my experiences working and living in Africa affect my insights into the issue of global warming.

After graduating from college in 1973 I applied for service as a missionary to Kenya. I was appointed to a position as "Science Master" at the Baptist High School in Nyeri, meaning I taught the physics and chemistry courses to African students from mostly rural areas. Baptist High was a boarding school, so many of our students came from homes several miles away. On weekends I would travel to the surrounding small villages to meet the students' families and speak in their churches. Nyeri was a small, upcountry town about 90 miles north of Nairobi. Most of the people in this area lived on small "shambas", 3 to 5 acre farms on which maize and other foods were grown. At 6000+ feet elevation, some days and most nights were quite cool, requiring energy for warmth as well as cooking and light. There was no electricity in these rural homes.

With only 3 to 5 acres on the family shamba, every square inch was utilized for food production and living space, so the search for fuel was a daily chore for the women and young girls. I would see them daily set out to the edge of the nearest forest, usually several miles away, to cut down wet, green trees, chop the branches into suitable lengths, tie them into 80 pound bundles and load them on their backs for the trek home. Many of these women were either pregnant or carrying small babies in blankets tied in front of them. They would bend forward almost 90 degrees so as to balance the wood and maintain forward momentum without falling. Older women developed a characteristic sway-back from years of burden bearing as they hauled not only wood, but food to and from the markets and water from a creek to the home.

The typical home was a mud-walled, thatched-roof structure. Smoke from the cooking fire fueled by undried wood was especially irritating to breathe as one entered the home. The fine particles and toxic emissions from these in-house, open fires assured serious lung and eye diseases for a lifetime. And, keeping such fires fueled and burning required a major amount of time, preventing the people from engaging in other less environmentally damaging pursuits.

When the Arab Oil Embargo hit in October 1973, the price of fuel rose dramatically. Oil's scarcity caused petrol (gasoline) stations to close on weekends. What little advanced infrastructure already in place that depended on oil was rendered intermittent or ineffective. For example, taxi prices increased so that the typical African could not afford the desperately needed trip to the town hospital; rumors spread that driving with the headlights on wasted fuel, so night automobile accidents soared; electric power to the few essential institutions which needed it often failed. To people already living on the edge of existence, any perturbation in energy costs was enough to cause significant distress. The poorest people suffered the most with the rising energy costs as what little dependency they had was now out of reach.

I've always believed that establishing a series of coal-fired power plants in countries such as Kenya (with simple electrification to the villages) would be the best advancement for the African people and the African environment. An electric light bulb, a microwave oven and a small heater in each home would make a dramatic difference in the overall standard of living. No longer would a major portion of time be spent on gathering inefficient and toxic fuel. The serious health problems of hauling heavy loads and lung poisoning would be much reduced. Women would be freed to engage in activities of greater productivity and advancement. Light on demand would allow for more learning to take place and other activities to be completed. Electricity would also foster a more efficient transfer of important information from radio or television. And finally, the preservation of some of the most beautiful and diverse habitats on the planet would be possible if wood were eliminated as a source of energy.

Providing energy from sources other than biomass (wood and dung), such as coal-produced electricity, would bring longer and better lives to the people of the developing world and greater opportunity for the preservation of their natural ecosystems. Let me assure you, not withstanding the views of extreme environmentalists, that Africans do indeed want a higher standard of living. They want to live longer and healthier with less burden bearing and with more opportunities to advance. New sources of affordable, accessible energy would set them down the road of achieving such aspirations.

These experiences made it clear to me that affordable, accessible energy was desperately needed in African countries. But the energy issue is relevant here too. My wife, Babs, is the President of the Board of Directors of the Madison County Christian Women's Job Corps. This privately-funded, voluntarily-directed organization seeks to train women to obtain the type of job skills needed today. Most of the women, often single parents, are in financial crisis. Increasing the cost of energy for these women would disproportionately restrict their ability to provide for themselves and their families. As in Africa, ideas for limiting energy use, as embodied in the Kyoto protocol, create the greatest hardships for the poorest among us. As I mentioned in the Hearing, enacting any of these noblesounding initiatives to deal with climate change through increased energy costs, might make a wealthy urbanite or politician feel good about themselves, but they would not improve the environment and would most certainly degrade the lives of those who need help now.

I appreciate the opportunity to respond with further explanation of my experiences in Africa and my views on energy availability.

Sincerely,

JOHN R. CHRISTY,
*Director, Earth System Science Center, Professor, Atmospheric Science, Alabama State Climatologist.*

## HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

### HON. BARON P. HILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Mr. HILL. Mr. Speaker, Southern Indiana is blessed with natural beauty, and the Hoosier National Forest in my congressional district is an important source of this beauty. I have greatly enjoyed my visits to this national forest over the years.

Today I voted against passage of H.R. 1904, The Healthy Forests Restoration Act of 2003. I decided not to support this legislation after giving it careful consideration and weighing its effects on my constituents.

I have many constituents who regularly visit the Hoosier National Forest. They enjoy hiking, fishing, horseback riding and mountain biking in the forest. My constituents also feel strongly about the right to comment on and participate in the management decisions that are made regarding this beautiful national forest.

I voted against H.R. 1904 because I am very concerned that it would result in my constituents having fewer opportunities to comment on forest policy proposals. H.R. 1904 would expand the use of "categorical exclusions" by the Forest Service and the Bureau of Land Management and reduce the opportunities for the public to comment.

I have consistently supported efforts to ensure the public has meaningful opportunities to comment on national forest policy proposals, and I will continue to support the public's right to comment. I voted against H.R. 1904 because it could limit the opportunities the public would have to participate in forest policy-making decisions.

## REMEMBERING THE SACRIFICES OF THE VIETNAM WAR

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. FOSSELLA. Mr. Speaker, this week, my district in Staten Island is honored to host the Vietnam Wall Experience. I would like to take this opportunity to talk about the heroism of the fathers, sons, sisters and daughters that gave their lives during that conflict.

These men and women traveled around the world to serve their country. They joined the military for different reasons and with different backgrounds, but were united in purpose to serve the cause of freedom.

Matthew Bono, at 25, was six years older than the average draftee. He became a father-figure to his fellow soldiers, as beloved there as he was throughout his home neighborhood. He did not survive Khe Sanh. Vincent James Caravello enlisted just before his 18th birthday, right out of high school. He was killed in Thua Thien five months after he arrived in Vietnam.

The Grunt Padre, Father Vincent Capodanno, died trying to rescue men while under fire. He was known for his devotion to "his" Marines and put himself in harm's way for them again and again.

Other men were never fully accounted for after they disappeared. Lt. Kevin O'Brien served as a spotter in a U.S. Army Bird Dog O–1G craft. He is believed to have crashed over Khe Sanh in South Vietnam during bad weather on January 9, 1969. Air Force Major Gerald Crosson, Jr., was declared missing on May 16, 1968 after his plane did not return from a night reconnaissance mission.

America lost fifty-eight thousand in Vietnam, including 84 from Staten Island. And then there are the wounded, POW–MIA and other veterans, all of whom deserve our deepest thanks. Today on Staten Island, nearly twelve thousand Vietnam veterans still make their homes.

There is no truly adequate way to put into words our appreciation for those who made the ultimate sacrifice. I believe it was wise to have the memorial be simply a wall, bearing the names for us to remember.

However, that does not relieve us of the responsibility to find a way to express to our children and theirs why it is that we have such love for the ones who gave their lives.

They knew the danger when they went in, and ultimately they were fighting for us. America is stronger today because of the example they set. We must teach our children to study what these men did and why it was a noble cause. We are grateful to the Vietnam Wall Experience for helping make that job a little easier.

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## TRIBUTE TO ROBERT C. ROLLISON

### HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan, an outstanding citizen and one of my best friends since childhood. I am proud to recognize Bob Rollison in the United States Congress for his invaluable contributions and service to his community, his state and his nation.

Bob Rollison, Robert Charles Rollison as his mother called him, has been my great friend since we were both seventh-graders at DeWitt Junior High School. Even as a teenager, he was the kind of person that would befriend everyone, and in my case, he was a friend to a country kid that had come to a new school. Bob has always had the unique ability to make everyone feel comfortable.

Even as we grew into adulthood, got married and raised a family, we continued to enjoy spending a lot of time together, particularly hunting. Through it all, Bob was always the trustworthy person that everyone could depend on.

When Bob assumed the responsibility of running his family's business, he was known by colleagues, customers, and even competitors, as fair, honest, and accommodating. He was not only a supplier to local farmers, but worked diligently to provide them with information on the latest technology and equipment. But, more than anything else, you could always go to Bob for a kind word, good advice, and an honest opinion.

Bob has been active in many leadership roles in the community and in the agriculture business. He served in the Junior Chamber of Commerce, local politics, seed organizations, and numerous projects to make our community a better place to live and work.

Bob is now battling a serious illness, and continues to have the great attitude and spirit that he has generously shared with those around him throughout his life. He has made life richer for all—like me—who are fortunate enough to call him a friend. On behalf of Congress, I pay tribute to my good friend, Bob Rollison, for his tireless service to Arkansas and the United States.

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## REINTRODUCTION OF THE HISPANIC HEALTH IMPROVEMENT ACT

### HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. RODRIGUEZ. Mr. Speaker, today I am pleased to reintroduce the Hispanic Health Improvement Act along with my lead cosponsor Congresswoman HILDA SOLIS. This legislation is a comprehensive bill aimed at improving Hispanic health in the United States.

As the fastest growing population in the U.S., Hispanics now comprise close to 13 percent of the total population. Yet, they continue to face numerous challenges in accessing quality care. Hispanics make up 23 percent of the total uninsured population. According to a report by the Kaiser Commission on Medicaid and the Uninsured, nearly 37 percent of Hispanics under the age of 64 are uninsured. Sadly, 31 percent of Hispanic children are uninsured.

Access to affordable, quality health care is a challenge—this includes economic challenges, language barriers, cultural differences, citizenship status, even location plays a key role. And we know that it has a direct relation to health disparities. Hispanics continue to suffer disproportionately from chronic and infectious diseases such as diabetes, cancer, HIV/AIDS, and tuberculosis.

We need targeted public policy changes to reverse these trends in both the short-term and the long-term. I believe we can do so by greatly expanding insurance and other coverage, by addressing specific diseases that disproportionately impact the Hispanic community (and other communities of color), and by making institutional changes in our health professions and training so that more doctors are sensitive to the particular needs of the Hispanic community.

The Hispanic Health Improvement Act offers a variety of different strategies for expanding health care coverage, improving access and affordability, reducing health disparities and strengthening our nation's health care workforce. While I consider each provision in our bill to be important, I am just going to highlight some of the more urgent ones.

In order to address the lack of health care coverage, we examined ways to expand existing programs like SCHIP and Medicaid. While this is not a new idea, it will have an enormous impact on the Hispanic population. The legislation provides for the expansion of the successful State Children's Health Insurance Program, SCHIP, to cover uninsured low-income pregnant women and parents. In addition, it provides states the option to enroll legal immigrant pregnant women and children in Medicaid or SCHIP, and other individuals based on need.

The bill also provides for a number of measures to reduce health disparities. First and foremost, it requires an annual report to Congress on how federal programs are responding to improve the health status of Hispanic individuals with respect to diabetes, cancer, asthma, HIV infection, AIDS, substance abuse, and mental health. Increased funds are provided for targeted diabetes prevention, education, school-based programs, and screening activities in the Hispanic community. Similarly, the bill provide for targeted funding for programs aimed at the prevention of suicides among Hispanic girls.

Access and affordability are key components to improving Hispanic's health care status. The bill provides for grants to expand dental services in medically underserved areas. Provisions are included to support promotoras, or community health workers, who work to improve the health of women and families. A special emphasis is placed on border health by authorizing $200 million to improve health and infrastructure along the U.S.-Mexico border. Communities along the border often experience health care provider shortages making them medically underserved areas.

The last title of the Hispanic Health Improvement Act focuses on the reduction of health care disparities by addressing the lack of providers who can provide culturally competent and linguistically appropriate care. The bill provides for increased funding for HRSA's health professions diversity programs. It also seeks to promote the training of bilingual health professionals and creates a Center for Linguistic and Cultural Competence in Health Care within OMH. The Center would carry out programs that promote and facilitate the provision of health-related services, education, and training in a culturally competent manner.

Mr. Speaker, I ask my colleagues to support and cosponsor the Hispanic Health Improvement Act. As the Hispanic community continues to grow, the implementation of these provisions will take on an even greater importance. The consequences of inaction will be felt for years to come in greater health care needs, lower productivity, and higher rates of mortality and disability.

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## ASIAN PACIFIC AMERICAN HERITAGE MONTH

SPEECH OF

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, it is my honor and privilege to stand before my colleagues and celebrate Asian Pacific American Heritage Month. Asian and Pacific Americans have been a part of this country for over 200 years, with one of the first Asian American communities, the Filipino community, being established in the Louisiana Bayou in 1763. Since that date, the Asian Pacific American community has come a long way.

According to Census projections, Asians and Pacific Islanders (APIs) will account for 6.5 percent of the nation's population by the year 2025, and by 2050 they will account for 9.3 percent. Consequently, by 2050 about one out of every 11 Americans will trace their heritage to API roots. As this community continues to grow, it is important for all of us to continue to learn from each other.

In the 9th Congressional District, I am very fortunate to represent a vibrant and productive Asian Pacific American community that totals over 70,000 people. The community is very diverse, including Chinese, Indians, Pakistanis, Bangladeshis, Vietnamese, Koreans, Filipinos, and Samoans. Ranging from doctors to teachers to small business owners, each member of the API community enhances our district and makes it a better place to live and work for all of my constituents. Whether I am marching in Indian, Pakistani, Bangladeshi, and Sikh parades on Devon Street or celebrating the Lunar New Year on Argyle Street, I cannot help but feel a sense of pride when I see so many different cultures all tied to the single bond of being American.

Congress recognizes the importance of the Asian Pacific American community and displays this through the numerous Caucuses representing many nations, ranging from India to Cambodia. Congressional staffers have also done their part to educate themselves about the Asian Pacific American community through staff organizations such as CAPASA, the Congressional Asian Pacific American Staff Association, and SAACSA, the South Asian American Congressional Staff Association, of which I am proud to be a sponsor. As a Member of Congress, I will continue to utilize these resources to work with community leaders on key issues such as education and immigration, as well as encourage more Asian Americans to enter the public sector at the local, state and federal levels.

The rich cultural history and traditions of Asian pacific communities enrich all of our lives and contribute to the American culture. Now more than ever, we need to work side by side with community leaders to help educate those outside the community that Asian Pacific Americans are, first and foremost, Americans who share the same core values and beliefs as all communities in this country. The Asian Pacific American community has come so far in such a short period of time, and I am confident that it will only continue to grow and thrive while maintaining its many cultures and values.

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## IN SUPPORT OF YEVGENIYA DOBROVOLSKA AND MYKOLA DOBROVOLSKYY

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to introduce a private relief bill on behalf of Yevgeniya Dobrovolska and Mykola Dobrovolskyy.

Mr. Speaker, in 1999, Alexander Dobrovolskiy brought his wife Yevgeniya and son Mykola to the United States from the Ukraine to pursue the American dream. He worked for Prophet Financial Systems, Inc. and immediately impressed his colleagues as a committed and hard working man. Most importantly, Alexander Dobrovolskiy's greatest source of pride was his family and he demonstrated this pride as a dedicated husband and father.

Tragically, Alexander Dobrovolskiy was killed in a car accident on November 8, 2002. Prior to his death, he had applied for a green card, with his wife and son as beneficiaries of this petition. As a result of his unforeseen death, this application will be automatically terminated and his wife and son will be denied their green cards.

I'm proud to introduce a bill which provides relief for Yevgeniya Dobrovolska and Mykola Dobrovolskyy. My bill readjusts their status to permanent resident status so that Yevegeniya and Mykola will be able to remain in the United States and continue to live out the dream of Alexander.

Mr. Speaker, I ask my colleagues to join me in supporting this bill which will restore the hopes of Yevgeniya Dobrovolska and Mykola Dobrovolskyy.

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## TRIBUTE TO MIKE ALLEN

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. HALL. Mr. Speaker, I rise today to pay tribute to a beloved friend, outstanding community leader and longtime Congressional aide, the late E.T. "Mike" Allen of Whitesboro, Texas, who passed away on March 14 of this year at the age of 83. Mike served as District Assistant for my predecessor, the late Congressman Ray Roberts, from 1969 to 1980, and as my district assistant from 1980 to 1995. He also served as a member of my screening board for U.S. Military Academies and was my trusted friend and associate.

Mike was knowledgeable about the legislative process—and was so understanding and helpful with constituents who sought assistance with their concerns and problems. He knew the Congressional District from top to bottom, and in addition to being knowledgeable, was always punctual and available. He was always a gentleman and always kind in everything he did.

Mike truly enjoyed people and lived a life of service—both in the workplace and in his community and church. In all that he did—and with all whom he met—Mike brought an abiding sense of optimism and a smile that was his trademark. His favorite saying was "Always keep a happy heart." He loved people. He loved his family. He had a deep and abiding faith in God. I know of no one who knew Mike who did not consider him a friend. He was a man of honor, integrity and a generous nature.

Mike was distinguished in all walks of life. He was a well-liked and well-respected community leader in Whitesboro and Sherman. He served as mayor of Whitesboro for five terms—the last of which he was elected by write-in votes. Among his many civic activities, he served as president of the Whitesboro Chamber of Commerce, president of the local Rotary Club, president of the Quarterback Club, Master of Masonic Lodge #263 and Post Commander of the American Legion Post #398.

Mike was also president of the Grayson County Development Council, a member of the original committee that secured the site for Grayson County College, chairman of the Parent's Committee for the 125th Anniversary Commission, a Council board member of the Boy Scouts of America and an elder in the Presbyterian Church of Whitesboro. He served on the Wilson N. Jones Foundation Board of Directors and was a board member of the Grayson County Campfire Girls of America, the Old Settlers Park Association in Sherman and the Grayson County Child Welfare.

Mike also was a frequent visitor of the local domino hall and a good player in his own right. Playing dominoes was a cherished tradition that facilitated comradery and friendship and served as an unofficial repository of historic and humorous events in the life of Whitesboro.

It comes as no surprise that Mike was named Outstanding Citizen of Whitesboro twice—in 1970 and 1998.

Mike was born in Whitesboro on December 31, 1919, the son of E.T. Allen Sr. and Mary Anderson Allen. He graduated from Whitesboro High School in 1936 and from North Texas State University in Denton. He entered the U.S. Air Force in 1942, where he became a first lieutenant. On returning to Whitesboro, he entered into private business with his father for 23 years before joining Congressman Roberts' staff.

In 1946 he married his loving wife of 57 years, Mary Ann Roberts Allen, a graduate of Texas Woman's University of Denton. They had a special marriage—and they have a devoted family that includes their son, Michael Allen of Tyler and daughter-in-law Carol and granddaughters Lindsay and Carly; daughter Marcy Allen Brown of Greenville and son-in-law Jon and children Leigh and Ben; sister and brother-in-law Lucille and R.B. Head, Jr., and two nieces.

Mr. Speaker, those of us who knew and loved Mike Allen miss him dearly—but his presence continues to be felt in Whitesboro and in Sherman and in the hearts of his family and many friends. He leaves behind such wonderful memories of such an outstanding man and citizen—and such a remarkable legacy of caring and service that will be felt for many years to come.

As we approach Memorial Day and remember all those who gave their lives in service to their Nation, one of those that I will remember is my good friend Mike Allen, a man who answered the call to duty in World War II and who continued to answer the call to service to his community, his family, and his country throughout his exemplary and noble life. As we adjourn today, let us do so in memory of this great man and great American—E.T. "Mike" Allen.

## TRIBUTE TO IRWIN KISHNER

### HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. BERKLEY. Mr. Speaker, I rise today in honor of the 70th birthday of my dear friend, Irwin Kishner. Irwin is a premier captain of both industry and philanthropy in my hometown of Las Vegas, beginning his career there more than 4 decades ago.

Like me, Irwin is a native New Yorker, but his family's journey to Las Vegas took him on a less direct route to Florida first as a young teen. Graduating from the University of Florida in 1954, followed by the University of Miami School of Law in 1958, Las Vegas beckoned and Irwin relocated there in 1960. Ever since, he has been a leader in the Las Vegas community, intricately involved in the professional, civic and cultural aspects of not only Las Vegas, but Nevada as a whole.

Joining the Junior Chamber of Commerce upon his arrival in Las Vegas, Irwin was soon selected by the State of Nevada as one of the Outstanding Young Men of America. He served with distinction on the Las Vegas Chamber Board of Directors for 13 years, chairing committees and as Vice President of the Chamber. In 1999, his efforts on behalf of the Chamber were recognized when he was awarded the Greater Las Vegas Chamber of Commerce Community Achievement Award for Tourism.

Long before receiving that award, however, Irwin had been—and still is—at the forefront of the hotel/motel industry in Nevada, expanding an industry that provides so many jobs. In 1962, only two years after arriving in Las Vegas, Irwin opened the Somerset House Motel—a three story "high rise" with an Olympic-sized swimming pool. Also in 1962, he joined the Rocky Mountain Hotel and Motel Association, which later evolved into the Utah-Nevada Hotel and Motel Association.

Irwin's forward thinking role with this Association enabled him to become one of the founding members of the Nevada Hotel and Motel Association (NH&MA), passionately developing the NH&MA through a variety of roles including Committee Chairman, Vice President and Member of the Board of Directors. Within the framework of NH&MA, Irwin has been a tireless champion for the Americans With Disabilities Act, working actively to ensure compliance of this Act by smaller properties. Irwin's many awards with the NH&MA include being named "Hotelier of the Year" and NH&MA's first Lifetime Service Award. Governor Kenny Guinn of Nevada has recently appointed Irwin to serve on the Governor's Commission on Tourism.

Irwin's accomplishments in this industry have not been limited to Las Vegas and Nevada. He has been very active in the American Hotel and Motel Association (AH&MA) over the years, serving on its Board of Directors representing Nevada since 1993. Also since the mid–1990s, he has been a member of the National Tourism and Travel Committee and was a founding member of the National Gaming Task Force. Irwin was also the Nevada Representative to the White House Conference on Tourism. He has represented both the AH&MA and the NH&MA in drafting a national tourism strategy for the 21th Century. Recognizing Irwin's outstanding contributions to the advancement of the lodging industry, the AH&MA presented Irwin with their prestigious Lawson A. Odde Award in 1997 and the Most Valuable Volunteer Award in 1999.

Irwin's commitment to his community does not stop at the industry and professional level. Through his time and generosity, he has provided community leadership and service to many civic and philanthropic groups throughout the city and the state. Irwin was a founding member of several organizations including the Boys and Girls Club of Clark County and the University of Nevada, Las Vegas Center for the Performing Arts. The United Way of Southern Nevada utilized his services on their Board of Directors and Board of Trustees and he held many positions with the National Conference of Christians and Jews. Irwin has chaired a variety of committees for Child Haven and Opportunity Village over the years, and has worked as a volunteer administrator for the Clark County Juvenile Court Services, a Charter Member on the Board of Directors of Secret Witness and on the Board of Directors of the Southern Nevada Drug Abuse Council.

Irwin is a man of tremendous talent and energy! He is dedicated to his family. He has two lovely daughters, Joanna and Sharon, both of whom have followed in their father's footsteps as attorneys, and four grandchildren who adore him. I thank Irwin for all he has been to Las Vegas, Nevada, our country, his family and to me personally, and wish him the happiest of birthdays and many, many more in the best of health.

## INTRODUCTION OF A BILL TO PERMIT REASONABLE COST REIMBURSEMENTS FOR EMERGENCY ROOM SERVICES PROVIDED BY FEDERALLY QUALIFIED HEALTH CENTERS

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. CASE. Mr. Speaker, I rise today to introduce a bill to permit reasonable cost reimbursements for emergency room services provided by Federally Qualified Health Centers (FQHCs).

We are all well aware of the important role FQHCs play in our medically underserved communities. FQHCs exist in areas where economic, geographic, or cultural barriers limit access to primary health care, and they tailor their services to community needs.

There are some FQHCs that go above and beyond the usual scope of services by not only providing primary and preventive care, but also meeting the emergency care needs in their communities. For these services, FQHCs are not currently eligible for reimbursement; they should be.

A great example is the Waianae Coast Comprehensive Health Center (WCCHC) in an underserved area of Oahu in Hawaii. The WCCHC is a community-owned and operated non-profit medical facility that serves an ever-growing population of approximately 50,000 residents. Around seventy percent of the WCCHC's patients live on incomes below the national poverty level. About seventy-five percent of all WCCHC patients do not have health insurance. Nearly fifty percent of the WCCHC's patients are of Native Hawaiian ancestry.

The WCCHC—which has been recognized for service excellence both locally and nationally—runs the only emergency medical facility on the Waianae Coast. The nearest alternative site for emergency medical care is twenty miles away. I am sure you will agree that this is quite a lengthy journey to make in a critical situation where every second matters. The WCCHC emergency room provides patients with the care they need close to home, in a facility with which they are familiar, and with a staff that both patients and families know and trust. In 1999 alone, the WCCHC emergency staff handled more than 12,000 cases.

FQHCs like the Waianae Coast Comprehensive Health Center that provide these vital services should be able to receive reasonable reimbursements for the emergency care of their patients. I urge my colleagues to support this legislation.

## INTRODUCTION OF THE VOTER CONFIDENCE AND INCREASED ACCESSIBILITY ACT OF 2003

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. HOLT. Mr. Speaker, today I am introducing The Voter Confidence and Increased Accessibility Act of 2003.

After the Florida voting debacle of the 2000 election, we in Congress recognized that we had to act to restore the integrity and reliability of our electoral system by making dimpled chads and other voting irregularities a thing of the past. Last October, we enacted the Help America Vote Act (HAVA), groundbreaking election reform legislation that is currently helping states throughout the country replace antiquated and unreliable punch cards and butterfly ballots. Early this month, the newly-formed New Jersey HAVA Commission held it's first meeting. From those Commissioners and others I know, there is a great deal of enthusiasm about the increased Federal involvement in oversight, funding and guidance with respect to the conduct of elections for Federal office.

But HAVA could have an adverse, unintended consequence. It is fueling a headlong rush by states and localities to purchase computer voting systems that suffer from a serious flaw. It generates suspicion about the voting. You, the voter, have no way of knowing if your vote is recorded as you intended.

Imagine it's Election Day 2004. You enter your local polling place and cast your vote on a brand new "touch screen" voting machine. The screen is large and well lit, and your choices are clearly spelled out before you. In fact, it looks as easy to use as the ATM at your bank. You breathe a sigh of relief that you no longer have to figure out a complicated butterfly ballot or pull a lever. So you make a choice and touch the corresponding button to cast your vote. The screen says your vote has been counted. As you exit the voting booth, however, you begin to wonder: how do I know if the machine actually recorded my vote correctly. The fact is, you don't. No one knows.

That is why hundreds of nationally-renowned computer scientists, including David Dill of Stanford University, consider a voter-verified paper trail to be a critical safeguard for the accuracy, integrity and security of computer-assisted elections.

Without a physical record of votes cast, how will election officials in 2004 be able to launch an effective, honest recount in a closely contested election? How will they be able to ensure that a computer hacker has not tampered with votes?

Dr. Rebecca Mercuri, also a nationally renowned expert on this subject and a constituent of mine, asks on her website: "Think the November 5, 2002 US General Election went smoothly? Use your favorite Web engine and search for the words 'election' and 'glitch'—a recent scan on Google News turned up hundreds of disturbing press reports." Not all of these reported troubles were in Florida. They were in Texas, Alabama, Nevada, Georgia, California, South Carolina, Nebraska, and New Jersey. Voter News Service (VNS), the agency that provides exit poll data that might have been used as a cross-check against computerized returns, was coincidentally knocked out of service by an unidentified 'massive computer glitch' on Election Day as well. Many of the election problems (including those at VNS) occurred in spite of hundreds of millions of dollars (soon to be billions) spent on new equipment.

In the 2002 election, brand new computer voting systems used in Florida lost over 100,000 votes due to a software error. In New Jersey, several voting irregularities have been reported and, in one instance, a mainframe computer deployed to rapidly tally election results broke down entirely and had to be replaced in the last minute by bookkeepers using adding machines. In fact, in the 2000 election, it was also reported that in an election in South Brunswick in my congressional district, one new touch-screen machine simply did not record any votes at all for one Republican candidate and one Democratic candidate. The manufacturer was quoted in the Washington Post as saying "no votes were lost—they were just never registered." The election officials in charge were quoted as saying "it didn't matter whether the fault was the voters" or the machine's, the expected votes were gone."

In Georgia, the entire state voted on 22,000 brand new touch-screen machines purchased in 2001 at a cost of $54 million. The Washington Post reported that when used in the November 2002 general election, "some people touched one candidate's name on the screen and saw another candidate's name appear as their choice. Voters who were paying attention had a chance to correct the error before finalizing their vote, but those who weren't did not." It is also disturbing to note that immediately prior to the election, a "patch" (a modification to the voting machines" software program) was installed on the new machines. Although the patch reportedly "was checked before it was installed," it also reportedly was not checked by election or certification officials. Nonetheless, the official who oversaw the statewide upgrade in Georgia declared that the voters were happy with how the system operated.

Maryland also installed new touch screen machines in five counties that were first used in the November 2002 general election. Again, the election official who oversaw the purchase of the new equipment was reported in the Washington Post as saying "the system performed flawlessly in two statewide elections. The public has a lot of confidence in it, and they love it." But, as Professor David Dill observes, "I'm not concerned with elections that are a mess. I'm concerned about elections that appear to go smoothly, and no one knows that it was all messed up inside the machine." A Maryland reporter wrote an article on exactly that danger, immediately after the November 2002 election, using the incident in which the computer betting system used in the Breeder's Cup Race was tampered with as a cautionary and analogous example.

Not all election officials want to rely on voting technology that produces no voterverified record. Warren Slocum, Chief Elections Officer & Assessor-County ClerkRecorder for San Mateo County, California actively and enthusiastically endorses the use of voting equipment that produces a voter-verified paper trail. He says, "the most naive argument against a paper trail is that the machines are accurate and tested properly before the election. It is argued that we don't need to worry about hackers, Trojan Horses or programming mistakes. Surprisingly, some elections professionals say that touchscreen voting systems can be trusted. But when voters are given the choice, most say 'absolutely not.' And the computer scientists who have studied this issue say no way."

Across the country, in growing numbers, people are studying and reading about electronic voting and saying—"wait a minute. . . ."

With the 2004 election around the corner and states lining up to buy new computerized voting machines, Congress needs to act immediately before it's too late. We need to make sure that voters receive a physical, paper verification of their votes. After all, voting should not be an act of faith. It should be an act of record.

That is why I am introducing this bill—The Voter Confidence and Increased Accessibility Act of 2003—to amend HAVA to require a voter-verified record for all votes cast in federal elections. Under my bill, funds expended under HAVA will be utilized in a manner that ensures that this minimum standard of voter protection will be built into computer voting systems before the next general election.

Key provisions of my bill include:

(1) A requirement that all voting systems produce a voter-verified paper record for use in manual audits. A system using optical scanning of cards marked by the voters is one acceptable version. For those using the increasingly popular direct recording electronic (DRE) voting machines (such as 'touch-screen' machines), this requirement means those machines would print a receipt that each voter would verify as accurate and deposit into a lockbox at the polling station for later use in a recount. States would have until November 2003 to request additional funds to meet this requirement.

(2) A ban on the use of undisclosed software and wireless communications devices in voting systems.

(3) A requirement that all voting systems meet these increased standards of protection in time for the general election in November 2004. Jurisdictions anticipating that their new computer systems may not be able to meet this deadline will be able to use a paper system, as an interim measure and at federal expense, in the November 2004 election.

(4) A requirement that electronic voting systems be provided for persons with disabilities by January 1, 2006—one year earlier than currently required by HAVA. Like the voting systems used by persons without disabilities, those used by disabled voters must also provide a mechanism for voter-verification, though not necessarily a paper trail. Jurisdictions unable to meet this requirement by the deadline must give disabled voters the option to use the interim paper system with the assistance of an aide of their choosing.

(5) A requirement of mandatory surprise recounts in 0.5 percent of domestic jurisdictions and 0.5 percent of overseas jurisdictions.

Mr. Speaker, there is nothing more crucial to democracy than guaranteeing the integrity, fairness, and accuracy of elections. The election of 2000 was a fiasco, but unless this legislation is promptly enacted the election of 2004 could be a disaster.

## VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

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SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1683, the "Veterans Compensation Cost-of-Living Adjustment Act of 2003."

Texas is the home of 1.8 million veterans. Of those, 40,998 veterans live in the 18th Congressional District of Texas. That means 8.6 percent of the district's adult population is veteran.

These brave men and women have fought valiantly in our wars. They risked their lives to protect the freedoms that every American citizen holds dear. Every American owes every veteran a debt of gratitude. I support H.R. 1683 because it is a means for this Chamber to show our appreciation for our veterans.

This legislation provides a financial boost to our deserving veterans. H.R. 1683 increases the disability compensation rates for veterans who have suffered injuries as a result of their service, and also increases the rates of compensation for dependency and indemnity compensation for the survivors of certain veterans. Furthermore, H.R. 1683 increases the compensation for veterans, their dependants, the clothing allowance, and dependency and indemnity for surviving spouses with minor children.

Our veterans have made immeasurable sacrifices for all Americans. H.R. 1683 ensures that veterans get the cost-of-living adjustment they need and deserve. This legislation will increase the compensation our veterans receive to offset the additional cost associated with inflation. This adjustment in compensation is very timely considering the present sluggishness of our economy.

More than 2 million veterans receive disability compensation each month as a result of injuries suffered in the course of military service. Nearly 600,000 spouses, children, and parents of veterans will also receive additional compensation and benefits as a result of H.R. 1683.

Mr. Speaker, H.R. 1683 is a bill that helps our heroic veterans live more comfortable lives. I support H.R. 1683 and I salute our veterans.

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## INTRODUCTION OF ENVIRONMENTAL JUSTICE ACT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today I am today again introducing the Environmental Justice Act. I am proud that my colleague Congresswoman HILDA SOLIS is once again joining me as an original cosponsor of this bill.

Representative SOLIS and I first introduced this bill last year, too late for consideration in the 107th Congress. Its reintroduction today reflects our continued concern about the way federal actions have had disproportionately adverse effects on the health, environment and quality of life of Americans in minority and lower-income communities.

Too often these communities—because of their low income or lack of political visibility—are exposed to greater risks from toxins and dangerous substances because it has been possible to locate waste dumps, industrial facilities, and chemical storage warehouses in these communities with less care than would be taken in other locations.

The sad fact is that in some eyes these communities have appeared as expendable—without full appreciation that human beings, who deserve to be treated with respect and dignity, are living, working, and raising families there.

This needs to give way to policies focused on providing clean, healthy and quality environments within and around these communities. When that happens, we provide hope for the future and enhance the opportunities that these citizens have to improve their condition.

Our bill would help do just that. The bill essentially codifies an Executive Order that was issued by President Clinton in 1994. That order required all federal agencies to incorporate environmental justice considerations in their missions, develop strategies to address disproportionate impacts to minority and low-income people from their activities, and coordinate the development of data and research on these topics.

Although federal agencies have been working to implement this order and have developed strategies, there is clearly much more to do. We simply cannot solve these issues overnight or even over a couple of years. We need to "institutionalize" the consideration of these issues in a more long-term fashion—which this bill would do.

In addition, just as the current policy was established by an administrative order, it could be swept away with a stroke of an administrative pen. To avoid that, we need to make it more permanent—which is also what this bill would do.

It would do this by statutorily requiring all Federal agencies to—make addressing environmental justice concerns part of their missions; develop environmental justice strategies; evaluate the effects of proposed actions on the health and environment of minority, low-income, and Native American communities; avoid creating disproportionate adverse impacts on the health or environment of minority, low-income, or Native American communities; and collect data and carry out research on the effects of facilities on health and environment of minority, low-income, and Native American communities.

It would also statutorily establish two committees: the Interagency Environmental Justice Working Group, set up by the Executive Order to develop strategies, provide guidance, coordinate research, convene public meetings, and conduct inquiries regarding environmental justice issues; and a Federal Environmental Justice Advisory Committee, appointed by the President, including members of community-based groups, business, academic, state agencies and environmental organizations. It will provide input and advice to the Interagency Working Group.

In a nutshell, what this bill would do is require federal agencies that control the siting and disposing of hazardous materials, store toxins or release pollutants at federal facilities, or issue permits for these kinds of activities to make sure they give fair treatment to low-income and minority populations—including Native Americans. The bill tells federal agencies, "In the past these communities have endured a disproportionate impact to their health and environment. Now we must find ways to make sure that won't be the case in the future."

For the information of our colleagues, here is a short analysis of the bill:

ENVIRONMENTAL JUSTICE ACT

Summary: This bill would essentially codify a Clinton Administration Executive Order which directed a number of Federal agencies and offices to consider the environmental impact of decisions on minority and low-income populations.

Background: On February 11, 1994, President Clinton issued Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The President also issued a corresponding Memorandum to all federal departments and agencies further explaining the order and how the agencies should implement it to address environmental justice issues. The Order and Memorandum called for the creation of an interagency working group to provide guidance on identifying disproportionate impacts on the health and environment of minority and low-income populations, develop strategies to address such disproportionate impacts, and provide a report on that strategy. Since the order was promulgated, the affected agencies have developed reports and strategies.

Need for the Bill: Although federal agencies and offices have been complying with the Executive Order, disproportionate impacts related to human health and the environment still exist for many minority and low-income communities. These impacts must be addressed over the long term. In addition, due to the lack of resources and political clout of many of these impacted communities, vigilance is required to make sure that disproportionate impacts are reduced and do not continue. As the effort to date has been primarily administrative based on the presidential order and memorandum, these strategies need to be incorporated into the routine functioning of federal agencies and offices through federal law.

The bill—Requires federal agencies and offices to: include addressing environmental justice concerns into their respective missions; conduct programs so as not to create disproportionate impact on minority and low-income populations; include an examination of the effects of such action on the health and environment of minority and low-income populations for actions that require environmental analyses under the National Environmental Policy Act; create an environmental justice strategy to address disproportionate impacts of its policies and actions, and conduct and collect research on the disproportionate impacts from federal facilities.

Creates an Interagency Environmental Justice Working Group to develop strategies, provide guidance, coordinate research, convene public meetings, and conduct inquires regarding environmental justice issues.

Creates a Federal Environmental Justice Advisory Committee composed of members of community-based groups, business, academic, state agencies and environmental organizations which will provide input and advice to the Interagency Working Group.

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## SELECTED RESERVE HOME LOAN EQUITY ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1257, the "Selected Reserve Home Loan Equity Act."

The Selected Reserves are the reserve forces of the various branches of the military. Each branch of our Armed Forces, the Army, Navy, Air Force, and Marine Corps, have Selected Reserve Corps. Additionally, Coast Guard Reserves, as well as the Army National Guard and the Air Guard have Selected Reserve Corps.

In Texas, the Selected Reserve Corps is thriving. Texas has 1.35 million volunteers serving in the Guard and Selected Reserve Corps. Of those, 8,370 members are serving in the Coast Guard Selected Reserve

While the Selected Reserves don't get the accolades rightfully showered upon our Army, Navy, Air Force, and Marines, they provide invaluable service to our country. Since 1990, there have been 99 major commitments of Americans in uniform. In each of these conflicts, both active duty and Selective Reserve Corps have been deployed to virtually every corner of the globe.

H.R. 1257 amends Title 38 of the United States Code, "to make permanent the authority for qualifying members of the Selected Reserve to have access to home loans guaranteed by the Secretary of Veterans Affairs and to provide for uniformity in fees charged qualifying members of the Selected Reserve and active duty veterans for such home loans."

I support H.R. 1257 because it is a way for this body to thank our Select Reservists the same way we thank the brave veteran men and women who have served their country so valiantly. The Department of Veterans Affairs provides our active and inactive military personnel with various services and benefits. One of the benefits provided is guaranteed home loans at reasonable fees.

Presently, members of the Selected Reserves are eligible for Department of Veterans Affairs loans. However, the current program is scheduled to expire at the end of fiscal year 2009. Moreover, Selected Reservists pay a higher fee on guaranteed home loans than do active duty veterans. H.R. 1257 grants Selected Reservists permanent access to guaranteed home loans just as like veterans. Selected Reservists will also be eligible for the same fee structure as veterans.

Our Selected Reservists are an important part of our exemplary military, and are integral to protecting our homeland and bringing peace throughout the world. Providing our military personnel, including members of the Selected Reserve with access to economically beneficial programs like guaranteed loans is one small way to thank them for their service.

Mr. Speaker, I support H.R. 1257, and I urge my colleagues to do the same.

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## TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Mr. BLUNT. Mr. Speaker, I rise today to congratulate LARRY COMBEST on his nearly twenty years of service for the people of Texas. He has had a wonderful career helping others at the local level, helping others as a Congressman and helping others as the Chairman of the House Agriculture Committee. He has served this House of Representatives and our country well. He will be truly missed.

As a freshman member I had the pleasure of serving with LARRY on the Agriculture Committee. During this time, I found him to be a wealth of information regarding agriculture policy and I relied on him heavily on many issues that were debated in the committee. As Chairman of the Agriculture Committee, LARRY made great efforts to consider the diversity of America's agriculture, which helped us to create a broad and sensible agricultural policy.

LARRY has traveled to southwest Missouri to meet with students and to seek advice from farmers where I live. He has worked tirelessly for the future of agriculture in America.

One of the best examples of this effort is found in "The Farm Security Act of 2002". In developing this landmark legislation, LARRY organized numerous field hearings throughout the country in an attempt to understand what America needed in sound farm policy. He also felt that it was necessary to talk to farmers and local people seeking grassroots advice. As a result of this Chairman COMBEST helped develop a road map that will improve agriculture policy and help secure the future of our Nation.

I stand here today to congratulate Chairman COMBEST on his years of service and to wish LARRY and Sharon the best as they begin a new chapter in their lives.

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## HONORING BISHOP LAWRENCE L. KIRBY

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today to honor Bishop Lawrence L. Kirby of Racine, Wisconsin for the spiritual leadership that he has provided to the members of the St. Paul Missionary Baptist Church and the positive influence that he has had on Racine's African American community.

For the past 22 years, Bishop Kirby has served as the Senior Pastor at St. Paul's Missionary Baptist Church, the oldest African-American church in the State of Wisconsin. Under his leadership, St. Paul's has grown significantly, evolving into one of the largest and most influential churches in the State. A visionary leader, Bishop Kirby has implemented a series of progressive assistance and developmental programs that serve the needs of the entire community. He has also founded numerous faith-based community organizations and has been called to preach around the world, spreading a message of faith, tolerance and compassion.

Throughout his career, Bishop Kirby has remained steadfastly dedicated to helping others and he has not wavered in his commitment to his family, his church, his community and God. His generous actions have touched the lives of the less fortunate, filling their hearts with love and inspiring them to succeed. The citizens of Wisconsin's First Congressional District are fortunate to have been blessed with this wonderful, caring and compassionate man. I ask my colleagues to join me in honoring Bishop Lawrence L. Kirby for his efforts to make the world a better place in which to live.

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## CONGRATULATIONS NEIL JOHNSTON

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. BONNER. Mr. Speaker, it is my pleasure to honor Mr. Neil C. Johnston for his achievements in conservation and environmental education programs. Earlier this week, Neil received a National Wetlands Award for education/outreach from the Environmental Law Institute. The awards are presented annually to those who have dedicated their time and expertise to wetlands conservation and restoration.

Neil is an attorney from Mobile, Alabama. Not only does Neil practice in the fields of forestry and federal environmental law professionally, he is also personally involved with the environment. He speaks at and conducts seminars, as well as speaking to local school children.

.Neil is the director of the Project CATE (Conservation Action Through Education) Foundation, Inc., which produces and distributes interactive conservation and environmental education programs. Ribbit's Big Splash is an award winning CD–ROM program which is designed to educate students about various aspects of water in environments such as ponds, rivers, wetlands, and gulfs. Project CATE plans to have more CD–ROM programs for students which will include air, soil, energy, and recycling. The programs are designed for the use of children in kindergarten through fifth grade. Through stories, projects, games, and interactive activities, children can learn about the environment and conservation in their local, state, and regional areas.

I am especially proud of Neil Johnston's achievements and his important contributions to the First District and its surrounding areas. His work as a conservationist and environmental educator has taught many children in my district, as well as others in the region. Thanks to his work, children have become more active in learning about water, and soon they will be able to learn about other aspects of our environment as his programs are completed and distributed.

Mr. Speaker, I ask that you join me in congratulating Mr. Johnston for his hard work and dedication that has earned him this prestigious award, as well as for his commitment to teaching children about our environment.

## A SPECIAL TRIBUTE TO COLONEL DANNY P. PRICE FOR HIS DEDICATED SERVICE TO THE UNITED STATES ARMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to honor Army Colonel Danny P. Price. Given the current international environment, it is fitting that this chamber honors a man of Colonel Price's character. Colonel Price entered the Army on September 14, 1972. He served two years during his first tour as an enlisted administrative specialist. He re-entered the Army in 1977 and received his commission from the United States Army Officer Candidate School in 1978. His military education includes the U.S. Army Signal Officer Basic Communications Course, the U.S. Army Field Artillery Basic Communications Staff Officer Course, the U.S. Marine Corps Advanced Communications Officer Course, the U.S. Army Command and General Staff College, the U.S. Army Force Management School, and the Industrial College of the Armed Forces. He holds a Bachelor of Science degree from Morehead State University (Kentucky), a Master of Education degree from the University of South Carolina, and a Master of Science degree from the Industrial College of the Armed Forces.

Colonel Price has served in a variety of command and staff positions. He was a field artillery signal officer, platoon leader, and signal battalion staff officer in the 82nd Airborne Division from 1978 to 1982. From 1983 to 1986, he served in the 8th Mechanized Infantry Division, Bad Kreuznach, Germany, where he was a signal battalion staff officer and Commander, Company A, 8th Signal Battalion. His next assignment was at the United States Military Academy where he served as a company and battalion tactical officer from 1987 to 1990. He then served as the battalion executive officer with the 50th Signal Battalion and the 35th Signal Brigade (logistics officer) and S3 (operations officer).

He next served as an operations analyst in the Commander-in-Chief Initiatives Group, U.S. Forces Korea from 1994 to 1995. He then commanded the 501st Signal Battalion, 101st Airborne Division (Air Assault) from 1995 to 1997. The assignment was followed by his most recent assignments—two tours in the Pentagon. First, as a Systems Integrator in the Force Development Division of the U.S. Army Office of the Deputy Chief of Staff for Operations, from 1997 to 1998; and second, as a Senior Staff Analyst in the Office of the Assistant Secretary of Defense for Command and Control, Communications, and Intelligence. He served in this position from June 1999 and will retire from there in June 2003.

His awards and decorations include: the Defense Superior Service Medal, the Meritorious Service Medal with one sliver oak leaf cluster and two bronze oak leaf clusters, the Army Commendation Medal, the Army Achievement Medal with one oak leaf cluster, the Humanitarian Service Medal, the Secretary of Defense Staff Qualification Badge, the Army Staff Qualification Badge, the Air Assault Badge, the Master Parachutist Badge, and the Ranger Tab.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Colonel Danny Price. Our citizens are served well by having such honorable and selfless soldiers, like Colonel Price, who care about their well being and stability. We wish Colonel Price, his wife, Jill, and their family all the best as we pay tribute to one of our nation's finest soldiers. May he now enjoy the freedom he so ably defended

## UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

SPEECH OF

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 21, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of this critical bill. This important legislation integrates prevention, care, and treatment. By passing the conference report on H.R. 1298 we can directly improve and extend the lives of millions worldwide. I think every member owes a special thanks to the gentleman from California (Mr. LANTOS), the ranking Democrat on the International Relations Committee and to the Gentlewoman from California (Ms. LEE) for their outstanding leadership on this landmark legislation.

I want to express my most sincere gratitude to the Chairman of the International Relations Committee, my colleague from Illinois (Chairman HYDE). He has demonstrated incredible leadership and a commitment to placing science above ideology by supporting a bill that will provide the resources necessary to promote effective strategies and technologies in the battle against HIV/AIDS. These technologies include the use of condoms, a measure that is effective in preventing transmission of the virus and should be used more frequently. This bill provides for education on the use of condoms, along with the teaching of abstinence and faithfulness to one's spouse. We must never allow our own personal ideologies to get in the way of our efforts to save lives.

Another meaningful aspect of this legislation is that it contributes to the Global Fund, indicating the interest of this Nation and this body in working with the international community to fight this global problem. I hope that such cooperation will be extended to other healthcare matters and critical issues currently facing this Nation.

The provision of aid to Haiti is of particular interest to me. I recently visited Haiti. It is the fourth poorest country in the world. The average Haitian lives on $1.39 dollars a day. I was shocked by the suffering I witnessed during my visit. Ninety perrcent of all HIV and AIDS infections in the Caribbean are in Haiti. Tragically, death from HIV/AIDS has left 163,000 children in Haiti orphaned. In Haiti, where only 1 in every 10,000 citizens has access to a physician, and where cases of TB are more than ten times as high as those in other Latin American countries, the population will benefit profoundly from this legislation.

AIDS has ravaged the globe, causing unprecedented death and suffering, and the virus is a global threat that must be addressed as such. We have had significant discussion about the need to undertake all possible actions at our disposal when addressing emerging threats. AIDS is indeed a well established threat to the health and security of the world. The fight against HIV/AIDS is a fight for humanity.

In addressing this worldwide pandemic, we must also work together to provide countries with life-saving and extending drugs. These drugs are the difference between a baby in Africa having a chance to know his or her mother or father or being orphaned before they can speak or walk. We cannot allow pharmaceutical companies or government policies to construct barriers to treatment, such as complicated trade strategies and patent practices that make it difficult or impossible for nations to obtain the medicines they need to treat their populations at a price they can afford. We must make sure our dollars are stretched as far as they can go by lowering the price of drugs. We must also demand that the international community, including the corporate community, matches our efforts.

Finally, this measure is only an authorization bill. It is a critically important step. But it will be meaningless unless all members follow through on the commitment we are making today and adequately fund this measure through the appropriations process. I pledge my support to that effort.

Passage of H.R. 1298 is long overdue. I urge all members to support this bill.

# SENATE—*Monday, June 2, 2003*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Once again, today's prayer will be offered by the guest Chaplain, Rev. Campbell Gillon of Georgetown Presbyterian Church.

## PRAYER

The guest Chaplain offered the following prayer:

Lord God, in a world where power usually rules by subjection and oppression, we stand before Thee whose rule, if lovingly accepted, raises us to a new freedom of living and spirit of hope.

We remember the story of Moses giving the Pharaoh Thy word, which was not just a plea for freedom—"Let my people go!", but "Let my people go that they may worship Me, serve Me!"—freedom for a purpose.

Teach us, O God, that when freedom is made an end in itself, and not the means to a greater end, it easily degenerates into license and self pleasing. The finale is not freedom, but community destroyed and people self-enslaved.

Lord, we know that those Israelites, when freed, were given by Thee in the wilderness a purpose—to live by those basic commandments, rules for peace and harmony. These we neglect at our peril. For if no divine nature, name, and day is shown reverence and there is not respect for parents, life, relationships, property, and truth, then a society disintegrates from within, since there is no reverence and respect for anything but the solitary self.

Lord God, unless Thou build humanity's house, those who try labor in vain. Unless Thou guard a civilization's city, its protectors are caught napping. So, grant grace to this elected body of Senators, leaders in this superpower, that they may be led to use aright our freedom's dear-bought opportunities, aware of ends beyond the material and the visions that make life noble. This we ask in the name of love revealed. Amen.

## PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business until 1 p.m. At 1 o'clock, the Senate will then resume consideration of S. 14, the Energy bill. The chairman and the ranking member will be here and will be prepared for Members to come forward with their amendments over the course of today. This is an important piece of legislation that will enhance the energy security of this Nation. I expect that the Senate will make substantial progress on this important bill this week.

As I announced previously, no rollcall votes will occur during today's session. However, Members will be able to offer amendments. I encourage them to do so. Any votes ordered on those amendments will be scheduled to occur during tomorrow's session.

Also this week the Senate will need to address the Defense authorization bill that will be received from the House shortly. Prior to the recess, we finished action on the Senate bill; however, we still need to dispose of a few remaining amendments prior to going to conference with the House. That should take only a couple of hours. We will likely consider that bill one night this week after we spend the day on the consideration of the Energy bill. I will keep my colleagues advised as to what evening that will be.

In addition, we have continued to try to reach agreements on the FAA reauthorization and the State Department reauthorization bills. At some point we will have to proceed to those matters even if we are unable to reach a consent agreement for their consideration.

I should also mention there are a number of Executive Calendar nominations that have been pending for a long period of time. Oftentimes these nominations get caught up in other issues. Again, at some point, I will proceed to the consideration of those nominations that have been pending for a while. If Members want to debate a particular nominee, they will need to come to the Senate floor to do so.

In addition to the items I just mentioned, we have a number of other important issues to address, one of which is prescription drug benefits and strengthening and improving our Medicare Program for 35 million seniors and a million individuals with disabilities. I have stated for a number of weeks—in fact, for the last couple of months—that we will be addressing this particular issue, an issue that is important to the American people, both those who are seniors now, those soon to be seniors, and future generations, and we will be addressing that this month. Much of that activity begins in the Finance Committee this week—in fact, today there are discussions going on—and each and every day from now until we bring it to the floor. We plan on bringing that to the floor in 2 weeks.

Having said that, I look forward to a busy and productive legislative period prior to the next scheduled adjournment. A number of people are coming back into town today after a period of a week being primarily at their homes with their constituencies across the United States of America. We are hopping right into the Energy bill today and through this week, followed by a number of issues this week. We will begin the appropriations process very quickly and spend a focused period of time on prescription drugs and strengthening and improving Medicare.

I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 1 p.m. with the time equally divided between the two leaders or their designees.

The Senator from Wyoming.

## ENERGY

Mr. THOMAS. Mr. President, although it is morning business, I will talk about the energy policy we will be considering later today and for the rest of the week. I am delighted we are going to work on that. We have been working on an energy policy for some time. We worked on it last year and passed it in the Senate and the House. Unfortunately, the system we used did not produce results and did not go through the committees; therefore, we had problems when we got to the conference committee.

This year, we are back again and more committed to complete our work than we were last year. We should be. When we think about life, work, and the economy, what is more important than energy? Whatever we are doing, wherever we are, whether we are driving, riding, reading, cooking, energy is consumed. It is certainly something we need to think about, how it affects our lives and what impact we can have on energy.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

What we are talking about is an energy policy. It is important to remember that. We are not talking about an issue that needs to be resolved, a part of the energy issue that needs to be resolved this week or this month. We are talking about an energy policy. As we talk about it, I am hopeful we can try to see a vision of where we want to be in the future, what is necessary to be successful in the future, and that we can set this policy in terms of what we need to do 10 or 15 years from now. As we move toward that and make immediate decisions we can gauge whether or not these decisions are useful in achieving the goals we have set for ourselves. I think it is very important that we take a look at all the aspects of energy. We have gotten ourselves into a position where we have to rely about 60 percent on imports of oil from an area in the world that is very unsettled. So I think it is important that we take a look at conservation, that we look at alternatives, that we look at research, that we look at domestic production, so we can find a policy for the future.

As you will recall, one of the first things President Bush and Vice President CHENEY moved toward when they came into office was to set an energy policy, to begin to look ahead at what we need to be doing. They still, of course, are very involved in that.

To achieve the kind of lifestyle we want in the 21st century, we have to have reliable energy and a clean environment. These two needs are not necessarily conflicting. We have to deal with them so they do fit together. They can.

We need to modernize conservation. We obviously use more energy than is necessary. Sometimes we could make those changes just by our use. We can make changes by using different kinds of equipment.

We need to modernize our infrastructure. Energy production has changed over the years, whether it is gas that is produced in the West and the markets are in the Midwest or in the East, where you have to have a way to get it there. We see more and more energy produced by merchant generators, ready for markets a good ways away from the generator, where you have to have transmission.

We have to increase our supplies. We are going to be using more and more energy, of course. That includes renewables. Excluding hydro, now renewables only amount to about 3 percent of our total energy use. That is not very much. There are great opportunities to do more.

As we do it, we need to upgrade and increase our improvements for the protection of the environment.

Of course, the thing that has become much more apparent to us lately is the need for security. So as we talk about energy, we have to look at security. We have to achieve energy independence for our economy. Certainly we will feel much more comfortable if we are less reliant on importing what we use. Oil and fossil fuels produce about 85 percent of the energy used in the United States. As I said, if you include hydro, then renewables get up to about 7 percent, but it is still a relatively small amount. There is more we can do about that.

We have needed a policy. I come from a State that is sort of a foundation for much of the energy we use, particularly fossil fuels, gas and coal. Wyoming is a place where there is a great deal of that. We are third in the Nation in coal reserves. We provide 14 percent of U.S. coal. We rank seventh in oil production. We have reserves as well for oil and gas. So we have to do some things a little differently than we have.

For instance, coal is our largest resource of fossil fuel. If we are going to use it increasingly, as I think we should, particularly for the generation of electricity, then we need to continue to work to make it clean. We need to have clean air. We need to have clear skies. We can produce cleaner-burning coal or in some instances we are looking at ways where perhaps you take coal and produce hydrogen. That makes it a little easier to transport. It makes it cleaner. Those are things we have to look forward to, and that we can do.

Regarding the carbon that escapes into the air, we are looking at ways of carbon sequestration, putting it back in the ground. We can do that. But we have to have more experiments; we have to have more research. We have to have goals as to where we are going.

In terms of infrastructure, I mentioned if you are going to move electricity, you have to have transmission. I understand that often transmission is not what people like to have in their backyards. Nevertheless, it has to be there. We had a good example of the problems with that in California a couple of years ago, where you knew the demand was there, the supply was somewhere else, and you had to get it to the market.

As I mentioned, our attempt last year to move into some of these areas did not succeed. We did not go through the process as we have this year. We have had hearings. We have had committees. I thank Senator DOMENICI for keeping us on the right track to do that.

So what kind of policy? We need to have some fuel diversity. We need to have different kinds of fuel. We are looking at hydrogen; I suppose we are looking at solar; we are looking at wind power. Many of those are available but, frankly, they are not economical at this time. We have to do that. We have to strike a balance, as we move forward, with the environment.

So there is much that can in fact be done. In this energy policy we will be considering, we have a title on coal. That is mostly to do some experiments on how that can be used cleaner or how it can be transformed. We are going to do something with Indian energy so the reservations can produce more energy than they have in the past.

Some people kind of freeze up when you talk about nuclear energy. The fact of the matter is, in some States, 30 percent of their electricity currently is generated by nuclear. It is probably the cleanest fuel we have. We have to work on the storage of the waste from nuclear, of course.

We have great opportunities to do some things with renewable energy. I think we need to be a little careful in setting mandates that we are going to be at a certain place at a certain time because that can turn out to be very expensive and difficult.

Regarding fuel efficiency, we can work on that in cars or whatever, and make them much more efficient than we have now.

I mentioned hydrogen. The President indicated he thinks hydrogen is one of our best opportunities for a movement of alternative fuels. He has put money in his budget for hydrogen work.

I am very hopeful that we do commit ourselves to coming up with some solutions with regard to energy policy. I am a little concerned it is sort of on the base here and we will be moving off to other matters. I hope in this 2-week period this becomes our highest priority, that we continue to stick with it until we have accomplished the goal we set out to accomplish, and that is to have an energy policy for the Senate.

Second, I hope it can be a policy, not a great number of details, but a view in the future as to where we are going to be, and then do the things that are necessary for us to get there.

I am delighted we are going to be moving forward in this area.

I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## MEDIA OWNERSHIP

Mr. DORGAN. Mr. President, this morning the Federal Communications Commission made some decisions I think were wrong-headed and counterproductive for this country. I would like to describe them just for a moment.

The Federal Communications Commission, by a vote of 3 to 2, decided to change in a dramatic way the ownership rules with respect to broadcast stations and newspapers around this country—radio, television, newspapers. Let me describe where we may end up as a result of the FCC decisions.

As a result of what the FCC has decided today, it is likely that in the largest markets of our country, the same company will own the newspaper, three television stations, the cable company, and eight radio stations.

I can't think of anything more destructive to the interests of localism and to the interests of diversity, both of which are hallmarks of what we aspire to have in American broadcasting, and the free flow of information and diversity of information in this democracy of ours.

I don't understand why the FCC made this decision. The majority of the members of the Senate Commerce Committee signed a letter asking the FCC to delay and provide their recommendations to us first so we could perhaps have a hearing and discuss it with them. But they didn't do that. The first anyone knew of the specific recommendations was this morning at about 10 o'clock. There were somewhere close to 500,000 communications from the American people to the FCC saying don't do this. Instead, the FCC took this action. They say they took this action because there are more voices, there are more outlets and more diversity; therefore, the old rules with respect to ownership are outmoded and old-fashioned.

That is simply not the case. Ninety percent of the top 50 cable stations are owned by the top handful of the broadcasters. Twenty-five of the top Internet sites are owned by the same companies. In terms of diversity of thought in terms of where you get your news, it all comes from the same source—many voices, one ventriloquist.

Is that in the public interest? In my judgment, the answer is no. The FCC held only one hearing in Richmond, VA, and the rest of their work was done largely in secret.

There is a history to some of this. The FCC today said that one ownership group should be able to broadcast to 45 percent of the Nation's audience. It is actually going to be much more than that because they have a rule that counts UHF stations and only 50 percent of the stations.

It is a complex system. But it is 45 percent of the national audience. It used to be 25 percent. In 1996, a piece of legislation—the Telecommunications Act—came to the floor of the Senate taking that 25 percent to 35 percent. I offered an amendment at that point to restore the 25-percent limit; take the 35 percent out of the bill and restore the 25-percent limit. We had a vote. The proponent on the other side in support of the 35 percent was Senator Dole from Kansas, a pretty aggressive competitor, as a matter of fact. We had a vote and I won. I was dumbfounded. I had no idea I would win. But I won by, I think, three or four votes. That was about 4 in the afternoon when we considered the act in 1996.

On that same day, at about 7:30 in the evening, we had a another vote because Senator Dole was cagey enough to have another Senator change his vote, and then we came back after dinner and had a vote on reconsideration. Apparently, three, four, or five Senators had some sort of epiphany over dinner. I lost. I have no idea what they had for dinner, or who talked to them, or how far their arms were bent. But I won that vote for about 4 hours, and then I lost.

The result has been that for 7 years we have had a 35-percent ownership cap with respect to a broadcasting company broadcasting television signals across the country, providing that there is a limit on broadcast stations—that you can't go over 35 percent of the national audience.

Now the FCC this morning said they are taking that to 45 percent. They are eliminating the ban on cross-ownership between newspapers and television stations. This weekend one of the large newspaper chains was reported in a story that I saw to have said, Look, we intend to buy a television station in every city in which we have a newspaper. We intend to do that.

I don't doubt it.

Another story which I read this weekend talked about the plan of one of the large broadcasting enterprises and all the deals they had lined up anticipating the FCC was going to do what they wanted them to do. They have deal after deal. They are going to start. There will an orgy of concentration and mergers that start almost immediately.

What I would like to say to all of those who are now celebrating the FCC's decision today is that Congress will have another bite at this. There are many ways to do it.

No. 1, we have a Congressional Review Act which is a form of legislative veto dealing with rules that we don't like. It has been used rarely. But I think it should be used in this circumstance; it would provide a vote here in the Congress, up or down, on this rule.

There are other approaches. Several of my colleagues—the Presiding Officer is one—have introduced legislation restoring the 35-percent cap. That is a bipartisan piece of legislation cosponsored by Republicans and Democrats in the Senate. Of course, there is always the timeline tradition of, if everything else fails, attempting to legislate on an appropriations bill.

But my point is this: I don't think the FCC decision this morning should be considered the last and definitive word. My own personal view is that I hope we will attempt a form of "legislative veto" which is provided for in law. But there will be attempts to overturn much of this decision.

It makes no sense to me that we will have decided through a regulatory agency not to do effective regulation on behalf of the American public, and to say, oh, by the way, concentration is not a bad thing. Let us just allow in one big American city the same company to buy the cable company, buy three TV stations, eight radio stations, buy up the cable system, and buy the newspaper. It makes no sense to me that a Federal regulatory body ought to do that.

I very much regret what the FCC did this morning. In the review mirror, this will be seen as a terrible decision that marches this country backward and not forward, and one that will well satisfy those who have billions at stake because they have lobbied very hard to have this kind of decision come from the FCC but one, in my judgment, which will detract from the interest of localism. Those big enterprises win and American communities lose. Who is going to broadcast basketball games? Who is going to broadcast the local baseball games?

The fact is, we have had some experience with concentration in the media in recent years—since 1996—and it isn't working. We are destroying localism and destroying diversity. I think this Congress needs to weigh in now and deal with the FCC.

## ENERGY POLICY

Mr. DORGAN. Mr. President, I would like to make a comment finally on the Energy bill which my colleague from Wyoming discussed moments ago.

If we have learned anything—and I expect we have learned a lot with respect to the war in Iraq, Afghanistan, and the trouble in the Middle East—it is that this country is foolish to continue its excessive reliance on oil from troubled parts of the world. When 55 percent of our oil comes from overseas and outside of our borders, and when the largest growth in energy usage is for transportation and putting gasoline through our carburetors so we can drive back and forth to work and take trips and so on, this country ought to understand the great peril it is in—the peril to which the economy would be flat on its back tomorrow morning if, God forbid, the supply of oil from outside our borders was discontinued or interrupted. We need to understand that. We need to pass an Energy bill that recognizes and addresses it.

The Energy bill, in my judgment, should be legislation that does four things: incentivizes increased production of fossile fuels—yes, oil—using clean fuel technology, coal and natural gas; incentivizes conservation and provides for substantial conservation initiatives; provides for efficiency with all of these things that we use in our daily lives, especially using electricity; and then, finally, addresses the issue of limitless renewable sources of energy—ethanol, biodiesel, and especially, in my judgment, hydrogen.

If we fail to do all of that in an aggressive way, we will not have much of an Energy bill. We will, as we do every 25 years, come back and debate where we should drill now. Digging and drilling is a policy that I call "yesterday forever." It doesn't advance this country's interests. Yes. We should produce more fossil fuels, and we will. But we need to decide that putting gasoline through our carburetors is not what we want our grandchildren to do.

The President talked about moving to a hydrogen economy with fuel cells. I agree with that. Good for him. Putting his administration on line in support of that initiative makes great sense. Frankly, his specific proposal was timid. It was not very bold. But he deserves great credit for moving in the right direction.

I and some of my colleagues will introduce legislation dealing with hydrogen and fuel cells. That will be a $6.5 billion program over the next 10 years—a type of Apollo program. At the start of a decade we said, Let us have a man working on the Moon at the end of the decade. We did it with timelines and with targets.

If we decide we ought to use hydrogen and fuel cells to power America's vehicle fleet, and also some stationary engines, then we ought to move in that direction boldly, not timidly. This is the time to do that with an energy bill. This is the time we decide the direction in which we want America to move and then establish public policy that makes that happen. I don't know whether we will have a bill through the Senate that does all that. I hope so. We will have many amendments. I have some amendments I will offer to get us in that position.

Let me make one additional point. Anyone who watched what happened in the California and the west coast energy markets in the last couple of years has to understand that if we pass an energy bill that does not provide safeguards for the consumers, then we will have failed miserably. We saw companies—and I will name Enron, for one, but there are others the Federal Energy Regulatory Commission has already identified—that were playing a monopoly game in west coast markets manipulating loads—they were buying and selling energy to themselves, jacking up prices, in some case, five, ten, and a hundredfold, and stealing from consumers. And it was not just a few dollars; they were stealing billions and billions of dollars from west coast consumers. They are now going to be held criminally liable.

But while all that was happening, we had a Federal Energy Regulatory Commission that was dead from the neck up. It would not do a thing; it sat on its hands, looking like a potted plant. It did not do a thing. So this massive stealing went on in west coast markets because big companies that could control supply did control supply, manipulated load, and attempted to extract from the consumers in western America billions of dollars in an unfair way. We must put safeguards in this legislation that prevent that.

If anybody wonders about it, there is plenty written about it. Go trace the trail that describes the Enron Corporation strategies called "Get Shorty," "Fat Boy," and "Death Star." Do you know what those are? Those are strategies to steal from consumers. The FERC is now deciding there was plenty of activity, and there are criminal investigations going on that warrant perhaps prosecution of both companies and individuals.

But all that happened because we had regulators who did not want to regulate. Regulators were afraid to step in and take effective action. Once again, it demonstrates that when you have the market power, the muscle, and the clout, and you do not have regulators who effectively regulate it, people are victims. And in this case on the west coast, the victims lost billions of dollars. The question is, How is there going to be recompense for that? How is that going to be resolved? Who is going to be tried? Which FERC investigations are sent to the Justice Department for criminal prosecution?

My point is, safeguards need to be in this energy bill dealing with that. We have been through this once. We have colleagues still calling for deregulation of these markets. Deregulation, when you have companies with market power willing to use it to the detriment of consumers, is a devastating mistake. You need effective regulators, wearing referee shirts, who safeguard the interests of the consumers.

That has to be a part of this bill as well.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDENT pro tempore. The Chair, in my capacity as a Senator from the State of Alaska, asks unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

## THE ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Frist/Daschle amendment No. 539, to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence.

The PRESIDENT pro tempore. The Chair, in my capacity as a Senator from the State of Alaska, suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Kyl). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry.

Am I correct that we are currently on S. 14?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. The National Energy Policy Act?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I thank the Chair. I hope Senators and their staff are paying attention. We have been given this week, and it would seem like part of next week, to get an energy bill completed in the Senate. We know this is an important bill, and we know these are important issues to Senators.

Nonetheless, it would seem to this Senator that we have had a very lengthy debate, a lot of amendments, and much discussion last year on an energy policy. Admittedly, much of that debate centered around the Alaskan wilderness provisions, and they are not going to be at issue in this bill unless somebody chooses to make them so. As manager on this side, I am not aware of anyone who intends to do that. Not because people have changed their minds but because the issue seems to have been decided.

It seems to this Senator that much of the debate has been narrowed. Nonetheless, there is a significant number of issues of consequence to many Members. We did produce a bill in the committee in kind of rapid time, but considering that many of the issues had been debated so frequently, it appeared to this Senator, as chairman, that we did a rather good job. That does not mean we do not have some serious issues, but I believe, since the House has once again produced a National Energy Policy Act, we have a responsibility to produce one. In due course, we will be able to discuss with the Senate and with the people of this country what kind of bill we have.

As chairman, it was this Senator's hope we could produce a bill that over time gave to the American people an opportunity to use a variety of types of energy to meet both the residential and business energy needs in America's future. In essence, we tried to produce a bill that was going to enhance and increase production of various types of energy.

We could have a serious discussion of what we see down the line for the next 5, 10, 15, or 20 years that precipitates this bill and will in turn precipitate the debate on various amendments. However, it ought to be clear to everyone that the United States has, all of a sudden, within the past 5 years decided the energy of choice seems to be natural gas, aside from the fact that we still drive automobiles that use petroleum products, and thus we are still very dependent upon crude oil. We produce as much as we can at home and import a huge amount from a large pool of oil which is now being produced by numerous countries around the globe.

At home, 90 percent of the new electricity production comes from natural gas fired generation. There is nothing wrong with that, but that, coupled with the direct use of natural gas in this country, means we are rapidly moving toward a natural gas economy.

For some, there is no risk in that. For others, they ought to at least be concerned. For others, it seems that we may run into a shortage of natural gas sometime in the not-too-distant future. To that end, this bill says we have an abundance of coal in our country: do everything we can to enhance the usability of coal by spending resources on science to develop and modernize and even build a powerplant that would be clean so that we can prove that in the future coal can begin to fill the gap and begin to take the place of natural gas.

We have also gone ahead particularly at the persuasion of this Senator, the chairman, and said that maybe the time has come for a rebirth of nuclear power in America. We will have a good opportunity for a lengthy and wholesome debate on where we are today, what went wrong in the past, and what we ought to be doing in the future, perhaps, as this bill envisions, giving nuclear power a chance to come back to life in America and become a powerful source of energy around the world.

At the same time, renewables are of great concern to many Americans. A thorough reading of this bill plus the amendment which is contemplated, the one produced by the Finance Committee, which has a significant provision in it for tax incentives for renewables—the totality of the bill, plus the proposed amendment that would be attached from the Finance Committee, suggests to the American people there will be a lot of windmills in our future. Literally, there will be millions of them. They will be a significant portion of the grid in the United States.

In addition, all other sources of energy—biomass and all related forms—are given some incentive, or in every way possible we have attempted to put all of them on an equal footing. There will be a variety of energy types available to the American people in the foreseeable future.

Clearly, there will be seven or eight major issues. I am hopeful that ethanol, which has become a huge issue even though it is not part of the jurisdiction of this committee—the major ethanol bill currently pending as an amendment has many considerations that will be brought to the Senate's attention by Senators concerned about it and who want various changes in it. We would like that it be dealt with in due course, that it not take a huge amount of the time allotted for this entire bill. We are working together on both sides of the aisle to see if we can set that amendment aside while we pursue other amendments, to move ahead, taking the ethanol provisions in due course.

This bill was reported on April 30 and laid before the Senate on May 6. The Senate considered the measure for 3 days at the beginning of May during which time the pending amendment relating to ethanol was laid down. Today, we begin consideration of the measure. I believe we can predict the outcome of most of the major issues in this legislation. The pending amendment is a bipartisan agreement on ethanol reached after years of negotiation among the involved parties sponsored by the majority and minority leaders and identical to language reported from the Committee on Environment and Public Works. I don't think there is any question but it will be adopted. However, there are some Senators, led by Senators FEINSTEIN and SCHUMER, who oppose the amendment and have the right to offer as many second-degree amendments as they like—as they did last year.

However, as with all major issues, the Senate spoke last year. For the most part, the issues have not changed. I am certain the resolution of those matters will largely reflect the resolution achieved last year. Last year, it took 6 weeks. There is no reason for it to take that long this year. While some issues are clear, the legislation before the Senate also raised new issues which deserve the consideration of the Senate. I expect amendments related to our titles dealing with electricity, Indian energy, nuclear energy—which I alluded to briefly—which are significantly different from those proposed last year, will take a little bit of time. I also think there are a few areas, such as climate change and renewable portfolio standard, where the outcome may or may not be different from last year.

I hope my colleagues will give Members the opportunity to move as expeditiously through some of these issues as possible. I want the will of the Senate worked, and I will do all I can to move the process along. The majority leader has indicated the Senate will be on this bill this week and some portion of next week with only a few interruptions for other matters that may need to be resolved. I understand we need to spend a few hours resolving some matters relating to the Defense authorization bill and may need to vote on a few judges. Those issues should not consume a lot of time.

For my part, I will be here waiting for amendments. I understand from my distinguished colleague, Senator BINGAMAN, that he, too, is available. We will spend as much time as necessary to move this bill along. I hope a vote can occur tomorrow, perhaps as early as noon, and then thereafter on a regular basis. Senators can expect votes at various times unless we reach some agreements, which everyone would know about from time to time, on each of the days we are scheduled to be in session this week and next week. There are amendments out there. I understand a number of Senators will offer amendments on the OCS inventory provisions of the bill. I have been told perhaps Senator MCCAIN plans to offer amendments related to climate change and perhaps CAFE. Senator BINGAMAN made it clear he plans to offer a number of amendments. We are prepared and ready to proceed on those.

I encourage Members to be prepared to come to the Senate as soon as possible. We would like very much to be given the opportunity to get this bill discussed and get the issues debated and voted on as soon as practical. This Senator thinks they are important. There are many people in this country who think energy is important. Until there is a crisis, we act as if we need not worry about an Energy bill, but things have not changed that much. Whatever the crisis was or wasn't last year or the year before, it is practically the same for all intents and purposes today. We remain gravely dependent upon foreign oil. Clearly, there are a number of bottlenecks created both by bureaucracy and statute that we are going to try to alleviate. There are a number of incentives that ought to be built into the energy base of our country.

As we look at the overall picture, the United States has a rare opportunity to see to it that it has plenty of energy of a variety of types and sources, and after the adoption of this policy through conference and through signature of the President so that America will not have to be worried; we will clearly be in a position that the energy we need to grow and prosper will be there.

Throughout consideration of this bill, there will be discussions about conservation—saving of energy, the use of less energy wherever we can, and promoting policy changes which will indeed promote the use of less rather than more energy. That, too, will create some very serious debates and serious discussions.

With that, I yield the floor to my colleague, Senator BINGAMAN. We are attempting to get a unanimous consent request in short order. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague, Senator DOMENICI. I will just very briefly summarize the views I expressed in much greater detail when we began this bill back in May.

My own view is there is much in this legislation that has come before the Senate which I support. Unfortunately, there are also provisions in here I do not support, and there are provisions left out of the bill that I believe are important to include in any kind of comprehensive energy bill we might pass through the Senate.

On that basis, I did not support the form of the legislation that came out of the Energy Committee. I am hoping during the debate here on the Senate floor we can correct the problems that I believe exist, that we can add some provisions that will improve the bill as regards increased efficiency in the use of energy, that will improve the bill as regards increased diversity in the sources of energy, that will improve the bill as regards a consideration of climate change issues, along with our energy policy. There are a variety of issues that need to be addressed, some that need to be corrected.

I look forward to the chance to debate those issues in detail as we get into the amendments. The chairman's intention, perhaps, is to try to begin dealing with the low-income home energy assistance issue today. I hope we can move ahead on that. It is an extremely important provision of the bill. But I look forward to working with the chairman to try to move this legislation forward. In my view, it is important the Congress act in this area. It is important the country modernize the laws that affect our energy supply and energy usage. It has been many years since we have done that in any comprehensive way. So I hope we can make progress. I know that is the chairman's fondest hope. I certainly join in that and intend to do all I can to cooperate.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, we have received consent from both sides for the following consent request.

I ask unanimous consent that the pending ethanol amendment be set aside temporarily so that the Senator from New Mexico can offer an amendment with reference to LIHEAP.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

### AMENDMENT NO. 840

Mr. DOMENICI. Mr. President, I want to explain what we have done and why we have done it. Obviously, there are Senators who want to debate and propose amendments to the ethanol provision. They are not available today.

On the other hand, there is an issue, the LIHEAP issue. Last year the LIHEAP bill was found in the Energy legislation. This year the Senate Committee on Energy and Natural Resources voted for LIHEAP, to reauthorize the LIHEAP Act, and did not include it in the bill but recommended that it would be offered on the floor as an amendment.

In compliance with that, I am going to offer the LIHEAP reauthorization amendment. It will be offered by myself, for myself and for Senator BINGAMAN, in response to the recommendation of the Energy Committee that such be the case.

With that, I send to the desk the low-income home energy assistance program, on behalf of myself, Senator BINGAMAN, and the committee.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for himself and Mr. BINGAMAN, proposes an amendment numbered 840.

Mr. DOMENICI. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reauthorize LIHEAP, Weatherization assistance, and State Energy Programs)

At the appropriate place in the bill, insert the following new title:

## TITLE XII—STATE ENERGY PROGRAMS

### SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) HOME ENERGY GRANTS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "each of fiscal years 2002 through 2004" and inserting "fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006.".

(b) STATE ALLOTMENTS.—Section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) is amended—

(1) by inserting after (e) "(1)";

(2) striking "or any other program;" and

(3) adding at the end the following:

"(2) Notwithstanding any other provision of this subsection, the Governor of a State may apply to the Secretary for certification of an emergency in that State and an allotment of amounts appropriated pursuant to section 2602(e).

"(3) The Secretary shall, in consultation with the Department of Energy and States, adopt by rule procedures for the equitable consideration of such applications. Such procedures shall require—

"(A) consideration of each of the elements of the definition of "emergency" in section 2603;

"(B) consideration of differences between geographic regions including: sources of energy supply for low-income households, relative price trends for sources of home energy supply, and relevant weather-related factors including drought; and

"(C) that the Secretary shall grant such applications within 30 days unless the Secretary certifies in writing that none of the emergency conditions defined in section 2603 have been demonstrated.".

(c) REPORT ON METHODOLOGY.—

(1) Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report that makes recommendations regarding the methodology for allocating funds to States to carry out the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(2) In preparing the report, the Secretary of Health and Human Services shall—

(A) use the latest, best available statistical data and model to develop the recommendations for the methodology; and

(B) recommend a methodology that—

(i) consists of a mechanism that uses estimates of expenditures for energy consumption (measured in British thermal units) for low-income households in each State, for each source of heating or cooling in residential dwellings; and

(ii) employs the latest available annually updated heating and cooling degree day and fuel price information available (for coal, electricity, fuel oil, petroleum gas, and natural gas) at the State level.

(3) In preparing the report, the Secretary of Health and Human Services shall consult with appropriate officials in each of the 50 States and the District of Columbia.

(4) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 2004 through 2006.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on the programmatic impacts of using the National Academy of Science's poverty measure with difference equivalence scale, known as DES, to determine low-income households.

### SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking "125" and inserting "150", and

(2) in paragraph (7)(C), by striking "125" and inserting "150".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting ", $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006.".

### SEC. 1203. STATE ENERGY PLANS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end of the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) of (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324), is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 5325(f)) is amended by striking the period at the end and inserting ", $100,000,000 for each of fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006.".

Mr. DOMENICI. Mr. President, the amendment increases the authorization for the low-income home energy assistance program from the current authorization of $2 billion annually to $3.4 billion for each of the fiscal years 2004 through 2006. The amendment also expands eligibility for the Weatherization Assistance Program to include families with household incomes at or below 150 percent of the poverty level established by OMB, which is equivalent to the existing LIHEAP eligibility.

The amendment also increases funding to $325 million for fiscal year 2004 through $400 million for 2005, and $500 million for 2006.

Finally, the amendment establishes procedures for regular review of existing State energy conservation programs. It sets State energy efficiency goals, reducing energy use by 25 percent by 2010 from energy usage in 1990, and it expands and extends authorization for these programs to $100 million in fiscal year 2004 and 2005, and $125 million for 2006.

I urge my colleagues to agree to the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I strongly support the amendment that Senator DOMENICI sent to the desk. I think it makes some very much needed improvements in the existing Low-Income Home Energy Assistance Program and also in the Weatherization Assistance Program. It also provides additional funds for development of State energy plans.

I think these are very important provisions. We did not have that severe of a winter in many parts of the country this year. Accordingly, we didn't see as many headlines about the importance of this Low-Income Home Energy Assistance Program as we have in some previous years. But the truth is, this is an extremely important program for a great many of our citizens who are low income and who do need the help. It is important for them in heating their homes in the winter, and it is important for them in keeping their homes reasonably cool in the summer. We are starting the summer.

I went through Dallas on the plane Friday on my way back to Washington. It was 96 degrees. I am sure that is a mild foretaste of what we are going to be seeing in the future as far as the temperature in Dallas and in many parts of the country, particularly in the southern sections of the country.

The Low-Income Home Energy Assistance Program assists people in paying their utility bills for air-conditioning just like it assists them in paying their utility bills for heating.

It is very clear when you look at studies that there are a significant number of people in this country, particularly elderly people in the Southern States, who, in fact, die because of excess heat and the inability to cool their apartments or their homes.

This is a very important program. It is one that we need to deal with. It is one we tried to deal with in the Energy bill last year. We passed it through the Senate in very much this same form. We had general support from the House of Representatives to include it in a final bill to go to the President had we been able to get agreement on a final bill. But there was no disagreement about this part of the program or this part of the legislation.

I believe very strongly this should be agreed to and should be included in this Energy bill.

I notice the House has addressed it already in the Energy bill they have passed. It clearly needs to be part of our Energy bill as well so that when we go to conference we can, in a meaningful way, conference with the House of Representatives on this important issue.

I hope this will be agreed to. I look forward to additional debate on it as necessary.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 841 TO AMENDMENT NO. 840

Mr. DOMENICI. Mr. President, I have already indicated to the Senate that while this amendment was in the Energy bill last year, and while it was considered by the Energy Committee of the Senate and handled in a manner that I have described, it is not included in the bill but recommended for submission as an amendment, which has been done. It is clear the jurisdictional issue which has arisen did not come up last year, as I understand it, from the distinguished Senator from New Mexico who was chairman last year. It was not raised. So we proceeded as if the same were to occur this year. Such is not the case in that the chairman and the ranking member of the committee of jurisdiction desire to challenge the inclusion of that.

They are aware of the fact that the amendment is going to be included today. The chairman of the appropriate committee, Senator GREGG, is not here today. He will be here tomorrow. Thus, we will not complete debate on this until he comes back tomorrow. But I am going to send to the desk, as they understand this is going to be the case, in behalf of Senator GREGG, an amendment to my amendment which strikes the section of the Low-Income Home Energy Assistance Program substitute and extensive Senate language; that when the Committee on Health, Education, Labor and Pensions reauthorizes the LIHEAP Act of 1981, the committee should consider increasing the authorization of the program to $3.4 billion to better serve the needs of low-income and other eligible households.

I, therefore, send an amendment to the desk in behalf of the chairman of the Committee on Health, Education, Labor, and Pensions a sense-of-the-Senate amendment which does what I have just described.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GREGG, for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. COLLINS, and Mr. REED, proposes an amendment numbered 841 to amendment No. 840.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981)

Strike section 1201 (relating to the Low-Income Home Energy Assistance Program) and insert the following:

### SEC. 1201. SENSE OF THE SENATE REGARDING THE REAUTHORIZATION OF THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981.

(a) FINDINGS.—The Senate finds that—

(1) the Low-Income Home Energy Assistance Program (referred to in this section as "LIHEAP") is the primary Federal program available to help low-income households, individuals with disabilities, and senior citizens meet their home energy bills and maintain their health and well-being;

(2) home energy costs are unaffordable for many low-income households, individuals

with disabilities, and senior citizens living on fixed incomes;

(3) those households often carry a higher energy burden than most United States households, spending up to 20 percent of their household income on home energy bills;

(4) States provided more than 4,000,000 households with LIHEAP assistance in 2002;

(5) LIHEAP is currently able to serve only 15 percent of the 30,000,000 households who are income-eligible for assistance under LIHEAP; and

(6) the Committee on Health, Education, Labor, and Pensions has jurisdiction over the Low-Income Home Energy Assistance Act of 1981, which provides authority for LIHEAP, and is working towards reauthorizing the Act prior to its expiration in 2004.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, when the Committee on Health, Education, Labor, and Pensions reauthorizes the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), the committee should consider increasing the authorization of appropriations under section 2602(b) of that Act (42 U.S.C. 8621(b)) to $3,400,000,000, in order to better serve the needs of low-income and other eligible households.

Mr. DOMENICI. Mr. President, as I understand it, this is the second-degree amendment. Clearly, it will be debated tomorrow when Senator GREGG and Senator KENNEDY return. We will see what the wish of the Senate is. I join with my colleague, Senator BINGAMAN, in stating that I hope we will leave it in this bill. I think the House has done the same. I think it is important that we adopt the LIHEAP bill and that we do it now. Obviously, there is no need for the Senator from New Mexico to debate any further on this issue because the opponents have to be heard from and they won't be here until tomorrow.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, for Senators again, let me repeat that we are awaiting the return of Senator GREGG to debate this issue; that is, the second-degree amendment which was just offered a few moments ago. In the meantime, the entire Energy bill is before us. Amendments would not be in order obviously. We will await their return and then begin the debate. After we finish the debate, we will vote on LIHEAP.

We will also debate the ethanol amendment. We are attempting to work with Senators who have serious issues with reference to ethanol to see if we can't line those up so that we will be ready to proceed in due course and with some degree of dispatch.

Having said that, I don't believe there is going to be any further significant business on this bill. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

## MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

## SCHEDULE FOR JUNE

Mr. FRIST. Mr. President, in opening the Senate this morning, I spoke generally of the schedule for the next month. There are a number of items that I outlined which we will be addressing.

The first is energy, and we will continue that debate, possibly later today but through tomorrow, the next day, the next day, the next day—through this week. It is a very important debate as we work toward that objective, increasing domestic production, decreasing our dependence on foreign sources, addressing issues such as renewable energy sources that we all know are so important, and accomplishing all that with a lot of attention and focus and care with regard to the environment as well as the economy of this great country.

I mentioned this morning that we have begun, weeks ago—in fact, months ago—addressing the issues surrounding the strengthening of our Medicare Program—strengthening it, preserving it, improving it—and at the same time addressing an issue that seniors feel strongly about, people in Medicare feel strongly about, but also soon-to-be-seniors and that younger generation, and that is to include a new benefit of prescription drugs as part of our health care for seniors program, our Medicare Program.

As I talked to a number of people over the last week, a lot of people said, Why now? There are a lot of reasons why now. The bigger question I have is why didn't we do it 6 months ago or a year ago or 2 years ago. Prescription drugs have become an integral part of health care delivery, of the tools, of the equipment, of the armamentarium that a physician has, that a nurse has, that health care providers have, to give people security, health security, and especially to give seniors health care security. That is the purpose of our Medicare Program, to give seniors that health care security. Yet we have this very important benefit today—much more important today than 10 years ago or 20 years ago or 30 years ago when Medicare was started—these prescription drugs, which are vital to health care security for seniors.

We will be addressing, 2 weeks from today on the floor of the Senate, for a 2-week period, how to strengthen and improve Medicare. To answer that question, Why address the issue now? I think there are three reasons.

First, I think we have a unique opportunity because the political environment is right. When I say political environment, I mean the responsiveness that we demonstrate to what our constituents want and what they demand and, indeed, what they deserve. Indeed, in terms of the political environment, we have seen the call for prescription drugs, proposals to deliver prescription drugs, enter into a number of campaigns 6 months ago around the United States of America, in the campaign cycles from 2 years ago, and that is simply a reflection of the importance of the issue to the American people.

Second, we have a unique opportunity because, I believe, the legislative stars are aligned at this point in time—unlike last year, unlike 3 years ago, and possibly unlike 2 or 3 years from now. By that I mean that we have a President of the United States who has spoken out boldly and forcefully that this is important to our domestic agenda. In fact, the President put out a framework several months ago demonstrating his commitment and the commitment of this administration to strengthening Medicare, to improving Medicare, and at the same time adding this new and important benefit of prescription drugs.

When I say the legislative stars are aligned, it starts in many ways there because it takes that bold leadership because this will be the single most significant and most expensive change in the history of Medicare, a new benefit at the same time we strengthen and modernize Medicare. But it also takes bold leadership in the House of Representatives and bold leadership on the floor of the Senate. As a physician, as majority leader of the Senate, I have made it very clear that this is a huge priority for the leadership of this body. Indeed, that reflects the leadership in the last Congress where Medicare reform and modernization and prescription drugs were discussed on the floor for 2 or even 3 weeks, but where we were not able to bring to it a conclusion.

Then we have a House of Representatives, as we look at these legislative stars. Indeed, it is lined up. This will be the third Congress, maybe the fourth but the third Congress that I recall, that will have put forth and passed a bold, comprehensive plan.

So when you have bold leadership in the White House by the President of the United States, you have this body, which is committed—committed to giving our seniors what they deserve, you have a majority leader who happens to be a physician, who has taken care of, personally, tens of thousands of patients who would be beneficiaries of this type of program—and a House that is committed, we can do it.

The third reason we have this unique opportunity, and which is one that we have little control over, is the unprecedented aging of the population which was defined post-World War II and what we know today as the baby boomers. This unprecedented fertility curve that happened after World War II, this move in our population which begins to hit in about 6 or 7 years, resulted in a doubling of the number of seniors. From where we are today over the next 30 years, that doubling of the number of seniors is going to call for health care security. It is going to make it very expensive. Therefore, we need to look in whatever we do today to make sure we meet that fundamental criterion of having it be sustainable over time, and not to make promises that can't be sustained when we are going to have twice as many people demanding and deserving the services for that health care security.

That unprecedented tidal wave of the aging of our population is what we need to face as responsible legislators. What complicates that huge increase in demand for services is that in the pay-as-you-go system, the number of workers out there who are actually paying into the system is going to fall over time. About seven workers in 1970 would support one senior. I just told you that we are going to double the number of seniors. But no longer having seven workers support every senior, it is now down to about four workers for every senior. And it will go down to about 2.9 workers for every senior. For every one senior you have over here, you are going to have fewer people working harder to provide those services, and on top of that you have a doubling of the number of seniors receiving those services.

This underscores the need to approach this modernization, this strengthening, this reform, this improvement of Medicare, especially since we are adding on top of that system I just described the single largest addition of benefits in the history of Medicare.

Even with benefits as designed today which we have already promised, the system itself is difficult to sustain because of this doubling of seniors, and with almost a halving of the number of people paying in. On top of that, we have the challenge of adding a very expensive service.

It is estimated that seniors will spend about $2 trillion in medicines over the next 10 years. I would say that is a low estimate. If we were to promise all seniors all of their prescription drugs for the next 10 years, that would be $2 trillion which we would be putting on the system. Today, for all health care, we spend about $250 million a year. That simply can't be sustained long term. But that is the challenge which we have.

Let me say that as a physician and as someone who has been involved in delivering care to seniors, Medicare has been hugely successful. The Medicare Program, which is now a little over 35 or 38 years old, has been hugely successful. Seniors would have been driven to financial ruin. They would not have received the health care benefits because there would be too many barriers without this great program. The problem and the challenge is that the program itself has not changed very much over the last 30 years. We have changed it a little bit on the floor of the Senate, but at the same time health care delivery has changed dramatically. We know better how to deliver care in a continuous way that looks at quality, constant monitoring, and chronic disease, but none that have ever been incorporated into this great program, but a stagnant program that hasn't kept up with the times, with the great advances, such as difficult heart transplants—I was involved in putting in artificial hearts as a surgeon in that arena—with a little stint; and the angioplasty. None of that was done in 1965 when Medicare started—zero.

The system changes so little. And you can go through every specialty of health care. These rapid changes in health care simply are incorporated only very slowly with years of lag time, if they are incorporated at all. In Medicare, there is very little preventive medicine, for example. It has been a great program, a tremendous program, and a program we need to preserve. But we need to improve it and strengthen it over time.

Our challenge is that a lot of the seniors listening to me are thinking their Medicare is OK. You politicians up there in Washington, DC may have been a doctor in the past and now may be a U.S. Senator, but just do not touch what I have. I may be 80 years old, or 85. I don't want any politician tinkering with my health care that I think is OK.

That is going to be a challenge as well because a lot of people are going to say don't touch it at all.

I would argue that seniors deserve for us to touch it. Don't take anything away from seniors. If they want to keep what they have today, they can keep exactly what they have. But at the same time we have an obligation to let seniors and soon-to-be seniors know the program is not as good as health care which can be delivered today, and which is delivered today in the private sector. They need to know that.

For example, Medicare doesn't cover catastrophes. That simply means if you are very sick, with Medicare there is no limit of $1,000, $10,000, $50,000, or $100,000 that you are going to pay in. You are always going to be paying out-of-pocket a certain percentage. For example, with physicians, you might be paying 15 or 20 percent of whatever that physician charges. But for the rest of your life—no matter if you have a catastrophe, if you had $100,000 in bills, there is no cap in Medicare. That is not true in the private sector. There is a catastrophe cap for most health care plans.

Second, Medicare today does not offer very much in the way of preventive care. We know that if we catch the disease early and we manage it well before you require hospitalization, before you require surgery, and before you require radiation therapy, you are going to have huge cost savings. But, more importantly, you will have a better quality of life for the rest of your life.

That takes prevention—catching those cancers when they are tiny, before they have spread throughout the body, or catching that heart disease before it has manifested itself in shortness of breath, or congestive heart failure and not being able to get out of bed. We do it all the time today. Yet annual physical exams are not covered in Medicare.

I would tell seniors who say they are getting good coverage today to ask whether there should be some prevention involved. Right now Medicare has very little.

Second, wouldn't you like to have a plan that limits your out-of-pocket expenditures?

Third, Medicare today—as great a program as it has been—does not cover prescription drugs. If you talk to seniors today and ask somebody who is 80 or 85 years of age, Are you on prescription drugs, they will say, No, hopefully, but in all likelihood they will say Yes, for my diabetes, or for my congestive heart failure, or for my obstructive pulmonary disease, for my arthritis. Really, you can pick any one as you go through.

Thus, I would argue, if you are saying you deserve health care security, you deserve some health with your prescription drugs, yet you don't get it today at all in Medicare, there are things which we can do to strengthen it. The value of the benefit package is inferior to what is in the private sector today—inferior to what I would argue seniors deserve today.

I list these things because it is important for people to realize that as good as Medicare is, it simply does not provide what is available and what seniors deserve. If you are a senior, look at your total expenditures for health care. Medicare only pays about half of them. That means you have to figure out some way to pay for the other half. You might do it by buying other supplementary insurance policies, or by getting discounts, or whatever you have to do. In some way or another you have to figure out how to pay for it.

That is certainly not true for people in this body, or for the 9 million Federal employees who are not responsible for 50 percent of their health care today under their insurance program.

We need to change Medicare so it gives a better value and so our seniors will be able to get the health care they need without being unfairly punished by having to pay so much out of pocket—so much more than, say, Federal employees. The list goes on.

As we debate, we will talk more at length about these issues.

I want to mention one other problem with Medicare that we need to debate on this floor; that is, the fragmentation of the system.

In 1965, through compromise at the time, there was a Part A for physicians and a Part B for hospitals. It has been fragmented into two separate categories.

Today, health care needs to be continuous. There needs to be a continuum. You want ongoing, continuous quality management, and you don't need different financing systems or different record keeping or different deductibles or different copayments set up. It is just not an efficient and effective way to deliver health care today.

In short, the Medicare system—again, as good as it is—does not live up to the standard we have set in the private sector. It is now time to address that gap, which we will be doing on the floor of the Senate.

Medicare today is still set up the way it was in the 1960s and in the 1970s to respond to acute episodic care. People get sick and go to the hospital. You treat them, and they go home.

That is not the way health care is delivered today in the private sector where you want to keep people out of the hospital, where it is not just acute care, where you are not just responding to a heart attack. The idea today is to prevent the heart attack in the first place. Now we have the expertise to do it, we have the medicines to do it, but seniors are not getting it today.

So what are we going to see play out here in the next month? We will begin to hear—probably starting tomorrow—a lot of discussion of the various plans that have been both proposed in the past and that the Finance Committee is thinking about. The Senate Finance Committee now is developing a balanced plan, a balanced proposal that draws upon a lot of the legislation that has come to this body, legislation that, in the last Congress, was the tripartisan plan, and a plan from several years ago that JOHN BREAUX and I worked on, and a House-passed plan from last Congress and the Congress before, and the framework put forth by the President of the United States.

I hope and pray but I am committed to see that we develop a bipartisan plan, bringing the best out of this body, from Democrats and Republicans, to address some of the needs—hopefully all of the needs—that I outlined a few minutes ago that make Medicare today less than what seniors deserve.

Over the next 2 weeks there will be a lot of discussion on this issue. Two weeks from now, on the floor of the Senate, we will be debating the legislation for 2 weeks. I am hopeful we can pass a plan out of the Senate before July 1 that responds to these needs.

I mention it has to be balanced and it has to be bipartisan. I say that for lots of reasons. In large part, it is because this is a huge challenge. We are going to have to take the very best of the Republican ideas, the very best of the Democrat ideas, the very best of the President's ideas, and the very best of the House's ideas and put them together. This will be the single largest expansion of Medicare in the history of the Medicare Program. As I said, it is going to be about $2 trillion that seniors are going to be spending over the next 10 years. We need to debate, as we go forward, how we can lower that barrier so seniors can get those prescription drugs.

I will close by saying that reform, modernization, strengthening has to be linked to prescription drugs, and prescription drugs have to be linked to strengthening and improving Medicare. It does not make sense in a fragmented system that doesn't have very much in preventive care that was built on a 1960s model. It does not make sense to superimpose a brand new benefit without taking advantage of putting all that in a single system that gives continuity, quality assurance, a systems approach where you can reduce medical errors that we know occur today.

There are five key principles that will guide our legislative efforts.

I think, first and foremost, we need to stress that whatever we do needs to be patient-centered. We need to think of that senior, what we can do to give him or her health care security, building whatever changes are needed around that.

Second, our seniors deserve the opportunity to voluntarily choose the health care plan, the health care coverage that best meets their individual needs. It is revolutionary in many ways but to look at a senior and say: You will have the opportunity, A, to keep exactly what you have now, what you have under current law, or, B, you can choose a type of coverage that better meets your individual needs, which may focus on your chronic disease of heart failure, which may involve disease management of your diabetes, and which will include preventive care, so whatever your status is when that progresses, we will pick it up early. Seniors will be able to voluntarily choose the type of health coverage and drug benefit that best meets their individual needs.

Third, seniors also deserve coverage where they have continuous quality management and safety improvements, and that requires a systems approach. You hear about these medical errors being made in hospitals, confusing prescriptions and medicines that interact with each other. I think that is the sort of thing we can avoid if we incorporate it in the legislation. I know we can do it in the legislation that evolves over the next several weeks.

Fourth, as I look at these principles, seniors deserve to be able to capture innovation. If we figure out a newer, better way to do something that will improve health care, that innovation should be captured. You should not have to wait 4 years to have access to innovation. It was 4, maybe even 5 years after heart transplants were widely available that they were made available in the Medicare Program. Seniors should not have to wait that long, if it is crystal clear, if the data is there, that this type of therapy is effective.

The fifth principle I would add is that seniors deserve coverage that is less bureaucratic, that has less paperwork, that is more flexible, so it can, indeed, adapt to the times.

We have a huge task ahead of us. A lot of people say they don't know if it can be done over the course of the next month. I am confident it can be done, in large part because much of the work was done in the last Congress, and it is being done both on the floor of the Senate and in the House of Representatives. We have made tremendous progress. We are building on a lot of the work that has been done in the past.

I am confident it can be done because the American people want it to be done. I am confident it can be done because people in this body—Democrat and Republican—want to do what is best for seniors, what is best for individuals with disabilities. I think we are going to see that responsiveness of this body play out over the next 4 weeks. I am excited about it.

The House of Representatives will likely be considering strengthening

Medicare, addressing prescription drugs over the course of this month as well. If we can both accomplish that—which we are going to work very hard to do—within 6 months, 8 months, or less than a year from now, seniors will have a benefit as they reach out to obtain and use those prescription drugs as part of their health care.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEDICARE REFORM

Mr. DASCHLE. Mr. President, I welcome our colleagues back. We are looking forward to a very productive few weeks. We know we have a lot of work to do in a relatively short time. In particular, work on the Energy bill is going to require a good and vigorous debate. I know there are a number of Senators wishing to offer amendments. I hope we can begin that process in earnest tomorrow. I know there are a number of my Democratic colleagues who have particular issues they wish to address. We will get into many of those issues in earnest as amendments are offered over the next several days.

I didn't have the opportunity to hear the distinguished majority leader, but he has indicated to me—and I understand he has announced—that it is his interest and his plan to bring up the Medicare reform/prescription drug legislation the last couple of weeks of June. We certainly welcome that. We are looking forward to another debate, picking up where we left off last year.

I am concerned, I suppose, that we are moving quickly to this legislation without the benefit of extended discussion or hearings in the committee. I was rather roundly criticized last year after giving the Finance Committee a certain deadline and having failed to meet that, going to the floor so that we could ensure that we would do all that was possible to get a bill through the Senate in order to conference with the House prior to the end of the session. That wasn't possible, but we made every concerted effort and certainly a case that we could not afford to wait beyond the August recess, which is why we took up the bill last July.

We have not had, as I say, an opportunity to see the ideas that our colleagues on the other side are considering as we look at prescription drugs. But I was very appreciative of the report that I got about the majority leader's comments with regard to the value of Medicare. I think it is important to note that some of our colleagues on the other side have argued that we ought to eliminate Medicare, or terminate Medicare, or dramatically change Medicare—but the distinguished majority leader has noted that Medicare is a very valuable program, and indeed that is the case.

Before Medicare was created—about 1965—less than half of all senior citizens had health insurance. Today, almost every senior citizen has health insurance. So I think that alone argues very well for the importance of recognizing the universality of access to health insurance by those at least over the age of 65. We only wish we could replicate that for the rest of the population.

I think it is also important to note two other things. First, Medicare administrative costs are about 2 to 3 percent. That compares very favorably to the administrative costs of private health care—some 15 percent. So you have Medicare administrative costs at such a point that would leave 97 percent of the revenue generated that could go to benefits, where in the case of private health insurance, only about 85 percent of what revenue is generated is left that could go to benefits. That is a dramatic difference.

So those who argue that somehow the private sector is so much better, I argue that at least from a benefits structure, an efficiency point of view, you can certainly argue that the Medicare prototype or paradigm is so much more efficient. I also argue that in South Dakota it is almost impossible to get private health care benefits. You cannot find them in many parts of my State. That is true of a lot of rural areas. Health care benefits, health care insurance in rural areas is almost nonexistent, especially if it is provided through managed care. We have no managed care, virtually, in South Dakota.

So those who argue that somehow there is a panacea in the private sector overlook the fact that oftentimes, when it comes to rural areas in particular, it is almost impossible to use a private health care model. That is why we fought so hard last year. That is why when we offered the so-called Gramm-Miller-Kennedy legislation, we said, No. 1, there has to be a defined benefit; No. 2, a defined premium; No. 3, a way to ensure that rural areas are provided with the benefits; No. 4, we have to ensure as well that there isn't a coverage gap, a so-called sickness gap that was used oftentimes to make up for the fact that we needed to provide benefits right out of the box, but because we had limited dollars, they would go through a coverage gap before the benefits would kick in again.

Now, unfortunately, on all of those particular points, the bill offered by our Republican colleagues last year failed. There was a coverage gap. You paid premiums into this health insurance plan all year long, but I'm concerned that in some cases the benefits could kick out in February and might not kick back in again until roughly October. So you went through all of the spring and summer paying into the system but not getting any benefit back. That coverage gap was a serious omission and, frankly, one of the reasons we didn't believe that plan had much merit. They could not tell us what it was going to cost on a monthly premium, or what the benefits were going to be. They suggested things, but there wasn't any defined benefit. There wasn't any defined premium.

Then, of course, one of the biggest concerns many of us had is we could not count on the plan being offered in rural areas—especially in States like mine.

So I hope as we begin, we can all agree, No. 1, Medicare is a critical program, a success story of tremendous magnitude. Any time you can say you have eliminated the lack of access to health care for a certain group of people almost entirely, that is a success. That is exactly what we have done. Can it be improved? Again, like the majority leader, I think absolutely it can be. We ought to be providing more preventive care. We ought to find ways in which to promote wellness. That ought to be part of any plan. I personally believe there ought to be a lot more screening, a lot more access to all of the available techniques, all of the available methods of ensuring that we catch illness early, so preventive care is one of those things we can do. Adding a prescription drug benefit—absolutely. But if we are going to do this, let's not make this a big roll of the dice with senior citizens and say we cannot tell you what the premium is going to be, or what the benefits are going to be, or we cannot tell you for sure when your coverage kicks out and when it kicks back in with the coverage gap, or we cannot tell you for sure whether it is going to be offered in rural areas, and we will have just a Medicare backup in case all of this fails.

Well, that isn't a plan many of us would feel very good about, if, ultimately, that were the final vote. But I start with the hope and, I must say, the expectation that we can work together to find common ground; that we can address many of these shortcomings that were so evident in last year's legislation among some of our Republican colleagues; and that we can work together constructively.

I don't see any reason we cannot finish this legislation by the end of this month. But if that is going to happen, I hope, indeed, we can send each other a clear message that we are not looking for a 51-vote solution; we are looking for a 70, 80, or 90-vote solution. We are looking for a compromise in this legislation that brings about a broad consensus.

I hope we can use some discipline and avoid bringing up extraneous issues. We don't need to get into the array of controversial things that have nothing to do with prescription drugs or Medicare. If you want to derail prescription drugs, bring up any one of these extraordinarily controversial things, but I think it would be a very unfortunate set of circumstances. I am optimistic, having been given the report of the distinguished majority leader, and I am hopeful that we can work together so that by the end of this work period, not only will we have accomplished a good deal with regard to energy policy, but we will be able to say to seniors and to the country that we have at long last agreed on starting a Medicare benefit for prescription drugs that we can feel good about, that seniors understand, that would be offered in rural areas, and that builds on the model that has been such a success now for the last 40 years.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BLITZKRIEG ON FREEDOM IN BURMA

Mr. McCONNELL. Mr. President, this weekend's violent repression of democracy activists in Burma underscores the illegitimacy and brutality of the State Peace and Development Council, SPDC, and its political arm, the Union Solidarity Development Association, USDA.

Although reports are still coming in from the field, Burmese democracy activist Daw Aung San Suu Kyi and supporters of the National League for Democracy, NLD, were attacked on Saturday by armed agents of the junta in Yaway Oo, some 400 miles north of Rangoon. Four people were reported killed, and scores injured and arrested—including Suu Kyi and other members of the NLD.

Given the SPDC's total disregard for the human rights and dignity of the people of Burma, I expect the death toll and number of arrests relating to this incident to rise over the next few days and weeks.

Between the attack and the closure of NLD offices and universities, the SPDC has launched a blitzkrieg on freedom in Burma.

My immediate concern is for the welfare of all NLD members and their supporters, and for safety and security of Suu Kyi. The world must know for certain that Suu Kyi is alive and well. It is absolutely essential that U.N. Special Envoy Tan Sri Razali Ismail meet with Suu Kyi and other imprisoned activists should he travel to Burma later this week.

The international community must meet this brutal assault not with diplomatic niceties, but with forceful condemnation and concrete sanctions against the thugs in Rangoon.

In response to Suu Kyi's arrest and the murder of Burmese democracy activists, the administration should immediately—right now—expand the visa ban against the SPDC to include past and present leadership of both the Council and the USDA. SPDC and USDA assets should be identified in the United States and frozen right now.

To paraphrase Winston Churchill, it is time to draw the sword for freedom and cast away the scabbard.

Mr. President, I am going to continue to closely follow developments in Burma. I will have more to say on this matter tomorrow and later in the week.

## MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SALUTE TO THE 147TH FIELD ARTILLERY

Mr. DASCHLE. Mr. President, Thursday, May 22, the 5th U.S. Army demobilized Battery C, 2nd Battalion of the South Dakota National Guard's 147th Field Artillery. This unit, from Redfield and Miller, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom.

Today, these soldiers and their service become a part of South Dakota's military heritage. Like those who served in the two world wars, in Korea, in Vietnam and numerous other places, this new generation has answered the call. They have offered to make every sacrifice, including life itself, to protect our freedom and security. We must never forget them or the honor with which they served.

This unit participated in a mobilization with few precedents in South Dakota history. Nearly 2,000 Guard and Reserve troops were called to active duty in our State, by far the largest mobilization since World War II. At the time the fighting began, units from more than 20 communities had been called up, from Elk Point in the south to Lemmon in the north, from Watertown in the east to Custer in the west. Indeed, our State's mobilization rate ranked among the highest of all the States on a per-capita basis.

These soldiers were proud to serve, and their communities are proud of them. Across the State, thousands of citizens pitched in to participate in send-off parades, to lend a hand for families who suddenly had to get by without a mom or dad, and even to assist with financial hardships caused by the mobilization. This mobilization was a Statewide effort, in many ways.

South Dakota's Guard and Reserve units provided our active duty forces in Iraq with invaluable support. Many units did not participate directly in combat, which ended more quickly than anyone expected. But we all know that the battle would have been waged much differently if our Guard and Reserve units had not been ready to deploy as needed. Furthermore, we know that some units will play an important role in the work of restoring peace and order to Iraq, as well as rebuilding basic infrastructure. These tasks will be vital to ensuring that Iraq becomes a stable nation, hopefully with a prosperous economy and democratic government. This is how we can win the peace and save future generations from another conflict.

In addition to the service of this particular unit, I want to acknowledge the sacrifices and dedication of the families who stayed home. They are the unsung heroes of any mobilization. They motivate and inspire those who are far from home, and they, too, deserve our gratitude.

Today, I join these families and the State of South Dakota in celebrating the courage, commitment, and success of the members of the 147th Field Artillery, and I honor their participation in this historic event in our Nation's history. Welcome home. Thanks to all of you for your courage, your sacrifice, and your noble commitment to this country and its ideals.

## ADDITIONAL STATEMENTS

## LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to bring to my colleagues' attention a landmark report by the American-Arab Anti-Discrimination Committee's Research Institute, ADCRI, entitled, "Report on Hate Crimes and Discrimination Against Arab Americans: The Post-September 11 Backlash." This report catalogues the experiences of the Arab-American community for the year following the tragic September 11, 2001 terrorist attacks. According to the report, over 700 violent incidents targeting Arab Americans, or those perceived to be Arab

Americans, Arabs and Muslims occurred in the 9 weeks following the attacks.

The report demonstrates the profound challenges confronting the Arab-American community, as well as other communities caught up in the post September 11 backlash. However, the report also emphasizes that Americans have consistently demonstrated their commitment to maintaining tolerance and respect for all Americans and that hatred is confined to a distinct minority. It is this minority that breeds hatred and violence against innocent individuals.

I believe that government's first duty is to defend its citizens, to defend us against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well. This is a challenge that none of my colleagues should shy away from.●

## TRIBUTE TO BRANDON WORKMAN

● Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Brandon Workman for being named the United States Achievement Academy's United States National Award winner in mathematics. Brandon, who is from May's Lick, KY attends Deming High School and is the son of Shelly Mitchell and Robert Workman.

Brandon's enthusiasm towards hard work and the dedication that he has applied to his academic performance has earned him this distinguished honor. He certainly deserves this honor. Brandon's strong commitment to his peers and to being a better citizen have assured me of his future success to our Commonwealth and Nation.

This award is based upon the recommendations of his school faculty and the high standards set forth by the academy. Brandon, like all other recipients of this award, has proven himself in the classroom and has been recognized by those who teach him and know him the best in the classroom.

The efforts of Brandon Workman should be emulated. Brandon has set an example that should be recognized by high school students throughout Kentucky and across America. I am convinced that he will use his strong abilities to make a difference in our country. I thank the Senate for allowing me to recognize Brandon and voice his praises.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under the authority of the order of January 7, 2003, the Secretary of the Senate, on January 8, 2003, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2. An act to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

H.R. 2185. An act to extend the Temporary Extended Unemployment Compensation Act of 2002.

H.J. Res. 51. A joint resolution increasing the statutory limit on the public debt.

Under the authority of the order of January 7, 2003, enrolled bills were signed by the President pro tempore on May 23, 2003.

At 12:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1588. An act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The following bill was read the first time:

S. 1162. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## REPORTS OF COMMITTEES

Under the authority of the order of the Senate of May 23, 2003, the following reports of committees were submitted on May 29, 2003:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 1160. An original bill to authorize Millennium Challenge assistance, and for other purposes (Rept. No. 108–55).

S. 1161. An original bill to authorize appropriations for foreign assistance programs for fiscal year 2004, and for other purposes (Rept. No. 108–56).

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 274. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS—May 29, 2003

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 1160. An original bill to authorize Millennium Challenge assistance, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. LUGAR:

S. 1161. An original bill to authorize appropriations for foreign assistance programs for fiscal year 2004, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. WARNER, Mr. ROCKEFELLER, Ms. COLLINS, Mr. REED, Mr. JEFFORDS, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JOHNSON, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mr. BREAUX, Mr. EDWARDS, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, Mr. LIEBERMAN, and Mr. REID):

S. 1162. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; read the first time.

By Mrs. HUTCHISON:

S. 1163. A bill to condition receipt of certain State revolving funds on the restriction of development or construction of new colonia and colonia structures along the border between the United States and Mexico; to the Committee on Environment and Public Works.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. JEFFORDS, Ms. CANTWELL, and Ms. SNOWE):

S. 1164. A bill to provide for the development and coordination of a comprehensive and integrated United States research program that assists the people of the United States and the world to understand, assess, and predict human-induced and natural processes of abrupt climate change; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. INOUYE, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 1165. A bill to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Indian Affairs.

By Ms. COLLINS (for herself, Mr. LEVIN, Mr. VOINOVICH, and Mr. SUNUNU):

S. 1166. A bill to establish a Department of Defense national security personnel system and for other purposes; to the Committee on Governmental Affairs.

By Mr. BOND:

S. 1167. A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri; to the Committee on Energy and Natural Resources.

## ADDITIONAL COSPONSORS

S. 171

At the request of Mr. DAYTON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 253

At the request of Mr. CAMPBELL, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 271

At the request of Mr. SMITH, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 348

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 348, a bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 392

At the request of Mr. REID, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 567

At the request of Ms. SNOWE, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 567, a bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants.

S. 665

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 665, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fisherman, and for other purposes.

S. 786

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 786, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to provide grants for transitional jobs programs, and for other purposes.

S. 787

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 787, a bill to provide for the fair treatment of the Federal judiciary relating to compensation and benefits, and to instill greater public confidence in the Federal courts.

S. 816

At the request of Mr. CONRAD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 816, a bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

S. 847

At the request of Mr. SMITH, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 856

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 856, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 922

At the request of Mr. REID, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 922, a bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 959

At the request of Mr. INHOFE, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Texas (Mr. CORNYN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 959, a bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes.

S. 977

At the request of Mr. FITZGERALD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 977, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1015

At the request of Mr. GREGG, the name of the Senator from Alaska (Mr.

STEVENS) was added as a cosponsor of S. 1015, a bill to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1019

At the request of Mr. DEWINE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1036

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1036, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1076

At the request of Mr. HAGEL, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1110

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

S. 1126

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1126, a bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

S.J. RES. 7

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. WARNER, Mr. ROCKEFELLER, Ms. COLLINS, Mr. REED, Mr. JEFFORDS, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JOHNSON, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mr. BREAUX, Mr. EDWARDS, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, Mr. LIEBERMAN, and Mr. REID):

S. 1162. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; read the first time.

Mrs. LINCOLN. Mr. President, I am proud to introduce today the Working Taxpayer Fairness Restoration Act. I offer this bill on behalf of the nearly 12 million children who were left behind when President Bush signed the 2003 tax bill.

The bill that I am introducing, with many of my good friends, including Senators SNOWE, WARNER and JEFFORDS, will restore a provision left on the cutting-room floor when House and Senate leaders finalized the conference report on the tax cut. Our bill will restore the advanced refundability of the child tax credit.

My friend from Maine and I have worked since 2001 to ensure that all working families benefit from the child tax credit. We worked to ensure in the 2001 tax cut that the child tax credit was refundable. During Finance Committee deliberations on this year's tax bill, I successfully offered an amendment that would have advanced the refundability of the child tax credit. Regrettably, that provision was dropped in conference.

Unless we pass the bill that I am introducing today, families with incomes between $10,500 and $26,625 will not get the $400 checks that will be mailed in July as part of the 2003 tax bill. Since nearly half the taxpayers in Arkansas have adjusted gross incomes less than $20,000, Arkansas families are among the hardest hit by this omission in the new tax law.

Consider this: The base pay for a private in the military is just under $16,000 per year. The average Arkansas firefighter makes between $22,000 and $25,000 a year. Many of those enlisted men, who could be given a few days' notice before being shipped off to war, and those firefighters, who could get no more than a few minutes' notice before rushing into a terrorist attack, have families. They work hard to support their families and to protect us. Yet they got left out when negotiators shook hands over the final tax bill.

I wasn't in the room during those negotiations in the dark of night, and I understand that very few of my colleagues were. But we are here today, united in our effort to fight for these working families.

Advancing the refundable portion of the child credit to cover these families will cost only $3.5 billion—just 1 percent of the entire cost of the tax cut. This measure had strong bipartisan support in the Senate, and I was proud to play a leading role to expand the children tax credit in the Senate bill. I'm glad to have bipartisan support in my effort today to restore this provision.

We will pay for this tax relief for working families by shutting down some Enron-related tax shelters. This pay-for was included in the Senate version of the 2003 tax bill, so it has already received the blessing of a majority of the Senate.

Especially as our nation contends with a sluggish economy, we should ensure that everyone benefits from the tax cut. After all, buying blue jeans for schoolchildren, washing powder for the laundry or tires for the car costs just as much for a family making $20,000 a year as it does for a family making $100,000. If we want to get our economy back on track, we need to make sure that we're putting money into the pockets of consumers who will spend it.

This isn't about partisanship—as is evidenced by the cosponsors of this bill—it is about doing what's right for families who may need a little extra help. We should fix this problem immediately. Let's make these families a priority now.

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By Mrs. HUTCHISON:

S. 1163. A bill to condition of receipt certain State revolving funds on the restriction of development or construction of new colonia and colonia structures along the border between the United States and Mexico; to the Committee on Environment and Public Works.

Mrs. HUTCHISON. Mr. President, today I rise to introduce a bill to improve the deplorable housing situation on the U.S. border with Mexico. In Texas along the 1,248 mile stretch from Cameron County to El Paso County, there are more than 1,400 colonias, or underdeveloped subdivisions, that suffer from such conditions as open sewage, a lack of indoor plumbing, and poor housing construction. These colonias are the most distressed areas in the country, yet despite terrible living conditions, they have grown in population. The legislation I introduce today, along with the Colonias Gateway Initiative Act which I am sponsoring, will go a long way toward eliminating the substandard living conditions that should not exist here in the United States of America.

This legislation will prohibit Federal funding for counties and municipal governments that refuse to enforce reasonable rules to prevent the development or construction of any new colonias that lack water, wastewater, and other basic infrastructure needs. I have inserted and the Senate has passed this exact language into the VA-HUD Appropriations bill every year since fiscal year 2001.

In 1993, I visited with a woman named Elida Bocanegra, who led me through the streets of the colonia where she lived. Elida showed me her community, which lacked paved roads, wastewater facilities and running water. Quite frankly, I could not believe I was in America. After that experience, the first amendment I offered as a U.S. Senator authorized $50 million for a colonias clean-up project. Since my election to the U.S. Senate, I have worked to improve the quality of life and ensure fundamental services are provided for people like Elida, helping to secure more than $615 million for the colonias of my state.

This act will ensure that colonias lacking water and wastewater facilities will be a thing of the past, and the neediest people along our border with Mexico will have the basic necessities to live. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1163

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RESTRICTION ON DEVELOPMENT AND CONSTRUCTION OF NEW COLONIAS AREAS.**

(a) Definitions.—In this section:

(1) Colonia.—The term "colonia" means any identifiable community that—

(A) is located in the State of Arizona, California, New Mexico, or Texas;

(B) is located in the United States-Mexico border region;

(C) is determined by a State referred to in subparagraph (A) to be a colonia on the basis of objective criteria, including a lack of—

(i) a potable water supply;

(ii) adequate sewage systems; and

(iii) decent, safe, and sanitary housing; and

(D) before the date of enactment of this Act, was in existence and generally recognized as a colonia by the State.

(2) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development.

(3) United States-Mexico border region.—

(A) In general.—The term "United States-Mexico border region" means the area of the United States located within 150 miles of the border between the United States and Mexico.

(B) Exclusion.—The term "United States-Mexico border region" does not include any standard metropolitan statistical area with a population that is greater than 1,000,000, as determined by the Secretary.

(b) Restriction on Development and Construction.—

(1) In general.—Notwithstanding any other provision of law, beginning for the fiscal year in which this Act is enacted, and for each fiscal year thereafter, no State referred to in subsection (a)(1)(A) shall receive a capitalization grant for the fiscal year under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) unless the State, to the satisfaction of the Secretary, requires each county and municipal government in the United States-Mexico border region in the State to establish and enforce an ordinance or rule described in paragraph (2).

(2) Ordinance or rule.—An ordinance or rule referred to in paragraph (1) is an ordinance or rule that prohibits the development or construction of any new colonia, or the construction of any new structure in a colonia, that lacks water, wastewater, or other necessary infrastructure required—

(A) to comply with—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(B) to address the water infrastructure needs of the colonia or structure.

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By Mr. DOMENICI (for himself, Mr. Inouye, Mr. Campbell, and Mr. Bingaman:

S. 1165. A bill to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today to introduce the American Indian Reservation Transportation Improvement Program Act. I am pleased to be joined, as I have been each time that I have introduced legislation dealing with the Indian Reservation Roads program, by my good friends, Senators Inouye and Campbell. I am confident that we will replicate the success we have had in our previous endeavors to improve this important program.

In 1982, when I served on the Senate Environment and Public Works Committee, several members of the Navajo Nation Tribal Council Committee on Transportation approached me with an interesting proposition. These Navajo Councilmen believed that the time had come for Indian tribes to participate directly in our National Highway Trust Fund programs.

I agreed with these gentlemen, the Senate agreed with me, and the Congress and President Reagan approved Indian tribal participation in the U.S. Department of Transportation highway construction program for the first time in our Nation's history.

By the mid-1980's, Indian Reservation Roads, IRR, funding was at about $100 million per year nationwide. By the late 1980's, however, IRR funding fell to about $80 million per year. In ISTEA, for the early 1990's, we were able to raise this critical highway construction funding to about $190 million per year.

Then, in TEA-21, The Transportation Equity Act for the 21st Century, we succeeded in bringing annual IRR funding up to $275 million for fiscal years 1999 through 2003.

As we seek to promote economic opportunities on our Nation's tribal reservations, I believe it is imperative that we once again increase this vital infrastructure funding. I am aware that the National Congress of American Indians, NCAI, is recommending a large jump to $500 million per year for the construction program; $100 million for an Indian transit program; $50 million for Indian bridges; $70 million, plus $26 million in Interior funding, for road maintenance; and several other additions for a total of $907 million in DOT funds in FY2004. By the year FY2009, the NCAI recommendations would exceed $1.4 billion annually.

While I am sympathetic to the need for such large increases, I am keenly aware of competing needs around the country for medical research, economic stimulus, and for our national defense, to name just a few. Therefore, I am compelled to recommend increases for the IRR program that are more likely to win acceptance among my colleagues.

For highway construction, I am recommending an immediate increase of $55 million in the first year to a new total of $330 million. My bill would then increase the amount for construction by $30 million each year so that the program receives $480 million in the final year of the authorization. For the Indian bridge program, I am recommending $15 million per year, an increase of $6 million annually. And for State roads that serve as key bus routes for Indian children, primarily on our Nation's largest Indian reservation—the Navajo Nation—I am recommending increasing this vital funding from $1.5 million per year to $3 million in fiscal years 2004 and 2005, to $4 million in fiscal years 2006 and 2007, and $5 million for fiscal years 2008 and 2009.

My final recommendation is to create a rural transit program for Indian Reservations. Because the Federal Highway Administration and the Federal Transit Administration each have their areas of expertise that can make such a program a success, my legislation will require the two agencies to work together for the benefit of the tribes who participate in this program. My suggestion is to fund this program at $20 million.

In closing, I want to thank the Navajo Nation Transportation Committee and the tribal transportation department for keeping me informed of their progress and continuing needs. I believe my bill will be a positive answer to their requests. In addition, the Pueblo Indians and Apache Indians of New Mexico have continuing development needs, including new and improved roads to reach their many attractions for tourists and other visitors.

I ask my colleagues to join me in increasing the Indian Reservation Roads program funds in our Federal Highways Programs to the degree I have requested in this bill. I thank my colleagues and urge their support for these increases as we reauthorize TEA-21 for six more years.

I ask unanimous consent the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1165

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "American Indian Reservation Transportation Improvement Program Act".

**SEC. 2. INDIAN RESERVATION ROADS.**

(a) Authorization of Appropriations.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking "of such title" and all that follows and inserting "of that title—

"(i) $225,000,000 for fiscal year 1998;

"(ii) $275,000,000 for each of fiscal years 1999 through 2003;

"(iii) $330,000,000 for fiscal year 2004;

"(iv) $360,000,000 for fiscal year 2005;

"(v) $390,000,000 for fiscal year 2006;

"(vi) $420,000,000 for fiscal year 2007;

"(vii) $450,000,000 for fiscal year 2008; and

"(viii) $480,000,000 for fiscal year 2009.".

(b) Additional Authorization of Contract Authority for States With Indian Reservations.—Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by inserting before the period at the end the following: ", $3,000,000 for each of fiscal years 2004 and 2005, $4,000,000 for each of fiscal years 2006 and 2007, and $5,000,000 for each of fiscal years 2008 and 2009".

(c) Indian Reservation Road Bridges.—Section 202(d)(4)(B) of title 23, United States Code, is amended—

(1) by striking "(B) Reservation.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) Funding.—

"(i) Reservation of funds.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace."; and

(2) by adding at the end the following:

"(ii) Availability.—Funds made available to carry out this subparagraph—

"(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

"(II) shall not be used to pay any administrative costs.".

**SEC. 3. INDIAN RESERVATION RURAL TRANSIT PROGRAM.**

Section 5311 of title 49, United States Code, is amended by adding at the end the following:

"(k) Indian Reservation Rural Transit Program.—

"(1) Definitions.—In this subsection:

"(A) Indian tribe.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) Reservation.—The term 'reservation' means—

"(i) an Indian reservation in existence as of the date of enactment of this subsection;

"(ii) a public domain Indian allotment; and

"(iii) an Indian reservation in the State of Oklahoma that existed at any time before, but is no longer in existence as of, the date of enactment of this subsection.

"(C) Secretary.—The term 'Secretary' means the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration.

"(2) Program.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

"(3) Cooperation.—The Secretary shall—

"(A) establish and maintain intra-agency cooperation between the Federal Highway Administration and the Federal Transit Administration in—

"(i) administering tribal transit programs funded by the Federal Highway Administration; and

"(ii) exploring options for the transfer of funds from the Federal Highway Administration to the Federal Transit Administration for the direct funding of tribal transit programs; and

"(B) establish and maintain working relationships with representatives of regional tribal technical assistance programs to ensure proper administration of ongoing and future tribal transit programs carried out using Federal funds.

"(4) Funding.—Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338 for the fiscal year, the Secretary shall use $20,000,000 to carry out this subsection.".

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By Ms. COLLINS (for herself, Mr. Levin, Mr. Voinovich, and Mr. Sununu):

S. 1166. A bill to establish a Department of Defense national security personnel system and for other purposes; to the Committee on Government Affairs.

Ms. COLLINS. Mr. President, I ask unanimous consent that the text of the bill, the "National Security Personnel System Act," be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1166

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Security Personnel System Act".

**SEC. 2. DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM.**

(a) In General.—(1) Subpart I of part III of title 5, United States Code, is amended by adding at the end the following new chapter:

**"CHAPTER 99—DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM**

"Sec.
"9901. Definitions.
"9902. Establishment of human resources management system.
"9903. Contracting for personal services.
"9904. Attracting highly qualified experts.
"9905. Special pay and benefits for certain employees outside the United States.

**"§ 9901. Definitions**

"For purposes of this chapter—

"(1) the term 'Director' means the Director of the Office of Personnel Management; and

"(2) the term 'Secretary' means the Secretary of Defense.

**"§ 9902. Establishment of human resources management system**

"(a) In General.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director, establish a human resources management system for some or all of the organizational or functional units of the Department of Defense. The human resources system established under authority of this section shall be referred to as the 'National Security Personnel System'.

"(b) System Requirements.—The National Security Personnel System established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b) (1), (8), and (9) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the public service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in this paragraph; and

"(4) not be limited by any specific law, authority, rule, or regulation prescribed under this title that is waived in regulations prescribed under this chapter.

"(c) Other Nonwaivable Provisions.—The other provisions of this part referred to in subsection (b)(3)(D) are (to the extent not otherwise specified in this title)—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—(1) Nothing in this section shall constitute authority to modify the pay of any employee who serves in an Executive Schedule position under subchapter II of chapter 53 of this title.

"(2) Except as provided for in paragraph (1), the total amount in a calendar year of allowances, differentials, bonuses, awards, or other similar cash payments paid under this title to any employee who is paid under section 5376 or 5383 of this title or under title 10 or under other comparable pay authority established for payment of Department of Defense senior executive or equivalent employees may not exceed the total annual compensation payable to the Vice President under section 104 of title 3.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—(1) In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of, employee representatives in the planning, development, and implementation of the National Security Personnel System, the Secretary and the Director shall provide for the following:

"(A) The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to the employee representatives representing any employees who might be affected a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give such representatives at least 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Following receipt of recommendations, if any, from such employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

"(i) notify Congress of those parts of the proposal, together with the recommendations of the employee representatives;

"(ii) meet and confer for not less than 30 calendar days with the employee representatives, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

"(iii) at the Secretary's option, or if requested by a majority of the employee representatives participating, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

"(C)(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which the recommendations are accepted by the Secretary and the Director, may be implemented immediately.

"(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary, in his discretion, determines that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts (including any modifications made in response to the recommendations as the Secretary determines advisable), but only after 30 days have elapsed after notifying Congress of the decision to implement the part or parts involved (as so modified, if applicable).

"(iii) The Secretary shall notify Congress promptly of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from the employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

"(D) If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for the employee representatives to participate in any further planning or development which might become necessary; and

"(ii) give the employee representatives adequate access to information to make that participation productive.

"(2) The Secretary may, at the Secretary's discretion, engage in any and all collaboration activities described in this subsection at an organizational level above the level of exclusive recognition.

"(3) In the case of any employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary and the Director may develop procedures for representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of this subsection.

"(f) PAY-FOR-PERFORMANCE EVALUATION SYSTEM.—(1) The National Security Personnel System established in accordance with this chapter shall include a pay-for-performance evaluation system to better link individual pay to performance and provide an equitable method for appraising and compensating employees.

"(2) The regulations implementing this chapter shall—

"(A) group employees into pay bands in accordance with the type of work that such employees perform and their level of responsibility;

"(B) establish a performance rating process, which shall include, at a minimum—

"(i) rating periods;

"(ii) communication and feedback requirements;

"(iii) performance scoring systems;

"(iv) a system for linking performance scores to salary increases and performance incentives;

"(v) a review process;

"(vi) a process for addressing performance that fails to meet expectations; and

"(vii) a pay-out process;

"(C) establish an upper and lower salary level for each pay band;

"(D) ensure that performance objectives are established for individual position assignments and position responsibilities; and

"(E) establish performance factors to be used to evaluate the accomplishment of performance objectives and ensure that comparable scores are assigned for comparable performance, while accommodating diverse individual objectives.

"(3) For fiscal years 2004 through 2008, the overall amount allocated for compensation of the civilian employees of an organizational or functional unit of the Department of Defense that is included in the National Security Personnel System shall not be less than the amount of civilian pay that would have been allocated to such compensation under the General Schedule system, based on—

"(A) the number and mix of employees in such organizational or functional unit prior to the conversion of such employees to the National Security Personnel System; and

"(B) adjusted for normal step increases and rates of promotion that would have been expected, had such employees remained in the General Schedule system.

"(4) The regulations implementing the National Security Personnel System shall provide a formula for calculating the overall amount to be allocated for fiscal years after fiscal year 2008 for compensation of the civilian employees of an organizational or functional unit of the Department of Defense that is included in the National Security Personnel System. The formula shall ensure that such employees are not disadvantaged in terms of the overall amount of pay available as a result of conversion to the National Security Personnel System, while providing flexibility to accommodate changes in the function of the organization, changes in the mix of employees performing those functions, and other changed circumstances that might impact pay levels.

"(5) Funds allocated for compensation of the civilian employees of an organizational or functional unit of the Department of Defense in accordance with paragraph (3) or (4) may not be made available for any other purpose unless the Secretary of Defense determines that such action is necessary in the national interest and submits a reprogramming notification in accordance with established procedures.

"(g) PERFORMANCE MANAGEMENT SYSTEM.—The Secretary of Defense shall develop and implement for organizational and functional units included in the National Security Personnel System, a performance management system that includes—

"(1) adherence to merit principles set forth in section 2301;

"(2) a fair, credible, and equitable system that results in meaningful distinctions in individual employee performance;

"(3) a link between the performance management system and the agency's strategic plan;

"(4) a means for ensuring employee involvement in the design and implementation of the system;

"(5) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;

"(6) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

"(7) effective transparency and accountability measures to ensure that the management of the system is fair, credible, and equitable, including appropriate independent reasonableness, reviews, internal grievance procedures, internal assessments, and employee surveys; and

"(8) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the performance management system.

"(h) PROVISIONS REGARDING NATIONAL LEVEL BARGAINING.—(1) The National Security Personnel System implemented or modified under this chapter may include employees of the Department of Defense from any bargaining unit with respect to which a labor organization has been accorded exclusive recognition under chapter 71 of this title.

"(2) For issues impacting more than 1 bargaining unit so included under paragraph (1), the Secretary may bargain at an organizational level above the level of exclusive recognition. Any such bargaining shall—

"(A) be binding on all subordinate bargaining units at the level of recognition and their exclusive representatives, and the Department of Defense and its subcomponents, without regard to levels of recognition;

"(B) supersede all other collective bargaining agreements, including collective bargaining agreements negotiated with an exclusive representative at the level of recognition, except as otherwise determined by the Secretary; and

"(C) not be subject to further negotiations for any purpose, including bargaining at the level of recognition, except as provided for by the Secretary.

"(3) The National Guard Bureau and the Army and Air Force National Guard are excluded from coverage under this subsection.

“(4) Any bargaining completed pursuant to this subsection with a labor organization not otherwise having national consultation rights with the Department of Defense or its subcomponents shall not create any obligation on the Department of Defense or its subcomponents to confer national consultation rights on such a labor organization.

“(i) PROVISIONS RELATING TO APPELLATE PROCEDURES.—(1) The Secretary—

“(A) may establish an appeals process that provides employees of the Department of Defense organizational and functional units that are included in the National Security Personnel System fair treatment in any appeals that they bring in decisions relating to their employment; and

“(B) shall in prescribing regulations for any such appeals process—

“(i) ensure that employees in the National Security Personnel System are afforded the protections of due process; and

“(ii) toward that end, be required to consult with the Merit Systems Protection Board before issuing any such regulations.

“(2) Regulations implementing the appeals process may establish legal standards for adverse actions to be taken on the basis of employee misconduct or performance that fails to meet expectations. Such standards shall be consistent with the public employment principles of merit and fitness set forth in section 2301. Legal standards and precedents applied before the effective date of this section by the Merit Systems Protection Board and the courts under chapters 75 and 77 of this title shall apply to employees of organizational and functional units included in the National Security Personnel System, unless such standards and precedents are inconsistent with legal standards established under this paragraph.

“(3) An employee who is adversely affected by a final decision under the appeals process established under paragraph (1) shall have the right to petition the Merit Systems Protection Board for review of that decision. The Board may dismiss any petition that, in the view of the Board, does not raise substantial questions of fact or law. No personnel action shall be stayed and no interim relief shall be granted during the pendency of the Board's review unless specifically ordered by the Board.

“(4) The Board shall order such corrective action as the Board considers appropriate if the Board determines that the decision was—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

“(B) obtained without procedures required by law, rule, or regulation having been followed; or

“(C) unsupported by substantial evidence.

“(5) An employee who is adversely affected by a final order or decision of the Board may obtain judicial review of the order or decision as provided in section 7703. The Secretary of Defense may obtain judicial review of any final order or decision of the Board under the same terms and conditions as provided for the Director of the Office of Personnel Management under section 7703.

“(6) Nothing in this subsection shall be construed to authorize the waiver of any provision of law, including an appeals provision providing a right or remedy under section 2302(b) (1), (8), or (9), that is not otherwise waivable under subsection (a).

“(j) PHASE-IN.—(1) The Secretary of Defense is authorized to apply the National Security Personnel System established in accordance with subsection (a) to organizational or functional units including—

“(A) up to 120,000 civilian employees of the Department of Defense in fiscal year 2004;

“(B) up to 240,000 civilian employees of the Department of Defense in fiscal year 2005; and

“(C) more than 240,000 civilian employees in a fiscal year after fiscal year 2005, if the Secretary of Defense determines in accordance with subsection (a) that the Department has in place—

“(i) a performance management system that meets the criteria specified in subsection (g); and

“(ii) a pay formula that meets the criteria specified in subsection (f).

“(2) Civilian employees in organizational or functional units participating in Department of Defense personnel demonstration projects shall be counted as participants in the National Security Personnel System for the purpose of the limitations established under paragraph (1).

“(k) PROVISIONS RELATED TO SEPARATION AND RETIREMENT INCENTIVES.—(1) The Secretary may establish a program within the Department of Defense under which employees may be eligible for early retirement, offered separation incentive pay to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

“(2)(A) The Secretary may not authorize the payment of voluntary separation incentive pay under paragraph (1) to more than 10,000 employees in any fiscal year, except that employees who receive voluntary separation incentive pay as a result of a closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) shall not be included in that number.

“(B) The Secretary shall prepare a report each fiscal year setting forth the number of employees who received such pay as a result of a closure or realignment of a military base as described under subparagraph (A).

“(C) The Secretary shall submit the report under subparagraph (B) to—

“(i) the Committee on the Armed Services and the Committee on Government Affairs of the Senate; and

“(ii) the Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

“(3) For purposes of this section, the term ‘employee’ means an employee of the Department of Defense, serving under an appointment without time limitation, except that such term does not include—

“(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of this title, or another retirement system for employees of the Federal Government;

“(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in paragraph (1); or

“(C) for purposes of eligibility for separation incentives under this section, an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

“(4) An employee who is at least 50 years of age and has completed 20 years of service, or has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the Department of Defense and receive benefits in accordance with chapter 83 or 84 if the employee has been employed continuously within the Department of Defense for more than 30 days before the date on which the determination to conduct a reduction or restructuring within 1 or more Department of Defense components is approved pursuant to the system established under subsection (a).

“(5)(A) Separation pay shall be paid in a lump sum or in installments and shall be equal to the lesser of—

“(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of this title, if the employee were entitled to payment under such section; or

“(ii) $25,000.

“(B) Separation pay shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. Separation pay shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of this title, based on any other separation.

“(C) Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract as described in paragraph (5).

“(6) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–236; 108 Stat. 111) and accepts employment with the Government of the United States, or who commences work through a personal services contract with the United States within 5 years after the date of the separation on which payment of the separation pay is based, shall be required to repay the entire amount of the separation pay to the Department of Defense. If the employment is with an Executive agency (as defined by section 105 of this title) other than the Department of Defense, the Director may, at the request of the head of that agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is within the Department of Defense, the Secretary may waive the repayment if the individual involved is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

“(7) Under this program, early retirement and separation pay may be offered only pursuant to regulations established by the Secretary, subject to such limitations or conditions as the Secretary may require.

“(l) PROVISIONS RELATING TO HIRING.—Notwithstanding subsection (c), the Secretary may exercise any hiring flexibilities that would otherwise be available to the Secretary under section 4703(a)(1). Veterans shall be offered preference in hiring.

**“§ 9903. Contracting for personal services**

“(a) OUTSIDE THE UNITED STATES.—The Secretary may contract with individuals for services to be performed outside the United States as determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States.

"(b) No Federal Employees.—Individuals employed by contract under subsection (a) shall not, by virtue of such employment, be considered employees of the United States Government for the purposes of—

"(1) any law administered by the Office of Personnel Management; or

"(2) under the National Security Personnel System established under this chapter.

"(c) Applicability of Law.—Any contract entered into under subsection (a) shall not be subject to any statutory provision prohibiting or restricting the use of personal service contracts.

**"§ 9904. Attracting highly qualified experts**

"(a) In General.—The Secretary may carry out a program using the authority provided in subsection (b) in order to attract highly qualified experts in needed occupations, as determined by the Secretary.

"(b) Authority.—Under the program, the Secretary may—

"(1) appoint personnel from outside the civil service and uniformed services (as such terms are defined in section 2101 of this title) to positions in the Department of Defense without regard to any provision of this title governing the appointment of employees to positions in the Department of Defense;

"(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of this title, as increased by locality-based comparability payments under section 5304 of this title, notwithstanding any provision of this title governing the rates of pay or classification of employees in the executive branch; and

"(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limits applicable to the employee under subsection (d).

"(c) Limitation on Term of Appointment.—(1) Except as provided in paragraph (2), the service of an employee under an appointment made pursuant to this section may not exceed 5 years.

"(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to 1 additional year if the Secretary determines that such action is necessary to promote the Department of Defense's national security missions.

"(d) Limitations on Additional Payments.—(1) The total amount of the additional payments paid to an employee under this section for any 12-month period may not exceed the lesser of the following amounts:

"(A) $50,000 in fiscal year 2004, which may be adjusted annually thereafter by the Secretary, with a percentage increase equal to one-half of 1 percentage point less than the percentage by which the Employment Cost Index, published quarterly by the Bureau of Labor Statistics, for the base quarter of the year before the preceding calendar year exceeds the Employment Cost Index for the base quarter of the second year before the preceding calendar year.

"(B) The amount equal to 50 percent of the employee's annual rate of basic pay.

For purposes of this paragraph, the term 'base quarter' has the meaning given such term by section 5302(3).

"(2) An employee appointed under this section is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under this section.

"(3) Notwithstanding any other provision of this subsection or of section 5307, no additional payments may be paid to an employee under this section in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

"(e) Limitation on Number of Highly Qualified Experts.—The number of highly qualified experts appointed and retained by the Secretary under subsection (b)(1) shall not exceed 300 at any time.

"(f) Savings Provisions.—In the event that the Secretary terminates this program, in the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under this section—

"(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

"(A) the period for which the employee was appointed; or

"(B) the period to which the employee's service is limited under subsection (c), including any extension made under this section before the termination of the program; and

"(2) the rate of basic pay prescribed for the position under this section may not be reduced as long as the employee continues to serve in the position without a break in service.

**"§ 9905. Special pay and benefits for certain employees outside the United States**

"The Secretary may provide to certain civilian employees of the Department of Defense assigned to activities outside the United States as determined by the Secretary to be in support of Department of Defense activities abroad hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal Government employment—

"(1) allowances and benefits—

"(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (Public Law 96-465, 22 U.S.C. 4081 et seq.) or any other provision of law; or

"(B) comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency; and

"(2) special retirement accrual benefits and disability in the same manner provided for by the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403r).".

(2) The table of chapters for part III of such title is amended by adding at the end of subpart I the following new item:

"99. Department of Defense National Security Personnel System ............... 9901".

(b) Impact on Department of Defense Civilian Personnel.—(1) Any exercise of authority under chapter 99 of such title (as added by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

(2) No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(c) External Third-Party Review of Labor-Management Disputes.—Chapter 71 of title 5, United States Code is amended—

(1) in section 7105(a), by adding at the end the following:

"(3)(A) In carrying out subparagraphs (C), (D), (E), (F), and (H) of paragraph (2), in matters that involve agencies and employees of the Department of Defense, the Authority shall take final action within 180 days after the filing of a charge, unless—

"(i) there is express approval of the parties to extend the 180-day period; or

"(ii) the Authority extends the 180-day period under subparagraph (B).

"(B) In cases raising significant issues that involve agencies and employees of the Department of Defense, the Authority may extend the time limit under subparagraph (A), and the time limits under sections 7105(e)(1), 7105(f) and 7118(a)(9) of this title, if the Authority gives notice to the public of the opportunity for interested persons to file amici curiae briefs.";

(2) in section 7105(e), by adding at the end the following:

"(3) If a representation inquiry or election involves employees of the Department of Defense, the regional director shall, absent express approval from the parties, complete the tasks delegated to the regional authority under paragraph (1) within 180 days after the delegation.";

(3) in section 7105(f)—

(A) by inserting "(1)" after "(f)";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

"(2) In any dispute that involves agencies and employees within the Department of Defense, if review is granted, the Authority action to affirm, modify, or reverse any action shall, absent express approval from the parties, be completed within 120 days after the grant of review.";

(4) in section 7118(a), by adding at the end the following:

"(9)(A) Any individual conducting a hearing described in paragraph (7) or (8), involving an unfair labor practice allegation within the Department of Defense, shall complete the hearing and make any determinations within 180 days after the filing of a charge under paragraph (1). The Authority's review of any such determinations shall, absent express approval from the parties, be completed within 180 days after the filing of any exceptions.

"(B) The 180-day periods under subparagraph (A) shall apply, unless there is express approval of the parties to extend a period."; and

(5) in section 7119(c)(5)(C), by adding at the end the following: "The Panel shall, absent express approval from the parties, take final action within 180 days after being presented with an impasse between agencies and employees within the Department of Defense.".

### SEC. 3. MILITARY LEAVE FOR MOBILIZED FEDERAL CIVILIAN EMPLOYEES.

(a) In General.—Subsection (b) of section 6323 of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and at the end of clause (ii), as so redesignated, by inserting "or"; and

(B) by inserting "(A)" after "(2)"; and

(2) by inserting the following before the text beginning with "is entitled":

"(B) performs full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10:''.

(b) Effective Date.—The amendments made by subsection (a) shall apply to military service performed on or after the date of the enactment of this Act.

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By Mr. BOND:

S. 1167. A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri; to the Committee on Energy and Natural Resources.

Mr. BOND. Mr. President, I rise today to introduce legislation to resolve the unfortunate boundary line disputes in Southwest Missouri that have resulted from conflicting Federal Government land surveys performed by the U.S. Army Corps of Engineers and the United States Forest Service, USFS, respectively. The land involving these disputed property lines is located in the vicinity of the Cassville District of the Mark Twain National Forest in Barry and Stone Counties adjacent to Table Rock Lake.

During the 1970's, the U.S. Army Corps of Engineers, through various private land surveyors, surveyed this area around Table Rock Lake. In its surveys, the Corps found that most of the original ''corner monuments'' or boundary lines laid out by the U.S. General Land Office, GLO, in its original land surveys performed in the 1840's were either lost, stolen or had eroded over the years. Because of this, Corps surveyors used existing de facto land markers in the vicinity of the original GLO monuments as the basis for its new survey. Prior to the Corps surveys, these de facto monuments were recognized by local surveyors as legitimate boundary markers and were used in survey after survey over the decades.

For almost 30 years, private landowners in Barry and Stone Counties bought and sold their land based on the surveys performed by the Corps in the 1970's. However, several years ago, the USFS performed new land surveys using surveying technology that had only recently become available. As a result of these new surveys, the USFS now claims that the boundary lines in its surveys conflict with the boundary lines established in the previous corps surveys. In addition to this, the USFS has announced that the Corps surveys are incorrect and that property lines all over this area are in the wrong place.

Because of these new revelations, many private property owners in the vicinity of the Mark Twain National Forest, who bought and paid for their land in good faith based on a previous Federal Government survey, are now being told that they have encroached on USFS land.

USFS has begun telling these private landowners that their land now belongs to the Federal Government, and that they will have to reimburse the USFS for the Federal land that the landowners now occupy. Naturally, these actions have produced chaos, confusion and anger among landowners in these two counties.

Needless to say, it is inherently unfair and absolutely devoid of any common sense to expect private landowners to compensate the Federal Government for land that they have already purchased simply because the government has changed its collective mind about where Federal property begins and ends.

Over the past 18 months, I have repeatedly asked the USFS and the Army Corps of Engineers to work together to find a solution that would resolve this problem. Unfortunately, after 18 month of debate and disagreement, the Corps of Engineers and the USFS have been unable to agree on a resolution of this problem. In the meantime, the lives of many of these Missouri residents continue to be disrupted.

Therefore, I have concluded that Federal legislation represents the only feasible solution to this boundary problem. This legislation authorizes the Secretary of the Agriculture to convey, without consideration, title to land in which there is a boundary conflict, with adjoining federal land, to private landowners, who can demonstrate a claim of ownership because they relied on a subsequent land survey approved by the Federal Government.

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## AMENDMENTS SUBMITTED & PROPOSED

SA 840. Mr. DOMENICI (for himself and Mr. Bingaman) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 841. Mr. DOMENICI (for Mr. Gregg (for himself, Mr. Kennedy, Mr. Alexander, Mr. Dodd, Ms. Collins, and Mr. Reed)) proposed an amendment to amendment SA 840 proposed by Mr. Domenici (for himself and Mr. Bingaman) to the bill S. 14, supra.

SA 842. Mr. McCONNELL (for Mr. Hatch) proposed an amendment to the resolution S. Res. 136, recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's many achievements.

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## TEXT OF AMENDMENTS

**SA 840.** Mr. DOMENICI (for himself and Mr. Bingaman) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes, as follows:

At the appropriate place in the bill, insert the following new title:

### TITLE XII—STATE ENERGY PROGRAMS

### SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) Home Energy Grants.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking ''each of the fiscal years 2002 through 2004'' and inserting ''fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006.''.

(b) State Allotments.—Section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) is amended—

(1) by inserting after (e) ''(1)'';

(2) striking ''or any other program;'' and

(3) adding at the end the following:

''(2) Notwithstanding any other provisions of this subsection, the Governor of a State may apply to the Secretary for certification of an emergency in that State and an allotment of amounts appropriated pursuant to section 2602(e).

''(3) The Secretary shall, in consultation with the Department of Energy and States, adopt by rule procedures for the equitable consideration of such applications. Such procedures shall require—

''(A) consideration of each of the elements of the definition of ''emergency'' in section 2603;

''(B) consideration of differences between geographic regions including: sources of energy supply for low-income households, relative price trends for sources of home energy supply, and relevant weather-related factors including drought; and

''(C) that the Secretary shall grant such applications within 30 days unless the Secretary certifies in writing that none of the emergency conditions defined in section 2603 have been demonstrated.''.

(c) Report on Methodology.—

(1) Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report that makes recommendations regarding the methodology for allocating funds to States to carry out the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(2) In preparing the report, the Secretary of Health and Human Services shall—

(A) use the latest, best available statistical data and model to develop the recommendations for the methodology; and

(B) recommend a methodology that—

(i) consists of a mechanism that uses estimates of expenditures for energy consumption (measured in British thermal units) for low-income households in each State, for each source of heating or cooling in residential dwellings; and

(ii) employs the latest available annually updated heating and cooling degree day and fuel price information available (for coal, electricity, fuel oil, petroleum gas, and natural gas) at the State level.

(3) In preparing the report, the Secretary of Health and Human Services shall consult with appropriate officials in each of the 50 States and the District of Columbia.

(4) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 2004 through 2006.

(d) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on the programmatic impacts of using the National Academy of Science's poverty measure with different equivalence scale, known as DES, to determine low-income households.

### SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.

(a) Elibilibility.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking ''125'' and inserting ''150'', and

(2) in paragraph (7)(C), by striking ''125'' and inserting ''150''.

(b) Authorization of Appropriations.—Section 422 of the Energy Conservation and

Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting ", $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006.".

**SEC. 1203. STATE ENERGY PLANS.**

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review, and, if necessary, review the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f) is amended by striking the period at the end and inserting ", $100,000,000 for each of fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006.".

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**SA 841.** Mr. DOMENICI (for Mr. GREGG (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. COLLINS, and Mr. REED)) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. BINGAMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Strike section 1201 (relating to the Low-Income Home Energy Assistance Program) and insert the following:

**SEC. 1201. SENSE OF THE SENATE REGARDING THE REAUTHORIZATION OF THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981.**

(a) FINDINGS.—The Senate finds that—

(1) the Low-Income Home Energy Assistance Program (referred to in this section as "LIHEAP") is the primary Federal program available to help low-income households, individuals with disabilities, and senior citizens meet their home energy bills and maintain their health and well-being;

(2) home energy costs are unaffordable for many low-income households, individuals with disabilities, and senior citizens living on fixed incomes;

(3) those households often carry a higher energy burden than most United States households, spending up to 20 percent of their household income on home energy bills;

(4) States provided more than 4,000,000 households with LIHEAP assistance in 2002;

(5) LIHEAP is currently able to serve only 15 percent of the 30,000,000 households who are income-eligible for assistance under LIHEAP; and

(6) the Committee on Health, Education, Labor, and Pensions has jurisdiction over the Low-Income Home Energy Assistance Act of 1981, which provides authority for LIHEAP, and is working towards reauthorizing the Act prior to its expiration in 2004.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, when the Committee on Health, Education, Labor, and Pensions reauthorizes the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), the committee should consider increasing the authorization of appropriations under section 2602(b) of that Act (42 U.S.C. 8621(b)) to $3,400,000,000, in order to better serve the needs of low-income and other eligible households.

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**SA 842.** Mr. MCCONNELL (for Mr. HATCH) proposed an amendment to the resolution S. Res. 136, recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's many achievements; as follows:

Strike all after the resolving clause and insert the following:

"That the Senate—

"(1) recognizes that unions have made tremendous contributions to the structural development and building of the United States, and to the well-being of tens of thousands of workers;

"(2) congratulates unions for their many achievements and the strength of their members; and

"(3) expects that unions will continue their dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and working environment for rail workers and other laborers in generations to come.".

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## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, June 3, 2003 at 10 a.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Status of Tribal Fish and Wildlife Management Programs.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

June 3, 2003 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC. The purpose of the hearing is to receive testimony on the following bills: S. 268, authorizes the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; S. 296, to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial; S. 470, to extend the authority for the construction of a memorial to Martin Luther King, Jr.; and S. 1076, to authorize construction of an education center at or near the Vietnam Veterans Memorial.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 4, 2003 at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on Proposals to Amend the Indian Reservation Roads Program—S. 281, the Indian Tribal Surface Transportation Improvement Act of 2003, and S. 725, the Tribal Transportation Program Improvement Act of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 4, 2003 at 2 p.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on Impacts on Tribal Fish and Wildlife Management Programs in the Pacific Northwest.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

June 10, 2003 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC. The purpose of the hearing is to receive testimony on the following bills: S. 499, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; S. 546, to provide for the protection of paleontological resources on Federal lands, and for other purposes; S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes; S. 677, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; S. 1060 and H.R. 1577, to designate the visitors' center at Organ Pipe Cactus National Monument, Arizona, as the "Kris Eggle Visitors' Center"; H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretive Center in Nebraska City, Nebraska; and H.R. 1012, to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

## HONORING UNION CONTRIBUTIONS TO THE DEVELOPMENT AND BUILDING OF THE UNITED STATES

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate vitiate action on S. Res. 136 and that the Senate proceed to its immediate consideration; further, that the amendment that is at the desk be agreed to and the resolution, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 842) was agreed to, as follows:

(Purpose: To honor the contributions of all unions to the development and building of the United States, and for other purposes)

Strike all after the resolving clause and insert the following:

"That the Senate—

"(1) recognizes that unions have made tremendous contributions to the structural development and building of the United States, and to the well-being of tens of thousands of workers;

"(2) congratulates unions for their many achievements and the strength of their members; and

"(3) expects that unions will continue their dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and working environment for rail workers and other laborers in generations to come.".

The resolution (S. Res. 136), as amended, was agreed to.

## MEASURE READ THE FIRST TIME—S. 1162

Mr. McCONNELL. Mr. President, I understand that S. 1162, introduced earlier today by Senator LINCOLN and others, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The bill clerk read as follows:

A bill (S. 1162) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. McCONNELL. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

## ORDERS FOR TUESDAY, JUNE 3, 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Tuesday, June 3. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 79, S. 14, the Energy bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow morning the Senate will resume consideration of S. 14, the Energy bill. There are currently two LIHEAP amendments pending to the bill, as well as the bipartisan ethanol amendment. At this time, I urge any Member who wishes to offer an amendment to the bill to contact Chairman DOMENICI or the ranking member of the Energy Committee so they may schedule a time for consideration of the amendment. Members should expect rollcall votes tomorrow. It is anticipated that we will be able to dispose of several energy amendments during tomorrow's session. Members will be notified when the first vote is scheduled.

For the remainder of the week, the Senate will continue the consideration of the Energy bill and complete action on the Department of Defense authorization bill. Therefore, Members should expect rollcall votes each day this week.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:50 p.m., adjourned until Tuesday, June 3, 2003, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate, June 2, 2003:

### DEPARTMENT OF JUSTICE

KAREN P. TANDY, OF VIRGINIA, TO BE ADMINISTRATOR OF DRUG ENFORCEMENT, VICE ASA HUTCHINSON.

### EXECUTIVE OFFICE OF THE PRESIDENT

JOSETTE SHEERAN SHINER, OF VIRGINIA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE JON M. HUNTSMAN, JR.

## WITHDRAWAL

Executive message transmitted by the President to the Senate on June 2, 2003, withdrawing from further Senate consideration the following nomination:

DEE ANN MCWILLIAMS, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (HUMAN RESOURCES AND ADMINISTRATION), WHICH WAS SENT TO THE SENATE ON MARCH 24, 2003.

# HOUSE OF REPRESENTATIVES—*Monday, June 2, 2003*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*June 2, 2003.*

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

Sister Cecilia Thuy Nguyen, OP, Doctoral Candidate, The Catholic University of America, Washington, D.C., offered the following prayer:

Lord, we praise You for the wonders of Your creation, for the miracles You have wrought and will continue to work in our lives. We thank You for the great resources of this land and for the freedom which has been its heritage.

Lord, forgive us our sins that we as a Nation and as individuals have committed and give us a renewed hope in Your divine mercy.

Grant us a fruitful economy born of justice and charity. Inspire our President and all the officials of our government to serve the people of the United States with equity and integrity. Guide the Members of the House of Representatives gathered here today. Grant them the courage to speak with the voice of the people they represent. Bestow upon them the wisdom to seek what is pleasing in Your eyes and what is conformable with the freedom and happiness of the American people. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills and concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. 858. An act to extend the Abraham Lincoln Bicentennial Commission, and for other purposes.

S. 878. An act to authorize an additional permanent judgeship in the district of Idaho, and for other purpose.

S. Con. Res. 7. Concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. Con. Res. 43. Concurrent resolution expressing the sense of Congress that Congress should participate in and support activities to provide decent homes for the people of the United States.

The message also announced that pursuant to Public Law 105–292, as amended by Public Law 105–55, and as further amended by Public Law 107–228, the Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, appoints the following individuals to the United States Commission on International Religious Freedom:

Preeta D. Bansal of Nebraska, vice Charles Richard Stith, for a term of one year (May 15, 2003–May 14, 2004).

Most Reverend Ricardo Ramirez, C.S.B. of New Mexico, vice Dr. Firuz Kazemzadeh, for a term of two years (May 15, 2003–May 14, 2005).

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, May 23, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 23, 2003 at 5:11 p.m.

That the Senate passed without amendment H. Con. Res. 191.

That the Senate passed without amendment H. R. 192.

With best wishes, I am
Sincerely,

MARTHA C. MORRISON,
*Deputy Clerk of the House.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, May 23, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 23, 2003 at 3:17 p.m.

That the Senate passed without amendment H.R. 2185.

That the Senate passed without amendment H.R. Res. 51.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, May 23, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 23, 2003 at 12:10 p.m.

That the Senate agreed to conference report H.R. 2.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore TOM DAVIS of Virginia signed the following enrolled bills and joint resolution on Friday, May 23, 2003:

H.R. 2, to provide for reconciliation pursuant to section 201 of the Concurrent Resolution on the Budget for Fiscal Year 2004;

H.R. 2185, to extend the Temporary Extended Unemployment Compensation Act of 2002; and

H.J. Res. 51, increasing the statutory limit on the public debt.

## MONUMENTAL DEFECT IN TAX BILL

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, as the ink is now drying on the tax bill of 2 weeks ago, and as the President and the Republican Party were looting the Treasury and the Social Security System of this Nation on behalf of the wealthiest people in this Nation, we now see there is a monumental defect in this bill in terms of its unfairness and its greed, and that is that millions of working families making wages between $10,500 a year and $26,000 a year will not get to participate in the increase and in the child tax credit. That means they will not get their $400 increase this summer that families with children are entitled to get under the tax bill.

Why? Because Republicans simply decided that these people were not worthy of that tax cut, as though it was less expensive to raise their children or their children were not equal to the children of people making over $30,000 a year. An incredible act. An incredible act of greed. An incredible act of unfairness to hard-working families in this country.

## TAX BILL CREATES NEW JOBS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I just want to speak and say a few positive things about the tax bill that was so heavily attacked a moment ago. I had the opportunity in North Carolina over the past weekend to speak to a group concerning the positive aspects of this thing, the job-creation part of it.

As many of my colleagues in this body recognize, I own a small manufacturing company in Hickory, North Carolina; and the tax benefits in this program, with the increased appreciation, makes decisions much more likely to be made, at least as far as my own little company is concerned.

With that 50 percent tax break and depreciation allowance the first year, we have made a decision that we made today, before I left home, that we will purchase a machine that costs $150,000. That machine, the moment it is delivered to our company, will create six jobs.

I do not know what else anybody else knows about this tax bill. I know there is a whole bunch of discussion about taxes for the rich and taxes for the poor, but this idea of creating new jobs by our tax bill is first class, and I want to say I greatly appreciate it.

## HOUR OF MEETING ON TUESDAY, JUNE 3, 2003

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10:30 a.m. tomorrow for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## EXPRESSING PROFOUND SORROW ON THE OCCASION OF THE DEATH OF IRMA RANGEL

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 159) expressing profound sorrow on the occasion of the death of Irma Rangel.

The Clerk read as follows:

### H. RES. 159

Whereas Irma Rangel, in 1977, became the first Mexican-American woman ever elected to the Texas House of Representatives;

Whereas Irma Rangel served the great State of Texas and the people of Kingsville with honor and distinction for 26 years as a Member of the Texas House of Representatives;

Whereas Irma Rangel was Chairwoman of the Texas House of Representatives Committee on Higher Education and was a tireless advocate of educational opportunities for all students;

Whereas Irma Rangel recognized the value of higher education for all young people of Texas and introduced the 10 percent rule legislation that entitled all highly motivated and successful Texas high school students who graduated in the top 10 percent of their high school class to be admitted into Texas institutions of higher education, marking a shift in college admissions;

Whereas Irma Rangel recognized the importance of creating a professional school of pharmacy in South Texas and worked diligently to realize that vision;

Whereas Irma Rangel was a staunch supporter of Texas Grant 1 and Texas Grant 2, which provided tuition and fees for students who graduated under the recommended plan and extended those opportunities to community college students;

Whereas Irma Rangel dedicated her life to make Texas better for all its citizenry, improve the quality of life for the people she served, and especially expand educational opportunities for the young people of Texas;

Whereas the life and legacy of Irma Rangel serve as an inspiration for the young people of Texas and for the poor and powerless for whom she fought so passionately;

Whereas Irma Rangel was a role model for young Hispanic female students in achieving success;

Whereas Irma Rangel placed high value on self-empowerment, which enabled individuals to access opportunities to achieve their goals; and

Whereas Irma Rangel will forever be remembered for her signature phrase, "Will this hurt or help?" when addressing pending legislation before the Texas House of Representatives: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) has learned with profound sorrow of the death of Irma Rangel on March 18, 2003, and extends condolences to her family;

(2) expresses its deep gratitude to Irma Rangel and her family for the service that she rendered to the State of Texas;

(3) recognizes with appreciation and respect Irma Rangel's exemplary commitment to public service and her constituents; and

(4) esteems Irma Rangel as a role model for generations to come in South Texas and the entire Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

### GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 159, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 159, introduced by my distinguished colleague from the State of Texas (Mr. HINOJOSA), expresses profound sorrow on the occasion of the death of Irma Rangel.

Mr. Speaker, this legislation is a fitting tribute to the life and career of a remarkable public servant who passed away in March. Irma Rangel was the first Mexican American woman elected to the Texas State House of Representatives, and she was every bit as trailblazing as this distinction might suggest.

First elected in 1976, Representative Rangel was best known for her outspoken work on educational issues, largely because she was a schoolteacher and principal prior to her career in government. She rose to the Chair of the House Higher Education Committee in 1995 in Texas. Her political career was as well known for her humility as it was for her many accomplishments, as she delighted only in improving the lives of her Texas constituents.

Irma Rangel sadly lost her valiant struggle against cancer on March 18, 2003. The Texas Governor ordered all State office building flags to be flown at half mast on the day she passed away.

All Texans, and indeed all Americans, will miss Irma Rangel for her unrelenting passion and devotion to all people. Therefore, I urge all Members to support the adoption of House Resolution 159 that honors Representative Irma Rangel, and I thank my colleague from Texas for introducing this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA), who is the originator of this bill.

Mr. HINOJOSA. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time. I also want to thank the chairman of the committee, the gentleman from Virginia (Mr. TOM DAVIS); the ranking member, the gentleman from California (Mr. WAXMAN); our minority leader, the gentlewoman from California (Ms. PELOSI); and the Republican leadership for bringing this legislation to the floor today.

I rise today as the original sponsor of House Resolution 159 expressing profound sorrow on the occasion of the death of Irma Rangel, a courageous legislator and a great Texan.

Mr. Speaker, it gives me great pleasure to rise today to honor a true Texas legend. Irma Rangel was the first Mexican American woman elected to the Texas House of Representatives, where she served her South Texas' constituents for 26 years. She served on the Higher Education Committee for most of her career and became chairwoman in 1995, a leadership position she held until Republicans won control of the House this year. She stayed on as vice chair of the committee until she passed away.

Her legacy includes over 25 years of working to improve minority access to higher education. During her 26-year tenure in the Texas House, Ms. Rangel devoted her efforts to increasing the educational attainment of Hispanics, bringing economic development to Texas, and empowering Texas youth with the tools they needed for success.

It was Irma Rangel's landmark legislation that ensured that all Texas high school seniors who graduate in the top 10 percent of their class would be able to attend any public university in the State of Texas, including the University of Texas at Austin and Texas A&M University at College Station.

Representative Rangel was always ready to engage her colleagues, not only on the pressing issues of the day, but she also sought to raise issues that had been forgotten or ignored yet were important to average working families.

□ 1415

Mr. Speaker, Mrs. Rangel was famous for her quote, "Will it help or hurt?" She was also known to say, "Why not here? Why not in Kingsville?" And after dialogue, she took action. She fought for her constituents to ensure their needs were addressed by the Texas legislature.

Her relentless efforts to help establish a school of pharmacy at Texas A&M University, Kingsville, the first professional school in South Texas, has emerged as one of her greatest contributions as a State representative.

Not only was Representative Rangel a great State leader, she was an exceptional and courageous example of how to live with cancer. She has survived two bouts of cancer before valiantly battling brain cancer, which ultimately took her life. Irma was a positive force in educating women who faced the same adversities. Her straight talk, get-it-done demeanor, helped open the dialogue on the issue of cancer and treatments.

Irma Rangel was preceded in death by her parents, Herminia L. Rangel and P.M. Rangel and her sister Olga Rangel Lumley. She is survived by her sister Minnie Rangel Henderson and her brother-in-law Howard A. Henderson, nieces Debbie Henderson and Margo Hoover and nephews Dino Henderson and Marc Lumley.

I hope my colleagues will join me in extending the condolences of this Congress to these surviving family members, expressing its deep gratitude to Irma Rangel and her family for the service that she rendered to the great State of Texas, recognizing with appreciation and respect her exemplary commitment to public service and to her constituents, and esteeming Irma Rangel as a role model for generations to come in South Texas and the entire Nation.

Mr. Speaker, the people of Texas will miss Irma's unique style and engaging dialogue. She will be remembered for her great contributions in making Texas a better State for all of its people.

Mr. SOUDER. Mr. Speaker, I thank the gentleman from Texas for authoring this legislation. I have no further requests for time, and I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will simply indicate that I am pleased to join with the gentleman from Indiana (Mr. SOUDER) and the gentleman from Texas in extolling the virtues of this pioneer who has contributed greatly to the development of pride and to education in her native Texas. She is indeed a role model, and I join with both my colleagues in extending condolences to her family.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to pay tribute to former Texas State Representative, Irma Rangel, who passed away after a long battle with cancer on March 18, 2003, at the age of 71.

Throughout her career, Irma Rangel was a trailblazer among Mexican-American women. Born in Kingsville, TX, in 1931, Irma was a pioneer advocating for women, minorities, and the poor, ensuring a voice for those who might otherwise remain voiceless. Continuing on her path of breaking down barriers, Irma became one of the first Hispanic female law clerks for Federal District Judge Adrian Spears.

In 1976, after 14 years of teaching in Texas and graduated from St. Mary's Law School, Irma became the first Mexican American woman to serve in the Texas House of Representatives.

Mr. Speaker, this great leader spent much of her time in the Texas state house fighting for equal opportunity in education. In her fourth term, Irma joined the House Higher Education Committee, focusing on higher education because it was not guaranteed by the Texas Constitution. She once said her proudest moment was passing legislation in 2001, to establish a pharmacy school at Texas A&M University-Kingsville. In 1997, after the controversial Hopwood decision, the case that struck down affirmative action in college admission at the University of Texas, Irma passed legislation to allow all students in the top 10 percent of their high school graduating class automatic admission to any of the State's colleges or universities.

Mr. Speaker, Irma fought tirelessly to the end of her life for improved education. Despite her illness, she waited an hour and a half to testify before a House Appropriations Committee hearing over proposed funding cuts for South Texas universities and community colleges.

I would like to especially thank my colleague and fellow Texan RUBÉN HINOJOSA for leading a special order in honor of Irma Rangel. Irma Rangel was a trailblazer and champion of Texas. Irma was not just a leader in Texas politics but also inspiration to all of us in the Texas delegation. I am certainly proud to have had an opportunity to serve with her and learn from her example. Irma was absolutely delightful, which made our working relationship so wonderful. I will miss her bubbly and cheerful spirit. The people of Texas and her constituents in Kingsville will miss her and her colleagues will fondly remember her courage, determination, humility, and devotion to public service.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of my Texas colleague's resolution expressing profound sorrow on the occasion of the death of State Representative Irma Rangel. On March 18, 2003, the Nation lost a leader, Texas lost a hero, and I lost a friend.

Irma was a veteran of the Texas House of Representatives, having been first elected in

1976. She was the first Mexican-American woman elected to the House and I was privileged to work and serve with Irma for almost 10 years.

She was a vocal proponent of higher education and services for the poor. During her 13 sessions in the House, Rangel spent most of her time and energy on minority and educational issues. She knew her issues, and she knew how to overcome any obstacle.

In response to the Hopwood v. Texas decision, which ended affirmative action at all Texas state colleges and universities, Irma sponsored the 10 percent law, which grants admission to State colleges and universities to students who graduate in the top 10 percent of their high school class.

Irma grew up in Kingsville. She was the daughter of a man who picked cotton, learned to read and write on his own and later owned two barbershops and several other businesses.

She taught for 14 years in schools in Robstown and Alice, in Venezuela and in Menlo Park, CA. In the later 1960s, Irma decided to pursue her lifelong dream of becoming an attorney. She received her law degree from St Mary's University School of Law and was admitted to the Texas Bar in 1969.

Irma worked as a law clerk for U.S. District Judge Adrian A Spears of San Antonio, who was the chief justice for the Western District of Texas.

She also worked as an assistant district attorney in Corpus Christi before returning to her hometown in 1973 to open her own law practice.

Irma was inducted into the Texas Women's Hall of Fame in 1994. She also received the Legislator of the Year award from the Mexican American Bar Association of Texas, the Women's Political Caucus' Texas Mexican-American Woman of the Year in 1979, the Unsung Heroines Award in 1991 from the Women's Advocacy Project, the Latina Lawyer of the Year from the Hispanic National Bar Association and the Texas Woman of the Century from the Women's Chamber of Commerce of Texas.

She the first Hispanic in the state to receive the Margaret Brent Women Lawyers of Achievement Award from the American Bar Association's Commission on Women in the profession.

Irma touched the lives of all those who were fortunate enough to know her. Her absence leaves a big hole in the Texas Legislature and in our hearts.

Our thoughts and prayers are with her sister, Herminia Rangel Henderson of Kingsville.

I would like to conclude my remarks by quoting from an editorial in the Houston Chronicle shortly after the announcement of her death: "Irma Rangel was small in stature, but she was always a large force in the Legislature for all those underserved by government and needing help. She was a trailblazer with a strong voice for many in Texas who had been unheard."

Irma was a trailblazer. The State of Texas is a much better place because of her work. She will be missed.

Mr. REYES. Mr. Speaker, I am proud to pay tribute today to my fellow Texan Irma Rangel, who passed away in March at age 71. Rangel was the first Hispanic woman to serve in the Texas legislature and, more importantly, worked tirelessly and courageously on behalf of the next generation of Texans, by vigorously supporting education and expanding economic opportunities for our youth.

Irma Rangel, who spent 26 years in the Texas House of Representatives and was Chairwoman of its Committee on Higher Education, is probably best known today for introducing the 10 percent rule legislation that entitled all highly motivated and successful Texas high school students who graduated in the top 10 percent of their class to be admitted into public institutions of higher education throughout Texas.

I urge all my colleagues to remember Irma Rangel and support House Resolution 159, which expresses the profound sorrow of this House on the occasion of her death. I would also like to thank my colleague, Congressman RUBÉN HINOJOSA, for offering this very appropriate resolution.

Irma Rangel was an inspiration to us all, in her commitment to helping working families, in her bravery as she faced cancer and in her dedication to public service.

Mr. RODRIGUEZ. Mr. Speaker, the State of Texas has lost one of its great voices, a leader with passion and energy working to improve the lives of the people she represented. We mourn the death of Texas Representative Irma Rangel who served nobly in the Texas Legislative for more than 25 years. She was a trailblazer as the first Hispanic woman to be elected to the Texas House of Representatives and the first woman to serve as chair of the Mexican American Legislative Caucus. We will miss her strength, courage, vision, and her straight talk.

A close friend, an advocate for poor families and women in South Texas, Representative Rangel consistently fought to improve the quality and accessibility of education for her constituents. Her advocacy helped create the school of pharmacy at Texas A&M University-Kingsville, the first professional school in South Texas. She also was a driving force in securing passage of the 10 percent plan, which makes the top 10 percent of students in every high school eligible for admission to any state college or university, in the wake of the devastating Hopwood decision.

Her commitment to the people and families of South Texas, especially in improving access to higher education, has left a lasting legacy, Irma Rangel will be remembered as a women who, through her lifetime of work and service, demonstrated her commitment to community. We will all miss her.

Mr. GONZALEZ. Mr. Speaker, I rise to express my strong support of H. Res. 159, expressing this Congress's sorrow at the passing of Texas State Representative Irma Rangel. Representative Rangel was a fighter for the rights of the economically disadvantaged in Texas and it is fitting that this Congress recognizes her contribution to our country.

In 1977 Irma became the first Mexican-American woman elected to the Texas Legislature. She served for 26 years the people of Kingsville in South Texas. She was a strong advocate for increasing access to education for the people of South Texas as well as for all Texans and she served as Chairwoman of the Texas House of Representatives Committee on Higher Education. Her relentless energy resulted in significant increases in higher education funding in South Texas, the expansion of the state's community college efforts and the creation of a much needed pharmacy school in her District.

Mr. Speaker, Irma Rangel was a Texas pioneer. Her tireless commitment to her job inspired many others, especially Hispanic women in Texas, to pursue a career in public service. I thank Congressman HINOJOSA for introducing this legislation and I yield back my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 159.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SOUDER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## CONGRATULATING SAMMY SOSA OF CHICAGO CUBS FOR HITTING 500 MAJOR LEAGUE HOME RUNS

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 195) congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs.

The Clerk read as follows:

H. RES. 195

Whereas Sammy Sosa of the Chicago Cubs hit a home run in the seventh inning on Friday, April 3, 2003, against the Cincinnati Reds at the Great American Ball Park;

Whereas his home run was the 500th of his career, making Sammy Sosa only the 18th player in major league history to reach the mark and the first Latino to accomplish this outstanding feat;

Whereas Sammy Sosa's achievement is one of the most impressive and difficult to accomplish in baseball history, placing him in the very select company of the greatest home run hitters of all time, including Hank Aaron, Babe Ruth, Mickey Mantle, Willie Mays, Mel Ott, and Ernie Banks;

Whereas from his first home run off Roger Clemens in 1989 to today, Sammy Sosa has awed us with his ability and athletic prowess on the field and his dignity and selflessness off the field;

Whereas Sammy Sosa has showed us how powerful the combination of discipline and desire can be;

Whereas throughout his record-breaking career Sammy Sosa has embodied the talent, exuberance, team-spirit, and determination that Americans associate with the very best qualities of sports and athletic competition;

Whereas throughout the intense media scrutiny and public attention that has accompanied his historic career, Sammy Sosa has consistently conducted himself with modesty and humility that has been an inspiration to all Americans; and

Whereas as a native of the Dominican Republic, Sammy Sosa has proven to be an outstanding role model and source of pride for all residents of his native country, as well as all Latin Americans and all immigrants to the U.S. from across the globe: Now, therefore, be it

*Resolved*, That the House of Representatives congratulates and commends Sammy Sosa of the Chicago Cubs for his amazing accomplishment and thanks him for tearing down barriers for Latinos around the world, for being a role model and an inspiration, and for letting us dream as big as our hearts will allow.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

### GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 195.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 195, introduced by the gentleman from Illinois (Mr. GUTIERREZ), celebrates and congratulates Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs. It is a unique honor to bring up this legislation to recognize the accomplishments of Sammy Sosa of the Chicago Cubs, who certainly is one of the greatest ball players of our generation, and likely of all time.

While the resolution before us this afternoon congratulates him for hitting his 500th home run earlier this season, I believe it is also appropriate to recognize his many accomplishments, on and off the field, as a superlative hitter, goodwill ambassador for his native Dominican Republic and, most importantly, as the exemplification of the best qualities the game of baseball holds for every American.

Let me start with Sammy's formidable accomplishments and sustained excellence on the field. I am told that the record today literally will not hold a listing of each of his 500 career home runs. He is just the 18th player in the history of baseball to reach this milestone. He is the only player ever to get 60 or more home runs in three seasons. Sammy Sosa, Babe Ruth, and Mark McGwire are the only players ever to have had more than two seasons hitting 50 home runs. Sammy holds or shares 24 major league records and an additional 10 National League records.

Mr. Speaker, I include for the RECORD a listing of those records as well as a summary of his accomplishments and listing by year of each of his career home runs.

In recent years, there have been other players who have arguably performed as well in one season, but no one has matched or sustained the overall level of excellence set by Sammy Sosa. But what is so extraordinary about these achievements is not their difficulty as an athletic accomplishment or place in the history of baseball. Sammy Sosa's success as a ball player and a citizen is a living testament to the possibilities that America can offer to anyone from any place or circumstance in the world.

Born in the Dominican Republic, he lost his father at an early age, and the family struggled. Sammy demonstrated the American values of perseverance, hard work, and honesty by working as a shoeshine boy, washing cars and selling oranges to bring food to his mother and the rest of his family. The same circumstances led him to baseball.

While he played early in his career for the Texas Rangers and the Chicago White Sox, he did not truly find his home until the White Sox traded him to the Cubs for George Bell. Bell played 2 years for the White Sox and hit 38 home runs before retiring. Since the trade, Sammy has hit 476 home runs for the Cubs. While we are proud of President Bush in so many different areas, the President of the United States has openly acknowledged that he believes one of the biggest mistakes he ever made was trading Sammy from the Texas Rangers when he was owner of that team.

Sammy Sosa became a national figure during the home run race of the 1998 season, which broadcaster Tim McCarver called "the perfect season." Both Sosa and Mark McGwire assaulted the home run record of Roger Maris, which at that time had stood for 37 years and was widely believed to be unbreakable. McCarver astutely noted that not only Sosa and McGwire had pushed each other toward those accomplishments, but also that Sosa had understood that the race for the record was about far more than statistics.

McCarver wrote the following: "I think it was Sosa who made McGwire realize they could be ambassadors for the game." Sosa said, "I like the fact that baseball is touching the fans in their hearts." As America watched, a genuine bond of respect and affection formed between the white, privileged, former USC student and the black Spanish-speaking Sosa, who was so poor growing up in the Dominican Republic that he learned baseball while using rolled up socks for a ball, a milk carton for a glove, and a tree limb for a bat.

McGwire and Sosa, McCarver continued, would not dignify questions about their home run race having racial overtones and the notion that some fans were favoring one over the other, based solely on skin color or heritage. They became each other's greatest champions. America had rarely seen such sportsmanship, brotherhood, humility and class wrapped in a competitive cocoon. McGwire and Sosa transcended sports and entered the national consciousness.

Mr. Speaker, those are the values and contributions to America that we honor today in this resolution, which were also honored when Sammy Sosa stood in the gallery of this Chamber in 1999 to receive bipartisan praise and applause at the State of the Union address. He said in his autobiography, "Here I was, once a humble kid from the Dominican Republic, and now the lawmakers of the United States were standing and applauding me in the halls of Congress. It was a great moment."

In addition to his civic leadership, Sammy is also widely recognized for his never-ending goodwill and good humor, such as when he sprints to his position at the beginning of every game at Wrigley Field and taps his heart for the fans in the right field bleachers.

His is also a symbol for his native country, so much so that former Ambassador Bernardo Vega was quoted as saying, "As far as I am concerned, he is the real Dominican ambassador. I just shuffle papers." But nothing speaks so eloquently to Sammy Sosa's contributions to both our culture and our sport as what he did during the Cubs' first game after the September 11 attacks when the Nation returned to baseball in a very small part of the national healing. Sammy Sosa hit a home run, and he carried a small American flag around the bases at Wrigley Field. I strongly encourage my colleagues to support the resolution.

SAMMY SOSA PROFESSIONAL STATISTICS AND CAREER TRANSACTIONS

| Year—Team | Avg | G | AB | R | H | 2B | 3B | HR | RBI | SH | SF | HP | BB | SO | SB | CS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1986—Gulf Coast R | .275 | 61 | 229 | 38 | 63 | 19 | 1 | 4 | 28 | 0 | 2 | 0 | 22 | 51 | 11 | 3 |
| 1987—Gastonia-A | .279 | 129 | 519 | 73 | 145 | 27 | 4 | 11 | 59 | 0 | 3 | 5 | 21 | 123 | 22 | 8 |
| 1988—Charlotte, FL-A | .229 | 131 | 507 | 70 | 116 | 13 | 12 | 9 | 51 | 0 | 3 | 4 | 35 | 106 | 42 | 24 |
| 1989—Tulsa-AA | .297 | 66 | 273 | 45 | 81 | 15 | 4 | 7 | 31 | 2 | 2 | 3 | 15 | 52 | 16 | 11 |
| Texas | .238 | 25 | 84 | 8 | 20 | 3 | 0 | 1 | 3 | 4 | 0 | 0 | 0 | 20 | 0 | 2 |
| Oklahoma City-AAA | .103 | 10 | 39 | 2 | 4 | 2 | 0 | 0 | 3 | 0 | 0 | 0 | 2 | 8 | 4 | 7 |
| Vancouver-AAA | .367 | 13 | 49 | 7 | 18 | 3 | 0 | 1 | 5 | 0 | 0 | 0 | 7 | 6 | 3 | 1 |

SAMMY SOSA PROFESSIONAL STATISTICS AND CAREER TRANSACTIONS—Continued

| Year—Team | Avg | G | AB | R | H | 2B | 3B | HR | RBI | SH | SF | HP | BB | SO | SB | CS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Chicago (AL) | .273 | 33 | 99 | 19 | 27 | 5 | 0 | 3 | 10 | 1 | 2 | 2 | 11 | 27 | 7 | 3 |
| 1990—Chicago (AL) | .233 | 153 | 532 | 72 | 124 | 26 | 10 | 15 | 70 | 2 | 6 | 6 | 33 | 150 | 32 | 16 |
| 1991—Vancouver-AAA | .267 | 32 | 116 | 19 | 31 | 7 | 2 | 3 | 19 | 0 | 3 | 1 | 17 | 32 | 9 | 3 |
| Chicago (AL) | .203 | 116 | 316 | 39 | 64 | 10 | 1 | 10 | 33 | 5 | 1 | 2 | 14 | 98 | 13 | 6 |
| 1992—Iowa-AAA[3] | .316 | 5 | 19 | 3 | 6 | 2 | 0 | 0 | 1 | 1 | 0 | 0 | 1 | 2 | 5 | 0 |
| Cubs | .260 | 67 | 262 | 41 | 68 | 7 | 2 | 8 | 25 | 4 | 2 | 4 | 19 | 63 | 15 | 7 |
| 1993—Cubs | .261 | 159 | 598 | 92 | 156 | 25 | 5 | 33 | 93 | 0 | 1 | 4 | 38 | 135 | 36 | 11 |
| 1994—Cubs | .300 | 105 | 426 | 59 | 128 | 17 | 6 | 25 | 70 | 1 | 4 | 2 | 25 | 92 | 22 | 13 |
| 1995—Cubs | .268 | [2]144 | 564 | 89 | 151 | 17 | 3 | 36 | 119 | 0 | 2 | 5 | 58 | 134 | 34 | 7 |
| 1996—Cubs | .273 | 124 | 498 | 84 | 136 | 21 | 2 | 40 | 100 | 0 | 4 | 5 | 34 | 134 | 18 | 5 |
| 1997—Cubs | .251 | [2]162 | 642 | 90 | 161 | 31 | 4 | 36 | 119 | 0 | 5 | 2 | 45 | 174 | 22 | 12 |
| 1998—Cubs | .308 | 159 | 643 | [1]134 | 198 | 20 | 0 | 66 | [1]158 | 0 | 5 | 1 | 73 | 171 | 18 | 9 |
| 1999—Cubs | .288 | [2]162 | 625 | 114 | 180 | 24 | 2 | 63 | 141 | 0 | 6 | 3 | 78 | 171 | 7 | 8 |
| 2000—Cubs | .320 | 156 | 604 | 106 | 193 | 38 | 1 | [1]50 | 138 | 0 | 8 | 2 | 91 | 168 | 7 | 4 |
| 2001—Cubs | .328 | 160 | 577 | [1]146 | 189 | 34 | 5 | 64 | [1]160 | 0 | 12 | 6 | 116 | 153 | 0 | 2 |
| 2002—Cubs | .288 | 150 | 556 | [1]122 | 160 | 19 | 2 | [1]49 | 108 | 0 | 4 | 3 | 103 | 144 | 2 | 0 |
| N.L./Cubs Totals | .287 | 1,548 | 5,995 | 1,077 | 1,720 | 253 | 32 | 470 | 1,231 | 5 | 53 | 37 | 680 | 1,539 | 181 | 78 |
| A.L. Totals | .228 | 327 | 1,031 | 138 | 235 | 44 | 11 | 29 | 116 | 12 | 9 | 10 | 58 | 295 | 52 | 27 |
| Major League Totals | .278 | 1,875 | 7,026 | 1,215 | 1,955 | 297 | 43 | 499 | 1,347 | 17 | 62 | 47 | 738 | 1,834 | 233 | 105 |

[1] Led League.
[2] Tied for League lead.
[3] Injury Rehabilitation Assignment.

Last sacrifice bunt: 5/16/94 vs. San Diego. SLG: 2002, .594. M.L. Career, .546. OBP: 2002, .399. M.L. Career, .348.

1985—Signed as non-drafted free agent by Texas (scouts: Omar Minaya and Amado Dinzey). 1989—Traded to Chicago (AL) 7/29 with P Wilson Alvarez and IF Scott Fletcher for OF Harold Baines and IF Fred Manrique. 1992—Traded to Cubs 3/30 with P Ken Patterson for OF George Bell. 1992—On disabled list 6/13–7/27 . . . fractured right hand . . . included injury rehab assignment to Iowa (7/21–7/27). 1992—On disabled list 8/7–9/16 . . . fractured left ankle. 1996—On disabled list 8/21–10/2 . . . fractured right hand.

SOSA AND THE RECORD BOOKS—THE 500-HOMER CLUB—PLUS ONE

| | Name | No. |
|---|---|---|
| 1. | Hank Aaron | 755 |
| 2. | Babe Ruth | 714 |
| 3. | Willie Mays | 660 |
| 4. | Barry Bonds (46 in 2002) | 613 |
| 5. | Frank Robinson | 586 |
| 6. | Mark McGwire | 583 |
| 7. | Harmon Killebrew | 573 |
| 8. | Reggie Jackson | 563 |
| 9. | Mike Schmidt | 548 |
| 10. | Mickey Mantle | 536 |
| 11. | Jimmie Foxx | 534 |
| 12. | Willie McCovey | 521 |
| | Ted Williams | 521 |
| 14. | Ernie Banks | 512 |
| | Eddie Matthews | 512 |
| 16. | Mel Ott | 511 |
| 17. | Eddie Murray | 504 |
| 18. | SAMMY SOSA (49) | 499 |

MAJOR LEAGUE RECORDS HELD OR SHARED BY SAMMY SOSA

Most 60-Homer Seasons: 3—1998, 1999, 2001

Most 50-Homer Seasons: 4—1998–2001 (shared with Babe Ruth 1920–1921/1927–1928 and Mark McGwire 1996–1999)

Most Consecutive 50-Homer Seasons: 4—1998–2001 (shared with Mark McGwire 1996–1999)

Most Homers, Five-Season Span: 292—1998–2002

Most Homers, Six-Season Span: 328—1997–2002

Most Homers, Seven-Season Span: 368—1996–2002

Most Homers, Eight-Season Span: 404—1995–2002

Most Homers, Nine-Season Span: 429—1994–2002

Most Total Bases, Four-Season Span: 1,621—1998–2001

Most 3-Homer Games, Career: 6—(shared with Johnny Mize)

Most Multi-Homer Games, Season: 11—1998 (shared with Hank Greenberg 1938)

Most 3-Homer Games, Season: 3—2001

Most Ballparks Homered In, Season: 18—1998 (shared with Mike Piazza 2000)

Most Extra-Base Hits, Right-Handed Batter, Season: 103—2001 (shared with Hank Greenberg 1937 and Albert Belle 1995)

Most Intentional Walks, Right-Handed Batter, Season: 37—2001

Most Homers, Any Month: 20—June 1998

Most Homers, June: 20—1998

Most Homers, October: 5—2001 (shared with Richie Sexson 2001)

Most Homers, 30-Day Span: 21—5/26–6/23/98

Most Homers, 10-Day Span: 9—5/25–6/7/98, 6/13–6/21/98

Grand Slams, Consecutive Games: 7/27–7/28/98 (shared with many)

Most 3-Run Homers, Game: 3—8/10/02 (shared with Walker Cooper 7/6/49)

Homers In Three Consecutive Innings—8/10/02 (shared with four others)

Most Homers, Inning: 2—5/16/96 (shared with many)

NATIONAL LEAGUE RECORDS HELD OR SHARED BY SAMMY SOSA—THE ABOVE PLUS

Most Consecutive 40-Homer Seasons: 5—1998–2002 (shared with Ralph Kiner 1947–1951 and Duke Snider 1953–1957)

Most Consecutive 100-RBI Seasons: 8—1995–2002 (shared with Mel Ott 1929–1936 and Willie Mays 1959–1966)

Most 150-Plus RBI Seasons: 2—1998, 2001 (shared with Hack Wilson 1929–1930)

Most Homers, Three-Season Span: 179—1998–2000

Most Homers, Four-Season Span: 243—1998–2001

Most Homers, 10-Season Span: 462—1993–2002

Most Homers, August: 17—2001 (shared with Willie Mays 1965)

Most Homers, Consecutive Series: 15—1998

Most Homers, Sunday-Saturday Calendar Week: 8—6/14–6/20/98 (shared with three others)

Most RBI, Consecutive Games: 14—8/10–8/11/02

CUBS RECORDS HELD OR SHARED BY SAMMY SOSA—ALL OF THE ABOVE PLUS

Most 30-Homer Seasons: 9—1993, 1995–2002

Most Multiple-Homer Games, Career: 57

Most Homers, Season: 66—1998

Most Extra-Base Hits, Season: 103—2001

Most Total Bases, Season: 425—2001

Highest Slugging Percentage, Season: .737—2001

Most Homers, Wrigley Field, Season: 35—1998

Most Homers, Road, Season: 31—1998

Strikeouts, Career: 1,539

Strikeouts, Season: 174—1997

Consecutive-Game Homer Streak: 5 games—6/3–6/8/98 (shared with two others)

Homers, Three Consecutive Games: 5—6/19–6/21/98, 8/10–8/12/02 (shared with two others)

Most Hits, Consecutive At-Bats: 9—6/30–7/2/93

Most Hits, Game: 6—7/2/93 (shared with several)

Most Homers, Game: 3—six times (shared with many)

Most Homers, Inning: 2—5/16/96—7th (shared with Mark Bellhorn 8/29/02—4th)

Most RBI, Game: 9—8/10/02 (shared with Heinie Zimmerman 6/11/11)

SOSA'S YEAR-BY-YEAR HOMER BREAKDOWNS

| Year and team | | Total | Home | Road | NL | AL | Solo | 2-R | 3-R | GS | 2-HR | 3-HR | 4-HR | 50+ | 40-49 | 30-39 | RHP | LHP | Parks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1989 | Texas | 1 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | White Sox | 3 | 1 | 2 | 0 | 3 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 1 |
| 1990 | White Sox | 15 | 10 | 5 | 0 | 15 | 9 | 4 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 12 | 5 |
| 1991 | White Sox | 10 | 3 | 7 | 0 | 10 | 4 | 3 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 5 | 5 | 1 |
| 1992 | Cubs | 8 | 4 | 4 | 8 | 0 | 4 | 2 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 3 |
| 1993 | Cubs | 33 | 23 | 10 | 33 | 0 | 18 | 13 | 2 | 0 | 5 | 0 | 0 | 0 | 0 | 1 | 23 | 10 | 5 |
| 1994 | Cubs | 25 | 11 | 14 | 25 | 0 | 16 | 6 | 3 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 16 | 9 | 4 |
| 1995 | Cubs | 36 | 19 | 17 | 36 | 0 | 15 | 13 | 8 | 0 | 5 | 0 | 0 | 0 | 0 | 1 | 27 | 9 | 2 |
| 1996 | Cubs | 40 | 26 | 14 | 40 | 0 | 16 | 16 | 8 | 0 | 4 | 1 | 0 | 0 | 1 | 0 | 32 | 8 | 1 |
| 1997 | Cubs | 36 | 25 | 11 | 36 | 0 | 19 | 13 | 4 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 24 | 12 | 0 |
| 1998 | Cubs | 66 | 35 | 31 | 66 | 0 | 37 | 19 | 7 | 3 | 10 | 1 | 0 | 1 | 0 | 0 | 54 | 12 | 3 |
| 1999 | Cubs | 63 | 33 | 30 | 63 | 0 | 36 | 18 | 9 | 0 | 6 | 0 | 0 | 1 | 0 | 0 | 45 | 18 | 0 |
| 2000 | Cubs | 50 | 22 | 28 | 50 | 0 | 25 | 12 | 12 | 1 | 5 | 0 | 0 | 1 | 0 | 0 | 42 | 8 | 3 |
| 2001 | Cubs | 64 | 34 | 30 | 64 | 0 | 36 | 21 | 5 | 2 | 7 | 3 | 0 | 1 | 0 | 0 | 51 | 13 | 3 |
| 2002 | Cubs | 49 | 24 | 25 | 49 | 0 | 26 | 15 | 7 | 1 | 3 | 1 | 0 | 0 | 1 | 0 | 38 | 11 | 1 |
| | Totals | 499 | 270 | 229 | 470 | 29 | 264 | 156 | 72 | 7 | 52 | 6 | 0 | 4 | 2 | 3 | 370 | 129 | 37 |

SOSA HOMER-BY-HOMER—1998

| HR# | Date | Game | Opponent | Pitcher | Inning | Type | Direction |
|---|---|---|---|---|---|---|---|
| 1 | 4/4 | 5 | Montreal | Marc Valdes | 3 | Solo | RF |
| 2 | 4/11 | 11 | @Montreal | Anthony Telford | 7 | Solo | RF |
| 3 | 4/15 | 14 | @New York | Dennis Cook | 8 | Solo | LF |
| 4 | 4/23 | 21 | San Diego | Dan Miceli | 9 | Solo | CF |
| 5 | 4/24 | 22 | @Los Angeles | Ismael Valdes | 1 | Solo | CF |
| 6 | 4/27 | 25 | @San Diego | Joey Hamilton | 1 | 2-run | CF |
| 7 | 5/3 | 30 | St. Louis | Cliff Politte | 1 | Solo | LF |
| 8 | 5/16 | 42 | @Cincinnati | Scott Sullivan | 3 | 3-run | CF |
| 9 | 5/22 | 47 | @Atlanta | Greg Maddox | 1 | Solo | CF |
| 10 | 5/25 | 50 | @Atlanta | Kevin Millwood | 4 | Solo | RF |
| 11 | 5/25 | 50 | @Atlanta | Mike Cather | 8 | 3-run | CF |
| 12 | 5/27 | 51 | Philadelphia | Darrin Winston | 8 | Solo | LF |
| 13 | 5/27 | 51 | Philadelphia | Wayne Gomes | 9 | 2-run | LF |
| 14 | 6/1 | 56 | Florida | Ryan Dempster | 1 | 2-run | LF |
| 15 | 6/1 | 56 | Florida | Oscar Henriquez | 8 | 3-run | CF |
| 16 | 6/3 | 58 | Florida | Livan Hernandez | 5 | 2-run | LF |
| 17 | 6/5 | 59 | White Sox | Jim Parque | 5 | 2-run | RF |
| 18 | 6/6 | 60 | White Sox | Carlos Castillo | 7 | Solo | CF |
| 19 | 6/7 | 61 | White Sox | James Baldwin | 5 | 3-run | CF |
| 20 | 6/8 | 62 | @Minnesota | LaTroy Hawkins | 3 | Solo | RF |
| 21 | 6/13 | 66 | @Philadelphia | Mark Portugal | 6 | 2-run | RF |
| 22 | 6/15 | 68 | Milwaukee | Cal Eldred | 1 | Solo | RF |
| 23 | 6/15 | 68 | Milwaukee | Cal Eldred | 3 | Solo | LF |
| 24 | 6/15 | 68 | Milwaukee | Cal Eldred | 7 | Solo | CF |
| 25 | 6/17 | 70 | Milwaukee | Bronswell Patrick | 4 | Solo | LF |
| 26 | 6/19 | 72 | Philadelphia | Carlton Loewer | 1 | Solo | LF |
| 27 | 6/19 | 72 | Philadelphia | Carlton Loewer | 5 | 2-run | LF |
| 28 | 6/20 | 73 | Philadelphia | Matt Beech | 3 | 2-run | LF |
| 29 | 6/20 | 73 | Philadelphia | Toby Borland | 6 | 3-run | LF |
| 30 | 6/21 | 74 | Philadelphia | Tyler Green | 4 | Solo | RF |
| 31 | 6/24 | 77 | @Detroit | Seth Greisinger | 1 | Solo | LF |
| 32 | 6/25 | 78 | @Detroit | Brian Moehler | 7 | Solo | RF |
| 33 | 6/30 | 82 | Arizona | Alan Embree | 8 | Solo | LF |
| 34 | 7/9 | 88 | @Milwaukee | Jeff Juden | 2 | 2-run | CF |
| 35 | 7/10 | 89 | @Milwaukee | Scott Karl | 2 | Solo | LF |
| 36 | 7/17 | 95 | @Florida | Kirt Ojala | 6 | 2-run | CF |
| 37 | 7/22 | 100 | Montreal | Miguel Batista | 8 | 3-run | RF |
| 38 | 7/26 | 105 | New York | Rick Reed | 6 | 2-run | CF |
| 39 | 7/27 | 106 | @Arizona | Willie Blair | 6 | 2-run | RF |
| 40 | 7/27 | 106 | @Arizona | Alan Embree | 8 | Grand Slam | CF |
| 41 | 7/28 | 107 | @Arizona | Bob Wolcott | 5 | Grand Slam | LF |
| 42 | 7/31 | 110 | Colorado | Jamey Wright | 1 | Solo | RF |
| 43 | 8/5 | 115 | Arizona | Andy Benes | 3 | 2-run | LF |
| 44 | 8/8 | 117 | @St. Louis | Rick Croushore | 9 | 2-run | LF |
| 45 | 8/10 | 119 | @San Francisco | Russ Ortiz | 5 | Solo | LF |
| 46 | 8/10 | 119 | @San Francisco | Chris Brock | 7 | Solo | CF |
| 47 | 8/16 | 124 | @Houston | Sean Bergman | 4 | Solo | RF |
| 48 | 8/19 | 126 | St. Louis | Kent Bottenfield | 5 | 2-run | LF |
| 49 | 8/21 | 128 | San Francisco | Orel Hershiser | 5 | 2-run | CF |
| 50 | 8/23 | 130 | Houston | Jose Lima | 5 | Solo | LF |
| 51 | 8/23 | 130 | Houston | Jose Lima | 8 | Solo | LF |
| 52 | 8/26 | 133 | @Cincinnati | Brett Tomko | 3 | Solo | LF |
| 53 | 8/28 | 135 | @Colorado | John Thomson | 1 | Solo | RF |
| 54 | 8/30 | 137 | @Colorado | Darryl Kile | 1 | 2-run | LF |
| 55 | 8/31 | 138 | Cincinnati | Brett Tomko | 3 | 2-run | LF |
| [1]56 | 9/2 | 140 | Cincinnati | Jason Bere | 6 | Solo | RF |
| 57 | 9/4 | 141 | @Pittsburgh | Jason Schmidt | 1 | Solo | RF |
| 58 | 9/5 | 142 | @Pittsburgh | Sean Lawrence | 6 | Solo | RF |
| 59 | 9/11 | 148 | Milwaukee | Bill Pulsipher | 5 | Solo | RF |
| [2]60 | 9/12 | 149 | Milwaukee | Valerio De Los Santos | 7 | 3-run | LF |
| [3]61 | 9/13 | 150 | Milwaukee | Bronswell Patrick | 5 | 2-run | LF |
| 62 | 9/13 | 150 | Milwaukee | Eric Plunk | 9 | Solo | LF |
| 63 | 9/16 | 153 | @San Diego | Brian Boehringer | 8 | Grand Slam | LF |
| 64 | 9/23 | 159 | @Milwaukee | Rafael Roque | 5 | Solo | RF |
| 65 | 9/23 | 159 | @Milwaukee | Rod Henderson | 6 | Solo | CF |
| 66 | 9/25 | 160 | @Houston | Jose Lima | 4 | Solo | LF |

[1] 56—tied Hack Wilson's 1930 club record (Wilson hit his 56th homer in the Cubs' 153rd game).
[2] 60—tied Babe Ruth's 1927 total (Ruth hit his 60th homer in the Yankees' 154th game).
[3] 61—tied Roger Maris' 1961 total (Maris hit his 61st homer in the Yankees' 163rd game).

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the gentleman from Indiana (Mr. SOUDER) in consideration of H. Res. 195, a bill congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. GUTIERREZ), the author of this legislation.

Mr. GUTIERREZ. Mr. Speaker, the resolution we are considering today, H. Res. 195, congratulates the Chicago Cubs' Sammy Sosa for reaching a major milestone in his remarkable and outstanding career.

On Friday, April 4, against the Cincinnati Reds, Sammy Sosa made baseball history during the top of the seventh inning when he drove a fastball over the right field fence. As he stepped on home plate, index fingers pointed at the sky, he also was stepping into some very select and special company.

With that historic home run, Sammy became the 18th player in major league history to hit 500 home runs and the first Latino to break the magical mark. His name will be etched alongside baseball legends Hank Aaron, Babe Ruth, Mickey Mantle, Willie Mays, Mel Ott, and Ernie Banks.

Mr. Speaker, sports writer Ralph Wiley wrote that "The home run remains the American sporting accomplishment and expression, combining nearly everything we admire: lightning-quick strike, power and, above all, great spectacle, a sustained visual effect in one beautiful arc of life." It brings us to our feet, howling and high-fiving total strangers. We admire and are in awe of the individuals with the power and precision to hit home runs. And the notion of hitting 500 home runs remains one of the most impressive and most difficult accomplishments in sports.

It immediately conjures up images of baseball legends and of history, and for the select few who achieve this amazing and astounding feat, it truly exemplifies and embodies their enduring excellence.

With his 500th home run, Sammy will forever be associated with baseball greats and has permanently secured his place in the record books, but he is so much more than just one remarkable and incredible accomplishment. Time and time again, Sammy has proven on and off the field to be a source of pride, joy and jubilation for all the residents of the Dominican Republic, as well as all Latin Americans and all immigrants to the United States from around the globe.

His story is so familiar and so hopeful for so many immigrants in this country, men and women who, like Sammy, come to the United States to work hard, to provide for their families and loved ones, so that they, too, can live a better and safer life.

And that, in addition to his 500 home runs, is why this resolution is so important, deserving and justified. Throughout history people have associated baseball with the strengths of American culture and equated the game with the best of our country's character and resolve.

At no time was this more evident than after the tragedy of September 11. Across the United States, ballparks hosted moving and emotional tributes to the fallen heroes of that dreadful and heart-wrenching day. And perhaps no image was more poignant or more touching than Sammy Sosa running the bases waving an American flag after hitting a home run.

Sometimes I believe it takes someone born elsewhere to sum up the most patriotic and powerful sentiments of our great Nation. No one loves and respects and admires America, their community or their profession more than Sammy Sosa.

□ 1430

Roberto Clemente once said, "When I put on my uniform, I feel I am the proudest man on Earth." Sammy has approached the game with that same passion and purpose, with that same excitement and enthusiasm. And in doing so, he has shown us just how potent the combination of discipline and dedication and desire can be. I think the comparison between Sammy and Roberto Clemente is fitting and appropriate. Roberto Clemente was such a model, such an example and such an inspiration to so many people; and Sammy instills and encourages that same desire and dedication, that same commitment to be better, to reach higher, to succeed despite the odds.

From his first home run off Roger Clemens in 1989 to today, Sammy has awed us with his ability and athletic prowess on the field and his dignity and selflessness off the field. He has embodied the team spirit, talent, exuberance, and determination that we associate with the very best qualities of sports. He has been able to do so under the most intense media scrutiny and public attention.

Throughout his record-breaking career, Sammy has consistently conducted himself with a level of modesty and humility that has been a source of motivation to people around the world. After his historic 500th home run, the standing ovations and the praise and accolades, Sammy stated, "I'm very happy, very blessed. I've been working hard all my life to be where I am."

Mr. Speaker, it is all of us that I believe are blessed. We are blessed to have men and women like Mr. Sosa to inspire our imaginations and to encourage us to make the most of our ambitions and our aspirations. From the child finding safety and sanctuary in a game of stickball in the heart of the inner city, to the dusty little league field in our most desolate and isolated countryside, countless young men and women can look at Sammy's accomplishments, at his fervor, and at his fortitude and say, I too can achieve, I too can dream, and I too can overcome obstacles. I too can break down barriers on the playing field, in the classroom, and indeed in life.

So today, Mr. Speaker, it is with great reverence and great respect that I say thank you, Sammy. Thank you for tearing down barriers for Latinos around the world. Thank you for being a role model and an inspiration; and thank you for letting us dream as big as our hearts will allow. And congratulations on this magnificent and memorable achievement. We look forward to another 500 home runs.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

As we have just heard, Sammy Sosa of the Chicago Cubs entered the 1998 baseball season as a relatively unknown player. That is, until his riveting race with Mark McGwire of the St. Louis Cardinals for the Major League single-season home run record. In 1998, Sosa finished second to McGwire with 66 home runs, five more than the previous record.

Sammy Sosa was born in the Dominican Republic in 1968. His mother raised him, his four brothers and two sisters after her husband died. Sosa recalls, "We were poor. We definitely were poor." Sosa sold oranges for 10 cents, shined shoes for 25 cents, and worked as a janitor in a shoe factory to help with the family's finances.

In the spring of 1986, Sosa, who did not know how to speak English, came to the United States for the first time. Within 3 years, he was playing in the major leagues, appearing in 25 games for the Rangers in 1989, batting .238. Later that year, Texas traded Sosa to the Chicago White Sox. In 1992, the White Sox traded Sosa to the Cubs. I do not know why they did that. The White Sox are in my district and the Cubs are not; and perhaps had the White Sox not traded Sosa, their fortunes would have been even greater. But the rest is history in the making. On April 4, Sosa hit the 500th home run of his career, making him only the 18th player in Major League history to reach the mark and the first Latino to accomplish this outstanding feat.

He is indeed in the select company of great home run hitters, which includes Hank Aaron, Babe Ruth, Mickey Mantle, Willie Mays, Mel Ott, and fellow Cub Ernie Banks. Sammy Sosa is indeed a source of pride for his native country and is an inspiration to all Americans that with hard work and commitment, anything is possible. He demonstrates that it is not always so important where you come from in life, but what is really important is where you are going. He has gone to the top and is still climbing.

I join with my colleagues in commending and congratulating him.

Mr. Speaker, I yield back the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

I want to again thank the gentleman from Illinois (Mr. GUTIERREZ) for introducing this important legislation. I have to admit it has not been the easiest bill for me to handle. I have a Heartland statue of longtime Mr. Cub Ernie Banks in my office; my father was a Cubs fan; my former boss, House Member and Senator Dan Coats was such a Cubs fan that on the second day of his honeymoon he went to a Cubs game; and my subcommittee staff director, Chris Donesa, is not only a Cubs fan and fanatic, he is a Sammy Sosa fanatic. But I am a White Sox fan like my colleague, the gentleman from Illinois (Mr. DAVIS); and it is not without a little heartburn that we are paying such tribute, because if he were in the White Sox outfield today, we might be national champions. I hope the Cubs can do the same.

Mr. Speaker, I urge the adoption of this measure.

Mr. BACA. Mr. Speaker, I rise in support of H. Res. 195, a resolution to congratulate Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs.

I am proud to honor Sammy because he embodies the Latino values of family, hard work, and perseverance, and for being a great role model for all children, Latino and non-Latino alike.

Sammy has overcome tremendous obstacles to achieve greatness. He was born the fifth of seven children in a poor family. When his father died, Sammy was only seven and he had to support his family by selling orange juice and shining shoes to help his family keep food on the table.

He learned baseball like most kids in his poverty-stricken neighborhood, fielding with gloves made out of milk cartons, batting with a tree branch, and hitting a tightly rolled and taped sock. Who knew that he would grow up to be the baseball star that he his today?

Sammy demonstrates what we can do when we try hard enough. Despite being sent back to the minors several times, he worked hard to improve himself. In 1989, he batted .238 and only hit 2 home runs in 84 turns at bat. But just four years later, he showed us that hard work pays off when he hit 33 home runs, 93 RBI's and made the All-Star Team.

Today we congratulate Sammy Sosa not only for being a great ball player or for his great story of personal triumph, but we also give tribute to him as a humanitarian. In 1998, he worked with Red Cross to send those suffering from Hurricane Georges 60,000 pounds of rice and beans and barrels of potable water. He helped rebuild countless homes with his financial assistance. Moved by the suffering in his homeland, he created a charitable foundation to further the education and health of poor children in his native land of the Dominican Republic and in his new home, the United States.

Mr. Speaker, for these reasons I stand in strong support of this resolution. We must congratulate Sammy for what he is—a model of hard work and perseverance first, a distinguished humanitarian second and a stellar baseball player third.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Res. 195, Commemorating the 500th Major League Home run, by the great Sammy Sosa of our Chicago Cubs.

With his blast on April 4, 2003 against the Cincinnati Reds at the Great American Ball Park, Sammy joined one of the most exclusive in baseball history, becoming only the 18th player to join the 500 home run club. This club includes such legends as Hank Aaron, Babe Ruth, and Chicago's own Mr. Cub, Ernie Banks.

While proudly representing his beloved native Dominican Republic, Sammy Sosa has become as much a part of Chicago as the stuffed pizza and Navy Pier. His pride in his native roots is but one example of the cultural diversity that makes Chicago the great city it is.

The bat that Sammy used to hit his 500th home run is now on display at Chicago's Field Museum as part of the National Baseball Hall of Fame's roving exhibit, Baseball As America exhibit. I urge all Chicagoans to visit this celebration of how baseball has been woven into the fabric of our nation's history.

Mr. Speaker, I thank Congressman GUTIERREZ and my other colleagues for introducing this resolution and bringing it to the floor today. I applaud the first place Cubs and wish them luck this weekend against the New York Yankees, in the Yankees first visit to Wrigley Field since the 1938 World Series. And I wish Sammy luck against Roger Clemens on Saturday, whom Sammy hit his home run off of in 1989. For these reasons, I strongly encourage my colleagues to vote for H. Res. 195.

Mr. SOUDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 195.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SOUDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL CHARLES GABRIEL POST OFFICE

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1465) to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office".

The Clerk read as follows:

H.R. 1465

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. GENERAL CHARLES GABRIEL POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, shall be known and designated as the "General Charles Gabriel Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the General Charles Gabriel Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1465, introduced by the distinguished gentleman from North Carolina (Mr. BALLENGER), designates the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the General Charles Gabriel Post Office. The entire delegation from the State of North Carolina has cosponsored this legislation.

Mr. Speaker, General Charles Gabriel was the 11th chief of staff of the U.S. Air Force. A lifelong North Carolina resident, he graduated with a bachelor's degree from the U.S. Military Academy in 1950 and was commissioned in the Air Force. He subsequently began studying to be a pilot and completed advanced training in December 1951. By August 1980, Charles Gabriel eventually had worked his way up to the position of commander in chief of the U.S. Air Forces in Europe at Ramstein Air Base in Germany. From that position, he was named Air Force chief of staff and moved to Washington, D.C. in July 1982. General Gabriel retired 4 years later on July 1, 1986.

Mr. Speaker, General Charles Gabriel's decorated career in our Nation's Air Force is worthy of commendation by this House. I am proud to be part of the proceedings that honor General Charles Gabriel. I urge all Members to support the passage of H.R. 1465. I thank my colleague from North Carolina for introducing this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1465, to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the General Charles Gabriel Post Office, was introduced by the gentleman from North Carolina (Mr. BALLENGER) on March 27, 2003. It names a postal facility in Iron Station, North Carolina, after General Charles Gabriel. The bill has met the committee policy and has been supported and approved by all members of the North Carolina delegation.

A graduate of the U.S. Military Academy and former member of the Joint Chiefs of Staff, Charles Gabriel was a command pilot and the recipient of numerous military decorations and awards. He retired from the military in 1986. He is indeed one who is deserving of such an honor. I commend my colleague for seeking to honor General Gabriel in this manner.

I urge the swift passage of H.R. 1465.

Mr. Speaker, I yield back the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. BALLENGER), the sponsor of this legislation.

Mr. BALLENGER. I thank the gentleman for yielding me this time.

Mr. Speaker, North Carolina has been the home of many brave men and women who have served their country to the utmost of their ability. Today I would like to honor retired General Charles A. Gabriel, who served as chief of staff of the United States Air Force from July 1982 to July 1986 by naming the United States Post Office in Iron Station, North Carolina, in his honor. I have chosen the Iron Station post office because General Gabriel's father worked in the same facility for 44 years.

General Charles Gabriel was born in 1928 in Lincolnton, North Carolina, as one of five children to Mr. and Mrs. Paul Gabriel. He graduated from Lincolnton High School in 1944 at the age of 16 and entered Catawba College as a star member of the football program. In recognition of his outstanding academic and athletic ability, he was recruited to the U.S. Military Academy at West Point at the age of 18 where he was named quarterback for the military academy's football team, the Black Knights. He earned his commission and graduated with a Bachelor of Science degree in 1950. While on active duty, he continued his education and in 1963 received a Master of Science degree in engineering management from George Washington University.

General Gabriel served a long and commendable career as a combat fighter pilot and later in various staff positions. He was first assigned to South Korea where he flew over 100 combat missions in the Korean War. He then flew 150 combat missions after being stationed at Udorn Royal Thai Air Force Base from 1970 to 1972 during the Vietnam conflict. In 1979 he became the deputy chief of staff of operations, plans and readiness. In 1980 he was appointed commander in chief, United States Air Forces in Europe, and commander of Allied Air Forces Central Europe until his appointment in 1982 as chief of staff of the Air Force.

General Gabriel has received numerous awards and decorations, including the Distinguished Service Medal, the Air Force Distinguished Service Medal, and the Legion of Merit. He also has attended both the command and staff school at the Naval War College and the Industrial College of Armed Forces in Washington, D.C.

I ask my fellow colleagues to please join me in tribute to this great North Carolinian by naming the U.S. post office in Iron Station, North Carolina, in his honor.

Mr. SOUDER. Mr. Speaker, I want to thank my colleague from North Carolina for introducing this important legislation. I urge all Members to support the adoption of this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and pass the bill, H.R. 1465.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SOUDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 231) supporting the goals and ideals of Peace Officers Memorial Day.

The Clerk read as follows:

### H. RES. 231

Whereas the well-being of all people of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 law enforcement personnel, at great risk to their personal safety, serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas more than 147 peace officers across the Nation were killed in the line of duty during 2002, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when 230 officers were killed, including 72 officers in the September 11th terrorist attacks;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty;

Whereas section 136 of title 36, United States Code, requests that the President issue each year a proclamation designating May 15 as Peace Officers Memorial Day in honor of Federal, State, and local officers killed or disabled in the line of duty; and

Whereas on May 15, 2003, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of Peace Officers Memorial Day to honor Federal, State, and local peace officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe such a day with appropriate ceremonies and respect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

☐ 1445

### GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 231.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 231, introduced by the distinguished gentleman from Colorado (Mr. HEFLEY), supports the goals and ideals of Peace Officers Memorial Day.

Mr. Speaker, as chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Resources, I am particularly pleased that the House is considering this resolution to honor Federal, State and local law enforcement officers killed or disabled in the line of duty. Right now, there are over 700,000 law enforcement officers serving this Nation. Their sacrifices are among the most valuable that any citizen can give to this country, and sadly, as the text of this resolution states, on average 165 peace officers give the ultimate sacrifice each year while serving their local communities.

On October 1, 1962, President John F. Kennedy signed House Joint Resolution 730 into law during the 87th Congress. This resolution established a Peace Officers Memorial Day on May 15 of every year that could honor the selfless devotion of members of the law enforcement community who are injured or killed in the line of duty. That was a very meaningful resolution then, and I feel this extremely worthwhile resolution is also very meaningful now.

This year, on Peace Officers Memorial Day, the President led a memorial service on the lawn of the U.S. Capitol that honored the lives of those law enforcement officers lost in the past year. Nearly 20,000 people were in attendance.

Mr. Speaker, peace officers protect every single one of us and literally put their lives on the line every day to protect our homes, families and communities. I hope this resolution can serve as a small reminder to all law enforcement officers that this country appreciates their service.

We have had several tragic losses in my home communities as well. I have worked with City Counsel President John Crawford in the city of Fort Wayne, Indiana, and supported his efforts to build a memorial in Fort Wayne for peace officers and other public servants who have fallen in the line of duty. We can never thank them enough for their service.

Therefore, I urge all Members to support the adoption of House Resolution 231, and I thank my colleague from Colorado for introducing this worthy measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join in support of H. Res. 231, a bill supporting the goals and ideals of Peace Officers Memorial Day, and to indicate that I was pleased indeed to be a cosponsor of this legislation.

Mr. Speaker, in 1961, President John F. Kennedy requested that Congress designate May 15 as Peace Officers Memorial Day and the week in which it falls, Law Enforcement Appreciation Week. Since then, each May, police officers from the Nation's Capital to small communities across America pause to honor the sacrifices made by their fellow officers. This year, 377 names were added to the National Law Enforcement Memorial, including 148 who were killed in the line of duty in 2002. The death of a peace officer is a reminder of two things: one, the value of life; and, two, the high cost of peace.

More than 700,000 Americans serve as peace officers and put their lives on the line for us each and every day. To keep the peace, they go into the most volatile of situations. We owe them and their families a debt of gratitude for their service and valor.

The depth of their commitment and willingness to do the job is reflected in this police officer's prayer from the Ellis, Kansas, Police Department:

> Lord, I ask for courage: Courage to face and conquer my own fears; courage to take me where others will not go.
>
> I ask for strength: Strength of body to protect others, and strength of spirit to lead others.
>
> I ask for dedication: Dedication to my job, to do it well; dedication to my community, to keep it safe.
>
> And please, Lord, through it all, be by my side.

This prayer reflects the danger, but also the commitment and dedication, the willingness to give of themselves, expressed by so many peace officers throughout the Nation.

I certainly would want to add a debt of thanks to the men and women, especially in Chicago, in Cook County and the surrounding areas where I live, for the outstanding work that they have done and continue to do.

Mr. Speaker, I reserve the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the chairman and all Members working together on this very, very important resolution, House Resolution 231.

My grandfather, my father and brother-in-law all served as police officers, and, thank the Lord, they did so without injury or death. But there are thousands who have sacrificed their lives in order to protect the peace and tranquility of our community.

The President spoke last week here on our Capitol grounds relative to a tribute to fallen police officers, and it is fitting that we now memorialize this on the House floor.

There is no finer occupation, and I am torn between several that I admire greatly, with public education and teachers being one. But law enforcement personnel and fire fighters are true heroes in the sense that they go to work each and every day not knowing what to anticipate at the end of their shift or during their shift. They patrol back alleys, they come across frightening situations. They are constantly putting their lives on the line for the betterment of humanity.

Young fire fighters and police officers went racing up the World Trade Center without worrying about their own lives, but making certain they served those who were trapped, and tried to rescue as many as possible. Those are heroes.

Whether it is helping a student across a playground or a crossing zone, or intercepting a murderer, or more recently, the 21-year-old police officer that apprehended the Atlanta bomber, these are vigilant, dedicated, risk-taking public servants whose first goal is to make certain we are safe.

So I hope, as we vote on this resolution, that those listening to our voices take a moment to thank those serving today, who have made it through without risk of injury or death, thank their family members who sacrifice each and every day, for their husband or wife, for their son or daughter, sister, brother, who choose to do this work and arm themselves to protect the citizens of our communities, give them a thumb's up and a hearty handshake and thanks for their job well done.

For those who rest in peace, your sacrifice and devotion to our Nation and the security of this Nation will never be forgotten.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Colorado for introducing this important legislation honoring the peace officers of America. I urge all Members to support the adoption of this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Michigan (Mr. STUPAK), who has a tremendous amount of interest in law enforcement and has dedicated much of his life and work in that area.

Mr. HEFLEY. Mr. Speaker, I rise today to honor the peace officers from around the country who came to Washington on May 15th to commemorate and honor the 147 peace officers who died last year in the line of duty. Today we recognize National Peace Officers Memorial Day and pay tribute to the commitment, sacrifice, and public safety services these officers provide on a daily basis.

As we all know, September 11th, 2001 stands out as one of the most tragic days in American history. That fateful Tuesday, we lost 72 police officers, the largest loss of law enforcement personnel in a single day.

While September 11th offered an extreme glimpse of law enforcement service and sacrifice, similar acts of heroism and valor are performed every day by police officers across our nation.

Last year, more than 147 peace officers across this Nation were killed in the line of duty during 2002. Thankfully, the 147 peace officers killed last year is well below the decade long average of 165 deaths and a major drop from 2001 when 230 officers were killed.

Peace officers in every community have an admirable record of service and sacrifice, yet too many Americans lack a true understanding and appreciation of law enforcement's worth. That is why I worked a few years ago to establish the National Law Enforcement Museum in Washington, D.C.

Unlike any other job, peace officers face unprecedented risks while bravely protecting our communities and our freedoms. I hope my colleagues will join me today in paying tribute to our nation's fallen officers and expressing our gratitude for the work these men and women performed.

Mr. BACA. Mr. Speaker, I rise in support of H. Res. 231. The resolution supporting the goals and ideals of the Peace Officer's Memorial Day.

One hundred and forty eight law enforcement officers were killed in the line of duty this past year, including ten officers from my home state of California. Their names are inscribed upon the National Law Enforcement Officers' Memorial, in Washington, D.C., forever visible, to the public in recognition of the sacrifices peace officers make for our safety.

We must not forget that law enforcement officers are vital to our Homeland Security. Like our veterans, law enforcement officers are involved in a battle to protect our communities. Like our veterans, peace officers deserve our continued support and recognition for their sacrifices.

Our law enforcement officers deserve respect and gratitude for protecting our communities. We must honor and remember the sacrifices that they make, especially if they lose their lives in the line of duty. We must preserve their memory and let their families know their deaths were not in vain.

I support H. Res. 231 in honor of the many men and women who have lost their lives enforcing the law and preserving the safety of our nation.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 231.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SOUDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## SUPPORTING 20TH ANNUAL NATIONAL TOURISM WEEK

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 172) supporting the 20th Annual National Tourism Week.

The Clerk read as follows:

H. CON. RES. 172

Whereas travel and tourism has a major impact on the economy of the United States as the 3rd largest retail sales industry in the Nation;

Whereas 1 out of every 7 people employed in the United States civilian labor force is directly or indirectly employed in the travel and tourism industry;

Whereas international travel to the United States is the largest service export, having generated a trade surplus for 14 consecutive years;

Whereas domestic and international travel generated an estimated $537.2 billion in expenditures in 2002, supporting more than 7.9 million jobs, and creating more than $98.7 billion in tax revenue for Federal, State, and local governments;

Whereas the slowing of the United States economy and international conflicts have had a tremendous negative effect on the tourism industry;

Whereas the Department of Commerce has released the 2002 international year-end arrivals data, revealing that the level of international travel to the United States declined an additional 7 percent between 2001 and 2002;

Whereas tourism contributes substantially to personal growth, education, appreciation of intercultural differences, and the enhancement of international understanding and good will;

Whereas the abundant natural and manmade attractions of the United States and the hospitality of the American people establish the United States as the preeminent destination for both foreign and domestic travelers;

Whereas National Tourism Week was established by Congress in 1983, and first celebrated in May 1984, when President Ronald Reagan signed a proclamation urging citizens to observe the week with appropriate ceremonies and activities;

Whereas, since 1984, National Tourism Week has been celebrated each May by the travel and tourism community, travel industry associations, as well as many States, cities, and localities throughout the Nation; and

Whereas May 10 through 18, 2003, is the 20th Annual National Tourism Week: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) supports National Tourism Week; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to observe National Tourism Week with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

### GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 172.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 172, introduced by my distinguished colleague, the gentleman from the State of Florida (Mr. FOLEY), supports the 20th annual National Tourism Week.

Mr. Speaker, the travel and tourism industry has promoted National Tourism Week every year since 1984, and rightfully so. The tourism industry provides nearly 8 million jobs and almost $100 million every year in tax revenue to this country.

Just like the Peace Officers Memorial Day, National Tourism Week was first proclaimed by a great President. President Ronald Reagan signed into law a resolution that urged citizens to commemorate National Tourism Week each May and encouraged appropriate ceremony and activities. Twenty years later it is timely to consider the anniversary of this resolution, because the recent lull in the world economy has devastated the travel business in this country. Overall, hopefully the next 20 years can be as successful for this giant industry as the last 20 have within.

I thank my colleague from Florida, where they host a great portion of our country's tourism, and many of our tourist dollars, including mine, for introducing this important measure.

Therefore, Mr. Speaker, I urge the adoption of the House Concurrent Resolution 172.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, National Tourism Week was established in 1983 when the U.S. Congress passed a joint resolution designating the week to be celebrated in May of 1984. In a White House ceremony, President Ronald Reagan signed a Presidential proclamation urging citizens to observe the week with the appropriate ceremonies and activities. Industry leaders and public relations professionals were the first volunteers to manage the annual event.

By 1986, industry leaders had formed a permanent coalition which later became the Tourism Works for America Council. They opened a full-time office and expanded the concept into a year-round tourism awareness program. By then, hundreds of communities across the Nation were participating in the celebration and more participate each year.

The message during National Tourism Week is, come to see America and celebrate its vistas, its heroes, its culture and its heritage. National Tourism Week also serves to promote a wider understanding of the importance of travel and tourism as a major U.S. industry that is vital to the economic stability and growth of our Nation.

The interesting thing about tourism, Mr. Speaker, is that no matter where you go, there is always some additional interest, there is always a place. I have been amazed that no matter where I have gone throughout this country or throughout the world, there was something to see, something to learn, something to know, something to better understand. So the promotion of tourism is not only an economic, but also an educational enterprise.

I commend the gentleman for introducing this resolution and urge its swift passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. FOLEY), elected in the same class in 1994, a tireless supporter for tourism and the arts here in the Congress since he arrived and the sponsor of this resolution.

Mr. FOLEY. Mr. Speaker, I thank the chairman very much for yielding me time.

Mr. Speaker, the tourism and hospitality industry is important to the State of Florida. I rise today in support of House Concurrent Resolution 172, a bill I introduced along with my colleague the gentleman from California (Mr. FARR), recognizing the 20th annual National Tourism Week.

I see the gentleman from California (Mr. FARR) has joined us on the floor today.

☐ 1500

The gentleman from California (Mr. FARR) and I from Florida both have worked with our colleagues to try to educate them about the importance of travel and tourism. It is the lifeblood of many States, like Florida and California, New York, and Nevada, to just name a few.

There are currently 7.4 million people in the food service, hospitality, and travel-related industries that rely on America's vibrant and thriving travel industry, which generates $170 billion in travel-related payroll.

National Tourism Week was first established in 1983, when the U.S. Congress passed a joint resolution designating the week to be celebrated in May, 1984. This annual event gives us an opportunity to recognize the significant importance that the travel and tourism industry has on our economy.

As America's third largest retail sales industry, $96 billion was generated in tax revenues for our local, State, and Federal governments in 2002 alone. In addition, there were $7.5 billion in balance of trade surplus for the United States, making the industry one of our largest service exports.

It is clear, every congressional district is impacted, that is, every district with a restaurant, and all have them; a hotel, and all have them; a museum, and I am certain most have them; national parks; stadiums; theaters; campgrounds; and beaches. All obviously help local economies and local communities thrive.

As some of us begin our summer travel, let us remember the tremendous impact that the travel and tourism industry makes on all of our lives. I want to spend a moment, too, to commend this administration, President Bush; and the Secretary of Commerce, Secretary Evans; Brenda Becker, Assistant Secretary of Commerce; Senator TED STEVENS; as well as my colleague, the gentleman from California

(Mr. FARR), in our recent quest to put $50 million in the budget in order to help stimulate, if you will, international tourism back to the United States.

As I am sure the gentleman from California (Mr. FARR) will tell us, our States have been hurt badly by September 11 and terrorism in general. People are nervous and they are fearful. We are doing everything we can to ensure airline safety and that when they arrive at a destination that they will be safe.

But we have lost, in Orlando alone, some 35 percent of the business that was occurring in that region of the State; so this is a very important issue. It is an important topic. It is one we are wrestling with.

Also, the gentleman from California (Mr. FARR) talks about his idea that he brought to us that hopefully will catch on where each Member of Congress writes in a book, if you will, a destination that they favor; they may not want to be that specific, but some of the joys and bounties and benefits of living in that community.

I know I have some of the greatest beaches. I have the Everglades. We have agricultural tourism, ecotourism. Certainly, we have things throughout the State, like Busch Gardens and Universal Theme Park and Disney. We have the Latin music industry, where the capital of the world is Miami. We have South Beach.

I could go on and on, but now I am going to get in trouble because I am probably missing some of the important destinations: Destin; and all of the beaches in Jacksonville.

But suffice it to say that tourism is an important, important industry. Whether one is the CEO of a company or doing dishes in a restaurant, as I did when I was 13 years old, we are all playing a critical role in people's impressions of our State, whether they had a good visit, whether they enjoyed themselves, whether they will return again.

So I salute everyone, from the bellboy to the bell hop to the rental car agencies, who make the traveling experience fun, productive, and enjoyable for America's families and those visitors from outside the Continental United States.

With that, I thank the gentleman from Indiana (Mr. SOUDER) for his indulgence and certainly thank the committee for reporting this to the floor. I urge all Members to support this 20th Annual National Tourism Week represented by House Concurrent Resolution 172.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from California (Mr. FARR), a sponsor of this legislation.

Mr. FARR. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding time to me, and I thank the gentleman from Florida (Mr. FOLEY) for his kind remarks about our being co-chairs of the Congressional Tourism Caucus.

Mr. Speaker, I rise in strong support of the 20th anniversary of National Tourism Week. As cochair of the House Congressional Travel and Tourism Caucus, I am pleased to join my colleague, the gentleman from Florida (Mr. FOLEY), in proclaiming the 20th anniversary of National Tourism Week.

Tourism is the leading industry in America. In fact, it is the largest employer in America. I think oftentimes people do not think of it because it has never been defined as an industry, like the automobile industry, like the steel industry, like the electronics industry. This industry is made up of so many factors. It is made up of restaurants and museums and car rental companies and hotels and motels and sports arenas, ski shops, beaches, concert halls, parks, historic landmarks, campgrounds, and the list goes on and on.

If we put all of those together, we will have what we call the tourism industry. It is one of the most diverse sectors in the entire economy, with the single goal of making the United States the greatest place to travel, not only just to see, but to enjoy the incredible diversity and cultures of great America.

I do not think people just come to America from other countries to visit our beautiful spots, which obviously lure them, as we are lured to other beautiful places in the world. But they also come to know the culture of Americans and learn about how this country functions.

I happen to live in one of those towns, Carmel, California. I just got back from a trip to Europe; and everywhere I went, when I said where I lived in California, people knew where it was, though it is a small town of 4,000 people. I do not think it is just because Clint Eastwood was the mayor of my town. People have actually been going there for years and years. The city is celebrating its 100th anniversary this year.

But the point is that the mayor of Carmel told me that the number one request of the tourists of that town, of the city, was a copy of their zoning ordinance. So people are not just tourists for purposes of spending money and enjoying beautiful places; they are also thinking and they are looking and they are listening. In that way we are able to share this bounty of America and the bounty of the people.

The travel and tourism industry has faced unprecedented challenges in the last couple of years, first with the decline of confidence in the safety of air travel as a result of September 11, and then the struggling economy, which has diminished business travel budgets and decreased household discretionary income. If that were not enough, then we are more recently faced with the uncertainties of the war in Iraq, and SARS has taken its toll on this industry.

Congress has done something about it, though. It is not just enacting this resolution celebrating our National Tourism Week. We also last week had given a tax cut to the very wealthy in this country, and essentially the purpose of that tax cut was to leave money in people's hands so they would spend it.

I cannot think of a better way to spend it than for people to take their new money that they are going to get from the Federal Government in the middle of the summer and take their family on a vacation, or take friends, staff, and employees out to lunch or to dinner to thank them for working with them, and tell our friends how much we enjoy being their friend by celebrating in a place outside our homes, in a way that we can spend it with others.

Remember, these are also areas that are labor-intensive, where people are employed. It takes a lot of people to change beds, serve food, wash dishes, drive us around in buses, and so on. When we see these people, we should thank them for being in the travel and tourism industry. With that little bit of extra tax money, we should give them a bigger tip than we would have the year before. They need it, especially those families who lost the child care tax credits. Those poor kids are not going to be able to go to Disneyland, yet many people will be annually able to go to the very wealthy areas, Nantucket and so on.

I am hoping that the tax bill will end up being a good bill and end up putting more money in the economy, getting the tourism industry back on its feet, and certainly continue to be the largest employing industry in the United States, and an industry that will take care of everybody, so the rising tide will raise all ships. That is what I think the tax cut is supposed to do.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. FARR. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, Lisa Barkovic from my staff is with me. She, as well as your staff, I know have done a tremendous job in organizing several of our events.

I was remiss for not recognizing our individual staff. She is on the floor with me today. I know we have worked very closely with the gentleman's office; and the professional staff, those who work in our offices, do a tremendous job in helping us get ready for floor activity. I wanted to share that with the gentleman and with her, as well.

Mr. FARR. I thank the gentleman very much. At the same time I recognize my staff, Tom Tucker, who came to me from being a concierge in a hotel, a great person to have as a staff member in the travel and tourism industry.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just associate myself with the remarks of the gentleman from California and say that I am sure that having a fistful of dollars would not hurt his town; and if we had more fistfuls, there would be more tourism. I think this is a great piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the dynamic economy of the United States that hopefully will be fueled additionally by this tax cut has provided a level of success in the United States that our forefathers really did not know. John Adams once said that he worked hard so his kids could enjoy their leisure time and could learn more about arts and history and see their Nation. In fact, that is what we can do today.

We have heard from the sponsors of this resolution about the beauties of Monterey and Carmel, California, pronounced "Carm-el" in Indiana, and the beauty of Florida and Palm Beach and the beaches of Florida. But tourism is important to each of our districts.

I grew up in the small town of Grabill, Indiana. We had a retail furniture industry, a furniture store there. When we realized we had more people coming in from Texas, in fact from Houston, Texas, than we had from the neighboring town of Leo, we decided that the Amish in the area were drawing more tourists than regular shoppers, so we now have antique centers there and shops for people who visit relatives who come through the State of Indiana.

We have many beautiful things in my home State, as well. Tourism is a critical component for all of us in the United States. I represent the leading area for the majority of the RV manufacturers in America.

Nothing could be more important than putting more dollars in the hands of those who pay taxes. The people who pay the taxes get the tax dollars back. No longer is the Federal Government taking as much of their check. Now they have money to spend. They can get an RV, they can travel.

If we can also reopen the gasoline and energy markets of the United States and the world so that the travel dollars and costs go down, combined with the economic growth, combined with the tax cut, combined with people keeping more of their own money, hopefully we can get the RV industry back up, we can get the tourism industry back up, we can get the airlines back up, and we can help the hotel and restaurant industries of the United States.

This resolution, the 20th anniversary of National Tourism Week, is an important hallmark as we move towards an economic revitalization, and during these summer months towards America once again exploring the highways and areas of the most wonderful country in the world, the United States of America.

Mr. PORTER. Mr. Speaker, I rise today in support of National Tourism Week. As a Representative from the State of Nevada, I understand first hand the importance of travel and tourism to the United States and our economy.

My hometown of Las Vegas is considered one of the most traveled to destinations in the world, earning its designation as the Entertainment Capital of the world long ago. Las Vegas has something to offer people of all ages. Everything from world class resort-casinos, to first class restaurants and shopping, and entertainment which includes concerts, production shows, and magic acts.

In 2002, more than 35 million people visited Las Vegas. Of that number, 5 million were convention and trade show delegates who left behind $5.9 billion in non-gaming revenue alone, helping to maintain the destination's year-round average occupancy rate at 84 percent. Tourism is the largest employer in the Las Vegas metropolitan area, with more than 25 percent of the population directly employed by the hospitality, gaming and recreation industries.

National Tourism Week is Las Vegas's annual opportunity to spotlight the role that tourism plays in the Nevada economy and to educate residents about the organizations that market Las Vegas to the nation and the world.

Mr. SOUDER. Mr. Speaker, I urge all Members to support adoption of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 172.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 13 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FLAKE) at 6 o'clock and 30 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Res. 159, by the yeas and nays;

H. Res. 195, by the yeas and nays; and

H.R. 1465, by the yeas and nays.

Further proceedings on H. Res. 231 will resume tomorrow.

The first and third electronic votes will be conducted as 15-minute votes. The second electronic vote will be conducted as a 5-minute vote.

## EXPRESSING PROFOUND SORROW ON THE OCCASION OF THE DEATH OF IRMA RANGEL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 159.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 159, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 0, not voting 60, as follows:

[Roll No. 227]

YEAS—373

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez

Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch

Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher

Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—60

Ackerman
Becerra
Bereuter
Bishop (UT)
Boehner
Boucher
Brady (PA)
Conyers
Deal (GA)
DeMint
Deutsch

Dingell
Engel
Everett
Frank (MA)
Gephardt
Herger
Hoekstra
Hulshof
Israel
Jackson-Lee (TX)

Jenkins
John
Kilpatrick
Kingston
Larson (CT)
Leach
Lewis (CA)
Lipinski
Lowey
McCrery
McKeon

McNulty
Miller (FL)
Miller (NC)
Ortiz
Pallone
Payne
Peterson (PA)
Price (NC)
Pryce (OH)
Reyes

Ross
Rush
Ryan (WI)
Sabo
Shimkus
Smith (WA)
Stark
Sweeney
Taylor (MS)
Taylor (NC)

Toomey
Towns
Velázquez
Weldon (FL)
Weldon (PA)
Wexler
Wilson (SC)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE) (during the vote). Members are advised they have 2 minutes to record their vote.

□ 1853

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## CONGRATULATING SAMMY SOSA OF THE CHICAGO CUBS FOR HITTING 500 MAJOR LEAGUE HOME RUNS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 195.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 195, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 372, nays 0, not voting 61, as follows:

[Roll No. 228]

YEAS—372

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman

Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole

Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn

Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kleczka

Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Putnam
Quinn
Radanovich

Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Wu
Wynn
Young (AK)

NOT VOTING—61

Ackerman
Becerra

Bereuter
Bishop (UT)

Boehner
Boucher

Brady (PA)
Conyers
Deal (GA)
DeMint
Deutsch
Dingell
Engel
Everett
Frank (MA)
Gephardt
Herger
Hoekstra
Hulshof
Israel
Jackson-Lee (TX)
Jenkins
John
Kilpatrick
Kingston
Larson (CT)
Leach
Lewis (CA)
Lipinski
Lowey
McCrery
McKeon
McNulty
Miller (FL)
Miller (NC)
Ortiz
Pallone
Payne
Peterson (PA)
Price (NC)
Pryce (OH)
Reyes
Ross
Rush
Ryan (WI)
Sabo
Shimkus
Smith (WA)
Stark
Sweeney
Taylor (MS)
Taylor (NC)
Toomey
Towns
Velázquez
Weldon (FL)
Weldon (PA)
Wexler
Wilson (SC)
Woolsey
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes to record their vote.

□ 1900

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1902

## GENERAL CHARLES GABRIEL POST OFFICE

The SPEAKER pro tempore (Mr. FLAKE). The pending business is the question of suspending the rules and passing the bill, H.R. 1465.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and pass the bill, H.R. 1465, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 0, not voting 62, as follows:

[Roll No. 229]

YEAS—371

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—62

Ackerman
Becerra
Bereuter
Bishop (NY)
Bishop (UT)
Boehner
Boucher
Brady (PA)
Conyers
Deal (GA)
DeMint
Deutsch
Dingell
Engel
Everett
Frank (MA)
Gephardt
Herger
Hoekstra
Hulshof
Israel
Jackson-Lee (TX)
Jenkins
John
Kilpatrick
Kingston
Larson (CT)
Leach
Lewis (CA)
Lipinski
Lowey
McCrery
McKeon
McNulty
Miller (FL)
Miller (NC)
Miller, George
Ortiz
Pallone
Payne
Peterson (PA)
Price (NC)
Pryce (OH)
Reyes
Ross
Rush
Ryan (WI)
Sabo
Shimkus
Smith (WA)
Stark
Sweeney
Taylor (MS)
Taylor (NC)
Toomey
Towns
Velázquez
Weldon (FL)
Weldon (PA)
Wexler
Wilson (SC)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that they have 2 minutes to record their votes.

□ 1916

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcalls 227, 228, and 229. Had I been present, I would have voted "yea" on each of those rollcalls.

## PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, had I been present for legislative business on Monday, June 2, 2003 I would have voted "yea" on the following rollcall votes: rollcall No. 227, H. Res. 159, Expressing profound sorrow on the occasion of the death of Irma Rangel; rollcall No. 228, H. Res. 195, Congratulating Sammy Sosa of the Chicago Cubs; and rollcall No. 229, H.R. 1465, Designating the facility of the United States Postal Service in Iron Station, North Carolina as the "General Charles Gabriel Post Office."

## PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, had I been present, I would have voted: "yea" on H. Res. 159: expressing profound sorrow on the occasion of the death of Irma Rangel, rollcall No. 227; "yea" on H. Res. 195: congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs, rollcall No. 228; and "yea" on H.R. 1465; to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office", rollcall No. 229.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 4, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–136) on the resolution (H. Res. 255) providing for consideration of the joint resolution (H.J. Res. 4) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, which was referred to the House Calendar and ordered to be printed.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 1119, FAMILY TIME FLEXIBILITY ACT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the Committee on Rules may meet later this week to grant a rule which could limit the amendment process for floor consideration of H.R. 1119, the Family Time Flexibility Act. The Committee on Education and the Workforce ordered the bill reported on April 9, 2003, and filed its report with the House on May 22, 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol by 10 a.m. on Wednesday, June 4. Members should draft their amendments to the text of the bill as reported by the Committee on Education and the Workforce.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

## HONORING THE SERVICE AND LIFE OF THE LATE CHARLES "BO" HARRISON, PASCO COUNTY POLICE FORCE

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise this evening to honor Charles "Bo" Harrison, who this weekend became the first Pasco County Deputy to be killed in the line of duty since 1922. On behalf of the Pasco County Police Force, I extend my deepest condolences to his friends and family, and want to take a moment before this body to honor his service and his life.

Deputy Harrison was a 31-year veteran of the Pasco County Police Force and was the highest ranking African American on the force. He was a Vietnam veteran and a former Army Ranger, and was slated to retire later this month.

Sometime around 2 a.m. Sunday morning while doing surveillance work outside a night club, Deputy Harrison was shot. His colleagues heard the shots fired and found Deputy Harrison in his squad car. Thinking that he had a heart attack, they tried to offer CPR, but realized upon removing his shirt that he had been shot in the back. Then he was rushed to the hospital, where he was pronounced dead a short time later.

The people of Pasco County will remember Deputy Harrison as a loving father, a family man, a softball coach, an active community member, and an upstanding citizen and friend. He will be sorely missed by all those who loved him, and his honor will forever remain with the Pasco County Police Force.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CHOCOLA). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## INEQUITY OF RECENT TAX CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, Mr. Speaker, I rise to discuss an issue of great concern to America's families, an issue of equity and financial security. Only a few weeks ago, Congress passed a tax bill with an official cost of $350 billion. The real cost, after accounting for budget gimmicks and the expiring provisions, which will almost certainly be extended, will actually exceed $1 trillion.

During that debate, some of us discussed the inequity of the tax cuts, that the vast majority of these benefits went to families who quite simply did not need this tax cut. People who earn in excess of $1 million per year will receive a $93,000 tax break.

As much as I believe the body of this bill was misguided, there was one provision in the bill that I supported wholeheartedly. That was the provision which allowed low-income working families to receive the child tax credit, which was increased from $600 to $1,000 per year. After we fought hard, the majority agreed to make that $400 increase refundable for those who did not earn enough to pay $400 in income taxes, though they pay other taxes, like payroll taxes. This one provision alone would have assisted the families of nearly 12 million children.

So it was with shock and disappointment that we learned that the refundability provision had been quietly stripped out of the bill at the 11th hour. In a $350 billion bill, this one provision to help nearly 12 million children of the poorest Americans would have cost $3.5 billion, 1 percent of the entire tax package. These are families with incomes between $10,500 and $26,625, families who really need this tax cut. But it was removed from the bill in the dead of night.

This one action speaks volumes about the priorities of the Republican leadership who claim to "leave no child behind." But no matter how you slice it, this bill left almost 12 million children behind. It shows what one writer today called "outright hostility towards America's poor and working classes."

It did not have to be this way. There was bipartisan support for increasing the child tax credit, making it available to the families that need it most, that is, the families that earn too little to pay income taxes. And, I will repeat, these families do pay taxes; they pay payroll taxes. In fact, Members of both parties fought for the refundability provision after it was left out of President Bush's original plan.

Now exposed for having effectively abandoned these families and their children, the White House disingenuously says that the President would have signed this provision into law had it been in the legislation, as if the White House had not been involved in the drafting of the final bill and had no responsibility for removing it.

Vice President CHENEY was the one who brokered the final deal with Congressional negotiators before he cast the tie-breaking vote in the Senate. He was the White House's lead negotiator, "The Deal Closer," as this week's Congressional Quarterly Weekly calls him on its cover. The deal closer on Capitol Hill, CHENEY is the President's right hand and the fractious GOP's trusted broker.

In fact, Senator GRASSLEY went so far as to say, "Without DICK CHENEY's intervention, there would not be a bill." So to suggest this provision was dropped without his input or approval is, frankly, not believable.

It is interesting to track the evolution of excuses coming from the other side. First they argue that the limits on the overall size of the tax cut set by Members of the Senate require that something had to go. But if they wanted the child tax credit to survive, there were any number of provisions the Vice President could have insisted upon substituting in its place. If the majority had wanted, they could have easily paid for the provision by lowering the top tax bracket to 35.3 percent instead of 35 percent, or cracked down on the offshore tax havens for companies like Enron. No, these are the special interests that are their strongest supporters.

When that excuse failed, the President's spokesman said they never intended to give tax relief to those families. He said only taxpayers could get tax relief, despite the fact that these families, like every other family, pay over 7 percent of their income in payroll taxes.

So, let us not fool ourselves; the White House and the Republican majority knew exactly what they were doing when they dropped this provision in the final bill.

This sort of reckless, shameful disregard for working people in this country is becoming a pattern with this administration. In addition to the nearly 12 million children left out of this bill, when you include the 8 million kids that were kept from benefiting from any increase in the child tax credit, you end up with 20 million children who have been utterly and totally ignored by this President and his economic policies.

This is about values. The character of this issue raises questions about the values that this majority has and the underlying policy of their budget and economic policies. It is wrong, and we are going to turn it around.

## MARRIED COUPLES TO BENEFIT FROM RECENT TAX CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. WELLER) is recognized for 5 minutes.

Mr. WELLER. Mr. Speaker, 42 million married couples got good news this past week when President Bush signed into law the jobs and economic growth package, legislation that wiped out the marriage tax penalty for 42 million married working couples this year.

This is an issue that we have been working so hard over the last several years to address, and that is fairness in the Tax Code affecting married couples. In the case of a husband and wife who are both in the workforce, because they file their taxes jointly, combining their income, in many cases, most cases, all cases, they are pushed into a higher tax bracket. That average married tax penalty for 42 million couples is almost $1,700 a year.

Well, thanks to the President's stroke of a pen just a few days ago, the marriage tax penalty for the vast majority of those who suffered, almost all of them, will be eliminated this year.

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Let me give an example of a married couple in the district that I represent, the south suburbs of Chicago, the town of Joliet, Jose and Magdalena Castillo and their son, Eduardo, and their little daughter, Carolina. They are an example of a typical married couple in Illinois who suffer the marriage tax penalty.

In fact, for Jose and Magdalena, they are both construction workers. They are laborers, and they work hard for a living. For them, the marriage tax penalty is about $1,400 each year. Thanks to this legislation, the jobs and economic growth package, 42 million married couples just like Jose and Magdalena Castillo will see their marriage tax penalty eliminated this year.

Think about it: $1,700, that is chump change here in Washington, where people are coming up with all sorts of creative ways to spend billions and trillions of dollars over the next decade. But for married couples like Jose and Magdalena Castillo of Joliet, Illinois, $1,400, in their case that is several months' worth of car payments, that is a couple months' worth of mortgage payments on their home, that is several months of day care for little Eduardo and Carolina, their children, while they are at work. It is real money for real people.

As everyone knows, in the Bush tax cut of 2001, we began the process of eliminating the marriage tax penalty. Unfortunately, under the Bush tax cut of 2001, for the marriage tax penalty for married couples like Jose and Magdalena Castillo, it was phased out over the decade, which meant the marriage tax penalty continued to be there. It just got a little smaller each year.

Clearly, one of the greatest accomplishments of the jobs and economic growth package is we eliminate the marriage tax penalty this year for married couples like Jose and Magdalena Castillo.

We do it two ways. For those who do not itemize their taxes, maybe they do not give a lot of money to their church or charity, or do not own a home so they do not have the home interest mortgage deduction, they benefit because we double the standard deduction for joint filers, married couples, to twice that of singles. So for those who do not itemize, we eliminate their marriage tax penalty.

For those who do itemize, married couples like Jose and Magdalena Castillo of Joliet, Illinois, who are homeowners, and of course give to their church and charity, they itemize their taxes, we eliminate the marriage tax penalty for them by widening the 15 percent tax bracket, which is the basic middle class tax bracket, so those who are among the married couples will be able to earn twice as much as a single person and stay in that 15 percent tax bracket.

The bottom line for Jose and Magdalena Castillo of Joliet, Illinois, is we eliminate their marriage tax penalty this year, clearly one of the greatest accomplishments of the jobs and economic growth package that President Bush signed just this week.

So if we think about it, for 42 million married working couples, $1,700 they will be able to have this year to spend at home to meet their own needs. In the case of Jose and Magdalena Castillo, for their children Eduardo and Carolina, that will be extra money for back to school; extra money for making some improvements to their house; maybe even take a family vacation, perhaps for the first time in their lives.

But the bottom line is, as we are working to get this economy moving again, by giving good working people like Jose and Magdalena Castillo what is really their money by eliminating an unfairness in the Tax Code this year, that is extra money that is going to be spent in Joliet, Illinois, in the district that I represent. Like 42 million other married working couples, that extra money they are going to spend in their home towns is going to help create jobs. When they go to the local store and they spend some money to improve their home or they make an improvement to their car or they do some home improvements, that creates jobs for their neighbors and their friends.

That is what this was all about. The most important thing we can be doing today is revitalizing this economy here at home; and by eliminating the marriage tax penalty this year, thanks to this Republican majority in the Congress and our good President down at the White House, President George W. Bush, we eliminate the marriage tax penalty this year for couples like Jose and Magdalena Castillo of Joliet, Illinois.

## CHILD CREDIT

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, like my colleague from Illinois, I, too, have families that I represent. The gentleman spoke about a family who got a tax credit. I would like to talk about Renita Jackson-Keys, who works as a cook for the Chicago public schools. She earned $14,144 in 2002, raising four children from the ages of 18, 15, 12, and 4, separated from her husband, but not divorced yet. She receives no child support.

If the child tax credit provision expansion had included families like hers, she would have received an increase of about $182, but she was not a priority. Renita said she could have used a $182 increase to help pay for her $540 monthly mortgage.

In the final hour, the demand for a large dividend tax and more corporate welfare pushed away the child credit from low-income workers like Renita and her children.

Renita does not just work as a way to pass the time of her day while she waits for her dividend check; she works because that is a value that we hold up in America. Her four children see her go to work every day. Work defines who we are as Americans.

I worked in a White House that doubled the size of the earned income tax credit, which was first passed by Ronald Reagan in 1986. In 1997, in the balanced budget amendment, we balanced the budget, cut taxes for working people and corporations and also in the capital gains area, we provided a $50 per child tax credit, and provided 10 million children health care, whose parents worked full time and did not have health care.

We did it while balancing our budget, and we did it because those were our values, and they were the right values. They speak to who we are as Americans, trying to raise our children to know right from wrong, with the right set of values.

Now we have a tax cut that takes the value of respecting families, respecting hard work, and turns it upside down and inverts it. Somehow, nobody ever seems to complain about a corporation that does not pay taxes. Yet, all of a sudden, there are some who claim the reason we did not include these children of working parents is because they do not pay taxes. Nobody seems to complain when corporations do not pay taxes.

First of all, they do pay taxes. As a percentage of income, one of the largest pieces of their income is drawn from taxes for paying Social Security and Medicare. So they do pay taxes. They pay more taxes, in fact, than the corporations that are sitting in Bermuda pay.

There is a sense about this: we did not just come here to be a vote, we came here to be a voice for those values. We have turned those values backwards. What is it about those corporations and these wealthy individuals that they somehow got more protection than these children of working parents?

President Kennedy said, to govern is to choose. I think people the other week we were here made the wrong choice. Now Republicans are saying they did not know what was in the bill, that the child credit does not help working Americans. The Vice President was in the room. He has been talked about as the enforcer, about the man who was actually in the room, va-boom, va-boom. Corporations got taken care of, but a boom landed on the heads of our children. Somehow SUVs got covered for a tax credit.

We have a depreciation deduction for investments in equipment and facilities. Yet through that depreciation, we have not found the time to appreciate our children. These 12 million children are Americans, too. Their parents, their mother or their father or both, are hardworking. They deserve the same type of respect that we have given to offshore companies, the same type of respect and appreciation we have given to equipment and machinery, because they, too, represent our future.

I did not support this last tax cut, and I did not support the tax cut of 2001. I have supported tax cuts in 1993 and 1997 when we balanced the budget. We did not make it an either/or choice.

We can do right by our children; and in fact, when we balanced the budget, cut taxes for working families and middle-class families, and helped them go to college and pay for college, and gave health care to the uninsured children of working parents, we saw a decrease in our rolls of poverty. We saw a decrease in our welfare rolls.

Those are our values that have been enshrined in this country. When we speak to those common set of values that define who we are, we can do right by this country, right by our children, and have those parents dream the American Dream for their children. We should not turn our backs.

What happened here the other day is a shame. People now are pointing fingers. Rather than having pointed fingers, if they had the common decency to think of the children of America, of American families who also, like other families who will get that tax credit, these children deserve the tax credit. They deserve to be held up with the same type of respect that we have held up for corporations that needed to deduct for SUVs, corporations like Enron that needed to be taken care of, corporations that went overseas or deducted for their SUVs.

These children deserve our care and protection. We have not provided them the health care. In fact, we withdrew the money from the States to provide health care for the children of working parents. We do not have a health care plan for the 45 million uninsured. We do not have an agenda for the $300 billion in unfunded assets.

We have a higher education tax credit that will expire in 2005, just at a time college costs are going up at 10 percent annually. We have inflation in health care rising by 20 percent. Yet all we did was provide corporations a way to depreciate their interest or other forms of tax cuts, but we left 12 million children of working parents out.

Those are not the values that my mother raised us to have, and those are not the values that hold us together as Americans. We can do better. We need to do better. We can put our children first and leave not one of them behind. When it comes to compassion, more than millionaires need compassion; our children need our compassion.

## REPUBLICANS' BID TO PRIVATIZE MEDICARE WILL DEGRADE IT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, Members may have read in this morning's Roll Call about the personal videotape President Bush sent urging Republicans to seize the moment and overhaul Medicare. Even though privatization will increase costs and degrade the quality of coverage that seniors receive, the President unapologetically is promoting Medicare privatization.

Medicare is enduringly popular with most Americans, including Main Street Republicans; but Medicare is a thorn in the side of conservative extremists. They call it Big Government.

For the majority of Americans who value Medicare, the problem is that those same extremists are now in power. They are using tactics familiar to anyone who has followed the history of another public program, Federal Rail Service. For years, conservative ideologues in office have underfunded Amtrak, the passenger rail system. As train service declines, conservatives insist that Amtrak deserves less funding. Even though every nation in the world subsidizes its public transportation, Congress inadequately invests in and dutifully undermines our national rail system.

In their unrelenting 20-year-old effort to privatize Medicare, begun during the salad days of the Reagan administration, the far right has honed the Amtrak strategy to a science: underfund Medicare; make it more inflexible and bureaucratic; cut basic consumer service functions; lure, then coerce, seniors into private insurance; set this popular program up for failure; then blame any failures on the fact that it is a public program.

When Medicare was enacted in 1965, only 22 Republicans in the House and Senate supported it. Bob Dole, Republican Congressman, voted against it. Donald Rumsfeld, a Republican Congressman, voted against creating Medicare. Gerald Ford, a Republican Congressman then, voted against creating Medicare. Senator Strom Thurman, a Republican Senator then, voted against creating Medicare.

Then in 1995, when the GOP majority had its first chance to reform Medicare, Speaker Gingrich, predicting that Medicare would wither on the vine, attempted to cut $270 billion from Medicare to make room, get this, for several hundred billion dollars of tax cuts. Sound familiar?

Then came Mediscare. This GOP campaign, launched in the late 1990s, aimed to convince Americans that Medicare is going broke and the only way to save Medicare is to turn it over to private investors. Medicare, they call it Mediscare. Medicare is no more at risk of going broke than is the Defense Department. They are both funded with public dollars.

Forcing Medicare beneficiaries into private insurance plans will not reduce Federal outlays. Per capita spending on Medicare is lower than that on private health insurance, and has been lower than the supposed "efficient" private health service for 30 years. But the push to privatize Medicare has never been grounded in facts; it is an ideological campaign, pure and simple.

Republican leadership simply does not like Medicare. The idea of luring seniors into private health plans grew out of the Medicare+Choice experiment. The +Choice debacle started out innocently enough. The theory was HMOs could operate much more efficiently than traditional Medicare, so they could provide both basic and enhanced benefits for less than the traditional Medicare plan.

It did not work out that way. By selectively enrolling the healthiest seniors, HMOs earned a windfall on the taxpayers' dime. Eventually, that windfall was outstripped by the cost of providing extra benefits. HMOs turned around and asked Congress for more money. The Republican Congress then poured more money into these private managed-care plans, which never covered more than one-sixth of the population, leaving less for the 86 percent of seniors who are enrolled in traditional Medicare.

In other words, Republicans invest more in seniors who agree to join private plans than in six-sevenths of the people in the Medicare plan who stay in traditional Medicare.

President Bush has embraced the Amtrak strategy with even more abandon than his predecessors. Get this: he has proposed establishing a new Medicare prescription drug benefit, but only for seniors who agree to leave traditional Medicare and join private HMO insurance programs. While promoting additional dollars for HMOs, President Bush has taken steps to cut Medicare's already-meager operating funds, to curtail its consumer service functions, and to restrict coverage for medical breakthroughs.

Then Republican leaders in this and the other body dutifully berate Medicare for being inefficient, for being unresponsive, and for being too slow to adapt to 21st century medicine. The Republicans should be ashamed. Medicare has withstood a 30-year Republican effort to dismantle it, but this President is pulling out all the stops. He is preaching Medicare insolvency, he is engaging in Mediscare tactics, he is selling private plans, he is undercutting traditional Medicare, and he is managing traditional Medicare into the ground.

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Before the Bush administration privatization train leaves the station, American seniors and those who care about them need to blow the whistle.

## WHAT INFORMATION LED US INTO IRAQ?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, not many weeks ago, we sent our sons and daughters into a war where many lost their lives, and in fact, our soldiers are currently under threat in Iraq, and just last week, others were killed.

There is a remaining question in the minds of many Americans as to exactly what information led us to make this decision to go into Iraq as we did, and in Sunday's edition of the Columbus, Ohio, Dispatch, there was a column written by Nicholas Kristof who writes for the New York Times, and the headline for his column is this: "U.S. Intelligence Officials Incensed Over Manipulating Their Data to Invade Iraq."

Mr. Kristof begins his column, "On Thursday, Day 71 of the hunt for Iraqi weapons of mass destruction, once again nothing turned up. Maybe we'll do better on Day 72 or 73 or 74. But we might have better luck searching for something just as alarming: the growing evidence that the administration grossly manipulated intelligence about those weapons of mass destruction in the run-up to the Iraq war."

Then Mr. Kristof says this, A column that he had written earlier in the month "drew a torrent of covert communications from indignant spooks who say that administration officials leaned on them to exaggerate the Iraqi threat and deceive the public."

He continues, " 'The American people were manipulated,' bluntly declared one person from the Defense Intelligence Agency who says he was privy to all of the intelligence there on Iraq. These people are fiercely proud of the deepest ethic in the intelligence world—that it should be nonpolitical—and are disgusted at efforts to turn them into propagandists."

He quotes, " 'The al Qaeda connection and nuclear weapons issue were the only two ways that you could link Iraq to an imminent security threat to the U.S.,' said Greg Thielmann, who retired in September after 25 years in the State Department." The last four of those years he was in the Bureau of Intelligence and Research. He said, "The administration was grossly distorting the intelligence on both things.

"The outrage among the intelligence professionals is so widespread that they have formed a group, Veterans Intelligence Professionals for Sanity," and they wrote President Bush this month to protest what they called "a policy and intelligence fiasco of monumental proportions.

" 'While there have been occasions in the past when intelligence has been deliberately warped for political purposes,' the letter said, 'never before has such warping been used in such a systematic way to mislead our elected representatives into voting to authorize the launching of a war.' "

"Some say," according to Mr. Kristof, "that top Pentagon officials cast about for the most sensational tidbits about Iraq and then used them to bludgeon Secretary of State Colin Powell and seduce the President. The Director of Central Intelligence, George Tenet, has been generally liked and respected within the agency ranks, but in the past year, particularly in the intelligence directorate, people say that he has kowtowed to Defense Secretary Donald H. Rumsfeld and compromised the integrity of his organization."

Now, Mr. Kristof emphasizes that "The CIA is examining its record, and that's welcome. But the atmosphere within the intelligence community is so poisonous, and the stakes are so high—for the credibility of America's word and the soundness of information on which we base American foreign policy—that an outside examination is essential."

Mr. Kristof concludes his column by saying, "Congress must provide greater oversight, and President Bush should invite Brent Scowcroft, the head of the President's Foreign Intelligence Advisory Board and a man trusted by all sides, to lead an inquiry" in a public report so that we can restore confidence in America's intelligence agencies.

Mr. Speaker, this is an important issue. The American people are paying attention, and the President needs to provide us with some answers.

## CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, politics in the making of public policy is about choices. Every day we are called upon to make a choice, but a horrible choice was made by the Republican majority when they wrote the most recent tax bill, a horrible choice that works against millions of families and the children in those families as the Republicans decided that they would not allow those families, families making between $10,500 a year and $26,000 a year, they would not allow them to have the increase in the child tax credit. A $400 a year increase to offset the cost of raising children, that this Congress made a decision about over many years, was proper to do with families to help hold families together, to allow some people to stay home with their children if they chose to do so, the purpose of that credit.

Rather than spend the $3 billion on those individuals, they chose to spend it on people making over $1 million a year. People making over $1 million a year will now get $93,000 a year in a tax cut. If we had chosen to take care of those 12 million children who will not get the tax cut because their families earn less than $26,000 a year, those same millionaires would have gotten a tax cut of $88,000.

The Republicans made a choice. They chose America's millionaires over America's children. Somehow they decided that the children in upper-income families and middle-class families are more important than those families who are working their tails off going to work every day, all year long and still coming home earning between $10,000 and $26,000. They made a decision that they were going to support the Bush-Cheney class in America over the working class in America. They made a decision that they were going to support millionaires over the children of America.

They said when they were caught at these shenanigans over the last few days, when the press discovered what was in the legislation, they said, well, we designed it only for those people who are paying income tax; they are the only ones who should benefit from that. It is rather interesting because they decided they were also going to give the tax benefits of this bill to a number of corporations who pay no income taxes, corporations that have fled America, changed their corporate citizenship for the sole purposes of not paying taxes, and yet we would give them additional tax breaks under this bill.

They wanted to say that they wanted to end the double taxation on dividends and that corporations that paid taxes could get a deduction for dividends. By the time the bill was done, corporations that have paid no taxes will get a deduction for dividends, but if someone were a poor family, if they were a poor family and they are working every day and they are making between $10,000 and $26,000 a year and they have children, they are not going to get the increase in that deduction. But these people do pay taxes.

The Republicans have it all wrong. They have it all wrong in fairness. They have it all wrong in greed. They have it all wrong in the value of our children and our families in this Nation. This is an incredibly harmful policy to those families who are struggling in and around these wages.

The Republicans will not increase the minimum wage to help them support their families. They will not give them the child tax credit to help them support their families. They will not increase the Earned Income Tax credit to help them support their families. Poor people just are not entitled to this. What they get to make is they get to make an increased sacrifice on behalf of the rich.

Somebody once said, one would think the Republicans think that the rich have too little money and the poor have too much. It is an incredible policy. The Republicans rail against class warfare, and they declared war on the very survival of these families who are working at the margins. We see them every day. These are people who work hard in difficult jobs, in jobs that most people do not want. They get up and they ride transit, and they go to work and they work and they work and they come home, and at the end of the year they continue to be poor.

Past Congresses gave them the child tax credit, and this year when we decided we would give an increase in the child tax credit, we did not decide. The Republicans decided in the back rooms, they decided they would declare their own private war, their own private class warfare on these individuals. They decided to do it on the last night, in the back room, with the lights turned out and with Vice President CHENEY casting the deciding vote, who now declares he is ignorant on this. Then how did he vote for it? How did he vote for it?

Class warfare, the most mean-spirited, the most greedy action of class warfare we have seen was just committed by the Republican Party in the tax bill against struggling, working, lower-income families in this country.

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## RESTRICTION OF CIVIC PUBLIC ACCESS TO THE MEDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, the Federal Communications Commission today struck a very hard and damaging blow against democracy. They did so in a very close four to three ruling that will allow media corporations to own more and more of the public information distribution system that we all rely upon for the information upon which we base our civic decisions, the information upon which we base our votes for Members of Congress and for other offices all across the country.

What is happening here? Why is it that the Republicans in the Federal Communications Commission are voting to restrict the voice of the American people while the Democrats are opposed to it? This is an issue that has been going on in this country now for almost three decades.

In 1987, the Federal Communications Commission of Ronald Reagan stripped the fairness doctrine or the equal access clause from the FCC rules. The fairness doctrine was a simple provision that was placed in the FCC rules early on in the 1930s. It stipulates that if someone who owns a broadcast station, then a radio station, but now radio or television, has a political opinion and they express it editorially they have to provide for an alternative opinion by others in that community who may feel differently. That was stricken in 1987.

In 1996, the Telecommunications Act was passed, fashioned by the Republican majority in this House, which gave rise to the commission decision today to restrict civic public access to the media and allow it to be controlled by an increasingly smaller number of people, a handful of people.

This is damaging and dangerous to every democratic principle. It is damaging and dangerous to the future of this democratic republic.

☐ 2000

Countries and governments such as ours, free countries, rely upon the open, free exchange of information. If you have a handful of people controlling the way information is distributed, you are not going to have a free and open exchange. That is dangerous to our country.

What did the ruling do today? Under the new rules, a national television network may now acquire dozens of local broadcast stations and control up to 90 percent of the national television market. A single corporation may now acquire, in one city, up to three television stations, eight radio stations, the cable television system, numerous cable television stations, and the daily newspaper as well. No diversity. No contrary opinion. One voice speaking to the public in community after community after community across this country.

When the Federal Communications Commission was established by this Congress, it was established in order to require that there be diversity and that the American people have access to the airwaves, which they own. The airwaves are owned by all the American people; they are not owned by one corporation or several corporations. Those corporations only lease them for periods of time. We need to return to a system where the American people have access to the means of communication in our Nation.

If we are going to preserve this democratic Republic, if we are going to save the essence of American democracy, we are going to have to have the opportunity to discuss different opinions on important political social issues, whether they are foreign or domestic, in the open so that everybody has a chance to have their voice heard. Not just the elite, not just the big corporations, not just the people with all the money and the power.

What is going on here? Why is there this connection and relationship between the Republican Party establishment here in Washington and the media corporations across the country? Republicans out there do not want to see this happen, groups as diverse as the National Consumer Network, the National Rifle Association, the Catholic Bishops, and a host of others have come out against this recent Federal Communication decision. The people of this country, whether they are Republicans or Democrats, are opposed to it; but the Republican establishment here in Washington is creating a situation where people do not have access to their own airwaves, do not have access to their own media.

We are introducing legislation that is going to put a stop to this and reverse what has been going on now since at least 1987; and the sooner that legislation is passed, the sooner the American democracy will be saved.

## FCC'S VOTE ON MEDIA OWNERSHIP RULES

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, tonight I rise also to express my strong opposition to the recent vote that was taken today by the FCC. The three-two vote by the commission will allow for the concentration of media ownership in the hands of the very few and privileged and will reduce the diversity of viewpoints. This does not sound too American to me.

The decades-old rules that will be altered under today's vote were intended to provide for multiple media owners and voices in our market. Today's vote that was taken will reduce the assortment of voices and opinions that are essential to our healthy democracy. Allowing one company in a city to control the most popular newspaper and TV station will give the company excessive control over the local news and the information that the public sees and hears. It would also reduce the diversity of cultural and political disclosure in our communities.

Studies that I have seen indicate that, under these rules, mergers will be allowed in 140 local concentrated markets. In as many as 100 of these local markets, representing nearly half of the national population, there will probably be one dominant newspaper. A merger between a dominant newspaper and a large TV station would create a local news giant that would threaten alternative views and news.

Today's decision will have a detrimental impact on minority communities, including the Nation's fast-growing Latino population, the Spanish-language population. It will dramatically reduce competition in Spanish-language media and opportunities for Latino media ownership. Dominance in the Spanish-language media by one corporation can have the same negative effects for many Latinos as the dominance of English-language media can have for the general population.

Today's ruling by the FCC means less diverse programming, news sources, and smaller points of view. We need to look only at the radio industry to see the ill effects that today's vote will have on the diversity in media.

Since the passage of the 1996 Telecommunications Act, the overall number of radio station owners has decreased by at least 30 percent. And according to a study by the Department of Commerce, in the year 2000 minorities owned 248 AM stations and 178 FM stations. That represented 4 percent of the country's 10,577 commercial AM and FM stations.

I am especially disappointed that the public, the very people who own the airwaves, were not offered the time to express their concerns about this very important issue. How undemocratic of the FCC to keep the public in the dark on this very critical matter and not to afford the American people of this country, whom we represent, the opportunity to comment directly on the impact that the new specific policies will have on competition, localism, access to multiple sources of information, and minority participation.

Unfortunately, the amount of network coverage on this important issue has been minimal. We could not even get people from the media to show up to cover a press conference that we had last week to disclose what was happening with this vote that was taking place today. The public is largely unaware of the possible impact these changes will have on their lives; and it is discouraging, especially when millions of Americans have reacted in recent days with amazement at the FCC's plans. The FCC should have listened to the public, not the megacorporations.

Liberals and conservatives alike, consumer groups, labor groups, the National Rifle Association and others, have rallied around the cause and urged the FCC to allow more time for the public to comment on this critical matter.

When it comes down to it, today's vote was just another example of the Bush administration's catering to corporate greed. It is one more example of corporate welfare. It is a Bush-backed gift to the major corporations and their bank accounts. At the expense of whom? The public.

The FCC was created to serve the public interest and to ensure diverse voices in it. The commission failed on both accounts today. I urge this Chamber to consider legislation to reverse the commission's ruling and to allow the public greater opportunity to learn about this critical issue and weigh in with their important thoughts.

## ADMINISTRATION WILL NOT TELL THE TRUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, when you have been away from this House for a week, sometimes it is hard to tell what subject you ought to talk about first, because this administration is the gang that cannot shoot straight. They cannot tell anybody the truth about anything.

Whether it is weapons of mass destruction, where we have heard every story in the whole world, yet everywhere you look people do not believe the President of the United States, they do not believe our Secretary of War or anybody else when they talk about those weapons of mass destruction. Or we could talk about Medicare, or we could talk about the tax bill.

My colleague, the gentleman from California (Mr. GEORGE MILLER), got up here and told the game that was run on the people in this House when they slammed the bill through here, this rubber stamp Congress. They did it in one 2-hour period. Bang, they passed out $350 billion, but could not find $3.5 billion to cover the kids of the working poor in this country. They could give money to millionaires, $93,000; but they could not give even $400 to the children of the working people of this country.

Now, there is an overarching question here and that is this whole question of whether you can solve this country's problems by tax cuts. You know, it takes the British. You have to read the British newspapers to find out what is going on in this country. If you read the Financial Times of London, they tell us that our President hid something from us when we were passing this bill. He hid from us a report done by his Secretary of the Treasury, Mr. O'Neill. Remember him? He was the guy before the one we have now. The one now is Snow, so I guess we will get Snow jobs. But the guy before was O'Neill.

Mr. O'Neill said to his staff, suppose the government could get its hands on all the revenue it could expect to collect in the future but had to use it today to pay off future expenditures, including debt service. Would the present value of the future revenues cover the present value of the future expenditures? Very simple question. He asked a guy from the Federal Reserve and his own assistant secretary to sit down and do this report. They did the report, and they came back with some pretty ugly facts. This thing was supposed to go into the budget to talk about what the future of this country was about, about those kids that cannot even get $400 this year. This was a report that was supposed to go in about the future.

Their answer was, no, we cannot pay for it with the money that we need. We will be $44 trillion in debt; $44 trillion in debt because of what they are doing right now. Now, that is a number that, if you are sitting at home and you are thinking to yourself, my God, how much is $44 trillion, well, think of it this way: imagine that everyone in this country worked for 4 years, every single day went to work for 4 years, everybody in the country, and handed over every penny to cover this $44 trillion deficit. That is what it would take. Every man, woman and child. Even those little kids that they could not find $400 for now.

They are creating a problem out there that when their fathers and their mothers come to Medicare and come to Social Security, they will say, well, gee, we would like to help you out, but it is all gone. They are creating it right here in front of us. And it is bad enough, I mean, people voted, we did talk a little bit about it out here, people talked about it; but what is awful about this is that they knew these figures and they kept them from us.

Just like the weapons of mass destruction. There is a kind of a pattern, you see, in this administration. Feed the people the facts you want them to know, keep snapping your fingers so they will look up here, and meanwhile take away from them down here. They did it with weapons of mass destruction. We were assured. Our President said he has them. Our Secretary of State said he has them. He went to the United Nations and put up charts and graphs and all kinds of pictures. We have them, he said. The Secretary of War, Mr. Rumsfeld, he said the same thing. One after another these guys went down the line telling us what they knew was not true.

The Voice of America carried a very interesting interview with a man who came out of the Iraq situation. He was in the United States, and he said there were no weapons of mass destruction after 1991. This administration will not tell you the truth, but you are in for one awful problem dealing with $44 trillion all of a sudden.

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## TRIBUTE TO REVEREND RANSOM HOWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I rise in great sadness to honor my friend, Reverend Ransom Howard, the pastor for almost 4½ decades of First Sixth Street Baptist Church in Port Arthur, Texas. Reverend Ransom Howard died on Thursday, May 29.

Reverend Howard was a remarkable man who was committed to his community, to his country, and, above all, to his family. Reverend Howard was a long-time civic and community leader. He was always a man who believed in equality and justice. He fought hard for civil rights when it was not an easy thing to do, although it is never an easy thing to do. His impact on the community could be felt everywhere, but you could certainly say he was a positive force for all of southeast Texas.

Rev, as we called him, was instrumental in the integration of the Port Arthur public schools and city businesses. He served as youth director for the YMCA, was a past president of the NAACP, and president of the Concerned Citizens of the Port Arthur Association. He was of the utmost character, and his attributes of selflessness and commitment to others are rare gifts that this Nation was lucky to have.

It was interesting that one of the times I saw him, probably 25, maybe 30 years ago, I saw him in coveralls working around a building that was being demolished. He was cleaning bricks and had several people working with him.

□ 2015

Mr. Speaker, what I found was interesting, that he believed that godly men and women should serve their communities and should be role models for others within their communities, and he did that. Regardless of what the job might be, he was willing to work the dirtiest, the hardest, perhaps the lowest of jobs to encourage someone else to be a better person within his community.

He was a man who served his community with a great deal of pride and with a great deal of devotion. He was my friend. Interestingly, also, Reverend Howard would not want us to mourn today, so I ask Members to celebrate his life, that we should come together as Americans and continue to work toward the principles by which he lived which are so very important to each and every one of us and to our freedoms.

It is important that current and future generations understand the history of African Americans, of their struggle for freedom and the part that people like Martin Luther King, Jr., like the gentleman from Georgia (Mr. LEWIS) and, yes, like Reverend Ransom Howard played, the awesome part that they played.

Mr. Speaker, Reverend Ransom Howard was part of the fiber of Southeast Texas and, with his passing, a great loss will be felt in the spirit and the heart of our community. It has been said about some people, he knew his flock and his flock knew him; and in this case, they dearly loved him and will truly miss this great gentleman.

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## FCC VOTE ON MEDIA CROSS-OWNERSHIP

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON of California. Mr. Speaker, I rise today to voice my utmost frustration and disappointment with the Federal Communication Commission's vote today to relax media cross-ownership rules. I am frustrated by the process through which the Republican-controlled commission sought to manipulate its rulemaking by limiting public input and discussion. I am frustrated that the majority on the commission chose to ignore the overwhelming public opposition to the proposed rules, and I am disappointed that these commissioners failed to learn from existing evidence, especially in the area of radio ownership, the dangerous impacts of unfettered media consolidation.

By voting to radically deregulate media ownership, this administration has created the most unimaginable atmosphere for further national and local concentration of media outlets, leading to the erosion of localism, diversity and competition so essential to a healthy democracy. I fear that as the media conglomerates move forward with the rulings and gobble up more and more independent outlets, not only will the consumers suffer from the lack of diverse voices on our airwaves, but the core values of what it means to live in a free and open society will be greatly demolished.

Many of my colleagues in both Chambers of Congress have expressed a great deal of skepticism toward today's FCC rule. Close to 150 Members of this House, including the Congressional Black Caucus, Hispanic Caucus and Asian and Pacific American Caucus have asked the FCC to delay its decision. That came in addition to nearly 750,000 e-mails, letters and phone calls from the public to the FCC expressing their opposition to the current rulemaking process and the rule. All of them, including a letter I sent on behalf of 28 other Members of the Congressional Black Caucus, have fallen on deaf ears.

Over the entire course of the rulemaking process, FCC Chairman Powell has held only two public hearings while meeting 71 times, I repeat, 71 times, with top broadcasters behind closed doors. How can we say that the FCC is following Congressional statutory guidance to serve the public's interest? How is the FCC performing its special duty as mandated by the Supreme Court to protect an uninhibited marketplace of ideas?

Chairman Powell says that the rule changes will help preserve free, over-the-air television, but free, over-the-air television is alive and well. Advertising revenues for free, over-the-air television were up 15 percent last year. However, it is not the job of the FCC to make sure that every network in this country makes a lot of money. It is the job of the FCC to make sure that Americans get a variety and diversity of viewpoints.

The bottom line is that as the rule changes lead to greater media consolidation, small and independent companies will be drowned out. Some critics have called it "the Wal-Mart effect," "the emergence of a 21st century Citizen Kane," as noted by Commissioner Adelstein. The big five media companies, Disney, Viacom, AOL-Time Warner, News Corp. and General Electric Company will end up squeezing out the small companies. It is already happening. The new rules will only speed up the process.

Ted Turner is right in saying that when small businesses get hurt, big ideas get lost. When the next Watergate happens, Americans need to know that a truly independent third estate will be up to the task of conducting a free and independent investigation. Minorities are deeply suspicious of the rule changes. There is ample precedent for their feelings since the passage of the 1996 Telecommunications Act which resulted in a frenzy of media consolidation, radio station ownership has decreased by 30 percent. Many of the stations gobbled up were minority owned.

It was a bad decision at the FCC today.

Minority broadcasters believe that media consolidation has all but eliminated opportunities they need to expand their media companies. They can't expand or compete with the big players and are often left with one alternative: To sell.

It would have been prudent for the FCC to allow more time for public hearings as well as congressional input. We have been presented with a backroom deal that will dramatically change the structure of our media marketplace, significantly impact media diversity, and inhibit the free flow of information.

Today's adoption of media ownership rules represent a giant step backward for consumers, and as members of Congress we have a responsibility to exercise our legislative oversight role. As Commissioner Copps said today, this is only the beginning. I strongly urge my colleagues and the public to take up this important debate.

## EXORBITANT PHARMACEUTICAL PRICES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. BURTON) is recognized for 60 minutes as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from Maine (Mr. ALLEN), the gentleman from Vermont (Mr. SANDERS), and the gentlewoman from California (Ms. WATSON) and myself are going to be talking this hour about the problems that we have in this country with exorbitant pharmaceutical prices.

We all believe in the free enterprise system, and we believe that private industry ought to make a profit, but we also believe the American people ought to get the best bang for their buck. Unfortunately, the pharmaceutical industry has been taking advantage of Americans for a long, long time, and it is just now becoming evident.

The gentleman from Minnesota (Mr. GUTKNECHT) made this chart up originally, and this chart, I know it is difficult for my colleagues to see, but it shows the disparity between pharmaceutical products purchased in the United States and those purchased in Canada. In some cases, products, pharmaceutical products manufactured here in the United States that are sold in other parts of the world, sell for one-tenth the price that they sell for here in the United States; and yet the American people, when they try to buy those products abroad through the Internet, are being criticized for that, and the Food and Drug Administration, hiding behind the veil of protecting the public from products that might harm them, are saying that they are not going to allow these Internet sites to sell these products. The very same products sold here in the United States, they are not allowing them to be purchased from Canada or other countries so the American consumer can save as much as 50 percent of their pharmaceutical costs.

I have a constituent who was paying $1,300 a month or $1,200 a month for pharmaceutical products, and he bought the very same products on the Internet from Canada for less than half that amount, so he was saving $7,000 a year by purchasing them from Canada. And now the FDA, along with the pharmaceutical companies, are trying to stop him from doing that.

We have over a million people in this country, probably closer to 2 million, who are buying their pharmaceutical products from Canada over the Internet. But the pharmaceutical companies and the FDA are trying to stop the American people from saving money and getting the products at a fair market price.

Today, in the New York Times there is an article, and I do not quote from the New York Times very often, but there is an article talking about the exorbitant amount of money that the pharmaceutical industry is going to be spending over the next year to influence Congress, State legislators, government agencies and so forth to keep the prices of pharmaceutical products very high in the United States and prohibit the importation or reimportation of their products from other countries where they are selling them much cheaper.

In 1990, PhRMA spent $2.3 million in that cycle here in Washington and around the country. In 1992, it more than doubled to $4.9 million. In 1994, it went to $5.2 million; and in 1996 it went to $9.2 million. In the year 2000, it jumped up to almost $20 million, and it was over $20 million in the year 2002.

Let me read what was in the New York Times today. "Lobbyists for the drug industry are stepping up spending to influence Congress, the States and even foreign governments as the debate intensifies over how to provide prescription drugs benefits to the elderly, industry executives say."

The article goes on to say, "The documents show that the trade association, the Pharmaceutical Research and Manufacturers of America, known as PhRMA, will spend at least $150 million this year. That represents an increase of their total budget of 23 percent over last year which was $121.7 million. Directors of the trade association approved the new budget, together with an increase in membership dues, to pay for an expanded lobbying campaign at a meeting last week. They have over 600 lobbyists in Washington, D.C."

Here is what they say: "Unless we achieve enactment this year of market-based Medicare drug coverage for seniors, the industry's vulnerability will increase in the remainder of 2003 and in the 2004 election year," and it will demonize the industry if they do not get this done.

Now, we are for market-based pricing. The gentleman from Minnesota (Mr. GUTKNECHT) has said that many, many times. But that should be across the spectrum, not just here in the United States of America. I mean, in Canada if you can buy a product for $70, why should it cost $122 here in the United States right across the border, just a mile apart? And the reason is they are charging an exorbitant amount of money to the Americans, and they are loading the research and development and everything else on the back of American consumers instead of spreading it across the world.

If they are talking about market-based drug coverage for seniors, then the burden should be spread equally across the spectrum, not just here in the United States but across Canada and Europe. If we did that, the price for all Americans would go down dramatically.

The drug trade group plans to spend $1 million for an intellectual echo chamber of economists, a standing network of economists and thought-leaders, to speak against Federal price control regulations through articles and testimony, and to serve as a rapid-response team. A rapid-response team, that sounds like a military action. Well, we want to make sure that we do not have to have price controls.

□ 2030

If we had fair pricing across the spectrum, around the world, then I think the Americans would get a fair price when they buy their products. But unfortunately, the products are a lot lower in other countries, in Europe, in Germany, in France, in Spain, in Canada, in Mexico; much, much less than they are here. Yet they want to keep those prices higher here in the United States so they can keep their profits high.

The trade association and its tactics have become an issue. In debate on the floor of the Senate last summer, Senator DURBIN, Democrat of Illinois, said PhRMA, this lobby has a death grip on Congress. After seeing what I have seen over the past month, month and a half, I am not so sure he is wrong. The influence that the pharmaceutical industry has in the halls of Congress and in the executive branch mystifies me. We are supposed to be sent here to represent the people of this country, to make sure they get a fair shake across the board. Yet the pharmaceutical industry has been loading huge, huge profits on the backs of the American people while making much smaller profits right across the border in Canada by selling their products at a more competitive rate.

If Americans try to buy them up there now, now they are trying to stop them. The day after the pharmaceutical giant GlaxoSmithKline said they were going to pull out of Canadian pharmacies that were selling across the border through the Internet, the FDA I think the next day or the day after said there may be a concern about the safety of these pharmaceutical products. And so they were marching in lockstep with the pharmaceutical industry to stop Americans from getting these lower-priced pharmaceutical products, the same products they can get here, from Canada.

Dues from the pharmaceutical industry will go to $144 million, an increase of 24 percent or $28.3 million over this year's dues. In its budget for the fiscal year that begins July 1, the pharmaceutical lobby earmarks $72.7 million for advocacy at the Federal level directed mainly at, you guessed it, the Congress of the United States. $72.7 million to lobby us; $4.9 million to lobby the Food and Drug Administration. I do not know if they have to spend that much because I think the FDA is pretty much in their pocket already. And $48.7 million for advocacy at the State level. In addition, the budget sets aside $17.5 million to fight price controls and protect patent rights in foreign countries and in trade negotiations. The PhRMA budget allocates $1 million to change the Canadian health care system and $450,000 to stem the flow of low-priced prescription drugs from online pharmacies in Canada to customers through the Internet here in the United States. I think it is kind of funny. They are going to spend $73 million to lobby Congress and only a million to do it in Canada. I think that is because they feel like it is a lost cause up there.

In a memorandum for the PhRMA board, it says the industry is on the defensive, facing a perfect storm whipped up by several factors, expanding government price controls abroad, resulting in politically unstable crossborder pricing differences; increasing availability of medicines from abroad via Internet sales; State ballot initiatives to make drugs more affordable in the United States; increasing State demands for drug discounts in the Medicaid program; and false perceptions that drug prices are increasing by 20 percent a year. I do not know whether they are going up 20 percent a year, but they are a heck of a lot more here than they are in Mexico, in Canada, in Spain, in Germany, in France and elsewhere.

Let me go into this breakdown a little bit further, and then I will yield to my colleagues. At least $2 million, and perhaps $2.5 million, in payments to research and policy organizations to build intellectual capital and generate a higher volume of messages from credible sources sympathetic to the industry. They are going to hire a bunch of people to be their mouthpieces that are supposedly credible to convince us that we ought to let the American people be saddled with these huge prices while these same products can be sold elsewhere for a lot less.

$9.4 million for public relations, including $1 million for inside-the-Beltway advertising. $555,000 for placement of op-eds. They are going to buy the oped pieces in the newspapers? $555,000 for placement of op-eds and articles by third parties. They are going to hire people to put these articles in and pay them $555,000. I suppose if I wanted to, I could write an op-ed on behalf of the pharmaceutical industry, and they would pay me to do it.

$600,000 for polling; $1.3 million for local publicity in 15 States. I suppose that is congressional districts. For instance, in my district this last week, PhRMA went into Kokomo, Indiana, and talked to one of the writers; and they went to the Louisville Courier Journal, on both ends of my congressional district, to try to make the case that I did not know what I was talking about and that I was hurting the people of this country by trying to make sure they get a fair shake on these pharmaceutical prices, and they did that to try to discredit me and hurt me in my congressional district. I have to tell you something, PhRMA PR people, you are making a big mistake. A big mistake.

The Federal affairs staff at PhRMA has quadrupled since 1999. The organization plans to spend $5 million for outside lobbyists at the Federal level. In their campaign contributions, drug companies have favored Republican candidates, but PhRMA has retained a diverse group of lobbyists to ensure access to Democrats as well. I am sure of that. I will not go into who some of their lobbyists are, but my colleagues in the House know that we have a lot of our former colleagues out there that are on the payroll of the pharmaceutical companies. Big, big bucks.

The State government affairs division of PhRMA will spend $3.1 million to retain more than 60 lobbyists in 50 States. The number of State legislative proposals dealing with prescription drugs has doubled since 1999. The drug industry says many of these bills are seriously negative, have a high probability of enactment, and require major attention on our part. They want to get it stopped.

They hire 600 lobbyists here in Washington, D.C. That is more lobbyists than we have in Members of the House and the Senate. That is overkill. They only need one for each one of us. What are they going to do with the other 65? I guess they will all go to lunch, have a triple martini lunch. I hope PhRMA is watching this. I really do.

PhRMA said it would spend $12.3 million to develop coalitions and strategic alliances with doctors, patients, universities, and influential members of minority groups. The organization has earmarked several million dollars to foster ties with groups like the National Black Caucus of State Legislators; the National Hispanic Caucus of State Legislators; and the National Medical Association, which represents the interests of African American doctors. The budget includes $500,000 for efforts to educate and activate Hispanic-Latino organizations at a State and Federal level.

In other words, my colleagues, and I think my colleagues who are here on the floor tonight already know this, they are pulling out all the stops to keep their profits very high here in the United States, to saddle the American people with huge prices while they are selling these pharmaceutical products for a lot lower elsewhere, and they are going to lobby us to death to try to make sure those profits remain high.

I am a free enterprise advocate. I believe in keeping our nose out of the private sector as much as possible; but when an industry starts beating American taxpayers to death and American consumers to death with exorbitantly high prices while at the same time they are selling these same products around the world for less and still making a profit and then they say, we cannot buy them abroad and they threaten the people who sell them to us from abroad with closing them down, then that is wrong. That is bullyism and that is something that cannot be tolerated.

The free enterprise system, God bless it, should not tolerate that kind of activity from any industry. I will say to the pharmaceutical industry right now and I believe the pharmaceutical products have given us the highest quality of health care in the history of mankind, and God bless you for that; but you have gone too far when you start raping the American people; and that is what is going on with these prices right now and it ain't going to work.

The Internet is here to stay. If you push in on one side of the balloon, it is going to pop out someplace else and you better get with the program. Make a profit, but make sure it is fair for everybody. Make sure it is fair for everybody. If you do that, I will be one of your biggest supporters as I have been in the past, and I am sure my colleagues will as well.

We have the gentleman from Maine (Mr. ALLEN) here, the gentleman from Vermont (Mr. SANDERS), the gentleman from Minnesota (Mr. GUTKNECHT), and the gentlewoman from California (Ms. WATSON). Let me get this straight here. I want to make sure that everybody that is paying attention in their office understands this. Congressman ALLEN is a Democrat. I am a Republican. Congressman SANDERS is an Independent. I am a Republican. Congressman GUTKNECHT, God bless him, is a Republican. I am a Republican. I like you a lot. And Congresswoman WATSON is a Democrat from California. But we all see eye to eye on this. This is not a partisan issue. That is why I think the pharmaceutical industry spending hundreds of millions of dollars ain't going to win this battle because they cannot beat us when we are united.

With that, let me yield to my colleague, the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. I thank the gentleman for yielding, and I thank him for his enormous courage and directness and integrity in bringing this issue forward. This is an unusual event tonight, to have Democrats, Republicans, and our Independent from Vermont all on the floor during a Special Order talking about the same subject and agreeing with each other. I had the pleasure to serve with the gentleman from Indiana (Mr. BURTON) for the last 6 years on the Committee on Government Reform of which he was chairman. I am very pleased to be here tonight.

Over the last week, I rode part of the way on a bus trip, on a bus in Maine chartered by Maine seniors to go up to Canada, we are close as you know, to go up to Canada to buy their prescription drugs. They go to Calais in Maine and get a prescription and then go over the border and find enormous savings. The 18 or 20 people on that bus must have saved thousands of dollars as others have before. People in Maine generally now, many of them, are ordering prescription drugs over the Internet from Canada because that is the only way they can both eat and have their prescription medications. It is a scandal what is happening in this country right now. The richest, most powerful country in the world finds that those people who do not have prescription drug coverage in this country are paying the highest prices in the world.

Several years ago we started a series of studies to find out just how great the difference is. Those studies showed basically that for drugs that on average cost, let us say $100 a month here in the United States, the cost in other industrialized countries is around $61 or $62. In other words, there is about a 40 percent difference on average for the drugs that are taken most frequently by people on Medicare, our seniors and the disabled.

That is why I introduced a bill that basically would cap the price that the industry could charge in this country to what we call the average foreign price, that is, the average price at which the same drug is sold in Canada, in Japan, Britain, France, Germany and Italy, the other countries of the G-7.

But however we go at this issue, and Mr. GUTKNECHT, of course, from Minnesota has been one of the leads with the gentleman from Vermont (Mr. SANDERS) on the whole issue of reimportation, however we go at this issue, we have to recognize that the people without insurance and the people on Medicare pay the highest prices in the world. I happen to have a health insurance plan for Federal employees in the State of Maine through Anthem Blue Cross. I know that the premium that I pay is lower than it would otherwise be because Anthem Blue Cross negotiates with the pharmaceutical industry to reduce the price of the drugs that are purchased for beneficiaries. But if you are on Medicare in this country, if you are on the biggest health care plan in the entire country, you cannot get any discount like that.

In Maine, we took steps to try to rectify that problem. We passed a program in the year 2000 called Maine Rx. Just a few days ago, on May 19, the U.S. Supreme Court ruled against PhRMA. The Supreme Court ruled that you could not stop the Maine Rx program before it was even implemented. What it did was essentially to say that the State of Maine will enter into negotiations with the pharmaceutical industry to reduce prices on their drugs sold to anyone who does not have prescription drug insurance in Maine. That is certainly all those on Medicare who do not have prescription drug insurance and all of the uninsured who obviously do not have prescription drug insurance because they do not have health insurance; and the industry would have to reduce their prices to that group, or the State would eventually set up a commission and deal with it directly. But in doing that, the State of Maine is really not doing anything different than we do through the Federal Government for Medicaid, certainly not different than what we do for our veterans, not different than what Kaiser Permanente or Aetna or Cigna or United do for their beneficiaries, negotiate lower prices so their beneficiaries are not paying the highest prices in the world. That is really the scandal.

The gentleman from Indiana mentioned the article in The New York Times the other day. It is an amazing article because the author, Robert Pear, had access to confidential budget documents from PhRMA. I will not go back to everything that the gentleman from Indiana mentioned, but I loved this entry. Here it is, the Canadian health care system where they have lower prices, and just to give you one example, Tamoxifen, a drug to deal with breast cancer, is one-tenth the cost in Canada as it is in the United States.

□ 2045

Here is what PhRMA is planning to do. They have allocated $1 million, according to their documents, to "change the Canadian health care system." Can you believe that? They would like the Canadian system to be like ours, where they can charge whatever they want to the Canadian public and where they wind up spending $150 million a year to lobby Canadian legislators. And they think that is what the American people want as well. It just takes your breath away.

With that, Mr. Chairman, I yield back and thank you for including me in this special order tonight, and I thank you for your courage in standing up for your constituents.

Mr. BURTON of Indiana. Before the gentleman departs, let me just say there are five of us here tonight, and I hope that we will all use our influence to educate the rest of our colleagues who are not as conversant with this problem as we might be. You, being one of the leaders on the Democrat side, I hope you will talk to your colleagues, along with the gentleman from Vermont (Mr. SANDERS) and the gentlewoman from California (Ms. WATSON.)

I yield to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I want to thank the chairman for putting this special order together tonight, and I want to thank my colleagues on both sides of the aisle for joining us.

As has been mentioned, this is not a matter of right versus left, this is right versus wrong, and it is wrong to force Americans to pay the highest prices in the world.

The gentleman from Maine was talking about Tamoxifen. I am also now the chairman of the Congressional Study Group on Germany, so I was in Germany about a month ago. While we were there, we went to the pharmacy at the Munich Airport and we bought some of the most commonly prescribed drugs. Now, most people know that if you want to get a bargain, you probably do not go to the airport to buy it, so this is probably not the cheapest place in Germany to buy drugs.

Incidentally, compared to what you hear all the time, Germany really does not have price controls in the sense of setting the prices that the pharmacist in Germany can sell the drugs for. What they do allow is for German pharmacists to shop to get the best price. If they can buy their Tamoxifen cheaper in Sweden, they buy it in Sweden. If they can buy it cheaper in Spain, they buy it in Spain. They use market forces to help keep prices down in Germany.

We bought this Tamoxifen. It is 100 tabs of 20 milligrams. I am going to tell the whole story about Tamoxifen. We bought it at the Munich Airport pharmacy for $59.05 American. This same box of drugs here in the United States sells for $360; $60 in Germany, $360 here.

What makes the story even worse about this particular drug is, this was developed with taxpayers' dollars. This was developed essentially by the National Institutes of Health. Almost all of the research and development costs were paid for by the taxpayers.

As the vice chairman of the Committee on Science, here is something we should all be proud of. We in the United States represent less than 6 percent of the world's population, but we represent over 50 percent of the basic research done in the world. This year, this Congress will authorize and spend $29 billion taxpayer dollars on basic research.

In fact, there was a study done, and I want to recommend a book, if you have not seen this book, I hope every one of my colleagues will pick up a copy of this book. The title is "The Big Fix." The subtitle is "How the Pharmaceutical Industry Rips Off American Consumers." It is written by Katharine Greider. What is in this book is compelling, and every American ought to read some of the things that are in here.

You talk about the research. A study was done by the Boston Globe just a few years ago, and they found that of the 35 largest selling drugs in the United States, 33 of them had most of their research and development costs paid for by the taxpayers.

Now, it is one thing to say we have all these research costs, and therefore American consumers have to pay all the freight. But the bottom line is, we subsidize the pharmaceutical industry in three separate ways.

First of all, in that $29 billion we will spend this year in basic research through the NIH, the National Science Foundation and even DOD; we do an awful lot of basic research in the DOD that ultimately benefits the pharmaceutical industry. We do all of that on that side.

Secondly, we subsidize them in the Tax Code. They get very generous write-offs for the amount of research and the other expenses that they have.

Finally, we subsidize them in the prices we pay.

Let me share with you some of the other prices that we got at the pharmacy at the Munich Airport in Munich, Germany.

Glucophage, a miracle drug. I want to pay homage to the people who helped develop it. Millions and millions of Americans and people around the world are living better quality lives because of Glucophage. So I am not here to beat up on the pharmaceutical industry. They have done a lot of wonderful things.

But how do you justify this difference? This package of Glucophage here in the United States, we checked the price, is $29.95. We bought this one month ago in Munich, Germany, for $5 American.

Let us look at Cipro. We all know a little more about Cipro in the last couple of years because of what happened with the anthrax scare. We bought Cipro in Germany. This is actually made by a German company called Bayer. They also make aspirin. But Bayer makes this drug. We bought Cipro in Germany for $35.12. Here in the United States this same package sells for $55. $20 does not seem like much, but it adds up.

We bought Coumadin. My 86-year-old father takes Coumadin. This package of Coumadin we bought in Germany, we paid about $14 for this drug. Here in the United States, it is about $64. Those numbers just go on and on.

Zocor, very commonly prescribed, we bought it for $41.20. Here in the United States, $89.95.

As Will Rogers said, all I know is what I read in the newspapers. Well, read the newspapers. Read today's Wall Street Journal, the front page, about what the drug companies and PhRMA are doing, not only to make certain that Americans keep paying the highest prices in the world, but they are literally now saying to sub-Saharan Africa, well, we will subsidize AIDS drugs for you, but we will not let you have access to many other drugs, including insulin.

Right now, you cannot get insulin in Chad at any price. Read the article. In fact, if I have time, I will read one of the paragraphs here, just a few sentences.

They talk about how all of the countries, 148 countries in the world, were ready to come up with a trade agreement, some language, to deal with some of these problems about drugs going across borders. But last December, when all of the other 148 countries in the World Trade Organization had lined up behind a new plan on the trade of medicines, the United States blocked the proposal. As you read, it gets worse, why they blocked it. It was all about the big pharmaceutical companies afraid that they might lose some profits.

This is not a matter of right versus left; this is right versus wrong. The time has come for Congress to stand up and say we are not going to be played the fool any longer. It is time that Americans have access to world-class drugs at world-market prices. That is not too much to ask. That is not a Republican idea, that is not a Democrat idea; that is an American idea.

We have what is called NAFTA. Many of us believe in free trade. But, it is interesting, we have free trade when it comes to plantains, have free trade when it comes to pork bellies, we have free trade with things called pears. In fact, we import hundreds of thousands of tons of fruits and vegetables every year, hundreds of thousands of tons; and that is regulated by a group called the FDA, the Food and Drug Administration.

Do you know how much inspection they do of all of those fruits and vegetables crossing our borders every year? Almost none. Do you know how many people get sick every year from imported fruits and vegetables? Thousands. In fact, one estimate is, thousands die as a result of eating contaminated foods that have come from other countries, that have food-borne pathogens. The FDA's own study said that 2 percent of all fruits and vegetables that come into the United States are contaminated with food-borne pathogens, including things like salmonella. Salmonella will kill you.

But we have to stop these prescription drugs because our own research says people could get sick and die. Do you know how many people have died? The FDA keeps records of all the people who have taken legal FDA-approved drugs coming in from other countries. It is an easy number to remember. It is a nice round number. It is zero. Zero.

More importantly, we are going to introduce a bill sometime by the end of the week that is going to require the FDA to begin to put counterfeit-proof blister packs in place, whether they come from the United States or wherever they come from.

Once we begin to require this, this whole safety thing just goes out the window, and we begin to realize it is not about safety, it is about profits; it is about making American consumers pay the highest prices in the world.

Let me just close with one other thing, because I say, shame on us. I do not say, shame on the pharmaceutical industry; shame on us. We let this thing happen. But the most shaming thing of all was a study done by the Kaiser Foundation a few years ago. What they found out was 29 percent of seniors say that they have let prescriptions go unfilled because they could not afford them.

Two weeks ago, I spoke to the Community Pharmacists, and I asked them, we had hundreds of pharmacists from around the country here in Washington, and I asked them, has this ever happened to you, where a little old lady comes up, hands you a prescription, and you tell her how much it is going to be, and she drops her head and she says, well, maybe I will be back tomorrow, and she never comes back. And every head in that place shook like this.

It has happened. It happens every day. And I do not say, shame on the pharmaceutical industry as much as I say, shame on us, because we have the power to do something about that.

Twenty-nine percent of prescriptions go unfilled. That is an outrage, and we can do something about it. And the reason is they cannot afford it. They can afford $14 for Coumadin; they cannot afford $64.

Mr. BURTON of Indiana. Mr. Speaker, let me say to my colleague, who has been the leader on this issue for a long time, we all appreciate your hard work. And I understand your saying, shame on us. But the Food and Drug Administration, which we pay for with taxpayers' dollars, should not be protecting the pharmaceutical industry and making sure that these exorbitant profits are made year in and year out, and then coming to the rescue of the pharmaceutical industry when they are trying to stop the reimportation of pharmaceutical products from Canada by saying that there is a safety issue.

It is unconscionable what they are doing over there, and we need to keep the heat on them. So maybe not, shame on the pharmaceutical industry by itself, but shame on them and the FDA and us for not being more responsive.

Mr. GUTKNECHT. If I could have one additional minute, I do want to mention to all my colleagues, we have been working for a year trying to come up with a bill that would make sense. We think we have it. It is called the Pharmaceutical Affordability Act of 2003. Now, some may not like the acronym; it works out to PHARMAA. But the bottom line is, we think we have come up with language which really deals with the issues that people have raised, ultimately safety. I hope that Members will join me in cosponsoring that bill. Hopefully, if we put enough pressure on all of the people here in this body, we will get a vote on it this year. If we do, it will pass.

Mr. BURTON of Indiana. I think that needs to be dealt with along with the prescription drugs benefits we are going to talk about. I do not want to pass a prescription drug benefit that is going to guarantee the taxpayer paying for these huge profits being realized by the pharmaceutical industry.

Let me go to my colleague, the gentleman from Vermont, Mr. SANDERS, and then go to the gentlewoman from California (Ms. WATSON). The gentleman from Vermont (Mr. SANDERS) has been working on this for a long time as well.

Mr. SANDERS. Mr. Chairman, I am at a disadvantage. After hearing you and the gentleman from Maine (Mr. ALLEN) and the gentleman from Minnesota (Mr. GUTKNECHT) and I am sure the gentlewoman from California (Ms. WATSON) soon after, there is not much that I can add to what you have said.

Let me reiterate a point that you made. I hope the viewers appreciate this.

You are a Republican, the gentleman from Maine (Mr. ALLEN) is a Democrat, the gentleman from Minnesota (Mr. GUTKNECHT) is a Republican, I am independent, and the gentlewoman from California (Ms. WATSON) is a Democrat. Two Democrats, two Republicans and an Independent. And there are a lot more of us who are not here tonight.

What that should tell the American people is that there is widespread anger, frustration and disgust with what the pharmaceutical industry is doing to the people of this country.

Three years ago, I became the first Member of Congress to take a group of American citizens over the Canadian border in order to buy medicine. We went to Montreal. The reason that we did that is, I wanted not only to help hard-pressed Vermonters, mostly women, who are having a very difficult time paying for their prescription drugs, but I wanted to help show the country the absurdity of the situation, where the same exact medicine manufactured by the same exact company is sold in Canada for a fraction of the price that it is sold in the United States.

□ 2100

As we have discussed, it is not just Canada. It is Europe; it is Mexico. The American people pay, by far, the highest prices in the world for prescription drugs. In that trip to Canada, one of the moments that I will not forget is that we had women with us who were struggling with breast cancer, something I know the gentleman from Indiana (Chairman BURTON) has a personal interest in. Women fighting for their lives were able to pick up Tamoxifen, a widely prescribed breast cancer drug, for one-tenth of the price that is being charged in the United States of America. Of course, it is not just Tamoxifen; it is drug after drug after drug sold for a fraction of the price.

I think the gentleman said it well, the gentleman from Indiana (Mr. BURTON), and the gentleman from Minnesota (Mr. GUTKNECHT) made the point, too, and the gentleman from Maine (Mr. ALLEN), it seems to me we are looking at two separate things.

On the one hand, we are seeing researchers who are making enormous breakthroughs; and the result of that is that we are saving lives, we are easing pain, we are prolonging life. That is the good news. All of us here have a great deal of respect for those researchers in the drug companies and in the United States Government, in universities, foundations who are doing that work. I thank them so much for what they are doing.

But then there is another side of the pharmaceutical industry. Those are the people who sit at the heads of these corporations who are concerned about one thing alone, that is, making as much money as they possibly can. They do not lose a night's sleep if elderly people die because they cannot afford the medicine they need or if their health deteriorates.

Of the many outrages that we have talked about here, the huge amount, hundreds of millions of dollars, that floods Washington or State capitals in order to maintain high prices, there is another outrage that I do not think has been mentioned tonight. While elderly people cannot afford the high price of medicine, the CEOs and the top dogs of these companies receive huge compensation packages.

In 2001, C.A. Heimbold, Jr., former chairman and CEO of Bristol-Meyers-Squibb, ended up his compensation with $74,890,000. Not bad; but that is not all. Mr. Heimbold also received stock options that same year amounting to over $76 million. One year, one man, $150 million. Then they tell us they just cannot lower the cost of medicine so that seniors in Vermont or Indiana can ease their pain or protect their lives.

Year after year while we continue to pay the highest prices in the world for prescription drugs, year after year the pharmaceutical industry is the most profitable industry in the country. More profitable than media, more profitable than banks. The pharmaceutical industry leads the list.

The issue here, and the gentleman has touched on this, I say to the chairman, the issue really here is will the United States Congress have the guts, and it is going to take some guts, to stand up to what I believe is the most powerful force in the United States of America.

I was interested, Mr. Speaker, to hear the gentleman from Indiana (Mr. BURTON) say they have already gone down to Indiana and tried to work against him because of his willingness to stand up on this issue. If I am not mistaken, the gentleman from Minnesota (Mr. GUTKNECHT) told the same story, that they had gone to Minnesota, as well.

The gentleman and I know that when Members of Congress fight hard for consumers, lots of money comes into a campaign, mostly against Democrats; but I am sure they will go after Republicans, as well.

What we have to deal with now is to ask our colleagues in the Congress to have the guts to stand up to the campaign contributions, the advertising, the visiting of the editorial boards, the TV ads, all that we will see, the unlimited sums of money, hundreds of millions of dollars. Do we have the courage to say no to those people and protect the American consumer?

I believe that if tonight is an example of the potential of what we can do, standing together, regardless of philosophy or party, we can protect the American people and take on this industry. I thank the gentleman very much for calling this Special Order.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Vermont (Mr. SANDERS), and I would like to say to my colleagues that not this Thursday but next Thursday we are going to have a hearing in the Subcommittee on Wellness and Human Rights of the Committee on Government Reform.

I anticipate and hope we will all be there, because we are going to have some witnesses come in from the pharmaceutical industry, and more witnesses come in from areas that can show that these products will be safe coming into the United States. We are going to have people from HHS and FDA there. I think it will be a very illuminating meeting; plus, we have some surprise information that will be coming out of that meeting, as well.

The gentlewoman from California (Ms. WATSON) has been very patient. I thank her very much for being with us. She has been a leader in California on a number of issues involving health. I am happy to say she is my ranking member on our committee, and she does a great job. I yield to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. I am very proud of that, Mr. Speaker. I thank the chairman, the gentleman from Indiana (Mr. BURTON), for his courage.

I will just restate the problem that we see in the pricing of U.S. pharmaceuticals, which has such an enormous consequence to millions of Americans who need affordable access to prescription drugs. Americans pay substantially more for prescription drugs than purchasers in other countries, and it has been demonstrated to us this evening.

We have failed in Congress to establish a Medicare prescription drug benefit, so seniors who do not have private prescription drug coverage must pay for prescription drugs out of their pockets. Research by the staff of the Committee on Government Reform has shown that seniors in congressional districts across the country pay twice as much for prescription drugs as their counterparts in other countries. For some drugs, they pay as much as 10 times as their foreign counterparts.

Lower drug prices abroad have led millions of Americans to purchase drugs from foreign sources. Internet pharmacies facilitate these transactions, and their recent proliferation has raised serious concerns about whether American consumers are receiving appropriate medical supervision.

In October of 2000, Congress attempted to address international prescription drug pricing disparities by signing into law the Medicine Equity and Drug Safety Act. The MEDS Act sought to permit U.S. consumers, pharmacists, and wholesalers to purchase FDA-approved prescription drugs on the international market.

Opponents of the legislation, including President Clinton, noted that the MEDS Act was doomed to fail from the outset. The act stipulates that the Secretary of Health and Human Services must verify that implementation would pose no additional risk to public health and safety and would lead to a significant reduction in the cost of drugs to the United States consumer.

To the surprise of no one, the HHS Secretary, under both the Clinton and Bush administrations, has been unable to fulfill this stipulation. As a result, the MEDS Act has had zero effect on the pricing practices of drug manufacturers. In fact, U.S. prices for the five most popular drugs used by seniors increased by an average 16 percent in the 20 months following enactment.

The MEDS Act has, however, had other effects. In response to the bill's enactment, drug makers began requiring Canadian wholesalers and pharmacies to accept contract provisions prohibiting them from selling their products on the U.S. market or to Canadian pharmacies that sell to U.S. customers.

GlaxoSmithKline's unilateral efforts to enforce its policies earned it well-publicized condemnation from U.S. consumer and Canadian pharmaceutical groups. The failure of the MEDS Act prompted the introduction of similar, but narrower, proposals in the 107th Congress.

In the 108th Congress, the gentleman from Indiana (Chairman BURTON) and our colleague on the Subcommittee on Wellness and Human Rights, the gentleman from Vermont (Mr. SANDERS), have introduced Preserving Access to Safe, Affordable Canadian Medicines Act, or H.R. 847, which would prohibit drug manufacturers from using contract provisions, limitations on supply, or any other measure to limit the access to American consumers to safe, affordable prescription drugs from the Canadian market.

Mr. Speaker, despite incessant pharmaceutical industry complaints to the contrary, research by the committee's staff demonstrates that international pricing disparities are not explained either by the duration and the cost of the FDA approval process or by disproportionate U.S. research and development cost. It is within our power to correct this problem if we have the will.

Mr. Speaker, I know with the leadership of the gentleman from Indiana (Mr. BURTON) and the other Members who have testified in front of me, we will be heeding the call of the American people and delivering a prescription drug benefit for Medicare. Congress must look at a blanket solution for fixing our broken health care delivery system, and Congress must act now.

Mr. BURTON of Indiana. Mr. Speaker, while the gentlewoman was talking, I talked to the gentleman from Minnesota (Mr. GUTKNECHT), and one of the things in the law that the gentlewoman cited was that the FDA had to show that the products coming in were safe.

Why do we not turn that around by amendment and say that the FDA has the burden of proof placed upon it to prove that pharmaceutical products coming into the country are not safe? And if we did that, that would open up the borders so people could buy these pharmaceutical products, and the FDA would have the burden of proof on its shoulders to prove they are not safe in order to stop them from coming in.

Ms. WATSON. I think that is a great idea, Mr. Speaker. Maybe there are some amendments.

Mr. BURTON of Indiana. I will have a bill drafted; and if Members would be willing, I would like them to cosponsor this change.

Mr. SANDERS. If the gentleman will yield further, Mr. Speaker, I think the point the gentleman from Minnesota (Mr. GUTKNECHT) made and we all made is that over 1 million Americans now purchase their meds in Canada, and the number is growing every day.

The chairman and I and the gentleman from Minnesota (Mr. GUTKNECHT) and the gentlewoman from California (Ms. WATSON), we said to the gentleman from the FDA who was before the subcommittee, okay, you tell us you are very concerned about the safety aspect. We have a million Americans. Tell us how many of them have been made sick by receiving adulterated or counterfeit medicine. Out of 1 million people, the answer is zero.

Now, we are all going to sign or we are on a request to the GAO to do something a little different. I think that if the FDA is concerned about health and safety, they should do a study telling us how many Americans are dying or seeing a deterioration of their health because they cannot afford the prices that the industry is charging them today. I have the feeling we are going to see a number a heck of a lot larger than zero. So maybe the FDA should worry about health and safety in terms of prices, rather than hounding people who are buying affordable and safe medicines in Canada.

Mr. BURTON of Indiana. I think maybe that would be a good idea. Mr.

Speaker, I think that it is a great idea to make the FDA respond by having a GAO study that does exactly what the gentleman is saying, to show how many people have suffered or died or worse because they could not get the prescription drug benefits. So that should be in our request to GAO.

Mr. Speaker, I yield again to the gentlewoman from California.

Ms. WATSON. Amazingly, the USDA has sided with Glaxo and seems to think the crossborder sales should be stopped. They also cite safety concerns.

I want Members to know, they can only point to a single case, Mr. Speaker, in Oregon where there may have been a problem, only one case.

Mr. William Hubbard, senior associate commissioner of the FDA, has threatened both civil and criminal penalties to anyone who facilitates Americans' efforts to import prescription drugs from Canadian pharmacies, health plans, or insurance companies.

Even senior citizens who fill their own prescriptions in Canada because they cannot afford American prices are breaking the law, according to Mr. Hubbard. His contribution to the debate is to scare senior citizens, disabled people, and low-income people, and to cut them off from a supply of affordable prescription drugs.

□ 2115

So we definitely need to look at that amendment, and I think my colleague is going to see the unity that he described in the beginning coming together to get a good bill. I thank him so much for his concern.

Mr. BURTON of Indiana. We are just about out of time, but the gentleman from Ohio (Mr. BROWN) came down to the floor and requested a few minutes.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Indiana (Mr. BURTON) and the gentleman from Minnesota (Mr. GUTKNECHT) for their work and the gentlewoman from California (Ms. WATSON), the gentleman from Maine (Mr. ALLEN) and the gentleman from Vermont (Mr. SANDERS) their tripartisan effort tonight to point out some of the things that PhRMA is doing and so many of the problems in providing a prescription drug benefit, but more importantly, what exactly the drug companies are doing to win over people in the body, to win over people in State legislatures.

I would point out, earlier in the evening the gentleman from Indiana (Mr. BURTON) and several others were talking about the drug companies stepping up their efforts to lobby Congress, to lobby State legislatures, even to lobby foreign countries. I know that the gentleman from Maine (Mr. ALLEN), the gentleman from Vermont (Mr. SANDERS) and the gentleman from Minnesota (Mr. GUTKNECHT), as I have, have taken bus loads of seniors to Canada to buy prescriptions, same drug, same dosage, same manufacturer, all that, but for one-half, one-third, sometimes one-fourth the price.

The drug companies, as they kick their budgets up, the PhRMA effort to try to get their way all over the world, they plan to spend $72 million for advocacy at the Federal level, mostly in Congress; $4.9 million in lobbying the Food and Drug Administration; $48 million for advocacy at the State level; $17 million in foreign countries and much of that directed to the Canadians because the Canadians stand up to the drug companies and actually sell drugs at decent, affordable prices.

Something jumped out in my State. There is an effort in my State among consumer groups and groups advocating for the elderly and labor organizations to pass a drug benefit not too different from the gentleman from Maine's (Mr. ALLEN) legislation in the State of Maine.

The drug companies have in their budget, the PhRMA budget, according to the New York Times of Sunday, $15.8 million to fight "a union-driven, get-out-the-vote ballot initiative in Ohio," which would lower drug prices for people who do not have drug insurance. They are spending that money, one, to keep the issue off the ballot in Ohio. They are going to board of elections after board of elections after board of elections to try to kill the signatures, to try to disqualify and invalidate signatures so they do not get on the ballot; but then, if it does get on the ballot, because hundreds of thousands of Ohioans have already signed the petition, people in both parties in all 88 counties, if it does get on the ballot, the drug companies are going to spend that kind of money to defeat it, even though it is clearly in the best interests of the overwhelming majority of the public.

I wanted to bring that to people's attention, that $15 million is more than both candidates spent running for governor in 2002, $15 million in a State of fewer than 11 million people. It is outrageous to do this. That is why I applaud the efforts of the gentleman from Indiana (Mr. BURTON) and the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from Maine (Mr. ALLEN) and the gentleman from Vermont (Mr. SANDERS) and the gentlewoman from California (Ms. WATSON).

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for coming down and joining us. We hope that he, along with a lot of our colleagues on both sides, will join with us in this fight to get this job done.

We are just about out of time. If the gentleman from Minnesota (Mr. GUTKNECHT) needs time, I will yield to him.

Let me just say one more time to the PhRMA people, if they happen to be following this discussion tonight, the people in the pharmaceutical industry, we all agree that they have done a great deal for mankind and they have given us the highest quality of health in the history of man; but at the same time, there is a limit to how much they can expect out of our veins as far as the price of pharmaceutical products, especially when we know those products are being sold for a lot less elsewhere. This fight is not going to end until we obtain victory.

I want to tell them there are a lot of people here, besides those tonight, who are committed to making sure that we get these prices of pharmaceutical products down to a level that is acceptable for the American people, as they are in other parts of the world. No matter how much money the pharmaceutical companies spend or PhRMA spends, they ain't going to win this battle.

So I think they need to get with the program instead of trying to stop Niagara Falls with a sieve. It is not going to work. I think Lincoln said it the best. He said, "You can fool all of the people some of the time and some of the people all of the time, but you cannot fool all the people all the time," and this is so transparent the American people are going to get it and they are going to get it very quickly.

I now yield to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, the gentleman quoted one of my favorite Presidents. Let me quote another one. Ronald Reagan said, "Markets are more powerful than armies." This idea that American consumers should be charged $360 for these pills when we can buy them in Munich, Germany, at the airport pharmacy for $59.05.

Mr. BURTON of Indiana. One-sixth.

Mr. GUTKNECHT. One-sixth. That will not stand. That is defending the indefensible, and sooner or later, it may not happen this year, may not happen next year, but sooner or later this wall will collapse just like the walls of Jericho.

I want to thank the gentleman for his leadership, and I want to thank my colleagues on both sides of the aisle. As I said at the beginning, this is not a matter of right versus left. This is right versus wrong. This is wrong, and we should do something to stop it.

Mr. BURTON of Indiana. I thank my colleagues, and we will be taking special orders in the future. I hope they will join with me when we do that, and I look forward to even the gentleman from Ohio (Mr. BROWN), if he has the time, to come to our hearing, which is a week from Thursday, because it is going to be a very important hearing on this entire subject.

## CONCENTRATION OF OWNERSHIP IN MEDIA

The SPEAKER pro tempore (Mr. CHOCOLA). Under the Speaker's announced policy of January 7, 2003, the gentleman from Vermont (Mr. SANDERS) is recognized for 60 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, the issue that we are now going to be discussing, which is the concentration of ownership in the media and the implication of more media deregulation as proposed by the Bush administration and passed today by a three to two vote by the Federal Communications Commission, the FCC, is, to my mind, one of the very most important issues facing our country.

The reason for that is very clear. Today, we have a handful of very large corporations who, to a very significant degree, control what we see, hear and read; and I think this chart tells the story, and it is a story that not a lot of Americans are totally familiar with.

When people watch television they say, well, there is CBS, there is a company called CBS. Wrong. CBS is owned by Viacom, and Viacom owns not only the CBS network but UPN Network, MTV, Nickelodeon and many other television networks. Viacom owns Paramount Pictures, MTV Films, Nickelodeon Films. They own Simon & Shuster, Nickelodeon Books, Pocket Books, Scribner, Touchstone, heavy into publishing.

Viacom owns not only television and film and book publishing, they own 180 Infinity radio stations; they own television stations. And that is the same story that we see with all of the major media conglomerates, whether it is AOL Time Warner, which is heavy into the Internet, cable TV, TV networks; whether it is Rupert Murdoch's news corporation, owning 22 TV stations, owning Fox, owning various other types of publications. Clear Channel radio now owns 1,200 radio stations. Disney, that is the Mickey Mouse company, owns ABC; they own many, many other aspects of media.

And as bad as the situation is today with a handful, it is likely to become much worse as a result of the disastrous decision, three-to-two vote, by the FCC earlier today.

In terms of national concentration as a result of this vote, a national television network, we believe, may now be able to acquire dozens of lawful broadcaster stations and control up to 90 percent of the national television market. As a result of the decision today, as we understand it, a single corporation may now acquire in one city up to three television station, eight radio stations, the cable TV system, numerous cable TV stations and the only daily newspaper.

I come from a rural State, the State of Vermont, and what we are going to see in rural America, in small city after small city, town after town, is one company owning the radio station, the television station and the newspaper; and that does not to me seem and feel like the democratic Nation that we are supposed to be, because what democracy is about and what the framers of our Constitution had in mind is a strong First Amendment, a country where people had different ideas, and those ideas clashed, and we learned from the differing points of view.

Today, increasingly, we are hearing one point of view, and that is the corporate point of view, the point of view of large multinational corporations like General Electric who owns NBC or Disney who owns ABC, who have deeply vested conflicts of interest; and we will talk more about that later.

The key issue here is, do we think it is a healthy situation for a democracy to have a handful of huge, multibillion dollar conglomerates owning and controlling what the American people see, hear and read. I think it is not healthy.

There are many conservative organizations who, like the National Rifle Association, spoke out against it; Bill Safire, conservative columnist for New York Times; TRENT LOTT, conservative Senator, spoke out against it. Progressives, moderates, conservatives understand and appreciate that democracy is not about a handful of corporations controlling the media.

I am now pleased to yield to the gentleman from Maine (Mr. ALLEN), and I want to thank him for all of his good work on this issue.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding, and I am pleased to be here tonight.

This was a very important decision that the FCC made today on a three-to-two party line vote, and I found one of the significant aspects of the decision was that it was made in spite of what the newspaper says is 500,000 comments in opposition, and it would have been fairly simple for the FCC to agree to hold a hearing, absolutely just to have a hearing so that people could speak out in public. But that is not way the chairman, Mr. Powell, decided to proceed. He wanted this over and done as quickly as possible so that it did not become an issue.

It has not become a major issue in the major networks. I wonder why. Could it be that perhaps all those broadcasters, who pride themselves on their independence, are a little uneasy about telling a story that might be critical of their ownership? There is, as my colleague mentioned, increasing concentration in the major news organizations.

It was just 1996 when the Telecommunications Act was passed. If we added together the two largest groups of owners of radio stations in the country, their collective ownership would come to, I think it was something like 214. I may have that a little wrong. That may be too high, but no more than 214 radio stations across the country. Today, Clear Channel alone owns 1,200 radio stations, and yesterday and Saturday evening Garrison Keillor on Public Radio had a comment about this.

He was doing a little skit there, talking with someone who appeared to be complaining about Clear Channel Communications and changing over a local broadcast channel to Clear Channel. And he said, Look, Clear Channel owns 1,200 radio stations in this country; we cannot expect them to have a human being in every single radio station.

That is the point. Those who have been advocating this, like Mr. Powell at the FCC, would say, Well, there will be inefficiencies of scale. There will be inefficiencies, and it will jeopardize the ability of small businesses to start up, to own radio stations.

☐ 2130

It will jeopardize the ability of people in a local area to hear local news, not something that is canned, prerecorded, from somewhere else in the country. This decision is basically starting to strangle the diversity of opinion that is fundamental to a democracy. It is ultimately a very dangerous decision; and we in the Congress, Republicans and Democrats, need to stand up and say that at the core of this democracy, what makes it work is diversity of opinion.

Thomas Jefferson said a long time ago, if I were given a choice between having newspapers and no government, or government and no newspapers, I should not hesitate to choose newspapers and no government. Obviously, we need both; but the media is, in all of its different forms today, absolutely fundamental to the health of this democracy. And with this decision today, the FCC has made our democracy weaker. It is a bad decision, and the Congress should reverse it.

Madam Speaker, I thank the gentleman for giving me this time.

Mr. SANDERS. Madam Speaker, the gentleman from Ohio (Mr. BROWN) has long been involved in this issue, and we are pleased to have him with us this evening.

Mr. BROWN of Ohio. Madam Speaker, I thank my colleague, the gentleman from Vermont (Mr. SANDERS), on his leadership, his unparalleled leadership here in the Congress on the issue of a fair media, a diverse media with diverse programming, and a competitive media where a small number of large corporations do not make the decisions about information that the public and our country sees and hears.

As the gentleman from Maine (Mr. ALLEN) said, it was a 3–2 party line decision, similar to so much of what has happened from the Supreme Court in the year 2000 Presidential election, to vote after vote in this body. The Bush administration, the Bush Federal Communication Commission has thrown sound public interest and market principles out the window, allowing America's biggest companies to decide what you hear, when you hear it, what you see, and, in some ways, what you think.

Without a doubt, when you look at the kind of response that the FCC got to this issue, you can see that it really was back-room politics at its worst, as the gentleman from Maine mentioned, 500,000 postcards and e-mail messages almost uniformly against this rule change. A number of comments were examined by a group, a group called the Future of Music Coalition, a group representing artists from country music to rock and roll, artists that almost everyone in this country listens to. They released a report after examining 10,000 comments at random from the FCC that were made public on its Web site; and 9,065 of these 10,000, unaffiliated with any corporate media these 10,000, and 9,065 said they were opposed to changing the resume. Only 11 individuals wrote in support of the FCC.

So on one side there were 9,065; on the other side 11 people. It was a ratio of 824 to 1. Nonetheless, the three Republican commissioners voted with the 11 rather than 9,065. As I said, 500,000 postcards were received overall, and they were equally uniformly against this rule change.

As we said, it was another back-room deal. It only fuels the public perception that the Bush administration has a policy of giving corporations what they want regardless of consequences to the Nation. Enron writes energy policy for this administration. Wall Street writes Social Security privatization legislation. The insurance companies write Medicare legislation. The drug industry writes legislation overseeing the drug industry. It is issue after issue after issue. The chemical companies and the oil companies write legislation dealing with the environment.

About 2 weeks ago, the group of us who opposed this rule, a group of about 15 Democratic Members of Congress and an Independent, held a news conference, a news conference which, if that many Members of Congress put one on almost always is attended by The New York Times; The Washington Post; the L.A. Times; a couple of networks, AP, Fox, perhaps. A whole group of what we would call the corporate media. And we held this news conference in the middle of the day when the media were not that busy, yet we had zero turnout from those corporate media. Congress Daily, a couple of in-house newspapers around here showed up; but none of the big corporate media, none of the mainstream, quoted-unquote mainstream, generally corporate-owned conservative media in this Nation showed up.

That tells you a little bit about how much press coverage they really want for this. The large corporate media in this country do not really want the public to think about this, do not really want the public to know about this because they are the ones lobbying the FCC, they are the ones contributing to President Bush's campaign, they are the ones that contribute to Republican campaigns and Republican leadership; and they want their way with the FCC. Their way with the FCC is fewer companies, fewer corporations controlling the largest amount of media in this country, 1,200 radio stations owned by one company. The CEO of that company, the leaders of that company, good friends of the President from San Antonio, Texas.

It makes you wonder if the FCC is maybe next week, after this decision, going to change its name to instead of the Federal Communications Commission, FCC, maybe to Furthering Corporate Control. Because furthering corporate control is what they have done. They have clearly acted against the public interest.

I would ask my friends on the other side of the aisle, if they really do believe in competition, if they believe in diversity, if they believe in a competitive leveling of the playing field in America like they say they do, then we should enact legislation undoing this FCC ruling.

I thank my friend from Vermont for his terrific leadership.

Mr. SANDERS. Madam Speaker, if the gentleman from Ohio could remain for a moment on this issue, because I want to dialogue with him on something that is interesting.

I think there may be citizens of our country who think, well, yes, this is an inside-the-Beltway issue: it really does not affect me very, very much. But I want to mention to my friend from Ohio on issues that I know he and I share similar concerns just what the implications of concentration of media are.

I know that my friend from Ohio is deeply concerned about our trade policy, a policy which now has over a $400 billion trade deficit, a policy which has cost this country millions of decent-paying jobs as large corporations throw American workers out on the street, move to China, move to Mexico.

I would ask my friend from Ohio, how often has he seen discussions of the issue of the deindustrialization of America and the loss of good paying jobs on television or in the editorial pages of newspapers?

Mr. BROWN of Ohio. That is a very good question, and the answer is, rarely or never. The more detailed answer is lots of discussion about tax cuts, lots of discussion about Laci Peterson, lots of discussion about issues that really do not affect people's lives, but almost no discussion about York Manufacturing in my district, 400 good-paying jobs, closed shop, moved to Mexico. Little discussion about trade policy generally.

In fact, if my colleague will remember, during the NAFTA debate, some of us did some surveys of editorials in this country; and we found that editorial opinion was almost unanimous in support of the North American Free Trade Agreement, even though poll after poll after poll showed the majority of the public opposed it. The largest newspaper in the country that opposed NAFTA was the Toledo Blade, a fine newspaper in northwest Ohio, but perhaps the 50th or 60th size newspaper in the country, I am not sure, but clearly not one of the largest newspapers in the country. But that was the largest newspaper that actually opposed NAFTA.

But it is not just the editorial policy. We also did surveys of The Washington Post; and if there is a corporate-controlled medium in this country, it is it; and The Washington Post op-ed pages were overwhelmingly in support of the North American Free Trade Agreement even though we sent in numerous articles. And to add to that, the Democratic whip, the majority whip, sent a letter to the editor of The Washington Post in those days outlining the number of articles, editorial opinions in support of NAFTA and against NAFTA; and they actually censored his letter to the editor and said we are not going to run that part, we will only run another part.

So it is pretty clear that the editorial page, the other opinion articles, the letters to the editor, and even the news coverage is slanted towards a corporate media, because that is what it is. It is a large corporation. Of course, just like General Motors is a conservative company, they care about their profits, The Washington Post, The New York Times, and all these corporate media are similar.

Mr. SANDERS. Just dealing with General Electric, the point here again is that sometimes people turn on the television and they say there is NBC. Well, no, it is not NBC. This is a subsidiary of General Electric.

For many, many years, General Electric has been an anti-union company. The fact of the matter is that if you are a member of a union in the United States today, you earn approximately 25 percent more than an American worker doing similar work who is not a member of a union. That is just a fact.

I would ask my friend from Ohio how often he has seen programs on General Electric's media or in fact any other media talking about the advantages of being a member of a union? Now, I myself have never seen a program like that. Maybe my friend has.

Mr. BROWN of Ohio. Well, I come from an area, Ohio, which is a pretty unionized State, but I do not see them there either. My colleague comes from a State that is a little more rural; maybe you would not see it there. You would think you would see it in Ohio, but you do not see it in Ohio. It is pretty clear there are not a lot of labor unions owning newspapers or owning radio stations.

There is a show once a week out of a Cleveland radio station, a small part of this radio station, that talks about unions and has a pro-union moderator. That is the only show I have heard, and that is 1 hour on one station out of 15 stations or so and maybe 20 stations in greater Cleveland. Half of those stations are owned by the President's friend from San Antonio, which is becoming less and less diverse in its programming, more and more single minded, more and more conservative in its politics; and it is continuing to move in that direction.

But little or no discussion about the struggles people have, about unions, about work, about trade policy, about feeding their kids. Few shows devoted to single parents trying to struggle through life. Lots of shows about glamour, lots of shows about the rich, lots of shows about tax cuts; but nothing about the struggles of every day people.

Mr. SANDERS. I think my friend from Ohio put his finger right on the issue, and that is in our country today, there are tens of millions of families who are struggling hard to keep their heads above water. These are people in my State, and I am sure in Ohio, who are not working one job; they are working two jobs, three jobs. They are working 50, 60 hours a week. They are worried about their pensions, worried about their health care situation. It would seem to me that the media might want to focus on those issues.

I have the feeling in the back of my head that truthfully General Electric is not particularly anxious to educate people on those issues; not to talk about the horrendously unfair distribution of wealth and income that we have in this country; not to talk about the fact that the United States is the only Nation in the industrialized world that does not guarantee health care for all people; not to talk about the fact that our pharmaceutical prices are by far the highest prices in the world because we are the only Nation that does not regulate the pharmaceutical industry.

So the point that I am making here is that I do not want anyone to think this is some kind of abstract, obtuse, inside-the-Beltway issue that does not affect their lives. It does affect their lives. The media, to a significant degree, ignores the struggles and the needs of working families throughout this country, not giving them the information they need.

Mr. BROWN of Ohio. My friend from Vermont mentions the drug companies. Now, the drug companies, how often in the newspapers or in TV or radio shows do we hear, unless maybe they quote one of us, and there are not that many of us talking about that, that the drug industry is the most profitable industry in America for 20 years straight; that they pay the lowest tax rate in America for 20 years straight; that taxpayers do almost half of all the research and development on prescription drugs; that Canada's prices are one-half or one-third what they are in the United States; that we are the only country in the world that does not do something to regulate or lower or try to push down drug prices? Not one story ever, almost never a story about that.

Rarely is there a story about why drugs are cheaper in Canada, what the Canadian Government does. Rarely is there a story about what the French or the British or the Germans or the Japanese or the Israelis do to get drug prices down. There are a lot of advertisements on all those stations about prescription drugs, about arthritis drugs, about asthma drugs, about cholesterol-reducing drugs; and all that stuff is good information for the public, but millions, actually billions, of dollars going into the pockets of these corporations that own the media and few if any stories about how the drug companies really rip off the American public.

When you think about that, all this money coming in to these corporations to advertise, of course they are not going to bite the hand that feeds them. Of course they are not going to expose the drug companies' kind of practices and decision-making. Of course they are not going to talk about 600 lobbyists in this town alone lobbying the United States Congress. Of course they are not going to talk about the $15 million that the drug companies are going to spend in my own State, in one State, to try to kill a ballot issue and to keep it off the ballot. Of course they are not going to do any of this because they are getting so much money from the drug companies.

I do not accuse the media of being sleazy for that. That is probably a good business practice. But what I accuse as sleazy is the way they lobby the FCC and get the three Republicans on the FCC to do their bidding, to do whatever corporate America wants. That is what is outrageous.

So point the finger at the drug industry and some of the media; but more importantly, point the finger at the people on the other side of the aisle, the Republicans, who stand by these decisions and do whatever corporate America wants them to.

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Mr. SANDERS. Mr. Speaker, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I appreciate the gentleman organizing this special order on a dark day for American democracy, because today the FCC, in almost a little hidden cabinet without taking adequate input from the American public, struck a low blow for information going to Americans.

I have come to the floor because I am hopeful that the U.S. House will listen to the thousands of Democrats and Republicans who have barraged the FCC with e-mails and letters that were ignored, and will come to the rescue and change this rule in a way that is good for democracy.

Since the FCC proposed this rule, they wanted to keep this as quiet as possible. They wanted to sweep it under the rug. They wanted as few Americans as possible to know what they were doing to America's broadcast rights. What they did was they decided to have the statutorily minimum number of hearings in a minimally accessible place, so they had one hearing in Virginia.

Now to put this in context, when the Forest Service thought about changing a rule regarding the forest, they had 600 hearings around America so Americans could let Congress know what was going on.

Mr. SANDERS. Mr. Speaker, the gentleman and some people in Seattle initiated a public meeting in Seattle.

Mr. INSLEE. And 350 people turned out, essentially spontaneously, with about 48 hours' notice to tar and feather the FCC commissioners who were going to ram this down their throats, and these folks were very, very angry. And the reason they were angry was, they understood the game being played by the FCC here. People are sophisticated enough to get this.

The argument has been made if the anticonsolidation rules are removed, we would have a plethora of new stations to listen to, and radio is frequently used as an example. They say, There are still a lot of radio stations out there, which is true, but what Americans understand and what people in Seattle were so upset about, they realize there might be a lot of stations, but they are owned by the same people. One company owns 1,200 radio stations. Before these rules were relaxed, the most radio stations owned by one company was 65.

It does not matter if we have 20 hoses all coming from the same spigot, and that is the situation that the FCC is allowing to take place.

Mr. SANDERS. Mr. Speaker, when people go to a newsstand and they see hundreds, if not thousands, of magazines, they say, Wow, look at the diversity of opinion. And we all know there are hundreds and hundreds of television stations out there.

I would remind the gentleman that in the last days of the Soviet Union, which was a totalitarian society, some people had the impression that there was one newspaper and one television station and one radio station. Wrong. There were hundreds, if not thousands. The only problem was that all of them were either controlled by the Communist Party of the Soviet Union or the government of the Soviet Union.

The gentleman's point exactly. All kinds of outlets; the problem is, controlled by, in that case, two institutions.

Well, we do not have two institutions, we have more, six, eight, nine institutions. But every day, and as a result of this deregulation effort, that number is going to be smaller and smaller. So do not kid yourself when you say hundreds of television stations and radio stations; ask who owns them.

Mr. INSLEE. Mr. Speaker, in response to this, and we have heard the response of the FCC who pushed through this rule, their response is we do not know that is going to happen. We do not know that consolidation is going to take place.

I do not think that it is rocket science to realize, if we remove rules against consolidation, there is going to be consolidation. This is not rocket science, either, because we have had an experiment with this in radio. The largest number of stations owned was 65 before the anticonsolidation, and now it is 1,200; and that is why this is a bipartisan concern.

It is interesting, groups as disparate as the National Rifle Association and William Safire have come out against this. I love to quote William Safire, at least when I agree with him. He said, "The concentration of power, political, corporate, media, cultural, should be anathema to conservatives. Why do we have more channels but fewer real choices today? Because the ownership of our means of communication is shrinking. Moguls glory in amalgamation, but more individuals than they realize resent the loss of local control and community identity."

I think that is what happened to the FCC. They may have been stunned by this outpouring of concern, but it is there. Ninety-nine percent of all of the input they have received in the last several months on this issue is against the very rules they just shoved down America's throat.

Mr. SANDERS. I think the gentleman is absolutely right in two regards. Number one, there is enormous concern over this issue from one end of this country to the other. Just a few days ago I was in San Diego, California, with the gentleman from California (Mr. FILNER), who held a public meeting on this issue, and the problem was, he had rented a hall that could only seat 200 people and 400 people showed up, so half of the people had to be outside listening to the meeting via speakerphone.

We held a meeting outside of Burlington, Vermont, we are a small city in a small State, and we had 600 people come out to hear Michael Copps, who has been one of the courageous commissioners on this issue, traveling all over the country.

There is massive public concern, and your point earlier about the outrage that, on an issue of this significance, Mr. Powell did not have public meetings all over the United States; and if he had, no question, based on your experience and my experience, hundreds of thousands of Americans would likely have come out to say, No, we believe in a democratic society, and a handful of people controlling the media is not what a democratic society is all about. I suspect he knew that, which is why he held one public hearing in the daytime in Richmond, Virginia.

I yield to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman coming forward this evening to spend a few minutes via one of the avenues of public expression that is still available to us to be able to talk to people about this. The gentleman's comments a moment ago with the gentleman from Washington (Mr. INSLEE) touched a nerve with me.

We have been watching this issue slowly bubble in the background, move into the public consciousness. We have all expressed and we have all experienced an outpouring in our own districts, our own correspondence, phone calls, e-mails. It is fascinating to me that over the last 6 months I have not had one Oregonian express to me support for the direction the FCC has taken, not one.

One would think that for something that is this momentous, there would be at some point, on some level, some indication that ordinary men and women, that business people, government leaders, that somebody would be there expressing the case for this relatively radical approach.

To the contrary, we have seen in our community the same deep bipartisan apprehension and opposition that has been expressed here this evening. People know on several levels that competition matters, that we benefit from a diversity of voices. Certainly, in this Chamber there are a variety of different points of view. I think on those occasions when we are actually able to express it, I think we do our jobs better and the American public is better served.

But the people that I work with are aware that today almost every television station, whether we go to Nashville, Redmond, Washington, or Burlington, Vermont, the news sounds the same. They have the same air-brushed approach. They have basically the same television accents. They use the same media consultants to craft the sets that they use. They all use the same gyrations, putting forth everything from the weather to on-the-spot news. The same formats ensue because people are being driven by the same media consultants and the pressures from advertisers.

Now, as the gentleman points out, we are going to have the ultimate homogeneous force, and that is concentration of ownership into a handful of conglomerates that are going to be dictating it. It seems to me that there will be no reason for our news to be indistinguishable, distorted pabulum that is more entertainment than delivering information.

I have one short, final point to make. I think the gentleman's expression here this evening, bringing forward others, indicates why I do not think this is going to be the last word on this subject. The House and the Senate have the opportunity. They were the ones that originally decided that the people's airwaves, the public airwaves, were going to be given to commercial broadcasters in return for some public benefit. Since we passed the Telecommunications Act of 1996, we have seen these competitive forces eroded away, people forgetting the public benefit; and I think that the issues that you are focusing on here will produce such a backlash it will be possible for us to be responsive to the public, and hopefully we will see some action that will reverse this egregious act.

Mr. SANDERS. Mr. Speaker, there is another aspect of this issue, and that is the aspects of localism. Vermont is different from Oregon, and we should pride ourselves on our differences and not see us become homogeneous. From 1981 to 1989, I was the mayor of the city of Burlington, Vermont, and when I was mayor, there were four or five local radio stations who covered the news. We would hold a press conference, and there would be four or five takes on what we said. Now, if we are lucky, there is one radio station covering the news, and that phenomenon has gone on all over this country.

I remind my friends and colleagues that as a result of the deregulation decision today, there will be hundreds of cities and towns in America where there will be one company owning the local TV station, radio station and newspaper; and if anyone thinks that is not a dangerous situation, I would strongly disagree with that person.

Mr. INSLEE. Mr. Speaker, I think it is important to respond to this bogus argument that the Republican FCC commissioners put up when they decided to repeal this fairly long-standing, common-sense approach that has enjoyed up to now bipartisan support, and I hope will again.

They argued that, essentially, because we have had a technological revolution in the last decade or so, that removes the necessity of having rules against somebody getting too egregious a distribution proportion.

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They said basically that the Internet solves all ills that humans will ever know. I am from the most Internet-involved part of the world probably. I represent the First Congressional District of the State of Washington. It is where a little company called Microsoft is located, together with probably thousands of spin-off companies from Microsoft. I represent a community that are evangelists for the Internet, who really are believers that this is a way to change the way we do business in fundamental ways. But the people there have told me, do not let the FCC remove these anticonsolidation rules, the fans of the Internet, the fans of new technology, the believers in new technology.

What they tell me is the reason we still need these rules is that even though we have now Web-based distribution systems, the Web distributors are owned by the TV companies. It is the same message. What they tell me, again coming back to this kind of host analysis, you don't get a new view just because it is a Web-hosted message if it is the same message you are getting on television or if it is the same message you are getting in the newspaper. And so what they have told me, do not let them remove these anticonsolidation rules. The Internet cannot solve the fact that democracy suffers when there are fewer voices to provide Americans the news. This is going to result, as God made little green apples, in fewer voices delivering news to Americans because that is exactly what has happened in the radio industry, and we know that that is going to happen.

Mr. SANDERS. I would point out, my friend mentioned Clear Channel, which was the company that really sprouted after radio deregulation in 1996 and now owns some 1,200 radio stations. It is important to recognize that Clear Channel not only owns radio stations; they own a lot more. Clear Channel is the largest concert promoter in the country, selling 66 million tickets in 26,000 events in 2001. Why is that significant? It is significant because if you are an entertainer promoted by Clear Channel, obviously you are going to get a lot more air time on their radio stations than somebody who is not. You could be the greatest singer in the world; but maybe if you are not promoted by Clear Channel, you might not get the opportunity to appear on those radio stations.

So I think the issue here is like anything else. We are living in a country where fewer and fewer large corporations own more and more of our Nation. That is a bad situation in general; but I think what we recognize when it comes to the media, it is not just bad from an economic sense in terms of stifling competition; it is bad in what it does to the clash of ideas and diversity of opinions.

We have heard from people, for example, who are involved in African American broadcasting, and what they are saying is they are losing their stations being bought out by the large conglomerates. The same is true with Latino stations. Again, fewer and fewer large companies, homogeneous-type broadcasting one end of the country to the other, fewer ideas for the American people.

Mr. INSLEE. I think it is important to note, too, that there is an economic reason why this new rule, which is going to create these large concentrations of media power, is a bad idea. I think it is important to talk about the economic reason as well. The economic reason is that these megacorporation media conglomerates will have the ability to stifle entry of new businesses, particularly small businesses who want to break into the media market. One of the great things about the American economy is we have traditionally recognized having a dynamic economy which allows entry into the market is important so that people can get new ideas, new creative products and the like.

Here is a fellow who is not exactly in William Safire's philosophical base, but he had an interesting comment. Ted Turner said, if these rules had been in place in 1970, it would have been virtually impossible for me to start Turner Broadcasting or, 10 years later, to launch CNN. The reason it would be impossible is that these consolidations basically allow these companies to build these Chinese walls around their little media fortresses which prevents these small businesses from breaking into the market.

So if you are a small business-oriented person who believes in a dynamic entry of markets, this is a mistake to allow these sort of giant conglomerates to take over. Fundamentally, though, the democratic argument and the damage to democracy is the one that is really bothering Americans tonight, because one of the things we have learned through history is that the paper on the parchment of the Bill of Rights and the U.S. Constitution are nice and they are important; but the Soviet Union had the same language in their Constitution, but they did not have a vigorous press or a vigorous independent judicial branch, and democracy never got going. We are very concerned that absent a vigorous, competitive, dynamic, change-oriented media in our democracy that our democracy will suffer. You can have the best Members of the U.S. Congress, the best Members of the U.S. Senate, and an enlightened President; but unless Americans can get the truth by looking at various different colors in the spectrum, this place is not going to work.

And so, yes, there is an economic rationale; but people value democracy above everything, and they understand the threat that has happened in this rule. I believe, and I know that the gentleman and I and others will be working to pass legislation to reverse this rule. As you know, we have cosponsored a bill already to repeal the 45 percent national consolidation. Other bills will be introduced. We hope to attract bipartisan consensus. We hope Americans will let their Members of Congress know what to do here.

Mr. SANDERS. I would just pick up on that point from my friend from Washington. If there is anything good about what has happened in the last few months, what has been good is that more and more people are now aware of what is happening in this issue than was previously the case. As my friend from Washington indicated, we are going to be introducing probably several pieces of legislation not only to undo the damage of today's decision but to create a situation in which we improve upon what existed yesterday.

My friend mentioned earlier that hundreds and hundreds of thousands of people, progressives, moderates, conservatives, people in the NRA, people in the conservative President's Parents Television Council, people from all across the political spectrum have communicated with the FCC to the tune of some 750,000 communications. Yet despite the fact that the communications were overwhelmingly in opposition to more media deregulation, the FCC moved in that direction.

My friend might be interested in knowing, why does that happen? How does it happen? I would point out one of many reasons and that is the power which is not limited just to the FCC but the power that the industry has over the regulators. Sometimes people think that the regulators regulate the industry. In truth, given the role that money plays in Washington, more often than not it is the industry that regulates the regulators. The Center for Public Integrity recently reported that over the last 8 years the FCC took staff and members on some 2,500 junkets that were paid for by the industry. Industry paid for trips for FCC commissioners and top staffers to be flown to hundreds of conferences, conventions, and broadcast industry events in Las Vegas, coincidentally Las Vegas, 330 trips to Las Vegas for FCC members and staff, New Orleans, New York, London, San Francisco, Miami, Anchorage, Palm Springs, Buenos Aires, Rio de Janeiro, all over the world. The industry was paying for the visits and the travel done by the members of the commission and the staff.

Mr. INSLEE. And the reason that I think people are so upset about this, and they are upset, I have talked to a lot of people who are really hot about this issue, and I think justifiably because this has been one of the more outrageous instances of a public agency willfully and consciously, number one, shutting to the extent humanly possible the public out of the decision-making process of their government by holding one hearing in one part of the country. There were other members of the commission who begged the chairman, Mr. Powell, to hold multiple hearings, because he knew this was something that really people cared about around the country, not just inside the Beltway, and Mr. Powell refused. Because they are too busy? Excuse me, this is the single most important decision of the FCC probably in the last 10 years, but they only hold one hearing because they do not want to listen to Americans, and it is wrong. Then when the word snuck out through various efforts, including our own, they have been deluged with almost a unanimous position of the Americans who care about this.

And what is their response to Americans who have taken the time to send postcards, to send e-mails, to call in? Their response has been, go fish. That is about what it boils down to. I heard Mr. Powell today briefly, I did not hear his whole comments, but I heard him say, if we don't do something, this rule will get changed anyway by the courts. That is true if you do not prepare a record; if you do not go out and ask people what is going on in America to prepare the record, then this rule might be subject to judicial scrutiny. He is correct. But the reason is that they did not go out and ask anybody around America. They held one lousy hearing. So if they want to preserve the rule which they had the opportunity to do, they needed to build a record. The reason they did not build a record is they knew the message they were going to get. They had a predisposed decision. These commissioners had made a decision before they opened up these hearings at all. It is pretty obvious when you see the railroad job that took place.

Mr. SANDERS. I would say to the 750,000 people who communicated with the FCC, the 750,000 people who said do not deregulate the industry more so that a tiny handful of companies will control what we see, hear and read, I would say to those people and to the Members of Congress not to give up on this issue. We suffered a setback today which was not unexpected. I think we all knew what was going to happen. But the fact that so many people from the State of Washington or the State of Oregon or the State of Vermont and all the States in between, that so many people are now aroused about this issue, are upset at what happened, are going to fight for a more democratic media, is a positive thing.

Clearly now the ball falls to the people in this Congress to undo the damage done by the FCC. I know that I will be working with my friend from Washington and my friend from Oregon and people from all political points of view to undo the damage done today so that we create a media that we are proud of, where the American people become not just the best entertained people in the world but the best informed people, where the media gives our democratic society the ideas and the information that people need in order to make informed decisions in a democratic society.

We have got our work cut out for us. I have not the slightest doubt in my mind that the vast majority of the American people stand with us and do not want to see a few corporations controlling the media, and our job now is to take that support and to convert it into strong legislation.

Mr. INSLEE. I just have a closing comment, which is that democracy is not self-executing. It does not get done by itself. Now is a moment for all men and women to come to the aid of their country on this issue. We need, those of us who care deeply about this, for everyone to let their Member of the U.S. Congress and Senate know how they feel about this issue, because we need to kindle and blow a little air on this fire to keep it going. We are going to hope that we will have enough support across the aisle of our good friends, the Republicans, that we are going to have enough Republicans who will join us in forcing a vote on this issue on the House floor. That is going to be very important. It will be a great victory on a bipartisan basis for American democracy. I thank the gentleman for raising this important issue.

Mr. SANDERS. I thank the gentleman from Washington and the gentleman from Oregon for their very thoughtful remarks. This is an issue of huge consequences. We have got to go forward together to undo the damage done today.

Ms. SLAUGHTER. Madam Speaker, I rise in strong opposition to today's vote by the Federal Communications Commission, FCC, to relax limitations on media ownership.

Apparently, the FCC has overlooked the fact that the airwaves are owned by the American public, just as the Commission has forgotten that its legislated mission is to protect those same airwaves for the public's use.

Relaxing rules that have worked for decades in order to allow huge conglomerates to gobble up even more media outlets will certainly diminish the quality of our news and stifle minority views and opinions.

I find it particularly interesting that while the FCC regulators and their staff were reviewing the changes, they took some 2,500 junkets—worth almost $3 million—which were paid for by the media industry. During all that time, the Commission managed to hold just one public hearing. Does anyone have any doubt to whom the FCC was listening during its deliberation process—the media moguls or the public?

I understand how the FCC decisions will benefit those media conglomerates. What I do not understand is how they benefit private citizens or our democracy, which can only survive on the free flow of information and diverse opinions.

Now that the decision has been made, it will be up to Congress to review these rules. I look forward to working with my colleagues to make sure that public interest will be heard—and that our airwaves will not fall victim to powerful special interests. I would like to share with my colleagues an op-ed I authored on this issue which appeared today in Rochester, New York's Democrat & Chronicle.

### TOO LITTLE DISCUSSION HAS PRECEDED FCC DECISION ON MEDIA OWNERSHIP

(By Representative Louise M. Slaughter)

What if one person controlled all the information in the newspaper you are reading, on your favorite radio station and on the TV channel you watch nightly?

It could begin to happen today, when a five-member panel at the Federal Communications Commission votes on relaxing regulations governing media ownership in this nation.

Sixty years ago, when television was just a fledgling invention, the FCC was created to ensure that our airwaves—which the American public owns—would not be dominated by a few large corporations that could control information and news.

Our government rightly recognized that the free flow of ideas, opinions and information is central to the ongoing national dialogue that drives this great democracy. Protecting local and minority ownership of media outlets is also crucial to guaranteeing coverage of local issues and diverse viewpoints.

As time passed, a few large corporations began to acquire more newspapers, radio and TV stations across our nation. Thirty years ago, there were 1,500 locally or regionally owned newspapers. Now, there are only 281 such independent papers. Six large companies control most of the media in this nation, while three corporations control all the cable news.

After 1996, when the FCC relaxed ownership limits for radio stations, 90 percent of radio stations were bought or sold within five years. Hundreds of stations have been consolidated since then: Clear Channel now owns more than 1,200 radio stations. Before, they could own only 40.

In Rochester alone, six of our radio stations are owned by Clear Channel. Four more are owned by Infinity Broadcasting. Thus the information and music aired on 10 stations in Rochester are controlled by two conglomerates that are based nowhere near here and have little concern for our local issues.

The FCC is now considering relaxing its regulations even further, which will certainly lead to a dangerous concentration of media ownership. The proposed changes would allow networks to own stations reaching as much as 90 percent of the country, allow companies to own three television stations in some markets and would do away with a 28-year ban on companies owning both a newspaper and a TV station in the same market.

What is perhaps more egregious is the secretive process through which these changes have been considered. The FCC tried to keep the plan's details secret and refused to have more than one, barely publicized hearing on the issue. FCC Chairman Michael Powell has rejected requests from two of his own commission members to delay the vote for more public comment.

Fortunately, even though this issue got relatively little media coverage, the American public has taken action. Progressive and conservative interest groups, artists and 200 communications academics have protested the new rules. Of the 9,000 e-mails the FCC has received on the issue, only 11 supported relaxing the rules. I, along with 100 of my colleagues in Congress, recently wrote to Chairman Powell expressing our opposition to the proposed rules. Unfortunately, the FCC is not listening.

Owners of media outlets are obliged to serve the public interest—not just their own financial interests. Our Founding Fathers created this democracy to give us the right to debate ideas openly and make informed choices. If these changes go into effect, a few huge, powerful corporations could gobble up even more media outlets to control most of the news we get.

Be grateful that today you had the opportunity to read about these proposed changes, supported by the powerful media conglomerates. If they have their way, the next time the FCC decides to change the rules, you may not be informed at all.

Mr. FOSSELLA. Madam Speaker, I want to take a minute to discuss an issue that is very important to many men and women in my district and to the men and women working in the telecommunications industry.

The FCC is preparing for a release of their Triennial Review of the UNE–P and I want to weigh in with my colleagues as to the fundamentals of how the UNE–P pricing model works, or as I see it, doesn't work.

Suppose you, an entrepreneur, go in to manufacture candy bars and you invest significant capital to create this wonderful factory and generate candy bars. You operate for 30 years, during which you must buy new equipment, and maintain that equipment. The bottom line of your costs is say, $.75. You determine to sell them in the retail market for $1. Then you discover that there is a regulatory body empowered by the Congress that regulates candy bars and one of their missions is to promote competition. One day, these regulators come to you and they say, "You know what? We think since you're the largest candy bar manufacturer, you should have a competitor. And we have someone that we want to be your competitor." Then the regulators tell you one way in which they've determined to promote competition is for you to allow this competitor to sell your product from your machinery and buildings at $0.75 or in some cases less than $0.75, so they in turn can resell it in the market for a profit to them, and a loss to your company.

All the money you just spent to build a building which stores the machinery you use to make your product, package your product, distribute you're product, and maintain all of this, is used to provide a product to your competitor for the same price or less of a price that is costs you, only they don't have any risk.

I pose the question to the regulators and my colleagues. What would you do as CEO of this candy bar company, what do you feel is the right thing to do? I see it to be wrong and think the regulators should take steps to mitigate this wrong or change it while they still have a chance.

## GENERAL LEAVE

Mr. SANDERS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order this evening.

The SPEAKER pro tempore (Ms. HARRIS). Is there objection to the request of the gentleman from Vermont?

There was no objection.

☐ 2215

## PRESERVING AND PROTECTING THE ENVIRONMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes.

Mr. BLUMENAUER. Madam Speaker, it is interesting to review the ebb and flow of the political tides, as we have had here this evening, where we here on Capitol Hill deal with the ebb and flow of various political crises, whether it is the struggle against global terrorism, whether it is the battle of the economy, budgets and tax cuts, where the economy is hopefully a short-term problem, where the perversion of tax and budget priorities hopefully is temporary in nature, and it is, after all, within our power to change priorities to adjust tax rates and make infrastructure investments.

There is, Madam Speaker, however, a greater battle, and one over which, if we are not careful, we may not be able to exercise such control. I am speaking, of course, of the struggle to preserve and protect our environment, because we are watching the slow, relentless poisoning of air and water, the destruction of habitat, which puts millions of people at risk on a daily basis and inflicts permanent damage.

The World Health Organization, for example, suggests that water-borne diseases kill at least 3.5 million people every year. That is more than three times as many people who were lost in the World Trade Center, who die every day, 365 days a year. It is within our power, our capacity, to do something about it.

It was my privilege to be in South Africa last fall as the world came together, the largest United Nations conference in history, making commitments to what we were going to do to try and make changes like that to protect the environment. I watched as the United States joined with over 104 other heads of state, 194 countries in all, to make commitments, for instance, that over 1 million people who do not have access to clean drinking water, we would cut that amount in half in the next 15 years.

I think a number of people felt uncomfortable with that, thinking about how many people would be sentenced to unnecessary death and disease, but it was an important goal. But that goal suggests that we are going to provide, even that modest goal, 211,000 people per day, clean drinking water who do not have it, in order to reach that 15-year goal of just cutting it in half. It is an example of these threats that we face to the environment.

I would like to reflect for a few moments this evening about what we are doing dealing with these two great global threats.

We have focused our attention on the greater environment in terms of the atmosphere and our oceans. Fifty years ago space was our proxy in a struggle against communism. Ten years later, we had the Stratton Commission, ushering in a new era for the space under our oceans' surfaces. We have spent billions of dollars trying to penetrate deep space, a somewhat lesser amount dealing with our oceans, while we as a planet continue to affect weather patterns, affect global climate change, global warming and disease.

Madam Speaker, I think it is important for us to be able to focus on what we can do to make a difference in those areas.

I have often on this floor dealt with issues dealing with global warming. The scientific consensus is agreed to, although it is slow in dawning on Members of Congress, and our policies do not yet reflect it. But when you deal with objective members of science, 15 years ago what was a debatable proposition that we were affecting the Earth's climate in cataclysmic ways, now the vast scientific consensus, including the commission that wrote the report from the National Academy of Sciences 2 years ago requested by President Bush, confirms that we now know that global warming and this climate change is a reality; that it is, in all likelihood, a world where our children will inherit a Glacier National Park with no glaciers, indeed, no glaciers at all in the continental United States.

The sudden occurrence of open water at the North Pole for the first time in recorded history is now being followed by evidence of rapid melting of the polar areas, and we face consequences like the extinction of polar bears within our children's lifetime.

But the problems are not just with trophy species and signature landmarks like mountain glaciers. We are changing the envelope, as Professor Holden, Director of the Program on Science and Technology and Public Policy at Harvard University, expresses it, the envelope in which all other environmental conditions and processes operate.

It will be impacting the productivity of our farms, our forests and fisheries, the livability of our cities in summer, and damages from storms, floods and wildfires. People in States like yours, Madam Speaker, are going to be experiencing dramatic changes as sea levels increase, as issues that relate to the Everglades, something we have all come together to try and do something about, become more acute, because of what we are doing to the global climate, the issue of sudden weather events.

Those who follow the news are intrigued, I think, that on a regular basis now there are recordings not just of hurricanes and tornadoes, storm surges and floods, but the descriptions of these items: in Australia this last year, the worst drought; flooding in Morocco, the worst in a third of a century; the severe storms that we have had across the United States, in the Carolinas and the Northeast this last year; 6 inches of rain that fell on Central Park last December, more than double the amount of rain recorded through all the prior winter.

Time and time again we are watching these occurrences that are of catastrophic proportions. And what we are finding from our friends in the scientific community is that this is a small taste of one of the most serious consequences of global warming: that these sudden, unpredictable, disruptive and terrifying events are going to be predictable in terms of their occurrence, and nobody is going to be safe; the disruption of the food supply chain, habitats that are going to be migrating north, shifting patterns of wealth, sustainability, all subjected to more uncertainty.

We are going to have people living in harm's way in flood plains, whether it is in Florida, in Manhattan, in Bangladesh, that is going to test and best the ability of people to adapt. And tragically, it is going to be those people in the poorest areas of the world that are going to pay the highest price, have the greatest difficulty in adapting.

There are things within our power to start making some modest adjustments. I will be working in this next month, hopefully, we will be able to have brought to the floor of this Chamber some modification of flood insurance, something that the gentleman from Nebraska (Mr. BEREUTER) and I have been working on for years, where we have an un-actuarially sound program that subsidizes people to live in areas where God repeatedly shows they are not wanted, putting them in harm's way, concentrating almost 40 percent of our payments to 2 percent of repetitive flood losses.

A simple adjustment is something that will send the right signals to people to modify their behavior, to move out of harm's way, to save money, to save lives, and to start making adjustments before global warming makes that problem even worse.

There are special responsibilities for the United States as both the wealthiest Nation and the largest polluter in terms of greenhouse gasses to step forward and do something about it.

Well, we have been less than totally successful, one must admit. We have walked away from not only the Kyoto Treaty, but any opportunity for the United States to assume leadership by offering an alternative, to step forward if we do not like the treaty, to be able to indicate what we can do to enter into partnership with countries like China and India.

It is not acceptable to just simply say, Well, these people are going to have to step forward and change their lifestyles before we as the richest, most powerful Nation and the biggest polluter, is willing to do anything. Because they are, although massive in population, they are in fact dealing with significant greenhouse gas emissions now. They are on a trajectory, Madam Speaker; if we do not, as a world, work together to be able to reduce them, if they follow the pattern of development of the United States, China and India have the potential in a short period, a few short years, of having a devastating impact on the world's climate. The world cannot sustain the United States, China and India all following this very destructive pattern.

But it is in the area of protection of our oceans that I find some interesting optimism in the midst of some depressing news. We have all witnessed in recent days studies, for example, the Canadian Study in Nature, that talks about what has happened with our fisheries around the world, where we have destroyed 90 percent of the trophy fish since the 1950s, only 10 percent of the populations of tuna, swordfish, marlin and other prize species remain in the ocean; that we have created a dead zone at the mouth of the Mississippi River now, every year, that has grown. When I first came to Congress, it was only the size of Rhode Island. Now, in less than a decade, it is larger than the State of Massachusetts, with devastating impact for the fisheries in the Gulf area.

Time and time again we look at these dangerous signals that are an important wake-up call to those of us who care about the world's environment.

It has been my privilege since I have been in Congress to understand the scope, direction and nature of these threats to our oceans. I have been privileged to work with my colleague, the gentleman from California (Mr. FARR), who was the driving force behind the first Oceans Conference, a gentleman who has been active in creating marine sanctuaries, who has been focusing on the fact that we spend eight times more studying space, which is interesting and has positive aspects, but only one-eighth of that expenditure is spent on our oceans, upon which our climate and our very existence depends; and as the gentleman is fond of pointing out, that a lot of this research that is attributed to NOAA and oceans is actually atmospheric study of the weather.

I am privileged to note that the gentleman from California (Mr. FARR) is with us here this evening for a discussion of how we can focus on opportunities dealing with our oceans.

□ 2230

I am particularly honored that he would join with me in the discussion this evening, because, as he is well aware, in fact his predecessor is Chair of a commission, the Pew Oceans Commission, that is the first comprehensive study of oceans policy of the United States and its global implications in over one-third of a century.

I am honored that the gentleman from California (Mr. FARR) is here. I am privileged to work with the gentleman. I deeply appreciate the gentleman's leadership and insight here in Congress, perhaps one of the strongest, if not the strongest, at least in the House, as it deals with oceans policy and its consequences for our future.

I welcome the opportunity to yield to the gentleman from California (Mr. FARR) for his thoughts and observations.

Mr. FARR. I thank the gentleman for his kind words and for yielding to me. I am delighted to be here.

I think in light of tonight's discussions, which really have wonderful populist appeal about issues of drug sales in America and about the practices of licensing telecommunications in this country, it is also appropriate that we focus a little bit on the politics, the big politics of the oceans, that is, that the meeting of land and water, of the two massive forces on Earth, takes place in coastal zones. Coastal zones are also where most of the people live, that is, where most of the voters are, most of the taxes are raised. That is where we find the most U.S. population, on the coast, which comprises about 17 percent of our entire land mass.

We also find that people are moving to coastal areas faster than any other place. There is an increase of about 3,600 people a day that move to the coastlines.

I think coastlines are also important from an economic standpoint if we think about that is where fishermen make their living, that is where tourism attracts people to swim in the oceans. The largest recreational areas in the United States are the publicly owned beaches of this country.

It is clear that the public takes special interest in our oceans; and as we have learned from our colleagues, even the inland colleagues in inland States, people in their districts think of oceans because they think of them as they consume seafood, and as places they would like to visit on their vacations, to go to the beach.

What do we do in Congress, because we understand that there are real problems with the oceans, not just ours alone but internationally, as well? In a recent report in the journal Nature, it stated that 90 percent of the large predatory fish are gone from the oceans totally, globally, all over the world. Overfishing has led to fishery closures for rockfish on the west coast and groundfish on the east coast.

We find that because we have not really effectively monitored or stopped the toxic pollutants that come in from just runoff, where it rains on the land and that rain runs through agricultural land, it runs through parking lots, it runs through streets; and whatever is on those streets, what they call trace metals and pesticides, ends up going into the rivers and then down into the oceans, therefore affecting marine systems.

Mr. BLUMENAUER. If the gentleman would let me add for one moment on that precise point, the recent study from the National Academy of Sciences estimates that that runoff the gentleman talks about from our driveways, our parking lots and our roads, these oils, solvents that wash into our rivers, estuaries, and oceans are the equivalent of one *Exxon Valdez* every 8 months, almost 11 million gallons of oil and gasoline in the course of a year, an *Exxon Valdez* and a half every year.

Mr. FARR. It is more difficult to trace than the *Exxon Valdez*, which was essentially one spot, a big contamination. These are subtle contaminations. But these contaminations are not just chemicals.

We have a way of transporting nature. Certainly we have learned about that recently with the way to transport virus, with SARS originating in China ending up affecting us in Toronto and other cities around the world.

The San Francisco Bay now has 175 nonnative marine species living in San Francisco Bay brought in by the ships that travel the oceans far and wide. Despite all these indicators that show that the marine ecosystems are unhealthy today, the question is, well, can we save them? Has it gone beyond repair?

The gentleman and I know that we have certainly laws that govern our coastlines and oceans; but those laws, as the gentleman said, are outdated. It is time to focus anew.

Fortunately, Congress has taken action to do that by creating a commission. With a bill that I authored with Senator HOLLINGS in the Senate that President Clinton signed, and it went into effect when President Bush took office, President Bush appointed the commissioners. They are about to finish their work and give us a report sometime this fall.

As the gentleman mentioned, there is a separate commission appointed by the Pew Charitable Trust, which my friend and predecessor here in Congress, Leon Panetta, has been chairing when Christy Todd Whitman, the former Chair, went to work for the Bush administration as head of EPA. So we have both of these commissions coming to Congress with really strong recommendations on how we need to update our Nation's marine policies.

So the body of science, the body of politics, by the fact that the commissioners are from all walks of life that relate to the oceans, from the oil interests to the fishing interests to the museum and science interests, they have all been represented; and they all bring a constituency to the plate that is going to deliver these reports.

June 4, on Wednesday, the privately funded Pew Commission will make its report available to the public. Then sometime later in the year the Commission on Ocean Policy will produce its report.

I anticipate that both commissions will have recommendations that we as Members of Congress, recommendations that, as lawmakers, we can incorporate into legislation and change our ocean policy so that indeed we can have a sustainable ocean policy. I think the gentleman more than most Members, and probably more than anyone, really understands the proportionality of sustainability.

I think that word is used so often as to sort of guarantee success, but it is really one of compromise. Essentially, we do not cut out the economic interests in fishing. We more balance them so they can be sustained over time. It is not just, take it all right now and leave nothing for our children or generations ahead.

The whole idea of how we develop these balancing systems is very controversial, because we do have to regulate people that have never been regulated before, or we have to tell people they cannot fish in certain areas that they have been able to fish in without restrictions.

So this is more what they call an ecosystem-based management. We understand a little bit about ecosystems on land. We do not call them that; we call them zoning. We call them master planning for our communities; essentially, where do we want people to live in houses, where do we want the industrial area to be, where do we want to keep it an open space, where we should not go building because of hazardous conditions such as floodplain zones or earthquake zones and so on.

I think we are getting to a point, and I would love to hear the gentleman's reflection on it, that we really need to master-plan our oceans around these ecosystems and around avoiding conflicts of the sea.

We have seen in California, and Maine as well, where we had, before regulation, people who would make their living setting out crab pots or lobster pots at the same place people were dragging for seismic information for oil companies. They would catch the lines of the lobster pots or crab pots and pull them up, and so destroy the income of one fisherperson for the advantage of someone else who was also interested in a resource from the ocean. That is what I call the conflicts of sea. We just need to make sure we understand what people want to do and how they want to use the ocean, and make the regulations so they can use it wisely.

I would really respect the gentleman's thoughts on those issues, because I think the gentleman has been very involved with the city of Portland. As I remember as a young adult studying in Oregon in undergraduate studies and visiting Portland, it was then, to use a phrase we used at home, a city known by its smell. We used to say that about Monterey because of all the canneries. In Portland, you had all of the wood pulp industries and the Willamette River.

We go to Portland today and it is certainly one of the most beautiful cities in America, and one of the best-managed from a transportation standpoint, from a livability standpoint. As far as aesthetics and trees, it is really an example of what we can do with leadership in providing a turnaround in an area. If we can do that for cities in America, we certainly can do it for oceans and nearby communities, nearshore communities under the sea.

Mr. BLUMENAUER. I think the gentleman is absolutely correct, Madam Speaker, in dealing with the analogy to some of our successes on the land and some of our failures.

Sadly, the Stratton Commission in the late 1960s offered up a vision of how we manage the sea that was more of one of exploitation: how did we extract the bounty of the ocean and not deal with the fragility of resources, the finite nature, the impact of technology and mechanization and of many countries industrializing this extraction, instead of it being a small family enterprise, like happened in the beautiful coastal area that the gentleman represents in California, the fisheries that we have seen in the Southwest, in the Northeast as well; the impact of industrialized fishing, for instance.

We need to look at some of our successes, and understanding that we have to balance interests, that we have to look at competing pressures, that we can work together in a cooperative and thoughtful fashion to be able to make sure that everybody is actually better off.

There are certain areas of our land area, one could think that the way that some people howl about wilderness, we would think that most of the United States is off limits; but as the gentleman and I know, it is only about 5 percent, but it is a critical 5 percent.

Mr. FARR. Even then it is not off limits to people who want to access it on foot rather than by motor vehicle.

Mr. BLUMENAUER. Absolutely. But what the gentleman has done in his own career in terms of dealing with issues of marine sanctuaries and marine reserves, we need to be able to make sure that there are some areas where the sea can rest, the fisheries can be restored, much like we do with farmland, where, in some of the areas where I think people are justly proud, we have been conserving some of our farmland. We are being able to zone and protect it. We are looking at ways to revitalize it, working with scientists and with farmers, with citizens. This is part of what needs to happen.

The gentleman went through some of the list of problems that we are facing, like nonpoint pollution. We have problems with point source pollution, like the massive hog farms that we see in some of our coastal States and along some of our major river systems that dump effluent into our waterways.

He has referenced the issue of invasive species. There are problems of aquaculture. If we are not careful, aquaculture will end up, or if it is not done appropriately, it can produce a great deal of not just pollution, but the potential, for example, where we have had areas where there have been tens of thousands of farm-bred salmon escaping into the ocean.

We have had situations where coastal development, where it is not done in a thoughtful and careful way, severely damages fragile bays and estuaries and river habitat, which are important nesting and breeding grounds. It is where fishing stock is restored. It purifies water. We alter that habitat.

Mr. FARR. We have also shown, though, that where we have degraded that habitat to such a point where all known life forms have failed in those systems, they have gotten so polluted, some of those streams, but with good management techniques we have brought those streams back and made them clean; and they now have vibrant fish life.

The point is, we can turn this around. But when we are dealing with the entire ocean, we just cannot turn that around over time. If we have indeed taken all the large species, commercial species on the planet, it is going to take a long time of not fishing some of those species to allow them, the babies, to grow up to be big adults. Some of these fish live for over 100 years, so it is going to be, some places where we set up these marine reserves, we are going to have to put them off limits for fishing for a long time.

On the other hand, when we do clean up areas and set these reserves, they allow this sort of abundance to return; fish do not know where those boundary lines are. They hang out outside the boundary lines. Then that becomes an opportunity for the commercial activity to be done.

We have in our area a national marine estuary, the largest in California, known as the Elkhorn Slough. Right next to the Elkhorn Slough is one of the largest power plants in California, a Duke Energy gas-fired natural gas plant which used to burn oil and now burns natural gas.

That big industrial complex has worked out a management system with this fragile ecosystem so they can be co-partners in the sustainability of the ecosystem, not one preventing the other from happening.

□ 2245

It is a partnership that has been worked out and is constantly being updated as a sound management practice. Those are the kinds of examples I would like to set because I think so often people hear that if there is a problem, we are just going to shut down somebody or people are going to lose their jobs if we go about this. And I think what the reports are going to say is that this does not have to be a lose-lose or win-lose; it can be a win-win.

Mr. BLUMENAUER. Madam Speaker, I think the gentleman's point is compelling. He has seen examples of cooperative action with fisheries' interests in the State of California. We have seen in the Pacific Northwest, particularly in Alaska, there are some pretty good examples of where these independent fisher-people have been able to work together in a cooperative fashion with the scientists, with government, to be able to make a difference.

The ocean can heal. Fishing stocks can be replenished. We saw what happened to the North Atlantic fishing stocks during World War II. Sadly, it was a war that disrupted the fishing, but the fish nonetheless came back under a combination of thoughtful policies, reducing the catch, managing the resource, having areas that are protected; and the United States controls more surface area of oceans in terms of our zone of influence than any other country in the world. It is a half again larger than the entire surface area of the United States.

It is a tremendous opportunity to strategically allow these species to recover.

Mr. FARR. Let me elaborate a little bit on that. By treaty, we have created the special economic zones, and these economic zones on the oceans go out from the shoreline 200 miles; and why the United States, more than any other country in the world, has larger EEZ is because we have in our territory, in our trust islands in the Pacific, we are all very much aware of Guam and the Hawaiian Islands, but we go through the Marshall Islands and American Samoa, and each one of those islands having a 200-mile radius makes the United States interests in the ocean even greater than any other country in the world.

This is where I think we have to provide leadership in being able to provide these ecosystem-based management plans, and in order to do that, it is going to take an act of Congress. It is going to take new laws in this country.

As we stand here tonight, we are probably at one of the best moments in recent history to be able to have all this scientific knowledge flowing to us. With the release of the Pew report and the commission's report later on this year, Congress will be better informed on what it should do, what it needs to do more than ever before in history.

My hope is that we, in a bipartisan way, because certainly I do not think we need to have partisan fights about it. We had a lot of discussion here sort of on the takings issue on land ownership and whose responsibility it is, whether the government has a right to go onto someone's land to understand what kind of species or wildlife are living on their land. That does not happen in the oceans. The oceans are not owned privately. There are certainly not real estate developments in the ocean, other than oil leases, and those are leases from the Federal Government. So we are the manager.

It seems to me that we, in a collective way, can really provide not only a future for this planet, which breathes from the ocean, and where weather is all initiated in the ocean, but also provide a healthy management system so that our children and grandchildren can enjoy not only the oceans and the bounty of the seas, but also have health and safety, a life of being able to go to beaches that are safe and so on.

This is our responsibility. We are the trustees elected to develop the Federal law, given that trust by our voters and, I think, by the world, by the fact that we have so much of the ocean at stake, to really do sound management; and hopefully, we will take the recommendations of the Pew Foundation and the government commission and put them into law this year. Hopefully, the administration will enthusiastically support those recommendations and help us lobby them through Congress.

Mr. BLUMENAUER. I appreciate the gentleman's observation, and I think he is correct. We can sit here and talk in ominous tones about some of the very negative things that have occurred, and it truly is disturbing, but there is better information, greater awareness.

We have the United States population concentrated in the coastal areas in a way that we have not seen since the founding of the republic.

The gentleman mentioned some of the work of the Pew Oceans Commission. It is not just the report that is coming forth in the next 36 hours, but there are some fantastic science reports that the commission has contracted with a distinguished group of scientists and expects to write reports outlining some of the major threats to coastal and ocean resources, offering recommendations for addressing the threats from the perspective of science, the professionals, to assist their own commissioners in forming this report to help the Bush administration and Congress meet its responsibilities.

I had a chance to review, as I know the gentleman from California (Mr. FARR) has, the materials, Managing Marine Fisheries in the United States; Ecological Effects of Fishing in Marine Ecosystems; Marine Reserves, a powerful tool for ecosystem management and conservation from a professor at Stanford University. They have dealt with, in a realistic way, the best report I have seen, on marine pollution, both accomplishments and future challenges, an area that the gentleman and I have been working on in our own respective spheres of influence now for over 20 years, dealing with coastal sprawl, the impact that urban design has on aquatic ecosystems in our country.

The gentleman has been a champion, I know, in terms of the California Coastal Conservation Commission, the work that he has done as a local county commissioner, as a legislator and here in Congress; and then there is great research on invasive species and the impact of marine aquaculture, looking at the environmental impacts and policy options.

Having these reports available to us to go along with the two commissions, the work here in Congress and, most important, to be able to raise the awareness of the public, he is 200 percent correct. The ocean belongs to us all. No single person owns those rights. It is truly an international problem, but the United States has the greatest leverage. Not only are we the richest Nation, but we have more control over oceans than any other country. It cries out for that sort of cooperative solution.

Mr. FARR. That interesting, cooperative solution is done by, in congratulations to the gentleman as a representative from Oregon, that the Oregon State University, along with the University of California in Santa Cruz, that is in my District; the Long Marine Lab, that is in my District; the Hopkins Marine Lab which is my district; and the University of California at Santa Barbara; and Stanford University are all participating in this consortium known as the Partnership for Interdisciplinary Studies of Coastal Oceans, and in fact, they call themselves PISCO, and I understand they have a Web site. It is a pretty easy one. It is just www.piscoweb.org, and those publications are put up on that Web site as they come out.

Mr. BLUMENAUER. Truly phenomenal resources for individual citizens or policy-makers that want to be able to understand what these challenges are.

The gentleman referenced the outstanding program at Oregon State University. Dr. Jane Lubchenco is one of the members of the Pew Commission who will be with us here in Washington, D.C., this week, not only with the announcement of the Pew Report and with our friend Leon Panetta, the Chair, but will be meeting with men and women here on Capitol Hill.

The approach is simple: Deal with the information that is available to us; change the philosophy from one of exploitation which, sadly, we have not been able for a variety of forces to do something on public lands in this country. Sadly, the Mining Act of 1872 exists virtually identically to the bill that was signed into law by President Ulysses S. Grant 131 years ago. This is an opportunity for us to move past that, changing the philosophy from one of exploitation to one of conservation and protection.

To be able to reduce the pressures on fisheries and environment, these are things that are within our power. We do not have to wait. What just happened in Canada where the cod fisheries collapsed and they had to stop all fishing because it got to the point where they had verged on destroying the species. It does not have to get to that point.

Being able to focus on protection of coastal areas, and in many cases what we need to do to protect those estuaries, those rivers, those beach fronts are exactly the same thing that our communities are crying out for to protect against sprawl, congestion, bad air and loss of open space. So we will be able to satisfy the needs of the ocean by listening to our constituents right now.

Being able to make the marine sanctuaries, which really are not sanctuaries, transform them into real reserves and connect them in a system so that the fish can migrate from one to another, and as the gentleman mentioned a moment ago, very important, the fish do not recognize the boundaries. So, in effect, we will be reseeding the oceans.

Finally, a commitment of the United States to international leadership. Maybe we can start by ratifying the convention of the oceans.

Mr. FARR. Treaty of the seas, law of the seas, something our Navy is very interested in having ratified. The Senate failed to do that many years ago. I have suggested that the Senate ought to revisit that, particularly with the Navy's interest in it, and hopefully we can get it ratified so that we can be a partner with all the other coastal nations around the world.

Mr. BLUMENAUER. Could the gentleman comment on the significance of our failure to have ratified this 210 years ago?

Mr. FARR. I think what happens now, according to a spokesperson for the Navy that I talked to several years ago, was that we have dozens of Navy research vessels which are owned and operated by the Navy, but the operators are mostly contract marine scientists, marine biologists who go out and do the deep ocean exploration and near shore exploration. When we go into these economic zones of other countries we have to go there with their permission. These are military vessels, and without signing a law of the sea, we have no protocols for, if a country decides, well, we think you are spying on us or we think we do not like the work you are doing or you are not sharing it with us enough.

There are always efforts to do that, but nonetheless, if there is a problem, we have no way of getting out of the problem because we are not a signatory to the treaty which lays out a protocol for what we can and cannot do with these research vessels, and that, if indeed there is a question, how we can resolve those disputes.

So we could conceivably get into a military situation because of a seizing of one of our research vessels which has nothing but scientists aboard, and that should be avoided. We need to sign the law treaty as soon as possible.

Mr. BLUMENAUER. I appreciate that explanation and the gentleman's continued leadership. As one of the cochairs of the coastal caucus.

Mr. FARR. The Oceans Caucus.

Mr. BLUMENAUER. The Oceans Caucus.

Mr. FARR. Quite all right. Coastal caucus is just as well.

Mr. BLUMENAUER. It was some of my colleagues, particularly providing coastal leadership, I get confused. I apologize, but bringing this to the forefront. I appreciate the gentleman's career-long commitment to being able to protect these treasures.

Mr. FARR. Let me say something. I think that before our lifetimes are over we are going to see the ability to rent a vehicle where a person can drive under the sea. They can drive in the sea.

□ 2300

And that will really open up this massive amount of territory on this planet to people who have never been able to see it before.

The technology of getting people down in the water is merging at a very fast rate. Remember, it is much more difficult to go deep than it is to go high. When you go into outerspace, you are just going from zero atmospheric pressure, from 14 pounds atmospheric pressure to zero. When you are going down, it gets harder and harder. And as you have seen, when these researchers have put a little Styrofoam coffee cup with your name on it and put it out in those research vessels, it comes back literally the size of a thimble. That is what the pressure is. So it is much more difficult to get down into the ocean. But they are developing technology where you can go down to 4,000 feet in civilian clothes without a lot of training to essentially allow people who are not scientists to be able to get access to the oceans.

We need underwater artists, we need poets, we need music writers, we need the rest of society to be able to explore the oceans, as well as our marine scientists; and so I thank the gentleman for his leadership in scheduling this Special Order tonight and for inviting me to speak.

Mr. BLUMENAUER. Madam Speaker, I was going to give the gentleman one last word, if I might, because the gentleman wears another hat here in Congress. Well, actually he wears a number of them, but one I know he has spent a lot of time on is the Travel and Tourism Caucus. The gentleman cochairs this with the gentleman from Florida (Mr. FOLEY), and the two of you have a commitment, in part I think because your two States have economies that are dramatically impacted by tourism, and I wondered if the gentleman wanted to just make one brief comment about the connection. I know it sounds a little crass, but we are suffering some difficult economic times now.

Mr. FARR. What is interesting about tourism is, why do people go into the outdoors? It is really to experience the outdoors. And how is that? It is not just the beautiful shapes of mountains and trees and natural forms; it is also the wildlife.

We were able to successfully recover a sea otter herd. The sea otter was thought to be extinct. In the late 1940s and early 1950s, a marine scientist discovered them off Big Sur, kept them a secret, because there were no laws in place to protect them; but now that they have been protected by Federal law, the sea otter population has come back. It has, unfortunately, had some setbacks this year with disease, and perhaps with too many boats in the habitat; but that sea otter population on the California coastline is now a multimillion dollar industry, watching sea otters. And who makes money off of that? Certainly they do not. But people who make T-shirts, who make mugs, who make jewelry, who take photographs, who provide boat trips, who do interpretive studies.

The point is that the wildlife can be one of our most viable economic industries if we manage it well. And that is what this is all about; it is trying to have a planet. Here we are discussing so much of how do the people on this globe get along, but the people cannot survive on this globe without nature getting along and at least us understanding how not to just take from nature but also to give back and to manage appropriately so that we can have sustainable oceans, sustainable lands, and hopefully sustainable populations of people that will get along living in peace and being able to enjoy this planet. I think that is what this is all about.

Mr. BLUMENAUER. Madam Speaker, I appreciate the gentleman's eloquence. I think that says it all.

Madam Speaker, I appreciate the opportunity to spend a few minutes focusing on what is going to be a big week here on Capitol Hill, focusing on this unique opportunity to deal with the attention that it deserves to protect our oceans, to be able to bring people together across the country, different philosophies, different geographies, different political parties to understand the opportunities to protect our quality of life. By doing the things we need to do on the land and in terms of our habits under the sea, we can restore the vibrance of our fisheries, and we can protect the quality of the tourist experience. We can have the regenerative power of these waterways, and we can make sure that we flex some of our problem-solving muscles that can help us in the international arena and here at home on larger issues of war and peace and climate change.

So I appreciate the opportunity to share this information this evening.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of official business in the district.

Ms. KILPATRICK (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. LARSON of Connecticut (at the request of Ms. PELOSI) for today and the balance of the week on account of family illness.

Mr. McNULTY (at the request of Ms. PELOSI) for today and until 4:00 p.m. June 3 on account of personal reasons.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. REYES (at the request of Ms. PELOSI) for today on account of official business.

Mr. SMITH of Washington (at the request of Ms. PELOSI) for today and the balance of the week on account of personal matters.

Mr. BEREUTER (at the request of Mr. DeLAY) for today on account of official business.

Mr. RYAN of Wisconsin (at the request of Mr. DeLAY) for today on account of the birth of Charles Wilson Ryan on May 30, 2003.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMANUEL) to revise and extend their remarks and include extraneous material:)

Ms. DeLAURO, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DeFAZIO, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. McDERMOTT, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. WELLER, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, June 3, 4, and 5.

Mr. SIMMONS, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. WATSON, for 5 minutes, today.

## SENATE BILLS REFERRED

Bills and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 858. An act to extend the Abraham Lincoln Bicentennial Commission, and for other purposes, to the Committee on Government Reform.

S. 878. An act to authorize an additional permanent judgeship in the district of Idaho, and for other purposes; to the Committee on the Judiciary.

S. Con. Res. 7. Concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences; to the Committee on International relations.

S. Con. Res. 43. Concurrent resolution expressing the sense of Congress that Congress should participate in and support activities to provide decent homes for the people of the United States; to the Committee on Financial Services.

## ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2. An act to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

H.R. 2185. An act to extend the Temporary Extended Unemployment Compensation Act of 2002.

H.J. Res. 51. Joint resolution increasing the statutory limit on the public debt.

## BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on May 23, 2003 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 51. Increasing the statutory limit on the public debt.

H.R. 2. To provide the reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

H.R. 1298. To provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

H.R. 2185. To extend the Temporary Extended Unemployment Compensation Act of 2002.

## ADJOURNMENT

Mr. BLUMENAUER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 3, 2003, at 10:30 a.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2367. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2368. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule—Bioenergy Program (RIN: 0560–AG84) received May 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2369. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Capital Adequacy (RIN: 3052–AC05) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2370. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 00–02, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2371. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 01–03, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2372. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Robert W. Noonan Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2373. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement Vice Admiral Toney M. Bucchi, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2374. A letter from the Under Secretary, Department of Defense, transmitting a report on the retirement of Lieutenant General Peter M. Cuviello, United States Army, and his advancement to the grade of lieutenant general on the retired list, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2375. A letter from the Under Secretary, Department of Defense, transmitting a report on the retirement of General Lester L. Lyles, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

2376. A letter from the Assistant General Counsel, Banking and Finance, Department of the Treasury, transmitting the Department's final rule—Terrorism Risk Insurance Program (RIN: 1505–AA98) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2377. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule—Financial Crimes Enforcement Network; Delegation of Enforcement Authority Regarding the Foreign Bank Account Report Requirements (RIN: 1506–AA45) received May 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2378. A letter from the Legislative and Regulatory Activities Division, Department of the Treasury, transmitting the Department's final rule—Electronic Filings [Docket No. 03–06] (RIN: 1557–AC13) April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2379. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Requirements for Insurance—received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2380. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Organization and Operations of Federal Credit Unions received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2381. A letter from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting the Commission's final rule—Improper Influence on Conduct of Audits [Release Nos. 34–47890; IC–26050; FR–71; File No. S7–39–2] (RIN: 3235–AI67) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2382. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedules of Controlled Substances: Temporary Placement of alph-methyltryptamine and 5-methoxy-N, N-diisopropyltryptamine into Schedule I [Docket No. DEA–238F] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2383. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedules of Controlled Substances: Temporary Placement of Benzylpiperazine and Trifluoromethylphenylpiperazine Into Schedule I [DEA–226F] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2384. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedules of Controlled Substances: Rescheduling of Buprenorphine From Schedule V to Schedule III [DEA–225F] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2385. A letter from the Chief Counsel, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Dispensing of Controlled Substances to Assist Suicide [AG Order No: 2534–2001] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2386. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedules of Controlled Substances: Excluded Veterinary Anabolic Steroid Implant Products [DEA–2301] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2387. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedules of Controlled Substances: Exempt Anabolic Steroid Products [DEA–2361] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2388. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Substance Abuse and Mental Health Services Administration Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction: Addition of Buprenorphine and Buprenorphine Combination to List of Approved Opioid Treatment Medications (RIN: 0910–AA52) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2389. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table (RIN: 0906–AA55) received May 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2390. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Service of Process: Amendment for Materials Related to Petitions Under the National Vaccine Injury Compensation Program—received May 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2391. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Tobacco Regulation and Maintenance of effort Reporting Requirements for Substance Abuse Prevention and Treatment Block Grant Applications—received May 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2392. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's final report entitled, “The Future Supply of Long-Term Care Workers In Relation To The Aging Baby Boom Generation”; to the Committee on Energy and Commerce.

2393. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedules of Controlled Substances: Temporary Placement of 2,5-dimethoxy-4-(n)—propylthiophenethylamine Into Schedule I [DEA–225F] received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2394. A letter from the Senior Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule—Reporting of Information and Documents About Potential Defects; Defect and Noncompliance Reports [Docket No. NHTSA 2001–8677; Notice 4] (RIN: 2127–AI92) received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2395. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United Arab Emirates and Canada [Transmittal No. DDTC 031–03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2396. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the Republic of Korea [Transmittal No. DDTC 033–03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2397. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Mexico [Transmittal No. DDTC 025–03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2398. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Poland [Transmittal No. DDTC 017–03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2399. A letter from the Acting Chief Counsel, Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Iraqi Sanctions Regulations; Authorizations of Non-Commercial Funds Transfers and Related Transactions, Activities by the U.S. Government and its Contractors or Grantees, Privately Financed Humanitarian Transactions, and Certain Exports and Reexports to Iraq received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2400. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting the Corporation's draft legislation entitled, "Overseas Private Investment Corporation Amendments Act of 2003"; to the Committee on International Relations.

2401. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the semiannual report on the activities of the Office of Inspector General for October 1, 2002 to March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2402. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation—received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2403. A letter from the Human Resource Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2404. A letter from the Auditor, District of Columbia, transmitting a report entitled, "$1 Million Lease and Proposed $12.5 Million Purchase of 4800 Addison Road: An Example of Misfeasance and Malfeasance"; to the Committee on Government Reform.

2405. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Procurements for Defense Against or Recovery from Terrorism or Nuclear, Biological, Chemical or Radiological Attack [FAC 2001–12; FAR Case 2002–026] (RIN: 9000–AJ54) received February 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2406. A letter from the Special Counsel, Office of Special Counsel, transmitting the Annual Report of the Office of Special Counsel for Fiscal Year 2002, pursuant to 5 U.S.C. 1211; to the Committee on Government Reform.

2407. A letter from the Special Counsel, Office of Special Counsel, transmitting the updated Annual Report of the Office of Special Counsel for Fiscal Year 2002, pursuant to 5 U.S.C. 1211; to the Committee on Government Reform.

2408. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Revisions to Definition of Length Overall of a Vessel; Correction [Docket No. 030414085–3085–01; I.D. 012601B] (RIN: 0648–AR04) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2409. A letter from the Undersecretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting notification that funding under title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, has exceeded $5 million as a result of the record/near record snowstorms, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

2410. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulfport Channel, Gulfport Mississippi [COTP Mobile–02–023] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2411. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zones; Captain of the Port Chicago Zone [CGD09–03–203] (RIN: 1626–AA00) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2412. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulfport, Mississippi, Pascagoula, MS, and Mobile, AL [COTP Mobile–02–020] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2413. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–082] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2414. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–083] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2415. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–084] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2416. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–085] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2417. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–086] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2418. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–088] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2419. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia [CGD05–02–089] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2420. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05–02–094] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2421. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05–02–104] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2422. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone, Elizabeth River, Portsmouth, Virginia [CGD05–02–096] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2423. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Norfolk Harbor Entrance Reach Channel, Chesapeake Bay, Hampton Roads, VA [CGD05-02-105] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2424. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Jacinto River, Houston, TX [COTP Houston-Galveston-02-020] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2425. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Jacinto River, Houston, Texas [COTP Houston-Galveston-02-021] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2426. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Jacinto River, Houston, TX [COTP Houston-Galveston-02-022] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2427. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Jacinto River, Houston, TX [COTP Houston-Galveston-02-023] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2428. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Jacksonville, FL [COTP Jacksonville 02-149] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2429. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Jacksonville, FL [COTP Jacksonville 02-150] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2430. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Naval Air Station Jacksonville, Jacksonville, FL [COTP Jacksonville 02-129] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2431. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulf Intracoastal Waterway, Mile 98.0 to 99.0, Berwick, LA [COTP Morgan City-02-008] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2432. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulf Intracoastal Waterway, Mile 173.0 to 175.0, Forked Island LA [COTP Morgan City-02-010] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2433. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulf Intracoastal Waterway, Mile 86.0 to 88.0, and the Morgan City Port Allen Landside Route Mile 0.0 to Mile 1.0, Amelia, LA [COTP Morgan City-02-009] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2434. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, Missouri [COTP Paducah, KY 02-011] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2435. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, Missouri [COTP Paducah, KY 02-012] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2436. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, Missouri [COTP Paducah, KY 02-013] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2437. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulfport, Mississippi [COTP Mobile-02-021] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2438. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Pascagoula River, Pascagoula, Mississippi [COTP Mobile-02-018] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2439. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River Mile Marker 0.4 to Mile Marker 0.8, Pittsburgh, Pennsylvania [COTP Pittsburgh-02-026] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2440. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Miami, FL [COTP Miami 02-152] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2441. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Miami River, Miami, FL [COTP Miami 02-114] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2442. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Bay Front Park New Years Fireworks, Miami Beach, FL [COTP Miami 02-138] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2443. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Boca Boat Parade, New River, Fort Lauderdale, FL [COTP Miami 02-137] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2444. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Waters Adjacent to National City Marine Terminal, San Diego, CA [COTP San Diego 02-025] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2445. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Waters Adjacent to National City Marine Terminal, San Diego, CA [COTP San Diego 02-027] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2446. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations, M/V WESTWOOD RAINIER Listing, West Waterway Duwamish River, Elliott Bay, WA [CGD13-02-017] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2447. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations, M/V WESTWOOD RAINIER Listing, West Waterway Duwamish River, Elliott Bay, WA [CGD13-02-012] (RIN: 2115-AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2448. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Raccoon Creek, NJ [CGD05-02-065] (RIN: 1625-AA09) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2449. A letter from the Assistant Secretary of Labor, Department of Labor, transmitting the Department's final rule—Disaster Unemployment Assistance Program (RIN: 1205-AB31) received April 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2450. A letter from the Assistant Chief Counsel, Maritime Administration, Department of Transportation, transmitting the Department's final rule—Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels (RIN: 2133–AB49) received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2451. A letter from the Regulations Officer, FMCSA, Department of Transportation, transmitting the Department's final rule—Limitations on the Issuance of Commercial Driver's Licenses with a Hazardous Materials Endorsement [Docket No. FMCSA-2001-11117] (RIN: 2126–AA70) received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2452. A letter from the Regulations Officer, FHWA, Department of Transportation, transmitting the Department's final rule—Indian Reservation Roads Bridge Program [FHWA Docket No. FHWA-98-4743] ((RIN: 2125–AE57) received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2453. A letter from the Regulations Officer, FHWA, Department of Transportation, transmitting the Department's final rule—Railroad-Highway Projects [FHWA Docket No. FHWA-97-2681] (FHWA RIN: 2125–AD86) received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2454. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Various Surplus Military Airplanes Manufactured by Consolidated, Consolidated Vultee, and Convair [Docket No. 2003-NM-23–AD; Amendment 39-13126; AD 2003-08-13] (RIN: 2120–AA64) received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2455. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30366; Amdt. No. 3056] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2456. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures: Miscellaneous Amendments [Docket No. 30365; Amdt. No. 3055] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2457. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Learjet Model 45 Airplanes [Docket No. 2003-NM-88-AD; Amendment 39-13121; AD 2003-06-51] (RIN: 2120-AA64) received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2458. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Angel Fire Airport, Angel Fire, NM [Airspace Docket No. 2001–ASW–13] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2459. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E suface area airspace; and modification of Class D airspace; Topeka, Forbes Field, KS [Docket No. FAA–2002-14348; Airspace Docket No. 03–ACE–5] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2460. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E surface area airspace; and modification of Class D airspace; Topeka, Forbes Field, KS [Docket No. FAA-2002–14348; Airspace Docket No. 03–ACE–5] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2461. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace, Rome, NY [Docket No. FAA–2003–14735; Airspace Docket No. 03–AEA–02] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2462. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace at Richfield Municipal Airport, Richfield, UT [Airspace Docket No. FAA–01–ANM–16] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2463. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30364; Amdt. No. 3054] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2464. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30363; Amdt. No. 3053] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2465. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Allegheny River Mile Marker 0.6 to Mile Marker 0.9, Pittsburgh, Pennsylvania [COTP Pittsburgh–02-027] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2466. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Ankeny, IA [Docket No. FAA-2003-14428; Airspace Docket No. 03–ACE–8] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2467. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Greater Miami New Years Fireworks, Miami Beach, FL [COTP Miami 02-139] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2468. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Clarinda, IA [Docket No. FAA-2003-14459; Airspace Docket No. 03–ACE–12] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2469. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Larned, KS [Docket No. FAA–2003-14458; Airspace Docket No. 03–ACE–11] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2470. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Herington, KS [Docket No. FAA–2003-14457; Airspace Docket No. 03–ACE–10] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2471. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; and modification of Class E Airspace; Topeka, Philip Billard Municipal Airport, KS [Docket No. FAA–2003-14347; Airspace Docket No. 03–ACE–4] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2472. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Ames, IA [Docket No. FAA–2003–14427; Airspace Docket No. 03–ACE–7] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2473. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Lebanon, MO [Airspace Docket No. 03–ACE–6] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2474. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airpace; Cherokee, IA [Docket No. FAA–2003-14429; Airspace Docket No. 03–ACE–9] received May 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2475. A letter from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule—Final Rule; Notice of Information Collection Approval [Docket No. RSPA-02-12064 (HM–232)] (RIN: 2137–AD67) received May 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2476. A letter from the Director, Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Schedule for Rating Disabilities: Evaluation of Tinnitus (RIN: 2900–AK86) received May 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2477. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2003 Rates; Correction [CMS–1203–CN] (RIN: 0938–AL23) received May 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2478. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Independent Business Purpose (Rev. Rul. 2003–52) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2479. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2002–73) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2480. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Independent Business Purpose (Rev. Rul. 2003–55) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2481. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2003–14] received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2482. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Medical, dental, etc., expenses (Rev. Rul. 2003–57) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2483. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Earned Income Credit and Tribal Child Placements [Notice 2003–28] received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2484. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2485. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability (Rev. Proc. 2003–38) received May 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2486. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report on state payment limitations for medicare cost-sharing, pursuant to Public Law 106–554, section 125 (114 Stat. 2763A–479); jointly to the Committees on Ways and Means and Energy and Commerce.

2487. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, "Toward a Bundled Outpatient Medicare End Stage Renal Disease Prospective Payment System," pursuant to Public Law 106–554, section 422(c)(2) (114 Stat. 2763A–517); jointly to the Committees on Ways and Means and Energy and Commerce.

2488. A letter from the Secretary, Department of Health and Human Services, transmitting the Evaluation of the Community Nursing Organization Demonstration Final Report; jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Omitted from the Record of May 22, 2003]*

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 21. A bill to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes; with an amendment (Rept. 108–51 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 193. Resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003 (Rept. 108–130). Referred to the House Calendar.

*[Submitted on June 2, 2003]*

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 361. A bill to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; with an amendment (Rept. 108–24, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Joint Resolution 4. Resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States (Rept. 108–131). Referred to the House Calendar.

Mr. OXLEY: Committee on Financial Services. H.R. 1474. A bill to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes; with an amendment (Rept. 108–132). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 1474. A bill to facilitate check trucation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes; with an amendment (Rept. 108–132). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 2143. A bill to prevent the use of certain bank instruments for lawful Internet gambling, and for other purposes; with an amendment (Rept. 108–133). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 1082. A bill to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse" (Rept. 108–134). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building" (Rept. 108–135). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 255. Resolution providing for consideration of the joint resolution (H.J. Res. 4) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States (Rept. 108–136). Referred to the House Calendar.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Government Reform discharged from further consideration. H.R. 658 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Transportation and Infrastructure discharged from further consideration. H.R. 1346 referred to the Committee of the Whole House on the State of the Union.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

*[The following action occurred May 23, 2003]*

H.R. 1562. Referral to the Committee on Ways and Means extended for a period ending not later than June 13, 2003.

*[Submitted June 2, 2003]*

H.R. 180. Referral to the Committee on the Budget extended for a period ending not later than July 25, 2003.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MANZULLO (for himself and Mr. BLUMENAUER):

H.R. 2282. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BLACKBURN (for herself, Mr. NORWOOD, and Mr. KING of Iowa):

H.R. 2283. A bill to provide for the creation of an additional category of laborers or mechanics known as helpers under the Davis-Bacon Act; to the Committee on Education and the Workforce.

By Ms. LEE (for herself, Mr. BROWN of Ohio, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. KENNEDY of Rhode Island, Mrs. JONES of Ohio, Mr. GEORGE MILLER of California, Mr. PAYNE, Mr. GUTIERREZ, Mr. RODRIGUEZ, Mr. MARKEY, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Mr. FROST, Ms. KAPTUR, Ms. WOOLSEY, Mr. FATTAH, Mr. NADLER, Mr. MCGOVERN, Mr. RUSH, Ms. SCHAKOWSKY, and Mr. MENENDEZ):

H.R. 2284. A bill to amend the Elementary and Secondary Education Act of 1965 to direct the Secretary of Education to make grants to States for assistance in hiring additional school-based mental health and student service providers; to the Committee on Education and the Workforce.

By Mr. SIMPSON (for himself, Mr. BEAUPREZ, Mr. SMITH of New Jersey, Mr. EVANS, Mr. BROWN of South Carolina, Mr. MICHAUD, and Mr. BUYER):

H.R. 2285. A bill to amend title 38, United States Code, to require the Secretary of

Labor to provide staffing at military installations overseas to carry out employment counseling under the Transition Assistance Program for persons separating from active duty in the Armed Forces; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself, Ms. DeLauro, Mr. Michaud, Mr. Hoyer, Mr. Davis of Alabama, Mr. Moran of Virginia, and Mr. Strickland):

H.R. 2286. A bill to amend the Internal Revenue Code of 1986 to increase partial refundability of the child tax credit, to provide that pay received by members of the Armed Forces while serving in Iraq or other combat zones will be taken into account in determining eligibility for partial refundability of the child tax credit, to accelerate marriage penalty relief in the earned income tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mr. Evans, Mr. Upton, Mr. Frost, Mr. Hostettler, Mr. Turner of Texas, Mr. Souder, Mr. Kildee, Ms. Jackson-Lee of Texas, and Mr. Ney):

H.R. 2287. A bill to amend title 37, United States Code, to remove the prohibition on the ability of qualified dental officers in the uniformed services to receive additional special pay while undergoing dental internship or residency training; to the Committee on Armed Services.

By Mr. ANDREWS:

H.R. 2288. A bill to amend title XIX of the Social Security Act to require the prorating of Medicaid beneficiary contributions in the case of partial coverage of nursing facility services during a month; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 2289. A bill to authorize the Secretary of Transportation to make grants for projects to construct fences or other barriers to prevent public access to tracks and other hazards of fixed guideway systems in residential areas; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 2290. A bill to amend title II of the Social Security Act to provide monthly benefits for certain uninsured children living without parents; to the Committee on Ways and Means.

By Ms. DeLAURO (for herself, Mr. Jefferson, Mr. Thompson of Mississippi, Mr. Serrano, Mr. Holden, Mr. Hinchey, Ms. Linda T. Sánchez of California, Mr. Grijalva, Mr. Payne, Mr. Kildee, Mr. Etheridge, Mr. McGovern, Ms. Corrine Brown of Florida, Mrs. Maloney, Mr. Acevedo-Vilá, Mrs. Lowey, Ms. Norton, Mrs. Davis of California, Ms. Solis, Ms. Millender-McDonald, Mr. Filner, Mr. Conyers, Mr. Frank of Massachusetts, Mr. Olver, Mr. Shimkus, Mr. Ryan of Ohio, Mr. Hastings of Florida, Mr. Rush, Ms. Woolsey, Mr. Meehan, Ms. Waters, Mr. Pallone, Mr. Ford, Mr. Berry, Mr. Brady of Pennsylvania, Ms. Lee, Mr. Engel, Mr. Davis of Illinois, Mr. Nadler, Ms. Slaughter, Mr. Owens, and Mr. Clay):

H.R. 2291. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Education and the Workforce.

By Mr. GILCHREST:

H.R. 2292. A bill to amend the Public Health Service Act to establish a program for promoting good health, disease prevention, and wellness and for the prevention of secondary conditions for persons with disabilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SAM JOHNSON of Texas:

H.R. 2293. A bill to amend the National Labor Relations Act to prevent government agencies from requiring or prohibiting employers in the construction industry to enter into agreements with labor organizations; to the Committee on Education and the Workforce.

By Mr. MICHAUD (for himself and Mr. Evans):

H.R. 2294. A bill to amend title 38, United States Code, to delay the termination of the Veterans' Advisory Committee on Education, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. OLVER (for himself, Mr. Meehan, Mr. Towns, Mr. Markey, Mr. Lynch, Ms. Norton, Mr. Frost, Mr. Frank of Massachusetts, Mr. Capuano, Mr. Hinchey, Mr. Serrano, and Mr. Kildee):

H.R. 2295. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mr. Bereuter, Mr. Terry, Mr. Castle, Mr. Baker, Mr. McCotter, Mr. Miller of Florida, Mr. Hayworth, Mr. Kennedy of Minnesota, Mr. Walsh, Mr. Foley, Mrs. Biggert, Mr. Duncan, Ms. Ginny Brown-Waite of Florida, and Mr. Putnam):

H.R. 2296. A bill to prohibit the use of Federal funds for certain amenities and personal comforts in the Federal prison system; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. Evans, Mr. Brown of South Carolina, and Mr. Michaud):

H.R. 2297. A bill to amend title 38, United States Code, to modify and improve certain benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. VELÁZQUEZ:

H.R. 2298. A bill to amend section 3 of the Housing and Urban Development Act of 1968 to ensure improved access to employment opportunities for low-income people; to the Committee on Financial Services.

By Ms. WOOLSEY (for herself, Mr. McGovern, Mr. Kucinich, Mr. McDermott, Ms. Lee, Ms. Schakowsky, Mr. George Miller of California, Mr. Owens, and Mr. Gonzalez):

H.R. 2299. A bill to authorize assistance through eligible nongovernmental organizations to remove and dispose of unexploded ordnance in agriculturally-valuable lands in developing countries; to the Committee on International Relations.

By Ms. WOOLSEY (for herself, Ms. Corrine Brown of Florida, Mr. Hinchey, Ms. Norton, Mr. Frost, Mrs. McCarthy of New York, Ms. Millender-McDonald, Mr. Brown of Ohio, Ms. Jackson-Lee of Texas, and Ms. Slaughter):

H.R. 2300. A bill to amend part D of title IV of the Social Security Act to improve the collection of child support arrears in interstate cases; to the Committee on Ways and Means.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

49. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 31 memorializing the United States Congress to maintain Title IX, the Patsy Takemoto Mink Equal Opportunity in Education Act; to the Committee on Education and the Workforce.

50. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 208 memorializing the United States Congress to recognize the meritorious aspects and the successes of the Head Start program; to the Committee on Education and the Workforce.

51. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 28 memorializing the United States Congress to fully fund the Millennium Challenge Account to enable poor and hungry people around the globe to become self-reliant; to the Committee on International Relations.

52. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 33 memorializing the United States Congress to fully fund the Millennium Challenge Account to enable poor and hungry people around the globe become self-reliant; to the Committee on International Relations.

53. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 34 memorializing the United States Congress to support a ban on the global gag rule; to the Committee on International Relations.

54. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 10 memorializing the United States Congress to recognize the political relationship between the United States government and the indigenous Hawaiian people in a similar manner afforded to Native Americans and Alaska natives; to the Committee on Resources.

55. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 21 memorializing the United States Congress that actions recently taken by the federal government pose a threat to the human rights, civil liberties, and constitutional protections of the residents of this State, and run the very serious risk of destroying freedom, security, and prosperity in a misguided attempt to save them; to the Committee on the Judiciary.

56. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 121 memorializing the United States Congress to limit the appellate jurisdiction of the federal courts regarding the recitation of the Pledge of Allegiance in public schools; to the Committee on the Judiciary.

57. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 75 memorializing the United States Congress to support the passage of S. 68 to improve benefits for certain Filipino veterans of World War II; to the Committee on Veterans' Affairs.

58. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 6 memorializing the United States Congress to repeal the provisions of the Internal Revenue Code which provide the taxation of Social Security income; to the Committee on Ways and Means.

59. Also, a memorial of the Legislature of the State of Louisiana, relative to House

Concurrent Resolution No. 39 memorializing the United States Congress to review and consider eliminating the GPO and WEP social security benefit reductions; to the Committee on Ways and Means.

60. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 59 memorializing the United States Congress to demonstrate our nation's commitment to human rights by ratifying the Convention on the Elimination of All Forms of Discrimination Against Women; jointly to the Committees on International Relations and Energy and Commerce.

61. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 208 memorializing the United States Congress that the Bush Administration and the United States Congress are requested to appropriate financial impact assistance for health, education, and other social services for Hawaii's Freely Associated States Citizens; jointly to the Committees on Agriculture, Financial Services, Ways and Means, and Energy and Commerce.

62. Also, a memorial of the Legislature of the State of Hawaii, relative to House Resolution No. 176 memorializing the United States Congress to take specific actions to help the airlines serving the State in the event of a war; jointly to the Committees on Transportation and Infrastructure, Energy and Commerce, Ways and Means, the Judiciary, and Agriculture.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. BEAUPREZ and Mr. HENSARLING.

H.R. 58: Mr. JONES of North Carolina, Mr. SHERMAN, Ms. KILPATRICK, Mr. ENGEL, and Mr. WILSON of South Carolina.

H.R. 168: Mr. BROWN of Ohio.

H.R. 193: Mr. ENGLISH.

H.R. 195: Mr. MCCOTTER.

H.R. 196: Mr. FORD.

H.R. 199: Mr. CRAMER.

H.R. 218: Mr. LEVIN and Mr. JANKLOW.

H.R. 303: Mr. MATHESON, Mr. DUNCAN, Mr. SHERWOOD, and Mrs. JOHNSON of Connecticut.

H.R. 348: Mr. BLUMENAUER.

H.R. 361: Mr. CONYERS.

H.R. 369: Mr. GILLMOR and Mr. GORDON.

H.R. 401: Mr. OTTER, Mr. COLE, Mr. JOHNSON of Illinois, and Mrs. KELLY.

H.R. 442: Mrs. WILSON of New Mexico.

H.R. 463: Mr. BLUMENAUER.

H.R. 466: Ms. KILPATRICK, Mr. SOUDER, and Mr. DOOLITTLE.

H.R. 502: Mr. BURR and Mr. BILIRAKIS.

H.R. 528: Mr. RANGEL.

H.R. 533: Mr. KILDEE.

H.R. 584: Mr. BURGESS and Ms. KAPTUR.

H.R. 623: Mr. GUTIERREZ.

H.R. 685: Ms. VELÁZQUEZ, Ms. MILLENDER-MCDONALD, and Ms. MAJETTE.

H.R. 713: Mr. PRICE of North Carolina.

H.R. 737: Mr. HOLT.

H.R. 738: Mr. ALLEN and Mr. CLAY.

H.R. 745: Mr. LARSON of Connecticut, Mr. LEWIS of Georgia, Mr. MURTHA, Mr. SMITH of Washington, Mr. OLVER, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, and Mr. DICKS.

H.R. 759: Mr. TOOMEY and Mr. BURGESS.

H.R. 771: Mr. BURGESS.

H.R. 785: Mrs. DAVIS of California, Ms. DELAURO, and Mr. HOSTETTLER.

H.R. 786: Mr. BALLENGER.

H.R. 800: Mr. FEENEY.

H.R. 813: Ms. MCCOLLUM, Mr. KIND, and Mr. HOLT.

H.R. 816: Mr. HINOJOSA.

H.R. 817: Ms. KILPATRICK.

H.R. 819: Mr. ORTIZ.

H.R. 844: Mr. ROSS and Mr. NADLER.

H.R. 870: Mr. LAMPSON.

H.R. 879: Mr. FOLEY, Mr. GORDON, and Mr. BURGESS.

H.R. 880: Mr. DELAHUNT.

H.R. 886: Mr. KILDEE.

H.R. 898: Mr. COLE.

H.R. 935: Mr. LEWIS of Georgia, Mrs. JONES of Ohio, and Mr. BELL.

H.R. 965: Ms. VELÁZQUEZ.

H.R. 969: Mr. THOMPSON of Mississippi.

H.R. 972: Ms. MCCOLLUM and Mr. GRIJALVA.

H.R. 983: Ms. LINDA T. SÁNCHEZ of California and Ms. LEE.

H.R. 992: Mr. BURGESS.

H.R. 993: Mr. BURGESS.

H.R. 994: Mr. BURGESS.

H.R. 998: Mr. HINOJOSA.

H.R. 1004: Ms. BERKLEY.

H.R. 1031: Ms. CORRINE BROWN of Florida and Ms. ROS-LEHTINEN.

H.R. 1034: Mr. GEORGE MILLER of California.

H.R. 1042: Mr. FORD.

H.R. 1043: Mr. KLINE.

H.R. 1077: Mr. BISHOP of Georgia.

H.R. 1105: Ms. BALDWIN.

H.R. 1115: Mr. MILLER of Florida and Mr. BURGESS.

H.R. 1117: Mr. WILSON of South Carolina and Mr. CONYERS.

H.R. 1118: Mr. BRADLEY of New Hampshire and Mr. WYNN.

H.R. 1120: Mrs. EMERSON.

H.R. 1125: Mr. NEAL of Massachusetts, Mr. HALL, Mr. WYNN, Mr. MICHAUD, Mr. BEAUPREZ, Mr. FRANK of Massachusetts, Mr. ETHERIDGE, Mr. NADLER, Mr. WAXMAN, and Mr. COLE.

H.R. 1155: Mr. DOYLE, Mr. HOUGHTON, Mr. KILDEE, Mr. BLUMENAUER, Mr. BISHOP of New York, Mr. WALSH, Mr. BOEHLERT, Ms. LINDA T. SÁNCHEZ of California, Ms. LOFGREN, and Mrs. JO ANN DAVIS of Virginia.

H.R. 1179: Mr. FEENEY and Mr. SCOTT of Georgia.

H.R. 1191: Mr. FLETCHER and Mr. PICKERING.

H.R. 1199: Mr. PAYNE.

H.R. 1205: Mr. ROSS.

H.R. 1209: Mr. RYAN of Ohio, Mr. SABO, Mr. WATT, Mr. FORD, Mr. UDALL of Colorado, and Mr. DAVIS of Alabama.

H.R. 1212: Mr. KILDEE.

H.R. 1219: Mr. HILL.

H.R. 1225: Mr. LARSEN of Washington, Mr. WHITFIELD, Mrs. LOWEY, Mr. GUTIERREZ, Mr. PETERSON of Minnesota, and Ms. LOFGREN.

H.R. 1251: Mrs. KELLY.

H.R. 1259: Mr. FLETCHER.

H.R. 1260: Mr. MORAN of Kansas.

H.R. 1264: Mr. WAXMAN, Mr. CONYERS, Mr. HOLT, Mr. OWENS, and Mr. MATSUI.

H.R. 1267: Mr. VAN HOLLEN, Mr. DELAHUNT, Ms. WATERS, Ms. BERKLEY, Mr. LARSON of Connecticut, and Mr. ENGEL.

H.R. 1268: Mr. JEFFERSON, Mr. WYNN, and Mr. OWENS.

H.R. 1276: Mr. BEAUPREZ, Mr. VITTER, Mr. OSBORNE, Ms. ROS-LEHTINEN, Mr. BURGESS, Mr. DAVIS of Tennessee, Ms. HARMAN, Ms. ESHOO, and Mr. FLETCHER.

H.R. 1285: Mr. FARR, Mr. FORD, Mr. GEPHARDT, Mr. LEVIN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. SCOTT of Georgia, Mr. THOMPSON of Mississippi, and Mr. WATT.

H.R. 1286: Mr. ALLEN.

H.R. 1315: Ms. DELAURO, Mr. INSLEE, and Mr. MCDERMOTT.

H.R. 1321: Ms. BALDWIN, Mr. ANDREWS, Mr. FARR, Mr. MCHUGH, Mr. ENGEL, Mr. BRADY of Pennslvania, Mr. EMANUEL, and Mr. LYNCH.

H.R. 1332: Mr. UPTON.

H.R. 1340: Ms. LEE, and Mr. NADLER.

H.R. 1351: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1359: Mr. GRIJALVA.

H.R. 1372: Mr. HAYWORTH, Mr. BEAUPREZ, Mrs. WILSON of New Mexico, Mr. MATHESON, and Ms. HOOLEY of Oregon.

H.R. 1377: Mrs. JONES of Ohio, Mr. GRIJALVA, Mr. COSTELLO, Mr. LYNCH, Mr. GUTIERREZ, Mr. ORTIZ, Mr. BALLANCE, Mr. NADLER, Mr. MEEK of Florida, and Ms. LEE.

H.R. 1385: Mr. BURGESS, Mr. CRAMER, Mr. GRIJALVA, and Mr. NADLER.

H.R. 1418: Mr. HOLT.

H.R. 1421: Mr. INSLEE.

H.R. 1426: Mr. INSLEE.

H.R. 1428: Mr. PORTER and Mr. PALLONE.

H.R. 1472: Mr. DEFAZIO, Mr. NUNES, Mr. WU, Mrs. LOWEY, Mr. BROWN of Ohio, Mr. LARSON of Connecticut, and Mr. CHABOT.

H.R. 1479: Mr. ALEXANDER.

H.R. 1483: Mr. DEFAZIO, Mr. BLUMENAUER, and Mr. BROWN, of Ohio.

H.R. 1508: Mr. WAXMAN, Mr. BROWN of Ohio, Mr. CLYBURN, Mr. LEVIN, Mr. DELAHUNT, Mr. KILDEE, and Mr. SERRANO.

H.R. 1532: Mr. WU, Mr. MCNULTY, Mr. BROWN of Ohio, Ms. LEE, and Mr. SMITH of Washington.

H.R. 1565: Mr. HOLT.

H.R. 1580: Mr. MOLLOHAN and Mr. REHBERG.

H.R. 1581: Mr. GOODE, Mr. FALEOMAVAEGA, Mr. GORDON, and Mr. PAUL.

H.R. 1614: Mr. DAVIS of Illinois, Mr. MCHUGH, Mr. ENGEL, and Mrs. JONES of Ohio.

H.R. 1628: Mr. TIBERI.

H.R. 1634: Mr. BURGESS and Mr. FLETCHER.

H.R. 1652: Mr. VISCLOSKY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SPRATT, Mr. LARSEN of Washington, and Mr. BALLANCE.

H.R. 1677: Mr. WATT.

H.R. 1694: Mr. BLUMENAUER.

H.R. 1695: Ms. BALDWIN, Mr. CONYERS, Mr. KENNEDY of Rhode Island, Mr. KILDEE, and Ms. LEE.

H.R. 1700: Ms. KAPTUR, Mr. KILDEE, and Mr. LARSON of Connecticut.

H.R. 1708: Mrs. JO ANN DAVIS of Virginia, Ms. CORRINE BROWN of Florida, and Mr. INSLEE.

H.R. 1709: Mr. GRIJALVA.

H.R. 1713: Mr. KILDEE.

H.R. 1716: Mr. LOBIONDO.

H.R. 1723: Mr. HINOJOSA and Ms. CORRINE BROWN of Florida.

H.R. 1734: Mr. GUTIERREZ, Ms. NORTON, and Mr. LANTOS.

H.R. 1736: Mr. CONYERS.

H.R. 1742: Ms. HOOLEY of Oregon.

H.R. 1767: Mr. ENGLISH and Mr. SHIMKUS.

H.R. 1769: Mr. ISTOOK, Mr. SCHROCK, Mr. BONILLA, Ms. SCHAKOWSKY, and Mr. MILLER of North Carolina.

H.R. 1783: Mr. HENSARLING.

H.R. 1784: Mr. SANDLIN and Mr. CANTOR.

H.R. 1814: Ms. MCCOLLUM.

H.R. 1819: Mrs. NORTHUP.

H.R. 1828: Mr. ADERHOLT, Mr. BISHOP of New York, Mr. CARDIN, Mr. CULBERSON, Mr. DAVIS of Tennessee, Mr. FEENEY, Mr. KENNEDY of Rhode Island, Mr. MEEHAN, Mr. MILLER of North Carolina, Mr. NUSSLE, Mr. OTTER, Mr. PETERSON of Pennsylvania, Mr. PORTER, Mr. SWEENEY, and Mr. WELDON of Florida.

H.R. 1838: Mr. RYAN of Ohio.

H.R. 1852: Mr. THOMPSON of Mississippi.

H.R. 1858: Mr. CARDIN, Mr. CAMP, Mr. HOUGHTON, Mr. MCDERMOTT, Mr. SANDLIN, Ms. JACKSON-LEE of Texas, Mr. CONYERS, Ms. KAPTUR, and Mr. KILDEE.

H.R. 1863: Ms. Lofgren, Ms. DeLauro, Mr. Gutierrez, and Mr. Ford.

H.R. 1874: Mr. Garrett of New Jersey.

H.R. 1906: Mr. Ryan of Ohio and Mr. Holt.

H.R. 1910: Mr. Turner of Texas, Mr. Weiner, Ms. Waters, Mr. Matheson, Mr. Reyes, Mr. Lampson, and Mr. Etheridge.

H.R. 1912: Mr. Lewis of Kentucky.

H.R. 1926: Mr. Brady of Texas.

H.R. 1955: Mr. Kildee.

H.R. 1964: Mr. Holden.

H.R. 1981: Mr. Ross and Mr. Miller of North Carolina.

H.R. 1999: Mr. Capuano.

H.R. 2012: Mr. Green of Wisconsin and Mrs. Myrick.

H.R. 2020: Mr. Cramer, Mr. Price of North Carolina, Mr. Hall, Mr. Lampson, Ms. Jackson-Lee of Texas, Mr. John, Mr. Inslee, Mr. Honda, Ms. Watson, Mr. Edwards, Mr. Green of Texas, Mr. Gutierrez, Mr. Shimkus, Mrs. Emerson, Mr. Acevedo-Vilá, Ms. Ros-Lehtinen, Mr. Lincoln Diaz-Balart of Florida, Mr. Baker, and Mr. Shaw.

H.R. 2023: Ms. Corrine Brown of Florida and Mr. Owens.

H.R. 2028: Mr. Hastert, Mr. Leach, Mr. Sweeney, Mr. Latham, Mr. Ballenger, Mr. Gilchrest, Mr. Goss, Ms. Granger, Mr. Knollenberg, Mr. Upton, Mr. Walden of Oregon, and Mr. Linder.

H.R. 2030: Mr. Fattah and Mr. Rangel.

H.R. 2031: Mr. Carson of Oklahoma.

H.R. 2032: Mr. Sanders, Mr. Peterson of Minnesota, Mr. Price of North Carolina, Mr. Allen, Ms. McCollum, and Mr. Larson of Connecticut.

H.R. 2046: Mr. Evans.

H.R. 2066: Mr. Evans and Mr. Case.

H.R. 2075: Mr. Putnam, Mr. Bilirakis, Mr. Meek of Florida, and Mr. Shaw.

H.R. 2079: Mr. Thomas and Mr. Peterson of Pennsylvania.

H.R. 2096: Mr. Sandlin, Ms. Slaughter, Mr. Carson of Oklahoma, Mr. Otter, Mr. Alexander, Mr. Weldon of Florida, Mr. Kennedy of Minnesota, Mr. Van Hollen, and Mr. Greenwood.

H.R. 2114: Mr. Norwood, Mr. Weldon of Florida, and Mr. Franks of Arizona.

H.R. 2123: Mr. Nadler.

H.R. 2154: Mr. Tancredo and Mrs. Johnson of Connecticut.

H.R. 2157: Mr. Stark, Mr. Jefferson, Mr. Clay, and Mr. Gutierrez.

H.R. 2193: Mrs. Jo Ann Davis of Virginia.

H.R. 2203: Mr. Hoeffel and Mr. Udall of Colorado.

H.R. 2212: Ms. Linda T. Sánchez of California, Mr. Baca, Ms. Waters, and Mr. Brown of Ohio.

H.R. 2213: Ms. McCollum, Mr. Scott of Virginia, and Mr. Davis of Illinois.

H.R. 2235: Mr. Goode.

H.R. 2250: Mr. Mario Diaz-Balart of Florida, Mr. Grijalva, and Mr. Hastings of Florida.

H.R. 2264: Mr. Payne and Mr. Lantos.

H.R. 2265: Mr. Hayworth.

H.J. Res. 4: Mr. Brown of South Carolina, Mr. Burgess, Mr. Shuster, Mr. Nussle, Mr. Aderholt, Mr. McGovern, Mr. English, Mr. Weller, Mr. Smith of Texas, Mr. Manzullo, Mr. Gary G. Miller of California, Mr. Fossella, and Mr. Carter.

H.J. Res. 56: Mr. Pitts, Mr. Bartlett of Maryland, Mr. Goode, Mr. Wilson of South Carolina, and Mr. Weldon of Florida.

H. Con. Res. 56: Mr. Gutierrez.

H. Con. Res. 78: Mr. Ford.

H. Con. Res. 86: Ms. Schakowsky.

H. Con. Res. 99: Ms. Kilpatrick, Mr. Olver, and Mr. Jefferson.

H. Con. Res. 111: Mr. Grijalva and Ms. Kilpatrick.

H. Con. Res. 155: Mr. Davis of Tennessee, Mr. Grijalva, Ms. Jackson-Lee of Texas, and Mr. Owens.

H. Con. Res. 164: Mr. Costello.

H. Con. Res. 169: Ms. McCollum, Mr. Brown of Ohio, Mr. Kennedy of Rhode Island, Mr. King of New York, Mr. Payne, Ms. Waters, and Mr. Crowley.

H. Con. Res. 174: Mr. Owens.

H. Con. Res. 195: Mr. Fattah.

H. Con. Res. 196: Mr. Nadler.

H. Con. Res. 200: Mr. Green of Texas and Ms. Ros-Lehtinen.

H. Res. 38: Ms. Loretta Sanchez of California, Ms. Corrine Brown of Florida, and Ms. Kilpatrick.

H. Res. 60: Mr. Gary G. Miller of California, Mr. Nadler, and Mr. Levin.

H. Res. 66: Mr. Shimkus, Mr. Pickering, Mr. Souder, Mr. Putnam, Ms. Carson of Indiana, Mr. Burton of Indiana, and Mr. Bartlett of Maryland.

H. Res. 121: Mr. Knollenberg.

H. Res. 136: Mr. Isakson and Mr. Culberson.

H. Res. 159: Mr. Culberson.

H. Res. 218: Mr. Meeks of New York, Mr. Ortiz, Mr. Snyder, Mr. Bell, Ms. Eddie Bernice Johnson of Texas, Mr. Smith of Washington, and Mr. Serrano.

H. Res. 237: Mr. Brown of Ohio, Mr. Tierney, Ms. Waters, and Ms. Eddie Bernice Johnson of Texas.

# EXTENSIONS OF REMARKS

## TRIBUTE TO MR. ALBERT KRAUSE, JR. FOR HIS 65 YEARS OF VOLUNTEER FIRE SERVICE

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. GARRETT of New Jersey. Mr. Speaker, I rise to honor a great New Jerseyan. For 65 years, Mr. Albert Krause, Jr., of River Vale, New Jersey has dedicated his life to serving our local communities. As a 58 year veteran of the River Vale Volunteer Fire Department, where he held the office of Chief twice and Fire Marshall and served for another 7 years as a member of the Oradell Volunteer Fire Department, Mr. Krause committed himself to making northern New Jersey a safer and stronger place to live.

As a life member of the New Jersey and New York Fireman's Association's, Mr. Krause has risen above and beyond the call of duty to protect our communities and neighborhoods. Very few people ever reach this milestone in the fire service. For this distinguished honor of 65 years of service, we recognize him as a true American hero.

Nearly one million state and local first responders, of which approximately 750,000 volunteers like Mr. Krause, regularly put their lives on the line to protect the lives of others and make our country safer. Today, we give thanks for the invaluable service rendered by Mr. Krause and other firefighters, who risk their lives to preserve and protect our communities. Courageous servants, such as Mr. Krause have inspired us with their dedication and professionalism.

As we recognize and remember the sacrifices of Mr. Krause, let us draw great strength from his example of selfless service to others. Mr. Krause's 65 years of fire service to River Vale and Oradell embodies the best of the American spirit.

We thank Mr. Krause for helping to renew our respect for public service and providing lasting lessons in courage for many years to come. On behalf of the people of New Jersey's Fifth Congressional District, it is with great honor, that I recognize Mr. Krause for his 65 years of volunteer fire service.

## RECOGNIZING SERGEANT STEVEN P. JONES FOR HIS OUTSTANDING SERVICE TO THE PEOPLE OF LAKE COUNTY, CALIFORNIA

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Sergeant Steven P. Jones of the Lake County, California Sheriff's Department, for dedicating his professional life to protecting and serving the people of Lake County.

Steven Jones first joined the Lake County Sheriff's Department on March 15, 1973 as a Deputy Officer. Deputy Jones earned Peace Officer Standards and Training certificates in 1977 and 1982. His achievements and disciplined work ethic helped pave the way for his promotion to the rank of Sergeant in 1977.

Sergeant Jones has served the Sheriff's Department in many different capacities. He has served as SWAT team leader, Search and Rescue team leader, Patrol Supervisor, Investigator, Volunteer Coordinator and Commander at the Lower Lake Substation.

Regardless of his specific title or role within the department, Sergeant Jones has always been a leader and an example to his fellow officers. His dedication to the community has been a tremendous benefit to us all.

Mr. Speaker, Sergeant Jones epitomizes the standards of a true civil servant. For over 30 years he has conducted himself with honor and dignity. Even when he is not working, Sergeant Jones is never really off duty. On Sunday July 14, 1996 Sergeant Jones and his wife Pattie were walking in Library Park, a popular local recreation area. As they walked about, they looked to the water. There they witnessed an accident involving a 5–year-old boy and his Jet Ski. The child had been knocked off of his Jet Ski and was facing certain peril when without hesitation Sergeant Jones jumped into the water and began swimming toward the boy. Fortunately for that boy and his family, Sergeant Jones' strength and training took over and he not only reached the child, he pulled him to the dock and administered proper medical attention until rescue personnel could arrive.

Such is the character of Sergeant Jones.

Mr. Speaker, three decades have passed since Sergeant Jones first joined the force. In that time, his dedication to our community has remained firm and intact. He has never wavered and he has always maintained our confidence. Sergeant Jones has protected and served Lake County faithfully, he has kept us safe. For his outstanding service and amazing call to duty over the previous 30 years, it is proper for us to honor Sergeant Steven P. Jones at the time of his retirement from the Lake County Sheriff's Department and extend out best wishes to him in his retirement.

## PERSONAL EXPLANATION

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. KENNEDY of Rhode Island. Mr. Speaker, on April 22, 2003, I missed rollcall vote No. 211. Had I been here I would have voted "nay" on rollcall No. 211.

## HONORING THE RECIPIENTS OF THE 2003 KNIGHTS OF COLUMBUS ANNUAL SHIELD AWARD, RAMSEY, NEW JERSEY

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. GARRETT of New Jersey. Mr. Speaker, it is my distinguished honor to recognize five great New Jerseyans for their service and commitment to public safety. Patrolman Timothy Flanagan of the Ramsey Police Department, Assistant Chief Thomas Lanning of the Ramsey Fire Department, Lieutenant Steve Ahlstedt of the Ramsey Ambulance Squad, Captain Chris Hoffman of the Ramsey Rescue Squad and Michael Greenshields of the Ramsey Office of Emergency Management have risen above and beyond the call of duty to protect our communities and neighborhoods. Their selfless service is a testament and model for those who regularly put their lives on the line to protect others and make northern New Jersey safer. It is my privilege to recognize and give thanks for their invaluable service to the people of Ramsey, New Jersey.

Each and every day across our country, across New Jersey and throughout the great borough of Ramsey, first responders selflessly risk their lives to protect our families and neighborhoods. None of them become a first responder for the money—in many cases they volunteer their services. Nor do any of them put on their uniform expecting a life of ease. Day-in and day-out they put themselves in harm's way and stand in the face of danger. They take the job because they want to serve their community and their country. Fortunately, this great country has such heroic men and women.

On behalf of the people of New Jersey's Fifth Congressional District, it is with great honor, that I recognize and salute Patrolman Flanagan, Assistant Chief Lanning, Lieutenant Ahlstedt, Captain Hoffman and Mr. Greenshields for their bravery, courage and commitment to public safety.

## TRIBUTE TO ISAIAH HILL, JR.

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to Mr. Isaiah Hill, Jr. This noble man has dedicated and committed his life to serving the people of Miami-Dade County for

38 years in our Department of Parks and Recreation, and he has decided to retire at the end of June.

Mr. Hill began his years of distinguished service in 1966 as a Laborer in the county parks system. Few imagined at that time that this first job would lead to a lifelong commitment to becoming a Skilled Laborer, Golf Attendant, and Maintenance Repair Mechanic. His superiors respect his loyalty, dedication, and commitment to fine workmanship. Anyone who has had the privilege of working with Mr. Hill knows that he will take on any task no matter how hard, and he will always get the job done.

After many years of tireless work and dedication, he has decided to hang up his hat and retire. His many friends and co-workers at Miami Dade Parks and Recreation will dearly miss him, but so will the thousands of Dade County residents who never met Mr. Hill, but who have enjoyed the parks that he helped maintain for so long. The Parks may never look quite the same without his magical touch. He is leaving behind a legacy in the parks system for his co-workers to continue with a high level of commitment to excellence and dedication to service.

Mr. Speaker, Isaiah Hill, Jr. is a good man who does things uncommonly well.

Congratulations, Mr. Hill, and enjoy your retirement.

## TRIBUTE TO THOMAS SAAM

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Ms. KAPTUR. Mr. Speaker, Thomas Saam will long be remembered by local school children, union workers, Vietnam Veterans, family, friends and hundreds of children in Vietnam. Tom was a patriot who took great pride in America and his service in the U.S. Marine Corps. Always a strong voice for organized labor, Tom was a 26-year employee of General Motors Power Train in Toledo, OH. He was a proud United Auto Worker, UAW, and trustee who believed strongly in the quality of life for workers and their families who remained active as a member of the UAW Local No. 14 Retirees.

Seven years ago, in 1995, Tom Saam underwent a heart transplant. Following successful surgery, Tom became a spokesperson for transplants and a volunteer with the American Heart Association, receiving their prestigious Heart and Soul Award. He served with pride the American Red Cross, Life Connections of Ohio and the Mended Hearts Association. Upon his death on December 7, 2002, Tom Saam became a donor also. During the last 7 years as a proponent for organ and tissue donation, Tom Saam spent a great deal of time speaking to groups as an advocate for donation and educating children about the dangers of smoking. Tom's concern for our children and youth was always present in all that he did.

Tom Saam, a former U.S. Marine, served two tours in Vietnam. Tom Saam never forgot his veteran buddies as an active member of Veteran of Foreign Wars Post No. 3265, Toledo, OH, and VFW Department of Ohio P.O.W./M.I.A. Chairman 1992–1995. Tom served as Post No. 3265 Americanism Chairman from 1990–2002 and served as UAW Region 2B Veterans Representative 1995–2002.

On Veteran's Day in 1999, Tom Saam and several other Vietnam Veterans joined me in our District Congressional Office and placed a conference call to then U.S. Ambassador to Vietnam Pete Peterson. From that conversation and meeting, Tom Saam and his core group of veterans formed the D.O.V.E. Fund, a non-profit humanitarian organization dedicated to helping the children of Vietnam in the areas of health care, improving water quality and building schools. As a charter member and member of the D.O.V.E. Fund Board of Directors, Tom worked diligently to provide the extras such as writing tablets, pencils, toothbrushes, soap and other like items that the children of Vietnam need. Tom never hesitated to approach anyone he felt could provide assistance for a child. His dentist, his insurance agent, his union, his buddies and a variety of local veteran's groups were frequent donors of school supplies, ball caps, candy and anything else that kids needed to improve their quality of life.

In May of 2001 Tom traveled with other veterans on a return trip to Vietnam. Tom had arranged through a Vietnamese-American contact to obtain what was believed to be the remains of 2 American M.I.A.s' and return these remains to our government in Ho Chi Minh City, Vietnam. As a result of his efforts, Tom was named the June 2001, Citizen of the Month by Toledo's Mayor and was awarded the UAW Walter P. Reuther Distinguished Service Award for his courageous efforts. The D.O.V.E. Board of Directors is planning to build a school in Quang Tri Province, Vietnam and dedicate it in Tom Saam's memory.

Tom is the father of Thomas, Jr., Jeremy, Laura and Jamie and the husband of Barbara. He will always be remembered as a loving husband and father, a veteran's advocate, a tough Marine and union member, a gentle spirit and mentor and a proud American. Mr. Oscar Bunch, President of Local No. 14 and long time friend of Tom said, "Everyone who had anything to do with Tom just loved him." Many of us in Northwest Ohio share Oscar's sentiment. Tom Saam will be missed.

## INTRODUCTION OF THE ENVIRONMENTAL JUSTICE ACT OF 2003

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Ms. SOLIS. Mr. Speaker, today I join my colleague Congressman MARK UDALL in introducing the Environmental Justice Act and commend my colleague, Congressman MARK UDALL for his work on this issue.

The Environmental Justice Act will make permanent an environmental justice Executive Order 12898 issued by President Bill Clinton in 1994.

It attempts to address environmental injustice within existing federal laws and regulations by prohibiting discrimination in programs that receive federal funds.

This issue has been one of my priorities as a public servant because I have seen the damage—first hand—that environmental injustice can bring to poor and minority communities.

I grew up in the shadow of one of the largest landfills in the country. As the landfill grew, so did other regional pollution. Today, the area, which is 63 percent Latino and where 15 percent of families live in poverty, suffers from water pollution from Superfund sites and the gravel pit industry.

In the Los Angeles area, it is estimated that over 71 percent of African Americans and 50 percent of Latinos reside in areas with the most polluted air, while only 34 percent of whites live in highly polluted areas.

But we are not alone. Environmental injustices are happening nationwide.

Consider the plight of the people of South Omaha, Nebraska where descendants of immigrants who labored in the city's meatpacking plants are fighting to restore city parks and stop the health risks posed by unsanitary conditions at the plants.

Or consider the people who live in Livermore, California near one of the nation's principal nuclear weapons research labs, and who are fighting radioactive contamination that has caused many cancer cases.

In the past we might have accepted our fate but today we chose to fight back.

Hardly a day passes without the media informing us about a neighborhood that is fighting a landfill, incinerator, chemical plant or some other polluting industry.

This was not always the case. Just three decades ago, the concept of environmental justice had not registered on the radar screens of most environmental, civil rights or social justice groups.

In 1996, I had the honor of introducing the first piece of environmental justice legislation in the country. Since that time, 30 other States have adopted similar laws, policies or other statues that protect and recognize the importance of environmental justice communities.

Today, we enjoy a greater ability to connect with the public through grassroots organization and the media but our laws still offer few protections to disadvantaged communities.

I am committed to changing this and look forward to working with Congressman UDALL and others to make sure that environmental protection starts with environmental equality.

This bill is one step in that fight.

## HONORING THE AFRICAN AMERICAN EDUCATION TASK FORCE

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Ms. LEE. Mr. Speaker, I rise today to honor the African American Education Task Force for its clear record of success in encouraging and acknowledging academic achievement by African American youth in Oakland.

This June, the African American Education Task Force will hold its Second Annual Academic Awards Celebration at the ACTS Full

Gospel Church in Oakland. At this celebration, more than 1200 African American students from 8th through 12th grades in the Oakland Unified School District will be honored for attaining grade point averages of 3.00 or above for the 2002–2003 school year.

These outstanding young people's accomplishments are especially remarkable in light of the dismal budgetary climate that now grips the State of California. I want to commend each of them for having an understanding of the importance of staying in school and the responsibility each individual has to take advantage of the educational opportunities available to him or her. By continuing to be the best students you can be and completing your education, you will have more opportunity to achieve your personal goals and our shared goal of world peace.

Your accomplishments represent your dedication and commitment to achieving your goals, and I am proud of you. The skills you have learned and the discipline you have developed will benefit you greatly.

I am honored to represent you in the United States House of Representatives. I hope you will continue your record of service and success. My best wishes for a bright future!

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## APPOINTMENT OF CONFEREES ON H.R. 2, JOBS AND GROWTH RECONCILIATION TAX ACT OF 2003

SPEECH OF

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to this conference report. This tax cut is a tragedy. It does not create jobs, it does not grow the economy, and the only thing it grows is the deficit.

What we see here today is the unraveling of fiscal responsibility. It began in the White House with the President's reckless, irresponsible proposal, and it continues with the Republicans in the Congress. By promoting his unnecessary, unfair, and fiscally unsound tax cut, President Bush has created a tax cutting frenzy among Congressional Republicans.

The result is this conference report—and a bill to put our children $1 trillion in debt. That is not leadership. I have asked many times, where have all the Republican deficit hawks gone? They are an endangered species. Democrats still believe in fiscal responsibility, and we believe that raiding Social Security and saddling our children and grandchildren with enormous debt is wrong. If the Republicans had wanted to have a proposal that would grow the economy, focus on the middle class, create jobs and be fiscally sound, they could have done so. They chose not to.

The Democratic plan, which we were not allowed to vote on, creates 1 million new jobs this year without adding one penny to the deficit. It puts money in the hands of people who need it and will spend it, injecting demand into the economy and creating jobs this year. But instead, Republicans have chosen to add $1 trillion in debt—shortchanging education, homeland security, healthcare and other vital needs. The list of missed opportunities goes on and on. That is not leadership.

Investing in education—early childhood education, K through 12, higher education, postgraduate education, lifetime learning—does more to grow the economy than any tax cut you can name. But to accommodate tax breaks for those who need it least, the Republican budget cuts $168 billion from domestic programs, including education, over the next decade. Students are asked to sacrifice, seniors are asked to sacrifice, first responders are asked to sacrifice, middle class families are asked to sacrifice—all so that the average millionaire can get a tax cut of $93,500. That is not leadership.

And, in order to squeeze more tax breaks for the wealthy into this bill, Republicans have included provisions that end the few middle-class tax cuts they once supported. Both the child tax credit and elimination of the marriage penalty end in 2005—leaving middle-class Americans with a tax increase in 2006. A future Congress will be forced to either increase taxes or add billions to our spiraling debt just as the Baby Boomers begin retiring. The middle class is asked to subsidize the wealthy. That is not right. That is not leadership.

These gimmicks hide the true cost of this tax cut, and they are not fair to middle-class Americans. The great irony of all this is that if all the Republicans want to do is to put money in the pockets of wealthy people, then nothing works better than sound, fiscally responsible policies. Wealthy Americans did better in the 1990's than at any other time. But Republicans have failed to build upon the economic successes of the Clinton Administration. Their economic record is a dismal failure.

The first two years of the Bush Administration have seen a loss of 2.8 million jobs—the worst record of job creation of any President since World War II. No job creation whatsoever—job *loss*. No modern President has had a record of that kind. And since President Bush took office, we have seen a surplus of $5.6 trillion turn into a deficit of over $2 trillion—and growing. A swing of $7.6 trillion. So now what do they want to do? Repeat the same economic policies that got us into this hole to begin with, digging the hole even deeper. That is not leadership.

President Bush and Republicans in Congress never miss an opportunity to do what is right for average Americans. Tonight, instead of investing in our children, we are indebting them. We are mortgaging their futures for a tax break that benefits those who need it least, the wealthiest in our country. And we are doing so at the expense of our opportunity to invest further in the education of our children. Vote no on the conference report. Vote no on fiscal irresponsibility. Vote no on a reckless plan that will take our country in the wrong direction.

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## APPOINTMENT OF CONFEREES ON H.R. 2, JOBS AND GROWTH RECONCILIATION TAX ACT OF 2003

SPEECH OF

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. NEAL of Massachusetts. Mr. Speaker, today, we have two million American families struggling with persistent unemployment, we have a Treasury which has asked to increase its debt by an amount bigger than the entire federal debt of 1980, and a central bank desiring yet another interest rate slash to ward off deflation. In the eye of this perfect storm, this fiscal catastrophe, we have the Republican answer to everything: cut more taxes.

This $350 billion bill is rife with uncertainty, as the individual and family tax breaks are afflicted with two-year expirations. While the bill won't inspire much confidence in our economy, it will inspire confidence and certainty that our war on tax code complexity has officially been lost.

Along with fiscal sanity, middle-income families have been tossed overboard in this Republican tax bill as relief from the alternative minimum tax was cut to less than the puny amount either chamber originally provided. Hard as it is to believe—the conference agreement before us today provides even less relief for middle-income taxpayers from the AMT than either the House or Senate bill provided, and for a shorter period of time!

When this bill was originally before the House, the Republican Majority bragged about the 10 million American families saved from higher taxes by their temporary AMT fix. But under the deal we are voting on today, 2005 will bring a tax increase for those 10 million families. Let me repeat that, at the end of next year, 10 million more American families will actually see a tax increase under this bill.

As the former Bush aide now heading the CBO stated, "At the current pace, the AMT is on track to replace the ordinary income tax for many Americans. The sheer number of taxpayers who are or will be touched by the AMT speaks volumes about the pressure on lawmakers to address the problem." Apparently, that pressure was shrugged off by the Republican leaders, and AMT has been pushed off, yet again, to another day.

Finally, Mr. Speaker, let me object to House Republican leaders insistence in refusing any reasonable revenue offsets. With corporate expatriates dodging $5 billion in US taxes by running offshore, it simply defies logic not to collect this money in order to avoid digging our deficit hole deeper.

By refusing to accept the modest Senate language to close the Bermuda loophole, the House Republicans have sanctioned this corporate misbehavior of choosing profits over patriotism.

I urge my colleagues to vote down this bill.

## COMMUNITY OUTREACH PROGRAM

### HON. NATHAN DEAL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. DEAL of Georgia. Mr. Speaker, we have just concluded a three-year project funded by HRSA (93–912A). This program was implemented under the umbrella of Project Partnership, the community outreach arm of the Graduate Program in Physical Therapy at North Georgia College and State University. The project was directed by Ms. Charlene L. Hudson and Dr. Lynda D. Woodruff. Our local, state and federal legislators supported this competitive grant.

The purpose of this grant was to bring a variety of services, adaptive equipment and healthcare resources to the population of rural elderly in three contiguous counties: Lumpkin, Hall and Dawson. Healthcare services for the vast majority of these citizens are severely challenged, poorly funded, and extraordinarily inaccessible. The physical therapy faculty, the nurse practitioner faculty, and more than 100 graduate students in these two programs joined forces to provide in excess of 5,000 formal visits/interactions to rural citizens whose quality of health and quality of life have been compromised.

The project was able to supercede its initial goals, standards for operations, and complete programmatic activities fluidly. However, the majority of our requests forwarded to us were far beyond the scope of our project. We somewhat anticipated this phenomenon as a result of our community needs assessment which occurred during the planning phase for the grant application. What we did not anticipate was a decline in the sparse services available. For example, our three counties have lost home modification resources, rural transportation, and a large number of Medicaid friendly clinical services. This simply means that there is still a severe level of unmet need in our rural region.

We have found a few sources to minimally sustain this project. The network which we initiated in 1995 has matured today to include the State Office of Rural Health, federally funded community health center, State Area Agency on Aging, 9th District Social Services and our University. We are confident that this model is unique and we will strive to share our findings through HRSA publications.

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## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

SPEECH OF

### HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes,

Mr. LOBIONDO. Mr. Chairman, I wish to thank Chairman HUNTER, for yielding me this time and thank you for including my language in your en-bloc amendment.

Mr. Chairman, the horrific events of September 11th reminded us all of the importance of protecting our Nation and its people. Unfortunately, these emerging terrorist threats will continue to be an issue for many years to come.

National homeland defense must be our highest priority. We must utilize the unique capabilities and expertise of all agencies in this effort, including the Department of Defense.

The military's mission has been fundamentally changed by the new homeland defense requirements. This mission change has been significant enough to warrant the creation of another major combatant command—Northern Command—to be responsible for national homeland defense.

We must identify exactly what the Department of Defense needs to execute this vital mission. Major steps are already being taken in this area. However, it is essential that we continue to closely examine what is needed to protect America during this dangerous time. Military construction to support the homeland defense mission is an integral part of the picture.

Homeland defense has not been traditionally used as a determining factor in the funding of MILCON projects. I remain concerned that we do not evaluate our military construction needs in light of the new homeland defense mission. This amendment will ensure that all MILCON projects, regardless of when submitted, be evaluated in part for their contribution to the homeland defense mission.

Postponing needed military construction required for homeland defense is something we cannot afford to do.

We need to make homeland defense one of the principle criteria for all future military construction programs. For example, in my district, the 177th Fighter Wing has been worldwide-deployable, but is now focused on homeland defense.

NORAD and NORTHCOM have given this wing responsibility for 24-hour alert and combat air patrol along the mid-Atlantic, including responsibility for cap missions over New York City and Washington, DC.

Because of this new 24-hour alert site status, the wing's needs have changed. Their military construction requirements have changed and this amendment will ensure the MILCON process recognizes this trend nationwide.

I encourage you to vote for this amendment to help preserve our homeland defense. Finally, I join with you to commend the men and women of our Nation's Armed Forces for service and thank them for securing the freedom we all enjoy.

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## HONORING THE 100TH ANNIVERSARY OF THE HERALD-CITIZEN

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. GORDON. Mr. Speaker, I rise to recognize the 100th year of existence of The Herald-Citizen of Cookeville, Tennessee, an integral part of the community and a reliable source of news for Putnam County and the Upper Cumberland region.

The first edition of this Middle Tennessee newspaper was published on February 11, 1903, by Elmer Wirt and his son, Ralph. During the next century, this newspaper kept Cookeville well-informed and evolved into an award-winning daily publication. From a small town of barely 600 people in 1903 to a thriving Upper Cumberland community of about 25,000 residents today, Cookeville has depended on The Herald-Citizen for unbiased news coverage.

Many changes have occurred at the newspaper during the past century. As the community grew and prospered, so did The Herald Citizen. Elmer Wirt and his son printed the first edition on a small flatbed press that sat on top of a table, with the type set by hand. C. Lee Walls Sr. and his son, C. Lee Walls Jr., now print the newspaper on a modern, computerized press weighing many tons.

Although many changes have occurred at the newspaper and to the community, one thing remains certain: The Herald-Citizen's commitment to fair and honest news coverage. Cookeville and the surrounding communities of Putnam County have benefitted tremendously from the hard work and dedication of the newspaper and its employees over the years. I congratulate the newspaper's success and am sure the next 100 years of publication will be just as exciting and rewarding as the first 100 years.

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## HONORING GUSTAVUS EVANSEN

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. FOSSELLA. Mr. Speaker, I am pleased to take this opportunity to mention an exemplary Staten Islander, Mr. Gustavus Evansen. He embodies the hard work and determination that characterizes the American Dream.

In 1923, at the age of 17, Gus Evansen emigrated to the United States, along with the rest of his family. They joined his father, Jorgen, who had traveled here to lay the foundations of a stable life for the family in 1917. He automatically began to work alongside his father at the Electric Launch Company, or Elco, in Bayonne, New Jersey, practicing the same shipbuilding trade his father had practiced in their homeland of Denmark. He and his father worked out of their own garage on nights and weekends to make ends meet during the Depression.

Mr. Evansen was promoted to foreman of the hull-building department in 1939, and continued to work for the next 6 years on the 399 PT-boats that Elco made for our government's use in the Second World War. After the war, as the Elco Company scrambled for work while the government contracts waned, Mr. Evansen lost his job when Elco closed down for good in 1949. He wasted no time in beginning a new career with the U.S. Coast Guard. At the age of 70, after 25 years building workboats on Governor's Island, and after rising from the rank of third-class boatbuilder to assistant foreman, Gus Evansen finally retired.

In 1930, he had married his childhood sweetheart, Bergit Knutsen who, with her family, had also emigrated from Denmark. They were together for 71 years until her death. Gus is currently 96 years old, and is enjoying his hard-earned retirement in Staten Island, New York. He has two daughters, five grandchildren, and six great grandchildren. Mr. Evansen has led the life of a model citizen, has worked hard to make a life for his family, and is the true embodiment of the American Dream.

Mr. Evansen, thank you for being a model citizen, and a proud Staten Islander.

## HONORING JAKE FANNON

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Jake Fannon posthumously for his military accomplishments and years of service to our country. He fought in both World War II and the Korean War, and over came the countless injuries to continue his service.

In 1941, Jake enlisted in the U.S. Army at Fort Sill, Oklahoma, and began his basic infantry training at Camp Roberts in California. He was assigned to the 813th combat engineers in Alaska where he was wounded in duty. He was a part of the "C" Company, 15th Regiment, 1st Infantry Division and was injured during the first wave of the Normandy Invasion (D-Day). Later that year he joined the 78th Infantry Division in Germany where he served in combat until the end of the war. One year later, Jake was sent overseas to Australia as part of the 572nd Military Police, afterwards going to Korea. He then served at Fort Benning, Georgia as a paratrooper. After recovering from injuries sustained during one of his jumps, he was sent to the front lines in Korea and was hit on the third day causing severe facial injuries. Jake continued his service in Germany and several areas in the U.S. before retiring in 1963.

Jake has received countless awards and honors for his steadfast service including: two Bronze Stars, four Purple Hearts, and a Silver Star. Following his service in Korea he was presented with the Congressional Medal of Honor in 1950, and yet refused the award, wishing to return to the lines with his men rather than become an officer. He subsequently received a Bronze Star and his fourth Purple Heart in its place.

He is survived by his wife Lela Fannon; his sons Tommy, Timmy, David, and Steve; and his 13 grandchildren.

Mr. Speaker, I rise today to recognize Jake Fannon for his exceptional service to our country and his efforts around the world. I invite my colleagues to join me in commending Jake for an exceptional career and for his everlasting contributions.

## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

SPEECH OF

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. UDALL of Colorado. Mr. Speaker, I rise in opposition to the rule.

I cannot believe the Majority will not even let us debate who should be allowed to receive an extension of unemployment insurance.

The extension that we will be allowed to vote on, provided this rule stands, will provide twenty six weeks of assistance to those few states that have exceeded an unemployment threshold of six percent. The unemployed workers in those six states receive the needed benefits, while those in other states receive only half of the extension. This bill ignores that specific areas have suffered high unemployment, but whose overall state unemployment rate has not exceeded the threshold.

In Boulder, which has a number of high-tech companies that have either closed up shop or laid off workers, I have seen a job loss rate exceeding sixteen percent between January of 2001 to January of 2003, this according to the Bureau of Labor Statistics. This has resulted in a substantial increase in unemployment, and considering the state of our economy, this trend doesn't seem like it will change soon. In fact, the average monthly claims for unemployment averaged a little over sixtyfive hundred claims per month in 2001, by the end of 2002 that number had jumped to over eleven thousand three hundred. But since Colorado's unemployment level has been just below six percent these workers will be in trouble if they can't find a job within the allotted thirteen weeks, if this bill passes.

This isn't just a problem in Colorado. This is a national problem and we need to treat it as such.

But the Majority has created a rule that will not allow us to even consider amendments that would help those Americans who are struggling and cannot find employment.

I strongly urge my colleagues to vote no on the rule.

## PROVIDING FOR CONSIDERATION OF H.R. 2185, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to oppose this unfair rule and the underlying bill. I stand in solidarity with my colleagues who believe that this body should act in the best interests of all Americans and not only the few. I also stand to speak for those Americans who are not here to speak for themselves. I am here to say that many of them are hurting. They are unemployed and their Federal unemployment benefits are about to run out. Beyond the unemployed individuals themselves, there are countless children and families who depend on them. They are hurting, too.

If this bill is passed without amendment over 69,000 Texans will be left out. That is almost 70,000 people from my State who will not be helped by the Republicans bill. Furthermore, this summer, 39,000 Texans will face the end of their Federal unemployment benefits. That is disgraceful and it is wrong.

Mr. Speaker, in my district, the unemployment rate is 6.2 percent. In Texas, there are over ¾ of a million people who are unemployed. During the 2 years of this administration, thousands of jobs have been lost in my State. During that same period millions of jobs have been lost across the country. The Democrats have been trying to make that point to our colleagues on the other side of the aisle but they remained deaf to the people's concerns.

Soon across the United States more than 1 million Americans will have exhausted both their state and Federal unemployment benefits yet they will still be unemployed. There are now 3.4 unemployed workers for every one job opening. As a result of the weak economy, this country has lost more than 500,000 jobs just in the last 3 months. In fact, 70 percent more workers have currently exhausted their Federal benefits than during the recession of the early 1990s.

According to the Joint Economic Committee, the persistence of job losses at the 2-year mark in this recession is unprecedented since the Great Depression. That is a stunning fact. And it is the reason, the legislation put forth by the Democrats calls for $18 billion to extend and strengthen unemployment benefits this year. The Republican bill on the other hand only provides $6 billion.

Our Republican colleagues have failed to do anything to help the millions of Americans who need jobs. Rather than re-igniting the economy so that job creation would occur, the Republicans have passed staggering tax cuts that benefit the wealthy far more than the average working or unemployed person. Now the Republicans put forth this bill in an effort to persuade the American people that they are listening and responding to the needs of the unemployed. However, their bill does not do enough.

When we have the opportunity to help all unemployed workers why don't we take that opportunity? When we know that more people will need assistance 2 months from today, why don't we offer it to them? When we have the chance to provide help for the families of long-term unemployed people while they struggle to make ends meet and to find another job—any job that will allow them to take care of their families—why don't we do so? These are the questions I pose to my Republican colleagues.

When Republicans have the chance to do more to help the families of the unemployed they decide not to do so and instead propose this perfunctory bill that will help some but not enough. That is the most egregious element of this bill. They choose to leave out many Americans when the Democrats would include them. If the Republicans would allow the substitute bill to be heard on the floor they would learn that the Democrats have a better piece of legislation.

Mr. Speaker, if this rule is not defeated I will vote in favor of this amendment but I will continue to push for a stronger bill that helps more Americans. And I will continue to work for legislation that helps put Americans back to work.

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## RECOGNIZING LIEUTENANT COLONEL JERRY S. CHASTAIN

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize Lieutenant Colonel Jerry S. Chastain for his brave service in the United States Military during Operation Iraqi Freedom.

Upon his graduation from the Citadel, Lieutenant Colonel Chastain was commissioned as a Second Lieutenant in the Quartermaster Corps. Since then, he has served both at home and abroad in the United States, Europe and Kuwait. Some of his assignments include Supply Platoon Leader and Battalion S–4, Supply and Services Officer, A Company Commander, Future Readiness Officer, Executive Officer for the Assistant Deputy Chief of Staff, and J4 Logistics Commander. In all of his positions, he has demonstrated integrity and excellent leadership.

Lieutenant Colonel Chastain has been recognized with many honors during his time in the military. His awards and decorations include the Bronze Star, the Defense Meritorious Service Medal with Oak Leaf Cluster, the Meritorious Service Medal with Three Oak Clusters, the Army Commendation Medal, the NATO medal, the Army Staff Badge, the Parachutist Badge, and the Air Assault Badge.

Lieutenant Colonel Chastain has repeatedly demonstrated his devotion and commitment to this country. He has boldly stood in defense of our Nation and a free world. He serves as an admirable role model for his three sons and for all American citizens.

Mr. Speaker, I wish to extend the gratitude of myself and an entire Nation to Lieutenant Colonel Jerry S. Chastain for his service in Operation Iraqi Freedom. I ask my colleagues to join me in recognizing his courageous efforts and wishing him well as he returns home.

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## TRIBUTE TO GENERAL ERIC K. SHINSEKI

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. SKELTON. Mr. Speaker, I take this opportunity today to honor General Eric K. Shinseki, the 34th Chief of Staff of the United States Army. I have had the privilege of working with General Shinseki over these past 4 years, as he set forth a vision, and then followed with a plan of execution, that will culminate in a complete Transformation of the premier land force in the world today—The United States Army.

General Eric K. Shinseki is a soldier General, a soldier's soldier. He began his Army career after graduating from the United States Military Academy in 1965. He served two combat tours in the Republic of Vietnam. I should note that this officer has been carried off the battlefield on the backs of soldiers. It is because of these soldiers, that he has served so long, and with so much distinction. Despite receiving serious wounds in battle, General Shinseki remained on active duty out of his utmost respect for the young, American soldier he encountered in Vietnam. While he may not have been aware at that time, the experience he garnered under the tutelage of non-commissioned officers as a new officer instilled the discipline and direction that would ultimately place him as The Army's "point man". General Shinseki excelled at every level, in command and in staff positions, both in the continental United States and overseas. He commanded the 1st Cavalry Division at Fort Hood, Texas, became Deputy Chief of Staff for Operations and Plans at Headquarters Department of the Army, served as the Commanding General, United States Army Europe, Commander Allied Land Forces Central Europe; and Commander, NATO Stabilization Force in Bosnia-Herzegovina. In 1998, he assumed the duties as the 28th Vice Chief of Staff of the United States Army.

On June 22, 1999, General Shinseki became the Chief of Staff of the United States Army. Since assuming that position, General Shinseki's commitment and leadership have contributed immeasurably to ensuring that America's Army is unmatched by any in our history in its skill and professionalism. General Shinseki began a transformation that will fundamentally reform the Army and position it for continuing excellence and achievement in the coming decades. The path of Transformation is one that is filled with challenges, and unexpected events. While he was charting a course for the Army's Transformation, General Shinseki was charged with ensuring. The Army was again prepared to go in to battle. At the onset, the Global War on Terrorism began to consume assets. Quickly on the heels of this, was Operation Noble Eagle—the defense of the American Homeland, in Operation Enduring Freedom—the attack on Al Qaeda's lair, and Operation Iraqi Freedom—the liberation of Iraq. These events served as a galvanizing catalyst to General Shinseki's vision for Transformation. The Army was now one Army, at war and transforming. Whether active, National Guard, or Reserve, it is one Army. Throughout all this, General Shinseki has provided a steady hand that as a result leaves the Army, and its men and women, in one of the highest states of readiness ever.

After more than 35 years service to the nation, General Shinseki will retire from the United States Army this month. Throughout that entire period, General Shinseki's actions have epitomized those of a soldier, leader, and consummate professional. Always mission-focused and soldier-centered, he upheld the Army's non-negotiable mission contract with the American people to fight and win the nation's wars, while never forgetting that it is the sacrifice and skill of the American soldier that makes those victories possible.

Mr. Speaker, the Constitution of this great country charges this body to raise and support Armies. The Transformation that is underway in our Army is one that is steeped in history, and fraught with vision. While we are charged to raise an Army, it is an officer of such caliber as General Shinseki's, who will ensure its training, its readiness, its ability to answer when the country calls. As we have witnessed since September 11, 2001, the freedoms we enjoy, come at a price. Our nation has been fortunate to have men and women willing to come forward at times of crisis and challenge to pay that price. We now add another name to that distinguished list; General Eric K. Shinseki. It is through dedication, and the selfless devotion to duty of Americans like him, that our nation is able to continue upon the path of democracy. To provide global response and assistance when and where needed. It is with profound admiration and deep appreciation that I pay tribute to General Shinseki for all that he has done for the United States Army and this country. To General Eric K. Shinseki, the 34th Chief of Staff of The United States Army, on behalf of this Congress, and of a grateful nation, Thank you for your service.

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## RECOGNIZING LIEUTENANT COLONEL DUANE A. GAMBLE

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize Lieutenant Colonel Duane A. Gamble for his brave service in the United States Military during Operation Iraqi Freedom.

Lieutenant Colonel Gamble graduated from Western Maryland College in 1985 with the honor of a Distinguished Military Graduate. After graduation, he was commissioned as a Second Lieutenant of Ordnance in the Regular Army. Lieutenant Colonel Gamble then attended the Florida Institute of Technology, earning a Masters of Science in Logistics Management in 1994. He has also completed many courses in military education during his time of service.

In the past 18 years, Lieutenant Colonel Gamble has served in a variety of logistics posts including Platoon Leader, Forward Area Support Coordinator and Support Operations Officer, Executive Officer and Logistics Operations Officer, and Deputy Commander. He currently holds the position of Commander of the Taskmaster Battalion and Commander of the Bastogne Brigade Support Area. His fine service has been recognized with awards and decorations that include the Bronze Star Medal, the Master Parachutist Badge, and the Air Assault Badge.

Lieutenant Colonel Gamble has served bravely in Operation Desert Shield and Desert Storm, Hurricane Andrew Disaster Relief, Operation Joint Endeavor, and, most recently Operation Iraqi Freedom. He has repeatedly demonstrated his devotion and commitment to this nation and stood boldly in defense of a free world. He is an admirable role model for his two young daughters and for all American citizens.

Mr. Speaker, I wish to extend the gratitude of myself and an entire nation to Lieutenant Colonel Duane A. Gamble for his service in Operation Iraqi Freedom. I ask my colleagues to join me in recognizing his courageous efforts and wishing him well in his next assignment as Assistant Chief of Staff for the 101st Airborne Division in Iraq.

## APPOINTMENT OF CONFEREES ON H.R. 2, JOBS AND GROWTH RECONCILIATION ACT OF 2003

SPEECH OF

**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. MOORE. Mr. Speaker, I rise today to express my opposition to the House-Senate agreement on H.R. 2, the so-called Growth and Jobs Tax Relief Reconciliation Act of 2003.

The only growth this conference report will ensure is the most dramatic growth in our national debt in this nation's history. It is ironic that as soon as the House votes on this legislation, we will adjourn for the Memorial Day District Work Period to allow the Senate to rubber stamp an increase in the debt ceiling of almost $1 trillion dollars, with no discussion by this House.

For me, this is not a partisan issue. I voted for the President's $1.35 trillion tax cut in 2001 because I believed it was the right thing to do. At that time CBO projected our surplus over ten years at $5.6 trillion. I still believe it was the right thing to do then. But that was then. This is now. We are no longer in revenue surplus mode. Now we are in deficit mode. And the $350 billion tax cut passed by Congress will now go straight to our bottom line—the $6.4 trillion national debt. In fact, the Senate will have to increase the debt limit by $984 billion in order to pass this tax cut. This tax cut is being paid for with borrowed money. And, every penny of this tax cut will be paid for by our children and grandchildren.

Mr. Speaker, I do not oppose tax cuts. I oppose borrowing money to pay for tax cuts.

We are running the largest deficits in history and compiling a debt whose interest payment consumes almost 18 percent of every tax dollar collected. I call this a "debt tax" and this is the only tax that can never be repealed.

The debt tax costs our country $1 billion per day and accounts for one of the largest expenditures by our government, third only to Social Security and national defense. And I submit that by passing this bill, we will be passing the largest tax increase—in the form of the debt tax—in history.

The best way to ensure that we, as well as our children and our grandchildren, are all overtaxed for the rest of our lives, is to keep borrowing money and running up our debt. Our children will be forced to pay ever higher taxes just to pay the increasing interest on the debt we will incur today. Under the majority's budget, the debt tax will consume more than twenty percent of taxes just to pay interest on our national debt by the end of the decade.

It is irresponsible for us to pass a tax cut for ourselves today that leaves the bill to our children and grandchildren in the form of a crushing national debt.

In his State of the Union Address, President Bush told us, "This country has many problems. We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other presidents and other generations." As a proud grandfather who wants to leave a better future for my grandchildren, I enthusiastically applauded that statement. Unfortunately, our current budget policies and this growth plan will only grow our national debt and pass the bill on to future generations.

With respect to this bill being a jobs plan, I submit that in its zeal to pass a tax cut, any tax cut that adheres to an arbitrary number, the majority has crafted a bill guaranteed to cost us jobs in the future.

Mr. Speaker, this bill contains so many gimmicks, with phase-ins and phase-outs, that it defies comprehension and makes it impossible for any responsible business or individual to plan for the future. For example, this bill helps married individuals and families by expanding the lower bracket, increasing the child tax credit and eliminating the marriage penalty—but only for 2 years. But all of these good policies (many of which I have supported in the past) will revert back to current law in 2005. It helps businesses expand, grow and create jobs by increasing the code's expensing and depreciation provisions—but these good, pro jobs policies disappear in 2004 and 2005, respectively.

"Why?" you ask, do these pro-family and pro-jobs provisions disappear after 1 or 2 years? To make room for a proposal that does nothing to create jobs—an ill-conceived dividend reduction proposal that will only concentrate capital in the hands of shareholders without providing any incentives for businesses to create new jobs.

I believe that the President's call to eliminate the so-called double taxation of dividends is a goal toward which we should all work; however, this Congress should consider this proposal in the context of broad individual and corporate tax reform after we've gotten our fiscal house in order. I urge my colleagues to vote against this tax proposal and instead work together on a bipartisan basis to achieve true tax reform, reduction and simplification in the context of a new economic plan to get our country moving again.

## RECOGNIZING LIEUTENANT COLONEL JOE D. DUNAWAY

**HON. MIKE ROGERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize Lieutenant Colonel Joe D. Dunaway for his heroic service in the United States Military, during Operation Iraqi Freedom.

Upon graduating from Northeastern Oklahoma State University in May of 1985, Lieutenant Colonel Dunaway completed several different courses at Fort Rucker, Alabama and Fort Eustis, Virgina. His initial assignment was to the 4th Squadron, 11th Armored Cavalry Regiment in Fulda, Germany. There, Lieutenant Colonel Dunaway held positions that included Command Aviation Platoon Leader and Air Cavalry Troop Commander. In 1990, he returned to the United States and served at both Fort Eustis and Fort Bragg, North Carolina. At Fort Leavenworth, Kansas, he attended the Command and Central Staff College and was assigned to the 101st Airborne Division as the Division Aviation Maintenance Officer, AVIM Company Command of Company A, and Battalion Executive Officer for the 8–101st Aviation Regiment.

During his time in the military, Lieutenant Colonel Dunaway has been recognized with many honors. His awards and decorations include the Meritorious Service Medal with three oak leaf clusters, the Army Commendation Medal with two oak leaf clusters, the Army Achievement Medal with a silver oak leaf cluster, the National Defense Service Medal, the Master Aviator Badge, an Air Assault Badge, and an Airborne Badge.

Lieutenant Colonel Dunaway's involvement in Operation Iraqi Freedom as the 8–101st Battalion Commander marked his second tour of duty. He served as a role model for all as he bravely stood in defense of our nation and a free world. His devotion and commitment to this country are commendable.

Mr. Speaker, I wish to extend the gratitude of myself and the entire nation to Lieutenant Colonel Joe D. Dunaway for his participation in this latest conflict in Iraq. I ask my colleagues to join me in recognizing his fine service and wishing him well as he returns to the Aviation Branch to serve as Branch Chief.

## HONORING THE RETIREMENT OF GLADYS HANDROP

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the retirement of Mrs. Gladys Handrop. Mrs. Handrop has successfully completed over fifty-six years of honorable government service to the citizens of Alabama and Florida.

Mrs. Handrop was first employed in government service in the Escambia County Alabama Tax Assessors office on March 17, 1947. The Escambia County Florida Tax Assessors office later employed her on December 9, 1952.

Mrs. Handrop has been an extremely valuable asset to the agencies and officers by whom she has been employed. She has served under the Honorable Tax Assessors and Property Appraisers Mrs. Frances Botts, Mr. M.B. "Bill" Jones, Mr. John R. Jones, Jr. and Mr. Chris Jones.

Mrs. Handrop has displayed never failing loyalty to the citizens, by whom she has been employed and has been a tireless political ally to many honored officers to this county and state.

Mrs. Handrop is known and respected by legal and real estate professionals throughout Escambia County who she has assisted and guided in their practices. She has consistently been a "family" member, friend, confidant, role model, source of strength and mentor to all of those with whom she has worked.

On behalf of the United States Congress, I would like to recognize this special person for the example she has set in her community. I offer my sincere thanks for all that she has done for Northwest Florida and this great nation.

## CONGRATULATING PEDRO PALOMO ADA

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Ms. BORDALLO. Mr. Speaker, I rise today to congratulate Mr. Pedro Palomo Ada, who we all know affectionately as "Pete Ada, Jr." for being inducted into the Guam Chamber of Commerce's Guam Business Hall of Fame.

Pete Ada, Jr. is an icon of the Guam business community who has done many great things for the island of Guam. He is one of Guam's original entrepreneurs. His success as a businessman is rooted in his hard work, ingenuity, and work ethic, which serves as an inspiration for young businessmen and women on Guam. His induction into the Guam Business Hall of Fame is a testament to his outstanding career and his contributions to our community. I join the Guam Chamber of Commerce, our civic organizations, and our island in commending Pete Ada, Jr. and in congratulating him on this lifetime achievement.

Mr. Ada began his business career while at college at Saint Thomas Military Academy in Saint Paul, Minnesota. Pete would send shoes and other great bargains to Guam for resale in his parents' retail business. After college, he served as one of the first Chamorro commissioned officers in the United States Air Force and later returned to Guam to help with the family business, Ada's Markets. He transformed his family's retail business into a household name, and later, into a real estate holding company. In the process, he transformed how a whole generation viewed business opportunities on Guam. He is a visionary who saw the potential for new residential developments, commercial real estate developments and new markets. He created opportunities for our island and in the process he helped Guam re-define itself from a military service economy to a strong private sector economy with a robust capital investment sector.

Pete Ada, Jr. is presently the Chairman of the investment firm he founded, Ada's Trust and Investment, Inc. and Chairman of Nanbo Guam, Ltd. He is a Director of the Bank of Guam, Pizza Hut of Guam, and Pacific Textiles. He owns 18 commercial properties and is responsible for developing 28 properties throughout his career.

As a model citizen, Pete Ada Jr. championed the ROTC program at the University of Guam. He has supported the Boy Scouts and KGTF Public Television, and he has been active in the Air Force's Civilian Advisory Council. He has served as a board member of several government boards, including the Retirement Fund, the Guam Visitors Bureau, the Guam Memorial Hospital, the University of Guam and the Guam Blue Ribbon Education Committee. In addition, he served on the board of the former Medical Center of the Marianas. In recognition of his service, he received an Honorary Doctor of Law degree in 1983 from the University of Guam.

Pete Ada, Jr. epitomizes the businessman whose success derives from a motivation to provide products and services that make his community a better place to live, and who has profited as a by-product of that dedication. By his induction into the Guam Business Hall of Fame, he sets a standard for others to emulate. We congratulate him and his proud wife Fe and their family, and we join with all the people of Guam in celebrating his achievement.

## RECOGNIZING THE ZACCAGNINO FAMILY, AMERICA'S FUNNIEST FAMILY, FROM ELMWOOD PARK, IL

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. EMANUEL. Mr. Speaker, I rise today to recognize the Zaccagnino family, from Elmwood Park, in the 5th Congressional District of Illinois. The Zaccagnino family was chosen from hundreds of families who submitted videotapes in hopes of winning the ABC Family cable network "My Life Is a Sitcom" contest, replete with a chance of starring in a sitcom based on their life.

According to a recent Chicago Tribune article, the Zaccagnino family is already famous—and their sitcom hasn't even aired yet! Evidently, the family—Diane, Karen, Camille and Danny—have been feted by everyone in Chicago; and now Capitol Hill! Horwath's restaurant threw them a party; their state representative filed a resolution in their honor; teachers are using the family's history as assignments; and the crème de la crème—the family recently taped "The Oprah Show."

Finding humor in life is challenging, but the Zaccagnino family sets a great example. Karen is the owner of Karen's Hair'm, a beauty salon located on Belmont Avenue, where societal issues are viewed through changing hairstyles. And as Elmwood Park is known for its outstanding Italian food, it's understandable that a lot of the laughs take place in the kitchen. I am proud of Chicago's own Zaccagnino family, and I look forward to seeing their lives coming soon to a television near you.

Chicagoans can see the funny family for themselves on the ABC Family website where visitors can view video submissions and vote for their choice for "America's Funniest Family."

I urge my colleagues, indeed all of America, to keep an eye out for the Zaccagnino family. I have a feeling we'll all be wishing we were part of such a loving, funny and lively family.

## HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 20, 2003*

Mr. SMITH of Michigan. Mr. Speaker, conserving our environment is important. Our forests are an important part of both Michigan's and our country's environment. In the west, catastrophic wildfires have decimated our forests over the last several years destroying both government and private property. The Healthy Forests Restoration Act of 2003 (H.R. 1904) is a common-sense, cost-effective piece of legislation that helps to control these fires as well as combat destructive insect and disease infestations in our forests.

Removing some of the bureaucratic red tape for performing fire prevention measures is not only environmentally friendly but also fiscally responsible, as fire prevention costs American taxpayers approximately one-fourth of what it costs to fight catastrophic forest fires. The Healthy Forests Restoration Act authorizes the Bureau of Land Management (BLM) to reduce the amount of underbrush and deadwood buildup in forests that serve as kindling and fuel for the hottest, most dangerous fires. It would regulate BLM's activities by putting limits on the tree removal and road construction that has provoked controversy at times in the past. This would give BLM the tools it needs to confront the increasing threat of destructive forest fires on federal lands that have had serious impacts both on people and wildlife.

The bill takes additional measures to improve our forests. These include provisions to encourage energy production from renewable energy sources, protection of watersheds in forest areas and the creation of a forest reserve program aimed at preserving and rehabilitating up to one million acres of degraded and rare forest lands.

Disease and insect infestations are not only detrimental to our woodlands, but also to our tree-lined streets and backyards. In southeast Michigan, we are combating an exotic beetle known as the Emerald Ash Borer. The beetles' larvae feed on the sapwood and eventually kill branches and entire trees. This invasive pest has resulted in the quarantine of all ash products in six counties in southeastern Michigan. There are 28 million ash trees in the six quarantined counties and an estimated 700 million ash trees in Michigan. We are now finding that the pest is spreading into Ohio. The magnitude of this problem is serious. Preliminary data from the Forest Service estimates that the potential national impact of the Emerald Ash Borer is a loss of ash trees up to 2 percent of total timber with a value loss of between $20–60 billion.

Following discussions with Secretary Veneman and gaining the support of the Michigan delegation, Michigan Department of Agriculture, and DNR we were able to get the approval of $14.6 million in emergency assistance from USDA to combat the Emerald Ash Borer. This federal funding will supplement resources provided by state and local authorities and will be used for pest surveillance, quarantine of infected areas, and some tree removal. In order to more efficiently combat destructive pests like the Emerald Ash Borer, the Healthy Forest Restoration Act puts in place measures that will allow accelerated information gathering on such insect infestations. By removing bureaucratic red tape and being more proactive in maintaining forest health, the Healthy Forest Restoration Act is a step in the right direction towards efficiently managing our forests, preventing catastrophic fires, controlling damaging insect infestations, and protecting our environment.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense to prescribe military personnel strengths for fiscal year 2004, and for other purposes:

Mr. UDALL of New Mexico. Mr. Chairman, the legislation before us is of great importance, perhaps today more than ever. Even as we debate this legislation today, our brave men and women are serving in harm's way. That is why I strongly support many provisions of this legislation; particularly the 4.1 percent across-the-board pay increase for military personnel, as well as the vital readiness, modernization, and infrastructure improvements, which will keep our forces the best-trained and best-equipped in the world.

As we are all painfully aware, there are many security challenges that face our great nation. As such, it is critical that we provide the necessary investments in our national defense. However, because of several highly controversial provisions in what is traditionally a bipartisan bill, I have strong reservations about supporting H.R. 1588 as it is currently written.

One of my primary concerns pertains to the environmental provisions in this legislation that weaken environmental protections. Although I fully support maintaining the highest possible level of military training and readiness, I believe such readiness must also be balanced against our duty to protect at-risk species, especially in light of existing Department of Defense exemptions in current environmental laws. H.R. 1588 does not adequately address this concern.

The Department of Defense contends that military training on the approximately 25 million acres of land at the more than 425 installations nationwide is greatly constrained by environmental laws such as the Endangered Species Act and the Marine Mammal Protection Act. However, a GAO report issued in June 2002 found that training readiness remains high and that the ESA and the MMP are not hampering military readiness. In addition, existing environmental laws already have national security exemptions, yet DoD has never bothered to apply for them. Although I support Chairman HUNTER's attempt to temper this extreme anti-environmental provision, I am dismayed that Democrats were denied the right to offer the Rahall/Dingell amendment, which would have addressed these environmental exemptions in a much more comprehensive manner.

Another provision that is of great concern to me pertains to the DoD's civilian personnel. H.R. 1588 contains broad, sweeping provisions that grant the Secretary of Defense authority to create an entirely new civilian employee system for DoD's 700,000 civilian workers, which strips these employees of some of their basic rights, such as the right to notice before they are fired and the right to join a union. Representatives COOPER, DAVIS, and VAN HOLLEN offered an important amendment before the Rules Committee to make major modifications to these provisions, in order to protect fundamental employee rights in any new National Security Personnel System designed by the DoD. Disturbingly, the Republicans disallowed this important amendment from being considered on the floor today. I wish I could say I was shocked at this action, but unfortunately it has become standard fare for the Majority to stifle debate and discussion on the important issues of the day.

Last, and certainly not least, is my concern over the nuclear weapons provisions in H.R. 1588. This legislation authorizes previously prohibited research on low-yield nuclear weapons and also authorizes $21 million to study the feasibility of developing a Robust Nuclear Earth Penetrator.

Our military needs improved capabilities to hold at risk hardened, and deeply buried targets in rogue nations that might contain prohibited weapons of mass destruction programs. However, instead of building new nuclear weapons and sending the signal to our allies and enemies alike that it's okay to build nuclear weapons, I believe we should fund weapons that have just as strong a deterrent capability, but do not encourage new uses for nuclear weapons or encourage a new nuclear arms race.

The military has not even asked for nuclear weapons to do the job because there are already several conventional programs underway that would allow us to get at the same targets. A recent article quotes Adm. James Ellis, head of U.S. strategic command, as saying he wants to "reduce the country's dependence on nuclear weapons by using conventional, precision-guided bombs and missiles."

Mr. Chairman, let me reiterate, I strongly support a strong national defense to address the many national security challenges we face in this uncertain world. Excluding these extraneous, highly controversial provisions, H.R. 1588 contains many important provisions to improve our nation's defenses. I support the important provisions that provide good pay, housing and training for the men and women in uniform and fund important modernization priorities that will ensure that we have the most technologically advanced military in the world. I am very hopeful that the environmental, civil service, and nuclear weapons provisions are addressed in conference in order to make this a more acceptable and bipartisan piece of legislation.

## HONORING DON MIDDLETON

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor one of our great champions of education in Colorado, Mr. Don Middleton. Mr. Middleton is retiring as Superintendent of Clear Creek School District after 37 years of service in public education.

During his tenure at Clear Creek, he has played a valuable role in raising the District's test scores across the board. The effect of his integrity, honesty and passion for education has been far reaching. In fact, he has been credited with restoring the pride of the educational community in his schools through his tireless efforts and compassionate leadership.

Don has been recognized on numerous occasions for his exceptional work in education. He has been given awards such as the Administrator of the Year Award of Excellence; the Award of Distinguished Service; a Certificate of Recognition for Outstanding Service Adams County #1; and the Hall of Fame Award from the Mapleton Education Association. Interestingly enough, if you ask Don to talk about his long and distinguished career of service, you would most likely find that he would rather talk about the kids he has met along the way. His dedication is evident by his enthusiastic presence at so many school functions and classroom visits.

Don Middleton has been a dedicated leader and an unwavering advocate for excellence in education. I ask my colleagues to join me in thanking Mr. Middleton for his hard work on behalf of Colorado's children and families. I wish him success in all of his future endeavors.

## HONORING MARY ANN McROBERT

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. SMITH of Michigan. Mr. Speaker, I rise today in honor of Mary Ann McRobert, recipient of the Lenawee Chamber's 2003 ATHENA award.

Throughout her life, Mary Ann McRobert has distinguished herself both personally and professionally through her commitment to helping those in need. Earning a Nursing Degree from St. Vincent's Hospital School of Nursing, Mary Ann went on to earn two degrees in Social Work: a bachelor's degree from Siena Heights University and a Masters degree from the University of Michigan. She has shared her experience and knowledge in nursing and social work as an instructor at Siena Heights University and Adrian College.

Mary Ann has made the most of her extensive education and training, serving in a variety of nursing situations, as a social worker, and as an administrator of several social service organizations. In the last 18 years, she has served as: Interim Director of Call Someone Concerned, Executive Director of the Family

Awareness Center, Administrative Director of Bixby Medical Center Psychology Unit, Clinical Social Worker in private practice, and Interim Director of Family Counseling and Children's Services. She also served two terms as President of the Board of Directors for the Family Awareness Center, two terms as Vice President of the Board of Directors for Family Counseling and Children's Services, and the Gerontology Network. Mary Ann has also volunteered for Hospice of Lenawee.

Mary Ann McRobert is well respected in her community, and with good reason. She is well known for her ability to initiate a project, enlist the assistance of others, and see the plan through to completion. Her efforts are not for her own benefit, but for the benefit of others. She has been a fierce advocate and courageous leader for social service causes and, by mentoring and her example, has opened many doors for women and men in community leadership.

## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

SPEECH OF

### HON. TOM UDALL

OF MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, people in New Mexico are hurting. Since January 2001, the unemployment rate in my state has risen to 5.9 percent. While every single person on unemployment would rather have a job, until the economy reverses, we in Congress have a moral obligation to help the jobless make ends meet. The extension will help nearly 5,000 New Mexicans who still have not found jobs, and were scheduled to exhaust their Federal benefits at the end of this month.

We have been calling for this type of legislation for weeks, and I applaud the Majority for finally doing what is right. Unfortunately, although they have done what's right, they haven't done enough in this bill to help all Americans who are out of work.

Last year, because of the failed economic policies of this administration, Congress was forced to enact the Temporary Extension of Unemployment Compensation (TEUC) bill. Sadly, though, the need has only increased since then. The economy has actually gotten worse since Congress passed TEUC in March 2002.

The number of unemployed (8.79 million) is at the highest level in nearly a decade. The unemployment rate rose to 6.0 percent in April, compared to 5.7 percent when TEUC was enacted in March 2003 and when the program was extended in January of this year. The number of payroll jobs fell for the third straight month in April; unemployment is now 2.1 million below its level when the recession began. Long-term unemployment also continues to get worse.

Unemployment benefits provide an economic lifeline for families struggling to find work and boost an ailing economy. People are losing their jobs, looking for work, and finding none.

It is unfortunate that the House leadership waited so long to bring up this bill. It is also unfortunate that the House leadership has refused us a vote on the Democratic alternative—yet again.

While I will vote for this bill because it is critical to the millions of Americans who have lost their jobs in the last two years, we should be doing more. This plan leaves over one million unemployed behind, and fails to provide them the benefits they need to put food on the table, clothes on their backs, and a roof over their heads.

We also should be extending this benefit for 26 weeks, not just 13. Although the bill provides that in high unemployment states jobless workers would be eligible for 13 more weeks—in addition to the 13 extra weeks available to all jobless workers who have exhausted their 26 weeks of regular benefits—the entire country is in need of this assistance. Because of the strict requirements for a state to qualify as a high unemployment state under this program, only six states currently qualify—Alaska, Connecticut, Massachusetts, Oregon, Pennsylvania and Washington. We should pass the full Democratic package immediately to help everyone seeking work, not just the few.

Research shows that during previous recessions, the stimulative power of unemployment benefits saved an average of 131,000 jobs and slowed the drop in the Gross Domestic Product by 15 percent. National studies have shown that $1 in unemployment insurance leads to $2.15 worth of economic growth.

Every week without unemployment insurance benefits, states lose $200 million in cash—cash that in all likelihood would be spent at the local grocery store and the local gas station. Indeed, a recent study by Economy.com, an independent financial research group, found that the single most effective stimulus measure would be further extension of emergency Federal unemployment insurance benefits.

Mr. Speaker, this legislation unfortunately is long overdue, and very necessary. I urge my colleagues to vote for H.R. 2158, and quickly send this legislation to the Senate to ensure these benefits continue uninterrupted.

## IN HONOR OF CAROLYN "CJ" JONES

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. UDALL of Colorado. Mr. Speaker, I am pleased to rise today to acknowledge Ms. Carolyn "CJ" Jones for her many years of public service and for the depth and diversity of contributions she has made to my staff and to so many people in Colorado.

Upon my election to the 2nd Congressional District in 1998, CJ was the first person I invited to join my staff. She was instrumental in organizing my campaign effort in Adams County, and in the early days after my election, she organized our fledgling congressional office from the basement of her house and took constituent inquiries on her cell phone. CJ Jones assisted in training many of my novice staff members and has subsequently set the standard of excellence for my office in the 2nd Congressional District.

Prior to becoming my staff assistant, CJ served in the offices of Senator Tim Wirth and Congressman David Skaggs. She is also the only member of my staff with her own election certificate—this to the Adams County School District 12 Board. Throughout her distinguished career, she has served successfully in numerous capacities. Her knowledge of Adams County politics is encyclopedic, and her insistence on application of House Ethics Rules has become legendary with members of my staff. We will deeply miss the staff parties at her home, her annual Christmas carols—which started with the earliest snowfall in September—and her tendency to break into song at any moment. Coworkers will also recall those rare moments in CJ's career when her blue eyes turned steely gray, signaling a red alert to everyone in the vicinity.

One of the things I share with CJ is a deep interest in young people. She has been the driving force behind my annual Youth Washington Seminar and she has mentored young people, chaperoning high school students in Washington with care and joy. She has shown young Coloradans that politics is not just about policy debates and electioneering, but also about having fun. High School students visiting Washington with her could always count on a visit to the monuments, but also a visit to the Hard Rock Café. To serve so broadly, so successfully, and with such grace, heart, and spirit is deserving of recognition.

CJ plans to spend some well-deserved time relaxing and traveling with her husband Bill, and spoiling her grandchildren. As a dedicated wife, mother and grandmother, CJ will continue to be the center of her family and the light of their lives. I know that they look forward to having her undivided attention and time. She will no doubt continue to be a force to be reckoned with in the arena of her garden and home.

Mr. Speaker, I ask my colleagues to join with me in expressing our gratitude to CJ Jones for her exemplary public service to the people of Colorado and their elected officials. Her many accomplishments go beyond reckoning, and I wish her good health and happiness in the future.

## HONORING SHAAN GANDHI, OF BATTLE CREEK, MI, LEGRAND SMITH SCHOLARSHIP WINNER

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Shaan Gandhi, winner of the 2003 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Shaan is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Shaan is an exceptional student at Harper Creek High School, and possesses an outstanding record of achievement in high school. Shaan has received numerous awards for his excellence in science and math, as well as his volunteer activities with the Calhoun County Chapter of the American Red Cross and the Substance Abuse Council of Battle Creek. A Siemens-Westinghouse Scholar, Shaan has also participated in the NASA SHARP PLUS program, is a National Merit Scholarship Finalist, and has been accepted to Harvard University.

Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Shaan Gandhi for his selection as winner of a LeGrand Smith Scholarship. This honor is a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to his success. To this remarkable young man, I extend my most heartfelt good wishes for all his future endeavors.

## APPOINTMENT OF CONFEREES ON H.R. 2, JOBS AND GROWTH RECONCILIATION ACT OF 2003

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, the facts are startling. In just over 2 years, this administration has taken a vibrant economy and turned it into a total mess. Once we saw projected federal surpluses for years, but now we see unprecedented deficits as far as the eye can see. Once we saw Americans working in good paying jobs, but now we see over two million jobs lost and families needing help to make ends meet. Once we saw states thriving and providing much needed benefits to the most needy, but now we see massive state deficits that require federal assistance to close.

Something needs to be done to fix these problems. The question is what's the best way to do it? When we began the debate earlier this year about how to turn around our struggling economy, I was looking for a plan that passed three simple tests. Was the plan fair? Was the plan fast-acting? Was the plan fiscally sound?

Tonight, the House is voting on the President's proposal. The answer to all three of these simple questions is a resounding "no."

Is it fair?

The other side likes to point out that the average family will receive about $1,000 in tax breaks. What they don't tell you is that 53 percent of all taxpayers—yes, 53 percent of all taxpayers—will see less than $100 in their pockets. However, if you make over $1 million a year, you get a tax cut of $93,500. This clearly is not fair.

Is it fast acting?

Well, it's going to take effect this year. Yes, that much is true. Unfortunately, the President's plan gives the break this year and next, then it takes it away again in 2005. So, the average middle class taxpayer will actually see their taxes go up 2 years from now. And this trickle-down tax policy will not stimulate the economy now. In fact, it totally depends on those who benefit—the few—to reinvest their windfall down the road. In fact, there is no guarantee that any of this will happen, so there is no guarantee that this tax cut will generate any jobs, let alone the one million promised by the President.

Is it fiscally sound?

The answer is a resounding no. The dividend tax reduction and the cut in the capital gains rate will give us little bang for our buck. Many leading economists argue that the dividend cut especially is one of the least effective options to grow the economy.

This bill is a cruel hoax on New Mexico families. The overwhelming majority of hardworking New Mexicans will reap minimal benefits from these tax cuts. Although the final agreement hammered out by the House and Senate is much better than President Bush's original proposal, it still will not deliver much of a boost to the economy and instead increase the federal debt to be paid for by future generations.

With passage of this tax cut, Congress and the president are demonstrating their economic arrogance. Over 400 economists, 10 Nobel prize-winning economists, Federal Reserve Chairman Alan Greenspan and a host of other credible experts have told us that this is not the way to go. It is not good economic policy, it is not good tax policy, it is not good fiscal policy, and it is going to put us in a deeper and deeper deficit hole. Eventually interest rates will rise because of the federal debt and that's going to hit middle-income families harder than the wealthy individuals who benefit the most from this misguided bill.

Two years ago, President Bush told us that we could enact his policies and virtually eliminate the debt held by the public by 2008. Now, the Bush Administration is asking Congress to raise the debt limit by almost $1 trillion. It is an unprecedented turn of events. Those in the White House and their allies who want to eventually end the role of the federal government as we know it today—in education, homeland security, health care, Social Security, Medicare, veterans' benefits and other basic services—are well on their way.

The only beneficial provisions included here are the ones that we included in our alternative plan: raising the refundable child tax credit, speeding up tax relief for married couples, preventing more individuals from being hit by the alternative minimum tax, small business expensing, and the financial aid to the states. Unfortunately, these redeemable items will be strangled by the capital gains and dividends tax breaks for the few.

In 2001, I voted against the Bush tax cut bill because it was too skewed toward the wealthiest Americans and too fiscally irresponsible. Since then, we have gone from record surpluses to record deficits, and the economy is still floundering. Passing another enormous tax cut this year will only continue this trend and increase the economic problems that our children and grandchildren will inherit.

Tonight, I will do so again. I urge my colleagues to vote "no" on this conference report.

## BRUCE WOODBURY POST OFFICE

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. PORTER. Mr. Speaker, I rise before you today to pay tribute to one of Southern Nevada's most distinguished citizens, Commissioner Bruce Woodbury. I have introduced legislation to name the United States Postal Service facility in Boulder City, Nevada in his honor.

I have worked closely with the members of the City Council of Boulder City, and the Mayor of Boulder City, Robert Ferraro, to appropriately thank Commissioner Woodbury for his many contributions to the great State of Nevada.

Commissioner Woodbury is a native of Las Vegas, and he has resided in Boulder City since 1978, He is a graduate of Las Vegas High School, and attended the University of Utah where he graduated Phi Kappa Phi, Phi Beta Kappa, and Magna Cum Laude. Mr. Woodbury then attended Stanford School of Law where he earned a Doctor of Jurisprudence and was a member of the Board of Editors of the Stanford Law Review.

In Southern Nevada, Commissioner Woodbury has served for many years as an outstanding civic leader. He has served as a member of the Clark County Commission for 21 years and on the Regional Transportation Commission of Southern Nevada for 17 years, the last 11 as that body's chairman. The magnitude of his contributions are seen by Nevadans every day. Commissioner Woodbury was instrumental in gathering support for the construction of the Las Vegas Beltway, the largest and most visible transportation project ever undertaken in Clark County. Through his leadership, Commissioner Woodbury has worked to minimize traffic delays, reduce inconvenience for drivers, and maintain access to local businesses.

In addition, Mr. Woodbury has been very involved in local, civic, and youth organizations. He is also a proud father and grandfather. I am pleased to introduce this legislation honoring him today. It has been my privilege to work with Commissioner Woodbury on a variety of projects and I can speak to his character as a leader, a citizen, and as a friend.

## TRIBUTE TO PONTIAC HIGH SCHOOL'S HUSKIE BRIGADE

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. KNOLLENBERG. Mr. Speaker, today I pay tribute to Pontiac Northern High School's "Huskie Brigade" for their victory at the U.S. FIRST Robotics National Championship in Houston, Texas last month. The twenty-four students, four teachers, and several engineers should be proud of this accomplishment.

Science and technology are the keystones to our economic prosperity. The quality education of America's youth is more critical now than ever as our society becomes more wired and globalized. Our students must be interested in science, mathematics, engineering, and technology to continue our success.

The For Inspiration and Recognition of Science and Technology (FIRST) competition instills an appreciation of science and technology in students and teaches them how mastering these institutes can enrich our society. Corporations provide economic and professional support to FIRST and teams. General Motors Powertrain sponsored Pontiac Northern High School's team. Many Fortune 500 companies have significantly contributed to FIRST's growth and government organizations such as NASA are key partners. FIRST represents a cooperative team effort by students, teachers, communities, corporations, and our government.

The Huskie Brigade competed in two regional events leading up to the National Competition. At the Great Lakes Regional, they were awarded the prestigious 2003 Regional Chairman's Award. At the Mid-West Regional, the Huskie Brigade finished as a finalist and won the Johnson and Johnson's Sportsmanship Award.

I congratulate the Huskie Brigade on their fine achievements and awards and wish nothing but the best for all the members in their future endeavors.

## EXPRESSING APPRECIATION TO SAMANTHA BENTON

### HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. WALDEN of Oregon. Mr. Speaker, colleagues, I rise today to convey my deepest appreciation to a member of my Washington, D.C. staff for her dedicated service to the people of Oregon's Second Congressional District. Samantha Benton left my staff last week to join the United States Department of the Treasury. I wish her well in this endeavor and am confident that she will excel in her new role.

Samantha was raised in my hometown of Hood River, Oregon, growing up on a family-owned orchard along the Columbia River Gorge. Her parents, John and Julie Benton, are well-respected members of the Hood River community and personal friends of mine. Samantha brought her "small town values" from rural Oregon to our nation's capital and to the job she performed assisting Oregonians visiting Washington, D.C. or seeking help from my office. She attended Westside Elementary School and Hood River Middle School before graduating from Hood River Valley High School in 1997. She then went on to attend the University of Puget Sound in Tacoma, Washington, where she studied history and was active as Vice President of Program Development for the University's Zeta chapter of Alpha Phi. Samantha's interest in politics was apparent during her college years, when she worked as an intern in two Congressional offices. Samantha worked as an intern in my Washington, D.C. office during the summer of 1999, then worked in Congresswoman JENNIFER DUNN's Mercer Island District Office in 2000.

After her graduation in 2001, I was pleased to offer Samantha a permanent position on my staff. From the beginning of her tenure, she made Oregonians feel at home when they walked through the door of 1404 Longworth by offering them a warm and sincere reception. She faithfully attended to every detail in helping families navigate the sights and sounds of Washington, D.C. Time and again, she brought history to life by leading tours of the Capitol for Oregonians who had come nearly 3,000 miles so that they and their children could better understand the federal government and our nation's extraordinary history. Samantha arranged their itineraries, answered their questions, and went the extra mile every time to make them feel comfortable an entire continent away from their homes. In short, Mr. Speaker, Samantha made their day and their trip.

I have a sizable stack of letters from Oregonians who took the time to write after their trip to Washington, D.C., to thank me for Samantha's assistance and her dogged determination to make sure their experience was memorable.

Mr. Speaker, Samantha's energetic and helpful demeanor was equally appreciated by her coworkers. She was attentive in recognizing when something needed to be done, taking the initiative to complete projects and lend others a helping hand. Whether she was drafting letters to address a constituent's concerns or keeping the information on my web site up to date, Samantha's contributions were always appreciated and on target. During her time in my office, she took a staff assistant role and developed it into something much more.

Samantha's attitude and intellect will serve her well as she continues her public service at the Department of the Treasury. Mr. Speaker, she will be a difficult person to replace. Sam, thank you for a job well done and good luck in the future.

## TRIBUTE TO MRS. CATHERINE OCHENSKI

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to Mrs. Catherine Ochenski in honor of her becoming the first female District Commander for the Veterans of Foreign Wars 11th district.

Kate proudly served her country in the Women's Army Corps from 1944 to 1946 both in the United States and in Europe. Her role during these 2 years was to assist in the aftermath of World War II. Kate has since gone on to wed a Marine veteran, and raise a family of three children. She has also served in a multitude of capacities at V.F.W. Post 1075 for over 15 years, where she currently has received the honor of being the first female District Commander. Kate's accomplishments are numerous, and her devotion to her country is steadfast.

I am honored today to recognize Catherine Ochenski for her many accomplishments, and to congratulate her on the celebration of her role as first female District Commander for the V.F.W. Post 1075.

## RECOGNIZING THE MARRIAGE OF DENA MARIE CARLI AND DENNIS WAYNE POCIASK

### HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. GUTIERREZ. Mr. Speaker, I rise today to offer my best wishes for the upcoming marriage of Dena Marie Carli and Dennis Wayne Pociask on June 7, 2003.

Dena and Dennis met while on duty as police officers with the 13th District Chicago Police Department.

Dena, who is currently pursuing a law degree, has been working in law enforcement since 1995. She started as Cook County deputy sheriff and in 1999 became a Chicago police officer. Her parents, Officer Reno and Diane Carli, and her sister, Officer Lisa Carli, are all very proud of her decision to continue in the family business of keeping our city safe.

Dennis has been with the police force since 1998 and remains close with his mother, Tina, his brother, Ray, his sister-in-law, Pamela, and his niece, Holly.

Mr. Speaker, marriage is an occasion worthy of celebration and recognition. Please join me in wishing the very best for Dena and Dennis' new life together. May they share many pleasant memories in a marriage built on trust, friendship and a loving commitment to one another. I wish them many years of happiness and ask my colleagues to join me in extending their best wishes.

## CENTRAL NEW JERSEY CELEBRATES THE NORTH BRUNSWICK TOWNSHIP HIGH SCHOOL ROBOTICS TEAM

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. HOLT. Mr. Speaker, I rise today to recognize the victory of the 37 member team from North Brunswick Township High School who built the robot, Evil Machine, and took second place in the national FIRST (For Inspiration and Recognition of Science and Technology) Robotics Competition in Houston Texas. Building a champion robot is more than creating a machine with technical prowess. It represents hours of hard work, dedication, collaboration and communication among students, teachers, mentors and community members. FIRST is an example of technology at its finest. It involves identifying a problem, developing a hypothesis to solve it and implementing the solution.

To win second place in a national competition against 300 other high school robots is a good accomplishment. Each team that participated in FIRST was required to design and build a robot that solved the "game problem" using "kit parts" and a standard set of rules. Over a six-week period, the North Brunswick Township High School team designed "Evil Machine". His task for the competition was to collect and stack plastic storage containers on their side of the playing field, to knock down walls, and during the two-minute competition, to keep the opposing team's robots from doing the same activity.

FIRST is a critical program because it reinforces science education. Science is not just another subject. It is fundamental like reading and math. Science brings order, harmony, and balance to our lives. It teaches us that our world is intelligible and not capricious. A scientific framework provides us the skill for lifelong learning, for creating progress itself. These are very important skills for the very complex times in which we live.

I ask that all the members join me in congratulating these 34 North Brunswick Township High School Students for their excellence and their FIRST Robotics victory.

## CONGRATULATING BOYD AND IRENE MADDOX ON 75 YEARS OF MARRIAGE

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. LEWIS of California. Mr. Speaker, we in America have a penchant celebrating milestones in just about every endeavor, be it sports, business or even school attendance. But today I would like to recognize a truly amazing milestone, which is only rarely reached in our modern world: the 75th wedding anniversary of Boyd and Irene Maddox of San Bernardino County.

Boyd Maddox and Irene Crozier are lifelong residents of the Old West, growing up in the rugged early 20st-Century New Mexico Territory, marrying in Tombstone, Arizona and finally settling at the 250,000–acre Las Flores Ranch in the Mojave Desert—a working cattle ranch that still provides good employment to the cowboys of the 21st Century.

Boyd was born in Lordsburg, New Mexico in 1908 and grew up on a cattle ranch where he got to know a young neighbor girl named Sandra Day—later to become Supreme Court Justice Sandra Day O'Connor. After graduating from New Mexico Military Academy, Boyd became a messenger for Continental Bank of Los Angeles, and then worked his way up through a series of banks to become chief bookkeeper of the Douglas State Bank in southern Arizona.

Irene had graduated from Tombstone High School, and married the young bank officer on June 10, 1928 at Old Adobe Episcopal Church in her hometown. The couple homesteaded for 2 years, but the depression forced Boyd to go to work for the Civilian Conservation Corps as a bookkeeper.

A former bank employer had purchased a cattle ranch—the Las Flores Ranch in the Mojave Desert, and urged the Maddox's to come west and help him manage it. They finally visited in September 1938, and never left. Boyd became the working general manager and stayed for the next 50 years until his retirement. Irene raised Boyd, Jr., who is now 67.

Mr. Speaker, Boyd and Irene Maddox are enjoying an active retirement, traveling, visiting friends and reminiscing. I'm sure we would be spellbound by the stories they could tell of their remarkable life together all these years. Please join me in congratulating them on their 75th wedding anniversary, and wishing them many more years to come.

## HONORING LEGENDARY PENN HIGH SCHOOL FOOTBALL COACH CHRIS GEESMAN

### HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. CHOCOLA. Mr. Speaker, I rise today to pay tribute to a living legend, Penn High School football coach Chris Geesman from Mishawaka, Indiana.

Coach Geesman recently announced he plans to retire from coaching at the end of this school year.

Since 1972, Coach Geesman has led the Kingsmen to five state championships and has never suffered a losing season.

Mr. Speaker, that's remarkable.

He retires in second place on the All-Time Football Coaching Leaders in Indiana with 339 victories. Only one coach in Indiana high school football history had more wins, but that coach also had more loses.

In 1996, he was inducted into the Indiana Football Hall of Fame.

Coach Geeman's impressive resume includes five state championships (1983, 1995, 1996, 1997, and 2000), three state runner-up finishes (1989, 1991, and 1999), eight semi-state crowns (1983, 1989, 1991, 1995–1997, and 1999–2000), and 13 sectional trophies (1979, 1983, 1987, 1989, 1991, and 1995–2000).

Penn High School football was also a force to be reckoned with under Coach Geesman's guidance in the Northern Indiana Conference by winning 22 NIC titles, including 17 in a row from 1986 through 2002.

Since a loss back in 1985, the Kingsmen have won an astonishing 117 straight NIC games.

The Kingsmen also established a state record with 89 consecutive regular-season victories running from 1985 to 1996 and own a state-record 22 straight playoff victories.

Coach Geesman's Kingsmen were ranked Number 1 in all or parts of a record 13 seasons for a record total of 87 weeks since 1977.

Coach Geesman has also had many players move on to play at the collegiate level and even a couple have advanced to play in the National Football League.

Mr. Speaker, I know the fans of Penn High School football and the Mishawaka community will certainly miss Coach Geesman, but I wish him well in his future endeavors.

## A PROCLAMATION RECOGNIZING MR. AND MRS. JOHN PAGE

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. NEY. Mr. Speaker, whereas, Mr. and Mrs. John Page began selling homemade fudge and then founded the Pillars Club to assist those in need; and

Whereas, Mr. and Mrs. John Page's involvement in the annual Pillars Club banquets have benefitted many in the community including students, the unemployed, and disaster victims; and

Whereas, Mr. and Mrs. John Page are examples of love and devotion having been married for over fifty years; and

Whereas, Mr. and Mrs. John Page should be recognized for their extraordinary outreach and selflessness;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Mr. and Mrs. John Page for their accomplishments and contributions to the community.

## RECOGNIZING THE LIFE OF MISSOURI HIGHWAY PATROL TROOPER MICHAEL L. NEWTON

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the life of Missouri Highway Patrol Trooper Michael L. Newton. His life, though tragically cut short, was enriched by numerous accomplishments in his career, and a loving, caring family.

Mike served the Missouri Highway Patrol with dignity and passion. He set career goals that established himself as a competitive officer. He was ardent about making as many driving-while-intoxicated and traffic arrests as he could and it was this determination that made him a standout among his fellow officers. His eagerness and drive established him as an officer that was well-liked by many of his peers.

Mike is survived by his loving wife Shonnie and two sons, Tyler and Devon. Many of the Missouri Highway Patrol have pledged to help the family through these trying times. It is my hopes that his young boys will always remember how passionate their father was about his job and how diligently he served the people of Missouri.

Mr. Speaker, I respectfully ask that you help me in recognizing and remembering Missouri Highway Patrol Trooper Michael L. Newton, his accomplished career, and the remarkable family he leaves behind. God Bless them.

## PRO-LIFE ACTION MUST ORIGINATE FROM PRINCIPLE

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### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. PAUL. Mr. Speaker, as an obstetrician who has delivered over 4000 children, I have long been concerned with the rights of unborn people. I believe this is the greatest moral issue of our time. The very best of the western intellectual tradition has understood the critical link between moral and political action. Each of these disciplines should strongly inform and support the other.

I have become increasingly concerned over the years that the pro-life movement I so strongly support is getting further off track, both politically and morally. I sponsored the original pro-life amendment, which used a constitutional approach to solve the crisis of federalization of abortion law by the courts. The pro-life movement was with me and had my full support and admiration.

Those who cherish unborn life have become frustrated by our inability to overturn or significantly curtail Roe v. Wade. Because of this, attempts were made to fight against abortion using political convenience rather than principle. There is nothing wrong per se with fighting winnable battles, but a danger exists when political pragmatism requires the pro-life movement to surrender important moral and political principles.

When we surrender constitutional principles, we do untold damage to the moral underpinnings on which our Constitution and entire system of government rest. Those underpinnings are the inalienable right to life, liberty, and property. Commenting upon the link between our most important rights, Thomas Jefferson said "The God which gave us life gave us at the same time liberty. The hands of force may destroy but can never divide these."

M. Stanton Evans further explained the link between our form of government and the rights it protects when he wrote, "The genius of the Constitution is its division of powers—summed up in that clause reserving to the several states, or the people, all powers not expressly granted to the federal government."

Pro-lifers should be fiercely loyal to this system of federalism, because the very same Constitution that created the federal system also asserts the inalienable right to life. In this way, our constitutional system closely links federalism to the fundamental moral rights to life, liberty, and property. For our Founders it was no exaggeration to say federalism is the means by which life, as well as liberty and property, are protected in this nation. This is why the recent direction of the pro-life cause is so disturbing.

Pro-life forces have worked for the passage of bills that disregard the federal system, such as the Unborn Victims of Violence Act, the federal cloning ban, and the Child Custody Protection Act. Each of these bills rested on specious constitutional grounds and undermined the federalism our Founders recognized and intended as the greatest protection of our most precious rights.

Each of these bills transfers to the federal government powers constitutionally retained by the states, thus upsetting the separation and balance of powers that federalism was designed to guarantee. To undermine federalism is to indirectly surrender the very principle upon which the protection of our inalienable right to life depends.

The worst offender of federalism is the so-called Unborn Victims of Violence Act, which not only indirectly surrenders the pro-life principle but actually directly undercuts the right to life by granting a specific exemption to abortionists! This exemption essentially allows some to take life with the sanction of federal law. By supporting this legislation, pro-lifers are expressly condoning a legal exemption for abortionists—showing just how far astray some in the pro-life community have gone.

Even the Partial Birth Abortion Ban Act, which is an integral part of the current pro-life agenda, present a dilemma. While I have always supported this Act and plan to do so in the future, I realize that it raises questions of federalism because authority over criminal law is constitutionally retained by the states. The only reason a federal law has any legitimacy in this area is that the Supreme Court took it upon itself to federalize abortion via Roe v. Wade. Accordingly, wrestling the abortion issue from the federal courts and putting it back in the hands of the elected legislature comports with the Founder's view of the separation of powers that protects our rights to life, liberty, and property.

Given these dilemmas, what should those of us in the pro-life community do? First, we must return to constitutional principles and proclaim them proudly. We must take a principled approach that recognizes both moral and political principles, and accepts the close relationship between them. Legislatively, we should focus our efforts on building support to overturn Roe v. Wade. Ideally this would be done in a fashion that allows states to again ban or regulate abortion. State legislatures have always had proper jurisdiction over issues like abortion and cloning; the pro-life movement should recognize that jurisdiction and not encroach upon it. The alternative is an outright federal ban on abortion, done properly via a constitutional amendment that does no violence to our way of government.

If the next version of the Partial Birth Abortion Ban Act reads like past versions in the House, I will likely support it despite the dilemmas outlined here. I cannot support, however, a bill like the proposed Senate version of the Partial Birth Abortion Ban that reaffirms Roe v. Wade.

For the pro-life cause to truly succeed without undermining the very freedoms that protect life, it must return to principle and uphold our Founder's vision of federalism as an essential component of the American system. Undermining federalism ultimately can only undermine the very mechanism that protects the right to life.

## APPOINTMENT OF CONFEREES ON H.R. 2, JOBS AND GROWTH RECONCILIATION ACT OF 2003

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### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. RANGEL. Mr. Speaker, the President has said in numerous speeches that his policies are designed to "leave no child behind." He has said recently that, "My jobs and growth plan would reduce tax rates for everyone who pays income tax." White House Press Secretary Ari Fleischer stated on May 29 about the new tax-cut law (which includes all of the provisions of the President's plan in full or in part), "This certainly does deliver tax relief to people who pay income taxes." Now that the bill has been signed, all of these statements have been shown to be false.

Back then, during the debate on this bill, the Republicans assured the press that the final conference bill retained a Senate provision that, while it did not extend any tax relief to millions of low-income working families with children, did at least accelerate the 15 percent partial refundability. The Republicans also claimed that the marriage penalty relief was accelerated for couples. These claims have been proven false as well.

The American people were sold a false bill of goods by the Administration and the Congressional Republicans. In the middle of the night, the Republicans passed a bill that over and over again puts the interests of the wealthiest people in the country ahead of those of the ordinary American family.

You will hear all sorts of excuses from the Republicans as to why this occurred. The spokeswoman for Chairman Bill Thomas of the House Committee on Ways and Means told The New York Times that the blame lay with the members of the other body of Congress"(W)hen we had to squeeze it all to $350 billion, they weren't talking about the child credits." She concluded, "(W)hatever we do is not going to be enough for some segments of the population."

The "segments" of the population we are talking about are those people who the President and Congressional Republicans say that he wants to help. We are talking about 11.9 million children (in 6.5 million families) who would benefit from accelerating the increase in the refundability of the child tax credit. These are parents who work hard at low wages and pay high payroll taxes to the Federal government. Another "segment" we are talking about is working couples who qualify for the Earned Income Tax Credit. These are working poor families who are often struggling to stay together given the financial pressures on them. A couple with two children where each parent earns about $10,000 has about a $1,000 marriage penalty next year. And yet, the Republicans decided that marriage penalty relief should not include them.

The Republicans also left out 8.1 million taxpayers who receive no benefits from the new tax law and yet pay income taxes. This group consists mainly of low-income single individuals and moderate-income single parents whose children are over 16.

Not only are these "segments" made up of men and women who work and pay Federal taxes, many of the people that are left out of tax relief are the same men and women who just fought for this country in Iraq. The society they sacrificed for has decided to raid the Social Security and Medicare trust fund to give billions of dollars in tax relief to wealthy investors, but has not seen fit to give a tax cut to our soldiers.

Make no mistake about it. Nobody forgot to put benefits in because they were sleepy in the middle of the night. This was not necessary because the bill had to cost only $350 billion and it was simply impossible to do anything for these working Americans in the bill. The Republicans in Congress, with the tacit approval of the White House, deliberately skimped and trimmed on the few provisions under consideration to help millions of middle- and low-income working families. Meanwhile, they enhanced provisions for the wealthy and for special interests. They made sure that the average millionaire would receive a luxury $93,500 tax break. They made sure that luxury SUV owners would get a generous tax break if they can figure out a way to make their vehicle a "business expense." They even made sure that the tax cuts for dividends, the so-called elimination of "double taxation," applied to dividends from companies that use sham headquarters in tax havens to get out of paying any tax. These companies that put profits over patriotism get benefits from the tax bill the President signed, but the parents of 12 million children do not.

The bill we introduce tonight is designed to serve those people with children that the Republicans talk about but somehow never do anything for. This includes many of our service men and women who are or have been stationed in Iraq, Afghanistan, and Korea. These men and woman have risked their lives and done their duty at such low wages that the President's tax cut which he claims helps "working families" has left them out.

The bill would include an expansion of the refundable child credit that was included in the Democratic economic stimulus proposal. It would expand the refundable child credit for the families of military serving in Iraq and other combat zones. It also would include the provision of the Democratic stimulus plan that accelerated the marriage penalty relief in the earned income tax credit that was provided in the 2001 tax bill.

The President's bill gave big tax cuts to the wealthiest citizens and funded these tax cuts through borrowing. While we want every child in America to benefit from tax cuts, we do not want to pass the cost of what we do to our children and grandchildren in the form of more national debt. The cost of the bill would be offset by a combination of the corporate tax shelter and Enron-specific provisions that passed the Senate and Mr. NEAL's bill stopping corporate expatriation.

The legislation we propose has two key sections:

LIBERALIZATION OF REFUNDABLE FAMILY CREDIT

Under current law, the per-child tax credit is partially refundable (i.e., paid even if the family has no income tax liability). The amount of partial refundability is 10 percent of taxable wages above $10,000. Under the 2001 tax act, the amount of refundability is increased to 15 percent of taxable wages over $10,000 effective in 2005 and thereafter.

This legislation accelerates the 15 percent partial refundability and lowers the threshold for partial refundability from $10,000 to $7,500. It would increase the number of families eligible for partial refundability.

The military serving in combat zones receive an exclusion for their pay while serving in the zone. As a result, many in the military will not be eligible for the partial refundable family credit because they do not have taxable wages. The legislation solves this problem by disregarding the combat pay exclusion when computing the size of the partially refundable family credit.

MARRIAGE PENALTY RELIEF IN EARNED INCOME CREDIT

The 2001 tax act provided three types of marriage penalty relief, an increase in standard deduction, an expanded 15 percent rate bracket, and an increase in the dollar amount at which the earned income credit begins to be phased out. The recently enacted tax cut accelerates the first two types of marriage penalty relief, but does not accelerate the relief in the earned income tax credit.

This legislation will accelerate the marriage penalty relief in the earned income tax credit.

When the Republicans brought their final tax cut bill up in the House in the middle of the night, I argued on the House floor that the bill did almost nothing for working people while rewarding the wealthiest people in our society who have lots of unearned income. The Republicans accuse me of engaging in "class warfare" and expect me to back down. But I agree that it is class warfare. The Republicans have declared war against those who earn their living through work, even when those individuals are serving their nation in the armed service. This legislation shows that in this class warfare, we are on the side of working men and women.

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## RECOGNIZING THE IMAGEN FOUNDATION

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Ms. SOLIS. Mr. Speaker, I rise today to call attention to the outstanding achievements of the Imagen Foundation. Since its establishment sixteen years ago through the leadership of Helen Hernandez, the Imagen Foundation has led the fight to increase career opportunities for Latinos and Latinas in the entertainment industry and transcend the stereotyped media roles Latinos have been pigeonholed into.

The Imagen Foundation has helped to positively influence the role of Latinos in the media. It is critical for our community to be accurately portrayed because of the influential power the media holds in forming public opinion. Unfortunately, our community is underrepresented and misrepresented throughout all major media networks. Reports show that only 4 percent of people on prime time TV are Latinos, and Latinos who hold more permanent roles only make up 2 percent of actors. It is important to expose the world to the reality that Latinos are also doctors, lawyers, business executives and Members of Congress, and refute the stereotypes perpetuated by the entertainment industry.

Through various tools such as education, mentorship opportunities and workshops, the Imagen Foundation has created openings for Latinos in the entertainment industry. I have had the privilege of attending several workshops and I have seen the incredible talent that exists in the Latino community. The Imagen Foundation has been an amazing force working to develop, showcase and honor the talent in our community. It is my privilege to take this opportunity to pay tribute to the Imagen Foundation.

Through groups such as the Imagen Foundation and people like Helen Hernandez, more doors are beginning to open for Latinos in the entertainment industry. While much has been accomplished, we cannot stop here. There is still much to be done and we need to continue to work together. Hispanics are a fundamental part of this nation's history, a significant part of our present, and will play a vital role in the future success of this country's collective prosperity. I know that this is just the beginning, but with institutions such as the Imagen Foundation, who are committed to fighting prejudices and are concerned with bringing truth and a cultural sensitivity to television and society, I look forward to the accomplishments that are yet to come.

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## HONORING JOHN RHYMES

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. KILDEE. Mr. Speaker, as a former teacher, I am happy to rise before you today to recognize Mr. John Rhymes, who is retiring as Principal of Gundry Elementary School, in my hometown of Flint, Michigan.

Armed with a desire to teach, John Rhymes, a native of Hazlehurst, Mississippi, started his college career at Mississippi Valley State University, where he received his Bachelor's Degree in 1970. He later arrived in Michigan, where he earned a Master's Degree in Guidance and Counseling from Eastern Michigan University, and also studied Educational Leadership at Wayne State University in Detroit.

Moving to Flint 32 years ago with his new wife Lessie Odom Rhymes, John began his tenure with the Flint educational community as a teacher, Social Service field worker, Assistant Principal, and ultimately Principal. In addition to serving as Principal of Gundry Elementary, John is also Executive Director of the Sylvester Broome, Jr. Training Technology Center. At the Broome Center, he oversees the Amistad Academy After-School School, which offers young people classes in computers, public speaking, performing arts, and character development, among other things. To date, there have been 308 graduates of the Academy, with a long waiting list of students eager to be placed into the program.

John's commitment to education is matched only by his tremendous commitment to improving the community. He has been recognized many times for his work by such groups as the Flint Human Rights Commission, Zeta Phi Beta Sorority, and the City of Flint Youth Council, to name a few. As mentor and advisor for the Gamma Delta Kudos of Phi Delta Kappa, Inc., John helps young men enhance leadership skills as well as self-esteem, and for many, serves as a strong, positive role model.

John's professional affiliations include the Congress of Flint Administrators, Kappa Alpha Psi Fraternity, Province Guide Right, and the National Guide Right Board. He is also a member of Metropolitan Baptist Church, where he has served as Youth Fellowship Director, Vacation Bible School Director, Sunday School Superintendent, and the church's Day Care Center's Board of Directors. Presently he is President of the Inspirational Voices Choir, Sunday School teacher and instructor, and Assistant Director of Christian Education.

Mr. Speaker, many of John Rhymes' students, as well as the various faculty members under his leadership, both past and present, have greatly benefited from his insight, as has the entire Flint community. He has always been a staunch fighter for education, for he believes that a strong educational background is the basis toward improving the quality of life. I ask my colleagues to please join me in congratulating him on his retirement, and wishing him and his family, the best in their future endeavors.

## DENTAL OFFICER RETENTION ACT: TO AMEND TITLE 37, UNITED STATES CODE, TO REMOVE THE PROHIBITION ON THE ABILITY OF QUALIFIED DENTAL OFFICERS IN THE UNIFORMED SERVICES TO RECEIVE ADDITIONAL SPECIAL PAY WHILE UNDERGOING DENTAL INTERNSHIP OR RESIDENCY TRAINING

**HON. ROB SIMMONS**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. SIMMONS. Mr. Speaker, I urge support for the Dental Office Retention Act, a bill to allow dental officers in military service to receive additional special pay while undergoing an internship or residency.

Aspiring dentists leave medical school owing hundreds of thousands of dollars, often substantially more than $100,000. Shouldering this burden places a large financial strain on these men and women. The loss of additional special pay during their dental training program further aggravates this problem at a time when these dentists can least afford it.

Dental officers with 3–10 years of service lose $6,000 in additional specialty pay. Dental officers with more than 10 years of service lose $15,000. Military dentists face further incentives to leave the service. This is because they receive salaries 30–50 percent lower than their civilian counterparts. We should not be cutting compensation to our military dentists when they need it most.

There are 3,000 dentists in Connecticut and they tell me that the most pressing concern for them in pursuing a career in the military dental corps is how to repay their loans.

Dr. Mark Desrosiers, a dentist from my congressional district in eastern Connecticut, says, "Having been in the military, and a practicing dentist myself, I think this would be a great way to ensure that residents in military specialty programs not be penalized financially by losing their special pay."

Another dentist explains during an exit interview why, though he would rather have stayed in the military, his financial burden forced him to leave. "The main reason for my decision to leave the Air Force is my financial situation. I have enjoyed my time in the Air Force and believe it is one of the best ways for a young dentist to gain experience both as a dentist, leader and follower. It was a difficult decision to make because my wife and I enjoy the military way of life, but we cannot pay our debt with the salary I am paid."

Mr. Speaker, in order to keep a sufficient number of quality dentists in the dental corps, thereby ensuring the dental readiness of America's forces, it is important to eliminate this disincentive that drives officers from the dental corps. Removing the restriction that the officers not receive additional special pay (ASP) while participating in a dental internship or residency training program would help achieve that end.

I urge all my colleagues to support my legislation.

## TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

**HON. JERRY MORAN**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 19, 2003*

Mr. MORAN of Kansas. Mr. Speaker, I am delighted to be here tonight. I am honored to have served in the House of Representatives as a colleague of an outstanding Member of Congress, the gentleman from the 19th District of Texas. I have been especially privileged to serve on the House Agriculture Committee under the chairmanship of LARRY COMBEST. Chairman COMBEST'S example of leadership, commitment and integrity serve as a model for all of us in Congress, especially those of us who care deeply about agriculture.

When I came to Congress, I knew it was important to me to be associated with people who understood and cared about agriculture and the farmers and ranchers of America. It was my honor to become acquainted with Chairman COMBEST. He has been a mentor for me since that time of my arrival seven years ago.

Those of us who represent agriculture in the House of Representatives are a minority. There are not enough of us, so what it takes is people who go beyond their numbers, who more than 1 out of 435 can make a difference. And the gentleman from Texas has done that because he is knowledgeable and understands the issues. Agriculture is in his blood. That is where he comes from. It is who he is. Farming and ranching is LARRY COMBEST. And he is a leader; he cares about using that information and knowledge on behalf of those engaged in everyday activities trying to earn a living on America's farms and ranches.

Mr. COMBEST's leadership in the Committee on Agriculture is extraordinary. It is just something that we have relied upon and at times perhaps taken for granted. As we worked our way through a farm bill in this last Congress, it is clear to me that because of his leadership—and sometimes only because of his leadership—things happened.

LARRY COMBEST has a commitment to what he believes in, and he believes in farmers and ranchers. He wants to see our family farms survive and prosper. He wants that rural way of life to continue. He has a commitment to serving his constituents and to helping American agriculture be here today and tomorrow.

Perhaps most importantly, he has integrity. I have never known anyone I could trust more than LARRY COMBEST. His word can be taken for what it is, his word. What he says is what he means. His advice is honestly given. I have never known him to mislead anyone. And it was that character and that integrity that made it possible for us to do things in agriculture on this House floor. People trusted him, they respected him, and they honored what he was about.

As he returns home to Texas, it is with some sadness that we see our friend LARRY COMBEST leave. We all invest in other people in this place. Often I suppose we spend too much time worrying about things that are not so important. But the thing that is important is the relationships, friendships, and understandings that we have with other Members of Congress. I consider it the highest honor to have been associated with LARRY COMBEST during his term as a Member of Congress.

His relationships with other Members of the House will not end with his departure. His friendship with President Bush has been beneficial to those of us who care about rural America, and we look forward to his continued involvement in issues that matter to us and to farmers and ranchers across the country.

Public service is something that we all talk about and engage in as Members of Congress, but we would do well to learn from the example of LARRY COMBEST. He exemplifies the role of a true public servant, who did what he thought was right, who fought the fight and made a difference on behalf of his constituents, on behalf of all Texans, and on behalf of the people of America.

Mr. Speaker, I wish both LARRY and his wife Sharon the absolute best in their future years. I thank them both for their friendship. I honor and respect them, and I hope the fish bite. Thank you, LARRY.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 3, 2003 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### JUNE 4

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings to examine activities of the Federal Communications Commission.

SR–253

Foreign Relations

To hold hearings to examine Iraq stabilization and reconstruction, focusing on international contributions and resources.

SD–419

Governmental Affairs

To hold hearings to examine transforming the Department of Defense Personnel System, focusing on finding the right approach.

SD–342

10 a.m.

Indian Affairs

To hold hearings to examine S. 281, to amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes, to provide for training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, and S. 725, to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads.

SR–485

Judiciary

To hold hearings to examine S. 1125, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure.

SH–216

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 714, to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, S. 391, to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, S. 1003, to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River, H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California, and S. 924, to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior.

SD–366

Commission on Security and Cooperation in Europe

To hold hearings to examine democracy, human rights, and justice in Serbia today.

334, Cannon Building

2 p.m.

Indian Affairs

To hold oversight hearings to examine the impacts on tribal fish and wildlife management programs in the Pacific Northwest.

SR–485

Small Business and Entrepreneurship

To hold hearings to examine the President's proposed budget request for fiscal year 2004 and proposed legislation authorizing funds for the Small Business Administration.

SR–428A

### JUNE 5

2:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine Title XI.

SR–253

9:30 a.m.

Environment and Public Works

Clean Air, Climate Change, and Nuclear Safety Subcommittee

To hold hearings to examine S. 485, to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, focusing on emissions-control technologies and utility-sector investment issues.

SD–406

Judiciary

Business meeting to consider pending calendar business.

SD–226

Commerce, Science, and Transportation

Surface Transportation and Merchant Marine Subcommittee

To hold hearings to examine financing AMTRAK.

SR–253

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine reauthorization of the Defense Production Act.

SD–538

Commission on Security and Cooperation in Europe

To hold hearings to examine arming rogue regimes, focusing the role of OSCE Participating States.

334, Cannon Building

10:30 a.m.

Governmental Affairs

To hold hearings to examine the nominations of C. Stewart Verdery, Jr., of Virginia, to be Assistant Secretary for Policy and Planning/Border and Transportation Security Directorate, Michael J. Garcia, of New York, to be Assistant Secretary for Immigration and Customs Enforcement, and Joe D. Whitley, of Georgia, to be General Counsel, all of the Department of Homeland Security.

SD–342

2 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for foreign operations.

SD–192

Judiciary

To hold hearings to examine the nomination of Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

SD–226

Rules and Administration

To hold hearings to examine Senate Rule XXII relative to the cloture rule and proposals to amend this rule.

SR–301

2:30 p.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine life inside North Korea.

SD–419

### JUNE 10

9:30 a.m.

Governmental Affairs

To hold hearings to examine castaway children, focusing on whether parents must relinquish custody in order to secure mental health services for their children.

SD–342

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the Head Start program.

SD–430

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 499, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers, S. 546, to provide for the protection of paleontological resources on Federal lands, S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, S. 677, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, S. 1060 and H.R. 1577, bills to designate the visitor center in Organ Pipe National Monument in Arizona as the "Kris Eggle Visitor Center", H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretative Center in Nebraska City, Nebraska, and H.R. 1012, to establish the Carter G. Woodson Home National Historic Site in the District of Columbia.

SD–366

### JUNE 11

9 a.m.

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine patient safety, focusing on instilling hospitals with a culture of continuous improvement.

SD–342

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

Indian Affairs

To hold hearings to examine the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services.

SR–485

JUNE 12

9:30 a.m.

Foreign Relations

To hold hearings to examine repercussions of Iraq stabilization and reconstruction policies.

SD–419

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine private sector lessons for Medicare.

SD–430

2 p.m.

Health, Education, Labor, and Pensions

To hold hearings to examine certain issues relative to TWA.

Room to be announced

JUNE 17

10 a.m.

Governmental Affairs

Business meeting to consider pending calendar items.

SD–342

JUNE 18

9:30 a.m.

Governmental Affairs

To hold hearings to examine the nominations of Fern Flanagan Saddler, Judith Nan Macaluso, Joseph Michael Francis Ryan III, and Jerry Stewart Byrd, all of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD–342

10 a.m.

Indian Affairs

To hold oversight hearings to examine Native American sacred places.

SR–485

JUNE 19

10 a.m.

Governmental Affairs

To hold hearings to conduct an initial review of the ULLICO matter, focusing on self-dealing and breach of duty.

SD–342

JUNE 24

9:30 a.m.

Governmental Affairs

To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.

SD–342

JUNE 25

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

JUNE 26

9:30 a.m.

Governmental Affairs

To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.

SD–342

10 a.m.

Foreign Relations

To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.

SD–419

# SENATE—*Tuesday, June 3, 2003*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Once again, retired pastor emeritus of Georgetown Presbyterian, the Reverend Campbell Gillon, will lead us in prayer.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O God of creation, while the brightest human minds painstakingly uncover the intricate fringes of Thy handiwork, we recognize that the proper attitude before Thee is not arrogance and self-satisfied cleverness but humility and wonder, for the ultimate question is not how, but who, since this mysterious gift of human life with its flawed grandeur, dissatisfied searching, and spiritual promptings point to a Giver who has yet something better in mind.

We come to Thee as recipients, entrusted with all that we have and are. Our gifts are different and disparate, yet Thou hast dealt with us all equally—in the measure of trust shown us, in the measure of responsibility for using what we are briefly given, and in the measure of commendation we shall receive if found faithful.

Lord God, teach us that in Thine economy none is an outright owner, but all are temporary stewards. We enter the world with nothing but the precious gift of life. We leave it with the character we fashioned by our use of the time, talents, and possessions with which we are entrusted. All we take to Thee is the person we have become.

*So teach us to number our days, that we may apply our hearts unto wisdom*—Psalm 90:12.

O Lord, grant such wisdom to the Members of this Senate that in leading they may be divinely led, that in taking counsel together, they may be instructed individually by a truth-quickened conscience, and as they share in enacting the laws of time, they may do so in the light of eternity. So, bless and give grace to each one. In the power of Thy Spirit we pray. Amen.

## PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The deputy leader is recognized.

## SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. There are currently two LIHEAP amendments pending to the bill, as well as the bipartisan ethanol amendment. At this time, I urge any Member who wishes to offer an amendment to contact the chairman or ranking member of the Energy Committee so that time can be scheduled for the consideration of such amendments.

Members should expect rollcall votes during today's session. It is anticipated that we will be able to dispose of several energy amendments later today. Members will be notified, of course, when the first vote is scheduled.

For the remainder of the week, the Senate will continue the consideration of the Energy bill and wrap up action on the Department of Defense authorization bill. Rollcall votes are therefore expected each day during this week.

## RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Nevada.

Mr. REID. If my distinguished colleague will yield, it is my understanding also that the two managers have agreed to set aside the pending amendments for other amendments to be offered. I believe that is the case.

Mr. MCCONNELL. I say to my friend from Nevada, I believe that is the case.

Mr. REID. I think those who have amendments should get to the Chamber as quickly as they can because one of the sponsors of one of the amendments now pending will not be here until this afternoon. So we can move that along with other amendments. It is my understanding that this bill, when it was up last year, took 8 weeks. It is my understanding that the majority leader wants to finish this bill within the next 2 weeks. So that is a really big order because some of these amendments are very difficult. Some of the issues are difficult.

I suggest we should get on this as quickly as possible because it is going to be very difficult to finish this bill in 2 weeks.

Mr. MCCONNELL. Mr. President, as the Senator from Nevada has indicated, it is our hope that we can finish the Energy bill in the next couple of weeks. We intend to pursue that as vigorously as possible. The cooperation of all Members toward that end would be greatly appreciated.

The assistant Democratic leader is correct; it would be wonderful to have amendments laid down and debated. We are open for business.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

> Frist/Daschle amendment No. 539, to eliminate methyl tertiary butyl ether from the U.S. fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence.
>
> Domenici/Bingaman amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program, (LIHEAP), weatherization assistance, and State energy programs.
>
> Domenici (for Gregg) amendment No. 841 (to amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The deputy leader.

Mr. MCCONNELL. Mr. President, it is my understanding that Senator DOMENICI, the chairman of the committee, will be in the Chamber shortly. Pending his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. What is the order of business?

The PRESIDING OFFICER. The Senator must ask unanimous consent to set aside the pending amendment.

Mrs. FEINSTEIN. I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

### AMENDMENT NO. 843 TO AMENDMENT NO. 539

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 843 to amendment No. 539.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow the ethanol mandate in the renewable fuel program to be suspended temporarily if the mandate would harm the economy or environment)

On page 12, strike lines 19 through 24 and insert the following:

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the renewable fuel requirement—

"(I) is not needed for the State or region to comply with this Act because the State or region can comply in ways other than adding renewable fuel; or

"(II) would harm the economy or environment of a State, a region, or the United States; or".

Mr. DOMENICI. Will the Senator yield?

Mrs. FEINSTEIN. I yield.

Mr. DOMENICI. I thank the Senator for coming early this morning and offering an amendment to help us get this bill going. We will be arranging a sequencing of these amendments later in the day. I thank the Senator for bringing forth the amendment at this time.

Mrs. FEINSTEIN. This is an amendment to the pending first-degree ethanol mandate amendment to provide authority to the Administrator of the Environmental Protection Agency to waive the ethanol mandate if a State or region does not need to meet the requirements of the Clean Air Act.

We all must understand this ethanol amendment is a permanent mandate. Regardless of what advances are made in technology, whether a hybrid engine, whether a hydrogen-driven engine, regardless of any advance, this ethanol mandate is forever. Therefore, it offers very real concern.

In the pending first-degree ethanol amendment, there is a waiver now that allows the Administrator of the EPA to waive the ethanol amendment if it would harm the economy or the environment of a State, a region, or the United States. I believe the EPA Administrator should also be able to waive the ethanol mandate if a State or a region does not need ethanol to make the air cleaner and meet the requirements of the Clean Air Act. Why require something that is not needed? Why require it if there should be an advance in technology that makes the use of ethanol unnecessary?

California and other States that do not need ethanol to meet the requirements of the Clean Air Act should be allowed to make their case to the EPA and then the Administrator can decide if the ethanol mandate should be waived.

For California, the ethanol mandate will force more ethanol into our fuel supply than we need to achieve clean air. The mandate forces California to use over 8 years 2.5 billion gallons that the State does not need.

This chart makes very clear this is a superfluous mandate. The blue shows what California needs in terms of ethanol over the next 8 years, to 2012. The top amount is 143 million gallons. It averages about 140 million gallons a year. California could use that amount and meet all of the clean air standards. This bill requires California to use over this period of time up to 600 million gallons, so it almost triples in the outyears the amount of ethanol that is forced on California beyond its need. This is a real problem in terms of legislation. Why would anyone force something on a State that it does not need and then provide, if the State does not use it, that it has to pay anyway?

If anything is poor public policy, this ethanol mandate is poor public policy. It also actually achieves a transfer of wealth from all States to the midwest corn States.

California does not need ethanol to produce cleaner air because the State has developed its own unique gasoline formula. Refiners use an approach called the predictive model which can produce clean burning reformulated gasoline with oxygenates, with less than 2 percent oxygenate or with no oxygenate at all.

As Red Cavaney, president of the American Petroleum Institute, said in March before the Energy and Natural Resources Committee:

> Refiners have been saying for years that they can produce gasoline meeting clean-burning fuels and federal reformulated gasoline requirements without the use of oxygenates. . . . In addition, reformulated blendstocks—the base in which oxygenates are added—typically meet RFG performance requirements before oxygenates are added. These facts demonstrate that oxygenates are not needed.

As a matter of fact, virtually every refiner I talked to says if you want to clean the air, give us flexibility, allow us to blend gasoline to do that. In other words, set the standards as the Clean Air Act does and allow us to have the flexibility needed to meet those standards.

This mandate prevents that. It is driven by the self-interest of the corn States and driven by the self-interest of the ethanol producers, of which the largest beneficiary is Archer Daniels Midland. Archer Daniels Midland will control 46 percent of the ethanol market, with every other company controlling not more than 6 percent of the market. In essence, what we are doing is giving a huge transfer of wealth to one American company, an American company that has been convicted of corrupt practices in the 1990s.

I have real problems with this bill. As I said, California can achieve clean air without the use of oxygenates. The State has long sought a waiver of the 2-percent oxygenate requirement. I have written and called former EPA Administrator Browner, the current Administrator, Christine Todd Whitman, and President Clinton and President Bush, urging approval of a waiver for our State. Yet both the Clinton administration and the Bush administration have denied California's request. Despite the scientific evidence, it is unlikely that the EPA Administrator will ever grant a waiver for California, but I believe the necessity of the ethanol mandate for a State or region should be something the EPA Administrator considers. I don't believe it is too much to ask for the EPA to consider if ethanol is needed in a specific State or region when determining if a waiver from the mandate should be granted.

As I say, this amendment simply amends the waiver part of the Frist-Daschle bill to permit a waiver in the event that a State can demonstrate to the EPA Administrator that it can meet the clean air standards without the use of ethanol.

I hope this amendment will have an opportunity of being agreed to. I believe it is the right thing to do. I believe it is the good public policy thing to do. I believe that creating a mandate preventing flexibility in the blending of gasoline forever—which this mandate does—is flawed and potentially dangerous public policy.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I wish to comment on some of the arguments raised by a very dear friend of mine, my colleague from California, Senator FEINSTEIN.

First, let me say that 65 percent of all the gasoline utilized today in California is blended with ethanol—65 percent. They expect that it will be 80 percent this summer. So four out of five gallons of gasoline in California will already be blended with ethanol. I am not sure I understand what motivation there will be to seek a waiver, when 65 to 80 percent of all the gasoline is already blended. That is No. 1.

No. 2, my colleague noted that she has applied to EPA—she and the State of California have sought a waiver under current law. That is the point. The renewable fuels standard will actually provide greater flexibility, greater opportunities for States to seek waivers than what they have right now.

The waiver she is applying for is the waiver that she seeks under the law that was passed in 1991. She is frustrated that there has been no positive response on the part of EPA. I can understand her frustration with that refusal. But we are talking about the current law. What we are suggesting, of course, is that under the new law there will be waiver authority if a case can be made that somehow this is disruptive.

Let me emphasize something. There is a very significant misperception here that somehow this renewable fuels standard is a mandate on States. There is not one word in this bill that requires California or New York or any State to mandate the utilization of ethanol. It is not in there. What it does is impose a requirement on refiners. The refiners are the ones that are going to have to blend ethanol. They can go to the part of the country where it makes the most sense. There is not any requirement that States have some percentage of their transportation fuel utilized for purposes of meeting the renewable fuels standard.

We have, as I know the distinguished Senator knows, a credit trading program in addition which ensures that ethanol is going to be used where it is most economical. The refiners can make that decision—where it is marketable, where it is not. But I would argue if 65 percent is any indication of the marketability of ethanol, it is already being used in the State of California and it will be used even more this summer.

In March, the California Energy Commission stated that:

> The transition to ethanol which began in January of 2003 is progressing without any major problem.

Those are their words, not mine. There has been no ethanol shortage, no transportation delay, no logistical problems associated with the increased use of ethanol. Thus, efforts to carve out California from the RFS, while unjustified, are also completely unnecessary.

We have to keep beating down these myths and these concerns generated by those who oppose the renewable fuels standard.

I might also say the Senator from California might want to explain why she is supportive of the renewable portfolio standard without waivers. She is, as I am, a consistent advocate of the renewable portfolio standard that we will address later on in the debate on energy, which is, in concept, identical to the renewable fuels standard. Yet she is in support of many waivers for the renewable portfolio standard. So on the one hand, while she supports portfolio nationalization, she would suggest a renewable fuels exemption for waivers in California.

No one cares more for her State. No one is more articulate on these issues. No one has studied these issues more than has she. We will carry on this debate for months, if not years, to come. At the end of the day, I will respect her and admire her tenacity and persistence as much as anybody in this Chamber. I just happen to strongly disagree with her in this case. I know that is her feeling with regard to my position. So we will agree to disagree and move on.

I yield the floor, having had the opportunity to respond to some of the issues raised.

Mrs. FEINSTEIN. Mr. President, I look forward to responding to the distinguished Democratic leader, with whom I profoundly disagree. The distinguished Democratic leader made the point—well, California is already using ethanol in its gasoline. My goodness, it is already using it up to 65 percent. California is forced to use it. It is forced to use it. Yet it doesn't need to use it. That is my point. The egregious 2-percent Federal oxygenate requirement forces California to move in this direction if it is going to phase out MTBE, which is another oxygenate which has been shown to have very detrimental environmental and health effects. The Governor has said he is going to phase it out by the end of this year. Consequently, to meet the 2-percent oxygenate requirement—which I think is flawed public policy—again, California is forced to begin to use this ethanol.

The Democratic leader also says that I have supported a renewable portfolio standard. In fact I have. California has a renewable portfolio standard. It is for wind, it is for solar, it is for alternative energies, and California has set it at 10 percent. Yes, I support that. That is totally different than an ethanol requirement, which is not a renewable energy source like solar or wind.

To add insult to injury, the Democratic leader says this doesn't require States to use it. Then I ask the question: Why does his legislation exempt Alaska and Hawaii? If it doesn't force States to use it, why is there an exemption that exempts Alaska and Hawaii? Let me read it to you, on page 4 of the bill:

> Not later than 1 year after the date of enactment of this paragraph the administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States, except in Alaska and Hawaii, on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (b).

Mr. DASCHLE. Will the gentle—the Senator yield for an answer to that question?

Mrs. FEINSTEIN. Yes, except I am not feeling too gentle at the moment, but I am happy to.

Mr. DASCHLE. I know she does, because she does want to know the answer to that question. It goes back to the first comment she made. The first comment is that California is forced. California is forced to have a certain standard, meeting the clean air requirements passed in the law of 1991. That is a requirement that the whole country is forced to live with.

You have to meet that clean air requirement. What California has chosen to do—wisely, in my opinion—is to use ethanol to accommodate the goals and requirements set up for the entire Nation with regard to cleaning up the air that many of us voted overwhelmingly to do in the early 1990s.

Here is the key issue. This isn't some ethanol advocacy group that said this. This isn't a group of us here in the Senate that have said this but the California Energy Commission, having studied very carefully the utilization and the acquisition of ethanol to meet these clean air requirements, said in January of this year that "the integration of ethanol is progressing without one major problem . . . no shortages, no transportation delays, no logistical problems associated with the increased use of ethanol in the State."

That is the response to the first part of the question.

Why Alaska and Hawaii? Frankly, I didn't favor carving out Alaska and Hawaii because I think we could say categorically, regardless of circumstances. But Senators from Alaska and Hawaii were concerned about the fact that they are not part of the contiguous United States; that if you are ever going to come into an issue involving transportation, Alaska and Hawaii may ultimately create transportation issues which do not exist in the continental United States among the contiguous States. As a result, giving them the benefit of the doubt in the first phase of this integration is something I am willing to accept even though I am not prepared to support.

But there is no question, based on current utilization and based on the Department of Energy in California that said themselves there is no integration problem.

That is the reason.

I thank very much the Senator from California yielding on that question.

Mrs. FEINSTEIN. I thank the distinguished Democratic leader.

I would like to refute his comment on how well things are going in California and ethanol being accommodated by reading an article in the Los Angeles Times of May 10.

> California gasoline prices rose higher and faster than pump prices elsewhere in the nation this year because of supply problems caused by refinery repairs and the transition to a new clean-fuel additive, the U.S. Energy Department said Friday.
>
> Refiners in the state are switching to ethanol as part of the recipe for cleaner-burning fuel, eliminating water-polluting methyl tertiary butyl ether, or MTBE, in advance of a Jan. 1 State ban.
>
> This change in fuel additives, designed to meet the Federal oxygen requirement for gas, helped push California gas prices higher and might leave the state short of supplies during peak summer driving months, the report by the Energy Information Administration said.
>
> That in turn could trigger more frequent price spikes, said the EIA, the Energy Department's research and statistical arm. The

> agency said the report was a preliminary assessment and that it plans to release more detailed findings this fall.
>
> "There is a chance that California could see a recurring problem with volatility," said Joanne Shore, an EIA senior analyst who led the team that produced the report. "Certainly, that is an issue for this summer that everyone is going to continue to watch."
>
> The report, requested by Rep. Doug Ose (R–Sacramento), provides more ammunition for California officials who have demanded without success that the state be freed from the Federal requirement to add oxygenates to its gasoline.

I don't understand why the Democratic leader is so determined to force on those who do not want a special mandate, which not only he doesn't want, but who do not need the special mandate. We can have as clean a gas as they can refine in South Dakota, provided they refine gas in South Dakota. We can do it as well, or better. We can do it in a reformulated formula which will mean clean air standards. The 2 percent oxygenate requirement was flawed and the leader is replacing it with something equally flawed. Supposing in 5 years we have new technology that enables the cleaner burning engine. We still have to put ethanol in it, and we still have to put ethanol in a hydrogen engine.

I guess what I object to—and I can go into trade preferences and I can go into subsidies. Subsidies for a mandate is incredible. It is just such a bad bill.

Mr. DASCHLE. Will the Senator yield again?

Mrs. FEINSTEIN. No. I would like to ask the Democratic leader a question, if I might. What objection does he have against my amendment, which is a simple amendment which simply says if the State can provide adequate evidence to the EPA that it can burn or refine gasoline to meet clean air standards that it should not be required to use ethanol? What objection does he have to that?

Mr. DASCHLE. Mr. President, I would be happy to respond. The answer is that is exactly what we do in the bill—exactly. We provide a waiver. Under the new application, the State of California, if they can make the case that they shouldn't be held responsible or shouldn't be held to the requirement of the legislation, is entitled to the waiver. That is No. 1.

No. 2, the Senator from California still has yet to say why on the one hand she is prepared to support a renewable portfolio standard applicable to all States but not a renewable fuels standard. She isn't willing to do that. So there is an inconsistency there that I find interesting.

Let me go back.

Mrs. FEINSTEIN. Will the Senator yield on that point?

Mr. DASCHLE. Let me finish, and then I would be happy to yield.

She quoted an article. She has had as much experience as I have had with journalism in the country, and in our lives. I don't know what journalistic publication that may have come from. But we know this. We know that oftentimes these columns are written with a built-in bias, with a built-in point of view, and I doubt that she would argue that all articles are written with an objective analysis as their motivation. But you have to think that the Department of Energy in California would be objective. They certainly aren't there touting ethanol as their goal for anything other than what they think is best for California.

I am going to quote. She quoted an article. I will quote the report from California, page III–3, the report of March 28 of 2003, just a couple of months ago.

> Since the price of ethanol to refiners is currently at modest levels relative to gasoline, the recent increase in California's gasoline prices cannot—

Let me emphasize "cannot"—

> —be attributable to availability or cost of ethanol.

That is from the California Energy Department report.

That isn't the only one. That was corroborated by the Energy Information Administration here in Washington. The report was provided last month, in May of this year. Let me read from that report on page VII:

"Other factors associated with the MTBE/ethanol changeover, such as ethanol supply and price, and infrastructure to deliver, store and blend ethanol, did not seem to be significant issues" in the calculation of costs.

That is Department of Energy information.

Here you have the Department of Energy from California and the Department of Energy from the United States Federal Government both calculating that there is no impact, pricewise, with the integration of ethanol into gasoline—none.

I have seen all these articles, and they all have agendas and they all are written in subjective ways to make a point. I thought there was one again in the Post this morning.

But, nonetheless, I think it would be hard for the Senator from California to argue against her own Department of Energy when it comes to the calculation of the integration of the ethanol. I know that is not her intention. I think that is what we really have to make sure is in the Record—a recognition after careful study that there really wasn't any impact on the price of gasoline with the integration of ethanol.

I believe she has the floor and she yielded to me. I would be happy to relinquish the floor so she can regain it.

Mrs. FEINSTEIN. I thank the distinguished Democratic leader.

As I understood what he said, he said there is a waiver in the amendment. Well, indeed there is a waiver in the amendment. It is on page 12 of the amendment. It begins on line 12. I would like to read it:

> The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—
>
> based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or
>
> [secondly,] based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

There is no waiver if you can meet the clean air standards without a renewable fuel such as ethanol. There is no waiver in this amendment for that. And if you are so sure of the ground you stand on, why, for Heaven's sake, wouldn't you allow a waiver if we can demonstrate—this is a rhetorical question—if we can demonstrate to the EPA Administrator that, yes, California, through its formula, can reformulate gasoline to meet the Clean Air Act without either a 2 percent oxygenate requirement or a renewable fuel to the extent that we have here?

Also, since you are on the floor, I just want you to see what you are pressing upon California. As shown on this chart, this is the amount of ethanol we would have to use, and this is the amount of ethanol your amendment forces us to use.

Mr. DASCHLE. Will the Senator yield on that point?

Mrs. FEINSTEIN. I would appreciate finishing, if I might.

Mr. DASCHLE. Yes.

Mrs. FEINSTEIN. Yes. The Senator mentioned my support of a renewable portfolio standard. Indeed, I do support a renewable portfolio standard. But the renewable portfolio standard is essentially a percentage requirement that a State would use of renewable fuels, such as wind, solar, biomass, et cetera. And California has elected to provide that 10 percent of its portfolio should be in wind, solar, biomass, et cetera. I have supported that requirement in this amendment as well, and California is able to do it, and has been doing it. I think that is an extraordinarily positive thing.

I have great concerns about ethanol because I do not think all of the science has been completed on ethanol. We know ethanol produces a benzene plume which can break away in the ground if the fuel leaks from an underground—the minority leader is smiling, but I wonder if this same discussion took place when MTBE was introduced and people thought it was going to be just fine. It has polluted about 20,000 wells in California and has shown to have a significant hazard.

Now, I think to dismiss this as being wonderful for the environment is not quite correct because we know it reduces some components, but we also know it increases other components in the air that produce smog and ozone. And California has two of the most difficult nonattainment regions in the United States, one of them being the Los Angeles area, the other being the Fresno area. I don't know whether this requirement will, in fact, result in California's two difficult areas increasing in smog, but I do think that providing flexibility to a manufacturer to be able to produce reformulated fuels that meet the requirements is important.

The other thing that is of concern to me, since we are on this, is the safe harbor provision. I know my colleague from California, Senator BARBARA BOXER, is going to offer an amendment that would remove the safe harbor. The American Petroleum Association, as they have indicated to me, agreed to support this largely because they were protected from any liability.

My understanding is, there is a provision in the amendment offered by the two leaders that would shield ethanol producers and refiners from any liability if the fuel additive harms the environment or public health. Candidly, I find this safe harbor provision astonishing. Ethanol is subsidized by the Government, protected from foreign competition by high trade barriers, and now, on top of mandating its use, we are going to exempt the fuel additive from liability in this amendment. This is unconscionable, and I think it is egregious public policy to mandate ethanol into our fuel supply in the first place and, even worse, to provide it with a complete liability protection before scientific and health experts can fully investigate the impact of tripling ethanol in the air we breathe and the water we drink.

As I said, this is exactly the mistake we made with MTBE. Over the past several years, we have learned that MTBE has contaminated our water and may, in fact, be a human carcinogen.

Last fall, a California jury found that there was clear and convincing evidence that three major oil companies acted with malice by polluting ground water at Lake Tahoe with MTBE because the gasoline they sold was defective in design and there was failure to warn of its pollution hazard.

After a 5-month trial, Shell Oil and Lyondell Chemical Company were found guilty of withholding information on the dangers of MTBE. The firms settled with the South Lake Tahoe Water District for $69 million. This case demonstrates why we cannot surrender the rights of citizens to hold polluters accountable for the harm they inflict. Yet this amendment has a safe harbor provision, and if I should be right, and if there should be—and I hope there are not—undue environmental or health consequences from this mandate, consumers cannot use their right to go to court to find justice.

So I do not know how those who favor this legislation can exempt the ethanol industry from this kind of wrongdoing. It is not as if the industry has not had some wrongdoing in the past. So I urge everyone—I know my colleague is going to move this amendment that would remove the safe harbor provision, and I certainly intend to support her in doing so.

I still—although many other things have been proposed or said by the distinguished Democratic leader—I do not understand why he would have opposition to my amendment, why he would say that if the State can prove we can produce gasoline without a 2-percent requirement or without this ethanol mandate that meets clean air standards, we cannot get a waiver. That is all we are asking for, that opportunity to make a showing that that is the case. Yet the Democratic leader has produced a lot of other things but has not answered why there should not—if you are going to have an economic waiver and an environmental waiver—why you cannot have a waiver if a State can show that it does not need ethanol to maintain clean air standards.

So I think it is an eminently fair amendment, and I just have a hard time understanding why we would be so anxious to pass this kind of public policy that mandates on States a use when most people, I think, have derided and derogated mandates from the Federal Government.

I would like to make one more point. The last time I looked—and this may have changed—but California is almost up to 100 percent of its refining capacity. My understanding is, if you put ethanol in—probably not in the early years, but in the outyears—to the extent required, we will not have the refining capacity available to maintain this mandate with adequate gasoline.

California is predicted to have 50 million people by 2020. They drive. They use gasoline. And I very much worry that refining capacity, which is about 98 percent at the present time because MTBE minimizes gasoline and ethanol requires added gasoline per gallon, that we really won't have the refining capacity. And that will create another problem for California.

I am hopeful the Democratic leader would see his way clear to allowing California and other States that wish to try to submit a case to the EPA, to say we can refine gasoline to meet clean air standards with flexibility and without this mandate, the opportunity to do so.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will have to depart the floor in a moment. Let me attempt to respond again to some of the concerns raised by the distinguished Senator from California.

I remind my colleagues that California is currently using ethanol in 65 percent of the gasoline that it markets. That would go up to 80 percent this summer. It has gone up to 80 percent. Four out of five gallons in California will be using ethanol, and the Department of Energy in California has said there has been no disruption, no problems. There has been absolutely nothing they can point to that would be disadvantageous just to the consumer.

Why the Senator from California would believe so strongly about a waiver when one certainly is not needed, given current experience, is not an answer I can provide.

Methyl tertiary butyl ether, MTBE, is not something many of us were supportive of when we integrated it in the first place. This was something that coal companies and many of the petroleum refiners wanted as an alternative to ethanol. So it was a compromise. Many of us raised questions even then, back in 1991, whether it was going to be advantageous for us. We predicted that there could be some issues involving the use of MTBE, and those predictions were borne out.

As the case now has demonstrated, we are phasing out MTBE, as we should. But ethanol has shown itself now for 20 years to be what we said it was. It has proved to be, as advertised, the kind of clean-burning fuel that we have sought to increase not only clean air and the oxygen in gasoline but many other advantages.

Here is one fact I hope my colleagues will remember: In the year 2002, because this country incorporated ethanol into gasoline, the Department of Energy estimated that we will have reduced—it could have been EPA: don't hold me to the source but a governmental analysis done on the effects of ethanol—greenhouse gases by 4.3 million tons. That is the equivalent of 636,000 cars taken off the road. That is what we have been able to do just in 1 year, 636,000 cars taken off the road, the equivalent of which we have now acquired or achieved as a result of the utilization of ethanol.

Again, as to the chart, I don't know where it came from, but I will tell the Senate what the American Petroleum Institute and the California Energy Commission, the Senator's own commission, have said. California will need to use 843 million gallons of ethanol to meet the clean air requirements next year, according to API, but under this amendment they will only have to use 252 million gallons. They are already using 600 million this year. California is using 600 million. The requirement would be that they use 252. There are the California Energy Commission comments.

Governor Gray Davis, quoted on March 15, 2002:

> Let's let the Daschle bill pass. Have a nice schedule that will affect the entire country, phase ethanol in, protect the environment.

That is a quote from the California Governor.

California EPA Secretary Winston Hickox:

> We need the Federal law changed for the flexibility that we are not in opposition to the stairstep in terms of the increase of the use of renewable fuels on a national basis. Potentially, ethanol is a creator of business and jobs in California.

These are from California officials.

One other issue, safe harbor. I was interested in comments made by the distinguished Senator from California on safe harbor. She actually supported safe harbor legislation on Y2K in 1999. There was no concern then about safe harbor problems when she voted for it. My other colleagues have voted for it as well.

Let me make sure people understand what we are talking about with regard to safe harbor. What we did was say if there is a defect in design or manufacture of renewable fuel by virtue of the legislation we are mandating these companies to use, then we will exempt them from liability as a result of the mandate. Do you know how many cases that is? That is estimated to be two one-thousandths of 1 percent—not two one-hundredths, not two-tenths but two one-thousandths of 1 percent of all cases involved situations where we are providing safe harbor.

I will tell you what we are not covering. We are not covering negligence. We are not covering the duty to warn. We are not covering personal injury. We are not covering property damage. We are not covering wrongful death. We are not covering compensatory damages or punitive damages. We are not covering all of those things about which the Senator from California has expressed concern. They are covered. They are in there; two one-thousandths of 1 percent providing the same safe harbor she voted for with the Y2K legislation in 1999.

I will have to move on to other matters in my schedule. I appreciate the opportunity to discuss many of the questions with the distinguished Senator from California. I have no greater respect for anybody in the Chamber than I do her. I consider her a wonderful and close personal friend. This issue has forced us to agree to disagree for years. This year will be no different. I appreciate her efficacy and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I say to the two Senators debating the issue, because of management problems, it appears this amendment will be set aside and will be voted on later in the evening but today, along with as many votes as we can stack with it, sometime after 4 o'clock this afternoon. I assume that is satisfactory to the Senator from California and the minority leader.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. It is. While the Democratic leader is still on the floor, I would like to address his comment about California's support, theoretically, which I don't think is correct. I address it with a letter from the California Environmental Protection Agency. California is very eager to get out from under the 2-percent oxygenate requirement. Just to sum up this last paragraph of an April 7 letter from Mr. Winston Hickox, the agency Secretary, it says:

> Some have suggested that California should go along with the safe harbor as a small price to pay for elimination of the 2 percent mandate.
>
> I disagree. Such a tradeoff makes no logical sense. Elimination of the costly and unnecessary oxygenate requirement has nothing to do with assuring that the State of California has a full array of enforcement and restitution options available to address MTBE-caused pollution problems. In short, I do not support a tradeoff that puts at risk the health of the citizens of the State.

I ask unanimous consent that this be printed in the RECORD.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY,
*Sacramento, CA, April 7, 2003.*

Hon. DIANNE FEINSTEIN,
*U.S. Senate, Hart Senate Office Building, Washington, DC*

DEAR SENATOR FEINSTEIN: Governor Gray Davis has asked that I respond to your March 24, 2003, letter regarding the fuels provision in the new energy bill being considered by the 108th Congress.

You asked if Governor Davis agrees with my statement that ". . . California would rather have the status quo instead of limiting MTBE liability and getting an oxygenate waiver." The Governor does agree with this statement: we both feel that limiting liability for MTBE is the wrong approach. I appreciate the opportunity to discuss which "fuels provisions" are appropriate for inclusion in any comprehensive federal energy legislation. Specifically, I would like to focus on the MTBE safe harbor language and the two percent oxygenate requirement.

As a matter of policy and to preserve our legal options, I am strongly opposed to an MTBE safe harbor. Industry made a calculated business decision to use MTBE with full knowledge that it was a serious threat to groundwater. The State of California and others should not be limited in the ability to take strong action to address pollution problems caused by MTBE.

I remain steadfast in my support for elimination of the two percent oxygenate requirement. Studies have consistently demonstrated that this requirement is not necessary to achieve air quality goals and that it unreasonably raises the price of gasoline in California.

Some have suggested that California should go along with the safe harbor as a small price to pay for elimination of the two percent mandate. I disagree. Such a tradeoff makes no logical sense. Elimination of the costly and unnecessary oxygenate requirement has nothing to do with assuring that the State of California has a full array of enforcement and restitution options available to address MTBE caused pollution problems. In short, I do not support a tradeoff that puts at risk the health of the citizens of this State.

I also look forward to continuing to work with you on these important issues.

Sincerely,

WINSTON H. HICKOX,
*Agency Secretary.*

### AMENDMENT NO. 844 TO AMENDMENT NO. 539

Mrs. FEINSTEIN. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. NICKLES, Mr. MCCAIN, Mr. KYL, Mr. GREGG, Mr. WYDEN, Mr. LEAHY, Mr. SCHUMER, Mr. SUNUNU, and Mr. REED, proposes an amendment numbered 844.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the Governors of the States to elect to participate in the renewable fuel program)

On page 6, between lines 17 and 18, insert the following:

(C) ELECTION BY STATES.—The renewable fuel program shall apply to a State only if the Governor of the State notifies the Administrator that the State elects to participate in the renewable fuel program.

Mr. DOMENICI. Mr. President, what is the amendment?

Mrs. FEINSTEIN. The amendment would give the right to the Governors of States to opt into the program.

Mr. DOMENICI. I assume it would be a second-degree amendment.

Mrs. FEINSTEIN. A second degree to the Frist-Daschle amendment, yes.

Mr. DOMENICI. Is it in order without a consent agreement?

The PRESIDING OFFICER. The Senator got permission to set aside the pending amendment by unanimous consent.

Mr. DOMENICI. She already did that?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I thank the Chair.

Mrs. FEINSTEIN. I thank the Senator from New Mexico.

Mr. President, this second-degree amendment to the first-degree ethanol amendment would require the Governor of each State to opt into the ethanol mandate. Senators NICKLES, MCCAIN, KYL, GREGG, WYDEN, LEAHY, SCHUMER, REED, and SUNUNU are cosponsors of this amendment. I thank them for their support.

The pending first-degree ethanol amendment mandates 5 billion gallons of ethanol into our fuel supply by 2012, yet it exempts Alaska and Hawaii from this nationwide mandate. I strongly believe that each State should have this choice.

In the Environment and Public Works Committee, Senator MURKOWSKI offered an amendment to the ethanol mandate to exempt Alaska and Hawaii from the requirement because, first, Alaska and Hawaii are a great distance from the Midwest, where 99 percent of the ethanol is produced in the United States; secondly, families and businesses in Alaska and Hawaii would have to pay exorbitant costs for ethanol to be shipped to these States and blended into their gasoline.

I have the same concerns about increased fuel costs to families and businesses in California if the ethanol mandate becomes law. I am sure other Senators up and down the east and west coasts have the same concerns I do.

Because moisture causes ethanol to separate from gasoline, the fuel additive cannot be shipped through traditional gasoline pipelines. Ethanol needs to be transported separately by truck, boat, or rail, and blended into gasoline after arrival. Unfortunately, this makes the 1- to 2- to 3-week delivery time from the Midwest to either coast dependent upon good weather conditions as well as available ships, trucks, and trains equipped to handle large amounts of ethanol.

According to Steve Larson, former executive director of the California Energy Commission:

> The adequacy of logistics to deliver large volumes of ethanol to [California] on a consistent basis is uncertain.

In sum, it will be extremely costly to ship large amounts of ethanol to California and other States.

I believe every State outside the Midwest will have to grapple with how to bring ethanol to their States since the Midwest controls 99 percent of the production. Last year, the General Accounting Office indicated how unequal the effects of the mandate will be across the Nation. As the GAO reported:

> Ethanol imports from other regions are vital. However, any potential price spike could be exacerbated if it takes too long for supplies from out-of-State (primarily the Midwest, where virtually all of the production capacity is located).

Mr. President, on the issue of increased costs, let me quote from a Wall Street Journal editorial that ran last year:

> If consumers think the Federal gas tax is ugly, this new ethanol tax will give them shudders. Moving ethanol to places outside the Midwest involves big shipping fees or building new capacity. Refiners also face costs in adding ethanol to their products. According to independent consultant Hart Downstream Energy Services, the mandate would cost consumers an extra annual $8.4 billion at the pump the first 5 years. New York and California would see gas prices rise by 7 to 10 cents a gallon.

So Hart Downstream Energy Services is estimating an annual $8.4 billion increase cost at the pump over the first 5 years. They are saying that New York and California would see gas prices rise by 7 to 10 cents a gallon. Therefore, any shortfall in supply, either because of manipulation or raw market forces, will be exacerbated on the west and the east coasts, which will be reliant on ethanol coming from another region of the United States. Are we not just asking for trouble by mandating ethanol nationwide if it is produced almost entirely in one region?

The fraud and manipulation that went into the California energy market 2 years ago wasn't expected, nor did anyone ever believe it would happen. But it did. I think there is a problem when you concentrate too much control in either one region or in one producer. As you know, this bill does both. The largest production center is the Midwest, and the largest producer is Archer Daniels Midland, and they produce 46 percent of the supply. This sets up a scenario that leads to the concern, I believe, of both coasts about this mandate.

Since Alaska and Hawaii have an exemption in the ethanol mandate, why not give other States the opportunity to choose whether they want to enter the program? Why not give this choice to California, Oregon, Washington, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida? These are States that are far from the Midwest but where families and businesses will have to pay more for gasoline under the ethanol mandate.

This ethanol mandate forces ethanol into our fuel supply nationwide, and under the credit trading provisions of the mandate, if States do not use the ethanol, they have to pay for it anyway. This really adds insult to injury. If you do not use it, you have to pay for it anyway. What kind of public policy is that?

Additionally, forcing States to use ethanol they do not need and forcing States to pay for ethanol they do not use amounts to a transfer of wealth from all States to the midwest corn States.

Remember, ethanol is not necessary to achieve cleaner air. For California, the ethanol mandate will force more ethanol into our fuel supply than we actually need to achieve clean air. Once again, I will show you that chart because the cumulative answer to this chart is that it forces California to use 2.5 billion gallons of ethanol it does not need over 8 years, and that is fact.

If the ethanol amendment proves itself, if it cleans the air and does not pollute the air with increased ozone or smog and if it is cost effective, Governors will want to include their States. In fact, I believe most States in the Midwest will opt into the ethanol mandate because that is where 99 percent of the ethanol is produced.

The belief is there are 69 votes to support this ethanol mandate in this House. If that is true, what are they worried about? We would have 34 or 35 States automatically opting in. Why not give those few States that have real concerns and want out of the 2-percent oxygenate mandate and also out of the ethanol mandate the opportunity to show that they can reformulate gasoline to meet clean air standards without the amount that is prescribed upon them by this mandate?

This year we saw retail gasoline prices across the U.S. In the United States, retail gas prices rose from $1.44 to $1.73 per gallon over the first 10 weeks of this year. California's gasoline prices rose even more precipitously than across the United States, climbing from $1.58 a gallon on January 1 to a record setting $2.15 a gallon on March 17.

I recall on a recent weekend during that period when I was in the State, I actually paid, for the first time in my life, $50 for a tankful of nonpremium gasoline.

Since the middle of March, gasoline prices have decreased largely due to the decrease in the price of crude oil since the war in Iraq has ended. But gasoline in my State still sells for around $1.80. That is still up 30 cents from the beginning of the year.

One reason prices are so high is that the 1990 Clean Air Act required States to use fuel additives, called oxygenates, that we no longer need to achieve cleaner air. This ethanol mandate offered by the majority and minority leaders will only trade one bad requirement, the 2-percent oxygenate requirement, for another, the ethanol mandate, because now we will be mandating 5 billion gallons of ethanol into our fuel supply.

Since there are high costs for States, such as California, to comply with any mandated Federal requirement, and these costs are passed on, as we all know, to drivers at the pump, the ethanol mandate amounts effectively to a hidden gas tax, and I think consumers should know that. In fact, when we pass this mandate, not only are we passing subsidies for the industry, not only are we mandating its use, but we are also providing a gas tax raise.

Instead of mandating 5 billion gallons of ethanol into our fuel supply, we should be lifting all mandates, or at least allow the Governor of a State to opt in to this mandate if that State wishes to. We need to provide flexibility to refiners for them to optimize how and what they blend instead of forcing them to blend gasoline with either MTBE or ethanol.

Without eliminating these mandates, we can expect disruptions and price spikes during the peak driving months of this summer, on top of the high price motorists are already paying.

Bob Slaughter, the president of the National Petrochemical and Refiners Association, wrote in a letter to all Senators last week:

> Forcing ethanol's use throughout the Nation will reduce flexibility in this Nation's gasoline manufacturing and distribution system, raise environmental concerns in ozone control areas—

For me, that is the Los Angeles area and the Fresno Central Valley area—

> and will result in increased costs. And this is in addition to the fact that the product is uneconomic without the very significant Federal subsidies—a total of roughly $10 billion—it has received for 25 years.

This is not me saying this. This is the president of the National Petrochemical and Refiners Association pointing out that ethanol to date has received roughly a $10 billion subsidy which this bill, of course, continues, and increases.

Proponents of the ethanol mandate argue that gas price increases will be minimal, but their projections do not take into consideration the real-world infrastructure constraints and concentration in the market that I have just pointed out on this chart—concentration in the marketplace that could lead to price spikes. If I have ever seen a scenario that lends itself to control of the marketplace and to potential antitrust violations, it is this one.

Just look at the disparity. It is not spread out evenly: 46 percent for one company; Williams, 6 percent; Cargill, 5 percent; High Plains Corporation, 4 percent; New Energy Corporation, 4 percent; Midwest Grain, 3 percent; and Chief Ethanol, 3 percent. If I have ever seen a scenario for market concentration, it is this one.

The second-degree amendment I have offered will require the Governor of a State to opt into the ethanol mandate. If the amendment offered by the two leaders is so fine, so good, so beneficial for all of America, then Governors should want to include their States.

The Senators from Alaska and Hawaii have worked to allow their States to be exempted from this mandate. That is the first break in the dike. They said they did not even want to try it. I believe, and the cosponsors of this amendment believe, each and every State should have this choice.

If this program, as put forward by the leaders, is so fine, the Governors will opt in. If they believe it enables their State to have cleaner air, the Governors will opt in. If they believe they can produce the adequate infrastructure, the Governors will opt in. If they believe they want to see the tariff protection, the subsidies, the potential taxes at the pump, their Governor will opt in. But to force it on a State, when that State does not require it, when it can meet the clean air standards in another way, I believe is wrong-headed and short-sighted public policy.

I urge my colleagues to support this second-degree amendment.

Before I yield the floor, I remind the Chair I have offered two separate amendments, the EPA waiver first and the State opt-in as a second freestanding amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today in support of Senate amendment No. 539, the renewable fuels package to the Energy bill, and to oppose the opt-in and waiver amendments of the Senator from California.

First, I will talk a little bit about the renewable fuels package and its benefit to the people of this country. The amendment contains language which was voted out of the EPW Committee, of which I am a member, earlier this year. The language establishes a nationwide renewable fuels standard of 5 billion gallons by 2012, repeals the oxygenate requirement for reformulated gasoline under the Clean Air Act, and also phases down the use of MTBE over 4 years. The language in this amendment has strong bipartisan support and is the result of long negotiation between the Renewable Fuels Association, the National Corn Growers Association, the Farm Bureau, the American Petroleum Institute, the Northeast States for Coordinated Air Use Management, and the American Lung Association.

I am very familiar with the amount of work that went into drafting the compromise legislation. It was lengthy, it was open, and I was very pleased all of these various groups could get together and work out that big compromise, particularly the Senator from Ohio, who has Ashland-Marathon Oil and also represents the sixth largest State in corn production.

I emphasize that the passage of the ethanol bill will protect our national security, help our economy, and protect our environment. The amendment the majority and minority leaders have introduced is a compromise that will triple the amount of domestically produced ethanol used in America. It is an essential tool to reducing our dependence on imported oil. I think we all know over 58 percent of the oil we use in this country is imported. Last year, we imported an average of 4,558,000 barrels per day from OPEC countries and 442,000 barrels a day from Iraq. Let me say that again. Last year, we imported nearly a half million barrels of oil from Iraq, and this dependence is not getting any better.

The Energy Information Administration estimates our dependency on imported oil could grow to nearly 70 percent by the year 2020, and our President has stated repeatedly that energy security is a cornerstone for national security. I agree. It is crucial we become less dependent on foreign sources of oil and look to domestic sources to meet our energy needs.

Ethanol is an excellent domestic source. It is clean burning. It is a homegrown renewable fuel that we can rely on for generations to come. The renewable fuels standard in this language will displace 1.6 billion barrels of oil. Ethanol is also good for our Nation's economy. Tripling the use of renewable fuels over the next decade will reduce our national trade deficit by more than $34 billion. By 2012, it will increase the U.S. gross domestic product by $156 billion. It will create 214,000 new jobs, expand household income by an additional $51.7 billion, and save taxpayers $3 billion annually in reduced Government subsidies due to the creation of new markets for corn. All of us who were concerned about the farm bill that passed last year are concerned about these subsidies. The passage of this ethanol amendment will help reduce the subsidy by $3 billion.

The benefits for the farm economy are even more pronounced. As I mentioned, Ohio is the sixth in the Nation in terms of corn production and is among the highest in the Nation in terms of putting ethanol into our gas tanks. Forty percent of the gasoline in Ohio is ethanol blend.

An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State. Currently, the ethanol production provides 192,000 jobs and $4.5 billion in net farm income nationwide. The passage of this amendment will increase the net farm income by nearly $6 billion annually, which is significant. Passage of this amendment will create $5.3 billion of new investment in renewable fuels production capacity.

Phasing out MTBE on a national basis will be good for our fuel supply because refiners are under tremendous strain from having to make several different gasoline blends to meet various State clean air requirements. And no new refineries—I want to underscore—no new refineries in this country have been built in the last 25 years. The effects of the various State responses to the threat of MTBE contamination, including bans and phaseouts on different schedules, will add a significant burden to existing refineries.

The MTBE phaseout provisions in this package will ensure that refiners will have less stress on their system and that gasoline will be more fungible nationwide. Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health.

Use of ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent. Ethanol also reduces emissions of particulates, which are a real problem in this country today, by 40 percent. Use of ethanol RFG helped move Chicago into attainment of the Federal ozone standard, the only RFG area to see such an improvement. It was done in the Chicago area by using ethanol.

In 2002, ethanol use in the United States reduced greenhouse gas emissions, something we have talked about a great deal on the Senate floor, by 4.3 million tons. Listen to this: The equivalent of removing more than 630,000 vehicles from the road. Think of that.

Over the course of the debate on this amendment, several arguments against the renewable fuels package have been raised by our colleagues from California and New York, ranging from concerns that a renewable fuels standard cannot be met and will raise gasoline prices to claims that ethanol is bad for the environment and allegations that this package will benefit a select number of producers without helping our farmers. These arguments remind me of the adage that you cannot let the facts get in the way of a good argument.

The concerns raised by opponents of the renewable fuels standard concerning the impact of RFS, the fuel supply, and gasoline prices, while understandable, I believe are completely unfounded. The fact is, our farmers will be able to meet the ethanol standard, and the combination of the MTBE phaseout and oxygenate waiver in this package will significantly improve our fuel supply system and lower costs for consumers.

Our farmers can meet the ethanol standard. For 2003, the ethanol industry is on pace to produce more than 2.7 billion gallons. The amount of ethanol required under the RFS begins at 2.6 billion in 2005. Adequate ethanol supply is simply not an issue.

Currently, 73 ethanol plants nationwide have the capacity to produce over 2.9 billion gallons annually. Further, there are 10 ethanol plants now under construction which when completed will bring the total capacity to more than 3.3 billion gallons. That is today. We are talking about 5 billion by the year 2012. There is no problem with achieving that goal.

California has been cited as a major problem area. However, all but two small refineries have already transitioned from MTBE into ethanol. California will use close to 700 million gallons of ethanol in 2003 after consuming roughly 100 million gallons last year. Think of that: From 100 million last year to 700 million this year.

The California Energy Commission has concluded the transition to ethanol "is progressing without any major problems." The U.S. Energy Information Administration found the transition went "remarkably well." The Energy Information Administration studied the RFS without accounting for the impact of banking and trading credits. This means they analyzed the effective cost of ethanol being blended at every single refinery and concluded the impact on refiner costs would be one-half of 1 percent per gallon. However, it was noted with credit trading ethanol will not need to be blended at every refinery. Forget about the fact we built into this the credit trading provision. This would reduce the impact because refiners will have the flexibility to use ethanol where it makes the most sense economically. Look around the country and they can trade, use it where it makes most sense economically.

In the absence of Federal legislation, consumers will likely be subject to the costs of uncoordinated State action, individual States adding the MTBE but cannot change the Federal RFG oxygen content requirement. This bill does that; it gets rid of that requirement.

The coalition of these two elements will likely lead to higher costs unless this bill is passed. For instance, California will ban MTBE in 2004 and the Federal RFG oxygenate requirement will be left in place if this does not pass. Therefore, California's required ethanol use in 2005 would be 895 million gallons. However, if the fuels provision of this amendment is enacted, fuel providers in California would be required to use far less ethanol in 2005, 291 million gallons, which could be even less with the bill's credit banking and trading provisions.

There is a lot of flexibility for States to do what is in their best interest. With a State MTBE ban set for January 2004, New York faces a similar situation. Under the status quo, fuel providers would be required to use 197 million gallons of ethanol in New York in 2005. However, if the amendment is passed, refiners, blenders, and importers would be required to use or purchase credits for even less—100 million gallons of ethanol in 2005.

A study concluded by Mathpro, a prominent economic analysis firm, found that compared with the situation where States are banning MTBE and the Federal RFG oxygen content requirement is left in place, the fuels provisions would decrease the average gasoline production cost by 2 cents per gallon. In addition, the fuels provisions provide safeguards in the event that RFS would severely harm the economy or the environment or would leave a potential supply and distribution problem, the RFS requirement could be reduced or eliminated.

The status quo situation creates transportation and infrastructure problems. It is individual State bans, as in California and New York, which will require the transport of large amounts of ethanol to States far from where it is produced. In contrast, a critical element of this fuels package is a national RFS with, as I mentioned, a credit banking and trading program to ensure that renewable fuels will not have to be in every gallon of gasoline. This will allow refineries to use ethanol where it makes the most sense.

Furthermore, ethanol is already blended from Alaska to Florida and from California to New York. Ethanol is already transported via barge, railcar, and ocean-going vessels from markets throughout the country. The U.S. Department of Energy studied the feasibility of a 5 billion gallon per year national market for ethanol and found no major infrastructure barriers exist and needed investments on an amortized per-gallon basis are modest and prevent no major obstacle.

Let's talk about our farmers and how it helps them. Some of my colleagues have used the supplier ADM, Archer Daniels Midland, as an argument that the market is dangerously concentrated. Contrary to the charts presented by the Senator from California, with the current industry expansion, ADM, according to the information I have, is at 32 percent of total capacity. By comparison, farmer-owned ethanol plants have increased their percentage of total production capacity from 20 percent in 1999 to 38 percent today. I know in my own State when I met recently with our farm community, there is talk of our farmer community investing in two new plants that will be owned by the farmers in the State of Ohio.

Furthermore, when ADM purchased another ethanol producer last year, the Department of Justice investigated the impact this would have on competition. They found that "the acquisition did not warrant challenge in terms of its potential effect in the ethanol market."

Contrary to claims of entry into the marketplace problems, the industry has grown by leaps and bounds over the past 3 years with 30 new facilities built since 2001. According to the Federal Trade Commission merger guidelines, entry time of less than 2 years is not considered a barrier to entry. The average entry time of the new ethanol facility is from 15 to 20 months. If the industry continues to add 8 to 10 facilities a year through 2012, we will have an additional 70 new facilities across this Nation to take care of any market control that anyone might want.

Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment of the ethanol program on the overall health of the Nation's economy. Recently, the USDA stated that the ethanol program would decrease farm program payments by $3 billion. In its analysis of this amendment, CBO stated the provision would reduce direct spending by $2 billion during 2005 to 2013.

Let's talk about the impact on the economy. Tripling the use of renewable fuels over the next decade will also reduce our national trade deficit by more than $34 billion. A lot of our trade deficit has to do with importing oil. It will increase the U.S. gross domestic product by $156 billion by 2012. It will create more than 214,000 jobs. It will expand household income by an additional $51.7 billion. As I said, it will save taxpayers a lot of money because of reduced Government subsidies to the agricultural community.

The benefits for the farming community are even more pronounced. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across the States through this country. Currently, ethanol production provides 192.000 jobs and 4.5 billion in net farm income nationwide. Passage of this amendment will increase net farm income by $6 billion annually. As I said before, it will create 5.3 billion in new investment and renewable fuels production capacity.

Now, the environment. It has been brought up that ethanol is bad for the environment, that there have been problems and red flags thrown about the use of ethanol.

The Clean Air Act's reformulated gasoline program requires the same smog-reducing characteristics for gasoline whether blended with MTBE or ethanol. In other words, if you use ethanol you still must comply with the Act.

The RFS agreement includes strong anti-backsliding provisions that prohibit refiners from producing gasoline that increases emissions once the oxygenate requirement is removed. A Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in any area of the State. So if there is a period during one year where there may be a problem, a Governor can ask for a waiver from one provision.

The fuels agreement would benefit the environment in a number of ways:

It reduces tailpipe emissions of carbon monoxide, VOCs, and fine particulates.

It phases down MTBE over 4 years to address groundwater contamination, and since ethanol biodegrades quickly, it will not have the same problem.

It provides for one grade of summertime Federal RFG, which is more stringent.

It increases the benefits from the Federal RFG program on air toxic reductions.

It provides States in the ozone transport region an enhanced opportunity to participate in the RFG program because of unique air quality problems.

It includes provisions that require EPA to conduct a study on the effects on public health, air quality, and water resources of increased use of potential MTBE substitutes, including ethanol.

The use of ethanol-blended fuels also reduces so-called greenhouse gas emissions by 12 to 19 percent compared with conventional gasoline, according to Argonne National Laboratory. In fact, Argonne states ethanol use last year in the U.S. reduced the so-called greenhouse gas emissions by approximately 4.3 million tons, equivalent to removing the annual emissions of more than 636,000 cars. Additionally, a new report from the Pew Center on Global Climate Change concluded that:

> During the next 15 years, replacement fuels offer the greatest promise for reducing transportation sector [greenhouse gas] emissions.

Regarding benzene, there have been no conclusive studies showing ethanol-blended gasoline, leaked into an existing benzene plume would result in further benzene spread—blending ethanol usually equates to less benzene in gasoline.

According to the Northeast States for Coordinated Air Use Management:

> We are satisfied to have reached an agreement that substantially broadens the ability of the U.S. EPA and our Nation's Governors to protect, and in some cases improve, air quality, and public health as we undertake major changes in the Nation's fuel supply.

Also, after an environmental impact analysis, the California Environmental Policy Council gave ethanol a clean bill of health and approved its use as a replacement for MTBE in California gasoline.

The fuels agreement is supported by the American Petroleum Institute; the Renewable Fuels Association; the Northeast States for Coordinated Air Use Management—NESCAUM; the American Lung Association; U.S. Chamber of Commerce; US Action; the Union of Concerned Scientists; the Environmental and Energy Studies Institute; the Governor's Ethanol Coalition.

We have heard so much talk about letting Governors opt into this program. I want to make it clear the Governors' Ethanol Coalition is supporting this ethanol agreement and this amendment. General Motors and, as Senator DASCHLE mentioned earlier today in his response to the Senator from California, the Governors of California and New York also support this amendment, plus all of the major, of course, agricultural organizations in the United States.

Again, I want to state for my colleagues particularly, there were many public and well-attended stakeholder meetings leading to this historic RFS fuels agreement.

So many times there are issues that come before the Senate where we have groups that have differences of opinion. So often, these groups never get together and talk to each other; they talk past each other. As one who has been so involved in this whole issue of ethanol, beginning frankly when I was Governor of the State of Ohio, I was always concerned that somehow we just could not get the folks from the oil industry and the corn growers and other groups together to talk about how we could come up with something that would make sense, that would satisfy their respective needs, to underscore the importance of the fact that they had a symbiotic relationship with each other; if they got together, they could come up with something that would achieve their respective goals.

That happened. It doesn't happen very often around here, but it did happen. I will never forget the press conference that was held in the LBJ Room. On that stage were representatives from a dozen or so organizations in this country, organizations that, if someone had said they would be on the stage together supporting this ethanol compromise, people would have said: No way. No way.

It happened. So I am saying to my colleagues, this has been vetted. It has been discussed. We have a good compromise. Let's not diminish it with the amendments that are going to be submitted to this very important amendment, this amendment that is so important for our country.

By the way, this bill has to get done this year. If we do not get this amendment done and deal with the oxygenate program and the MTBE, we are going to have chaos—chaos. If the people in California and New York think the gasoline price is high now, if this is not passed, it will go sky high.

I am saying to everyone, please, let's support this amendment and vote against any of the amendments to this amendment that are being submitted by some of my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the amendment offered by the Senator from California, the second-degree amendment, that I think injects a level of fairness in the underlying amendment. I respect the work of my colleague from Ohio and his appreciation for the effort that went into crafting the underlying amendment that doubles the ethanol mandate. Yet, I think that amendments can be offered to make this Energy bill as a whole, and this ethanol provision, a lot more sensible, make it a lot more fair to taxpayers, make it fair to States, and even improve the environment.

I want to touch on a few of those points. Certainly we will hear from a lot of Senators from States that benefit from the ethanol program and will benefit from an expansion in the ethanol program. They see its economic impact, perhaps, at the local level with their farmers or at the corporate level with some of the very big agribusiness concerns that benefit from this program. But I think we need to take a balanced approach. I think we need to weigh the impact on consumers. I think the Senator from California, Mrs. FEINSTEIN, has done an exceptional job of laying out the importance of reacting to the needs of those consumers, and the importance of taking a balanced approach. She has been a great leader on this issue, and I am pleased to be a cosponsor of her amendment.

As she indicated, doubling the ethanol mandate will have very significant costs. It will impose a burden on the States. There may well be an ethanol coalition of Governors, many of whom have economies in their home States that will benefit from the ethanol mandate. But we cannot escape the fact that this mandate does represent a burden on States, a burden on industry, and a burden on consumers. I think there are very questionable benefits outside a few of those farm-driven economies that I mentioned.

On the environment, the Senator from California has offered an amendment that in no way exempts States from their obligations under the Clean Air Act, and in no way exempts them from having to meet the standards that any other State would meet in cleaning up the air we breathe. What it would do, simply, is to allow States to decide how to go about meeting those tough standards and would give States the chance to opt out of this ethanol mandate if they could otherwise meet those clean air standards.

This does nothing to diminish our commitment to the Clean Air Act. This does nothing to diminish our commitment to the environment.

So one has to ask the question: Why then mandate the use of this product, ethanol, on all 50 States? Although it has been pointed out that it is not actually 50 States, it is 48 States, as two States are already exempt from this requirement. I certainly believe you wouldn't exempt States from this mandate unless you recognized that it did have costs associated with it, and very significant costs at that.

This amendment offered by the Senator from California protects every bit our commitment to the Clean Air Act and to the environment. But it does reflect new costs to consumers—new costs from the logistics and shipping that is going to be required to move ethanol around the country. As has been pointed out, ethanol cannot move through the gas lines which already exist in this country. It has to be trucked and shipped and blended on the spot.

As the Senator from Ohio pointed out, we can do this. We have infrastructure that can accomplish this task. I would offer no disagreement there. Yes, we have trucks, ships, logistics, planners, and computer software to get it to where it needs to be, whether it takes a week or 2 or 3 weeks. That kind of a system is more susceptible to interruption and, therefore, price spikes. But we have the technology and capability to ship this mandated product around the country in order to blend it.

But we are just fooling ourselves if we pretend it wouldn't cost the consumer extra—and it will. We can have a debate as to whether or not a mandate will increase consumer prices 2 cents, or 4 cents, or 5 cents, over what amount of time, and why. But those newly imposed logistic requirements will cost money. I think we are going to address this cost issue.

I know the Senator from New Mexico is working on an amendment that will highlight the concern we should all have—that a mandate such as this increases the price to all consumers in the country. But we have to be wary of the costs. We also have to be aware of the fundamental fairness: Why give exemptions to two States and not allow other States to opt out of this program? I trust the States. I trust the Governors. I trust State legislators to take good steps that are in their self-interest to protect the environment in their States, to serve their consumers, and to ensure that they have an energy system that serves their States.

The Senator from Ohio said specifically that there is a lot of room in this legislation for States to do what is in their best interests. But then he suggested that to allow States to opt out would somehow encourage them to take steps that would make the system too complicated and actually raise prices back home in their States.

I don't think you can have it both ways. You can't say States will take steps in their best interests, but then suggest that if we gave them the opportunity to opt out of this program, they would take steps that weren't in their best interests. I think they will do the right thing. Certainly, when it comes to meeting the tough requirements of the Clean Air Act, I think States will do the right thing. And where ethanol makes sense environmentally and economically, States will move quickly to use it to the greatest extent possible.

From the standpoint of the environment, the Feinstein amendment does not weaken any legislation. From the standpoint of costs, the underlying amendment certainly increases the cost to the consumer. It is equally important from the standpoint of basic fairness that we treat all the States equally. If we allow some to opt out, we should allow them all to opt out if they so choose.

Given these facts, why would we force this mandate on the States? I don't know for sure what the answer is. But I think in part we are forcing this subsidy on the States to benefit some big, profitable companies. We can argue whether the five or six largest ethanol firms control 60 percent of the market or 70 percent of the market. But these are good, strong, profitable companies. They have great employees, and good leadership, I hope. But they ought not to be given a subsidy on the backs of consumers all over the country. We should not be providing a subsidy to these six or seven large firms and increasing the cost to consumers, while at same time we could be depleting $2 billion a year from the Highway Trust Fund when this mandate is phased in.

The Senator from Ohio pointed out that the Congressional Budget Office has said this will reduce direct spending by $2 billion. That is because it is going to suck $2 billion out of the Highway Trust Fund. Unfortunately, the result is more likely than not to be moving general fund money over into the Highway Trust Fund. That is not something I think we should be doing.

I think we need to be honest to the voters and honest to the consumers that when they pay taxes at the pump, it goes into the Highway Trust Fund and gets spent on infrastructure in this country. Ethanol is given an enormous, significant tax subsidy. I guess it depends on what you consider enormous. Is $1 billion or $2 billion enormous? It is certainly in my State. Some people would argue it is only a few cents, or 2 pennies. But $2 billion is real money where I come from. To take $2 billion a year out of the Highway Trust Fund, I think, is a mistake.

The reason we have heard a subsidy was justified in the past was that we needed the subsidy to get consumers to use the product. This legislation mandates that consumers use the product. You can't have it both ways. You can't mandate that they use it and then continue to give it a subsidy.

I suggest one or the other has to go. Either we have to allow States to opt out of this program and let the taxpayers in those States who think it is a good idea subsidize it, or we ought to get rid of the tax subsidy altogether.

The Senator from California has put together a good, thoughtful amendment that respects rights and lets States opt out of this program. I think this is the right approach. I support her amendment and I look forward to working with her further on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am pleased to join my colleagues on both sides of the aisle in support of the renewable fuels standard amendment to S. 14, the Energy bill on the floor.

I paid close attention to the comments made by the distinguished Senator from New Hampshire. I don't know whether I should make the remarks I have prepared or try to refute the things he said point by point. Maybe I will do a little bit of both and blend them up a little.

There was one statement made by the Senator from New Hampshire that I did want to point to at the beginning that I think is somewhat erroneous. The Senator from New Hampshire said there is going to be this money sucked out of the highway trust fund because of the use of ethanol. As everyone knows, there is a Finance Committee amendment that is going to be added to this measure or the Highway bill by both Senator GRASSLEY and Senator BAUCUS. It has broad bipartisan support. That amendment will address this issue. It was reported out of the Finance Committee. As I said, it has broad-based support I believe on both sides of the aisle. This proposal would reshape the ethanol excise tax exemption. Ethanol blended fuels will make a similar contribution to the highway trust fund as regular gasoline.

Mr. SUNUNU. Mr. President, will the Senator yield for a question?

Mr. HARKIN. The proposal by the Finance Committee will actually add $2 billion to the highway trust fund annually.

Yes, I would be delighted to yield for a question.

Mr. SUNUNU. Is the Senator suggesting that ethanol under this legislation be subject to the exact same excise tax to which gasoline would be subject?

Mr. HARKIN. I am not certain I understand the import of the question.

Mr. SUNUNU. Gasoline is subject to a Federal excise tax of 18.3 cents per gallon. The Senator's description suggests that ethanol will now be taxed at 18.3 cents a gallon as well and that revenue will go into the highway trust fund.

Mr. HARKIN. No. What I am suggesting is that in the past, as we know, a portion of the money was not added to the highway trust fund, it was added to the general fund. And there was a partial exclusion from tax on each gallon of gasohol sold. In effect we are making the highway trust fund whole in the expected Finance Committee amendment.

Mr. SUNUNU. If the Senator will yield slightly further, that is precisely the point I was making—that ethanol will not be subject to excise taxes. It will require taking money from the general fund to pay for this tax and putting it into the trust fund, so that the trust fund won't be depleted as a result of the fact that ethanol is not subject to the full 18.3 cent tax. If we treat the two equally, we should subject them both to an 18.3-cent tax. If you give ethanol the subsidy, what you are forced to do—exactly what you described—is move general fund money into the trust fund to cover that loss of revenue.

Mr. HARKIN. I say to my friend from New Hampshire, what we are doing is not taking money from the general fund. What we are doing is taking the money from the ethanol part of that which went to the general fund and putting it where it should have been in the first place; and that is, the highway trust fund. That is all we are doing. We are not taking money out of the general fund that comes from general income taxes and every other kind of excise taxes that are paid in this country. We are only talking about ethanol. It will add about $2 billion to the highway trust fund annually.

The other point the Senator from New Hampshire made, which I wish to respond to, is on the issue of whether or not this is a great burden on the States.

In California, nearly all of the refiners have voluntarily switched from MTBE to ethanol in advance of the State's MTBE phaseout deadline of January 1 of next year. Today, approximately 65 percent of all California gasoline is blended with ethanol. It is estimated that 80 percent of fuel in California will contain ethanol by this summer.

I am told that last month the California Energy Commission stated that the transition to ethanol, which began in January of 2003, is "progressing without any major problems." There have been no ethanol shortages, transportation delays, or logistical problems associated with the increased use of ethanol in California. Thus, any efforts to carve out California, per the Feinstein amendment or amendments, from the renewable fuels standard, are unjustified and unnecessary.

Most ethanol sold in California is under a fixed price contract at about 63 cents per gallon, after the tax incentives are applied. Wholesale gasoline in California—that is what ethanol is blended with—is selling for $1.04 a gallon on average. So ethanol is cheaper per gallon in California than is regular gasoline. So how can this be a burden at all on California?

This renewable fuels standard, as has been said by so many before me, will increase the use of ethanol and other renewable fuels—including biodiesel; not just ethanol, but biodiesel—in the Nation's fuel supply from 2.6 billion gallons in 2005 to 5 billion gallons in 2012. This amendment is very similar to the language we overwhelmingly passed out of this body in the last Congress as part of a comprehensive Energy bill package. It represents the culmination of a historic fuels agreement negotiated by the agriculture, renewable fuels, petroleum, and environmental communities over the past several years.

Unfortunately, the agreement—the amendment we passed overwhelmingly last year—did not become law in 2002 due to the demise of the Energy bill in conference negotiations. This year, we must pass the renewable fuels standard and have it signed into law by the President, who has indicated his support for this.

The renewable fuels standard is truly an energy security measure. The former Director of the Central Intelligence Agency, James Woolsey, believes the renewable fuels standard is an essential component in the advancement of America's energy security. His sentiments have been echoed as well by ADM Thomas Moorer, former Chairman of the Joint Chiefs of Staff, and Robert McFarlane, former National Security Adviser under President Reagan.

The renewable fuels standard will displace about 1.6 billion barrels of imported oil over the next decade. As a result of this, we will save $4 billion in imported oil each year. This is a critically important first step toward energy independence for America.

As far as our economy goes, this renewable fuels standard amendment will add about $156 billion to our gross domestic product by 2012, spurring about $5.3 billion in new investment and creating 214,000 new jobs. It will boost farm income by $1.3 billion annually.

I am very proud of the example set by my own State of Iowa where we have 12 plants producing more than one-fifth of U.S. ethanol. We have two biodiesel plants, which place Iowa first in the Nation in producing this soy-based fuel. Thirty percent of our corn crop goes into value-added ethanol production, supporting over 1,500 jobs, and pumping nearly $50 million annually into our State's economy, which is of critical help to our rural communities.

These biofuels plants serve as local economic engines—providing high-paying jobs, capital investment opportunities, increased local tax revenue, and value-added markets for our farmers. A very large share of this production in Iowa is in plants built with the investments of farmer-owners.

I want to add a statement. I was looking at one of the charts my friend from California, Senator FEINSTEIN, had, which showed that Archer Daniels Midland had 46 percent of the production capacity—I think is what the chart showed—and all the rest of the plants around filled in the other 54 percent.

Well, it is true that Archer Daniels Midland has been a leader in ethanol production in this country. I commend them for it. They have really paved the way. They broke through the barrier. They invested the money in finding new ways and new technologies and a cost-effective means of producing and distributing ethanol. So I believe it would be normal for a company such as Archer Daniels Midland to have a significant share of production capacity because they were there first. They recognized the environmental impact it would have in cleaning up the environment, the impact it would have on saving us from imported oil, the impact it would have on local jobs and the economies in many States, and what it would mean to replace a potentially carcinogenic octane enhancer called MTBE.

So, yes, I commend Archer Daniels Midland for being a leader many years ago in starting to produce ethanol before many others even really thought about it. It is a very forward-looking company. They were there from the beginning.

I would point out, however, that most of the new productive capacity coming on line in America is from farmer-owned cooperatives, farmer-owned plants. They are the ones building the new plants in cities and communities that dot our countryside. I think you have to look at this in that context.

So, yes, I commend Archer Daniels Midland for being a leader in this many years ago, and for bringing us to the point where now we can spin off and spur more ethanol plant construction throughout the United States that basically is owned by smaller entities or by farmers themselves.

As I said, these plants serve as local economic engines in so many of our communities. The value-added benefits of ethanol mean a $2 bushel of corn is converted into $5 of fuel and feed coproducts. That is another thing that people forget, that once we take the alcohol out of the corn, we have a very valuable byproduct left that can be fed to livestock, basically to cattle. So you get kind of two bangs for the buck out of it.

The renewable fuels standard is more than just about increasing this use of fuels; it is more than just about cutting down on the imported oil; it is more than just the economic engines that it provides in many communities; it is also about providing a healthy and sustainable environment for future generations.

Ethanol and biodiesel greatly benefit public health and the environment by protecting air and water quality and reducing greenhouse gas emissions. They are nontoxic, biodegradable, energy efficient, and cleaner burning sources of energy than petroleum-based fuels. A new report by the Pew Center on Global Climate Change finds that ethanol-blended fuels offer us the greatest promise for reducing transportation-related greenhouse gas emissions over the next 15 years.

The U.S. Department of Energy has concluded that petroleum-based fuels account for 82 percent of carbon monoxide, which, according to the National Research Council, accounts for 20 percent of smog formation in cities. In contrast, the Environmental Protection Agency has determined that ethanol-blended fuels significantly reduce these emissions, and biodiesel nearly eliminates sulfur emissions that contribute to acid rain and reduces potential cancer-causing compounds.

Clearly, the renewable fuels standard represents a momentous opportunity to enhance our Nation's energy security, strengthen our economy, create jobs, boost farm and rural income, and help clean up our environment. The 5 billion gallons of renewable fuels that would ultimately be required by the renewable fuels standard would replace gasoline we currently get from foreign oil, and at the same time reduce the price at the pump. Simply put, renewable fuels make good, common sense for our Nation and all of its citizens.

More to the point of the amendment now before us by the Senator from California on State exemptions—there is really no need to grant States exemptions right now because in the underlying bill it already provides for States to be able to apply for and be granted an EPA waiver if they can show the RFS severely harms the economy or environment of the State or if there is an inadequate domestic supply or distribution capacity to meet the requirement. So, really, the amendment offered by the Senator from California is unneeded because there is already a waiver provision in there.

Well, our renewable fuels standard is something we passed last year overwhelmingly with bipartisan support. I know there will be several attempts here to weaken it. I hope we again have, as we did last year, overwhelming bipartisan support to keep this strong renewable fuels standard in this bill and, get this Energy bill through and to the President so he can sign it this year.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to discuss with the Senate where we are. As manager of the bill, I am interested in trying to see if we can entice and excite Senators about bringing their amendments that have to do with the ethanol part of this bill to the floor today, if possible. We have two pending and, very shortly, we will have a consent agreement regarding voting on those two. That would give us the afternoon for further discussion on and the reception of other amendments with reference to ethanol—if Senators desire to do that. We are aware of two or three others, perhaps four Senators who would like to offer amendments regarding ethanol.

I remind Senators there are many more issues in this Energy bill, although this is a very important one. Obviously, we want it thoroughly debated and, ultimately, hopefully, from the managers' standpoint, we would like it to be adopted as part of the bill. Sooner or later, we have to head on to some of the other provisions. There are seven or eight contentious ones at least that need to be discussed. We are now awaiting final word from the other side as to whether we can proceed. I understand we can.

## MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE PLACED ON CALENDAR—S. 1162

Mr. DOMENICI. Mr. President, I understand that S. 1162 is at the desk and is due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I ask that it be in order to read the title of the measure.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1162) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. DOMENICI. Mr. President, I ask that the Senate proceed to the measure and object to further proceeding.

The PRESIDING OFFICER. Objection is heard.

Under rule XIV, the measure will be placed on the calendar.

## UNANIMOUS CONSENT AGREEMENT—S. 14

Mr. DOMENICI. Mr. President, I understand the ethanol sequencing of votes is acceptable, so I will propound the unanimous consent request.

I ask unanimous consent that a vote occur in relation to the Feinstein amendment No. 843 at 4:30 today and that there be 10 minutes equally divided for debate prior to the vote. I further ask that following that vote, the Senate immediately proceed to a vote in relation to the Feinstein amendment No. 844, with 4 minutes equally divided for debate prior to that vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, that means that at 4:30 we will start the first vote on S. 14, the Energy Policy Act. There will be two votes. There is another matter already pending, but we will await the arrival of the chairman of the HELP Committee, Senator GREGG, to see what his pleasure is regarding further time to debate the

LIHEAP amendment and an amendment I made on his behalf thereto.

Hopefully that, too, can be disposed of today, although the Senator from New Mexico is in no way pushing that because Senator GREGG will use whatever time he needs in that regard.

Once again, Mr. President, I say to my fellow Senators, I know some of them have other amendments regarding the ethanol amendment. We also know that the ethanol amendment is very popular. We think it is a fair assessment to say it is probably going to pass rather handsomely in the Senate. Nonetheless, Senators desire to make their case and make their points, and the Senate is disposed, obviously, to let them do that. It would be nice if we could get that much of the bill done today; that is, debate on those issues pertaining to ethanol.

I note Senator BINGAMAN is standing. Perhaps he desires to speak at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I certainly have no objection to anything the chairman said, but I would like to clarify, the votes are to start at 4:30 p.m. today; is that what the unanimous-consent agreement provides?

The PRESIDING OFFICER. That is correct.

Mr. BINGAMAN. I appreciate that. I yield the floor.

Mr. DOMENICI. I assume I said 4 o'clock. I was incorrect. It is 4:30 p.m.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of Ohio, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ENERGY POLICY ACT OF 2003—Continued

Mr. TALENT. Mr. President, I want to speak briefly on the renewable fuels standard that is the subject of the Frist-Daschle amendment, and specifically with regard to a report released today by the National Corn Growers which contains yet another round of good news regarding ethanol.

For decades, those of us who care about energy in the United States and care about energy independence, who care about jobs and the creation of jobs, who care about the future and how we are going to have enough energy for this economy to expand throughout the 21st century have looked for alternative sources of energy. The Energy bill we are debating is a great pro-growth, pro-jobs Energy bill across the board. It encourages the production of traditional forms of energy, and it should. It encourages the production of oil and natural gas and nuclear energy. I support all of that. I think most of us in this Senate do. But all of us are concerned about the fact that the traditional forms of energy tend to be nonrenewable. There is a point at which we are in danger of running out. We import a lot of oil from foreign countries. About 59 percent of what we use in the United States we import.

We have all wanted and have talked about for decades the possibility of renewable sources of energy, particularly that we can make here. I go around Missouri and I talk with our corn growers and other agricultural producers about what a great day it will be when we can grow our own fuel effectively and when we don't have to worry about running out and being dependent on other countries.

As the Frist-Daschle amendment indicates, that day, if it is not here, is fast approaching. We are close to being able to grow our own fuel. That fuel is ethanol. It is a great day when that means more jobs for America. It will mean a greater measure of energy independence for our country and a greater measure of energy security for our country. It will mean support for and new markets for our family farmers and our agricultural producers. It is a good thing.

I am glad Senator FRIST and Senator DASCHLE have offered this amendment. I am a strong supporter of it. In fact, I am a cosponsor of it. I am proud of the fact that ethanol will be the subject of one of the first genuine bipartisan efforts in this country, and I hope that amendment passes.

The Corn Growers issued a report today designed to rebut some of the concerns that people have expressed. It is kind of ironic that we are now approaching this day when we actually have access to renewable sources of energy and alternative fuels. And some are getting nervous about it. Their report issued today indicates what common sense already tells us.

First of all, blending ethanol with gasoline at a 10-percent level, which is what the renewable fuels standard calls for, will reduce the retail price of conventional gas by 5 percent or 6.6 cents per gallon based on national average 2002 prices. This translates into an annual savings to consumers of $3.3 billion. The report says that. They have studied it for a long time. It really is a matter of common sense because when you increase the supply, the price goes down. The more ethanol we produce, the more we can rely on renewable sources we can grow and the greater the supply of energy.

The report also indicated that using corn and other grains to produce the 5 billion gallons of ethanol required by the renewable fuels standard will have an insignificant impact on consumer food prices.

In other words, the price of corn and other items is not going to go up because we have tremendous productive capacity in this country. As a matter of fact, we are not using the capacity we have. As a matter of fact, the price to consumers is going to go down because as our producers are able to grow corn and turn it into a value-added commodity, a valuable commodity, ethanol, the price of future farm bills is going to go down.

I was impressed very much when I was in Macon, MO, visiting our ethanol plant there. One of the producers who owns that plant pulled me aside and said: Senator TALENT, the real good thing about this is when the price of corn goes down, I make more money on the ethanol.

I thought to myself: Yes, that is one of the keys to ethanol. It will help smooth out some of the cycles of commodity prices, the ups and downs of commodity prices worldwide, which will mean that farm bills will become less challenging every 5 years. It will also mean more money for the transportation trust fund once we have adopted the tax changes that the Finance Committee has worked out and which will accompany or follow shortly after this Energy bill.

It is a good thing for America. It is a good thing for our producers. It is a good thing for the creation of jobs.

I am glad this amendment is being offered. I want to address briefly the amendment of the Senator from California. I know it is an amendment offered in good faith. It is an amendment to exempt California from the renewable fuels standard. It is a little hard for me to understand because the standard is not a mandate for the States. It is a mandate for the refineries. They have to have 5 billion gallons of ethanol refined and into circulation by the year 2012. That should not be difficult.

The use of ethanol is growing all over the country, precisely because of the advantages it offers, which I have outlined. Exempting States doesn't make any sense. California is already using ethanol. By this summer, 60 to 70 percent of the gasoline sold in California will be an ethanol blend.

I suspect that maybe States such as California think: we don't produce ethanol here; we don't want to have to import energy from other States. If you do not import energy from other States, and if you do not import ethanol from other States, you are going to have to import something from someplace in order to run the automobiles. I would a whole heck of a lot rather have States in this country importing ethanol, which is good for the environment and jobs in the United States, from other States in the U.S. than the alternative, which is to import gasoline, which is not as good for the environment and which does not mean jobs for our country, from Venezuela or from the Arab States or from some other place in the world. They are taking one of the tremendous virtues of the renewable fuels standard and trying to turn it into a vice.

It will reduce our dependence on foreign countries.

There is really no danger to the United States being dependent on fuel that we produce in the United States. It is a good thing to be dependent on fuel we produce in Missouri or Minnesota or North Dakota or South Dakota or Illinois or any of the number of States that produce ethanol.

I understand the uneasiness. The use of ethanol is growing very fast. Its future is coming on us very fast. Sometimes change is difficult to deal with. I was in a Breaktime convenience store in Columbia, MO, where they are selling ethanol at the pump for the same price they have traditionally sold gasoline. I went to this place, stood out next to the pump, talked to the proprietors, and said: This is the future. It is a good future. It is a national future for the United States. This is a national energy policy. We have one Union, not just 50 different States. We have one national economy, and we ought to have one renewable fuels standard for everybody, and we ought to have confidence in it.

I think this 5-billion-gallon standard will be very easily attained. I think we will be above that. States all over the country and consumers all over the country are using ethanol to their benefit and to the benefit of the Nation as a whole. This is a pro-jobs, pro-growth Energy bill, and the Frist-Daschle amendment is a very important pro-jobs, pro-growth, pro-energy security and independence part of it.

Let's adopt that amendment. We do not need these weakening amendments. Let's face the future with confidence. One of the reasons we can do that is because the Nation will increasingly rely on fuel that we produce in this country in the 50 States.

I thank the Senate for its attention, Mr. President, and I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. KYL. Mr. President, at this point I want to talk to the general subject of the two second-degree amendments offered by the Senator from California which will be pending for us to vote on later this afternoon. They both have to do with the requirement under the underlying amendment to impose an ethanol requirement for gasoline throughout the country and to not allow States to opt in or opt out of that mandated ethanol requirement.

One of the amendments by the Senator from California is to allow an opt-in, so that States that believe this will help them deal with their problems of ozone and the environment or other environmental pollution can opt into this program and take advantage of it; but for those States that believe it would be harmful to their environment, they would not have to opt in. The other amendment would require findings with respect to whether or not it would help the environment.

I want to comment about that because the State of Arizona is one of the States that would be adversely affected by a requirement to use ethanol. Partly, this is as a result of the fact that the climate in Arizona is very warm, shall we say, particularly in the summertime. Our summer runs essentially from April through October. During that period of time, ethanol does not work well in communities such as Yuma, AZ, and Tucson, AZ, because of the way it interacts with the surrounding hot air, and the product that is produced, the moisture from the tailpipe of the automobile, interacts with the air to in fact produce ozone, which is the very thing we are trying to prevent by the use of oxygenated fuel. As a result, Arizona has used an MTBE substitute oxygenate that doesn't create the same problem ethanol creates in the hot environs of the climates in Yuma or Tucson, AZ.

As you know, MTBE is associated with some environmental damage to aquifers, where MTBE has spilled into them inadvertently and, as a result, MTBE is being phased out.

Arizona receives all of its gasoline from refineries in California. Therefore, decisions California makes pretty well impact on what Arizona has available to it for its vehicle use. This is why, naturally, the points of the Senator from California are exactly the points I make, because they apply to the refineries in her State and the same kinds of climatological requirement that my State of Arizona has with respect to environmental protection.

So let me refer to several points with respect to the ethanol mandate and begin with that point of environmental impact. Ethanol is an extremely volatile fuel. It breaks down very quickly. In fact, it is virtually impossible to transport by pipeline because of this. It has to be transported by truck. Obviously, it is not produced in the West, in States like Arizona. It would have to be trucked in from other places such as the Midwest. This adds to the cost of the fuel, but that is another matter. Ethanol has been used as an additive in gasoline sold in the Phoenix and Tucson areas. But according to the Arizona Department of Environmental Quality, the State agency of the State of Arizona that is responsible for environmental protection in the State of Arizona, this mandate would be very bad for communities, as I said, like Yuma and Tucson, probably causing those areas to violate the 8-hour ozone standard under the Clean Air Act. This would have dramatic effects in Arizona. Those communities would be out of compliance.

There are a whole host of economic negative effects from finding a violation of the ozone standard. How can it be that the use of an oxygenate such as this would create more ozone? Because of the unique climate in Arizona in the summertime where, instead of reducing the amount of ozone particulate, it increases it.

Given the fact that there is no evidence that the use of oxygenates like ethanol would help improve the quality of air in Arizona, it seems to me a finding from the Arizona Department of Environmental Quality that says Arizona communities would likely violate the 8-hour ozone standard by being forced to use ethanol is a very powerful argument for the Governor of the State of Arizona having the option of opting into this program.

Why would the other States force on Arizona a program which our own Department of Environmental Quality says is going to make the air worse, not better—in fact, so much worse it will be in violation of the Clean Air Act? It is not as if the committee and the proponents of the underlying amendment have not understood that the mandate should not apply to all States. In fact, two States are specifically exempted—Hawaii and Alaska—from this mandate.

Why, if it is appropriate to exempt two States, is it not appropriate to at least afford other States the option of submitting themselves to this mandate or not, depending upon whether this mandate would make their air quality worse or better? It seems to me if we are really talking about environmental quality here, rather than a subsidy for the corn industry in the Midwest, then we would be looking at the environmental impact of a mandate of this sort. Since we have already decided that two States should not be required to comply with this mandate, we have already crossed the bridge of saying it is appropriate to exempt some States. Why not allow those States, with their departments of environmental quality having said they would be harmed, the ability to opt out, or the requirement that they opt in, in order for the program to be effective in the State? Why not allow that option for those States? What is so important about this mandate that every single State, except two—and I don't know why these two were exempted—is not at least given the opportunity to exempt itself from the provision?

It seems to me there has to be something else involved here. I suspect it has to do with the desire of the corn producers and the people who transform the corn into an ethanol kind of product to make a buck. But we already provide them a lot of bucks through the subsidy for ethanol that has already been voted on by the Congress, has already been in existence for many years, and which will increase in this bill. I could understand—I would not agree with it—a subsidy to try to produce more of something we think we want to produce. Even though I don't think that is a good idea, I could at least understand the theory that if we want more of something, we are going to have the Government provide a subsidy to produce more of it. I could also understand the alternative, which would be that this is such a good idea that we are going to force people to do it; we are going to mandate it because we in Washington know best, of course, and therefore irrespective of what the environmental quality people in your own State believe, by golly, we know better, so we are going to make them do it.

What is a little hard for me to understand is why we still need the subsidies if we are going to have this mandate. The purpose of the subsidies was to try to encourage this production, but we do not need the subsidies if people are going to be required to use ethanol. It is a mandate. We do not need the incentive or the encouragement anymore.

Clearly, this is about special interest money influence, and I will be that specific because the environmental benefits, especially to an area such as mine, have not been demonstrated. At least the point is made by an agency of my State that it would actually degrade the air quality of some parts of the State—in fact, pull them out of compliance with the Clean Air Act, and yet the mandate would be imposed at the same time we continue to provide this subsidy. Something is drastically amiss here.

There is an old phrase, "Follow the money," so maybe that is what we should do here. Let's take a look at the money part of this issue.

Currently, refiners use approximately 1.7 billion gallons of ethanol annually, and the underlying provision would increase that to 5 billion gallons annually by the year 2012.

There is no question that gasoline prices would increase, based on data from the Energy Information Administration. It has been estimated that the increase in gas prices caused by this mandate could be between $6.7 billion and $8 billion a year. So that is the price we as a country, as consumers of this product, will be paying simply to enrich the people who produce the product.

Arizonans will, according to this estimate, be paying on average 7.6 cents more per gallon of gas. Is that fair, Mr. President?

I speak very plainly about the subsidies to the ethanol industry. According to the Congressional Research Service—this is an unbiased source—the ethanol and corn industries have received more than $29 billion in subsidies since 1996 and could receive another $26 billion more over the next 5 years.

CBO, another unbiased source, has a different estimate for a different time period. They have estimated, based on a review of S. 791, the basis of the underlying amendment we are debating, $2.3 billion just between the years 2004 and 2008.

We also know there is an impact on the highway trust fund because every gallon of gas containing ethanol—10-percent blend—gets a 5.3-cent subsidy in the form of reduced gas taxes. This amounts to a 53-cent-per-gallon ethanol subsidy to the industry at the expense of the highway trust fund, and the Energy Information Administration has estimated that this will reduce the annual gasoline excise tax collections by an average of $892 million between the years 2006 and 2020.

Again, my State is a donor State already. Arizonans send $1 in taxes to the Federal Government and for highway transportation-related needs receives in return only 90.5 cents. So to the extent total revenues to the fund are reduced, the Arizona highway program will obviously be significantly impacted.

There are a lot of general points that I could discuss. There are disputes between authorities on the subject of whether or not it takes more to produce a gallon of ethanol than the gallon actually contains in terms of Btu content; in other words, do you actually have a net loss in net energy value. There are disputes about that. Some experts say about 29 percent more energy is used to produce a gallon of ethanol than the energy in a gallon of ethanol. The National Corn Growers Association, not exactly an unbiased source, disagrees with that. I do not know where the truth lies. Clearly, it seems to me the science is at best in dispute.

In any event, we would all have to agree that taking into account all costs, not just the energy cost, that clearly it costs a great deal to produce a gallon of ethanol or they would not need the subsidy which Congress has generously provided for its production.

I have already talked about the environmental benefits being questionable. It is not just my own State environmental agency but also a National Research Council report found that oxygenates have little or no impact on ozone formation, and there are a lot of refineries that claim they can actually produce similar environmental gains without the use of oxygenates. In fact, that is what we are going to have to do in Arizona because we cannot use MTBE, and we would hope not to have to use the ethanol, as a result of which we would have to find a different blend and would be committed to doing that.

It seems to me the ethanol industry, which enjoys this 5.2-cent-per-gallon exemption on the ethanol blend, or gasohol, from the 18.4-cents-per-gallon Federal excise tax on motor fuels, with the resulting mandate that the Congress is going to impose for the increase in the number of gallons used, would no longer need to be supported by this subsidy, which, as I said, works out to be 52 to 53 cents per gallon for pure ethanol.

The General Accounting Office estimates the tax exemption has deprived the highway trust fund—a slightly different number than I gave before—of between $7.5 billion and $11 billion over the 22 years it has been in place. This is a very costly subsidy and would be a very costly mandate.

Because the underlying amendment is costly, is not necessary, is contradictory with the subsidies that are already provided, and because the amendment of the Senator from California would simply provide the opportunity for States that would be adversely affected by this mandate to deal with their pollution problems in some other way—remember, they still have to comply with the Clean Air Act; nobody is exempting anybody from the Clean Air Act; they simply have to find a different way to comply—it seems to me it would be appropriate for us to support the amendment of the Senator from California and allow States to tailor their blends to the unique situation in their particular States.

Everybody would still have to meet the Clean Air Act but we could each do so in a way that best suits our individual purposes. For that reason, I hope my colleagues will support the amendment of the Senator from California.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. McCAIN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to speak on behalf of the ethanol amendment and to comment upon several of the remarks that were made by my colleagues.

One of the items that was mentioned by the junior Senator from Arizona was the issue of subsidy. I think it is important we clarify the fact that, yes, ethanol has been subsidized over the years, but the Federal ethanol program was established following the OPEC oil embargoes of the 1970s.

I am old enough to remember the long lines in 1973. At that stage of the game, we were only about 34 percent reliant on foreign oil. Of course, we all know today we are 58 percent reliant on foreign oil.

So when the ethanol subsidy came in place and the program was established, we had a dangerous dependence on imported oil. That was one of the reasons they did it. As an alternative to petroleum, ethanol directly displaces imported oil and reduces tailpipe emissions while helping to bolster the domestic economy. Yet today, as I just said, we import more petroleum than ever before with rising crude oil prices and increasing international instability.

Incentives for production and use of domestic ethanol are critical; that is, we can rely upon ethanol. We cannot rely upon imported oil.

I think it is really important for all of us to recognize the fact that we have subsidized the oil industry substantially since the early 1900s. Some may not believe this, but the oil industry started out in the State of Ohio. It was called Standard Oil. Today we continue to subsidize the oil industry. In fact, according to the General Accounting Office, in an October 2000 report, the oil industry has received over $130 billion in tax incentives just in the past 30 years, dwarfing the roughly $11 billion provided for renewable fuels.

Here is an interesting fact: During this time, the U.S. oil production has plummeted while annual U.S. ethanol production has grown by over 2 billion gallons. The point is, when we got into the issue of subsidizing ethanol, we were in very bad shape in terms of our reliance on foreign oil. Since that time, we have made substantial progress.

During the same period of time, if you want to pit one industry over the other, we have seen our dependence on foreign oil grow despite the subsidy we have provided to the oil industry.

There is also the suggestion that the ethanol mandate will largely benefit producers, not farmers. According to the U.S. Department of Agriculture, ethanol production raises the price of corn by 30 to 50 percent nationwide. This is an average of 5 to 10 cents additional premium in the areas that supply ethanol plants. Both of these numbers apply to all corn, not just corn sold to ethanol plants. Given a billion bushel corn crop, it adds between $3 and $5 billion to farm income every year. There is no question, ethanol is good for our farmers. Additionally, farmers own nearly 40 percent of the ethanol industry, and that is growing. These farmer owners realize value-added benefits from their investments.

A chart was referenced by the Senator from California about the fact we are relying on Archer Daniels Midland for 46 percent of our ethanol. The fact is it is now down to 32 percent. The real growth in producing ethanol is from ethanol plants financed by the agricultural community in the United States.

Finally, every major farm organization supports the fuels agreement, including, but not limited to, the following: American Farm Bureau Federation, the National Farmers Union, National Corn Growers Association, American Corn Growers, National Grain Sorghum Producers and American Soybean Association.

Now, we have some concern about what impact does this industry have on the National Treasury, our general fund. Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment in the ethanol program on the overall health of the Nation's economy. Recently, the USDA stated the ethanol program would decrease farm program payments by $3 billion per year. In its analysis of this amendment, CBO stated the provision would reduce direct spending by $2 billion during 2005 to 2013, certainly a partial offset to any subsidy given to the ethanol industry.

Tripling the use of renewable fuels over the next decade will reduce our national trade deficit by $34 billion. Our trade deficit is at an all-time high. A lot of that trade deficit has to do with importing oil. It will increase the U.S. gross domestic product by $156 billion by 2012 and create more than 214,000 new jobs. It will expand household income by an additional $51.7 billion, and it will save taxpayers $2 billion annually in reduced government subsidies due to the creation of new markets for corn.

We see a tremendous economic benefit to this ethanol industry in our country. That is why we are working so hard to have this amendment included in the Energy bill.

In addition to its importance in becoming more self-reliant in terms of imported oil, also in terms of our economy, ethanol helps our environment. This bill provides strong antibacksliding provisions that prohibit refiners from producing gasoline that increases emissions. Once the oxygenate requirements are removed, a Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in an area of the State. This is something that was not mentioned by the junior Senator from Arizona in his presentation. The fact is, if ethanol is such a big environmental problem in the State of Arizona, the Governor of Arizona can petition that they be exempt from the mandate provision. That is included in our amendment.

Last year, the ethanol industry also worked with EPA on the discovery and containment of the emissions from ethanol facilities. Consent decrees have been filed by the Justice Department in record time, and compliance by the ethanol industry has been cited as a model.

The fuels agreement we are asking Members to support will benefit the environment in a number of ways. It reduces tailpipe emission of carbon monoxide, VOCs, and fine particulates, and phases down MTBE over 4 years to address our ground water contamination problem. It provides for one grade of summertime Federal RFG, which is more stringent. It increases the benefits from the Federal RFG program on air toxin reduction. It provides States in the ozone transport region enhanced opportunity to participate in the RFG program. And it includes provisions that require EPA to conduct a study of the effects on public health, air quality, and water resources of increased use of MTBEs. We have tried to cover everything in this amendment.

The amendments to opt out of this program are unnecessary and unwarranted.

The fuels agreement contained in this amendment that passed the Senate last year includes the establishment of a renewable fuel standard and will provide for greater refinery flexibility in the fuels marketplace than the existing Clean Air Act oxygenate requirement. It does not require that a single gallon of renewable fuels be used in any particular State or region; rather, the requirement is on the refiners. The RFS will allow much greater flexibility in the work of oxygenates, which should reduce the chances that localized supply disruption of gasoline or oxygenates will result in retail supply shortages.

The additional flexibility provided by the RFS credit trading provisions will be a lower cost to refiners and, thus, consumers. The credit trading system will ensure that renewable fuels are used when and where most cost effective, which is why we have the credit and trading provisions. In California, we need to emphasize this.

By the way, California is the area where the junior Senator from Arizona says they are going to have to rely upon getting their ethanol blend gasoline. Nearly all the refiners, the people who provide the gasoline to the State of Arizona, have switched from MTBE to ethanol in advance of the State's MTBE phaseout deadline of January 1. The results can only be described as seamless. There have been no ethanol shortages, transportation delays, or logistical problems associated with the increased use of ethanol in the State of California. In fact, according to an April 2003 California Energy Commission report, the transition to ethanol which began in January 2003 "is progressing without any major problems."

We need to emphasize that. This is not going to discombobulate delivery of the gasoline in California or New York or other places that people say it will cause a problem. The Energy Commission of California says it is progressing without any major problems. Today, approximately 65 percent of all California gasoline is blended with ethanol. It is estimated that 80 percent of the fuel will contain ethanol by this summer. They are moving ahead. Only 100 million gallons of ethanol were used in the State last year. California refiners will use between 600 and 700 million gallons of ethanol in 2003. There is not any reason to opt out because of the fact that blended gasoline will not be available to these States.

This legislation is the result of a great deal of work and compromise on the part of many Members of the Senate working with a variety of organizations.

I would like to remind my colleagues of the organizations that support this. It is unusual, in terms of the diverse groups represented. It is supported by the American Petroleum Institute. There has been some talk that the oil industry does not support it. The fact is, the American Petroleum Institute is supportive; of course, the Renewable Fuels Association; the Northeast States for Coordinated Air Use Management. Again, there is an area of the country that could be affected by it, and they like the compromise that has been put together.

We are talking about environmental concerns. The American Lung Association is supportive of this ethanol amendment. The U.S. Chamber of Commerce is certainly concerned about the impact this would have on the economy of the United States. The Union of Concerned Scientists, again, a very forthright, outspoken environmental organization that, on many occasions, is very critical of legislation being promoted in the Senate, says: We like this agreement that has been entered into.

The Environmental and Energy Studies Institute; the Governors' Ethanol Coalition; General Motors. Here is one that I think is really important for some of my colleagues who cannot make up their mind with regard to some of the amendments we are going to get to this ethanol amendment, and that is that the Governors of both California and New York support this compromise, and, of course, all the major agricultural organizations in the United States.

I urge my colleagues to support this ethanol amendment and defeat some of the amendments that they are going to have an opportunity to vote on later on this afternoon.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, first, I compliment my colleagues, the chairman and ranking member of the Energy Committee, for doing such an incredible job on an Energy bill that is so needed in this great country. For the last 25 years, I think we have really begun to see the growth in our Nation and recognized the need for a modernization of our energy policy in this country. I think these Senators have done an excellent job in bringing together a diversity of issues, certainly in recognizing the need for renewable fuels, in looking at how we can work with cleaner burning fuels, the diversity of energy sources and resources that we can use in this great Nation. I applaud them for their hard work and diligence in that.

It is so important in our State. In Arkansas, both as a consumer as well as producer of energy, and certainly in terms of the rural nature of our State, so much of what is in this bill is going to be very productive for what we want to see happening, not only in the State of Arkansas but across this great Nation in new and innovative energy policy.

### UNANIMOUS CONSENT REQUEST—H.R. 1308

Mrs. LINCOLN. Mr. President, I also would like to talk about something that has been on the minds of many of my colleagues as well as others across this great land. After we finished the growth package the week before we took our break, I had many concerns about what we were doing in that growth package and what we were trying to do, what supposedly was our objective in terms of stimulating the economy. I think it is so important to recognize the reasons why we wanted to stimulate our economy in this country. I think that really is to move forward the growth of this great Nation.

I think we need look no further than the American family if we want to understand why we want to stimulate growth in this great Nation to stimulate the economy. That is why I introduced the Working Taxpayer Fairness Restoration Act. I offered this bill on behalf of nearly 12 million children who were left behind when President Bush signed the 2003 tax bill. There were many of us who were very anxious to make sure we had a fairness in that stimulus package and in that tax bill; that there was a balance between fiscal responsibility and tax relief that would be available to all families.

I have introduced the bill with many of my good friends, including Senators SNOWE, WARNER, JEFFORDS, ROCKEFELLER, COLLINS, REED, BINGAMAN, LANDRIEU, JOHNSON, HARKIN, KENNEDY, PRYOR, BREAUX, EDWARDS, CLINTON, CORZINE, DURBIN, SARBANES, KERRY, LIEBERMAN, SCHUMER, LAUTENBERG, MIKULSKI, REID, GRAHAM of Florida, BAUCUS, LEAHY, NELSON of Florida, NELSON of Nebraska, LEVIN, CARPER, HOLLINGS, BIDEN, SPECTER, CANTWELL, DASCHLE, STABENOW, DODD, CONRAD, VOINOVICH, AKAKA, DORGAN, KOHL, CHAFEE, FEINSTEIN, and BOXER.

This bill would restore a provision left on the cutting room floor when the House and Senate leaders finalized the conference report on the tax cut.

Our bill will restore the advanced refundability of the child tax credit. My friend from Maine, Senator OLYMPIA SNOWE, and I have worked since 2001 to ensure all working families benefit from the child tax credit. We worked very hard to ensure in the 2001 tax cut that the child tax credit was refundable.

During the Finance Committee deliberations on this year's tax bill, I successfully offered an amendment that would have advanced the refundability of the child tax credit. Regrettably, that provision was dropped in conference.

Really, unless we pass this bill we have introduced soon, families with incomes between $10,500 and $26,625 will not get that $400 check that will be mailed in July as part of the 2003 tax bill. Since nearly half of the taxpayers in Arkansas have an adjusted gross income of less than $20,000, Arkansas families are among the hardest hit by this omission in the new tax law.

Consider this: The base pay for a private in the military, serving in Iraq, is just under $16,000 per year. The average Arkansas firefighter makes between $22,000 and $25,000 a year. Many of those enlisted men and women, who could be given a few days' notice before being shipped off to war, and those firefighters who could get no more than just a few minutes' notice before rushing into a terrorist attack—they all have families, or many of them do. They work hard to support their families and to protect us. Yet they got left out when negotiators shook hands over that final tax bill.

I was not in the room during those negotiations in the dark of night, and I understand very few of my colleagues were. But we are here today. We are all here in the Senate, working today, united, hopefully, in our effort to fight for these working families.

Advancing the refundable portion of the child credit to cover these families will cost only $3.5 billion—just 1 percent of the entire cost of that tax bill. This measure had strong bipartisan support in the Senate, I am proud to say. I was proud to play a leading role to expand the child tax credit in the Senate bill. I am glad to have bipartisan support in my efforts on the bill that we have introduced to restore this provision.

We will pay for this tax relief for working families by shutting down some of the Enron-related tax shelters. This pay-for was included in the Senate version of the 2003 tax bill that has already received the blessing of the majority of the Senate Members. Especially as our Nation contends with a sluggish economy, we should ensure that everyone benefits from the tax cut. After all, buying blue jeans for schoolchildren, washing powder for the laundry, or tires for the car costs just as much for a family making $20,000 a year as it does for a family making $100,000 a year. If we want to get our economy back on track, we need to make sure we are putting money into the pockets of consumers who will spend it.

This is not about partisanship. It is not about who is going to win here or lose here today or in the next coming days. That is certainly evidenced by the cosponsorship of this bill. What this is about is doing what is right for the families who may need a little extra help, families who are working hard, day in and day out, playing by the rules, bringing home a paycheck and trying to raise their children the best way they know how: with good values and good examples.

We should fix this problem—not in the future, not next year, not sometime down the road. We need to fix this and correct this inconsistency immediately. We have an opportunity to do what is right on behalf of the working men and women in this country who are working hard, creating a face for this Nation in the next 20 years.

What is our Nation going to look like in the next 20 years? What are the values of the leaders of tomorrow? These faces and these values are in the children we are raising today. It is not too much for this body, or the coequal body of the House, to say the time is right, to put our money where our mouth is, to give these hard-working families the opportunity to get a little extra—a little extra of the incredible amount they pay into the system, a little bit extra to raise those children the best way they know how.

I started by saying the initiative to stimulate the economy in this country was an initiative, I think, based on what we all wanted to achieve: Not just to stimulate the economy but to strengthen our Nation. And, once again, we have the opportunity, and we need to look no further than the faces of our children and the workers of the American family in order to be able to do that.

Let us make these American families our priority today.

I ask unanimous consent that the Senate proceed to calendar No. 52, H.R. 1308, a bill to amend the Internal Revenue Code of 1986 to end certain abusive tax practices; that the Lincoln substitute amendment, which is at the desk and is a modified version of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, be considered and agreed to; that the bill H.R. 1308, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate, on behalf of working American families.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, reserving the right to object, I ask unanimous consent that the request be modified so that all after the enacting clause of H.R. 1308 be stricken, and the text of the Grassley amendment regarding the child tax credit be inserted in lieu thereof; provided further that the bill then be read a third time and passed and the motion to reconsider laid upon the table.

Mrs. LINCOLN. Mr. President, with all due respect to my colleague, I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mrs. LINCOLN. Yes. I object.

I would like to comment. I think I know what the chairman is doing. I would like to comment that we did provide pay-for in our bill. My concern for what he has offered is that it is going to add another $90 billion or $80 billion to unpaid debt in this country, for which I don't believe there is a pay-for.

I respectfully object.

The PRESIDING OFFICER. Objection is heard to the modification.

Is there objection to the request?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, I would like to state what the Grassley proposal is.

It would make permanent the increase in the child tax credit. The bill signed by the President last week increases the credit from $600 to $1,000 for the next 2 years. The Grassley amendment would make the increase permanent.

Second, it would eliminate the marriage penalty built into the current child tax credit. The Grassley amendment increases the income phaseout for married couples filing jointly to twist the limit for single individuals filing alone. The Lincoln amendment fails to address this inequity in the current formulation of the child tax credit.

Third, the amendment would create a uniform definition of a "child." This language is identical to the legislation introduced by Senators GRASSLEY and BAUCUS. This change reduces from five to one the number of definitions of a "child" in the Tax Code, which will simplify part of the code that will directly affect working families.

I might say to my good friend that I think she understands. I have the greatest respect for her. And, obviously, she makes a case today not only for herself but for many Senators and for many who voted with her in the days preceding as this legislation worked its way through here and through the conference in the House.

It is the responsibility of the Senator from New Mexico to respond in behalf of the majority, and I have done so. In doing so, I have offered a counterproposal. Obviously, it is significantly different than the one the distinguished Senator from Arkansas offered; nonetheless, a very significant proposal. I thank her for her generosity.

I yield the floor.

Mrs. LINCOLN. Mr. President, I thank the chairman and my good friend, who is a diligent worker on behalf of children. I know his concern for the children of this country. I would like to express to him that in the counterproposal that has been offered, it was not my intent to look for an attempt or an excuse to reopen the tax package or to spend an additional hundred billion dollars. I simply felt very compelled—that with a small portion of this bill that could be rectified to make sure these working families in America could get the same benefit from this tax bill that everybody else will on July 1—to think this was an easy opportunity for us to do that. We had a pay-for that was reasonable and something that the rest of the Senate had already agreed to and that Senators probably felt very comfortable with. It was simply an opportunity to express to those families that we certainly believed they were a priority and that we could support them in this effort.

I appreciate the remarks of the Senator very much. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak very briefly and indicate my strong support for the Senator from Arkansas and her effort.

I think clearly we need to address this major failing of the previously passed tax bill, and we need to do so in a way that is fiscally responsible. That is exactly what the Senator from Arkansas has proposed—to find a way to pay for the refundability of the child tax credit. That is what she proposed earlier in the bill. That is what the Senate agreed to earlier in the bill. That is clearly what we ought to do at this point. I regret that we were not able to do that this afternoon. But I hope the opportunity to do so will recur at some point in the near future and we can, once again, do what we believe should be done to try to bring more equity to that tax package which was passed and signed by the President.

Mr. DOMENICI. Mr. President, it is my understanding that a vote will occur at 4:30; that there are 10 minutes prior thereto for debate on the first amendment equally divided into 5 minutes each for those proponents and opponents of that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Parliamentary inquiry: What is the title of the first amendment?

The PRESIDING OFFICER. The first amendment is amendment No. 843 offered by the Senator from California, the purpose of which is to offer an ethanol mandate renewable fuel program to be suspended temporarily if the mandate is harmful to the environment.

Mr. DOMENICI. Mr. President, I trust the Senator from California will be here if she desires to debate it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

### AMENDMENTS NOS. 843 AND 844

Mr. DASCHLE. Mr. President, I know we will be voting at 4:30 on the Feinstein amendments. Both amendments attempt to provide waivers to the States from the renewable fuels standard. There are several points to be made. I made some of them this morning. But in case my colleagues have not had the opportunity to evaluate the amendments or consider the concerns raised by many of us with regard to the amendments, I thought it would be appropriate for me to say a couple of words again now.

First of all, with regard to ethanol utilization, the State of California is currently using ethanol in 65 percent of all the fuel it is marketing within the State. That is expected to go up to 80 percent this summer. The Department of Energy in California has said there has been absolutely no difficulty in the integration of ethanol from a transportation point of view, a storage point of view, an environmental point of view, or a cost point of view.

So that would be first. Why have a waiver when there is no problem? The problem does not exist. In fact, studies have shown—that I pointed out this morning, one by the Department of Energy Information, one by the Department of Energy in California—that have said there is absolutely no connection between increases in the price paid for gasoline and the use of ethanol. So from a cost point of view in particular, there certainly isn't any need for a waiver.

Secondly, and perhaps far more importantly, this legislation provides that there is no mandate on the States. There isn't one requirement within the bill that says a State must use ethanol as part of its requirement under the law. That does not exist. The requirement is on refiners, not on the States. And the refiners are given wide latitude to make their decisions based on where it is appropriately marketable and not on any predesign with regard to the market itself.

We are not dictating to any oil company that that 65 percent now being used in California be used as a result of a legal requirement. That does not exist. We are simply saying: Look, we will let the oil companies and the refiners make up their own minds. And with the credit trading system, the job is made all the easier.

I would also say that if worse comes to worst, we have said: Look, if all else fails, there is absolutely no reason why a State cannot apply for a waiver under the new law. Senator FEINSTEIN and others have suggested, well, they have applied for waivers in the past and have been turned down. I hasten again to add for those who may be confused by this, she is talking about the current law. In part, what we are doing now is amending the law, removing the oxygenate requirement, phasing out methyl tertiary butyl ether, MTBE, and providing an opportunity for States to get out from under requirements of the old law while at the same time coming up with a way with which our country can reduce its dependence on foreign sources, can find ways with which to clean up the air, and can do as much as possible to find markets for agricultural products within our own States and country. That is, in essence, what this bill provides.

So I simply say, Mr. President, as well intended as the Senator from California is, there is absolutely no reason why this waiver is necessary. They have one in the bill. They have the credit trading system in the bill. There isn't any requirement for a State to mandate the use of ethanol in this bill.

And, finally, it is working as we have predicted it would, certainly in those States where the markets have been allowed to work. California, as I said, now expects 80 percent of their fuel to incorporate ethanol through the summer. So it is yet another one of these constant myths that has to be destroyed and dealt with as we consider the many allegations about what it is we are trying to do.

Very simply, we are saying to the country, to the refiners, to petroleum marketers in particular: We are going to give you as much flexibility as you could possibly hope to have. And that is exactly what this legislation does.

Having said that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask my colleagues to support the second-degree amendment I offered this morning to the pending first-degree ethanol mandate that would provide authority to the Administrator of the EPA to waive the ethanol mandate if a State or a region does not need it to meet the requirements of the Clean Air Act.

In the pending first-degree ethanol mandate, there is waiver language, and that waiver language allows the Administrator of the EPA to waive the ethanol mandate if it would severely harm the economy or environment of a State, a region, or the United States.

I believe the EPA Administrator should also have the ability to waive the mandate if a State can show that it can meet the Clean Air Act standards without having to use ethanol. I think that is very important because all the refiners in my State tell me that if we allow them flexibility, they can, through the reformulated model of our gasoline, for the most part, meet Clean Air Act standards without this mandate. They may have to use some ethanol—and they are using ethanol now because there is a 2-percent oxygenate requirement—they may have to use some ethanol at certain times of the year in certain areas of the State, but they do not need to use the amount of ethanol that this legislation forces them—forces them, Mr. President—to use to meet the Clean Air Act standards.

This mandate forces California to use over 2.5 billion gallons of ethanol over 8 years that the State does not need.

On this chart, the red shows the forced use of ethanol. The blue shows the ethanol we would use in certain markets during certain seasons to meet Clean Air Act standards. As one can see, there is a huge differential between the red and the blue areas.

We use this amount shown in blue and do not use the rest of the ethanol which is shown in red which we have to pay for anyway. That is a wealth transfer, if you will. In the outer years, it most certainly is going to mean an increased price of gasoline at the pump for consumers.

All this amendment does is add to the waiver provision one other possibility for waiver, and that is, if a State can show that it does not need to use all of this extra ethanol to the EPA, the EPA can then waive the mandate. What could make better sense? Why would anyone oppose this as a matter of public policy? Why would any public policy force use and force costs on a consumer and transfer wealth to another area of the country when it is not necessary to do so? That is the crux of my argument. We do not need to use it. This chart clearly shows it.

If we look at another chart, we will see that we are forced to transport a lot of ethanol to get it out to California; that the big production of ethanol is in the Midwest in what is called PADD II. Mr. President, 2.27 billion gallons of ethanol are made in this area. The entire West makes maybe 10 million gallons of ethanol. Therefore, all of this has to be moved not by fuel line but by barge, by truck, by boat, by some other way, and increases costs. That is the reason for the waiver. If we can show that we can meet Clean Air Act standards, EPA can give those States a waiver.

I thank the Chair. I gather my time is up. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am prepared to vote. Do I have to yield back time?

Mrs. FEINSTEIN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Time is yielded back.

Mr. DOMENICI. I yield back any time I have in opposition.

The PRESIDING OFFICER. Without objection, the vote may occur at this time. The question is on agreeing to amendment No. 843. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Missouri (Mr. BOND) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—35

Akaka
Allard
Allen
Bennett
Bingaman
Boxer
Cantwell
Clinton
Collins
Corzine
Ensign
Enzi
Feinstein
Gregg
Hatch
Hollings
Hutchison
Inouye
Kennedy
Kyl
Lautenberg
Leahy
McCain
Murray
Nickles
Reed
Santorum
Schumer
Sessions
Shelby
Specter
Sununu
Thomas
Warner
Wyden

NAYS—60

Alexander
Baucus
Bayh
Biden
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Inhofe
Jeffords
Johnson
Kohl
Landrieu
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Sarbanes
Smith
Snowe
Stabenow
Stevens
Talent
Voinovich

NOT VOTING—5

Bond
Edwards
Graham (FL)
Kerry
Lieberman

The amendment (No. 843) was rejected.

The PRESIDING OFFICER. The Senator from Virginia.

CHANGE OF VOTE

Mr. WARNER. I ask unanimous consent that on vote No. 203 my vote be changed from nay to aye. There is no consequence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 841

The PRESIDING OFFICER. There are now 4 minutes evenly divided. Who yields time?

Mr. DOMENICI. Can we have order, Mr. President? I understand the Senator from California has 2 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. FEINSTEIN. Mr. President, I will just use a minute and then cede some of the remaining minute to the Senator from Arizona, if I might.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this amendment would allow a Governor of a State to opt into the ethanol program. Both Alaska and Hawaii have been able to become exempted from the ethanol mandate. The question this presents for many of us is this: If a Governor of a State believes the program is cost effective, believes it is going to clean up their environment, believes it is all of the things the ethanol proponents say it is, then surely that Governor will opt in.

But if a Governor of a State, depending upon geographical location, infrastructure for delivery, or science about the product, might decide not to opt into the program, that Governor would have that opportunity. This amendment is cosponsored by Senators NICKLES, McCAIN, KYL, GREGG, WYDEN, LEAHY, SCHUMER, REED, SUNUNU, KENNEDY, and CLINTON.

I thank them for their support and yield the remainder of my time to the Senator from Arizona.

Mr. KYL. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let's make it clear that every State still has to comply with the Clean Air Act. The question is how they each choose to do so. In Arizona, the Department of Environmental Quality, the department of the State that is required to cause the State to be in compliance, says this mandate will actually cause two of our larger communities, Yuma and Tucson, to be in noncompliance with the ozone standard during the summer months. Each State can meet the requirements in the ways they deem best under the amendment of the Senator from California. Let's not mandate a one-size-fits-all—oh, excuse me, except for Alaska and Hawaii—for every State. Give the Governors who are responsible people the ability to decide whether this is the best way for their State to meet the Clean Air Act standards.

The PRESIDING OFFICER. Who yields time? The Democratic leader.

Mr. DOMENICI. Mr. President, can we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DASCHLE. Mr. President, this amendment is based on a misconception. The misconception is that somehow there is a mandate to begin with. There is no mandate for the States under this bill.

There is a requirement that refiners find a way to reach the goals that we set out in the legislation overall, both in energy as well as the ethanol itself, but there is no requirement that States meet some standard with regard to utilization of ethanol. And there is also an option for the States to opt out if they find the circumstances described by the distinguished Senator from Arizona would ever come about. States have the right to opt out, even though there is no particular mandate to opt into the program to begin with. This is a refiners obligation, not a State obligation.

Mr. DOMENICI. Mr. President, might I say, if you are for an ethanol program for the Nation, then you can't vote for this amendment.

If this amendment passes, there is no American ethanol program as we have been speaking of it in terms of reducing the American dependence on foreign oil. It becomes something different and not an American program to accomplish that purpose.

I yield the remainder of my time.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficent second.

The question is on agreeing to the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote "nay."

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—34

Akaka
Allard
Allen
Boxer
Campbell
Chambliss
Clinton
Collins
Corzine
Ensign
Enzi
Feinstein
Graham (SC)
Gregg
Hollings
Hutchison
Inouye
Kennedy
Kyl
Lautenberg
Leahy
Lott
McCain
Nickles
Reed
Santorum
Schumer
Sessions
Shelby
Specter
Sununu
Thomas
Warner
Wyden

NAYS—62

Alexander
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Feingold
Fitzgerald
Frist
Grassley
Hagel
Harkin
Hatch
Inhofe
Jeffords
Johnson
Kohl
Landrieu
Levin
Lincoln
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Sarbanes
Smith
Snowe
Stabenow
Stevens
Talent
Voinovich

NOT VOTING—4

Edwards
Graham (FL)
Kerry
Lieberman

The amendment (No. 844) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

### NEXT GENERATION LIGHTING INITIATIVE

Mr. BINGAMAN. Mr. President, will the manager of the legislation yield for a question?

Mr. DOMENICI. I am happy to yield.

Mr. BINGAMAN. Section 914 of this legislation directs the Secretary of Energy to establish a research and development program on solid-state lighting. I worked on this provision with the Senator from New Mexico, the chairman of the Energy and Natural Resources Committee, and I thought it would be useful to have his agreement that this program should not be a traditional grant, contract or cooperative agreement effort. The Department of Energy, DOE, should administer this program in partnership with an alliance of solid-state lighting industry partners who will act to guide and evaluate the research.

Mr. DOMENICI. I certainly concur. The alliance should be an inclusive but well-defined group of companies active in the research, development and implementation of solid-state lighting technologies in the United States. The DOE should select the alliance as quickly as possible, so as not to delay the program's implementation.

Mr. BINGAMAN. If the Senator would yield for a further question, I would like to know whether he also agrees that our intention is that academia, national laboratories and other research organizations should perform most of the fundamental research, while commercial entities, especially alliance companies, should perform most of the development and demonstration work. The selection of DOE laboratories should be based on demonstrated technical accomplishments in the field of solid-state lighting, particularly inorganic and organic light-emitting diodes.

Mr. DOMENICI. Mr. President, again I completely agree with the Senator. I would also add that the intellectual property in section 914 is patterned after the Department of Energy's Solid State Energy Conversion Alliance, or SECA. Under the SECA model, research and development qualifies for the "exceptional circumstances" provision of the Bayh-Dole Act. Inventors still retain rights to their intellectual property. Those alliance participants who are active in solid-state lighting research and development will receive the first option to negotiate non-exclusive licenses and royalty payments to use the invention.

Mr. BINGAMAN. I thank the Senator and would ask one final question. I think he would agree that solid-state lighting is in its research infancy. While it holds a promise to make white light illumination 10 times more efficient than today's light bulb, it is imperative that the DOE implement this program quickly, and transfer the precompetitive research to industry, so that our country can retain its leadership position in lighting—a field that Thomas Edison started.

Mr. DOMENICI. I fully agree. The Senator serves as our ranking member and was instrumental in the adoption of this provision by our committee. I think we both expect that quick action by the Department of Energy will stimulate the private sector.

Mr. BINGAMAN. I thank the Senator for yielding.

### AMENDMENT NO. 845 TO AMENDMENT NO. 539

(Purpose: To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes)

Mr. BINGAMAN. Madam President, on behalf of Senator SCHUMER and Senator LINCOLN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mrs. LINCOLN, proposes an amendment numbered 845 to amendment No. 539.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask unanimous consent that the majority whip be recognized to speak for up to 5 minutes.

Mr. MCCONNELL. As in morning business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia? Without objection, it is so ordered.

Mr. MCCONNELL. I thank the distinguished assistant Democratic leader.

(The remarks of Mr. MCCONNELL are printed in today's RECORD under "Morning Business.")

Mr. MCCONNELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 539 WITHDRAWN

Mr. FRIST. I now withdraw amendment No. 539.

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## MORNING BUSINESS

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, it is probably confusing to people who are watching this debate and discussion. I have just withdrawn the ethanol amendment. As the minority leader suggested, my plans are to reintroduce that amendment at the earliest time feasible, likely first thing tomorrow morning.

What has just happened is that while we were talking about ethanol and energy, we were moved to the consideration of something which, yes, could be related but it is on child tax credits, another issue that is important to the American people. What we have agreed to do is to address that issue sometime in the very near future in a way that we can consider alternatives to addressing the issues surrounding child tax credits.

The Senator from South Dakota.

Mr. DASCHLE. Madam President, I am disappointed that the underlying amendment was withdrawn. That was an amendment offered by the distinguished majority leader and myself. We are certainly going to be coming back at the earliest possible time to continue the debate.

We have had a good debate today. A couple of amendments were offered to the amendment. This is a revenue bill, and certainly it is within the right of the Senator from Arkansas to offer this amendment. This is a key amendment that I hope we can address. We have begun discussions about how we might address it over the course of the next couple of days. It would be my hope that we could get a vote on this amendment, whether it is freestanding or it is a part of the bill, and whatever our Republican colleagues may wish to offer as well, but we have to keep moving along. The sooner we can dispose of this amendment, the sooner we can get to some of these other issues.

I hope we can reintroduce the ethanol amendment at the earliest possible date, continue the debate on that, finish it, and then move to the other issues as we debate this bill.

So it is disappointing, but I hope we can regroup and begin again tomorrow.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I know the distinguished minority leader is disappointed, but not as much as the Senator from New Mexico. Obviously, we have worked very hard on what we think is a very good Energy bill. I think the United States deserves an Energy bill. I know there are other issues. I have no quibble with other Senators who have issues that they think are of great importance, including tax issues, but it is quite a surprise to see an issue of tax significance being applied to an Energy bill for the United States, although technically one might call it a tax bill.

Nonetheless, where there is a will there is a way. If I understand it, there seems to be a will tonight that we will proceed to try to iron out the difficulties between the parties as to the tax matters and then tomorrow proceed with dispatch to get the ethanol amendment back on board, and hopefully not have to go through the same amendments on ethanol that we have already had, and proceed with the lining up of some amendments on the Energy bill with which I understand the minority has indicated a willingness to help. We will work on our side to do the same.

Whatever time I had remaining under my 10 minutes, I yield back.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, it is probably confusing to people who are watching this debate and discussion. I have just withdrawn the ethanol amendment. As the minority leader suggested, my plans are to reintroduce that amendment at the earliest time feasible, likely first thing tomorrow morning.

What has just happened is that while we were talking about ethanol and energy, we were moved to the consideration of something which, yes, could be related but it is on child tax credits, another issue that is important to the American people. What we have agreed to do is to address that issue sometime in the very near future in a way that we can consider alternatives to addressing the issues surrounding child tax credits.

Child tax credits are a separate issue from ethanol and energy, a very important issue, one we have been made aware of over the last several days that must be addressed. We will, of course, tonight, figure out the best way to address that, and it will be done in the very near future.

We will in all likelihood reintroduce the ethanol amendment, my amendment, with the Democratic leader, early in the morning, and over the course of tonight and this evening and early in the morning we will, hopefully, have a series of amendments lined up, and we will be able to move directly to ethanol, on energy, so that we can progress with this very important legislation, the Energy bill, and this ethanol amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I do not quite understand why the ethanol provision had to be pulled at this point. I know an amendment was offered by my colleague and it deals with the child tax credit. It seems to me that could have been dispensed with rather quickly.

Let me talk for a minute about the child tax credit. First, I think the ethanol provisions are very important. I am a member of the Energy and Natural Resources Committee and I want this Energy bill done. We have a responsibility to get this moving and through here.

My colleague earlier today offered a unanimous consent request dealing with the child tax credit. It is not surprising to me that was offered. It probably would have been offered no matter what was before the Senate. The reason for that is the announcement in recent days regarding the final conference report of the tax package. That told us what most know; that is, when those who wrote this package gathered in a room someplace, there were not a lot of high-priced folks around trying to encourage them to make sure all American children were treated right with respect to the child tax credit.

Now we discover around 12 million children in this country are left out of this calculation of child tax credit. Why? Because some people allege—in fact, I heard it on a talk show today—some allege they do not pay taxes. These people do not pay taxes, we are told. I don't know what they are thinking when they say that because these are taxpayers. They work hard. Often these are the kinds of people who have to shower after work, not before work. They work hard all day long and they pay more in payroll taxes than they pay in income tax. And they are told by this Senate, they are told by the Congress, they are told by talk show hosts, that they do not pay tax and therefore their kids do not count.

This Congress ought to be embarrassed when it hears news reports about what the conference report said: By the way, we will provide a child tax credit, but we will decide that 12 million children are left out. Why? Because their families earn between $10,000 and $26,000. Somehow the Congress has decided they do not work, or they do not count, or they do not pay taxes. What a bunch of rubbish. What a bunch of nonsense. They deserve to be angry about this. We ought to be angry about it. What kind of priority is this? I don't understand it at all.

The fact is, when they look back at our work 10 years from now, or 100 years from now, the only thing historians will understand about us is what our value system was. What did we value? What did we think was important? What did we stand up for? Whose side were we on?

I watched this tax bill come together, and I waded through crowds of people in the Capitol—basement, first floor, second floor. I guarantee I have never had to wade through a crowd of people who came to Washington, DC, to make sure we were playing fair for these 12 million children, to make sure we were standing up for the families who were earning $10,500 a year to $26,000 a year. I guarantee the hallways are not filled with lobbyists being paid to represent their interests. I guarantee that.

But there are a lot of high-priced people around here protecting the interests of the people at the upper end of the income scale. We did not hear reports that they were being shortchanged, that children at the upper end of the economic ladder were left out. No, they were taken right good care of. It is just the folks at the bottom. The folks at the bottom, working people, people who work for $10,500 to $26,000 a year, who have kids, trying to raise a family, they are the ones who know about "second"—second house, second mortgage, second shift, second job. And now they get second-hand treatment in the tax bill because they are told they don't count because they don't pay taxes. The heck they do not pay taxes. Of course they pay taxes. They pay payroll taxes out of every single paycheck. I am offended that people say people at the bottom of the economic ladder who find a paycheck less than their gross pay—and do you know why? Because they had taxes taken out—I am offended when people say they are not taxpayers. I am offended when somehow it is told they do not deserve a tax cut like all other Americans because the fact that they pay payroll taxes is somehow less worthy than others who pay income taxes. One-half of the American people pay higher payroll taxes than income tax and somehow this tax bill and those who worked on it decided they were not worthy, they were not taxpayers. We will tell their 12 million children they do not count. We will tell them it does not matter they have kids; they do not need the tax credit.

There is something horribly wrong with that value system. It is not surprising to me that someone comes to the floor—and if it had not been my colleague from Arkansas, it would have been one of a dozen others today—to say this needs to be fixed—not tomorrow, not next week, not next month. This ought to be fixed now. It ought not take an hour or a day. It ought to take 10 minutes for this Senate to understand its responsibility.

It's our responsibility to say to these people, the working people making $10,000 to $26,000 a year, trying to raise kids, working at a job, trying to do right, it is this Congress' responsibility to say to them: You get the same tax cut as other Americans do. We provide the same child tax credit for you as we provide for other Americans. You pay taxes; we intend to recognize it. That is the responsibility of this Senate.

I do not, for the life of me, understand why the offering of this amendment persuades somebody to take down the amendment in the Energy bill. That is nonsense. We can pass this in 5 minutes.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. REID. I wonder, does the Senator think any parents of these kids earning $10,000 to $26,000 a year, do they benefit from the cut in dividend payments from corporations? Do you think they benefit much from that, which was in the final version of the bill?

Mr. DORGAN. I say to my colleague from Nevada, there is no question, these are not families who have dividends. These are not families who collect a lot of interest. These are families who live paycheck to paycheck, trying to make a living, trying to do right by their kids, trying to send their kids to good schools, trying to buy new clothes for the kid to go to school in September. These are families trying to make ends meet. They are always left out.

Frankly, I was surprised when I heard the President and others advertising the tax bill, saying we support a child tax credit for America's children—except he left out the colleagues of mine in the Senate who convened in a conference, without our participation. Nobody here was invited to that conference. They wrote a bill that said it is just some American children; it is not children from those families who make $10,000 to $26,000 a year because somehow they are not taxpayers.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. REID. The Senator and I have been back in Washington for some time. Right out these doors and various other places in the Capitol, there are lobbyists, lobbyists who represent interests. Did the Senator run into any lobbyists during consideration of the tax bill, the people wearing the Gucci shoes, delivered to the Capitol in limousines, lobbyists representing these people who were left out of the benefits of this tax bill passed 2 weeks ago?

Mr. DORGAN. To my colleague from Nevada, this hallway in the Capitol outside this Chamber is never ever populated by those who are paid to represent the interests of people who work at the bottom of the economic ladder. They do not have full-time lobbyists crawling the Halls of Congress saying: By the way, give us a break on dividends; give us a break on this issue or that issue.

No, unfortunately, it is these families, the families who work hard, at the bottom of the economic ladder, struggling every paycheck, trying to make ends meet, who get the short end of the stick every time you open it up and look at the details.

I was surprised. I am a Lutheran Norwegian from North Dakota, kind of stoic. I don't rise to the passion of some of my colleagues from New York, but this makes me angry. That is just because it is fundamentally wrong. It talks about our character, that we decide we are going to give some tax cuts, we are going to help some people out, but you know what. We will take a look at the top people and just give them a thick layer of butter on their bread, but to the bottom people we will say you don't count.

I will tell why. Mark my words. It is because those who wrote this bill believe that these are not taxpayers. Do you know why? Because somebody who is making $15,000 a year, trying to raise four kids, trying to patch up their car, seeing if they have enough money for new brake linings, seeing if they can afford to put gas in next week—it is because those people are working at jobs where in most cases they are not paying an income tax. But they are paying a payroll tax. The fact is, as a percent of their income, they pay a higher payroll tax than the people at the upper end of the income scale. But when it comes time for tax cuts, we have people sitting around a table here who say the only people who pay taxes in America are those who pay income taxes. That is pure nonsense and they ought to know better. There are taxpayers in this country—in fact, more than half of the American people pay higher payroll taxes than income taxes.

I frankly resent it when people say somebody at the bottom of the economic ladder who pays payroll taxes is not an American taxpayer. If we talk about trying to provide some stimulus to this economy of ours, trying to provide some lift to this economy by giving people purchasing power—and that is what people talk about, providing some purchasing power—the American economic engine is the working families out there. Provide them with purchasing power with tax cuts and they will make the economic engine purr—except they say those most likely to spend the child tax credit, those who need it most, those at the bottom of the economic ladder, working every single day, they should be left out and they and their 12 million kids should not count.

I know why it happened. It is because we have colleagues in this Chamber who say they are not taxpayers because they do not pay income taxes. But they pay payroll taxes. We have colleagues who say payroll taxes do not count; you are not a taxpayer.

I say that is sheer rubbish.

Mrs. LINCOLN. Will the Senator yield? Not only do they pay payroll taxes, but they also pay sales tax when they buy new tires for that vehicle. They pay excise taxes. For people who live in States like ours which are predominantly rural, who have to drive great distances to their jobs, perhaps, when they pump gasoline, they are paying an excise tax. They pay property taxes and also they have to pay State income taxes in some instances that are different from Federal income taxes.

The Senator from North Dakota makes some very good points. These are taxpayers, hard-working people trying to raise a family, playing by the rules, and they are paying taxes.

I would like to ask the Senator, when was the last time you saw anybody offer up a tax cut on their sales tax or on their excise tax or on the other taxes they do suffer from or that they are burdened with?

In other words, they are going to see all the tax increases but never see any of the tax decreases or the tax benefits, if we do not look to making these child tax credits refundable to those 12 million children who are out there, in these families who are continuing to pay not only payroll taxes but the sales taxes and the excise taxes and everything else out there. The Senator makes an excellent point.

Mr. DORGAN. Mr. President, Bob Wills of the Texas Playboys back in the 1930s had a song with a verse that fits almost perfectly the philosophy of those who wrote this bill and left out 12 million children.

> The little bee sucks the blossom,
> and the big bee gets the honey.
> The little guy picks the cotton,
> and the big guy gets the money.

It is a simple verse with an important lesson.

I followed a car the other day, an old car that had several children in it. They had the back bumper taped up but they had a bumper sticker that said:

> We fought the gas war and gas won.

I pulled up behind that car at a four-way stop sign and smiled to myself because, you know, in circumstances like that, that family trying to raise children, trying to keep an old car together, keep the bumper taped on, they figure everybody wins except them. They are trying hard but they do not win; somehow they do not count. That impression is always reinforced.

Yes, it is reinforced by Bob Wills in the Texas Playboys' verse, but it is reinforced every day in almost every way, especially in the policies of this Chamber.

It is about values. This decision we make about tax cuts is about our value system. What do we think is important? What do we hold dear? What is our character about?

Let me yield the floor in a moment by simply saying Mr. Wallis, the Convenor of the Call To Renewal, a National Federation of Churches and faith-based organizations, said:

> The decision to drop child tax credits for America's poorest families and children in favor of further tax cuts for the rich is morally offensive.

My whole hope is we just do the right thing and do it quickly. We know what the right thing is. It is not the right thing to say these 12 million children coming from the lower-income households, working households that are trying to make ends meet, that they should not count with the child tax credit. We know that is wrong. If we know that is wrong, and in our heart all of us know that is wrong, then we know what is right. What is right is to say we will fix it and we will fix it now—not tomorrow, not next week, not next month, not after we have another closed meeting and some secret conference—right now.

We can do that. That is our obligation, in my judgment, to a lot of people in this country who deserve a break from us—taxpayers. Yes, they are taxpayers who deserve some tax relief in the form of child tax credits, taxpayers who were left out of the original bill but who will, with the help of my colleagues, be put in, in this Senate.

Mrs. BOXER. Will the Senator yield? I know my friend from Arkansas has a very important meeting tonight, on behalf of her children, as it turns out. That is why she is the perfect person—I ask my friend, before he leaves the floor—to have brought this to us, because she knows children's needs very well, after raising the most beautiful twin kids who I happen to know personally and consider them friends.

I guess my question to my friend—and I will be brief on this question—is this: Does my friend have any idea—and I don't expect him to know—how many of these kids come from California? He talks about 12 million. Does he have any notion? I would say to my friend the answer is about 10 percent, about 10 percent of those kids.

I want to say to my friend that in this tax cut, if we do not fix it the way my friend from Arkansas wants to fix it—and make no mistake, it could have been done already, all this rigmarole and parliamentary procedure aside. In California people who make between $10,000 and $20,000, their average tax cut—does my friend have any idea what it might be?

Mr. DORGAN. I don't think it is fair for the Senator from California to ask me questions she assumes I can't answer. The correct answer is no.

I have to leave the floor.

Let me ask consent that my colleague from California be recognized for 3 minutes.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered. The Senator from California.

Mrs. BOXER. I will just take a minute. I would say it is important to note that the people in California—and I assume this is true of the people in the State of Tennessee, in the State of Arkansas, and perhaps New York as well—the people who earn between $10,000 and $20,000 a year, their average tax cut, which the President signed into law and most Democrats voted against and most Republicans voted for—their average tax cut is $7. These are working people. They are working. They are getting their hands dirty. They are keeping this country going. The top elite few get hundreds of thousands back and these people get $7 a year.

If they have children, they are suffering, and all my friend from Arkansas is saying is: Give these families a little fairness. They pay payroll taxes. They pay sales taxes. They have to live. And, by the way, giving them a check is going to stimulate this economy, not by giving it to people like Leona Helmsley. She has everything she needs, thank you very much. I don't mean to pick on her particularly—but Warren Buffett has said it well himself. He doesn't need it. He has his kids and their kids and their future kids and their future kids covered. He has every generation of Buffetts covered.

All we are doing is fighting for the people who need us the most.

I thank my friend from Arkansas for her courage and I want to say how much I support her and how much I am looking forward to voting in favor of her amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. REID. Mr. President, will the Senator yield for a statement?

Mrs. LINCOLN. Yes.

Mr. REID. Mr. President, I have been waiting to be recognized so I could lay on this RECORD a compliment from me, the people of the State of Nevada, and the country for the brilliant statement the Senator made this past Saturday on national radio. Rarely are the statements of the Democrats who follow the President's weekly address picked up on the weekly and hourly news shows on the weekends. But the statement of the Senator from Arkansas was on the news all Saturday afternoon and all day Sunday, the reason being that it was such a timely statement the Senator made. It is obvious that it had a tremendous impact because we have now heard from the majority. Paraphrasing the statements we have heard over here today: Yes, I guess we could have done a little better, and we will work something out so there will be some adjustments made on how children in America are treated for tax purposes.

The Senator from Arkansas, I believe, can take much of the credit for our being here today. I told her personally, and I want to say publicly, she did a tremendous job representing the people of Nevada and the rest of the country.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleagues from Nevada and California, and all of those who have come to the floor today to talk about a very important issue.

I also compliment my colleague, Chairman DOMENICI, as well as the ranking member, Senator BINGAMAN, for an incredible effort on our Energy bill. There is no doubt that we need to address the energy needs of this country. We have for the last 25 years tried to modernize what we do in energy. I think this bill is an incredibly important bill. I hope my amendment does not in any way diminish my support for what the chairman is doing in moving forward on the Energy bill. It is equally important to the working families of this great Nation that we address those issues and look at ways of finding alternative fuels. Lord knows, for those who pay the bill at home—the last time I paid my gas bill, it was enormously high, and for American families as well. When we look at an opportunity for an energy package, such as the chairman is bringing to us, we can certainly provide for our families some of their capabilities to raise their family and be productive and strengthen this great country in which we live.

I hope the chairman can understand. I noticed his disappointment as we shifted off that amendment. I, too, was disappointed. I was disappointed when this child credit bill was taken out of the bill in the dark of the night—something that was important to so many families across this Nation.

I also want to plead with those who are disappointed. We have shifted off only for a moment. We will return tomorrow and go vigorously at this Energy bill. We only have a limited amount of time.

This tax package was signed into law. Many individuals will reap its benefits come the first of July. But these 12 million children and their families will not get those benefits on July 1 unless we act quickly.

Certainly, we all know that when we have made mistakes, or when we have done something which we think we could have done better, what do we do? We immediately try to correct it. We don't sit around as it becomes worse; we deal with that issue.

That is all I have been asking. This is an appropriate bill. It is a revenue measure, and it is appropriate for me to bring up an amendment such as this.

Again, I don't want those who are working so hard and who have invested so much time, as I have, too, on the Energy bill to think we are trying to divert any of that attention. We are simply trying to correct something that was done incorrectly.

We only have a limited amount of time. We want to make sure that these families are given the same benefits and the same opportunities this tax bill will give other Americans to infuse the economy, to help grow the economy of this great country and, thus, strengthen our Nation.

We talk about it time and time again. I hope as we reflect on these families that we are actually trying to help those working families who are making between $10,500 and $26,625. These are the families who have been left out. I promise you, these people do pay taxes. Although they may not fall into the category of paying enormous income taxes, think of the sales taxes they pay, think of the excise taxes they pay, think of the property taxes they may pay, and think of some of the State taxes they may pay. They are paying taxes that are consuming a lot of their take-home pay. The problem we have is that they are trying desperately and passionately to raise their children with the same values you and I have.

Why does it come to my attention? It is because of the time I have spent at home over the past 2 years shadowing welfare moms as we were debating the welfare reform package, recognizing that it is as painful for that welfare mother leaving a crying child at daycare as it is for me, a Senator.

This past spring break, I spent my time traveling around the State of Arkansas visiting with workers. But then I, too, had to put on my hat and became a mom. I had to go and purchase blue jeans for my children. I had to buy tires for my car because my husband told me I had to—not because I wanted to spend my money there but because he told me it was for the safety of our family. We needed new tires. I had to put a new battery in my car—all of these things, none of which I did that was any different than any other working mom, no matter how much that working mom makes.

All we are doing is asking for fairness in a package that is there to stimulate the economy. And for what reason? So we can strengthen our country. Not only do we want to give these families the capability to provide for their children in a way that is going to make their children stronger Americans, smarter Americans, healthier Americans, more safe Americans, but we want to give them the opportunity to participate in strengthening this country. This is not a handout. This is reaching a hand to our neighbors—those who are doing the same things we are doing: Raising our children and strengthening our families.

I plead with my colleagues. If we notice something that we haven't done as best we could do it, let us fix it. Legislation is not a work of art; it is a work in progress.

A lot of my colleagues agree with me. I have 49 cosponsors since we introduced the bill yesterday. Six of them are Republicans. It is bipartisan. I don't want this to be a partisan issue. I want this to be a strengthening issue; that we in the Senate believe our working families mean enough to us that we are going to share with them less than 1 percent of this tax bill to help them raise their families, to buy those tires, that washing powder.

I paid the bill for my children's lunch tab at the school. None of these things is any different for these working families. We have to know that. We as a Senate have to know that. We can't sit on the pedestal and forget there are people out there trying to raise their families. We talk about values. We talk about how we want these children to be healthy, we want them to be tomorrow's leaders, we want them to have the compassion and the values that we talk about on the floor of this Senate.

My friends, the best way we can teach them that is to walk our talk, to live these issues, to reach out to these working men and women of America, and say that our families are not just important to us, but your family is just as important; giving you this assistance to be the best families you can possibly be is a priority for us, a priority enough that we are going to take a few minutes out of our busy day on the floor of the Senate and correct something that we could have done better. We are going to take those few moments and make that happen. Then, we are going to resume our business with this Energy bill, and we are going to go back to our business of making the energy policy of this country even better for you, too.

So I hope my colleagues will not take this incorrectly. This is not about slowing down a train or missing the train stop. This is about reaching out to the working men and women of this country and saying: My children are not only important to me, but your children are equally as important to me. And I want to do all that I can to give you the ability to be the best parent and for you to have the best family that you possibly can.

To affect the lives of 12 million children—12 million children of working American families—is our opportunity this evening and tomorrow. These are people who are working. They are bringing home a paycheck, sometimes working two jobs, with both parents working perhaps. They have children.

I hope that as a body we will not miss that opportunity to move forward, show our great Nation—and other nations, too—that when we talk about our children and their future, when we talk about the future of this country and the role we have to play globally in the future workforce of America and the future leaders of America, that we do believe it is a priority, priority enough to stop for a few moments and correct something we could have done better.

Mr. President, I hope we will have multitudes of opportunities, as we move forward, to make a lot of things better, but in this opportunity here today and tomorrow as we begin to look at this issue and the bill that I have introduced, and that many of my colleagues have joined me in, I hope they will continue to join me in moving forward and doing what we can for the 12 million children who live in the working families of this great Nation, who have been left out of this tax package, to give them the relief and the opportunity to help grow and strengthen our country.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, before the Senator from Arkansas leaves—I know she has a meeting for her children—I want to add my accolades to that of my friends from Nevada and California. She has done a good deed. The Bible says: The best thing to do is do a good deed for those who are in need. She has done that, not only tonight but by her efforts in the Finance Committee and on the floor of the Senate because the children her amendment is aimed at are the ones who most need our help. So I know she has to attend to her own children. I thank her. All of America owes the Senator from Arkansas a debt of gratitude.

Mr. President, I am in full accord with what was said before about bringing this amendment to the floor. I do not like class warfare arguments. And I certainly believe there are certain tax cuts for people regardless of their income that stimulate the economy. I thought a tax cut was appropriate. But what really burns me is this idea that is circulating now that the people left out of the tax bill do not pay income taxes and, therefore, they are not entitled to a tax cut.

When you look at the working class, the people earning $10,000 to $26,000, they pay a much higher percentage of taxes than we do. They pay tax on gasoline. They pay a payroll tax. They pay property taxes, if they own a home. They pay the property tax in a passthrough when the home is rented. And their percentage is much higher than anybody else's.

If you want to talk about class warfare, look at this Wall Street Journal editorial today, "Even Luckier Duckies," talking about these people who don't pay income taxes.

America, who would you rather be, a family with $22,000, paying no income tax—but paying a payroll tax, paying a sales tax, paying tax on gasoline—or somebody worth $1 million, God bless them, who pays $150,000 or $70,000 or $100,000, or whatever they pay in income tax? Give us a break. Who is doing class warfare? Who? I would say this editorial is class warfare. It is misleading as well.

"Luckier Duckies"? Well, if you want to define the world just by income taxes, you can. But ask any American—not just those making $10,000 to $26,000—ask any American making $60,000 or $70,000—at least from New York State—what is the tax they hate the most. It is not the income tax. It is not even the sales tax. It is the property tax. Do we define those people as well off because they pay little in income tax? Absolutely not. When a green dollar goes out of your hands for a tax, it is a green dollar, and it can buy food and it can pay rent and it does not matter if it is an income tax or a sales tax or a payroll tax. And, of course, the payroll tax is a Federal tax.

So this is not fair. This argument that these folks pay no taxes is bogus. The argument that they pay no Federal taxes, if they are working, is bogus. The idea that they escape the system scot-free while all the other wealthier people are struggling hard and paying money into the Treasury is bogus. They generally pay, as has been said before, a greater percentage of their income as taxes than more well-to-do people.

I read an article the other day in the New York Times. It wasn't about Federal taxes, but it took one census tract in Southern Queens in Ozone Park. It was an average census tract. I read about a family. They were talking about how tax increases in New York City—property tax increases, the increase in subway fare, which is not a tax increase but has the same effect—and the family was making, I believe it was $34,000. The mother worked in a beauty parlor and the father was a janitor at the library, and they had been saving $5 a week, I think it was, to have a party for their child's communion.

They kept an envelope, and every week Mom put the $5 in. And she started several years before because she knew the date of her child's communion and she wanted to have enough money to have a party for the whole family.

And now, because of these tax increases, because of the increase in the subway fare, and because of a rent increase on the block—and another family who was struggling was told by their landlord he would have to increase the rent because the property tax increased—there would be no party for the young child. It touched me. I wish every one of my colleagues could read that story.

This idea that people making $15,000 or $20,000 or $25,000 are "Lucky Ducks," that is so unfair. It is not right. I would argue that is class warfare. And there are many people in America who are struggling and working hard. A lot of the people in the New York Times article I am talking about are immigrants. There is a very mixed group on those few blocks and around 101st Avenue in Ozone Park, NY. And every one of our families probably came here poor as church mice. Mine did. And every generation that starts here in America struggles. Mine did. And probably yours did too, Mr. President, at some point in the past.

No one is saying they are oppressed or beleaguered. They are fine people. They are the people who have made this country strong, along with so many others. But to say they are in great shape in terms of the Federal tax law, given the payroll tax they pay, to say they are in great shape, despite all the other taxes they pay—sales tax and property taxes, whether they own their property, or if not, the passthroughs—is just not fair. It is not right. It is not the best of America.

And I am not surprised this Chamber is empty. I am not surprised, during the course of this whole debate, not a single Senator from the other side, with the exception of you, Mr. President, who might have been here not quite by choice——

Mr. REID. Will the Senator yield for a question?

Mr. SCHUMER. I am happy to yield to my colleague.

Mr. REID. How long did my friend serve in the House of Representatives?

Mr. SCHUMER. Eighteen years.

Mr. REID. During that period of time, you served, as did I, with the now majority leader in the House of Representatives, Mr. DELAY; is that true?

Mr. SCHUMER. It is true.

Mr. REID. Is the Senator aware of a statement made by the Republican majority leader in the United States House of Representatives today that said:

> They had their chance. There is a lot of other things that are more important than that. To me it is a little difficult to give tax relief to people who don't pay income taxes.

Is the Senator aware that the majority leader of the House of Representatives has made this statement today?

Mr. SCHUMER. I was not aware of it. I am glad my friend from Nevada has brought it to my attention. It is what I was talking about. It is so unfair to say there were other things more important in the bill than helping struggling families. Before my friend from Nevada came in, I was talking about an article in the New York Times about working families, about the income level we are talking about, and how one family had been saving $5 in an envelope every week so that their son might have a party at his holy communion for all his friends and family. And now they can't save that $5 anymore because taxes are going up and the costs are going up. To say that family is not struggling is amazing.

I also am interested to hear my colleague say that there were other things in the bill more important. If I heard him correctly, it seemed to me that the majority leader is not going to want to change this. Did he say that as well?

Mr. REID. The majority leader said:

> They had their chance. There is a lot of other things that are more important than that. To me it is a little difficult to give tax relief to people who don't pay income taxes.

It is clear, in answer to the Senator's question, that the majority leader in the House of Representatives, the person who controls what comes and goes on that floor, has said that these people are out in the cold, for lack of a better description. They had their chance. As I discussed with the Senator from North Dakota, they had their chance. These people who make from $10,000 to $26,000 a year, their chance is weighed with the problems of people who make much more money. They have no one representing them. As I discussed with the Senator from North Dakota, there is no more populated area than the Halls of this Capitol Building when there is a tax bill up, with lobbyists who are looking for a little niche to help the elite of the country.

These people are not the elite. These people we are trying to help are not elite. They are people who, as Senator DORGAN said, take showers after work, not before. I am terribly disappointed that already the person who sets the agenda for the Republican House of Representatives has said these people are finished. They had their chance.

Mr. SCHUMER. I agree with my colleague. What is the purpose of saying they are doing OK because they don't pay income taxes, when they are paying 7.5 percent of their check into the payroll tax? That is something most Americans support, but they are sure paying a lot. Right then and there, when you have a $15,000-a-year job, and 7.5 percent comes out for the payroll tax, that is food off the table. That is not going without the second vacation or buying some special gift for your wife, that is food off the table.

When you pay that dollar to the Federal Government, to the State government, to the local government, do you think most Americans say it doesn't count because it is not an income tax? It doesn't count to pay property taxes? It doesn't count to pay sales taxes? It doesn't count to pay excise taxes?

That is the kind of logic that is what I call outcome determinative. You look at what you want to do: Help the wealthier classes for whatever reason. And then you come up with the argument that income tax is the only tax that counts.

I wonder if my friend saw this editorial in the Wall Street Journal, "Even Luckier Duckies." Basically, it says this tax bill has made a lot of people very lucky because they won't have to pay income tax. And I asked my colleagues who were not here, how lucky do they think someone making $20,000 a year is compared to somebody making $200,000 or $2 million? Who would trade places? Who of those who make $200,000 or $2 million would trade places with the person who is making $20,000 so they could be a lucky duck and not pay income tax? Give me a break.

This is not America. This is not the generosity of spirit that this country has always shown. This is not the fairness that this country has shown. As I mentioned earlier, I don't like the class warfare arguments. I have supported tax cuts on individuals with some money to stimulate growth in the past and will continue to in the future. But to make it seem as the majority leader did, as did the Wall Street Journal editorial page, which often reflects the majority leader's view, that someone making $20,000 is lucky because they don't pay income tax, and someone making $1 million is unlucky because they pay significant income tax, that is turning logic, fairness, goodness of spirit, and having a good soul on its head.

I am happy to yield to my colleague.

Mr. REID. The Senator is aware that the tax bill, according to this White House, was passed to create jobs. The Senator has heard that?

Mr. SCHUMER. I have indeed.

Mr. REID. The Senator is also aware of people like Warren Buffett who said: I am going to get hundreds of millions of dollars as a result of this tax bill. I don't want the money. I don't need the money. I won't invest the money. You have heard him say this?

Mr. SCHUMER. I have indeed.

Mr. REID. Does the Senator acknowledge that any amount of money that people who are making $10,000 to $26,000 a year receive, whether it is $100 or $500, will be immediately spent to buy things that create jobs for people?

Mr. SCHUMER. The likelihood is much greater than somebody who is given the money who has a large income.

Mr. REID. The Senator is aware that here in Washington Members of the Senate every 6 years have to raise money talking to people to see if they will help us; is he not?

Mr. SCHUMER. People have said I am aware of that.

Mr. REID. Does the Senator think many Senators will go to this group of people who make from $10,000 to $26,000 a year for campaign contributions?

Mr. SCHUMER. I doubt it. Forget the raising of the money. I worry that they don't sit down and talk to somebody who is making that amount of money, ever. Yes, you may shake hands at a county fair. But how about sitting in a living room and talking to the family who is making $27,000 and has dreams for their children and is struggling to do the best for their kids and can't make ends meet? Again, that story about the communion touched me. But there was another one in that New York Times, an article about a family, a husband, wife, and two kids who were going to have to move out of the house they always lived in because their landlord got an 18-percent increase in property tax and he didn't want to pass it on. They were friends. It is a two-family house in a neighborhood in Queens. He didn't want to pass the property tax on as a raise in the rent for the people in the apartment. He had no choice because he couldn't make ends meet. He was not well off either.

Here is a family—they probably don't pay much, if any, income tax; I don't remember exactly what their income was, probably in the $30,000 range—who is going to have to move. They don't know where to find a place to live. The kids will have to be uprooted and go to a different school. Who in this Chamber would not choose to help that family out a little bit? I mean, create jobs? I have to tell you, a lot of these families have jobs. They had jobs. The hard-working sort of bottom-of-the-ladder jobs that they are starting out at. But not to give them a little break for their children because there is no room in the Tax Code and it is loaded with things for other people? Where are our values? Where are our priorities?

I wish every single person on both sides of the aisle would just go to three homes of someone making between $10,000 and $26,000 a year.

Spend a half hour with them and talk about their struggle and then come back and say we could not reduce the top rate by a little bit less.

I thank my colleague from Nevada for his questions. I think he hit the nail on the head. I am just saddened by this. If it were truly just a mistake, then we would not have heard the language statement issued by TOM DELAY, the majority leader in the other body; if it were just a mistake, we would not have pulled an amendment that a lot of people care about—I am glad it was pulled, myself, because I am not for it—but it would not have just run off the floor. If it was a mistake, they could say, great, the amendment of the Senator from Arkansas was pulled out at the last minute and we are going to put it back in and show that it was a mistake. But, no. There will be a lot of concerns, and maybe we will get it and maybe we will not. I hope we will.

I am troubled—very troubled—by the fact that we have a view here that those making $20,000, or $25,000, or $15,000 are lucky ducks because they don't pay income tax. That is a view some in this Chamber seem to have taken.

Mr. President, I ask unanimous consent that today's Wall Street Journal editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 3, 2003]

### EVEN LUCKIER DUCKIES

The new tax bill exempts another three million-plus low-income workers from any federal tax liability whatsoever, so you'd think the nation's class warriors would be pleased. But instead we are all now being treated to their outrage because the law doesn't go further and "cut" income taxes for those who don't pay them.

This is the essence of the uproar over the shape of the child-care tax credit. The tax bill the President signed last week increases the per child federal income tax credit to $1,000, up from the partially refundable $600 credit passed in the 2001 tax bill. But Republican conferees decided that the increase will not be paid out to those too poor to have any tax liability to begin with.

Most Americans probably don't realize that it is possible to cut taxes beyond zero. But then they don't live in Washington, where politicians regularly demand that tax credits be made "refundable," which means that the government writes a check to people whose income after deductions is too low to owe any taxes. In more honest precincts, this might even be called "welfare."

But among tax cut opponents it is a political spinning opportunity. "Simply unconscionable," says Presidential hopeful John

Kerry. The Democratic National Committee declares that the "Bush tax scheme leaves millions of children out in the cold . . . one out of every six children under the age of 17, families and children pushed aside to make room for the massive tax cuts to the wealthy."

Senator Olympia Snowe, the media's favorite Republican now that John McCain isn't actively running for President, says she is "dismayed." "I don't know why they would cut that out of the bill," adds Senator Blanche Lincoln (D., Ark.). Those last two remarks take chutzpah, because if either woman had been willing to vote for the tax bill, a refundability provision would have been in it.

Senator Lincoln introduced the idea in the Senate Finance Committee, but then announced she wasn't going to vote for the bill anyway. Ms. Snowe was also one of those, along with Senator George Voinovich (R., Ohio), who insisted that the bill's total "cost"—in tax cuts and new spending—not exceed $350 billion. Something had to give in House-Senate conference to meet that dollar limit, and out went refundability. The bill passed by a single Senate vote, with Vice President Dick Cheney breaking the tie.

As it happens, the tax bill does a great deal for low-income families even without the refundable child credit addition. It expands the 10% income tax bracket, meaning that workers can earn more before leaping into the 15% and 25% brackets. This is a far better way to provide a tax cut than is a refundable credit, because it lowers the high marginal tax rate wall that these workers face as their credits phase out at higher income levels.

There's also $10 billion in the bill earmarked for Medicaid, the state-federal health insurance program for the poor. And any family that actually has any remaining tax liability benefits from the extra $400 in child tax credit.

More broadly, the critics want everyone to forget how steeply progressive the tax code already is. IRS data released late last year show that the top 1% of earners paid 37.4% of all federal income taxes in 2000. The top 5% paid 56.5% of federal taxes, and the top half of all earners paid 96.1%. In other words, even before President Bush started slashing taxes on the poor by increasing the child tax credit in 2001, the bottom 50% of filers had next to no federal income tax liability.

But don't low-income workers have to cough up the payroll tax? They certainly do, but don't forget that the federal Earned Income Tax Credit was designed to offset payroll taxes and is also "refundable." In 2000, the EITC totaled $31.8 billion for 19.2 million Americans, for an average credit of $1,658. Some 86% of that went to workers who had little or no income tax liability.

Republicans who just voted for the tax cut could be less defensive and try to explain all of this. But instead too many of them are heading for the tall grass, with Senate Finance Chairman Chuck Grassley already promising to cave as early as this week on the child tax credit. This is the kind of political box Republicans walk into when they endorse tax credits that favor one group over another. Democrats are better at playing favorites.

We raised some hackles last year when we noted this growing trend that more and more Americans paid little or no tax. "Lucky duckies," we called this non-taxpaying class at the time. Notwithstanding liberal spinners, after this tax bill they're even luckier.

## BURMA

Mr. McCONNELL. Madam President, another day has passed in Burma and the welfare and whereabouts of Aung San Suu Kyi and man of her supporters remain a mystery. The State Peace and Development Council—the rogue government there—claims that she is in a "guest house" in Rangoon and is in good health. If this is the case, the government should immediately allow foreign diplomats to meet with her.

The world's condemnation of the most recent murders and detentions in Burma has been swift. But words alone will not prevent the junta from assassinating more democracy activists in the days to come or detaining those whose only crime is calling for freedom and justice.

The lesson of the past few days is that dialogue has failed in Burma. Japan and other countries that advocate engagement with the SPDC as a means of political change have nothing to show for their efforts but the spilt blood of democrats and the re-arrest of Burma's greatest hope for freedom.

Foreign governments must join in a full court press to determine the health and well-being of Suu Kyi and others arrested over the weekend. Elected representatives in this body and the world's democracies must come together and forge a response to the vicious assault on freedom that continues in Burma. Our collective failure to do so will abandon the people of Burma in time of their greatest need.

Burma's regional neighbors—Japan, China, Thailand, and the Philippines, in particular—must understand the threats that a repressive Burma will continue to pose the region. Among the junta's greatest exports are drugs and HIV/AIDS—scourges that know no borders or boundaries. With terrorist threats in South Asia and Southeast Asia, the junta will continue to pose chronic problems to countries trying to close their borders to the trafficking of weapons, people, and contraband.

In conclusion, it is past time to hold the SPDC accountable for the many injustices it has inflicted upon the people of Burma. It is time for regime change in Burma.

Mr. McCAIN. Mr. President, every so often a clarifying moment in international affairs reminds us of the stakes involved in a particular conflict, and of our moral obligation to stand with those who risk their lives for the principles of freedom. The violent crackdown against Burmese democracy leader Aung San Suu Kyi and her supporters over the weekend underscores the brutal and unreconstructed charter of Burma's dictatorship. The assault should remind democrats everywhere that we must actively support her struggle to deliver the human rights and freedom of a people long denied them by an oppressive military regime.

The arrest of Aung San Suu Kyi following a coordinated, armed attack against her and her supporters is a reminder to the world that Burma's military junta has neither legitimacy nor limits on its power to crush peaceful dissent. The junta insists it stepped in to restore order following armed clashes between members of Suu Kyi's National League for Democracy and unnamed opponents. In fact, the regime's forces had been harassing Suu Kyi and the NLD for months. The Junta's Union Solidarity Development Association orchestrated and staged last weekend's attack, killing at least 70 of her supporters and injuring Suu Kyi herself, perhaps seriously. Credible reports suggest that the regime's thugs targeted Suu Kyi personally. She is now being held incommunicado by Burmese military intelligence; her party offices have been closed; many of its activists are missing; and universities have been shut down. After having spent most of the last 14 years under house arrest, Ms. Suu Kyi is, once again, a political prisoner.

Aung San Suu Kyi is one of the world's most courageous champions of freedom. I join advocates of a free Burma everywhere in expressing outrage at her unwarranted detention and call for her immediate, unconditional release, and the freedom to travel and speak throughout her country.

Closing party offices, shuttering universities, and detaining Aung San Suu Kyi and senior members of her party in the name of "protecting" her demonstrate how estranged the junta is from its own people, and how potent are Suu Kyi's appeals for democratic change in a nation that resoundingly endorsed her in democratic elections 13 years ago.

The junta's decision to release her from house arrest a year ago, and to permit her to speak and travel within tightly circumscribed limits, appeared to reflect the generals' calculation that her popular appeal had diminished, and that perhaps her fighting spirit had flagged. They could not have been more wrong.

Aung San Suu Kyi remains the legitimately elected and overwhelmingly popular leader of her country. Even though she was under house arrest in 1990, her party captured 82 percent of the vote, shocking the generals. Neither the huge majority of the Burmese people who voted for the NLD nor the international community have forgotten how Burma's junta rejected the election results, nor how the regime's forces massacred its own people at a democratic rally 2 years earlier. We have not forgotten the many political prisoners who remain in Burma's jails, or the repression Burma's people have endured for decades. The assault on Burma's free political future at the hands of the regime last weekend has reminded us of what we already knew:

the junta cannot oversee the reform and opening of Burma, for it remains the biggest obstacle to the freedom and prosperity of the Burmese people. Burma cannot change as long as the junta rules, without restraint or remorse.

Despite these obvious truths, of which we have been reminded again this week, some countries have chosen to pursue policies of political and commercial engagement with the government in Rangoon on the grounds that working with and through the junta would have a more significant liberalizing effect than isolating and sanctioning it. ASEAN admitted Burma in 1997. Beijing has enjoyed warm relations with Rangoon, and most countries trade with it: only the United States and Europe impose mild sanctions against the regime. Proponents of engagement pointed to the nascent dialogue between Aung San Suu Kyi and the regime, and her release from house arrest last May, as indicators that perhaps external influence was having some beneficial effect on the dictatorship. But advocates of engagement have little to show for it following last weekend's assault on the democrats.

Burma's junta must understand quite clearly that it will not enjoy business as usual following its brutal attack on Aung San Suu Kyi and the NLD. It is time for the international community to acknowledge that the status quo serves nobody's interests except those of the regime: Burma's people suffer, its neighbors are embrassed, companies cannot do the kind of business they would with a free and developing Burma, the drug lords flourish in a vacuum of governance, and the situation inside the country grows more unstable as the regime's misrule increasingly radicalizes and impoverishes its people.

No country or leader motivated by the Welfare of the Burmese people, a desire for regional stability and prosperity, or concern for Burma's place among nations can maintain that rule by the junta serves these interests. I find it hard to believe that any democratic government would stand by the junta as it takes Burma on a forced march back in time. Yet this morning, when asked about the weekend's assault, the Japanses Foreign Minister denied that the situation in Burma was getting worse, said progress is being made toward democratization, and announced that Japan has no intention of changing its policy on Burma. Shame on the Japanese. Music to the junta's ears, perhaps, but I believe friends of the Burmese people must take a radically different, and principled, approach to a problem that kind words will only exacerbate.

The world cannot stand by as the ruination of this country continues any farther. Free Burma's leaders, and her people, will remember which nations stood with them in their struggle against oppression, and which nations seemed to side with their oppressors.

American and international policy towards Burma should reflect our conviction that oppression and impunity must come to an end, and that the regime must move towards a negotiated settlement with Aung San Suu Kyi that grants her a leading and irreversible poticial role culminating in free and fair national elections. If it does not, the regime will not be able to manage the transition, when it does come, for it will come without its consent.

I believe the United States should immediately expand the visa ban against Burmese officials to include all members of the Union Solidarity Development Association, which organized the attack against Aung San Suu Kyi's delegation last weekend. The administration should also immediately issue an executive order freezing the U.S. assets of Burmese leaders. U.N. special envoy Razali Ismail should not travel to Burma as planned this week unless he has assurances from the regime that he will be able to meet with Aung San Suu Kyi.

Congress should promptly consider legislation banning Burmese imports into the United States, and the administration should encourage the European Union to back up its commitment to human rights in Burma with concrete steps in this direction. The U.S. and the E.U. together account for over 50 percent of Burma's exports and therefore enjoy considerable leverage against the regime. The United States alone absorbs between 20 and 25 percent of Burma's exports. Consideration of a U.S. import ban should help focus attention in Rangoon on the consequences of flagrantly violating the human rights of the Burmese people and their chosen leaders. In coordination with a new U.S. initiative, an E.U. move in the direction of punitive trade sanctions would make the regime's continuing repression difficult if not impossible to sustain.

The junta's latest actions are a desperate attempt by a decaying regime to stall freedom's inevitable progress, in Burma and across Asia. They will fail as surely as Aung San Suu Kyi's campaign for a free Burma will one day succeed.

I yield the floor.

## HONORING OUR ARMED FORCES

### IN MEMORIAM OF ARMY SPECIALIST RYAN P. LONG

Mr. CARPER. Mr. President, It is with a heavy heart that I request a few moments today to reflect on the life of Army SP Ryan P. Long. In life, Ryan epitomized the best of our country's brave men and women who fought to free the Iraqi people. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Ryan reminds each of us how good we can be.

Following in the footsteps of his father, grandfather and great-grandfather, Ryan joined the Army in September of 1999. He was stationed at Fort Benning, GA with the A Company 3rd Battalion-75th Ranger Regiment and was assigned to a special operations unit working in Iraq. He was on his third overseas deployment with the Ranger battalion.

A lifelong resident of Seaford, DE, Ryan's passing has deeply affected the Sussex County community. Ryan was a remarkable and well-respected young man. His friends and family remember him as an honorable man with a free spirit. Ryan attended Seaford Elementary School and was a 1999 graduate of Seaford High School. Fun-loving and outgoing, he played on the soccer and golf teams and served as vice-commander of the Navy Junior ROTC program at Seaford High School. He was also actively involved in his Catholic church. In addition, Ryan enjoyed riding his motorcycles, snowboarding, and listening to music.

I rise today to commemorate Ryan, to celebrate his life, and to offer his family our support. Ryan dedicated his life to serving our country and gave his life defending its values.

### IN MEMORIAM OF MARINE SERGEANT BRIAN MCGINNIS

Mr. President, I would like to set aside a few moments today to reflect on the life of Marine Sgt Brian McGinnis. Brian epitomized the best of our country's brave men and women who fought to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Brian reminds each of us how good we can be.

A Delawarean who dreamed of becoming a marine from a young age, he wrote on his application to Caravel Academy that he wanted to attend the U.S. Naval Academy and become a Navy pilot. Brian's dream came true in 1998 in many respects when he joined the Marines. He subsequently was assigned to Marine Light Attack Helicopter Squadron 169 based out of Marine Corps Air Station at Camp Pendleton, CA.

Raised in St. Georges, DE, and in neighboring New Jersey, Brian attended Caravel Academy and graduated from William Penn High School in 1997. There he was a star wrestler and football player. It was at William Penn that he met his wife of 4 years, Megan Mahoney McGinnis. Megan describes her husband as a great person with a good heart—"the best there was!"

I rise today to commemorate Brian, to celebrate his life, and to offer his family our support and our deepest sympathy on their tragic loss.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Phoenix, AZ, on May 19, 2003. Avtar Chiera, a Sikh American, was seriously wounded after being shot twice. The 52-year-old truck driver was shot after he parked his 18-wheeler. The suspects, who were riding in a red pickup truck, yelled hateful comments. The FBI and Phoenix police department are investigating the shooting as a hate crime.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through June 2, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is above the budget resolution by $1.769 billion in budget authority and by $2.959 billion in outlays in 2003. Current level is at the revenue floor in 2003.

I ask unanimous consent to print my first report for 2003 in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 3, 2003.*

Hon. DON NICKLES,
*Chairman, Committee on the Budget,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The attached tables show the effects of Congressional action on the 2003 budget and are current through June 2, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

This is my first report for the fiscal year.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
*Director.*

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JUNE 2, 2003

[In billions of dollars]

| | Budget resolution | Current level[1] | Current level over/under (−) resolution |
|---|---|---|---|
| On-budget: | | | |
| Budget authority | 1,874.0 | 1,875.7 | 1.8 |
| Outlays | 1,826.1 | 1,829.1 | 3.0 |
| Revenues | 1,310.3 | 1,310.3 | 0 |
| Off-budget: | | | |
| Social Security Outlays | 366.3 | 366.3 | 0 |
| Social Security Revenues | 531.6 | 531.6 | 0 |

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JUNE 2, 2003

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Enacted in previous sessions: | | | |
| Revenues | n.a. | n.a. | 1,359,834 |
| Permanents and other spending legislation | 1,013,810 | 977,842 | n.a. |
| Appropriation legislation | 1,133,856 | 1,160,341 | n.a. |
| Offsetting receipts | −369,104 | −369,106 | n.a. |
| Total, enacted in previous sessions | 1,778,562 | 1,769,077 | 1,359,834 |
| Enacted this session: | | | |
| Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11) | 79,190 | 42,024 | 2 |
| Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18) | 3,479 | 3,479 | 0 |
| Gila River Indian Community Judgment Fund Distribution Act of 2003 (P.L. 108–22) | 1 | 1 | 0 |
| Unemployment Compensation Amendments of 2003 (P.L. 108–26) | 3,165 | 3,165 | 0 |
| Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27) | 11,347 | 11,347 | −49,489 |
| | 97,182 | 60,016 | −49,487 |
| Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs | 0 | 0 | n.a. |
| Total current level[1] | 1,875,744 | 1,829,093 | 1,310,347 |
| Total budget resolution | 1,873,975 | 1,826,134 | 1,310,347 |
| Current level over budget resolution | 1,769 | 2,959 | 0 |
| Current level under budget resolution | n.a. | n.a. | 0 |

[1] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Note.—n.a. = not applicable; P.L. = Public Law.

Source: Congressional Budget Office.

## JOBS AND GROWTH TAX RELIEF RECONCILIATION TAX ACT, 2003

### ADVANCE REFUNDING

Mr. SMITH. Mr. President, I realize it cannot be considered as part of the pending legislation, but I ask Senator GRASSLEY to consider including a bill I have introduced, the Municipal Debt Refinancing Act, in future tax legislation. The Municipal Debt Refinancing Act would permit an additional advance refunding for bonds used to finance governmental facilities as part of the tax legislation to be considered by the Finance Committee. The Municipal Debt Refinancing Act would permit fiscally strapped State and local governments to take advantage of the current low market interest rates by refinancing their outstanding bonds an additional time. This proposal could translate into millions of dollars in savings for states and localities across the country. By requiring bond issuers to use the additional advance refunding authority within the next 2 years, the legislation also guarantees the maximum near-term benefit.

Individuals and corporations who borrow money are free to refinance these debts whenever the opportunity to borrow at a lower rate arises. State and local governments who issue tax-exempt bonds generally do not share this freedom. States and localities are permitted to "advance refund" outstanding bond issues only one time, or else they must wait until a pre-set date when interest rates have risen and the opportunity to garner savings has passed. But cost-saving refinancing opportunities typically occur only when market interest rates fall below the rate on the original bond issue. Issuers cannot effectively predict when this will happen. By providing an additional advance funding, your legislation would give issuers more flexibility to react to interest rate changes and manage their debt. This legislation would mean significant savings for State and local governments—many of which are in the midst of their worst fiscal crisis in memory—without raising taxes or increasing spending.

Mr. GRASSLEY. I appreciate the Senator's work in this important area. It is true that permitting States and localities to advance refund governmental bonds one additional time would provide important financial flexibility at a critical time. State and local governments across the country are facing unprecedented fiscal crisis. Being able to refinance debt at a lower rate will clearly translate into important savings for our Nation's cities, counties and states.

I assure the Senator this proposal will receive serious and thorough consideration by the Finance Committee, which I chair, as we address tax legislation in the future.

## ANDREW HARIG

Mr. BAUCUS. Mr. President, I rise today to thank Mr. Andrew Harig for his hard work on the Senate Finance Committee.

Andy was on the staff of the Finance Committee throughout most of the 107th Congress. He was an integral part of the international trade policy team which, among other things, worked hard to win passage of the implementing legislation for the U.S.-Jordan Free Trade Agreement and the Trade Act of 2002.

In my estimation, last Congress was the most productive in at least a decade on important international trade legislation. Last year, we finally built a new bipartisan consensus that ended a deadlock that had frozen progress on most new trade agreements for nearly a decade, finally made some real progress on integrating labor and environmental issues into trade negotiations, and revamped the U.S. programs for workers who lose their jobs because of trade.

In the press, the credit for these achievements was given to Senator GRASSLEY, Representative THOMAS, myself, and other Members of Congress. But as is always the case, the achievements on trade could not have been made were it not for the contributions of people like Andy who toil behind the scenes. Without their efforts there would be no legislation passed.

In Andy's case, he cheerfully undertook one of the most thankless tasks on the Finance Committee's list of responsibilities—passage of the Miscellaneous Tariff Bill. This legislation is made up of literally dozens of smaller bills that suspend collection of tariffs on products not made in the United States and address other Customs issues.

Passage of this legislation requires a seemingly endless effort to analyze the hundreds of bills submitted and eliminate those that are controversial or have too great a budgetary impact. It requires coordinating with a half dozen administrative agencies, the U.S. International Trade Commission, the other House of Congress, and, of course, 100 Senate offices.

As I said, it is a largely thankless task, but one that is critical to hundreds of American companies and thousands of American workers. Andy Harig was the lead staff person on this legislation for the majority and—together with his counterpart on the other side of the aisle, Carrie Clarke—he did the lion's share of this work.

Unfortunately, the Senate was not able to pass this important legislation last year, but Senator GRASSLEY and I continue to work on the bill, and I hope we can eventually win passage of it—either as a free standing bill or as part of other legislation.

But whether we succeed or not, the Senate, the business community and I all owe Andrew Harig thanks for his efforts on the Miscellaneous Tariff Bill and other international trade legislation.

Andy has decided to leave the Senate to pursue an opportunity in the private sector. I wish him all the best. Of course, the Senate will continue to work after Andy leaves, but I think it will be a bit poorer for the loss of another hard-working staff person. Goodbye, Andy, and good luck.

## HONORING IOWA STUDENTS WHO PARTICIPATED IN THE WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS

Mr. GRASSLEY. Mr. President, I will take a moment to congratulate the individuals from Central Academy in Des Moines, IA who participated in the We the People: The Citizen and the Constitution national finals in Washington, DC. This event is the culmination of extensive study by students throughout the country of the American system of constitutional democracy. The students from Central Academy won the State competition in West Des Moines and thus were given the distinction of representing Iowa in the national finals. I had the opportunity to meet with these students when they were in Washington and I am certainly proud to have had them representing the great State of Iowa. I am also pleased that my staff member, Aaron McKay, was able to be involved in this program as a judge for both the Iowa competition and the national finals as well as acting as a mentor for the team going into the finals. The We the People: The Citizen and the Constitution program, run by the Center for Civic Education with the help of Federal funding, provides an outstanding curriculum that promotes civic competence and responsibility among elementary and secondary students. Students take away a solid understanding of the origin of American constitutional democracy as well as the contemporary relevance of our founding documents and ideals. In short, it produces better citizens. In fact, I would like to personally recognize the Central Academy students who participated in this program, Alexander Body, Alec Davis, Ainslee Ericson, Joanna Grillas, Brian Haroldson, Daren Ho, Meryl Houser, Jonathon Kent, Michael Larking, Conrad Lee, Kyle McCord, Jasmine McDowell, Eleanore Neumann, Timothy Smith, Akili Thomas, Sarah Wang, Kyle Wilkinson, Jay Williams and their teacher, Harvey Kimble. They can all be very proud of their knowledge and accomplishments. I look forward to next year's competition.

## ADDITIONAL STATEMENTS

### ON THE RETIREMENT OF DR. KAREN J. HARSHMAN

• Mrs. BOXER. I am very pleased to take a few moments to recognize the many important accomplishments of Dr. Karen J. Harshman as she retires as superintendent of the Fontana Unified School District. Dr. Harshman has led Fontana schools through a period of unprecedented growth and during a time of increased demands on schools, and has done so with great success.

Dr. Harshman began her career in education as a substitute teacher. Since that early assignment, she has been a teacher, coordinator, principal, director, and assistant superintendent. She also serves as an instructor at local college campuses, guiding new teachers and administrators as they learn the educational ropes.

Since 1994, Dr. Harshman has lead the Fontana Unified School District as its superintendent. During her tenure as superintendent, Fontana has seen phenomenal growth. Six schools have opened under her leadership, and the district currently ranks 17th in size in the State of California. Educational excellence has become a more prominent emphasis during her tenure, and Dr. Harshman has focused the efforts of the district on improving student performance through a variety of innovative programs known throughout California and beyond.

Dr. Harshman's accomplishments are not limited to Fontana Unified School District or education. Soroptimist International of Baldy View recently awarded her the Women Helping Women Award for bringing the American Cancer Society Relay for Life to Fontana and for her work with breast cancer survivors. Importantly, the award was also given for her lifelong work mentoring women. The Association of California School Administrators selected her as the Region 12 Superintendent of the Year for 2002. Dr. Harshman is also active in the Fontana Rotary Club, the Fontana Chamber of Commerce, and the Chaffey College Foundation.

A portion of Dr. Harshman's biography reads that "she looks forward to every single day knowing that she is involved in the most important work on the planet." I invited all of my colleagues to join me in commending Dr. Karen Harshman for her great leadership doing "the most important work on the planet"—educating our children.•

### NATIONAL CREATIVE ARTS THERAPIES WEEK

• Mrs. CLINTON. Mr. President, the process of using the arts therapeutically to assist victims of illness, trauma, disability and other personal challenges, has historically been underrecognized as a valuable treatment, yet the benefits of this treatment are far reaching. The creative arts therapies, comprising the fields of art therapy, dance/movement therapy, drama therapy, music therapy, poetry therapy and psychodrama, are disciplines that foster creative expression to promote health, communication, self-awareness, emotional, social and cognitive functioning. I rise today, to proclaim National Creative Arts Therapies Week, June 1–7, 2003 as a time to recognize this unique service.

Creative arts therapies have been practiced in the United States for over 50 years with people of all ages and problems. Such therapists work in medical hospitals, rehabilitation centers, mental health facilities, day treatment centers, nursing homes, schools, homeless shelters, correctional settings, and in private practice. Creative arts therapists have helped people who have undergone trauma, loss, acute physical and chronic illness, emotional disturbance, or struggle with depression, retardation, development disabilities and addictions. The contribution of creative arts therapists in the aftermath of 9/11, assisting victims and the bereaved through trauma treatment and the alleviation of post-traumatic stress, were invaluable.

I want to recognize and thank creative arts therapists in America who are assisting the most vulnerable in our society with valuable therapeutic intervention. There are over 15,000 licensed clinicians who meet high quality standards of graduate education and practice. Various States, including New York, have additional licensure requirements, which protect patients from fraudulent practitioners and maintain the quality of care at the highest standard. These credentialed clinicians constitute a vital force of mental health professionals in our country. However, many Americans are unable to access such services because awareness about their effectiveness and employment of such therapists is not sufficiently widespread.

The National Coalition of Creative Arts Therapies Associations is collectively celebrating the history and status of their profession. They will be showcasing workshops, presentations and exhibits throughout the United States to inform the public, health care practitioners, insurers and legislators about therapeutic value and significance of this discipline.

I therefore proclaim National Creative Arts Therapies Week, June 1–7, 2003 as a time to recognize the unique service provided by these clinicians. Further, I encourage my colleagues in Congress to support the creative arts therapies fields and expand awareness of this form of treatment. At this time of heightened sensitivity to maintaining mental health, we should recognize the creative arts therapies as a way to help those in distress through the power of the arts to heal.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

## FEINSTEIN-KENNEDY AMENDMENT TO THE FY2004 DEFENSE AUTHORIZATION BILL

• Mr. KERRY. Mr. President, today I submit into the record a statement to clarify my position on the development of low yield nuclear weapons. Circumstances prevented me from voting last week on the Feinstein-Kennedy amendment to the FY2004 defense authorization bill which would have struck any provisions that might permit research, development, testing, or deployment of low yield nuclear weapons. At the time, my vote was announced as an "aye" in favor of a motion to table the amendment. Through no fault of the distinguished Senator from Nevada who announced my vote, if I had been here, I would have voted "nay," and supported the common sense proposal of the Senators from California and Massachusetts.

Last week, in a statement entered into the RECORD, I made clear my opposition to the development of low yield nuclear weapons, as well as the robust nuclear earth penetrator. It is absurd to think the United States will start development on a new generation of nuclear weapons at the same moment we seek the world's support in an effort to halt the spread of nuclear weapons and technology.

Senator FEINSTEIN and Senator KENNEDY were correct. These weapons don't make us safer. And I thank them for their continued leadership on this vital issue.•

## TRIBUTE TO MATT BOWLES

Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Matt Bowles for being selected as the State Winner of the 4–H Award for Excellence. Matt will enroll in the University of Kentucky on scholarship in the fall and is the son of Larry and Diana Bowles of Mount Hermon, KY.

Matt's compassion for immigrants who struggle with language barriers led him to develop a community service project that helped his community break down cultural barriers and welcome diversity. With this program Matt solicited the aid of advanced Spanish students at his high school to help the local English as a Second Language tutoring program for Hispanics.

This award is based upon the leadership, communication, and organizational work Kentucky 4–H members have done through a 4–H Honors program sponsored by the University of Kentucky Cooperative Extension Service. Matt was selected by judges to be the recipient of this top prize because of the excellence he demonstrated through leadership in a community service project.

The efforts of Matt Bowles should be emulated. Matt has set an example that should be recognized by high school students throughout Kentucky and across America. I am convinced that he will use his strong abilities to make a difference in our country. I thank the Senate for allowing me to recognize Matt and voice his praises for his Head, Heart, Hands, and Health.

## A TRIBUTE TO OUR FRIEND

• Mr. LAUTENBERG. Mr. President I rise today to pay tribute to and wish a happy birthday to one of my dearest friends, Louis Reich.

Louis was born on May 24, 1903 in Brooklyn, NY, the middle of three children. His sister Anne is now 102. By the time he was 15, Louis had a job at a big law firm on Wall Street where he made 25 cents for a car fare and food. For lunch he ate at Max's Busy Bee where he could get a frank, beans, waffles, ice cream and coffee for 15 cents. Those were the days.

Everyday he would come up from Max's basement location and encounter men standing in the middle of the street yelling up to people in four surrounding buildings. These men were called "brokers" and they were buying and selling stocks. In fact, Louis was witnessing the birth of the New York Curb Exchange. He was so entranced with the scene that he got a job as a runner paying $8 a week. Wanting a way to make more money, he headed to Jerome B. Sullivan & Co., where he was hired as a clerk.

By the time he was 22, he was the head cashier at Sullivan making $100 a week plus bonus. Soon afterwards he formed the New York Curb Cashiers Exchange and was elected president. In 1923, he was introduced to Kitty Hirshleifer by his closest friend Jerry Goldberg. Four years later, Louis and Kitty were married. When Louis got his bonus from Sullivan that month the company made him a partner and he spent his newfound wealth on a trip to the coast, a new Cadillac and an apartment for $125 a month. Not many apartments available at those rates in New York today.

The crash came in 1929 and Louis was left nearly penniless. Demonstrating his adaptability he purchased a seat on the Curb Exchange with his brother Al and his cousin Ernie. His salary was now $50 a week. From 1933 to 1938 Louis became an arbitrageur. He sensed that the Canadian market was becoming competitive and through connections in Canada he started to urge companies to apply for listing on what used to be the Curb Exchange, but now known as the American Stock Exchange.

He formed a partnership with Moe Weiss which lasted for many years. Around 1955 Lou became a governor of the American Stock Exchange and chairman of the listing committee.

A few years later in 1959 I met Lou when his back-office manager saw an ad about a company who could process payrolls. It was a company I know a little about, Automatic Data Processing. At that point I was the company's salesperson and Reich & Co. signed on. We became dear friends ever since.

I owe Lou a great deal because he really spread the word about ADP. Henry Taub worked to have ADP handle all of the back office operations. Within a year ADP had a system to process securities transactions. Today, in large part thanks to Lou, ADP is one of the largest payroll and securities processing firms in the world.

Louis Reich is now 100 years old. He brings a wonderful history and an important legacy of leadership in one of the most important industries we have. The investment and finance sector helped build this country's pre-eminence in the global economy to the point that it has become. He has many happy, exciting memories. The names he remembers from that bygone era—those who worked for him—and with him are too numerous to mention here. And the one person who stood by him through it all—the one person who will be forever in his heart and who truly would have enjoyed this day—his darling wife—Kitty, the one who he misses most of all. They are all here in spirit and will never be forgotten. We wish him many more years that we can celebrate together.●

## THE CAPTURE OF ERIC ROBERT RUDOLPH

● Mr. EDWARDS. Mr. President, I rise today to express pride and thanks for the excellent police work done by North Carolina law enforcement over the weekend, work that led to the capture of Eric Robert Rudolph, the alleged terrorist who had eluded capture for more than 5 years.

I am particularly proud of the fact that two of North Carolina's finest—Jeff Postell, a rookie officer in the Murphy Police Department and Cherokee County Sheriff's Deputy Sean Matthews—were responsible for brining Rudolph in.

I can't say enough about these exemplary lawmen, who represent the best that North Carolina and America have to offer—dedicated public servants risking their lives to make us safer. I will never forget the pride I felt as I watched Officer Postell, squinting in the glare of unasked for limelight, modestly dismiss praise for his actions by stating, "It was my job."

His job, indeed. As it is the job of thousands and thousands of other first responders in North Carolina and throughout the country. Men and women who day in and day out put their lives on the line to ensure our safety and ask so little in return. The least we can do for these brave public servants is to show our support for their efforts in meaningful ways. One of the most meaningful ways we can do this is to do more than just pay lip service to their efforts while cutting programs, funding, and benefits they so desperately need.

That is why it makes no sense that, instead of bolstering the efforts of our first responders, the administration is slashing the very programs that we need to help ensure a strong homeland defense. Just look at the COPS program—a program that has directly benefited the Murphy Police Department and Cherokee County law enforcement. Since it was created as part of a 1994 crime bill, the COPS program has helped communities hire more than 116,000 police officers nationwide.

We all know how important and effective the COPS program is. So why is President Bush proposing only $164 million for the COPS program next year, an 85 percent cut from the $1.1 billion that was spent in 2002? It is just plain wrong to, on the one hand, praise, take credit for, the fine work done by our local law enforcement day in and day out while, with the other hand, snatch away the funding that makes their work possible.

Yes, Officer Postell was just doing his job. And thanks to him, we can sleep a little easier. But now it is time for us to do our jobs. Let's give Officer Postell and his colleagues the tools they need to keep doing the work we need and appreciate so much.●

## IN RECOGNITION OF MICHELE PECINA, CALIFORNIA'S NATIONAL DISTINGUISHED PRINCIPAL OF THE YEAR

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention an exceptional educator—Michele Pecina, the principal of James Monroe Elementary School in Madera, CA.

Michele Pecina was recently named California's National Distinguished Principal of the Year by the National Association of Elementary School Principals. She will receive her award in November in Washington, DC.

For 9 years, Michele Pecina has been the principal at James Monroe Elementary School. Under her expert guidance, the school was named a California Distinguished School in 1997 and has also received two Bell awards from the California School Boards Association. Michele Pecina believes in her students and teachers and demonstrates that belief to them every day. The result is they believe in themselves, their success in school, and in life, is remarkable.

Californians are extremely proud of Michele Pecina. I am honored to pay tribute to her. I encourage my colleagues to join me in wishing Michele Pecina continued success as she continues her exceptional work in education.●

## HONORING REV. BOB WELLISCH

● Mr. COLEMAN. Mr. President, I ask that the following three tributes honoring the life of the late Rev. Bob Wellisch, St. Paul, MN native, priest for the Hmong Catholic community, and respected college professor, be printed in the RECORD.

The material follows.

[From the Star Tribune, May 26, 2003]

### THE REV. ROBERT WELLISCH, PASTOR TO TWIN CITIES HMONG, DIES

(By Nolan Zavoral)

The Rev. Robert Wellisch, who built bridges between the Catholic establishment and the Twin Cities Hmong community, died in a traffic accident Saturday night.

Wellisch, 62, was driving back alone to the Twin Cities from Mankato when his car struck a horse on Hwy. 169, 4 miles north of Le Sueur, and slid into a ditch, according to the Minnesota Highway Patrol. Wellisch, who was wearing a seat belt, died at the scene.

A St. Paul native and longtime English professor at the University of St. Thomas, Wellisch was named chaplain for the Twin Cities Hmong Catholic community in 1984 by then-Archbishop John Roach. Eleven months ago, the present archbishop, Harry Flynn, appointed him as pastor of the largely Hmong parish of St. Vincent De Paul, in St. Paul's Frogtown area.

About 20 people from the congregation's leadership gathered informally Sunday at the church to mourn.

The Rev. Kevin McDonough, who oversees administration in the Archdiocese of St. Paul and Minneapolis, joined them.

"One of the elderly Hmong ladies came up to me, and she said, as it was translated to me, 'We are like a family that has lost its parent.' " McDonough said.

"Father Wellisch was a very quiet, unassuming guy, but it was clear to the Hmong people that he had their interest at heart."

"He loved the Hmong," said Michael Mikolajczak, chairman of the St. Thomas English Department. He recalled attending a Hmong fundraiser nine years ago with Wellisch.

"They wound bits of yarn around his wrists in appreciation of all he'd done," Mikolajczak said. "Had it been I, I would have cut [the yarn] off the next day.

"He wore them for a whole week."

Va Thai Lo, deacon and administrator at St. Vincent De Paul, said in a St. Thomas news release that Wellisch "would go everywhere to assist (Hmong) families—to their homes, to where they worked and to the hospitals.

"This is a tragic loss for us."

Among Wellisch's accomplishments at St. Vincent, McDonough said, was to help administrators with budgeting.

"He did a fine job of encouraging them along," McDonough said. "This year we had a very mature budgeting process."

It was unclear what led Wellisch to dedicate much of his life to the Hmong. The Rev. Ed Flahavan, a retired St. Paul priest who keeps in touch with many local Catholic clergy, said he thought that the Rev. Daniel Taillez—a French priest who had once served in Vietnam—introduced Wellisch to that segment of Southeast Asia's population.

Wellisch learned to say the mass in Hmong.

"He even learned to preach in Hmong—he'd learned it that well," said the Rev. James Reidy, a retired priest and friend of Wellisch's. "He had the ability to pick up language very quickly."

Wellisch is survived by three cousins. Funeral arrangements are pending. He earned an undergraduate degree St. Thomas in 1962 and a master's degree and doctorate in English from the University of Minnesota. He was ordained in 1969 and served as an associate pastor at St. Mark's Catholic Church in St. Paul until 1971, when he joined the St. Thomas faculty.

"He was the kindest, gentlest, most supportive colleague you could want, "Mikolajczak said. "He loved literature—Victorian, mainly, but everything, really.

"He'd teach the modern tradition if I'd want. He'd teach the classical tradition if I'd ask. He wasn't afraid to pitch in.

"He was a priest the lay faculty accepted as a colleague. He claimed no special privileges because of his collar."

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[From the Pioneer Press, May 26, 2003]

### St. Paul Priest to Hmong Dies

(By Casey Selix)

Some St. Vincent de Paul parishioners would drive 100 miles round-trip Sunday mornings to hear the Rev. Robert Wellisch celebrate Mass in Hmong.

More than half of the members of the church in St. Paul don't speak fluent English, so it means a lot to worship in their native language. said Kou Ly, who translated the priest's sermons into Hmong and coached him on pronunciation.

When Kou Ly and other parishioners arrived at church and found locked doors Sunday morning, they started worrying and praying.

About 10 p.m. Saturday, Wellisch died after his car hit a stray horse on U.S. 169 in LeSueur County, causing him to veer through the median and into a ditch, according to the State Patrol. Wellisch, 62, who was wearing a seat belt, died at the scene.

As one grieving Hmong elder told the Rev. Kevin McDonough through a translator Sunday. "We are like a family that has lost its only parent."

Besides appreciating his Hmong services, parishioners just plain liked the priest, who cared enough to show up at their children's birthday parties and other important social events in the Hmong community.

"He would do much more than a regular priest. . . . He was so good-hearted," said Kou Ly, adding that Hmong-speaking Catholic priests are a rarity.

It was Father Bob's good heart that took him to Mankato, MN, on Saturday to attend a pre-confirmation retreat with parish youth and their parents. And his good heart led him to drive back alone late Saturday so he could celebrate Mass the next morning with the rest of the flock. About 150 families belong to the church.

"It's a tragic loss at a number of levels," said McDonough, vicar general of the Archdiocese of St. Paul and Minneapolis. "Father Bob Wellisch was one of those very gentle souls that his brother priests had a great deal of respect for. This is a real personal loss on the part of the priests and the people he served. In the last 15 years, he was in one way or another so critical to the development of the Hmong Catholic community."

Wellisch, a St. Paul native, also was a full-time associate professor at the University of St. Thomas, where he was considered an expert in Victorian literature and where he taught in the Catholic studies department.

"He so loved the literature and the discipline and he was so kindly attentive to students that I have never heard a complaint about him," said Michael Mikolajczak, chairman of the English department. "He was teaching a full load here and then ministering to the Hmong community, and he didn't stint on anything. He was just remarkably generous."

St. Vincent de Paul Deacon Va Thai Lo had known Wellisch for 20 years. "He was very nice, and he loved all the people very much. Any time our members called him, he would visit them at their homes if they wanted—even go to their birthday parties."

Each morning, Wellisch would wake up at the St. Thomas faculty residence and head to St. Vincent de Paul to celebrate the daily Mass, Va Thai Lo said. Then he would return to campus to teach. On weekends, he gave services at the church in English and Hmong. In between, he tended to his parishioners' needs.

The deacon recalls Wellisch once confiding that he might be "too old" to learn the Hmong language.

Even so, Wellisch persevered—sometimes with amusing results, said Kou Ly, who worked with Wellisch on pronunciation.

"He would pronounce the words funny," Kou Ly said. "When you mispronounce a word in Hmong it can mean a totally different thing—such as the word for stick. If you vary the tone a little it can mean blanket. We would just keep doing it, and he would laugh about it."

After Wellisch underwent heart bypass surgery a few years ago, about 30 members of the Hmong community performed a healing ceremony.

As they tied strings around his wrist, they expressed wishes for good health and a long life for him. "Culturally, we believe that whatever we say will stay in that string," Kou Ly said.

Though Hmong recommend that the strings remain in place for three days, Wellisch wore his for longer than that, friends recall.

Wellisch graduated from St. Paul's Cretin High School in 1958 and summa cum laude from St. Thomas in 1962 with a B.A. in English. He received a master's degree and a Ph.D. in English from the University of Minnesota. He was ordained by the archdiocese in 1969 and served at St. Mark's in St. Paul, the Cathedral of St. Paul, St. Paul's Priory and Holy Trinity Catholic Church in South St. Paul.

In 1984 he was appointed chaplain for the Twin Cities Hmong Catholic Community. He also was chaplain of the Hmong American National Catholic Association. He became pastor at St. Vincent de Paul last June.

Survivors include three cousins, Dale Bowen of Fridley, Alice Bowen of Sioux Falls and Gretchen Myers of Cedar Falls, Iowa.

Funeral services are pending.

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[From the Pioneer Press, May 31, 2003]

### Hmong Honor Life of Late Priest

(By Stephen Scott)

As they followed the casket out the back of the sanctuary, it was clear the Hmong men and women could scarcely let go of their priest.

With the death of the Rev. Robert Wellisch, they felt as if they'd lost a parent.

"You can see by the pain in their eyes what a great priest he was," Archbishop Harry Flynn said after Wellisch's funeral Friday. "There is such sadness in their faces. They just keep saying to me, 'Remember us. Remember us.'"

Wellisch was the Roman Catholic chaplain to the Twin Cities Hmong community since 1985. He learned their language so he could say Mass for them. He attended their birthday parties, visited their sick, and confirmed and married their children.

Now there is much that a deeply grieving Hmong community cannot understand. Why now? Why a car accident? Why on a church youth trip? Why a horse?

"Right now, our people are very, very sad because of the way he died," said Va Thai Lo, deacon at St. Vincent de Paul Church in St. Paul, home to Hmong Catholics in the Twin Cities.

Wellisch, 62, died last Saturday night when his car hit a stray horse on U.S. 169 in LeSueur County. Wellisch was returning from a confirmation retreat for St. Vincent's Hmong youth in Mankato, Minn.

The Hmong Catholics share their grief with Wellisch's other "families"—faculty at the University of St. Thomas, where he taught literature; the English-speaking Catholics who make up a fourth of St. Vincent's parish; and three cousins who survive him.

But in life, Wellisch made the Hmong community feel as if he was all theirs.

"His absence won't be just missed," said a letter from parishioners in the back of the church. "We have lost our only parent. We are left as orphans who expect a parent that would never return."

The funeral Mass at St. Vincent's reflected the life of a priest with a diverse calling.

One hundred priests and deacons processed to the hymn "Los Peb Los Cav Txog Tswv Ntuj." They recessed to Amazing Grace."

The youth choir sang Bryan Adams' "I Will Always Return." They followed with "Khoom Plig Zoo," with lyrics they adapted in memory of Wellisch. One phrase translates: "When we think of you our tears come out."

The Rev. James Reidy's homily focused on Wellisch's life as a professor. At his death, Wellisch worked full time at St. Thomas in addition to serving as the priest at St. Vincent's.

"He had a steady, tireless ministry to all he was called to serve," Reidy said.

The Hmong especially have been tireless in their mourning. Nearly 50 of them remained in the sanctuary all night after Thursday's visitation, just to be near Wellisch's body.

"We watch over him and look over him," said Ah Thao, whose daughter attended the retreat where Wellisch was last seen alive. "We don't want to leave him alone. We guard him until he is buried."

The community is anxious about what happens next.

"It is too big of a scope to say right now," said Kou Ly, a parishioner who helped Wellisch learn the Hmong language. "He's not replaceable."

Va Thai Lo will continue to serve St. Vincent's as a deacon, and various backup clergy will say Mass until an interim pastor or permanent priest is appointed.

"Whenever we needed him, he was there spiritually and morally." Khamsy Yang said in a eulogy. "We will still have faith in God, who will bring us a new priest."

The Archdiocese of St. Paul and Minneapolis also has ministries dedicated to Hispanics, Vietnamese, Koreans, Poles, Eritreans and American Indians.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 1465. An act to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 172. Concurrent resolution supporting the 20th Annual National Tourism Week.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1465. An act to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 172. Concurrent resolution supporting the 20th Annual National Tourism Week; to the Committee on the Judiciary.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1162. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1174. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2443. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Flawed Processes and Ineffective Systems of Accountability Pertaining to DCPS' Special Education Program Have Resulted In Costly Legal Fees and Exorbitant Charges for Related Services and Nonpublic Tuition" received on June 1, 2003; to the Committee on Governmental Affairs.

EC–2444. A communication from the Secretary of Labor, transmitting, pursuant to law, the Semiannual Report of the Inspector General of the U.S. Department of Labor for the period October 1, 2002, through March 31, 2003; to the Committee on Governmental Affairs.

EC–2445. A communication from the Special Counsel, Office of the Special Counsel, transmitting pursuant to law, the Annual Report from the Office of Special Counsel for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–2446. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Office of Inspector General (OIG) Semiannual Report for the period October 1, 2002, through March 31, 2003; to the Committee on Governmental Affairs.

EC–2447. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (REydon, Oklahoma) (MM Docket No. 01–227; RM–10255)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2448. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (O'Brien, Stamford, Panhandle, Shamrock, Colorado City, Texas; Taloga, Oklahoma) (MB Docket Nos. 02–296, 02–297, 02–298, 02–299, 02–300, 02–302)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2449. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alamo and Milan, Georgia) (MM Docket No. 01–111)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2450. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations (Comache, Mullin and Mason, Texas) (MM Docket No. 01–159; RM–10164; 10395)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2451. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Buffalo, Oklahoma) (MB Docket No. 02–383; RM–10614)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2452. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Eldorado, Texas; Milan, New Mexico; Alpena, Michigan; Channing, Texas; Escobares, Texas; Ozone, Texas; Rotan, Texas; Wellington, Texas; Memphis, Texas; Matador, Texas; Arthur, Nebraska; Mclean, Texas; and Wheeler, Texas) (MM Docket Nos. 01–273; 02–43; MB Docket 02–17; 02–168; 02–170; 02–172; 02–173; 02–175; 02–176; 02–291; 02–292; and 02–293)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2453. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations (Douglas and Tombstone, Arizona, and Santa Clara, New Mexico) (MB Docket No. 02–374; RM–10598)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2454. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotment, FM Broadcast Stations (Junction, Texas) (MM Docket No. 01–132)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2455. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Minot, ND (MM Doc. No. 02–282, RM–10523)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2456. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Jackson, WY (MB Docket No. 02–375, RM–10605)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2457. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Great Falls, MT (MM Docket No. 00–246, RM–9859)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2458. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Derby, KS (MM Docket No. 01–44, RM–10022)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2459. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Opelousas, Louisiana) (MB Docket No. 02–

322; RM-10584)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2460. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, TV Broadcast Stations, Hartford, CN (MM Doc. No. 01-306, RM-10152)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2461. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Blanco, TX (MB Docket No. 02-280, RM-10558)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2462. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Hibbing, MN (MB Doc. No. 01-116, RM-10069)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2463. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Pacific Halibut Fisheries; Correction (I.D. 042803E)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2464. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Reopening of the directed fishing for yellowfish sole by vessels using trawl gear in the Bering Sea and Aleution Islands management area (BSAI)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2465. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed fishing for Pacific cod catcher vessels less than 60 feet length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2466. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Correction to Figure 6 to Part 679; Changes to Length Overall of a Vessel at Section 679.2 (0679)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2467. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure; prohibiting retention of Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA) (0679)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2468. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Requirement for Maintenance, Requalifications, Repair and Use of DOT Specification Cylinders; Correction of Compliance Dates (CORRECTION to Final Rule Compliance dates) (2137-AD58)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2469. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Transportation of Hazardous Materials; Unloading of Intermodal (IM) and UN Portable Tanks on Transport Vehicles (2137-AD44)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2470. A communication from the Assistant Chief Counsel, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Transactions Involving Documented Vessels and Other Maritime Interests; Inflation Adjustment of Civil Monetary Penalties (2133-AB48)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2471. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems; Final Rule; Interim Final Rule, Request for Comments (2127-AI49)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2472. A communication from the Deputy Assistant Administrator, Regulatory Programs, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Correction to the Final Rule Implementing Stellar Sea Lion Protection Measures for the BSAI and GOA Groundfish Fisheries (0679)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2473. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule amending the definitions of "contracting activity" and "head of contracting activity" consistent with realignment of program management responsibilities between NASA Headquarters and the field centers (RIN 2700-AC33); to the Committee on Commerce, Science, and Transportation.

EC-2474. A communication from the Acting Assistant Administrator for Procurement, National Aerospace and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Government Property—Instructions for Preparing NASA Form 1018 (48 CFR 1845)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2475. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report entitled "Status of Fisheries of the United States"; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 791. A bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes (Rept. No. 108-57).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 886. A bill to ratify otherwise legal appointments and promotions in the commissioned corps of the National Oceanic and Atmospheric Administration that failed to be submitted to the Senate for its advice and consent as required by law, and for other purposes (Rept. No. 108-58).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 1168. A bill to amend title 23, United States Code, to establish a program to increase the use of recyclable material in the construction of Federal-aid highways; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 1169. A bill to decrease the United States dependence on imported oil by the year 2015; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 1170. A bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 1171. A bill for the relief of Vichai Sae Tung (also known as Chai Chaowasaree); to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. Bingaman, Mr. Dodd, Mr. DeWine, Mrs. Clinton, Mr. Warner, Mrs. Murray, Mr. Lugar, Ms. Landrieu, Mr. Sessions, and Mr. Alexander):

S. 1172. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. Frist, Mr. Graham of South Carolina, Mr. Alexander, and Mrs. Hutchison):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Frist, Mr. Graham of South Carolina, Mr. Alexander, and Mrs. Hutchison):

S. 1174. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; read the first time.

By Ms. STABENOW (for herself, Mr. SMITH, and Mr. DAYTON):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

By Mr. BYRD:

S. 1176. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. KOHL):

S. 1177. A bill to ensure the collection of all cigarette taxes, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself and Mr. WARNER):

S. Res. 158. A resolution commending the University of Virginia Cavaliers men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse Championship; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 13

At the request of Mr. KYL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

### S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

### S. 171

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

### S. 184

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 184, a bill to amend section 401 (b)(2) of the Higher Education Act of 1965 regarding the Federal Pell Grant maximum amount.

### S. 198

At the request of Mr. SMITH, the names of the Senator from Missouri (Mr. TALENT) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 198, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

### S. 300

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

### S. 310

At the request of Mr. THOMAS, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

### S. 322

At the request of Mr. INOUYE, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 322, a bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation.

### S. 333

At the request of Mr. BREAUX, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

### S. 392

At the request of Mr. REID, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

### S. 448

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 448, a bill to leave no child behind.

### S. 451

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

### S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

### S. 514

At the request of Mr. BUNNING, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 514, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

### S. 544

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 544, a bill to establish a SAFER Firefighter Grant Program.

### S. 554

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 554, a bill to allow media coverage of court proceedings.

### S. 576

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 576, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements.

### S. 623

At the request of Mr. WARNER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

### S. 636

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 636, a bill to amend title XVIII of the Social Security Act to provide for a permanent increase in medicare payments for home health services that are furnished in rural areas.

### S. 652

At the request of Mr. CHAFEE, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 684

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 764

At the request of Mr. CAMPBELL, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 846

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 875

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 899

At the request of Mrs. HUTCHISON, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Oregon (Mr. SMITH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 899, a bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 953

At the request of Ms. LANDRIEU, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 953, a bill to amend chapter 53 of title 5, United States Code, to provide special pay for board certified Federal Employees who are employed in health science positions, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 985

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 987

At the request of Mr. DORGAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 987, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program and to make other rural health care improvements.

S. 1008

At the request of Mr. CAMPBELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1008, a bill to provide for the establishment of summer health career introductory programs for middle and high school students.

S. 1011

At the request of Mr. KERRY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1011, a bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds $2,000 and to provide for a graduated implementation of such provision on amounts above such $2,000 amount.

S. 1015

At the request of Mr. GREGG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1015, a bill to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1046

At the request of Mr. HOLLINGS, the names of the Senator from Connecticut (Mr. DODD) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1046

At the request of Mr. STEVENS, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1046, supra.

S. 1090

At the request of Mr. VOINOVICH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1090, a bill to amend title 23, United States Code, to increase the minimum allocation provided to States for use in carrying out certain highway programs.

S. 1092

At the request of Mr. CAMPBELL, the names of the Senator from Virginia (Mr. ALLEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1153

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1153, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 1157

At the request of Mr. BROWNBACK, the names of the Senator from Maryland

(Mr. SARBANES), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

### S. 1162

At the request of Mrs. LINCOLN, the names of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr . LAUTENBERG), the Senator from Massachusetts (Mr. KERRY), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), the Senator from Maryland (Mr. SARBANES), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. LEAHY), the Senator from Nebraska (Mr. NELSON), the Senator from Florida (Mr. NELSON), the Senator from Michigan (Mr. LEVIN), the Senator from Delaware (Mr. CARPER), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Delaware (Mr. BIDEN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr. DASCHLE), the Senator from Michigan (Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. CONRAD), the Senator from Ohio (Mr. VOINOVICH), the Senator from Hawaii (Mr. AKAKA), the Senator from North Dakota (Mr. DORGAN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wisconsin (Mr. KOHL), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

### S. 1162

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1162, supra.

### S. CON. RES. 44

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution recognizing the contributions of Asian Pacific Americans to our Nation.

### S. RES. 118

At the request of Mrs. BOXER, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE), the Senator from Arkansas (Mr. PRYOR) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 118, a resolution supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II.

### S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

### AMENDMENT NO. 539

At the request of Mr. BUNNING, his name was added as a cosponsor of amendment No. 539 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

### AMENDMENT NO. 841

At the request of Mr. DODD, his name was withdrawn as a cosponsor of amendment No. 841 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1168. A bill to amend title 23, United States Code, to establish a program to increase the use of recyclable material in the construction of Federal-aid highway; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise to introduce legislation that I believe will provide the necessary incentives to improve State efforts in the use of recycled materials in highway construction and maintenance. The use of recycled materials in highways is an established process in certain parts of the United States, with some States using recycled materials on a regular basis. These materials include fly ash, bottom ash, rubber products from old tires, and reprocessed concrete and asphalt pavements. Less commonly used recycled commodities include glass and plastic. The American Association of State Highway and Transportation Officials has recently approved specifications for the use of biomass, including small diameter timber, providing an additional avenue for use of recycled material. The list of accomplishments is impressive, but its application is limited. Many States could do much more with the use of recycled materials in their highway systems.

Challenges faced by States in the use of recycled material in highways are attributed to several factors. Some State Departments of Transportation are unaware of the different types of recycled materials that are available in today's construction industry. Others do not have the technical expertise to take advantage of the broad range of recycled materials and techniques. Some may not have developed the necessary procurement infrastructure to include the use of recycled materials in highway construction.

To assist States in overcoming these obstacles and to provide necessary incentives for the expansion of this economically and environmentally viable practice, I am introducing the Recycled Roads Act of 2003. The purpose of this bill is to authorize the Secretary of Transportation to establish a recycled roads incentive grant program to encourage the use of recyclable material in the construction of Federal-aid highways by States and Indian tribes. The program will provide two types of grants. The first type, which is funded up to $125,000 per year, will be for a State or Indian tribe to use in employing a coordinator to promote the use of recyclable material in Federal-aid highway construction. The second type, which is funded up to $1,400,000 per year, will be for a State or Indian tribe to use to carry out projects and activities to promote the expanded use of recycled material in Federal-aid highway construction and maintenance. Total funding for both grants is $123,525,000 per year.

The case for expanded use of recycled materials in road construction is clear. Dr. T. Taylor Eighmy, Director of the University of New Hampshire Recycled Materials Resource Center, from an article entitled “The Road to Reuse” published in the professional journal Civil Engineering, states the case well:

“Why should we as a society continue to dispose of materials that may have inherent engineering value and suitable environmental properties and continue to rely on nonrenewable natural resources in constructing the U.S. infrastructure? Indeed, these materials may become increasingly deserving of consideration as we tackle deteriorating infrastructure problems in the United States. And the use of recycled materials in lieu of natural materials may provide additional environmental benefits through better performance and lower cost because there would be less need to mine, process, and transport traditional materials.

“Applications for recycled materials within the highway environment include both bound and unbound uses: asphalt pavements, portland cement concrete pavement, granular bases and subbases, stabilized bases, embankments, structural fills, flowable fills, soil cover and erosion control, and appurtenances. Materials such as reclaimed asphalt pavement, RAP, are widely recycled using both in-place and off-site recycling methods. More than 45 States use RAP. The National Asphalt Paving Association reported in April 2000 that RAP has one of the highest recycling rates in the United States—close to 80 percent. About 73 million tons are recycled each year, saving the taxpayers about $300 million annually."

The example of RAP is one of our best success stories in the use of recycled materials in roads. However, there is much more that can be done. As Dr. Eighmy explains, ". . . the number of states that use recycled materials varies significantly, as do the approaches states take in conducting beneficial use determinations, particularly on less traditional materials. There is a general sense that states with higher industrial activities use more of the resulting by-products. . . . There also appears to be a relation between a state's commitment to recycling and the maturity of the beneficial use program in that state."

The Federal Highway Administration produced a policy on recycled materials in February of 2002, which strongly encourages the use of existing recyclable materials in highway construction and maintenance. As stated in the policy, "Recycling presents environmental opportunities and challenges, which, when appropriately addressed, can maximize the benefits of reuse. The use of most recycled materials poses no threat or danger to the air, soil, or water. Furthermore, careful design, engineering and application of recycled materials can reduce or eliminate the need to search for and extract new, virgin materials from the land.

"The engineering feasibility of using recycled materials has been demonstrated in research, field studies, experimental projects and long-term performance testing and analysis. Significant advances in technology over the past decade have increased the types of recycled materials in use and the range of their applications. When appropriately used, recycled materials can effectively and safely reduce cost, stave time, offer equal or in some cases, significant improvement to performance qualities, and provide long-term environmental benefits."

The Federal Highway Administration policy is supported by both science and a common sense approach to the needs of building and maintaining our national highway system. This bill provides the necessary incentives to expand these beneficial recycling practices, and increase the associated environmental and engineering impacts.

In addition, this legislation was developed in consultation with several stakeholders from the Federal and state governments, and non-governmental organizations. The State of New Mexico, and the non-profit organizations Environmental Defense and the Surface Transportation Policy Project have provided letters expressing their support for this legislation.

I ask all Senators to support the Recycled Roads Act of 2003. I look forward to working with the Chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate his bill into the full 6-year reauthorization of the transportation bill. I would also like to thank Jeff Steinborn from my office in Las Cruces, New Mexico for his diligent work in developing the initial concept for this legislation.

I ask unanimous consent that the article from September 2001 professional society journal Civil Engineering entitled "The Road to Reuse" by Dr. T. Taylor Eighmy, the February 2002 Federal Highway Administration policy on recycled materials, and letters of support from the State of New Mexico, Environmental Defense, and the Surface Transportation Policy Project be printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Civil Engineering, Sept. 2001]

### THE ROAD TO REUSE

(By T. Taylor Eighmy and Bryan J. Magee)

Why should we as a society continue to dispose of materials that may have inherent engineering value and suitable environmental properties and continue to rely on nonrenewable natural resources in constructing the U.S. infrastructure? Shouldn't we be making a concerted effort to use recycled materials as substitutes for natural aggregates or materials in the construction of highway infrastructure? Indeed, these materials may become increasingly deserving of consideration as we tackle deteriorating infrastructure problems in the United States. And the use of recycled materials in lieu of naturals materials may provide additional environmental benefits through better performance and lower cost because there would be less need to mine, process, and transport traditional materials.

There are many types of wastes and by-product materials with potential uses in the highway environment. Ground recycled asphalt pavement, crushed reclaimed concrete, foundry sands, coal bottom ash, blast furnace slags, nonferrous slags, steel slags, quarry by-products, shredded tires, and glass cullet can all serve as aggregate substitutes. Cement kiln dusts, silica fume, ground-granulated blast furnace slag, class F coal fly ash, and class C coal fly ash can serve as alternative cementitious materials. Ground recycled asphalt pavement, roofing shingle scraps, and ground rubber can serve as sources of asphalt cement or asphalt modifiers. And coal combustion by-products, wood ash, sludge ash, composted biomass, and ground wood wastes can serve as soil amendments, soil cover, mulch, and erosion control materials.

Applications for recycled materials within the highway environment include both bound and unbound uses: asphalt pavement, portland cement concrete pavement, granular bases and subbases, stabilized bases, embankments, structural fills, flowable fills, soil cover and erosion control, and appurtenances. Materials such as reclaimed asphalt pavement (RAP) are widely recycled using both in-place and off-site recycling methods. More than 45 states use RAP. The National Asphalt Paving Association reported in April 2000 that RAP has one of the highest recycling rates in the United States—close to 80 percent. About 73 million tons (66 million Mg) are recycled each year, saving taxpayers almost $300 million annually.

A recent, but incomplete, compilation of materials recycled in the highway environment in the United States shows that other materials are recycled annually at reasonable rates. These annual usage and recycling rates are worth noting: blast furnace slag—24 million tons (12.6 million Mg), 90 percent recycling rate; coal fly ash—16 million tons (14.6 million Mg), 27 percent; coal bottom ash—4.8 million tons (4.4 milliono Mg), 30 percent; coal boiler slag—2.3 million tons (2.1 million Mg), 91 percent; current kiln dust and lime kiln dust—9.1 million tons (8.3 million Mg), 31 percent; and steel slag—8.3 million tons (7.5 million Mg), percentage unknown. However, the number of states that use recycled materials varies significantly, as do the approaches states take in conducting beneficial use determinations, particularly on less traditional materials. There is a general sense that states with higher industrial activity use more of the resulting by-products—foundry sands and slags, for example. There also appears to be a relation between a state's commitment to recycling and the maturity of the beneficial use program in that state.

A number of European countries have routinely used recycled materials since the 1970s with a high degree of success. What is remarkable about the European story is the recycling rate of materials used (material used/material produced) in the highway environment with rates of 100 percent frequently noted. The Netherlands, a populous country with more limited aggregate resources and a high degree of industrialization and interest in land reclamation, is the best example. The annual reported totals of metric tons used, together with the recycling rates, are as follows: steel slag—0.5 million, 100 percent; blast furnace slag—1.2 million, 100 percent; coal bottom ash—0.08 million, 100 percent; coal fly ash—0.85 million, 100 percent; construction and demolition aggregates—9.2 million, 100 percent; municipal solid waste combustion bottom ash—0.8 million, 100 percent; and RAP—10.7 million, 100 percent.

Data from a variety of sources suggest potential sources of recycled materials for use in the highway environment. In their paper "Utilization of Waste Materials in Civil Engineering," R.J. Collins and S.K. Ciesielski cited four major sources of waste and by-product materials for highway use: agriculture (2,100 million tons [1,905 million Mg] per year), domestic (200 million tons [181 million Mg] per year) industrial (400 million tons [363 million Mg] per year), and mineral (1,800 million tons [1,633 million Mg] per year). Combined, these account for about 4.5 billion tons per year.

Recent data from the Federal Highway Administration (FHWA) indicate that in 1997 there were almost 4 million mi (6.4 million km) of roads in the United States—4 percent under federal jurisdiction, 21 percent under state jurisdiction, and 75 percent under local jurisdiction. Data from 1992 on material uses in the highway environment from the National Research Council show that the construction, rehabilitation, and maintenance of U.S. highways require about 350 million tons (318 million Mg) of natural and manufactured materials, including 20 million tons (18 million Mg) per year of asphalt, 10 million tons (9 million Mg) per year of portland cement, and 320 million tons (290 million Mg) per year of natural aggregates, paving mixtures, and synthetic surfacing and coating materials. It is interesting to contrast these numbers with the data presented on waste and by-product production. Undoubtedly, these numbers have increased.

ASCE's 2001 Report Card for America's Infrastructure indicates that one-third of the nation's roads are in poor or mediocre condition, costing American drivers an estimated $5.8 billion and contributing to as many as 13,800 highway fatalities each year. Additionally, the assessment quotes FHWA findings that 29 percent of the nation's bridges are structurally deficient or functionally obsolete and its estimate that elmininating all bridge deficiencies would cost $10.6 billion over the course of 20 years. There is a critical need for a significant investment of money and material to help alleviate these conditions and for changes in transportation behavior, transportation investment, and the application of innovative technologies. How much of this necessary rehabilitation can make appropriate use—both economically and from long-term engineering and environmental performance perspectives—of the materials already present in pavements, base courses, subbases, embankments, bridge decks, and bridge abutments? What other waste or by-product material might be used?

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) gave high priority to research on recycling. Largely as a result of this focus, the FHWA and the National Cooperative Highway Research Program (NCHRP) sponsored several projects related to recycling, all of them national in scope. Other federal agencies have developed guidelines or programs that in some way relate to the use of recycled materials. For example, the publication User Guidelines for Waste and By-Product Materials in Pavement Construction was developed to assist those who have an interest in using or increasing their understanding of the types of waste and by-product materials that may be recovered and used in pavement construction applications. By documenting the potential use of 19 recycled materials in six construction applications, these guidelines, which were produced by the FHWA and published in 1997, are intended to describe the nature of each material, suggest sources for obtaining additional information, and outline the issues that need to be evaluated when considering the use of a particular material. The guidelines are also intended to provide general information on engineering evaluation requirements, environmental issues, and economic considerations in determining the suitability of particular recovered materials in pavement applications. (An electronic version of the guidelines is available at the Web site of the Recycled Materials Resource Center [www.rmrc.unh.edu/Partners/UserGuide/begin.htm].)

Funded by the NCHRP and completed in 1998, the Recycled Materials Information Database was created as a tool that can be used to review and store data on the properties and applications of recycled material and on testing procedures. Reference information is also included. With information on 21 materials, the database is divided into nine main categories and provides the user with both general and detailed engineering and environmental information on each material. Recommended laboratory engineering tests that can be used to assess the suitability of each waste and recycled material for transportation applications are included, along with recommendations for monitoring in-field trials. (Copies of the database may be downloaded from the Recycled Materials Resource Center Web site [www.rmrc.unh.edu/Resources/UsefulDocuments&Programs/NCHRP/NCHRP.asp].)

The Framework for Evaluating Use of Recycled Materials in the Highway Environment was recently published by the FHWA to establish a logical and hierarchical evaluation process that all states can use either to develop a beneficial use determination process or to refine an existing process of this type. The purpose of this document is to help reduce barriers to the use of recycled materials and to facilitate the migration of successful practices across state boundaries. Additionally, because the management and regulation of recycled materials use in the highway environment are jurisdictionally the responsibility of a state's department of transportation (DOT) and its environmental protection agency (EPA), a major goal was to work with state DOTs and EPAs to develop a consensus-based approach that would encourage the two agencies to work together in the evaluation process. The process uses a series of stages that can each lead to approval or a beneficial use application from both an engineering and an environmental perspective. It comprises issue definition, data evaluation, laboratory testing, and field tests. The project used an expert technical group to help develop the framework. DOTs and EPAs from Florida, Minnesota, New Hampshire, New Jersey, and New York were involved. (An electronic version of the guidelines is available on the Web site of the Recycled Materials Resource Center [www.rmrc.unh.edu/Partners/Framework/Start/start.html].)

The report Environmental Impact of Construction and Repair Materials on Surface and Ground Waters (NCHRP 25–9) was prepared by the NCHRP after determining whether commonly used construction and repair materials might affect—through the persistence of any toxic leachates—the quality of surface water or groundwater adjacent to highways. A number of widely used waste and by-product materials were included in this evaluation. By developing a model that can be applied to any medium through which the leachates might pass, the report provides users with a tool capable of predicting the potential environmental harm of various waste and by-product materials. (Copies of the report can be obtained from the Transportation Research Board's bookstore [http://national academies.org/trb/bookstore] by searching book code NR448.)

Established in 1998 in close coordination with the FHWA's Pavement Management Coordination Group, the Recycled Materials Resource Center (RMRC) works on the national level to promote the appropriate use of recycled materials in the highways environment. The RMRC forms part of the Environmental Research Group at the University of New Hampshire. It has a unique role in the growing application of recycled materials to highway construction—namely to serve as a catalyst to reduce barriers to the appropriate use of these materials. The center is a culmination of a number of diverse but integrated efforts on the part of the FHWA, other federal and state agencies, and academia to provide a cohesive approach to the complex engineering and environmental issues surrounding the use of recycled materials. The RMRC focuses on both research and outreach activities in carrying out its mission, and its principal clients are state DOTs and EPAs.

In terms of research, the RMRC channels approximately half of its overall budget to a diverse range of projects related to recycling. At present 2 projects have been completed and 11 are in progress nationwide at a number of academic institutions and consulting companies. In addition, with the request for proposals issued by the center in February, three are slated to commence in September. The projects address a range of engineering and environmental issues related to recycling, among them the mitigation of alkali silicate reactions in recycled concrete; environmental weathering of granular waste materials; concrete mixtures with inclusions to improve the sound-absorbing capacity of portland cement concrete pavements; and the development of a risk analysis framework for the beneficial use of secondary materials. Attention is also given to leaching from granular materials used in highway construction during intermittent wetting: the development and preparation of specifications for recycled materials in transportation applications; the determination of the number of revolutions needed for cold-in-place Superpave mixture design using the sequential gyratory compactor; the development of a rational and practical mix design system for full depth reclamation; the fatigue durability of stabilized recycled aggregate base course containing coal fly ash and waste-plastic strip reinforcement; and the development of lightweight synthetic aggregate from coal fly ash and waste plastics.

The RMRC orchestrates numerous activities, the principal and most accessible of which is its Web site (www.rmrc.unh.edu). The site provides a variety of tools, including a client registration feature; an information request feature; virtual demonstration sites; updates on all RMRC-funded research projects; numerous documents and programs; links to pertinent specifications, state DOT programs, literature search engines, and national and international entities; lists of scheduled events; information on funding opportunities; and access to libraries and databases. In addition the center sends out a quarterly electronic newsletter to its clients, keeping them abreast of ongoing and upcoming events related to recycling.

Of particular interest is the center's first specification to be adopted by the American Association of State Highway and Transportation Officials (AASHTO). In December 2000 AASHTO voted to adopt "Glass Cullet Use for Soil Aggregate Base Course" as a new national specification (M–318-01). While currently recognized as a national specification, the document will first appear in the 21st edition of the AASHTO specifications, which is slated for publication this year. This recycling specification was developed by Warren Chesner of Chesner Engineering, in Commack, New York, in conjunction with the AASHTO subcommittee on materials as part of a research project funded by the RMRC. The project is looking at the properties of selected recycled materials and is developing—with the assistance of a technical advisory group made up of representatives of 15 state DOTS—specifications in an AASHTO format for the use of these materials in highway construction.

An upcoming outreach event of note is the international conference Beneficial Use of Recycled Materials in Transportation Applications, which the center is helping to organize. All told, 163 abstracts have been submitted from engineers and researchers from 23 different countries. The event will be held in Washington, DC, November 13–15 (see [www.rmrc.unh.edu/2001Conf/overview.asp]).

In September 1999 an FHWA delegation visited Sweden, Denmark, Germany, the Netherlands, and France to review and document innovative policies, programs, and techniques that would help to reduce barriers to the use of recycled materials in U.S. highways. The delegation met with more than 100 representatives from transportation and environment ministries, research organizations, contractors, and material producers involved with recycled materials in those countries. The U.S. delegation discerned a number of factors that have played a role in the success of recycling on highways in Europe, particularly in the Netherlands. The factors fall under the general concept of sustainability within the highway environment. The major components of the sustainability initiatives are the three Es: economics, engineering, and environment. (The final report is available online at [www.international.fhwa.dot.gov/Pdfs/recycolor.pdf].)

As a follow—on to the European visit, a workshop—Partnerships for Sustainability: A New Approach to Highway Materials—was developed to share European advances in recycling in the highway environment with a targeted audience of state DOT materials engineers, state DOT environmental staff members, and state EPA staff members who work on beneficial use. Fifteen states were invited to send representatives to the workshop, and more than 100 people attended. The goals were to showcase recent developments, introduce the Dutch sustainability concept, and encourage state agency personnel to work together on all aspects of using recycled materials on highways. (The workshop is highlighted on the RMRC Web page [www.rmrc.unh.edu/partner.asp], and the final report can be accessed at [www.rmrc.unh.edu/Partners/finalreport.asp].)

The FHWA has established a team to provide leadership, direction, and technical guidance to the transportation community to promote the use of recycled materials in highway environments and to provide technical support and assistance. The team is preparing a white paper that will set forth priority initiatives for recycling, and it is forming partnerships with AASHTO's subcommittees on materials and construction, with the RMRC, and with industry. Members of the team—their FHWA division given in parentheses—include Jason Harrington and Michael Rafalowski (Infrastructure Core Business Unit), Connie Hill (Planning and Environment Core Business Unit), Terry Mitchell and Jack Youtcheff (Research and Development Support Business Unit), Michael Smith (Southern Resource Center), Walter Waidlich (New Hampshire Division), Bryan Cawley (North Dakota Division), and Jim Travis (Texas Division).

A number of state DOTs have established recycling coordinator positions. These positions frequently figure prominently in technology transfer, research coordination, and informational outreach. The DOTs of California, Massachusetts, North Carolina, Pennsylvania, and Texas all have active programs.

### MASSHIGHWAY

Over the past few years, the Massachusetts DOT, MassHighway, has made significant progress on the recycling front. Steps have been taken throughout the department to increase the use of waste and recycled materials in construction projects and everyday activities; to focus on recycled, remanufactured, and environmentally beneficial materials in procurement decisions for offices, stockrooms, facilities, and construction sites; and to promote the recycling of various waste streams. Recycling and environmentally beneficial procurement are becoming part of the routine way of doing business at MassHighway. Although highway performance, safety, and cost are of primary importance, as long as recycled and environmentally beneficial materials and products can fill this bill, they will be considered comparable, if not superior, to virgin alternatives.

Recent projects in Massachusetts include the procurement of recycled antifreeze, re-refined oils, and safety vests manufactured from soft drink bottles that are fully recycled; the acceptance of specifications allowing for the use of recycled plastic offset blocks as a substitute for pressure-treated lumber blocks; and the commencement of a research project to investigate the use of tire shreds beneath a roadway embankment. In addition, there are plans to set up trial and demonstration projects involving bio-based lubricants, recycled street sweepings, and noise barriers made of recycled plastic.

In 1999 alone, MassHighway was able to recycle more than 10,000 tons (9,000 Mg) of waste, use more than 138,000 tons (125,000 Mg) of reclaimed or recycled materials in construction projects, and spend more than $33 million on materials and products that had a high recycled content or were environmentally beneficial. There is still much to be done. MassHighway will continue to evaluate its many procurement procedures and specifications to remove unnecessary barriers and find new applications for recycled materials and materials that are environmentally beneficial. It will also continue to examine its construction and maintenance operations to find areas where waste can be reduced. Additionally, it will continue to work in coordination with local, state, and national environmental and public works entities to share its experiences and to learn more about the use of recycled and environmentally beneficial materials in highway and roadway construction.

### PENNSLYVANIA DOT

PennDOT has developed a strategic recycling program (SRP) as a tool for systematically identifying, evaluating, and implementing opportunities to sue recycled materials in transportation and civil engineering work throughout the state. The ultimate objective of the SRP is to realize economic savings and environmental benefits for both PennDOT and the state by recycling, limiting pollution, and continuing various other environmental initiatives.

Five key areas have been targeted by the state to help PennDOT achieve and sustain its mission to increase the use of recycled materials:

(1) Research: Continue to evaluate the existing uses of recycled materials and products and conduct research into new uses of recycled materials in transportation and civil engineering work.

(2) Specifications: Develop and approve material and use specifications, bidding specifications, and guidelines for the use of recycled materials that confer significant environmental, engineering, or economic benefits.

(3) Project development: Identify, promote, and plan projects that use recycled materials that conform to approved or provisional specifications.

(4) Communication: Provide information via various media to PennDOT, government agencies, and the public on the performance and applicability of recycled materials in transportation and civil engineering work.

(5) Contract bidding: Evaluate construction contract legal bidding requirements and develop innovative ways to enable PennDOT to specify the use of recycled materials in transportation construction and maintenance projects.

### NORTH CAROLINA DOT

Last year NCDOT recycled 2.4 million lb (1.1 million kg) of metal, 1 million lb (450,000 kg) of paper products, and more than 30,000 lb (14,000 kg) of glass and plastic as part of their daily operations. In addition to these efforts, the department continues to seek applications for recycled products in highway construction. Since 1989 the NCDOT has used more than 7 million tires, 50,000 tons (45,000 kg) of glass beads, and 14,000 tons (13,000 kg) of asphalt shingles.

Lyndo Tippett, the state's secretary of transportation, has indicated he will expand the department's environmental efforts. "As a native of rural North Carolina, I know firsthand the value of our state's natural resources," he said. "We must be proactive about finding opportunities that not only protect our environment but also improve it."

One such opportunity is the department's partnership with Habitat for Humanity of Wake County, which won an environmental excellence award from the FHWA this year. In this program, Habitat helps raze houses within the department's rights-of-way that are scheduled for demolition.

Prospective homeowners help demolish the houses, earning credit toward the construction of their new homes. Materials are then stored in Habitat's reuse center and sold to the general public at reduced prices. The department is currently working to develop partnerships with other Habitat chapters throughout the state.

Another initiative is a pilot project with Bion Technologies, of Clayton, North Carolina. Last year the company donated 900 lb (410 kg) of swine waste for use as an alternative to commercial fertilizer. NCDOT roadside environmental engineers are currently working with the company to monitor the effectiveness of this product in test plots of wildflower beds along U.S. 117 south of Goldsboro to see if more widespread use is warranted.

"Our partnerships with Habitat for Humanity and Bion Technologies demonstrate to the public the positive effect that recycling has on our culture as well as our environment," said Tippett. "These efforts also prove that it is possible to have a quality transportation system and a beautiful environment at the same time."

### TEXAS DOT

TxDOT's road to recycling initiative represents a mammoth endeavor to use recycled materials in road construction and maintenance projects. The goal of this initiative is to increase the use of recycled materials in road construction when they confer environmental benefits and economic or engineering advantages.

Since 1995 TxDOT has coordinated more than $1 million worth of research to investigate the use of a broad array of recycled materials in road construction, including glass cullet, scrap tires, fly and bottom ash, crushed porcelain toilets, shredded brush, compost, roofing shingles, plastics, RAP, crushed concrete, and industrial wastes. The research has been equally broad in the scope of roadway construction applications studied and has examined road signs, roadway safety devices, embankments, asphalt and concrete pavements, soil erosion control, drainage, vertical moisture barriers, and road bases.

Information on the merits of recycled roadway materials has been disseminated around the world through information showcases, press releases, a video, a Web site, two conferences, and a yearlong publicity campaign.

Since the inception of its recycling program in 1994, TxDOT has spent more than $506 million on "green" products and diverted more than 13 million tons (12 million Mg) of materials from landfills—a diversion equivalent to more than 1,300 lb (590 kg) for every man, woman, and child in Texas. These staggering numbers are for the most part directly attributable to the use of recycled materials in road construction applications.

As part of its continuing efforts to promote the use of materials recovered from solid waste, the U.S. EPA has developed the Comprehensive Procurement Guideline (CPG) program. The institutional purchase of recycled products by government ensures that the materials collected in recycling programs will be used again in the manufacture of new products. Congress authorizes the CPG program under section 6002 of the Resource Conservation and Recovery Act (RCRA). The CPG process designates products that are or can be made with recycled materials. At present for construction products, coal fly ash and ground granulated blast furnace slag are listed for cement and concrete materials, and coal fly ash and foundry sands are listed for flowable fill. Materials are also listed for transportation and landscaping categories. (Additional information is available at [www.epa.gov/cpg/].)

### OTHER INITIATIVES

Established in the 1990s by the U.S. Department of Energy (DOE), the Industries for the Future Program creates partnerships linking industry, government, and supporting laboratories and institutions to accelerate technology research, development, and deployment. The DOE's Office of Industrial Technologies is implementing the program for nine energy- and waste-intensive industries, namely agriculture, aluminum, chemicals, forest products, glass, metal casting, mining, petroleum, and steel. The program's goal of increasing competitiveness and reducing energy consumption waste involves recycling by-products from these industries. A recent conference hosted by the DOE and the Civil Engineering Research Foundation explored recycling opportunities for these industries and in formulating plans for the future looked at perceived barriers, market needs, and collaborative relationships. (For additional information about the Industries for the Future Program, see [www.oit.doe.gov/industries.shtml].)

Life-cycle analysis (LCA) has become increasingly common in civil engineering construction applications. Indeed, its use is being widely encouraged in addressing America's infrastructure problems. An excellent example of this application is the model BridgeLCC, developed by the National Institute for Standards and Technology for use evaluating high-performance bridges. BridgeLCC (see [www.bfrl.nist.gov/bridgelccl] is geared toward helping design engineers estimate and compare the life-cycle costs of a new technology—for example, high-performance concrete or fiber-reinforced-polymer (FRP) composites—with those of a conventional technology made with conventional materials. The FHWA has instituted similar models for highway design (see [www.fhwa.dot.gov/resourcecenters/southern/msmith.htm]).

There is less experience here in the United States with the application of LCA in deciding whether to use recycled materials or traditional materials in highway work, and this is even more pronounced when environmental burdens or emissions are included in the model. Recent work by the Finnish National Road Administration has resulted in the development of a comprehensive LCA and inventory analysis program. In Finland the production and transport of materials produce the most significant environmental burdens; the activities that consume the most energy are the production of bituminous asphalt and cement and the crushing and transport of materials. The consumption of raw materials and the leaching behavior of recycled materials there were also regarded as being of great significance. A weighted environmental loading assessment for three scenarios (coal fly ash in subbase and stabilized subbase; crushed concrete in base and subbase; and blast furnace slags in base, subbase, and lower subbase) and a traditional construction scenario were conducted in the Finnish study. The use of blast furnace slag, crushed concrete, and coal fly ash in road bases was seen as imposing a lower total environmental loading than the use of coal fly ash in stabilized subbases or the use of traditional pavements using crushed rock.

Obviously, such analytical tools and case studies need to be developed and applied to scenarios here in the United States. However, the Finnish National Road Administration data suggest that in a broader sense there may be additional benefits to using recycled materials when life-cycle material costs are considered in conjunction with the harm to the environmental caused by energy production and the processing and transport of materials.

In refining their strategic plans, state DOT may find it advantageous to consider the role of recycling. In addition, as studies are carried out on proposed transportation projects under the auspices of the National Environmental Policy Act, is it possible that credit might be given for the use of recycled materials, particularly if LCA shows that the materials convey environmental benefits?

The Netherlands probably best typifies the concept of sustainability, and it offers a suitable model for certain states and metropolitan areas here in the United States. The recycling or reuse of secondary materials within the Dutch building industry is commonplace—more than 10 percent of all granular materials used in the building industry are recycled.

The Netherlands is an affluent country with high population densities and limited land resources. The public has elected not to set aside areas for landfills or aggregate mining. This has led to the practice of sustainable development within the building industry, as well as to a subset of that industry: the highway construction industry. The basic premise of the sustainability concept is that material cycles should be closed (recycling involving use, reuse, re-reuse, et cetera) so that there is less outright disposal and less consumption of non-renewable natural materials. A number of legislative initiatives, including the National Environmental Policy Plan, the Waste Materials Policy, the Soil Protection Policy, the Surface Minerals Policy, and the Construction Industry Policy Declaration, provide the underpinning for sustainable construction.

The Dutch have adopted a market philosophy that regards recycled materials as products rather than waste. This means that the product will exhibit a typical product life cycle in the marketplace. Recycled materials first undergo development before coming into widespread use and maturing. Government and private-sector publicity campaigns and policies support the market. This concept might prove applicable in the United States in states or geographic regions where population densities are high, natural aggregates are scarce, and sources of suitable recycled materials are plentiful.

The Dutch government provides clear and unequivocal engineering and environmental standards for all recycled materials. This is usually achieved through governmental research in support of the standards. Further, public or industry working groups (including contractors) work together to achieve these standards. The producers of recycled materials use certified quality assurance and quality control programs so that their goods can compete against natural materials. The policy is clear, as is the planning and implementation, which enables the producers and contractors to prepare for this new market. The government provides certain economic incentives, such as hefty landfill disposal taxes on materials that can be recycled and modest taxes on the use of natural aggregates. If these aspects are combined, then a mature recycling market can develop over time.

There is a clear need for partnerships linking the private sector, universities, research institutions, government bodies, environmental groups, and the public. This relates to the formulation and coordination of policy, the transfer of information, and making resources available for additional research and development (R&D).

The private sector can play a variety of roles. Those interested in having their by-products considered can make use of the document Framework for Evaluating Use of Recycled Materials in the Highway Environment so that they can work with state DOTs and EPAs to develop the necessary data for evaluation. Contractors can explore the use of recycled materials to help meet the requirements of performance bonds. Equipment manufacturers can also play a role by developing technologies that would make it possible to recycle materials on-site for pavements, bridges, and other civil infrastructure, thereby reducing transport costs and associated environmental burdens.

At the state level, it may be appropriate for the DOTs to consider recycling as standalone policy or as part and parcel of their strategic plans. PennDOT's SRP may be a starting point in efforts to systematically find, evaluate, and apply recycled materials in transportation and civil engineering work (see [www.dot.state.pa.us/penndot/bureaus/beq.nsf/srp?OpenPage]). State DOTs may wish to give credit to recycling strategies during the planning stage of transportation projects, as well as in analyzing alternatives and mitigation measures. In planning transportation projects states could develop checklists that ask questions about recycling choices or options for use, with the responses used in analyzing alternatives and evaluating secondary and cumulative effects. States could use information derived from LCAs as part of their benefits analysis and in information packages prepared for public hearings and for obtaining permits.

A more formal relationship between AASHTO and the Association of State and Territorial Solid Waste Management Officials is definitely worth exploring as this can help pave the way for relationships at the state level. State DOTs and EPAs might consider adopting beneficial use evaluation frameworks similar to successful ones already in place or to the generic one offered by the Framework for Evaluating Use of Recycled Materials in the Highway Environment.

A lowering of the barriers encountered in transferring technologies from one jurisdiction to another across state lines would be a great benefit. Fortunately, the Environmental Council of State (see [www.sso.org/ecos/]) has two programs related to reciprocity. The group called Interstate Technology Regulatory Cooperation (ITRC) is a state-led national coalition dedicated to achieving better environmental protection through the use of innovative technologies. The ITRC (www.itrcweb.org/) is exploring general reciprocity arrangements involving 37 state members. Six states (California, Illinois, Massachusetts, New Jersey, Pennsylvania, and Virginia), under the Environmental Technology Acceptance and Reciprocity Partnership (e.TARP) are exploring reciprocity arrangements of a more formal type, including one for beneficial use determinations.

One recommendation that was strongly emphasized in the final report on the workshop Partnerships for Sustainability: A New Approach to Highway Materials Partnerships for Sustainability is that state DOTs establish recycling coordinator positions for the purposes of technology transfer, research coordination, and outreach.

At the federal level, partnerships linking the private sector, the FHWA, the U.S. EPA, the DOE, and other competent agencies are encouraged. Two obvious examples might be coordinating the U.S. EPA's CPG program with the DOE's Industries for the Future Program. Funneling beneficial use applications and adopted specifications to the CPG program also makes sense. There may be an opportunity to establish a leadership council that could coordinate communication and policy and improve intergovernmental approaches. Shared funding should be considered for lowering barriers between jurisdictions, demonstrating the use of innovative materials, and applying ICA analysis. A recent report on the role to be played by the National Science Foundation in meeting environmental science and engineering needs in the 21st century named industrial ecology (including product and process ICA) as a program needing enhancement. This topic should include recycling for infrastructure improvement.

Congress is considering a number of bills that could serve as vehicles in promoting recycling. The reauthorization of the next highway bill in 2003 provides an excellent opportunity to further promote appropriate recycling, partnerships, technology transfer, and R&D. Making funds available to allow two or more states to carry out joint demonstration projects would go a long way toward reducing barriers. Congress can also examine the information recently provided by the U.S. EPA's Science Advisory Board on overcoming barriers to waste utilization (see [www.epa.gov/science1/eeccm06.pdf]). One of the board's most important recommendations—interpreting key definitions so that wastes could be beneficially used and not be inappropriately labeled as hazardous—would help with the confusion at the federal level about the need for a third category of by-product. Material that qualifies for inclusion in this category would not be labeled as solid waste or as hazardous waste; rather it would be suitable for beneficial reuse in an open market. The reauthorization of the RCRA may provide a suitable opportunity for this change.

### Federal Highway Administration
### Recycled Materials Policy
### ADMINISTRATOR'S MESSAGE

The National Highway System (NHS) is extensive, with over 160,000 miles of highway pavements and over 128,000 structures, built using large quantities of asphalt, concrete, steel, and aggregate, and smaller quantities of nonferrous metals, plastics, and other materials. Much of the system was constructed in the 1960's and 70's and is in need of major rehabilitation or total reconstruction; and much of the materials used to build that system can be recycled for use in the new construction. In order to carry out the mission of the FHWA, i.e., to "improve the quality of the Nation's highway system," the NHS must be properly preserved, maintained, rehabilitated, and when necessary, reconstructed. Maintenance of highways and associated structures is critical to our ability to provide the safest, most efficient roadway system possible, while simultaneously providing the greatest level of protection to the human and natural environment.

The same materials used to build the original highway system can be re-used to repair, reconstruct, and maintain them. Where appropriate, recycling of aggregates and other highway construction materials makes sound economic, environmental, and engineering sense. The economic benefits from the re-use of nonrenewable highway materials can provide a great boost to the highway industry. Recycling highway construction materials can be a cost-saving measure, freeing funds for additional highway construction, rehabilitation, preservation or maintenance.

Recycling presents environmental opportunities and challenges, which, when appropriately addressed, can maximize the benefits of re-use. The use of most recycled materials poses no threat or danger to the air, soil, or water. Furthermore, careful design, engineering and application of recycled materials can reduce or eliminate the need to search for and extract new, virgin materials from the land. The engineering feasibility of using recycled materials has been demonstrated in research, field studies, experimental projects and long-term performance testing and analysis. Significant advances in technology over the past decade have increased the types of recycled materials in use and the range of their applications. When appropriately used, recycled materials can effectively and safely reduce cost, save time, offer equal or, in some cases, significant improvement to performance qualities, and provide long-term environmental benefits.

FHWA has established agency goals for enhancing the human and natural environment, increasing mobility, raising productivity, improving safety throughout the highway industry, and preserving national security. All of these goals are stated in our strategic plan, and we will ensure that the FHWA recycling policy and recycling programs are in alignment with those goals and underlying principles. This recycling policy statement is offered to advance the use of recycled materials in highway applications. It is intended to provide leadership, direction, and technical guidance to the transportation community for the use of recycling technology and materials in the highway environment. The FHWA policy is:

1. Recycling and reuse can offer engineering, economic and environmental benefits.
2. Recycled materials should get first consideration in materials selection.
3. Determination of the use of recycled materials should include an initial review of engineering and environmental suitability.
4. An assessment of economic benefits should follow in the selection process.
5. Restrictions that prohibit the use of recycled materials without technical basis should be removed from specifications.

FHWA has a longstanding position that any material used in highway or bridge construction, be it virgin or recycled, shall not adversely affect the performance, safety or the environment of the highway system. This remains a cornerstone in our policy statement. In order to foster innovation and future development we support research, field trials, and project demonstrations showcasing the findings.

We will do this with: People:

The FHWA Recycling Team.

Creation of a team of champions in our Division Offices that will be points of contact for recycling technology.

Partnering:

The Recycled Materials Resource Center.

Working with the AASHTO Subcommittee on Materials and Environment.

AASHTO Standing Committee on Highways recently passed a resolution on "Use of Recycled Materials". That document requests the establishment of a joint task force be created to provide the overall leadership for a coordinated national recycling program.

Coordination with State highway agency (SHA) Recycling Coordinators and state solid waste management regulators.

Interaction and coordination with industry partners.

Taking the lead for coordination of recycling activities and initiatives.

Promotion and Support:

Agency emphasis on recycling technology in the FHWA Strategic Plan.

Research, development, and technology transfer programs to further innovation.

Demonstration projects.

Increased training opportunities for FHWA and SHA staff.

Active promotion of recycling technology by providing needed specifications, best practices, design guidance, and material testing results to overcome barriers.

Assistance in review, evaluation, and advancement of emerging technology.

Promoting the concept of "sustainable" construction, i.e., construction designed for later recycling.

Frederick G. Wright, Jr.,
*Executive Director.*

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New Mexico State Highway
and Transportation Department,
*Santa Fe, NM, May 6, 2003.*

Attention: Eric Burman, Legislative Fellow.
Hon. Jeff Bingaman,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

Dear Senator Bingaman: My staff and I have reviewed the proposed "Recycled Roads Act of 2003" legislation and support it for the following reasons:

The legislation supports on-going work that the NMSHTD Recycling Task Force has been doing. It will enable us to complete additional research on issues related to the use of recycled materials on our roadways. Two current issues we are pursuing are: (1) The feasibility of rubberized pavement in roadway construction, and (2) The use of compost and/or mulch as an alternative to reseeding upon the completion of construction related projects.

Another important aspect of this legislation is that through its reporting requirements, it will enhance communication and cooperation between the NMSHTD (NMDOT) and other groups who are interested in the use of recycled materials in transportation facility maintenance and construction (e.g., state and tribal Departments of Transportation).

This legislation can provide the Department an opportunity to expand and accelerate progress in areas we currently pursue with limited resources.

Sincerely,

RHONDA G. FAUGHT,
*Cabinet Secretary.*

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ENVIRONMENTAL DEFENSE,
*Washington, DC, May 22, 2003.*

Hon. JEFF BINGAMAN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR BINGAMAN: Environmental Defense is pleased to endorse the Recycled Roads Act, which promotes the use of nontoxic recycled materials as road construction materials. Using these recycled materials not only diverts them from landfills and incinerators, but also reduces energy use and pollution associated with manufacturing virgin materials for road construction, thus benefiting the environment and human health. It also provides economic benefits by enhancing markets for recycling of materials like glass and tires that have traditionally had limited recycling markets or viability. Because some potentially recyclable materials have toxic constituents, the bill's provisions requiring evaluation of risk (in conjunction with the Administrator of the Environmental Protection Agency) are a key aspect of the bill. As always, our endorsement is specific to the text of the bill as it stands at this point.

Thank you for taking a leadership role on this important issue.

Sincerely,

KAREN FLORINI,
*Senior Attorney.*

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SURFACE TRANSPORTATION
POLICY PROJECT,
*Washington, DC, May 22, 2003.*

Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR BINGAMAN: On behalf of the Surface Transportation Policy Project, I am writing to convey our support for your legislation, the "Recycle Roads Act of 2003."

The Surface Transportation Policy Project, among it goals, seeks improved energy use and environmental protection. We believe that our transportation investments, services and incentives should not only meet our travel needs, but also can further our efforts to protect and enhance the integrity of our natural resources and enhance resource efficiency and energy conservation goals.

We know that the use of recyclable materials in transportation projects conserves raw materials and reduces the quantities of waste deposited in landfills. We also see recyclable materials as part of a broader effort to extend the life cycle of our transportation facilities, an important value as we continue to look for ways to leverage available dollars.

Increased recycling can deliver engineering, economic and environmental benefits, including increased opportunities for rural economic development. The legislation would help create new markets and incentives for recycling in small communities and would provide additional savings for all levels of government. The legislation would also foster greater cooperation between transportation and environmental programs carried out by states or Indian tribes.

We applaud your leadership in developing this legislation and support your efforts to move it forward during this Congress.

Sincerely,

ANNE CANBY,
*President.*

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S. 1168

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Recycled Roads Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) in 2000, there were more than 3,951,000 miles of highways in the United States;

(2) in the early 1990s, as much as 350,000,000 tons of raw and recyclable material were used annually for highway construction, rehabilitation, and maintenance;

(3) in 2002, the Federal Government provided $26,348,000,000, or more than 34 percent of funding, for highways in the United States;

(4) at least 45 States recycle a total of 73,000,000 tons of reclaimed asphalt pavement annually, the use of which results in an annual savings of approximately $300,000,000 as compared with the cost of using raw material;

(5) in 2002, the Federal Highway Administration issued a policy encouraging States to use recycled material in highway construction because recycling and reuse can offer engineering, economic, and environmental benefits;

(6) greater incorporation of recyclable material in highway construction would—

(A) provide a significant new national market for the use of recyclable material;

(B) create new markets and incentives for recycling in small communities;

(C) conserve raw material; and

(D) reduce the quantities of waste deposited in landfills in the United States (which would produce an additional savings for the Federal Government and State governments); and

(7) the increased use of recyclable material in highway construction could—

(A) provide additional opportunities for rural economic development; and

(B) encourage expanded use of biomass products.

**SEC. 3. USE OF RECYCLABLE MATERIAL IN FEDERAL-AID HIGHWAY CONSTRUCTION.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

**"§ 139. Use of recyclable material in Federal-aid highway construction**

"(a) DEFINITION OF RECYCLABLE MATERIAL.—In this section:

"(1) IN GENERAL.—The term 'recyclable material' means any material described in paragraph (2) that is determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency—

"(A) to be recyclable and usable in construction of a Federal-aid highway; and

"(B) to have undergone a recycling process to prepare the material for further use.

"(2) MATERIALS.—The materials referred to in paragraph (1) are—

"(A) glass;

"(B) forest biomass;

"(C) a used tire or tire product;

"(D) reclaimed asphalt;

"(E) plastic; and

"(F) any other suitable material that does not contain a total concentration of any toxic constituent that poses a risk to human health or the environment—

"(i) during preconstruction activity, including storage, transportation, or preparation of the material for use in road construction;

"(ii) during the useful life of the road; or

"(iii) after the useful life of the road, including subsequent recycling, reuse, or disposal of components of or debris from the road.

"(b) PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a recycled roads incentive grant program to encourage the expanded use by States and Indian tribes of a diverse range of recyclable material in the construction of Federal-aid highways.

"(2) GRANTS.—In carrying out this section, the Secretary shall provide to each State or qualified (as determined by the Secretary) Indian tribe—

"(A) a grant, in an amount not to exceed $125,000 for a fiscal year, to be used by the State or Indian tribe in employing a coordinator to promote the use of a diverse range of recyclable material in Federal-aid highway construction; and

"(B) a grant, on a competitive basis, in an amount not to exceed $1,400,000 for a fiscal year, to be used by the State or Indian tribe in carrying out projects and activities to promote the expanded use of a diverse range of recyclable material in Federal-aid highway construction and maintenance, such as projects and activities to—

"(i) eliminate economic barriers;

"(ii) develop markets;

"(iii) provide outreach, training, or technical assistance; or

"(iv) collect program and performance data.

"(3) ADMINISTRATION.—

"(A) REDISTRIBUTION OF FUNDS.—If funds made available for use in providing grants under subparagraph (A) or (B) of paragraph (2) for a fiscal year remain after the Secretary has provided grants under the subparagraph for the fiscal year, the Secretary—

"(i) may use the remaining funds to provide additional grants under that paragraph for the fiscal year; but

"(ii) notwithstanding any other provision of this title, shall not use the funds to provide grants or assistance under any other program under this title.

"(B) TRANSPORTATION AND ENVIRONMENTAL COOPERATION.—In providing a grant to a State or Indian tribe under paragraph (2)(B), the Secretary shall encourage cooperation between transportation and environmental programs carried out by the State or Indian tribe.

"(C) EQUITABLE TREATMENT OF STATES AND INDIAN TRIBES.—To the maximum extent practicable, the Secretary shall treat an Indian tribe as a State for the purpose of a grant provided under paragraph (2).

"(4) STATE AND TRIBAL REPORTS.—For the fiscal year in which the program under this section is implemented and each fiscal year thereafter, each State and Indian tribe that receives a grant under paragraph (2) shall—

"(A) collect a sampling of data pertaining to the use by the State or Indian tribe, during the fiscal year covered by the report, of recyclable material in the projects for construction of Federal-aid highways in the State or on land under the jurisdiction of the Indian tribe that are carried out under this section or any other provision of this title using at least $1,000,000 in Federal funds, including a description of—

“(i) each type of recyclable material used;

“(ii) the quantity of each recyclable material used; and

“(iii) the proportion that—

“(I) the quantity of each recyclable material used; bears to

“(II) the quantity of all recyclable material and raw material used; and

“(B) submit to the Secretary a report describing those data.

“(5) QUALITY CONTROL.—The Secretary shall ensure, to the maximum extent practicable, that data provided by a State or Indian tribe under paragraph (4) is of a sufficient quality and range to permit the Secretary to assess national accomplishments involving the use of recyclable material.

“(c) REPORTS.—

“(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of the Recycled Roads Act of 2003, the Secretary shall submit to the appropriate committees of Congress a report on the program to be carried out under this section that includes—

“(A) an overview of program requirements;

“(B) an analysis of any significant issues relating to the program; and

“(C) a proposed timeline for implementation of the program.

“(2) ANNUAL REPORTS.—Not later than 2 years after the date of enactment of the Recycled Roads Act of 2003, and annually thereafter on the date of issuance of the annual program performance report under section 1116 of title 31, United States Code, the Secretary shall submit to the appropriate committees of Congress a report on the program under this section, including, for each recyclable material used in the construction of a Federal-aid highway during the period covered by the report, the information described in subsection (b)(4).

“(d) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account)—

“(1) $10,125,000 for use in providing grants under subsection (b)(2)(A) for each fiscal year; and

“(2) $113,400,000 for use in providing grants under subsection (b)(2)(B) for each fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

“139. Use of recyclable material in Federal-aid highway construction.”.

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By Mr. SPECTER:

S. 1169. A bill to decrease the United States dependence on imported oil by the year 2015; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that would reduce our Nation's dependence on imported oil. Last year, Senator CARPER and I introduced this legislation as an amendment to the energy bill and I offer it today to begin a debate and dialogue in the Senate about the merits of this goal.

During last year's energy bill consideration, I joined over 60 of my colleagues in voting for the Levin-Bond amendment regarding the Corporate Average Fuel Economy standards for cars, SUV's, and light trucks. Given the instability in the Middle East and our Nation's reliance on foreign oil, Senator CARPER and I offered additional language to slow the growth of our dependency on oil in a measurable way on the energy bill.

I supported the Levin-Bond amendment because, among other things, it would have invested Federal dollars in research and development of advanced technology vehicles. It would have harnessed the power of government to purchase and commercialize hybrid and fuel cell-powered vehicles. I also supported the amendment's accompanying tax incentives, which would further encourage the production and purchase of advanced, fuel-efficient vehicles.

However, the Levin-Bond amendment fell short in one important area—it did not include a clear, measurable objective for oil savings. The issue is not just the Corporate Average Fuel Efficiency, CAFE, or Miles Per Gallon, MPG—rather it is oil and our growing dependence on imports for 56 percent of what we use. The bill I am introducing today would implement the Levin-Bond requirement that the Secretary of Transportation issue new regulations setting forth increased average fuel economy standards and further require that the Secretary of Transportation issue regulations to reduce the amount of oil consumed in our passenger cars and light trucks in 2015 by 1,000,000 barrels per day compared to consumption without such regulations in place.

Federal research has identified promising fuel technologies, including fuels developed from biomass, coal waste, and other sources that could play a role in reducing our dependence on traditional, foreign crude oil and facilitate a transition to advanced fuels. For example, one important effort that is happening in Pennsylvania involves a recent $100 million U.S. Department of Energy grant to build the first U.S. coal-waste-to-clean-fuel plant. This $612 million plant is expected to produce 5,000 barrels of sulfur-free diesel or other types of transportation fuel daily. This will have the multiple benefits of removing coal waste, reducing acid mine drainage, producing fuels that will reduce air pollution, and using a domestic energy supply, thus reducing the need to import foreign oil. The bill I am introducing today tasks the Department of Energy to work with the Department of Transportation to develop and encourage such technologies.

America uses about 8 million barrels of oil daily to power the vehicles that we drive. The Department of Energy forecasts that this amount will climb to 10.6 million barrels per day by 2015, an increase of over 35 percent. I propose to limit that growth to 23 percent, or 9.6 million barrels.

America's national security is jeopardized by our growing dependence on foreign oil. Oil imports now account for a third of our nation's trade deficit, which exceeded $400 billion in 2001. I will continue to raise the issue of the untenable position the United States is in by relying on oil from the Middle East. This is highlighted by the fact that we continue to see suicide bombings in Israel and new attacks in other Middle Eastern nations such as Saudi Arabia and Morocco.

Additionally, the exhausts of our motor vehicles are the source of significant amounts of air pollution, including a quarter of the carbon dioxide emitted into our atmosphere, which is sited as a lead contributor to global climate change.

To address these concerns, Congress need not attempt to micro manage a solution by setting higher CAFÉ levels. We should, however, set a clear, measurable objective—reducing the growth in oil consumption by at least a million barrels per day by 2015. We should then delegate to NHTSA, as the energy bill would have accomplished last year under the Levin-Bond amendment and my legislation does, the responsibility for working with the auto industry to achieve that objective. That approach will encourage American ingenuity and foster a public-private partnership that recognizes the interests of consumers and auto makers, as well as furthering public policy that will help relieve the very significant and dangerous policy of relying on our economy's lifeblood of oil from unstable regions.

As this body considers energy legislation, I encourage my colleagues to consider the importance of taking appropriate steps to reduce our dependence on foreign sources of energy, particularly oil. I invite my colleagues to join me in this effort by cosponsoring this legislation.

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By Mr. WYDEN:

S. 1170. A bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, summer is upon us. For many college athletes, that means leaving campus and heading back to a home in a different state. Some may take the opportunity to do some traveling, or even to attend sports camps in various parts of the country.

Unfortunately, this well-earned break can carry real risks for the athletes and their schools. Why? Because traveling student athletes may be big targets for opportunistic sports agents—and due to highly inconsistent state laws on the subject, the legal protections that an athlete might enjoy in the state where the college is located don't necessarily apply elsewhere.

Today I am reintroducing a bill to address this issue, the Sports Agent Responsibility and Trust Act. The purpose of the bill is simple: to set some basic, uniform nationwide rules to prevent unscrupulous behavior by sports agents who court student athletes. The universities in Oregon with top athletic programs—the University of Oregon, Oregon State University, and Portland State University—have all provided letters of endorsement for this legislation. So has the NCAA.

Too often, unscrupulous sports agents prey upon young student athletes who are inexperienced, naive, or simply don't know all of the collegiate athletic eligibility rules. The agent sees the student athlete as a potentially lucrative future client, and wants to get the biggest headstart possible on other agents. So the agent tries to contact and sign up the student athlete as early as possible, and does whatever takes to get the inside track.

In some cases, the agent may attempt to lure the student athlete with grand promises. In some cases, the agent may offer flashy gifts. To make the offer more enticing, the agent may withhold crucial information about the impact on the student's eligibility to compete in college sports.

A majority of States have enacted statutes to address unprincipled behavior by sports agents, but the standards vary from State to State and some states don't have any at all. The universities in my State of Oregon tell me that this creates a significant loophole. Specifically, Oregon has a State law, but it doesn't apply when, for example, a University of Oregon athlete goes home to another State for the summer and is contacted by an agent there. Every time that athlete crosses into another State a different set of rules apply. And if one State's laws on the subject are particularly weak, that is where shady sports agents will try to contact their targets.

That is why there ought to be a single, nationwide standard. The bill I am introducing today would establish a uniform baseline, enforceable by the Federal Trade Commission, that would supplement but not replace existing state laws. Specifically, the bill would make it an unfair and deceptive trade practice for a sports agent to entice a student athlete with false or misleading information or promises or with gifts to the student athlete or the athlete's friends or family. It would require a sports agent to provide the student athlete with a clear, standardized warning, in writing, that signing an agency contract could jeopardize the athlete's eligibility to participate in college sports. It would make it unlawful to pre-date or post-date agency contracts, and require both the agent and student athlete to promptly inform the athlete's university if they do enter into a contract.

Representative Bart Gordon of Tennessee has spearheaded this legislation in the House, where the Energy and Commerce Committee and the Judiciary Committee have both considered and approved the bill this year. I'm told that consideration on the House floor could occur this week. I applaud Congressman Gordon for his leadership on this issue, and I urge my Senate colleagues to join me in addressing this matter in the Senate.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1170

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Sports Agent Responsibility and Trust Act".

**SEC. 2. DEFINITIONS.**

As used in this Act, the following definitions apply:

(1) Agency Contract.—The term "agency contract" means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) Athlete Agent.—The term "athlete agent" means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) Athletic Director.—The term "athletic director" means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) Commission.—The term "Commission" means the Federal Trade Commission.

(5) Endorsement Contract.—The term "endorsement contract" means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual's person, name, image, or likeness in the promotion of any product, service, or event.

(6) Intercollegiate Sport.—The term "intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.

(7) Professional Sports Contract.—The term "professional sports contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(8) State.—The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) Student Athlete.—The term "student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

**SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.**

(a) Conduct Prohibited.—It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) Required Disclosure by Athlete Agents to Student Athletes.—

(1) In General.— In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18 to such student athlete's parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) Signature of Student Athlete.—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18 by such student athlete's parent or legal guardian, prior to entering into the agency contract.

(3) Required Language.—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete's parent or legal guardian, a conspicuous notice in boldface type stating: "Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract.".

**SEC. 4. ENFORCEMENT.**

(a) Unfair or Deceptive Act or Practice.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Actions by the Commission.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

### SEC. 5. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) obtain damage, restitution, or other compensation on behalf of residents of the State.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action.

(e) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(f) Service of Process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(1) is an inhabitant; or

(2) may be found.

### SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.

(a) Notice Required.—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such educational institution, that the student athlete has entered into an agency contract, and the athlete agent shall provide the athletic director with notice in writing of such a contract.

(b) Civil Remedy.—

(1) In general.—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.

(2) Damages.—Damages of an educational institution may include and are limited to actual losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.

(3) Costs and attorneys fees.—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.

(4) Effect on other rights, remedies and defenses.—This section does not restrict the rights, remedies, or defenses of any person under law or equity.

### SEC. 7. LIMITATION.

Nothing in the Act shall be construed to prohibit an individual from seeking any remedies available under existing State law or equity.

### SEC. 8. SENSE OF CONGRESS.

It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.

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By Mr. FRIST (for himself, Mr. Bingaman, Mr. Dodd, Mr. DeWine, Mrs. Clinton, Mr. Warner, Mrs. Murray, Mr. Lugar, Ms. Landrieu, Mr. Sessions, and Mr. Alexander):

S. 1172. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to discuss a particular public health problem—the growing rates of obesity. This epidemic has steadily increased to a level twice what it was thirty years ago. Obesity now affects over sixty percent of adults and thirteen percent of children and adolescents. Among young people, it is escalating at an alarming rate. This condition causes three hundred thousand deaths a year and is second only to smoking as the Nation's leading cause of preventable death. Overweight and obesity are associated with increased risk for heart disease, the leading cause of death, cancer, the second leading cause of death, diabetes, the seventh leading cause of death, and musculoskeletal disorders. Anyone with this condition has at least a 50 percent chance of a premature death.

As obesity continues to mount, the morbidity, mortality and health care costs associated with these disorders will skyrocket. Just this last month, a Health Affairs article estimated that nearly one-tenth of U.S. health care costs are attributable to conditions resulting from obesity or being overweight. In 2002 dollars, the authors of this article estimate that obesity and overweight-related conditions cost $92.6 billion. Of which, half is financed by Medicare and Medicaid.

Healthy People 2010 calls overweight and obesity one of the Nation's leading health problems and prioritizes efforts to increase the proportion of adults who are at a healthy weight, and reduce the levels of obesity and overweight among adults, children and adolescents. The Surgeon General's report “A Call to Action” lists the treatment and prevention of obesity as a top national priority.

Now, if this condition was linked to an infectious or bioterrorist agent, the public outcry would be deafening, and the action to control it swift. But it is not. Obesity and being overweight is often seen as an individual problem and a personal choice, and thus does not receive much attention. Most people do not choose to be overweight. Overweight and obesity result from daily lifestyle choices that gradually accumulate. Weight gain occurs slowly, often unnoticed. Today, many Americans struggle to control their weight, collectively spending billions of dollars each year on weight loss products and programs.

The good news is that, with healthy eating and regular physical activity, obesity is preventable and treatable. That is why I, along with Senator Bingaman, Senator Dodd, and others, am reintroducing the “Improved Nutrition and Physical Activity, IMPACT, Act.” I am pleased that Representatives Mary Bono and Kay Granger, along with other co-sponsors, introduced companion legislation in the House of Representatives earlier this year. This bill will help Americans make healthy decisions about nutrition and physical activity. It emphasizes youth education so that healthy habits can begin early. Finally, it funds demonstration projects to find innovative ways of improving eating and exercise habits.

There is no single solution to the growing epidemic of obesity. That is why the IMPACT Act takes a multifaceted approach. It implements evidence-based programs, where available, and includes rigorous evaluation of demonstration projects so we can learn what works best. This important legislation has a modest price tag, reflecting the appropriate role of the Federal Government. Most importantly, the IMPACT Act does not attempt to mandate what Americans eat or drink or to transfer to the Federal Government decisions that are best made at local levels.

Let me be clear that I am not against people making choices. I am all for choice, informed choice. What has happened, though, is that we as a society and as individuals have made choices about eating and activity, gradually and incrementally, without understanding or considering the consequences. Finally, and most importantly, this bill does not intend to and should not be considered to stigmatize those who struggle to control their weight or to demonize any sector of the country by blaming them for this epidemic. The IMPACT Act represents a bipartisan agreement that the problem of obesity is important, and takes an approach that is supported by a broad spectrum of interested parties. With the Federal Government providing assistance, all sectors of society will need to work together to help produce a healthier nation.

I believe we have crafted a good first response to the growing rates of obesity. A number of public health and industry experts support the passage of this important legislation. I ask unanimous consent that a list of the organizations supporting the legislation and the text of the bill be printed in the RECORD.

I want to thank Senators BINGAMAN and DODD for their work on this bill. I also want to thank Senator GREGG for his assistance in ensuring that this legislation can become law. Senator GREGG has worked tirelessly with my staff to ensure that we craft legislation that can be quickly passed by the Senate, and I appreciate his efforts. I look forward to having this bill become law this year.

There being no objection, the list and the bill were ordered to be printed in the RECORD, as follows:

GROUPS SUPPORTING THE IMPACT ACT

The Advertising Council, Inc.;

Consortium for Citizens with Disabilities Prevention Task Force;

Council on State and Territorial Epidemiologists;

Endocrine Society;

FamilyCook Productions: Bringing Families Together Through Fresh Food;

Grocery Manufacturers of America;

National Alliance for Nutrition and Activity;

National Recreation and Parks Association;

Research against Inactivity-related Disorders (RID);

Samuels & Associates: Public Health Research, Evaluation, and Policy Consultants;

Society for Nutrition Education;

Structure House;

University of North Carolina at Chapel Hill, School of Public Health; and

YMCA.

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S. 1172

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Improved Nutrition and Physical Activity Act" or the "IMPACT Act".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) An estimated 61 percent of adults and 13 percent of children and adolescents in the Nation are overweight or obese.

(2) The prevalence of obesity and being overweight is increasing among all age groups. There are twice the number of overweight children and 3 times the number of overweight adolescents as there were 29 years ago.

(3) An estimated 300,000 deaths a year are associated with being overweight or obese.

(4) Obesity and being overweight are associated with an increased risk for heart disease (the leading cause of death), cancer (the second leading cause of death), diabetes (the 6th leading cause of death), and musculoskeletal disorders.

(5) Individuals who are obese have a 50 to 100 percent increased risk of premature death.

(6) The Healthy People 2010 goals identify obesity and being overweight as one of the Nation's leading health problems and include objectives of increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(7) Another goal of Healthy People 2010 is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionally impacts medically underserved populations.

(8) The United States Surgeon General's report "A Call To Action" lists the treatment and prevention of obesity as a top national priority.

(9) The estimated direct and indirect annual cost of obesity in the United States is $117,000,000,000 (exceeding the cost of tobacco-related illnesses) and appears to be rising dramatically. This cost can potentially escalate markedly as obesity rates continue to rise and the medical complications of obesity are emerging at even younger ages. Therefore, the total disease burden will most likely increase, as well as the attendant health-related costs.

(10) Weight control programs should promote a healthy lifestyle including regular physical activity and healthy eating, as consistently discussed and identified in a variety of public and private consensus documents, including "A Call To Action" and other documents prepared by the Department of Health and Human Services and other agencies.

(11) Eating preferences and habits are established in childhood.

(12) Poor eating habits are a risk factor for the development of eating disorders and obesity.

(13) Simply urging overweight individuals to be thin has not reduced the prevalence of obesity and may result in other problems including body dissatisfaction, low self-esteem, and eating disorders.

(14) Effective interventions for promoting healthy eating behaviors should promote healthy lifestyle and not inadvertently promote unhealthy weight management techniques.

(15) Binge Eating is associated with obesity, heart disease, gall bladder disease, and diabetes.

(16) Anorexia Nervosa, an eating disorder from which 0.5 to 3.7 percent of American women will suffer in their lifetime, is associated with serious health consequences including heart failure, kidney failure, osteoporosis, and death. In fact, Anorexia Nervosa has the highest mortality rate of all psychiatric disorders, placing a young woman with Anorexia at 18 times the risk of death of other women her age.

(17) Anorexia Nervosa and Bulimia Nervosa usually appears in adolescence.

(18) Bulimia Nervosa, an eating disorder from which an estimated 1.1 to 4.2 percent of American women will suffer in their lifetime, is associated with cardiac, gastrointestinal, and dental problems, including irregular heartbeats, gastric ruptures, peptic ulcers, and tooth decay.

(19) On the 1999 Youth Risk Behavior Survey, 7.5 percent of high school girls reported recent use of laxatives or vomiting to control their weight.

(20) Binge Eating Disorder is characterized by frequent episodes of uncontrolled overeating, with an estimated 2 to 5 percent of Americans experiencing this disorder in a 6-month period.

(21) Eating disorders are commonly associated with substantial psychological problems, including depression, substance abuse, and suicide.

(22) Eating disorders of all types are more common in women than men.

## TITLE I—TRAINING GRANTS

**SEC. 101. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSION STUDENTS.**

Section 747(c)(3) of title VII of the Public Health Service Act (42 U.S.C. 293k(c)(3)) is amended by striking "and victims of domestic violence" and inserting "victims of domestic violence, individuals (including children) who are overweight or obese (as such terms are defined in section 399W(j)) and at risk for related serious and chronic medical conditions, and individuals who suffer from eating disorders".

**SEC. 102. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSIONALS.**

Section 399Z of the Public Health Service Act (42 U.S.C. 280h-3) is amended—

(1) in subsection (b), by striking "2005" and inserting "2007";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants to eligible entities to train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

"(2) APPLICATION.—An entity that desires a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of the training that will be provided.

"(3) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the funds made available through such grant to—

"(A) use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

"(i) how to treat or prevent obesity, being overweight, and eating disorders;

"(ii) the link between obesity and being overweight and related serious and chronic medical conditions;

"(iii) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

"(iv) how to identify overweight and obese patients and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions;

"(v) how to conduct a comprehensive assessment of individual and familial health risk factors; and

"(B) evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.".

## TITLE II—COMMUNITY-BASED SOLUTIONS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION

### SEC. 201. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by striking section 399W and inserting the following:

### "SEC. 399W. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, the Secretary of Education, the Secretary of Agriculture, the Secretary of the Interior, the Director of the National Institutes of Health, the Director of the Office of Women's Health, and the heads of other appropriate agencies, shall award competitive grants to eligible entities to plan and implement programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity, being overweight, and related serious and chronic medical conditions. Such grants may be awarded to target at-risk populations including youth, adolescent girls, racial and ethnic minorities, and the underserved.

"(2) TERM.—The Secretary shall award grants under this subsection for a period not to exceed 4 years.

"(b) AWARD OF GRANTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a plan describing a comprehensive program of approaches to encourage healthy eating behaviors and healthy levels of physical activity;

"(2) the manner in which the eligible entity will coordinate with appropriate State and local authorities, including—

"(A) State and local educational agencies;

"(B) departments of health;

"(C) chronic disease directors;

"(D) State directors of programs under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(E) 5-a-day coordinators;

"(F) governors' councils for physical activity and good nutrition; and

"(G) State and local parks and recreation departments; and

"(3) the manner in which the applicant will evaluate the effectiveness of the program carried out under this section.

"(c) COORDINATION.—In awarding grants under this section, the Secretary shall ensure that the proposed programs are coordinated in substance and format with programs currently funded through other Federal agencies and operating within the community including the Physical Education Program (PEP) of the Department of Education.

"(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a city, county, tribe, territory, or State;

"(2) a State educational agency;

"(3) a tribal educational agency;

"(4) a local educational agency;

"(5) a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4));

"(6) a rural health clinic;

"(7) a health department;

"(8) an Indian Health Service hospital or clinic;

"(9) an Indian tribal health facility;

"(10) an urban Indian facility;

"(11) any health care service provider;

"(12) an accredited university or college; or

"(13) any other entity determined appropriate by the Secretary.

"(e) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds made available through the grant to—

"(1) carry out community-based activities including—

"(A) planning and implementing environmental changes that promote physical activity;

"(B) forming partnerships and activities with businesses and other entities to increase physical activity levels and promote healthy eating behaviors at the workplace and while traveling to and from the workplace;

"(C) forming partnerships with entities, including schools, faith-based entities, and other facilities providing recreational services, to establish programs that use their facilities for after school and weekend community activities;

"(D) establishing incentives for retail food stores, farmer's markets, food coops, grocery stores, and other retail food outlets that offer nutritious foods to encourage such stores and outlets to locate in economically depressed areas;

"(E) forming partnerships with senior centers and nursing homes to establish programs for older people to foster physical activity and healthy eating behaviors;

"(F) forming partnerships with day care facilities to establish programs that promote healthy eating behaviors and physical activity; and

"(G) providing community educational activities targeting good nutrition;

"(2) carry out age-appropriate school-based activities including—

"(A) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

"(i) after hours physical activity programs;

"(ii) increasing opportunities for students to make informed choices regarding healthy eating behaviors; and

"(iii) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

"(B) providing education and training to educational professionals regarding a healthy lifestyle and a healthy school environment;

"(C) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

"(D) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity;

"(3) carry out activities through the local health care delivery systems including—

"(A) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

"(B) providing patient education and counseling to increase physical activity and promote healthy eating behaviors; and

"(C) providing community education on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; or

"(4) other activities determined appropriate by the Secretary.

"(f) MATCHING FUNDS.—In awarding grants under subsection (a), the Secretary may give priority to eligible entities who provide matching contributions. Such non-Federal contributions may be cash or in kind, fairly evaluated, including plant, equipment, or services.

"(g) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 10 percent of the total amount appropriated for a fiscal year under subsection (k) to permit the Director of the Centers for Disease Control and Prevention to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about effective strategies and interventions in preventing and treating obesity and eating disorders through the promotion of healthy eating behaviors and physical activity.

"(h) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity awarded a grant under this section may not use more than 10 percent of funds awarded under such grant for administrative expenses.

"(i) REPORT.—Not later than 6 years after the date of enactment of the Improved Nutrition and Physical Activity Act, the Director of the Centers for Disease Control and Prevention shall review the results of the grants awarded under this section and other related research and identify programs that have demonstrated effectiveness in healthy eating behaviors and physical activity in youth.

"(j) DEFINITIONS.—In this section:

"(1) ANOREXIA NERVOSA.—The term 'Anorexia Nervosa' means an eating disorder characterized by self-starvation and excessive weight loss.

"(2) BINGE EATING DISORDER.—The term 'binge eating disorder' means a disorder characterized by frequent episodes of uncontrolled eating.

"(3) BULIMIA NERVOSA.—The term 'Bulimia Nervosa' means an eating disorder characterized by excessive food consumption, followed by inappropriate compensatory behaviors, such as self-induced vomiting, misuse of laxatives, fasting, or excessive exercise.

"(4) EATING DISORDERS.—The term 'eating disorders' means disorders of eating, including Anorexia Nervosa, Bulimia Nervosa, and binge eating disorder.

"(5) HEALTHY EATING BEHAVIORS.—The term 'healthy eating behaviors' means—

"(A) eating in quantities adequate to meet, but not in excess of, daily energy needs;

"(B) choosing foods to promote health and prevent disease;

"(C) eating comfortably in social environments that promote healthy relationships with family, peers, and community; and

"(D) eating in a manner to acknowledge internal signals of hunger and satiety.

"(6) OBESE.—The term 'obese' means an adult with a Body Mass Index (BMI) of 30 kg/m2 or greater.

"(7) OVERWEIGHT.—The term 'overweight' means an adult with a Body Mass Index (BMI) of 25 to 29.9 kg/m2 and a child or adolescent with a BMI at or above the 95th percentile on the revised Centers for Disease Control and Prevention growth charts or another appropriate childhood definition, as defined by the Secretary.

"(8) YOUTH.—The term 'youth' means individuals not more than 18 years old.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $60,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008. Of the funds appropriated pursuant to this subsection, the following amounts shall be set aside for activities related to eating disorders:

"(1) $5,000,000 for fiscal year 2004.

"(2) $5,500,000 for fiscal year 2005.

"(3) $6,000,000 for fiscal year 2006.

"(4) $6,500,000 for fiscal year 2007.

"(5) $1,000,000 for fiscal year 2008.

### SEC. 202. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by striking subsection (n) and inserting the following:

"(n)(1) The Secretary, acting through the Center, may provide for the—

"(A) collection of data for determining the fitness levels and energy expenditure of children and youth; and

"(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

"(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

"(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.".

### SEC. 203. STUDY OF THE FOOD SUPPLEMENT AND NUTRITION PROGRAMS OF THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—The Secretary of Agriculture shall request that the Institute of Medicine conduct, or contract with another entity to conduct, a study on the food and nutrition assistance programs run by the Department of Agriculture.

(b) CONTENT.—Such study shall—

(1) investigate whether the nutrition programs and nutrition recommendations are based on the latest scientific evidence;

(2) investigate whether the food assistance programs contribute to either preventing or enhancing obesity and being overweight in children, adolescents, and adults;

(3) investigate whether the food assistance programs can be improved or altered to contribute to the prevention of obesity and becoming overweight; and

(4) identify obstacles that prevent or hinder the programs from achieving their objectives.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of Congress a report containing the results of the Institute of Medicine study authorized under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000 for fiscal years 2003 and 2004.

### SEC. 204. HEALTH DISPARITIES REPORT.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities outlined in this Act and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a–1(c)(3)).

### SEC. 205. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w–3(a)(1)) is amended by adding at the end the following:

"(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.".

### SEC. 206. REPORT ON OBESITY RESEARCH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications of obesity and being overweight.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes of, prevention of, and treatment of, overweight and obesity; and

(3) recommendations on further research that is needed, including research among diverse populations, the department's plan for conducting such research, and how current knowledge can be disseminated.

### SEC. 207. REPORT ON A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS AND REDUCE OBESITY.

Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in subsection (a) in changing children's behaviors and reducing obesity and shall report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.".

Mr. BINGAMAN. Mr. President, I rise today in support of the Improved Nutrition and Physical Activity or IMPACT Bill that Senator FRIST has introduced with myself and Senators DODD, DEWINE, CLINTON, WARNER, MURRAY, LUGAR, LANDRIEU, and SESSIONS. This is a bill that is critical in this era of chronic disease, as it addresses the mounting public health concerns of obesity, overweight, eating disorders, and their related diseases such as diabetes and cardiovascular disease.

Approximately 61 percent of adults and 13 percent of children and adolescents in our Nation today are overweight or obese. These individuals have a significantly greater risk of diseases such as diabetes, heart disease, and stroke than their healthy weight peers. Another 5 to 10 percent of Americans are suffering from eating disorders that can also manifest themselves in a number of physical and psychological illnesses including heart disease, osteoporosis, kidney failure, depression, anxiety, and suicide. Unfortunately, these rates of overweight, obesity, and eating disorders are rising in both adult and child populations. Since obesity is a health problem that disproportionately impacts medically underserved populations, it is rapidly increasing the medical burden on these already overburdened populations.

The economic implications of the obesity epidemic are equally disturbing. The estimated direct and indirect annual cost of obesity in the United States is now 117 billion dollars—exceeding the cost of tobacco-related illnesses. These costs will only continue to climb unless we make a concerted effort to stem this dangerous tide by initiating primary and secondary prevention programs.

It is this conclusion that led the United States Surgeon General to issue a Call to Action listing the treatment and prevention of obesity as a top national priority. It is this conclusion that has led Secretary Thompson to implement the Steps to a Healthier US initiative. And it is this reality that makes passing the IMPACT bill a critical step towards improving our nation's future health and well-being.

Obesity and eating disorders are complex diseases and as such require comprehensive multidisciplinary solutions. IMPACT aims to move us toward those solutions by addressing these diseases on a number of levels. First, it aims to prepare the health care community to deal with obesity from prevention to diagnosis to intervention by adding obesity, overweight, and eating disorders to the list of priority conditions to be addressed in the health professions Title VII training grants.

Second, IMPACT supports community-based solutions to increase physical activity and improve nutrition on a number of levels. It provides funding for demonstration projects in communities, schools, health care organizations, and other qualified entities that promote fitness or healthy nutrition. It authorizes the CDC to collect fitness and energy expenditure information from children. It directs AHRQ to review any new information relating to obesity trends among various sub-populations and include such information in its health disparities report. It allows states to use their Preventive Services Block Grant money for community education on nutrition and increased physical activity. It instructs the Secretary to report on what research has been done in the area of obesity, what has been learned from this research, and what future research should be conducted. And finally, it asks the secretary to report on the effectiveness of the Youth Media Campaign in changing children's behaviors and reducing obesity.

IMPACT is supported by a wide variety of public and private organizations. The National Alliance for Nutrition and Activity or NANA, an organization including more than 250 national, state, and local organizations and the single largest coalition in the U.S. dedicated to promoting healthy eating and physical activity and reducing obesity states, "NANA strongly supports your efforts to reduce obesity and improve eating and activity habits in the U.S. through the IMPACT bill." Other organizations that have stated their support include the American Heart Association, the American Cancer Society, the Council for States and Territorial Epidemiologists, the Society for Nutrition Education, and the American Dietetic Association.

This legislation is an excellent first step in the fight for improved health, but it is not the only step we must take. We need to assist our schools in providing healthy nutrition options and expanding physical activity programs. We need to grow the workforce so that people have access to the healthcare professionals they need to prevent, diagnose, and treat obesity and eating disorders. We need to look at Medicare and Medicaid and insure that they provide the services necessary to help people prevent and treat obesity and its complications so that we reduce the burden of these diseases in these vulnerable populations. And we need to promote research in the areas of obesity prevention and treatment so that we can offer people better and more effective interventions in the future. These are not small goals but they are critical to our nation's health. I will continue to work on additional legislation that will take the next steps toward addressing these and other related concerns.

For today, I would like to ask all of my colleagues to join me in taking this very important first step toward reducing obesity and eating disorders by supporting this important legislation. By passing this bill we can truly IMPACT the health of our nation.

Mrs. CLINTON. Mr. President, I rise today to speak about a frightening epidemic in our Nation. A staggering 61 percent of adults and 13 percent of children and adolescents in our Nation are overweight or obese. The number of overweight children has doubled and the number of overweight adolescents has tripled since 1980, according to the Surgeon General. The estimated direct and indirect annual cost of obesity in the United States is $117,000,000,000, exceeding even smoking-related illnesses.

That is why I am pleased to join Senators FRIST, BINGAMAN, DODD and others in introducing the Improved Nutrition and Physical Activity Act of 2003. This bill takes important steps to fund programs that ensure healthy eating behaviors and improved physical activity. Funding this program will save Americans vastly more in lower health care costs. The bill also takes critical steps to educate health professionals to help us fight this epidemic. With smoking, we learned that a simple recommendation from a health professional to stop could have a dramatic impact in reducing smoking. It is just as important to make sure our health care providers are equipped to help mold healthy behaviors in our fight against obesity.

I also appreciate Senator FRIST's willingness to incorporate important provisions from my Promoting Healthy Eating Behaviors in Youth Act of 2002. While it is so important to fight the obesity epidemic, we should not inadvertently send the wrong message by telling our children and adults simply to eat less and exercise. Unfortunately, many adolescents misinterpret this as a message that they should eat to achieve the body of a runway model. Anorexia and bulimia are increasingingly common among our Nation's youth. Recent data from the 1999 Youth Risk Behavior Survey indicated that 7 percent of young women who were very thin (body mass index less than 15 percentile) reported taking laxatives or vomiting to lose weight or to avoid gaining weight. An even larger percentage 9 percent of these very thin young women reported using diet pills.

While it is important to prevent diabetes and heart disease that may result from obesity, eating disorders also have their own very serious consequences. Anorexia nervosa, which will affect 3.7 percent of American women sometime in their lifetime, leads to heart failure, kidney failure, and osteoporosis. In fact, a young woman is 12 times more likely to die than other women her age without anorexia.

Poor eating habits have also led to a "calcium crisis" among American youth. Very few adolescent girls (14 percent get the recommended daily amount of calcium, placing them at serious risk for osteoporosis and other bone diseases. Because nearly 90 percent of adult bone mass is established by the end of adolescent growth period, the Nation's youth's insufficient calcium intake is truly a calcium crisis. The consequence of this crisis will be seen years later, when we are likely to face an unprecedented incidence of osteoporosis in women.

That is why I am especially grateful to see the use of a balanced "healthy eating behavior" definition in the bill, and to see that a portion of the grants in the bill are set aside for eating disorders education programs. While we certainly need to focus on exercise and appropriate nutritional behavior, it is certainly just as important to teach our children and adults how to engage in regular physical exercise and lose weight in a healthy way.

I am proud to join Senators FRIST, BINGAMAN, DODD, WARNER, DEWINE, MURRAY, LUGAR, and LANDRIEU in this important legislative initiative, and eagerly anticipate its progress as we fight a significant public health epidemic.

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By Mr. GRASSLEY (for himself, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mrs. HUTCHISON):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes: to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I want to speak briefly about low-income families and the recently passed tax bill. There has been much heat and very little light about what we have done in this bill. Most of the heat has been focused on the conference decision not to retain the Senate position regarding acceleration from 10 percent to 15 percent as part of the refundable child credit—a change already scheduled to take place in 2005.

Before I discuss this matter in detail, let me start by saying that I agree with my colleagues that we should seek to reconsider this provision. I am introducing legislation today that will do that, and will also, of equal, and perhaps greater importance, provide a uniform definition of a child and make the $1,000 child credit permanent. Finally, my bill will eliminate the marriage penalty that is contained in the child credit. This bill is an encompassing effort to help low-income and middle-income families.

The uniform definition of a child will help hundreds of thousands of families receive tax benefits for which they are not currently eligible. As important, it will bring simplification and clarity for millions of families, ensuring that they are not subject to IRS audit and collection efforts.

The bill also makes permanent the $1,000 child credit. Otherwise, in 2005 working families with two eligible children will receive a $600 tax increase as the tax credit drops to $700. In addition, the bill accelerates the refundable calculation from 10 percent to 15 percent.

Finally, the bill addresses the marriage penalty contained in the child credit. Currently, the child credit phases out at $75,000 for a single mother and a $110,000 for a married couple. My bill would eliminate the marriage penalty by having the credit phase out at $150,000. In addition, it adjusts the phase-out level for inflation.

I do not need to wait for comments from my colleagues or from the media to take this action. Many from the media who attended my press conference the day of final passage of the conference report will recall that I stated then that I would quickly seek to revisit the child tax credit issues and seek Senate action on permanency of the child credit.

Let me turn now to the acceleration issue. The media and some members of Congress seem to have a willful blindness as they discuss this matter. What are they blind to? The Earned Income Credit, EIC, program provides great assistance to the very population that is of concern.

Let me give you an example: A family of four making $11,000 will be eligible for $50 under the refundable child credit. By accelerating it, as proposed by my bill and by others, they will now be eligible for $75. What does this family get under EIC? In 2002 they will get a check for $4,140. That means that family is paying no income tax and payroll tax of $842 and is getting a payment from the federal government of almost $3,300 in excess of the payroll tax they pay.

You would never know this from the media accounts and the press releases. And even if there is a mention of the EIC, I have seen no mention of the dollar amount—the $4,00-plus check for families with two children and $2,500 for families with one child. Why is that? Because the chicken littles are too busy running around. I would hope that the concept of "context" would not be something of which the media has to be reminded. You would think from reading speeches and media accounts that the whole tax relief provided in the tax code to a family making $11,000 is the refundable child credit. The child credit for these families at this income level is a thimble compared to the enormous benefits of EIC.

Let me remind my colleagues of the purpose of the child credit: It was designed to address the perceived penalty for working families as the EIC began to phase out. In fact, the original proposal of the refundable child credit that I drafted with Senator BAUCUS in 2001 would not have begun to take effect until the point where the EIC begins to phase-out—at approximately $13,500 for a head of household and $14,500 for married couples.

The Finance Committee heard testimony, and it was the repeated view of academics, that Congress needed to address the phase-out of the EIC. There was no testimony to the Senate Finance Committee and I can find very little in respectable academic discussions that advocated an increase in the check for EIC recipients—that the EIC top amount of $4,000 plus for two children or $2,500 for one child was insufficiently generous.

So that is what was the genesis of the Finance Committee's support for a child credit—addressing somewhat the EIC phase-out as families begin to make more money. However, the beginning point of the phase-in was shifted at the request of some Senators to $10,000. That does not negate that the underlying purpose was and is to deal with the EIC phase-out.

This concern about the phase-out is reflected in the actions we took in conference. By raising the child credit to $1,000 we helped put more money in the pocket of a single mom with one child making $17,000 to $20,000.

That single mom making $20,000 will now get a $1,000 check instead of a $600 check under previous law.

What if we were to only do as some propose and do acceleration to 15 percent but not increase the child credit in 2005 to $1,000?

Yes, it will mean a bit more for those families already receiving a $4,000-plus check under EIC—and I recognize that every penny counts to these families. But this proposal will also mean a tax increase on that single mom making $18,000, that single dad making $19,000 and that married couple with one child making $20,000. Why? Because they benefit more from the increase in the child credit to $1,000. The acceleration will not benefit them; they will quickly meet the maximum child credit. It is the increase to $1,000 that is the real benefit for these families that do not receive the maximum benefits under EIC.

That is why I urge my colleagues to support my legislation that helps millions of working families, and doesn't impose a tax on families that are working hard and getting themselves a little bit better paying job.

And let me close with one other note. My colleagues should remember that it still takes 3 million taxpayers off the rolls completely. They will no longer have to pay tax under this legislation. Much of that is due to the increase in the child credit to $1,000.

Finally, for those who want to talk about income tax relief for low-income individuals, I would encourage them to remember this is many ways a bill that is in concert with the 2001 tax relief that created the 10 percent bracket and provided great income tax relief to singles. Again, a bigger picture that provides greater context of our work will show that we are providing broad-based relief to millions of taxpayers.

I urge my colleagues to work with me in passing this full relief for families. I also think it is important that we pass legislation that can be passed into law by working with the House and the White House. We have already passed legislation that deals with just the 10 percent to 15 percent—the Finance Committee passed it and the Senate passed it. The Senate is on record on this matter already. Now is the time to bring real relief and permanent relief to all working families.

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By Ms. STABENOW (for herself, Mr. SMITH, and Mr. DAYTON):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

Ms. STABENOW. Mr. President, I believe "home" is one of the warmest words in the English language. At the end of a long day, I think the favorite phrase of every hardworking working man and woman in this country is: "Well, I'll see you tomorrow. I'm going home now."

That is why I rise today to introduce the First Time Homebuyers' Tax Credit Act of 2003.

The bill I am introducing will spread that warmth by opening the door to homeownership to millions of hardworking families, helping them cover the initial down payment and closing costs.

This initiative is in keeping with our longstanding national policy of encouraging homeownership.

Owning a home has always been a fundamental part of the American dream.

We, in Congress, have long recognized the social and economic value in high rates of homeownership through laws that we have enacted, such as the mortgage interest tax deduction and the capital gains exclusion on the sale of a home.

Over the life of a loan, the mortgage interest tax deduction can save homeowners thousands of dollars that they could use for other necessary family expenses such as education or health care.

These benefits, however, are only available to individuals who own their own home.

It is important also to note that owning a home is a principle and reliable source of savings as homeowners build equity over the years and their homes appreciate.

For many people, it is home equity—not stocks—that help them through the retirement years.

In addition, owning a home insulates people from spikes in housing costs.

Indeed, while rents may go up, the costs of a monthly mortgage payment, in relative terms, will go down over the course of the mortgage.

In my own State of Michigan, the homeownership rate of 74 percent is the third highest in the Nation and well above the national rate of 66 percent.

In Oregon, the home State of my bill's lead Republican sponsor, Senator GORDON SMITH, the homeownership rate is 64.3 percent—about 2 percent below the national average.

However, as impressive as these numbers may initially sound, not everyone enjoys the benefits of homeownership.

For example, homeownership in Michigan among whites is 78 percent; Native Americans 60 percent; Hispanics 55 percent; African Americans 51 percent; and Asians 50 percent.

A national study by the Fannie Mae Foundation found that in the top third of income levels, 44 percent of people under the age of 31 owned their own home.

But, for the lowest third on the income scale, only 15.6 percent owned their own home—a 28 percent gap!

Why do we face these disparities? Clearly, one of the biggest barriers to homeownership for working families is the cost of a down payment and the costs associated with closing a mortgage.

According to the Mortgage Bankers Association, typical closing costs on an average sized loan of $175,000 can approach approximately $4,000.

Even with relatively recent mortgage products that allow a downpayment of as little as 3 percent of the value of a home, total costs can quickly approach over $9,000.

This is an impossible amount to save for those who are scraping by, working hard to make ends meet.

To address this problem, I am introducing the First Time Homebuyers' Tax Credit Act of 2003.

My bill authorizes a one-time tax credit of up to $3,000 for individuals and $6,000 for married couples.

This credit is similar to the existing mortgage interest tax deduction in that it creates incentives for people to buy a home.

To be eligible for the credit, taxpayers must be first-time homebuyers who were within the 27 percent tax bracket or lower in the year before they purchase their home. That is $67,700 for single filers, $96,700 for heads of household, $112,850 for joint returns. There is a dollar-for-dollar phase-out beyond the cap.

Normally, tax credits like this are an after-the-fact benefit. They do little to get people actually into a home.

What is particularly innovative and beneficial about the tax credit in this bill, however, is that, for the first time, the taxpayer can either claim the credit in the year after he or she buys a first home or the taxpayer can transfer the credit directly to a lender at closing.

The transferred credit would go toward helping with the down payment or closing costs. This is cash at the table.

As mandated in the bill, the eligible homebuyer would have the money for the lender from the Treasury within 30 days of application.

I am happy to say that this legislation already has strong support. Among those who have already written to me in support of this concept are:

The American Bankers Association; America's Community Bankers; the Housing Partnership Network; the National Housing Conference; the National Congress for Community Economic Development; the National Council of La Raza; the National Association of Affordable Housing Lenders; the Manufactured Housing Institute; Fannie Mae; Freddie Mac; National Community Reinvestment Coalition; Standard Federal Bank; Habitat for Humanity, and, the National American Indian Housing Council.

I ask unanimous consent that copies of their letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD.

HABITAT FOR
HUMANITY INTERNATIONAL,
*Washington, DC, May 12, 2003.*

Hon. DEBBIE STABENOW,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR STABENOW: On behalf of Habitat for Humanity International, I want to commend you for your leadership on issues of affordable housing and for putting forth legislation—the First-Time Homebuyers Tax Credit Act—that will enable low-income families with little or no savings to overcome the two largest obstacles faced on the path to homeownership; downpayments and closing costs.

As you know, Habitat for Humanity has witnessed, through the sale of over 135,000 homes worldwide to Habitat homeowner families, that homeownership is one of the most important personal and financial investments for individuals, families, and communities..By expanding first-time homeownership opportunities to thousands of low-income families via a one-time tax credit, the First-Time Homebuyers Tax Credit Act will help close the homeownership gap and provide new wealth-building opportunities for thousands who would perhaps in no other way experience the American Dream.

Habitat for Humanity affiliates across the country address the issue of daunting financial barriers posed by downpayments and closing costs by charging only a minimal amount or by enabling potential homeowner families to forgo the requirement altogether, relying on a homeowner's "sweat equity" in the construction of their home as sufficient deposit. While this legislation may not directly affect the work of our Habitat affiliates, HFHI is pleased to offer our support to you as we work together to provide new homeownership opportunities to strengthen families, revitalize neighborhoods, and close the homeownership gap among racial groups.

Again, we applaud your commitment to affordable housing issues and for sponsoring legislation that reflects your conviction that all Americans should have a decent, safe, and affordable place in which to live. If we can be of any assistance, please do not hestitate to contact me or Amy Randel, Director of Government Relations, at 202/628-9171.

Gratefully yours,

TOM JONES,
*Vice President, HFHI/Managing Director.*

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STANDARD FEDERAL BANK,
*Troy, MI, March 27, 2003.*

Hon. DEBBIE A. STABENOW,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: Standard Federal Bank National Association ("SFB") appreciates the opportunity to comment on the proposed First-Time Homebuyers' Tax Credit Act of 2003. This letter is written on behalf of SFB and all of its LaSalle Bank Corporation ("LBC") affiliates.

LBC is a subsidiary of ABN AMRO Bank N.V. ("Bank") which is headquartered in Amsterdam, the Netherlands. The Bank has over $519 billion in assets, approximately 111,000 employees, and a network of approximately 3,500 offices in over 70 countries and territories. The Bank maintains several branches, agencies and offices in the United States. In addition, ABN AMRO Incorporated, a full-service investment banking, advisory, and brokerage firm, headquartered in New York, New York, is also a subsidiary of the Bank.

LBC is the financial holding company for the U.S. domestic banking operations of the Bank and is headquartered in Chicago. LBC is among the largest foreign financial holding companies in North America with $90 billion in assets. The U.S. operations of the Bank include LaSalle Bank National Association, located in Chicago, Illinois, and Standard Federal Bank National Association, located in Troy, Michigan. These banks maintain over 400 offices in Illinois, Michigan, and Indiana.

The advantages of home ownership are both obvious and clearly instrumental in providing a secure lifestyle to our citizens. Owning one's own home is the primary source of wealth building for most Americans. While rents and other living expenses increase with inflation, the monthly mortgage payment can remain constant, and in relative terms will become an even smaller portion of the family's financial obligations over time.

An additional benefit to home ownership is the mortgage interest tax deduction. Home owners can use the money they save on taxes to meet other family expense, such as education and health care, benefits which are not available to renters.

We want to express our strong support for the concept of expanding homeownership opportunities contained in the proposed First-Time Homebuyers' Tax Credit Act of 2003, which you have been instrumental in bringing up for Congressional approval. This legislation has the potential to provide a significant opportunity for home ownership to many families and individuals who are not able to meet the financial burden of down payment and closing costs. The First Time Homebuyers' Tax Credit, perhaps used in conjunction with other available federal, state, and local homebuyers' incentive programs, will bring the dream of owning one's own home well within the grasp of many additional people.

We understand that some details of the program, particularly as it relates to the transfer of the tax credit to a lender, remain to be worked out. However, we are supportive of the concept of the tax credit and of income limits for participation.

We appreciate the opportunity to comment on this important legislation and congratulate you for providing leadership to this effort. We hope that our comments and our support will assist in bringing the tax credit program to fruition for the benefit of first time homebuyers.

Sincerely,

Mary M. Fowlie,
*Group Senior Vice President.*

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National Community
Reinvestment Coalition,
*Washington, DC, March 18, 2003.*

Hon. Debbie A. Stabenow,
*Senate Hart Building,*
*U.S. Senate, Washington DC.*

Dear Senator Stabenow: On behalf of the National Community Reinvestment Coalition (NCRC) and our over 600 member organizations, we would like to express our most sincere gratitude for taking time out of your busy schedule to participate in our Congressional Luncheon held on Thursday, March 13, 2003 at the Senate Hart Building.

Our National Community Reinvestment Coalition (NCRC) membership and staff truly enjoyed your encouraging and well-stated remarks. In addition, we are truly grateful to you regarding your leadership in authoring "The First Time Homebuyers Tax Credit Act of 2003", and we applaud you as a champion for this cause. We would like for you to know that we stand willing and anxious to assist you in the introduction of this bill in the 108th Congress.

Again, thank you for your pioneering spirit and continued support in assisting those who have encountered economic injustices. If NCRC can further assist you in eradicating these causes, please do not hesitate to contact me directly or our Director of Legislative and Regulatory Affairs, Crystal Ford, at (202) 628–8866.

Sincerely,

John Taylor,
*President and CEO.*

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National Congress for
Community Economic Development,
*Washington, DC, April 25, 2003.*

Hon. Debbie Stabenow,
*U.S. Senator, Hart Senate Office Building,*
*Washington, DC.*

Dear Senator Stabenow: The National Congress for Community Economic Development (NCCED), on behalf of its more than 700 member community development corporations (CDCs) nationwide, supports the proposed Homeownership Tax Credit bill to be introduced by Senator Gordon Smith and you.

The proposed legislation is innovative because it provides homebuyers with the ability to transfer their tax credit to the lender at closing in order to offset downpayment and closing costs. Downpayment and closing costs have consistently been one of the greatest barriers to homeownership for low and moderate-income families.

NCCED is the national trade association representing more than 3,600 CDCs nationwide. We were founded in 1970 and since have advocated for the community economic development industry, whose work creates wealth, builds healthy and sustainable communities, and achieves lasting economic viability. NCCED fulfills its mission of service to its members working in disinvested urban and rural communities through education, resource development, advocacy, networking, training, technology assistance, policy initiatives, and strategic partnerships.

NCCED's annual conference will be held this year in Detroit, Michigan on October 9 and 10, 2003. We would welcome the opportunity for you to share your thoughts with the expected 500 conference attendees who will be there to learn from the successes of Detroit's community development corporations.

Please contact me at (202) 289–9020 if you would like more information. We look forward to working with you on policy issues related to community revitalization.

Sincerely,

Roy O. Priest,
*President and CEO.*

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The Housing Partnership
Network,
*Boston, MA, May 12, 2003.*

Senator Deborah Stabenow,
*Hart Senate Office Building,*
*Washington, DC.*

Dear Senator Stabenow: On behalf of the Housing Partnership Network, I would like to extend our support for your proposed Homeownership Tax Credit Act of 2002. This legislation would authorize a one-time tax credit of up to $3,000 for individuals and $6,000 for married couples to help pay downpayment and closing costs for eligible first-time homebuyers.

The lack of funds for downpayment and closing costs is a significant barrier for many lower income families who wish to purchase a home in communities throughout the country. The proposed homeownership credit is a particularly innovative solution to help families overcome this obstacle because of the transferability feature. By allowing buyers to transfer the credit to their mortgage lender at closing, the credit can provide an immediate infusion of cash to help the family finance the home purchase.

Founded in 1990, the Housing Partnership Network is a national membership intermediary for regional nonprofit housing partnerships. The Network currently has 77 members operating in 37 states. (The full membership list is attached.) The Network and our members sponsor a range of programs to provide counseling, mortgage finance, and downpayment assistance to promote affordable homeownership opportunities for low and moderate income families. The Network's members have provided homeownership counseling to over 225,000 families and have developed or rehabilitated 200,000 homes.

The Network is a national funding intermediary for the HUD Housing Counseling Program, and has provided $8 million to support the counseling programs of 35 organizations over the last eight years. Focused primarily on homebuyer education, the program underwrites a range of services, including post-purchase, foreclosure prevention, and reverse equity mortgage counseling. There are also homeless assistance and renter counseling components.

Our member that operates in the Washington, DC area, the Community Development and Preservation Corporation, is familiar with the federally authorized homeownership tax credit in the District of Columbia. This program has been quite successful and your bill would extend this benefit to many other communities. The innovative transferability feature which you have included in the legislation will make this resource even more useful to first time homebuyers.

The proposed credit is a creative approach to use the tax system to facilitate homeownership for lower income families. As this bill makes its way through the legislative process, we would recommend that the income eligibility for the credit be more narrowly drawn to ensure the public resource is more efficiently targeted to lower income beneficaries.

We appreciate the leadership you have provide in helping address the nation's affordable housing crisis, and look forward to working with you and your staff on this and other issues.

Sincerely,

Thomas Bledsoe,
*President.*

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National Council of La Raza,
*Washington, DC, May 21, 2003.*

Hon. Deborah Stabenow,
*U.S. Senate,*
*Washington, DC.*

Dear Senator Stabenow: On behalf of the National Council of La Raza (NCLR), I write in support of the First-Time Homebuyers' Tax Credit Act of 2003. NCLR is the nation's largest Hispanic constituency-based organization, representing more than 37 million Latinos nationwide. The opportunity to become a homeowner is essential to NCLR's mission to promote economic mobility and financial stability within the Hispanic community.

As you may know, Latino representation within the homebuying market is increasing, accounting for 16.3% of all new homebuyers from 1995 to 2000. That said, we remain concerned that the rate of Hispanic homeownership, 48% continues to lag behind the national average of 68%.

Homeownership is often the largest and single most important asset for a family, building wealth and improving community stability. Further initiatives that facilitate homeownership opportunities are essential for improving Hispanic and low-income neighborhoods. Too many working Latino families are unable to save enough money for closing costs and downpayments, and are barred from attaining the American dream of homeownership. Legislation such as yours will break down barriers to homeownership, of which affordability is a major component.

NCLR looks forward to working with you on this and other innovative affordable housing efforts. Please contact Janis Bowdler, Housing Policy Analyst, (202) 776–1748, to discuss further ways in which we can work together on these important issues.

Sincerely,

Raul Yzaguirre,
*President/CEO.*

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National Association of
Affordable Housing Lenders,
*March 12, 2003.*

Hon. Debbie A. Stabenow,
*Hart Senate Office Building,*
*Washington, DC.*

Dear Senator Stabenow: The National Association of Affordable Housing Lenders (NAAHL), which represent America's leaders in community lending and investment, strongly supports the proposed First-Time Homebuyers' Tax Credit Act of 2003, to help working families buy their first home through a tax credit to help cover the downpayment and closing costs.

NAAHL is the only association devoted to increasing private capital investment in low- and moderate-income communities. NAAHL represents 200 organizations that are leaders in lending and investing, including more than 70 insured depository institutions, 45 non-profit providers and 800 individuals. Members include the who's who of private sector lenders and investors in affordable housing and community development: banks, thrifts, insurance companies, community development corporations, mortgage companies, loan consortia, financial intermediaries, pension funds, foundations, local and national nonprofits, and public agencies.

As you well know, the number of working families with critical housing needs has continued to grow in recent years, and working families have identified the lack of affordable housing as one of their biggest problems. The First-Time Homebuyers' Tax Credit Act would make it significantly easier for many households to realize the American dream of homeownership by providing them with a valuable resource for overcoming one of the biggest barriers to homeownership—the cost of a downpayment and closing costs.

The proposed legislation evolves from longstanding public policy to create incentives to homeownership because of the inherent benefits of homeownership for both individuals and society. Your bill effectively complements the existing mortgage interest tax deduction—which saves families thousands of dollars for other necessary expenditures after a home has been acquired—by providing a tax credit that facilitates the first-time purchase of a home for working families. The legislation also addresses another key concern, narrowing the homeownership gap between the lowest and highest income groups, and among different races.

NAAHL and our member companies look forward to working closely with you to enact this legislation. We share your goal of expanding homeownership opportunities, and sincerely appreciate your commitment to helping make housing more affordable.

Sincerely,

JUDY KENNEDY,
*President.*

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MANUFACTURED HOUSING INSTITUTE,
*March 18, 2003.*

Hon. DEBBIE A. STABENOW,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: The Manufactured Housing Institute (MHI) supports the "First-Time Homebuyers' Tax Credit Act of 2003," which we understand you will be introducing in the near future.

This legislation would permit a one-time tax-credit to first-time homebuyers which can be used for down payment and closing costs in connection with the purchase of a principal residence. This will help creditworthy homebuyers overcome the biggest impediment to purchasing a first home today—the accumulation of sufficient funds to finance the down payment and closing costs required at loan settlement.

If structured properly, this program will help credit-worthy low- and moderate-income homebuyers to purchase and remain in manufactured homes for many years to come.

Sincerely,

CHRIS STINEBERT,
*President, Manufactured Housing Institute.*

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FANNIE MAE,
*May 13, 2003.*

Hon. DEBBIE STABENOW,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: I understand that you will be introducing a bill shortly that would provide for a one-time tax credit for first time homebuyers in America's lowest tax brackets.

Your legislation, The Homeownership Tax Credit Act of 2003, providing a tax credit of up to $3,000 for moderate-income individuals, is the kind of assistance low and moderate income families can harness to better afford the American Dream of homeownership.

As you know, the availability of funds for a downpayment is a key barrier to homeownership. Our National Housing Survey found that 32 percent of Americans say they would have difficulty making a downpayment for the purchase of a home. We at Fannie Mae support the use of tax credits to promote homeownership and appreciate your work in this regard.

We look forward to continuing our work with you to increase the opportunity for more Americans to own homes of their own.

Sincerely,

WILLIAM R. DALEY.

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AMERICAN BANKERS ASSOCIATION
*Washington, DC, May 12, 2003.*

Hon. DEBBIE A. STABENOW,
*U.S. Senate, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: I am writing to commend your efforts in introducing the "FIRST-TIME HOMEBUYERS' TAX CREDIT ACT OF 2003". Your legislation providing a tax credit to assist first-time homebuyers with closing costs or down payment assistance is very important

Becasue of innovative products and services offered by the banking industry, the United States has achieved the highest homeownership rate in our nation's history. Nevertheless, as you have recognized, millions still face barriers to homeownership because of difficulty in accumulating an adequate down-payment or because of costs associated with the loan transaction. By providing assistance in the form of a Federal tax rebate, paid before a borrower closes on a loan, your legislation can make homeownership a reality for many more Americans.

Thank you for your leadership on this issue.

Sincerely,

FLOYD E. STONER,
*Executive Director, Congressional Relations and Public Policy.*

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FREDDIE MAC,
*Washington, DC, May 5, 2003.*

Hon. DEBBIE STABENOW,
*U.S. Senate, Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: Freddie Mac is pleased to support your legislation, The Homeownership Tax Credit Act of 2003. We appreciate your extraordinary leadership in broadening homeownership opportunities for America's working families and look forward to continuing to work with you to achieve this common goal.

The Homeownership Tax Credit Act addresses one of the primary barriers that many working families and other Americans face in trying to buy a home, the cost of a down payment and the closing costs involved in the purchase of a home. Your legislation takes an innovative approach to knocking down this barrier to homeownership by providing a tax credit that the taxpayer can either claim in the year after he or she buys a first home or the taxpayer can transfer the credit directly to a lender at closing.

At Freddie Mac, we work to help America's families realize the dream of homeownership, by making low-cost mortgage financing available to families every day. Freddie Mac has made mortgage financing available for more than 27 million homes. We are strongly committed to improving the quality of life for homeowners and renters by making decent, accessible housing a reality for America's families.

As a member of the Senate Committee on Banking, Housing and Urban Affairs, you have consistently demonstrated your outstanding support for increasing homeownership in America, and we look forward to working with you to help America's families realize the American Dream of homeownership.

Sincerely,

DWIGHT FETTIG,
*Director, Congressional Relations.*

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NATIONAL AMERICAN INDIAN HOUSING COUNCIL, OFFICE OF GOVERNMENTAL AFFAIRS,
*Washington, DC, May 8, 2003.*

Hon. DEBBIE STABENOW,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR STABENOW: I write today to let you know that you have the support of the National American Indian Housing Council for your Homeownership Tax Credit bill. We will be watching for when the bill is introduced so we can be sure to inform our members.

The National American Indian Housing Council is a national membership organization representing over 400 of the 564 federally-recognized tribes and their tribally designated housing entities on low-income housing, mortgage lending, finance and economic development issues. We currently have ten member tribes from your home state of Michigan.

Although much of our effort goes to helping tribal housing agencies build and finance homes for tribal members where the real estate market is nearly non-existent, we are always looking to help those tribal members that are ready and able for homeownership, but are driven away by high down-payments and closing costs associated with buying a home. Your idea to offer a transferable tax credit to first-time homebuyers would be very helpful. We believe in the benefits of homeownership and support your effort for making it less cumbersome for lower income Americans.

Please do not hesitate to contact me for further information or for any assistance you might need in the passage of this legislation.

Sincerely,

RUSSELL SOSSAMON,
*Chairman.*

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JUNE 3, 2003.

Hon. DEBBIE STABENOW,
*U.S. Senate, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: I want to take this opportunity to express America's Community Bankers' support for your initiative to provide Americans the opportunity to own their own home. The First Time Homebuyers' Tax Credit Act of 2003 is greatly needed to address the current affordable housing crisis in this country.

Homeownership is an important goal for ACB. Our members originate more than 25 percent of all U.S. mortgages. This legislation will assist first-time homebuyers and lenders by converting federal income tax credits into cash for down payments and closing fees. We support giving qualified first-time buyers the option of either handing over their credit to their lenders or using it later to reduce their own personal income taxes.

Over the years, ACB members have helped people with owning a home. Your initiative will create additional opportunities for our members to continue assisting first-time homebuyers in securing a mortgage.

ACB urges your colleagues in the House of Representatives to support this legislation and increase the number of new American homeowners. We applaud your efforts in offering a solution to a problem many Americans face.

Thank you for your leadership on this issue.

Sincerely,

ROBERT R. DAVIS,
*Executive Vice President and Managing Director, Government Relations.*

Earlier today, at a press conference, Senator SMITH and I were also joined by the Mortgage Bankers Association of America and we have received positive comments from the National Association of Homebuilders about my legislation.

Clearly, the breadth and diversity of support is strong for this legislation.

This is a bold and aggressive effort to reach out to a large number of working families to help them get into this first home.

The Joint Committee on Taxation has estimated that up to 16.8 million working people would get into their first home over the next seven years because of this new tax credit.

People like Christine Nelson, with whom I met this morning. Christine is a working mom. She works as an administrative assistant for a national association. She is carefully saving up to buy her first home.

In addition to supporting her daughter, however, Christine has student loans that she is paying for.

These multiple obligations make it difficult for her to come up with that $9,000 I mentioned earlier.

The $3,000 tax credit she is eligible for would make a tremendous difference in her life. It would get her and her daughter into that first home much faster.

We are working to send a message to Christine and other people all over the country that if you are working hard to save up enough to get into that first home, the Federal Government will make a strategic investment in your family—it will offer a hand up.

This is not unlike what we already do through the mortgage interest tax deduction for millions of people who are fortunate enough already to own their own home.

We certainly won't do all the hard work for you. You must be frugal and save and do most of the work yourself, but we, in Congress, understand that it is good for America to enhance homeownership.

We also understand that this sort of investment in working families stimulates the economy.

No one can deny that when the First Time Homebuyers' Tax Credit is enacted and used by millions of people, every single time the credit is used, it will be stimulative.

Why?

Because it means someone bought a house. And that generates economic activity for multiple small business people. Realtors. Lenders. House appraisers. Inspectors. Title insurers. And so on. And there is a ripple of economic activity by the new homeowners as they fix up their new homes and get settled in.

Housing has been such a bright light in the sluggish economy we've faced for the last few years. My bill is designed to ensure that the housing sector remains a strong component of our economy.

Finally, let me close by emphasizing how happy and proud I am that this tax legislation is bipartisan. In a closely divided Senate, and a closely divided Congress, it is so important to work across the aisle and Senator SMITH, who is a real champion for good housing policy, is someone I want to work closely with on this bill and other important housing legislation. He understands how housing tax benefits help build strong communities and provide economic security for millions of families.

I am committed to seeing this legislation passed. And, I welcome the chance to work with all of my colleagues to see the dream of homeownership expanded to all people.

Home. Sentimentally, it is one of the warmest words in the English language. Economically, it is the key word in bringing millions of families in from the cold and letting them begin building wealth for themselves and their family.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1175

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "First-Time Homebuyers' Tax Credit Act of 2003".

**SEC. 2. REFUNDABLE CREDIT FOR FIRST-TIME HOMEBUYERS.**

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

**"SEC. 36. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.**

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the United States during any taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 10 percent of the purchase price of the residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—

"(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed the excess (if any) of—

"(i) $3,000 ($6,000 in the case of a joint return), over

"(ii) the credit transfer amount determined under subsection (c) with respect to the purchase to which subsection (a) applies.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after December 31, 2003—

"(i) the $3,000 amount under subparagraph (A) shall be increased by an amount equal to $3,000, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting '2002' for '1992' in subparagraph (B) thereof, and

"(ii) the $6,000 amount under subparagraph (A) shall be increased to twice the $3,000 amount, as adjusted under clause (i) for the taxable year.

If the $3,000 amount as adjusted under clause (i) is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

"(2) TAXABLE INCOME LIMITATION.—

"(A) IN GENERAL.—If the taxable income of the taxpayer for any taxable year exceeds the maximum taxable income in the table under subsection (a), (b), (c), or (d) of section 1, whichever is applicable, to which the 25 percent rate applies, the dollar amounts in effect under paragraph (1)(A)(i) for such taxpayer for the following taxable year shall be reduced (but not below zero) by the amount of the excess.

"(B) CHANGE IN RETURN STATUS.—In the case of married individuals filing a joint return for any taxable year who did not file such a joint return for the preceding taxable year, subparagraph (A) shall be applied by reference to the highest taxable income of either such individual for the preceding taxable year.

"(c) TRANSFER OF CREDIT.—

"(1) IN GENERAL.—A taxpayer may transfer all or a portion of the credit allowable under subsection (a) to 1 or more persons as payment of any liability of the taxpayer arising out of—

"(A) the downpayment of any portion of the purchase price of the principal residence, and

"(B) closing costs in connection with the purchase (including any points or other fees incurred in financing the purchase).

"(2) CREDIT TRANSFER MECHANISM.—

"(A) IN GENERAL.—Not less than 180 days after the date of the enactment of this Act, the Secretary shall establish and implement a credit transfer mechanism for purposes of paragraph (1). Such mechanism shall require the Secretary to—

"(i) certify that the taxpayer is eligible to receive the credit provided by this section with respect to the purchase of a principal residence and that the transferee is eligible to receive the credit transfer,

"(ii) certify that the taxpayer has not received the credit provided by this section with respect to the purchase of any other principal residence,

"(iii) certify the credit transfer amount which will be paid to the transferee, and

"(iv) require any transferee that directly receives the credit transfer amount from the

Secretary to notify the taxpayer within 14 days of the receipt of such amount.

Any check, certificate, or voucher issued by the Secretary pursuant to this paragraph shall include the taxpayer identification number of the taxpayer and the address of the principal residence being purchased.

"(B) TIMELY RECEIPT.—The Secretary shall issue the credit transfer amount not less than 30 days after the date of the receipt of an application for a credit transfer.

"(3) PAYMENT OF INTEREST.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall pay interest on any amount which is not paid to a person during the 30-day period described in paragraph (2)(B).

"(B) AMOUNT OF INTEREST.—Interest under subparagraph (A) shall be allowed and paid—

"(i) from the day after the 30-day period described in paragraph (2)(B) to the date payment is made, and

"(ii) at the overpayment rate established under section 6621.

"(C) EXCEPTION.—This paragraph shall not apply to failures to make payments as a result of any natural disaster or other circumstance beyond the control of the Secretary.

"(4) EFFECT ON LEGAL RIGHTS AND OBLIGATIONS.—Nothing in this subsection shall be construed to—

"(A) require a lender to complete a loan transaction before the credit transfer amount has been transferred to the lender, or

"(B) prevent a lender from altering the terms of a loan (including the rate, points, fees, and other costs) due to changes in market conditions or other factors during the period of time between the application by the taxpayer for a credit transfer and the receipt by the lender of the credit transfer amount.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' has the same meaning as when used in section 72(t)(8)(D)(i).

"(B) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

"(C) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of married individuals who file a joint return, the credit under this section is allowable only if both individuals are first-time homebuyers.

"(D) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence—

"(i) the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and

"(ii) the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed the amount in effect under subsection (b)(1)(A) for individuals filing joint returns.

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121. Except as provided in regulations, an interest in a partnership, S corporation, or trust which owns an interest in a residence shall not be treated as an interest in a residence for purposes of this paragraph.

"(3) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition, but only if—

"(i) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants), and

"(ii) the basis of the property in the hands of the person acquiring it is not determined—

"(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(II) under section 1014(a) (relating to property acquired from a decedent).

"(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition (within the meaning of section 72(t)(8)(D)(iii)).

"(e) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

"(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

"(g) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer purchases the residence on or after January 1, 2003, and before January 1, 2010, or

"(B) the taxpayer enters into, on or after January 1, 2003, and before January 1, 2010, a binding contract to purchase the residence, and purchases and occupies the residence before July 1, 2011.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 of the Internal Revenue Code of 1986 (relating to general rule for adjustments to basis) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) in the case of a residence with respect to which a credit was allowed under section 36, to the extent provided in section 36(f).".

(2) Section 1324(b)(2) of title 31, United States Code, is amended by striking "or" before "enacted" and by inserting before the period at the end ", or from section 36 of such Code".

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 36 and inserting the following new items:

"Sec. 36. Purchase of principal residence by first-time homebuyer.".

"Sec. 37. Overpayments of tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

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By Mr. BYRD:

S. 1176. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

Mr. BYRD. Mr. President, today I am introducing legislation designed to fulfill an important promise made by the Federal Government to the people of my State and my region some 38 years ago. I am speaking of the promise to build and complete a network of highways through the Appalachian region known today as the Appalachian Development Highway System or ADHS. I look forward to working with my fellow Senators to have my legislation included in the measure to reauthorize the Federal-aid Highway Program, one of the most important, if not the most important, pieces of legislation which will be considered during this Congress. The Federal-aid Highway Program is at the very core of the Federal infrastructure investment exercise.

On September 30 of last year, our very capable Federal Highway Administrator, Ms. Mary Peters, testified before the Committee on Environment and Public Works on the condition and performance of our National Highway System. The Administration's Conditions and Performance Report has again reminded us that a great deal more needs to be invested in our infrastructure if we are not to fall further and further behind in stemming the deterioration of our nation's highways and bridges and alleviating congestion on our nation's roads.

At the September 30 hearing, Administrator Peters testified that, even in the wake of the historic funding increase accomplished through TEA-21, congestion on our roads continues to worsen. An investment in our highway infrastructure by all levels of government will have to increase by more than 65 percent or $42.2 billion per year to actually improve the condition of our nation's highways. A funding increase of more than 17 percent or $11.3 billion will be necessary simply to maintain the current inadequate conditions of our highway network, where more than one in four of our nation's bridges are classified as deficient.

Having served as both Chairman and Ranking Member of the Senate Appropriations Committee, I have sought to do my part by championing the highest level of Federal highway investment for all fifty States that is possible under our budget constraints. Earlier this year, I am pleased to report that the Senate prevailed in the conference with the House on the Omnibus Appropriations Bill for Fiscal Year 2003 and rejected every penny of the $8.6 billion cut in highway funding proposed by President Bush. And just last month, I was pleased to join with Senators BOND and REID, the respective Chairman and Ranking Member of the Surface Transportation Subcommittee, in sponsoring a bipartisan amendment to the Budget Resolution for Fiscal Year 2004 that boosted funding for our Federal-aid Highway Program by several billion dollars. That amendment commanded 79 votes on the Senate floor.

While serving in the other body, I had the great privilege of casting my vote in favor of establishing the Interstate Highway System back in 1958. However, in 1964, it was recognized by the first Appalachian Regional Commission that while the Interstate Highway System was slated to provide historic economic benefits to most of our Nation, the system was designed to bypass the Appalachian Region due to the extremely high cost associated with building Highways through Appalachia's rugged topography. As a result, the construction of the interstates would have had the detrimental effect of drawing passengers and freight, and the accompanying economic benefits, away from the Appalachian Region.

In 1965, the Congress adopted the Appalachian Regional Development Act that promised a network of modern highways to connect the Appalachian Region to the rest of the Nation's highway network and, even more importantly, the rest of the Nation's economy. Absent the Appalachian Development Highway System, my region of the country would have been left solely with a transportation infrastructure of dangerous, narrow, winding roads which follow the path of river valleys and stream beds between mountains. These roads are still, more often than not, two-lane roads that are squeezed into very limited rights-of-way. They are characterized by low travel speeds and long travel distances and are often built to inadequate design standards.

One of the observations contained in Administrator Peters' testimony back in September that especially caught my eye was her statement that "the condition of higher-order roads, such as interstates, has improved considerably since 1993 while the condition on many lower-order roads has deteriorated." It appears that the pattern of road conditions is beginning to mirror the distribution of wealth in our country, whereby the rich are getting richer while the poor get poorer. That observation is most pertinent when you consider the challenge of completing the Appalachian Development Highway System.

We have virtually completed the construction of the Interstate Highway System and have moved on to many other important transportation goals. However, the people of my region are still waiting for the Federal Government to live up to its promise, made some 38 years ago, to complete the ADHS. The system is still less than 80 percent complete and I regret to observe that my home State of West Virginia is below the average for the entire Appalachian Region with only 72 percent of its mileage complete and open to traffic.

The rationale behind the completion of the Appalachian Development Highway System is no less sound today than it was in 1964. Unfortunately, there are still children in Appalachia who lack decent transportation routes to school; and there are still pregnant mothers, elderly citizens and others who lack timely road access to area hospitals. There are thousands upon thousands of people who cannot obtain sustainable well-paying jobs because of poor road access to major employment centers. The entire status of the Appalachian Development Highway System is laid out in great detail in the Cost to Complete Report for 2002 recently completed by the Appalachian Regional Commission. This is the most comprehensive report on the status of the Appalachian Development Highway System to date and I commend the staff of the Appalachian Regional Commission for their hard work on this report. The last report was completed in 1997 just prior to Congressional consideration of TEA–21.

The enactment of TEA–21 signaled a new day in the advancement of the Appalachian Development Highway System. Through the work of the Committee on Environment and Public Works, the House Transportation and Infrastructure Committee, and the Administration, we took a great leap forward by authorizing direct contract authority from the Highway Trust Fund to the States for the construction of the ADHS. Up until that point, funding for the Appalachian Development Highway System had been limited to uncertain and inconsistent general fund appropriations. By provding the States of the Appalachian Region with a consistent and predictable source of funds to move forward on its uncompleted ADHS segments, TEA–21 served to reinvigorate our efforts to honor the promise made to the people of the Appalachian Region.

As is made clear in the Cost to Complete Report, this initiative has been a great success. States are making greater progress toward the completion of the system than they have in any five-year segment in recent memory. Since the last Cost to Complete Report, 183 miles of the system have been opened to traffic and we have successfully brought down the cost to complete the system by roughly $1.7 billion in Federal funds.

Back when we were debating TEA–21, some questions were asked as to how committed the States would be to completing the unfinished segments to the Appalachian Development Highway System. I am pleased to report that the 13 States, to date, have succeeded in obligating just under 90 percent of the obligation authority that has been granted to them for the completion of the system. A 90-percent obligation rate compares quite favorably to some of the other transportation programs through which the States were granted multiple years to obligate their funds.

According to the ARC's Cost to Complete Report, the remaining Federal funds needed to complete the ADHS are now estimated to be $4.467 billion. When adjusted for inflation over the life of the next highway bill, using the standard inflation calculation for highway projects, a total of $5.04 billion will need to be authorized to complete the system. That is a lot of money and I believe that figure deserves some explanation.

The considerable cost of completing the last 20 percent of the ADHS is explained by the fact that the easiest segments of the system to build have already been built. Much of the costs associated with completing the most difficult unfinished segments are driven by the requirement to comply with other Federal laws, especially the laws requiring environmental mitigation measures when building new highways through rural areas. While the $5.04 billion figure may seem large to some of my colleagues, I would remind them the last highway bill authorized more than $218 billion in federal infrastructure investment over six years. It is my sincere hope and expectation that the next highway bill will authorize an even greater amount.

Of critical importance to this debate is the fact that the unfinished segments of the ADHS represent some of most dangerous and most deficient roadways in our entire Nation. Often lost in our debate over the necessity to invest in our highways is the issue of safety. The Federal Highway Administration has published reports indicating that substandard road conditions are a factor in 30 percent of all fatal highway accidents. I am quite certain that the percentage is a great deal higher in the Appalachian Region.

The Federal Highway Administration found that upgrading two-lane roads to four-lane divided highways decreased fatal car accidents by 71 percent and that the widening of traffic lanes has served to reduce fatalities by 21 percent. These are precisely the kind of road improvements that are funded through the ADHS. In my state, the largest segment of unfinished Appalachian Highway, if completed, will replace the second most dangerous segment of roadway in West Virginia. So, even those who would question the wisdom of completing these highways in the name of economic development should take a hard look at the fact that the people of rural Appalachia are taking their lives in their hands every day as they drive on dangerous roads.

It is time for this Congress, in concert with the Administration, to take the last great leap forward and authorize sufficient contract authority to finally complete the Appalachian Development Highway System. If we enact another six-year highway bill with sufficient funds to complete the system, we will finally pay the full costs of the ADHS almost 45 years after the system was first promised to the people of my region. The legislation I am introducing today, the "Appalachian Development Highway System Completion Act," will provide sufficient contract authority to complete the system. Importantly, it will guarantee that the states of the Appalachian Region do not pay a penalty, either through the distribution of minimum allocation funds, or the distribution of obligation limitation, for receiving sufficient funds to complete the Appalachian system.

I am very pleased that this Administration has taken on the goal of completing the ADHS. In her letter accompanying the Cost to Complete Report, Administrator Peters said "the completion of the ADHS is an important part of the mission of the Federal Highway Administration. We consider the accessibility, mobility and economic stimulation provided by the ADHS to be entirely consistent with the goals of our agency." Ms. Peters further stated that the Appalachian Regional Commission's 2002 Cost to Complete Report, "provides a sound basis for apportioning future funding to complete the system." I thank Mary Peters and the entire Federal Highway Administration for their leadership on this issue and I look forward to working with Ms. Peters and her agency to ensure that this commitment is borne out in the transportation reauthorization legislation that is developed by the Congress.

Completion of a new highway bill will be a mammoth task for this Congress. As I look back over the many years of my public career, one of the accomplishments of which I am most proud was my amendment providing an additional $8 billion in funding to break the logjam during the debate on the Intermodal Surface Transportation Efficiency Act in 1991. Another was my sponsorship of the Byrd-Gramm-Baucus-Warner Amendment during the Senate debate of TEA-21 in 1998. That effort resulted in some $26 billion in funding being added to that bill and put us on a path to historic funding increases for our nation's highway infrastructure. I look forward again to working with my fellow Senators on completion of a bill that makes the necessary investments in our nation's highways, not just in the Appalachian Region, but across our entire country.

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By Mr. HATCH (for himself and Mr. KOHL):

S. 1177. A bill to ensure the collection of all cigarette taxes, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today, with my colleague Senator Kohl, to introduce S. 1177, the Prevent All Cigarette Trafficking, PACT Act of 2003. I do so because of my concern that contraband cigarettes contribute heavily to the profits of organized crime syndicates, specifically global terrorist organizations. Furthermore, illegal cigarette trafficking has had a damaging impact on the economies of numerous States.

Organized crime syndicates typically purchase cigarettes in States with low taxes and transport the product into states wit high taxes to illegally sell to small retailers below market costs. The Internet has exacerbated this problem. Frequently, these syndicates produce counterfeit State and city tax stamps in order to make it less risky for these small retailers to sell them to consumers. For example, Virginia has a per pack tax of 2.5 cents, while New York City has a per pack tax of $3. Organized crime syndicates, such as those affiliated with the Lebanon-based terrorist organization, Hezbollah, have been known to purchase and transport cigarettes in tractor-trailers up Interstate 95 from Virginia to New York for resale. As one can easily see, a State such as New York is losing millions of dollars in revenue each year because of unpaid taxes on these contraband cigarettes, while terrorist organizations are making millions in profits.

Recent articles in the Washington Post and New York Post revealed that a cigarette-smuggling ring, which allegedly purchased over 70,000 cartons from undercover Federal agents in a sting operation last fall, does in fact have ties to Hezbollah. If this group had been successful in its racketeering scheme, it would have amounted to a loss of nearly $2.4 million in tax revenue for New York and millions in profits for Hezbollah, allowing this organization to finance their terrorist activities.

Members of an organized crime syndicate arrested in Charlotte, NC last year for smuggling contraband cigarettes from North Carolina to Michigan were also using their illegal profits to aid Hezbollah, according to the Charlotte Observer. The Buffalo News reported that one of the members of the Charlotte syndicate, Mohamad Hammoud, allegedly has ties to a recently arrested Detroit-area syndicate, which includes two women from the Seneca Nation of Indians' Cattaraugus reservation. Because the syndicate transported the cigarettes from North Carolina to Michigan for resale, Michigan lost $12.50 per carton in sales and excise taxes. These examples illustrate that cigarette smuggling is not only a lucrative business for organized crime but also detrimental to the budgets of many states.

The PACT Act attacks the problem of illegal cigarette trafficking by these organized crime syndicates through its strengthening of the Jenkins Act of 1949, 15 U.S.C. §§375–378, 2003. In its current form, the Jenkins Act requires tobacco vendors to register with each State tax administrator in which they sell cigarettes, as well as file a monthly report that provides shipment information within each State. Failure to do so is a misdemeanor. Compliance with this statute enables States to collect cigarette excise, sales and use taxes from consumers. This legislation, which the distinguished Senator from Wisconsin and I are introducing, strengthens the Act by increasing the reporting requirements first established under Jenkins, expressly including cigarette orders placed through the Internet, lowering the threshold for cigarettes to be treated as contraband from 60,000 to 10,000, increasing the criminal penalty for violating the Act to a felony and creating a substantial civil penalty.

The PACT Act will also provide State attorneys general with the option to bring actions in federal court, which is a tool desired by many states. According to a GAO report from last year on Internet cigarette sales, online cigarette sellers simply do not comply with the Jenkins Act requirements—in fact most of them defiantly state that they do not comply with the Jenkins Act. Many State attorneys general realize that this practice is unfair not only to their individual States, but also to the brick and mortar retailers located in their state, placing these businesses at an unfair commercial disadvantage. Providing these state attorneys general with the ability to bring actions against these out-of-state Internet vendors for lost revenue is crucial in leveling the playing field and collecting the rightful revenue for states like Washington, California, New York, Wisconsin, Michigan and Rhode Island.

I ask my colleagues to join Senator KOHL and me in our efforts to help stop the funding of global terrorist organizations and ensure that States are able to recover lost revenue by co-sponsoring and supporting the PACT Act of 2003.

Mr. KOHL. Mr. President, I rise today to cosponsor the introduction of the Prevent All Cigarette Trafficking Act, "PACT Act" of 2003. This legislation addressed the growing problem of cigarette smuggling, and the connection between these activities and terrorist funding. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, 10 cigarette smuggling cases were initiated in 1998. That has grown to approximately 160 in 2002.

Cigarette smuggling can be defined as the movement of cigarettes from low-tax areas to high-tax areas in order to avoid the payment of taxes when the cigarettes are resold. Smugglers buy cigarettes in low-tax States such as North Carolina and Kentucky, and drive or ship the product to high-tax States and sell them on the street, to convenience stores, or to conspirators without paying the required State taxes. Some smugglers affix fraudulent State tax stamps to make it appear they have paid the State taxes that are due. The profits for cigarettes smuggling can be enormous. In North Carolina, a pack of cigarettes is taxed 5 cents. In New York, the State tax is $1.50 and in New York City, an additional $1.50 a pack city tax is levied.

It is clear that cigarette trafficking is becoming a method of terrorist financing. In an investigation last month, the AFT arrested 17 individuals who are alleged to have smuggled more than $20 million worth of cigarettes. The ring allegedly purchased cigarettes in Virginia, where the state tax is 3 cents and resold them in California without paying the California tax, which is 87 cents. In another recent investigation, the AFT disrupted a cigarette smuggling scheme between North Carolina and Michigan participants allegedly smuggled at least $8 million worth of cigarettes and sent the proceeds to Hezbollah to support terrorist activities.

The Internet is contributing to the smuggling problem because many Internet cigarette retailers are not paying the required taxes when shipments are sent to buyers in various States. It is impossible to know what happens to these ill-gotten gains. Currently, there are hundreds of tobacco retailers on the Internet claiming to sell tax-free cigarettes. Several openly proclaim on their websites that they do not report internet tobacco sales to any State's tax administrator. This is a flagrant violation of the law in every State. A recent Government Accounting Office report advised that States will lose approximately $1.5 billion in tax revenues by the year 2005 if the current state of Internet tobacco sales continues. More than ever, state governments need these tax dollars.

Compounding the problem, counterfeit cigarettes, on which smugglers have paid no taxes, are becoming more and more common. In 2001, the U.S. Customs Service made 24 seizures of counterfeit cigarettes. In 2002, they made 255 seizures. Phillip Morris estimates that 100 billion counterfeit cigarettes are produced in China alone.

The PACT Act will combat tobacco smuggling in a number of ways. First, in order to assist law enforcement and fight terrorism funding, this legislation will make violations of the Jenkins Act a felony thereby encouraging more investigations and prosecutions. The Jenkins Act, 18 U.S.C. 375, requires any person who sells and ships cigarettes across State lines to anyone other than a licensed distributor, to report the sale to the buyer's State tobacco tax administrator, thus allowing State and local governments to collect the taxes that are lawfully due. The current penalty for violating the Jenkins Act is a misdemeanor.

In my State of Wisconsin, in 2001, State authorities referred a Jenkins Act violation to the U.S. Attorney who said that this was a matter that should be handled administratively. However, Wisconsin and most States do not have remedies for these violations and they have little recourse against vendors.

This legislation also amends the Jenkins Act by explicitly expanding the definition of "sales" to include sales to a consumer via the mails, telephone, or the Internet. It will also require both sellers and shippers to submit the required reports, even when sales are to a licensed distributor. Finally, the "PACT Act" will empower State Attorneys General, and persons holding a Federal permit to manufacture or import cigarettes, to bring civil actions in Federal court to restrain violations of the Jenkins Act and to seek civil damages for the losses they have incurred. This will allow State Attorneys General to stop violators of this Federal law from operating as well as recoup their tax losses.

The PACT Act also strengthens the Contraband Cigarette Trafficking Act ("CCTA"), 18 U.S.C. 2342, which makes it unlawful for any person to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes. Under the CCTA, contraband cigarettes is defined as 60,000 cigarettes or more which bear no tax stamp. This legislation will lower the threshold from 60,000 to 10,000 in order for smuggled cigarettes to be considered "contraband," thereby allowing ATF to open more investigations and seek more Federal prosecutions of cigarette smugglers.

Finally, the PACT Act will grant ATF the ability to utilize funds earned during undercover operations to offset expenses that are incurred during those investigations. This will make the ATF's powers more comparable to those of other investigative agencies such as that the FBI and DEA, may use non-appropriated funds to make undercover purchases and pay other investigative expenses. ATF needs this authority in part because of the huge costs associated with purchasing tens of thousands of cigarettes in undercover investigations.

Cigarette smuggling is increasing and must be addressed. Enhancing the criminal laws to reduce cigarette smuggling will help deny terrorists a needed source of funding and help our States collect their revenue.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 158—COMMENDING THE UNIVERSITY OF VIRGINIA CAVALIERS MEN'S LACROSSE TEAM FOR WINNING THE 2003 NCAA DIVISION I MEN'S LACROSSE CHAMPIONSHIP

Mr. ALLEN (for himself, and Mr. WARNER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in their National Champion men's lacrosse team;

Whereas in 2003, the University of Virginia claimed its second National Championship in 5 years, with an overall season of 15 and 2;

Whereas the Cavaliers won the NCAA first round 19 to 8 against Mount St. Mary's, beat Georgetown 12 to 7 in the Quarterfinals, and Maryland 14 to 4 in the Semifinals;

Whereas the University of Virginia Cavaliers won the championship game by defeating the Johns Hopkins Blue Jays 9 to 7;

Whereas the University of Virginia team was led by A.J. Shannon with 4 goals, John Christmas with 2 goals, and received outstanding effort and support from Chris Rotelli and Billy Glading, while goalie Tillman Johnson had 13 saves and was selected Most Outstanding Player of the championship game;

Whereas every player on the Cavalier team contributed to their success in this championship season and they are Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Charlie Glazer, Zach Heffner, Brett Hughes, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl.

Whereas Head Coach Dom Starsia has coached the University of Virginia men's lacrosse team for 11 years, and has led the University of Virginia men's lacrosse team to the NCAA Tournament for a university-record 11th consecutive time;

Whereas Coach Starsia has led the team to a school record 15 wins this season;

Whereas Coach Starsia is 1 of only 3 coaches in college lacrosse history to win 100 games at 2 different colleges: the University of Virginia and Brown University; and

Whereas Coach Starsia and his coaching staff, including Assistant Coaches David Curry, Marc Van Arsdale, and Hannon Wright deserve much credit for the outstanding determination and accomplishments of their young team: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of Virginia men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the achievements of the University of Virginia men's lacrosse team and invite them to the White House for an appropriate ceremony honoring a National Champion team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this resolution to the University of Virginia for appropriate display; and

(B) transmit an enrolled copy of this resolution to each coach and member of the 2003

NCAA Division I men's lacrosse national championship team.

Mr. ALLEN. Mr. President, today I congratulate the University of Virginia Men's Lacrosse team for their victory in the NCAA Division 1 men's lacrosse championship with a 9 to 7 victory over the previously top-ranked Johns Hopkins University and submit a resolution expressing the congratulations of the United States Senate to these young men.

The University of Virginia Cavaliers Lacrosse Team captured their second National Championship title in five years, finishing the 2003 season with a record of 15 wins and 2 losses, a university record. Head Coach Dom Starsia has coached the men's lacrosse team for the past 11 years and each year has led the team to the NCAA tournament; also a university record.

As a Cavalier myself, I want to express the pride felt by all students, faculty and alumni of the University of Virginia at this tremendous accomplishment by the men's lacrosse team. Coach Starsia and his coaching staff; Marc Van Arsdale, David Curry and Hannon Wright, deserve much of the credit for the accomplishment of these student athletes and should also be commended.

The members of the University of Virginia 2003 Men's Lacrosse team have indeed made their university proud and should be applauded for their leadership, both on and off the playing field. I congratulate Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Dough Brody, Patrick Buchanan, David Burman, John Christmas, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Billy Glading, Charlie Glazer, Zach Heffner, Brett Hughes, Tilman Johnson, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Chris Rotelli, A.J. Shannon, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl for their accomplishments.

I hope my colleagues will join with Senator Warner and me to pass this Resolution recognizing the National Champion University of Virginia Men's Lacrosse team.

Mr. WARNER. Mr. President, it is with great pride that I, along with my colleague from Virginia, Mr. Allen, come before you today. I come in support of a resolution submitted by Mr. Allen and myself commemorating the University of Virginia Men's Lacrosse Team, who defeated Johns Hopkins University for the 2003 NCAA National Championship last Monday. I would like to congratulate the head coach, Mr. Dom Starsia, his staff and the 41 young men on the UVA lacrosse team for a job well-done. The Cavaliers finished the season with an impressive record of 15 wins and 2 losses and had 8 players receive All-American Honors. Goalie, Tillman Johnson, received Most Outstanding Player honors for leading Virginia to victories over the University of Maryland and Johns Hopkins University during the NCAA tournament. These student-athletes deserve this chamber's recognition for their commitment to excellence through their dedication to the UVA lacrosse team and the academic rigors of the University of Virginia during this successful season. The people of Virginia take great pride in their state colleges and universities, and the success of the University of Virginia lacrosse team is a testament to the great accomplishments, both in the classroom and on the athletic field, made by Virginia schools during the past year.

The players follow: Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, John Christmas, Michael Culver, Jack deVilliers, Kyl Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Billy Glading, Charlie Glazer, Zach Heffner, Brett Hughes, Tillman Johnson, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskey, Derrick Preuss, Chris Rotelli, A.J. Shannon, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli.

The coaches follow: Dom Starsia, David Curry, Marc Van Arsdale, Hannon Wright.

## AMENDMENTS SUBMITTED & PROPOSED

SA 843. Mrs. FEINSTEIN proposed an amendment to amendment SA 539 proposed by Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, and Mr. Baucus) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 844. Mrs. FEINSTEIN (for herself, Mr. Nickles, Mr. McCain, Mr. Kyl, Mr. Gregg, Mr. Wyden, Mr. Leahy, Mr. Schumer, Mr. Sununu, and Mr. Reed) proposed an amendment to amendment SA 539 proposed by Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, and Mr. Baucus) to the bill S. 14, supra.

SA 845. Mr. BINGAMAN (for Mrs. Lincoln) proposed an amendment to amendment SA 539 proposed by Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, and Mr. Baucus) to the bill S. 14, supra.

SA 846. Mr. FITZGERALD (for Mr. Gregg) proposed an amendment to the bill S. 313, to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

## TEXT OF AMENDMENTS

**SA 843.** Mrs. FEINSTEIN proposed an amendment to amendment SA 539 proposed by Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, and Mr. Baucus) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 12, strike lines 19 through 24 and insert the following:

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the renewable fuel requirement—

“(I) is not needed for the State or region to comply with this Act because the State or region can comply in ways other than adding renewable fuel; or

“(II) would harm the economy or environment of a State, a region, or the United States; or”.

**SA 844.** Mrs. FEINSTEIN (for herself, Mr. Nickles, Mr. McCain, Mr. Kyl, Mr. Gregg, Mr. Wyden, Mr. Leahy, Mr. Schumer, Mr. Sununu, and Mr. Reed) proposed an amendment to amendment SA 539 proposed by Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, and Mr. Baucus) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 6, between lines 17 and 18, insert the following:

“(C) Election by states.—The renewable fuel program shall apply to a State only if the Governor of the State notifies the Administrator that the State elects to participate in the renewable fuel program.

**SA 845.** Mr. BINGAMAN (for Mrs. Lincoln) proposed an amendment to amendment SA 539 proposed by Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, and Mr. Baucus) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of the amendment, insert the following:

### SEC. . ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) Acceleration of Refundability.—

(1) In general.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) Advance Payment.—

(1) In general.—Subsection (b) of section 6429 of the Internal Revenue Code of 1986 (relating to advance payment of portion of increased child credit for 2003) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) section 24(d)(1)(B)(i) applied without regard to the parenthetical therein.".

(2) Effective date.—The amendments made by this subsection shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

### SEC. . LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 of the Internal Revenue Code of 1986 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.—

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.".

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) of the Internal Revenue Code of 1986 (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) Effective Date.—The amendments made by this section shall apply to transactions after February 13, 2003.

### SEC. . NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

### SEC. . REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 of the Internal Revenue Code of 1986 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) of the Internal Revenue Code of 1986 is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) of such Code is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) of such Code is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) of such Code is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) of such Code is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) of such Code is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(7) Subparagraph (C) of section 7701(a)(19) of such Code is amended by adding "and" at the end of clause (ix), by striking ", and" at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 of such Code is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing fasits.—The amendments made by this section shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance of such interests.

### SEC. . EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) of the Internal Revenue Code of 1986 is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Exception for Certain Instruments Issued By Dealers In Securities.—Section 163(l) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) Conforming Amendment.—Paragraph (3) of section 163(l) of the Internal Revenue Code of 1986 is amended by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person".

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

### SEC. . EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 of the Internal Revenue Code of 1986 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person acquires stock in a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.".

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

### SEC. . MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) of the Internal Revenue Code of 1986 (relating to passive investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

### SEC. . CONTROLLED ENTITIES INELIGIBLE FOR REIT STATUS.

(a) In General.—Subsection (a) of section 856 of the Internal Revenue Code of 1986 (relating to definition of real estate investment trust) is amended by striking "and" at the end of paragraph (6), by redesignating paragraph (7) as paragraph (8), and by inserting after paragraph (6) the following new paragraph:

"(7) which is not a controlled entity (as defined in subsection (l)); and".

(b) Controlled Entity.—Section 856 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(l) Controlled Entity.—

"(1) In general.—For purposes of subsection (a)(7), an entity is a controlled entity if, at any time during the taxable year, one person (other than a qualified entity)—

"(A) in the case of a corporation, owns stock—

"(i) possessing at least 50 percent of the total voting power of the stock of such corporation, or

"(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

"(B) in the case of a trust, owns beneficial interests in the trust which would meet the requirements of subparagraph (A) if such interests were stock.

"(2) Qualified entity.—For purposes of paragraph (1), the term 'qualified entity' means—

"(A) any real estate investment trust, and

"(B) any partnership in which one real estate investment trust owns at least 50 percent of the capital and profits interests in the partnership.

"(3) Attribution rules.—For purposes of this paragraphs (1) and (2)—

"(A) In general.—Rules similar to the rules of subsections (d)(5) and (h)(3) shall apply; except that section 318(a)(3)(C) shall not be applied under such rules to treat stock owned by a qualified entity as being owned by a person which is not a qualified entity.

"(B) Stapled entities.—A group of entities which are stapled entities (as defined in section 269B(c)(2)) shall be treated as one person.

"(4) Exception for certain new REITs.—

"(A) In general.—The term 'controlled entity' shall not include an incubator REIT.

"(B) Incubator REIT.—A corporation shall be treated as an incubator REIT for any taxable year during the eligibility period if it meets all the following requirements for such year:

"(i) The corporation elects to be treated as an incubator REIT.

"(ii) The corporation has only voting common stock outstanding.

"(iii) Not more than 50 percent of the corporation's real estate assets consist of mortgages.

"(iv) From not later than the beginning of the last half of the second taxable year, at least 10 percent of the corporation's capital is provided by lenders or equity investors who are unrelated to the corporation's largest shareholder.

"(v) The corporation annually increases the value of its real estate assets by at least 10 percent.

"(vi) The directors of the corporation adopt a resolution setting forth an intent to engage in a going public transaction.

No election may be made with respect to any REIT if an election under this subsection was in effect for any predecessor of such REIT.

"(C) Eligibility period.—

"(i) In general.—The eligibility period (for which an incubator REIT election can be made) begins with the REIT's second taxable year and ends at the close of the REIT's third taxable year, except that the REIT may, subject to clauses (ii), (iii), and (iv), elect to extend such period for an additional 2 taxable years.

"(ii) Going public transaction.—A REIT may not elect to extend the eligibility period under clause (i) unless it enters into an agreement with the Secretary that if it does not engage in a going public transaction by the end of the extended eligibility period, it shall pay Federal income taxes for the 2 years of the extended eligibility period as if it had not made an incubator REIT election and had ceased to qualify as a REIT for those 2 taxable years.

"(iii) Returns, interest, and notice.—

"(I) Returns.—In the event the corporation ceases to be treated as a REIT by operation of clause (ii), the corporation shall file any appropriate amended returns reflecting the change in status within 3 months of the close of the extended eligibility period.

"(II) Interest.—Interest shall be payable on any tax imposed by reason of clause (ii) for any taxable year but, unless there was a finding under subparagraph (D), no substantial underpayment penalties shall be imposed.

"(III) Notice.—The corporation shall, at the same time it files its returns under subclause (I), notify its shareholders and any other persons whose tax position is, or may reasonably be expected to be, affected by the change in status so they also may file any appropriate amended returns to conform their tax treatment consistent with the corporation's loss of REIT status.

"(IV) Regulations.—The Secretary shall provide appropriate regulations setting forth transferee liability and other provisions to ensure collection of tax and the proper administration of this provision.

"(iv) Clauses (ii) and (iii) shall not apply if the corporation allows its incubator REIT status to lapse at the end of the initial 2-year eligibility period without engaging in a going public transaction if the corporation is not a controlled entity as of the beginning of its fourth taxable year. In such a case, the corporation's directors may still be liable for the penalties described in subparagraph (D) during the eligibility period.

"(D) Special penalties.—If the Secretary determines that an incubator REIT election was filed for a principal purpose other than as part of a reasonable plan to undertake a going public transaction, an excise tax of $20,000 shall be imposed on each of the corporation's directors for each taxable year for which an election was in effect.

"(E) Going public transaction.—For purposes of this paragraph, a going public transaction means—

"(i) a public offering of shares of the stock of the incubator REIT;

"(ii) a transaction, or series of transactions, that results in the stock of the incubator REIT being regularly traded on an established securities market and that results in at least 50 percent of such stock being held by shareholders who are unrelated to persons who held such stock before it began to be so regularly traded; or

"(iii) any transaction resulting in ownership of the REIT by 200 or more persons (excluding the largest single shareholder) who in the aggregate own at least 50 percent of the stock of the REIT.

For the purposes of this subparagraph, the rules of paragraph (3) shall apply in determining the ownership of stock.

"(F) Definitions.—The term 'established securities market' shall have the meaning set forth in the regulations under section 897.".

(c) Conforming Amendment.—Paragraph (2) of section 856(h) of the Internal Revenue Code of 1986 is amended by striking "and (6)" each place it appears and inserting ", (6), and (7)".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years ending after May 8, 2003.

(2) Exception for existing controlled entities.—The amendments made by this section shall not apply to any entity which is a controlled entity (as defined in section 856(l) of the Internal Revenue Code of 1986, as added by this section) as of May 8, 2003, which is a real estate investment trust for the taxable year which includes such date, and which has significant business assets or activities as of such date. For purposes of the preceding sentence, an entity shall be treated as such a controlled entity on May 8, 2003, if it becomes such an entity after such date in a transaction—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter, or

(B) described on or before such date in a filing with the Securities and Exchange

Commission required solely by reason of the transaction.

**SEC. . EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.**

(a) In General.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**"SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

"(a) General Rule.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) Program Criteria.—

"(1) In general.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) Exemptions, etc.—

"(A) In general.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) Exemption for certain requests regarding pension plans.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) Definitions and special rules.—For purposes of subparagraph (B)—

"(i) Pension benefit plan.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) Eligible employer.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) Determination of average fees charged.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) Average fee requirement.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

| **"Category** | **Average Fee** |
|---|---|
| Employee plan ruling and opinion .. | $250 |
| Exempt organization ruling ........... | $350 |
| Employee plan determination ........ | $300 |
| Exempt organization determination. | $275 |
| Chief counsel ruling ........................ | $200. |

"(c) Termination.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.".

(b) Conforming Amendments.—

(1) The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 7528. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) Limitations.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) Effective Date.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

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**SA 846.** Mr. FITZGERALD (for Mr. Gregg) proposed an amendment to the bill S. 313, to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Animal Drug User Fee Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) Prompt approval of safe and effective new animal drugs is critical to the improvement of animal health and the public health.

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of new animal drug applications.

(3) The fees authorized by this title will be dedicated toward expediting the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions as set forth in the goals identified, for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

**SEC. 3. FEES RELATING TO ANIMAL DRUGS.**

Subchapter C of chapter VII of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

### "PART 4—FEES RELATING TO ANIMAL DRUGS

**"SEC. 739. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.**

"(a) Definitions.—For purposes of this subchapter:

"(1) The term 'animal drug application' means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

"(2) The term 'supplemental animal drug application' means—

"(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

"(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

"(3) The term 'animal drug product' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

"(4) The term 'animal drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

"(5) The term 'investigational animal drug submission' means—

"(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

"(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

"(6) The term 'animal drug sponsor' means either an applicant named in an animal drug application, except for an approved application for which all subject products have been removed from listing under section 510, or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

"(7) The term 'final dosage form' means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

"(8) The term 'process for the review of animal drug applications' means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

"(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

"(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary's review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(F) Development of standards for products subject to review.

"(G) Meetings between the agency and the animal drug sponsor.

"(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not such activities after an animal drug has been approved.

"(9) The term 'costs of resources allocated for the process for the review of animal drug applications' means the expenses incurred in connection with the process for the review of animal drug applications for—

"(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under this section and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(10) The term 'adjustment factor' applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator year being 2003.

"(11) The term 'affiliate' refers to the definition set forth in section 735(9).

"(b) TYPES OF FEES.—Beginning in fiscal year 2004, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) ANIMAL DRUG APPLICATION AND SUPPLEMENT FEE.—

"(A) IN GENERAL.—Each person that submits, on or after September 1, 2003, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

"(i) A fee established in subsection (c) for an animal drug application; and

"(ii) A fee established in subsection (c) for a supplemental animal drug application for which safety or effectiveness data are required, in an amount that is equal to 50 percent of the amount of the fee under clause (i).

"(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

"(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

"(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph (B) if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

"(2) ANIMAL DRUG PRODUCT FEE.—Each person—

"(A) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

"(B) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application;

shall pay for each such animal drug product the annual fee established in subsection (c). Such fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.

"(3) ANIMAL DRUG ESTABLISHMENT FEE.—Each person—

"(A) who owns or operates, directly or through an affiliate, an animal drug establishment, and

"(B) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

"(C) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application,

shall be assessed an annual fee established in subsection (c) for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee shall be paid on or before January 31 of each year. The establishment shall be assessed only one fee per fiscal year under this section, provided, however, that where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

"(4) ANIMAL DRUG SPONSOR FEE.—Each person—

"(A) who meets the definition of an animal drug sponsor within a fiscal year; and

"(B) who, after September 1, 2003, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission,

shall be assessed an annual fee established under subsection (c). The fee shall be paid on or before January 31 of each year. Each animal drug sponsor shall pay only one such fee each fiscal year.

"(c) FEE AMOUNTS.—Except as provided in subsection (b)(1) and subsections (d), (e), (g), and (h), the fees required under subsection (b) shall be established to generate fee revenue amounts as follows:

"(1) TOTAL FEE REVENUES FOR APPLICATION AND SUPPLEMENT FEES.—The total fee revenues to be collected in animal drug application fees under subsection (b)(1)(A)(i) and supplemental animal drug application fees under subsection (b)(1)(A)(ii) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (b)(2) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(3) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (b)(3) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(4) TOTAL FEE REVENUES FOR SPONSOR FEES.—The total fee revenues to be collected in sponsor fees under subsection (b)(4) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(d) ADJUSTMENTS.—

"(1) INFLATION ADJUSTMENT.—The revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

"(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year for which fees are being established; or

"(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District Columbia.

The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2004 under this subsection.

"(2) WORKLOAD ADJUSTMENT.—After the fee revenues are adjusted for inflation in accordance with paragraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2004 to reflect changes in review workload. With respect to such adjustment:

"(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

“(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (c), as adjusted for inflation under paragraph (1).

“(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2008, the Secretary may further increase the fees to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first 3 months of fiscal year 2009 If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of 3 months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2008

“(4) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the start of each fiscal year beginning after September 30, 2003, for that fiscal year, animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees based on the revenue amounts established under subsection (c) and the adjustments provided under this subsection.

“(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

“(e) FEE WAIVER OR REDUCTION.—

“(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (b) where the Secretary finds that—

“(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

“(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

“(C) the animal drug application or supplemental animal drug application is intended solely to provide for use of the animal drug in—

“(i) a Type B medicated feed (as defined in section 558.3(b)(3) of title 21, Code of Federal Regulations (or any successor regulation)) intended for use in the manufacture of Type C free-choice medicated feeds, or

“(ii) a Type C free-choice medicated feed (as defined in section 558.3(b)(4) of title 21, Code of Federal Regulations (or any successor regulation)),

“(D) the animal drug application or supplemental animal drug application is intended solely to provide for a minor use or minor species indication, or

“(E) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

“(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

“(3) RULES FOR SMALL BUSINESSES.—

“(A) DEFINITION.—In paragraph (1)(E), the term “small business” means an entity that has fewer than 500 employees, including employees of affiliates.

“(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

“(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver under paragraph (1)(E) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

“(f) EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection (b) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 738(5)(B) that is submitted by a person subject to fees under subsection (b) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

“(g) ASSESSMENT OF FEES.—

“(1) LIMITATION.—Fees may not be assessed under subsection (b) for a fiscal year beginning after fiscal year 2003 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

“(2) AUTHORITY.—If the Secretary does not assess fees under subsection (b) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (b) relating to the date fees are to be paid.

“(h) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (b) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—The fees authorized by this section—

“(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

“(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2003 multiplied by the adjustment factor.

“(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of animal drug applications—

“(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

“(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

“(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

“(A) $5,000,000 for fiscal year 2004;

“(B) $8,000,000 for fiscal year 2005;

“(C) $10,000,000 for fiscal year 2006;

“(D) $10,000,000 for fiscal year 2007; and

“(E) $10,000,000 for fiscal year 2008;

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees.

“(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriations Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

“(i) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (b) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(j) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (e), or for a refund of any fee collected in accordance with subsection (b), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

"(k) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.

"(l) ABBREVIATED NEW DRUG APPLICATIONS.—The Secretary shall—

"(1) to the extent practicable, segregate the review of abbreviated new animal drug applications from the process for the review of animal drug applications, and

"(2) adopt other administrative procedures to ensure that review times of abbreviated new animal drug applications do not increase from their current level due to activities under the user fee program.".

**SEC. 4. ACCOUNTABILITY AND REPORTS.**

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to Congress for the goals and plans for meeting the goals for the process for the review of animal drug applications for the fiscal years after fiscal year 2008, and for the reauthorization of section 739 of the Federal Food, Drug, and Cosmetic Act (as added by section 3), the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, veterinary professionals, representatives of consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall—

(A) publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry;

(B) present the recommendations to the Committees referred to in that paragraph;

(C) hold a meeting at which the public may comment on the recommendations; and

(D) provide for a period of 30 days for the public to provide written comments on the recommendations.

(b) PERFORMANCE REPORTS.—Beginning with fiscal year 2004, not later than 60 days after the end of each fiscal year during which fees are collected under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2(3) of this Act toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

(c) FISCAL REPORT.—Beginning with fiscal year 2004, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

**SEC. 5. SUNSET.**

The amendments made by section 3 shall not be in effect after October 1, 2008, and section 4 shall not be in effect after 120 days after such date.

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LAND AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Land and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, June 12, at 2:30 p.m. in SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 434—A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System Resources; S. 435—A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; S. 490—A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; H.R. 762—To amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act and for other purposes; S. 1111—A bill to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the Record of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad; H.R. 622—To provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes. (Contact; Frank Gladics 202–224–2878 or Dick Bouts 202–224–7545).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150.

For further information, please contact the staff as indicated above.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 3, 2003 at 10:00 a.m. to hold a Hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, June 3, 2003 at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Status of Tribal Fish and Wildlife Management Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 3, 2003 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, June 3, 2003 from 10:00 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 3 at 2:30 p.m. to receive testimony regarding S. 268, authorizes the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the armed forces of the Untied States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; S. 296, to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial; S. 470, to extend the authority for the construction of a memorial to Martin Luther King, Jr.; and S. 1076, to authorize construction of an education center at or near the Vietnam Veterans Memorial.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Tuesday, June 3, 2003, at 2:30 p.m. on Space Propulsion in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. DOMENICI. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Julie Nichole Bostick and Rick Feger of my office during the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I ask unanimous consent that Wendy Miller, who is a fellow with Senator LIEBERMAN's office, be granted the privilege of the floor during the pendency of S. 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following individuals from my office be allowed floor privileges during the duration of the Energy bill over the next several days and perhaps weeks: Jesse Watson, Fayla Lucero, Evan Cochnar, Kelly-Renae Edwards, Nick Goldberg, Joshua Medina, Chet Roach, Daniel Peters, and Elaine Blest.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 186, 187, and 188. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

### FARM CREDIT ADMINISTRATION

Lowell Junkins, of Iowa, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Glen Klippenstein, of Missouri, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Julia Bartling, of South Dakota, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## MEASURE READ THE FIRST TIME—S. 1174

Mr. FITZGERALD. Mr. President, I understand that S. 1174 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1174) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. FITZGERALD. Mr. President, I now ask for its second reading and object to further proceedings on this matter.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

## ANIMAL DRUG USER FEE ACT OF 2003

Mr. FITZGERALD. Mr. President, I ask unanimous consent that action on S. 313 be vitiated and the Senate proceed to its immediate consideration; that the committee amendments be withdrawn, and that the amendment that is at the desk be agreed to, and the bill, as amended, be read a third time and passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were withdrawn.

The amendment (No. 846) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 313), as amended, was read the third time and passed.

## ORDERS FOR WEDNESDAY, JUNE 4, 2003

Mr. FITZGERALD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, June 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until the hour of 11 a.m., with the first 30 minutes under the control of Senator BROWNBACK or his designee; provided further that the remaining time be equally divided between the two leaders or their designees and that Senators be limited to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say through you to the acting majority leader, we are confident that the child care amendment offered by the Senator from Arkansas, through the Senator from New Mexico, will pass. We do not really care if it is done in the energy bill or in a separate, freestanding arrangement. Whatever the two leaders work out, we are happy to work on this.

The energy bill, as it is now before the Senate, is a revenue measure. We understand the importance of moving the energy bill. We want to cooperate in any way we can.

However, we do understand the importance of this matter that was not taken care of in the tax bill that involves 12 million children in America. So we hope that can be resolved quickly and that we can have a vote on it in the next few days. We look forward to cooperating with the majority in any way we can to move this matter forward.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FITZGERALD. For the information of all Senators, following morning business tomorrow, the Senate may resume consideration of S. 14, the Energy Bill. The Senate made progress today on the ethanol issue, and it is hoped that the Senate can complete action on that issue during Wednesday's session. Tomorrow the Senate may also consider the House Defense authorization bill under the consent order entered earlier.

In addition, discussions are under way as to a process for consideration of the child tax credit legislation. This evening, Senator GRASSLEY introduced that legislation and began the process of placing that bill on the calendar. Negotiations will continue as to the best way to address that issue.

We are also working to clear additional nominations during tomorrow's session. Therefore, Members should expect votes throughout the day, and Senators will be notified when the first vote is scheduled.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FITZGERALD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Wednesday, June 4, 2003, at 9:30 a.m.

# NOMINATIONS

Executive nominations received by the Senate June 3, 2003:

## EXECUTIVE OFFICE OF THE PRESIDENT

JOSHUA B. BOLTEN, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE MITCHELL E. DANIELS, JR., RESIGNED.

## DEPARTMENT OF LABOR

ROBERT LERNER, OF MARYLAND, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009, VICE PASCAL D. FORGIONE, JR., TERM EXPIRED.

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

### *To be lieutenant general*

LT. GEN. WILLIAM S. WALLACE, 1708

## FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### AGENCY FOR INTERNATIONAL DEVELOPMENT

BETH A. SALAMANCA, OF VIRGINIA
M. ERIN SOTO, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### AGENCY FOR INTERNATIONAL DEVELOPMENT

DAVID J. BARTH, OF VIRGINIA
KAREN J. DOSWELL, OF MARYLAND
NANCY ESTES, OF FLORIDA
SUSAN KOSINSKI FRITZ, OF WYOMING
R. DAVID HARDEN, OF MARYLAND
GARY C. JUSTE, OF FLORIDA
JANET B. PAZ-CASTILLO, OF WASHINGTON
LESLIE K. REED, OF CALIFORNIA
SCOTT ALAN STOFEL, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### AGENCY FOR INTERNATIONAL DEVELOPMENT

KATHY ELAINE BODY, OF VIRGINIA
CATHY J. BOWES, OF VIRGINIA
DERRICK S. BROWN, OF FLORIDA
ALICIA DINERSTEIN, OF NEW YORK
AMAN DJAHANBANI, OF VIRGINIA
ROGER L. LAPP JR., OF VIRGINIA
NADEREH C. LEE, OF FLORIDA
BRADFORD CLEAVELAND PALMER, OF CONNECTICUT
KERRY PELZMAN, OF NEW HAMPSHIRE
KURT A. POPE, OF FLORIDA
REBECCA JO ROHRER, OF WISCONSIN
JENNIFER L. SCOTT, OF FLORIDA
PALMER J. WYVILLE-STAPLES, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF COMMERCE

ALEXANDER G. AMDUR, OF THE DISTRICT OF COLUMBIA

### DEPARTMENT OF STATE

JUAN T. AVECILLA, OF CALIFORNIA
MARK E. BALKOVICH, OF MARYLAND
JAMES ANDREW BALL IV, OF CALIFORNIA
TIFFANY M. BARTISH, OF ILLINOIS
JEREMY A. BECK, OF IDAHO
JENNIFER L. BECKER, OF KANSAS
GREGORY L. BERNSTEEN, OF FLORIDA
NANCY ROSENKRANZ BIASI, OF OREGON
ALEC M. BIERBAUER, OF MARYLAND
MARK L. BLAIS, OF TEXAS
KEVIN BRADY, OF TEXAS
KIRNINDER PAL BRAICH, OF NEW JERSEY
JOYCE A. BROOKS, OF MARYLAND
ERIC BRADLEY BURKHART, OF VIRGINIA
THEODORE R. CALABIA, OF VIRGINIA
JOSH M. CARTIN, OF CALIFORNIA
JOSEPH LEE CHAMBERLAIN, OF COLORADO
CAROLINE CHUNG, OF VIRGINIA
MICHAEL L. COLLINS, OF VIRGINIA
BARBARA ANN CORDANO, OF TEXAS
FRED THOMAS CRAWFORD IV, OF VIRGINIA
COLLEEN E. CRENWELGE, OF TEXAS
JUSTIN CHARLES CREVIER, OF WASHINGTON
RICHARD R. DIAZ, OF VIRGINIA
MARGIT R. DITTMER, OF VIRGINIA
RACHAEL THOMASIN DOHERTY, OF THE DISTRICT OF COLUMBIA
DENISE A. ERBE, OF VIRGINIA
ANN MARIE EVERITT, OF MONTANA
STEFANIE BATES EYE, OF TEXAS
GEORGE FARAG, OF NEW JERSEY
MICHAEL L. FERNANDEZ, OF VIRGINIA
KATHRYN SMITH FITRELL, OF WASHINGTON
REBECCA L. FRERICHS, OF WYOMING
JEFFREY P. FURGAL, OF VIRGINIA
DANIEL L. GAGE, OF NEW MEXICO
DAVID JOSEPH GAINER, OF MARYLAND
SUSAN M. GOLDEN, OF VIRGINIA
MARY BETH GOODMAN, OF VIRGINIA
CHRISTOPHER M. GROVES, OF CALIFORNIA
GABRIELLE J. GUIMOND, OF WASHINGTON
ANDREW M. HAMILTON, OF VIRGINIA
JOHN HARDMAN, OF MARYLAND
DAVID B. HARRISON, OF FLORIDA
CLAUS P. HEPPNER, OF VIRGINIA
CAROLINA HIDEA, OF ARIZONA
JOHNATHAN ALEXANDER HILTON, OF THE DISTRICT OF COLUMBIA
ANNY CHI-JIN HO, OF MARYLAND
JEROME P. HOHMAN, OF THE DISTRICT OF COLUMBIA
HOLLY CHRISTINE HOLZER, OF ILLINOIS
TERESA HOOPER, OF VIRGINIA
ELIZABETH S. HOSINSKI, OF VIRGINIA
ROKSANA K. HOUGE, OF TEXAS
MICHELLE M. JAVOR, OF MINNESOTA
JAMES A. JIMENEZ, OF FLORIDA
THOMAS LESLIE JOHNSTON III, OF COLORADO
ANDRA M. JORDAN, OF VIRGINIA
WENDY ANNETTE KAHLER, OF VIRGINIA
MARY VIRGINIA KANE, OF MARYLAND
HYUN S. KIM, OF ILLINOIS
JULES KIM, OF CALIFORNIA
ANTHONY R. KING, OF VIRGINIA
TERRI L. KING, OF MARYLAND
RICHARD W. KLEIN, OF VIRGINIA
ALBERT J. KRAAIMOORE, OF NEW MEXICO
NEILL GORDON KROST, OF CALIFORNIA
LOURDES MARIA LAMELA, OF THE DISTRICT OF COLUMBIA
BRET A. LANSDELL, OF VIRGINIA
RICHARD WILLIAM LA ROCHE JR., OF CALIFORNIA
IRENE LAVOIE, OF VIRGINIA
SCOTT C. LEIBFRIED, OF VIRGINIA
LEON C. LOWDER III, OF NEW YORK
LORA OMAN LUND, OF VIRGINIA
KERRY G. MADDY, OF VIRGINIA
THOMAS MAHOLCHIC, OF VIRGINIA
ROBERT MARKS, OF OREGON
ERIK C. MARTINI, OF MARYLAND
LAURIE A. MATTHEWS, OF VIRGINIA
ANDREA MCCARLEY, OF VIRGINIA
DAVID L. MCCARTHY, OF VIRGINIA
DANIEL P. MCFEELY, OF VIRGINIA
TRINA M. MCREYNOLDS, OF TEXAS
TRACI L. MELL, OF ILLINOIS
ELISE M. MELLINGER, OF PENNSYLVANIA
HARRY B. MEYER JR., OF MARYLAND
MEGHAN M. MOORE, OF ALASKA
JEREMY NATHAN, OF ILLINOIS
BRENDAN JAMES O'BRIEN, OF VIRGINIA
JAMES A. OLEYAR, OF VIRGINIA
MARK ALAN PANNELL, OF WASHINGTON
ELAINE A. PAPLOS, OF CALIFORNIA
RONALD DREW PERKEL, OF COLORADO
JON E. PIECHOWSKI, OF ILLINOIS
RYAN T. POOL, OF TEXAS
ALLEN LEWIS POWELL, OF VIRGINIA
SANJAY RAMESH, OF NEW JERSEY
ERINN CHRISTINE REED, OF VIRGINIA
ROBERT RICHARDS, OF VIRGINIA
CHRISTINE RIEHL, OF PENNSYLVANIA
LAN H. RIGGIN, OF VIRGINIA
JEFFREY E. RIGLER, OF OKLAHOMA
PHILIP WESTON ROSKAMP, OF TEXAS
JOSHUA N. RUBIN, OF VIRGINIA
JOSEPH HARRY RUNYON, OF FLORIDA
CONSTANTINE M. SAAB, OF VIRGINIA
DAVID SAUER, OF MINNESOTA
JILL MARIE SECARD, OF FLORIDA
DAVID J. SHAO, OF TEXAS
MACHUTMI AWUNGSHI SHISHAK, OF PENNSYLVANIA
JAMES MATTHEW SINDLE, OF VIRGINIA
PATRICK ISAMU SMELLER, OF MARYLAND
KATHLEEN SPEAR, OF VIRGINIA
JOSEPH A. STRZALKA, OF MICHIGAN
LISA SWENARSKI DE HERRERA, OF CALIFORNIA
CATHERINE E. TAYLOR, OF UTAH
IVETTE M. TIMMINS, OF VIRGINIA
JULIE MARGUERITE VIBUL, OF TENNESSEE
GEORGE L. WARD, OF MARYLAND
MICHAEL B. WITHAM, OF VIRGINIA
CHRISTIAN YARNELL, OF NEW JERSEY
KENNETH M. ZURCHER, OF KANSAS
AREND C. ZWARTJES, OF TEXAS

CONSULAR OFFICER OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

DENIS P. COLEMAN JR., OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATED OF AMERICA, CLASS OF COUNSELOR

### DEPARTMENT OF STATE

C. STEVEN MCGANN, OF NEW YORK

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

### DEPARTMENT OF STATE

PETER H. CHASE, OF WASHINGTON

## PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

### *To be medical director*

THOMAS D. MATTE

### *To be senior surgeon*

WILLIAM B. BAINE
MAURA K. DOLLYMORE
TERRY J. GOLDEN
AUGUSTA E. HAYS
RICHARD S. KAPLAN
MARY L. LINDEGREN
VICTORIA T. RAMIREZ

### *To be surgeon*

WILLIE CACHO
KIMBERLEY K. FOX
MICHAEL F. IADEMARCO
ALI S. KHAN
PETER H. KILMARX
DAVID K. KIM
ABRAHAM G. MIRANDA
ABELARDO MONTALVO
DAVID M. MORENS
JOHN F. MORONEY
LYNN A. PAXTON

### *To be senior assistant surgeon*

MICHAEL G. BRUCE
DANIEL R. FEIKIN
BRUCE W. FURNESS
ALICIA GARCIA
RICHARD S. HARRIS
DENISE J. JAMIESON
PAUL T. KITSUTANI
VENKATARAMA R. KOPPAKA
MONA SARAIYA

### *To be senior dental surgeon*

DONALD C. BELCHER
MICHAEL F. GMUREK
GARY L. PANNABECKER

### *To be dental surgeon*

MARK R. BOGNAR
JEFFERY R. COMBS

### *To be senior assistant dental surgeon*

MARLON A. BROWN
CHARLES G. HOUCK
GLENN P. MARTIN
KATHLEEN M. OCONNOR
GODFREY O. ONUGHA
TIMOTHY L. RICKS
TODD M. TOVAREK
CHARLES M. WEBER

### *To be nurse director*

AUDREY M. KOERTVELYESSY

### *To be senior nurse officer*

DAVID W. EDDINGER
STEPHANIE L. KING

### *To be nurse officer*

AMY S. COLLINS
THOMAS B. ELLIS
ANGELA M. MARTINELLI
GENISE Y. NIXON
JAMES R. REID
JAMES F. SABATINOS
DEBRA L. SCOTT
LYNN A. SLEPSKI
TINA ALICE TAH
FRANCES E. WALL

### *To be senior assistant nurse officer*

JANICE ADAMS
PETER D. BENNETT
WILLIAM D. BODEN
KAREN M. COOK
CATHERINE M. DENTINGER
LISA A. DENZER
MICHELLE E. DOSSETT
DIANE DOUGLAS
SHANNON C. DUNN
ANTHONY L. DURAN
TODD D. GENZER
BRENT T. HALL
CHRIS L. HENNEFORD

JODI L. HENNESSY
DIANNE MISKINIS HILLIGOSS
WILLADINE M. HUGHES
ANITA L. JOHNSON
KAREN L. KOSAR
ANITA C. KRUMM
STARDUST W. MAZZARIELLO
LYNN L. WEISS

*To be assistant nurse officer*

CINDY L. BRITT
ALEXIS MOSQUERA
SPENCER T. SMITH

*To be senior engineer officer*

DAVID KOSKI
SHARON A. MILLER

*To be senior assistant engineer officer*

STEVEN J. ANDERSON
FRANK B. BEHAN
CHARLES M. COTE
JONATHAN W. FOGARTY
CHUCRI A. KARDOUS
DENMAN K. ONDELACY

*To be senior scientist*

FRANCOIS M. LALONDE

*To be scientist*

CHARLES D. KIMSEY JR.

*To be senior assistant scientist*

RICHARD S. GARFEIN
MINNIS T. HENDRICKS JR.
ROBIN L. LYERLA
KATHLEEN Y. MCDUFFIE
STEPHANIE R. MILES-RICHARDSON
JOSHUA A. MOTT
STEPHANIE L. SANSOM

*To be senior sanitarian*

DAVID A. BLEVINS

*To be sanitarian*

ROBERT S. NEWSAD

*To be senior assistant sanitarian*

CHRISTOPHER W. ALLEN
MYRNA J. BUCKLES
TIMOTHY E. JIGGENS
JOSEPH W. MATTHEWS
A THOMAS MIGNONE JR.
ALAN G. PARHAM
RHONDA S. SEARS

*To be senior assistant veterinary officer*

JENNIFER H. MCQUISTON

*To be pharmacist director*

JAMES U. IMHOLTE

*To be pharmacist*

JEFFREY T. BINGHAM
JEFFREY R. FRITSCH
GARY M. GIVENS
RAYMOND GOLDSTINE
VERNON T. LEW
JUDY L. ROSE
PETER WEISS

*To be senior assistant pharmacist*

JAMES T. BARLOW
LYNDALL S. BLACKMON
LANA Y. CHEN
MICHAEL J. CONTOS
TRACY L. FARRILL
ELLEN C. FRANK
EDWARD A. HOUSER
ALINA R. MAHMUD
DAVID G. MOENY
SURYAMOHAN V. PALANKI
JENNIFER SRIVER POST
ANN M. REYNOLDS
JULIE K. RHIE
BRIAN D. SCHILLING
KENNETH H. SCHMIDT
MARK N. STRONG
BRANDON L. TAYLOR
STACEY A. THORNTON
ROBYN R. TILLEY
CASSONDRA M. WHITE

*To be assistant pharmacist*

ELAINE J. HU
ELIZABETH F. YUAN
JOSEPH F. ZAGAME III

*To be senior dietitian*

GLEN P. REVERE

*To be dietitian*

ELAINE J. AYRES

*To be senior assistant dietitian*

ROBERT M. COLLISON
GRAYDON T. YATABE

*To be therapist*

MARTHA A. DUGANNE

*To be senior assistant therapist*

MIKE D. FAZ

*To be assistant therapist*

DAMIEN W. AVERY
TESHARA G. BOUIE
AYANNA Y. HILL
JACKIE M. PETERMAN

*To be senior health services officer*

JAMES F. SAVIOLA

*To be health services officer*

TERRY J. SCHLEISMAN
DANA R. TAYLOR

*To be senior assistant health services officer*

JEFFREY T. BOSSHART
ANA D. CINTRON
GARY M. COLE
BRIAN K. CULLIGAN
CHRISTOPHER C. DUNCAN
ABNNAH B. FORBES
ANNA T. GONZALES
DIANE C. HANNER
JOSEPH B. HENRY
DAWN A. KELLY
JEAN O. PLASCHKE
JACQUELINE D. RODRIGUE
DONNA RUSCH
JAY A. SELIGMAN
JOHN H. STADICK
JENNIFER S. STEUBEN

*To be assistant health services officer*

ALLYSON M. ALVARADO
MARJORIE BALDO
REBECCA A. BUNNELL
STANTON C. HAWKES
SUZANNE CAROLE HENNIGAN
AMY L. HOLDER
SCARLETT A. LUSK
RONALD R. PINHEIRO

## CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 3, 2003:

### FARM CREDIT ADMINISTRATION

LOWELL JUNKINS, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

GLEN KLIPPENSTEIN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

JULIA BARTLING, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# HOUSE OF REPRESENTATIVES—*Tuesday, June 3, 2003*

The House met at 10:30 a.m.

## MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 5 minutes.

## MONEY: THE PHARMACEUTICAL INDUSTRY'S MIRACLE DRUG

Mr. BROWN of Ohio. Mr. Speaker, PhRMA, the lobbying shop for America's drug companies, has a problematical condition. It is suffering from that most debilitating of special interest deficiencies: sickly message. PhRMA has to come in with a straight face and tell public officials: if you support efforts to lower the cost of prescription drugs, we will not have the resources to develop the next generation of miracle medicines.

Now, anyone who knows even a little about the drug industry knows that that argument does not hold water. We know that with profit margins consistently pushing 20 percent, the drug companies are the most profitable industry in America for 20 years running. They have the lowest tax rate in America. Half of all the drugs developed in this country, half of all the research and development for drugs in this country is done by taxpayers. But without a shot in the arm, PhRMA, the drug industry's lobbying arm, PhRMA's case of anemic message might result in an acute loss of profits.

Fortunately for the drug industry, it has found a miracle cure of its own, a very effective drug called money, and they are using it to change the way America thinks. Here in Washington you see the drug companies' money everywhere. They spend untold millions on high-priced inside-the-Beltway lawyers to tell the administration and Congress that State initiatives to control drug costs violate the law by putting Medicaid beneficiaries at risk.

And they spend big money, really big money to sell this message to Congress and the White House. The drug companies spent over $70 million lobbying House and Senate Members during the last election cycle. They spent almost $90 million on political campaign ads. They know where their bread is buttered. They know who their friends are. Almost 90 percent of their campaign spending was on behalf of Republicans. And they were especially generous to President Bush in his 2000 race and already for his 2004 race.

And by any standard, the money that drug companies have spent on Republicans is well spent. Rather than use its influence to bring down prices in the United States, the Bush administration, infused with all kinds of drug industry campaign dollars, is using its power to prevent Americans from purchasing the same medicine in Canada for one-half, one-third, and one-fourth the price. The Medicare prescription drug bill passed last year by the Republican-led House does nothing to curb the ever-escalating price of drugs. In fact, the Republican bill throws more money, more government dollars, more taxpayer funds at the drug companies.

For the 1¼ million people in my State of Ohio without health insurance, and for the tens of millions throughout this country, the problem is not whether the giant multinational drug companies will be able to afford to develop another version of Viagra or another "Me Too" drug. For working Ohio families and seniors struggling to make ends meet, the problem is they cannot afford the drugs that are available today.

In Ohio, as in other parts of the country, seniors have grown tired of waiting for the Federal Government to address the high price of prescription drugs. They know they cannot count on President Bush, who receives millions of drug company dollars. They know they cannot count on the Republican leadership. The Ohio Coalition for Affordable Drugs wants to let the citizens of Ohio decide for themselves; and PhRMA, the drug industry's lobbying arm, is pulling out all the stops to block their plan.

Millions of Ohioans would benefit from this plan. Savings are estimated as high as 50 percent. That is why PhRMA is working so hard to make sure the proposal never makes it to the ballot in Ohio. PhRMA sued over the language of the proposal. After that failed to stop the initiative, they challenged petitions trying to get people's signatures disqualified because they had moved or because they have not voted for a couple of years.

But the complete absence of a valid argument has never slowed the drug industry's friends down. No, PhRMA marches relentlessly on in its efforts to derail the Ohio prescription drug savings issue. PhRMA plans to spend $16 million, more than the total amount of money spent on the Governor's race last year in Ohio. The drug industry plans to spend $16 million to keep the issue off the ballot; and if it gets on the ballot, millions of dollars to defeat it. That is money they did not spend researching medical breakthroughs. It is money they are not spending helping families afford the latest generation in miracle drugs.

No, the drug industry is spending that $16 million to delay and to deny the citizens of Ohio an opportunity to exercise their right to vote on whether prescription drug prices should come down. PhRMA is not engaging in a debate or arguing against the merits of the plan; they are smart enough to know a losing campaign when they see one. Instead, they are trying to get the election called on a technicality.

PhRMA, the drug industry, and the Republicans are counting on PhRMA's money, the miracle pill that has worked before, to make its problems go away. I do not know if that trusty remedy will work this time. There is a growing understanding in Ohio, and I think there is throughout the country, that when push comes to shove the drug industry's priority is profit, not patient safety. If the drug company's real priority is patient safety, why are they spending so much money to ensure that we cannot afford the medicine that so many of us need?

## FULFILLING OUR PROMISE

The SPEAKER pro tempore (Mr. SCHROCK). Pursuant to the order of the House of January 7, 2003, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates for 5 minutes.

Mr. DELAY. Mr. Speaker, this week, the House of Representatives will implement another item on the President's agenda. We have been voting for 6 years to ban the cruel and unnecessary violence of partial-birth abortion. At long last, Congress will take the same decision our constituents took years ago. We will call infanticide by its name.

The House is well aware of the debate, and we will repeat it once again before we finally send this legislation to a President who is willing to sign it. It will become law. And when it does, we will become a slightly better Nation for it.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

But beyond the specific victory this will be for its tireless proponents, the passage and enactment of the Partial-Birth Abortion Act will be a victory for the American families we were sent here to serve.

Last November, in the face of uncertainties about war in Iraq and a sagging economy, the American people elected this Congress to get things done. Our mandate was to rise above partisan gridlock to complement President Bush's leadership instead of undermining it. Five months into our first session, we have passed major legislation not just in the House but in the Senate as well. And we are not just passing paper, we are passing laws.

In addition to the partial-birth abortion ban, the Armed Services Naturalization Act has significant bipartisan support and can quickly become law. We are also pursuing the President's initiative to reform Medicare with a prescription drug benefit to help those seniors who need it the most. This is on top of the jobs and growth package to create more than 1 million new jobs and provide for our economic security.

And the global AIDS bill to help curb the spread of HIV/AIDS in the most vulnerable regions of this world. And the Child Protection Act to prevent and punish sexual predation against our children. And the war budget to fund the liberation of Iraq and the reconstruction of its government.

Mr. Speaker, this Congress is helping this President produce results. And with every law we pass and he signs, we move another step closer to fulfilling America's promise and, just as important, fulfilling our promise to America.

## BAIT AND SWITCH

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from New Mexico (Mr. UDALL) is recognized during morning hour debates for 5 minutes.

Mr. UDALL of New Mexico. Mr. Speaker, what the gentleman from Texas (Mr. DELAY) does not say is that what this piece of legislation on the floor today does is take away a woman's right to choose, take away a woman's right to reproductive freedom, and it is part of a concerted effort on behalf of the Republican Party to pack the courts with judges who would repeal Roe v. Wade. That is what the real issue is when it comes to this piece of legislation the gentleman from Texas just talked about.

Mr. Speaker, last month, President Bush visited my home State of New Mexico. He came to sell his tax cut. The President said, and what many of his minions have been saying over the last couple of months, is that every taxpayer was going to be helped by this tax cut. He emphasized how the child tax credit would help all taxpayers. Well, now the bill has been signed and we have read the fine print, and guess what? New Mexico, in fact, is going to get very little in the way of a tax cut for working families. Virtually nothing. Zero. Nada.

When I was Attorney General and we used to work on cases called consumer scams, we used to call this tactic bait and switch: tell them one thing to sell them the idea and complete the sale, and give them something completely different and hope they will never find out. Bait and switch. One of the oldest consumer scams. That is what this tax cut was all about.

The Republican National Committee is also in on this scam. The committee, on its Web site, asks the question: Who benefits under the President's plan? And I read from the Web site: "Everyone who pays taxes, especially middle income Americans."

Why bait and switch? Because they do not want you to know who gets the lion's share of benefits from this tax cut: millionaires. In 2005, 200,000 taxpayers making $1 million or more will get 44 percent of the benefits. Eight million, mostly low- and middle-income taxpayers will not receive any benefit, not a penny from the law. Forty times as many taxpayers who get no benefit from the cuts as there are millionaires who get 44 percent of the law's benefits. Let me repeat: 40 times as many taxpayers who get no benefit from the cuts as there are millionaires who get 44 percent of the law's benefits.

What can we say about a tax cut and a fiscal policy which rewards the rich at the expense of the middle income? What can we say about a tax cut which will force us to cut health care, education, and homeland security? What can we say about a tax cut and fiscal policy which deprives the government of revenue it needs to make the United States a strong and vital Nation?

The normally staid Financial Times of Britain answered the question this way: the lunatics are now in charge of the asylum. The lunatics are now in charge of the asylum.

## PRESCRIPTION DRUG PACKAGE IMPORTANT FOR RURAL HEALTH CARE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from West Virginia (Mrs. CAPITO) is recognized during morning hour debates for 5 minutes.

Mrs. CAPITO. Mr. Speaker, I stand here today as a Member of Congress to emphasize the importance of passing a meaningful, comprehensive prescription drug package now. But I know my voice is small, even as a Member of Congress, compared to a senior citizen who has to choose between paying for living expenses or prescription drugs. That voice needs to be heard in Congress.

I heard that voice in Paw Paw, West Virginia. I heard that voice in Martinsburg, West Virginia. And I heard that voice again in Mill Creek, Moorefield, Franklin, Gassaway, and Cedar Grove. Those are all of the towns in West Virginia that I visited and have visited during my year-long district tour of rural health centers and during the last two district work periods.

I am sure I will hear that voice again when I visit more rural health care centers. I will probably hear it more from women, because women represent 72 percent of the population age 85 and older.

□ 1045

Mr. Speaker, women are more likely to have lower incomes in their retirements. There are twice as many women as men 65 years or older with annual incomes less than $10,000.

I want to modernize Medicare with a guaranteed prescription drug benefit so when I visit my district again and resume my rural health tour, it is not to hear what the problem is, but to say that the problem has been worked on and a solution has been passed by this Congress.

## MISGUIDED REPUBLICAN POLICIES

The SPEAKER pro tempore (Mr. SCHROCK). Pursuant to the order of the House of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized during morning hour debates for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to applaud the process that is beginning in the Middle East this very morning. I remind my colleagues of the long journey that we have taken toward peace. I am reminded of the continuous and ongoing negotiations of the administration of President William Jefferson Clinton, who believed in the concept of peace in the Middle East. I recall the near-midnight negotiations prior to the inauguration of this President that President Clinton engaged in. The single word I remind my colleagues of is "engagement."

I am reminded of my floor speech in February, 2001, saying to the new administration that you cannot cease to engage in the peace process of the Middle East. Unfortunately, our voices were not listened to, and so for at least a 9-to-10-month period the suicide bombings continued, the lack of engagement promoted nonpeace in the Middle East.

Today, I am gratified that there is now a recognition that the only way we can bring the parties to the table is to remain engaged. I encourage and, of course, ask that this administration not make this a 48-hour tailspin of meetings and greetings, but that we seriously continue to engage with our friends in the Middle East, the Palestinians and the Israelis, and work with them hand in hand on the question of peace. I would ask that we continue to do so.

Mr. Speaker, I want to say one word about the three-vote removal of the First Amendment yesterday by the FCC. Unfortunately, three Republican commissioners decided that the First Amendment did not need to be promoted in this Nation by allowing the media to be able to conglomerate print, TV, and radio in one hand. I had a town hall meeting by radio, by KPFT, where 5,000 people listened to one of the commissioners who had sense and indicated that America does itself a disservice when America extinguishes the voices of opposition.

In small or rural markets where one conglomerate owns every voice, we will not hear a different perspective. Shame on the FCC. I call on this Congress to do something that makes sense and speak on behalf of the American people and reignite the First Amendment.

Let me conclude by making an announcement to just be able to reaffirm that all of the promises made by the $350 billion tax cut is nothing but garbage. There is no truth in it whatsoever; and I am proud to stand here and say I voted against it. The New York Daily News says the poorest suffer the unkindest. They were told they were going to get a child tax credit, and if you are the working poor, working every day, providing for your family, guess what, you do not get a $400 check in the mail, you get zero because, unfortunately, all of the folk rushing to give all of the money to the richest of this Nation forgot about giving a tax cut to those who deserve it the most.

And let me cite the New York Times on Sunday, June 1, that says "Second study finds gaps in tax cuts." The gaps are that working Americans do not really get the tax cut that they need, that 95 percent of this money goes to those making $374,000. Former Secretary of the Treasury Paul O'Neill said this is an economy geared towards the richest. It says, "Clearly, low-income taxpayers will not receive any benefits from this law." It goes on to cite the egregiousness of the $350 billion tax cut where working poor, making $10,000 a year, do not get a child tax credit.

Do Members know how many children they represent in America? Twelve million children are not impacted by this tax cut. Now we have the other body trying to fix it by proposing a Senate bill, if you will, that fixes it; but let me tell you how long it takes for a bill to get through this Congress: a long time. They are even debating the fact whether or not an opponent of the bill will require 60 votes.

I can assure Members that all of the voices that were raised telling Members this was a bogus tax cut, those suggesting it would create jobs, what a joke. It takes a million dollars to create two jobs under the Bush plan. If the Democratic plan had passed, we would have had investment in health care and investment in homeland security. We would have had investment in transportation. What would that have done to the increasing job loss? It would have created more jobs.

Mr. Speaker, a bogus tax plan has been passed. Americans need to wake up and deal with the idea of fighting for what is right. We will continue to fight for it and find a way to provide jobs and opportunities for Americans.

## ESTABLISHING FAIRNESS IN TAX CODE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Mr. Speaker, I rise today to commend President Bush for his leadership, to thank this Congress for passing a tax plan that is predicted by outside and independent economists to generate about 1.3 million new jobs over the next 18 months, legislation that says if you pay Federal income taxes, you will receive Federal income tax relief.

For the people of Illinois that I represent, it is estimated that the average Illinois family will see an extra thousand dollars in higher take-home pay. If they are Federal income taxpayers, they will receive Federal income tax relief.

The bottom line is that it will create jobs. If we put extra money in the pocketbook of workers, we put incentives for workers to invest, and it creates jobs.

One of the issues I have been involved in over the last several years has been an effort to bring fairness to the Tax Code, and that is to address the issue of the marriage tax penalty. A quirk in the Tax Code or a complicated Tax Code which has gotten more complicated over the years where you had a situation where both the husband and wife were in the workforce, and because they both are in the workforce and pay Federal income taxes, when they file, as married, they file jointly, combine their incomes, and that pushes them into a higher tax bracket; whereas if they lived together and filed as two single people, they would have saved money. Is that right, that under our Tax Code 42 million married working couples paid on average $1,700 in higher taxes just because they are married?

I have an example of a couple in Joliet, Illinois, that I represent, Jose and Magdalena Castillo. They are construction workers in Joliet. Their son is Eduardo and their daughter is Carolina. For them, their marriage tax penalty has been about $1,400. For them, $1,400, that is several months' worth of car payments or day-care for their children while they are at work, or home mortgage payments for this family. So eliminating the marriage tax penalty and bringing fairness to the Tax Code will make a big difference in the lives of the Castillos of Joliet, Illinois.

I am proud to say in the first tax cut of 2001, we passed the first effort into law to eliminate the marriage tax penalty. It had twice been vetoed by Bill Clinton, but President Bush signed it into law, an effort to phase out the marriage action penalty. I am pleased to commend the President for signing into law the Jobs and Economic Growth Package that made effective this year the elimination of the marriage tax penalty. So rather than Jose and Magdalena Castillo having to wait over this decade for the marriage tax penalty to be eliminated, we eliminated it this year.

So that means the Castillos will have an extra $1,400 that they will be able to spend at home to take care of their family's needs, make some improvements around the house, buy some back-to-school clothes, and make a down payment on a new car. That creates jobs.

I am pleased to say the President signed the legislation passed by a majority of the House and the Senate, which will eliminate the marriage tax penalty now.

When we think about it, this unfairness in the Tax Code had existed for years, and those on the other side of the aisle, they resisted efforts to eliminate the marriage tax penalty. They said we could better spend the money here in Washington than Jose and Magdalena Castillo back in Joliet, Illinois. I am pleased to say that a majority of this House believes that Jose and Magdalena Castillo of Joliet, Illinois, can better spend their hard-earned money back in Joliet, Illinois, than I and my colleagues can for them here in Washington.

I think we need to be celebrating the fact that we eliminated the marriage tax penalty, and we did it in two ways. For those who itemize their taxes, people like Jose and Magdalena Castillo, they are homeowners, so they itemize their taxes, we widen the 15 percent tax bracket so people like Jose and Magdalena Castillo can earn twice as much as a single person and stay in the 15 percent tax bracket, and that wipes out their marriage tax penalty.

And for those who do not own a home or give to their church or institution of faith or charity, so they do not have enough to itemize, they use something called the standard deduction, under our legislation, we double the standard deduction to twice that for singles, and for those who do not itemize, we eliminate the marriage tax penalty.

I thank the Republican majority and President Bush for eliminating the marriage tax penalty and helping bringing fairness to the Tax Code in 2003.

## WORKING FAMILIES LEFT BEHIND

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, I listened to the comments of my Republican colleague who just spoke, and I have to say it is very difficult for me to celebrate the Republican tax bill because the fact of the matter is, so many working people have been left out and are not receiving any benefits from the Republican tax bill. It was interesting to listen to the previous speaker because he talked about if money was going back to working families, they could go out and spend it and that would help the economy. If that is the case, why were so many families left out of the child tax credit or left out of other benefits that were basically going, under this Republican tax bill, to the high-income people?

The spin on the other side of the aisle is amazing, but the editorial comments during the Memorial Day recess have basically shown this is essentially a fraud. The Republican tax bill does not do what it purports to do, and it leaves out so many working people. For those who might doubt what I say, I want to mention some of the editorial comments in the New York Times and Washington Post in the last couple of days.

In Monday's New York Times there was an opinion by Bob Herbert called "The Reverse Robin Hood," and I will go through certain sections that Mr. Herbert said. He said, "If you wanted a quintessential example of what the Bush administration and its legislative cronies are about, it was right there on the front page of the Times last Thursday: 'Tax Law Omits $400 Child Credit for Millions.'

"The fat cats will get their tax cuts. But in the new American plutocracy, there won't even be crumbs left over for the working folks at the bottom of the pyramid to scramble after.

"When House and Senate negotiators met last week to put the finishing touches to President Bush's tax bill, they coldly deleted a provision that would have allowed millions of low-income working families to benefit from the bill's increased child tax credit.

"It was a mean-spirited and wholly unnecessary act, a clear display of the current regime's outright hostility toward America's poor and working classes.

"The negotiators eliminated a provision in the Senate version of the tax bill that would have extended benefits from the child tax credit to families with incomes between $10,500 and $26,625. This is not a small group. According to the Center on Budget and Policy Priorities, the families that would have benefited include about 12 million children, one of every six kids in the U.S. under the age of 17."

Mr. Speaker, how are you going to tell me that somehow this is putting money back in the pockets of working people?

□ 1100

These are working people. These people are not on welfare. They are out there working. They are getting nothing.

Then it goes on to say in the Herbert article:

And readers of yesterday's Times learned that another group of some 8 million mostly low-income taxpayers, and I say taxpayers, primarily single people without children, will also be left behind, getting no benefit at all from the President's tax cuts.

The comments just continue. This was yesterday's, Monday's, Washington Post. The editorial for the newspaper says, Children Left Behind. It says:

"Even for a debate over taxes, the public discussion taking place right now about child credits in the new tax law is particularly galling. Stiffing these children was not a last-minute oversight or the unfortunate result of an unreasonably tight $350 billion ceiling. Adjustments had to be made," a spokeswoman for the House Ways and Means Committee said, as if those on her side would have preferred otherwise. In fact, the administration did not include this provision in its original, $726 billion proposal. The House did not include it in its $550 billion version. The Senate Finance Committee did not include it.

So when you try to get some suggestions from the Republicans that they are going to come down here and say, oh, this was an oversight or we are going to correct it, the President did not have this child tax credit for these people in his original proposal, the Senate Republicans did not have it, the House Republicans did not have it. How can they come down here and suggest that somehow it is an oversight? They say they are going to correct it. I hope they do correct it, but that is going to take some time, and I question whether in fact they really will correct it.

The amazing thing to me is that we as Democrats have been saying all along how this Republican tax bill was not going to put money into the pockets of working families. Now all the editorial comments in every major newspaper say that that is true, the Daily News, you name it. Wherever it is around the country, they are all admitting the fact now that it is not true, that money is not going to those working people at the lower end of the spectrum. They are not getting the child tax credit. They are not getting anything. How can the Republicans now suggest that somehow that was an oversight or they are going to correct it in the future? The fundamental basis of their tax policy has been to give large amounts of money back to wealthy people, not to the average American. And the consequence of that is that the average American does not have money in his pocket, and there is no economic stimulus coming from this tax bill because it is not putting money back into the pockets of the average American in the way that they can go out and meaningfully spend it and actually have some stimulation for the economy. It is not happening.

## THE NEW ERA OF BIOTECHNOLOGY

The SPEAKER pro tempore (Mr. SCHROCK). Pursuant to the order of the House of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, next Thursday, June 12, the subcommittee I chair on research will hold a hearing on biotechnology, the potential and the safety. I am a farmer in Michigan, and this is the first year that I have used the so-called roundup ready soybeans to plant on my farm. I have held back, thinking that maybe the nongenetically modified soybean would bring a higher price or have expanded markets, especially in some of those areas of the world that are rejecting it.

However, that has not been the case. Biotechnology is now one of the most promising sectors of the economy. It is revolutionizing medicine with at least 95 biotech drugs already approved in the U.S., and there are another 371 drugs on the table for acceptance that are being developed for medications that could help cure cancer, heart disease, diabetes, and many other conditions. Biotechnology will produce higher-quality foods that can provide both nourishment and immunization to many of the billions of hungry people around the world.

In our NSF bill that was signed into law last December 22, we put language in that bill for grants to work with scientists from African countries to help develop the kind of products that could best help their particular country. Unfortunately, biotechnology has come under attack from some in the European Union and elsewhere who hope to avoid competition in this area. The Speaker of the House, USAID administrator, and leading scientists will testify at our congressional hearing June 12 on the safety and potential of plant biotechnology.

Back in the summer of 1999, the journal "Nature" published a study suggesting that pollen from genetically modified corn could harm the monarch butterfly population, really sort of sparking a worldwide controversy. While follow-up studies have since proven that such pollen presents no danger to monarchs, the foundations of fear based on emotion had been set, and soon other nonscience-based allegations about plant biotechnology emerged.

In response, my House Subcommittee on Research met with leading scientists across the country and followed with a series of hearings investigating the potential benefits and safety concerns associated with plant biotechnology. Our findings, compiled in a comprehensive report that we wrote that I entitled "Seeds of Opportunity," showed that crops developed through biotech were just as safe as those crops produced with traditional crossbreeding. Three years since we released the report, its findings still hold true and are now backed by an even larger body of scientific evidence. Also, America's three-pronged safety review by USDA, FDA, and EPA for biotech products comes as close to guaranteeing safety as you can get. I think that is why the Speaker of the House, DENNIS HASTERT, and several of us in Congress joined with Bush administration officials last month on May 12 to announce that the United States would file a WTO challenge to the European Union's import ban on genetically modified crops.

Enter Africa. President Bush rightly charged that the EU's ban is an unjust burden on the world's poorest countries. With approximately 180 million undernourished people and perennial low yields and quality brought about by droughts, insects and other disasters, Africa stands to benefit tremendously from GM crops. Yet here is the European Union exploiting Africa's dependency on the EU as a trading partner to stall acceptance of GM crops. Let me give Members an example. Starving Zambia rejected 23,000 tons of emergency U.S. food aid because Europe implied that it could respond by rejecting future corn exports from that particular country. There is even some evidence that EU pressure is impeding even research into new crop varieties that could feed Africa, that could cure a blight problem in bananas.

Our research subcommittee will be examining the barriers to plant biotechnology in Africa in more detail next week at the hearing and the Speaker of the House is going to be testifying about the challenge and about the safety as well as the administrator of AID and other scientists.

Mr. Speaker, in conclusion, sound science should drive what we do, not emotion.

Sound science should drive trade and regulatory decisions associated with transgenic food crops, not protectionism masquerading behind a thin veil of unfounded fears. The U.S. challenge moves us one step closer to removing the unfair barriers that hurt American farmers and deny the people of Africa a wonderful tool for combating hunger.

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## REGARDING THE LATEST TAX CUT

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from California (Mr. GEORGE MILLER) is recognized during morning hour debates for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, the President's spokespeople, the Republicans in Congress and the Republican National Committee, appear to be having some trouble with the truth, that is, because they have suggested that everyone who pays taxes would benefit from the recent tax cut. They have said that those who pay the taxes will get the tax cut, that those who earn the least will benefit the most.

It is simply not true. It is simply not true, because they made a decision to leave millions of families, with millions of children, out of the child tax credit, a tax credit that we give families to raise children. But they simply decided that those families earning between $10,000 and $26,000 a year would not be eligible for the child tax credit. Somehow I guess these families have additional money to raise their children that people over $26,000 a year do not have so they get to do this. They made a fundamental decision about unfairness, about inequity, about greed; and they decided that they would rather give this money to 200,000 millionaires so they could get a tax cut of $93,000 a year because if they gave this tax cut to those families who are going to work every day trying to support their children on low wages, that they would have to give those millionaires only $88,000 a year. So those families, those working American families between $10,000 and $26,000 a year, got nothing in terms of the increase in the child tax credit. The rest of the families in America will get a $400 check this summer. These families will get nothing. Yet the President, the Republicans in Congress, in the House and the Senate, want to suggest that this was an accident and they are going to cure it.

It was no accident. It was never in their bill, in either version of their bill. They simply made the decision that they did not think these people were worthy of the child tax credit, a tax credit that passed this Congress on a bipartisan basis because we thought the government ought to do something to help these families with the cost of raising their children; so that those moms who wanted to stay home, maybe this would allow them to stay home, or those fathers who wanted to stay home, maybe this would allow them to stay home; or it would defer the cost of child care or health care or whatever it takes as we raise our children in this country. But the Republicans have now decided for millions of American families, they are not going to be treated the same.

Of course we find out as we look at this tax bill for almost 50 million Americans, they will not be treated the same because they are not going to get much of a benefit. They just simply decided that they were going to declare class warfare on low-income working people in this country. There is no other result.

But now they want to lie about it. Now they want to pretend like they were not part of it. Now they want to pretend like they are going to fix it. No, the Bush-Cheney class in America just declared warfare on working families. But that is only the beginning, because it is the Bush-Cheney class in America that has denied those same families an increase in the minimum wage because many of these families work at the minimum wage. The minimum wage today is worth $4.75 in real wages. They will not increase it. They will not give those families the child tax credit. This week later on the floor they are going to try to take away their overtime pay, and they are passing regulations so fewer and fewer Americans are eligible for overtime, a pay that many Americans use to hold their families together because that increase in pay for overtime makes a difference in their yearly salary in the support of their families. And, of course, for many of these same children who will not get the child tax credit, they are taking away their health care at the State level.

When is it that the Bush administration decided that they were going to declare war on America's working families, especially low-income working families? One of my colleagues was here talking about how they fixed the marriage penalty, that they got rid of the marriage penalty. Well, if two people who are earning 10 or $12,000 a year get married, as single people, they would get a $2,500 credit because they are both low-income working people. If they get married, they lose $1,000 of their credit. They have almost a 50 percent tax assessed on them because they get married.

Why is this happening to these people who are struggling to get up and go to work every day? Every day they go to work in hard, difficult jobs, jobs that many Americans would prefer not to do. And at the end of the year they end up poor. They end up struggling to take care of their children. They end up struggling to educate them. They end up struggling to provide them health care. They end up struggling to provide them with decent housing. And this government, this administration, the Bush administration, has decided to cut them out of the tax bill.

And they want to talk about fairness in America? They want to talk about justice in America? They want to talk about freedom in America? I do not think so, Mr. and Mrs. America, because they made a conscious decision.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman's time has expired.

The Chair must remind Members to avoid personally offensive references to the President.

Mr. GEORGE MILLER of California. . . .

The SPEAKER pro tempore. The gentleman's time has expired.

## REGARDING YESTERDAY'S FCC DECISION

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Washington (Mr. McDERMOTT) is recognized during morning hour debates for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I come to the floor today to make a public service announcement. Yesterday was an extremely important day in this country's history.

□ 1115

The FCC voted to allow increased consolidation of the media. They are tightening the noose on the neck of the First Amendment.

The NRA is opposed to what happened yesterday, and so is JIM McDERMOTT, so you know how damning what happened yesterday really is. If you can get people as far apart as the NRA and me on the same issue, you have got a real problem in this country.

Now, my public service announcement is this: Stop watching the U.S. press. Stop watching the television. It is the opiate of the masses. They are using it to put you to sleep. You should cancel your subscription and buy a subscription to a foreign newspaper, maybe the Financial Times of London, or the Guardian, or the Scotsman from Edinburgh or the Sunday Herald from Sidney, Australia.

Why do I say this? Because you have to read the foreign press to find out what is going on in this country. The Financial Times of London was the one that reported that the President hid, or, excuse me, I should not mention the President, it was the administration that hid the report that says we are going to be $44 trillion in debt because of these tax cuts. To put that in perspective, that means every single American, every man, woman and child, everything they earn for 4 years, that is what $44 trillion is. And the President and his folks did not want us to know about it, so they left it out. But the London Times found it.

Reuters came up with a story about the chaos in Iraq. You think the Iraq war is all over and there is no more problem. According to our press, the only thing that matters is this guy that blew up a bomb in Atlanta about 6 years ago. They have suddenly forgotten Iraq.

But if you listen to what happened, Reuters says they interviewed one of the chiefs in Baghdad who said the entire Iraqi people is a time bomb that will blow up in the Americans' face if they do not end this occupation. "The Iraqi people did not fight the Americans during the war. Only Saddam's people did. But if the people decide to fight them now, they are in big trouble."

One man said, "All of us will become suicide bombers. I will turn my six daughters into bombs to kill the Americans."

That is what we have created over there, and we are glossing over it now. But if you read Reuters, you will find that out. If you do not read Reuters, you will never get it out of our paper.

Then we come to the next issue. You have got to read the Scotland paper, the Edinburgh Scotsman. What do they say? They say regime change in Iran is starting a countdown. That is the editorial headline. Regime change has not been in any of the speaking so far, but you start to see that the phrase has found its way into a bunch of briefings. And now, it is not a done deal, there is a big fight between the war department and the State Department. The war department is the one that took us into Afghanistan, they took us into Iraq, and they are over there ready to go again. It sounds sort of familiar. It is the same way the drumbeat started in this country in September when I said that the President would lie to take us to war. People were outraged. How could you say such a thing?

Well, where are the weapons of mass destruction? Please tell me. I am looking. Mr. Blair is going to have an investigation of him.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SCHROCK). Members must avoid personally offensive references to the President.

Mr. McDERMOTT. Mr. Speaker, I thank you for that reminder.

Mr. Blair is going to be under investigation in the British House of Commons. One member said it is worse than Watergate, what has gone on in Great Britain.

But in this country, do we expect the Republican Party to come out and investigate the President of the United States, misleading us, or the administration misleading us, excuse me? The administration misled us, these nameless, faceless people they put out there, sent out there to tell what they wanted said.

That is what you have to get. You will get this if you read the Scotsman. If you do not read the Scotsman, you will not know where we are going next.

You know, last night another American soldier died, another American soldier died in Iraq, shot in an ambush. Now, every one of those soldiers is important. When I was a psychiatrist during the Vietnam War and I dealt with these kids coming back, they were all important, and that kid that was killed last night was important. But you will not hear anything about it in our media, because you are not reading the right stuff.

Get rid of the paper. It is the opiate of the masses.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon.

Accordingly (at 11 o'clock and 20 minutes a.m.), the House stood in recess until noon.

□ 1200

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at noon.

## PRAYER

The Right Reverend John Clark Buchanan, Retired Episcopal Bishop of West Missouri, offered the following prayer:

Almighty God, You gave us this good land for our heritage. May we always prove ourselves a people mindful of Your favor and glad to do Your will. Bless our land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion, from pride and arrogance, and from every evil way. Defend our liberties, and fashion into one united people the diverse multitudes brought to this welcoming land. Endow with wisdom those to whom in Your name we entrust the authority of government, especially this House of Representatives, that there may be justice and peace at home, and that, through obedience to Your law, we may show forth Your praise among the nations of the Earth. In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in You to fail, a prayer we bring to Your throne of grace. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Missouri (Ms. McCARTHY) come forward and lead the House in the Pledge of Allegiance.

Ms. McCARTHY of Missouri led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ACKNOWLEDGING TODAY'S GUEST CHAPLAIN, THE RIGHT REVEREND JOHN CLARK BUCHANAN, RETIRED EPISCOPAL BISHOP OF WEST MISSOURI

(Ms. McCARTHY of Missouri asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCARTHY of Missouri. Mr. Speaker, it is an honor for me to acknowledge our guest chaplain today, the Right Reverend John Clark Buchanan. What a joy it was to hear his voice once again, inspiring me and others to do good work.

John Clark Buchanan is the retired Episcopal bishop of West Missouri, having served our area from 1989 to 2000. He has a diverse background, having been a lawyer in private practice and in the insurance industry prior to his ordained ministry.

Bishop Buchanan currently serves as a parliamentarian for the House of Bishops of the Episcopal Church. We in western Missouri are very grateful for the 11 years he served us. He created the most successful Bishop Spencer Place, a moderately priced retirement center for our elderly.

He also, in his 11 years, established stable financial funding for the church, and also did extensive planning for new churches in the area outside of greater Kansas City. Key among his reforms and his instrumental efforts were, of course, reaching out and creating and establishing Hispanic missions.

Bishop Buchanan lives in Charleston, South Carolina, with his wife Peggy. They have two daughters and two grandchildren. I thank him for taking his time to come and deliver this thoughtful prayer with us this morning.

## CONGRATULATING CHRISTOPHER COLUMBUS HIGH SCHOOL ON WINNING FLORIDA STATE CLASS 6A BASEBALL CHAMPIONSHIP

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate Christopher Columbus High School in my congressional district for winning the Florida State Class 6A Baseball Championship. Columbus enjoyed an 8–2 win, thanks to a seven-run rally in the bottom of the sixth. This marks the first State baseball title for Columbus, that has long had one of the most outstanding baseball programs in Miami-Dade County and, indeed, in our State.

Christopher Columbus is a private Roman Catholic college prep school conducted by the Marist Brothers. In addition to its strong athletic program, Columbus has an exceptional academic program, as well. It uses a holistic approach to education where the entire person is encouraged to grow in truth and freedom.

Please join me in congratulating Christopher Columbus and its coach, Joe Weber, for their phenomenal win.

## DEMOCRATS WILL BE HEARD TODAY DURING PROCEEDINGS UNDER SUSPENSION CALENDAR

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, it is with a heavy heart that I approach the floor to alert the House that a substantial number of Members are prepared to see that we do not pass suspension bills until such time as the grievances of this great body are addressed.

As most of us know, recently this House passed a tax bill without the inclusion of one thought, one amendment, one idea that the Democrats have had. There comes a time that we have to say, enough is enough, not because we are Democrats, but because we represent people throughout these United States whose interests have been ignored.

Six and one-half million low-income working families and 12 million children have been denied the benefits that this House was allowed to believe existed in the tax bill. It was excluded. Why? It was excluded to make certain that the money borrowed from the Treasury would take care of the high-income people receiving relief from capital gains and from interest taxes.

We will be heard today, Mr. Speaker.

## BURMA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I was shocked and deeply disturbed by events over the weekend in Burma, the arrest of Aung San Suu Kyi and the death of the prodemocracy activists there. The Government of Burma should release Aung San Suu Kyi and end its brutal dictatorship of the people of Burma.

The government says that Suu Kyi is in "protective custody." Burma's record of protecting its people is highly suspect. The people of Burma have suffered for too long from the SPDC, from campaigns of systematic rape, murder, forced labor, destruction of villages, food sources, and a myriad of other atrocities, including the deaths of many small children.

The international community, particularly Burma's neighbors, must press the Burmese military government to recognize the fact that the people want freedom. The government must accept the legitimate election of the National League for Democracy. The world community should condemn the dictatorship's actions.

I call on the U.S. Government to take deliberate, serious action to help free Aung San Suu Kyi and the people of Burma. To the people of Burma, we stand with them.

## HUMAN RIGHTS FOR THE TIBETANS AND THE BURMESE

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, I rise to draw attention to two recent events signaling a step backward for basic human rights. The Nepali Government violated international law by jailing 18 Tibetan refugees instead of turning them over to the United Nations. Nepal then made these refugees prisoners of the Chinese, the very people that they were fleeing.

International refugee law is well settled, that once Tibetans reach Nepal, they are turned over to the U.N. for safe passage. Nepal's action flies in the face of her commitment to international law, and American tourists should not visit Nepal.

Second, in Burma on Friday the military dictatorship detained many members of the National League of Democracy, including Nobel Peace Prize winner Aung San Suu Kyi, and closed all universities. Suu Kyi, the elected leader of her country, was beaten, and her whereabouts are currently unknown.

I want to commend Secretary Powell for speaking out against both governments, and urge Members of Congress to call attention to these two governments, Nepal and Burma, that are turning back the clock on human rights.

## ACTION BY FCC ENDANGERS AMERICA'S BASIC FREEDOMS

(Mr. SCOTT of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT of Georgia. Mr. Speaker, I rise this morning to state how disappointed and, quite frankly, disturbed I am with the actions of the FCC on yesterday. That was a very dangerous vote to the future of this country. This country was founded on many, many freedoms, but none more basic than the freedom of the press, freedom of information, and the diversity of that information.

That action on yesterday by the FCC certainly puts us at a very clear and present danger of losing that freedom of the press in many respects. It will certainly short-circuit small business people, entrepreneurs, and others from having an opportunity to own media. It will certainly lessen the diversity of thought, shaping the opinions, and will certainly almost completely devastate community values and community controls.

I daresay that certainly what is happening on the national stage and international stage is important, but is it not important knowing what happened to a parent's Little League son and how he performed, or what is happening in the board of education?

I urge Members to join with me in sponsoring a bill that will overturn this FCC ruling, the Byrd-Dingell bill.

## EXPRESSING SUPPORT FOR THE AMERICAN FLAG

Mr. BURNS. Mr. Speaker, I rise today to express my support for the American flag. For more than 200 years, the American flag has been the symbol of our Nation's strength and unity. It has been a source of pride and inspiration for millions of citizens. It has been a prominent icon in our national history.

To the colonists, it represents the free country for which they fought. For the Jewish people in World War II, it simply symbolized survival. For African Americans, they view the flag as the promise of a time when all men will be treated equally. Now it symbolizes a new day in Iraq.

So many brave men and women sacrificed their lives to protect the principles for which it stands, a flag that embodies justice, democracy and, most of all, freedom. The American flag deserves to fly proudly throughout America.

## FCC MEDIA OWNERSHIP DECISION

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice my concerns over the FCC's decision to relax media ownership rules. The new regulations would allow a single company to own 45 percent of media that reaches United States households, instead of the current 35 percent.

As it stands now, there are only a handful of media companies that we get to see, that we see, that we hear, and that we can read. When we do this, there will be an even smaller number of media companies owning a larger share of the media market.

□ 1215

And that moves us dangerously close to a monopoly-like situation in the mass media business. One of the greatest things about our country is freedom of press and freedom of speech. That is what our Constitution has in it. Under these new regulations, we are moving toward limiting the information that citizens get to see because there will be fewer points of view brought forward because there are fewer companies. Congress should take a closer look at this.

## DO NOT LEAVE CHILDREN AND VETERANS BEHIND

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, this Congress has passed and the President has signed into law a tax cut that takes care of the millionaires but leaves many of our children and our veterans behind. Right today, young Americans are serving this Nation in Iraq with young children waiting for them here at home. And ironically, many of those children will not receive any benefit from the child tax credit that was contained in that tax bill.

Think of that. Young Americans fighting for this country and their children are going to be left out of the benefit. Not only children, but veterans are getting the shaft. It is shameful, it is shameful that we would drive this country into debt, take care of our millionaires, and leave our children and our veterans behind. It is time for the people of this country, Mr. Speaker, to wake up and realize what is happening.

## CLOWN CAR TAX POLICY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the Leave No Child Behind President recently signed into law the third largest tax cut in history. But the tax bill was really like one of those clown cars you see at the circus. Because of the budget gimmicks, the Republicans squeezed nearly a trillion dollars in tax cuts into something that only looked big enough to hold $350 billion.

The whole tax bill was a big masquerade and the Congress participated in the party. While pressing for these tax cuts, President Bush declared, My jobs and growth plan will reduce tax rates for everyone. Everyone, I emphasize, who pays income tax. That is wrong.

In fact, 8.1 million lower- and middle-class Americans who paid billions of dollars in income tax will receive no tax reduction whatsoever; 36 percent of American households, 50 million households, in the United States will receive no benefit whatsoever.

Now, if I wonder where the next clown will pop up, maybe it will be in the White House.

## TAX BILL ROBS MILITARY FAMILIES

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, there they go again. When the Republicans are faced with a choice of helping millionaires with tax credits or giving low-income people some help they need with the same tax credits, they choose the millionaires every time.

Once again, the President, and the President's bill, and the Republicans have robbed millions of low-income families of the child tax credit that has long been part of the bill. What some might not realize is that a large number of low-income military families, that is right, military families, will be affected by this change. These are men and women who have been serving overseas, enduring economic hardship in order to protect our country. But by this shameful act of the majority that we should address immediately, they will not be able to get the same tax benefit that a millionaire will get.

It is offensive to say, it is offensive to say to the people of this Nation that we can afford to give huge tax credits to millionaires, but cannot come up with a few hundred dollars to help low-income military families who have sacrificed so much and need this money the most. I hope the sanity of this House will restore those tax credits.

## ABSTINENCE EDUCATION

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I rise today to remind my colleagues of the devastating effect of sexual activity on our Nation's youth.

Just today the Heritage Foundation released a new report entitled "Sexually Active Teenagers Are More Likely to Be Depressed And to Attempt Suicide." In this study, Robert Rector, Kirk Johnson, and Lauren Noyes outlined the psychological and emotional aspects associated with teenage sexual activity.

The data shows that there is a real correlation between teen sexual activity and depression and even between sexual activity and suicide in the ages of 14 through 17. Sexually active teenage girls are three times more likely to be depressed than their classmates who are abstinent. Sexually active boys in their teens are more than twice as likely to be depressed. Furthermore, 14 percent of sexually active teenage girls report having attempted suicide, a threefold increase over their peers who are abstinent.

This report demonstrates the value of abstinence education.

## TAX CUT LEAVES MANY FAMILIES OUT IN THE COLD

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I rise also today to express my outrage in passing an irresponsible tax cut that Republicans gave. They gave $100,000 tax breaks to the largest and most polluting SUVs and left out millions of working-class families.

The $350 billion tax cut left out the working poor, left out a lot of Latinos in my district and a whole lot of people in the State of California. That is because Republicans prevented families that I represent in my district that make under $26,625 from receiving a child tax credit.

Thirty percent of Latino families in my district will not be able to claim any child tax credit at all; that is 1.6 million Latino families in the State. By contrast, only 17 percent of Latino families will see any benefit from the dividend tax cut. Thirty-one percent of Californian families also are not being helped by any child tax credit, and that is 2.4 million children in California alone, all children. So while SUVs continue to pollute our air, keep us dependent on foreign oil, spew out greenhouse gases and get a big tax break, working families get nothing.

## BURMA SHOULD FREE AUNG SAN SUU KYI

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, shortly after I was elected to Congress 15 years ago, I went to the jungles of Burma and met with a group of young people who were then struggling for freedom and democracy in their country. They showed me a picture of Thomas Jefferson and said, We do not like Karl Marx. We want to have a government like you have in the United States, where people are free.

I will never forget that. They were up against one of the most brutal dictatorships in history, the SLORC regime, the military dictatorship that runs the country of Burma, although they would like to call it Myanmar.

The bottom line is the SLORC dictatorship is still in power after all of these years, and they have just put under arrest Aung San Suu Kyi, one of the true heroes of freedom on this planet, a Nobel Prize winner. Aung San Suu Kyi, we do not know where she is. She is under arrest. They murdered and brutalized many of the democratic activists there.

Today, this Congress needs to be aware of what is going on in Burma, and we must warn the dictators in Burma they will not get away with the dirty deed if they have touched one hair on the head of Aung San Suu Kyi.

## NO MORE BUSINESS AS USUAL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise to speak on a matter of urgent concern. Today we put the House on notice that business as usual will stop until this body restores tax relief for millions of working low-income Americans.

We act and we speak out today because of a simple act of treachery: Congress taking from hard-working poor people to give to the rich, an act that abandoned millions of families and their children, 12 million children, and a tax bill that will cost $1 trillion over the next decade, that will give 184,000 millionaires a tax break of $93,000. The administration and this Republican majority could not find $3.5 billion to help one out of every six children.

These millionaires must somehow have greater moral value than the working poor, people who are scheduled to get nothing in this bill. Mr. Speaker, this is the most unconscionable legislation ever passed in this body with no economic justification and no moral justification; and we are through doing business as usual in this body until this gets fixed.

## BUSINESS AS USUAL WILL STOP

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I want to join my colleague, the gentlewoman from Connecticut (Ms. DELAURO), in saying that it would be unconscionable for the House to continue to do business as usual when the voices and the needs of millions of hard-working American families have been closed out of the people's House. Without being able to participate in the final negotiations over the tax bill, with Vice President CHENEY in the room, the Republican leaders of the Senate, the Republican leaders of the House, they decided to simply exclude some 6 million families, some 12 million children who would be entitled to the $400 increase in the child tax credit.

That means that this summer those families on behalf of their children, those families that go to work every day would not get a $400 check as will millions of other American families on behalf of their children. But this administration and this Congress closed those voices out of the debate on the tax bill. They have quietly cut a bill to exclude the Senate amendment that was there to protect those families and to protect their children, and to help them educate their children and provide health care for their children.

No, we cannot continue to do business as usual when this Republican leadership and the administration cuts millions of Americans out of the Democratic system.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which a vote is objected to under clause 8 of rule XX.

RECORD votes on postponed questions will be taken later today.

## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

The Clerk read as follows:

S. 222

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Zuni Indian Tribe Water Rights Settlement Act of 2003".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417. In

re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian communities in the Little Colorado River basin, the parties have entered into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this Act.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) EASTERN LCR BASIN.—The term "Eastern LCR basin" means the portion of the Little Colorado River basin in Arizona upstream of the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) FUND.—The term "Fund" means the Zuni Indian Tribe Water Rights Development Fund established by section 6(a).

(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and the State of Arizona described in article 6 of the Settlement Agreement.

(4) PUMPING PROTECTION AGREEMENT.—The term "Pumping Protection Agreement" means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) RESERVATION; ZUNI HEAVEN RESERVATION.—The term "Reservation" or "Zuni Heaven Reservation", also referred to as "Kolhu:wala:wa", means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the Round Valley Water Users' Association, the Salt River Project Agricultural Improvement and Power District, the Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

(8) SRP.—The term "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(9) TEP.—The term "TEP" means Tucson Electric Power Company.

(10) TRIBE, ZUNI TRIBE, OR ZUNI INDIAN TRIBE.—The terms "Tribe", "Zuni Tribe", or "Zuni Indian Tribe" means the body politic and federally recognized Indian nation, and its members.

(11) ZUNI LANDS.—The term "Zuni Lands" means all the following lands, in the State of Arizona, that, on the effective date described in section 9(a), are—

(A) within the Zuni Heaven Reservation;

(B) held in trust by the United States for the benefit of the Tribe or its members; or

(C) held in fee within the Little Colorado River basin by or for the Tribe.

**SEC. 4. AUTHORIZATION, RATIFICATIONS, AND CONFIRMATIONS.**

(a) SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act. The Secretary is further authorized to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 6(a), $19,250,000, to be allocated by the Secretary as follows:

(1) $3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 9(b).

(2) $15,750,000, of which $5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this Act.

(c) OTHER AGREEMENTS.—Except as provided in section 9, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

**SEC. 5. TRUST LANDS.**

(a) NEW TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 9(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4, S 1/2 NE 1/4 SE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;

(B) Section 23: N 1/2, N 1/2 SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SW 1/4 SE 1/4;

(C) Section 24: NW 1/4, SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4; and

(D) Section 25: N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 19: W 1/2 E 1/2 NW 1/4, W 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4, S 1/2 SW 1/4;

(B) Section 29: SW 1/4 SW 1/4 NW 1/4, NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW 1/4 SE 1/4;

(C) Section 30: W 1/2 , SE 1/4; and

(D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4.

(b) FUTURE TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 14: SE 1/4 SW 1/4, SE 1/4;

(B) Section 16: S 1/2 SW 1/4 SE 1/4;

(C) Section 19: S 1/2 SE 1/4 SE 1/4;

(D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;

(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;

(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;

(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;

(H) Section 29: N 1/2 N 1/2;

(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4; and

(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) New Reservation Lands.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) Limitation on Secretarial Discretion.—The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) Lands Remaining in Fee Status.—The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) Final Agency Action.—Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) No Federal Water Rights.—Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) State Water Rights.—The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) Forfeiture and Abandonment.—Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) Ad Valorem Taxes.—With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) Authority of Tribe.—For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) Federal Acknowledgement of Intergovernmental Agreements.—

(1) In general.—The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) No abrogation.—The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent with subparagraph 6.2.A of the Settlement Agreement and this Act.

(3) Removal.—

(A) In general.—Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) Exception.—The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 8(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) Rule of Construction.—Nothing in this Act shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) Disclaimer.—Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes" approved August 28, 1984 (Public Law 98-408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101-486; 104 Stat. 1174)).

**SEC. 6. DEVELOPMENT FUND.**

(a) Establishment of the Fund.—

(1) In general.—There is established in the Treasury of the United States a fund to be known as the "Zuni Indian Tribe Water Rights Development Fund", to be managed and invested by the Secretary, consisting of—

(A) the amounts authorized to be appropriated in section 4(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) Additional deposits.—The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) Management of the Fund.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) Investment of the Fund.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) Availability of Amounts From the Fund.—The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 9(a) have been met.

(e) Expenditures and Withdrawal.—

(1) Tribal management plan.—

(A) In general.—The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) Requirements.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 4(b).

(2) Enforcement.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this Act.

(3) Liability.—If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) Expenditure plan.—

(A) In general.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) Description.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) Approval.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) Annual report.—The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) Funds for Acquisition of Water Rights.—

(1) WATER RIGHTS ACQUISITIONS.—Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 4(b)(1)—

(A) shall be available upon appropriation for use in accordance with section 4(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) RIGHT TO SET OFF.—In the event the requirements of section 9(a) have not been met and the Settlement Agreement has become null and void under section 9(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 4(b)(1), together with any interest accrued, against any claims asserted by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) WATER RIGHTS.—Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

### SEC. 7. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.

(a) FULL SATISFACTION OF MEMBERS' CLAIMS.—

(1) IN GENERAL.—The benefits realized by the Tribe and its members under this Act, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for—

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a).

(2) NO RECOGNITION OR ESTABLISHMENT OF INDIVIDUAL WATER RIGHT.—Nothing in this Act recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) TRIBE AND UNITED STATES AUTHORIZATION AND WATER QUANTITY WAIVERS.—The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) TRIBAL WAIVERS AGAINST THE UNITED STATES.—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 9(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the effective date described in section 9(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 9(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(d) TRIBAL WAIVER OF WATER QUALITY CLAIMS AND INTERFERENCE WITH TRUST CLAIMS.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—

(A) INTERFERENCE WITH TRUST RESPONSIBILITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) INJURY OR THREAT OF INJURY TO WATER QUALITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 9(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(VI) any combination of the causes described in subclauses (I) through (V).

(2) CLAIMS OF THE UNITED STATES.—The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring—

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 9(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(3) LIMITATIONS.—Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), as described in subparagraph 11.4(D)(3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 9(a).

(e) WAIVER OF UNITED STATES WATER QUALITY CLAIMS RELATED TO SETTLEMENT LAND AND WATER.—

(1) PAST AND PRESENT CLAIMS.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 9(a) arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) FUTURE CLAIMS.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 9(a) caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) EFFECT.—Subject to subsections (b) and (e), nothing in this Act or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

### SEC. 8. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—If any party to the Settlement Agreement or a Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this Act, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 4(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of Article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under Article 5 of the Settlement Agreement, naming the United States or the Tribe as a party—

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

(b) TRIBAL USE OF WATER.—

(1) IN GENERAL.—With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation—

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 9(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 5 that is reasonably equivalent to State water law (including statutes relating to dam safety and groundwater management); and

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

(2) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on the Zuni Heaven Reservation to any other place.

(B) EXCEPTION.—Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) RIGHTS-OF-WAY.—

(1) NEW AND FUTURE TRUST LAND.—The land taken into trust under subsections (a) and (b) of section 5 shall be subject to existing easements and rights-of-way.

(2) ADDITIONAL RIGHTS-OF-WAY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) ALTERNATIVES.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) CERTAIN CLAIMS PROHIBITED.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) VESTED RIGHTS.—Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this Act and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this Act, the Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph (1), (2), or (3) of section 4(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.

(f) OTHER CLAIMS.—Nothing in the Settlement Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.

(g) NO MAJOR FEDERAL ACTION.—

(1) IN GENERAL.—Execution of the Settlement Agreement by the Secretary as provided for in section 4(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(2) SETTLEMENT AGREEMENT.—In implementing the Settlement Agreement, the Secretary shall comply with all aspects of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

### SEC. 9. EFFECTIVE DATE FOR WAIVER AND RELEASE AUTHORIZATIONS.

(a) IN GENERAL.—The waiver and release authorizations contained in subsections (b) and (c) of section 7 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This Act has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 4(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this Act and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) DEADLINE FOR EFFECTIVE DATE.—If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 4 and 5, and any agreements entered into pursuant to sections 4 and 5 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 4(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to paragraph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 222, authored by Senator JON KYL and identical legislation provided by the Senator and introduced by me and other members of the Arizona delegation, would resolve water rights claims and litigation in the Little Colorado River basin.

I would like to commend the commitment and the perseverance of Senator JON KYL, who has put many hours and much time into this important bill.

The bill provides much-needed assurance to settlement participants and is the result of 4 years of good-faith negotiations between the Federal Government, the Zuni Indian Tribe, the State of Arizona, and local water users and utilities.

By settling water rights claims and litigation, the legislation will allow the Zuni Indian Tribe to restore and repair wetlands important to the tribe's religious and cultural traditions. Wetland restoration will be done through a variety of means, including surface and groundwater development, while grandfathering current non-Indian water rights. This grandfathering mechanism provides certainty to the local non-Indian communities that depend on water resources in the Little Colorado basin.

The settlement also avoids lengthy and costly litigation. The parties involved have come together to find a responsible, commonsense solution that improves the environment, fulfills religious and cultural traditions, and provides a clear water supply roadmap for the area.

It is now up to Congress to take the final steps to make the settlement a reality. I ask my colleagues to pass this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 222 is a unique water rights settlement, carefully designed to protect the Zunis' most sacred sites, while at the same time preserving access to water supplies for upstream water users.

□ 1230

I extend my compliments to the Zuni people, the State of Arizona and the non-Indian organizations who participated in the negotiations that resulted in this historic water settlement.

Mr. Speaker, we have no objection to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from the First District and would like to pause at this time, Mr. Speaker, to really commend my new colleague for stepping into the people's House and doing the people's work, and again, I would just simply pause at this juncture, knowing that some of the atmospherics that are at work today, I would just, Mr. Speaker, ask my colleagues to stop and think about the legislation at hand and what other tactics may come into play that could be counterproductive and hurt the very people so many in this Chamber come to champion.

It was my privilege to originally sponsor this legislation in the 107th Congress, and it is my honor to cosponsor this bill with my good friend and colleague from the First District, the gentleman from Arizona (Mr. RENZI).

This legislation ratifies the settlement concerning the Zuni Indian tribe's water rights on the Little Colorado River in eastern Arizona. The bill will provide for a wetlands restoration at Zuni Heaven, an area of land along the Colorado River that is sacred to the Zuni tribe of New Mexico. Consistent with the principles of tribunal sovereignty, Indian self-determination and religious freedom, this legislation will settle ancient water rights and ensure that those rights are preserved for all future generations of the Zuni people.

The Zuni tribe's water claim is no new development. In fact, litigation of the water rights on the Little Colorado River Basin has been ongoing for nearly a quarter of a century now. This legislation represents a culmination of this process in a way that will reduce expenses for all parties involved. Indeed, we should look at this settlement process demonstrated in this particular case as a model for other settlements.

The affected parties have recognized that final resolution of these water claims through litigation is counterproductive and hurtful to the tribe, neighboring non-Indian water users, local towns, utility and irrigation companies, the State of Arizona and, ultimately, Mr. Speaker, to the United States. Therefore, negotiations have brought forward a settlement agreed to by all parties; and we now, Mr. Speaker, in the people's House have the opportunity to codify this settlement with passage of this legislation.

Mr. Speaker, the merit of this legislation speaks for itself. Again, I commend my colleague, the gentleman from Arizona (Mr. RENZI), for bringing this bill forward in such an expeditious manner, making it one of his top priorities, bringing it to the floor today.

Mr. Speaker, I would like to end on a hopeful note, that while other atmospherics may be at work in this Chamber, this is a chance to strike a blow for common sense, for Native American self-determination and for something that is vital to the people of Arizona and New Mexico.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentlewoman for yielding me the time, and I thank her for presenting this bill on the floor. And this bill has been properly represented. It is a matter of sorting out the equities between Indian water right users and non-Indian water right users, the needs for wetlands development and to protect the sacred rights of the lands of the Zuni people.

That is what the legislative process is supposed to be about, but that is not what it was about 2 weeks ago when we passed a tax bill. We could talk about balancing the equities of the Zuni people and the water rights of this bill.

### POINT OF ORDER

Mr. RENZI. Requesting regular order, Mr. Speaker.

The SPEAKER pro tempore (Mr. CULBERSON). Members are reminded that they should always confine their remarks to the subject matter before the House.

Mr. GEORGE MILLER of California. Mr. Speaker, that I am.

We are talking about a bill that has gone through many, many years of negotiation and a bill that is designed to balance the equities. We spent considerable time on a tax bill.

Mr. RENZI. Mr. Speaker, I would ask for a germane issue and regular order; I would ask that the issue at hand, which is the water rights for the Zunis, be addressed and not be used for a side show, and ask for regular order, please.

Mr. GEORGE MILLER of California. Mr. Speaker, regular order is what the gentleman from California is following.

The SPEAKER pro tempore. The Chair will listen to the gentleman's remarks, and expects that the gentleman will confine his remarks to the bill before the House, and if the gentleman's remarks lose the requisite nexus, the Chair will sustain a point of order.

Mr. GEORGE MILLER of California. Mr. Speaker, once again, I would say that this bill is about a legislative process where all sides have been heard, agreement has come. That is why this bill is on suspension. And yet we have seen that that legislative process has not worked for millions of American families and their children when the tax bill left out their equitable claim; as the Zunis claim an equitable claim for their traditional water rights, for the historic water rights, these people were making an equitable claim on behalf of their children.

They were making an equitable claim that their children, their family, should get the same $400 that millions of other American families got, but in designing the tax bill, the Republicans simply left out those wage earners, those people who go to work who earn $10,000 to $26,000 a year, some 12 million children who will not get the benefit of the child tax credit.

The Zunis would argue, if we simply cut them out of the water development rights, if we simply cut them out of their historic water rights and we gave it to non-Indians for use in development or we protected the wetlands and we did not take care of their sacred lands, they would argue it is not fair.

I am simply presenting that the arguments that are presented here today on behalf of the Zunis, which are very reasonable, very fair, were never presented on behalf of millions of Americans when they were cut out of a tax bill; and they will now not receive their check this summer as will others.

### POINT OF ORDER

Mr. RENZI. Mr. Speaker, regular order.

The SPEAKER pro tempore. The Chair would remind Members it is essential to maintain a nexus between the subject matter before the House and the scope of their arguments.

Mr. GEORGE MILLER of California. The gentleman from California would say to the Chair, I think there is a very strong nexus being maintained here. It is about equity and it is about justice, and it is about economic justice. It is about historic claims.

The child tax credit is not new. It is an old claim before this Congress, where the Congress decided the children of the Zuni tribe would be entitled to a tax credit if their parents worked. Many Zunis, I suspect, are eligible for that tax credit, but they are not under this tax bill because of the difficulty in finding the kind of wages that would pay what would make them eligible for that kind of tax credit.

The nexus is here. The nexus is clear. The nexus is about an abuse of the legislative process, unlike the one which we are going through here. That is why my colleague from Connecticut (Ms. DELAURO) said that we should not operate business as usual. The ranking member of the Committee on Ways and Means suggested the same thing, and I would just say that I think they are correct.

Mr. RENZI. Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as she might consume to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentlewoman for yielding me the time.

This bill will provide critical access to the Little Colorado River Basin to allow the Zuni Indian tribe acquisition of surface water rights and development of ground water. The acquisition of water rights and associated lands are vital to the Zuni Indian tribe's future economic development.

Along those same lines, the child tax credit is critical in helping low-income families achieve some level of economic security.

This bill secures tribal rights to assure water supplies for present and future generations, while at the same time providing for sound management of an increasingly scarce resource. Because of the importance and the sacredness of all forms and sources of water, all prayers and songs of the three major components of the Zuni religion contain language asking for rain and snow to ensure that all crops have enough water to finish their life pass, to provide sustenance for their Zuni children.

Likewise, ensuring access to the child tax credit will help Zuni families to provide economic sustenance to their children. In Arizona, 138,000 families with children, 21 percent of families in the State, are not helped by the child tax credit increase because of the Republicans last-minute actions; 403,000 Arizona children, including Zuni children, would be eligible if the child tax credit were made fully refundable, with an additional $259 million in credits going to families in that State. The children of military personnel, Zunis who have served in our military, their children are going to be left behind.

We cannot in good conscience debate a bill here today that does not take into consideration the economics of the issues of the Zuni tribe, their water rights, their religious rights, their economic rights. It is about the economic security of working families, of low-income wage earners in this country, that we debate here today: water rights, economic rights, child tax credit.

### POINT OF ORDER

Mr. RENZI. Mr. Speaker, could I ask for regular order.

The SPEAKER pro tempore. The Chair would remind Members, quoting from annotations in the House Rules and Manual under rule XVII, clause 1, that during debate on a bill a Member under recognition must confine his remarks to the pending legislation; that is, the Member must not dwell on another measure not before the House. Rather, the Member must maintain a constant nexus between debate and the subject matter of the bill.

Ms. DELAURO. Mr. Speaker, I believe that the constant nexus has been made and that bridge has been kept.

I ask unanimous consent to bring up H.R. 2286 that would fix this terrible injustice.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers, as recorded on page 712 of the House Rules and Manual, the Chair is constrained not to entertain the gentlewoman's request until it has been cleared by the bipartisan floor and committee leaderships.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

We are committed to the water rights settlement, but we are also committed to fixing the tax bill that was recently passed and providing benefits to the millions of people who have been left out.

Mr. Speaker, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I thank the gentleman for yielding me the time.

I just wanted to ask any Member who has spoken to this bill on the other side if, in fact, they are in favor of the bill that is before us today? Would anyone like to enter into a colloquy?

No one would like to enter into a colloquy on that issue, whether or not they are in favor or opposed to the vote that is here?

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentlewoman yield?

Mrs. CUBIN. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, what is the colloquy about?

Mrs. CUBIN. I would like to know whether or not the gentleman is in favor of the bill that is here before us today or not.

Mr. GEORGE MILLER of California. Mr. Speaker, I supported the bill. I just do not support business as usual right now, as the gentlewoman understands.

Mrs. CUBIN. Then follow-up question, does the gentleman intend to follow his support for the bill with an affirmative vote on the bill?

Mr. GEORGE MILLER of California. Mr. Speaker, I have a follow-up question for the gentlewoman from Wyoming. Does she support improving the child tax credit so that millions of American families can get a tax credit, many in the gentlewoman's State that have been cut out of the tax bill?

Mrs. CUBIN. Mr. Speaker, reclaiming my time, does the gentleman intend to answer the question?

Mr. GEORGE MILLER of California. Colloquies are two-way conversations. Would the gentlewoman support the unanimous consent request to bring up the fixing of the tax bill?

Mrs. CUBIN. No, sir, I do not.

Does the gentleman intend to answer my question?

Mr. GEORGE MILLER of California. Mr. Speaker, I answered the gentlewoman's question. I strongly support the bill.

Mrs. CUBIN. Will the gentleman vote in favor of the bill?

Mr. GEORGE MILLER of California. No, I will not.

Mr. RENZI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the Senate bill, S. 222.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. RENZI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

The Clerk read as follows:

S. 273

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Grand Teton National Park Land Exchange Act".

**SEC. 2. DEFINITIONS.**

As used in this Act:

(1) The term "Federal lands" means public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(2) The term "Governor" means the Governor of the State of Wyoming.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "State lands" means lands and interest in lands owned by the State of Wyoming within the boundaries of Grand Teton National Park as identified on a map titled "Private, State & County Inholdings Grand Teton National Park", dated March 2001, and numbered GTNP/0001.

**SEC. 3. ACQUISITION OF STATE LANDS.**

(a) The Secretary is authorized to acquire approximately 1,406 acres of State lands within the exterior boundaries of Grand Teton National Park, as generally depicted on the map referenced in section 2(4), by any one or a combination of the following—

(1) donation;

(2) purchase with donated or appropriated funds; or

(3) exchange of Federal lands in the State of Wyoming that are identified for disposal under approved land use plans in effect on the date of enactment of this Act under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) that are of equal value to the State lands acquired in the exchange.

(b) In the event that the Secretary or the Governor determines that the Federal lands eligible for exchange under subsection (a)(3) are not sufficient or acceptable for the acquisition of all the State lands identified in section 2(4), the Secretary shall identify other Federal lands or interests therein in the State of Wyoming for possible exchange and shall identify such lands or interests together with their estimated value in a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives. Such lands or interests shall not be available for exchange unless authorized by an Act of Congress enacted after the date of submission of the report.

**SEC. 4. VALUATION OF STATE AND FEDERAL INTERESTS.**

(a) AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the value of any Federal lands eligible for exchange under section 3(a)(3) or State lands, then the Secretary and the Governor may select a qualified appraiser to conduct an appraisal of those lands. The purchase or exchange under section 3(a) shall be conducted based on the values determined by the appraisal.

(b) NO AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the selection of a qualified appraiser under subsection (a), then the Secretary and the Governor shall each designate a qualified appraiser. The two designated appraisers shall select a qualified third appraiser to conduct the appraisal with the advice and assistance of the two designated appraisers. The purchase or exchange under section 3(a) shall be conducted based on the values determined by the appraisal.

(c) APPRAISAL COSTS.—The Secretary and the State of Wyoming shall each pay one-half of the appraisal costs under subsections (a) and (b).

**SEC. 5. ADMINISTRATION OF STATE LANDS ACQUIRED BY THE UNITED STATES.**

The State lands conveyed to the United States under section 3(a) shall become part of Grand Teton National Park. The Secretary shall manage such lands under the Act of August 25, 1916 (commonly know as the "National Park Service Organic Act"), and other laws, rules, and regulations applicable to Grand Teton National Park.

**SEC. 6. AUTHORIZATION FOR APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume. I rise today to support a bill that is of great interest to the State of Wyoming and to many, many environmental groups across the country. It is not often that I can stand here and agree with the positions of most of the environmental groups that we deal with on a daily basis, but this Grand Teton National Park Land Exchange Act is one such environmental issue that I think everyone should support if they are in fact interested in maintaining the integrity of Grand Teton National Park.

One of the worst things that I can think of happening to Grand Teton National Park is to have an ultra-, ultrawealthy person build themselves a mansion or a symbol of their wealth at the base of the Grand Tetons and destroy that beautiful open space and land that we fight so hard to protect and to fund every year. The Grand Teton National Park Land Exchange Act was introduced by Senator THOMAS and cosponsored by Senator ENZI and is supported by all five elected Wyoming State officials, the National Park Service, the local communities, and all of the environmental organizations that I am aware of. The measure passed the Senate on April 3, 2003, under unanimous consent.

This bill presents a unique opportunity with regard to Federal land management in our national parks that would greatly benefit the American people, as well as Wyoming school children. The Grand Teton National Park was established by Congress on February 29, 1929, to protect the natural resources of the Teton range and Jackson's unique beauty. On March 15, 1943, President Franklin Delano Roosevelt established Jackson Hole National Monument adjacent to the park. Grand Teton National Park was then expanded to its present size by Congress on September 14, 1950, to include a portion of the land from the Jackson Hole National Monument.

The park currently encompasses approximately 310,000 acres of wilderness and some of the most amazing scenery to be found in any corner of the world. I would put the Jackson Teton National Park area in competition with any area in the world for its beauty and for its glory to nature. However, when Wyoming received its statehood in 1890, sections of the land were set aside for school revenue purposes. All income from these lands, whether it is rents, grazing fees, sales, or other sources is placed in a special trust fund for the benefit of school students in the State.

The establishment of these school sections predates the establishment of most national parks or monuments within our State's boundaries, creating several State inholdings within Federal land masses, such as the Grand Teton National Park. Currently, over 1,406 acres in State surface and mineral acres are held by the State of Wyoming in isolated plots within the Grand Teton National Park. This land ownership situation creates problems not only for the potential of very wealthy people building a shrine to themselves in the middle of the free open space in Grand Teton National Park, but it also puts the State of Wyoming, in order to meets its educational needs, in a situation where it may be forced to try to sell the land to private entities so that that land could be developed into housing developments or whatever. This legislation would stop any future attempts to do that.

The legislation would allow the State of Wyoming to trade or sell these precious State lands locked up inside the park to the Federal Government in exchange for other Federal lands, minerals, or appropriated dollars, or a combination of all three, to address Wyoming's public school needs. Further, the American public can consolidate under the National Park Service management the lands within the Grand Teton National Park's borders and protect them from future development pressures placed upon the State for the benefit of our school children.

This is a win-win scenario for everyone involved. Within 90 days after this bill is signed into law, the land would be valued through agreement by the Wyoming Governor and the Secretary of the Interior. If there is no agreement, an appraisal process will be set up to determine the value of the lands or minerals in question to ensure fairness to all parties. There will also be an appeals process to further ensure fairness to all parties. Within 180 days after the land value is determined, the Interior Secretary, in consultation with the Governor, will determine an exchange of Federal assets for equal value of the State lands.

This body has an incredible opportunity to allow the consolidation of lands within Teton National Park and to allow the State of Wyoming to capture fair market value for the benefit of all Wyoming school children. I respectfully request that the Members of this body vote in favor of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with 12 peaks soaring to more than 12,000 feet, 17 species of carnivores, more than 100 lakes, the headquarters of the Columbia River System, and more than 190 inches of annual snowfall, it would be difficult to find a place more beautiful or rugged than the Grand Teton National Park. Senators THOMAS and ENZI, as well as the gentlewoman from Wyoming (Mrs. CUBIN), are justifiably proud of the beauty of their home State and this national park.

If enacted, S. 273 would help accomplish one of the National Park Service's most important goals, that is, to consolidate the ownership patterns within existing national park units. In this case, this legislation would hopefully expedite Federal acquisition of approximately 1,400 acres of state-owned lands within the park boundary. Such an acquisition represents a significant portion of the more than 2,400 acres of inholdings within Grand Teton National Park.

Mr. Speaker, we are willing to support this bill once the leadership allows H.R. 2286 to be brought to the floor.

Mr. Speaker, I reserve the balance of my time.

Mrs. CUBIN. Mr. Speaker, I continue to reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentlewoman for yielding me this time.

This is an important bill. These lands that were given to the State of Wyoming by the Federal Government were for the purposes of educating their children. It was an effort by the Federal Government to try to put resources into their hands so that the resources would be there for the State to provide for that education. That is what we do with the child tax credit; we try to put resources into the hands of parents so that they will have the money to provide for the health and welfare of their children and for the expenses of holding their families together in difficult economic times, recognizing that we want our children properly cared for. That is what the State of Wyoming has done with these State lands. That is what the Federal Government did when it transferred the lands to the State of Wyoming; and it is for a very, very good purpose.

Now we have the opportunity to transfer those lands to keep them out of other development within the boundaries of the national park to make sure the park can be consistent in its mission. It is one of the great parks in the world. It is one of the great ecosystems in the world with its diversity and with its habitat that it protects and provides for. That possibly is now under threat from development from what the gentlewoman from Wyoming described as the ultra-, ultra-wealthy who might build homes there.

It sounds a little like class warfare. I do not think that is what is going on here, but since we opened up the subject of the classes here in the discussion of this bill, I want to raise the prospects of those individuals. Because not only is this a great national park in terms of its environment and ecosystems and its beauty and its importance in terms of the protections of surrounding areas and watersheds, it is also a huge economic engine. Because of its beauty, because of its importance, it drives millions of people from all over the world to come and visit the Tetons and come and visit Jackson and to experience the bounty of this country.

To service those people, we have people working in the service industry. They work for the concessionaires and the parks; they work for the restaurants and the hotels and the tourism industry. They work as guides for fishermen, they work as guides for people who want to hike the Tetons, they run climbing schools. At the end of the year, they do not make very much money, but they have families. They have children. And today they get a child tax credit if they have children. They file it like everyone else. And in the tax bill 2 weeks ago, we increased that tax credit for Americans, families with children, an additional $400.

POINT OF ORDER

Mrs. CUBIN. Mr. Speaker, I make the point of order that the gentleman is focusing on the merits of other legislation that is not in front of us today.

Mr. GEORGE MILLER of California. The gentleman from California would say to the Chair that I am focusing on the employees of the Grand Teton National Park, which is the subject matter of this legislation. And the reason these lands are being given is to try to maintain the integrity of that park which provides so many economic benefits to the State of Wyoming and to our country through international tourism. And the welfare of those workers ought to be of as much concern to us as the integrity of the land base.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair will remind all Members and the gentleman being recognized that it is essential that he maintain a constant nexus between the legislation before the House; and that the remarks of the gentleman should be confined to the matter before the House, which relates to the acquisition of 1,406 acres of property to be added to the Grand Teton National Park.

Mr. GEORGE MILLER of California. Granted. If it is required by the Chair, I would be glad to put a map down on the table and talk about this in terms of the map of the Grand Teton National Park.

This is about a nexus. This is about whether or not people are going to be able to afford to take those jobs in that park that tourism generates, a very, very important part of the western economy in this country, a part of our economy that is in serious trouble.

There is a story today in the newspapers, I do not know if it is in The New York Times or the L.A. Times, that the national parks are suffering; that tourism is not only down from 9-11, it was down before 9-11. So what are the national parks trying to do? What are the concessionaires trying to do? What are the people who are on the perimeter of the park who run the hotels, run the lodging systems, the guide systems trying to do? They are trying to increase service to attract Americans and international visitors back to the national parks. But if their employees cannot sustain themselves with the jobs that are offered, then it is not going to work.

One of the things we do to help these people who are working in these jobs where the wages are not very good is we provide a child tax credit for those people who are working and have families. But somehow last week the Republican leadership decided that that tax credit would not go to the employees of the Grand Teton National Park, the subject matter which we are talking about.

POINT OF ORDER

Mrs. CUBIN. Mr. Speaker, I would like to point out that the gentleman is not speaking to the bill in front of us, but referring to the merits of another bill. But I would also like to say that he is doing a very good job of it.

The SPEAKER pro tempore. The Chair sees that the gentleman does appreciate the need to maintain a nexus to the pending legislation.

Mr. GEORGE MILLER of California. I am working hard, Mr. Speaker.

The SPEAKER pro tempore. However, the Chair would remind the gentleman that under the rules the gentleman may not dwell on the merits of other legislation, but must focus and direct his remarks to the legislation before the House.

Mr. GEORGE MILLER of California. I thank the Chair for the admonition, and I take it seriously.

I have counted my words and I have talked about the Grand Teton National Park and the State land transfer and the employees of the park, I think on a ratio of about 12 to 1 to the tax credit, which those employees will be denied, as will some 34,000 other children in Wyoming who will not be eligible for the tax credit because of the actions of the Republicans.

But my ratio of nexus to this bill far exceeds my discussion of the tax bill. I have been doing this for many years. And because we do not have an opportunity, and we did not have an opportunity, to discuss a substitute to the tax bill, we have to find ourselves in a situation where we have to talk about it on other matters as they are presented to the House, always closely keeping the nexus between the matter at hand and the subject matter that is far more important to the American people, and especially for those families with those 12 million children who will not get the tax credits this summer because Republicans simply decided that low-income hard-working American families were not entitled to it.

□ 1300

Mrs. CUBIN. Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask all Members who are in favor of this bill to vote in favor of this bill. That is the democratic way; that is the method that we have set up to have government that is dependable, that we can base our future on.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the Senate bill, S. 273.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. CUBIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mrs. CUBIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 273 and S. 222, the two matters just debated.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wyoming?

There was no objection.

## BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 763) to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse."

The Clerk read as follows:

### S. 763

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE.**

The Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, shall be known and designated as the "Birch Bayh Federal Building and United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the Birch Bayh Federal Building and United States Courthouse.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from Indiana (Ms. CARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 763, which is identical to H.R. 1082 which was introduced by the gentlewoman from Indiana (Ms. CARSON), designates the Federal building and United States courthouse located at 46 East Ohio Street, in Indianapolis, Indiana, as the Birch Bayh Federal Building and United States Courthouse.

This bill has the bipartisan support of the entire Indiana delegation, and I thank the gentlewoman from Indiana (Ms. CARSON) for agreeing to bring S. 763 to the floor in lieu of her bill, which the Committee on Transportation and Infrastructure favorably reported out on May 21, 2003. I would like to have inserted into the RECORD that the gentlewoman from Indiana (Ms. CARSON) has been diligent not only in this Congress, but in the last Congress, in attempting to achieve passage of this legislation, not only in this body, but in the other body; and the Bayh family has a great champion on their side when it comes to the gentlewoman.

Senator Bayh was born in Terre Haute, Indiana, in 1928 to school teachers, and it is from them he inherited an ethic of public service. Upon graduation from high school, Senator Bayh volunteered for and served in the United States Army from 1946 to 1948. Upon his return, he attended and graduated from the Purdue University School of Agriculture at Lafayette in 1951. This education served him well, since throughout his long career, he always found time to work on and oversee the family farm, growing corn and soybeans for more than four decades.

Senator Bayh's political career began in 1954, when, at the age of 26, he was elected to serve in the Indiana House of Representatives. While serving in that body, he served as speaker in 1959 and as the Democratic floor leader in 1957 and 1961. Despite these responsibilities, he also found time to attend and graduate from Indiana University School of Law in 1960, and was admitted to the bar in 1961.

In 1962, at the age of 34, Senator Bayh entered the United States Senate where he served three terms from 1963 until 1981. While in the Senate, he served as chairman of the Senate Select Committee on Intelligence, working with the CIA, the National Security Agency and the FBI. He also was a member of the Appropriations Subcommittee on Transportation where he called for and funded efforts to build the District of Columbia's Metro subway system which so many of us enjoy, and to modernize the Amtrak rail system.

Senator Bayh is best known as chairman of the Constitution Subcommittee where he authored two amendments to the Constitution, something we will not see any time soon in subsequent Congresses, the 25th Amendment on Presidential and Vice Presidential succession, and the 26th Amendment which lowered the voting age from 21 to 18.

This is a fitting tribute to a dedicated public servant. I support this legislation and encourage Members to do the same.

### PARLIAMENTARY INQUIRY

Mr. LATOURETTE. Mr. Speaker, I would like to make a parliamentary inquiry of the Chair.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LATOURETTE. Mr. Speaker, is the Chair aware of any rule of the House which would provide a nexus between this legislation and the tax bill except for the fact that Birch Bayh at one time was a child?

The SPEAKER pro tempore. The Chair will have to listen to the debate before making a determination.

Mr. LATOURETTE. Mr. Speaker, I reserve the balance of my time.

Ms. CARSON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I rise to speak in favor of S. 763, I would like to pay respect to my colleague who also hails from the Midwest, the honorable gentleman from Ohio (Mr. LATOURETTE). There were several occasions where he felt he was being stalked to move this legislation forward, and I am very happy that he remained a gentleman and a genteel man in terms of allowing us to get this out. He indicated he had to have a companion from the other side of the aisle, and I presume he found a companion on the other side of the aisle.

S. 763, as my colleague has mentioned, is a companion bill to the bill I introduced, H.R. 1082, and it really does not matter whose name appears first as author of this bill; the subject matter is very noteworthy on behalf of an individual who served this country well, the honorable former U.S. Senator Birch Bayh from the State of Indiana.

The bill, as Members know, designates the Federal building of the United States courthouse in Indianapolis, Indiana, in my district, as the Birch Bayh Federal Building and United States Courthouse. This is the second legislation I have authored. The first one I did was to put my predecessor's name on a Post Office, and now we are going to put Birch Bayh's name on the Federal building and United States courthouse, and I am pleased to sponsor, and it is cosponsored by the entire Indiana delegation.

As the gentleman from Ohio (Mr. LATOURETTE) indicated, the Honorable Birch Bayh was born to two school teachers in Terre Haute, Indiana, on July 22, 1928. He began his political career at the young age of 26 with his election to the Indiana House of Representatives in 1954, and in that body he rose to become minority leader in 1957 and then Speaker of the House in 1959. In 1962, he entered the United States Senate where he distinguished himself on the Subcommittee on the Constitution of the Committee of the Judiciary.

Now, there is some distinction between Terre Haute, Indiana, and a town called Schererville, Indiana, and apparently the United States Senator wants to be known as coming from Terre Haute instead of Schererville, but Schererville is immediately contiguous to Terre Haute so whichever place the gentleman wants him to be born, I am sure it is fine with him. But in all fairness, there has not been a lawmaker since the Founding Fathers who has authored successfully two amendments to the United States Constitution.

Senator Bayh was the principal architect of title IX, the provision of law which helped give access to athletic achievement for many of our daughters. In his 18 years in the United States Senate, he distinguished himself by ushering successfully through the amendment to the Constitution which provides for the succession of the President which was the 25th amendment to the Constitution, and he also successfully authored and ushered through the 26th amendment to the Constitution which lowered the voting age from 21 years to 18 years of age, which was ratified in 1971.

The Federal courthouse in Indianapolis was called the "Old Post Office," but now it rises to a magnificent building of importance, and that is where our Federal courthouse is located. It will now enjoy the name of a very honorable, incredible, dynamic public servant, the Honorable Birch Bayh. It is very suitable historically to name that building for such a person who served this Nation with distinction.

Mr. Speaker, I am happy that the Honorable Birch Bayh is alive and well, and probably watching the presentation of this matter. I also thank Senator LUGAR, who is the senior Senator from Indiana, for authoring this bill and ushering it through the United States Senate.

While I do not agree with them most of the time, we have two Republicans, the honorable gentleman from Ohio (Mr. LATOURETTE), and I hope that does not impugn his motives, Mr. Speaker, and Senator LUGAR, and I speak about those two gentlemen very favorably, and I hope that does not violate House rules that I speak about Republicans favorably in this particular instance.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, let me just say, I am sure that the historical accomplishments of Birch Bayh have been covered well by my colleagues. All I want to say is, though he is in the other party, he is a heck of a nice guy.

You can tell a lot about people by their children. EVAN BAYH, who is the United States Senator from Indiana and the son of Birch and Marvella Bayh, is in the other party, and we have our differences like all people do on a political basis, but EVAN is a real credit to the institution of the United States Senate, and I think a lot of that is due to his mother and his father. Birch Bayh and Marvella Bayh did an outstanding job in raising EVAN, and I think he is doing a good job in the United States Senate.

Let me just say that Birch Bayh, who was elected to the United States Senate, I think, when he was 34 years old, did a good job for the State of Indiana, and his wife Marvella was a real leader in Indiana as well.

One of the things that I most appreciate about Birch Bayh was a personal attachment that I received from him when my wife was suffering from breast cancer. His wife, Marvella, died of cancer, as my wife did, and he showed a great deal of concern for me and my family while we were going through that tragedy. And anybody like that, I think, deserves accolades from people regardless of their party affiliation.

Senator Bayh is a fine human being, and he was a fine United States Senator. His wife Marvella was a credit to the State of Indiana, and their son EVAN is doing a fine job in the United States Senate and is a credit to both his mother and father. And I want to add my two cents to the applause for Birch Bayh, and I think it is a fine and fitting thing that we are doing here today by naming the Federal building after him.

Born in Terre Haute in 1928, it seemed that Birch Bayh was destined for success. He received an undergraduate degree in Agriculture with distinction from Purdue University, and divided his time after graduating between farming and politics.

In 1955, Birch Bayh became a member of the Indiana General Assembly, and in 1957, he enrolled in law school. While still a law student, he was elected Speaker of the Indiana House.

Senator Bayh was a skilled politician and excellent student. He received the prestigious Edwards Scholarship, which is awarded for merit and he graduated with distinction in 1960. However, as we all know, the story doesn't end there!

In 1962, at the age of 34, he was elected to the U.S. Senate and Senator Bayh went on to serve three terms.

As ranking member of the Senate Judiciary Committee, Senator Bayh was considered one of the Senate's foremost experts in constitutional law. As Chairman of the Subcommittee on the Constitution, he wrote and sponsored two amendments to the Constitution: the twenty-fifth amendment (for Presidential succession in case of death or disability) and the twenty-sixth amendment (lowering the voting age to 18).

From 1977 to 1980, Senator Bayh was Chairman of the Senate Select Committee on Intelligence. During his tenure as Chairman, he helped strengthen intelligence gathering while protecting American citizens from abuses of their rights.

Senator Bayh also served on the Senate Public Works Subcommittee on the Environment for 10 years.

In 1976, Senator Bayh entered the race for President of the United States. I have an Internet copy of a Birch Bayh for President 1976 Campaign Brochure. "Senator Birch Bayh—The Democratic candidate for President with a plan for economic recovery . . ." All one has to do is change the date and name and it could be used for the 2004 elections.

Senator Bayh's distinguished career goes beyond the Beltway. He was the founding partner in the Washington DC law firm of Bayh, Connaughton & Malone. He also served as the chairman of the Institute Against Prejudice and Violence from 1984 to 1994.

Senator Bayh is currently working for the Washington, DC law firm of Venable, Baetjer, Howard & Civilette as a member of the Government Division's Legislative.

Also, Senator Bayh was appointed to the J. William Fulbright Foreign Scholarship Board by former President Clinton on July 20, 1995 and was reappointed in 1997 and 2000 for a term expiring September 22, 2003.

Senator Bayh's accomplishments are a source of pride for my home state of Indiana. I wish him congratulations on this designation.

[From a Birch Bayh for President 1976 Campaign Brochure]

### Senator Birch Bayh—The Democratic Candidate for President With a Plan for Economic Recovery . . .

"We need a President who is less concerned that too many jobs will cause inflation, and more concerned that too few jobs will cause human suffering."

Two Republican Administrations following a deliberate policy of planned unemployment, have led us through two recessions and record inflation. Only a genius for ineptitude could have produced recession and inflation together. Only a totally insensitive Republican Administration could have tolerated both.

Despite some evidence that the current recession has hit bottom, the American economy is still a long way from recovery. Economic recovery will not come naturally. Economic recovery cannot be sustained by doing nothing. Only positive government action now can produce and sustain an economic recovery broad enough to put America back to work. That is the number one priority for a President today . . . and tomorrow . . .

With unemployment at 8.6 percent and American industry operating at two thirds of capacity, the President's concern that too strong a recovery will reignite an inflationary spiral is misplaced. We need a President who is less concerned that too many jobs will cause inflation, and more concerned that too few jobs will cause human suffering.

Nearly 8 million Americans are still unemployed, while millions more are either underemployed or have given up looking for employment. We are losing $200 billion a year in our gross national product—that's more than $3,000 for each American family and yet inflation continues because Republican economics is blind to the cost of oil monopolies and grain deals.

Unemployment cannot cure our current inflation—not only is it morally wrong, it is bad economics. Inflation is a serious problem, but the record of the last 5 years is clear—increasing unemployment does not reduce the monopolistic price of energy; increasing unemployment does not drive down the price of food. It only adds to the welfare rolls and increases unemployment insurance costs.

### JOBS . . .

I believe that putting Americans back to work is the single most important task facing the President. A President committed to putting Americans back to work can do just that by:

Proposing a major tax cut for low and middle income families. We need to restore consumer confidence and stimulate consumer spending. That is the surest way to expand production and provide jobs. We need a tax cut plain and simple, without any political gimmicks about budget-cutting. The President's proposal to balance a tax cut with a budget cut is unacceptable economic policy. It will not produce and sustain economic recovery.

Pressuring the Federal Reserve to expand the money supply substantially and hold interest rates down. We can't afford to have the Federal Reserve working against an expansionary fiscal policy. A restrictive monetary policy and higher interest rates will short-circuit economic recovery before it is even underway. In order to avoid repeating the mistakes of monetary policy, we need to curb the independence of the Federal Reserve. That requires a Federal Reserve Board responsive to the public interest—shorter terms for members and publicly arrived at targets for monetary expansion are necessary ingredients in reforming the Fed.

Proposing a public service jobs program. We can find useful employment for the innocent victims of Republican engineered recessions. For example, I was successful in obtaining funds for a railroad track rehabilitation program that will put thousands of unemployed railroad workers back on the job—a job that needs to be done.

Preventing a New York City default by developing a national guarantee program that will enable state governments to assist their hard pressed cities. We will never have economic recovery if New York City defaults and the municipal bond market collapses. Our recovery is much too fragile to absorb the shock of default—to say nothing of the disastrous consequences of the increased cost of borrowing for every state and local jurisdiction in the nation.

Proposing an anti-recessionary revenue sharing program that is triggered on and off by the unemployment rate. We need to temporarily compensate state and local governments for the increased costs of welfare and for the fall off in revenues that both result from a failure of national economic policy.

### INFLATION . . .

Despite a major recession, inflation is still a serious problem? Why? Because of:

A failure in energy policy;

A failure in food policy; and

The monopoly market power of a few firms.

Energy—Oil and gas prices must be regulated. As long as OPEC maintains its solidarity and the major domestic oil companies are permitted to follow their non-competitive practices, there will be no free market in energy. Decontrol of oil and deregulation of natural gas prices will force all prices upward, increasing the Consumer Price Index by four percent. That is clearly inflationary.

Food—Food prices are subject to wide fluctuations in world demand, and weather conditions that affect production. We can't control world demand nor the weather, but we can insulate food prices from these forces by establishing a strategic grain reserve to achieve a better balance between supply and demand. A strategic reserve would have to include safeguards against dumping for political ends—but properly administered it could mean adequate supplies with price stability and that is in the long-term interests of family farmers and consumers alike.

Monopoly Pricing—When 20 oil companies control more than 75 percent of all oil production, refining and marketing in the U.S., and more than 90 percent of the oil pipeline capacity, it is clear they have the ability to set prices without regard to competition or market forces. And that is exactly what the oil companies are doing. Instead of letting the oil and other monopolistic forces repeal the law of supply and demand, we must take decisive action. That is why I have introduced and held hearings on legislation to break up the major domestic oil companies. We have a serious problem. We need a firm response.

Our economy is at a crucial turning point. The problems of skyrocketing energy and food costs and the inability of the free market to function effectively have led me to conclude that recent policy failures are the result of an outdated view of the American economy. Therefore, I am proposing the establishment of a Temporary National Economic Committee—similar to the Committee established by President Roosevelt in 1938—to publicly investigate the concentration of economic power in America today.

If economic power is too heavily concentrated in the hands of a few, then we need stronger anti-trust action. I want the free enterprise system to work.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members that remarks in debate may not characterize a sitting Senator even on favorable terms.

Ms. CARSON of Indiana. Mr. Speaker, I thank the gentleman from Indiana (Mr. BURTON) for those kind remarks, and I know the Chair would not admonish him as much as it would me.

Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to say, I will not choose to characterize a sitting Member of the United States Senate favorably or unfavorably. I would note historically that Senator BAYH did vote in favor of the tax package which has been discussed here today.

Mr. VISCLOSKY. Mr. Speaker, I first got to know Senator Birch Bayh through my father, John Visclosky, the former Mayor of Gary, Indiana, following his election to the United States Senate in 1962. My father has always had a deep respect and strong feelings towards Senator Bayh.

As a Member of Congress, I have always considered Senator Birch Bayh a friend and a mentor. As a citizen, I am grateful that he chose a life of public service, paying constant attention to the needs of working people and those who were not given a fair chance in life. Senator Bayh fought hard for those who wanted an honest days work at a living wage in order to support their families. For instance, he fought hard and was successful in obtaining crucial funding for a railroad track rehabilitation program that put thousands of unemployed workers back on the job.

While I am proud that we are naming a federal building after Senator Bayh today, we will forever be served by him through the two changes he authored to the Constitution. I have always believed that the Constitution is one of the two greatest documents ever written by man. To think of Birch Bayh improving it not once but twice is not only breathtaking, but expected from such a unique person. The structure of the Constitution had not been so impacted by a single lawmaker since its creation by the founding fathers.

Senator Bayh is a person who developed the talents that God gave him to serve others and a person of deep compassion and caring. A person who never lost his perspective, is fun to be with, and who can always make you laugh. My father would describe Senator Bayh as a "100 percent guy." I would too, and I congratulate him on this great honor.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

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The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the Senate bill, S. 763.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LATOURETTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 763, the matter just considered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

S. 222, by the yeas and nays;

S. 273, by the yeas and nays;

S. 763, by the yeas and nays.

Proceedings on H. Res. 231, debated yesterday, will resume at a later time.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 222.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the Senate bill, S. 222, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 188, not voting 21, as follows:

[Roll No. 230]

YEAS—224

Aderholt
Akin
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Castle
Chabot
Chocola
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hobson
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pastor
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (NM)
Upton
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (AK)
Young (FL)

NAYS—188

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Coble
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—21

Clyburn
Conyers
Davis (TN)
Engel
Fossella
Gephardt
Herger
Hoekstra
Istook
Larson (CT)
Majette
McNulty
Miller (FL)
Ortiz
Reyes
Ryan (WI)
Smith (NJ)
Smith (WA)
Weldon (PA)
Wexler
Wilson (SC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). There are 2 minutes left to vote.

□ 1337

Mr. TURNER of Texas, Mr. JEFFERSON, and Ms. ROYBAL-ALLARD changed their vote from "yea" to "nay."

Messrs. PASTOR, BACA, and CAPUANO changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. MAJETTE. Mr. Speaker, on rollcall No. 230, had I been present, I would have voted "nay."

## GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 273.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the Senate bill, S. 273, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 217, nays 198, not voting 18, as follows:

[Roll No. 231]

YEAS—217

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hobson
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)

Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Coble
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—18

Clyburn
Conyers
Engel
Gephardt
Herger
Hoekstra
Istook
Larson (CT)
McNulty
Miller (FL)
Ortiz
Reyes
Ryan (WI)
Smith (NJ)
Smith (WA)
Weldon (PA)
Wexler
Wilson (SC)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes left in this vote.

□ 1345

Mr. RANGEL and Mr. DAVIS of Tennessee changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

## BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 763.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LaTourette) that the House suspend the rules and pass the Senate bill, S. 763, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 179, not voting 19, as follows:

[Roll No. 232]

YEAS—235

Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Burr
Burton (IN)
Buyer
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chocola
Clay
Cooper
Costello
Cox
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Edwards
Emanuel
Emerson
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Fletcher
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gillmor
Gonzalez
Gordon
Goss
Green (TX)
Greenwood
Grijalva
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Petri
Pickering
Pitts
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reynolds
Rodriguez
Rohrabacher
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simpson
Skelton
Slaughter
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Wolf
Woolsey
Wu
Wynn

NAYS—179

Abercrombie
Akin
Bachus
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Foley
Forbes
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hobson
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Janklow
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
Lewis (CA)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Meehan
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Peterson (MN)
Peterson (PA)
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey

Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Young (AK)
Young (FL)

NOT VOTING—19

Clyburn
Conyers
Engel
Gephardt
Gutierrez
Herger
Hoekstra
Istook
Jenkins
Larson (CT)
McNulty
Miller (FL)
Ortiz
Reyes
Ryan (WI)
Smith (WA)
Weldon (PA)
Wexler
Wilson (SC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). There are 2 minutes remaining in this vote.

□ 1353

Mr. ABERCROMBIE changed his vote from "yea" to "nay."

Messrs. CUMMINGS, RUPPERSBERGER, and RUSH changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, I was unavoidably detained due to official business as a member of an official Congressional delegation traveling to North Korea and was not present for the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 230—"nay"; rollcall No. 231—"nay"; rollcall No. 232—"yea".

## REQUEST FOR PERMISSION TO CONSIDER IN THE HOUSE H.R. 2286, EXPANDING CHILD TAX CREDIT AND MARRIAGE PENALTY RELIEF ACT

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the House consider H.R. 2286, a bill to expand the child tax credit and marriage penalty relief for families that were left out of the recently signed White House-supported tax law.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers as recorded on page 712 of the House Rules and Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

PARLIAMENTARY INQUIRIES

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will please state his parliamentary inquiry.

Mr. RANGEL. If we have unanimous consent that an error had been made by the conferees and the House Republicans and Democrats would like to correct this error, what would the Chair recommend that we do, since we want to avoid the accusation that this is class warfare, when the working poor have been excised from the bill?

The SPEAKER pro tempore. The Members who propound unanimous consent requests are also guided by page 712 of the House Rules Manual. Therefore, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

Mr. RANGEL. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may state his inquiry.

Mr. RANGEL. Could the Speaker tell me when the majority expects to bring additional Suspension Calendar requests to the floor?

The SPEAKER pro tempore. That as a matter of discretion is not a proper parliamentary inquiry.

Mr. RANGEL. I thank the Chair.

## ANNOUNCEMENT REGARDING PROCEDURES FOR FILING OF AMENDMENTS ON H.R. 2143, UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the Committee on Rules may meet this week to grant a rule which could limit the amendment process for floor consideration of H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

The Committee on Financial Services ordered the bill reported without amendment on May 20, 2003, and filed its report with the House on June 2, 2003. Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H312 of the Capitol by 3 p.m. on Wednesday, June 4.

Members should draft their amendments to the text of the bill as introduced on May 19, 2003. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format.

Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 255 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 255

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 4) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution and on any amendment thereto to final passage without intervening motion except: (1) two hours of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) an amendment in the nature of a substitute offered by Representative Conyers of Michigan or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 255 is a modified closed rule that provides for the consideration of H.J. Resolution 4, legislation proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the American flag.

This rule provides for 2 hours of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. House Resolution 255 waives all points of order against consideration of the joint resolution.

It makes in order an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be separately debatable for 1 hour, equally divided between the proponent and an opponent.

Finally, this rule provides for one motion to recommit, with or without instructions.

With respect to the underlying legislation, H.J. Res. 4, I want to commend the gentleman from California (Mr. CUNNINGHAM) for introducing this legislation and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for his persistent leadership on this important legislation, of which I am proud to be a cosponsor.

The gentleman from Wisconsin (Chairman SENSENBRENNER) has done a fine job in bringing this legislation to the House floor in the years since my very good friend and former chairman of the Committee on Rules, the late Jerry Solomon, originally sponsored this proposal in the 104th Congress and the 105th Congress.

As it should be, House Joint Resolution 4 is a simple, straightforward measure. It proposes to add an amendment to the U.S. Constitution that would simply give the Congress the authority to prohibit the physical desecration of the flag of the United States, if it chooses to exercise such power.

☐ 1400

The proposed amendment contains a grand total of 17 words. To the credit of the House as an institution, we have passed proposed constitutional amendments of this nature with more than enough bipartisan support in the 104th Congress, the 105th Congress, the 106th Congress, and the 107th Congress. In each of those sessions, the U.S. House approved the proposed constitutional amendments with more than the two-thirds majority required to approve such modifications to the Constitution. Unfortunately, as has been the case too many times in recent years, the other Chamber has failed to approve the legislation and forward it to the States for consideration by their legislatures. Indeed, if the Senate could approve this proposed constitutional amendment, I understand from the Committee on the Judiciary that all 50 States have passed resolutions calling on the Congress to approve an amendment of this nature.

This is an ample reason to believe that if this amendment were sent to the States for ratification, more than three-quarters of the States are poised to ratify this measure, thereby making it a formal part of our Constitution.

In conclusion, Mr. Speaker, H. Res. 255 is a modified closed rule that will give the House an opportunity to work its will on a substitute put forward by the ranking member, the gentleman from Michigan (Mr. CONYERS), or his designee. I urge my colleagues to support the rule so we can move on to the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me thank the gentleman from Georgia (Mr. LINDER) for yielding me time.

I rise in strong opposition to House Joint Resolution 4. I firmly believe that passing this constitutional amendment would abandon the very values and principles upon which the country was founded. Make no mistake, I deplore the desecration of the flag, and I am absolutely certain that 440 Members of the House of Representatives deplore the desecration of the flag.

Those who burn or otherwise desecrate the American flag tread on a symbol cherished by nearly every one of our citizens in this great country. While I am appalled at the notion of someone desecrating our flag, I am more concerned with tampering with the Constitution. The true test of any nation's commitment to freedom of expression lies in its ability to protect unpopular expression.

In 1929, Supreme Court Justice Oliver Wendell Holmes wrote that it was the most impressive principle of our Constitution that it protects not just freedom for the thought and expression we agree with, but freedom for the thought we hate.

The passage of this amendment would provide a dangerous precedent for future attempts to amend the Constitution, putting the essential freedoms it upholds at risk. If Congress amends the first amendment, something that has never happened in our Nation's history, it will open the door for other exceptions to liberty. Ultimately, we must remember that it is not simply the flag we honor but rather the principles it embodies. To restrict people's means of expression would do nothing but abandon those principles; and to destroy those principles would be a far greater travesty than to destroy its symbols.

I repeat a portion of that paragraph: to restrict people's means of expression would do nothing but abandon those principles, and to destroy these principles would be a far greater travesty than to destroy its symbol. Indeed, it would render the symbol meaningless.

Mr. Speaker, we are too secure as a Nation to risk our commitment to freedom by endeavoring to legislate patriotism. The flag burning amendment is one more example of the Republican tendency to play the patriot card, to distract the people from the consequences of their policy. And I wish to underscore that because there are no people in the House of Representatives who are not patriots. And there is no one here any more patriotic than anyone else. And for that reason alone we should not be toying with patriotism principles.

There are more important matters that Congress should be attending to. The way President Bush has shortchanged our veterans, we could deal with that, who have fought in defense of all that Old Glory signifies, the way that he has done this is an outrage to all my colleagues and they should be prepared to fight about it. Why are we spending time arguing about the physical desecration of the United States flag instead of voicing anger about the disservices done to what the flag stands for?

One would like to believe veterans this year would receive more than a Top Gun flash visit. As a grateful Nation, we should ensure that all veterans have adequate access to health care and timely benefits. In my district alone, veterans are being told that they are not going to be able to get benefits, and we have some new super eight province that we have established that if their income is at a certain level they will not qualify. Those are some things that I believe we must seriously look at.

I also think we must seriously reexamine the President's budget priorities that cause this Congress to provide inadequate funding for those in uniform so as to allow tax cuts that will mostly advantage some few wealthy Americans. And since veterans health services have not been appropriately funded, the Bush administration has proposed to increase co-payments for prescription drugs and to charge high annual enrollment fees.

I oppose this proposal, as I am sure many Members on both sides of the aisle do, which punishes those in need by charging them money they do not have to pay for services they do need but cannot pay.

Current Secretary of State, the retired four star Army general, Colin Powell, that so many people tout so often and a few denigrate, voiced opposition to a similar flag amendment in the year 2000. Here is what Secretary Powell said at that time: "The first amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend," Colin Powell says, "that great shield of democracy" that stands right behind the Speaker of this House, "to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

That sounded so good maybe I ought to repeat it again: "The first amendments exists to ensure that freedom of speech and expression applies not just to that which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

I thank Secretary Powell.

This is a shallow amendment that addresses a nonissue. This is an unnecessary amendment that helps no one, but is likely to hurt us all. This is a dangerous amendment that should not be approved.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, today I rise in strong support of this rule and the underlying legislation, H.J. Res. 4, the desecration of the flag resolution.

Our Nation's flag is a sacred symbol of our country's liberties that so many men and women in uniform have fought and died to defend. As the symbol of that liberty, the flag deserves our greatest respect. To desecrate the flag raised by soldiers at Iwo Jima, astronauts on the Moon, and rescue workers at the World Trade Center is an affront to the very values it represents. Even in the past week, young Americans have laid down their lives in Iraq to protect the freedom and liberty that we enjoy here at home.

It is disgraceful that people would desecrate, even burn, the flag that all of our Nation's veterans have fought so valiantly to defend.

Even as American soldiers prepared for war in Iraq, there were reports of protesters defacing flags, even flags being displayed in a memorial to the victims of September 11, 2001. These acts are disgraceful. They are repugnant, and they should not happen in this great Nation.

The flag deserves and demands our respect. The physical desecration of the flag is not free speech nor should it be protected under the first amendment. The amendment before us will clarify that desecration of the flag does not fall under the first amendment and will prevent the courts from making such an assertion.

I urge my colleagues to support the underlying resolution. I urge my colleagues to support the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who serves on the Committee on the Judiciary with distinction.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a very solemn occasion. I thank the distinguished gentleman from Florida (Mr. HASTINGS) for yielding me time; and I also thank him for his detailed explanation of the needs of this House, the needs of the people of America.

Mr. Speaker, I know that he rarely mentions the fact that he has had the occasion to ably serve as a Federal judge, interpreting the Constitution on a very regular basis. I thought since we were discussing the privacy of this Nation, a freedom, that it would be important to do something that many Americans do not do. And I would encourage you to not only read the Constitution and the Bill of Rights, but I would encourage you and the children of this Nation to carry the Constitution with you.

Might I share with you the words of article I, which expresses the beliefs of Americans from the early stages of our founding: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press of the right of the people peaceably to assemble and to petition the government for redress of grievances."

I believe that the young men and women throughout the ages, whether it was the war of 1812 or World War I or II, Korean conflict, Vietnam, Bosnia, Kosovo or the war in Iraq, young men and women went off inscribed not with the symbol of a flag but with the understanding of what the Constitution says. They are not fighting for a symbol, a piece of cloth. They are fighting for the fact that in America, we rise every day and are able to speak our minds, go to our respective places of worship and no one is there to restrain us, handcuff us, or detain us.

How shameful it is that we come now the fourth, fifth, sixth time since I have been in the United States Congress to suggest to the American people that our values are woven into the stripes and stars of this flag. They are woven into our hearts and the words and the Constitution and the Bill of Rights which you carry with you through your citizenship rights and privacy.

How tragic it is that we have to stand on the floor today when we have young Marines dying every day in Iraq, when we have not finished, if you will, in bringing order to Iraq; when we pass a tax bill that eliminates close to 25 percent of the American people from being able to access relief through taxation, people who work every day making 10,000 to $25,000 a year. This Congress, this Congress voted a tax bill that would eliminate any relief for them, no child tax credit for families having as many as 12 million children, or representing 12 million children. This is the Congress that wants to come and denigrate the Constitution, disrespect its interpretation.

What is the interpretation? Freedom of expression, freedom of speech. And what I would say to you is that my understanding and value and love for this Nation is not based upon someone's desire to express their beliefs by any commentary or any action on the flag.

□ 1415

I have never burned the flag. I have never desired to burn the flag. I have expressed my opinion by way of the democracy that this flag guarantees for the freedom of speech.

How tragic it is. Does it mean that when we pass this resolution that if someone desires to wear a tie, a T-shirt or shorts that has a reflection or symbol of the flag that they are then in violation of the law of this land? Does it mean that we again go to the United States Supreme Court? Time after time, the United States Supreme Court has rejected any attempt to qualify the expression of speech.

Let me say this. We realize that we cannot cry fire in a crowded theater, that we would hurt someone, but we realize that burning the flag or desecrating it in any way does not do that.

Let me tell my colleagues why I am against this rule: Because I offered an amendment that would simply say, let us protect political speech, let us make sure that this amendment does not disallow one from expressing himself politically or his different views with the United States of America.

What does the Committee on Rules do? Rejects the many amendments that we offered to bring light as to what the Constitution actually says.

Mr. Speaker, let me say to my colleagues that I am certainly disappointed that we would use this floor to be able to frivolously undermine the Constitution. There is a saying that says, "the measure of a man," and we can go on to talk about the great things of that person, the measure of a woman, the integrity and the honesty, the measure of this Congress should be the good works that we have done, by the American people.

I would simply argue this is a bad rule, this is a bad resolution because we are denying the very underpinning that the bill is built on, that is, the Constitution of the United States.

I yield back this amendment, I yield back this resolution, and I stand with the Constitution.

Mr. Speaker, I rise in opposition to H. Res. 255 the rule governing debate on H.J. Res. 4, an amendment to the Constitution to prohibit physical desecration of the flag of the United States. I oppose the rule to H.J. Res. 4 because the rule allows inadequate debate on amendment to an overly broad infringement on the First Amendment Right to Freedom of Speech. This partisan, modified closed rule, severely limits amendment and debate on issues that affect every American citizen—the U.S. Constitution and the First Amendment.

I proposed an amendment to H.J. Res. 4, that was not made in order. My amendment to H.J. Res. 4, was designed to protect American's right to express their opinions and views about government activity. My amendment stated in pertinent part, "a person shall not have violated a prohibition under that section for desecrating the flag, if such desecration is an expression of disagreement or displeasure with an act taken or decision made by a local, State, or Federal Government of the United States."

Under my amendment Americans would have retained their freedom to speak out against actions taken by local, State, and Federal governments through desecrations of the flag symbolizing their views. Our democratic government is a government of the people. Our citizen's freedom of expression is at the very heart of our democracy. An attack on American's freedom of expression is an attack on our entire democracy. My amendment would have protected our democracy and protects our citizens.

This rule, on the other hand, is potentially harmful to our democracy and America's citizens. Freedom of speech and freedom of expression are fundamental components of our democracy. Limiting the ability of American citizens to voice their opinions about their government, through flag desecrations or otherwise, is a violation of the principles of our democracy that are symbolized in the American flag, including the First Amendment right to freedom of expression.

I hope that the Republican leadership sees the irony of their decision to draft such a restrictive rule. We are debating a resolution that, if passed, will severely restrict Americans' ability to speak openly, freely, and fully, on issue that are of great concern to the public. Under this rule, my colleagues on this side of the isle are restricted from speaking openly, freely, and fully, on an issue that will have a drastic impact on the public, the First Amendment.

This proposed amendment to the Constitution, H.J. Res. 4, is a severe abridgement of the freedom of expression protected by the First Amendment of the U.S. Constitution. This rule is a severe abridgement of our ability to debate an issue that may have a profound impact on one of America's most fundamental rights.

Mr. Speaker, I oppose this rule and I encourage my colleagues to do likewise.

### PARLIAMENTARY INQUIRY

Mr. LINDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. TERRY). The gentleman will state his parliamentary inquiry.

Mr. LINDER. Mr. Speaker, when individuals abuse the time limit, is there an arrangement by which that time can be applied against their side's total time left?

The SPEAKER pro tempore. All time for proper debate comes out of the time that has been yielded.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the rule, although unenthusiastically. I am not too excited about this process, and certainly I am not very excited about this proposal to amend the Constitution. As for my viewpoint, I see the amendment as very unnecessary and very dangerous. I want to make a few points along those lines.

It has been inferred too often by those who promote this amendment that those who oppose it are less patriotic, and I think that is unfair. And an earlier statement was made by the gentleman from Florida that everybody here is patriotic and nobody's patriotism should be challenged.

It has also been said that if one does not support this amendment to the flag that they are disloyal to the military, and that cannot possibly be true. I have served 5 years in the military, and I do not feel less respectful of the military because I have a different interpretation on how we should handle the flag. But nevertheless, I think what we are doing here is very serious business because it deals with more than just the flag.

First off, I think what we are trying to achieve through an amendment to the Constitution is to impose values on people, that is to teach people patriotism with their definition of what patriotism is. But we cannot force values on people; we cannot say there will be a law that a person will do such and such because it is disrespectful if they do not, and therefore, we are going to make sure that people have these values that we want to teach. Values in a free society are done voluntarily, not through coercion, and certainly not by the law, because the law implies that there are guns, and that means the Federal Government and others will have to enforce these laws.

Here we are, amending the Constitution for a noncrisis. How many cases of flag burning have we seen? I have seen it on television a few times in the last year, but it was done on foreign soil, by foreigners, who had become angry at us over our policies, but I do not see that many Americans in the streets burning up flags. There were probably a lot more earlier in previous decades, but in recent years, it averages out to about eight, about eight cases a year, and they are not all that horrendous. It involves more vandalism, teenagers taking flags and desecrating the flag and maybe burning it, and there are laws against that.

This is all so unnecessary. There are already laws against vandalism. There are State laws that say they cannot do it and they can be prosecuted. So this is overkill.

As a matter of fact, the Supreme Court has helped to create this. I know a lot of people depend on the Supreme Court to protect us, but in many ways, I think the Supreme Court has hurt us. So I agree with those who are promoting this amendment that the Supreme Court overreacted, because I think the States should have many more prerogatives than they do. Many states have these laws, and I believe that we should have a supreme court that would allow more solutions to occur at the State level. They would be imperfect, no doubt, it would not be perfect protection of liberty by State laws. But let me tell my colleagues, when we come here as politicians and superpatriots and we pass amendments to the Constitution, that will be less than perfect, then it will be just like the Supreme Court—a poor national solution.

It is a ruling for everyone, and if we make a mistake, it affects everybody in every State, and that is what I am afraid we are doing here.

The First Amendment has been brought up on several occasions, and I am sure it will be mentioned much more in general debate. This amendment does not directly violate the First Amendment, but what it does, it gives the Congress the authority to write laws that will violate the First Amendment, and this is where the trouble is. Nothing but confusion and litigation can result.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. FILNER), my good friend.

Mr. FILNER. Mr. Speaker, I rise to speak against this rule and against the underlying motion.

As the chairman said in his eloquent opening remarks, our flag is a grand and glorious symbol of our great Nation, of our fundamental values of freedom, liberty, justice and opportunity; and it is those values we must protect.

We are not going to protect these values by tampering with the Bill of Rights and our Constitution. These have stood the test of time, and it is impossible to legislate patriotism. We protect these values through proper education of our children, nurturing their love and patriotism of our country and nurturing their respect for our flag and the men and women who keep our Nation strong.

Yes, through the years our values have always included respect for our veterans, also. As a child, I heard from my veteran father of the sacrifices made by the men and women of our armed services to keep our Nation free during World War II; and we have just witnessed the willingness of our current generation to put themselves in harm's way without hesitation when called upon by their President and their Nation to in Iraq.

So why are we having this debate now? I would appreciate the attention of my good friend from California. Why are we having this debate now?

This is a shell game, Mr. Speaker. They want us to look at this shell that has the flag and they are waving it furiously. They are waving it furiously, but they do not want us to watch this shell which are veterans benefits, which they are taking away. They vote first, out of here, a $25 billion cut in our Nation's veterans, and then it is down to $15 billion.

Is this the way we honor our flag and honor our veterans? I find it deeply disturbing that many Members of the House of Representatives seem to be tenaciously determined, year after year, to pass this amendment at the very time, at the very time they vote for budgets that cut services and benefits to our Nation's veterans. This is hypocrisy, and the veterans who are here to lobby on this bill should understand the hypocrisy that is going on and the shell game that is happening. This hypocrisy will not escape these veterans.

True respect for our veterans means that we do not abandon them when they return to our shores. Do my colleagues know, and I ask the gentleman from California, 14,000 veterans right now have waited longer than a year and a half for their action, many more for four or five years, for adjudication of their claims. There are veterans in San Diego. I would tell the gentleman, who have died while waiting for their appeal to be adjudicated.

Two hundred thousand of our veterans right now are waiting longer than 6 months for their first health care appointment with the VA, their first health care appointment. This is the way we honor our veterans? Some of them will die before their first appointment.

We have educational benefits under the GI bill that do not pay for college education. My father went to college on the GI bill. He bought a home on the GI bill. I am in Congress because of the GI bill, and what are we doing now? We are not even given enough for anyone to buy a home or go to college.

This House has recommended to increase prescription drug copayments and impose a new enrollment of $250 for many veterans whom we are supposedly honoring today. Let me tell my colleagues about concurrent receipt, which allows disabled veterans who are retired from the military to receive both their disability compensation and their military retired pay. It has been on our agenda for years. The congressional leadership, the Republican leadership, while working diligently on passing this amendment, cannot find the courage, cannot muster up their skills at legislation to pass concurrent receipt. The very people who are arguing for this bill vote "no" when it comes to our veterans, vote "no" when it comes to our concurrent receipt.

I ask the gentlepeople from the majority party, what will be the morale of our soldiers, soon to be veterans when they return home from Iraq, when they know they will have to wait for the promised services that the VA has made, when they know that they will have to pay more for less? What will be their morale when they see we are not keeping our promise to veterans? Are they going to wave the flag?

I challenge my colleagues to put first our values that our great flag represents. We are patriots. We are Americans. Let us restore our contract with our Nation's veterans. That is the way to express our patriotism and to protect our Nation's flag.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

I would just like to comment that I am surprised that, for as long as the previous speaker served on the Committee on Veterans Affairs, he has allowed it to go on this long.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me the time.

Sometimes in these debates one issue gets mixed up with another issue, and I think that is what is happening here. I rise in support of this rule.

I also want to make a comment to the previous speaker that this Congress, Republican majority, with the help of the Democratic minority, is increasing the amount of money that is going to a myriad of veterans programs all over the country. So when those veterans come back from Iraq, they will not only see us waving the flag in strong appreciation of the work they did in enhancing freedom in Iraq, but they will receive the kind of benefits that the previous speaker mentioned about going to college on the GI bill.

I went to college on the GI bill. I bought a house with the GI bill, and those kinds of services are for the veterans of today. These young people are children of democracy, and they deserve what we received many, many years ago in our service to our country, but we are here today to discuss the rule and the issue of flag burning amendment.

I want to ask the question, what does it mean to be patriotic? How do we protect the flag and honor the flag? We honor the flag by being good parents, by being good citizens, by being good neighbors, by understanding and respecting the rule of law and understanding the thread of tolerance that weaves its way through the quilt of democracy.

I rise today opposing the underlying bill. How many times have we seen the flag burned in the United States? We see it burned in China, we see it burned in Iraq, we see it burned in Syria. We see it burned all over the country, but we do not see it burned here. If a person burns the flag in China, they put them in jail. If they burn the flag in Iran, they probably cut their head off. If they burn the flag in Cuba, they go to jail. Do we want to follow that example and that precedent? I do not think so.

Our present Constitution blends together the best of our heart and our minds. Our present Constitution understands our responsibility to respect the rule of law, but it shows such humanity in the tolerance that we have for different opinions in this country.

□ 1430

Do we want to respect and honor those who lost their lives in defense of this Nation? The last verse of that wonderfully beautiful poem "In Flanders Fields" says, "If you break faith with us who die, we shall not sleep, though poppies grow in Flanders Field." How do you break faith with those who defended the country? You stop having tolerance. You start following the precedent of countries like the former Iraq or Cuba or China.

We want to raise the flag in honor of those people who have protected the flag. Be a good citizen, a good neighbor, a good American.

Mr. HASTINGS of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the sponsor of the underlying legislation.

Mr. CUNNINGHAM. Mr. Speaker, I take umbrage at some who would say that this is frivolous legislation. Mr. Speaker, to me, patriotism demands more than standing on the House floor and stating that we are all patriotic or we all support the troops. Check the record of those Members that consistently vote against defense bills or intel or even our veterans. It is just not true. To me, there are Members who are unpatriotic in this body.

I would say that voting against this bill in itself is not unpatriotic. People have different reasons. But patriotism is always unfinished business. It requires action, not just verbiage. And I state again that a vote against this bill does not mean you are unpatriotic, but I think there is a combination of votes and support for our troops and our country that does classify some people with those actions.

Mr. Speaker, a few months ago, I watched on television as they played the series "Glory." It was about a regiment of African American troops that volunteered to go up to the front. They knew in attacking a fort that it would be certain death. And as Denzel Washington, the actor, and his crowd started to go forward to this and attack, knowing that they would most certainly die, the question was asked, "If I should fall, who will carry this flag?" And echoed down the ranks was, "I will," "I will," "I will," and they each did so. Each time the flag fell, African Americans picked up that flag and carried it forward. Thousands upon thousands of African Americans died protecting that flag.

Who rejects the arguments of the few? This bill will pass. The same group rejects it every time. My friend, who is a libertarian, he votes against it. Many of the far left vote against it. Some people, in my opinion, attempt to hide behind the first amendment. But who says that they are wrong? Two hundred years of tradition. Abraham Lincoln, Jefferson, Washington, our forefathers, came forward and said that the flag is worth protecting.

In the Civil War, and I am not proposing this, but in the Civil War there was the penalty of death in desecrating the flag. That is extreme. But who says they are wrong are 80 percent of the American people. All 50 States have said they will ratify this if we pass this legislation on the floor. All 50 States, 80 percent of the American people, and 100 percent of the veterans groups. Look around and see the veterans groups around Capitol Hill today. They support this legislation. They do not think it is frivolous. They do not think it is unnecessary. They do not think it violates the Constitution, because of 200 years of tradition.

One Court, in a 5-to-4 decision, changed 200 years. Mr. Speaker, we are saying that that is wrong. Talk about extremism and affecting the Constitution, we think it is that decision in 1989. I reject their arguments. Mr. Speaker, 14 years ago, the Supreme Court did reverse 200 years of tradition.

In my own district there was a protest. It was not about the flag; it was about bilingual education. There was a group of Hispanics that came around to protest a bilingual education ruling. One of the Hispanics started tromping and burning an American flag, and a Hispanic from my district grabbed the flag and was beaten. He said, listen, I may disagree on bilingual education, but this flag is a symbol of why I came to this country. It stands for freedom, it stands for liberty, and you will not desecrate it in my presence.

Some people say, well, it does not exude violence. You burn the American flag, and generally there is violence that follows. And again I would say, Mr. Speaker, that patriotism is always unfinished business.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to my friend, the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I want to make two points in this 1 minute.

Number one, the gentleman who just talked disparaged the Supreme Court because of one decision, that we should not respect that decision. It is the same Supreme Court that 2 years ago arrogated to itself the right to take away from the American people the choice of the Presidency and said do not finish counting the votes, we declare George Bush the President of the United States. That decision has been respected. Though on the merits and on the intellect, that decision belongs in the garbage heap of history because it was not an honest decision, it was not honestly intended. It was a results-oriented decision.

Secondly, the gentleman said that there are Members of this body who are not patriotic as seen by the votes against defense bills. The fact of the matter is, you can vote for a defense bill, you can vote against it based on whether you think that bill is best for your country or not. But to ascribe unpatriotic motives to differences of opinion is to disrespect the Bill of Rights in the Constitution. To ascribe unpatriotic motives to people who differ with you politically is the methodology of a Soviet commissar. It is not an argument that should be heard on this floor. It is an argument that destroys liberty. It destroys freedom of speech.

And whether a particular defense bill was good or too small, or bad or good or deserved to be voted for should be addressed on the merits intellectually and not by disparaging the motives and saying that someone who votes against it is unpatriotic. That argument we could hear from Mr. Stalin, not from someone on this floor.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Robert Williams wrote an article recently, and he is one of the Tuskegee Airmen, and the title of the article was "A Tuskegee Airman Salutes The Flag." He talked initially about how he became a fighter pilot in the Second World War. And then he goes on, and I am skipping his first three paragraphs, but I quote him: "That is why I cringe when I see Congress preparing to pass a constitutional amendment that would rewrite the first amendment for the first time ever to ban a form of protest. It is particularly hard for me," Mr. Williams says, "as an American war veteran to see this action taken in the name of patriotism. For while we as a country view our flag as the very essence of patriotism, it is, in reality, a symbol of that spirit.

"And if the proposed flag desecration amendment wins final approval, our flag will become a symbol without substance. Don't get me wrong," Mr. Williams says, "no one endorses the idea of burning the flag or desecrating it in any way. It is, to me, a very repugnant concept. But I find more threatening the idea that we would change the Constitution every time some American came up with a new repugnant way to protest."

He talks a lot about what it took to become an airman from Ottumwa, Iowa, and how he and his buddy applied on the same day, and he was, with empathy, told to give up. He did not give up, and he became a part of a proud fighter force in our Air Force, the Tuskegee Airmen. And he closes, and I am skipping a lot of what Mr. Williams said, he said: "Today, as I sit and recall the terrible attacks that we endured just to get the right to fight for our country, I am more certain that the elimination of any right to freedom of speech is dead bang wrong. Protest, after all, takes many forms and many shapes. Some of them may be seen as distasteful by some Americans. But if we change the Constitution to outlaw these less than acceptable forms of protest, then what we are doing is just as repugnant as burning the flag itself."

Thank you, Robert Williams.

You know what we could or should be doing right now? We should be passing the 13 appropriation measures that is our mandate here in Congress. We should be providing proper health benefits, rather than turning veterans away, as they are in my district in Fort Lauderdale, Florida. We should be passing a prescription drug benefit rather than talking about desecrating the flag. We should be building schools for our children and grandchildren rather than leaving them deficits that will cause them not to even have school. We should be passing aid to public universities to stop tuition from going up the way it is in my State and 20 other States around this Nation.

How about providing a child care tax credit for working families, like the gentleman from New York (Mr. RANGEL) came here and asked unanimous consent to do, rather than talking about flag desecration?

We should be increasing the funding of the National Institute of Health research funds. We should be helping the Centers for Disease Control prepare us in the event there is a problem in this Nation. We should be passing pay raises for Federal judges in this country who too long have suffered at the whim of this United States Congress. We should be providing dollars for first responders in this country. We should be providing money for port security, better housing for veterans, paving roads, paying teachers; and I can go on and on.

But what we come here with is a repugnant measure. All of us, every man and woman in this House, is patriotic, whether they voted for the defense measure or not. All of us are superpatriots in the sense that we provide service for our country. And each in our own way ideologically, left and right, black and white, rich and poor come here for the purpose of upholding that great symbol of ours, the flag. And I do not need anybody to tell me about patriotism.

I lost relatives and friends in wars like every man and woman here has. And there are kids right now that would rather come home and know that we took care of some of those things that we needed to take care of rather than handle a handful of miscreants that might go out and foolishly burn a flag. There are laws, as one of our colleagues said, that takes care of that. Let those laws be sufficient for us. Let the flag reign supreme. Do not let it rain down the kind of desecration that not passing these measures would help us to do.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume to simply say that after that litany of spending measures, I believe the gentleman from Florida has forfeited any future opportunities to complain about deficits.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1445

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 255, I call up the joint resolution (H.J. Res. 4) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 255, the joint resolution is considered read for amendment.

The text of House Joint Resolution 4 is as follows:

H.J. RES. 4

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),*

**SECTION 1. CONSTITUTIONAL AMENDMENT.**

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"The Congress shall have power to prohibit the physical desecration of the flag of the United States.".

The SPEAKER pro tempore. After 2 hours of debate on the joint resolution, it shall be in order to consider an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS), or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour of debate on the joint resolution.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 4.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.J. Res. 4 is a proposed amendment to the United States Constitution that would simply return to Congress the authority that it possessed for over 200 years to prohibit the physical desecration of the flag of the United States. H.J. Res. 4 does not outlaw flag desecration; rather, this proposal merely sets the boundaries by which Congress can enact subsequent implementing legislation, if it so chooses, to prohibit such conduct.

The flag is the most revered and beloved symbol of our great Nation, representing all that is American and reminding the world of our undying love of freedom and democracy. The flag serves as a shining bedrock of our principles and values as a country, leading our men and women into conflicts around the globe and draping the caskets of those same individuals when they return home after giving the ultimate sacrifice in defense of such values. It is the flag to which we pledge allegiance here in the halls of Congress and in schools throughout our country. It is this object and all that it represents that we as Americans hold so dear.

While the Federal Government and almost every single State validly protected the flag without constitutional objection for numerous years, this protection was circumscribed by the United States Supreme Court in Texas v. Johnson in 1989. In the Johnson case, a majority of five justices held that burning the flag was expressive conduct protected by the First Amendment to the Constitution. Congress responded to this decision in 1990 by enacting a Federal statute to outlaw such conduct in accordance with the Supreme Court's decision in Johnson. However, the Supreme Court that same year ruled in United States v. Eichman that the recently enacted Federal statute also violated the Constitution. Thus, the American people are now left with no other alternative but to amend the Constitution in order to protect their flag.

House Joint Resolution 4 will simply overturn these two erroneous Supreme Court decisions, restoring the original interpretation to the First Amendment that had persisted for over two centuries since the birth of our country. When considering the powers of our respective branches of government in effecting the will of the American people, we should be reminded of the words of Abraham Lincoln in his first inaugural address in 1861, "If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the people will have ceased to be their own rulers."

Thus, because the Constitution expressly designates "We the People" as possessing the ultimate authority in this great Nation, and not the Supreme Court, we as representatives of the people must respond and act according to the will of the people in approving this proposed constitutional amendment.

Contrary to what opponents of House Joint Resolution 4 will claim, this proposal does not amend the First Amendment or the Bill of Rights for the first time in history. Rather, it was the Supreme Court that first amended our constitutional rights and liberties as Americans in this area of the law in 1989 by denying the American people the authority to protect their flag. H.J. Res. 4 will simply restore this sacred right and the original understanding of the First Amendment and the Bill of Rights that had persisted since the very beginning of our country. Thomas Jefferson, the author of the Declaration of Independence, and James Madison, the father of our Constitution, both agreed that the government could prohibit acts of flag desecration.

Rights guaranteed under the First Amendment are not unlimited. Rather, Americans are constrained in their speech to a certain degree, whether pursuant to libel and slander laws, perjury laws, laws against inciting breach of the peace or riots, or obscenity laws. Furthermore, conduct that is arguably associated with speech has also always been validly regulated. While someone seeking publicity or wanting to protest may think that the best method to convey a particular message may be to parade nude in Lafayette Square across from the White House, that form of conduct is illegal. H.J. Res. 4 simply seeks to give Congress the authority to prohibit another particular form of conduct, flag desecration, without regard to the speech being broadcasted during such conduct.

Those seeking to express themselves would be left with, as Chief Justice Rehnquist put it, "a full panoply of other symbols and every conceivable form of verbal expression" by which to make their ideas known. As the Supreme Court has stated, "the First Amendment does not guarantee the right to employ every conceivable method of communication at all times and in all places."

I urge my colleagues to recognize the wishes of the American people and restore the original interpretation and understanding of the First Amendment and the Bill of Rights to the Constitution by supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are enduring the annual Republican rite of spring, a proposed amendment to the Bill of Rights to restrict what it calls flag desecration.

Why spring? Because the calendar tells us that June 14 is Flag Day, and then, of course, we have July 4. Members need to send out a press release extolling the need to protect the flag, as if the flag needed protection by Congress. We do not see a great epidemic of flag burning. This amendment is truly an answer in search of a problem.

The flag is a symbol of a great Nation and of the fundamental freedoms for which this Nation stands. If the flag needs protection at all, it is from Members of Congress who value the symbol more than the freedoms that the flag represents, and would, in fact, limit those freedoms to protect the symbol.

The argument that we must, for the first time in our Nation's history, amend the Constitution to limit freedom of speech because the flag stands for freedom would sound like a bad joke if the danger to the First Amendment were not so real. I warn my colleagues, once we get into the business of amending the Constitution, every time someone does something we do not like, there will be no end to it. We have never in the 200 years of this country so far, of this Republic, amended the Bill of Rights, and we should not start now.

There is unpopular speech that people find offensive, unpopular religions that people do not like. We had a Member of the House on the floor a few years ago excoriate the Army for allowing a wicked religious service on an Army base. The man with the protest sign in a crowd of people favoring the President and his policies, he was threatened with arrest if he did not leave or get rid of his sign because it did not agree with the other signs. Maybe some of our Republican friends think we need a constitutional amendment for protesting against Republican Presidents. Quite frankly, the crass political use of the flag to question the patriotism of those who value our fundamental freedoms is a greater insult to those who died in the service of our Nation than even the burning of the flag. It is the civic equivalent of taking the Lord's name in vain.

People have rights in this country that supersede public opinion, even strongly held public opinion. If we do not preserve those rights, the flag would have been desecrated far beyond the capability of any individual with a cigarette lighter. Let there be no doubt, this amendment is aimed directly at unpopular political ideas.

Current Federal law says that the preferred way to dispose of a tattered and old flag is to burn it, but there are those who would criminalize the same act if it was done to express political dissent. So if you burn the flag, if you physically burn the flag while standing around saying nice things, pleasant things, platitudes about patriotism, then that is a wonderful thing to do. But if you burn the flag while criticizing the conduct of the current administration or some political decision, then you will be arrested.

Is the act of burning the flag any different in those two instances? No. What is different is the words said in association with it. In one instance, the words are pleasant and nice and therefore protected by the First Amendment; and in the other instance, the words are unpleasant and disagreeable and, therefore, we are going to pass a constitutional amendment to throw someone in jail for uttering the wrong words while he burns the flag, because if he uttered the nice words while he burned the flag, that would be the correct way of disposing of the flag.

Clearly, the Supreme Court was right, it is the expression of unpopular political opinions that this amendment is aimed at, and that is why this amendment should not be passed because we should protect the right to utter all opinions in this country, even those we think are harmful because bad ideas should be driven out of the arena of public opinion by good ideas, not by repression by the State or by the police. That is why we have the Bill of Rights, and that is why this amendment should not pass.

One other example, and that is if someone produced a movie or play in which actors impersonated Nazi soldiers, and during the course of that play, the Nazi soldiers trampled on the flag to show the contempt the Nazis had for freedom and the United States, no one would think of arresting the actors because they know they did not mean it. They would know they were showing what Nazis thought of the flag and the United States, not what the actors think. So it is clearly the ideas associated with the act of desecrating the flag, it is the speech that we are criminalizing here, and that is why the Supreme Court was right to say we cannot criminalize speech.

We heard in the hearings conducted before the Committee on the Judiciary from a Vietnam veteran who has been in a wheelchair for the last 30 years as a result of his combat wounds in Vietnam. He made clear he did not want his sacrifice to be used to destroy the freedoms for which he fought and for which many of his friends made the ultimate sacrifice. I would urge my colleagues to listen to all veterans and understand that those who support this amendment do not speak for all veterans.

General Colin Powell, for example, had this to say about this amendment a few years ago, "The First Amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

Jim Warner, a Vietnam veteran and prisoner of the North Vietnamese from October 1967 to March 1973, wrote, "The fact is, the principles for which we fought, for which our comrades died, are advancing everywhere upon the earth, while the principles against which we fought are everywhere discredited and rejected. The flag burners have lost, and their defeat is the most fitting and thorough rebuke of their principles which the human mind could devise. Why do we need to do more? An act intended merely as an insult is not worthy of our fallen comrades. It is the sort of thing our enemies did to us, but we are not them, and we must conform to a different standard. Now, when the justice of our principles is everywhere vindicated, the cause of human liberty demands that this amendment be rejected. Rejecting this amendment would not mean that we agree with those who burn our flag, or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom, even for those expressions we find repugnant."

I would add that rejection of this amendment would mean that we understand that democracy in the United States and our protection of freedom of expression in the United States is stronger than the ill will and the venom that motivates people who might desecrate our flag, and that we do not need a constitutional amendment to protect us against them.

□ 1500

These thoughts are echoed by Terry Anderson, a former U.S. Marine staff sergeant and Vietnam veteran who was held hostage in Lebanon, who wrote:

"This constitutional amendment is an extremely unwise restriction of every American's constitutional rights. The Supreme Court has repeatedly held that the first amendment protects symbolic acts under its guarantee of free speech. Burning or otherwise damaging a flag is offensive to many, including me, but it harms no one and is so obviously an act of political speech that I'm amazed anyone could disagree with the Court."

Mr. Speaker, people have died for this Nation and the rights which this flag so proudly represents. Let us not destroy the freedoms and the way of life for which they made the ultimate sacrifice. Let us not demean our freedoms. Let us not demean our country. Let us not for the first time in the history amend the Bill of Rights to say we cannot be trusted with that freedom. Let us not pass this amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time.

Before I get into the bulk of my talk, Mr. Speaker, the gentleman from New York has mentioned once again a letter from Colin Powell. I have in my hand here a letter written by another distinguished American general, Norman Schwarzkopf, who in essence indicates, and I will just take one sentence here, "I regard legal protections for our flag as an absolute necessity and a matter of critical importance to our Nation." He goes on in support. I think both Colin Powell and Norman Schwarzkopf are great Americans but oftentimes, as on many other issues, good people can come to differing opinions on an important issue, and they have in this particular case. I do believe that we do need to protect the flag.

The flag of the United States of America has become the physical manifestation of democracy and freedom in the world today. The flag has been described as a national asset, akin to the

Grand Canyon and the Washington Monument, as it symbolizes the strength and endurance of this great Nation and the embodiment of its ideals and its values. As Chief Justice Rehnquist has noted, "Millions and millions of Americans regard it with an almost mystical reverence, regardless of what sort of social, political or philosophical beliefs they may have." We pledge our allegiance to the flag, we pay tribute to the flag through song as illustrated by our national anthem, and we honor our fallen soldiers by draping flags over their coffins, planting flags at Arlington National Cemetery as we did most recently on Memorial Day not long ago, and presenting flags to widows and widowers. To say that the American flag is simply a colored piece of cloth mischaracterizes the nature of the symbol and its importance to our country. As the flag goes, so goes our country. If we allow its defacement, so too do we allow our country's gradual decline. Therefore, in order to ensure the future of our country, we must ensure the future of our flag.

Over the years, there have been countless acts of flag desecration. The gentleman has said, and we have heard this in committee, that it does not happen that often anymore; but since 1994 alone there have been over 115 reported incidents, and those are reported incidents, of flag desecration, occurring in 35 States, here in the District of Columbia, and in Puerto Rico. The States and the Federal Government have been prevented from prohibiting such conduct since 1989 when the United States Supreme Court ruled in Texas v. Johnson that flag burning was expressive conduct protected by the first amendment to the Constitution. That was a 5 to 4 vote, I might add. Congress immediately responded by passing the Flag Protection Act of 1990. However, shortly thereafter, the Supreme Court in United States v. Eichman held that the act was unconstitutional for the same reasons as in the Johnson case. Thus, the only option remaining for the American citizenry to address and correct this problem is through the constitutional amendment process as set forth in article 5 of the United States Constitution. That is why we are here today. It is the only way that we now can protect the flag because of these two Supreme Court cases.

H.J. Res. 4 will simply restore the constitutional authority that Congress had possessed for more than 200 years to protect the flag from physical desecration. While opponents claim that amending the Constitution to remedy a problem that they contend does not exist will open the floodgates to other amendments, history has proven this assertion false. In fact, since the adoption of the Bill of Rights, there have been over 11,000 proposed constitutional amendments with only 17 approved and ratified.

So we have only amended the Constitution 17 times plus the 10 times it was amended in the Bill of Rights. Thus, the fear of an onslaught of constitutional amendments and the eventual destabilization of the document itself is unfounded. In addition, opponents claim that this proposed constitutional amendment will infringe upon speech and adversely impact those protesting against government policies. First, H.J. Res. 4 is in no way related to the suppression of free speech and is not at all concerned with content of any type of expression. Rather, H.J. Res. 4 is concerned only with the vehicle through which some individuals choose to express their ideas. Just as people cannot burn a dollar bill or burn their draft cards to express their ideas, so too should people be prohibited from burning or desecrating the American flag. H.J. Res. 4 would not interfere with a speaker's freedom to express his or her ideas by any other means.

Secondly, this amendment would not unfairly target those who protest against government policy, as there were numerous statutes in the past outlawing the desecration of the flag, and there is no evidence of prosecutorial abuse in this regard. The exaggerated scenarios that opponents of this measure paint are intended not to illustrate reality but only to incite fear and hostility toward this measure.

Opponents also argue that the words encompassed in the proposal such as "flag" and "desecration" are too broad and ambiguous, leaving the public uninformed as to the type of conduct that will ultimately be prohibited. The simple answer to this is that H.J. Res. 4 is a proposed constitutional amendment which by definition necessitates ambiguous terms in order to give Congress sufficient flexibility to draft and adopt authorizing legislation. Consider the calamity that would have resulted if the drafters of the 14th amendment would have been required to specifically define "due process" or "equal protection." The nature of the Constitution requires that such terms be broad and subject to interpretation.

Desecration of the flag necessarily diminishes and adversely affects those values and principles for which the flag stands.

We believe very strongly that this should be passed.

Mr. NADLER. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to place this debate in context because every time we cut veterans benefits, we pull out this resolution. Just a few weeks ago, we voted to cut veterans benefits by $28 billion. And so far those cuts have been restored, but many in this House, a majority, in fact, of this House, will have to explain those votes. Challenging the patriotism of those of us who voted "no" on those cuts will not cover up the fact that those votes were actually cast.

Mr. Speaker, we should acknowledge that the whole purpose of the underlying constitutional amendment is to stifle political expression that we find offensive. While I agree that we should respect the flag, I do not think it is appropriate to use the criminal code to enforce our views on those who disagree with us. The Supreme Court has considered restrictions on the Bill of Rights that are permissible by the government. For example, under the first amendment with respect to speech, time, place and manner may generally be regulated while content cannot. There are, of course, exceptions. Speech that creates an imminent threat of violence or threatens safety or patently offensive expression that has no redeeming social value, those may be restricted. But generally you cannot restrict content. The distinction is that you can restrict time, place and manner but not content. And so you can restrict the particulars of a march or demonstration, what time it is held, where it is held; but you cannot restrict what people are marching or demonstrating about. You cannot ban a particular march or demonstration just because you disagree with the message unless you decide to ban all marches. You cannot allow marches by the Republican Party but not by the Democratic Party.

Some have referred to the underlying resolution as the anti-flag burning amendment and they speak about the necessity of this amendment to keep people from burning flags. But, really, the only place we ever see flags burned is in compliance with the Federal code at flag ceremonies, disposing of a worn-out flag. If you ask any Boy Scout or any member of the American Legion, how do you dispose of a worn-out flag, they will tell you that you burn the flag at a respectful ceremony. This proposed constitutional amendment is all about expression and all about prohibiting expression in violation of the spirit of the first amendment. By using the word "desecration," we are giving government officials the power to decide that one can burn a flag if you are saying something nice or respectful, but you are a criminal if you burn the flag while saying something offensive or insulting. This is an absurd distinction and is in direct contravention with the whole purpose of the first amendment.

Mr. Speaker, in addition to the violation of the spirit of the Bill of Rights, this legislation has practical problems. For example, what is a flag? Can you desecrate a picture of a flag? Can a flag with the wrong number of stripes or stars be desecrated?

Mr. Speaker, during the Vietnam War, laws were passed prohibiting draft cards from being burned and protesters with great flourish would say that they were burning their draft cards and offend everybody, but then nobody would know whether it was a draft card or just a piece of paper. Mr. Speaker, what happens if you desecrate your own flag in private? Are you subject to criminal prosecution if someone finds out?

And finally, Mr. Speaker, I feel compelled to comment on the ridiculous suggestions that stealing and destroying someone's personal property is protected if that property happens to be a flag. That is wrong. It is theft and destruction of personal property. What this legislation is aimed at is criminalizing political speech. And so we should not politicize criminal speech we disagree with just because we have the votes.

I would hope, Mr. Speaker, that we would defeat the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM), the author of the resolution.

Mr. CUNNINGHAM. Mr. Speaker, my friend on the other side mentioned a gentleman from the Tuskegee Airmen, a very honored group. As a matter of fact, there is a chapter in San Diego. I spoke to them about this resolution in San Diego years ago. They support this resolution. They are good friends of mine. These are the men that fought against racism and flew P–51s in WWII. Not a single bomber was lost while the Tuskegee Airmen escorted them.

Opponents say that this is frivolous, that we are offering a frivolous amendment. In the Tuskegee Airmen letter, it said that this for the first time was denying first amendment rights. It is not. For 200 years-plus, this was tradition in our country. Abraham Lincoln, Washington, Jefferson, yes, and even Betsy Ross knew the threads that held this country together. During the Civil War, it was a death penalty to desecrate the flag. No one is asking us to do this. As a matter of fact, this vote today only gives the States the right to ratify this resolution. Even if we pass this here today, if the States say "no," it will not pass.

The gentleman from New York said, do we know democracy? Fifty State resolutions say that they will ratify this. That to me is democracy. Two hundred years of tradition wiped away by a 5 to 4 Supreme Court vote. That is democracy. Eighty percent of the American people support this bill. To me that is democracy. Two hundred Members of this House and one vote short in the other body on these resolutions. That is democracy.

□ 1515

Even the dissenters of the Supreme Court, and I quote, noted that "In times of national crisis, the flag inspires and motivates the average citizen to make personal sacrifices in order to achieve societal goals of importance."

Not just during war, but maybe there is an earthquake or a fire. It inspires people.

So what do you think on the other side it does to these same people when you desecrate that symbol that lifts them up? And that is why this is important, Mr. Speaker. This is 200 years of tradition.

What is patriotism? I told you in the rule vote about a young Hispanic, that other Hispanics were desecrating the flag and he grabbed the flag and he was beaten, and he stood up and said, "That is why I immigrated to this country. This flag represents the traditions, the freedoms, the liberty that I stand for." And he did not let them burn it.

I mentioned about "Glory," African Americans that picked up the flag when one of their fellow soldiers fell, knowing that they would die. Ask those African American soldiers that charged that fort what they would think of you today rationalizing against this vote that it is a First Amendment vote. It is not.

You have all kinds of actions. You can swear, you can yell, you can protest, you can hold up signs, but just do not desecrate the American flag.

I have a story that I have, a friend that was a prisoner of war for 6½ years. It took him 6 years to gather bits of thread to knit an American flag on the inside of his shirt. And that was fine, until the Vietnamese guards broke in, and they saw the POW with a flag that he hung above on the wall when they were able to get together.

They saw the flag. They ripped it to shreds. They dragged the POW out and they beat him unconscious, so bad that the other prisoners did not think he would survive. And they comforted him as much as they could. He went back in the corner, and a few minutes later they looked and saw this broken-body POW drag himself to the center of the floor and started gathering those bits of thread to knit another American flag.

That is action. Patriotism takes action, and it is action that is unfinished business at all times.

This is not frivolous to us. I was shot down on my 300th mission over Vietnam. The actors that protested the war, that was their right under the First Amendment. I may disagree with them, but it was their right.

Protest in any way you want, just do not burn the American flag. Vote yes on this resolution.

Mr. NADLER. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member of the subcommittee for yielding me time.

Mr. Speaker, this is about choices, and it is about differences of opinion, so I respect greatly my good friend from California for his desire to move on this legislation. But I think the American people need to be able to flush out what this debate is all about.

H.J. Res. 4, were it to pass, would be the first time in United States history that the Constitution is amended in order to curtail an existing right. Just a few minutes ago on this floor I held up the Constitution, and I said that Americans need to begin to read the Constitution again, that is, to understand that it is a document to give rights, to protect as opposed to prohibit.

We have seen the courts over the years refine our laws, and I have admitted on this floor that crying fire in a crowded theater certainly has been enunciated as being against the order, against law and order, and against the protection of the people. But this amendment does nothing to enhance the rights of Americans.

I have heard my good friend utilize Hispanics and African Americans. I certainly welcome his right to express his viewpoints and whatever characterization he is trying to suggest. But I would offer to say that today we all stand as patriots and Americans, Hispanics, African Americans, Asians; in Texas, Anglos or Caucasians, Native Americans, new immigrants, people seeking opportunity.

The real question is that there is no prohibition for some valiant soldier to rise to the occasion and take a flag across a battlefield. We do not stop that. We applaud that. Nor is there any prohibition likewise for someone who has a disagreement on the political philosophy of this Nation to be able to rise up in disagreement.

Clearly, during the civil rights era, might I say, thank God for the First Amendment, that there were brave souls enough to speak against the horrificness of segregation. If you took the laws of the South, those people should have been jailed, as they were over and over again, you would have confirmed their being jailed for expressing their right to associate against segregation. So this is a matter of choice and a matter of disagreement.

Two generals who were annunciated by my friends, General Powell indicating his position, and a different position, difference of opinion; and this is what this amendment stands for, not accepting differences of opinion.

The Supreme Court in the Gregory Johnson case right out of Texas when this individual in 1989 burned a flag in front of the Republican convention, sounds horrific, sounds embarrassing, but yet the Court of Appeals and the Supreme Court indicated that the lower court's decision should be reversed, holding that the Texas law had been unconstitutionally applied to Johnson in violation of his First Amendment rights. The Supreme Court upheld that right for him to have political expression.

I had such an amendment before the Committee on Rules that political content, speech, should be protected, but yet it was rejected.

I would simply say, Mr. Speaker, in closing, it is a matter of choice and a matter of right. I beg my colleagues not to pass an amendment that restricts the Constitution. That would be wrong and misdirected.

Mr. Speaker, I rise in opposition to H.J. Res. 4, an amendment to the Constitution to prohibit physical desecration of the flag of the United States. I oppose H.J. Res. 4 because this resolution is an overly broad infringement on the First Amendment Right to Freedom of Speech.

### BACKGROUND

This is not the first time this Chamber has considered this very Amendment to the Constitution. In 1990, Congress considered and rejected H.J. Res. 350—an Amendment to the U.S. Constitution specifying that "The Congress and the States have the power to prohibit the physical desecration of the flag of the United States." This failed to get the necessary two-thirds congressional majority by a vote of 254–177 in the House and 58–43 in the Senate. Again in 1995 Congress considered the same amendment, H.J. Res. 79, but did not get the necessary two third majority vote of the Senate. In 1999, this Constitutional Amendment, then call H.J. Res. 33, also failed to be passed.

If H.J. Res. 4 were to pass, it would mark the first time in United States' history that the Constitution is amended in order to curtail an existing right. In this case, the proposed amendment would severely narrow the scope of the First Amendment's protection of free expression codified in the Bill of Rights. This dangerous and unnecessary assault on our fundamental liberties would set a terrible precedent.

I renew my opposition to this Constitutional Amendment. Despite my opposition, I agree with the proponents of this Constitutional Amendment that the American flag is a symbol of all of the principles and ideals that this country is built upon—freedom of assembly, freedom of religion, equality, and justice to name a few.

### FLAG DESECRATION AND THE FIRST AMENDMENT

One of the most important ideals that the flag symbolizes is the First Amendment protection of freedom of speech. I believe that freedom of speech should be protected without condition. The Supreme Court of the United States, as it relates to desecration of the flag, appears to agree.

In 1989 the Supreme Court addressed the issue of flag desecration as it related to the First Amendment. In 1989, the Supreme Court finally addressed whether a flag burning statute violates the First Amendment in Texas v. Johnson.

In that case, Gregory Johnson was arrested for burning the U.S. flag during a demonstration outside of the Republican National Convention in Dallas. Mr. Johnson's actions were deemed to be in violation of Texas' "Venerated Objects" law. The Texas statute outlawed "intentionally or knowingly" desecrating a "national flag." The statute, defined the term "desecrate" to mean "to deface, damage or otherwise physically mistreat in a way that the actor knows will seriously offend one or more persons likely to observe or discover his action." The Court of Appeals for the Fifth District of Texas upheld Johnson's conviction under the Venerated Objects law. The Court of Criminal Appeals, Texas' highest criminal court, reversed the lower court decision, holding that the Texas law had been unconstitutionally applied to Johnson in violation of his First Amendment rights.

The Supreme Court affirmed the Texas Court of Criminal Appeals ruling and determined that the First Amendment protects those citizens who burn the U.S. flag in political protest from prosecution. The Supreme Court ruled that Johnson's conduct constituted a symbolic expression that was both intentional and overly apparent. According to the Supreme Court, the Texas statute was "content-based" and, therefore, subject to "the most exacting scrutiny test" outlined in another Supreme Court case, Boos v. Barry. The Texas statute was deemed content-based because Johnson's guilt depended on the communicative aspect of his expressive conduct and was restricted because of the content of the message he conveyed. Furthermore, the Court stated that, although the Government has an interest in encouraging proper treatment of the flag, it was prohibited from criminally punishing a person for burning a flag as a means of political protest. The Court determined that the Texas statute was designed to prevent citizens from conveying "harmful" messages, reflecting a government interest that violated the First Amendment principle that government may not prohibit expression of an idea simply because it finds the idea offensive or disagrees with the idea.

In response to the Johnson ruling, Congress passed the content-neutral "Flag Protection Act of 1989." The Flag Protection Act of 1908 prohibited flag desecration under all circumstances by removing the requirement that the conduct cast contempt upon the flag. The statute also narrowly defined the term "flag" in an effort to avoid any vagueness problems. After the Flag Protection Act was passed, a series of the flag burnings took place in cities across. Criminal charges were brought against protesters who participated in flag burning incidents in Seattle and Washington, D.C. In both cases, the federal district courts relied on Johnson, striking down the 1989 law as unconstitutional when applied to political protesters.

In U.S. v. Eichman, the Supreme Court protected First Amendment freedom of speech, and in a 5–4 decision upheld the lower federal court rulings and struck down the Flag Protection Act of 1989. The Court ruled, again, that the Government's stated interest in protecting the status of the flag "as a symbol of our Nation and certain national ideals" was a "suppression of free expression" that gave rise to an infringement of First Amendment rights. The Court acknowledged that the 1989 law, unlike the Texas statute in Johnson, contained no content-based limitations on the scope of protected conduct. However, the Court determined, the federal statute was subject to strict scrutiny because it could not be enforced without reference to the message of the "speaker."

The supporters of H.J. Res. 4 argue that flag desecration should not be considered speech within the meaning of First Amendment. On the contrary, it is precisely the expressive content of acts involving the flag that the amendment would target. These expressive acts are within the definition of speech. It is obvious that the criminal sanctions against flag burning in the Johnson case, and the criminal sanctions the sponsors of this amendment will likely seek to enact if H.J. Res. 4 is adopted, are directly related to the expressive content of the act of burning the flag.

Under current law "[t]he flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning." It is clear then, that the prohibitions against flag burning or "physical desecration" in H.J. Res. 4 are fundamentally content-based. Burning a flag to demonstrate respect or patriotism is permissible under current law. Should the proposed amendment pass, burning the flag to convey a political viewpoint of dissent or anger at the United States would become a crime.

The airing of unpopular, dissenting views is an affirmative social good. Attempt to place limits on the manner of form of expressing unpopular views must inevitably translate into limits on the content of the unpopular views themselves. Likewise, limitations on the use of the flag in political demonstrations ultimately undermines First Amendment free speech.

Adoption of H.J. Res. 4 will also create a number of dangerous precedents in our legal system. The Resolution will encourage further departures from the First Amendment and diminish respect for our Constitution. Doing so would make it unlikely to be that this would be the last time Congress acts to restrict our First Amendment liberties.

### H.J. RES. 4 DOES NOT HONOR AMERICA'S VETERANS

It also flawed reasoning to argue that this amendment honors the courage and sacrifice of America's veterans. It may be the opinion of many American's that we should condemn those who would dishonor our nation's flag. However, H.J. Res. 4 will dishonor the Constitution and betray the very ideals for which so many veterans fought, and for which so many members of our armed forces made the ultimate sacrifice. In a May 18, 1999 letter to Senator PATRICK LEAHY, General Colin L. Powell said:

> The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will by flying proudly long after they have slunk away.

Another honored member of our Armed Services, Jim Warner, a Vietnam veteran and prisoner of the North Vietnamese from October 1967 to March 1973, wrote:

> The fact is, the principles for which we fought, for which our comrades died, are advancing everywhere upon the Earth, while

> the principles against which we fought are everywhere discredited and rejected. The flag burners have lost, and their defeat is the most fitting and thorough rebuke of their principles which the human could devise. Why do we need to do more? An act intended merely as an insult is not worthy of our fallen comrades. It is the sort of thing our enemies did to us, but we are not them, and we must conform to a different standard. . . . Now, when the justice of our principles is everywhere vindicated, the cause of human liberty demands that this amendment be rejected. Rejecting this amendment would not mean that we agree with those who burned our flag, or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom, even for those expressions we find repugnant.

The flag is a symbol of our freedoms. The right to speak openly, even if that speech is unpopular, is a freedom. As we consider this Amendment we are faced with a difficult question: Do we protect a symbol of freedom of speech, or do we protect free speech itself? When given the choice, I choose to protect freedom itself over a symbol of freedom.

Mr. Speaker, while many Americans find desecration of the flag offensive or distasteful, the strength of our nation lies in our ability to tolerate dissent and allow free speech especially when we disagree. We should not let a handful of offensive individuals cause us to surrender the very freedoms that make us a beacon of liberty for the rest of the world. For these reasons, I urge my colleagues to vote no on H.J. Res. 4.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the word seems to be around here that the Supreme Court decisions are sacrosanct and we should never amend the Constitution when the Congress and the several States believe the Supreme Court is wrong. I believe the Supreme Court is wrong in this, and that is why this amendment is before us.

But I point out that in three of the 17 instances since the Bill of Rights was ratified, the Congress and the States have amended the Constitution to reverse Supreme Court decisions. The 11th Amendment reversed the decision relative to the judicial power of the United States. The 14th Amendment reversed the Dred Scott decision. The 16th Amendment reversed the decision on the income tax. So, three of the 17 amendments that have been ratified since 1791 have reversed Supreme Court decisions that the Congress and the States have thought were erroneous.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me time.

I must tell you, Mr. Speaker, I think this is a great debate. As a member of the Committee on the Judiciary, as someone trained in constitutional law, I find the passion that I hear on this floor today for the First Amendment truly inspiring, and I respect it immensely.

In fact, would that we had heard that same passion for protecting the free speech rights of Americans when last year this Congress adopted severe limitations on campaign speech in the so-called campaign finance reform legislation. But that is a battle for another branch of this government and another day.

I rise today, rather, Mr. Speaker, to try and express from my heart what I believe this amendment means to millions of patriotic Americans who support it, and I do so with a sincere heart, to speak to those millions of patriotic Americans who oppose it.

After surviving the bloodiest battlefield since Gettysburg, a squad of Marines trudged up Mount Suribachi on Sulfur Island with a simple task: to raise the American flag above the devastation below. When the flag was raised by Sergeant Mike Strank and his men, history records that a thunderous cheer rose from the troops on land and on sea, in foxholes and on stretchers. Hope returned to that field of battle when the American flag began flapping in the wind.

It is written, Mr. Speaker, that without a vision, the people perish. The flag was the vision that inspired and rallied our troops on Iwo Jima, and I would offer to you humbly today, the flag is still the vision for Americans who cherish those who stood ready to make the necessary sacrifices. It may well be why every single veterans group in America is scoring the vote in favor of the flag resolution today.

I would offer that by adopting this flag protection amendment, we will raise Old Glory again. We will raise her above the decisions of the judiciary that was both wrong on the law and on history. We will raise the flag above the cynicism of our times. We will say to my generation of Americans those most unwelcome of words, there are limits. Out of respect for those who serve beneath it and for those who died within the sight of it, we must say there are boundaries necessary to the survival of freedom.

Let us raise the American flag to her Old Glory again.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, we are gathered here today to debate a constitutional amendment that would restrict the right of an American to make a foolish, foolish mistake with his own property. My primary objection to this amendment is that it will give government a tool with which to prosecute Americans with minority views, particularly at times of great national division, behavior that would have been perceived as patriotic if done by the majority.

Unfortunately, our history has abundant examples of patriotism being used to hurt those who express views in disagreement with that of the majority. Let me share with you some news stories taken from the New York Times in years of great strife in America.

The first one I would like to read is from April 7, 1917, headline: "Diners Resent Slight to the Anthem. Attack a Man and Two Women Who Refuse to Stand When It Is Played. There was much excitement in the main dining room at Rectors last night following the playing of the Star Spangled Banner. Frederick Boyd, a former reporter on the New York Call, a Socialist newspaper, was dining with Miss Jessie Ashley and Miss May Towle, both lawyers and suffragists. The three, alone of those in the room, remained seated. There were quiet, then loud and vehement protests, but they kept their chairs.

"The angry diners surrounded Boyd and the two women and blows were struck back and forth, the women fighting valiantly to defend Boyd. He cried out he was an Englishman and did not have to get up, but the crowd would not listen to explanation. Boyd was severely beaten when the head waiter succeeded in reaching his side. Other waiters closed in and the fray was stopped.

"The guests insisted upon the ejection of Boyd and his companions and they were asked to leave. They refused to do so, and they were escorted to the street and turned over to a policeman who took Boyd to the West 47th Street Station, charged with disorderly conduct.

"Before the magistrate, Boyd repeated that he did not have to rise at the playing of the National Anthem, but the court told him that while there was no legal obligation, it was neither prudent nor courteous not to do so in these tense times, and he was found guilty of disorderly conduct and released on suspended sentence."

Another one, July 2, 1917, headline: "Boston Peace Parade Mobbed. Soldiers and Sailors Break Up Socialist Demonstration and Rescue Flag. Socialist Headquarters Ransacked and Contents Burned, Many Arrests for Fighting.

"Riotous scenes attended a Socialist parade today which was announced as a peace demonstration. The ranks of the marchers were broken up by self-organized squads of uniformed soldiers and sailors. Red flags and banners bearing socialistic mottos were trampled on, and literature and furnishings in the Socialist headquarters in Park Square were thrown into the street and burned.

"At Scollay Square there was a similar scene. The American flag at the head of the line was seized by the attacking party and the band, which had been playing 'The Marseillaise' with some interruptions, was forced to play 'The Star Spangled Banner' while cheers were given for the flag."

The last one, from March 26, 1918.

□ 1530

"Pro-Germans Mobbed in Middle West. Disturbances Start in Ohio and are Renewed in Illinois. Woman among Victims.

"Five businessmen of Delphos, a German settlement in western Allen County near here, accused of pro-Germanism, were hunted out by a volunteer vigilance committee of 400 men and 50 women of the town, taken into a brilliantly lit downtown street and forced to kiss the American flag tonight under pain of being hanged from nearby telephone poles."

What do these old stories from the New York Times have to do with this very important and heartfelt debate today? The decision we make today, it seems to me, is a balancing, a weighing of what best preserves freedom for Americans. There may well be a decrease in public deliberate incidents of flag desecration, acts that we all deplore, if this amendment becomes part of our Constitution.

On the other side of our ledger, if this amendment becomes part of our Constitution, in my opinion, it will become a constitutionally sanctioned tool for the majority to tyrannize the minority. As evidenced by these news stories from a time of great divisiveness in our Nation's history, government, which ultimately is human beings with all of our strengths and weaknesses, will use this amendment to question the patriotism of vocal minorities, will use it to find excuses to legally attack demonstrations which utilize the flag in an otherwise appropriate manner.

Let me give an example. I was at a rural county fair in Arkansas several years ago, and a group had a booth with a great patriotic display in addition to handouts and signs. They had laid across the table like a tablecloth an American flag. I knew these people thought this to be a very patriotic part of the display. I watched as one of the volunteers sat on the table, oblivious to the fact he was sitting on our American flag. His action was a completely innocent mistake, and he did not realize such behavior is inconsistent with good flag etiquette.

I believe that had this group been a fringe group, those with views contrary to the great majority, and should we have laws prohibiting physical desecration of the flag, such an action as I described would not be excused as an innocent mistake. Instead, a minority group might be prosecuted, out of anger, out of disgust, but make no mistake, the motivation for such a prosecution would be that they hold a minority view.

Mr. Speaker, I do not think our Constitution will be improved nor our freedoms protected by placing within it enhanced opportunity for minority views to be legally attacked, ostensibly because of their misuse of the flag, but in reality because of views that many consider out of the mainstream.

I urge a "no" vote on the proposed amendment, and for the same reasons, a "no" vote on the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois (Mr. HYDE), my distinguished predecessor as chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Wisconsin for yielding time to me.

Mr. Speaker, one of the great aspects of the privilege of being a Congressman is that we get to debate some pretty noble issues. We get to engage in them. This is certainly one. I am delighted this debate is occurring.

In my view, there is something larger at work here than simply the flag itself. I think this amendment offered by the gentleman from California (Mr. CUNNINGHAM) is an effort by mainstream Americans to reassert community standards. This bill is a protest against the vulgarization of our society.

In our popular culture, decent standards are under constant and withering assault. This amendment is an assertion that the community has some rights, too, and that with rights go responsibilities which help provide a moral compass for our "anything goes" society.

This amendment partially corrects the oversight in our Constitution whereby we have a Bill of Rights, oh, do we have a Bill of Rights, but no bill of responsibilities. Then, of course, a right is meaningless unless we are all responsible for respecting it, so one depends on the other.

This amendment asserts that our flag is not simply a piece of cloth, but like a photograph of our families on our desks, it symbolizes certain unifying ideals that most Americans hold sacred.

Our national motto, "E Pluribus Unum," underscores the fact that we are a thoroughly diverse Nation. If we look around this room, not at this moment, but when we are all present, we see a wildly diverse group of Irish and Greeks and Poles and African Americans and Hispanics, et cetera, et cetera, et cetera. Our whole country is a diverse exposition of people coming together, proud of their ethnicity, of their language, their native music, their culture.

But at the same time, there are unifying principles, things we share together. That is what "E Pluribus Unum" means, "one from many." We are still one Nation. We are all blessed, no matter our background, with the rule of law. That is a unity worth celebrating, not denigrating.

What is it about this swatch of fabric we call a flag? What gives it such beauty and power as it floats in the breeze? Well, men have followed it into battle again and again in defense of freedom, draped it over the coffins of heroes returned.

I remember standing at a gravesite in Normandy and looking at the cross. It says, "Here lies in honored glory, a comrade in arms known but to God." And decorating that sparse, grim grave was a little flag that somebody had put near the cross. I looked at that and I thought that little flag was saying thank you for all America to that unknown soldier, thank you and God grant you peace.

If we ask an old veteran attending a Memorial Day ceremony as he struggles to his feet to salute the flag, what does he think of when we see the flag, he will tell us freedom, sacrifice, and hope. Yes, it is called Old Glory because it is old; it has been handed down from generation to generation, and Glory because it stands for the most precious ideas human beings have ever known.

Justice Frankfurter in a 1940 case said, "We live by symbols." He went on to say, "The ultimate foundation of a free society is the binding tie of cohesive sentiment."

Woven into the fabric of the flag is the collective memory of America from Bunker Hill to Baghdad. America lacks the cultural homogeneity that China or Japan or even France has, but as Americans, we share the unity of the Declaration.

But cohesive sentiment is what the flag symbolizes, and as tombstones are not for toppling nor churches for vandalizing, flags are not for burning. Burn a $10 bill and you violate the law. Walk down Constitution Avenue at high noon without your clothes on and you will soon learn the limits of self-expression. Free speech is not absolute, never has been. We have slander and libel laws, copyright laws, and many other limitations.

This amendment does not trivialize our Constitution, far from it. It recognizes that nothing is more important in a democratic society than emphasizing the tradition of responsibility that nourishes our liberty.

Saul Bellow, the novelist, said years ago, "A great deal of intelligence can be invested in ignorance when the need for illusion is great." When I hear my learned friend, the gentleman from New York (Mr. NADLER), managing this bill on the other side of the aisle, saying that never in 200 years have we attempted to amend the first amendment, I refer him to the 13th amendment and the 14th amendment, 1865–1868, and suggest that maybe some law schools are better than others.

In any event, let me close with a paragraph from an article that I have saved over the years written by a woman named Diane Schneider. "You, of course, have the right to burn Old Glory. If you are compelled to so express your disdain, if you can find no civil outlet in speech or song, you are protected by law. But if I am there when you put a match to the colors, know this: I will take the flaming fabric in my hands, crush the embers and hold the star-spangled banner as high as I can in the free wind."

Mr. NADLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding time to me, my New York colleague. He and I both came to Congress together.

I rise in support of and cosponsor this resolution which proposes an amendment to the Constitution allowing Congress to ban the desecration of our American flag. You can speak your mind, but do not burn our flag.

I am a strong supporter of our first amendment rights to the freedom of expression. However, we do have limits. If I burn my car, protesting the auto maker, I am fine. If I burn a U.S. dollar, it is illegal.

For instance, court-made law restricts our freedom of speech as limited by the example given in law school classes about not screaming fire in a theater. That is court-made law that restricts my freedom of speech.

What we are trying to do today with this amendment is similar. We want the authority to enact legislation to say that desecration or burning the symbol of our country is unjust, just as yelling fire in a crowded theater is unjust.

A hallowed symbol like our flag deserves to be respected and protected as a national treasure. Our flag represents a principle our Nation was founded on and many people have given their lives for. I believe it should be afforded the maximum protection we can give it legislatively.

For these reasons, I am proud to be a cosponsor, and urge my colleagues to join me in supporting it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, the issue that we face this afternoon is very simple. It is whether or not the American flag is of such importance to the American people that their elected Representatives should have the right to protect the desecration of that flag.

I would submit that the answer to that is deafening from voices from every military base, local barbershop, restaurant, church, school, or veterans group in America.

Last week I had the privilege to fly out to the USS *Roosevelt* as she returned home from her great efforts in Iraq. Just before that great aircraft carrier made its turn into the pier, all of those sailors in white uniforms circled around the aircraft carrier and in each of their hands was an American flag. As they turned and looked at the pier, they all raised their flags up, and the people on the pier raised their flags up in a great symbol of unity.

If we ask any of them if the flag is worth protecting, they will tell us that we are absolutely doing the right thing.

But Mr. Speaker, I will tell the Members that the testimony that was most compelling to me did not come from any of these, or any of the testimony before the subcommittee or the full committee, but it came really in the unintentional testimony of my 17-year-old son, Justin, that convinced me of what we were doing today and that it was the right thing.

Justin is like a lot of teenagers, he does not like politics and his greatest love is basketball. My wife and I were therefore surprised when we discovered a few weeks ago that he had written an essay that had been selected as the number one essay on patriotism in Virginia by the State PTA.

He wrote that he was just an ordinary teenager who spent most of his time talking about girls, playing basketball, or fixing up his 1981 Jeep. He said he had an ordinary grandfather who was neither richer, smarter, nor better-looking than most people. Yet when his grandfather was 19 years old, he left for the Army only 3 days after he got married, and he ended up in a little place called Normandy. Fortunately, he arrived several weeks after the initial invasion, but Justin wrote that he could not get over the courage and commitment of 19-year-old boys coming off landing craft.

He wrote about September 11, when he looked at ordinary men and women who did extraordinary things across the country, and the thing that united them was the American flag.

Mr. Speaker, Justin concluded by saying that most of our heroes are very ordinary people who do very extraordinary things. He said that even though he might be ordinary, there was one time when he became very extraordinary, and that was when he held his flag high. That united him with his grandfather, it united him with the victims of 9/11, and it united him with all the other great heroes of this country.

I agree with him. I think it is time we hold this flag up high. It is time we say it really is a special piece of cloth.

Mr. Speaker, I think it is time we pass this legislation.

Mr. NADLER. Mr. Speaker, I am delighted to yield 3 minutes to the distinguished gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, certainly I am totally appreciative of my dear friend, the gentleman from New York (Mr. NADLER), yielding time to me.

When I first came to Congress, and each Congress since, I raised my right hand and swore to uphold and defend our Constitution. I rise today in the spirit of that oath.

Flag desecration offends all of us. Above all, we are a nation of law. Our Supreme Court has consistently held that behavior to be political expression, the very sort of unpopular speech the first amendment was intended to protect. No matter how rude or unpleasant, political expression of opposition to the government is constitutional.

This Congress, Mr. Speaker, is made up of people from all walks of life, of all political, religious, and philosophical persuasions. That does not reduce our patriotism among any of us. I was not born JULIA CARSON; I was married into the family of Carsons. My husband, Sam Carson, was a 100 percent service-connected Korean War veteran. My son, Sam Carson, is also a veteran of the Marine Corps.

Once again this week, in the fifth Congress in a row, in anticipation of Flag Day we are called upon to consider a bill to bring about an amendment to the Constitution to get around the Supreme Court's repeated holdings that tampering with, insulting, or defiling the flag is protected conduct under the first amendment, the bedrock of our Bill of Rights.

□ 1545

I heard one of my distinguished colleagues indicate how good it is for soldiers to come back into this country and be met by the waving of the flag.

I was very troubled recently to see on the news where so many of our reservists who were called up and who leave families behind, families are in dire straits economically. One particular reservist left a $25,000 job to serve his country and his family; his wife and four children had to move in with her parents in very small and cramped quarters. Yet we do a tax cut and cut out the families of those who are sent to protect the freedom of Iraq and the freedom of America.

Over the years we have made constructive changes to our Constitution. But in the 200 years we have enjoyed its protections, we have never before changed the meaning of the Bill of Rights, not so much as a single comma, recognizing and protecting that document as our freedom shield. I believe that this is no time to change the first amendment's protection of freedom and expression, so basic and so critical to the way American democracy works. This is brought home especially by the sacrifice of soldiers fighting and dying even today to ensure that Iraqi people have the right to speak and live freely and the right to protest against their own government. This is a fundamental value of freedom's promise, no less in Iraq, no less in the United States.

When first I came to Congress, and each Congress since, I raised my right hand and swore to uphold and defend our Constitution. Mr. Speaker, I rise today in the spirit of that oath.

Flag desecration offends us all but, above all, we are a nation of law. Our Supreme Court has consistently held that behavior to be political expression, the very sort of unpopular speech the first amendment was intended to protect—no matter how rude or unpleasant—political expression of opposition to the government.

Once again this week, in the fifth Congress in a row, in anticipation of Flag Day we are called upon to consider a bill to bring about an amendment to the Constitution to get around the Supreme Court's repeated holdings that tampering with, insulting or defiling the flag is protected conduct under the first amendment, the bedrock of our Bill of Rights.

The main objective of the first amendment is to stop Congress and the courts from picking and choosing what kinds of speech are permitted. It is clear that what would be regulated by this amendment is not physical desecration of the flag, but the sentiments expressed by the action.

Over the years we have made constructive changes to our Constitution but in the 210 years we have enjoyed its protections we have never before changed the meaning of our Bill of Rights—not so much as a single comma—recognizing and protecting that document as our freedom's shield.

I believe that this is no time to change the first amendment's protection of freedom of expression, so basic and so critical to the way American democracy works. This is brought home especially by the sacrifice of our soldiers fighting and dying—even today—to assure the Iraqi people the right to speak and live freely, and the right to protest against their own government. This is a fundamental value of freedom's promise, no less so in places where we would see freedom take new root than here at home.

However offensive such conduct may feel, the answer is not to restrict the freedom to speak. Rather, the answer is to remind our fellow citizens of how important unfettered political speech is to our democracy, how fundamental to our freedom. Supreme Court Justice Robert Jackson put it well back in 1943—during World War II: "Freedom to differ is not limited to things that do not matter. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

Sometimes we make a law because we can and not because we should, a powerful temptation we should resist. Changing the meaning of the Constitution to address hateful conduct by a tiny minority is unnecessary.

Together we have weathered severe crises over the past 2 years, proof that we can withstand the ugly actions of a few misguided protesters. Secretary of State Colin Powell said it well, "I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

Patriotism that forces reverence for national symbols at the expense of vital constitutional rights is not what our country is about.

I will honor and celebrate the flag by taking a stand for liberty and to support the Constitution and the Bill of Rights by voting to defeat this proposal.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am getting a little sick of hearing that this is an assault on the first amendment. We are using constitutional processes to overturn a Supreme Court decision that made no sense.

Now, last year a lot of my colleagues, not me, voted for a campaign finance reform bill that significantly restricted people's rights to express themselves on political issues. And that was emaciated by a lower Federal court, and it probably will be declared unconstitutional as well by the Supreme Court. So let us be consistent, the first amendment is not absolute.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for yielding me time. I wish to associate myself with the gentleman's remarks just previous and also restate the Supreme Court has changed the meaning of the Bill of Rights. That is why we are here today.

I am a cosponsor of House Joint Resolution 4, which empowers Congress to protect the paramount symbol of liberty of the United States by providing that "the Congress shall have power to prohibit the physical desecration of the flag of the United States."

To desecrate the American flag is equal to inciting a riot. Those that burn the flag do so for the sole purpose of striking horror into the hearts of veterans, members of armed services and patriots across the country.

For over half a century, every single State in the Union, and later the Federal Government, outlawed flag desecration without constitutional objection. Such laws have now been negated by a single opinion that the five Justices of the United States Supreme Court rendered in 1989 in Texas v. Johnson.

Countless Americans have fought and died under our flag. Our flag stands for our freedom as a Nation, a bulwark signifying not only our sovereignty but our resolve as a people against tyranny and terror. We must restore our great symbol of liberty to its rightful place under the laws so that our ancestors and immigrants, our friends and enemies, will have no doubt about its value, its meaning, or the very dear price paid to preserve our freedom.

I witnessed the desecration of hundreds of flags in this city this year. It is a sad and sickening sight. I urge you to vote for H.J. Res. 4 to protect our flag that Americans have fought and died for.

Mr. NADLER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, last year this House and the other body and the President all cooperated in passing legislation to improve campaign financing techniques. Some people say that regulated speech. What it did was regulate expenditures of money. Many people do not consider money as speech. It is a different issue.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I rise to oppose what I think is a well intentioned but misguided effort here to amend the first amendment, the Bill of Rights.

Every nation on Earth that I know of has a flag. There is only one that has a bill of rights and that is us. And that is the difference here. Every repressive regime I know of throughout history has tried in some form or another to repress the destruction of whatever they have consider symbolic. Again, every nation on Earth has a flag. There is only one that has a bill of rights, and that is us. We are talking about the first amendment.

For Congress to knowingly give to the government the power to prescribe what is permissible protest when that protest does not affect any other freedoms, nor does it physically harm anybody else, but yet give to the government the right to prescribe limits on that I think is wrong. And I just say this, once we breach the Bill of Rights, they then become relevant. Up until now they are not. We breach those, they become relevant, believe you me it will not be long before there will be some on this floor talking about the second amendment and why we need to change that.

So I want all the conservative thinkers in this body and around the country to think about what we are doing. As a symbol, we are going over ground that has not been plowed. Every nation has a flag only. One has a bill of rights, and that is why I think this is a misdirected effort.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, even though I generally do not support amending the Constitution, today I rise in strong support of this proposed constitutional amendment.

We have come here today because five individuals in black robes have opined that we must tolerate flag desecration as protected speech. As a result of that opinion, 48 States and the District of Columbia have decided not to enforce their own laws prohibiting the desecration of the flag of the United States of America.

Clearly, I believe the Supreme Court has it wrong. The flag is a unique symbol that merits our special recognition. The flag represents our freedom, our history, and our values as a Nation. In battles spanning 2 centuries in all corners of the globe, the flag has served as an inspiration and rallying point for U.S. soldiers fighting for the ideals it embodies.

More than a million Americans have given their lives in defense of our flag and our unique way of life. Many of those who gave the last full measure of devotion in serving their Nation were honored with a flag draped over their caskets. This proposed amendment places the debate exactly where our framers intended for it to take place, in the town halls across America. It is the American people, not the Supreme Court, that have the ultimate responsibility to answer constitutional questions. And that is encouraging to me, Mr. Speaker, because as it was suggested earlier that we act today to amend the Constitution because of the vulgarization of society, I believe we are here actually today because of the facilitation of the vulgarization of society by the highest Court in the land, the Supreme Court of the United States.

Forty-nine State legislatures, including my home State of Indiana, have passed resolutions asking that Congress approve this amendment to the Constitution. Moreover, Mr. Speaker, I find the words of the Pledge of Allegiance telling: "I Pledge Allegiance to the flag of the United States of America and to the republic for which it stands."

I would underscore that this simple phrase recited every morning in this very Chamber pledges our allegiance not only to the Republic but to the flag itself. Mr. Speaker, others will argue that the ideals of the flag are the only things that are worth protecting. I must respectfully disagree with their argument.

The flag itself occupies a unique place in our Republic. It is the one symbol that merits our allegiance. Why do we continue to pledge our devotion and support to a flag if we are not willing to protect it from desecration? I urge my colleagues to support the proposed amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the ranking member for yielding me time.

When I was a little girl in elementary school and I learned the Pledge of Allegiance, I was so very proud. Even in my French class our French teacher taught us how to say the Pledge of Allegiance in French. As I stand here today, I know I can still remember those words.

I am so pleased to hear so many talk about allegiance to the flag and to the Republic, and they drape themselves in the flag and talk about all these issues that are important to them; yet I have stood here on the floor of the House and listened to my colleagues pass legislation that denies liberty and justice for all in this country.

I have seen us pass legislation that denies liberty and justice for all with regard to the child care credit. I have seen them deny liberty and justice for all for a whole lot of reasons. But what I say to you today is this debate is not about that piece of material up there, the flag that we all revel. This debate is merely about whether we are going to stand here and be divided, one side or the other, about whether or not people have a right to free expression and a right to free speech. And I stand with those who are entitled to free speech and a right to speak out on their own.

I love the flag. All of us love the flag. But let us not fool anybody about why we are debating the issue. It would be great. I even heard someone talk about African American soldiers. My father was an African American soldier. He is 83 years old. He was denied his rights of liberty and justice because he had to serve in a segregated Army, and he talks to me about that all the time.

So let us get real. Let us talk about the facts, and let us say the only reason we are up here debating this issue is because there are some who want to deny people the right of free expression and the right of free speech. So I stand here opposed to this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to this amendment. I do not believe much good will come of it. A lot of good intentions are put into the effort, but I see no real benefit.

It was mentioned earlier that those who supported campaign finance laws were inconsistent. And others would say that we do not have to worry about the first amendment when we are dealing with the flag amendments. But I would suggest there is another position. Why can we not be for the first amendment when it comes to campaign finance reform and not ask the government to regulate the way we spend our money and advertise, at the same time we protect the first amendment here?

It seems that that consistency is absent in this debate.

It is said by the chairman of the committee that he does not want to hear much more about the first amendment. We have done it before, so therefore it must be okay. But we should not give up that easily.

He suggested that we have amended the Constitution before when the courts have ruled a certain way. And he says absolutely right, we can do that and we have done that. But to use the 16th amendment as a beautiful example of how the Congress solves problems, I would expect the same kind of dilemma coming out of this amendment as we have out of the 16th amendment which, by the way, has been questioned by some historians as being correctly ratified.

I think one of our problems has been that we have drifted away from the rule of law, we have drifted away from saying that laws ought to be clear and precise and we ought to all have a little interpretation of the laws.

The gentleman earlier had said that there are laws against slander so therefore we do violate the first amendment. Believe me, I have never read or heard about a legislative body or a judge who argued that you can lie and commit fraud under the first amendment. But the first amendment does say "Congress shall write no laws." That is precise. So even the laws dealing with fraud and slander should be written by the States. This is not a justification for us to write an amendment that says Congress shall write laws restricting expression through the desecration of the flag.

□ 1600

So we do not know what the laws are, but when the laws are written, that is when the conflict comes.

This amendment, as written so far, does not cause the conflict. It will be the laws that will be written and then we will have to decide what desecration is and many other things.

Earlier in the debate it was said that an individual may well be unpatriotic if he voted against a Defense appropriation bill. I have voted against the Defense appropriation bill because too much money in the Defense budget goes to militarism that does not really protect our country. I do not believe that is being unpatriotic.

Mr. Speaker, let me summarize why I oppose this Constitutional amendment. I have myself served 5 years in the military, and I have great respect for the symbol of our freedom. I salute the flag, and I pledge to the flag. I also support overriding the Supreme Court case that overturned State laws prohibiting flag burning. Under the Constitutional principle of federalism, questions such as whether or not Texas should prohibit flag burning are strictly up to the people of Texas, not the United States Supreme Court. Thus, if this amendment simply restored the State's authority to ban flag burning, I would enthusiastically support it.

However, I cannot support an amendment to give Congress new power to prohibit flag burning. I served my country to protect our freedoms and to protect our Constitution. I believe very sincerely that today we are undermining to some degree that freedom that we have had all these many years.

Mr. Speaker, we have some misfits who on occasion burn the flag. We all despise this behavior, but the offensive conduct of a few does not justify making an exception to the First Amendment protections of political speech the majority finds offensive. According to the pro-flag amendment Citizens Flag Alliance, there has been only 16 documented cases of flag burning in the last two years, and the majority of those cases involved vandalism or some other activity that is already punishable by local law enforcement!

Let me emphasize how the First Amendment is written, "Congress shall make no law." That was the spirit of our Nation at that time: "Congress shall make no laws."

Unfortunately, Congress has long since disregarded the original intent of the Founders and has written a lot of laws regulating private property and private conduct. But I would ask my colleagues to remember that every time we write a law to control private behavior, we imply that somebody has to arrive with a gun, because if you desecrate the flag, you have to punish that person. So how do you do that? You send an agent of the government, perhaps an employee of the Bureau of Alcohol, Tobacco and Flags, to arrest him. This is in many ways patriotism with a gun—if your actions do not fit the official definition of a "patriot," we will send somebody to arrest you.

Fortunately, Congress has modals of flag desecration laws. For example, Sadam Hussein made desecration of the Iraq flag a criminal offense punishable by up to 10 years in prison.

It is assumed that many in the military support this amendment, but in fact there are veterans who have been great heroes in war on both sides of this issue. I would like to quote a past national commander of the American Legion, Keith Kreul. He said:

> Our Nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and its Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a golden calf. Instead, they carried the banner forward with reverence for what it represents, our beliefs and freedom for all. Therein lies the beauty of our flag. A patriot cannot be created by legislation.

Secretary of State, former Chairman of the Joint Chiefs, and two-time winner of the Presidential Medal of Freedom, Colin Powell has also expressed opposition to amending the constitution in this manner:

> I would not amend that great shield of democracy to hammer out a few miscreants. The flag will be flying proudly long after they have slunk away.

Mr. Speaker, this amendment will not even reach the majority of cases of flag burning. When we see flag burning on television, it is usually not American citizens, but foreigners who have strong objections to what we do overseas, burning the flag. This is what I see on television and it is the conduct that most angers me.

One of the very first laws that Red China passed upon assuming control of Hong Kong was to make flag burning illegal. Since that time, they have prosecuted some individuals for flag burning. Our State Department keeps records of how often the Red Chinese persecute people for burning the Chinese flag, as it considers those prosecutions an example of how the Red Chinese violate human rights. Those violations are used against Red China in the argument that they should not have most-favored-nation status. There is just a bit of hypocrisy among those members who claim this amendment does not interfere with fundamental liberties, yet are critical of Red China for punishing those who burn the Chinese flag.

Mr. Speaker, this is ultimately an attack on private property. Freedom of speech and freedom of expression depend on property. We do not have freedom of expression of our religion in other people's churches; it is honored and respected because we respect the ownership of the property. The property conveys the right of free expression, as a newspaper would or a radio station. Once Congress limits property rights, for any cause, no matter how noble, it limits freedom.

Some claim that this is not an issue of private property rights because the flag belongs to the country. The flag belongs to everybody. But if you say that, you are a collectivist. That means you believe everybody owns everything. So why do American citizens have to spend money to obtain, and maintain, a flag if the flag is community owned? If your neighbor, or the Federal Government, owns a flag, even without this amendment you do not have the right to go and burn that flag. If you are causing civil disturbances, you are liable for your conduct under state and local laws. But this whole idea that there could be a collective ownership of the flag is erroneous.

Finally, Mr. Speaker, I wish to point out that by using the word "desecration," which is traditionally reserved for religious symbols, the authors of this amendment are placing the symbol of the state on the same plane as the symbol of the church. The practical effect of this is to either lower religious symbols to the level of the secular state, or raise the state symbol to the status of a holy icon. Perhaps this amendment harkens back to the time when the state was seen as interchangeable with the church. In any case, those who believe we have "no king but Christ" should be troubled by this amendment.

We must be interested in the spirit of our Constitution. We must be interested in the principles of liberty. I therefore urge my colleagues to oppose this amendment. Instead, my colleagues should work to restore the rights of the individual states to ban flag burning, free from unconstitutional interference by the Supreme Court.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Speaker, I love our flag and that for which it stands. It stands for a Nation founded by people fleeing from an oppressive regime. It stands for freedoms, not the least of which is the freedom of opinion and the unimpeded expression thereof, including the freedom to protest.

Bear in mind, this was a Nation founded by protesters. When our Founding Fathers sought to guarantee these freedoms, they created not a flag but a Constitution, debating the meaning of each and every word, every amendment, every one of which gives people rights. They did not debate a flag. The flag would become a symbol of these rights.

There are those who would have fewer rights. Why? What is the threat to the Republic that drives us to erode the Bill of Rights?

Well, someone burned the flag. Whatever happened to fighting to the death for somebody's right to disagree? We now choose instead to react by taking away a form of the right to protest. Most people abhor flag burners, but even a despicable, low-life malcontent has a right to disagree and disagree in an obnoxious fashion if he wishes. That is the true test of free expression, and we here are about to fail that test.

These are rare but vile acts of desecration that have been cited by those who would propose changing our founding document, but these acts do not harm anybody. If a jerk burns a flag, America is not threatened. If a jerk burns a flag, democracy is not under siege. If a jerk burns a flag, freedom is not at risk. We are offended. To change our Constitution because someone offends us is, in itself, unconscionable.

Hitler banned the burning of the flag. Mussolini banned the burning of the flag. Saddam banned the burning of the flag. Dictatorships fear flag burners. The reason our flag is different is because it stands for burning the flag.

Though we in proper suits may decry the protests and the protestors and the flag burners, protecting their right is the true stuff of a democracy. The real threat to our society is not the occasional burning of a flag, but the permanent banning of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshiped as pagans would, rather than to be kept as the beloved symbol of our freedom that is to be cherished.

It is not the flag burners who threaten democracy. Rather, it is those who would deny them. In the name of our Founding Fathers, save us from those who would put up this defense.

The Constitution was written by intellectual giants and is here today being nibbled by small men with press secretaries. If flag burners offend us, do not beat a cowardly retreat by rushing to ban them. Protesters, like grapes, cannot be eliminated by stomping on them. Meet their ideas with bigger ideas for an ever better America to protect the flag by protecting democracy, not by retreating from it.

We cannot kill a flag. It is a symbol, and yes, patriots have died; but recall what they have died for. They have died for liberty. They have died for democracy. They have died for the right to speak out in protest. They have died for values.

The flag is a symbol of those values. What they died for are American principles. Saying that people died for the flag is symbolic language. The Constitution gives us our rights. The Constitution guarantees our liberties. The Constitution embodies our freedoms. It is our substance. The flag is the symbol for which it stands.

True patriots choose substance over symbolism. Diminish one right and it shall forever stand for less. Do not pass this amendment. Do not diminish the Constitution. Do not cheapen the flag.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank my chairman for yielding me the time.

Mr. Speaker, I rise in strong support of this resolution to amend the Constitution to give the Congress the authority to prevent the physical desecration of the American flag, and I would note the comments of the gentleman from New York, citing some dictators who have prohibited destroying flags, and would point out that many others of a very different mindset have strongly supported this, including President Abraham Lincoln. Many justices of the Supreme Court, as disparate in their views as Earl Warren and William Rehnquist and Hugo Black have found that the laws of the many States prohibiting the desecration of the flag to be constitutional, and it is only because of a narrow five-four majority at one moment in time in our Court's history, finding these laws to be unconstitutional and overturning the work of 48 States and the District of Columbia, that it is necessary for the Congress to address this.

I would argue to the gentleman from Texas, for whom I have respect, that we are turning away from the rule of law when we do not recognize that with freedom comes responsibility, and we have always recognized in the first amendment that there are a number of instances in which free speech is limited. A person cannot shout fire in a crowded theater. They cannot engage in slander or libel. They cannot engage in fighting words. There are a number of such restrictions, and certainly, the prohibition on the physical act of destroying a flag should be included amongst them because it is the equivalent of fighting words to burn a flag in front of a group of veterans who put their lives on the line for their country and fought for the freedom which that flag represents.

This is a very basic, very straightforward amendment supported by the overwhelming majority of the American people, and I urge my colleagues to support this resolution.

Mr. NADLER. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, it has been said before and will be said again that everyone who speaks on this amendment loves this flag that hangs behind me as a symbol of the greatest democracy on the face of the earth, as a symbol of the country that has demonstrated throughout history the greatest countenance in the principles for which that flag stands.

It gives me absolutely no pleasure to oppose this proposed constitutional amendment providing the physical desecration of our flag. I believe people ought not to engage in that kind of activity, but our flag is more than mere cloth. It is a universal symbol for freedom, democracy and liberty, and it will continue to be so for so long as the symbols for which it stands flies high in the hearts of every American. That is where it needs to fly high, in our hearts and in our intellect.

Those who would desecrate it only seek to grab attention for themselves and inflame the passions of patriotic Americans. Without doubt, they deserve both our contempt and our pity for their stupidity, but while I appreciate and respect the motivations of those who offer and support this amendment, I will oppose it for the reasons so eloquently articulated by the gentleman from Texas (Mr. PAUL) and Senator McCONNELL of Kentucky.

In opposing a similar amendment a few years ago, Senator McCONNELL stated that it "rips the fabric of our Constitution at its very center, the first amendment." That was Senator McCONNELL. He added, "Our respect and reverence for the flag should not provoke us to damage our Constitution, even in the name of patriotism."

The question before us today is how we, the United States of America, the greatest democracy the world has ever known, the greatest bastion of freedom the world has ever known, a bastion of freedom that remains free because of the efforts of the Duke Cunninghams and the Sam Johnsons and so many others who risked their lives to maintain that freedom, the question before us is how to deal with those individuals who dishonor our Nation in this manner.

Mr. Speaker, a constitutional amendment, in my opinion, is neither the appropriate nor the best method for dealing with these malcontents. As the late Justice Brennan wrote in the Supreme Court of Texas v. Johnson, "The way to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong."

That is what Thomas Jefferson talked about, that the best response to wrong speech was right speech, not prohibiting speech.

Our traditions, our values, our democratic principles, all embodied in our Constitution and the Bill of Rights, should not be overridden to prohibit this particularly offensive manner of speech, no matter how much we may disagree with it or how much contempt we may have for those who would express themselves in such an inappropriate and negative way.

The inflammatory actions of a few misfits cannot extinguish, it must not extinguish, our ideals. We can only do that ourselves, and I submit that a constitutional amendment to restrict speech, even speech as this, is the surest way to stoke the embers of those who will push for even more restrictions.

"America" is one of the great songs, and one of the lines from that song is "Long may thy land be bright with freedom's holy light." Freedom is not allowing those with whom we agree to express their opinion; it is allowing those with whom we deeply disagree to express theirs.

Long may this land be bright with freedom's holy light. That is our responsibility. That is our oath.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this proposed constitutional amendment does not restrict anybody from saying whatever they want to say about the flag, about the government, about their opinions of any public official, of any candidate for office, of the policies that have been made by the Federal Government, the State government or the local government. What it does do is to prohibit offensive acts, such as burning the flag or, in my own State, using the Johnson and Eichman decisions, the State Supreme Court said that defecating on the flag was an act that was a protected political expression under the first amendment to the United States Constitution.

The only way to put sense back into the law is to pass H.J. Res. 4.

Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I rise today to defend not only the flag of the United States, but also what it stands for and for those who have defended it throughout our Nation's history.

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The American flag is the greatest symbol of hope and freedom in the world. Countless Americans have fought and died for the freedom that our flag represents, and the desecration of our great flag is an assault on their sacrifice.

Police officers and firefighters, as well, wear the flag on their sleeves each and every day as they do their duty to protect our communities. And on September 11, every American witnessed those brave firefighters raising Old Glory out of the rubble of the World Trade Center. That was a symbol of America's resolve that our freedom will reign even in the face of unprecedented terror.

To allow the desecration of the flag is to give hope to those whose goal it is to destroy our freedom. I urge my colleagues to stand up for the freedom that the flag represents, to stand up for those who have fought and died to defend our freedom, to stand up for those who protect our communities and our Nation, to stand up for our flag.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Speaker, I rise today as a law professor who fiercely believes in the first amendment, but I am also the son and grandson of Army generals and a veteran of ground combat in Vietnam.

I accept the argument that I, my father, my grandfather, other relatives, many of whom were wounded, some of whom died, did not fight for a piece of cloth, but rather for what it symbolizes. Yet our memories and emotions are inextricably intertwined with that cloth itself. And the cloth symbolizes a country whose Constitution is not writ in stone, immutable for all time. Instead, our Constitution establishes a process for its amendment.

Mr. Speaker, no harm or violence is done here to our constitutional system by an amendment designed to respect the memories and emotions that are inextricably interwoven with the cloth of our flag. In fact, I believe that respecting those memories and emotions nourishes a vital spirit in this country, the spirit of individual sacrifice in combat for the good of the country.

Our country's great freedoms were won and enjoyed today because of the selfless sacrifices of countless, often nameless, sometimes unknown heroes. Amending the Constitution to prohibit flag desecration is a small way to thank these individuals who cannot be thanked enough. And this amendment is a small price to pay if it strengthens our Republic and helps ensure its future.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, the gentleman from California (Mr. CUNNINGHAM) made the statement, and it is true, that during our Civil War flag desecration was regarded as treasonous and punishable by death.

Today's resolution brings to mind when I was a POW in Vietnam. All they told us was that there were demonstrations here in this country; that people were burning our flag; that people were against the war. And you know what that did for our morale? Nothing. It was bad. We need to stop that.

I well remember when, at our homecoming, which was the day the longest-held prisoners left Vietnam for America, and I was part of that group, I remember cheering when we got out over the water. And looking out the window of our C-130 as we got in to Clark Air Base, guess what we saw? The American flag, the flag of the United States of America, with all the people on that base out to welcome us waving those flags. Not one of them was burning it or desecrating it. They were draped on the hangars, they were draped on the buses. What I remember most was how happy everyone looked, including those of us who were returning to this country to see the American flag hanging from a hangar.

We are truly blessed to call America the land of the free and the home of the brave, and I do not think we should disrespect all she stands for and all those who have fought for her. We need to protect this great flag. Vote for this amendment.

Mr. NADLER. Mr. Speaker, how much time do I have left, please?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from New York (Mr. NADLER) has 20 minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 17½ minutes remaining.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me comment on what was just said by the distinguished gentleman from Texas, by reading an article written by a prisoner of war named James Warner. He wrote in "The Retired Officer" on September of 1989 of his experience as a prisoner of war in Vietnam. He writes as follows:

"We could subvert them," meaning his torturers, the North Vietnamese, "by teaching them about freedom through our example. We could show them the power of ideas. I did not appreciate this power before I was a prisoner of war. I remember one interrogation, where I was shown a photograph of some Americans protesting the war by burning a flag. There, the officer," that is the enemy officer, "there, the officer said, people in your country protest against your cause. That proves that you are wrong. No, I said, that proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us. The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto a table and screamed at me to shut up. While he was ranting, I was astonished to see pain, compounded by fear in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him."

That is the close of the quote from this article from "The Retired Officer" by James Warner, former prisoner of war in Vietnam.

Mr. Speaker, the truth of the matter is we have heard today that desecration of the flag ought to be made unconstitutional because it is not valid speech. True, the first amendment is not absolute. We do not allow people to yell fire in a crowded theater unless there is evidence that there is a real fire. The Supreme Court ruled that many years ago. But the core protection of the first amendment is for ideas, for outrageous ideas, for obnoxious ideas, for ideas that we find horrible and offensive and dangerous.

Our philosophy, what makes this country different and unique, is that this country is built on a foundation, the foundation being the belief in freedom, in liberty, in the fact that, not always the case but we fervently believe in the fact that good ideas will drive out of the marketplace of bad ideas; that good speech will defeat bad speech. And we do not legislate against bad speech; we do not legislate against speech that we disagree with or find outrageous.

Now, we have heard, of course, that we are not talking about speech here, we are talking about expressive acts. But the fact of the matter is, again, we are talking about speech. We are talking about speech that people are frightened of and outraged about because it offends them. Because, again, the very acts we would be outlawing or permitting Congress to outlaw with this amendment would not, by anybody's stretch of the imagination, be outlawed unless accompanied by the wrong speech.

Again, as the gentleman from Virginia earlier today told us, and as I mentioned in my opening remarks, the recommended manner, recommended by the law, of disposing of a flag is to burn it. So, again, if you burn the flag, and while you burn it you say respectful things, that is wonderful. But if you burn the flag while saying what a terrible policy the current administration is following or if you burn the flag while saying what a terrible policy we are conducting and that we do not like this country, then we would make that criminal. Why? Not because the act of the flag burning is any different than when it was done with respectful words, but because in the one case the words were respectful and in the other case the words were obnoxious.

I agree the words are obnoxious. But the whole idea of freedom is to protect obnoxious words, especially obnoxious words or words that I or you may regard as obnoxious, though someone else may regard as fine and intelligent. That is their privilege. That is what freedom is about. The freedom of speech is not freedom for what we agree with, but freedom for what we find outrageous. Not just disagreeable, but outrageous.

When someone criticizes our country and says the war we are fighting is wrong, or the conduct of our troops is terrible, or whatever they may say that we may find disagreeable, outrageous and horrible, the glory of this country is that we give them the freedom to say it. And when someone burns a flag, and again there is no epidemic of flag burning, this amendment is really directed not at an existent problem, or has not existed really in the last 30 years of any size, but when you burn a flag and say respectful things, that is okay, because the law says that is okay; but when you burn a flag and say disrespectful things, that is not okay, what these circumstances say and that what we are really legislating against is the speech and not the act.

The act, accompanied by the right circumstances, would never be outlawed. We would not prosecute people who desecrated the flag as part of a movie or a play when they were portraying enemy soldiers, Nazi soldiers, or Chinese soldiers in the Korean War, because we do not think they mean it. What do they not mean? The speech. It is the ideas and the speech that we are outlawing by such an amendment. That is at the core of protected speech, at the core of the first amendment, at the core of the values we are supposed to hold dear. And that is why this amendment is so wrongheaded and ought not to be adopted.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the Constitution of the United States was ratified and came into effect in 1789. For 200 years, nobody seriously said that desecrating the American flag violated the first amendment to the Constitution. In fact, the Federal Government, 48 States and the District of Columbia passed statutes declaring flag desecration criminal conduct and prescribing criminal penalties.

It was only after 200 years and the Vietnam War that a flag desecration case claiming that first amendment rights were violated reached the Supreme Court of the United States. And what were the facts of the Johnson case? The Johnson case did not involve protesting the Vietnam War. It was burning the flag in front of the 1984 Republican National Convention that was held in Dallas.

Five years later, the case reached the Supreme Court. They decided, by a 5 to 4 margin, that flag desecration was political expression that enjoyed constitutional protection. And that was the first time in over 200 years of this Constitution being affected that the courts ruled that that type of activity was constitutionally protected.

I agree with what Chief Justice Rehnquist said in the dissenting opinion: "I cannot agree that the first amendment invalidates the act of Congress and the laws of 48 of the 50 States which made criminal the public burning of the flag."

If Members agree that the first amendment does prohibit this, then vote "no" on the constitutional amendment. I do not impugn anybody's patriotism. This is a legitimately held political position. But if my colleagues think that the Constitution should allow a criminal statute to prevent the public desecration of the American flag, the only way this can be accomplished is through the strong medicine of amending the Constitution.

The Supreme Court has twice said that if this is attempted to be done by statute, the first amendment is violated. I think that the government should be able to prevent the physical desecration of the American flag no matter how it is done. That is why I support this amendment, and I would hope that over two-thirds of the Members of this House of Representatives will support this amendment when we vote on it shortly.

Mr. SOUDER. Mr. Speaker, for more than two hundred years, the American flag has occupied a unique position as the symbol of our nation. During the Second World War, U.S. Marines fought hand to hand against thousands of Japanese at Iwo Jima. Upon reaching the top of Mount Suribachi, a group of these Marines raised a piece of pipe and from one end fluttered a flag. This ascent cost nearly 6,000 American lives. As you know, the Iwo Jima Memorial in Arlington National Cemetery memorializes that event. There would seem to be little question about the power of Congress to prohibit the mutilation of this monument. The flag itself can be seen as a monument, subject to similar protection.

It is true that a person may, in a sense, "own" the flag. But this ownership is subject to special burdens and responsibilities. Congress has prescribed detailed rules for the design of the flag, the time and occasion of the flag's display, the position and manner of its display, respect for the flag and conduct during hoisting, and lowering and passing the flag. With the exception of Alaska and Wyoming, all the States have statutes prohibiting the burning of the flag.

When the desecration of the flag is used as a protest, far more than a single flag is being violated. The devotion of every American who has expended their blood, sweat, and tears for this great nation is being battered. This amendment takes on even more importance given the events of September 11th. After watching the horrific events unfold on television, our nation came together through the patriotic display of old glory. The flag became a rallying point and sent a message to our enemies that we will not back down.

I commend the gentleman from California for this important piece of legislation. As it is phrased, H.J. Res. 4 would permit Congress to enact laws addressing physical desecration of our flag. Passage of this legislation through both the House and Senate would allow the American people to vote on this amendment. In doing so we will not only affirm the right to speak one's opinions, but also to protect the symbol of those freedoms that thousands of Americans have died giving their last full measure of devotion to protect.

Mr. SWEENEY. Mr. Speaker, I cannot tell you how excited I am that we are finally going to have the chance to pass this amendment that will restore the American flag to its rightful position of honor. I share much of the feelings of my predecessor in this seat: the Honorable Gerald Solomon. It has been a long time coming since that tragic day in 1989 when five Supreme Court justices decided it was OK to burn the flag and thereby hurt so many feelings around this country. That is why I am so proud to cosponsor this amendment on behalf of the American people. Today, we are going to hear the same arguments against this amendment that we have heard for years now. I respect the opinions of those opponents. That is their first amendment right.

But, Mr. Speaker, supporters of this amendment come to the floor today with the overwhelming support of nearly 80 percent of the American people. They are people from all walks of life: from religious organizations like the Knights of Columbus and the Masonic Orders, from civic organizations like the Polish and Hungarian and Ukrainian federations, from fraternal organizations like the Benevolent Order of Elks, Moose International, and the Federation of Police, and from other groups like the National Grange and Future Farmers of America.

Perhaps most impressive is the resounding support from the States around this country. All 50 States support this Flag Protection Amendment. After all, when have all 50 States agreed on anything?

Some opponents of this amendment claim it is an infringement of their First Amendment rights of freedom of speech, and they claim if the American people knew it, they would be against this amendment. Well, there is a Gallup poll taken of people outside the Beltway—that is real people, you know, real down-to-earth people. Seventy-six percent of the people in that poll say "No," a constitutional amendment to protect our flag would not jeopardize their right of free speech. In other words, the American people do not view flag burning as a protected right, and they still want this constitutional amendment passed, no matter what.

Mr. Speaker, we should never stifle speech, and that is not what we are seeking to do here today. People can state their disapproval for this amendment. They can state their disapproval for this country, if they want to. That is their protected right. However, it is also the right of the people to redress their grievances and amend the Constitution as they see fit. They are asking for this amendment. Therefore, I am asking you to send this amendment to the States and let the American people decide. That is really what America is all about.

And speaking of America, what is more important than Old Glory. It is what makes us Americans—and not something else. Over the past two centuries and especially in recent years, immigrants from all over this world have flocked to America, knowing little about our culture and our heritage. But they know a lot about our flag and respect it! Salute it—pledge allegiance to it. Mr. Speaker, it is the flag, which has brought this diverse group together, and made them Americans. No matter what our ethnic differences; no matter where we come from, whether it is up in the Adirondack Mountains of New York where I come from or Los Angeles, California; no matter what our ideology point of view, be it liberal or conservative, we are all bound together by those uniquely American qualities represented by our flag.

It is that common bond which brings us to this point, where we can elevate the Stars and Stripes above the political fray, and carry out the will of the vast majority of the American people. It is only appropriate, that the Constitution, our most sacred document, include within its terms, a protection of Old Glory, our most sacred and beloved national symbol. All that is required now, is for each of us to draw upon our patriotic fire, and do all we can to effect this demanded change to our Constitution. Please vote for this constitutional amendment.

Mr. VAN HOLLEN. Mr. Speaker, my father served in World War II and when I look at the American flag I see the sacrifices he and our nation's troops and veterans have made for us to be able to live freely. An important part of that freedom is the ability of our citizens to express themselves in any way that does not infringe on the rights of others. That is what sets the United States apart from so many other nations. Our constitutionally assured freedom of speech serves as a check against government oppression and injustice.

The Supreme court has held in several important First Amendment cases that a person may desecrate a flag, so long as a danger is not created. In 1989, the Supreme Court stated in Texas v. Johnson that any speech, particularly such intentionally expressive and overtly political speech as the burning of the flag, is protected; it is within the realm of liberties which our constitution guarantees us. Our government cannot dictate how we express ourselves politically, so long as we do not endanger or violate the rights of others.

While I personally find the desecration of this country's flag to be reprehensible, even more important than the flag itself is the freedom and liberty it represents. It is a sad day when, in the name of patriotism, we limit the freedoms enshrined in the First Amendment of the constitution. The flag is a symbol of the principles and freedoms that make our country great. When we encroach upon those freedoms, we risk doing far more harm to our nation than any flag burner could ever do.

Mr. LARSON of Connecticut. Mr. Speaker, I regret that due to a family medical emergency I could not be present today during the debate and votes on H.J. Res. 4, a proposed amendment to the Constitution of the United States to make burning or otherwise desecrating a United States flag a federal offense. I would, however, like to submit this statement for the record so that my position on this resolution is clear.

The flag burning amendment is an emotional issue that in my opinion cuts to the core of the things we hold dear and value as a nation. I do not question anyone's patriotism or conviction no matter where they stand on this issue. Mine is a matter of record. As a member of the Connecticut State Senate I voted to protect the flag, I did so not to limit peoples' freedom of expression, but to limit hateful behavior. Burning the flag is not speech, and as an expression it seeks to engender hate.

I am not a constitutional scholar, but have long felt that honoring my father's memory and that of so many veterans of his generation and mine, who have given their lives in defense of the nation should be afforded the respect they richly deserve. I do not believe that we endanger our freedom by protecting the flag and honoring their memory.

While I do support this proposed amendment, and have voted for it in the past, I also understand and respect the opinions of those who have expressed concern about the possibility that this amendment could affect First Amendment rights guaranteed under the U.S. Constitution. I would, therefore, consistent with my votes in the 107th Congress on this issue, also support the substitute amendment offered by my colleague Congressman Watt that I believe represents an acceptable compromise on this issue.

I will remain steadfast in protecting peoples' freedom of speech, and speaking out against discrimination and injustice. As someone who adamantly supports the crime legislation, I cannot be oblivious to the incendiary nature and emotional response evoked by burning the nation's flag. For many Americans, burning the flag is a hateful action that is as repugnant as burning a cross on a lawn, or painting a swastika on a synagogue.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in opposition to H.J. Res. 4, an amendment to the Constitution of the United States to authorize Congress to prohibit the desecration of the flag. This amendment not only stands in stark contrast to what the flag represents, but this debate today is keeping the House from addressing more urgent matters facing our country.

The flag is a symbol of American greatness. It inspires awe and pride and is the official emblem of our nation. And, above all, it stands for freedom; the freedom we are guaranteed by being lucky enough to live in America. Ironically, this amendment would punish those who exercise that freedom. In our country, dissenting views are allowed and tolerated, even expressions as offensive as flag desecration. To take away this fundamental freedom of expression is to dishonor the flag and the liberty it represents.

Furthermore, this amendment is uncalled for. At this time when there are so many issues that this House should be addressing—when American soldiers continue to die every day in Iraq, when millions of low-income families are being left behind by the Republican Congress and the Bush Administration, when seniors across America can't afford their prescription drugs and millions more lack any health care coverage, and when millions of schoolchildren lack such basic resources as textbooks and safe classrooms—the House is instead debating a bill that is unnecessary, controversial, vague, and, if passed, would undermine our democracy.

Webster's dictionary defines "desecrate" as "violating the sanctity of" and "treating disrespectfully, irreverently, or outrageously." This bill does not specifically define "desecration." Therefore, if the amendment were to be passed, we would then be forced to discuss whether flag desecration included printing the flag on clothing or dropping small plastic flags on the ground after parades; we would have to discuss if the "protected flags" had size regulations or had to be made of specific material; we would have to decide if flags on personal property were "protected"; and on and on. These debates are necessary. Instead of debating what freedoms we should be infringing upon and taking away, this House of Representatives should be doing everything it can to protect people's freedoms, especially our freedom of speech, and be working toward solutions to the problems that plague our constituents every day.

I urge my colleagues to vote no on H.J. Res. 4.

Mr. VITTER. Mr. Speaker, I rise today in strong support of House Joint Resolution 4 to ban the desecration of the United States flag. Following the horrific events of September 11th, our nation responded with an overwhelming show of patriotism. Across our land Americans proudly flew their flags from their homes, cars and workplaces as a demonstration of their love for the United States, our values, and their support for the war against terrorism.

These actions clearly illustrate that the American people see the flag as a symbol of hope, strength, and freedom. It is the one national symbol that we can all unify behind. In the flag is at one time our history, our aspirations, and our identity. Therefore, we should act today as reaffirmation of what our country stands for.

I would be the first person to stand up in defense of freedom of speech; however, there are some actions that are not free political speech but behaviors gauged to anger. Defacing the United States flag is one of these actions. Those who wish to protest against the actions of our country can do it through our media, hold rallies, give speeches, and march in demonstrations. Those same people can contact elected officials, sign petitions, and express their views in many ways.

To burn the flag not only suggests disgust for our great country, it also shows a lack of respect for the men and women who are currently fighting overseas, and even more so for those who have fought and died to make the United States of America what it is today.

I urge my colleagues to support the Resolution and vote in favor of final passage.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this resolution.

I am not in support of burning the flag. But I am even more opposed to weakening the First Amendment, one of the most important things for which the flag itself stands.

I agree with the Boulder Daily Camera that "If Congress and the states embraced this amendment, it would shield a symbol of freedom while assailing the very freedom it signifies. That symbolic flag desecration would be far more egregious than the theatrics of any two-bit protester."

As the Denver Post put it when the House considered a similar proposal two years ago. "The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn't give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can't take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity."

I completely agree. So, like Secretary of State Colin Powell, former Senator John Glenn, and others who have testified against it, I will oppose this resolution.

For the benefit of our colleagues, I am attaching the editorials on this subject in the Daily Camera and the Denver Post:

[From the Boulder (CO) Daily Camera, May 7, 2003]

## THE REAL DESECRATION

### "FLAG PROTECTION AMENDMENT" ASSAILS AMERICAN VALUES

Colin Powell loves our country, its Constitution and the flag. A general and a statesman, he has spent decades defending all three. Unlike many members of Congress, however, Powell can differentiate between our sweet liberty and a cherished symbol of that liberty.

Congress should heed Powell's advice. Let's hope it does. In the U.S. House of Representatives today, a committee is scheduled to consider a proposed constitutional amendment on "flag protection."

If ratified by three-fourths of the state legislatures, the amendment would allow Congress to do what the First Amendment forbids: to criminalize the physical desecration of the U.S. flag.

The House version of the flag-protection resolution has 135 co-sponsors, including Colorado Reps. Bob Beauprez, Joel Hefley, Marilyn Musgrave and Tom Tancredo. Colorado Sens. Wayne Allard and Ben Nighthorse Campbell are among the 55 Senate co-sponsors.

For years ago, Powell was asked about the flag-desecration amendment, which members of Congress were then, like now, pursuing. First, Powell noted, very few Americans burn the flag. Second, he said, these desecrators are irrelevant: "They may be destroying a piece of cloth, but they do no damage to our system of freedom, which tolerates such desecration."

Powell said he would not alter the Constitution on their account. "I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away."

It's just that simple. If Congress and the states embraced this amendment, it would shield a symbol of freedom while assailing the very freedom it signifies. That symbolic flag desecration would be far more egregious than the theatrics of any two-bit protester. It is nothing short of stupefying that many of our leaders continue to ignore this self-evident truth.

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[From the Denver (CO) Post, June 25, 2001]

### FLAG AMENDMENT SHOULD DIE

Although a proposed constitutional amendment to ban desecration of the American flag continues to lose steam, it nonetheless is once again being considered in the U.S. House.

The amendment, one of the most contentious free speech issues before Congress, would allow penalties to be imposed on individuals or groups who burn or otherwise desecrate the flag.

In past years, the amendment has succeeded in passing the House only to be killed, righteously, on the Senate floor.

The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn't give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can't take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity.

American war heroes like Secretary of State Colin Powell and former Sen. John Glenn strongly oppose this amendment. Glenn has warned that "it would be a hollow victory indeed if we preserved the symbol of freedoms by chopping away at those fundamental freedoms themselves."

In addition, the Supreme Court has ruled that desecration of the flag should be protected as free speech.

Actual desecration of the flag is, in fact, a rare occurrence and hardly a threat. There have been only a handful of flag-burnings in the last decade. It's not a national problem. What separates our country from authoritarian regimes is the guarantee of free speech and expression. It would lessen the meaning of those protections to amend our Constitution in this way.

The amendment is scheduled to go before the House this week, although if it passes it would still have to face a much tougher audience in the Senate. The good news is that House support of the amendment has been shrinking in recent years. It is possible that if that trend continues, the amendment could not only die this year but fail to return in subsequent years. We urge House lawmakers to let this issue go.

Ms. LEE. Mr. Speaker, I will not vote for any constitutional amendment that undermines the First Amendment, which, as the U.S. Supreme Court has repeatedly affirmed, protects even unpopular forms of dissent. Our founding fathers well know the importance of free speech and expression, and carrying on that tradition, we should do everything possible to ensure that this fundamental cornerstone of our democracy remains intact.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in opposition to this legislative proposal to amend the Constitution, giving Congress the power to prohibit the physical desecration of the flag.

For more than 2 centuries, the first amendment to the Constitution has safeguarded the right of our people to write or publish almost anything without interference, to practice their religion freely and to protest against the Government in almost every way imaginable. It is a sign of our strength that, unlike so many repressive nations on earth, ours is a country with a constitution and a body of laws that accommodates a wide-ranging public debate.

There is little question that those who would desecrate the flag have a lack of respect for this great nation. But we need not give these misinformed individuals any more attention than they deserve.

One can imagine the future protest situations that would take place should this legislation ever receive the massive support required of a constitutional change. It would be outrageous. And the contribution to the average hardworking American? More taxpayer dollars and police manpower wasted in the pursuit of little more than an offender lacking patriotism and good taste. The American flag does not need protection from such poor behavior. The principles embodied in it outshine such cowardly attempts to defame its stature.

Rather than spending time today arguing the merits of the 1st amendment, we should be focusing more attention on improving the daily lives of millions of Americans. From the rising costs of health care to a lack of affordable housing, many of our nation's veterans are struggling to make ends meet and now brace for the substantial cuts in benefits passed by this body. But instead of tackling those issues, we stand here debating a solution in search of a problem. Those brave men and women who risked their lives protecting our democracy need more than politicians paying them lip service, they need money to help pay the bills.

Heck, they can't even get a proper military burial service at Arlington National Cemetery because cuts to Veterans Affairs funding have eliminated the use of live buglers and replaced them with battery powered boom boxes. What a shame.

In short, the amendment in question is unnecessary. We don't need it and we must not become the first Congress in U.S. history to chill public debate by amending the Constitution in such a way. This issue truly tests the notion of freedom of speech guaranteed by our fore fathers. Let's pass this test and do the right thing by opposing this unmerited resolution.

Mr. SHAYS. Mr. Speaker, I rise today in opposition to H.J. Res. 4, which would amend the Constitution to allow Congress to pass laws banning the desecration of the flag.

I find it abhorrent anyone would burn our flag. And if I saw someone desecrating the flag, I would do what I could to stop them at risk of injury or incarceration. For me, it would be a badge of honor.

But I think this Constitutional Amendment is an overreaction to a nonexistent problem. Keep in mind the Constitution has been amended only 17 times since the Bill of Rights was passed in 1791.

This is the same Constitution that eventually outlawed slavery, gave blacks and women the right to vote and guarantees freedom of speech and freedom of religion.

Amending the Constitution is a very serious matter. I do not think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag now, without an amendment. I agree with Colin Powell who, when he served as Chairman of the Joint Chiefs of Staff, wrote it was a mistake to amend the Constitution, "that great shield of democracy, to hammer a few miscreants."

When I think of the flag, I think about the courageous men and women who have died defending it and the families they left behind. What they were defending was the Constitution of the United States and the rights it guarantees as embodied by the flag.

I love the flag for all it represents, but I love the Constitution even more. The Constitution is not just a symbol; it is the very principles on which our nation was founded.

I urge my colleagues to vote against this resolution.

Mr. BUYER. Mr. Speaker, I rise in support of this constitutional amendment to empower Congress to enact legislation to protect Old Glory from desecration.

This is not an issue about what people can say about the flag, the United States, or its leaders. Those rights are fully protected. The issue here is that the flag, as a symbol of our Nation, is so revered that Congress has a right and an obligation, to prohibit its willful and purposeful desecration. It is the conduct that is the focus.

After September 11, Old Glory of any size, any fabric, including ones made by school children from construction paper; those stuck in flower pots, pinned on lapels, or decals posted in the back window of pickup trucks were displayed everywhere. On the news, Tom Brokaw referred to this phenomenon "like countless bandages of patriotism covering a nation's wounds—a reassuring symbol" of what it means to be an American. It represents the physical embodiment of everything that is great and good about our nation—the freedom of our people, the courage of those who have defended it, and the resolve of our people to protect our freedoms from all enemies, foreign and domestic.

It is not a coincidence that when others seek to criticize America, they burn the American flag. Old Glory is the embodiment of all that is America—the freedoms of the Constitution, the pride of her citizens, and the honor of her soldiers, not all of whom make it home.

I have seen the Stars and Stripes on a distant battlefield. Across the river from here is a memorial of another battlefield and to the valiant efforts of our fighting men to raise the flag at Iwo Jima. It was not just a piece of cloth that rose on that day over 50 years ago. It was the physical embodiment of all we, as Americans, treasure—the triumph of liberty over totalitarianism; the duty to pass the torch of liberty to our children undimmed.

The flag is worth protecting, defending. I urge the adoption of the Amendment.

Mr. BARRETT of South Carolina. Mr. Speaker, I rise today in strong support of H.J. Res. 4. This amendment rightfully restores authority to Congress to regulate the treatment of our most precious national symbol—the American flag.

The flag has been a symbol of our freedoms for over 200 years.

Our flag has sailed around the world, it has traveled to the moon, it has flown atop the North Pole and Mt. Everest, it has withstood war both on our soil and abroad—each time representing what our nation stands for—freedom and democracy.

Over the years our flag has not only inspired but has comforted our nation. This was never more evident than the days, weeks and months following September 11. It was a photo of 3 firefighters raising the flag amidst the rubble of the World Trade Center that showed not only our nation, but the world we would not fall. A few days later we watched as the flag was draped over the Pentagon—we showed the world with that one action—terrorists may have tried but they did not succeed in destroying our nation and all we hold dear.

On September 11 the terrorists forced war upon our country. Since that day our military has been fighting a global war against terrorism. These brave young men and women risk their lives every day to defend the very freedoms the flag represents.

I served in the United States Army, fortunately during peacetime, but as a Captain in the US Army if my country called, myself and those who I served alongside, were prepared to make the ultimate sacrifice to defend the freedoms our flag represented.

It saddens me to see people in foreign countries celebrate as they burn our flag—I cannot do anything about what they do in their streets, but I can try to do something about what happens in our streets. It disgusts me when I see our own citizens desecrate the flag, the flag represents all our nation has been through and embodies all our nation stands for—to burn the flag is to burn all it stands for.

I wonder how the soldiers in Afghanistan or Iraq, who fight every day to protect our nation from ever seeing the horrors of another September 11, feel when they see or hear about American citizens burning the American flag—the very flag they fight under.

Therefore, I urge my colleagues to support H.J. Res. 4, the U.S. Flag Protection Constitutional Amendment.

Mr. SIMMONS. Mr. Speaker, I rise today in strong support of House Joint Resolution 4, the Constitutional Amendment to prohibit flag desecration.

Our flag is a symbol of the American character and its values. It tells the story of victories won—and battles lost—in defending the principles of freedom, and democracy.

These are stories of real men and women who have selflessly served this Nation in defending that freedom. And many of them lost their lives for it. Bunker Hill, Gettysburg, San Juan Hill, Iwo Jima, Korea, Da Nang, Persian Gulf—our men and women had one common symbol—the American flag.

The American flag belongs to them, as it belongs to all of us.

Critics of the amendment believe it interferes with freedom of speech. I disagree. Americans enjoy more freedoms than any other people in the world. They have access to public television. They can write letters to the editors to express their beliefs, or call into radio stations. I meet with constituents everyday in order to best represent their interests in Washington. Americans can stand on the steps of the Nation's capitol building to demonstrate their cause.

They do not need to demonstrate our noble flag to make their statement, and I do not believe protecting the flag from desecration deprives Americans of the opportunity to speak freely.

And let us be clear: speech, not action, is protected by the Constitution. Our Founding Fathers protected free speech and freedom of the press because in a democracy, words are used to debate and persuade, and to educate. A democracy must protect free and open debate, regardless of how disagreeable some might find the views of others. Prohibiting flag desecration does not undermine that tradition.

The proposed amendment would protect the flag from desecration, not from burning. As a member of the American Legion, I have supervised the disposal of over 7,000 unserviceable flags. But this burning is done with ceremony and respect. This is not flag desecration.

Over 70 percent of the American people want the opportunity to vote to protect their flag. Numerous organizations, including the Medal of Honor Recipients for the Flag, the American Legion, the American War Mothers, the American G.I. Forum, and the African-American Women's Clergy Association all support this amendment.

Forty-nine states have passed resolutions calling for constitutional protection for the flag. In the last Congress, the House of Representatives overwhelmingly passed this amendment by a vote of 298 to 125, and will rightfully pass it again this year.

Mr. Speaker, I am proud to be an original cosponsor of H.J. Res. 4 and ask that my colleagues join me in supporting this important resolution that means so much to so many.

Mr. TERRY. Mr. Speaker, I rise in strong support of H.J. Res. 4 to allow Congress to ban the physical desecration of the flag.

During the War of 1812, American soldiers valiantly fought at Fort McHenry, Maryland to preserve the newly-formed United States. The story of the fort's battle flag, which continued to wave despite the barrage of bombs from British warships, was captured in the poetry of Francis Scott Key. He marveled at the resiliency of our flag, and the unfailing courage it brought to the men battling for freedom under its stars and stripes. His words are now our national anthem, sung in school rooms, at sporting events, and whenever our nation pays homage to its fallen heroes. The image of our flag is ingrained in the hearts of all freedom-loving Americans.

The flag represents our ideals of freedom, liberty, and justice for all. It also symbolizes the sacrifice of 41 million Americans who have fought our wars dating back to the Revolution, and the one million Americans who have died to defend our freedoms. We live in liberty today because they did not shrink from duty. The least we can do to show our eternal gratitude is to protect our flag—our treasured symbol of those who made the ultimate sacrifice.

We are debating H.J. Res. 4 today because the Supreme Court has ruled that flag burning is "protected expression" under the First Amendment. Since this misguided decision was handed down, every state in the union has asked Congress to approve a Constitutional Amendment to protect Old Glory from physical desecration. Our First Amendment does not allow citizens to yell "fire!" in a crowded theater, nor does it protect intentionally outrageous acts of destruction. Desecrating our flag falls squarely into this category.

We are not debating free speech rights today. We are debating whether our sons and daughters will appreciate the sacrifices of their forefathers when they see the flag waving. The freedom, honor and sacrifice symbolized by Old Glory must never be taken for granted.

Mr. Speaker, I urge my colleagues to join me in supporting H.J. Res. 4.

Mr. BACA. Mr. Speaker, I rise in support of H.J. Res. 4 to protect our nation's flag.

Our flag is a symbol of pride to all of the veterans who have bravely fought for this nation. It is a symbol of hope and prosperity to the many immigrants who have traveled to this land seeking a better way of life. But most of all, it is a symbol of freedom to all Americans.

We must ensure that our symbol, representing all of the things Americans hold sacred is respected. We must stand up and protect our flag from destruction.

Just as no one has the right to take away our freedom and democracy, no one should have the right to burn our flag.

Many soldiers have died protecting our freedom and democracy. The rights and freedoms that we enjoy today are because of the courage of our brave soldiers. Our flag, flies as a constant reminder of our military's victories.

We must not forget that all of our soldiers have not yet returned from war. Many of our men and women are still in the Middle East trying to safeguard Iraq. Many of our soldiers are still in Afghanistan, searching for Osama Bin Laden. The battle for peace in the Middle East is not over.

Our soldiers are still risking their lives and dying in the name of this nation. Now is not the time to question patriotism. We must be united and stand behind our soldiers and our symbols of freedom.

When a soldier or a veteran dies, his family receives a flag honoring the loss of their loved one. We proudly drape the flag over their coffins. We must make sure the families know that their loved one did not die in vain. The American Flag is the symbol that represents the soldier's sacrifice and a nation's respect.

Many people come to this land seeking religious freedom, freedom from oppressive governments, economic prosperity and a better way of life for their children. Many people come to this land and join the military because they know America is a land worth protecting. To them the flag is a promise of liberty, security, and opportunity.

Our flag flies high symbolizing the hopes and dreams of immigrants all over the world. We must keep our flag sacred to welcome those believing in the American Dream.

Just as you would not melt the Liberty Bell, tear up the Declaration of Independence, or destroy the Statue of Liberty, we must protect our nation's flag. I stand in support of this legislation for the soldiers and veterans who have fought to protect it, the immigrants who believe in its promise, and all of the Americans who pledge their allegiance to it. We must keep our flag flying high.

Mr. SKELTON. Mr. Speaker, even before we were a nation, we had our flags. Different from today's to be sure. But serving the same purpose—symbols of unity, and of our hopes, achievements, glory, and high resolve.

Brave New England patriots faced down British regulars at a place called Bunker Hill under the Continental Flag which prominently featured a pine tree.

"Don't Tread on Me," said the colonists in the South, and a coiled rattlesnake on their flag reinforced that message.

The Grand Union Flag went to sea with John Paul Jones and marched under George Washington in the early days of our Revolution. By combining the British Union Jack with thirteen red and white stripes it reflected the thinking of the colonists during that time: allegiance to the Crown, but willing to fight for their rights as Englishmen.

That thinking had changed, however, by July 4, 1776. The Declaration of Independence—"That these United Colonies are, and of Right ought to be Free and Independent States"—set us on a new course, from which there was no turning back. It was a realization that a people could not at once fight against the king and at the same time profess their loyalty to him. And, it meant that the new United States would need a national flag.

On June 14, 1777—the day we now celebrate as Flag Day—the Continental Congress adopted the following brief resolution: "Resolved, that the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation."

It is now believed that Francis Hopkinson, a signer of the Declaration of Independence, designed the first national flag that legend attributes to Betsy Ross. For his services, he submitted Congress a bill for nine dollars. Of course, government in 1777 was not really much different from government today. Hopkinson never got paid.

So, we had a national flag, the "Stars and Stripes." In 1792, the first version with thirteen stars in a circle appeared. In 1795, the flag was changed to recognize the entry of Vermont and Kentucky into the Union with the addition of two stars and two stripes. This flag of fifteen stars and fifteen stripes figured in many stirring episodes. It was the first flag to be flown over a fortress of the Old World when it was raised at Tripoli in 1805. It was flown at the Battle of Lake Erie and by Andrew Jackson at New Orleans. And it was flown at our young nation's most inspiring moment.

In 1812, our nation had declared war on Great Britain because of British seizure of neutral U.S. trading vessels, and the impressment of American seamen into service on British ships. The British, preoccupied with Napoleon, were not amused. They were even less amused when we sent forth speedy privateers to seize their merchant ships and to frustrate their heavily gunned men-of-war.

In 1814, with Napoleon exiled to the island of Elba, the British determined to put the upstart former colonists in their place. They dispatched a 50-ship expeditionary force—veteran soldiers and sailors from the world's strongest military power. Up the Chesapeake Bay they came, and on August 24 and 25, 1814, they burned Washington. Their next target: Baltimore—third largest city in the U.S., a rich trading center, and home to many of the fleet privateers that had humiliated the proud Royal Navy.

As the British moved on Baltimore, one thing blocked their way—Fort McHenry, whose guns dominated the channels leading into Baltimore Harbor. Unless they could get past the fort, the British Navy could not support its ground forces whose advance on the city had been stalled.

So, at dawn on September 13, a 25-hour bombardment began. At the same time, a 35-year-old American lawyer was being held on board a British ship pending the end of the battle. Francis Scott Key watched the "rockets red glare" and "the bombs bursting in air" through the night. At the first light of dawn, Key was relieved to see that Fort McHenry's giant flag—30 feet by 42 feet—"The Star Spangled Banner"—did indeed still wave over "the land of the free and the home of the brave." Inspired by the sight, he took pen in hand and gave us what would become our National Anthem.

The burning of Washington and the victory at Ft. McHenry united our young nation like nothing before had done. We emerged from the War of 1812, with a new national identity, confidence, and patriotism, a recovering economy, and a place in the world. And we continued to grow—to the valleys of the Ohio and Mississippi Rivers and beyond with new states joining the union and the number of stars in that field of blue growing.

Less than 50 years after the end of the War of 1812, our flag would face one of its greatest challenges. As our nation was split asunder in a great civil war, and its ability to endure as one hung in the balance, courage related to the flag often spelled the difference between victory and defeat.

Missionary Ridge, Tennessee, November, 1863. A key link between the east and west for the Confederacy. Confederate troops entrenched along a 400-foot-high, seven-mile-long summit. Sixty Union regiments under General George Thomas attacked positions at the foot of the ridge, and then, unexpectedly, surged up the slope. Flag bearers led the way. When one fell, another stepped forward to grab the colors, and the advance continued. A young First Lieutenant—not yet 20 years old—caught the flag of the 24th Wisconsin as it was about to fall, and carried it to the crest. Arthur MacArthur's bravery earned him a battlefield promotion to major and the Medal of Honor that day. Many of you here today may have served under his son, Douglas, in the Pacific or Korea. In all, seven flag bearers won the Medal of Honor at Missionary Ridge. At day's end, the flags of 60 Union regiments lined the summit.

The War ended and the Union was preserved. And the flag proved as inspiring in peace as it was in war. In 1868, a former Union Army Sergeant, Gilbert Bates, set out to carry the Stars and Stripes from Vicksburg, Mississippi, to Washington, D.C., to prove to friends back in Wisconsin that we were once again one nation. Crowds cheered him at every town and village as he marched through the heart of the Old Confederacy. Ironically, and maybe today we could say prophetically, Sergeant Bates and his flag encountered real hostility and opposition only in our nation's capital.

Westward we moved, behind the flag. Across the Wide Missouri, and along the South Platte to the Rockies, and beyond to Oregon and California. South to Santa Fe and the Rio Grande—conquering a wilderness, settling a continent, and fulfilling our destiny. New stars added to the flag and more people to enjoy the blessings of liberty it embodies: people in the new lands, and immigrants from the Old World—the "huddled masses yearning to breathe free."

Our flag went to foreign shores. Up San Juan Hill with Teddy Roosevelt in the Spanish American War ending four centuries of Spanish colonialism in the New World. At Veracruz, on the Gulf coast of Mexico, its honor was defended by brave sailors and marines. "Over there" it went with a Missourian, General John Pershing, in the "War To End All Wars."

Our flag was tattered, but not lowered at Pearl Harbor. And we rallied behind it, lifted it higher. We took it ashore at Normandy, and across the Rhine with Eisenhower, Bradley, and Patton, and Hitler's "Thousand Year Reich," the worst tyranny the world has yet known, crumbled at its advance. Across the South Pacific it went, island by island. In 1944, the most dramatic flag raising in American history, on a rocky Pacific island called Iwo Jima. When the sun rose the next day on that flag atop Mount Suribachi, the sun of Japanese Imperialism began to set.

The flag was with us: In Korea helping to preserve democracy for half of a divided nation. In Vietnam, where brave American POWs fashioned handmade flags to defy their captors. It went to the moon with the astronauts of Apollo 11.

Yes, our flag has stood by us—leading us, inspiring us, sustaining us—in all of our national endeavors, in war and in peace, for over 200 years.

Now, sadly, it seems that some people don't want to stand by our flag. The Supreme Court has said that it is all right to desecrate our flag, to burn it even, in the name of free speech. "Government," says the Court, "may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

I agree that everyone in this country has the right to make his views known on any issue, no matter how irrational, how wrong, or how unpopular those views might be. But does that mean that every form of conduct is permissible as a means of exercising rights guaranteed by the First Amendment to the Constitution? I say no. And I say so as a student of law and of history. The framers of the Bill of Rights used words carefully to convey a precise meaning. The First Amendment to the

Constitution says "Congress shall make no law . . . abridging the freedom of speech, . . ." It says nothing about "expression."

Legal precedent and common sense tells us that there can be limits on conduct which are not inconsistent with First Amendment rights. Consider some extreme examples: Would anyone, even the Supreme Court, contend that we must permit human sacrifice under the guise of free exercise of religion? Would someone be allowed to blow up the Lincoln Memorial to express a political view?

Flag burning does not merit First Amendment protection. It is conduct that is offensive and provocative to the overwhelming majority of Americans. Moreover, it is unnecessary. Any point of view that can be expressed by flag burning can be better expressed in a manner that is reasoned, rational and more effective in communicating an idea or attempting to persuade others.

We have a great system of government, and one reason it is so great is that if you disagree with a government action, even a decision of the highest court in the land, you can work to change it.

Therefore, I support legislation being considered by the House of Representatives today that will create a Constitutional Amendment that will allow Congress and the States to ban flag burning and other similar forms of flag desecration. The process of changing the Constitution is not fast and easy. The framers wanted to make amending the Constitution a difficult, deliberative process.

I am confident that a Constitutional Amendment can be passed. But if it fails, or if it stalls, we can move in other areas. We can redraft and enact new flag desecration statutes that attempt to meet the Court's objections to the Texas statute. If those new statutes won't pass muster, we'll enact new ones.

We can do still more. Our children must be taught to respect the flag not only in our schools, but by our example. We must instruct them to display it and use it properly and salute it appropriately. We must encourage our children and every future generation to value the freedoms we enjoy and to stand tall and proud when they say, "I pledge allegiance to the Flag of the United States of America . . ." We must instill in them a strong sense of the heritage embodied in our flag, and the pride of being an American. Finally, we must ensure that they continue to recognize and honor the great sacrifices made by previous generations of Americans, many of whom gave "the last full measure of devotion" so that we could live free.

The poet Edgar A. Guest said it best when he penned:

### THE BOY AND THE FLAG

I want my boy to love his home, his Mother, yes, and me:
I want him, wheresoe'er he'll roam, With us in thought to be.
I want him to love what is fine, Nor let his standards drag,
But, Oh! I want this boy of mine To love this country's flag!

Let me take a moment and put a few things in perspective. As much as the Supreme Court decision has disappointed me, it is in the final analysis no real threat to our nation. Our flag stands for too much to be brought down by matches lit by those who would desecrate it. Its glory cannot be diminished by a U.S. Supreme Court ruling. It cannot be threatened by any enemy, foreign or domestic. If they step on it, write on it, tear it to shreds, even burn it to ashes, we'll just raise it up again, and it'll fly higher and more gloriously than ever before.

A few years ago, we had a flag day ceremony in the House of Representatives. Country-western singer Johnny Cash recited these lyrics that he had written:

### RAGGED OLD FLAG

(By Johnny Cash)

I walked through a county courthouse square
On a park bench an old man was sitting there
I said, "Your old courthouse is kinda run down."
He said, "Naw, it'll do for our little town."
I said, "Your old flag pole is leaned a little bit,"
And that's a ragged old flag you got hanging on it."
He said, "Have a seat." And I sat down.
"Is this the first time you've been to our little town?"
I said, "I think it is." He said, "I don't like to brag,
But we're kind of proud of that ragged old flag."
"You see, we got a little hole in that flag there
When Washington took it across the Delaware
And it got powder burned the night Francis Scott Key
Sat up watching it, writing 'Say Can you see'
It got a bad rip in New Orleans
With Packingham and Jackson pulling at its seams
And it almost fell at the Alamo,
Beside the Texas flag, but, she waved on though
She got cut with a sword at Chancellorsville
And she got cut again at Shiloh Hill
There was Robert E. Lee, Beauregard and Bragg
The South wind blew hard on that Ragged Old Flag
On Flanders field in World War One
She got a big hole from a Bertha gun
She turned blood red in world War Two,
She hung limp and low by the time it was through
She was in Korea and Viet Nam
She went where she was sent by her Uncle Sam
She waved from our ships upon the briny foam
And now they've about quit waving her back here at home
In her own good land she's been abused
She's been burned, dishonored, denied, refused
And now the government for which she stands
Is scandalized throughout the land
And she's getting threadbare and she's wearing thin
But she's in good shape for the shape she's in
Cause she's been through the fire before
And I believe she can take a whole lot more
So we raise her up every morning
Bring her down slow every night
We don't let her touch the ground
And we fold her up right.
On second thought, . . . I do like to brag,
Cause I'm mighty proud of that ragged Old Flag."

Mr. Speaker, I urge all my colleagues to support H.J. Res. 4 and to give Old Glory the respect it deserves.

Mr. KIND. Mr. Speaker, I have the utmost reverence and respect for the flag of the United States, one of the most recognizable symbols of freedom and liberty in the world. And I have the utmost respect for those who want to protect it. Among other things, the flag represents our rights as Americans, including those protected by the Bill of Rights. The first amendment in particular is the amendment that embodies the very essence upon which our democracy was founded because it stands for the proposition that anyone in this country can stand up and criticize this government and its policies without fear of prosecution.

The first amendment is perhaps the best known provision of the Constitution and has been well guarded over the years by Congress and the Courts. But today's amendment would create a tremendous spiritual change, effectively turning the words "no law" in "Congress shall make no law" into "few laws." Which is to say it would sap the first amendment of the principle it represents, the one that insists that this country does not punish ideas, no matter how unpopular.

But here we are, yet again, debating an amendment that would for the first time in our Nation's history change the first amendment to our Constitution, without a compelling reason. Flag burning is exceedingly rare. Yet supporters have never let themselves be restrained by the fact that the amendment represents a non-solution to a non-problem, and whose predictable outcome would be to make flag burning the "in" protest among the young and antisocial.

I am going to oppose this legislation, not because I condone or do not feel repulsed by the senseless act of disrespect that is shown rarely against one of the most cherished symbols of our country, the American Flag, but because I recognize that our Constitution can be a challenging document. It reminds us that our democracy requires all of us to permit the expression of ideas that we may spend a lifetime opposing—and not simply move to pass an amendment to silence their voice. Our democracy, rather, is about advanced citizenship. It asks all Americans to fight and even protect the right of our fellow citizens to express views that are against what we believe and value most in our country.

There are few things that evoke more emotion, passion, pride or patriotism than the American Flag. But if we pass this amendment today, where do we stop? Do we move to protect other icons of American patriotism? Should we pass an amendment that prohibits the burning of a copy of the Declaration of Independence or of the Constitution? Let us not go down that path today. We have done well these past two centuries without having to amend the Bill of Rights.

In a country of over 280 million people, I do not believe that the actions of a few individuals should compel us to change our most fundamental principles. I respect our flag as well as those who have fought and died to protect the ideals which it symbolizes, but I also respect those very ideals and principles contained in our Constitution. The purity of the first amendment should not be adulterated now so that Congress can protect flags that nobody's burning anyway.

Mr. KLECZKA. Mr. Speaker, the American flag is a visible symbol of all the freedoms that make our Nation great, and this includes our First Amendment right to express ourselves freely. Our Constitution protects even those forms of speech that others may disagree with or find offensive. It is this very liberty to publicly voice one's opinions and ideas no matter how controversial they may be that distinguishes our great Nation from others.

While the desecration of our flag triggers an almost universal reaction of disgust by Americans, we are strong enough as a nation to allow individuals to express themselves in this manner, and stronger still to resist the urge to stamp out free speech that challenges us. By outlawing the expression displayed in desecrating the flag, we would diminish and undermine our flag's value by suppressing the very freedoms that it represents.

We must also note that this amendment offers a solution to a problem that simply doesn't exist. Only 45 incidents of flag desecration were reported between 1777 and 1989. Since then, these acts have been very rare. This was particularly noteworthy during the lead-up to the War in Iraq. Despite vehement anti-war sentiment, no groups burned or desecrated the flag during rallies or protests. I fail to see why it is necessary to tinker with the Bill of Rights—the bedrock of our Republic—for the first time in 211 years to outlaw an act that rarely occurs.

The United States of America has a long and proud history of protecting the right of free expression for its citizens, and I do not believe that the voice of freedom should be muzzled.

Mr. STARK. Mr. Speaker, I rise today to oppose H.J. Res. 4, a constitutional amendment to prohibit the desecration of the U.S. flag. In doing so, I rise in support of protecting the right to free speech.

The First Amendment to the Constitution says, "Congress shall make no law . . . abridging the freedom of speech . . ." Yet, this bill would overturn two Supreme Court decisions upholding flag burning as symbolic speech protected under the First Amendment. If ratified, this amendment would be the first time ever that the Bill of Rights has been altered and in a manner that limits the freedoms that belong to the American people.

Conveniently, we debate this bill just before Flag Day. Now Republicans can run back to their districts to flaunt what they believe is patriotism. But, we must ask ourselves: is it patriotic to trample upon the Constitutionally protected freedoms? The freedom of speech is vital to our democracy—it sets our nation apart from those oppressive regimes we have fought and deposed throughout our history.

Some of my colleagues—mainly on the other side of the aisle—will mention today that veterans across the nation support this amendment. I respect these brave Americans and what the flag means to them. But, the Republicans are using this issue to cover over their failure to fully compensate our veterans for their heroic service.

Republicans have no intention to provide for the real needs of these men and women, like improved veterans benefits, better health care for them and their families, access to affordable housing and affordable educational opportunities to name a few. Instead, Republicans are using this amendment for political gain without paying respect to those things that bring real dignity and honor to our veterans. And let us not forget, these veterans fought for our freedoms and everything our Constitution stands for.

Opening the door to limiting the freedoms of all Americans is a dangerous precedent. I fear what could be next if the Republican leadership of this House have their way. I ask my colleagues to stand up for our Constitution and vote no on this amendment.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to H.J. Res. 4, which would add an amendment to the Constitution banning the desecration of the American flag.

I believe that desecrating the American flag is a terrible way to exercise one's freedom of expression. It is hurtful and offensive. Yet, freedom of speech is one of the bedrock principles of this Nation's democracy. Some of the most powerful movements in the history of America occurred because our Constitution guarantees everyone the freedom to express themselves.

While desecrating the American flag in protest offends many people, the flag is a symbol of our Nation's powerful democracy. Protecting our citizens' right to express themselves is more vital to the strength of our democracy than the physical appearance of the flag.

I believe that all Americans should respect and honor the flag. However, I oppose placing restrictions on the First Amendment by adding this amendment to our Constitution.

While this is an important issue and it deserves to be debated by this body, we cannot forget another issue of vital importance to America's veterans. The budget proposed by the Majority includes serious cuts to the Department of Veterans Affairs.

The proposed $15 billion cut in benefits and $9.7 billion cut in health care would leave many veterans without access to critical resources. With the ongoing conflict in Iraq, there will undoubtedly be more soldiers who will need care in the future. Rather than cut the funding for the VA, we should be providing adequate funding so that the Department will be prepared for caring for the soldiers who may need care after the current conflict has ended.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H.J. Res. 4, which calls for a constitutional amendment permitting Congress to protect our Nation's flag.

As the vast majority of our constituents all know, Old Glory is far more than a piece of cloth. Especially in this post-September 11 era, it is the most visible symbol of our Nation and the freedoms we have too often taken for granted. It is a unifying sign in times of peace and war, instilling pride in our great country and continued hope for our future.

Americans from across the political spectrum and from every walk of life support the passage of this amendment. Since the Supreme Court in 1989 invalidated state-passed flag protection laws, the legislatures in each of the 50 states have passed resolutions petitioning Congress to propose this amendment. I am proud that the House is taking this important step toward a constitutional amendment today.

Mr. Speaker, my hometown of Findlay, Ohio, is well known for its civic pride and spirited celebration on Flag Day. The annual display of many thousands of flags on houses and businesses throughout Findlay earned the community the designation "Flag City USA." Arlington, Ohio, which I am also privileged to represent, has been named "Flag Village USA" for the patriotism inherent in its citizens. The letters, phone calls, and e-mails I have received from Findlay, Arlington, and throughout my congressional district in recent weeks express strong support for the protection of Old Glory.

I am proud again this year to be cosponsor of Duke Cunningham's joint resolution, and recognize him for his unwavering leadership on this issue. I urge my colleagues to support their constituents and vote in favor of sending this amendment to the states for ratification.

Mr. THOMAS. Mr. Speaker, I rise today in support of H.J. Res. 4, which would amend the United States Constitution to restore to Congress the power to prohibit the physical desecration of the flag of the United States.

Amending the United States Constitution is not something that should be undertaken in a cavalier manner. The gravity with which such changes in the document that provides the structure for our system of governance should be taken is reflected by the amendment process devised by the Founding Fathers. Article V of the Constitution provides that amendments can be proposed by two-thirds of both Houses or through a convention called by two-thirds of the states. Additionally, the Article provides that these proposed amendments must be ratified by three-fourths of the state legislatures or by conventions in three-fourths of the states.

So, the question before us today is whether we believe that we should restore to Congress the power to protect the flag if Congress so chooses. As I have stated previously, we are considering this question because the United State Supreme Court has taken what the Bill of Rights says is protected speech, and has extrapolated it to encompass behavior that the Bill of Rights does not specifically mention, the burning or otherwise desecration of the United States flag. When the Supreme Court did this, it handcuffed Congress in order to provide Constitutional protection to behavior that many Americans find despicable. Notwithstanding those assertions that H.J. Res. 4 itself would ban the desecration of our flag, H.J. Res. 4 would instead unlock the handcuffs that the Supreme Court slapped on Congress.

While the question of protecting our Nation's flag from desecration is not before us today, I do recognize that many of my constituents do not view the flag as merely a compilation of red, white, and blue cloth; rather, they see that cloth as the enduring emblem of freedom and America. I also recognize that to preserve both freedom and America, many American men and women, including some of my constituents in the recent Middle East conflicts, have willingly sacrificed their lives and limbs and have endured hardships that few of us can comprehend. And, I know that the desecration of our flag is a direct affront to these brave men and women and their sacred sacrifices. Thus, I now take my Constitutional prerogative to ensure that Congress has the ability to enact, or not to enact, legislation as

Congress sees fit to protect our Nation's flag from intentional desecration.

Mr. BLUMENAUER. Mr. Speaker, the United States flag is one of the two most enduring symbols of our freedom and liberty. I believe that those who desecrate the flag degrade themselves and I find it a reprehensible act. So too, it is reprehensible for people to express hateful language against our country and some of our citizens. One of the values our flag represents is the freedom of expression. The United States and our cherished freedom are strong enough to withstand assaults of the crude, the bigoted and the hateful. The strength to withstand assaults comes from the other enduring symbol of our liberty: the Constitution. We should not trivialize the importance of that document, especially the freedom of speech enshrined in the First Amendment, by rushing to change the Great Document when we are offended by acts.

Because Americans honor this cherished symbol, I understand the rage and disgust most of us feel towards those who made their points by trampling on our flag. It is important to note that flag burning today is not a major problem. Throughout my years in Congress, only one constituent has voiced his concerns regarding flag burning, and none back home in Oregon.

The proposed constitutional amendment is the wrong way to protect the flag. Ironically, it would be the fastest way to make the very rare occurrences of flag burning more frequent. After all the publicity surrounding ratification by the states occurs, we will have made our flag the target for every publicity-seeking protester in America. Burning the flag will be the fastest way to go to court, perhaps to jail, but certainly the evening news. Because we cherish our flag and our Constitution, we should reject this amendment.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of our American flag and as a cosponsor of H.J. Res. 4, which would amend the Constitution to allow Congress to protect the United States flag from acts of physical desecration.

Our flag has become a symbol of freedom for Americans and people around the world, whether flying outside of a home, or raised out of the rubble of the World Trade towers after the September 11 attacks. As an international emblem of the world's greatest democracy, the American flag should be treated with respect and care. We should not consider the flag as mere "personal property," which can be treated any way we see fit, including physically desecrating it as a form of political protest.

The American flag is a source of inspiration wherever it is displayed, and a symbol of hope to all nations struggling to build democracies. As a proud member of the House Armed Services Committee, I deeply admire those who have fought and died to preserve our freedoms in Iraq, Afghanistan, and around the world throughout our history. These men and women have bravely defended our flag and the fundamental principles for which it stands. They deserve to know that their government treasures the flag and all it represents as much as they do.

Before being overturned by the Supreme Court in 1989, 48 states and the District of Columbia passed laws protecting the flag. Over the last few years, all 50 states have passed resolutions calling on Congress to pass a Constitutional amendment, which is the only way to restore the power of states and Congress to implement the will of the people.

For these reasons I, as well as a great number of Americans, believe that our flag should be treated with dignity and deserves protection under the law. With Flag Day on June 14, I can think of no better way to honor the enduring symbol of our democracy than adopting this resolution today. I urge my colleagues to join me in supporting H.J. Res. 4 to allow Congress to prohibit desecration of the American flag.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

□ 1630

The SPEAKER pro tempore (Mr. THORNBERRY). All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. Is the gentleman from North Carolina (Mr. WATT) the designee of the gentleman from Michigan (Mr. CONYERS)?

Mr. WATT. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WATT:

Strike all after the resolving clause and insert the following:

**SECTION 1. CONSTITUTIONAL AMENDMENT.**

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.".

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the amendment and claim the time.

The SPEAKER pro tempore. Pursuant to House Resolution 255, the gentleman from North Carolina (Mr. WATT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have not been involved in the debate up to this point on the proposed constitutional amendment, but I want to commend the chairman of the Committee on the Judiciary and my colleagues who have conducted this debate up to this point on the quality of the debate. This is always a debate which I think has the capacity to bring out the best of the Members of our body. It does not always do that because there are strongly held positions, and sometimes emotion overtakes the day and we see the debate deteriorate. There have been instances when that has happened today, but by and large, I think this has been a high-quality debate, and I want to compliment my colleagues for maintaining the high quality of that debate.

I was, at one point, the ranking member on the Subcommittee on the Constitution, occupying the position now held by the gentleman from New York (Mr. NADLER); and during my time in service as the ranking member of that subcommittee, I realized that the quality of the debate on this proposed constitutional amendment was not the kind of quality that I really wanted to be involved in.

What I saw was that Members who supported the proposed constitutional amendment would come to the floor and they would claim that Members who opposed the constitutional amendment were somehow unpatriotic; and Members who opposed the proposed constitutional amendment and were on the opposite side from the proponents of the amendment would come to the floor, and they would accuse the other side of being somehow unpatriotic. And I would have to admit that when I first became a party to this debate, I was a part of that name-calling process.

I thought that anybody who really supported the first amendment to the Constitution had to respect, even if they did not admire or like, they had to respect the right of people who wanted to express themselves in opposition to various kinds of injustices that were taking place in our society by expressing themselves verbally, expressing themselves through political action, expressing themselves by even burning or desecrating the American flag.

I thought it was a fairly simple proposition because I was not listening very carefully to the people who were on the other side of that debate, and I was not honoring the strong positions and commitments that they held to the fact that the flag was somehow different and that burning or desecrating the flag was somehow different than other kinds of free speech that citizens could engage in.

And then I started to listen to what the other side was saying, and I started to study this issue with a little more intensity, and I concluded that it could not possibly be the case that you could have a five-person majority on a United States Supreme Court that had nine members, and the court was split five people on one side and four people on the other side, and this not be a very, very difficult issue.

Can Members imagine that Justice Scalia supports the position that I am advocating here that when one burns the flag, they are engaging in protected speech; yet Justice Rehnquist, somebody who I think most people think is pretty close philosophically to Justice Scalia, takes exactly the opposite position.

I tried to imagine during the course of that debate whether Justice Scalia ever looked at Justice Rehnquist and said, "You are unpatriotic"; or on the other hand, whether Justice Rehnquist looked at Justice Scalia and said, "You are unpatriotic."

So I started to listen to my good friend, the gentleman from California (Mr. CUNNINGHAM), and the gentleman from Texas (Mr. SAM JOHNSON) and what he was saying, and I said, those Members believe as vigorously in the position they are asserting as the Members on our side believe in the position we are asserting, and we could have a high-quality debate about this flag burning amendment if we honored each other's positions and opinions and really came in and talked about the merits of this proposed constitutional amendment as opposed to calling each other unpatriotic.

So I decided I would offer an amendment which simply says, not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.

I thought that if we framed the issue in that context, we could really have an honest debate not only about what the physical desecration of the flag might consist of, but we could have an honest debate about what is or is not protected by the first amendment.

Now, I should say straight off that my opinion is that adding to the underlying proposed constitutional amendment, which itself says the Congress shall have the power to prohibit the physical desecration of the flag of the United States, simply adding to that that whatever statutory act we take as a Congress must be consistent with the first amendment to the Constitution, I pretty much assumed was a given. And a number of my colleagues who have supported the underlying proposed constitutional amendment have said, we do not want to do harm to the first amendment, we are not trying to cut off speech. So it seems to me that at some point, even if we pass the underlying proposed constitutional amendment that we are debating here, the one that says that Congress shall have the power to prohibit the physical desecration of the flag of the United States, that at some point the Supreme Court is going to be called upon to make that constitutional amendment reconciled with the first amendment, which says that this Congress shall make no law that tramples on the right of free speech.

So it may be that the amendment that I am offering here is kind of a redundancy. I am just basically saying that whatever we do as a Congress to prohibit the physical desecration of the flag must be done consistently with the first amendment to the Constitution, not anything revolutionary here.

Well, what does the first amendment mean? I thought I knew what the first amendment meant. I had a good law school education from what they tell me is one of the best law schools in the country, Yale University. Some of my colleagues will differ about whether it is the best or the second best or in the top 10 or in the top 30, but most people agree that it is at least one of the good universities, one of the good law schools in the country; and I will tell Members, Mr. Robert Bork was my constitutional law professor. We had some free-wheeling discussions in that class about what the first amendment meant. I thought once I got out of law school, I understood fully what the first amendment was all about.

And then I went back to North Carolina, and I went into the practice of law, and one day my senior law partner, a gentleman by the name of Julius Chambers, came to me and said, I want you to go down to eastern North Carolina and represent some Native Americans who have been charged with parading and threatening with a tomahawk in a demonstration that has taken place out there. They have been charged with resisting arrest and all of the things that people get charged with when the police do not like what they are out there parading about, and these Native Americans had been arrested, four or five of them had been arrested. And my senior law partner sent me to eastern North Carolina to defend them against the criminal charges.

I did not know much more about those criminal charges until I got down to eastern North Carolina, and I sat down with my clients, and as I started to talk to them about what they were demonstrating about, they looked at me and they said, well, we did not want to go to school with black people. So we were out there demonstrating against going to school with black people. So I kind of swallowed hard and finished that day of activity, and I went back to my law office in Charlotte and I confronted my senior law partner and said, Julius, why would you send me down to eastern North Carolina as a black man to defend people who were out there demonstrating against going to school with black people?

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Julius Chambers looked me straight in the eye, and he told me that day what the first amendment was all about. He simply said to me, "Don't you believe in the first amendment?"

Those are words that I have never forgotten. That same law firm represented the Ku Klux Klan when they wanted the right to demonstrate and it was unpopular.

This is a difficult issue, and there are patriots on both sides of this issue. This is not about whether one side has a monopoly on patriotism or the other side has a monopoly on patriotism. This is a difficult issue because we love the flag and the one kind of common theme that I was able to gather from all of this discussion over all these years because we have been debating this constitutional amendment for 5 or 6 or 7 or 8 or 9 years. Ever since I have been here, it seems like, we have this constitutional amendment.

But the one thing that I think we all have agreed upon is that none of us like people who burn the flag. We are all patriots. There are 435 of us in this body. Every single one of us represents over 600,000 people. Can you imagine 600,000 people sending somebody to this Congress who was not patriotic? This, my friends, is not about whether you are a patriot or not. It is about your idea of what the first amendment truly means. It could not be that you could have Justice Brennan, Justice Marshall, Justice Blackmun, Justice Scalia and Justice Kennedy saying that this is protected speech when you burn the flag in certain contexts and them be not patriotic. These men are not unpatriotic. And it could not be that Justice Rehnquist and Justice Stevens and Justice White and Justice O'Connor are out to lunch on this issue, either. This is a difficult issue. And I think the important thing here is that we should not minimize the difficulty of the issue and we should not minimize each other because some of us happen to be on one side of this issue and some of us happen to be on the other side.

I value the first amendment, not that the people on the other side do not value it, too. I am sure they do. But in the process of having the Congress draft and pass a law to prohibit the physical desecration of the flag, the last thing I want is for us to do it in such a way that violates the first amendment to the Constitution. That amendment has been there for years and years and years and it has served us well. Nobody has tested this new amendment that is being offered here today which says the Congress shall have power to prohibit the physical desecration of the flag. Who knows what the United States Supreme Court might read into that. But what I can tell you is that our first amendment has served this country well. And people have fought and died for the right of people to express themselves. Maybe they do not like them expressing themselves by burning the flag, but it is considered by some people protected speech. And it cannot be, even in current day, more recent times, that Colin Powell, the Secretary of State, who happens to believe that this proposed constitutional amendment is unnecessary and ill advised, surely we would not dare to call him unpatriotic.

Whatever we do, my colleagues, I simply implore us to do it consistent with the first amendment to the Constitution. And if we are able to do that, then I think we will have served our country well. What I suspect is that Congress wants to just, let's pass this amendment and leave the difficult part, which is crafting something that really prohibits the physical desecration of the flag without trampling on the first amendment, to a future time. Let us just finesse that issue. This proposed amendment in the nature of a substitute does not allow us to finesse it. What it says is that whatever we do when it comes time to start drafting our statute that prohibits the physical desecration of the flag must be done consistent with the first amendment to the Constitution.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from North Carolina (Mr. WATT) graduated from one of the finest law schools in the country. His speech just concluded and his amendment showed that he learned his constitutional law well from Professor Robert Bork, who is one of the outstanding constitutional scholars in the country. The only difference between the Watt substitute amendment and the constitutional amendment introduced by the gentleman from California (Mr. CUNNINGHAM) is the words "not inconsistent with the first article of amendment to this Constitution."

What his amendment does is constitutionally codify the Johnson and Eichman decisions that said that flag desecration is protected free speech by the first amendment to the United States Constitution. So the gentleman from North Carolina's qualifying phrase is legislative sleight of hand that will prevent any future Supreme Court from deciding they made a mistake in the Johnson decision and in the Eichman decision. For that reason and for that reason alone, this amendment should be rejected, because it does the exact opposite to what the gentleman from California and his cosponsors are attempting to do in House Joint Resolution 4. It writes into the Constitution Supreme Court decisions that a vast majority of the American public believe were erroneously decided.

Never before has Congress tried to do this. I just thank the Lord that they have not. Because if someone tried to constitutionally codify the separate but equal decisions of the United States Supreme Court in the late 1890s, Brown v. Board of Education would never have been possible and would never have been constitutional. That is one of the things that has given minorities in this country the opportunity for education, to be able to graduate from high school and go to a good college and go to the top law schools in the country. So I think that we should hit this amendment head-on. We should vote for it or vote against it, patriots all; but we should not attempt to put into the Constitution the effect of the United States Supreme Court decisions, two of them, in fact, that have brought us to this point here.

Let me repeat. The Watt substitute amendment puts into the Constitution the Johnson and the Eichman decisions that state that physical desecration of the American flag is conduct that is protected by the first amendment to the United States Constitution.

Vote "no" on the Watt substitute amendment and pass the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WATT. Mr. Speaker, I am proud to yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in support of the amendment offered by the gentleman from North Carolina (Mr. WATT). His amendment is an attempt to clarify how the underlying legislation will affect the first amendment as well as the rest of the Constitution. It changes the proposed constitutional amendment to read, "Not inconsistent with the first article of amendment to this Constitution, Congress shall have the power to prohibit the physical desecration of the flag of the United States."

So under the Watt amendment, a person could not be prosecuted just for the expression of opinion, or whether or not the sheriff is offended by that opinion; and, in other words, you should not pass a law that provides for the criminal prosecution for someone who burns a worn-out flag while criticizing the administration at an anti-war rally if that same legislation allows someone to burn a worn-out flag if they say something nice about the administration while at a flag retirement ceremony sponsored by war supporters. The fact is that many consider peace rallies as vulgar and would like to throw the participants in jail. The fact is in many communities, the Bill of Rights is the only thing between those protesters and the jailhouse.

We should acknowledge that the ultimate purpose of the proposed amendment is to stifle political expression we find offensive. And while I agree that we should all respect the flag, I do not think it is appropriate to use the criminal code to enforce our views on those who disagree with us or to stifle political expression for those who happen to offend us.

The Watt amendment would make the proposed amendment consistent with the ideals of the Bill of Rights. It says that Congress could pass a law prohibiting the physical desecration of the flag so long as it is consistent with the first amendment. And so the underlying amendment is either consistent with the rest of the Constitution or it trumps the rest of the Constitution. Either the underlying amendment will override the first amendment or it will not. At least we ought to be honest and answer the question.

The Watt amendment says the underlying amendment will not override the first amendment and that any legislation passed under it has to be consistent with the first amendment. On the other hand, if the Watt amendment is defeated, then that action suggests that legislation passed under the constitutional amendment may not be consistent with the first amendment. And if it overrides the first amendment on speech, what else does it override? Does it override the first amendment in terms of religion? If you were to pass a statute establishing a national prayer for the protection of the flag, that would be inconsistent with the establishment clause. But does this constitutional amendment override the establishment clause? What about the equal protection clause? Can you pass a law that says some people can burn the flag but other people cannot, in violation of the equal protection clause? Will this legislation trump that? Or will the rest of the Constitution remain as it is?

My view is that this amendment is superfluous, that the rest of the Constitution is there. The chairman suggests that it codifies present law and, if so, if it does codify present law, this amendment as it is, you ought to say so. You ought to say whether or not it is consistent with the free speech provision of the first amendment, you can pass the law, or whether or not it is consistent with the rest of the Constitution, you can pass the law. It does not say so.

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So I think we are stuck with the present law. The Watt amendment forces us to address the question.

Now, remember, as the gentleman from North Carolina (Mr. WATT) has pointed out, the underlying amendment does not prohibit anything, it just says that Congress may pass a law regarding the desecration of the flag. The real question is what standard are we going to use to judge what constitutes desecration and whether or not it has to be consistent with the speech provisions of the first amendment and the rest of the Constitution or not. This is what the Watt amendment is aimed at determining.

Mr. Speaker, I do not think we ought to repeal the Bill of Rights, and therefore, I urge my colleagues to support the Watt amendment.

Mr. WATT. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the amendment from my very able colleague from North Carolina. At the outset, Mr. Speaker, I want to talk about what it is that is really the strength of our system, and I would define it this way: The strength of our system is nothing less than its capacity to absorb the worst impulses in our character.

Now, my very able colleague from Wisconsin mentioned Brown v. Board of Education. The day the Supreme Court issued the ruling in Brown v. Board of Education, there were crosses burned in this country. There were crosses that were burned on the day that Martin Luther King was assassinated. There are bigots who paint swastikas on synagogues in our country. There were thugs who called our soldiers war criminals and who waved the Vietcong flag in their face when they came back from Vietnam.

There is no constitutional amendment to regulate the cross burners or the bigots who paint swastikas on synagogues. There is no constitutional amendment to regulate or prescribe the enemies of our democracy who would call our soldiers war criminals. The reason is because we have frankly concluded that we do not need one. We count on our values and we count on the best angels in our nature to overwhelm the worst of us. We do not count on amendments, we count on the best angels in our nature.

If we pass this amendment without the Watts substitute, let us make it clear what we are doing. We would be singling out one class of speech, one uniquely obnoxious viewpoint, and we would be saying that this idea is somehow so corrosive, so dangerous, that we cannot count on our values to trump it.

Mr. Speaker, I am frankly not prepared to give the idiocy and the stupidity of flag burning this kind of power. We do not need an amendment to underscore our commitment to the flag and the values behind it any more than we need an amendment to suppress the other enemies of our political character. I trust the system that we have, and I think it is that, frankly, for which our veterans have fought.

We have heard a lot of talk today about whether our veterans have fought for a symbol or whether they fought for a flag. I would submit to you, as one Member's opinion, I think they fought for a system, and I trust that system. Whether it yields a 5–4 Supreme Court decision or a 9–0 Supreme Court decision, I trust that system to address that issue.

I will say in conclusion, Mr. Speaker, that this first amendment of ours has always been unique because it is this amendment that has somehow stood as a barrier to our temporary impulses, it has stood as a barrier to the temporary ways that we would react to things, and it has served us well. If we are going to change the way we look at flag burning, it ought to be done through our courts, our highest courts. If we are going to tinker with the edges of the first amendment, it ought to be done by our Court, our highest Court.

I ask my colleagues to vote for the Watts substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, there is a difference between the Court decisions on flag desecration and the Court decisions on burning crosses and painting swastikas on synagogues. On the one hand, the Court has said that flag desecration is protected by the first amendment as free speech or free political expression. The Supreme Court has never struck down an anticross-burning law or a hate crime law that makes it a crime to paint a swastika on a synagogue as political expression protected by the first amendment to the United States Constitution.

That is why we are here debating this constitutional amendment, because there are a lot of us that believe that the Supreme Court was wrong when they decided that desecrating the flag was political expression protected by the first amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I would say to my colleagues on the other side of this issue, if you do not have an outlet for civil unrest, burn a French flag; but do not try to do it in France, because you will end up in jail.

As my friend on the other side that offered this substitute said, we all have different opinions on this particular issue. We feel very, very strongly, as the gentleman does on that side. But I will tell my friend the reason I think he is wrong, and that is that for 200 years we had tradition in this country that States had penalties for those that desecrated the flag, and in one 5–4 decision, that was changed.

Now, 80 percent, up to 86 percent sometimes when they take polls, of the American people disagree with the gentleman. All 50 States, not 40, not 30, but all 50 States have passed resolutions saying that they will ratify this position, which says that my friend's opinion is wrong.

I will say that 100 percent of the veterans organizations, those men and women that fought to keep this country free, support this. They are out in this city campaigning for this amendment, and they are going to score this vote, every single one of them, because they feel so strongly and say that my friend is wrong in his opinion.

Yes, he does have the right to that opinion. But I would say that when some people have said that it does no harm, listen to what it did to the gentleman from Texas (Mr. JOHNSON) when he was a POW and the Vietnamese told him they were burning the American flag. It was disheartening. That does affect us.

Mr. WATT. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I would like to thank my colleague on the Committee on the Judiciary for his brilliant presentation on behalf of opposing this amendment.

Mr. Speaker, I came to the floor simply to say that despite the fact that the debate has been about the first amendment, we really do have another issue that has not been talked about a lot, and the issue is this: There are those who would use this particular amendment to try and send a message to the veterans that they care more about them than some of us, that they are more patriotic than some of us.

We are all patriotic. We all say the Pledge of Allegiance to the flag. We all sing "My Country 'tis of Thee." And some of us add to that our support for veterans by putting our money where our mouths are. We do not support the cuts that are being proposed by the opposite side of the aisle. We have stood up on this floor relative to this budget time and time again asking our Republican friends, please do not cut the veterans.

I am patriotic. I support the veterans. I may be against this amendment, but I will be there at appropriations fighting for them. The folks on the opposite side of the aisle will not.

Mr. Speaker, I rise in opposition to the proposed constitutional amendment and in support of the Watt substitute which is intended to harmonize the proposed amendment with the protections of the First Amendment.

It seems to me that the substitute that Congressman WATT is proposing is a common sense amendment that Members can and should support, whatever their position on the need for, or desirability of a flag desecration amendment.

Mr. Speaker, I believe that flag desecration is an act that deserves condemnation. Nonetheless, I strongly oppose the proposed constitutional amendment. The amendment is dangerous and should not be approved.

Yet, at a minimum, if we are going to adopt the proposed flag desecration amendment, I believe that we should reaffirm that our intention is not to limit the protections of the First Amendment. We should not start down the road toward narrowing the scope of the First Amendment to our Constitution.

Yet, Mr. Speaker, unfortunately, I fear that the Watt substitute will not receive the support that it deserves because the process of considering this resolution is not about the law. It's about politics. In my view, the underlying flag desecration resolution is really political theater of the worst kind.

While the Resolution no doubt is calculated to win favor with veterans organizations, and may well satisfy some of them, decimating our

Constitution is the wrong way to honor our veterans. Thus, the need for the Watt substitute.

The reality is that many of the Republicans who will speak so fervently this afternoon about the need for this Resolution are the same Members of Congress who voted for a House Republican Budget Resolution that would have cut appropriations for Veterans health care over ten years by a total of $6.2 billion below the level needed to maintain purchasing power at the 2003 level.

Just so that the Republicans, who could not see fit to provide a child tax credit to millions of low income workers, nonetheless could provide more than $1 trillion in tax cuts over ten years, principally to the wealthy, to those who need it least.

The original House Budget resolution would have cut veterans programs by $28 billion over ten years. As all of us know, the Budget Resolution Conference Agreement that ultimately was adopted provides for an unspecified $128 billion cut over ten years in discretionary spending with $7.6 billion in additional unspecified cuts to take place in FY 2004 alone. So the risk to veterans programs is real, and the appropriations process will reflect it.

Mr. Speaker, our veterans need help, not just flag-waving. The best way that Congress can honor veterans is to ensure that programs designed to protect Veterans and provide them with desperately needed assistance are properly funded.

Mr. Speaker, the issue before us is not one of patriotism. It's one of priorities. We have veterans who now wait six months before they can see a doctor in the VA health system. Our veterans wait years before they can even get a decision on their VA disability claims. Is this how we honor our veterans? Is this how we honor their service and their sacrifice?

Mr. Speaker, we will know that this House is serious about honoring our veterans, when we focus our attention on Democratic proposals to reduce the waiting times for our veterans to see a doctor, and reduce the handling time for VA disability claims.

H.J. Res. 4 will merely serve to dishonor the Constitution and to betray the very ideals for which so many veterans fought, and for which so many members of our armed forces made the ultimate sacrifice.

Adopting this resolution will encourage further departures from the First Amendment and diminish respect for our Constitution. Once we start down the road to limiting speech on the basis of content, it is virtually certain that further restrictions of our First Amendment liberties would follow.

Mr. Speaker, freedom of expression is at the very heart of our democracy. It is our First Amendment and the robust exchange of views that it promotes that distinguishes our country from countries that fear political dissent and imprison dissenters for expressing their views.

Mr. Speaker, the proposed cure of a Constitutional Amendment is far worse than the disease it is intended to address. Our Constitution is a great document that has protected us from oppression for over 200 years. We ought not to tinker with it when such tinkering clearly is not required. I urge my colleagues to support the Watt substitute and reject the dangerous, ill-considered underlying base bill.

Mr. WATT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, let me just remind the Members of this House that just 74 short days ago in this same room we stood in the People's House and stripped the veterans' budget by about $30 billion. That is $30 billion. We cut 20,000 VA nurses. Where was the patriotism when we lost 6.6 million outpatient visits? Where were you waving your flag as you voted to drop over 160,000 veterans from the VA health care?

Mr. Speaker, we can talk the talk; we need to walk the walk. Let us support the veterans, not with our discussion of the flag, but with service to our VA veterans.

Mr. WATT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think the gentleman from Alabama (Mr. DAVIS) hit the nail on the head that this is about our system. I have the utmost confidence in our system. This is not really about those two Supreme Court opinions, because a different composition of the Supreme Court may well say that flag burning is not prohibited, that it is protected speech or is not protected speech. The first amendment will continue to say what it says.

But I respect the system under which we operate that allows the Supreme Court to be the ultimate arbiter of whether we have violated the first amendment or not.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this debate here and now is not on the appropriation for the Department of Veterans Affairs; it is on whether or not the Congress can pass the constitutional amendment reversing two Supreme Court decisions and prohibiting the physical desecration of the American flag.

The gentleman from California (Mr. CUNNINGHAM), who is a veteran, and I am not, stated the position of every veterans organization in the country: They are for this.

The vote at hand is going to be on the Watts substitute amendment. As I stated in my earlier argument, what this substitute amendment does is constitutionally codify the Johnson and the Eichman decisions, which state that flag desecration is protected free speech under the first amendment of the United States Constitution.

Mr. WATT. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Speaker, I appreciate the chairman yielding, because the chairman has made that point several times. Does the chairman understand that future Supreme Courts may, in fact, have a completely different interpretation of that, and that my amendment does not say anything about those decisions? It just respects the system under which we are operating.

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, what it does do is, in order to prevent flag desecration, it requires the Supreme Court of the United States to admit it made a mistake and expressly overrule both the Johnson and Eichman decisions. The Supreme Court of the United States does not overrule previous decisions very often. It did it in Brown v. The Board of Education. But not very often in other major areas, particularly in the interpretation of constitutional law, does the Supreme Court of the United States do it.

The way to hit this issue is head on. If you do not like this amendment, vote "no," but do not adopt the Watts substitute amendment, which merely tosses the ball back to the Supreme Court, which twice has told us that flag desecration is constitutionally protected.

The only way to reverse what the Supreme Court has done for sure is to defeat the Watts substitute amendment and pass the underlying bill introduced by the gentleman from California (Mr. CUNNINGHAM).

Mr. Speaker, I ask for a "no" vote on the substitute, a "yes" vote on passage of the constitutional amendment.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the substitute to H.J. Res. 4, a resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the American flag, offered by my colleague The Honorable MELVIN WATT. I urge my colleagues to reject H.J. Res. 4 as it is presently written, and to support the substitute.

H.J. Res. 4, states, "The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification: Article—'*The Congress shall have power to prohibit the physical desecration of the flag of the United States.*'." (emphasis added).

The amendment to the Constitution proposed in H.J. Res. 4 is a severe abridgement of the freedom of expression protected by the First Amendment of the United States Constitution. If ratified, H.J. Res. 4 would, for the first time in our Nation's history, modify the Bill of Rights to limit freedom of expression.

This Constitutional amendment is a response to a pair of Supreme Court decisions, Texas v. Johnson, and United States v. Eichman, two cases in which the Court held that state and federal government efforts to prohibit physical "desecration" of the flag by statute were content-based political speech restrictions and imposed unconstitutional limitations on that speech.

In Texas v. Johnson, Gregory Johnson was arrested for burning the U.S. flag during a protest at the Republican National Convention in Dallas. His acts were a deemed a violation of Texas's "Venerated Objects" statute that outlawed "intentionally or knowingly" desecrating a "national flag." The Supreme Court found that Johnson's conduct constituted symbolic expression and was, therefore, protected by the First Amendment. The Court determined that because Mr. Johnson's guilt depended on the content of his expressive conduct and was restricted because of that content, the Texas law was an unconstitutional violation of the First Amendment.

After the Johnson ruling Congress passed the Flag Protection Act. Under that Act, criminal charges were brought against protesters in Seattle and Washington, D.C. In both cases, the federal district courts relied on Johnson, striking down the Flag Protection Act as unconstitutional when applied to political protesters. The Supreme Court concluded that Congress' attempt to protect the flag was related to "the suppression of free expression" that gave rise to an infringement of First Amendment rights.

The substitute proposed by Mr. WATT is designed to protect American's right to express their opinions and views in a way that is consistent with the First Amendment, and also consistent with Supreme Court precedent.

Freedom of speech and freedom of expression are fundamental components of our democracy. Limiting the ability of American citizens to voice their opinions about their government, through flag desecrations or otherwise, is a violation of the principles of our democracy that are symbolized in the American flag. The ability of American citizens to speak their views, especially when those views are unpopular, against the status quo, or even considered outrageous, is an affirmative social good. It is those dissenting views that often bring about social changes, legal changes, and government changes that benefit all Americans. For example, I shudder to image what America would be today if the "unpopular" views of Dr. Martin Luther King, Jr. were silenced.

The substitute offered by my colleague Mr. WATT protects all First Amendment Free Speech including those expressions that are critical of our local, state, and Federal governments. I proposed an Amendment to H.J. Res. 4, to protect Americans' right to speak out against their governments, even if they express themselves by desecrating the flag. I support Mr. WATT's substitute because it protects American's rights to voice unpopular views.

I join many Americans in the belief that some desecrations of the flag are distasteful and offensive. However, my offense at some expressions of free speech is outweighed by my respect for the First Amendment. I may disagree with some how some Americans express their views by destroying the American flag. But I will not trample on the First Amendment to silence a voice with which I do not agree. H.J. Res. 4 places limits on the manner in which some Americans may express their dissent with Government activity. This is an unacceptable limit on the content of the dissent itself.

Mr. WATT's substitute to H.J. Res. 4, ensures that every American can voice their opinions in a way that is consistent with the First Amendment to the United States Constitution, including speech that is critical of our local, State, and Federal governments.

Mr. Speaker, I reject H.J. Res. 4 as it is presently written. I support Mr. WATT's substitute to H.J. Res. 4, and urge my colleagues to support the substitute to protect the First Amendment freedoms of all Americans.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 255, the previous question is ordered on the amendment in the nature of a substitute and on the joint resolution.

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 129, nays 296, not voting 8, as follows:

[Roll No. 233]

YEAS—129

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Bell
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Cummings
Davis (AL)
Davis (IL)
DeFazio
DeLauro
Dicks
Dooley (CA)
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Greenwood
Grijalva
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Larsen (WA)
Leach
Lee
Lofgren
Lowey
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Otter
Owens
Paul
Payne
Pelosi
Price (NC)
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Slaughter
Solis
Spratt
Stark
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu

NAYS—296

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo

Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Carson (OK)
Conyers
Gephardt
Herger
Larson (CT)
Ryan (WI)
Smith (WA)
Wexler

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised that 2 minutes remain for this vote.

□ 1737

Messrs. PASCRELL, DEUTSCH, FRANKS of Arizona, PETRI, LEWIS of Georgia, BISHOP of New York, SMITH of Michigan, FLAKE and SHADEGG changed their vote from "yea" to "nay."

Mr. OTTER changed his vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This vote will be followed by a 5-minute vote on the motion to suspend the rules and adopt House Resolution 231 on which the yeas and nays were postponed yesterday.

The vote was taken by electronic device, and there were—yeas 300, nays 125, not voting 8, as follows:

[Roll No. 234]

YEAS—300

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardoza
Carter
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Doyle
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hinojosa
Hobson
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—125

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berman
Blumenauer
Boucher
Brady (PA)
Capuano
Cardin
Carson (IN)
Case
Clay
Cooper
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Dreier
Ehlers
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Gilchrest
Gonzalez
Greenwood
Grijalva
Hastings (FL)
Hill
Hinchey
Hoeffel
Hoekstra
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
Meehan
Meeks (NY)
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Pelosi
Petri
Price (NC)
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shadegg
Shays
Slaughter
Snyder
Solis
Stark
Tanner
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu

NOT VOTING—8

Carson (OK)
Conyers
Gephardt
Herger
Larson (CT)
Ryan (WI)
Smith (WA)
Wexler

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members have 2 minutes remaining in this vote.

□ 1754

Ms. LORETTA SANCHEZ of California and Mrs. NAPOLITANO changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 231.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 231, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 235]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin

Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—11

Cardin
Carson (OK)
Conyers
Gephardt
Gordon
Greenwood
Herger
Larson (CT)
Ryan (WI)
Smith (WA)
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1803

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I regret that I could not be present today, Tuesday, June 03, 2003, to vote on rollcall vote Nos. 230, 231, 232, 233, 234, and 235 due to a family medical emergency.

Had I been present, I would have voted:

"No" on rollcall vote No. 230 on S. 222—Zuni Indian Tribe Water Rights Settlement Act of 2003;

"No" on rollcall vote No. 231 on S. 273—Grand Teton National Park Land Exchange Act;

"Yea" on rollcall vote No. 232 on S. 7563—To designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse";

"Yea" on rollcall vote No. 233 on the amendment in the nature of a substitute to H.J. Res. 4 offered by Congressman WATT;

"Yea" on rollcall vote No. 234 on final passage of H.J. Res. 4—Constitutional Amendment to Prohibit Desecration of the Flag; and

"Yea" on rollcall vote No. 235 on H. Res. 231—Supporting the goals and ideals of Peace Officers Memorial Day.

## JOBS AND GROWTH PLAN

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I suppose I should not be surprised by the latest tactics Democrats are employing to convince Americans that the jobs and growth plan ignores working families, but today I think most of us were a bit shocked at the frantic attempts to spin these tax cuts as harmful to low-income families.

Those across the aisle who oppose this tax relief should be nervous. They voted against the plan that exempts another 3 million-plus low-income workers from any Federal tax liability. They voted against a plan that expands the 10 percent income bracket so that more low-income working Americans get to keep a greater portion of their paychecks. And they voted "no" to giving small businesses the ability to expense investments, a provision that is a boon to mom-and-pop operations in virtually every single corner of this country.

In an article printed in the Wall Street Journal yesterday, it was pointed out that the Nation's bottom 50 percent of filers had very little income tax liability. And you know what? Republicans reduced the burden on these working families even further when we passed the jobs and growth act. So do not be fooled by the screeching coming from across the aisle. Democrats know that people are going to love this bill when they start reaping the benefits of lower taxes; when they take a long overdue vacation, buy a new car, and put a little bit more in retirement or college funds.

We were right to pass the tax relief bill. Today, the economy looks to be on the verge of a turnaround, and Chairman Greenspan has said that the jobs and growth plan will likely boost consumer spending and feed into the job market. This is great news for Americans and should be cause for reflection for those who voted against the tax and relief bill.

## TAX RELIEF BILL

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, I just want to say a word about what happened before we went into recess, the fact that we voted on a bill that provided hundreds of billions of dollars of tax relief, but not to the people who needed it the most.

In fact, we now see that about one-tenth of 1 percent of the very wealthiest Americans receive approximately as much tax benefit as the 90 percent of Americans with incomes of $95,000 or less. But the most outrageous thing about this tax cut was something we did not know. It took the newspapers, and I saw it in The New York Times a week later, that revealed that we actually eliminated the child tax credit for families with incomes below $26,000, the working poor, the families who needed tax cuts the most.

I mean, I cannot believe that this Congress did that to working-class families and did not even give us the opportunity to debate it. I hope that there is a groundswell of public opposition to what we do and we can reverse this. The Democratic Party is determined to do so.

## IN HONOR OF OUTGOING AMERICAN DIABETES ASSOCIATION CHAIRMAN MICHAEL WEISS

(Mr. MURPHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, I rise today to congratulate one of my constituents, Michael Weiss, for his work as national chairman of the Board of the American Diabetes Association. I am proud of his commitment to the local Pittsburgh community and his leadership at the national level. His efforts are helping to improve the lives of millions of Americans who are impacted by diabetes.

Michael Weiss is an attorney in Pittsburgh and has been an active volunteer for the American Diabetes Association at the local, State, and national level. He will be completing his term as the ADA's national Chair of the Board next week at the ADA's Annual Meeting and Scientific Sessions in New Orleans.

Michael's tireless efforts have earned him the distinguished Charles H. Best Medal of Service. Named for Dr. Best, the cofounder of insulin, this award recognizes meritorious service on behalf of the Association of Americans with Diabetes.

An active participant in many civic and community organizations, Michael Weiss lives in Mt. Lebanon, Pennsylvania, with his wife, Gerri. I am sure that Gerri and their two children, Melissa and Douglas, will join me in offering sincere congratulations to Michael for his great work as the national chairman of the ADA. He is a credit to our community, and we are proud of and thankful for all that he has done to improve the lives of those with diabetes.

## CONCERNING THE STAGED RESCUE OF PRIVATE JESSICA LYNCH

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, was the dramatic rescue operation of Private Jessica Lynch staged for domestic propaganda purposes? The administration portrayed Private Lynch as receiving bullet and knife wounds, experiencing mistreatment by Iraqi officials, and being spirited away amid harsh enemy fire. But nothing the administration has said about Private Lynch and the circumstances of her rescue have been verified by independent news reports.

Specifically, Private Lynch sustained no bullet or knife injuries. U.S. forces knew in advance of the operation, that no Iraqi forces were guarding the hospital. Iraqi medical staff treated Private Lynch humanely, even donating their own blood. Iraqi medical staff actually tried to deliver Private Lynch in an ambulance 2 days earlier, but they were fired upon by U.S. forces. U.S. forces participating in the rescue of Private Lynch were not fired upon by Iraqi forces.

Last week I sent a letter which requested that the administration order the public release of the unedited footage taken by the military cameramen, and a letter follows. It is time to find out the truth. Mr. Speaker, I include for the RECORD the letter I referred to.

The letter referred to is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM,
*Washington, DC, May 30, 2003.*

Hon. DONALD H. RUMSFELD,
*Secretary, Department of Defense,*
*The Defense Pentagon, Washington, DC.*

DEAR SECRETARY RUMSFELD: I am writing to request your assistance in resolving the controversy surrounding the rescue of Private Jessica Lynch.

In the days following Private Lynch's rescue from an Iraqi hospital by U.S. Special Forces, numerous U.S. officials described to national media outlets the circumstances surrounding this event. They portrayed Private Lynch as receiving bullet and knife wounds, experiencing mistreatment by Iraqi officials, and being spirited away amid harsh enemy fire. Although U.S. officials requested anonymity, their stories were widely reported without correction or qualification by the Defense Department. Indeed, the Department appeared to confirm the veracity of these reports, releasing for reporters an edited section of videotape taken by a military cameraman using night vision equipment. Indeed, in introducing this clip, General Vincent Brooks, the U.S. spokesman in Doha, reportedly said: "Some brave souls put their lives on the line to make this happen."

More recently, however, contrary media accounts have emerged. At their core, these accounts argue that the rescue was essentially staged. Specifically, these accounts have reported that, in fact, Private Lynch sustained no bullet or knife injuries. They have also reported that U.S. forces knew in advance of the operation that no Iraqi forces were guarding the hospital. They have reported that Iraqi medical staff treated Private Lynch humanely, even donating their own blood. They have reported that Iraqi medical staff actually tried to deliver Private Lynch in an ambulance two days earlier, but they were fired upon by U.S. forces. And they have reported that U.S. forces participating in the rescue of Private Lynch were not fired upon by Iraqi forces. Perhaps the harshest account claimed that the Pentagon's staging of this event was "one of the most stunning pieces of news management yet conceived."

As you can see, there is a wide gap between the facts as reported initially and the manner in which they are being reported now. As I understand the Defense Department's position, these recent accounts are "outrageous, patently false and unsupported by the facts." At the same time, Defense Department officials now seem to be qualifying their earlier statements. For example, Bryan Whitman, a Department of Defense spokesman, reportedly said "the U.S. military never claimed that the troops came under fire when they burst into the hospital."

In this case, I believe the best course of action is not to rely solely on omissions and gaps in past statements by Department officials. Instead, I believe the better course is to provide as much information as possible. Only by disclosing all the facts will the credibility of the Defense Department be maintained. For this reason, I have several questions I would like you to answer formally;

Did U.S. forces encounter any Iraqi forces in the hospital?

Were U.S. troops fired upon during the rescue operation? If so, please describe specifically the nature of the interchange.

Did U.S. have any information suggesting that Iraqi forces had abandoned the hospital?

Did Private Lynch sustain any gunshot or knife wounds?

Did U.S. officials have any information suggesting that Iraqi medical staff were trying to deliver Private Lynch to American forces?

Did U.S. forces at any time fire on any ambulances?

In addition to posing these questions, I would like to make two additional requests. First, there has been a great deal of commentary on the manner in which the Department edited and aired a videotape of the rescue operation. Several media representatives have requested that the full tape be released so the American people can make an independent assessment of these conflicting claims. I see no reason for the Department to reject this request. Therefore, I request that you order the public release of the unedited footage taken by the military cameraman. Of course, if you have security or other concerns, I would be happy to review the tape myself and discuss those issues with you personally.

Finally, I understand the Department has ordered an investigation into the facts surrounding Private Lynch's capture by Iraqi forces. I also understand, however, that investigators were not asked to examine the circumstances surrounding Private Lynch's rescue. In light of the controversy that has arisen regarding this case, I suggest that the Pentagon's ongoing investigation also include the facts surrounding Private Lynch's rescue, as well.

If you have any questions about this request, please call my Chief of Staff, Jaron

Bourke, at (202) 225-5871. I look forward to receiving your response.

Sincerely,

DENNIS J. KUCINICH,
*Ranking Minority Member, Subcommittee on National Security, Emerging Threats, and International Relations.*

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## TAX FAIRNESS FOR EVERYONE, EXCEPT LOW-WAGE WORKING FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the Republicans passed a bill last week which will provide a $90,000 tax cut to the Nation's millionaires, but let us look at what else it does.

The independent Urban-Brookings Tax Policy Center estimates that making the earned income tax credit marriage penalty relief effective this year would have offered an average tax cut of $340 to 4 million working American families. But the President decided to make them wait until 2008 for the marriage penalty relief he offered their more affluent neighbors. House Republican leadership had several opportunities to correct the President's mistake and restore fairness to the tax bill, but they decided to cut working families loose. So that is $90,000 for millionaires, not a cent for working lower-income families.

The gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, said, "If you are not going to incentivize marriage, at the very least make sure you don't punish it." The gentleman from Texas (Mr. DELAY), the House majority leader, said, "A country founded on freedom should not maintain a tax code that arbitrarily places an extra burden on husbands and wives." Speaker of the House, the gentleman from Illinois (Mr. HASTERT), said, "We need a tax code that doesn't punish married couples. They don't need the Federal Government picking their pocket."

$90,000 for a millionaire, but nothing for married, poor, or working families.

Any one of those powerful officials could have taken a stand, could have spoken up for low-wage working families, could have ensured that no legislation would pass this House that valued the marriages of families of wealthy Americans above those of their less affluent neighbors. But none of those Republican leaders said a thing. None of them raised a voice of concern or lifted a finger to stop the advance of a bill that says loud and clear to millions of Americans, your marriage is worth less than your neighbor's marriage or your boss's marriage.

$90,000 of tax cuts for a millionaire, but not a cent for low-income working couples.

Given that track record, it was disappointing, but not surprising, to learn the White House and the congressional Republican majority used their last-minute back-room deal in the tax bill to take another cheap shot at low-wage working families. The final conference bill brokered by Vice President CHENEY included a last-minute change that freezes 12 million low-wage families out of the bill's child tax credit increase.

$90,000 for millionaires, nothing for working families, lower-income working families.

At the signing ceremony for this bill, the President said, "We are helping workers who need more take-home pay." But 7 million American families who pay income tax will get no benefit at all from this bill.

$90,000 for millionaires, nothing for low-income families.

Now that the word is out, some of our Republican colleagues are saying they did not know about these changes. They are looking for someone to blame for the decision to cut low-wage working families loose on the child tax credit. But the deal was cut by the Vice President and his party's leadership, so the "I did not know it" excuse just simply does not wash.

If the White House had wanted to correct the injustices in the tax bill, if Republican leadership had been serious about fairness for married couples and children, there were plenty of opportunities. They could have dropped the average tax cut for millionaires, like the President's friend, Enron's CEO Chair Ken Lay, from $93,000 to $88,000, and that would have left enough money to give that tax break to working families.

They could have dropped the dividend tax cut that the President and Vice President worked so hard for, just over 2 percent, and the capital gains provision cost just 2 percent; and that would have paid for those lower-income working families who do pay taxes.

So they could have offset the cost by including some responsible corporate tax loophole reforms. We all know corporate expatriates like Tyco and Stanley use loopholes in the law to abandon their U.S. headquarters and reincorporate overseas. So they give tax breaks to them, they give tax breaks to millionaires, but not a cent for so many low-income working families in this country.

The simple truth is this was not a mistake. Any Republican Member of the House who thinks it was should listen carefully to today's statement by their elected majority leader. Asked about the prospects for legislative proposals to restore just some fairness, just a bit of fairness to the child tax credit, the majority leader, DELAY, said, "There is a lot of other things that are more important than that."

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Mr. Speaker, $90 million for millionaires, not a cent for working, lower-income families. It is shameful.

## PHARMACEUTICAL COMPANIES RUN ROUGHSHOD OVER AMERICAN CONSUMERS

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, it was Will Rogers who said, "All I know is what I read in the newspapers," and I was reading yesterday's Wall Street Journal, and I would invite my colleagues to read the Wall Street Journal of yesterday, as well, because there is a story there that is just shameful about American policies as it relates to prescription drugs.

Let me read from this article from the Wall Street Journal front page yesterday. Let me read a couple of paragraphs. In fact, the headline is, "Empty Shells: As U.S. Balks on Medicine Deal, African Patients Feel the Pain," and the subtitle is "Big drug makers protecting their patents seek limits to a global trade accord, searching for insulin in Chad." As one reads the article, it is shameful.

Let me just read a couple of paragraphs for the benefit of Members. "Wealthier countries where drugs are produced and patented promised 18 months ago at global trade talks in Qatar to loosen patent restrictions in order to ease shortages and reduce prices. It was just after September 11, and the U.S. led the rhetorical charge, eager to demonstrate its desire to battle suffering among the world's poor while mounting a war on terrorism. But last December when all of the other 143 countries in the World Trade Organization had lined up behind a new plan on the trade of medicines, the United States blocked the proposal.

"The Bush administration, under heavy lobbying from the pharmaceutical industry seeking to limit the scope of the deal, endorsed a list of some 20 infectious diseases, and that was it. That was all they were willing to address. These included HIV-AIDS, malaria, tuberculosis, typhus, hemorrhagic fever, and others categorized as epidemics in the developing countries, but that was it. Drug manufacturers feared that without the limitation, the deal could lead to a broader undermining of their lucrative patent rights. Poor nations were outraged."

Mr. Speaker, we should be outraged. As we speak, there are people suffering from diabetes in the country of Chad in sub-Saharan Africa that cannot get insulin. It is time for us to take control of this issue. For too long we have allowed the special interests and some of the misinformed people over at the FDA to sort of box us into a corner so Americans now pay the world's highest prices. We are the world's best customers, but yet we pay the highest prices for prescription drugs.

Do not just take my word for it. We were in Munich, Germany, about a month ago, and we bought and I have the receipt here for what we paid for these drugs. Let me take this drug, Cipro, which we all know about after the anthrax scare. In Germany, at the Munich airport, we paid 35.12 Euros for this product. That is about $34. This same product in the United States sells for $60. The average price in the United States, according to one study, is over $80. We paid $34.

Let me take Coumadin, and this is a drug that my father takes, made by DuPont. This drug in the United States, the average price is over $64. In Munich, Germany, we bought this drug for 20.43 Euros. That works out to about $19 in American currency; $64 in the United States, $20 in Europe.

Glucophage, a marvelous drug for diabetics, which we bought in Germany for $5. This drug can cost as much as $100 here in the United States of America.

But here is the one that really got to me. This is a drug called Tamoxifen, probably the most effective drug we have ever seen on the market in treating and perhaps preventing breast cancer among women. It is a miracle drug, and we are thankful it exists. We bought this drug at the Munich Airport pharmacy for $59.05 American. This same drug here in the United States sells for $360 for the same box; $60 in Germany, $360 in the United States.

Mr. Speaker, it is not shame on the pharmaceutical industry, it is shame on us. We have created an environment where we permit these companies to literally run roughshod over American consumers.

Let me add one other thing about this drug. American taxpayers paid for almost all of the R&D costs to have it developed. In fact, the company originally said they would not patent it because it was the taxpayers who paid for the R&D. But I guess they have patented it.

I will yield back the balance of my time, but I will be back; and I have a bill that will begin to resolve this, and I hope all Members, Democrats and Republicans, will join me in cosponsoring that legislation.

## TAX CUTS LEAVE OUT WORKING POOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, there has been a lot of talk about what the recent tax cuts will do for our economy, and I would like to talk to Members about what they will not do and who they will not help.

The $350 billion in tax cuts leaves out the working poor, and many, in the State of California, working families. Republicans rejected a Democratic attempt to try to get child tax credits to low-income families earning less than $10,500. To add insult to injury, last-minute changes made by Republicans also will prevent families with incomes between $10,500 and $26,625, and that includes about 11.9 million children, and they will not receive any kind of a child tax credit or be eligible for one. One out of every four families in my district in California will get no child tax credit.

Families like this one pictured here, who live in my district in East Los Angeles, Ruben and Teresa, whose son is proudly serving us right now in Iraq, this family makes $24,000 a year. They will get no tax break, no tax break. Yet somehow Republicans found $90 billion to give to 200,000 millionaire families. That money will not make it to my district, no way, since 99 percent of the families there earn less than $200,000.

Republicans left out all of these families to accommodate tax cuts on dividends that go mostly to rich and wealthy people. The tax cuts leave out married tax filers who happen to be living in poverty. The Republicans postponed marriage penalty relief under the earned income tax credit which is claimed by many working families earning $34,000 or less. This means that working-class married tax filers are treated as second-class citizen.

The tax cuts leave out the people of California, and although California suffers from the largest budget deficit in the country, it is ranked at 43rd in terms of per capita State aid allotted by the Republican tax bill.

Mr. Speaker, 31 percent of California families are not helped by the child tax credit. That is 2.4 million children in California alone, and I mean all children; and 47 percent of Californians will get a total tax cut of less than $100. That is barely enough to take them to the movies, buy a pizza and maybe have some extra spending money to buy book supplies, if that.

Mr. Speaker, 28 percent get nothing at all. It is a sign of a grossly skewed priority by Republicans that would leave a lot of people out, yet they give $100,000 tax breaks to the largest SUVs, which pollute our air, keep us dependent on foreign oil, and spew out greenhouse gases.

So while the typical millionaire gets over $93,500 in tax cuts and another $100,000 break for their huge SUVs, working-class people are left sitting in the smog with almost nothing in their pockets. If we had only given those millionaires $88,000 instead of $93,000, we could afford to give the child tax credit to all families. That means 140,000 hard-working families in my district would have gotten some kind of tax relief.

Democrats tried to offer an economic stimulus plan with an immediate increase in the child tax credit, marriage penalty relief for all, and the expansion of the 10 percent tax bracket, and Democrats tried to put money in the pockets of working-class people. These are the people who would stimulate our economy, pull it out of the tailspin it has been in ever since this President took office.

With more than 2.7 million jobs lost in the last 2 years, we in Congress should be declaring war against poverty. Instead, Republicans have declared a war against working families, families like this who send their children to serve in our wars. We need to change that, and we need to support and extend benefits for those hard-working Americans, especially families like this that right now are hoping that their son will come home, and even he would not be eligible for a tax credit because he makes less than the amount required under this bill that was passed by the Republicans.

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## COMMENDING THOSE FIGHTING WAR ON TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for 5 minutes.

Mr. BEAUPREZ. Mr. Speaker, I rise today to urge my colleagues to support House Concurrent Resolution 177, recognizing and commending people of freedom for having played such a crucial role in the ongoing success in the war on terror.

Mr. Speaker, people of freedom come in all different shapes and sizes. They do not come from one nation, but from all nations. They do not go to the same house of worship, but they all have hearts filled with hope. They do not all carry a rifle, they do not all go into battle, but every single man or woman who believes in freedom also believes we can leave this world just a little better than we found it.

Mr. Speaker, the success of Operation Enduring Freedom and Operation Iraqi Freedom is not just a plan, it is not just training, it is not just willpower or determination; it is all of that and much, much more. It is about young men and women who displayed heroism in the face of grave danger. It is about leaders who redefine the very nature of conflicts, it is about a disciplined military equipped with cutting-edge technology capable of delivering surgical strikes with razor-sharp precision. It is about a fighting force filled with compassion, a force capable of delivering the fist of justice and the outstretched hand of comfort at the same time.

I have heard some disturbing things lately, Mr. Speaker. I have heard that the conflict in Iraq was unjustified. I have heard that uncovering mass graves is somehow not a good enough reason for freedom in Iraq. I have heard that mobile bioweapons labs do not count as real evidence of weapons of mass destruction. I have heard that life under one of the most brutal regimes in history really was not all that bad. That is nonsense, pure nonsense. Furthermore, it is an insult to the brave men and women now returning home.

Mr. Speaker, I join my colleagues to commend not only our troops but the entire military community, for without the people in the background, the encouragement of a family, the expertise of a scientist, the commitment of a President, the situation in Iraq today and in the free world's war against terror might be very, very different.

May God bless the men and women of our Armed Forces, and may he also bless those who give them aid and comfort.

Mr. Speaker, I call on all people of freedom to join us in celebrating our brave troops returning home. I ask them to join us in celebrating the liberation of the Iraqi people. While there is much work to be done, and while we will continue to bring justice to those who perpetrate terror, it is wholly appropriate to take this opportunity to congratulate our soldiers whose sweat and blood has made freedom a reality for oppressed people around the world, as well as the communities who support them.

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And so, Mr. Speaker, I urge my colleagues to join me in sending a clear message of thanks by voting in favor of House Concurrent Resolution 177.

## REPUBLICAN TAX CUT LEAVES POOR FAMILIES BEHIND

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, this afternoon I received the following e-mail from one of my constituents. It says:

"Dear Janice Schakowsky, our government should stand for basic fairness and justice. That's why I do not understand why families earning between $10,000 and $26,000 per year would be excluded from receiving the $400 per child tax refund that wealthier families will receive this summer just so millionaires can get bigger tax cuts. As a constituent, I ask you to please amend President Bush's unfair tax cut plan to include these poor families and their 12 million kids. To leave the tax cut as it is brings too much shame upon this great Nation. Sincerely."

My constituent is correct. This is a shameful moment in our great Nation, and we should not rest until we undo the tremendous wrong committed by the Republican leadership and the Bush administration. This is no time for business as usual. This is a time to reverse the damage done by the disgusting choices made by our colleagues on the other side of the aisle. There are those who may tell us that the decision to leave 12 million children in low-income working families on the cutting room floor was just a mistake, but that would be a lie. As The Washington Post editorialized yesterday, "Stiffing these children was not a last-minute oversight or the unfortunate result of an unreasonably tight $350 billion ceiling." In fact, this was a deliberate, mean-spirited action committed in the name of protecting special interests instead of our Nation's children. In fact, a House Republican Ways and Means Committee spokesperson confessed that, "Well, adjustments had to be made."

Let us be clear about what happened. Behind closed doors, Republican leaders got together with the administration and decided who was going to be thrown overboard and who would be brought to shore. There were no Democratic Members in that room. There were certainly no children or working families in the room. And the decision was made to throw children and working families, including military families, overboard and to save the dividend tax cuts for millionaires while restoring the ability of corporations to unpatriotically stash their profits in Bermuda. Compassion for millionaires and corporate traders, contempt for low-income children and their parents.

As Warren Buffett has said, "If this is class warfare, then my class is winning." There are other winners besides Warren Buffett. Not surprisingly, the Bush Cabinet members who worked so hard to sell this tax cut, job-killing bill are also winners. According to a report just completed by the Committee on Government Reform minority staff, Vice President DICK CHENEY, the President's key tax negotiator, will reap $116,002 a year from the dividend/capital gains provisions in this bill. John Snow, Secretary of the Treasury, will get over $332,000 a year. Donald Rumsfeld, who gave Vice President CHENEY's former company, Halliburton, a multimillion-dollar sweetheart contract, wins big, too, as much as $604,000 a year. No wonder they all worked so hard to sell such a defective product.

We know who the winners are; and now we know at least some of the losers, 12 million children and working families. In my State of Illinois, nearly one in four children, 674,000 children in 378,000 families, were tossed aside so that Cabinet secretaries, billionaires, and corporations like Enron could be protected. We were not given time to read the Republican tax cut, job-killing bill before the vote; and I do not blame my colleagues for trying to push their bill through before we and the American public could learn what it included. I would be ashamed, too, if I decided to give Cabinet members, wealthy Members of Congress, and rich campaign contributors life jackets rather than women and children. And no wonder the Members on my side of the aisle were not given an opportunity to offer even one single amendment. What if we had learned the truth and tried to correct it?

Now we have learned the truth, and it is time to right an incredible wrong. Bob Herbert labeled this as a "quintessential example of what the Bush administration and its legislative cronies are about. The fat cats will get their tax cuts. But in the new American plutocracy, there won't even be crumbs left over for the working folks at the bottom of the pyramid to scramble after."

Now the actions of the Bush administration and Republican tax decisionmakers are out in the open. And now it is our responsibility to act by passing the Rangel-DeLauro bill. Children and working families should be our first priority, not tossed out, given crumbs or thrown overboard. We must make the commitment to act this month.

## IRAQ: WHAT NOW?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, a front-page story today in the Washington Post says, "Iraqi political leaders lashed out today at a plan by the top U.S. civilian administrator here to appoint an interim advisory council." The headline says, "Iraqis Assail U.S. Plans."

The front page of the Washington Times has a story today saying, "Unemployed Iraqi soldiers swarmed U.S. occupation headquarters yesterday demanding back pay and emergency payments of $50 each and avowing vengeance if they didn't get their way."

We are in a real mess in Iraq. Since when did it become the obligation of U.S. taxpayers to pay the salaries of the Iraqi military? When in history has a victorious army had to start paying the salaries of the defeated army? We have already given the retired people on pensions in Iraq emergency payments, handing out two crisp $20 bills to each, and probably more by now. Since when did it become the obligation of U.S. taxpayers to pay the pensions of Iraqi retirees? Those who support foreign aid found out many years ago that it was very unpopular so they just started putting our foreign aid and overseas spending into every Federal department and agency. The supporters of foreign aid very misleadingly say foreign aid is only about 1 percent of the Federal budget. What they do not say is that we are spending several hundreds of billions of dollars through every Federal department and agency.

I am very pro-military and pro-national defense. However, in many ways today we are turning the Defense Department into the biggest foreign aid agency there is. We were told a few weeks ago that the military is going to build or rebuild 6,000 schools in Iraq and set up a free basic health care plan for all Iraqi citizens. I heard one Member jokingly say that he was going to suggest changing the name of a small town in Wisconsin to the name Iraq so that town could qualify for the huge money that is about to be spent. We are told that the U.S. will spend $200 to $300 billion rebuilding Iraq over the next 10 years. This means $20 to $30 billion each year in a country where the gross domestic product last year was less than $60 billion.

Our military did a great job in Iraq, as we all knew they would. But we spent over $100 billion to defeat a country whose total military budget was only $1.4 billion, about two-tenths of 1 percent of ours. Saddam Hussein was a very evil man, but Iraq was never any real threat to us, as this 3-week war proved. Now we are in a real mess.

Fortune Magazine, in its November 25 issue a few months before the war started, had an article entitled "Iraq, We Win. What Then?" That article said, "A military victory could turn into a strategic defeat. A prolonged, expensive American-led occupation could turn U.S. troops into sitting ducks for Islamic terrorists. All of that could have immediate and negative consequences for the global economy." That is exactly what is happening today.

I heard one American general say on the news recently that the American military was not designed to be a police force. Yet that is exactly what we are doing in Iraq today. James Webb, a hero in Vietnam and President Reagan's Secretary of the Navy, wrote before the war: "The issue before us is not whether the U.S. should end the regime of Saddam Hussein but whether we as a Nation are prepared to occupy a territory in the Middle East for the next 30 to 50 years." He was one of many, many conservatives against this war.

Charley Reese, the very popular conservative columnist, wrote a column March 24 entitled "Congratulations" for becoming "the proud mamas and papas of 22 million Iraqis" since we will be providing them with so much. He then wrote:

"I have long been against taxing Americans to solve problems in foreign countries. It seems to me to be a simple proposition. Until an American politician can honestly say that all Americans are healthy and prosperous, that all children attend a clean, well-equipped school, that our entire infrastructure is up to speed, that all of our public health and environmental problems have been solved, then American tax dollars ought to be spent in the United States. I've read the Constitution I don't know how many times, but I never found anywhere in it that Congress can tax Americans and give the money to foreigners, but Congress does it, anyway."

Are true conservatives now for massive foreign aid? I do not think so. Are true conservatives for huge deficit spending? I do not think so. Are true conservatives for world government and the U.S. becoming the world's policeman? I do not think so. Yet we will spend all these many billions in Iraq because a few big multinational companies will make sure we do and because some government officials feel more important if they are placed in charge of other countries.

Charley Reese also wrote in that same column:

"We, of course, will get stuck with the bill and it will cost hundreds of billions of dollars. Some of the politicians' corporate cronies are already being promised lucrative contracts. There's always a profit to be made from war. You and I won't make it; the soldiers, sailors and airmen won't make it. No, as consumers we pay the price in treasure and blood and grief; the big corporations reap the profit."

In yesterday's Washington Post, a story said that some of the same Iraqis who are smiling at U.S. soldiers are harshly criticizing U.S. rule when the soldiers are not around. The Iraqi people hated Hussein, but the only ones who want us around are the ones we are paying.

We should get out of Iraq, Mr. Speaker, the sooner the better and not put more American lives at risk. We should let Iraqis use their humongous oil wealth to rebuild their own country.

## REPUBLICAN TAX CUT IS UNFAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, after the passage of the largest tax cut in history 2 years ago, the President began to talk about a little glitch in that, and a glitch that no one could have anticipated, not the Republican White House which wrote it, the Republican Senate which passed it, and the Republican House which passed it who deliberately wrote the glitch in, which was, gee, the estate tax would only expire for 1 year and then if you did not die during that 1 year, you would be subject to the full estate tax again. And a number of other taxes were phased back in.

Well, it was not a glitch. They knew about it. They had to do it so they would not bust the bank and that was when they were predicting a surplus. But guess what now? Whoops, here we go again. There is a little glitch in the second largest tax cut in American history passed at the time of the largest deficit in American history 2 weeks ago in the dark of the night, personally written and negotiated by Vice President CHENEY and the Republican leadership of the House and the Senate.

How could they have known that they left out half of the American people? I mean, after all, it was Ari Fleischer who said, "And, of course, for people in the 10 percent bracket, they benefit the most and that's the lowest income workers in America." He went on to say that it certainly does deliver tax relief to the people who pay income taxes. The President surrounds himself with waitresses. But unfortunately it is all a lie because those people are not going to get tax cuts under this bill. In fact, 51 percent of income-tax-paying Oregonians will get no cut under this bill and about 49 percent of income-tax-paying Americans will not get any cut under this bill. 7.6 million people who are in this 10 percent tax bracket that Mr. Fleischer referred to who were supposed to get a lot of benefits are going to get zero, zilch, nada under this bill. But every millionaire is guaranteed $93,500 or more under this bill.

To even heap more irony on top of the injustice, the $93,500 for each millionaire will come from FICA taxes, payroll taxes paid by wage-earning Americans. Wage-earning Americans pay about 7 percent of the first dollar they earn and every dollar they earn up to about $88,000 on FICA tax. In fact, more than half of American workers pay more in FICA taxes to the Federal Government than they do income taxes. No relief for them. And, hey, guess what? We have really suckered you, because we are going to borrow every penny of the FICA taxes you have paid that you thought was going into a trust fund, in fact, a lockbox, passed seven times while the Republicans have been in charge of this House. Seven times we passed a lockbox for Social Security. Well, we cannot afford a lockbox anymore. It is busted open and robbed. Empty. That money is going to be used to finance the tax cut and replaced with IOUs. So the millionaire who gets a $93,500 benefit under this bill, they pay a FICA tax at the rate of .7 percent, one-tenth of the rate at which a wage-earning teacher or sales clerk pays that same tax, because they do not pay it on any income over $88,000 a year.

□ 1845

So $912,000 of their income is exempt from FICA tax, and the poor person who works for minimum wage or for a decent wage is paying FICA tax of 7 percent on every penny earned.

Finally, they made much hay on the fact that they were going to do so much with the child credit. Of course, it was temporary and going to expire in 2 years, but that is probably a glitch and they would have discovered that later.

But there was another little glitch. Most Americans, in fact, all Americans who earn between $10,500 and $26,625 will not get the child care credit. That is an awful lot of people who have an awful lot of need. That includes 11.9 million children.

So, all in all, what we have here is one of the biggest scams in history. Never before has this country in a time of huge deficit borrowing, and that is how this is being paid for, borrowed so much money from so many wage-earning Americans to give to so very few at the top under the premise that somehow those really rich people might invest or spend that money in a way to give those working people jobs so they can pay more FICA taxes that can be transferred to them in next year's tax cuts, which the President has already targeted toward those who earn over $1 million a year, to help them have more to contribute at election time in what is expected to be a record expensive Presidential election.

The system is incredibly corrupt.

## JOBS AND GROWTH, TAX CREDITS AND SMALL BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, last Wednesday President Bush signed the Jobs and Growth Act of 2003, a bill I was proud to cosponsor.

After liberating the people of Iraq from despotism, it was time to liberate the American family from economic uncertainty. The best way to do that is to create jobs and economic growth, and although this bill has been substantially compromised, the bill was designed to do just that. Yet there are some in this body who still complain. They say the bill is not fair. They say that there is not tax relief for the poor.

Mr. Speaker, they are wrong. First, for all practical purposes, poor people do not pay income taxes. In fact, in this bill, we take 3.7 million Americans off the tax rolls. That is right, almost 4 million people who paid income taxes last year will pay no income taxes this year. None. How much more tax relief can you receive than having your tax bill canceled, torn up, thrown away? These Americans join millions of other low-income Americans who have already been taken off the tax rolls in recent history.

By lowering marginal rates, Mr. Speaker, other lower-income Americans benefit as well. Many who were in the 15 percent bracket last year are now in the 10 percent bracket. The net result is, the bottom 50 percent of wage earners in America now pay 3.9 percent of the income taxes. In contrast, the top 10 percent of wage earners in America pay over 50 percent of the income taxes.

What the critics of this bill fail to appreciate is that tax relief is for taxpayers. If you do not pay taxes, you should not expect tax relief.

Mr. Speaker, it is clear that some in this body are confusing tax relief with welfare. Welfare is about direct government assistance to those who are at or near the poverty line. Fortunately, under a Republican Congress we have continued to move millions of Americans from welfare to work, and we have increased Federal child care funding by 166 percent. We have increased funding for housing by 75 percent. Just this past year we committed $17 billion to the TANF program.

Tax relief is different from welfare. Tax relief is about allowing taxpayers to keep more of what they have earned, earned through their hard work, keeping more of their own wages for their families.

Mr. Speaker, let us not forget, it is not the government's money, it is the American family's money. If critics of the Jobs and Growth Act truly care about low-income people, they should help move them off of welfare, off of welfare checks, onto paychecks. In other words, they should join us in creating jobs.

But, Mr. Speaker, jobs are not to be found hanging in the trees, nor do they fall from the sky, and they sure are not brought to us by the Federal Government. Jobs are created by hard-working, risk-taking, visionary men and women who, with access to capital, roll up their sleeves, and they work hard to create that next generation of software, a new automobile repair shop, an innovative sign painting company, or any other enterprise.

Small business is the job engine of America. It creates two out of three jobs in our country. But, Mr. Speaker, the number one impediment to launching a new job-creating enterprise is access to capital. That is why we cut capital gains and dividend taxes in this bill. You cannot have capitalism without capital, and by lowering these tax rates, we will spur capital formation, the lifeblood of small business.

Additionally, we have lowered marginal tax rates. This is important, because 80 percent of the tax relief from reducing the top marginal rate goes to small business owners and entrepreneurs.

Mr. Speaker, I have had a number of jobs in my life. I used to clean out chicken houses. I used to bus tables. I have loaded windows on a loading dock. I have been an officer in two companies and started my own small business. In all of those jobs, not one low-income person has ever hired me. It was a taxpayer, a taxpayer who had vision, who had access to capital and went out and took a risk. If we want jobs, these are the people who need tax relief.

If we really care about low-income families in America, and if we truly want to be fair, let us quit trying to turn the Tax Code into a welfare system. Let us give tax relief to taxpayers, to small businessmen, to entrepreneurs, and go out and create jobs, jobs, jobs and more jobs.

## TRIBUTE TO JOSEPH ROSEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to pay tribute to a longtime friend, mentor, fellow activist and one of the most committed and dedicated educators that I have ever known, Mr. Joe Rosen.

Joe died a few days ago at the ripe age of 91, after having devoted much of his adult life to teaching, being a principal, a district superintendent and overall advocate for improving teaching techniques and for finding additional ways to more effectively educate racial minorities and disadvantaged children.

One of Joe's unique characteristics is that he never gave up on the neighborhood where he grew up and sharpened his skills. Mr. Rosen was born and grew up on the west side of Chicago in a community that was predominantly Jewish. He graduated from Marshall High School and put himself through college, working as a taxi driver, at the post office, and as a laundry worker.

His undergraduate studies were at the Chicago Teachers College and he earned a master's degree at DePaul University. Mr. Rosen studied to become a biology teacher, but could not find an opening during the Great Depression. Therefore, he took a job teaching physical education and did that for several years. He loved to tell the story of how he beat out the legendary Chicago Sun Times columnist Irv Kupcinet for a handball instructor's position because he was willing to work for less money.

Joe eventually got a job teaching biology at Wells High School, and in 1947 was appointed principal of the Howland Elementary School, and this set the stage for the rest of his life's work, dealing with the needs of underprivileged children.

Joe's daughter Arlene stated that "All of our lives, all of our family, friends and relatives, if they had clothing to pass on, would take them to my dad and he would take them to school. He would take clothes for adults too. He had kids get eye exams and had an arrangement with those doing the testing to provide glasses for a very low fee."

Mr. Rosen established an after-hours social center at Howland for elementary and high school pupils to keep them off the streets. As the neighborhood was changing, he instituted intergroup understanding as part of the curriculum.

When he became Superintendent of District 10, he established the Farragut Outpost, an alternative school for Farragut students who were not progressing well with the regular straight academic curriculum. The Outpost kept young people in school and attracted many dropouts back.

Joe was indeed an innovative educator who was able to do a great deal with teaching approaches and techniques. He was an avid supporter of early childhood education and established several Head Start and daycare center programs in his district.

Joe would be pleased to know that we are here tonight talking about the earned income tax credit program that is designed to help those at the very bottom. Joe promoted back-to-school activity. He promoted breakfast and lunch programs for children, understanding that they could not learn well if they were hungry.

However, many people knew him best through his partnership with Mrs. Ida Mae Fletcher, Ma Fletcher, a pioneer leader and education activist. Through their efforts, community involvement and parental participation became buzz words associated with public education in the Chicago area.

Joe was forced to retire at the age of 65 because of an age requirement. However, he continued to work both formally and informally for many years. He met his first wife, Ms. May Berg at a dance and they were married in 1939. After her death, he met Ms. Carol Bauer and they were married in 1984.

Joe leaves to mourn his passing his sons Laurence and Robert; stepson Harlen Bauer and stepdaughters Betsy Bauer and Susan Bauer; Yetta Rothstein, his sister; brother Walter Rosen; and four grandchildren.

Joe continued to be active and serve on various boards and committees right up to the end of his life. He was a member of our Seventh Congressional District Education Task Force and the Westside Association for Community Action.

Joe never gave up on his inner-city community, and the community never gave up on him. He leaves a tremendous legacy of commitment, dedication and commitment, to serving those who needed help. That is why Joe would be pleased to see my colleagues here extolling the virtues of tax relief or tax cuts for those who really need it, and not for those who do not, those who can benefit if we are real about what is needed.

## HONORING JOHN MEHRMANN OF MANCHESTER, NEW HAMPSHIRE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. BRADLEY) is recognized for 5 minutes.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to honor Manchester's John Mehrmann, New Hampshire's winner of the VFW Voice of Democracy Scholarship Contest. This contest is held each year to give high school students the opportunity to voice their opinion on their responsibility to our country.

The following is Mr. Mehrmann's essay, which I found both compelling and profound, and which is why I want to read it on the floor of the United States Congress.

"We were just kids. All our lives, everything was perfect; everything worked. Everything was planned. We went to school. We came home. We slept. And somewhere along the road of our lives, we would graduate from school. After graduating from school, we would go to a new school, we would come home, and we would sleep. There was nothing to fear; there would always be food in the fridge and gas in the car. Every time we flicked the light switch, there would be light.

"Then something happened. Suddenly something, somehow, someway, somewhere shattered. As the dust settled and the magnitude of what we had lost became clear, it wasn't the death of an age for us, and it wasn't the death of jokes. But as we walked across the street or through the halls or drove our cars, something was different. The world was smaller that day. And all the faces, you with your expensive car, or you who always had something important to say, they all looked so much alike. They didn't all have the same hair color or the number of freckles. Some had straight teeth and some had big chins.

□ 1900

But they were all sad, all thinking. Innocence died that day, the innocence that let us worry about the grades or the pimples on our noses, the freedom to do what we wanted, when we wanted, was lost somewhere in 100 stories of broken steel and dust. We didn't grow up when we got our driver's licenses, and we didn't grow up when we got our first jobs, or even when we turned 18. We all grew up when we had to.

We heard a lot of talk after our abrupt maturation about freedom and responsibility. There were a lot of speeches, and everyone seemed very serious. But mostly, we knew. We knew we could never be kids again. We finally realized what it meant to be responsible. Being responsible was doing our best, even when no one was watching. The responsibility thrust on some of us unexpectedly one late summer morning opened our eyes. We learned to think with our minds and feel with our hearts. Now the people we heard speaking French or Swahili when we came to school each day weren't foreign, they were victims of reality, like the rest of us.

We never knew how or when we would grow up. We didn't know why we had to. We saw the photos and the film clips of men and women leaping from flames only to careen hundreds of feet to their deaths. Again and again, we saw the missiles which we had all thought so harmless piloted to murder what could have been our entire school in an instant.

Freedom wasn't a badge. Freedom isn't a badge. It isn't a prize trophy to be flaunted and waved in the faces of the enslaved. Freedom is a burden, but a burden worth its price. Responsibility is the price of freedom. Freedom does not unequivocally allow for self-indulgence. Self-indulgence and selfishness are not responsible, and it is irresponsible to self-perpetuate at anyone's expense.

We think identities to be so important, and we imagine our lives to be so worthy of greatness that we forget the community of mankind of which we are so preciously minuscule a part.

Obsequiousness and submission are not the stigmas they were before adolescence was made extinct. Freedom is not a right to individuality but a right to community. It is a right of individuals to determine their sociality within the bounds of a world not limited to oceans or lines drawn on a map, but one which spans the entirety of a globe, encompassing a myriad of peoples with innumerable concerns. It is the responsibility of the world's free people to determine which concerns take precedence. The free peoples of the world must recognize the greater good for which to strive. Absolute singularity is no longer an option.

"These are the words of John Mehrmann of New Hampshire.

## THE UNKINDEST CUT OF ALL

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART). Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, on April 26, President Bush stated in his weekly radio address, "My jobs and growth plan would reduce the tax rates of everyone who pays income tax," "everyone who pays income tax."

On May 29, after the GOP tax bill, which included the provision of the

President's plan, in full or in part, had been passed by Congress, now, one ought to understand that it was delivered at 8:45 p.m., a very large tax bill, all sorts of provisions that had never been seen in full by any Member of this House reported out at 8:45. We were called back at approximately 10:30. It was passed at 1:55 a.m. in the morning, in the dark of night because in my opinion the majority wanted to hide this bill. They wanted to take credit for the tax cut, but they wanted to hide the specifics of the bill.

It was signed by the President. The White House Press Secretary, Ari Fleischer, stated, "This certainly does deliver tax relief to people who pay income taxes."

Now, my friend, the gentleman from Texas, not the gentleman who just came on the floor but who previously spoke, a new Member of the House, reiterated that mantra, that everyone who paid taxes was going to get a reduction.

Let there be no mistake, these statements are blatantly and unabashedly wrong. As the Tax Policy Center has reported, more than 8 million lower- and middle-income taxpayers who pay billions of dollars in taxes a year will receive absolutely no tax reduction under the GOP tax bill. That figure, Mr. Speaker, includes 1.8 million taxpayers who pay more than $1,000 in income tax. They will receive no relief.

In the unkindest cut of all, 6.5 million minimum-wage families with nearly 12 million children will not receive the $400 per child increase in the child tax credit in the GOP bill. Why did that happen? It happened because they said that they were going to leave their bill at a $350 billion cut. Why? Because they needed to get some Republican members of the Senate to vote for it, and they could not get them to vote for any number larger than that.

So who do they look to to cut out? Did they look at Warren Buffett? Frankly, did they look at the gentleman from Maryland (STENY HOYER)? I could have afforded it. No, they did not look at us. They did not look at the wealthy; they looked at the poorest Americans and cut them out of this bill.

As a matter of fact, most of us probably did not know that, and the President has now said he is going to fix it. But frankly, he did not offer it in his tax bill. The Republicans did not offer it in their tax bill that passed the House. It was a Democratic amendment offered by Senator LINCOLN, adopted, and was in the conference. We all thought it was going to stay in the conference, but it was dropped in the dead of night without any Democrats in the room and unbeknownst to most Members.

Mr. Speaker, we could have extended the child tax credit to all families, as we sought, simply by limiting the reduction in the highest marginal income tax rate to 35.3 percent rather than 35 percent. We needed to pay for it, and we could have done it.

Now, that same gentleman from Texas observed that we needed to reduce the taxes because we needed to get the economy moving. We had a plan. It was fast-acting, fair to all Americans, and fiscally responsible. It did not harm us in the long term.

That plan was not allowed to be offered. The plan that was offered, however, was not fair, was not fast-acting, and is not fiscally responsible. In fact, we have gone from $5.6 trillion purported surpluses that the President told us we had to a, now, almost $3 trillion deficit, and we are going to be facing what they say is a $44 trillion deficit in the future. That will be a substantial tax increase for many children in America and many children unborn who will have to pay the interest on that incredible debt that we are incurring.

But lo and behold, in the clearest possible demonstration of the majority's values and priorities, the GOP has shown once again that when push comes to shove, it will fight for the Bush class over the working class every single time. The GOP's mantra really ought to be, leave no millionaire behind.

Mr. Speaker, on April 26th, President Bush stated in his weekly radio address: "My jobs and growth plan would reduce the tax rates of everyone who pays income tax."

And on May 29th, after the GOP tax bill—which included the provisions of the President's plan in full or in part—had been passed by Congress and signed by the President, White House Press Secretary Ari Fleischer stated: "This certainly does deliver tax relief to people who pay income taxes."

Mr. Speaker, let there be no mistake: These statements are brazenly, blatantly and unabashedly false. As the Tax Policy Center has reported, more than 8 million lower and middle-income taxpayers who pay billions of dollars a year in income taxes will receive absolutely no tax reduction under this GOP tax bill.

That figure includes 1.8 million taxpayers who pay more than $1,000 in income tax. What do they receive? No tax relief whatsoever. Nothing. Not a thing.

And the unkindest cut of all, 6.5 million minimum-wage families, with nearly 12 million children, will not receive the $400-per-child increase in the child tax credit in the GOP bill.

Mr. Speaker, let's be clear: We could have extended the child tax credit to all families—as Democrats sought—simply by limiting the reduction in the highest marginal income tax rate to 35.3 percent rather than 35 percent.

But lo and behold, in the clearest possible demonstration of Republican values and priorities, the GOP has shown once again that when push comes to shove it will fight for the "Bush class" over the working class every single time. The GOP's mantra really ought to be—Leave no millionaire behind!

While minimum wage workers and their children get left out in the cold under the Republicans' tax bill, the Grand Old Party ensured that 184,000 taxpayers with incomes of more than $1 million would receive an average tax cut of $93,500.

Ladies and gentlemen, in the Republican vision for America, apparently that's what passes for compassion. And if you don't agree, well the GOP vilify you, charging that you're practicing class warfare.

Mr. Speaker, let's be honest.

Class warfare is precisely what the Republican Party has been practicing on working men and women in this country on issue after issue after issue.

The failure to provide the Child Tax Credit to minimum wage workers while fattening the bank accounts of millionaires is only the tip of the iceberg.

In this report session of the 108th Congress, the Republican majority passed a budget resolution that betrays our values and fails to meet our needs. It would take hot lunches out of the mouths of poor children; force the elderly out of nursing homes as the result of Medicaid cuts; and slash veterans' health care.

This Republican majority had to be dragged kicking and screaming not once but twice to extend unemployment insurance benefits—even as we face the highest unemployment rate in nine years and the loss of nearly 3 million private-sector jobs since George W. Bush took office.

This majority passed a Welfare Reform bill that would force mothers with children under the age of 6 to double the number of hours they must work every week. It passed a medical malpractice bill that would compound the pain of patients with the worst injuries while failing to reduce physicians' insurance premiums.

And it loaded up legislation such as the Defense Authorization bill—legislation that traditionally is overwhelmingly bipartisan—with extraneous, partisan measures that would harm the environment and strip Federal workers of their rights.

And of course, this majority has refused to close tax loopholes for offshore corporate tax havens.

It has refused to consider Democratic legislation to raise the minimum wage, which has not been increased since 1997.

And it even has refused to give the Members of this House the opportunity to vote on a Democratic amendment to increase funding for Homeland Security by $2.5 billion—a pittance compared to the costs of the GOP's unaffordable and unfair tax bill.

Meanwhile, this Republican majority refuses to address the most pressing unmet needs in America today:

The 41 million Americans who have no health insurance;

The millions of children who are eligible for Head Start but have no seat at the table; and

The millions of seniors who need and deserve a prescription drug benefit under Medicare.

On issue after issue after issue, this Republican majority has sided with powerful special interests over the interests of working Americans.

Mr. Speaker, that is certainly not the Democratic Party's vision for America. And we will never stop fighting for a positive agenda that meets the needs of all our citizens.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1474, CHECK CLEARING FOR THE 21ST CENTURY ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–138) on the resolution (H. Res. 256) providing for consideration of the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 760, PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–139) on the resolution (H. Res. 257) providing for consideration of the bill (H.R. 760) to prohibit the procedure commonly known as partial-birth abortion, which was referred to the House Calendar and ordered to be printed.

### DEMOCRAT TAX CUT INCLUDES WORKING AMERICAN FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, when we were here in the House the other day to vote on the third tax cut of the President, the majority leader stated that we were going to be back and they were going to be back with another tax cut.

Well, we have a tax cut. It is on behalf of working families and their children, so I would like to take the majority leader up on his offer to have another tax cut immediately following the first three tax cuts that they have passed, and bring up this tax cut that he said we were going to have, one right after we got back from session. We were going to have another tax cut. Not even was the ink dry, but we were beginning to work on another tax cut.

I found it a little ironic that night when I heard the majority leader say that, because I thought this was going to be the jobs and growth tax cut. Why do we need another tax cut if this was going to be so effective? Maybe it will produce the same results the first tax cut did, which has resulted in 2.75 million Americans losing their jobs, 5 million Americans losing their health care, $1 trillion worth of foreclosed corporate assets, and 2 million Americans walking out of the middle class into poverty.

But they want to do another tax cut; so, as we say in Chicago, I've got you one. That is, I have a tax cut for middle-class, working-class families and their children, the Rangel-DeLauro-Davis bill. It focuses our priorities on working families and children. It makes good economic sense, and it makes good moral sense. It reflects, most importantly, our values.

Now, the President during the State of the Union said that we would not leave our burdens to our children, that we would solve our problems today. I cannot think of anything that more reflects those types of statements, and those values embedded in that statement than that we would focus our tax cuts on our children, the children of working parents who get up every day and struggle to do right. They do not choose welfare, they choose a paycheck.

As my colleague, the gentleman from Texas, mentioned, we have to reward work. These are the children of working families.

Now, in 1997, we had a balanced budget, a budget that was balanced with our priorities as well as our values. It expanded the earned income tax credit, it offered a $500 per child tax credit, and it provided 10 million uninsured children of working parents health care. It also cut the capital gains tax.

We also created a tax credit for higher education, and we did it while balancing our budget. We met our obligations. We invested in the long-term growth of this country's economy. We got the economy moving by balancing the budget. We did not hurt the long-term opportunities, but we invested in education, health care, and the environment.

Now this administration has chosen to have three tax cuts. What have they resulted in? $3 trillion have been added to the Nation's debt, and nearly 3 million Americans are without jobs. What a deal. What an opportunity.

Now, the first excuse for having left 12 million children of working parents out of this tax cut was, we forgot. We did not know. That is interesting. When it came to closing the tax loophole for corporations that use the ZIP code of Bermuda, we did not forget them. We took that right out. We said, that does not belong in this tax cut.

That is $30 billion of lost revenue that American working families have to make up. We did not forget them. We did not leave them behind. We remembered what ZIP code they were in. We remembered their area code. We got them right back where they belonged. Those are our pioneers. Those are our rangers, as they are known in some parts of this country.

Now, the other excuse given was, these people do not pay taxes. That is funny, because when they get their paycheck their FICA is withdrawn, their State income tax is withdrawn, their property taxes they have to pay. They pay taxes.

What is interesting, the very crowd they are criticizing was the crowd Ronald Reagan praised when he created in 1986 the earned income tax credit. Ronald Reagan was the one who signed this into law. President Clinton was the one who doubled it in 1993 and expanded it in 1997. We worked across party lines to help every child. These are America's children. We did not discriminate. We surely do not discriminate against the children of millionaires.

Where are our common values? How do we choose to give such a high priority on the depreciation of machinery, yet we cannot appreciate our children? How do we make that choice?

I know the men and women on the other side. They are good people with good values. These are not the values their parents raised them with, to choose the depreciation of machinery over the appreciation of our children.

I believe that we have a tax cut. Democrats offer one in good faith, the type of tax cut Republicans have voted for both in the other body as well as in the past. As our majority leader of the House said before the last tax bill was voted on, we are going to come back and we are going to do another tax cut. The Senate leader said that we are going to do another tax cut.

We have a tax cut. We stand ready to work with them and fulfill their obligations to get another tax cut passed, one that works and benefits our economy, the children of working families, enshrines the value of work, and holds that up; not just rewards passive income, but rewards active work.

### VETERANS, CHILDREN, AND GREEDY, UNPATRIOTIC CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I rise this evening to talk about veterans, to talk about children, and to talk about greedy, unpatriotic corporations.

First of all, I would like to say a word about our veterans. We passed a budget in this Congress which, over the 10-year budget cycle, will underfund veterans' programs by $6.2 billion.

□ 1915

And included in that budget are certain assumptions which will greatly increase the financial burdens that will be placed upon the backs of our veterans. First of all, a decision has been made that if you are a priority-eight veteran, considered high-income, and, quite frankly, in my district that could be someone who makes as little as $22,000 a year, you are considered high-income, and so you would no longer be able to enroll in the VA health care system.

Now that is fairly shameful. In the Committee on Veterans Affairs earlier today, one of my colleagues said that he was a priority-eight veteran and he really did not object to being excluded. Well, the fact is that I and all of the rest of us who serve in this body make about $150,000 a year. It is probably a little easier for us to pay for our health care than it would be for a veteran who makes as little as $22,000 a year.

Well, there are other things that this budget does. It assumes that we will charge priority-seven and -eight veterans an annual $250 enrollment fee, something that we have never done in the past. So these veterans are now going to be asked to pay an additional $250 annual enrollment fee.

But it gets worse: the budget assumption that the cost of a prescription drug for these veterans will go from $7 a prescription all the way up to $15 a prescription. Now, we just increased this co-payment from $2 to $7 about a year and a half ago, and now we want to take it up to $15 a prescription. If you are on a fixed income and you make $22,000 a year and you get eight or 10 prescriptions a month, that is a big chunk of your disposable income.

Well, it gets worse. The budget also assumes that we will increase the cost of a clinic visit for a veteran. I think the American people are getting the picture. We applaud our servicemen and women. We thank them for their service. But when they really need help from our government, we nickel and dime our veterans.

What about our children? In this tax cut we passed a week before last, we left 12 million children out; 12 million children whose parents make somewhere between something like 11,000 to 25 or $26,000 a year will end up getting nothing, while a child whose parents make 40,000 or $60,000 a year will get an additional $400 tax credit. It is just simply unfair.

There is something else that ought to make every one of us who serves in this Chamber stay up at night and worry about our actions: many children of young men and women who at this very moment are serving this country in Iraq will have their children excluded in this tax package. Think of that. Moms and dads being sent to Iraq to defend the freedoms of this country and their children are going to be excluded from the benefits of this increased child tax credit.

But I want to tell you, we can solve some of these problems if we are willing to do one thing. If we are willing to close the loophole, the tax loophole that allows large profitable corporations to go to Bermuda and get a post office box while keeping all of their operations in this country and doing that simply so they will not have to pay their fair share of taxes. Think of that. And many of these corporations who have chosen to engage in this tactic, which I consider highly unpatriotic, are benefiting by getting multimillion dollar contracts under the Department of Homeland Security.

So here is what we have: corporations that do not want to pay their taxes going to Bermuda and yet getting multiple millions of dollars from this government under the Department of Homeland Security. We take care of the wealthy in this Chamber, but the veterans and the children are too often left behind.

## TAX PLAN HELPS RICH AND ABANDONS CHILDREN AND VETERANS

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from New York (Mr. CROWLEY) is recognized for 5 minutes.

Mr. CROWLEY. Mr. Speaker, during the debate on the tax bill, the Republicans continually stated how the Nation's economic policy should alleviate taxes on the rich as they are the ones doing the so-called creating of wealth, as opposed to the middle-class people actually doing the labor in our Nation's plants, ports, factories, warehouses, and offices.

When Democrats pointed out that they were, in fact, providing a tax cut to the richest and wealthiest 1 percent of Americans, something that my Republican colleagues never denied, the Republicans accused Democrats of playing class warfare. But class warfare is pitting people against each other, and that is what the Republican tax bill has done.

Nothing highlights class warfare of the Republicans against middle-class people more than the midnight actions of the Republicans and President Bush when they stripped out many of the child care tax credit provisions for hard-working poor families. Numbers crunching is, I think, what they call it. I believe the cutting of the child tax credit for the poorest in this country is unconscionable.

Now, I understand that after leaving the economic policies of the past 3 years, which have led to the loss of over 2.7 million private sector jobs, that the Republicans would be unfamiliar with the term "working people" as they have eliminated so many of them to date; but they do, in fact, exist. In fact, in addition to the 2.7 million jobs that have disappeared under the Bush economic plan, millions more Americans have slipped out of the middle class and into the category of working poor. They include the over 3 million new Americans without any health insurance. They are the families who work two jobs to pay the rent and put food on the table, the same people who actually are seeing their taxes rise under the Bush plan, the ones who are losing education and health benefits under the Bush plan. They are the 8 million children stripped of benefits by the Republicans in this House. All the while the Republican bill will ensure millions of new rich Americans will pay no taxes.

They are the people referred to by the conservative Wall Street Journal as the "lucky duckies."

Class warfare is putting interests of the richest 1 percent of the people, including those millionaires who shelter their income in overseas accounts and pay no taxes, over those of hard-working poor people in this country. I had always been taught that it was women and children first. But in this sinking ship of the U.S. economy, the Republican ship captains are letting women and children go down with the ship while saving the strongest first.

In fact, Republicans refuse to eliminate a corporate tax loophole that allows corporations to escape U.S. taxes by filing shell corporations overseas. Democrats wanted to change this by ensuring that 8 million children receive fair benefits while eliminating tax loopholes that hurt the U.S. While these children will not get the average $93,000-plus tax exemptions that millionaires will get, they do deserve some help. Democrats have a plan while Republicans have a scapegoat.

But let me hand it to the Republicans and President Bush. They have been adept at telling working men and women that their economic ideas will elevate them, when in reality it will give them the shaft. Not only are we literally taking money out of the hands of poor children; we are doing it to provide a tax credit to the richest 1 percent of Americans while blowing a hole in a deficit and not creating jobs.

In fact, even the conservative Wall Street Journal again states the Republican tax package will not create jobs. They argue that the President's plan is a "no go on job creation" and that the elimination on taxes on dividends will diminish the abilities of businesses to take tax incentives on capital investments and R&D, things that actually create jobs.

Even the President's own outside team of economic consultants stated that the surging deficits caused by his bill will actually "do more harm than good" as "surging budget deficits would raise interest rates and lower savings rates and actually discourage job creation."

So while Republicans like to keep stressing this is another $350 billion windfall, they ignore other important numbers such as $450 billion and rising, our annual budget deficit; $1 trillion, what this will add to our national debt because of the high interest payments we will pay on borrowing this money for a tax cut for the rich; 563, the number of jobs lost every working hour of every working day since President Bush has become President.

This tax bill was bad for the American people when we passed it, when it was signed into law, and it will be bad for the history of the United States.

2.7 million—the number of private sector jobs that have been lost since Bush took over

8 million—the number of children who will lose benefits from the tax bill because of Republican chicanery

150,000—the newly unemployed in NYS since Mr. Bush assumed the presidency

120,000—the newly unemployed in NYC since Mr. Bush assumed the presidency

30,000—the newly unemployed in Queens, NY since Mr. Bush assumed the presidency

16,000—the newly unemployed in the Bronx since Mr. Bush assumed the presidency

Democrats opposed the first Bush tax cut claiming it would do nothing for job creation and blow a hole in our national budget, we were right then, and unfortunately, we will be right again

It gives Democrats no joy to watch as the Republicans squander our nation's resources, bankrupt our nation and overtax the middle class, but it is what Republicans from President Bush on down are doing.

The American public must demand a more accountable government, one that puts the interest of workers over millionaires.

Republicans refuse to listen.

So if America wants a real economic recovery with real job and wage growth, then we must add President Bush and the Republican Congress to the growing list of the 2.7 million people who have lost their jobs because of the misguided policies of the Republican party.

Fairness is not stealing from poor children.

Fairness is not overtaxing the middle and working classes.

Fairness is not encouraging millionaires to pay no taxes while we lose 563 American jobs an hour.

Fairness is not what the Republican economic package is about.

It is a shame and Congress, if it had any honor, would work to resolve the stolen benefits of those 8 million children as well as create jobs for those 2.7 million American unemployed adults.

## MILLIONAIRE TAX BREAK LEAVES CHILDREN BEHIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, in this business you can tend to talk in big numbers, and you can talk about big issues and a lot of other things; but very often some of the most poignant and powerful things come to you in the mail or in e-mail.

All the Members of the House walk around with these Blackberrys on their waist, and I got an e-mail today from a woman in my district. I really do not know how she got my e-mail. I am sort of surprised by that, but she is pretty creative. But she says: "Our government should stand for basic fairness and justice. That is why I do not understand why families earning between $10,000 and $26,000 per year would be excluded from receiving the $400 per child tax refund that the wealthier families will receive this summer just so millionaires can have bigger tax cuts."

She gets it. She understands that we have taken money away from the people at the bottom and said we are going to give it to the people at the top. The American people understand.

She went on to say: "As a constituent I ask you to please amend President Bush's unfair tax cut plan to include these poor families and their 12 million kids."

She even has the numbers right.

To leave the tax cut as it is brings too much shame upon this great Nation. Then she adds: "I know this firsthand. I have a son trying to support a wife and two children on $11 an hour."

I sat down and figured out what that amounts to. That is $22,000 a year in Seattle, which is a very high-cost area to live in, and they are trying to live on less than $2,000 a month. They pay taxes. They pay the FICA taxes. They pay for their Social Security, and they pay for their Medicare. They pay 7 percent of that $22,000. So that means every year they pay $1,400 in taxes. I do not know how much they pay because I could not get to them. I called them. I could not find out if they paid any income tax or not, but they are paying taxes.

And the President and the group who put this bill together, I cannot understand how you could look at somebody in the eye who is working full time, has a wife and two children, the wife is staying home taking care of the kids, how you could look at them and say, We are not going to give you one thin dime. I mean, that takes a real heart of steel or rock. But we are going to give you who have a million dollars, we are going to give you $93,000.

Now, think about the unfairness of that. People want to talk that this is class warfare; that that is warfare on working people who are trying hard to get there. Now, the President says we are not going to leave any child behind. He stood right in here and I was moved by that. I thought, as a child psychiatrist, I thought how wonderful to have a President who is not going to leave any child behind. And then I saw his budget. He puts the bill out here, and he told us how much it was going to cost to do this education program, Leave No Child Behind; but they gave $9 billion less than was necessary.

Now, I do not know how he figures that we could have a program where we are not going to leave anybody behind, but we do not put out the money that we say we need.

□ 1930

That is this family, this family. These kids need an education.

Tell me, how are their parents going to put any money aside so that they can go to college? They are making $22,800. What is the likelihood that they are putting money away for those kids to go to college? One does not have to be a rocket scientist to know that they are spending every dime on rent and food, or maybe they are buying their house.

I hope they have got a house, although it is pretty hard to get a loan when a person only has that kind of income. But let us hope they are buying their house and they have got food for their kids and clothes and some gasoline for the automobile, maybe the car payment, and what is left after a person has $22,800?

People came in here and rammed this bill through. It did not have a hearing in the Committee on Ways and Means. They were not going to let us do that. We had 2 hours of debate and out she goes, and then they send us home and the President signs it and hopes nobody figures out what is in the bill.

This lady figured it out. She is not stupid. Her kids are not stupid, but the Republicans think they are, and they are not going to get away with that. The American people are not going to stand up for this.

## TAX CUT WILL NOT BOOST ECONOMY

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART). Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, today we stood here and we debated the amendment that would outlaw burning the flag and everybody stood on the floor or everybody, those on the Republican side of the aisle, stood on the floor and talked about liberty and justice for all as we pledged allegiance to the flag. Clearly, that liberty and justice for all applies sometimes and not at tax time.

I have been fortunate to serve as a new member of the Committee on Ways and Means, and I sat through hearing after hearing after hearing about the tax cut; and in the hearings it was said that the tax cut would boost the economy. Several times we reminded the speakers that were speaking that the 2001 tax cut did not boost the economy, so what makes them think that another tax cut, again in 2003, will boost the economy?

The real unfairness of the situation in some of those debates was the issue about dividend tax cuts as it impacted low-income housing tax credits, and we pushed them on this and we pushed them on this. Oh, I am not sure it is going to have an impact, but all of us understand that right now people are investing in urban communities because of the tax credit they will get, not because that they are such do-gooders.

That brings us home to where we are right now, where we have families who make between $10,500 and $26,625, and they will not benefit from this tax cut. It is a shame. It is not justice for all, and we need to bring them out. We need to pull the sheet off this mess that we have here. We need to open the doors to daylight. We need to let the American people understand that the working folk that make between $10,500 and $26,000, that pay the same $2 for gasoline, that pay the same $2 for a loaf of bread, that pay the same $7 for a pound of meat, that pay all the same things that the millionaires pay, well, maybe the millionaires pay more because they can afford to get more exclusive-type things, but those people are not going to benefit from this tax cut. They are not going to be able to get that $400 and run out the door and buy their kids some new shoes or clothes, or buy more stuff or put some more food on the table.

This tax cut, as it is presented, will not boost the economy, and surely it is not going to boost the lives of low-income American families, and they will pay.

## REALITIES OF THE TAX CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting, as I follow my colleague, I believe that the comments made by so many are so accurate on the question of what we are doing in this House and the importance of taking care of the people that we have come to be responsible for.

It is really a question of what are the challenges of this body and who do we owe our allegiances and responsibilities to in terms of the American people. Frankly, I believe that all of the American people look to this body to be fair and equitable, and it is interesting that we take the time to allegedly address concerns that we believe that they are interested in, but leave a lot on the table while much goes longing for our attention.

I would ask this body to look at the conditions that we are in in 2003 and compare them to conditions over the last almost 15 years or so, from 1989 to 2002. Under President Bush, Sr., we see unemployment skyrocketing above 8 percent. Under President William Jefferson Clinton, in an 8-year term, we can see that the unemployment of this Nation, impacting everyone, went down to a bare minimum of under 4 percent. It means that the economic policies that were generated the last 8 years created jobs.

I am reminded of a very strategic vote in 1993 when we were peaking in unemployment, and lo and behold, there was a very vital, strategic decision by the Democratic Caucus and President Clinton to make a decided vote on behalf of the American people, a budget vote that saw the economy skyrocket to success and unemployment go down. Now we find ourselves in a predicament, skyrocketing deficit, a budget that does not seem to be able to be complied with and unemployment shooting through the roof.

With that backdrop, Mr. Speaker, what did we do before the Memorial Day holiday? No, we did not invest in human resources, hospitals and clinics, health insurance for all Americans. We did not invest in infrastructure, building highways, freeways, roads, enabling our railroads, enabling our various modes of transportation, providing greater access for the working community of America. We did not create jobs by investing in homeland security, even in the backdrop of a Red Alert.

What we did was compress a $550 billion tax cut, which by the way, Mr. Speaker, I believe will ultimately result in a $1.6 trillion tax cut which makes the deficit soar deeper and deeper downward. No. We decided to pass a $350 billion tax cut. That was in name only because, as I said, I believe it is really $550 billion and ultimately $1.6 trillion, in light of skyrocketing unemployment.

We have argued, of course, that this will generate into some mode of opportunities for all Americans, but let me share with my colleagues the word of Warren Buffett on that tax cut, as he pointed out that the tax cut by the administration, the Bush administration, suggesting that it would create jobs, remember I mentioned to my colleagues that we have got a skyrocketing unemployment rate, Mr. Buffett, who is the richest or second richest in the Nation, he says that the administration's tax plan was like a manager saying we are going to grow our earnings 20 percent a year. They do not have the faintest idea, in my view, of how many jobs this is going to create. How could they? Economics is not precise.

So when Democrats had a tax plan that directly invested in infrastructure, health care and homeland security, we knew what kind of jobs we would create. We have got a pie-in-the-sky plan. So what do we do, Mr. Speaker? We come together. Democrats stand on the floor of the House into the wee hours of the morning on Friday preceding the Memorial Day holiday, begging for reality, begging for sense to be made and saying that the least of those have been left out.

Of course, we were demagogued, castigated and suggested that this was not the time. Well, Mr. Speaker, let me tell my colleagues who we have left out, as I mention to my colleagues these numbers very quickly: 11.9 million children, 6.5 million working couples who qualify for the earned income tax and 8.1 million taxpayers.

Mr. Speaker, we should pass the Rangel-DeLauro-Davis bill that provides a minimal child tax credit for these left out souls, and we should take away this tax bill that does nothing for a great number of Americans who work every day for us.

## INJUSTICES OF THE TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

Mr. ALLEN. Mr. Speaker, I rise today to speak again about the injustice of President Bush's latest tax cut bill. It is really amazing what he has done to families with children earning between $10,000 and $26,625. They are not treated like American families who earn larger sums than that.

I want to quote from the editorial today in the Bangor Daily News in my State of Maine. The editorial reads, "On the day President Bush signed his latest tax cut bill, astute observers noticed that the increase from $600 to $1,000 in the package's child tax credit would not apply to children of the working poor. Families with incomes under $26,625 will remain at $600. By leaving those children at the lower level, did the tax cut crafters really mean to imply they were worth only three-fifths of richer kids? Did someone have an awful sense of symbolism or are they trying to tell the public something?"

Three-fifths. If families earned between $10,000 and $26,600 a year, they get three-fifths of the tax cut, the child tax credit earned by people earning over $26,000 a year.

Now, just coincidentally perhaps, that is the way slaves were counted in the Constitution. When the Constitution was written, slaves were to be counted as three-fifths of a person, and today, under the Bush tax cut, children and families earning between $10,000 and $26,000 a year count for three-fifths of what children and families earning over $26,000 a year.

It is an embarrassment. It is shameful. It is yet one more example, if any were needed, that this administration is on a relentless quest to treat the very wealthy in this country differently, in fact, to transfer as much money as they can from middle-income America to the richest people in the country.

It would have been easy to correct this problem, very, very easy. Let me give my colleagues one example.

The cost of the deleted low-income child tax provision is $3.5 billion. It is 1 percent of the official cost of $350 billion for the final bill, and it could have been easily made up by reducing the top income rate by 0.1 percent for 3 years, because for each 0.1 percentage rate that the top rate is reduced, the cost is $1.3 billion. That is all it would take, 0.1 percent less to the top rate. This is all it would have taken, and people with incomes over $1 million a year on average would get, instead of a tax cut of $93,500 a year, they would get an average tax cut of $88,000.

In other words, for a reduction in their tax cut of $5,500, we could have reached 12 million children. We could have reached all of those children in families between $10,000 and $26,000 and given them just the same tax cut that go to families earning more.

□ 1945

It is unbelievable, it is appalling that once again the administration has taken this approach.

I would just say that it is obvious from this example and others that this is not a tax cut designed to increase economic growth. Its primary purpose, given the huge deficits, given the fact that every dollar of the tax cut is borrowed, borrowed from our children and grandchildren, it is obvious once again the whole motive here is to drain the Federal Government of revenues so that we will not have the funds to fund education the way we have in the past, so that we will cut veterans benefits, as reflected in the President's budget, and so there will not be sufficient funds to maintain Social Security and Medicare in the way in which they have been funded in the past.

This administration and the Republicans in Congress are engaged in a determined effort to reduce the size of the Federal Government at the same time that they are increasing the wealth of the wealthiest people in this country. It is embarrassing, it is shameful, it should stop.

## TAX CUT

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, I believe it was Mark Twain who said that humans were the only species that had the capability of feeling embarrassment or needed to, and I think that we are going to see many of my friends across the aisle in the Republican Caucus who have sincere and legitimate embarrassment about what they did at about 1 a.m. awhile back when they passed the tax cut that is so grievously unfair to 12 million children and 8 million families in this country.

You have heard, Mr. Speaker, previous Members here address the fact that this child care tax credit was left out for these families earning $10,000 to $26,000 a year. I think in doing so, the Republican Caucus has given a new meaning, a new definition to the term women and children first. The "women and children first" principle used to mean that you take care of those who are least capable of caring for themselves first. But the Republican Caucus has given a new definition of that term. It means that you cut out and you give tax cuts to everyone else first and children last.

Because what happened here is pretty obvious. It is pretty clear that the Republicans had a choice to make. They decided that they were only going to do a tax cut with a total cost to the Treasury of $350 billion, and they had to make a decision at the last instant who to deprive of the tax cut. They had a clear choice to make. They could cut .1 percent, or 1/1000th of the amount of the tax cuts given to millionaires, or they could decide to deprive it and not give children the benefit and those families earning $10,000 to $26,000 a year. They decided to deprive the children of that benefit rather than the millionaires who were paying these taxes.

They now are rightfully, sincerely, and I think greatly, embarrassed by this disclosure that has now come out from this middle-of-the-night tax cut that was passed. And why did that happen? Why did that happen? It is not because the Republicans are not good folks. It happened because this tax cut and its bottom line, its basic theory, was not an economic principle or an economic plan; but rather it was a knee-jerk fixation, an ideological predisposition to starve the government and to do a disproportionate tax cut that is not in keeping with the needs of working families.

What I mean by that is if you were going to do a tax cut that had an economic theory behind it, you would give tax benefits to these working families that are going to turn that money around and get it right back into the U.S. economy. These are the first families that ought to get a tax cut, not the last. The reason they are the first families is that these are the folks that are going to get the money right back into circulation.

But in the Republican plan it is the last group that gets tax relief. The reason is because this plan was based on an ideological fixation that they want to starve government rather than the economic theory of getting money back into the U.S. economy. That is why it is doomed to failure. That is why their last tax cut produced nothing. That is why we have had 2½ million new lost jobs after their last tax cut, and that is why this one is not going to be any better for the U.S. economy.

Mr. Speaker, we need an economic plan to grow jobs, not an ideological fixation; and we need to help children first, not last.

## UNFAIR TAX CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, the billion dollar tax cut that President Bush signed into law last week was supposed to give everyone who pays taxes a tax cut. In fact, President Bush said, "My jobs and growth plan would reduce taxes for everyone who pays income taxes." The President declared that several weeks ago.

Well, now as it turns out, that is not exactly the truth; and the devil is in the details. Because what the President did not tell the American public and what he did not tell America's families waiting for their tax cut was that a back-room deal he struck with the leadership in the House and the Senate, a bill that was sent for his signature, excluded 2.5 million taxpayers and 12 million children from the benefits of this bill. These are mostly single-parent households, with a child 16 years or older, that earn between $10,000 and $26,000 a year.

It was not a mistake. It was not an oversight. The Republican tax writers who crafted the final compromise all by themselves, with no Democrats in the room, under the supervision of Vice President CHENEY, made a conscious decision to roll back the benefits of the child tax credit for 12 million children to save $3.5 billion. And they did not take that savings and put it into the Treasury against the massive deficit they created. They took that $3.5 billion, and they gave it to corporations who run overseas to avoid taxes; they refused to close the Enron loopholes that destroyed corporations and many people's retirement. They took that money from those 12 million children, and they gave it away so that they would not have to close corporate tax loopholes.

Now, what does this mean, and why are we here late into the evening to discuss this matter? Why have so many Democrats lined up to speak on this matter? Because this is an issue of basic fundamental values about our families in this country, about equity, and about fairness. And the Republican tax bill violated all of those values. They made a conscious choice to take families, a husband and a wife earning $15,000 to $20,000, a little bit more, raising a couple of kids, a single parent raising a couple of kids, who are struggling to get by in a tough economy, and they decided that they were simply going to exclude them from the benefits of this tax bill. They were not going to give them the child credit.

Now, Congress had made a decision over the past many years, from Ronald Reagan on, that we should have a child credit; that we should try to help offset the cost of raising children for middle-income families and lower-income families and that has been the policy in this country on a bipartisan basis. But this extreme Republican leadership in the House, along with Vice President CHENEY and now the Republican leadership in the Senate, decided that these children had less value than other children in the Nation.

What kind of person makes that decision about these children that they do not even know, about these parents struggling to raise their children and to pay their health care, to educate them, to provide them the necessities and maybe a little extra on salaries that do not exceed $26,000 a year? What kind of mind, what kind of person was in that room that night when they made a decision to deny these children, to deny these parents this increase of $400 in a tax cut to come this summer, that these children and these families would not get to participate in? It is a corruption and a corrosion of any sense of the public interest. It is a corruption of the process of this Congress that they would do this in the middle of the night in a secret deal and tell no one.

It was only after the President signed the bill did they have to admit that this was what was done. First they tried to say it was not true. First they tried to say that this did not affect these families. They were playing a little fast and loose with the truth down at the White House that day through the President's spokespersons. Well, the truth came out. Twelve million children denied the benefits of the child tax credit.

This is extremism at its far point. This is a denial of the value of America's families at the extreme. This act must be overturned. It must be overturned soon so that these families too can get that $400 check that they are entitled to under the laws of this land and a decent system of fairness and equity.

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## TAX CUT UNFAIR TO HISPANIC POPULATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 60 minutes as the designee of the minority leader.

Mr. RODRIGUEZ. Mr. Speaker, last week, the President signed into law one of the largest tax breaks ever for the wealthiest Americans. He did so at a time when unemployment is on the rise. Since President Bush took office, approximately 2 million jobs have been lost, and the Hispanic community has been hit the hardest with a rising unemployment rate of 7.5 percent compared to 6 percent for the general population.

People want to work, but the jobs are simply not there. Instead of pursuing policies to stimulate the economy and create jobs, the administration and the congressional majority have pushed through a plan that includes a tax cut that does nothing to address any of these financial problems and worries that are facing millions in this country.

While making false promises to create jobs and stimulate our economy, these tax cuts are targeted primarily at large corporations and the wealthiest of Americans. Those that are earning $1 million a year will see a tax cut of over $100,000. Half of all Latinos in this country report having an annual household income of under $30,000. Under the Bush tax plan, some of these wealthy individuals will see a tax break that equals three times what these families make a year.

We understand that people who pay taxes deserve a break, but we have gone from record surpluses to skyrocketing deficits. We cannot meet our obligations to support critical health and education programs. And a tax cut this size does not make any sense whatsoever. We have chosen also not to pay for the war. We have chosen to put it on the backs of not only those that are our young people out there defending our country but on the backs of their children.

We now also find that in addition to favoring the wealthiest of this country, the administration's tax plan excludes those who need the assistance the most, low- and moderate-income families. Families making between $10,500 and $26,625 a year are now, under law, excluded from collecting the $400 child tax credit. Those who could benefit the most from the tax credit will in fact get nothing.

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Mr. Speaker, I have difficulty comprehending the philosophy that brought this about, trying to exclude the ones at the bottom of the totem pole. While others enjoy a tax cut, these individuals who make under $26,625 will not. The median income in my district is $22,000 so more than half of my constituency will not see a cent. For Hispanic families, this means that roughly 1.6 million, or 30 percent, of all Latino families who otherwise would have been eligible for the tax break are now no longer going to qualify. The child tax credit has long been crucial for Hispanic families, working families, who are deeply affected by the tax burden.

While 85 percent of Latino males are in the workforce, the largest percentage for any ethnic group in the country, many Hispanics work in seasonal, low-wage jobs, and the majority of Hispanics do not participate in the employer-sponsored retirement plans, nor do they own stock. How can the administration argue that this plan helps working men and women when working families are the ones that are left out?

The Latino community may not be one of great wealth, but we are the future of the economy and the workforce, and the Latino community deserves the respect of our leaders and deserves a fair share of any proposed tax relief plan, not just the crumbs left over from the Nation's wealthiest few. What we can do is, we will fight to fix the wrongs of this tax bill not only for Hispanic families, but for all Americans.

I am pleased to be here tonight on behalf of the Hispanic Congressional Caucus, and I am pleased to have members of the Congressional Black Caucus with me.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. DAVIS) and I thank the gentleman and the Congressional Black Caucus for also participating tonight and discussing some issues that confront our community.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman not only for being here tonight, but also for the tremendous leadership you provide as chairman of the Hispanic Congressional Caucus. I have been pleased and delighted to note many evenings when I have seen you talking about not only health care, but talking about education, talking about the needs of people across the board; and I have been gratified that all evening we have seen an array of individual Democrats take to the floor, and talk about this tremendous tax break that we saw just before we left to go on vacation, go to our districts over the Memorial Day holiday.

It is amazing to me that we have heard about Leave No Child Behind when we have left millions of children, just with this one act; this one tax break for the wealthiest 1 percent, the wealthiest 5 percent, we have left millions of children behind, all at one time.

It is amazing also to hear people who do not want to pay taxes. I do not know how in the world we expect to have the kind of country, to have the kind of democracy to provide the kind of services without individuals paying taxes. Oliver Wendell Holmes supposedly said one time that taxation is the price that we pay for a civilized society. And then to hear people talk about those who do not pay much do not need breaks, or to hear colleagues suggest that because individuals are not in a position to pay much in the way of taxes, or as much as some others, that they do not deserve.

We hear talk about stimulating the economy. Whoever heard of stimulating an economy by giving back to the wealthiest individuals, who could not possibly have a need to spend any more money.

When I was a kid growing up, my mother used to make soup, and if she wanted to stimulate that soup, she would take her spoon and go down to the bottom of it and stir things up.

When she would stir things up, the flavor would ignite and the aroma would penetrate the whole house.

So it would seem to me if we really want to shake up the economy, we would go down to the bottom, provide something for those people, raise the minimum wage, put some money in the pockets of individuals who are trying to make it. If we do that, then it is clear to me that those individuals are going to take the additional money that they have and go to the supermarket and buy milk for their children, or you are going to find people purchasing Pampers for the babies, or they are going to run to the barber shop and get a haircut or go to the beauty shop and get their hair fixed. Those individuals are going to put money back into the economy. If we have money in the economy, it means that money is going to go from one place to the next place to the next place.

I have always been told that money in neighborhoods is pretty much like blood to the body. If all the blood runs out of the body, you are going to die. Or if too much of it is in one part of the body, you are going to get sick because it is not circulating properly. So if too much of the money goes to one segment of the population, then of course the economy is going to get sick. If we have a sick economy, as we do right now, somebody is going to suffer. It really means that all of us will suffer because we have an imbalance.

But if we have things moving around, if those at the bottom are running out to the store to make their purchases, then the guy at the supermarket gets the money and can go and pay down on a house or can get a mortgage. Now we have got things percolating. We have got things moving. I think that is really what we need to be doing and not talking about this trickle-down, failed economic theory that we know does not work.

I mean, once again, coming from the top down and saying that we are going to get some investments, after we have had three tax cuts. We have had three breaks, three cuts, and rather than stimulating job development, we have actually lost 2.7 million private sector jobs since President Bush took office. That is 2.7 million private sector jobs.

So what is there that is going to cause one to believe that another tax break is going to stimulate the economy in such a way that we can create jobs? And so I agree with the gentleman that what we really need are policies that work, policies that will stimulate movement.

I represent a congressional district that has lost more than 120,000 good-paying jobs, manufacturing jobs, over the last 20–30 years. Many of those jobs went by way of NAFTA. They went by way of Fast Track, went to other places, and now people are unemployed wondering what it is that they can do. I just do not have faith in the trickle-down theory. It has not worked, and will not work. I do not think there is any way it is going to work, and we have to have a new order.

Mr. RODRIGUEZ. Mr. Speaker, the gentleman has done a beautiful job of explaining our situation that we find ourselves in, and I want to share with Members that one of the things that we also understand in this country is that our infrastructure is hurting. One of the good ways of stimulating the economy, and we know from the last time we passed the transportation bill that there are $300 billion to $600 billion that are still needed for the dams that are almost 60 years old. Our bridges are in jeopardy, our infrastructure in this country where we could not only create jobs, but we could also invest in the next generation of kids instead of handing to them the debt that we are creating, but also handing them the infrastructure that is decaying.

We had a bill that would have allowed us to invest in schools. Our schools are 40–50 years old, built prior to the microwave, and we know that schools need more outlets for computers. There is a need to do that, and yet we have chosen not to do that. There is a real need for us to look at how we could have turned the economy around by creating jobs.

I had today a lot of contractors that were lobbying up here about the difficulties that they are having with construction jobs. Here was a great opportunity to invest. Not to mention in homeland security, there is a need where our Federal buildings, our State buildings, there is a need to look at them from a national defense perspective, to build the things that are needed to make sure that they are more secure. They need the resources, and we have not allocated the resources in homeland security which could create jobs. We need to ensure that our bases throughout the country have adequate construction which allows them to be secure.

The gentleman also mentioned the importance of leaving no child behind. As the gentleman well knows, we have already left children behind. The bill that the President promised, he promised this country that his priority is education, is $9 billion behind his funding. There is a real need to concentrate on those programs which would have allowed that money to be turned around.

As we cut taxes on the Federal level, I know back home in Texas they are cutting taxes, too. Yet the local communities, the local school boards, the local counties are having to look at how are they going to be paying for securing our cities, what are they going to be doing to secure our Nation.

I wanted to thank the gentleman for making those comments. We have misprioritized the tax cut, and I know this administration, their whole first year was spent on the priority of a tax cut based on the false premise of a supposed surplus that was going to continue for the next unforeseeable future. We had it under Clinton, but under this administration right after they came, we started downhill, and it has continued.

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It has continued. Now they come back and now they have another tax cut, and now we are hearing that they might even come back next year for another tax cut.

Mr. DAVIS of Illinois. I have no doubt that they are going to come back. That is because there seems to be a feeling, or they have some notion, that somehow or another you can get something out of a turnip other than turnip juice. If you do not make the right kind of investments, put people to work and balance things in such a way that everybody can benefit rather than these policies where the rich just simply get richer, the poor get poorer and everybody else gets squeezed: and that seems to be the approach.

I am not an expert on economics, but it is crazy to me. I mean, we look at all of the places where we need to make investments. Our infrastructure. If you do that, people are working. And if they are working, then things are being shaken up and can be moved about. If you are just waiting for something to happen from on high and say that there are these theoretical investments that we expect people to make and they may or may not make them, but you know that if people have needs and are able to take care of those, you do not have to wonder about that. You know that the guy with six children who needs milk is going to the supermarket if he has got money. That is not a theory. That is an automatic. Or you know that children who need books to go to school, if they have got the money, that the families are going to invest in the education of their children. And so to me it is just a wrong-headed approach. It is an elitist approach. It is an approach that somehow or another does not deal with the realities of life, that is mythical, that is kind of a now you see me, now you don't. It is sort of a shell game. It is a sham. It is not good for the American economy, it is not good for the American people, and I think there is no alternative except to change it.

Of course, we know that in order to change it, we are going to have to change some of the individuals who are leading it. That is, we have got to put some different people in place so that those individuals will make different decisions. Yet we get accused of starting class warfare. I hear people talk about class warfare. I was studying something about political philosophy, and I read something that a fellow, Voltaire, supposedly said. He said that the purpose of politics as he understood it was for one group of people to take as much money as they possibly could from another group and handle it differently. That is called the Voltairean philosophy. And when you take from the poor who need the most and give to the rich, I do not know what you call that. I guess greed would be about the best way to characterize it, and I think that is a real problem. And the only way that we stop it is to change the way we not only see things but also to change the way that we do things. I think we can do that because the American people will see the difference. There is an old saying that says, Fool me once, shame on you. Fool me twice, shame on me. I do not think the American people are going to be fooled to the extent that they will allow the same policies and practices to continue because then it will be shame on us.

I think the kind of leadership, though, that you provide is going to continue to help us to move away from that and certainly the kind of leadership that the gentlewoman from California (Ms. PELOSI) provides is going to help us move away from that. And so when I see people like you and I see people like her in leadership displaying the kind of energy, the kind of tenacity that you display, then yes, there is hope not only for this House but there is also hope for America. It has been my pleasure to join with you this evening.

Mr. RODRIGUEZ. I want to thank the gentleman from Illinois (Mr. DAVIS) for joining me here tonight. We have also been joined by our leader. I know she has been working all day and just has come from a major meeting that she was attending tonight. I do want to thank her for joining us tonight. We have been talking a little bit about our concerns with the tax cuts.

Mr. Speaker, I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I commend the gentleman from Texas (Mr. RODRIGUEZ) as chair of the Congressional Hispanic Caucus for calling this Special Order tonight. I am pleased to join him and our colleague, the gentleman from Illinois (Mr. DAVIS), and commend both of them for speaking out for America's children, for speaking out for all of America's children.

A couple of weeks ago, we experienced a very sad evening here in the House of Representatives. The Republican majority insisted on foisting irresponsible and reckless tax cuts on the country that were fiscally irresponsible, which instead of investing in our children indebted them for years to come. It was not bad enough that they were fiscally irresponsible, meaning that we would never be able to pay off the trillions of dollars of indebtedness that was incurred; but lo and behold 1 week later it was revealed, after the signing of the bill, that children of minimum-wage-earning parents did not get the additional child tax credit. How could it be that we would say to the children of working families in our country that their parents do not make enough money for them, the children, to deserve a tax credit? The very people in this body who oppose raising the minimum wage say to minimum wage earners, You don't earn enough for your children to get the tax credit. Think of the irony of that, the Catch-22 of that. Not only do those children not get the tax credit but also the children of our men and women in uniform, many of whom will not qualify for this additional tax credit for their children.

Earlier this year before the hostilities began in March, I had the occasion and privilege to visit our men and women in uniform in Kuwait, in Qatar and in Turkey. I saw firsthand their courage, their patriotism, and the sacrifice they were willing to make for our country. How do we tell them, many of whom have left their jobs but do not make enough money to qualify, that their children are not worthy of a tax cut, when they are risking their lives for our country? The Democrats have a better idea. Democrats under the leadership of the gentlewoman from Connecticut (Ms. DELAURO) are offering a package to help hardworking American families and a package that will create jobs. It will begin to repair the damage, which is a long road from the reckless and irresponsible tax package put forward by the Republicans. Overall, the Rangel-Davis-DeLauro bill will provide greater tax relief to the families of 19 million children in America, families making the minimum wage who are struggling to make ends meet.

In addition to restoring the child tax credit provision that Republicans dropped in the dark of night, the Rangel bill would make the child tax credit available to 1.7 million more families by providing that those earning $7,500 or more could get the credit.

And now to our men and women in uniform. Under the Democratic package, the men and women in uniform, our package would make sure that our men and women in the military are not denied tax relief just because they are fighting in Iraq. Specifically, the bill would count combat pay for purposes of the child tax credit. Specifically, I repeat, the Democratic package would count combat pay for the purpose of figuring the child tax credit. Republicans enacted a $350 billion tax bill, and growing; and yet they could not find room to make sure that our men and women in combat are able to take full advantage of the child tax credit. That is downright unpatriotic. I go a long way before I would say that about any action. The Democratic provision will create jobs and build a strong economy. It is the direction we should have gone, and I wish that this House had accepted the gentleman from New York's proposal to have unanimous consent to bring it up on this floor today and to have the debate.

Let us get back to those men and women in uniform again, though, and their children. Some of them that I visited had left their children behind. Other Members have traveled there since the war has ended; and they have told me of meeting some in the military, women, who have children 2 and 4 years old whom they had left at home because they were called to duty. They answered the call and now we are saying to them, Sorry, your combat pay does not enable you to get the tax credit for your children. I think it is our patriotic duty to them, for this Congress to be responsible and accountable for paying our debts. It is an act of patriotism to be fiscally sound and to pay our debts.

So my criticism of this bill is, in the larger sense, that it is fiscally irresponsible. We are on a binge of irresponsibility and recklessness when it comes to the tax cuts. The sad part of it is, it is a missed opportunity, Mr. Speaker, because if the Republicans wanted to have a tax cut that would create jobs, that would be fiscally responsible and would be fair, they could have. All they needed to do was look to the Democratic package, which is just that, fair, fiscally sound and fast acting in terms of creating a minimum of 1 million jobs this year. They chose to miss that opportunity and in doing so, I am choosing my words carefully, to insult the service of our men and women in uniform by saying, It's just not enough for you to get the tax credit that other children whose parents make more money than you do are entitled to.

Mr. Speaker, I again commend the gentleman from Texas for his leadership. He has been a champion for America's working families; and for our children, he has been a champion for the future.

Mr. RODRIGUEZ. Mr. Speaker, I want to personally thank the gentlewoman from California for her leadership, and I want to personally share with all Americans throughout this country that she has been a breath of fresh air to all of us. I want to personally thank her because she indicated we wanted to make sure that if we were critical about anything, we wanted to make sure we had an alternative and we have had an alternative every time. I want to thank her personally for the hard work that she has done.

□ 2030

Ms. PELOSI. If the gentleman will yield further, and our alternative is paid for?

Mr. RODRIGUEZ. That is right. Not only good alternatives, but alternatives that work and that are responsible. So I thank the gentlewoman for her leadership and coming out here tonight to join us.

I want to just share with all Americans that our leader, the gentlewoman from California (Ms. PELOSI), has been right there for us. I want to appeal to everyone to listen to the debate that is going on on the tax bill, because the debate on the tax is a serious situation. Whatever occurs on the tax bill determines what occurs on everything else. The tax bill is about the budget. The budget determines our priorities. So when this administration first came here in their first year, one of their first priorities and their main priority was the tax cut.

So, as we talk about education, as we talk about health care, as we talk about the veterans, the reality is that the number one priority was the tax cut. Everything else is secondary. So when we had, that first year, that $1.3 trillion tax cut based on anticipated surpluses, then that started the downturn. That did not create any jobs; in fact, it was just the opposite.

This year, the same. They came at it with another tax cut. It seemed to be the only approach to any problem that exists out there is a tax cut.

As we well know, this particular tax cut is also an irresponsible tax cut because it is coming at a time when we are still at war, we still have not been able to reach out and seek out bin Laden, we still have a serious situation in Afghanistan, we have a critical situation in Iraq with our soldiers out there, and we still have a situation also that is serious in North Korea, as well as other areas.

So, as we begin to dialogue, instead of solving problems, and I feel very strongly that I get elected to come up here to solve problems, not create problems, and it seems like there was a sincere effort at not dealing with the problems that confront us, but looking at the situation and shifting away from those situations.

For example, I still feel very strongly the number one and two issues in this country are education and health care. Now, because of this administration, it is the economy. But those two issues have not been resolved. We still have a problem with education.

Although the administration went around campaigning for the presidency on education, he is going to have to come back and campaign again. I am wondering what he is going to be saying, since the same bill that he signed is $9 billion behind what he indicated he was willing to shake hands on and assure that no child would be left behind. Well, it is $9 billion behind and it has left a lot of kids behind. Yet their priority seems to be the tax cut, and after that we find ourselves in debt and in some serious problems.

Let me share with you as I talk about the debt that I have also received correspondence from Raul Yzaguirre, Executive Director and CEO for the National Council of La Raza. In his report I want to read a couple of items on there, if I can. It is in small print, so I am going to have to put my glasses on.

But in his letter, one of the things that Raul Yzaguirre of the National Council of La Raza mentions is that regarding the President's signature on H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act of 2003, a $350 billion tax cut package, while the administration was touting this measure as an economic stimulus that would create jobs and benefit a majority of working families, House and Senate tax writers were making room for large cuts for wealthy investors.

The reality is that it is for the most wealthy of this country, instead of earmarking it for small business. Because even if you are a strong conservative and believe that the business community needs the tax cut, then you would zero in on small businesses. You would zero in on those small businesses that really create and help in the creation of jobs. Yet the reality is that the majority of those tax cuts did not go for the small businesses either.

Especially let me indicate that he also goes on to say that at the 11th hour, congressional negotiators excluded families earning between $10,500 and $26,625 for claiming the child tax credit increases. So we continue to have these difficulties.

I am glad that I am joined here tonight by a fellow colleague who works closely together on health care and has been a leader on health care, but I know that he also has some concerns on our tax cut.

I thank the gentleman for joining me, and I yield to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from Texas. I know how hard he works on so many issues, including health care, as well as all the issues affecting the Hispanic Caucus. I wanted to say again that I really appreciate the fact that the Hispanic Caucus has been here on a regular basis leading these special orders under your stewardship, because it is really important, I think, that we talk about not only how these Republican policies impact the general public, but also how they impact the Hispanic population.

I have to say that one of the things that amazes me about the Republican tax bill is how they kept telling us, both the Republican leadership, the President, as well as different Republican colleagues, that this tax bill was going to be something that was going to help the average American, that it was going to stimulate the economy, that it was going to put money in the pockets of people so that they could go out and spend money and stimulate the economy, create jobs, all these wonderful things.

The first thing we read when we go home and you start picking up the papers during the Memorial Day recess after we had voted against this bill, because most of the Democrats, including the two of us, voted against it because we really thought it was not going to help the economy at all or do anything significant to create a stimulus, we read about how so many people, working people, people paying taxes, not people not paying taxes, people working, were not benefiting in any way, were not getting a dime back as a result of this so-called tax cut bill that the Republican Party put forward and that passed almost exclusively along partisan lines.

Now what I am getting from some of the Republicans is, oh, the fact that something like 12 million children or families with those 12 million children would not benefit from this child tax credit was somehow an oversight, that this was something they did not realize at the time, and all of a sudden they realize it. I guess in the other body now we have the chairman of the Finance Committee saying he is going to introduce a bill.

Of course, we on the Democratic side have introduced a bill, but we had no doubt from the very beginning that this was the case, because we knew that the way the bill was put together it was primarily focused on the well-to-do, on millionaires, on people who were making a lot of money. Now, all of a sudden, we see all these low-income people that are not benefiting in any way.

I saw this survey that was in Sunday's New York Times, and it really pointed to two groups. I know this has been mentioned many times this evening, but I want to mention it again. There were two groups that basically were not benefiting in any way from this Republican tax bill.

It said that not only were there the 12 million children who were left behind because their parents were not making enough, I guess they were making something between $10,000 and $20,000 a year, but there were also 8 million other—taxpayers who would not receive any benefit from the tax cut.

I just wanted to read from this article in the Sunday New York Times, if I could. These are three groups that did an analysis of it, the Citizens for Tax Justice, along with the Urban-Brookings Tax Policy Center, affiliated with the Urban Institute, and the Center on Budget and Policy Priorities. They found that 6.5 million minimum-wage families with nearly 12 million children would not receive the $400 per child increase in the child tax credit contained in the new law. Then it went on to say that there are 50 million households, 60 percent of all households in the Nation, who will receive no benefit from the tax law.

You understand, these are people that are working, these are people who are paying taxes, and they are getting nothing.

I will yield back, but I just want to say it is not only the fact that it is unfair in terms of the fact that lower-income, working people are not getting any money, but it is also the fact that the gentleman and I know that if those people got the money, because of their financial situation being the way it is, they are going to have to immediately spend it on food, clothing, whatever it happens to be, because they do not have any extra money.

What better way to stimulate the economy? If you are not even looking at it from the point of view of trying to help out people who are lower income, but just from the point of stimulating the economy, would that not be the best group to give money back to, because they would undoubtedly go out and probably use the money to buy something that would stimulate the economy.

Mr. RODRIGUEZ. That is what I find very difficult to comprehend, is if you really want to stimulate the economy, then you would put it in the hands of those individuals that would, as soon as they get it, spend it. There is no doubt that these are the type of individuals that would go out there and buy a pair of shoes that they need, buy additional groceries they might need, that would be getting additional items for the house.

These are not people that are going to receive $400 and, like the wealthiest and others who are going to receive a lot more, that will just decide to keep it there and not spend it.

So we question this, and I think all the economists do, and I was even looking, prior to this, even Greenspan talked about the fact that he did not think it was a good idea to do this. Yet the administration chose to go and do that anyway.

So I think our economy is in deep trouble, and I do not foresee it getting any better. In fact, I was trying to figure out why would they be doing that. The only thing I can figure out, at a time when we are at war, that they are really basically wanting to put us on a real spot in terms of some of the programs, and it does put us in trouble funding the educational programs that are needed, the health care needs of our constituencies and our seniors, the needs in terms of our Medicare and Social Security recipients. Because I know that there is a real push there to try to privatize Social Security, and I know there are investment bankers that are looking to get their hands into that.

So that really concerns me, that there might be other motives involved in the process.

Mr. PALLONE. If I could ask the gentleman to yield further, there are so many levels on which you can point out this Republican tax bill really does not make any sense.

First of all, it is the idea, as the gentleman said, where the gentleman suggested this is all deficit spending. None of this money is there in the Treasury. This is all deficit spending, and it is borrowed from Social Security and Medicare trust funds primarily. So it jeopardizes our retirement and health funds for our seniors in the future.

In addition to that, by putting the Federal Government further into debt, you put an even greater drain than the economy. So there is nothing at that level that would help the economy.

Then, as the gentleman points out, if you are primarily giving this money back to high-income wage earners or people, it is not even wage earners, because a lot is going for the stock dividends, people that in many cases are investing in the stock market. We have nothing in the bill and certainly the Republicans were not going to suggest we were going to put anything in the bill that would say those people have to reinvest the money in the economy. They could easily go and invest it abroad, for all we know. We have no reason to believe those kinds of investments by high-income individuals are necessarily going to lead to any kind of job creation.

But then you get to the unfairness in terms of leaving these people out. To me it is just amazing.

I just wanted to say one thing, and that is that in yesterday's Washington Post they had the editorial many of us have read tonight that says "Children Left Behind." But the one thing it really does is totally belie the idea that somehow the Republicans in either House or the President overlooked this with this child tax credit, because the Washington Post editorial says:

> Stiffing these children was not a last-minute oversight or the unfortunate result of an unreasonably tight ceiling. Adjustments had to be made, a spokeswoman for the House Committee on Ways and Means said, as if those on her side would have preferred otherwise.
>
> In fact, the administration didn't include the provision in its original proposal, the House didn't include it in its version and the Senate Finance Committee didn't include it in its original package.

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The only reason there was something in here to provide this tax credit for these people between $10,000 and $20,000 was because BLANCHE LAMBERT LINCOLN, a Democratic Senator, a former Member, former colleague here in the House, insisted that it be put in on the Senate side; but then of course the Republicans took it out. So for anybody to say that they did not know what they were doing, it is purposeless.

Mr. RODRIGUEZ. They knew full well, because they had initially submitted the over-$700 billion tax cut, and then they settled on that other.

But what concerns me is that in the process of having this so-called oversight, I am wondering how many other oversights we might have that we are still not aware of.

I know that there were a lot of special interests out here walking the halls and looking at loopholes they were looking for in terms of their own special interests, so I am just concerned about what other oversights we might have for some of those special interests that were roaming the halls during that time that were looking at that tax cut.

It really bothers me, and also in a way it kind of irritates me to think that someone would stoop to that low a level not to consider these individuals that are hardworking Americans that are out there making $26,000 or less, but still hardworking. So would their kids not qualify for that child credit while someone else's would? It is incomprehensible.

Mr. PALLONE. Mr. Speaker, I think that Senator LINCOLN said that half the people in her State fell into that category. In New Jersey the average income is higher than that, obviously, but there are still going to be people in my district that are not going to get the credit, there is no question.

Mr. RODRIGUEZ. In my district, it is even more than half. My median income is about $22,000, so more than half of my constituency is not going to benefit from that. Yet we see the data in terms of those that are making $1 million, how much of the hundreds of thousands they are going to be benefiting from, not to mention in terms of their investments.

So this is no way in terms of stimulating the economy, and this is no way in terms of being responsible. At a time when we are at war, we ought to be paying for the war at the present time. We are not. Not only are we asking our young people to go fight the war and go defend this country, and they are ready to do that, but we are asking them to pay for it and getting their kids to pay for the debt in the future. That is not right, and that is not American.

So we need to continue to talk about these issues. I know that the gentleman works real hard on health care, and I know the gentleman wants to find a solution to health care. The gentleman is the type of elected official and public servant that comes out here to seek solutions to the problems that confront us.

Mr. PALLONE. If the gentleman will yield, the problem we are going to have now is with the second wave of Republican tax cuts. They are talking about even more. So much is being borrowed from the Medicare trust fund, and it is going to put it in such jeopardy for the future that it is just going to be that much more difficult to provide any expansion for Medicare, like a prescription drug benefit, for example.

I am really fearful that what we are going to see in the next few weeks that the Republican leadership is going to come here and say, now that we do not have any money in the Medicare trust fund, we are going to have to start coming up with innovative ways of saving dollars.

That is when they start talking about vouchers and telling seniors that they have to take a voucher and go out and buy their own health insurance and privatizing Medicare, with the excuse that there is not the money left in the future. The reason the money is being drained is because of these tax cuts.

Mr. RODRIGUEZ. Exactly. And I think that as we look at especially next year, which is an election year, I can already see the administration going out there. I would like to see what he is going to be saying, responding to the fact that he promised our seniors a prescription drug coverage, and we still have not seen one that is a responsive approach.

I would like to hear what he is going to be saying when he talks about the quality of care in this country, when we have one of the best care systems in the world; and yet it is not affordable, and it is not accessible. I can already see them blaming the debt on the economy, when in reality they have created the economy and they have created it with irresponsible tax cuts.

Mr. PALLONE. They are already talking about a prescription drug plan that forces seniors, if they want any kind of prescription drug plan, to go into an HMO or some kind of private organization. It is a measly benefit even if you opt to do that. The reason is because they do not have the money because of all these tax cuts.

Mr. RODRIGUEZ. The reality was that their first priority was the tax cut their first year, and this year, and possibly next year. Their priority is the tax cut. After the tax cut and after the budget is gone, there is no need to talk about anything else, because that is the priority. It was not about solving the problems on education, solving the problems of our seniors in Medicare and the problems we were encountering there, solving the difficulties of prescription drug coverage; but it was all about tax cuts, which tells me that their priorities are not in terms of solving problems out there, but to basically look in terms of how they can benefit those that provided for their campaigns, the wealthiest of this country.

Mr. PALLONE. I want to thank the gentleman for all that he did tonight. I notice that the leader joined him at one point, and we had a number of Members who did the 5-minute Special Orders on this issue of the child tax credit.

Again, it is not because we want to beat up on our colleagues on the other side. This bill has already passed. But I think we have to point out the shortcomings of this legislation, because it is, as the gentleman says, the foundation for the whole Republican agenda here in this Congress.

It is going to wreak havoc, I think, not only with the economy, but with any kind of effort to provide for health care or shore up Social Security or any of the other things that I think are so important domestically for this country. I just want to thank the gentleman.

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman for coming out here tonight. I want to thank the gentleman from New Jersey (Mr. PALLONE) for being here with me tonight. I want to also thank the leader for being here tonight.

Let me share a couple of statistics that I have. One of the things that I would like to share with Members is just some data out there. The total job loss since President Bush took office has risen to a staggering 2.5 million private jobs, while cutting taxes for the rich and not extending the unemployment insurance.

The median Hispanic household, I will share that, being chairman of the Congressional Hispanic Caucus, will receive about $30 as a result of the Bush tax cut, $30, in comparison to the others.

So we have some real startling statistics that basically reflect that the reality is that this tax cut is a real irresponsible tax cut when there is no money there, when we are not paying down our debt. It just does not make any sense for us to be doing that.

I also wanted to share that at the same time that we are deciding to make the tax cut we are not being responsible in meeting the needs of our veterans, meeting the needs of our seniors in prescription drug coverage, or meeting the needs of Medicare. I am just going to wait and see what this President says when he is coming up for reelection next year.

Today, and I want to share with the Members, because we had an opportunity to hear some testimony in our Committee on Veterans Affairs from Dr. Wilensky, who did a report. She assured, or indicated, that the reality was that the present situation "is not acceptable," referring to our veterans programs.

One of the realities with our veterans programs is that depending on where they live throughout this country, they might not have access to the quality care that is available in other areas of the country, so we have what we call disproportionate forms of care in the VA. There is a real need for us to provide additional resources.

This particular report talked about the fact that the VA had not prioritized and was not meeting the needs of our veterans, because at this particular time our veterans, those World War II veterans and Korean War veterans and our Vietnam veterans, are reaching that age where they need us. The demographics show that there is a need for us to come up to the plate and be able to provide those resources. Instead of doing that, we are just doing the opposite, not coming up to the plate, cutting taxes instead of putting those resources with our veterans where they need it the most.

I also want to share that we are also beginning to cut our nursing home care for veterans and put caps on that. We continue to have problems with homeless veterans, which is an atrocious situation that we ought to be working to solve. Instead of the tax cuts, we ought to be considering that. In fact, instead of providing the $2 billion for health care for the Iraqi people, we ought to be looking at those $2 billion for our veterans services.

When veterans are out there fighting and defending our country, a lot of them will suffer from post-traumatic stress disorders. Even New Yorkers and the people in the Pentagon and throughout this country after the terrorist attack, we really need to look at resources in the area of health to help these people cope with post-traumatic stress disorders.

I would attest that especially for the people at the Pentagon and the people in New York, there is a real need for us to reach out to them. I know that a lot of them might be going through nightmares and those characteristics of what later on might be defined as post-traumatic stress disorder. So we cannot take that lightly.

Events such as this, and our soldiers as they encounter and get engaged in Iraq and Afghanistan and elsewhere throughout this world, they will suffer from those engagements in a lot of different ways. We have to be there for them, and we have not done that.

When it comes to homeland defense, we could easily have put some resources there that would have created and helped stimulate the economy, because our States are hurting. We need money in homeland defense. Our first defense is going to be those local firemen out there throughout this country, those local policemen throughout this country, those local health care providers throughout this country. I think it is important that we provide them with the access resources they need.

Homeland defense also has needs, especially the Coast Guard. We have been negligent in not being responsive with our Coast Guard. They need additional resources. The INS and the Customs people also.

One of the things terrorists would want to do is not only instill fear in us, but also create a problem in our economy. We have to create a balance between security and trade. I represent the Mexican border, and we have to make sure that we continue to have trade. That becomes important.

## ECONOMIC STIMULUS AND SENSIBLE FOREST MANAGEMENT AND LAND USE

The SPEAKER pro tempore (Mr. BURGESS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, I have been waiting now for about an hour, an hour and a half, reading back there and waiting for my turn, and have been witness to this constant pounding by the Democratic side of the aisle, taking cheap shot after cheap shot about the tax cut that, by the way, some of the Democrats supported; but even their leader came over here to take some cheap shots on this tax bill.

I am telling the Members, we have an economy that needs some stimulation. We have got to go out to the people that earn that money. The government does not earn this money. Contrary to what the Democratic leadership would like us to believe, we are not automatically entitled to the workers' monies in this country. This is not a Communist-type of country; this is not a socialistic-type of country, where we take money from people and make sure that no matter who works the hardest, it is of no consequence.

It is distribution of the money that is of consequence in a socialistic country. In other words, everybody is treated absolutely equal. There is no incentive for people to go out and work hard.

It is amazing to me that Democrat after Democrat has been up here at this microphone, and of course there is no time allowed for rebuttal until I now have the microphone. But for the last hour and a half, Democrat after Democrat has stood up here and said, gee, this tax cut did not go far enough. We need to include this group of people, even though they did not pay taxes. We do not want to exactly call it a welfare program, which is what it is. That may be appropriate under certain circumstances.

But all they want to do, they are saying, well, we need to expand it to this particular group of people. And then, mark my word, we may see even yet this evening or tomorrow, we will see them out here talking on the floor being exactly contradictory to that, speaking in a hypothetical-type of approach saying, gosh, look at what the Republicans have done to the deficit. Look at what the Republicans have done to the deficit.

□ 2100

The fact is the Democratic Party in general has never seen a tax cut that they support. The Democratic Party here as witnessed in the last hour, and I am not attempting here to get up here and engage in a partisan debate, but somebody has to stand up and speak for the other side. Somebody has got to stand up and speak for the moderates and the conservatives for the middle-income families in this country for the people out there that are working.

Remember when you distribute money, when this government takes money and especially when this government takes money and gives that money to people who are not working, that money is simply a transfer. The government does not create wealth. Governments do not create wealth. All they are is an agent of transfer. So when the government gives money, under the Democratic plan gives money to people who are not working, they are taking that money from people who are working.

Now, I know most working people, in fact, almost every working person I have every talked to, they said they think at certain levels it is appropriate to take money from people who are working and give it to people who are not working, for example, I think, for somebody who is physically and mentally disabled to the extent that they cannot be in the workforce. Nobody disagrees that those people should not receive help from society. That is what society is about. That is what team work is about. But that is not what the leadership of the Democratic Party is about.

They constantly want to expand the welfare programs. They constantly want to expand the government programs. And their response to the needs of our society is let the government handle it. When it comes to health care, it is the Democratic leadership that calls about socialized medicine. When it comes to the situation on the international basis, it is the Democratic leadership that talks about a world order. It is the Democratic leadership that talks about giving up our sovereignty to the United Nations. Let the United Nations determine what is best for the United States.

There is clearly a distinction between the Democratic and the Republican parties. A lot of young people that come to me and they ask because they are at that point in their lives because they want to decide, gosh, should I be a Republican or should I be a Democrat. I say, let me explain because there are some clear differences. And the last hour and a half of listening to the Democrats bash these tax reductions as if the people who pay the taxes are not entitled to keep their money, that money is not government money. You can talk to the Democratic leadership until you are blue in the face, and they never get the message. That money did not originate on this House floor. That money originated with an iron worker or a taxi cab worker or a banker or a teacher or somebody in the military. Those are the people that made that money. We did not make that money here. We got the easiest jobs in the world in government. All we do is reach in that pocket and make that decision to transfer the money here. Someone else works for the money. That iron worker out there, for example, makes $25 an hour maybe on a very risky job; and the government reaches into his pocket and takes money out of that pocket and redistributes a portion of that money that that man or woman makes as an iron worker.

Now, we have all agreed in this country that there are certain needs that as a group, as a team, as a United States there are certain needs we should pool our money for and we should redistribute to help some of these, highways, for example, a justice department, a strong military, good schools, a welfare system for those people who really cannot work. Unemployment, not unemployment that last forever, but unemployment as a temporary, temporary assistance for people between jobs to help them get back on their feet.

The easiest way to describe to these young people the difference between the Democratic Party and the Republican Party is an example somebody told me once, and they said, with the Democrats when somebody is hungry what they do is the Democrats provide them, and I am focusing on the Democratic leadership, their idea is to give the hungry person fish. And whenever the hungry person is hungry, you give them more fish and give them more fish. Our philosophy on the Republican side is give them some fish at first so they are not hungry, but at the same time give them a fishing pole and say, look, you have got to help catch the fish. You cannot just depend on us showing up and constantly giving you fish and giving you fish.

Now, in the last hour and a half we have heard the Democrats one after another take cheap shots about that tax bill. Let me tell you that tax bill was as a result of a lot of compromise between a lot of moderate people. What you have heard from in the last hour and a half is not what I would say is the mainstream of the Democratic Party. What you have heard from in the last hour and a half is the extreme left. That is what we hear from on the environmental issues. That is what we hear from on the antimilitary issues. That is what we hear from on the pro-United Nations, pro-world order issues. That is what we hear from on the anti-tax cut issues.

We are worried about this economy. We need to stimulate this economy. I say to people, it is like a battery in a car. We got a car we have to climb a hill and the engine went off. We have discovered we have a dead battery. We need to use jumper cables. The Democrats, if you listen to them, they would put, the leadership especially, they would put the jumper cables on the bumper. They would put them on the door handles. And what I say with all due respect to my Democratic colleagues is it does not do us any good to get us moving to put jumper cables on the door handle. It does not do us any good to put jumper cables on the bumper. We need to put these jumper cables on the battery terminals.

I know that the battery is only a small part of the car. This tax cut is a very focused tax cut. What we want to do, and the reason we are saying to the Democrats put the jumper cables on the battery terminals, we are promising the Democrats that if you do that, just go along with us, which, of course, they will not do because they have a Presidential election coming up here in 2 years. That is what the last hour and a half has all been about. It has been about politics. We have asked them put the politics aside and help us. Let us put the jumper cables on the battery terminals. You know what happens if we charge the battery? The whole car will receive the benefit of that charged battery because when the battery is going, the car moves as a unit. The whole car will move up the hill.

We have an economy that is holding its own and I think is going to improve. I am optimistic about it. But it seems to me listening in the last hour and a half that the Democratic leadership will do whatever they can do to make sure that car or that economy does not get moving because they want this economy to be sour for one reason. They want to win the Presidential election in a year and a half from now. That is their whole purpose in this last hour and a half is Presidential politics. It will be their whole purpose for the rest of this session and, unfortunately, for next year's session. Do whatever you can even if it costs the American worker their jobs, even if it costs the American society their economy. Do whatever you can to obstruct George W. Bush. Do whatever you can to blame whatever is going wrong on George W. Bush, because it is all about politics.

I go back every week to my district in Colorado and I make it a point, I do not go down to my district offices. I go out on the road and I go out and talk to people, those people who, frankly, whose money we are taking to finance this government. You know what they want? They are sick of some of this last hour and a half of political cheap shots. They want for you to help us move this economy. Whether you like it or not, the President of the United States happens to be a Republican. But the fact that George W. Bush is a Republican should not stop you, based on that alone, from at least trying to work with us, from trying to help us as a team move this economy forward. There are a lot of people out there whose jobs are dependent on a good economy.

There are a lot of people who you consider rich people. And by the way, time after time after time in the last hour and a half you hear the Democrats talking about the rich people. You know what the leadership of the Democratic Party considers the so-called rich people? That would be even a couple that earns 35, 40, $50,000 a year. There are a lot of couples that work out there, and all the more power to them. That is our society. If you can go out and improve your life, go out and do it. Yet you criticize success and you call rich somebody making 50 or $60,000 a year. That is not rich. Making 50 or $60,000 and a year you go out and buy a car, $25,000, that is a half a year's salary.

What we are trying to do is get an economy that will allow these people to continue to make that kind of money, that will allow these people to reinvest this money. Do you know if you take a look at capital gains, take a look at the economic history which the Democratic leadership is completely ignoring, intentionally, and completely ignoring the economic history of capital gains because they know every time in history without exception, every time in history the government has reduced the capital gains taxation, the economy has received a boost, the economy has seen an uptick.

The last thing the Democratic leadership wants is an uptick in the economy because they want to beat George W. Bush a year from now.

The last thing, and I say this very honestly, the last thing that a lot of Democratic leadership wanted to do was to support President Bush's policies in Iraq and in Afghanistan because they are afraid that he is going to look too good; that, in fact, he is the leader who he is and they want to beat him in a Presidential election a year and a half from now.

It is amazing to me. Every night, night after night after night we do not have some of my colleagues talking about how we can help the economy, how we can work as a team to work with the economy. All we see is night after night after night trying to attack George W. Bush and blame him for everything they can possibly blame him for in hopes of defeating him a year and a half from now.

You know what you ought to do? We all win if the minority leader would come across the aisle and work with us. We all win when the Democratic leadership and the Republican leadership work as a team. Where we do not win is where we have gotten a tax cut we put through. It is already in place. It is law. So get over that and try and help us get this economy moving on the Republican side. And, frankly, to the Democratic leadership, I hate to tell you this, but a lot of your Democratic Members happen to agree with the Republicans and that is we want this economy to grow. We are tired of the class warfare argument. We are tired of the political argument that you have continued to throw out, which you have for the last hour and a half.

To the minority leader, there are members of your party who want this economy to improve. There are members of your party, to the minority leader, who want George W. Bush to succeed in his foreign policy. There are people of your party, minority leader, who want George W. Bush to succeed in his economic policies. Why? Because if you jump the battery on the car and you get the battery started, the whole car benefits, the whole car moves forwards.

Sure, you may feel better by putting your jumper cables, minority leader, on the bumper of the car and saying we want to distribute electricity. We want to jump the whole car, make the whole car feel good, distribute it across the whole car. The fact is we are trying to target because we want everybody in that car to benefit. We want it to move forward.

So I plead with the Democratic leadership, get over this, help us come to a better solution, help us move forward. If we have a better economy, we get better schools. If we have a better economy, we get better jobs. If we have a better economy, we get a better lifestyle. If we have a better economy, we get more people covered with health insurance. I mean, the pluses of a better economy are tremendous. So quit trying to obstruct us every step of the way, simply for the fact that you want to defeat George W. Bush, you want to pull his numbers down in the polls in hopes of defeating him in a Presidential election in a year from now. That is all this last hour and a half has been about, and we deserve better; the American people deserve better.

There is an excellent article today, and I want to talk about this in regards to this economic question that has arisen in the last hour and a half. It is an editorial out of the Wall Street Journal. The new tax bill exempts another 3 million-plus low-income workers from any Federal tax liability whatsoever. Exempt. The new tax bill exempts another 3 million people.

So in the last week when we voted for this tax bill, we exempted an additional 3 million people, the very people that some of my colleagues were talking about, what they say are the working poor or the nonworking people that are not earning money. This exempts 3 million in addition to what we have already exempted from income tax, 3 million low-income workers from any Federal tax liability whatsoever.

□ 2115

So you would think that the class warfare, the class lawyers would now be pleased, but instead we are all now being treated to their outrage because the law does not go further and cut income taxes for those people that do not pay income taxes.

This is the essence of the uproar over the shape of the child care tax credit. The tax bill the President signed last week increases the per child Federal income tax to $1,000, up from the partially refundable $600 credit passed in the 2001 tax bill.

Let me say to the Democrats, most of the Democrats did not support increasing the child tax care credit for those people who do pay taxes. Instead, today, the leadership appears here on this House floor and supports increasing the child tax credit for the people that do not pay taxes, but they voted against the very bill a week and a half ago that increased it for the people that do pay the taxes. So they are saying, okay, thank you to the working Americans out there, regardless of your income, thank you for working but we are going to vote against an increase so that you can have increased child credit, but by the way, if you did not pay any Federal income tax you may choose not to work, you do not make enough, you do not pay any tax, we are going to let you increase your child credit, and by the way, how would you increase the credit? They do not pay any tax. They do not need the credit. The Democrats include the word "refundable" so you actually send tax money to people that did not pay any taxes. They make it refundable, and of course, the only place you can get that money is to take it from the people that do pay the taxes.

Let me skip from here and jump through some of this, but among tax cut opponents it is a political spinning opportunity, and that is exactly what we have seen. It is spin in its purest form in the last 2 hours. Let me go on here and just say, more broadly, that critics, there are lots of things it talks about in the bill, good things like the $10 billion earmarked for Medicaid, the State/Federal health insurance program for the poor.

Look at the money we put in that bill for the States to help the States try and get out of a hole that they have dug themselves into. That bill was a good bill, and yet in a very hypocritical fashion, we have people here talking about, look, the people that ought to benefit from a tax cut bill are the people that are not paying taxes. That is the spin that is going on around here.

More broadly, the critics want everyone to forget how steeply progressive the Tax Code already is. These are very important numbers. These are facts. These are not the kind of facts that the minority leader wants you to hear, but these are facts. These are not made up by the Republican Conference. They are not put together by the Democratic Conference. These are statistical facts.

The IRS data released last year, so they are recent, this is recent data, the top 1 percent of the earners in this country paid 37.4 percent of all Federal income taxes in 2000. The more important number here is, the top 5 percent paid 56 percent. So the top 5 percent of income earners in this country pay 56 percent of the taxes.

I do not have a problem with the progressive tax system. I think this is fine, but let us give credit where credit is due.

The most important thing that I can say right here, and listen to this statistic, the top half of all earners, of all the people, all the earners in America, the top half, the top 50 percent pay 96.1 percent of the tax. We are talking about Federal income taxes, not payroll tax, not State. We are talking about Federal income taxes. The top 50 percent of earners paid 96 percent of the bill. The lower 50 percent, the lower half, it is obviously half, but 50 percent of the income earners in this country paid 3.9 percent of the tax.

I am not going out there and saying, guys, we ought to shift more burden to that lower 50 percent. That is not what I am saying, but what I am saying is, the Democratic leadership that continues time after time to talk about class warfare, it is a socialistic type of approach. It is not important what your capabilities are, that is what they say in socialism. It does not matter how much money you earn because what we do is redistribute it so that everybody is equal. So if the iron worker gets out there and has to walk on a beam this wide and takes substantial risk high on a building, high in the sky, and gets $25 an hour, it does not matter what that person's talent is or that person's skill is or the risk or the danger of their job because under the Democratic leadership approach, this money should be shared equally. It is a transfer. It is called class warfare.

That is exactly what the spin is about, not because they can justify it under a democratic system. Under our democratic capitalistic system, you cannot justify that, but the reason you can justify it and the reason they have hit so hard this evening is because they are looking ahead to next year's Presidential election. That is what all of this spin is about, and if there is any obstruction or roadblocks in the pathway, it is being put there for one reason, in my opinion, not because there is a legitimate dispute as to whether or not the policy will work, but there is a concern, a deep concern that it will work and that the beneficiary will be George W. Bush; and the number one goal of the minority leader is to beat George W. Bush. The number one goal is not to improve the economy. The number one goal is not to improve the number of jobs and cut down the unemployment. The number one goal is to spin it in a way that you can beat George W. Bush.

In my discussion this evening, I wanted to focus not on this part. I really did not come over here this evening to talk about the tax bill and talk about the need for a strong economy and the jobs out there and the opportunity to let people in this country succeed. If you can invent a better mousetrap, why should you be penalized? That was not my approach until I heard the spin put on by the Democratic leadership and going unrebutted for over an hour and a half. Nobody stood up to them. They went unrebutted time after time doing this class warfare spin.

So I had to rebut that. That is what the purpose of that is, but I do want to spend the remaining part of my time talking about our Nation's forests, and I think it is very important. This, of course, goes across both party lines.

I can tell you that in the last 2 weeks, about a week and a half ago my bill, the healthy forest bill, and I have got to give a lot of credit to the gentleman from Oregon (Mr. WALDEN) for his great work on this. Also to the chairman, the gentleman from California (Mr. POMBO), and the gentleman from Virginia (Mr. GOODLATTE), who did a tremendous job, and all the others, as well as the Committee on the Judiciary.

We had a lot of help on that bill, but that was my bill, the McInnis and Walden bill, and that bill recognizes the fact that we have got to take care of our forests, but I think it is kind of a preparedness. I want to do just some brief remarks on what got us to this point, why our forests today have become managed, believe it or not, managed by the United States Congress instead of being managed by what we call the "green hats," those people, those forest rangers, those people that dreamed about being a forest ranger, those people that dreamed about working for the U.S. Forest Service, many of whom grew up in the forests.

Almost all of them are educated in forest management. They all work in the forest day-to-day-to-day-to-day. They know the forest like we know the back of our hand, and yet over the last 20 years or 30 years there has been a shift, taking management away from the U.S. Forest Service and like agencies and putting it right here on this House floor, to the extent that we actually have debates on this House floor. We have in the committee that I chair, which oversees the Nation's forests, we actually have Members of that that want the U.S. Congress to determine what the diameter of a tree should be out in, for example, the White River National Forest, what size it should be, dictated out of Washington, D.C., off this House floor, the size of tree that our forest rangers and managers out there should be doing.

I will explain a little history, but the first concept we have to think about is public lands. There is a little history to public lands in this country. What are public lands? Public lands are, as described, lands owned by the government, and in the East really, relatively speaking, you do not have a lot of public lands owned by the Federal Government. You have got the Shenandoah and Everglades down in Florida and you have a little here and there, but where the real public lands are, as far as real meaning, the vast holdings of public lands are in the West; and my poster here to the left kind of gives you an idea.

The colored spots on the map of the United States indicate public lands, and you can see where the big public lands are. They are not out here in the East. In fact, a lot of States have very, very little public lands, but in the West, we have huge amounts of Federal lands, huge, hundreds of millions of acres of Federal public land or government-held land.

Here is the State of Alaska, if you can see, right down here to the left. Look at the State of Alaska. That is how much land in Alaska is owned by the government. So the land policies, just by the sake of ownership, are different than the land policies you find out in the East where you have private property.

The reason we got into this circumstance was when the country was settled by our forefathers they needed to figure out a way to get the people out of the comfort of their homes on the East Coast and give them incentive to go West. The West, frankly, was even deep into Virginia, and it was a challenge.

It was a lot of risk to leave the comfort of your homes and go to the West, disease, accidents, death by childbirth because a lot of women died in childbirth. Men typically died in their 20s of accidents. They would fall off a cliff or get bitten by an animal or infection by a rusted nail. It was high-risk.

So the government decided, how do we give people incentive to go to the West, and they decided to use the same tool they used in the war against the British. They tried to bribe the soldiers to defect, to leave the army of the Queen and come over to the United States, and we would give them an award of private property land they could own, and here we knew that from our settlers that one of the fundamental foundations of this country was to have your own little castle, to have your own little piece of property, private property. It is a very sacred part of our government, a very sacred part of this country.

So the government decided, well, let us call it the Homestead Act and let us offer people, say, 160 acres or 320 acres if they go out, settle on the land and work the land for a certain period of time. Then they can keep the land and it is theirs. They own it. And that worked very well. You get out into the fertile fields of Missouri or Kansas or even eastern Colorado or Nebraska, and a family that had 160 acres could survive. It made sense. It was the right number of acres to give to support that family and be enough encouragement for that family to stay there, hopefully generation after generation after generation.

Then what happened is it worked pretty well until they hit the Rocky Mountains. When they hit the mountains, they found that in many places you could not feed one sheep on an acre. You had to feed a sheep with four acres out here. In a lot of places you could put lots of sheep on an acre, not mountains. You go up much higher in elevation, in fact, the mean elevation of my district is the highest place in the North American continent on an average. I mean, there are a lot of different things when you get into the high mountain country, and you cannot raise a family on 160 acres from a farm.

So what they decided to do was they came back and said, look, the people are not settling in the West, and back then the only way you really were able to claim the land, and our forefathers wanted to expand the United States, we made things like the Louisiana Purchase. How do we get out there, how do we claim the land as ours?

Today, when you purchase land, you get a title. You do not have to be on the land. You do not have to live on the land. You do not have to be there 24 hours a day. You have title. In fact, you can live in New York City and own land in San Francisco. All you need is a title.

In the early days of this country, that did not work. In the early days of the country, in fact, the paper did not mean a lot. What meant a lot is if you were in possession, that is where the saying "Possession is nine-tenths of the law," that is where that originated from; and what you needed back then is a six-shooter strapped on your side, and you needed to be plotted down right on that piece of ground.

What happened is, people were not settling in the West because the conditions were severe. So they went back to Washington and they said, okay, now what do we do about this? How do we encourage them to stay? Somebody said, let us give them a proportion of amount of acres. If it takes 160 acres in Kansas, it takes 3,000 acres in the Colorado Rockies or Wyoming plains, maybe that is what it takes, and they decided, because they had just come under a lot of political pressure because they gave too much land to the railroad barons to build the railroads, that maybe they could not give that kind of land away.

□ 2130

So what they decided to do was to go ahead and keep this land in the government's name, but allow people to use it. And that is called the concept of multiple use. Lands of many uses. People my age grew up under the concept. When you went into a national forest, there was always a sign at the entrance to the national forest that said, for example, "Welcome to the White River National Forest, a land of many uses."

Now today, we have seen some fairly radical environmental organizations, Earth First, Greenpeace, the national Sierra Club, some of these other groups; and their number one target is to eliminate the concept of multiple use. They, in essence, want people off public lands. They want agriculture off public lands.

Out here in the West we have to use public lands. My family, my wife's family are fifth-generation family ranchers on the same ranch, but they have to use public lands. They have their own holdings, but they need public lands. These organizations want them off public lands, and they take some very radical approaches to push us in the West off those lands.

So keep in mind that in some of these States, for example in Kansas, when you have a disagreement with regard to a land use policy, you go down to the local courthouse and you talk with the county commissioners and you talk with your planning and zoning commission. Here, on government lands, because it is under public ownership, you end up having to come to Washington, D.C. Our planning and zoning office is located in Washington, D.C. So that is one element we need to think about when we talk about forest management.

What else do we need to talk about with regard to forest management? We need to talk about where the water is situated in the country. Here in Washington I think we have had 28 straight days of rain. In the East, a lot of times your big problem is getting rid of water. Seventy-three percent of the water or moisture in this country falls in the East. So your problem is getting rid of it. In the West, we have exactly the opposite problem; we are very arid.

Take a look at this entire section, which includes the Rocky Mountains, the State of California, Arizona, Nevada, New Mexico, Utah, and Oklahoma. Take a look at this big chunk in red. That entire chunk, which is almost twice the size of what I would call the East, let us just call this the East, where the 73 number is, this gets 14 percent of the water. That means that the forests out here in the West have a different moisture content than the forests in the East. Fire is a much bigger hazard out here in the West because of the simple fact we do not get near the moisture that the country receives in the East.

Now, because of the moisture in the East, on a lot of occasions the bigger problem here is insect infestation. So we wanted to put a bill together that addressed not just the problems of the West. And by the way, very bipartisan. We had Democratic leadership against us but we had a lot of Democrats, Main Street Democrats that live out here in the rural areas. The majority of the rural Democrats supported us strongly on this bill. So we wanted to put a bill that addressed the infestation by bugs in the East, and of course we have a lot of that in the West as well but probably not to the extent that you do in the East, and we wanted to address the fire issues that we see in the West.

Remember, we have two elements: one, public lands; and, two, the water content. In the West, we have a lot of water problems because we do not have that moisture.

Now let me talk about the third element, and that is management of these public lands. We created Federal agencies to run these lands. One of the agencies that we created was the U.S. Forest Service. And we said to the U.S. Forest Service, we want you people in those green uniforms and green hats to become experts on the management of the forests. Now, the jobs in the U.S. Forest Service do not pay a lot of money. Those people that work for our U.S. Forest Service or any of these land agencies, they do it because they love it. They love the land. They are so, so dedicated to their jobs. The same with the Bureau of Land Management, and the same with U.S. Fish and Wildlife. But tonight I am talking about the Forest Service. These men and women out there in the Forest Service are proud to wear that green hat and that green uniform.

What has happened is that these people grow up loving the forest, they go to school and get educated on the forest, they work in the forest every working day, and, in fact, a lot of them go into the forest when they are not working. A lot of them live in the forest. They know that forest. They know what is good for that forest. They love that forest. They care about that forest. But you know what has happened? In the 1970s, some of the groups, like Earth First, the Sierra Club, the Greenpeace-type of people, they decided they wanted to end this concept of multiple use.

Now, remember what I talked about, the tool of multiple use. They wanted to end this concept of multiple use. But they knew that every time they got in an argument or a debate or a discussion of the issues with forest rangers, they lost. Every time. Why? Because the Forest Service, based on their experience, based on their education, based on the science would beat them. Greenpeace and Earth First could never succeed in their arguments because the Forest Service was not managing these forests based on emotion; they managed based on science. So that would defeat the purpose of the Sierra Club and Earth First and Greenpeace from getting rid of multiple use.

So somehow, somehow they had to shift the management of forests from science to get management determined by emotion. Well, they knew that the Forest Service was not going to manage these forests based on emotion. But what is the greatest body in the country that manages its business, in large part, by emotion? It is the United States Congress. So in the 1970s, they were very successful, and in the 1980s, Greenpeace and Earth First and those other groups, at moving management away from the Forest Service and putting management into the hands of the United States Congress. They were very successful over this period of time of moving the argument to emotion.

Now, I can tell you that when you talk about forest management, you can win the emotional argument on a 15-second ad. All you need to do is park a bulldozer in front of a grove of Aspen trees and put a fawn or a deer out there and say that we are destroying our forests, and you have won the argument. Because people love our forests. People love our wildlife. I love the wildlife. I grew up in the forest. This is my kind of life. Washington is a workstation for me. My home is in the Colorado mountains. So they could win on that.

So what happened is, gradually over this period of time we found the United States Congress managing these forests. And I would venture to say to my colleagues that not one of us on this floor, I would guess not one of us on this floor probably has a degree in forest management. We have degrees in political science. I am a lawyer. I have a degree in business. My background is really more business than anything else. I am not a forest ranger. Even though I chair the Subcommittee on Forests and Forest Health, I am not a forest expert.

So what am I doing with the day-to-day management of our forests when we have very qualified men and women out there in the field that have been educated in the area, that love their jobs, that do know how to manage those forests? And what has the result been? The result has been that last year we suffered huge bug infestations. If you care about the old growth trees, if you care about the wildlife, if you care about the endangered species, if you care much about the forests, then I will tell you something, you probably sat up in your chair last year when you saw those horrible fires and what they did.

This is the result of fire. This is all stuff that burned, fell to the ground and washed down. Do you know what this sits in right here? There is a boat, and right here is all this waste, this forest refuge. There used to be trees; there used to be wildlife. It was very fertile wildlife territory. It was absolutely beautiful scenery. It was, to an extent, a forest that had some health to it. The biggest killer of endangered species in this Nation are wild fires. Now, we had the fire because that forest was not allowed to be properly managed. That is now sitting in the water supply. That is sitting in the water supply. Colorado's Hayman Fire dumped loads of mud and soot into Denver's largest supply of drinking water.

That is what one of Denver's water supplies looks like right now. This water behind it looks like a chocolate malt, and it will cost the citizens of Denver tens of millions of dollars to clean up their water supply. So it destroys wildlife, fire does, as does bug infestation. It destroys watersheds. It destroys the timber. I mean there is nothing good about wildfires.

Now, controlled fires are an element of helping manage a forest. So there are situations where fire, properly managed, is good. But these kinds of fires, they were not managed. They are horrible. We lost 20-some firefighters last year fighting these very kinds of fires. Good forest management does not mean we will avoid those fires, but it means we will mitigate them. Good forest management cannot stop lightning. We will have lightning, and we will have careless campfires.

By the way, most of these fires were not started by humans, but by lightning. But the fact is we can control those fires through good forest management. And the bill I drafted, as I said earlier, with the assistance of the gentleman from Oregon (Mr. WALDEN), who I thank, the bill we drafted was called the Forest Health Bill; and that bill was a long time coming. We negotiated on both sides of the aisle. We had lots of help from some Democrats. We had lots of help from some of the Republicans. We put together, with the chairmen of the subcommittees, we put together an outstanding bill.

This bill allows the management of our forests to go back to the Forest Service; and it allows the Forest Service, for example, to start thinning. Right now we have killed our forests with love. We have babied them. We have spoiled these forests. We have eliminated, in the State of Colorado, for example, because of the emotional argument, we have virtually eliminated all timber companies out of Colorado. We have a couple mom and pop shops. We have a matchstick company down in Cortez which, I think, employs 40 or 50 people; but we really do not have much timber in Colorado.

So what happens to that wood? It grows and it grows, like rabbits, and lots and lots of rabbits, and more and more rabbits. We have acres of public land that historically we supported and would have on a typical acre 60 trees. They now have 600 trees on those acres. But because the U.S. Congress and because our society has allowed our forest management to be taken away from the Forest Service and to be given to politicians like myself, to the U.S. Congress, these forests now are in more danger than they have ever been in the history of this country.

The great sequoias, those sequoias are at a higher risk than they have ever been in recorded history. Our wildlife risk is higher than it has ever been because of wildfire and bug infestation. Our wildlife habitat is in the greatest amount of danger in our history because of the fact that we are not allowing our Forest Service to go in and manage these lands.

My bill allows them to an extent, in a demonstration project of 20-some million acres, it allows the Forest Service to begin to do what they wanted to do all along, and that is manage the forest with a balanced perspective that is good for all of us; to manage those forests in such a way that our wildlife actually is better off, not just that there is a mitigation but an improvement, an addition to the wildlife habitat out there.

You know, people are not an excluded species out there. In the West, we have a right to live out there, and people need to be thought of. In properly managed forests, we do not see watersheds that look like chocolate malts; we do not see the devastation of flooding because the forest burnt down. Our forest management can be improved. I am very optimistic about the future, but only, only if we allow my bill to go forward, which allows the Forest Service to get their hands back on the product they know best.

Now, let me show you what happens when we allow the Forest Service to go in. And let me step back a second and show you what Greenpeace and Earth First and the Sierra Club and national parties did, these national organizations, or world organizations, did when they took the management from the Forest Service. The Forest Service would try and thin out an area. For example, they would go into an area that has like 600 trees to an acre and cut those trees down, different sizes, because different sizes are healthy for the forest, different ages, different sizes, et cetera. What they tried to do was to put some of that out there. And time after time after time they were met with paralysis. Paralysis from litigation and the courts and, frankly, paralysis by analysis with the U.S. Congress trying to manage these forests.

□ 2145

Mr. Speaker, so what my bill does is it protects, it enhances and protects public input on the management of these forests. But it says you are not going to be able to use the courts in an abusive fashion to continue to delay these projects year after year until the beetles come and start an infestation. By the way, after they eat the dead trees, they move to the live trees.

My bill also says you are not going to accomplish your goal, Greenpeace, of kicking people off public lands by forcing paralysis by analysis by letting the U.S. Congress manage these forests by emotion.

That is why my bill passed with strong bipartisan support. Republicans and Democrats voted for the bill.

Let me show Members an example of what happens when we allow the Forest Service to do their job. This burned-out area, the Forest Service was not allowed to go in there and treat it for one reason or another, an environmental injunction, lawsuit, paralysis by the court, or because Congress has tied the forest rangers up. Here they were allowed to treat the area.

Do Members know where that fire stopped? It stopped on a line no wider than a yard, exactly where it stopped is where the forest was treated and the treated forest met the untreated forest. And the fire came up and, boom, that is where it stopped. That is pretty good science.

Let me give another example. This is down in the Four Corners, Mesa Verde National Park, the "green table" they call it down in Four Corners. Right here, this area, they were allowed to treat that area, the park management, U.S. Park Service, and they are doing a tremendous job with our parks. They were allowed to treat this area. The area they were not allowed to treat is all of the burned-out area.

Last year at the Mesa Verde National Park we had a horrific fire. Guess what happened. The treated area was saved; the untreated area burned, and it burned so hot that it did not fertilize the ground, it sterilized the ground. So the possibility of new growth will not be seen for generations. There will be grass and things, but juniper trees and pinion trees and those types of things, we are not going to see that in my lifetime. My grandchildren will not see it in their lifetime, probably, and yet 2 years ago, we had it. We had it to pass on to other generations. This area was there; it would not take 200 years to replace it. Those 300-year-old trees were there, but we were not allowed to go in and treat them. What happened, we lost it all. We lost all of the untreated area.

So, in conclusion, let me add one other thing about my bill. This is an urban area. Take a look at this poster. This does not just apply to those who live out in the country, out in the sticks, some might say. It does not apply to just us, this applies to those in communities. This is bugs that killed these trees. Go down I–70 in Colorado by Vail, there is beetle kill all along the highway. Once a beetle lands on a tree, it is like malignant cancer. It is gone. It is over.

Do you think the Sierra Club or Greenpeace or Earth First would cooperate one iota for us to go out there and get ahold of this and manage these forests? It does not happen. My bill talks about urban interface and watersheds and bug infestation. My bill talks about wildlife habitat.

My bill protects public input, and says, let us manage our forests. They are a diamond, a wonderful asset of the people of this country. Those public lands should be protected, but we do not protect them by ignoring them, any more than you protect your child by not managing your child. Some people might say, give your child whatever they want, spoil them, do not discipline them, do not manage them, do not reach any kind of balance, what time they have to come in at night. What product do you get? Usually a pretty rotten person as a result of that kind of management.

We are saying we can reach a balance. Let the Forest Service, let the parks, let the BLM do what they are best at doing. Congress does not need to manage day to day these public lands. Of course, we have oversight on public policy, but we should not be having the courts run those forests, and we should not let the United States Congress run the forests. We should let the forest rangers, the BLM agents, the range riders, let them manage those assets for us.

We are so narrow-minded on some of these things, and we have been persuaded through emotion, not through science, but through emotion to change these management techniques, and have we ever paid the price. This was a very expensive lesson last year with all of those fires, and those many fire fighters' lives we lost.

It is a very expensive lesson not to cut down a tree with beetles in it and stop the infestation. We talk about it, and in the first paragraph of a Greenpeace press release or an Earth First or Sierra Club, they always talk about clear-cutting and timber companies. They figure out every negative word they can to stop us from managing it.

This is not about timber, this is about preserving wildlife and watersheds, protecting urban interface. This is about letting the Forest Service manage forest property. All of us, all of us win. Do you know how big winners all of us would have been if we would have allowed the Park Service to go ahead and treat this area?

Tell me one loser by not protecting this area. Had we protected this area, I do not care if you are a member of Greenpeace or the other radical organizations, Earth First and so on, you would have benefited had we been able to preserve these 300–500-year-old pinion trees for many generations. They will not be replaced for 300 years, and it is because of the fact that we took management away from the people who know what to do with it; and we have consolidated it in the radical environmental organizations and, frankly, in the halls of the United States Congress.

I hope that the Senate sees what we saw in that bill, that is, the Senate, as we did, on a bipartisan basis passes the Healthy Forest Initiative. That is my bill. I know about it. I had lots of Democratic support. I had Democratic cosponsors. This is not a Republican bill being shoved down somebody's throat or a Democratic bill being shoved down somebody's throat. This is a team effort to manage those forests, and I hope the Senate sees as we did and passes that legislation before the fire season and the bug season gets too much further down the road.

## IMMIGRATION POLICY AND IMMIGRATION REFORM

The SPEAKER pro tempore (Mr. BURGESS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, I want to address the House tonight on an issue that I try often to bring to the attention of my colleagues and the Nation, and that is immigration and immigration reform, and I want tonight to induct another member into the famous "hall of homeland heroes." This is an exercise that I have gone through several times, and we have identified quite a number of people who have experienced things that should come to the attention of this body and the Nation, because these folks and what has happened to them really and truly are extraordinary events and they are extraordinary activities with which they have been involved in trying essentially to keep their own land, raise their family, and do what every American has a right to do, but they do so under very severe circumstances.

They do so in an area of the country that is very harsh, very challenging, and very unforgiving. The geography of the land, the climate of the land is in every way, shape and form severe. It is the southern deserts of the United States. It is the area in and around Cochise County, Arizona, and it is the area adjacent to our border with Mexico. All of these things make living in the area very, very difficult.

Of course the land has always been unforgiving. The environment has always been harsh, but only in the recent 5 or 10 years has the proximity to Mexico become also very problematic in terms of trying to run a business, trying to actually just live your life.

Because they have had so many problems in this regard, and because so few people have paid attention to these problems, I have decided that one way to bring their plight to the attention of the Nation is to create this thing we call the "homeland heroes" and every once in awhile to come up here with another person that we are trying to induct into that "hall of heroes."

Tonight it is Ruth Evelyn Cowan. Ruth Cowan is a fourth generation rancher who has been forced to move off of her land because of the dangers posed by hundreds of thousands of illegal aliens who cross her land every month and every year. Ruth Cowan and her husband own 16,000 acres of ranchland located 45 miles from the Arizona-Mexico border north of Douglas, Arizona. They have about 400 head of cattle.

Like many ranchers in the area, Ruth Cowan and her husband must work two jobs to make ends meet because the cost of operating a ranch often exceeds the income. Her husband works 130 miles away in Phoenix during the week. It is not safe for Ruth to live on her own ranch in her own home. She is very isolated. She has to live in Tombstone and drive to the ranch daily to supervise the operations.

Each day she drives to the ranch, she must carry not only her cell phone, a two-way radio, a camera, marking tape and a flashlight, she always carries a pistol for self-protection.

To some liberal church groups in the Tucson area, this makes her a vigilante. It also would make her a vigilante to some of the more liberal publications that emanate out of the East Coast, publications that employ writers to talk about this issue, writers who have never set foot in the desert, do not have the slightest idea what it is like to live in this area and yet take great pleasure in characterizing people like Ms. Cowan and others who do have to face the trauma of life in this area, and characterize them as vigilantes.

She carries a gun for self-protection on her own land. This does not make her a vigilante, it makes her a victim of failed immigration policy and open borders. Three years ago she had to take a leave of absence from her job as a flight attendant because the ranch requires her round-the-clock attention. This additional demand on her time is due almost entirely to the costs and other problems imposed by the flow of illegal aliens across the land.

□ 2200

Among the additional costs thereby imposed on her family has been the purchase of COBRA insurance at over $400 a month. Her ranch business has been hurt financially by the flow of illegal aliens across the land, a flow of people and illegal drugs that have increased dramatically since she and her husband first purchased the family business in 1996. Her ranch has three different south-to-north routes used by illegal aliens. Her trucks have been stolen and vandalized leading to both direct losses and increased insurance costs. She has lost many animals to the illegal aliens, including a $2,400 registered bull that died from eating a plastic bag. Another bull was hit by a hit-and-run driver and had his leg broken and had to be destroyed.

You say, eating a plastic bag? The fact is that the area around there has been so inundated by illegal aliens carrying their supplies and then depositing their trash throughout the land that in many areas it looks similar to a huge trash dump. It looks like a municipal trash dump. This is the middle of, as I say, a very pristine area; but you will come across these areas, 50, 100 acres at a time. They are called pickup sites where these folks will meet, they walk into the country illegally, they meet at these sites, prearranged where they are going to be picked up by trucks that bring them into the interior of the United States, trucks similar to those that were identified recently in Victorville, Texas, in which several illegal aliens died tragically. But from these pickup sites, then, trash is distributed throughout the area. The wind, of course, takes it; and we have a definite problem with the kind of pollution that that causes, and then not only that, of course, cattle eat the plastic, the trash bags and whatever, and they eventually die because it will not digest and it will kill them. This happens time and time again. This was certainly not unique.

But again, explain this kind of thing to someone living in Washington, D.C., writing for The Washington Post or some of these other e-mail magazines, online magazines. They have not the foggiest idea of what we are talking about and what these people have to deal with all of the time.

Because of the broken fences, cows wander onto highways and cause accidents. A nurse hit a cow recently and threatened to sue the Cowan family for negligence. Unfortunately, the illegal trespassers who cut the fence were not available to answer the court summons or to pay damages. Cut and downed fences make it very difficult to maintain a special breeding program for the cattle. Herds mix and become mongrelized and are more susceptible to diseases from neighboring herds. This means that the market value of their cattle diminishes. Thus the Cowan family suffers real economic loss as a result of these cut fences. Repair costs for gates and fences and broken waterlines have skyrocketed. The real estate market for ranches south of Interstate 10 has plummeted because no one wants to purchase a place imperiled by all of these problems. Ruth Cowan has been forced off the local roads many times by overloaded trucks running at high speeds. Unfortunately, when these speeders cause real accidents and hurt innocent people, they do not have insurance and flee into Mexico before they can be prosecuted. We are going to talk a lot more about that kind of a phenomenon later on this evening.

It is often alleged that critics of the open border policy are simply bigots, that they do not want Mexican workers in the country or as new citizens. This is hogwash, and the experience of the Cowan family shows why it is hogwash. Ruth Cowan has two employees who are Mexican nationals and work on the ranch with legal work papers. They live in Agua Prieta, Sonora and drive to her ranch about 50 miles every single day. Ruth Cowan has been trying for 5 years to get immigration approval for the wife of one of the employees to come and join her husband. The employee could then live on the ranch and not have to commute 50 miles in each direction daily. These legal Mexican workers are equally indignant about the problems affecting the Cowan ranch because they see the problems firsthand and know that it affects their own lives as well. One of the employees had his own truck stolen by illegal trespassers.

This is something else that really deserves the attention of the body and, again, the attention of the people back here who either write or opine about the problems that we face in the United States and in the western United States with illegal immigration. What they do not understand is that it is not Anglo-Americans that are imperiled by this. It is not a race issue whatsoever. Every time I do this, that I come to the floor and I talk about this issue, I will go back and there will be a lot of e-mails, a lot of calls on our line. Most of them are quite supportive, and many of them, a high percentage of them are from people who suffer these kinds of problems, people of Hispanic descent who say to me, what you are doing is right, what you are saying is right, we have come here legally, we are trying to work through the process, we are trying to live a life in the United States, build a life here. We live by the rules and by the laws. And they resent it that other people get to sort of jump in front of the line, in front of them, that other people take advantage of our lax immigration law, lax immigration enforcement, in fact nonimmigration law enforcement. They resent it. And they have every right to resent it. And they are Hispanic Americans and they are black Americans and they are white Americans and they are brown Americans and pink and blue and every color Americans, but they are just as angry about this as anyone else; and they have every right to be angry about it.

Another thing we will talk about this evening later on is the impact of massive immigration on low-wage, low-skilled workers, how many of them are negatively impacted by the flow of illegal aliens into this country. But we will save that for a later time this evening.

Ruth Evelyn Cowan is a law-abiding citizen and a fourth-generation rancher who only wants to live on her own land, manage a business for the benefit of American consumers, and enjoy life with her husband in a safe community. She would like to be able to spend a weekend with her husband and not have to stand watch over the trails used by illegal trespassers. She would like to have the first activity of each new day not be the repair of broken or trampled fences and other damage caused by uninvited intruders.

She would like to sleep through the night without someone calling on the phone to tell her to come and get her cattle off of the highway. She would like to be able to invite friends to her ranch without worrying about the piles of trash visible all across the rangeland. She would like to be able to ride her horse on her own land without a bodyguard. She would like to be able to host groups of students who want to learn about the ranching business without having to apologize for the dangers and the rash of diseases and crimes afflicting the region. In short, Ruth Evelyn Cowan wants to be able to live the kind of life that she would be able to live if we had a secure border and adequate enforcement of our immigration laws.

I speak of Ruth Cowan's problems and fears not only out of sympathy for her and her family and not only as an example of what is happening to thousands of ranchers across the Southwest. I speak of these problems because they are problems that are growing all across our Nation and problems we cope with very inadequately and unsuccessfully with the impact of massive illegal immigration. If we do not address these issues now, these problems will continue to grow and multiply not only in the States on our southern border. The problems will multiply in Omaha; Portland; Fort Collins, Colorado; Chicago; and Spartanburg.

I commend to you this life, this individual, Ruth Cowan and her family; and I suggest that we owe them a great deal. We owe them at least the protection that every citizen in this Nation has the right to expect from their government. The Constitution of this United States gives the Federal Government relatively few true responsibilities. We usurp many. We take many responsibilities here that have absolutely nothing to do with the Federal role in our constitutional government. We can have debates over whether or not we should have a U.S. Department of Education even though the word "education" does not even appear in the Constitution anywhere. We can argue about whether the role of the Department of Health and Human Services is relevant and important and a Federal issue.

We can argue all of these things, and I think there is logic to the argument that we have usurped many of these responsibilities from the States. But one thing about which there is no argument is the fact that the Federal Government owes the people of this country the right to think, anyway, and believe that it will try its best to protect and defend their lives and their property. That is a Federal role. That is something the States cannot handle. They cannot raise armies and they cannot develop immigration policies. At least they should not. That is another issue again for perhaps a little bit later time.

There are, of course, States and localities throughout the United States that are succumbing to the siren song being played to them by the Mexican consul in their area. The Mexican consul and consulates throughout the United States, all 47 of them, have been charged with the responsibility by the government of Mexico to go out and lobby State and local governments to get them to accept anyone who is here, to accept the matricula consular. This is a Mexican ID card given to Mexican nationals living in the United States and, of course, given to Mexican nationals living here illegally. In fact, the only purpose these cards serve is to provide some sort of identification to someone who is living here illegally or to a felon who is trying to change his identification.

So for in the last several months, 1.5 million of these cards have been distributed in the United States and the Mexican consulates are handing them out every day. They send out vans, as a matter of fact, to pass out these cards. Then they go to the cities and States and get them to accept the cards that are given out to these illegal aliens. And many States, many localities are doing it. California is in the midst of a discussion in the State legislature that would actually have the State accept the matricula consular from illegal aliens for the provision of services.

That is running a different immigration system. How many immigration systems are we supposed to have in the United States? The one the Federal Government runs and the one that the State of California or the city of Denver and the city of Tucson run along with the Mexican consul? These are all different immigration policies. But it is a uniquely Federal role. To a certain extent, the Federal Government has abdicated that role, so States and localities, in a way, they are saying, okay, if you don't want to handle it, I guess we will. But they are not protecting the Cowans. They are protecting illegal aliens. All these cities and States that are anticipating this acceptance of the matricula consular, this Mexican ID card and ID cards that are now being handed out by at least five other governments, foreign governments to their illegal nationals living in the United States, people who are doing that, these cities and States and police departments that are doing that are aiding and abetting criminal activity in the United States.

Yes, I said aiding and abetting criminal activity. That is what even police departments are doing when they accept these cards. If a police officer is shown a card, a matricula consular, they should immediately arrest that individual, because that is prima facie evidence that that person is here illegally. Because you do not need the card if you are here legally. If you come into this country legally, you have something called a green card, or a visa, or a stamp on your passport, or something the United States Government has given you. You do not rely on another country's identification card, especially in a time like this, especially when we recognize that porous borders mean a danger to the actual existence of the United States. But here we are allowing cities to do this, allowing States to do this, and even having the Federal Government actually anticipate doing this, with the Department of Treasury issuing regulations not too long ago saying that banks could do this, could accept a card from people so they could open bank accounts.

I understand the motivation of the bank. I know what they are wanting to do this for. It is called money. It is called the dollar sign. It is called the bottom line, right? They are a business and you can excuse it, you can rationalize their behavior. They are simply being greedy and doing exactly what they should be doing, I guess, as greedy huge corporations trying to improve their bottom line. They see this group of what they call the unbanked, 13 million people living here illegally and not being able to get fees from them, that makes these bankers, the Wells Fargo board of directors salivate thinking, my goodness, think of all those people from whom we could collect fees and how we could get all that money they make, what little it is does not matter. Multiplied by 13 million, that could be a lot of money. The unbanked, that is what they call them.

There is another word, it is illegal aliens; and you are aiding and abetting a criminal activity. It is against the law to aid and abet someone who is here illegally. That is against the law. It is against Federal law. Yet all of the things I am describing are things that government agencies are doing. That is how bizarre this whole immigration policy has become.

□ 2215

So the Cowans and others look to the Federal Government for help. They get none. They look to their State for help. They get none.

Recently, because of the pressure that has been applied as a result of these weekly stories that we bring to the attention of the body, it is suggested that because of the pressure that has developed as a result of this noise that we are making about this, little things seem to be changing.

I want to say how happy I am about the fact that some different people are in place in the Border Patrol in that area, in the administration of the Border Patrol. I understand that some new folks are on hand down there and may be looking at this whole issue differently and be willing perhaps to help the Cowans and all the other ranchers in Cochise County begin to control this problem. I hope that is true.

I understand that the sheriff in Cochise County has become a little more amenable to the concerns of the people down there. I am very happy to hear that. I am encouraged by the fact that little things may be happening for the people in Cochise County because we have made a lot of noise about it.

But it is not enough. It is not enough, because the plight of the people in Cochise County, Arizona, is the plight of literally millions of Americans, and will be the plight of the entire Nation if this phenomenon of massive immigration into the country, unchecked, unrecognized immigration, illegal immigration into this country, goes without our attention.

During the break, during the last week when we were off, the Memorial Day break, I got a call from someone who was telling me about a situation that had occurred in a little town in Colorado, so I can bring this a lot closer to home. I am, of course, a Representative from the Sixth Congressional District of Colorado, which is the southern suburbs of Denver really.

There is a town in northeastern Colorado called Yuma. I got a call from someone who was saying, Do you know what is happening in this little tiny town of Yuma, Colorado, a town I know well and have been through many times. They said in the last, really just year-and-a-half, 2 years, the whole town is suffering through a really significant and traumatic time.

They went on to explain that because of something that occurred, again, just not more than a couple or 2 or 3 years ago, when a couple of families of illegal immigrants moved into the area, moved into the town from a particular village in Chihuahua, Mexico, and found employment there. They then called their family and relatives in this small town where the unemployment rate was like 80 percent and said, Look, we found a job in Yuma, Colorado, and we can get you on here. There is a big dairy farm, there are several various cattle feeding operations there, several pig farms, and there was work. They could get paid under the table. Everybody was pretty accommodating. They could get paid. It was probably less than would be the going rate otherwise, but after all, they were here illegally, so they were willing to accept a lower wage and more difficult conditions.

So, other people came from this village in Chihuahua, Mexico, to Yuma, Colorado. Over time, more came, 20, 30, 40, 50, 100, and now this group of illegal aliens makes up a significant chunk of the town. About one-third of the school district, the population of the school district, are children of illegal aliens living in Yuma, Colorado.

Well, what does that mean? For them it may be a better life. It may be better than that small village in Chihuahua. Nobody can argue that. But what does it mean for the people in Yuma?

Well, let us see. It means higher costs for infrastructure activities, highways and police activities and schools. There is a bond issue that is being considered for Yuma, Colorado, and they are concerned about whether this bond issue will pass, because they recognize that a lot of people in Yuma think that the reason why the bond issue is being put forward is because they are going to have to pay for the additional costs incurred by the school district because of all of these children of illegal aliens in the schools, over 280 children.

I went up there. I drove up to Yuma to see this myself and to talk with the school superintendent, who agreed to meet with me, a very interesting and pleasant fellow who had been around the business for a long time. He was telling me, among other things, that the highest single budget item that they have is English as a second language now, $280,000, which is higher, he said, than what they spend for English language education, history, science, any other program in the school district. This is, again, this little tiny school district.

He said, sure there are problems. You go into the cafeteria at any given time, you are going to see the Hispanic kids sitting over here and the Anglo kids sitting over here. Because of the language problems, he said, we have had a significant decline in our test scores. They have plummeted. Naturally, they are going to suffer in that way.

The rest of the community and the town are calling up and saying, What is happening here? Our town, our kids and this school district have always done so well, our scores have been so good. How come our district is not doing as well anymore? And a lot of kids are moving to a little school district called Lone Star, Colorado.

Fights, they are having all these problems in the school and having problems in the town. And yet, as I talked to him, I said, you know, does anybody not talk about this? Does anybody not bring this to light?

He said, No one wants to talk about this problem. He said, Everyone in this town knows it is a problem, but nobody wants to talk about it. He said, You might go over to the coffee shop and sit down, and you can really get to know somebody, and they might begin to discuss it. But generally speaking, they do not want to talk about it. They are fearful of talking about it. But everybody knows it is happening, and it is a huge problem for this little tiny town.

Now, here is the other part of the story. It is not unique. This situation in Yuma, Colorado, is not unique. In fact, Yuma is a microcosm of this phenomenon. It is happening in small towns all over the United States of America. But do you know what? Nobody wants to talk about it. You did not hear this.

I have certainly not seen any reference to this in the local media. Our two major dailies did big stories, or one at least did a big series of stories supposedly about the problems of illegal immigration or immigration into Colorado. I do not remember any discussion of Yuma, Colorado, or the problems that exist in that small town, or any of the other small towns in Colorado where this is happening.

The picture that is portrayed by most of the media of illegal immigration, certainly the media out here and the media in my area, that picture is one of this idealistic sort of situation where you have got a family come in, they are hard-working, the kids are in school, kids are going to school in the United States. They are saying what they want, they simply want to go to college for in-State tuition, and how bad we are, how selfish we are, that maybe a State does not want to provide subsidized education, the taxpayers of a State, higher education for people who are here illegally. How incredible. That is the portrait that is painted by the media of the typical family.

Well, that is a true picture of many people who are here illegally, but it is not the only picture. And what about the lives that are affected negatively by that family? What about the costs to the society, financial, and in terms of tearing communities apart; what about those costs? When are they calculated? How are they calculated?

I have seldom seen anybody want to publish a study. The many studies that have been done, Professor Huddle, there have been many, many studies that have been done that identify the negative aspects of massive immigration of low-skilled, low-wage people.

A professor by the name of Virginia Abernathy comes to mind at Vanderbilt University. Her portrayal of this can be characterized in a way that is illustrative of the problem. She says massive immigration of low-skilled, low-wage people into the United States does create profits for some, it is true, profits for the employers of those people, but it creates costs for the many. It creates costs for schools, for highways, for housing, for social services and for health care; costs that are far higher than any of the tax revenues that are gleaned from the people who are working here.

First of all, they are working for very low wages. Many of them are working, like many of the folks out in the Yuma area, they are working and being paid under the table, in cash, no taxes being collected. Even when taxes are collected, when illegal aliens obtain Social Security numbers, file income tax statements, because their wages are so low they usually are able to claim the Earned Income Tax Credit.

I will never forget, we came through one of these pick-up sites I was telling you about earlier in the desert in Arizona, and there on the ground there was a tax form. Among all this trash strewn all over the desert floor, there was a tax form, a claim for the Earned Income Tax Credit for a gentleman who had been in this area, dropped it or had thrown away this form, and claimed he had made about $8,000 or $9,000. He had paid, I think it was less than $100 in taxes, because he had several children, and claimed $3,700 in Earned Income Tax Credit.

So even when people "pay taxes," people who are here illegally, the fact is they can and do oftentimes get money back. In 1994, right before we passed the 1996 act, in 1994 a Democratic Treasury Secretary, Lloyd Bentsen, was talking about this, and he said he believed there were hundreds of thousands of illegal aliens taking advantage of the Earned Income Tax Credit.

I do not know what the numbers are today, but I believe they are still very, very high. These are costs to our society.

There is another cost that no one wants to talk about. It is the cost to other low-skilled, low-wage workers in the United States who are here legally, who are citizens of the country, or who are here as legal aliens, have legal alien status. Their wages are significantly depressed by the numbers of people coming in here, into the United States, and taking these other jobs, these low-skilled, low-wage jobs.

To employers, this is great. There are employers at Tysons Food, some of the executives at Tysons Food, a huge corporation, of course, a huge food corporation in Arkansas, some of these guys may be going to jail soon. Charges have been brought against them by the Federal Government, RICO charges have been brought against them, because not only did they hire illegal aliens in their food factories, but they imported them. According to the charges that have been brought, they are actually helping the importation of people into the plant, importation of people to come in here illegally. Again, not just aiding and abetting, but in this case actually participating in the act of bringing in illegal immigrants into the United States.

□ 2230

So there are many people in this country who are harmed by the presence of so many illegal immigrants in this country. Their plight is hardly ever discussed by the media. We hardly ever see that. We would never have heard of Ms. Cowan had I not brought her to your attention tonight.

There are millions of people in this country who have been harmed because of our lax border policies. I am going to host, I and a number of other organizations will be hosting the week of September 11, that week we will be hosting an event here in Washington. It is called the Day of Remembrance for Victims of Open Borders and Illegal Immigration.

We are encouraging, Mr. Speaker, everyone who has had a problem, everyone who has been in fact victimized because of our open border policies and by illegal immigrants to come here and tell their story, identify themselves to their congressional representatives, to their House Members and to the Senate Members that represent their State.

Tell them what has happened to them; tell them about their loved ones who have been killed, killed by people who came into this country illegally and were later able to escape back into Mexico and therefore, because they refuse to extradite people to the United States who may face the death penalty, they are still in Mexico living life down there.

There are literally thousands, actually hundreds of thousands of people who fall into this category. It is not just people who have been harmed physically or have had members of their family harmed physically, of which there are many; and we can go through some of them a little bit later. But it is also, you know, when one has been displaced, when one has been displaced by a foreign worker who comes into this country, takes the job that you had because someone is going to pay them a little less money for it, pay the illegal worker less money, and you are displaced. That is a distinct disadvantage at which you are placed. It is a harm to you and to your family that has been done because of our policies.

There can be a legal process in which people can come into this country and work if we truly need workers. I hear this all the time, that the reason why we have people come into this country and do this work illegally is because there are all these jobs American workers will not do.

If there are these jobs, and there may very well be, and there are certain industries where I recognize there is a need, then a legal process has to be developed in order to bring people in to get work and so that their rights can be protected, so they can be protected against the abuses of unscrupulous employers, so people coming in here do not have to sell their souls to the coyotes, do not have to be locked into the back of tractor-trailers.

They can actually come into the United States in a legal process, but they must return home. That is a guest worker, a person who works here a while, returns to the country of origin, cannot bring family into this country, cannot establish residence, permanent residence, and cannot eventually become a citizen through that process, because that is called immigration; and that is over here.

We still have the most liberal immigration policies in the world. If we cut it in half or if we cut it to one-third of what we are presently doing in immigration, legal immigration, we would still have the most liberal immigration policy of almost any country in the world.

So they can come into this country one of two ways legally, if we have a guest worker program or through immigration; but they cannot be the same thing. People cannot come in here and expect to become a citizen through this guest worker program.

Also, we cannot possibly have a guest worker program, which is being proposed by other Members of this body, we cannot have a guest worker program unless we have secure borders. Because no matter what we say or no matter how we define a guest worker, someone will choose not to come that way and come through the porous borders, so we have accomplished absolutely nothing. So the borders have to be secure before any guest worker program can be initiated, secure borders.

Yes, we can have it. Yes, it can happen. It is the only way to have a guest worker program. We can have one if all of these jobs that, as I say, Americans will not take are really out there.

That is the other thing, you have to prove that you have tried to give that job to an American citizen and that you cannot find anybody, and you cannot pay somebody less because they are coming in here through a guest worker program. So their rights can be protected and American citizens' rights can be protected, but only if the border is secure. That is the only way a program like that will work.

When we suggest this to many of my colleagues, Mr. Speaker, who are in fact pushing these ideas, they do not want to talk about secure borders, or they want to use it as a platitude. They say, yes, we have it. We will increase the number of Border Patrol. Of course, that is not securing the border. We have to militarize the border on both the northern and southern borders, as my friend and colleague who has joined me here tonight has told this body on more than one occasion. We need to be able to use the military to augment the Border Patrol, the Customs Service, Forest Service personnel, until we can actually gain control of our own borders.

For that discussion or whatever point he would like to make, I will yield to my friend, the gentleman from Virginia (Mr. GOODE), and ask him to join us and give us his comments.

Mr. GOODE. Mr. Speaker, I want to thank the gentleman from Colorado (Mr. TANCREDO) for his persistence on the illegal immigration issue. He has brought his message to this body and to outside this body. Without his leadership, I do not think as many in this country would be aware of the huge cost that illegal immigration places on the taxpayers of the United States.

I have heard people in this body and in this Chamber and in the halls of the committee rooms talk about the deficit. Well, one way we can deal with the deficit is clamp down on illegal immigration. If we put a halt to that, there would be less hospital charges to Medicaid that our States and that the Federal Government would have to match; there would be fewer demands on our social service system; fewer demands on our food stamp system; fewer demands on an array of other services.

Also, we would not have to deal with the situations that occurred a few weeks ago with the tragedy of 18 or 19 persons dying in an overheated, piled-up trailer. We could save money in this country and have less of a deficit if we could halt illegal immigration.

But my reason for being here tonight, and I want to thank the gentleman from Colorado for yielding to me, I wanted to relate an example of how our policies with the United States Treasury Department, coupled with the views of the Mexican Government, cost us the United States taxpayers' funds.

There was a gentleman from Mexico named Mr. Gamez. He came to my office four times trying to find out where the Mexican identification cards were for his sister, for his mother, and for his father. He had a green card and he was legally in the country, a very nice person.

I had the opportunity to talk with him about why he so critically needed these Mexican identification cards right away. This was in April, at the time that taxes were due. He was filling out his income tax returns. He needed these cards so that he could send them to the United States Treasury in an application process for an individual taxpayer identification number. They have a little form you fill out, a blank for the type of identification. This says country/State of the issuing ID, the ID number, the expiration date.

He wanted the Mexican ID cards to get him a U.S. taxpayer identification number. He lived in the United States; but his father lived in Mexico, his mother lived in Mexico, and his sister lived in Mexico.

He said, I do not have any children, but I am helping my mother, I am helping my father, and I am helping my sister. He wanted to get the taxpayer, the U.S. taxpayer identification number using the Mexican ID number so he could claim them as dependents.

I said, well the way I look at that is what you are doing, you are taking money out of the United States at the expense of the taxpayers, because I have heard a number of workers in my area complain that those with green cards have a much bigger check than those who are natives of the United States of America and have dependents that live in their homes, if they have them, and we can readily ascertain how many dependents they have.

I noticed on the forms with the sister's name on it, with the mother's name on it, with the father's name on it, they were listed as a Rocky Mount, Virginia, address. I said, are they living here in Rocky Mount with you? Oh, no, they are living in Mexico. But I can apply for these numbers and then I can count them as a dependent, and then there will not be any taxes withheld out of my check, and I will not have to pay any income taxes.

I said, How did you learn about all of this? He said, well, the Mexican officials were schooling me on it. He did not use the word "schooling." "Schooling" is a parochial term used in Franklin County. It is how one gets an education on how to get yourself more money.

That is what he was doing. He wanted to get those Mexican IDs to get his U.S. taxpayer identification number so he could put their names on his 1040 form and get back a refund. I do not know how much he was making, certainly it would depend on those factors, but he would be able to claim three additional dependents in addition to himself.

He said the Mexican officials were helping him. They told him to come and see me. Maybe they just said that blanket, not me personally, but go see your Member of Congress if you need to get your ID cards. So he came to the office four times before I had the opportunity to personally meet with him.

But I questioned whether this was valid under the United States Tax Code, so I had a meeting in my office with the persons from the IRS. As I understood what they said, what he was doing is valid under the U.S. Tax Code and valid under our IRS rules and regulations. This is an example of how our money is being shifted to another country. I really wonder whether we should be encouraging situations like this. I think not.

I have heard tonight before the gentleman from Colorado (Mr. TANCREDO) and the other gentleman from Colorado had their chance to speak how bad the tax cut bill was that passed.

I got to thinking, you know, what if there were not an adult sister, an adult mother, and an adult father, but it was three children. If the bill like the complaints were made had passed, even though this gentleman would have owed no U.S. income tax, did not owe any, did not pay any, we would be sending him a check in the mail if their position prevailed; a further drain on the United States Treasury, a further drain on the United States economy.

I think we need to take a close look before we buy into this argument of let us make the child tax credit refundable, because George Bush and those of us who voted for the previous tax cuts did such a good job with the current child tax credit that many of those earning between $10,000 and $26,000 are not paying any Federal income taxes. They do not owe any; they do not pay any. Therefore, they do not get a check back. It is for those who have paid Federal income taxes. If someone is making $10,000 a year and paid some Federal income tax, they can get it back under the plan we passed.

But I am just wondering how much schooling the Mexican officials are giving that talked with Mr. Gamez, and are going around the country educating, and I use that word in quotes, those with green cards to suck more money out of the United States.

□ 2245

I think we need to be wary of that. And that causes me much concern when the advocates say how the tax bill was not fair to those that are not getting a refund, which means a check in the mail. You did not pay any income tax, you did not owe any income tax, but we are going to send you a check anyway.

Mr. Speaker, I thank the gentleman for allowing me to tell you about this specific situation in the town of Rocky Mount, Virginia.

Mr. TANCREDO. Mr. Speaker, I very much appreciate the gentleman coming down and discussing that tonight.

He brings up an interesting point that is the kind of activity that is going on throughout the country, some of it being sponsored by the Federal Government and other by Federal agencies in order to encourage people to come here illegally, in order to get benefits of every kind, variety and shape.

In Colorado I just got a flier from an organization. It is actually a group of people that are sponsoring this group of organizations; and they have gone to a couple of counties in Colorado. One is Jefferson County, which I live in; one is Adams County just north of me. And the flier talks about this and they have the county treasurers to join them in this effort, and what is the effort? It says, building communities one taxpayer at a time. You think, what are they talking about here? And the big title of their conference that they are going to have on July 12 in Colorado is to teach people how to get taxpayer identification numbers.

It says, who needs one of these? Anyone who cannot get a Social Security number needs a taxpayer identification number.

Now, you have to ask yourself a question, How many people in this country have to have a taxpayer identification number as opposed to a Social Security number? Because when you call the IRS, they tell you it is one in the same. If you have a Social Security number, that is the same as your tax ID number. If you do not have a Social Security number, you fill out this form and you get one. Who would do that? People who are here legally like the gentleman referenced so he could pay his taxes. How about people who are here illegally? We do not know. We are not going to try to stop them.

If somebody comes in and applies, they are going to get it. What do they need it for? What does somebody who is here illegally need a taxpayer identification number for? I will tell you one thing they need it for is that every time we start talking about amnesty for everybody who is living here legally, one of the things that comes up is someone is going to prove that they have been here and working for some time and they will turn to this taxpayer identification number so they can prove that and they get amnesty. It comes through this particular body.

It is to do just exactly what the gentleman has suggested. It is to obtain benefits from the Federal Government in terms of tax credits for your children, tax exemptions, tax deductions and all of it, so if you are working here, even if you are working here illegally, people do get fake Social Security numbers, it happens, strange as that may seem, I know it is hard to believe, but it occurs. And this identity fraud is becoming even another huge problem. But here we are teaching people the classes, my friend from Virginia uses the word "schooling" for them, and that is exactly what they are doing. They advertise. This is not clandestine. It is not like, oh, my goodness, do not tell anybody. Come over here on the 12th of July; we will explain how to actually scam the system.

They make a big picture, a big brochure about it and send it out. They send it to the county treasurers. They say, look, this is one of things they said to the county treasurer, if we get all these people in to claim these deductions and claim these tax credits, do you know how much that means to come to the county? Dollars coming to the county, people who are living here illegally but they will be able to get these tax deductions for their kids so that means money to the county. That is how they get the county commissioner and county treasurer sucked into it. It is as if this money is coming from Venus. It is a scam.

It is another example of the attempts that are so much a part of everything I see around here, and that is to eventually come to the position where there is absolutely nothing that distinguishes you as being here illegally from someone who is here legally. Everything that that person who is here legally can do, all of the benefits they can achieve as a result of citizenship in this country, legal status in this country, every single benefit would be accorded and afforded to you, someone who is here illegally. Therefore, the distinction is gone. And the whole concept of citizenship is gone.

It is an attack on citizenship. It is an attack on the concept of citizenship. It is an attack on the sovereignty of the country. It will be the place where a lot of people reside. There are cities not too far from where we stand tonight that allow people to vote just based on their residence. All you have to do is bring in a copy of your utility bill. You can vote. They do not ask you whether or not you are here legally. They call themselves refugee cities. They are in Maryland. They are all over the place along the east coast here. The Mayor of this city, Washington, D.C., proposed that not too long ago to the city of Washington, I mean the District of Columbia, that it, in fact, should allow people to vote simply because they are residents, nothing else. Residents of the country. Not citizens. The concept is under attack.

Whether these cities and counties that are accepting the matricula understand this or not, I do not know. Whether all of these city officials and county officials who are aiding and abetting illegal immigrants in this country, aiding and abetting people in the violation of our laws, whether they recognize it, and people do not think it is more than a little transgression, that it is like jay walking, no, this has major implications. It is meaningful stuff. It is a transition our country is going through here that I do not know if everybody understands that we are simply moving and we are directly moving to a system that will not have, as I say, a way of distinguishing a citizen from a noncitizen. It is just a place where they are residents.

Borders will be erased de facto. Borders will be erased. Maybe that is okay. Maybe that is exactly where everybody in this place wants us to go. I would like to put it to a vote. I would like to see somebody actually have to vote on whether or not we have to erase the borders because that is where we are heading. We are doing it a little bit at a time. It is the old frog in the hot water syndrome where the heat is turned up one notch at a time and you look back and say, what happened here? What happened?

Is there a time when citizenship meant something? We are going to debate, and I think the gentleman from Virginia (Mr. GOODE) is on the committee that is debating the bill to give citizenship status to the families of people who have fought in the service, were in the armed services for a year; and we will now give status to them if they were here legally. I think it is coming to the floor soon, tomorrow or the next day. And the bill is lengthy, about exactly what you have to do in order to get this thing called citizenship and what you have to go through.

We pretend like we prize it. If you get a dishonorable discharge, you cannot have it. We pretend like it is this wonderful thing. Well, it is a wonderful thing. I think it is a wonderful thing. I think citizenship in this country is a marvelous thing. But it is a strange phenomenon that on one hand here we are coming with a bill that pretends that citizenship is meaningful and that everything else we are doing here aids in the destruction of the concept of citizenship and the fact that the Federal Government, through its Department of the Treasury, promulgates regulations that allows banks to accept the foreign government ID card from a person who wants to open an account. This is an example.

It is one step in this process and it is a pretty good step. Actually, it is not a little thing, the unbanked, the millions and millions of people who are here illegally, that the banks want to get a hold of their money. That is a big step in this direction that I am pointing to, a step to a place where there is no such thing as citizenship and whether or not we can have the debate whether or not someone is here legally or not, it does not matter if you are here legally or not.

Mr. Speaker, I thank the gentleman from Virginia (Mr. GOODE) for joining me this evening and for letting me bring this to the attention of the body.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CARSON of Oklahoma (at the request of Ms. PELOSI) for today after 2:30 p.m. and the balance of the week on account of a family emergency.

Mr. REYES (at the request of Ms. PELOSI) for today before 2:00 p.m. on account of official business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today before 3:00 p.m. on account of official business.

Mr. RYAN of Wisconsin (at the request of Mr. DELAY) for today on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. RANGEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. CROWLEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. DEGETTE, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

(The following Members (at the request of Mr. HENSARLING) to revise and extend their remarks and include extraneous material:)

Mr. BEAUPREZ, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, June 10.

Mr. CULBERSON, for 5 minutes, June 4.

Mr. DUNCAN, for 5 minutes, today.

Mr. LEWIS of California, for 5 minutes, June 5.

Mr. HENSARLING, for 5 minutes, today.

Mr. BRADLEY of New Hampshire, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

## ADJOURNMENT

Mr. GOODE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 4, 2003, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2489. A letter from the President and Chairman, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Morocco pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 22 U.S.C. 2776(c); to the Committee on Financial Services.

2490. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Taiwan pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

2491. A letter from the Associate Commissioner for Education Statistics, Department of Education, transmitting the annual statistical report of the National Center for Education Statistics entitled, "The Condition of Education 2003," pursuant to 20 U.S.C. 9005; to the Committee on Education and the Workforce.

2492. A letter from the General Counsel, Department of Commerce, transmitting a draft bill to amend the Communications Act of 1934 to provide the Federal Communications Commission with permanent authority to auction spectrum licenses and with new authority to charge fees for unauctioned spectrum licenses and construction permits; to the Committee on Energy and Commerce.

2493. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communication Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations (Douglas and Tombstone, Arizona, and Santa Clara, New Mexico) [MB Docket No. 02-374, RM-10598] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2494. A letter from the Senior Legal Advisor, International Bureau, Federal Communication Commission, transmitting the Commission's final rule — Amendment of the Commission's Space Station Licensing Rules and Policies [IB Docket No. 02-34]; Mitigation of Orbital Debris [IB Docket No. 02-54] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2495. A letter from the Attorney Advisor, Wireline Competition Bureau, Federal Communication Commission, transmitting the Commission's final rule — Tecommunication Relay Services and the Americans with Disabilities Act of 1990 [CC Docket No. 90-57] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2496. A letter from the Deputy Chief, WCB TAPD, Federal Communications Commission, transmitting the Commissions final rule — Schools and Libraries Universal Service Support Mechanism [CC Docket No. 02-6] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2497. A communication from the President of the United States, transmitting a combined six month periodic report on the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) declared in Executive Order 12808 on May 30, 1992 and Kosovo in Executive Order 13088 on June 9, 1998, pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 108-77); to the Committee on International Relations and ordered to be printed.

2498. A communication from the President of the United States, transmitting a 6-month report on the national emergency declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, pursuant to

50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 108-79); to the Committee on International Relations and ordered to be printed.

2499. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DDTC 040-03], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2500. A communication from the President of the United States, transmitting notification to terminate the national emergencies declared in Executive Order 12808 of May 30, 1992, and Executive Order 13088 of June 9, 1998, with respect to the former Socialist Federal Republic of Yugoslavia; (H. Doc. No. 108-78); to the Committee on International Relations and ordered to be printed.

2501. A letter from the Secretary, Department of Energy, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 to March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2502. A letter from the Secretary, Department of Labor, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 to March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2503. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2504. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2505. A letter from the President, Legal Services Corporation, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 to March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2506. A letter from the Chairman, Securities and Exchange Commission, transmitting the semiannual report on activities of the Inspector General for the period ending March 31, 2003 and the Management Response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2507. A letter from the Chairman, U.S. Postal Service, transmitting the semiannual report on activities of the Inspector General for the period ending March 31, 2003 and the Management Response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2508. A communication from the President of the United States, transmitting notification of his determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Trade Act of 1974, pursuant to 19 U.S.C. 2432(c) and (d); (H. Doc. No. 108-80); to the Committee on Ways and Means and ordered to be printed.

2509. A communication from the President of the United States, transmitting notification of his determination that a continuation of a waiver currently in effect for the Republic of Belarus will substantially promote the objectives of section 402, of the Trade Act of 1974, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 108-81); to the Committee on Ways and Means and ordered to be printed.

2510. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates and Policy Changes [CMS-1472-F] (RIN: 0938-AL92) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. Supplemental report on H.R. 2143. A bill to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes (Rept. 108–133, Pt. 2).

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 1320. A bill to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; with an amendment (Rept. 108–137). Referred to the Committee of the Whole House on the State of the Union.

Mr. SESSIONS: Committee on Rules. House Resolution 256. Resolution providing for consideration of the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes. (Rept. 108–138). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 257. Resolution providing for consideration of the bill (H.R. 760) to prohibit the procedure commonly known as partial-birth abortion. (Rept. 108–139). Referred to the House Calendar.

## REPORTED BILL SEQUENTIALLY REFERRED

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1836. A bill to make changes to certain areas of the Federal civil service in order to improve the flexibility and competitiveness of Federal human resources management; referred to the Committee on Ways and Means for a period ending not later than July 25, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(s), rule X.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ANDREWS:

H.R. 2301. A bill to direct the Secretary of Homeland Security to provide for the installation of chemical and biological detection devices in the enclosed passenger boarding stations of each heavy rail transit system in the United States; to the Committee on Transportation and Infrastructure.

By Ms. BALDWIN:

H.R. 2302. A bill to extend for an additional six months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. HAYWORTH:

H.R. 2303. A bill to limit the United States share of assessments for the United Nations regular budget; to the Committee on International Relations.

By Mr. BLUNT:

H.R. 2304. A bill to resolve boundary conflicts in the vicinity of the Mark Twain National Forest in Barry and Stone Counties, Missouri, that resulted from private landowner reliance on a subsequent Federal survey, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE:

H.R. 2305. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Mr. DOOLITTLE:

H.R. 2306. A bill to delay the effective date of certain provisions relating to the labeling of ginseng; to the Committee on Energy and Commerce.

By Mr. HOBSON (for himself, Mr. Ortiz, Ms. Pryce of Ohio, Mr. Tiberi, Mr. Gillmor, Mr. Rodriguez, Mr. Regula, Mr. Reyes, and Mr. Oxley):

H.R. 2307. A bill to provide for the establishment of new Department of Veterans Affairs medical facilities for veterans in the area of Columbus, Ohio, and in south Texas; to the Committee on Veterans' Affairs.

By Mr. LEVIN (for himself, Mr. McDermott, Mr. Lewis of Georgia, Mr. McNulty, Mr. Becerra, Mr. Frank of Massachusetts, Mr. Price of North Carolina, Mr. Hinojosa, Mr. Hastings of Florida, Mr. Ackerman, and Mr. Honda):

H.R. 2308. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes; to the Committee on Ways and Means.

By Ms. MILLENDER-McDONALD:

H.R. 2309. A bill to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Signal Hill, California, as the "J. Stephen Horn Post Office Building"; to the Committee on Government Reform.

By Mr. RAHALL (for himself, Ms. Bordallo, Mr. Acevedo-Vilá, Mr. George Miller of California, Ms. Lee, Mr. Case, Mr. Grijalva, Mr. Rodriguez, Mr. Markey, Mr. Faleomavaega, Mr. Udall of Colorado, Ms. Slaughter, Mr. Pallone, Mr. Inslee, Mr. Blumenauer, Mr. Abercrombie, Mr. Nadler, and Mr. Kind):

H.R. 2310. A bill to protect, conserve, and restore native fish, wildlife, and their natural habitats on Federal lands and non-Federal lands through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes; to the Committee on Resources.

By Mr. SESSIONS (for himself, Mr. Doolittle, Mr. Jones of North Carolina, Mr. Hastings of Washington, Mr. Stearns, Mr. Paul, Mr. Souder, Mr. Garrett of New Jersey, Mr. LaTourette, Mr. Sullivan, Mr. Hayes, Mr. Davis of Illinois, Ms. Ginny Brown-Waite of Florida, Mr. Hefley, Mr. Vitter, Mr. Green of Wisconsin, Mr. Forbes, Mrs. Jo Ann Davis of Virginia, Mr. Frost, and Mr. Toomey):

H.R. 2311. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained age 62; to the Committee on Ways and Means.

By Mr. SHIMKUS (for himself, Mr. Markey, Mr. Tauzin, Mr. Dingell, and Mr. Upton):

H.R. 2312. A bill to amend the Communications Satellite of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement; to the Committee on Energy and Commerce.

By Mr. SPRATT:

H.R. 2313. A bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of tax-exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets; to the Committee on Ways and Means.

By Mr. TIERNEY (for himself and Mr. Shimkus):

H.R. 2314. A bill to support business incubation in academic settings, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WEINER:

H.R. 2315. A bill to amend title 18, United States Code, with respect to certain prohibitions relating to police badges, and for other purposes; to the Committee on the Judiciary.

By Mr. WYNN:

H.R. 2316. A bill to enhance the terms of the retirement annuities of administrative law judges; to the Committee on Government Reform.

By Mr. GREENWOOD (for himself, Mr. Farr, Mr. Weldon of Pennsylvania, and Mr. Allen):

H. Con. Res. 202. Concurrent resolution expressing the sense of Congress in support of a National Oceans Week; to the Committee on Resources.

By Mr. LaTOURETTE (for himself, Mr. Larson of Connecticut, Mr. Ney, Mrs. Johnson of Connecticut, Mr. Stark, Mr. Cunningham, Ms. Carson of Indiana, Mr. Kildee, Mr. Waxman, Mr. Kanjorski, Mr. McNulty, and Mr. Gutierrez):

H. Con. Res. 203. Concurrent resolution expressing support for a National Reflex Sympathetic Dystrophy (RSD) Awareness Month; to the Committee on Energy and Commerce.

By Mrs. McCARTHY of New York:

H. Con. Res. 204. Concurrent resolution supporting the Million Mom March against gun violence and accepting the challenge to reduce by 5,000 the number of lives lost to gun violence by the year 2005, by instituting and supporting policies that will further that goal; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VITTER:

H. Con. Res. 205. Concurrent resolution expressing appreciation to the Government of Kuwait for its medical assistance to Ali Ismaeel Abbas and other children of Iraq and for its additional humanitarian aid, and for other purposes; to the Committee on International Relations.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

By Mr. THOMPSON of California introduced a bill (H.R. 2317) for the relief of Patricia and Michael Duane, Gregory Hansen, Mary Pimental, Randy Ruiz, Elaine Schlinger, and Gerald Whitaker; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Franks of Arizona, Mr. McCotter, and Mr. Murphy.

H.R. 18: Mr. Kingston.

H.R. 31: Mr. Carson of Oklahoma.

H.R. 52: Mr. Doolittle.

H.R. 57: Mr. Hulshof and Mr. Burgess.

H.R. 97: Mr. Aderholt, Mr. Engel, Mr. Kildee, Mr. Quinn, and Ms. Linda T. Sánchez of California.

H.R. 106: Mr. Wicker.

H.R. 107: Mr. Owens.

H.R. 122: Mr. Lantos.

H.R. 208: Mr. Owens.

H.R. 236: Ms. Baldwin, Mr. Kennedy of Rhode Island, Mr. Brown of Ohio, Ms. Eshoo, Mr. Farr, and Mr. Sanders.

H.R. 284: Mr. Fattah, Mr. McCotter, Ms. Slaughter, Mr. Fletcher, Mr. Marshall, and Mr. Leach.

H.R. 288: Mrs. Napolitano.

H.R. 290: Mr. Quinn, Mr. Markey, Mr. Pallone, Mr. Larson of Connecticut, Mr. Nadler, Mr. Carson of Oklahoma, and Ms. Linda T. Sánchez of California.

H.R. 296: Mr. Neal of Massachusetts, Ms. Kilpatrick, and Mr. Holt.

H.R. 300: Mrs. Blackburn.

H.R. 313: Mr. Strickland and Mr. Bachus.

H.R. 371: Mr. Lantos and Mr. Gutierrez.

H.R. 401: Mr. Ferguson.

H.R. 501: Mr. Burgess.

H.R. 515: Mr. Gutierrez.

H.R. 528: Mr. Hayworth and Mr. Dreier.

H.R. 571: Mrs. Blackburn, Mr. Gilchrest, Mr. Norwood, Mr. Turner of Ohio, Mr. Houghton, and Mr. Fletcher.

H.R. 580: Mrs. McCarthy of New York, Mr. Crowley, Mr. Ackerman, Mr. Bishop of New York, Mr. Meeks of New York, Mr. Langevin, Mr. Schiff, and Mr. Engel.

H.R. 589: Mr. Boucher.

H.R. 594: Mr. Lewis of Kentucky, Mr. Nadler, Mr. Nunes, Mr. Jones of North Carolina, Mr. Shuster, and Mr. Brady of Pennsylvania.

H.R. 660: Ms. Ros-Lehtinen, Mrs. Bono, Mr. Hobson, and Mr. Hyde.

H.R. 684: Mr. Terry.

H.R. 709: Mr. Otter.

H.R. 715: Mr. Hinchey.

H.R. 717: Mr. Evans, Mr. Owens, and Ms. Linda T. Sánchez of California.

H.R. 728: Mr. Barton of Texas.

H.R. 754: Mr. Isakson.

H.R. 792: Mr. Wynn and Mr. Michaud.

H.R. 795: Mr. Hastings of Florida.

H.R. 814: Ms. Baldwin, Mr. Wynn, Mr. Strickland, Mr. Ryan of Wisconsin, Ms. Corrine Brown of Florida, Ms. Schakowsky, Mr. Inslee, Ms. McCarthy of Missouri, Mr. Brady of Pennsylvania, Mr. Moran of Virginia, and Mr. Walsh.

H.R. 844: Mr. Simmons.

H.R. 857: Mr. Frost.

H.R. 871: Mr. Ross, Mr. Radanovich, and Mr. Nunes.

H.R. 873: Ms. Schakowsky, Ms. Lofgren, Mr. Kildee, Mr. Price of North Carolina, Mr. Rangel, Ms. Lee, Mr. Olver, Ms. Linda T. Sánchez of California, and Ms. DeLauro.

H.R. 887: Mr. Petri and Mr. Blunt.

H.R. 896: Ms. Lee.

H.R. 898: Mr. Chabot, Ms. DeGette, Ms. Corrine Brown of Florida, and Mr. Mollohan.

H.R. 919: Mr. Burgess, Mr. Burr, Mr. Gerlach, and Mr. Cunningham.

H.R. 941: Mr. Kennedy of Minnesota.

H.R. 972: Mr. Tierney.

H.R. 977: Mr. Grijalva and Mr. Pallone.

H.R. 980: Mr. Snyder, Mr. Matsui, and Mr. Wicker.

H.R. 997: Mr. Hayworth, Mr. Doolittle, Mr. Putnam, Mr. Gary G. Miller of California, and Mr. Kingston.

H.R. 1006: Mr. Menendez, Mr. Berman, Mr. Blumenauer, Mrs. Lowey, Mr. Wu, Mr. Brown of Ohio, Mr. Calvert, Ms. Kilpatrick, and Mr. McDermott.

H.R. 1046: Mr. Pastor, Mr. Cardin, and Mr. Gonzalez.

H.R. 1057: Mr. Rehberg and Mr. Abercombie.

H.R. 1068: Mrs. Lowey, Mr. Moore, and Mr. Meehan.

H.R. 1075: Ms. Lofgren.

H.R. 1076: Mr. Moore and Mr. Beauprez.

H.R. 1117: Mr. Miller of Florida, Mr. Jones of North Carolina, Mr. Green of Wisconsin, and Mr. Terry.

H.R. 1130: Ms. Kaptur.

H.R. 1133: Mr. Holt.

H.R. 1137: Mr. Hulshof and Mr. Boucher.

H.R. 1157: Ms. Lofgren.

H.R. 1177: Mr. Barrett of South Carolina, Mr. Gutknecht, Mr. Kline, Mr. Royce, Mr. Sullivan, Mr. Wicker, and Mr. Davis of Illinois.

H.R. 1179: Mr. Jones of North Carolina and Mr. Mario Diaz-Balart of Florida.

H.R. 1196: Mrs. Kelly, Ms. Solis, Mr. Ryan of Ohio, Mr. McGovern, Mrs. Napolitano, and Mr. Honda.

H.R. 1231: Mr. Edwards, Mr. Ryun of Kansas, Mr. Ferguson, Mr. Blunt, Mr. Davis of Florida, Mr. Beauprez, Mr. Costello, Mr. Deal of Georgia, Mr. Burgess, Mrs. Blackburn, Mrs. Capito, Mr. Etheridge, Ms. Linda T. Sánchez of California, Ms. Velázquez, Mr. Kingston, Mr. Cantor, Mr. DeFazio, Mr. Baca, and Mr. Pearce.

H.R. 1241: Ms. Lee.

H.R. 1242: Mr. Gutierrez.

H.R. 1243: Mr. McGovern.

H.R. 1258: Ms. Waters and Mr. Kind.

H.R. 1268: Mr. Lynch and Ms. Jackson-Lee of Texas.

H.R. 1311: Mrs. Musgrave, Mr. Brown of Ohio, Mr. Smith of Michigan, Mr. Michaud, Ms. McCollum, Mr. Janklow, Mr. Snyder, Mr. Latham, and Mr. Rogers of Alabama.

H.R. 1349: Mr. Frank of Massachusetts.

H.R. 1372: Mr. Crowley.

H.R. 1381: Mr. Farr, Ms. Eshoo, and Mr. Nadler.

H.R. 1388: Ms. Lee.

H.R. 1414: Ms. Eddie Bernice Johnson of Texas, Mr. Olver, Mr. Blumenauer, and Ms. Woolsey.

H.R. 1418: Ms. Corrine Brown of Florida.

H.R. 1422: Mr. Gutierrez and Mr. Hall.

H.R. 1428: Mr. Snyder.

H.R. 1430: Mr. Bell and Mr. Delahunt.

H.R. 1444: Mr. Owens, Ms. Jackson-Lee of Texas, and Ms. Corrine Brown of Florida.

H.R. 1448: Ms. Corrine Brown of Florida.

H.R. 1460: Mr. McGovern.

H.R. 1470: Mr. HOLT, Mr. ORTIZ, and Mr. WYNN.

H.R. 1482: Mr. ABERCROMBIE.

H.R. 1489: Mr. GARRETT of New Jersey, Mr. WILSON of South Carolina, Mr. SHIMKUS, and Mr. LEWIS of Kentucky.

H.R. 1491: Mr. PASTOR.

H.R. 1534: Mrs. JONES of Ohio and Mr. HINCHEY.

H.R. 1552: Mr. SIMMONS, Mr. WILSON of South Carolina, Mr. ETHERIDGE, Mr. MEEK of Florida, Mr. CARDOZA, Ms. GINNY BROWN-WAITE of Florida, Mr. MCNULTY, Mr. CASE, Mr. TURNER of Texas, and Mr. DAVIS of Florida.

H.R. 1563: Mr. MORAN of Virginia and Mr. FRANK of Massachusetts.

H.R. 1568: Mr. LANGEVIN.

H.R. 1605: Ms. ESHOO.

H.R. 1606: Mr. BILIRAKIS and Mr. ROGERS of Kentucky.

H.R. 1617: Mr. HONDA, Mr. ISRAEL, Mr. PALLONE, and Ms. KAPTUR.

H.R. 1662: Mr. BLUNT.

H.R. 1676: Mr. VAN HOLLEN, Mr. WOLF, Mr. UPTON, Mr. DOOLITTLE, and Mr. LATOURETTE.

H.R. 1689: Ms. ESHOO, Mr. HONDA, and Mr. HOEFFEL.

H.R. 1700: Ms. ROS-LEHTINEN and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1710: Mrs. LOWEY, Mr. INSLEE, Mr. PALLONE, Mr. LARSON of Connecticut, Ms. VELÁZQUEZ, Mr. NADLER, and Mr. SWEENEY.

H.R. 1733: Mr. GRIJALVA.

H.R. 1746: Mr. ALLEN and Ms. ROYBAL-ALLARD.

H.R. 1769: Mr. HYDE, Mrs. MUSGRAVE, Mr. CARDIN, and Mr. LEWIS of Georgia.

H.R. 1793: Mr. BARTLETT of Maryland, Mr. BISHOP of Utah, Mr. BURGESS, and Mr. TANCREDO.

H.R. 1818: Mr. CALVERT.

H.R. 1823: Mr. CARSON of Oklahoma.

H.R. 1856: Mr. ENGLISH, Ms. KAPTUR, Mr. BONNER, Mr. UPTON, Mr. GREENWOOD, Mr. MCHUGH, Mr. BROWN of Ohio, Mr. HOLT, and Ms. LEE.

H.R. 1886: Ms. LINDA T. SÁNCHEZ of California and Mr. MOORE.

H.R. 1889: Mr. MCDERMOTT, Mr. LANGEVIN, Ms. BORDALLO, Mr. NADLER, Mr. GEPHARDT, Mr. STENHOLM, Mr. OWENS, Mr. INSLEE, and Mr. TIERNEY.

H.R. 1902: Ms. LINDA T. SÁNCHEZ of California, Mr. BAKER, Mr. PALLONE, Mr. LARSON of Connecticut, and Ms. VELÁZQUEZ.

H.R. 1905: Mr. OWENS.

H.R. 1913: Mr. CONYERS, Mr. SANDERS, and Mr. SWEENEY.

H.R. 1914: Mr. JONES of North Carolina and Mr. OTTER.

H.R. 1916: Mr. GRIJALVA, Ms. VELÁZQUEZ, Mr. WOLF, Mr. SANDERS, Mr. MILLER of North Carolina, Ms. LINDA T. SÁNCHEZ of California, and Mr. OWENS.

H.R. 1933: Mr. ROTHMAN, Mr. LARSEN of Washington, and Mr. STARK.

H.R. 1935: Mr. NADLER and Mr. HOLT.

H.R. 1951: Mr. RODRIGUEZ, Ms. CORRINE BROWN of Florida, Mr. GILLMOR, Mrs. JONES of Ohio, and Mr. OWENS.

H.R. 1963: Mr. HALL.

H.R. 1964: Mr. TOWNS.

H.R. 1981: Mr. GRIJALVA.

H.R. 1997: Mr. PETRI, Mr. PETERSON of Minnesota, Mr. ISAKSON, Mr. COLLINS, Mr. EHLERS, Mr. MCINTYRE, and Mr. SCHROCK.

H.R. 1998: Mr. FRANK of Massachusetts, Mr. DEAL of Georgia, Mr. KILDEE, Mr. WEXLER, Ms. SCHAKOWSKY, Mr. MICHAUD, Mr. MCDERMOTT, Mr. GORDON, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mr. GEORGE MILLER of California, Ms. LEE, Mr. DINGELL, and Mr. FROST.

H.R. 1999: Mr. OWENS and Mr. PASCRELL.

H.R. 2008: Mr. GRIJALVA and Mr. OWENS.

H.R. 2009: Mr. BLUMENAUER, Mr. FORD, Mr. KIRK, and Mr. DEFAZIO.

H.R. 2018: Ms. ROYBAL-ALLARD.

H.R. 2038: Mr. MCDERMOTT, Mr. CARDIN, and Mr. LARSON of Connecticut.

H.R. 2042: Mr. HINCHEY, Mr. FORD, Ms. ESHOO, Mrs. CAPPS, Mr. FRANK of Massachusetts, Mr. CAPUANO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HONDA, Ms. SOLIS, Ms. DELAURO, Mr. LANGEVIN, Ms. MCCOLLUM, Mr. MORAN of Virginia, Mr. GEORGE MILLER of California, Mr. MATSUI, Mr. MCNULTY, Mr. OWENS, Mr. MCDERMOTT, Mr. LARSON of Connecticut, and Mr. BLUMENAUER.

H.R. 2047: Mr. OWENS.

H.R. 2090: Mr. BISHOP of Georgia, Ms. NORTON, and Ms. MCCOLLUM.

H.R. 2092: Mr. BISHOP of Utah, Mr. VISCLOSKY, and Mr. BOEHLERT.

H.R. 2120: Mr. BOUCHER.

H.R. 2125: Mr. OWENS, Mr. MCGOVERN, Mr. LANTOS, Mr. NEAL of Massachusetts, Mr. CONYERS, Mrs. JONES of Ohio, and Mr. SERRANO.

H.R. 2135: Mr. NORWOOD and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 2154: Mr. GREEN of Texas and Mr. SAM JOHNSON of Texas.

H.R. 2161: Mr. ALLEN.

H.R. 2164: Mr. TERRY, Mr. SIMMONS, and Mr. FROST.

H.R. 2169: Mr. TIERNEY.

H.R. 2176: Mr. GRIJALVA, Mr. OXLEY, and Mr. PASTOR.

H.R. 2188: Mr. WHITFIELD.

H.R. 2193: Mr. CASE.

H.R. 2205: Mr. WICKER, Mr. ROGERS of Alabama, Mr. SNYDER, Mr. LARSON of Connecticut, Mr. PICKERING, Mr. FROST, Mr. SCOTT of Georgia, and Mr. MCGOVERN.

H.R. 2236: Mr. COOPER, Mr. BACA, Mr. WELDON of Florida, and Mr. GONZALEZ.

H.R. 2242: Ms. MCCOLLUM, Mr. TOWNS, Mr. COLE, and Mr. JEFFERSON.

H.R. 2246: Mr. TANNER, Mr. HOLT, Mr. REYES, Mr. OWENS, and Mr. PASCRELL.

H.R. 2262: Mr. CONYERS, Mr. MOLLOHAN, Mr. GRIJALVA, Mr. PLATTS, Mr. CRAMER, and Mr. OWENS.

H.R. 2274: Mr. PEARCE.

H.R. 2286: Mr. LEVIN, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. BECERRA, Mr. SANDLIN, Mr. EMANUEL, Ms. SLAUGHTER, Mr. UDALL of New Mexico, Mr. MENENDEZ, Mr. RYAN of Ohio, Mr. ALEXANDER, Ms. WATERS, Mr. CROWLEY, Mr. KENNEDY of Rhode Island, Mr. MARKEY, Mr. STARK, Ms. SCHAKOWSKY, Ms. KAPTUR, Mr. BROWN of Ohio, and Ms. LEE.

H.R. 2291: Mr. TOWNS, Mr. ROSS, Mr. FROST, and Mrs. KELLY.

H.J. Res. 36: Mr. PASTOR, Mr. MCINTYRE, Mr. ANDREWS, Ms. LINDA T. SÁNCHEZ of California, Mr. LAMPSON, and Mr. BAIRD.

H.J. Res. 50: Mr. WILSON of South Carolina, Mr. WELDON of Florida, and Mr. GOODLATTE.

H. Con. Res. 116: Mr. WILSON of South Carolina and Mr. FEENEY.

H. Con. Res. 148: Mr. DAVIS of Alabama, Mr. STRICKLAND, and Mr. VAN HOLLEN.

H. Con. Res. 154: Mr. CAPUANO, Ms. MCCOLLUM, Mrs. CHRISTENSEN, Mr. RUSH, Mr. WYNN, Mr. TOWNS, Mr. FALEOMAVAEGA, Mr. BELL, and Mr. BROWN of Ohio.

H. Con. Res. 155: Mr. BECERRA.

H. Con. Res. 164: Mr. OSBORNE.

H. Con. Res. 177: Mr. BEAUPREZ and Mr. ROYCE.

H. Res. 38: Mr. OWENS.

H. Res. 56: Mr. GREENWOOD and Mr. HAYWORTH.

H. Res. 58: Mr. QUINN.

H. Res. 86: Mr. PORTER.

H. Res. 103: Mr. BURTON of Indiana.

H. Res. 199: Mr. SMITH of Michigan, Mrs. JO ANN DAVIS of Virginia, Mr. BERMAN, Mr. BURTON of Indiana, Mr. FALEOMAVAEGA, Mr. BELL, Mr. LATOURETTE, Mr. MEEHAN, Mr. ROYCE, and Mr. HOEFFEL.

H. Res. 201: Mrs. MILLER of Michigan.

H. Res. 234: Mr. HOLT, Mr. VAN HOLLEN, Mr. SCHIFF, Mr. GONZALEZ, Ms. WOOLSEY, Mr. STARK, Mr. TIERNEY, and Mr. SNYDER.

H. Res. 237: Mr. ENGEL and Mr. BELL.

H. Res. 242: Mr. LEWIS of Georgia, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, and Mr. BALLENGER.

# EXTENSIONS OF REMARKS

## A PROCLAMATION RECOGNIZING HEATHER HETTINGER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. NEY. Mr. Speaker, Whereas, Heather Hettinger has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Heather Hettinger has shared her time and talent with the community in which she resides; and

Whereas, Heather Hettinger has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Heather Hettinger must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Chillicothe and the entire 18th Congressional District in congratulating Heather Hettinger as she receives the Girl Scout Gold Award.

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## TRIBUTE TO LARRY JOHNSON

### HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. COBLE. Mr. Speaker, Larry Johnson, President of the North Carolina Credit Union League and Credit Union Service Corporation, and I have been friends for many, many years and have endured numerous legislative struggles and debates through those years. As Larry prepares to retire at the end of this year, I want to take this opportunity to thank him for the tremendous contributions he has made to this industry and to tell him that he will be missed by many of us whose lives he has impacted over the decades.

Larry began his credit union career in December 1967 and has been an asset to credit unions in North Carolina and across the country for years due to his excellent people skills and his ability to effectively promote the priorities of credit unions and their members. He is sincere in his effort to ensure that credit unions prosper so that those who may encounter difficulty finding help elsewhere will not be without resources. As President of the League, Larry has been very active in state, regional and national activities and has served his members with honor and dignity throughout his tenure.

In keeping with the local community tradition that has become a trademark of the credit union industry, Larry has used his position and influence within the organization to positively impact a number of important charities across North Carolina. He actively promotes credit union participation in the League's social responsibility activities such as support of the Duke Medical Center's Pediatric Bone Marrow Transplant Research Laboratory, the Prevent Child Abuse North Carolina project, and his current effort to raise support for the Victory Junction Gang Camp, a camp for children with life threatening illnesses.

Larry, we thank you for the contributions that you have made in our communities and across the state of North Carolina. This legacy will be an ever-present reminder of your hard work and dedication. Cheers to you, my friend, and best of luck in your future endeavors.

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## HONORING HELEN WINTER AS THE MASON DISTRICT COUNCIL OF CIVIC ASSOCIATIONS' CITIZEN OF THE YEAR

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Helen Winter as the Mason District Council of Civic Associations' Citizen of the Year.

Although Ms. Winter can boast many civic contributions, the most dramatic impact she has had on her community is her involvement with her local Adopt-a-Highway campaign. Since 1985 Ms. Winter has supervised the cleanup of Little River Turnpike, the area between Hummer Road and Braddock Road. This stretch is located between Fairfax City on the west and the City of Alexandria on the east; it is an unincorporated area and as such the Little River Turnpike would likely be cluttered with litter without the careful watch of Ms. Winter.

In addition to the Turnpike, Ms. Winter spearheads the adoption of two other stretches of highway: Braddock Road between Little River Turnpike and Backlick; and John Marr Drive, between Backlick and the Columbia Pike.

Ms. Winter has innovatively incorporated the Sheriff's Weekender Work Program into her efforts. She uses citizens who have been sentenced to serve community service in lieu of fines or jail time to work on her clean-up teams.

In addition to her important work in the Adopt-a-Highway program, Ms. Winter is a former president of the Clean Fairfax Council. The council has enjoyed Ms. Winter's membership for the last 18 years. She heads the Annandale Cleanup Day for the Council.

Ms. Winter is also a member of the Annandale Central Business District Planning Committee, and Chairwoman of the Beautification & Business Recognition Committee. While in these positions she has been responsible for the recognition awards to businesses that improved the appearance of the city of Annandale. Such improvements include: attractive street lamps, metal benches, trash receptacles, bus shelters, brick sidewalks, trees, flowers and shrubbery.

Furthermore, Ms. Winter is a member of the Annandale Woman's Club and the Virginia State Women's Golf Association. She is also active in the Pinecrest Women's Golf Association, where she served two terms as president from 1999–2001.

Mr. Speaker, in closing, it is with great pleasure that I extend this recognition to Ms. Helen Winters. She is a well-respected and much endeared member of her community. Her contributions to the city of Annandale, Fairfax city and the State of Virginia abound. I am very pleased to honor and congratulate Ms. Winter on her many years of service and involvement. I call upon my colleagues to join me in applauding her for all that she has done.

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## MULBERRY MEMORIAL AMERICAN LEGION AUXILIARY, UNIT 72

### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. PUTNAM. Mr. Speaker, I would like to draw my Colleagues to the attention of the following articles on the Mulberry Memorial American Legion Auxiliary, Unit 72, in Mulberry, Florida from my district.

Unit 72 is very active within the community of Mulberry, and I feel these articles exemplify the best of Unit 72's service and commitment. Please consider the inclusion of these articles in the CONGRESSIONAL RECORD.

MULBERRY, FLORIDA'S SCHOOLS BENEFIT

(Submitted by Donna Righi, Unit 72 President and Education Chairman)

Mulberry Memorial American Legion Auxiliary, Unit 72, Department of Florida works closely with the schools in Mulberry, Florida and are kept aware of the needs of their students. In February 2003, Unit 72 donated over $120 of underwear to two of the schools in Mulberry.

School Supply drives are frequently held, and money is often donated to schools, however, Unit 72 discovered that children in need often do not have underwear to wear. You aren't able to give away your used underwear, so needy families often do not receive this necessity. The schools were contacted in regards to sizes, and Unit 72 bought them for the schools to distribute to those in real need. Items that were distributed were: Socks, underpants, jockey shorts, and even bras. The schools really appreciated this. They never seem to have enough of these items for occasional accidents that occur, not to mention the students that can't afford these necessities.

On Wednesday evening, September 11, 2002, The Mulberry American Legion Auxiliary Unit #72, joined with the American Legion and Sons of the American Legion Squadron 72 and conducted a service in observance of the events of September 11, 2001.

We had distributed bags to two local schools, Kingsford Elementary and R. Bruce Wagner Elementary, for the children to decorate for luminaries. These children did a magnificent job on over three hundred bags.

Legion Post 72 Commander, Jerry M. Mitchell, opened our ceremony with a brief welcome and the Pledge of Allegiance. Legion Chaplain Dennis Farmer gave an invocation and then turned the ceremony over to Martha Bosley, Auxiliary Vice President who gave a short speech in remembrance of the victims and heroes of that fateful day. Auxiliary Unit 72 member, Jan Feldman closed our service with the singing of "God Bless America".

The more than fifty participants then took their American flags to the side of Route 37 to wave in a show of patriotism and were greeted by passing motorists who waved back. Later the members lighted all the luminaries the students had provided and placed them by the side of Route 37 as dusk fell. Again the passing motorists signaled their approval and appreciation by blinking their lights and honking their horns.

### MULBERRY POLICE, FIRE/RESCUE, CITY HONORED FOR SERVICE BY LEGION FAMILY

### CHIEF DAVE HAMLIN POLICE OFFICER OF THE YEAR, MIKE TEAM IS FIREFIGHTER OF THE YEAR

Prime rib dinner all of the trimmings was served to a large turnout Tuesday evening in the Mulberry Memorial American Legion Post Home.

This was an annual Mulberry Police and Fire/Rescue salute and awards dinner given by the local American Legion Post in cooperation with the Legion Auxiliary and Sons of the American Legion.

The hall was filled with Mulberry Police and Fire/Rescue personnel and guests, a number of City officials, Legion family members and guests.

The annual Mulberry Police Officer of the Year award was given to Chief Dave Hamlin. Alan P. Hall, long-time Legionaire officer who has served five times as Post Commander, and as Department of Florida Commander, noted Chief Hamlin has been with the Mulberry force for many years, coming up through the ranks.

Alan P. Hall recalled some funny incidents over the years, remember growing up in Mulberry when the City had just one police car with one red light on it. He remembered the old Mulberry police station and when Dave Hamlin first came on the Mulberry force.

Chief Hamlin noted Mulberry is starting to grow, and quickly, and the City of Mulberry is working to be prepared with services for the growth and to serve present Mulberry needs. Last year's award went to Police Lt. Randy Tagliarini.

Mike Team, likewise, was named Mulberry Firefighter of the Year. He and other Mulberry Fire/Rescue and Police employees were thanked for what they do. Last year's winner of the award was Fire Chief Mitch Carmack.

Alan P. Hall noted these public servants work around the clock in Mulberry, working evenings, nights, weekends and holidays to help keep the City safe.

He said life is short and we need to respect each other and the job each other has to do.

Among Legion family officers helping thank Mulberry Police and Fire and City officials were present Commander of the Legion, Jerry Mitchell, Barbara Caruthers, Legion Auxiliary Chaplain, John Jennings of the Mulberry SAL, and Frank Pierce sang patriotic music to add to the occasion.

Among City officials in attendance recognized were ex-Mayor Sam and Lou Eva McLaughlin, City Manager Patricia Jackson, Commissioner Jerry and Judy Woods; Commissioner Jim and Flo Splaine and Commissioner Julian and Felicia Mullis.

### SHERIFF CROW WAS FEATURED SPEAKER

Main dinner speaker was Polk County Sheriff Lawrence Crow Jr. who spoke about how "everything changed" in law enforcement and in this country on September 11.

He noted new measures being taken locally, including machine guns that will soon be in hundreds of area patrol cars.

Sheriff Crow talked about two helicopter duty deputies who died in the crash of their Polk County Sheriff's helicopter just after 9-11 on Oct 22, 2001. They hit a fog patch and the chopper crashed when infrared night vision must have led to a misperception of the craft's altitude.

The Sheriff noted Polk County is part of a nine-county group dealing with terrorism. The Sheriff's job is risk assessment.

He noted this phosphate area, the port of Tampa, the nuclear power plant near Crystal River and other points are targets in this part of Florida. He noted fertilizer elements may be used as explosives and this is a local concern with terrorism.

Sheriff Crow said there is a very real threat, in his opinion, if we go to war against Iraq we will have a backlash here against the United States.

In closing Alan P. Hall noted Mulberry Police and Fire/Rescue personnel should be respected and thanked, noting they deal firsthand with some things many people don't want to even see.

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# A PROCLAMATION RECOGNIZING JENNY ELLIS

## HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. NEY. Mr. Speaker,

Whereas, Jenny Ellis has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Jenny Ellis has shared her time and talent with the community in which she resides; and

Whereas, Jenny Ellis has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Jenny Ellis must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Chillicothe and the entire 18th Congressional District in congratulating Jenny Ellis as she receives the Girl Scout Gold Award.

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# TRIBUTE TO NORTHWEST GUILFORD HIGH SCHOOL

## HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. COBLE. Mr. Speaker, Northwest Guilford High School has a reputation throughout North Carolina as an excellent academic institution. As the winner of North Carolina's "We the People: The Citizen and the Constitution" competition, Northwest Guilford has once again proven itself as a first-rate academic institution. Upon winning the North Carolina competition, a group of Northwest students instructed by Mr. Ray Parrish went on to compete at the national competition held in Washington, DC. The "We the People" program provides a forum in which high school students are tested and challenged on their knowledge of the United States Constitution. The Northwest team demonstrated an outstanding comprehension of the issues and the fundamentals of American government and represented the Sixth District with courage and pride.

Congratulations to Mr. Parrish, Michael Bowles, Blair Brooks, Lauren Campbell, Marnie Cheshire, Jenny Cimaglia, Josh Clark, Kelly Crocken, Melati Crook, Nadia Eksir, Ricky Elmore, Kristin Forrest, Ken Gangong, Elias Hage, Shelly Hanks, Martha Heise, Haley Hoffman, David Holst, Taylor Johnson, Adam Kincaid, Heidi Kunkle, Carson Leach, Leigh Anna Pittman, Matt Rothkopf, Andrew Shoffner, Naresh Sundaresan, Anne Marie Wittmann, John Yeago, and Eliana Ziri. We would also like to thank State Coordinator Carleen Wray and District Coordinator Barbie Creech for their tireless efforts in supporting such a valuable program.

The Sixth District would like to extend its congratulations to Principal Mrs. Anne Murr, the students, faculty, and families at Northwest Guilford High School. Your hard work and dedication are admirable and set an example for all of us. Once again, congratulations and "Go Vikings".

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# HONORING THE 100TH ANNIVERSARY CELEBRATION OF THE VIENNA VOLUNTEER FIRE DEPARTMENT

## HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the 100th Anniversary of the Vienna Volunteer Fire Department.

Established in 1903 at the behest of Vienna Town Councilman Leon Freeman, the Vienna Volunteer Fire Department has a long and distinguished history. Councilman Freeman served as the Department's first chief and remained active in the Department until 1936. Starting with his tenure and continuing to the present, the Vienna Volunteer Fire Department has consistently set the standard for fire safety in Fairfax County, having implemented a laundry list of groundbreaking fire safety initiatives. At the time of its founding, no other volunteer fire department existed in the region, making the Vienna Volunteer Fire Department the first of its kind in Fairfax County. It also acquired the first motorized fire protection in Fairfax County: a 1919 Model T Ford truck.

The Vienna Volunteer Fire Department exemplifies the success that can be achieved by volunteerism. Working together with Fairfax County Fire and Rescue Department career staff, volunteers provide professional emergency response capabilities to the Town of Vienna and surrounding Fairfax County. Supported primarily by citizen donations and departmental fundraising activities, the department was able to stay up-to-date by purchasing over $500,000 worth of equipment in 2002. The volunteers attend fire and medical training courses and host public education events during Kids Safety Week and Fire Prevention Week.

In our nation's time of need on September 11, 2001, the Fairfax County career staff assigned to Vienna were deployed to the Pentagon to assist with fire and rescue operations. To help cover both Vienna and other areas in Fairfax County during their absence, the volunteers staffed additional emergency medical units, playing a vital role in helping our community to cope with the crisis.

Today, the Vienna Volunteer Fire Department consists of over 50 active volunteer firefighters, EMTs and administrative personnel. The membership also includes 13 Life Members, each having served 20 years or more, and some having served more than 60 years. Their dedication to public service has been selfless, consistent, and invaluable to the region. Fairfax County is truly indebted to the assistance provided by the Vienna Volunteer Fire Department. I ask that my colleagues join me in congratulating these outstanding individuals on their century of service.

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## A PROCLAMATION RECOGNIZING SONYA McLAUGHLIN

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. NEY. Mr. Speaker, Whereas, Sonya McLaughlin has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Sonya McLaughlin has shared her time and talent with the community in which she resides; and

Whereas, Sonya McLaughlin has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Sonya McLaughlin must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Chillicothe and the entire 18th Congressional District in congratulating Sonya McLaughlin as she receives the Girl Scout Gold Award.

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## SALUTE TO DR. GREGORY SPIRAKIS

### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. PUTNAM. Mr. Speaker, when Dr. Gregory Spirakis' 14-month-old baby, Petey, developed meningitis, the child was given antibiotics and recovered fully. When 14-month-old Andre Chionizilli of Balti, Moldova, developed meningitis, he lost his hearing because he had no access to antibiotics.

To help children like Andre, Dr. Spirakis, a constituent of mine from Lakeland, Florida, began a humanitarian mission in Moldova, one of the former Soviet Republics. Dr. Spirakis has made two more trips to Balti, one of the cities of Lakeland's Sister Cities.

During the second trip in August 2000, Dr. Spirakis, with financial support from the First Aviation Sertoma Club of Lakeland, brought 115 hearing aids and 90 pounds of antibiotics and started a mobile audiology program.

Dr. Spirakis began traveling to Moldova to treat hearing-impaired children in 1997 after meeting Dr. Iurii Lobeev, his Moldovan counterpart, in a medical exchange program in the United States. Dr. Spirakis and his wife, both audiologists, have made several visits to Moldova, consulting and treating more than 170 children.

In 2001, Dr. Spirakis founded the Moldovan Children's Audiology Foundation (MCAF) and provided financial and technical support for the establishment of the Hearing Protection Center in the city of Belts, Moldova.

The Center provides hearing and medical services for children with disabilities and operates a medical care unit fully equipped, through Dr. Spirakis's support, to solve children's hearing problems.

Dr. Spirakis has personally provided training to his Moldovan counterparts at the Center, Dr. Iurii Lobeev and Dr. Victor Vrabie, and has assisted them in traveling to Lakeland and throughout the State of Florida to learn American techniques for treating disabled children, developing their capacity to perform audiograms for children, choose treatment strategies, and provide other operations that were previously only available in a specialized hospital in Chisinau, the capital.

Through the combined efforts of the United States Agency for International Development (USAID), the U.S. Department of State, the MCAF, and Counterpart International, a container of medical equipment, consumables, school supplies, and furniture, valued at nearly $48,000, was delivered to the Hearing Protection Center on October 1, 2002. With this delivery, the Center now has a state-of-the-art audiology clinic and provides services to the city of Belts and throughout the surrounding rural areas. The Center provides services to a larger number of constituents including newborn children, veterans, and pensioners with hearing disabilities.

The U.S. Agency for International Development's Bureau for Europe and Eurasia will be honoring Dr. Gregory Spirakis at a dinner on Tuesday, June 17, 2003 to recognize his efforts to improve the lives of people around the world and salute his continued commitment to foreign assistance. I would like to congratulate Dr. Spirakis for his work and express my thanks to him for his dedication and commitment to children around the world.

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## RECOGNIZING SAMUEL WELSH JOHNSEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Samuel Welsh Johnsen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 135, and in earning the most prestigious award of Eagle Scout.

Sam has been very active with his troop, participating in many scout activities such as the H. Roe Bartle Scout Reservation for six years. Over the six years he has been involved in scouting, he has earned 29 merit badges. Additionally, Sam has held numerous leadership positions in his troop and has been honored for his numerous scouting achievements with such awards as the Firebuilder in the Tribe of Mic-o-Say.

For his Eagle Scout project, Sam organized a project to clean and paint fire hydrants in Kearney, Missouri. He painted them bright yellow to improve appearance and most importantly, so they could be easily seen in a time of emergency.

Mr. Speaker, I proudly ask you to join me in commending Samuel Welsh Johnsen for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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## A PROCLAMATION RECOGNIZING HANNAH AVERY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. NEY. Mr. Speaker, Whereas, Hannah Avery has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Hannah Avery has shared her time and talent with the community in which she resides; and

Whereas, Hannah Avery has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Hannah Avery must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Kingston and the entire 18th Congressional District in congratulating Hannah Avery as she receives the Girl Scout Gold Award.

## 100TH ANNIVERSARY OF CONGREGATION B'NAI ABRAHAM

### HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. ENGLISH. Mr. Speaker, I rise today to recognize and honor the 100th anniversary of the founding of Congregation B'nai Abraham in Butler, Pennsylvania. Such a landmark event exemplifies a foundation based on both strength and unity. I wish the B'nai Abraham Congregation growth and prosperity.

In the year 1903, 25 Jewish families residing in the Butler community elected Abraham H. Goodman to serve as their spiritual leader and guide them in the Jewish traditions. That same year, the first service was held to commemorate the first Jewish High Holiday, Rosh Hashona, at the Knights of Pythias Hall, now the Reiber Building in Butler.

The congregation was officially deemed Congregation B'nai Abraham after obtaining a charter from the Common Pleas Judge James M. Galbreath in 1906. Over time Butler's Jewish community flourished and eventually established a large sanction and school facilities on Butler's North Main Street, which remains its home today.

During the 4th of July weekend, Congregation B'nai Abraham will celebrate its 100th anniversary and renew the relationships of both past and present members.

Mr. Speaker, I hope my colleagues will join me in congratulating the Congregation B'nai Abraham on their 100th anniversary. And as they often say in the opening prayer of a Jewish mass, "Ma Tovu Ohalecha, Mishknotecha" or "How goodly are thy tents, thy dwelling places."

## APPOINTMENT OF CONFEREES ON H.R. 2, JOBS AND GROWTH RECONCILIATION TAX ACT OF 2003

SPEECH OF

### HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 22, 2003*

Mrs. KELLY. Mr. Speaker, as chair of the House Financial Services Subcommittee on Investigations and Oversight, I would like to spend a moment discussing the Economic Growth Package and the work that was done by Chairman THOMAS, other members of the Ways and Means Committee, the Republican Leadership and, of course, the White House. The subcommittee I chair was very interested in several aspects of the legislation and we conducted a hearing earlier this year to determine the extent of the impact of the dividend exclusion. The final product that has passed the House of Representatives will go a long way towards giving sectors of our economy the shot in the arm so necessary.

Numerous business groups have been part of the process and I want to acknowledge the testimony of the National Association of Home Builders before my subcommittee on the president's package and their contribution in supporting the overall effort. I am also aware and want to acknowledge the effort of the home builders in working with the administration in the same manner, particularly the Department of Treasury. I very much appreciate their expertise, economic research and analysis to ensure that no part of the legislation had any unintended consequences for low income housing. As a result, we are now able to pursue an economic stimulus plan that is good for all segments of the housing industry and all segments of the economy of these United States.

For the past two years, home building has been a leader in moving America's economy forward. Where many sectors of the economy have faltered, housing has remained a source of strength. Enactment of the economic stimulus package that is about to emerge from this Congress will ensure that housing continues to create the jobs and stimulate the economic growth that are needed to restore full prosperity for our nation's families and businesses.

## CONDEMNING NEPAL'S FORCED EXPULSION OF TIBETANS TO CHINA

### HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. LEACH. Mr. Speaker, on May 31st in Kathmandu the Government of Nepal turned over to senior diplomatic representatives of the People's Republic of China 18 Tibetan asylum seekers, including several minors, to be forcibly repatriated to China. In so doing, the Nepalese authorities flouted both international law and repeated strong representations by the United States and other concerned parties. This action also reversed longstanding Nepalese tolerance toward Tibetan asylum seekers, which in the past has allowed access to "persons of concern" by local officials of the United Nations High Commissioner for Refugees.

According to the Department of State, our Embassy in Kathmandu has informed the Nepalese Government at the highest levels about this specific incident. The status of Tibetan refugees in Nepal is a long-standing issue of concern to both the Executive Branch and Congress, and is often raised by American officials in Kathmandu. In addition, senior U.S. officials recently met with Nepalese and Chinese officials to raise our strong concerns about this issue.

The United Nations High Commissioner for Refugees has stated that the forcible return of the 18 Tibetans to China without a status determination constituted refoulement (forced return), which is in fundamental contravention of well-accepted international norms. Congress joins with the Executive Branch in condemning the behavior of the Government of Nepal and senior Chinese diplomats for their role in forcibly returning the asylum seekers to China. In the strongest terms, we urge Nepal to cease this inhumane conduct and return to its previous long-term practice of allowing Tibetans to seek protection in Nepal for onward resettlement.

## IN MEMORY OF LANCE CORPORAL MATTHEW SMITH

### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. PENCE. Mr. Speaker, it is with equal amounts of profound pride and sympathy that I come to the floor this morning. I rise to honor a noble American . . . Lance Corporal Matthew R. Smith, a Marine Corps reservist from Anderson IN, who was killed Saturday, May 10, while serving his country in Kuwait. Lance Corporal Smith lost his life in a vehicle collision while running supply missions between Iraq and Kuwait. Lance Cpl. Smith was just 20 years old. He is survived by his father David, his mother Patricia, and by his brother Mason.

Lance Corporal Smith was assigned to Detachment 1, Communications Company, Headquarters and Service Battalion, 4th Force Service Support Group based in Peru, IN, an outfit he had served selflessly and courageously since enlisting in June of 2001.

Lance Corporal Smith's father David said that his son had an intense love for the Corps, and his fellow Marines. Mr. Smith told the Indianapolis Star, "How many people on this Earth die doing the job they know they were put here to do." His Aunt Vicki added, "He died doing what he believed in."

Lance Corporal Smith was a student of history—he was enrolled at Indiana University before he was called to active duty—an interest he vigorously embraced in his free time, in the classroom, and as a member of the Social Studies Academic Team. His school teachers recall a young man often expressing blunt, straight-forward and in-your-face viewpoints which they always found to be well researched and sophisticated for his age. He was also an accomplished athlete; he spent time during high school playing rugby and was active in other outdoor activities.

Mr. Speaker, Lance Corporal Smith joins the 137 other proud and distinguished Americans who have made the ultimate sacrifice—these wonderful men and women gave their lives in defense of freedom, a freedom we all too often take for granted.

May God bless the family of Lance Corporal Smith during this difficult time, and may they experience the prayers and thanks of a grateful nation. May they rest upon the promise of Jeremiah 31:13, "I will turn their mourning into gladness. I will give them comfort and joy instead of sorrow."

## PAUL WOLFOWITZ SHOULD LEARN FROM THE TURKISH MILITARY ABOUT DEMOCRACY

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. FRANK of Massachusetts. Mr. Speaker, before we went on recess, I came to the floor of the House to express my deep dismay at the disregard for fundamental democratic principles shown by Deputy Secretary of Defense

Paul Wolfowitz. In an interview he gave on May 2 aimed for broadcast in Turkey, Secretary Wolfowitz repeatedly criticized the Turkish military for not having intervened in parliamentary deliberations with sufficient strength when the question of Turkish participation in the war in Iraq came up. I believed then and now that this appalling call on the Turkish military to violate fundamental democratic norms was particularly disturbing because there are few things more important to the stability of the world than the effort now going on in Turkey to show that people who are religious Muslims can preside over a fully democratic regime. While many of us would like to hope that this could be taken for granted, the recent history of the Middle East argues to the contrary and that is why supporting the Turkish government in its effort to implement democracy is so important.

Secretary Wolfowitz in his interview criticized the Turkish military for not speaking out to influence the Parliament, and when the interviewer pointed out to him that the Turkish military had in fact done that, he repeated his criticism by saying that they had not done it with enough strength. Telling a military in a democratic government that it should more strongly be expressing its views to elected officials demonstrates a misunderstanding of democracy in general, and a particular insensitivity to the implications of such statements in a country—Turkey—where there had been a history of military coup that many are trying to overcome.

Subsequent to my comments, I learned of a statement made by General Hilmi Ozkok, Chief of the Turkish General Staff, in which he responded to those who had been critical of the military. While his comments pre-date the interview given by Mr. Wolfowitz, this reads as if he were in part responding to the Deputy Secretary, and in fact he may have been doing so because it would not surprise me if Mr. Wolfowitz had made these criticisms directly to the Turkish military before going public with them.

The contrast between the interview with Deputy Secretary Wolfowitz—the relevant portions of which I am going to re-print here—and the statement by General Ozkok is striking, and I am sad to see the head of the Turkish General Staff showing a far better understanding of the role the military should play in a democracy than the Deputy Secretary of Defense of the United States. As General Ozkok points out, "the military did not think it would be beneficial to share its views on such a critical issue with the press and public. It expressed all its views clearly and openly, however, at the state summit, the National Security Council, and in all of the meetings; which were chaired by our Prime Minister, government members and pertinent organizations and institutions."

General Ozkok goes on to say "the Iraqi issue is a vital and multifaceted issue. The military is concerned with the security dimension of this issue and expresses its views and puts forward suggestions on this aspect only. As all of you will appreciate, a decision on such an issue calls for political, economic, social and judiciary dimensions as well. We as the military do not think we know best. Consequently we could have paved the path to misinterpretations if we had issued statements to the public on the security aspects only."

Most crucially, referring to the MGK—the National Security Council of Turkey which consists of five military and nine civilian members—General Ozkok says "as you know, the MGK issues recommendations to the government according to the Constitution, not to the TBMM (the Parliament) . . . if the MGK had issued a recommendation at the time the motion was being taken up at the TBMM (the Parliament) and before a decision was made, it would have meant putting the pressure on the TBMM to pass the motion. This would not have been democratic and not in line with the Constitution."

Mr. Speaker, I wish Paul Wolfowitz understood this fundamental aspect of democracy as well as the head of the Turkish General Staff. I ask that the sadly contrasting views of the role of the military in a democracy expressed by Deputy Secretary Wolfowitz and General Ozkok be printed here.

CNN TURK. Which traditional alliance are you talking about?

WOLFOWITZ. Well I think you know which ones I mean but I think particularly the military. I think for whatever reason they did not play the strong leadership role on that issue that we would have expected. But I think the bigger disappointment has to do with the general failure of the Turkish public reflected also in the government, about what the stakes were in Iraq and that here you have a neighbor with an overwhelmingly Muslim population where the people were suffering under one of the worst dictators in the world. And one would have thought that Muslim solidarity would have led people to say let's help the Americans liberate these people and that isn't what happened.

Okay, that's past. We are now in the present and future. The present and future is there's a spectacular opportunity in Iraq to help these newly liberated people achieve their real potential and I think that's what we need to work on together, Turkey and United States and I think what Turkey needs to do is look into its democratic soul and say, yes we believe in democracy, we believe in democracy for Muslims and Arabs. There's an opportunity now, whatever happened in the last few months, there's an opportunity now to work with the Americans to build that in Iraq. Let's seize that opportunity and do everything we can as Turks to support it.

CNN TURK. But if you make a prognosis of what went wrong earlier, since you mentioned for example the military the traditional institution which had strong connections to the United States did not play a leadership role, so for the future to repair the relationship and bring it back to its original level that means that you have to need a leadership role to be played by those who haven't played it. What kind of a role the military might have because after all the military is not working in Turkey's parliament political parties [inaudible]? And they have been criticized by getting involved in politics.

WOLFOWITZ. I'm not suggesting you get involved in politics at all. I mean, I think, all I'm saying is that when you had an issue of Turkey's national interest and national strategy I think it's perfectly appropriate, especially in your system, for the military to say it was in Turkey's interest to support the United States in that effort.

CNN TURK. Didn't they say that?

WOLFOWITZ. I don't know. My impression is they didn't say it with the kind of strength that would have made a difference. But look let's not dwell too much on the past.

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STATEMENT BY GENERAL HILMI OZKOK, CHIEF OF THE TURKISH GENERAL STAFF, IN ANKARA

The first question I will answer to is why the military is silent. I am asked this question very frequently. I would like say openly that the military is not silent; however, the military did not think it would be beneficial to share its views on such a critical issue with the press and public. It expressed all its views clearly and openly, however, at the state summit, the National Security Council [MGK], and at all the other meetings; which were chaired by our prime minister, government members, and pertinent organizations and institutions. In addition, the views of the Turkish Armed Forces [TSK] were expressed clearly to all the heads of state, who visited me or called me on the phone.

It goes without saying that we had our reasons for not issuing statements to the press and public. The Iraqi issue is a vital and multifaceted issue. The military is concerned with the security dimension of this issue and expresses its views and puts forward suggestions on this aspect only. As all of you will appreciate, a decision on such an issue calls for political, economic, social, and judiciary dimensions as well. We, as the military, do not think we know best. Consequently, we could have paved the path to misinterpretations if we had issued statements to the public on the security aspect only. This is the reason for our silence.

I suppose that people are curious as to the stand of the TSK. I have to say openly that the view of the TSK is the same as the government and as reflected in the motion submitted to the Turkish Grand National Assembly [TBMM]. Everything in this process evolved in line with a democratic process and as should be in a modern country. We should get used to this.

Another issue concerns the reason why an advisory decision was not adopted at the last MGK meeting. I did not hear that such a wish was submitted to the MGK. The MGK consists of five military and nine civilian members. The MGK meeting was being held at the time the government motion was taken up at the TBMM and a decision was not made yet. As you know, the MGK issues recommendations to the government according to the Constitution, not to the TBMM. At the MGK meeting on January, the MGK made a clear suggestion as noted in the press statement released on that meeting. If the MGK had issued a recommendation at the time the motion was being taken up at the TBMM and before a decision was made, it would have meant putting the pressure on the TBMM to pass the motion. This would not have been democratic and not in line with the Constitution.

In reply to another issue on the agenda that concerns whether the military feels uneasy about the motion, I say: No. We did not feel uneasy about the motion. This question was raised after a newspaper headline said that the military is uneasy. This report belongs to the journalist and his source, if there is any. As you know, the General Staff denied this report the same day.

When I became the chief of the General Staff, I issued a statement saying clearly that only I can issue statements on behalf of the TSK, and under my orders the deputy chief of the General Staff and the secretary general. It would have been better if this report was not reflected as the view of the TSK.

I have to say openly that the TSK has a single coordinated, thoroughly studied, rational, and collective view.

Another issue concerns turning the Iraqi issue into an issue of yes or no to war. I would like to express my views on this issue. There are reports that 94 percent of the population said no to war. This is wrong. 100 percent of the population said no to war and is against war. The military, in turn, is the one who is the most against the war because it knows the extent of the violence in a war.

It is obvious that we will sustain great damages if a war begins, regardless of Turkey's stand. We will sustain political, economic, and social damages in addition to the damage to our security.

[Second and final part of statement by General Hilmi Ozkok, chief of the Turkish General Staff, in Ankara—recorded on 5 March]

The current reality is that Turkey does not have the possibility or the capability to prevent the war single-handedly. In actual fact, this is the duty of the entire world and not of Turkey alone. The entire world is exerting efforts to prevent this war. We are obliged to continue our efforts in that direction. My wish is that a war will be prevented. We, however, could base our calculations on a supposition, the supposition that a war would not break out. We had to calculate what had to be done in the event of a war. On this issue, our choice was, unfortunately, not between what is good and what is bad, but rather what is bad and worse. We will either remain totally outside the war, or we will assist those waging the war, thus participating in the process. These two modes of action have, for months, been systematically studied in coordination with all the establishment and institutions. Let us reduce the issue to a simple level. If we do not participate at all, we shall still sustain the same damages to be caused by a war. It will, however, be impossible to be compensated for these damages, and we shall not have a right of say in the aftermath of the war. If, however, we choose the second alternative and assist those waging the war, we believe that then part of the damage might be compensated, we shall be able to extend humanitarian aid to the refugees in north Iraq without participating in the war, the war will be shorter because a northern front will be opened, the pain and suffering will be less, we will not be faced with unexpected developments, and the number of dead will be less.

We were going to return after having fulfilled our duty without firing even a single bullet. Had we been forced to intervene in unexpected developments, then those waging the war would not have opposed this intervention. All these factors and other issues were noted in a document and, to a certain extent, were guaranteed. The economic aid was requested not as the price for our cooperation, but as a partial compensation on the part of those waging the war for the damage we will be sustaining. We were not after a payment for the assistance we would be extending.

The Turkish Grand National Assembly [TBMM] has not endorsed the government motion which was in harmony with this reasoning. The TBMM is the representative of the nation. Sovereignty belongs unconditionally to the people. We only have respect for this decision. My wish is that this mode of action, which we chose in a bid to avoid war, will not force us to take certain actions with those waging the war as the opposition.

As for the question on what will happen now that the motion is not endorsed, may our lofty people be tranquil. The Turkish Republic is a great and strong state with rooted traditions. Every complicated problem has a simple solution. All the authorized organs and institutions are assessing the issue in line with the new situation. A solution that will best safeguard and implement our national interests will certainly be found.

Now I would like to address the leaders in north Iraq. We are the slaves of our geography. We have no other place to go, nor do we have other friends and neighbors to befriend. Our peoples are connected with family ties. We were next to them during their most troubled times. They are well aware of this fact. We never deceived them, we never lied to them. Together we accomplished work that was beneficial for both sides. Those who forget the past will become the bad architects of the future. What has happened now to cause this anti-Turkey atmosphere and all these bitter statements? The Turkish flag is being burned. We are a noble and honorable nation that did not burn the flags of the countries that occupied our country even when we defeated them. I remind them about our right for legitimate defense derived from our national interests, and I hope that they will be moderate and cooperative. Those who prefer to replace peace with clashes will also have to shoulder its outcome and its responsibility.

Esteemed media members, my last word is directed to you. Please make sure that in this critical period, your reports are correct, that your assessments are based on sufficient facts, and that you do not make errors that might damage our national interests. I extend my deepest respect to all of you. I thank you all.

## INTRODUCTION OF THE SPECIES PROTECTION AND CONSERVATION OF THE ENVIRONMENT ACT

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. RAHALL. Mr. Speaker, unbeknownst to many Americans lurks a drain on our economy estimated to be greater than $100 billion annually and growing, a drain that goes unchecked and relatively unpublicized because it is not glamorous. Yet, this drain is spreading, continually invading our natural spaces and crowding out our native flora and fauna—in West Virginia, across Appalachia and beyond.

This economic sinkhole is caused by harmful non-native species, also referred to as invasive or nuisance species; an issue which last year catapulted into the public eye with the larger-than-life Northern Snakehead fish in a Maryland pond. But it took a predatory fish that can walk on land, with enough charisma to make it onto David Letterman's late night Top Ten List, to get the American public to finally sit up and take notice.

As Aldo Leopold said: "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise." This then sums up the silent warfare that is being perpetrated against our economy, our fish and wildlife and our native species of plants—threats by invasive species.

For instance, my home State of West Virginia is relatively small in terms of land mass, but vast in the opportunities it affords anyone who seeks to enjoy wildlife-based outdoor recreation. Yet, this traditional and important sector of my State's economy is under siege by harmful non-native space invaders. According to a report focusing on West Virginia that was just released by the Union of Concerned Scientists:

State and Federal agencies have spent more than $18 million since 1983 to control the European Gypsy Moth in West Virginia, a voracious forest pest that kills trees and dramatically hurts the timber industry;

The balsam fir tree, on the state list of rare plants, is being infected by a small insect, the balsam wooly adelgid, which sucks the tree's sap, thereby killing it. This tree is a unique species for my State, and unless drastic measures are taken, it will be completely wiped out by this insect; and

In a continuation of the plight of the Great Lakes, the zebra mussel has found its way to West Virginia. So far, the zebra mussel is responsible for the Federal listing of five species of mussel in the Ohio River, not to mention economic and public health impacts from its clogging of municipal and industrial water intake pipes and outfalls.

These are only select examples that illustrate the kinds of problems West Virginia faces as the result of invasive species. Unfortunately, there are over 1,000 non-native species in West Virginia, over 300 of which are known to cause environmental and economic damage. In my view, we have an obligation to our natural heritage to protect, conserve and restore native species from these "space invaders."

While there are a number of initiatives already in place aimed at combating invasive species, there is a void in existing statutes. No current law is directly designed to protect and conserve our native species from harmful non-native species at the Federal or any other level. There are laws addressing harmful non-native species, but mainly through prevention, including the National Invasive Species Act, the Alien Species Prevention and Enforcement Act, the Federal Plant Pest Act, the Plant Protection Act, and the Federal Noxious Weed Act. Most Federal funding presently goes to protect production agriculture with little allocated to assist States and local communities directly.

For these reasons, today I, along with like-minded Members who are similarly concerned about invasive species, are reintroducing legislation to protect, conserve and restore our native fish, wildlife and their habitats by addressing the threat of harmful invasive species where it matters most—at the local level.

The Species Protection and Conservation of the Environment Act, or SPACE Act, would provide the missing link in existing efforts to combat the destructive invasion of some of our most valuable natural areas by harmful non-native species. Save for a couple of refinements, this bill is identical to legislation reported by the Resources Committee last year. Specifically our legislation would:

Provide grants to States to write State-wide assessments to identify exactly where their native species are being threatened by harmful nonnative species and where cooperative control efforts should be focused;

Encourage the formation of voluntary, locally-based partnerships among Federal land management agencies and non-Federal land

and water owners and managers through the competitive Aldo Leopold grant program and encourage the use of innovative technology to control invasive species;

Create a legislative authority for the National Invasive Species Council;

Authorize a Federal-level rapid response capability for an incipient threat; and

Provide funds for long term monitoring of control project sites so that we can learn by experience what strategies and techniques are most effective at controlling harmful non-native species.

The bill I introduce today augments last year's legislation in that it would provide a statutory authorization for the National Invasive Species Council, established in 1999 by Executive Order 13112. In codifying the Council, this legislation seeks to strengthen and make permanent the Federal interagency cooperation necessary for the management of invasive species. The Council is responsible for coordinating the implementation of the National Management Plan—"Meeting the Invasive Species Challenge."

In the development of this legislation, I have worked with a number of environmental and science organizations including the newly formed National Environmental Coalition on Invasive Species, which includes the American Lands Alliance, the Center for International Environmental Law, Defenders of Wildlife, Environmental Defense, Environmental Law Institute, Great Lakes United, the International Center for Technology Assessment, National Wildlife Federation, National Wildlife Refuge Association, The Nature Conservancy, and the Union of Concerned Scientists. These organizations, along with Audubon, the Aldo Leopold Foundation and American Fisheries Society, are also offering their strong support for my legislation.

I look forward to working with all interested parties as well as the members of the Resources Committee to facilitate the enactment of this important legislation.

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## POEM BY DULCE MURILLA OF SAN LEANDRO HIGH SCHOOL

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. STARK. Mr. Speaker, I rise today to share with you the wisdom of a student in my district. At one of my recent town meetings while we were discussing people's concerns with the President's war with Iraq, teacher Karen Green rose to read a poem by ninth grader Dulce Murilla of San Leandro High School.

Sometimes we need to pause and listen to our children—who often have meaningful insights into even the world's largest problems. I commend this poem to your attention.

It's all 'bout the war in Iraq
what are these dumb fools on crack?!

Don't you see all the lives that have been taken
and how many souls have been taken

I hate these moments in history
Like they say life before your eyes
And that our government is full of lies

And ask myself why
why why Why

why all the pain
why all the tears
all these fears that haunt us behind each corner

this is all so complicated
Did you hear that missile
and did you hear that bomb

Imagine all the lives that have been taken
and all those children without their parents
can't we have some peace
and just stop the damn tease

Doesn't it break your heart
'cause I feel my heart falling apart

after each child that dies
and each woman that is burned

I wish the soldiers would've thought and turned
turned back to their homeland to the USA

But hey what's there for me to say

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## HONORING DR. KENNETH E. MITCHEM

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. CARDOZA. Mr. Speaker, I rise today to honor Dr. Kenneth Mitchem, who is one of the Central Valley's most outstanding citizen leaders. As a doctor he has dedicated himself to increasing the availability of medical services to his community and as such he has touched many lives. As his friends and family gather to celebrate Dr. Mitchem's numerous achievements, I ask all of my colleagues to join with me in saluting his most accomplished career.

After Dr. Mitchem graduated from the University of Health Sciences College of Osteopathic Medicine he opened his practice in Mokane, Missouri. In 1957 he moved his practice to Camdenton, Missouri. There in the midst of the Ozark Mountains he was the only full time doctor. With the nearest hospital 65 miles away he opened his practice as a clinic, two-bed emergency hospital, and birthing center. This clinic was complete with a laboratory, X-ray capabilities, and pharmacy. In his clinic he treated everything from broken bones and car accidents to delivering babies.

In 1969 he moved to Turlock, California where he joined the office of Drs. Stanley Todd and Hugh Washburn. As a general physician and surgeon, Dr. Mitchem was able to provide medical care for thousands of patients in the Central Valley at a time when there were few doctors in this area.

Not only is Dr. Mitchem widely respected as a very important and competent physician but he is also widely respected in the community for all of his public service. In the past Dr. Mitchem has served as a board member to the Stanislaus County Medical Society. Currently he serves as a member of the Board of Directors to the Stanislaus Foundation for Medical Care. Not only has he displayed an incredible amount of integrity and dedication to his colleagues, but he has worked to increase the availability of medical services to patients throughout our community.

As a Medical Advisor to the Elness Convalescent Hospital, the Bel Air Lodge, and the Hale Aloha Convalescent Hospital, he has demonstrated his commitment to seniors and the important medical care they need.

Dr. Mitchem also serves his community as a Board Member of the Creative Alternatives Board. As a member of this board he helps run three separate programs in our community. These programs include a foster family agency, a residential care program, and non public schools. This board was established in 1976, and with Dr. Mitchem's assistance, has helped hundreds in our community. His dedication to children, families, and seniors is astounding. Dr. Mitchem is truly an invaluable member of our community.

Mr. Speaker, on May 29th, as Dr. Kenneth E. Mitchem's friends and family gathered to honor his years of incredible service to the medical community and his patients, he was honored as the recipient of the John Darroch Memorial Award by the Stanislaus Medical Society. His successes are considerable, and it is a great honor for me to have the opportunity to pay tribute to his contributions. I ask all my colleagues to join with me in wishing Dr. Kenneth E. Mitchem continued success in all of his future endeavors.

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## HONORING MR. ABDEL SALEM

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor Mr. Abdel Salem on the occasion of his retirement as City Manager of El Centro, California in my Congressional District. Abdel was honored by his friends and colleagues at a Farewell Dinner on May 30, 2003.

A native of Facous, Egypt, near the Suez Canal, Abdel was born into a farming family, along with two brothers and two sisters. He earned his Bachelor's Degree in Business Administration from Alexandria University in Alexandria, Egypt in 1965. Influenced by an uncle who had earned his Doctorate Degree from the University of California at Berkeley, Abdel came to North America in the early 1970s—first to Toronto and then to New York City. He has furthered his education through postgraduate courses in Public Administration at San Diego State University.

Choosing to move to sunny Imperial Valley of California, Abdel became Assistant Finance Director of El Centro in 1973 and was promoted to Finance Director four years later. Then came an appointment in 1980 to Acting City Manager and to City Manager in 1981. He has also served as Executive Director of the city's Redevelopment Agency and Executive Director of the Community Development Commission.

He has been involved in many roles in the organizations and activities of Imperial Valley. He is past chairman of the Imperial Valley Emergency Communications Authority, past chairman of the Imperial Valley City/County Managers Association, and a founding board member of the Imperial Valley Economic Development Corporation. He served as secretary/treasurer and president of the Optimist

Club and is past chairman of the Oratorical Contest of Optimist International/Southern California District.

Abdel is also a member of the International City Managers Association, the California City Managers Executive Committee, the Community Redevelopment Agencies Association, and the League of Cities Fiscal Reform Committee, as well as the League of California Cities Committee on Diversity.

I want to take this opportunity to thank Abdel Salem for these many fine contributions to our community. Upon his retirement, he leaves the City of El Centro a far better place. He is joined in celebrating his accomplishments by his wife, Samia, a teacher at Southwest High School, and his children, Sherif and Omneya, Salma, and Kareem. Sherif received his Bachelors' Degree in Biology in 1998 from USD and is currently employed at a biotech company in Irvine as a microbiologist. Omneya, his wife, is an architect, and they reside in San Diego. In 2001, Salma received her Masters' Degree in Human Development and Psychology from Harvard University. Kareem is Vice President of the Class of 2003 and an honor student at Southwest High School.

My best wishes go to Abdel Salem and his family upon his completion of a fruitful and noteworthy term as El Centro's City Manager. He will be missed!

## IN RECOGNITION OF MATTHEW BRONFMAN

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mrs. MALONEY. Mr. Speaker, I ask my colleagues to join me in honoring Matthew Bronfman for his numerous achievements during his years of service to the 92nd Street Y. A dedicated and passionate philanthropist, Mr. Bronfman has long been a guiding force behind the Y, one of New York City's premier cultural institutions.

The 92nd Street Y is a New York City landmark, having been in operation for nearly 130 years. Founded in 1874, the Y has become a center for people of all races, ethnic backgrounds and religions to meet and participate in activities ranging from concerts at the Tisch Center to pottery classes for children. Inspiring New Yorkers of all ages with its varied programs and classes, the 92nd Street Y has played a crucial role in maintaining the vitality of the city.

A successful businessman and philanthropist for many years, Matthew Bronfman joined the 92nd Street Y Board of Directors in September of 1991 and was elected its 42nd President in May of 2000. His strong leadership and vision have had an energizihg influence in strengthening the 92nd Street Y.

The Bronfman family has also played a major role in the life of the Y by endowing, in 1992, the Bronfman Center for Jewish Life. The Bronfman Center has become the focus of the Y's many programs involved with Jewish education, outreach, family and holiday planning. The Center sponsors lectures, religious services, classes and workshops, all designed to help the community explore Jewish heritage and culture. Recent guest speakers include Elie Wiesel and Yitzhak Rabin.

A devoted father of six, Matthew Bronfman is managing director of a private investment company, ACI Capital, and chairman of the Investment Committee of the Challenge Fund, L.P. Mr. Bronfman is also a board member of many organizations including Tweeter Home Entertainment Group, Earnest Partners, Visiosonic, Palace Candles, The Canadian Center for Architecture, and the Cardigan Mountain School.

In recognition of his outstanding achievements and leadership, I ask my colleagues to join me in recognizing Matthew Bronfman, an accomplished businessman and a cultural leader.

## PERSONAL EXPLANATION

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. ISRAEL. Mr. Speaker, I was unable to be in Washington yesterday. Three recorded votes were taken by the House; if I were here, I would have voted as follows:

Rollcall No. 227: a motion to suspend the rules and pass H. Res. 159, a resolution Expressing Profound Sorrow on the Occasion of the Death of Irma Rangel. I would have voted "yea";

Rollcall No. 228: a motion to suspend the rules and pass H. Res. 195, a resolution congratulating Sammy Sosa of the Chicago Cubs for Hitting 500 Major League Home Runs. I would have voted "yea";

Rollcall No. 229: a motion to suspend the rules and pass H.R. 1465, a bill to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office". I would have voted "yea".

## TRIBUTE TO GERALD THYGERSON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. McINNIS. Mr. Speaker, I have the distinct privilege to stand before this body to pay tribute to a true public servant. Gerald Thygerson of Grand Junction, Colorado has spent 38 years improving the lives of ranchers and their livestock in the West. To commemorate his retirement from the Bureau of Land Management, I would like to recognize his efforts here today.

Gerald joined the BLM after graduating with a Bachelor of Range Science Degree from New Mexico State University in 1966. He worked in the Range Management Program his entire career—first in Las Cruces, New Mexico and then in Grand Junction, Colorado beginning in 1973. After taking control of the nascent Little Brookcliffs Wild Horse Range in 1981, Gerald greatly expanded the size, genetic diversity, and overall quality of the herd while simultaneously cutting costs. His success and ability to forge strong partnerships has brought him and the Little Brookcliffs Horse Range national attention.

Mr. Speaker, Gerald Thygerson has been responsible for numerous improvements that have enhanced both the quality of livestock and public rangelands in the West. He has been an outstanding steward of our nation's resources, and I thank him for his service to the BLM. I wish him all the best in his retirement.

## TRIBUTE TO MARGARET AND ANDREW WYATT

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. PAYNE. Mr. Speaker, I rise today to recognize Margaret and Andrew Wyatt as they celebrate their fiftieth wedding anniversary. On May 17, 2003 the pair renewed their vows at Greater Abyssinian Baptist Church in my hometown of Newark, New Jersey.

Marrying at a very young age, Margaret and Andrew have grown together over these past fifty years, enjoying times of great joy and happiness. Finding a special person and friend to share your life with is one of the great joys of life. The Wyatt's have found that special bond and continue to grow and change together.

Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me today in congratulating Margaret and Andrew on this wonderful occasion and in wishing them many more wonderful years together.

## TRIBUTE TO ROMAN CATHOLIC DIOCESE OF SPRINGFIELD, ILLINOIS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the Roman Catholic Diocese of Springfield in Illinois in honor of their Sesquicentennial Celebration.

The Springfield Diocese is home to approximately 170,000 Catholics in 164 parishes. The diocese is also home to 145 diocesan priests. There are eight Catholic hospitals, one religious seminary, one Catholic university, one Catholic college, seven Catholic high schools, and 54 Catholic elementary schools in the diocese.

Today, I would like to send my blessings to Bishop Lucas and the entire Catholic Diocese of Springfield in Illinois for a joyous celebration of their Sesquicentennial.

The Diocese will celebrate their year of Jubilee with a free fun-filled day on Saturday, June 28, 2003 with a community mass that evening. The day will include activities for children, families, and seniors at the Illinois State

Fairgrounds. The day will conclude with a concert from Aaron Neville. I would like to commend the sponsors of the event who are making this day possible for the hundreds of Catholic families in the Diocese.

In closing, I would like to congratulate the Diocese on their Jubilee 2003 Celebration and wish them much success with their events. I know every one who attends will feel renewed in their faith and ready to begin the next 150 years with thanksgiving for all we have been given. God bless.

## CONCENTRATION OF OWNERSHIP IN MEDIA

SPEECH OF

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. BACA. Mr. Speaker, the Federal Communications Commission voted along party lines to put more power in the hands of a few corporate giants at the expense of the American people.

If the FCC's goal was to line the pockets of Disney, General Electric, AOL-Time Warner, Viacom, and News Corp. then I say to them "congratulations!" because they have succeeded.

By allowing these corporate interests to own more newspapers, more TV stations, more radio stations, and more of our public airwaves, we are taking this country down a dangerous path.

We all learned at a young age that knowledge is power. But now, the flow of knowledge will be controlled by a handful of media giants.

They will have almost total control of our news, information, and entertainment.

They will determine what we get and when we get it.

They will determine what we see, read, and hear. That is unacceptable!

And why have they done this?

They say that the rise of cable TV and the internet made the former rules obsolete.

That's the kind of conclusion you reach when the only people you listen to are media moguls.

Who is listening to the American people?

We have been shut out of the process.

In its haste to protect these company's financial interests, the FCC has failed to defend the public interest.

We must take action to right this wrong.

If we do not, our media will have less local content, less diversity of opinion, and fewer opportunities for minority ownership.

It is time for the American people to stand up and be counted. It is time for those who represent the American people to do the same.

## PERSONAL EXPLANATION

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber today during rollcall vote No. 227, No. 228 and No. 229. Had I been present, I would have voted "yea" on all of these votes.

## PERSONAL EXPLANATION

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. ORTIZ. Mr. Speaker, I was unavoidably detained due to official business as a member of an official Congressional delegation traveling to North Korea and was not present for the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 227—"yes"; 228—"yes"; 229—"yes."

## HONORING MICHAEL HERTIG

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. McINNIS. Mr. Speaker, I have the distinct pleasure to stand before this body of Congress today to recognize an American hero. Staff Sergeant Michael Hertig of the 3rd Infantry Division put himself in harm's way to serve his country during both campaigns on Iraqi soil.

At one stage during Operation Iraqi Freedom, Michael was leading his brigade back to headquarters. When he discovered an exposed flank in the line, he placed his Bradley Fighting Vehicle in the middle of the gap, and engaged the enemy. Michael's commanding officer claimed that his actions saved the lives of at least 15 soldiers, as he personally escorted several military ambulances through enemy territory. For these courageous actions, Michael will receive the Silver Star; the third highest military award designated solely for gallantry in action. Michael will also be presented with the Purple Heart for injuries he incurred when an Iraqi tank exploded next to his Bradley Fighting Vehicle. While he has lost some hearing in his right ear, Michael remains in high spirits.

Mr. Speaker, I cannot fully express my deep sense of gratitude for the sacrifice and heroism of this soldier and his family. Michael should know that this sacrifice will not be forgotten; America will be in his debt. Michael has done all Americans proud and I know he has the respect, admiration, and gratitude of all of my colleagues here today. Thank you, Michael, for your dedication and service to this Nation.

## TRIBUTE TO MRS. BARBARA HARRIS

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. PAYNE. Mr. Speaker, I rise today to recognize a wonderful woman and outstanding educator, Mrs. Barbara Harris. Born in Philadelphia, Pennsylvania and a graduate of Cheyney State College, Mrs. Harris has been a resident of Newark, New Jersey since 1969.

On June 13, 2003 at the Galloping Hill Inn in Union, New Jersey, the Social Welfare Committee, the Bragaw Avenue School, family and friends will be honoring Mrs. Harris on the occasion of her retirement from the Newark Public School System.

Beginning her work as an educator in Philadelphia, Mrs. Harris taught within the Philadelphia School System from 1962–1966. She then moved to Newark and has taught in our public school system since 1969. As a member of the Education and the Workforce Committee here in the U.S. House of Representatives and a former teacher, I am extremely appreciative and proud of the hard work and dedication of educators such as Mrs. Harris.

In addition to her dedication within the classroom, Mrs. Harris has also dedicated herself to bettering the entire community. Volunteering with the United Way, late New Jersey State Senator Winona Lipman, as well as former Mayor Kenneth Gibson and Ralph Grant she also has served on many local, county and state committees for the Newark Teachers Association.

A dedicated educator and citizen, Mrs. Barbara Harris will certainly be missed within the Newark educational community. Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me today in saluting Mrs. Harris for her many years of educating our Nation's children, wishing her the very best for the future.

## LITCHFIELD SESQUICENTENNIAL

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the city of Litchfield and honor its sesquicentennial this year.

Said to be the highest point between St. Louis, Missouri and Terre Haute, Indiana, Litchfield was founded on August 24, 1853, and was named after Electus Bachus Litchfield, the man that brought the railroad to the area. The Terre Haute, Alton, and St. Louis railroad was essential to the development of early Litchfield, and the town rapidly grew in size.

The village was incorporated in 1856, and when the Civil War came five years later, Litchfield was the first city in the state of Illinois to send men to fight for the Union. One company from Litchfield was used to help form the first regiment in the state of Illinois, the Seventh Illinois Volunteer Infantry.

After the Civil War, the discovery of oil, gas, and coal in the area prompted more population growth, and six railroads made their way through the city. The city grew even larger with the introduction of Route 66, the main highway between Chicago and Los Angeles, as tourists and travelers alike became familiar with Litchfield. The highway still runs through Litchfield today, and still brings in tourists from all over the world.

Today, Litchfield is known as the hub of Central Illinois. One hour from both St. Louis, Missouri and Springfield, Illinois, it has become the manufacturing and shopping center of the area. Nineteen manufacturers, sales and distribution centers are housed in the city's two industrial parks. Also, with a newly constructed high school, Litchfield seems ready to continue its growth well into its next 150 years. Lincoln Land Community College now has a center in the town as well, and the future of the area looks bright.

Litchfield's first 150 years have been full of growth. In celebrating its sesquicentennial this year, the city shows great dedication both to its history and to the people of its present. Several events are planned for the week of the Fourth of July, and I wish the city and its people the best in celebrating this significant milestone.

## HONORING FANNIE DICKENS PETWAY

### HON. FRANK W. BALLANCE, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. BALLANCE. Mr. Speaker, I rise today to honor the life of Mrs. Fannie Petway, a native of Pinetop, North Carolina, who passed on to her reward Sunday, April 27, 2003 at the age of 97. Mrs. Petway was a devoted parishioner of Bethlehem Baptist Church of Rocky Mount, North Carolina. She is survived by her loving son Columbus Petway, and a host of other relatives.

Mrs. Petway's doors were always open to discuss family issues and she helped raise many children and grandchildren. She would keep them in awe with the many stories she told about her experiences on the farm where many of the children in her life spent their summers. The men in her family reflect fondly when they would get a call from Fannie asking them to stop by and get something to eat—and they would never say no, especially when wooed with her memorable peach cobbler and coconut cake, in spite of the fact that their wives had another meal waiting for them at home. Mrs. Petway is preceded in death by her daughter Annie Elizabeth Knight, her son Edward Petway, and daughters-in-law Eunice Irene Petway and Madie Moore Petway. She was the loving and proud grandmother to seven granddaughters and seven grandsons.

Mrs. Petway's gracious and warm smile will be deeply missed along with the many wonderful memories and recipes she has left behind. The blessing of her warmth and love have left a mark on those close to her and will be remembered vividly and fondly. My thoughts and prayers are with her loved ones.

## RELIEF TO MUNICIPAL UTILITIES WHO ISSUE TAX EXEMPT BONDS

### HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. SPRATT. Mr. Speaker, I rise today in support of legislation that I have just reintroduced to provide relief to municipal utilities who issue tax exempt bonds. This legislation would permit these utilities to take advantage of a process known as "advance refunding," which allows the bond issuer to take advantage of favorable market conditions by refinancing their debt at a lower interest rate. The bill is identical to legislation I introduced in the 107th Congress that was cosponsored by the entire South Carolina Congressional delegation.

Advance refunding works just like refinancing your home. If interest rates have dropped since you purchased your home, then you can refinance, or "advance refund," that home at the lower rate. This can save the average homeowner thousands of dollars in foregone interest payments.

This same refinancing has, in the past, been allowed for municipal utilities who use tax exempt bonds to finance their facilities and equipment. Because of the large capital costs associated with power generation and distribution, the debt incurred from these issues is often substantial, and debt service payments end up being one of the largest expenses for the utility. These higher costs are then passed on to the consumer in the form of higher electric rates. If these companies are allowed to refinance, they can save millions of dollars in foregone interest payments, which translates into lower rates for the average consumer.

Under current tax law, these municipal utilities have been able to advance refund their debt only once since 1986. Many of these utilities companies still face staggering debts. For one utility company in my state, these debt payments have become particularly burdensome, and all of its customers are suffering from the resulting high rates. With interest rates so low, this utility is convinced that if it is allowed to advance refund one additional time, it will be able to stabilize its debt service and significantly lower these rates.

That is what my legislation does. It allows municipal utilities to advance refund one additional time if they have already advance refunded since 1986.

Municipal utilities are by no means the only issuers of tax exempt bonds. I have limited the scope of this bill to municipal utilities because they face substantial debts and are subject to limitations that state and local governments are not. The bill is open to modification for others who might benefit from advance refunding of their debt.

During consideration of the most recent tax bill in the Senate, Senator LINCOLN offered an amendment that allowed for additional advance refunding for Arkansas schools. While I am sure that Arkansas schools need such relief, other sectors need similar relief, and especially municipal utilities. I am pleased to see Senator LINCOLN reopen the advance refunding debate, and would welcome the opportunity to discuss inclusion of my bill in tax reform measures taken up by the House in the future. The benefits to my state, and others, would be significant, and they would ultimately be enjoyed by consumers.

## HONORING THE 25TH ANNIVERSARY OF GLAD TIDINGS CHURCH OF GOD IN CHRIST

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. STARK. Mr. Speaker, I rise today to honor the 25th anniversary of Glad Tidings Church founded by Rev. and Mrs. J.W. Macklin in 1978 in Hayward, California. From its earliest inception, Glad Tidings reflected what many considered a new and refreshing direction in church ministry. With a strong commitment to communities and families, this young church began to position itself for a long-term commitment to the city of Hayward.

In 1981, Glad Tidings purchased their first edifice in South Hayward. Believing that Glad Tidings had a vision and a ministry to meet the growing needs of a changing neighborhood, the Hayward Covenant Church sold a 15,000 square foot facility, including a sanctuary with seating for 150 people, to a young, energetic congregation.

Within a few short years, the mortgage was liquidated and the existing facility was remodeled to include a new sanctuary seating approximately 300 people. The remaining facility was remodeled to accommodate executive offices, classrooms, and a fellowship hall.

In the midst of Glad Tidings' growth is the incredible story of a congregation, whose vision, fortitude and commitment has brought them face to face with a suburban community that had become very much urban within a few short years. As the church grew, the obvious need to build new facilities was more than evident. Glad Tidings Church was faced with a major dilemma; to relocate to a suburban community or to stay and build in a challenged community filled with drugs, crime, and rampant poverty.

In 1990, Glad Tidings Church adopted a strategic plan, which required the church to involve itself to an even greater degree in the surrounding neighborhoods in decline. A neighborhood revitalization program was set in motion. Glad Tidings established a strong proactive presence in city government, schools, community, and police affairs. This community outreach provided a base for support networks to thrive with other surrounding neighborhoods, agencies and businesses and gave voice to the South Hayward community.

Glad Tidings Church established a central neighborhood campus while networking with other community services to offer a creative and supportive environment of programs, housing, services and facilities which address many of the major needs and concerns of a community in need of revitalization.

I applaud Glad Tidings Church's focus on economic development, job and career training, youth and adult education, youth and adult support services and health services all provided within a spiritual setting which accents excellence at all levels of life for all people. I congratulate Glad Tidings Church on its 25th anniversary and wish the leadership and congregation many years of continued success.

## THE GINSENG LABELING CORRECTION ACT

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### HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. DOOLITTLE. Mr. Speaker, I rise to discuss legislation I introduced today called The Ginseng Labeling Correction Act. This legislation seeks to fix a technical problem with a provision that was included in the farm bill Congress passed last year.

Section 10806(b) of the Farm Security and Rural Investment Act of 2002 amended the Federal Food, Drug and Cosmetic Act by placing limitations on the use of the term "ginseng" as the common or usual name for plants classified within the genus Panax. The purpose of this provision was to address confusion that had arisen from products derived from different plants being labeled as "Siberian ginseng."

When labeling changes are enacted, the Food and Drug Administration recognizes that, in order to assure an orderly and economical industry adjustment to new labeling requirements, a sufficient lead time is necessary to permit planning for the use of existing label inventories and the development of new labeling materials.

Unfortunately, the ginseng provision Congress included in the farm bill lacked a specific effective date that would have allowed FDA's typical transition period to occur. Therefore, on May 13, 2002, the day the farm bill was signed into law, companies that had products labeled "Siberian ginseng" became criminally liable. This was clearly not the intent of Congress, and was simply an oversight on the part of the Senate and House in writing that portion of the farm bill. In fact, Senator TOM HARKIN, the Ranking Member of the Senate Agriculture Committee, attempted to correct this omission in the FY 2003 Emergency Wartime Supplemental, PL–108–11. However, in the rush to complete work on the bill the provision was left out even though there were no objections to it.

However, this omission needs to be corrected as soon as possible. Therefore, I have introduced The Ginseng Labeling Correction Act, which states that Section 10806(b) of the Farm Security and Rural Investment Act of 2002 will become effective thirty days after the legislation becomes law.

It is my desire to have this bill move to the House floor as quickly as possible. I hope my colleagues will join me in supporting this minor, but critically important, correction to the farm bill.

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## A TRIBUTE TO DR. NORMAN ADRIAN WIGGINS

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### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. ETHERIDGE. Mr. Speaker, I rise today to pay tribute to Dr. Norman Adrian Wiggins on his retirement as President of my alma mater, Campbell University in Buies Creek, North Carolina. For 36 extraordinary years, Dr. Wiggins' leadership and vision have transformed Campbell from a small, rural school into the nation's second largest Baptist university.

From his first day on the job in 1967, Dr. Wiggins has strengthened the undergraduate college, developed an innovative Trust Management Program, and added five new schools to the University: The Norman Adrian Wiggins School of Law, The Lundy-Fetterman School of Business, The School of Education, The School of Pharmacy, and The School of Divinity. He also established during his tenure an ROTC Program and a number of substantial international programs, most notably with Tunku Abdul Rahman College in Kuala Lumpur, Malaysia. Indeed, Dr. Wiggins' tireless efforts have extended Campbell's sphere of influence throughout the communities of North Carolina, the nation, and the world.

During his career, Dr. Wiggins taught and mentored over 25,000 students who have gone out into the world to serve as business leaders, doctors, lawyers, teachers, and ministers. These Campbell graduates provide our people with jobs and economic opportunities, care for our nation's sick and elderly, defend our rights under the rule of law as attorneys, prepare our children to be tomorrow's leaders, and uplift our national soul.

But Dr. Wiggins' leadership extends far beyond the hallowed halls of Campbell University. He has served as president of both the Baptist State Convention and the American Association of Independent Colleges and Universities. His peers hail him as a leader who embodies a depth of experience, understanding, and passion that few will ever match.

Dr. Wiggins' innovative leadership and unique vision have earned him widespread recognition. His numerous awards include the Commander's Award for Public Service and the Distinguished Civilian Service Medal from the United States Army, and the Boy Scouts of America's Distinguished Service Award, all of which acknowledge Dr. Wiggins' unfailing commitment to improving the lives of his fellow Americans.

Mr. Speaker, Dr. Wiggins is an exemplary figure of patriotism, leadership, dedication, and commitment. As a Campbell alumnus, I am proud to honor Dr. Norman Adrian Wiggins today. I ask all of my colleagues to join me and Faye in celebrating his 36 years of service to Campbell University, to the State of North Carolina, and to the United States of America.

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## 10TH ANNIVERSARY OF RAISING THE PATRIOTS OF AFRICAN DESCENT MONUMENT IN VALLEY FORGE NATIONAL PARK, VALLEY FORGE ALUMNAE CHAPTER OF DELTA SIGMA THETA SORORITY

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### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. GERLACH. Mr. Speaker, I rise today to honor the Valley Forge Alumnae Chapter of Delta Sigma Theta Sorority, Inc. and its celebration of the 10 year anniversary of the raising of the Patriots of African Descent Monument in Valley Forge National Historical Park. Ninety years ago, the Delta Sigma Theta Sorority started with 22 women, right here in our Nation's Capital at Howard University, and has since expanded to the 200,000 member, 90 chapter organization that exists today.

The Valley Forge Alumnae Chapter of this public service organization was chartered on February 10, 1991 and has since contributed to the local and national community in ways consistent with the organization's Five Point Program foci of: educational development, economic development, physical and mental health, political awareness and international awareness and involvement.

These contributions are signified in the Chapter's effort and success in erecting the Patriots of African Descent Monument in 1993 at Valley Forge, one of our Nation's most historical parks. The monument remains the only such edifice to be raised in any of the units of the National Park system and contributes to the education of visitors to the Park of the role African-Americans played in the country's founding. More specifically, the monument signifies the tremendous service and sacrifice African-American soldiers of the Continental Army provided to a fledgling nation.

The Valley Forge National Park holds great historic value as the site dedicated to the Continental Army's bravery, suffering and sacrifice that took place during the harsh winter encampment there in 1777–78, during which time some 2,000 soldiers died.

The Patriots of African Descent Monument only furthers the historic symbolism of the Park by recognizing the numerous contributions and sacrifices of African-Americans during the Revolutionary War, in particular the approximately 500 African-American soldiers who suffered terribly along with the many other Continental soldiers during the long, harsh winter spent in Southeastern Pennsylvania.

Since the monument's unveiling in 1993, this statue has contributed to educating visitors of Valley Forge to the diverse cultures that contributed to this Nation's birth and will continue to do so with the sustained involvement and efforts of the Valley Forge Alumnae Chapter of Delta Sigma Theta Sorority, the Valley Forge Historical Society and citizens. I congratulate and commend the Chapter's continued efforts to educate future generations regarding historic artifacts and places which "tell the American story" and recognize the 10 year anniversary of the Patriots of African Descent Monument and its symbolic place in our Nation's history.

## WALTER CRAIG AMERICAN LEGION AUXILIARY POST 60 IN ROCKFORD, ILLINOIS

### HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MANZULLO. Mr. Speaker, I rise today in support of the Walter Craig American Legion Auxiliary Post 60 located in Rockford, Illinois. This auxiliary post is dedicated to supporting the veterans and their families in my congressional district, and I would like to acknowledge the many accomplishments of the Walter Craig American Legion Auxiliary Post 60: Americanism Patriotic Conference; and Youth Conference; Spirit of Youth Fund Scholarships for Jr. Girls Nation and Youth Conference; Auxiliary Emergency Fund for Displaced Homemakers; American Legion Child Welfare Foundation; Dept. Children and Youth Christmas Gifts for Institutional Children; Children and Youth Scholarships for teaching field of handicapped children; Children's Heartlink Heart surgery for needy children; Children's Miracle Network hospital care for children in need; Special Olympics; Spinoza Buddy Bear Project; Department Scholarship Fund for All Dept. Scholarship Funds; Funding for Special Field Services 7 VA Hospitals; Dept. National Security Fund ROTC Awards 7 Patriotic Conference; Nurses Scholarship Fund; Six Point Program extras for hospitalized veterans; North Chicago Medical Center; Crime Stoppers; World War II Nurses; Rescue Mission.

Mr. Speaker, the Walter Craig American Legion Auxiliary Post 60 is an exemplary post, and its members take great pride in helping their local veterans. This post is to be commended for its many accomplishments and steadfast support of the veterans in the 16th Congressional District of Illinois.

## PERSONAL EXPLANATION

### HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. TAYLOR of Mississippi. Mr. Speaker, I missed the legislative business of Monday, June 2, 2003 due to a delay in my flight from Mississippi. Had I been present, I would have voted "yea" on rollcall No. 227, for H. Res. 159: expressing profound sorrow on the occasion of the death of Irma Rangel; "yea" on rollcall No. 228, for H. Res. 195: congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs; and "yea" on rollcall No. 229, for H.R. 1465: to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office."

## TRIBUTE TO DIANA BOSFIELD-MOORE

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise today to pay tribute to Diana Bosfield-Moore, a teacher at Phyllis R. Miller Elementary School who, after 28 and a half years of dedicated service, has decided to retire from the Dade County Public Schools.

Diana Bosfield-Moore was born and raised in Miami, Florida and is a proud graduate of Miami Northwestern Sr. High School. She attended Miami Dade Community College where she received her AA Degree and went on to receive her Bachelor of Science Degree from Florida Memorial College.

Ms. Bosfield-Moore brought a wealth of educational experience to her teaching. She began her career in education as a Paraprofessional in 1974. Soon afterwards, Ms. Bosfield Moore moved to Computer Lab Specialist, Reading Tutor, Substitute Teacher, After-School Care Supervisor, Associate Educator, and now an Elementary School Teacher.

Ms. Bosfield-Moore is a role model who demonstrated in her own life how her students could overcome the obstacles they faced in theirs. She raised five of her sibling's children; two of her own children; and four grandchildren, and still she made the time to graduate from college with a teaching degree at the age of forty-three. This is a truly remarkable task, and it speaks volumes about the truly remarkable person she is.

Ms. Bosfield-Moore's dedication, loyalty, compassion, and involvement will be sorely missed at Phyllis R. Miller Elementary School, by parents, colleagues, administrators and students alike.

Congratulations, Ms. Bosfield-Moore, for a job well done.

## HONORING THE 25TH ANNIVERSARY OF THE DOWNRIVER COUNCIL FOR THE ARTS

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. DINGELL. Mr. Speaker, today, I rise to acknowledge the 25th Anniversary of the Downriver Council for the Arts (DCA). The DCA has been a driving force in bringing quality arts education, valuable cultural information and employment to artists and educators throughout the Downriver community.

Founded in 1978, the DCA is a non-profit, umbrella organization that represents, promotes and serves the 18 Downriver communities. The DCA's Home Gallery, resource library, information center, newsletter, cultural calendar, weekly column, arts hotline, website and cable programs provide up-to-date information on artistic, cultural and special events to the nearly 400,000 residents of Downriver.

The DCA works closely with community-based arts organizations, service clubs, municipal governments, schools and social agencies to bring the arts into the community. This wonderful organization nurtures the cultural and artistic growth of thousands of Downriver residents. The DCA not only fosters strong relationships between art institutions and educators, but also serves as a bridge between all socio-economic categories.

The DCA provides volunteer, educational and professional development opportunities, works to insure equal access to artistic opportunities and promotes the recognition of art and culture as a primary contributor to economic development and the quality of life within the Downriver communities.

Mr. Speaker, as the Downriver Council for the Arts celebrates its 25th Anniversary, I would ask that all my colleagues rise and salute this phenomenal organization for all that they have done and will continue to do for the arts in Downriver.

## PERSONAL EXPLANATION

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. BECERRA. Mr. Speaker, on Monday, June 2, 2003, I was unable to cast my floor vote on rollcall Nos. 227, 228, and 229. The votes I missed include rollcall vote 227 on Suspending the Rules and Agreeing to H. Res. 159, Expressing Profound Sorrow on the Occasion of the Death of Irma Rangel; rollcall vote 228 on Suspending the Rules and Agreeing to H. Res. 195, Congratulating Sammy Sosa of the Chicago Cubs for Hitting 500 Major League Home Runs; and rollcall vote 229 on Suspending the Rules and Passing H.R. 1465, the General Charles Gabriel Post Office Building Designation Act.

Had I been present for the votes, I would have voted "aye" on rollcall votes 227, 228, and 229.

## CONGRATULATING ALAN KENT LIPKE, RETIRING PRINCIPAL OF ST. PAUL LUTHERAN SCHOOL IN JACKSON, MISSOURI FOR 39 YEARS OF SERVICE TO OUR NATION'S CHILDREN

### HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mrs. EMERSON. Mr. Speaker, a well-known proverb exemplifies the life mission of our friend and educator Alan Lipke. "A child is not a vessel to be filled, but a lamp to be lit."

For 39 years, Alan Lipke has been an educator committed to bringing light to the lives of our children. Whether it was for two years at St. Paul Lutheran School in Evansville, Indiana, for 13 years at St. Paul Lutheran School in Aurora, Illinois or for the last 22 years right here at St. Paul Lutheran School in Jackson, Missouri, students across the Heartland have been blessed by the dedication and passion of someone who has spent his life preparing our children for the future.

Now, after playing such an integral role in the education of countless youngsters, Alan Lipke has decided it is time to retire from education and begin a new chapter in his life. Though it is clear that he has "put in his time," it is with a heavy heart that we prepare for Alan's departure. He has been a remarkable and stellar educator and after 39 years of unparalleled service to the teaching profession, to say that his absence from education will be missed is an understatement.

And though Alan is retiring from his current profession, I know he will still be a visible and active member of the Jackson community. Maybe we'll see him at Jackson Chamber of Commerce meetings, at festivities for the St. Paul Lutheran School or just out enjoying time with his wife Sally, his children Lisa and Scott, his daughter-in-law Ashley, and most important of all, his grandson Parker. Wherever we may see him, I am sure he will be having fun and enjoying this rich and wonderful time of his life.

Mr. Speaker, on this very special occasion, I ask that all of my colleagues join me in congratulating Alan on this milestone and wish him every happiness for the future. Thank you.

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## TRIBUTE TO BLONEVA SMITH

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise today to pay tribute to Mrs. Bloneva Smith, a remarkable teacher who, after 37 years of dedicated service, has decided to retire from the Dade County Schools.

Mrs. Smith is a graduate from Booker T. Washington Senior High School in Miami, Florida. She attended Howard University in Washington, DC, where she earned her undergraduate degree. Bloneva Smith is a member of Mt. Hermon AME Church and a sister of Delta Sigma Theta Sorority.

Mrs. Smith brought to her young students, as well as her young teaching colleagues, a wealth of experience and a perspective on educational progress that spans some of the most difficult decades in our history. Her teaching career began in 1966, during a time when the Dade schools were still effectively racially segregated and black educators were traditionally assigned to teach at historically black schools.

In January 1970, she was reassigned to Treasure Island Elementary School in response to a court order to integrate all schools. Mrs. Smith continued teaching there for 16 years before moving on to Rainbow Park Elementary and finally to Phyllis R. Miller Elementary School, where she has decided to end her teaching career.

I understand that Mrs. Smith has been called a "quiet storm" because she gets results without making a big fuss. We thank her for her service as a proficient and effective educator, and I know all my colleagues join in offering her our best wishes in all her future endeavors

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## HONORING THE EXTRAORDINARY LEADERSHIP OF JOSEPH L. HUDSON JR.

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. DINGELL. Mr. Speaker, today, I rise to honor the extraordinary leadership of Mr. Joseph L. Hudson Jr. Mr. Hudson has been a committed civic leader in the greater Detroit area for over 45 years. Over the course of his lifetime, Mr. Hudson has served as a role model for not only his leadership abilities, but his dedication to his community, his church and, most important of all, his family.

Born on July 4, 1931 in Buffalo, New York, Mr. Hudson was destined to be a strong figure in our Nation's landscape. Mr. Hudson joined the J.L. Hudson Company following graduation from Yale in 1953. Between 1954 and 1956 he served as an artillery officer with the U.S. Army in Germany. In 1956 he returned to Hudson's, was elected a Vice President in 1957 and in 1961 became President and Chief Executive Officer. Mr. Hudson retired from the J.L. Hudson Company and the Dayton Hudson Corporation in 1982 after serving as Chairman and Chief Executive Officer for ten years.

In 1956 Mr. Hudson was elected to the board of trustees of the Hudson-Webber Foundation and served as President and then Chairman from 1961 until his retirement in 1996. The Hudson-Webber Foundation is committed to improving the vitality and quality of life of the metropolitan Detroit community with special emphasis on the Detroit Medical Center, the arts, crime reduction, economic development and the communities' urban revitalization needs.

Mr. Hudson's civic and community involvement includes service on the City of Detroit Arts Commission (Detroit Institute of Arts) where he served as President from 1979–1990; Active Honorary Trustee and founding Chairman of New Detroit, Inc., America's first urban coalition. Mr. Hudson has also received Honorary Doctor of Humanities Degrees from the University of Detroit, Wayne State University, and Michigan State University.

In June of 2003, Mr. Hudson will complete 19 years as founding Chairman of the Community Foundation for Southeastern Michigan, Detroit, Michigan. Under his remarkable leadership, the Community Foundation has distributed more than $145 million in over 18,000 grants to improve the seven counties of Southeastern Michigan. The Community Foundation for Southeastern Michigan is one of the youngest and fastest growing of over 600 community foundations worldwide.

Mr. Speaker, I would ask that all my colleagues rise and join me in honoring Mr. Hudson's humanitarian achievements and tireless dedication to his community and church.

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## IN MEMORY OF MICHAEL J. HANDY: THE VETERANS' VETERAN

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. RANGEL. Mr. Speaker, I rise in tribute to Michael J. Handy, Director of the Mayor's Office of Veterans' Affairs in the City of New York. Mr. Handy died on May 31 from a heart attack. He was 55 years old.

Mr. Handy was first appointed to head the Mayor's Office of Veterans' Affairs by Mayor David Dinkins in the late 1980's, and was reappointed to that position by Mayor Rudolph Giuliani and Mayor Michael Bloomberg.

For Mr. Handy, service to veterans was not a partisan issue. Indeed, he was New York's Veterans' Veteran, having dedicated 30 years of his professional life to assisting the men and women who had served in our Nation's Armed Forces.

He had served in Vietnam as an enlisted man in the Air Force. But as his loving wife Edna has pointed out, Mr. Handy's service after the war, and to the very end, was a response to a call that struck him so deeply that it became central to his life. For him, working for and with veterans was not so much a job, or a political office, it was a passion.

I first began working with Mr. Handy in the late 1980's when he became involved with the Congressional Black Caucus Veterans Braintrust, which I chaired. Mr. Handy became a fixture at those annual meetings which convened each September during the Black Caucus' Annual Legislative Conference.

Mr. Handy was one of the very first advocates for federally assisted housing for disabled and veterans, which culminated eventually in a program to provide such housing, administered by the Department of Housing and Urban Development and the Veterans' Administration.

In his later years, Mr. Handy was a persistent advocate for raising the benefits received by Reservists and National Guardsmen to equal those of active duty soldiers. His voice in that area has been heard in Washington, where Democrats in Congress are pushing such legislation.

Mr. Handy, a native New Yorker, was a lively, kind and gentle man whose service to New York City's veterans, including those residing in my Congressional District, I will never forget. He followed his vocation with the greatest enthusiasm, attending every parade, every meeting, every dedication, in the hope that somehow his presence would make a difference for his constituents which numbered more than half a million veterans in the city and nearly 400 veterans organizations.

Mr. Handy, in his Director's statement at the Office of Veterans' Affairs, described New York as a city of "patriotic Americans—men and women—who have put themselves in harm's way to preserve our way of life. We owe those who wear, and those who wore, the uniform of the United States of America a debt of gratitude for their service and their sacrifice."

Mr. Speaker, we all owe Michael Handy a comparable debt. We thank and commend him. And we pray that you will ease the pain of his loss being endured by his dear wife Edna, his loving daughters, extended family and his many friends.

## PERSONAL EXPLANATION

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mrs. LOWEY. Mr. Speaker, during an absence yesterday, I regrettably missed rollcall votes 227–229. Had I been preset, I would have voted in the following manner: Rollcall No. 227: "yea"; rollcall No. 228: "yea"; rollcall No. 229: "yea."

## TRIBUTE TO MAE W. SEAMAN

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MEEK of Florida. Mr. Speaker, it has been said that teachers can only retire from their jobs, but not from their calling. That is certainly true for Mae W. Seaman who, after 32 years of dedicated service, has decided to retire from the Phyllis R. Miller Elementary School.

Mae Seaman was born and raised in Miami, Florida and is a proud graduate of Miami Beach Senior High School. She attended the University of Miami to earn her undergraduate degree and went on to receive her Master of Science degree from Nova University.

She began her teaching career began in 1970 at West Little River Elementary in Miami. At West Little River Elementary the staff bestowed upon her one of the highest honors that they could bestow on any colleague "Teacher of the Year." Ms. Seaman remained at West Little River Elementary for 10 years before moving on to other endeavors.

Ms. Seaman's day, for the past eighteen years, started with a five o'clock wake-up, in order to get her mother to the family's business on the west side of town, before greeting her students each day. Her mother still lives with her and although she has retired, her routine remains the same—up by five o'clock, to take care of family and business.

All that will be missing each day are the students, but Ms. Seaman can take pride in the success of the thousands of young people she helped successfully nurture and develop over the years.

Congratulations, Ms. Seaman. Thank you for your service, and enjoy your retirement.

## CONGRATULATING ELIZABETH FOLEY

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. DINGELL. Mr. Speaker, I rise today to congratulate Elizabeth Foley, from Saline, Michigan, which is located in my district, on becoming a State Honoree in the 2003 Prudential Spirit of Community Awards Program for outstanding volunteer service.

Conducted in partnership with the National Association of Secondary School Principals, the Prudential Spirit of Community Awards were created eight years ago by Prudential Financial, Inc. to encourage youth volunteerism and to identify and reward young role models. State Honorees are chosen from more than 24,000 applicants as particularly impressive examples of what young Americans today are capable of doing to make their communities better places to live.

Ms. Foley, 14, organized the "Visual Ambassadors," a school group dedicated to educating others about the visually impaired. After being inspired by a blind friend who taught her Braille, Elizabeth wanted to help educate other students about what visually impaired individuals go through each day. After writing a project proposal and obtaining the approval of school officials, Elizabeth developed plans for a six-week after school class. She bought Braille books, organized a field trip and put together an information packet for her students. She hopes to have over 100 graduates of her program by the time she goes to college.

This young woman's selfless acts to enlighten others about the disabled should be commended. Mr. Speaker, I would like you to join me and all of my colleagues in congratulating Ms. Foley for her accomplishments.

## TRIBUTE TO M.A.S.H. (MOTHERS AGAINST SADDAM HUSSEIN)

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. McINNIS. Mr. Speaker, I am proud to stand before the nation and this Congress to honor a small group of mothers who are working to support the brave men and women that are currently defending our Nation abroad. These mothers call themselves "MASH," Mothers Against Saddam Hussein. They are raising money to support our troops by selling t-shirts that have been embroidered with the group's acronym.

This organization began when a small group of mothers made the shirts and wore them all over my hometown. The idea spread and the t-shirt has now become an amazing phenomenon in the town of Grand Junction, Colorado. The group has even made a special exception for men and brothers who want to express their support, by changing the acronym to read "Men Against Saddam Hussein."

As the major fighting in Iraq has decreased, the women have expressed a special message for our Nation. They do not want the sacrifices of our troops to be forgotten as they continue to stand and fight to secure and rebuild a ravaged country.

Mr. Speaker, I am honored to stand before this body to express my appreciation for this organization. The "Mothers Against Saddam Hussein" should be proud of their cause, as they ensure that the sacrifices of our brave troops will never be forgotten. I would like to thank MASH for their efforts and encourage them to carry on in their mission.

## OPPOSING FCC'S DECISION

### HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MORAN of Kansas. Mr. Speaker, I oppose the decision of the Federal Communications Commission to increase the cap on media ownership.

Yesterday, the five-member board of the Federal Communications Commission voted to allow one owner to control more stations within the same market and to allow television networks to acquire more stations. Until today, broadcast ownership rules limited networks to owning no more than a 35 percent share of television households. With this decision, that share rises to 45 percent. The FCC also voted to ease restrictions on media companies owning a newspaper and television station in the same market. These new rules will allow for more mergers and increased media consolidation across the country.

This decision poses a threat to local programming in rural America. National programmers operate from a "one-size-fits-all" mentality and have less interest in the needs of our rural communities. If the networks acquire more of the local television affiliates, programming decisions are less likely to be made by local managers who have personal knowledge of the communities they serve.

At the heart of our democracy is a free and diverse exchange of ideas. Placing the power of communication solely in the hands of a narrow group of media giants will undermine freedom of expression. Columnist William Safire expressed it best, "The diffusion of power through local control, thereby encouraging individual participation, is the essence of federalism and the greatest expression of democracy." Yesterday's decision diminishes individual participation in the democratic process by suppressing one's ability to voice his or her opinion. Having fewer outlets for expression means that only a few voices will be heard: those of the large national programmers.

These new regulations not only threaten to reduce the access to the local news, they infringe upon the ability to maintain an open forum for sharing opinions and ideas—the very democratic principals upon which our Nation was founded.

## TRIBUTE TO CHARLENE BUTLER

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MEEK of Florida. Mr. Speaker, teachers are special people, and I rise today to pay tribute to Charlene Butler who, after 37 years of dedicated service, has decided to leave this select group.

Charlene Butler was born and raised in Miami, Florida and is a proud graduate of

Booker T. Washington Senior High School. She attended Bethune Cookman College in Daytona Beach, Florida and earned a Bachelor of Science degree. She went on to obtain her Master of Education degree from Nova University.

Her teaching career began in 1966 at Lorah Park Elementary in Miami, at a time when black educators were traditionally assigned to teach at historically black schools. In 1970, the federal court ordered all schools to integrate and she was transferred to Sunset Elementary School.

In 1984, the staff of Sunset Elementary bestowed one of the highest recognitions a staff can bestow upon a colleague when they named her Teacher of the Year. She remained at Sunset Elementary for 18 years, though throughout her tenure at Miami-Dade County Public Schools, Ms. Butler has taught at Lorah Park Elementary, Sunset Elementary, Phyllis Wheatley Elementary and finally, the Phylllis R. Miller Elementary School, where she presently teaches.

Ms. Butler is an adept, concerned, ardent educator and a champion for the "little ones." Blessed with a keen appreciation for the stages of development of her young charges, she was dubbed the "historian" of her students accomplishments.

Ms. Butler's dedication, loyalty, compassion, and involvement will be missed at Phyllis R. Miller Elementary School, by parents, colleagues, administrators and students alike.

Congratulations, Ms. Butler, and enjoy your retirement.

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## TRIBUTE TO COLONEL KEVIN RICE

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. FARR. Mr. Speaker, I rise today to honor a devoted soldier as well as an accomplished scholar and leader. Colonel Kevin Rice has served as the Installation Commander at the Defense Language Institute, Foreign Language Center and Presidio of Monterey since December 2000. Tomorrow, he earns a well-deserved retirement after serving his country honorably for the last 30 years. Throughout his service at the Presidio, Colonel Rice was instrumental in improving the standard of excellence in training our military linguists and in continuing the transition of Fort Ord, the Nation's largest base closure, to civilian use.

Colonel Rice was born in Henderson, Nevada and grew up there and in La Mirada, California. Kevin Rice attended the U.S. Military Academy at West Point and upon his graduation in 1973, was commissioned as a second lieutenant in the Infantry. Colonel Rice is a graduate of the Chinese Program at the Defense Language Institute of Monterey which he would later lead, and he also successfully completed studies at the British Ministry of Defense Chinese Language School in Hong Kong and holds Master's Degrees from both the Naval Postgraduate School and the National War College.

Colonel Rice's military career in the U.S. Army is extremely distinguished and diverse. He started out as a mechanized rifle platoon leader and quickly rose through the ranks while applying his expertise in mechanized infantry, light infantry and airborne special operations units. Prior to his service at the Presidio, Colonel Rice held the position of U.S. Army Attaché to the People's Republic of China. Throughout these assignments, he was repeatedly honored for his outstanding performance with awards ranging from the Meritorious Service Medal to the Army Achievement Medal.

I am extremely grateful to have worked with Colonel Rice on several military construction projects at the Defense Language Institute, including a new classroom facility—Collins Hall—as well as Video Tele-Training Facility. These base modernization projects illustrate Colonel Rice's leadership in making sure DLI, the world's largest foreign language school, employs the most advanced technology to continue as a center of excellence in the teaching of foreign languages.

Moreover, Colonel Rice has presided over the only dual service—Army and Navy—base housing modernization program in the Nation. When complete, the Residential Community Initiative at the Presidio will provide the Central Coast military community with 1,800 units of quality base housing, built to local code, and paid for by the military housing allowance known as the BAH. Without his continued efforts to move this huge undertaking through the bureaucratic process both inside the Pentagon and outside, the RCI wouldn't have come to fruition.

Colonel Kevin Rice and his wife, Kitty, have been active and highly regarded members of the local community who are leaving a lasting legacy of civic involvement and a wide circle of friends who will miss them both. I am pleased to count myself as one of Colonel Rice's friends and wish him well in the next stage of life's journey.

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## TRIBUTE TO LEN CANE UPON HIS RETIREMENT

### MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. HINCHEY. Mr. Speaker, I am pleased to congratulate my constituent and dear friend, Len Cane, on the occasion of his retirement as president and CEO of the Chamber of Commerce of Ulster County, New York. Having served in that capacity for 34 years, Len has earned the respect and affection of the business and education communities in my home county and throughout New York State.

An ardent advocate of public education, Len has served as president of the Ulster County Board of Cooperative Educational Services as well as the Kingston City Schools' Board of Education. In October 2002, the 7,500-member New York State School Boards Association honored him with the Distinguished Service Award as the organization's outstanding member.

Len is a graduate of the Institutes for Organization Management, a continuing education program for organization managers from across the country. He was a member of the program's Board of Regents for six years and of its executive faculty for 11 years, instructing at the University of Delaware and at Notre Dame.

At the helm of Ulster's Chamber of Commerce, Len has been a wonderful ambassador for the county. He is a past president of the Chamber Alliance of New York State and the Mid-Atlantic Chamber of Commerce Executives. He also served for seven years as Chairman of the Mid-Hudson Valley Chamber of Commerce Executives and was a two-term president of the Ulster County Development Corporation. In 1996 Len's New York state colleagues named him the Outstanding Professional Chamber of Commerce Executive.

Notwithstanding his outstanding accomplishments, Len is best known for his lightning-quick wit and self-effacing humor. I am sure Len's successors will perform commendably as chamber presidents, but none will make us laugh as Len has for more than three decades.

Mr. Speaker, it is my pleasure to join Len Cane's colleagues, friends and family in extending my best wishes to him and his wife Lee for a long and happy retirement. His wonderful personality and unsurpassed professionalism have made Len a tremendous asset to the Hudson Valley and Catskill regions. We will miss him dearly.

# SENATE—*Wednesday, June 4, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

The PRESIDING OFFICER. The prayer will be offered by the guest Chaplain, the Very Reverend Nathan D. Baxter of Washington National Cathedral.

## PRAYER

The guest Chaplain offered the following prayer:

*The Lord of hosts is with us; the God of Jacob is our strength.*—Psalm 46:7.

O God, who is our strength, we begin the work of this day as servants of our Nation's people and stewards of democracy. We pray Thy blessings of courage and wisdom for the Members of the Senate, its officers and staff. So guide them in the work of this day, that our liberties may be preserved, the wellbeing of all our people advanced, and that in all things, You, O God, the author of liberty, may be glorified. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable Senator SAM BROWNBACK led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, June 4, 2003.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, for the information of all Senators, there will be a period of morning business until 11 a.m. There are several legislative and executive matters that the Senate will consider during today's session.

Following morning business, it is possible that the Senate will resume consideration of the Defense authorization bill, as provided under the consent agreement of May 23. Under that order, we should be able to finish action on that bill within a couple of hours and then send it to conference with the House.

We will also resume consideration of the Energy legislation today. We made very good progress on the ethanol issue yesterday. However, I understand that additional amendments will be offered on that matter. It is my hope that Members offer their ethanol amendments so the Senate can then begin to consider other energy-related amendments.

In addition, discussions are underway to devise a process for consideration of the child tax credit legislation, as we talked about yesterday on the floor. We are now discussing the best way to address this very important issue. It will be addressed and, over the course of the morning, a final decision will be made on what is the fairest and most efficient way to address the child tax credit legislation.

The chairman of the Finance Committee introduced his legislation yesterday and is working with many colleagues on the best course of action so that we can expeditiously consider that bill.

We are also working to clear additional nominations during today's session. Members should expect votes throughout the day, and Senators will be notified when the first vote is scheduled. I am going to make a very brief statement on Medicare. I will proceed with that and then we can proceed in morning business.

## MEDICARE

Mr. FRIST. Mr. President, 5 years ago, this body launched a bipartisan commission on Medicare with the purpose of addressing the short-term, midterm, and long-term challenges we have with sustaining Medicare, preserving Medicare, and strengthening Medicare. That bipartisan commission did develop a solid bipartisan proposal. Since 1999, the Senate Finance Committee has held 29 hearings on Medicare, and 7 of those hearings specifically focused on adding a prescription drug benefit to Medicare coverage.

We have discussed the issue, we have debated the issue, we have dissected it, and we have deliberated on the issue of Medicare modernization and Medicare improvement for years now—for 6 years since we first began talking about the Medicare commission.

I sincerely believe that the stars are aligned for legislative action and a vote to preserve Medicare and strengthen and improve it and address the prescription drugs issue right now, this month. It is now time for us not to just talk about the issue again but to act on the issue.

Since I became majority leader, I have made it clear that it would be my intention to address the issue using the normal order of business, and that is to have a proposal that is developed and generated in a bipartisan way through the Finance Committee, bring that bill to the floor of the Senate for further debate and further amendment. The Finance Committee is progressing well. The action of the Finance Committee is on course to accomplish my goal.

Our leadership goal is bringing this to the floor on about June 16, 2 weeks from now. I am pleased with the progress to date. I understand we have a long way to go. It is a complex piece of legislation, but a very important piece of legislation that I am absolutely convinced we can bring to resolution for the benefit of seniors and individuals with disabilities.

We will have approximately 2 weeks on the floor of the Senate. I have made that very clear as well so that people, for the last several months, have been able to prepare and think through what is important to them, talk to their constituents, talk to their counselors to make sure we address this in a very thoughtful way.

I think we will be able to work together—both sides of the aisle—to cull the very best of our ideas and give America's seniors a Medicare system that will do what we want to do: provide our seniors and individuals with disabilities real health care security.

I believe we need to work to make sure that seniors do have the choice and the flexibility to be able to choose the type of coverage that best meets their individual needs. We need to make sure that coverage is available to every senior, everywhere. There has to be a special focus, as we all know, on the issues that pertain directly to the rural population. You can do that, for example, by requiring plans to bid in large geographic areas across the country, instead of just cherry-picking, whether it is urban, or suburban, or just a rural population. I think we can

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

get rid of the cherry-picking that has emerged in the current system. If a health coverage plan wants to serve patients in a high-cost, densely populated suburban or urban area, they will also have to offer coverage in rural areas, whether it is Maine, Wisconsin, Montana, or in Iowa.

We can do all of this if we focus on the big picture for the future. Our fellow citizens are clearly relying on us and we need to focus on them. Now is the time for us not to just get by another year but to transform this system in a positive way.

Seniors deserve choice. They deserve having a system that is focused on the patient, one that is really patient centered. They deserve care that is flexible, with less paperwork and bureaucracy. They deserve care that focuses on prevention and not just in response to acute episodic injury, so that you can capture that early heart disease before it becomes what is called a cardiomyopathy or a chronic congestive heart failure. It ends up being less expensive, more valuable, and certainly keeps patients healthier. They need to be protected from catastrophic out-of-pocket expenditures. Most seniors do not realize today that if they get very sick, there is no limit as to the out-of-pocket costs they have to pay. We need to protect them especially in those events surrounding catastrophe.

I think seniors should be in a system that allows them the opportunity to see the doctors they choose. Thus, it is my hope and intention that we will vote on final passage before leaving for the Independence Day recess. Once passed, I am very hopeful that the bill, whatever its final shape, will begin to help seniors as soon as possible.

Whenever we bring up to date or strengthen a system, it takes time to implement that plan in a careful and systematic way. I think as we develop that plan and begin to implement it, there are ways we can immediately begin to help those seniors who need help with prescription drugs.

In 1963, when leading the fight to enact Medicare, President John F. Kennedy said:

> A proud and resourceful nation can no longer ask its people to live in constant fear of a serious illness for which adequate funds are not available. We owe the right of dignity in sickness as well as in health.

Medicare, as I mentioned yesterday in this Chamber, has served a generation of America's seniors very well. Our challenge now is to take a system which is out of date—if you look at the way state-of-the-art care is delivered—and bring it up to date so we can serve the current generation and next generations of seniors equally well.

We have an opportunity to do that now. We have an obligation, I would argue, to do that now so that we can provide real security for generations to come.

## AFRICAN AMERICAN MUSEUM

Mr. FRIST. Mr. President, I close my opening remarks today by commenting on an issue that will be talked about later in morning business. It has to do with the development and launching of legislation on the National Museum of African American History. I thank, in particular, the Presiding Officer of the Senate now, Senator BROWNBACK, for his leadership on this issue. Also, I thank Senator DODD, Senator LOTT, Senator SANTORUM, Senator STEVENS, Representative JOHN LEWIS of Georgia, and Representative J. C. Watts for their outstanding efforts in launching the National Museum of African American History.

Currently, there is no national museum that honors the African-American story, and my colleagues seek to change that. They have introduced legislation to plan and construct a museum within the Smithsonian Institution dedicated to celebrating and preserving African-American history at a national level.

The legislation sets forth a joint Federal-private partnership for building the museum and authorizes $17 million for the first year to launch the museum council which will be comprised of leading African Americans from the museum, historical, and business communities.

The Museum of African American History will help educate all Americans and visitors alike on the rich history of African Americans and their essential role in transforming America's politics, its culture, its character, and its soul.

I take this opportunity to thank my colleagues for their commitment and for their leadership in this important endeavor.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now will be a period for morning business not to extend beyond the hour of 11 a.m., with the first 30 minutes under the control of Senator BROWNBACK or his designee, and that the remaining time be equally divided between the two leaders or their designees, and that Senators be limited to 5 minutes each.

The Senator from Illinois.

## PRESCRIPTION DRUG BENEFIT

Mr. DURBIN. Mr. President, there are many issues that will be before us this morning and during the course of this week, such as the Energy bill, which, of course, is of great importance to the security of the United States of America. We have had amendments on that bill over the last several days. But we will also be considering an important issue for millions of Americans, and that is the cost of prescription drugs. It is an issue which families face all the time, particularly if they have someone in the family with a serious illness. It is particularly difficult as well for senior citizens on a fixed income.

There are two different issues that are going to be tested in this Chamber. There is a Republican approach which suggests we need to basically privatize Medicare, that we need to basically abandon the system of health insurance protection for seniors which has been effective for over 40 years.

There are many on the Republican side of the aisle from a conservative political viewpoint who really do not care much for our Medicare system. They have been fairly outspoken about it. One of them is Senator SANTORUM of Pennsylvania, one of the leaders on the Republican side. This is what he said recently about Medicare:

> The standard benefit, the traditional Medicare program, has to be phased out.

"Has to be phased out," he said. That was a statement by Senator SANTORUM, a Republican leader, in the New York Times on May 21.

What the Republicans will bring us in terms of prescription drugs is really the first and critical step toward phasing out Medicare. It is their belief that Medicare should be eliminated and replaced with private insurance coverage, but most American families know, if they have been at the mercy of a health insurance company, that, frankly, that is not a very wise tradeoff, nor a very fair one. That is why we come down to some fundamental differences between Democrats and Republicans when it comes to prescription drugs.

We on the Democratic side believe that a prescription drug benefit should be part of Medicare; that it should be a voluntary program; that there should not be any coverage gaps; that there should be reliable coverage all across America; and that we ought to lower the cost of medicine for everyone by ensuring access to generic drugs.

On the Republican side, they have serious gaps in coverage in prescription drugs. If you are paying for prescription drugs on a monthly basis for a serious illness and expect to pay for it throughout the course of the calendar year, there are periods in the beginning when Republicans would protect you for a short period of time and then long periods of months when there is no protection whatsoever before your bills get so huge you qualify for catastrophic coverage. That is not very much protection for a family or a sick person.

They also, on the Republican side, will force seniors out of Medicare and into unreliable HMOs where seniors will not be able to choose their own doctors. Do you remember the debate we had over 10 years ago about the future of health care in America? Wasn't one of the serious issues we talked about one's ability to choose one's own doctor? The Republican approach on prescription drugs, the suggestion we privatize Medicare, that we move people into HMOs, will take away the ability of seniors to choose their own doctors, their ability to choose the doctors they trust. That is pretty fundamental.

Also, the Republicans suggest spending billions to privatize Medicare and turning this over to big insurance companies. Have you spoken recently to someone who has had to deal with health insurance companies, the rates they charge, and the conditions on coverage? I have; I sat down with small business people in Illinois. I find it absolutely scandalous what is going on. These insurance companies are cherry-picking. They are deciding who they will insure and who they will not insure. They are deciding the length and duration of coverage and the type of coverage.

If you, during the course of the calendar year when you are covered, turn in any claim relative to any part of your body or any illness, you can virtually bet that next year, when you go to sign up for health insurance, it will be excluded; you are on your own. Is that the kind of coverage which we want to see in America?

The Republicans say that is a choice; we are giving people a choice. Let me tell you, Mr. President, the seniors of America have chosen for over 40 years the right choice, and that choice is Medicare. Medicare is a system which protects all Americans. It is a system with low administrative costs. It is a system which has worked. It has worked because the life expectancy of seniors has increased. It has worked because hospitals across America provide benefits to seniors. That is what is at stake in this debate.

I say to my colleagues who argue this is just a question of choice, it is the wrong choice. The best choice is to stick with Medicare, to stick with protection.

In closing, I wish to speak about cost. There will be those who come to this Chamber and say: You Democrats and those who support a plan under Medicare have to understand how expensive it is.

They will say, you do not understand the expense of your proposal. I wish those same critics could remember the debate just 2 weeks ago on the Senate floor when the Bush administration came in and asked for us to provide over $350 billion in tax breaks for some of the wealthiest people in America. Two years ago, that same administration asked for over $1 trillion worth of tax breaks for the elite investors in America. The money was there for tax breaks for the wealthiest people in America but, sadly, when it comes to providing health insurance coverage, when it comes to prescription drug coverage, time and again the same people who voted so willingly for tax breaks for the wealthy will not come up with the dollars necessary for real prescription drug coverage that will cover our seniors across America.

That is what this debate is about, the future of Medicare, a fair program to protect all senior citizens and to provide for cost of prescription drugs.

I yield the floor.

## EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I have spoken to the majority leader and the Democratic leadership when they were both in the Chamber, and I ask unanimous consent that morning business be extended until 11:30 today, and that at that time we go to the Defense Bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Connecticut.

## THE NATIONAL AFRICAN AMERICAN MUSEUM OF HISTORY AND CULTURE ACT

Mr. DODD. Mr. President, just before the Memorial Day recess, the distinguished Presiding Officer and I had the great honor of introducing bipartisan legislation, S. 1157, to create a National Museum of African American History and Culture within the Smithsonian Institution.

We were joined in that effort by 44 of our colleagues, and I might point out that another four have joined since that time, bringing the total number of cosponsors to this legislation to 48. I presume before the day is out we will have a clear majority of our colleagues who endorse the legislation introduced by the distinguished Senator from Kansas.

Senator BROWNBACK and I introduced similar legislation in the last Congress and I am pleased that we have such strong continuing interest from our colleagues, ensuring this important museum be created.

This long overdue legislation will guarantee that the compelling stories and invaluable contributions of African Americans to our Nation will finally be shared with all Americans, indeed all peoples of the world.

This legislation also allows us to publicly display the contributions of African Americans to the founding of our Nation and educate students of all ages about the importance of their experience. This museum is not intended to replace the numerous museums and institutions of African American culture and history that already exist in our country. Instead, it will bring a national focus and prominence to the contributions and experiences of African Americans.

In New Haven, CT, for example, we are fortunate to be the home port of the 19th century freedom schooner, Amistad. The recreated Amistad is a floating classroom and reminder of the devastating effects of the transatlantic slave trade. Amistad America is dedicated to promoting the legacies of the Amistad incident of 1839 and to celebrating and teaching the historic lessons of perseverance, leadership, justice, and freedom experienced by African Americans during that incident, and similar ones like it during the centuries before 1839.

It is my hope, of course, that organizations such as Amistad America and numerous others will be able to work with the Smithsonian to ensure that these important stories may be told. I am pleased that we have been able to provide support for these numerous organizations and associations, such as Amistad, in this bill as well.

During my tenure as chairman of the Senate Rules Committee, I was pleased to work with colleagues to pass legislation to establish the Presidential Commission on the National Museum of African American History and Culture action plan.

In April, the Presidential commission issued its report in which it documented the voices of African Americans across the Nation, calling for a national place to tell their individually collective stories. This long overdue legislation will provide such a place, and I commend the distinguished Presiding Officer for his leadership on this issue.

The mission statement contained in that report sums up the purpose of this legislation:

> This museum will give voice to the centrality of the African American experience and will make it possible for all people to understand the depth, complexity, and promise of the American experience.

It is that very goal, of completing the American story of our quest for freedom and truth by publicly incorporating the experience and contribution of African Americans, that is the essence of this legislation. This museum offers the promise and the hope that all Americans can come to understand the full story of how this Nation was formed. It is past time that we publicly acknowledge and incorporate the African Americans' experience into our collective identity and this museum will provide the appropriate means for accomplishing that very goal.

Again, I congratulate my colleague, Senator BROWNBACK, and I want to specifically highlight the tremendous contribution of Representative JOHN LEWIS of Georgia, who is the lead sponsor in the House of Representatives for this bill, on their perseverance in this matter. I am honored today to join them as their lead sponsor on this side of the aisle.

I see my colleague from Mississippi, who I know has some comments he wants to make on this as well. I thank him for his leadership. As the chairman of the Rules Committee, he will have a lot to say about how this bill moves through the committee and comes to the floor.

My congratulations to the Presiding Officer from Kansas and all others who have joined with us in this collective effort this morning.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Mississippi.

Mr. LOTT. I yield myself 5 minutes of the time reserved for the Senator from Kansas, Mr. BROWNBACK.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I am pleased to join my colleagues today in cosponsoring and supporting the introduction of legislation to create the National Museum of African American History and Culture. I particularly want to commend Senator BROWNBACK, the Presiding Officer this morning, for his leadership on this issue. This legislation could not be introduced today in a way that it can be considered and acted upon without his willingness to stay behind it, to work through some of the problems that did exist and to work with the Rules Committee and our staff to make sure we had legislation that could have broad-based support and could actually be passed by the Senate.

I am pleased to see my colleague from the Rules Committee, the ranking member, Senator DODD, as a cosponsor, as well as Senator FRIST, Senator STEVENS, Senator SANTORUM, Senator SMITH, and Senator DASCHLE. Obviously, leadership on both sides of the aisle has decided to join in sponsoring this truly historic legislation.

The National Museum of African American History and Culture will be built and operated within the Smithsonian Institution and be a full-fledged Smithsonian Museum. That is a critical point to be made. It gives additional stature, credibility, and supervision that will be very helpful in the years ahead as we try to make sure this museum exhibits the way it should and is fully utilized by the American people and supported by the Congress.

I rise to express my support for the legislation because this museum will showcase not only the history and the culture of African American experience, but it will serve as a vivid display of the countless contributions that African Americans have made to the United States and in fact to the world.

Back in 2001, I had an unusual experience. It was one of those rare weekends when I stayed in Washington and my family, including my wife, were all back home in Mississippi. So I took a bicycle ride down the Mall and I wound up at the Vietnam Veterans Memorial. I parked my bicycle across the way kind of in the edge of the bushes and just watched people. I do not know what really started me to doing that, but I guess I was struck, as I pulled up, at the number of people there and how they were relating to this memorial. They touched it. They shed tears there. They stood there. It was obviously a moving and spiritual experience, a connecting experience, maybe an experience of closure for some people. It struck me what an important monument and memorial that site is.

Later on that same week, I was meeting with a group of African American business leaders and we ended up talking about how to properly and adequately recognize the contributions of African Americans and their role in shaping American history. I conveyed to them the story of my experience at the Vietnam Memorial and how it seemed to positively affect the people that came there, and that it caused me to recognize that every American needs a monument, a memorial, that is sort of theirs that reflects their heritage. It could be of all kinds of backgrounds in America. We have talked about the need for the Native American monument somewhere in this city to honor what they have contributed to this country. So I believe the creation of this museum will go a long way toward a similar type healing process for African Americans, and I am honored to be a part of it.

The Smithsonian is no doubt one of the world's leaders in preserving, displaying, and telling the story of the American experience. Often called the "Nation's Attic," the Smithsonian houses the great collections of the United States and educates the public on our rich history and the importance of ensuring that knowledge passes from one generation to the next.

However, our national attic currently has some voids and we should work to fill those voids in a very careful, thoughtful, and responsible way. Having this museum is one of those voids that needs to be addressed.

Last year, a Presidential commission was appointed to study the possibility of creating a museum dedicated to African American history and culture. The commission spent thousands of hours researching the possibilities of bringing this museum to light. The commission held dozens of forums and meetings across America and received feedback from a broad spectrum of citizens and leaders within the African American and other communities. These forums and discussions were thoughtful, calculated, and complete. The feedback was resoundingly clear—a national museum is the proper vehicle for showcasing and telling the world about the African American experience. I could not agree more.

I am delighted to join in sponsoring this legislation. The history and culture of African-American life in this country is a very important part of the history of our culture and all that is America. Its story needs to be included in the sacred places in this city.

I commend Senator BROWNBACK for his leadership. I am glad to join in a bipartisan effort to get this legislation approved.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The minority leader.

Mr. DASCHLE. Madam President, I add my voice to those of Senator LOTT and Senator DODD and others in expressing my support and commendation to the Presiding Officer for his leadership, as well as to Senator DODD and Senator LOTT, Senator SANTORUM, Senator STEVENS, and others who have taken the initiative to show such leadership on this very important project.

If I could think of one word as I consider the prospect of the National Museum of African American History and Culture, it would be "overdue." It is overdue. It is long past due. I hope on a bipartisan basis we continue to demonstrate our recognition of the remarkable contributions of African American culture and African American leadership to our country. One cannot understand the story of America without understanding the story of African Americans.

I hope we continue to work to move this project along. Again, I commend those directly involved.

## PRESCRIPTION DRUGS

Mr. DASCHLE. Madam President, let me talk briefly about the important legislation addressed by the distinguished majority leader. He had spoken about the importance of our effort this month on prescription drugs. I applaud him for making this a priority. When I was majority leader almost a year ago, we made that same commitment. Of all my disappointments, the one that perhaps may be at the top of the list last year was our inability to pass the legislation. We got 52 votes. The majority of the Senate went on record in support of the plan that was taken up by the Senate. We did not have the 60 votes because there were opponents to the legislation that made points of order that kept the Senate from accomplishing our goal of getting to conference and moving through the bill.

Let me simply list five concerns I have as we begin. Hopefully, all of the concerns can be addressed. It is critical we consider them very carefully. The first concern is procedural. The distinguished majority leader noted that we have had 29 hearings on Medicare since 1999 and, indeed, we have studied this issue a good deal. What I am concerned about now, however, is that we did not have a bill before the Senate. I know Senator GRASSLEY is working tirelessly with others to provide a vehicle to allow us the opportunity to debate this issue. The administration, of course, has come out with their recommendations that Senator DURBIN addressed a moment ago. However, we ought to have a hearing on the bill itself once it is written so we can walk through it and make sure we know exactly what we will be voting on and considering. Having that hearing on the bill seems to me to be an essential aspect of the procedural requirements we have to consider as we prepare for the debate on the Senate floor itself.

The second issue has to do with the context. Some will use Medicare and prescription drugs as a Trojan horse to privatize the Medicare system. How tragic that would be if in the name of providing good prescription drug benefits to seniors, we end up with a system that most seniors will not recognize.

Before Medicare was created in 1965, less than half of Americans over the age of 65 had health insurance. Now, 95 percent of seniors over the age 65 have health insurance. The reason they do is because of Medicare.

If we privatize Medicare, seniors in rural areas, in particular, will suffer. Let us not privatize the system. Let us not destroy a system that works so well for so many.

I find it interesting that those who laud the advantages of private-sector health care have difficulty explaining why Medicare can have such low administrative costs. Medicare's administrative costs are about 2 to 3 percent. The private sector administrative costs today are about 15 percent—5 times greater than the administrative costs of Medicare. We should think about that. I hope we are absolutely certain that in the name of prescription drugs we do not remove, we do not eliminate, we do not undermine a system that has worked so well for seniors, whether they are in urban or rural areas.

The third concern is what kind of a package we will provide. The one thing seniors tell me they need is a clear understanding of what benefits they are going to get so they can compare whatever choices they may be offered. They need to know what the benefit plan is going to be. So let's make sure we define the benefits, describe them and put them in writing, so that no one has any question what it is we are going to do.

Seniors also need to know what premium they will be asked to pay. We have to define that premium right in the bill itself.

I hope our colleagues would all share that point of view, as well. Be as transparent when it comes to benefit and premiums as we can be so that seniors know what their benefits will be and can have confidence that those benefits will be there when they're needed.

Fourth and finally, I hope, more than anything else, that we make the benefits consistent. For us to say seniors will be covered for a while, and then not covered even though they continue to pay premiums, and then covered again, would be a terrible mistake. Such coverage gaps, or sickness penalties, would lead to a deep-seated cynicism not only among seniors but among all Americans. I hope we recognize how important it is that we avoid any coverage gaps by including defined benefits and defined premiums.

That is, in essence, what we are hoping we can achieve. As we draft the bill, let's simply do this: Let's make sure we have hearings so we know what is in it. Make sure that, in the name of prescription drugs, we don't privatize Medicare and dramatically change a system seniors depend on. Then let's tell seniors three things. They are going to get a defined benefit, a defined premium, and defined coverage all year with no sickness penalty. If we can agree on these principles, we can get broad bipartisan support for the bill at the end of this month.

Again, I compliment the majority leader for his determination to continue the efforts we made in the last Congress on prescription drugs. We have a chance to do it right. We have a chance to do it in a bipartisan fashion. We have a chance to ensure that at long last we make a real contribution to health care in America, for seniors in particular. That is our opportunity that awaits us as we take up the drug bill later this month.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to.

Mr. REID. I have listened to both the majority leader and you, the Democratic leader, this morning. I ask the Senator from South Dakota, the distinguished Democratic leader, if he is aware of some statements that have been made by Republican Senate leaders talking about doing away with Medicare.

Let me be more specific. Our friend, the distinguished Senator from Pennsylvania, said just 2 weeks ago:

> I believe the standard benefit traditional Medicare program has to be phased out.

Is the Senator aware the distinguished Senator from Pennsylvania made that statement?

Mr. DASCHLE. The comment was made. I was not aware of it until just a few days ago. But I think it goes to the heart of what I was talking about. I appreciate the Senator from Nevada raising this question.

Unfortunately, we have a much larger question at hand, if there are those on the other side who will see this as an opportunity to privatize—to eliminate the Medicare system, as the comments of the Senator from Pennsylvania suggest. If they want to eliminate Medicare, then I think all hope of accomplishing something regarding prescription drugs will be lost. If this is a Medicare debate, if we have to back up and first defend Medicare and make sure it is protected and kept intact, then we will never have an opportunity to get to prescription drugs.

I hope the Senator from Pennsylvania would recognize the consequences of words of that magnitude. Obviously, we are prepared to have a debate about Medicare. But it will be at the expense of a debate about prescription drugs and whether we can add prescription drugs to Medicare sometime this year, hopefully this month.

Mr. REID. Will the Senator yield for another question?

Mr. DASCHLE. Yes.

Mr. REID. The distinguished Senator from Utah, Senator BENNETT, a longtime friend of this Senator, stated about 7 weeks ago:

> Medicare is a disaster. We have to understand that Medicare is going to have to be overhauled. Let's create a whole new system.

Is the Senator aware our friend from Utah has made that statement?

Mr. DASCHLE. There are those on the other side—and I assume from that comment that Senator BENNETT may be among them—who believe that eliminating or dramatically altering Medicare is the only option available to us. Frankly, I am troubled by that. I think Medicare has been one of the greatest health care success stories in our Nation's history.

My mother is a beneficiary of Medicare. The remarkable consistency and the extraordinary access to health care that Medicare has provided to her and tens of millions of other seniors simply cannot be overestimated.

As I said earlier, the administrative cost for Medicare is about 3 percent. The administrative cost for private health care plans is 15 percent, 5 times greater.

Medicare provides every senior in South Dakota a chance to get health care. There are no private sector plans in large parts of South Dakota because HMO's and PPO's don't serve rural America. So from an access point of view, from an administrative point of view, from a benefit point of view, from an assurance and confidence point of view for seniors, I don't know how you could do much better than Medicare.

Can it be improved? Absolutely. Could we provide more preventive and wellness care? Absolutely. Can we provide a prescription drug benefit? Absolutely.

But when we draw down the Medicare trust fund to pay for tax cuts, we are, in essence, stealing from that very fund that will be needed in future years to provide the kind of health care that our parents, our grandparents, and our families depend upon.

The quotes from our Republican colleagues are very disconcerting and troubling. As I say, if that becomes the debate, if the debate is about the future existence of Medicare itself, we will never be able to get to a drug benefit debate.

Mr. REID. Will the Senator yield for one final question? I know there are others here wishing to speak. This will be the last question.

Mr. DASCHLE. I am happy to.

Mr. REID. The State of Nevada has two large metropolitan areas, Reno and Las Vegas, but most of the State population is in small towns—Mesquite, Ely, Hawthorne, Battle Mountain, Tonopah—places that have no managed care. If we change Medicare drastically, I don't know what will happen to the seniors in those rural communities.

I have heard the Senator today and on other occasions speak about the problems in South Dakota, which has many rural communities in it. If we do not take care of Medicare in the traditional fashion so that it is a level playing field no matter where you live, I think our Medicare Program as we have known it, that has been so successful, will leave many seniors simply without any medical care. Does the Senator agree with that statement?

Mr. DASCHLE. I couldn't agree more. In fact, what troubles me is there are those who would turn Medicare into a great big HMO. I don't know many people who are enthusiastic about the kind of care they get from their HMO. There are some good ones, I certainly would not deny that. But I must say, HMOs are not the panacea. There is not a one-size-fits-all HMO, health maintenance organization, or PPO, for that matter, preferred provider system, that would work in rural areas.

We know. We have seen from our own experience. They have tried it. They have attempted to create managed care systems in rural areas. The demographics don't work. Our health care delivery system in rural areas does not allow for a managed care system that works. Perhaps it does in Washington DC, or Los Angeles or New York.

So we cannot have a one-size-fits-all system. That is the beauty of the Medicare system. The Medicare system has adapted over the years, organizationally and administratively, to fit Alaska and South Dakota and Nevada in a way that has worked far beyond the expectations, I am sure, of many who created the system in the 1960s.

Let us not throw out a system that has worked well. Let's improve it. Let's build on it. Let's provide better benefits through it. But to privatize Medicare—to eliminate it and replace it with a new HMO in the name of Medicare—is a mistake that we will fight to the last day. That would be a real tragedy because we have an opportunity to debate how to provide a good prescription benefit. Let's agree in a bipartisan way to have that debate. This is our moment and our opportunity and I hope we seize it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I yield myself such time as I may consume under the time I have reserved for the National Museum of African American History and Culture Museum.

The PRESIDING OFFICER. The Senator has that right.

## NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE

Mr. BROWNBACK. Mr. President, I rise to join several colleagues who have already made presentations here today about the introduction of a bill for a National Museum of African American History and Culture. We currently have 48 cosponsors of this bill. I hope after today we will have a strong and clear majority sponsoring this legislation.

I want to particularly thank Senator DODD, who is the lead Democrat sponsor of this bill, and Senator LOTT, who chairs the Rules Committee through which it will go, both of whom are cosponsors of the bill, along with the majority leader and the Democratic leader who are also cosponsors of the bill, for pushing this issue, making it go forward.

I cannot go forward without recognizing Congressman JOHN LEWIS from Georgia, who has been the lead sponsor in the House, along with J.C. Watts, before he left that body, being the inspirational leader behind moving this issue forward.

Over 200 years ago, there was a dream that was America for a group of individuals who were brought to our shores in shackles, a dream so powerful it compelled a race of people to fight for the liberty of others when they were in bondage themselves, a dream that not only served as a catalyst for physical liberation in the African-American community but removed societal shackles from our culture and enabled us to realize the ideals set before us in the Constitution—that all men are created equal under God.

Today, we celebrate this magnificent history, a history of a people's quest for freedom that shaped this Nation into a symbol of freedom and democracy around the world. I am proud to stand here today with my colleagues and introduce once again to this body a bill that will create the National Museum of African American History and Culture.

I would specifically like to mention Senator DODD, Senator STEVENS, Senator LOTT, Senator SANTORUM, and the other 48 cosponsors who are pushing this museum forward.

The National Museum of African-American History and Culture Presidential Commission—signed into law by President Bush—stated that the time is now. Indeed the time is now to honor this incredible history that has shaped this great Nation.

I thank the Presidential Commission for their hard work and effort in recommending to Congress that we should build this museum, and that there is sufficient interest in the philanthropic community to financially support this museum, and that there are sufficient artifacts to fill this museum.

So many Americans will be able to share in the celebration of this museum—a uniquely American museum, one that we can celebrate. I remember when I met with the Dean of the Afro-American Studies at Howard University. He told me of a story about his grandfather who finished a bowl the day the Emancipation Proclamation was authorized. His grandfather decided to keep the bowl because it no longer was the property of a slave master but the man who made it—his grandfather.

The dean has this bowl in his home—an incredible piece of history, and I am sure there are many more pieces out their waiting for a home, a national home.

Today, we are not just introducing a bill; we are completing a piece of American history by introducing the National Museum of African-American History and Culture, which will create a museum to honor African-American contributions to this Nation—which is an extraordinary story of sacrifice and triumph.

This bill will create this museum within the Smithsonian Institution—America's premier museum complex. We have worked very hard with the Smithsonian Institution to craft a bill that will compliment their programs. And, indeed, we have done just that.

This bill is very similar to the American-Indian Museum, slated to open next year. And I know that the Smithsonian Institution will create another national treasure—one that tells the story of African-Americans in this country—a proud history, a rich history.

This bill charges the Board of Regents of the Smithsonian Institution, along with the Council of the National Museum to plan, build, and construct a museum dedicated to celebrating nationally African-American history—which is American history.

In addition, this bill charges the board of regents with choosing a site on or adjacent to the National Mall for the location of the museum.

Additionally, the bill establishes an education and program liaison section designed to work with educational institutions and museums across the country in order to promote African-American history.

Finally, the bill sets forth a Federal-private partnership for funding the museum, and authorizes $17 million for the first year in order to begin implementation of the museum council, which will be comprised from a mixture of leading African-Americans from the museum, historical, and business communities.

It has been well over 70 years since the first commission was formed to seek ways to honor nationally the contributions of African-Americans—70 years. It is about time that we move forward with it.

It has always been my hope that this museum will not only showcase nationally the accomplishments of African-Americans—which are great—but will also serve as a catalyst for racial reconciliation in our Nation. Indeed we have triumphed over our difficulties in this area, but we must continue to do more.

I can see a number of people going through this museum with a lot of tears coming out as they see the progression of people coming to this continent in shackles and moving forward in triumph. There are going to be a lot of tears along that trail. The beautiful thing about tears is that they don't have color; they just cleanse. I think they will be tears of cleansing.

I do not pretend that this museum is a panacea for racial reconciliation, which this country desperately needs. It is, however, a productive step in recognizing the important contributions and the debt all Americans owe to African Americans.

I close my comments with a quote from Dr. Martin Luther King, a prophet in his time and now a prophet to us. He said this that could have been said about the museum in this time we are in:

> That the dark clouds of [misconceptions] will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great Nation with all their scintillating beauty.

We are one step closer to that today.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, are we currently in morning business?

The PRESIDING OFFICER. The Senator is correct.

## ORDER OF PROCEDURE

Mr. CORNYN. Madam President, I talked to the Senator from Iowa who also wishes to be recognized immediately after my very brief remarks. I ask unanimous consent that he be recognized immediately following my remarks and that I be allotted 5-minute increments; that should I go over another minute or 2, I be allotted such time as I consume, not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING ESTELLA REYES NARANJO

Mr. CORNYN. Madam President, there are two things I want to address very briefly this morning.

I rise to pay tribute to Estella Reyes Naranjo, a great citizen of my State of Texas.

I think it is important to recognize contributions such as those of Estella, which are primarily in the area of the education of the children of San Antonio, my hometown, and her 50 years of unselfish service to the city of San Antonio, the State of Texas, and to the United States of America.

Estella has taught for 40 years in Texas public schools and for another 10 years in Catholic schools. Through her dedicated service in the classroom and the community, she has been a positive influence for countless lives, and for thousands of young Texans.

Estella earned a bachelor's degree from Texas A&I University in Kingsville and has served as the president of the Pan American League. During her tenure, the league donated more than $1 million toward a center to assist San Antonio's inner city, and contributed over $250,000 in scholarships administered through The University of Texas at San Antonio.

Estella has been honored with an outstanding service award for her dedication and hard work in the public school system, and has received a leadership award for her many contributions to the Catholic school system. She has also been honored by the International Good Neighbor Council for her work to promote the "Principles of Good-neighborliness" between Mexico and the United States.

As a teacher, a volunteer, and a diligent leader, Estella is an inspiration to her family, her friends, and her community. She is truly an important part of what President Bush calls "the armies of compassion."

I have always believed that patriotism is not just expressed by flying the flag. It is about more than that. Patriotism means we all share a part in something larger than ourselves. In all of our differences, there are some things we all have in common. In all our diversity, each of us still has a bond with our fellow man.

The fact that dedicated individuals, working faithfully in their communities, can accomplish more than any government program is well established, and it is established again in the life that we celebrate today.

Alexis de Tocqueville described it this way:

> Countless little people, humble people, throughout American society, expend their efforts in the betterment of the community, blowing on their hands, pitting their small strength against the inhuman elements of life. Unheralded and always inconspicuous, they sense that they are cooperating with a purpose and a spirit that is at the center of creation.

Today I am proud to herald the work of Estella Reyes Naranjo. I know I speak for all the citizens of the great State of Texas when I say that I am grateful for her dedication, her compassion, and her tireless work to build a stronger community and a better world.

## THANKING THE CONTINUITY OF GOVERNMENT COMMISSION

Mr. CORNYN. Madam President, I wish to also, in the brief time I have allotted, say a few words about a very important subject to our Government and to our Nation. I wish to say a few words about the importance of continuity of our Nation's Government.

Today, the Continuity of Government Commission, a joint project of the Brookings Institution and the American Enterprise Institute, is releasing a report to the Congress on this matter. I express my appreciation to the commission for their responsible and forthright assessment of needed constitutional reforms in this area. Their report will be an invaluable addition to this ongoing discussion, and it will provide a sound basis for hearings I plan to hold in the Senate Judiciary Committee's Subcommittee on the Constitution later this year.

I was not here serving in Washington in this body when the attacks came on September 11. Like so many other Americans, I was at home, preparing for work, when I heard the terrible news and saw it displayed on the television set. But I know that many of my friends and colleagues who were here on that horrific day feel a very personal debt to the heroes of flight 93.

The brave passengers on that flight did more than just save the lives of their fellow citizens. Absent their courageous sacrifice, it is likely that flight 93 would have reached its final destination in this very building, in an attack that would have virtually eliminated an entire branch of our Government.

Even as we have dedicated ourselves to fighting terror at home and abroad, even as we hope and pray that the tragedies of September 11 will never be repeated, we must always remain conscious of our promise as Senators to serve the people of our States and our Nation and to support and defend the Constitution of the United States.

In the aftermath of those attacks, it is now increasingly clear that our current system providing for the continuity of government in the event of a disaster is inadequate in the reality of the post-9/11 world. If an attack of this nature occurred again, and was even partially successful, our Government and our Constitution would be ill prepared for the sudden ramifications.

As unthinkable as another attack of that magnitude may be, we in the legislative branch must be ready for the worst. We must provide for the stable continuance of government, despite all possible calamities. We owe it to the American people to ensure that our Government remains strong and stable even in the face of disaster.

What the evildoers who committed this terrible act on 9/11 will never understand is that America cannot be destroyed by weapons, by armies, or by terrorist attacks. No matter how many weapons they try to make, no matter what secret schemes they concoct, no matter what buildings they destroy, as long as the dream of freedom lives within our hearts, America endures, a beacon of light shining for all the world to see.

The passengers on flight 93 were everyday Americans, men and women with jobs, with families, and dreams. Like all of us, they made promises to their loved ones before they boarded that plane: promises of vacations and baseball games, of presents and anniversaries.

Some promises are not cheap, others cost nothing, others require that we risk all, even our very lives. The crash site left behind by the heroes of flight 93, nestled in the hills of Pennsylvania, is filled with memories of the promises they made and will never keep. That hallowed ground marks their last promise: a promise carried on to the Nation, their children, their loved ones left behind—a promise that says freedom will not end here in the violent acts of evil men. It persists, it endures, and it will not be destroyed.

Our Government must not fail the children of flight 93. This body must not fail them. We must prepare for all contingencies, fulfilling our oaths of office, to ensure that the promise of our free Government—a government of laws, not men—shall not perish from this Earth.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I ask unanimous consent that I be allowed to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TAX CUTS AND MEDICARE

Mr. HARKIN. Madam President, last Thursday the New York Times of May 29 had a front-page picture, a big, color picture on the front page, of the President signing the tax cut bill in the East Room of the White House. As I looked at this picture, I thought: This really is appropriate. Pictures say a thousand words. Here is a picture of the President signing the tax bill, and he is in the East Room, with all the big crystal chandeliers, all the trappings of power, and an audience.

I was looking at this audience. I thought: Who are these people? I am looking at them all. Do you know what? This looks like the rich and the powerful of America sitting there with all these chandeliers and getting all these big tax cuts. There is not one person of color sitting in that audience, not one. Now, there may be. I cannot see back behind where the picture was taken. Maybe there was one. Maybe one of the ushers back there was an African American. But it just kind of leaps out at you that these are the people who really benefit from that tax cut.

Why didn't the President take that tax cut signing down to middle America someplace? Why didn't he take it down to a small community of middle-income taxpayers? Why didn't he take it to a low-income area, say—well, I don't care, pick a city: Newark, Philadelphia, Pittsburgh, Des Moines, IA, Houston, TX; maybe Detroit, MI or Flint, MI—and go to an area of that city that is low-income where people go to work every day, where they are struggling to make ends meet, where they have to find some child care for their kids so they can go to work to put bread on the table to maybe have a little bit of a decent lifestyle, and they are having trouble finding decent child care and other costs of raising children? Why didn't the President go down there and sign that tax cut bill?

Well, because the sentence right under the picture says why he did not do that:

> Tax law omits $400 child credit for millions.

Look at the picture: All the trappings of power, all the rich and powerful of America sitting in that audience. Right below it: "Tax law omits $400 child credit for millions." One picture says a thousand words. And right underneath, it tells you why the President signed the bill in front of all these people and not out in middle America.

So now we are just beginning to find out. We are just beginning to find out, as the New York Times said, that:

> Because of the formula for calculating the child care tax credit, most families with incomes from $10,500 to $26,625 will not benefit.

Zero, nada, nothing.

> The Center on Budget and Policy Priorities, a liberal group, says those families include 11.9 million children or one of every six children under 17.

Madam President, 11.9 million children left out of the tax bill.

You don't see them sitting in the audience. You don't see single moms, for example, sitting in this audience when they are signing the tax bill, balancing a couple kids on their knees. You don't see that.

> "I don't know why they would cut that out of the bill," said Senator Blanche Lincoln, the Arkansas Democrat who persuaded the full Senate to send the credit to many more low income families before the provision was dropped in conference. "These are the people who need it the most and who will spend it the most. These are the people who buy the blue jeans and the detergent . . ."

As I said, the New York Times picture and the story underneath it say it all.

The Des Moines Register, closer to my home, had an editorial from May 31: "A Tax-Cutting Disgrace." This is from the Des Moines Register editorial:

> Congress looked out for investors in the last-minute revision of the tax bill President Bush just signed into law.
>
> As a result, millions of low-income families won't get the extra $400-a-kid check from Uncle Sam this summer.
>
> But most families earning $10,500 to $26,625 annually will be left out. Giving them the credit would have cost about $3.5 billion and would have required sending checks to some who don't pay enough income taxes to deliver the credit as a refund.

People of low income work hard. They go to work every day. They may make just above the minimum wage, but they are not paying income taxes. But they have child care needs, and they are left out.

> House Republicans contend that a $350 billion cap on the tax cut package didn't leave enough room to give the child credit to low-income families.

To quote the Des Moines Register: "Nonsense."

> They easily could have done less for the richest Americans and more for Americans who barely scrape by. And it's unconscionable that they didn't.

Well, just look at that picture in the New York Times, look who is there. Then read the articles in the paper, read the Des Moines Register editorial, and you will find out what this tax bill was all about.

Now we find something else out about this tax bill as we open up the newspaper this morning, the Washington Post from today: "Middle Class Tax Share Set To Rise." Well, well, well. "Studies say the burden of the rich to decline."

Here is what the Washington Post said this morning:

> Three successive tax cuts pushed by President Bush will leave middle income taxpayers paying a greater share of all Federal taxes by the end of the decade, according to new analyses of the Bush administration's tax policy. As critics of the tax cuts in 2001, 2002 and 2003 have noted, the very wealthiest Americans, those earning $337,000 a year or more per year, will be the greatest beneficiaries of the changes in the nation's tax laws.

So what will happen? They go on to point out, the middle class will pay more and more. As the rich pay less and less, the middle class will pay more and more of their share of taxes. Thus, "Middle Class Tax Share Set To Rise."

That brings us to what is going on right now with Medicare. Again, one may wonder what the connection is between the tax cut bill and the problems that we are confronting ahead in Social Security and Medicare. Don't take my word for it. Just read the Financial Times, not a Democratic newspaper or anything like that. The Financial Times of Friday May 30, front-page story: "Bush Aware of 'Crushing' Deficit Threat." This is the article. I have it blown up here in the chart, "Bush Aware Of 'Crushing' Deficit Threat."

Ari Fleischer, White House spokesperson told a press briefing.

Listen to this quote:

> "There is no question that Social Security and Medicare are going to present [future] generations with a crushing debt burden unless policymakers work seriously to reform those programs."

Now it becomes clear. Huge tax breaks and cuts for the wealthy. The middle class tax share is to rise. Low-income families who have child care credit needs are written out. Because of the huge gap that is going to happen in the next 10 years because of the lack of revenues for the Federal Government, we are going to have problems in Social Security and Medicare. And so what does Mr. Fleischer say? We are not going to rescind the tax cuts. We are not going to ask the wealthiest to pay a greater burden. No, we are going to reform Social Security and Medicare.

What does he mean by "reform"? That is just a fancy, two-syllable word for a one-syllable word, "cuts." Reform to Mr. Fleischer, the Bush White House, and the Republicans means cuts—cut Social Security, cut Medicare. Again, don't take my word for it. On May 21, the third ranking Republican in the Senate, my friend from Pennsylvania, Senator SANTORUM, said:

> I believe the standard benefit, the traditional Medicare program, has to be phased out.

Senator ROBERT BENNETT, on March 19, the Senator from Utah said:

> Medicare is a disaster. . . . We have to understand that Medicare is going to have to be overhauled. . . . Let's create a whole new system.

And then to kind of wrap it all up, yesterday at a hearing here on the Hill, before the Senate Special Committee on Aging, who did they have as a lead-off witness? Former House Speaker Newt Gingrich, who, in 1995, said Medicare should wither on the vine.

Well, it looks as if the withering is taking place, the huge tax cuts, quotes by my fellow Senators from the other side of the aisle. They want to get rid of Medicare. They want to phase it out. They want to take all the elderly and put them in private HMOs. There isn't one Medicare HMO in the entire State of Iowa. So it is an anti-rural, anti-small-State approach, but you see the pattern. Wither on the vine, huge tax cuts that benefit the wealthy, no child credit to help those with low income, and as the Post pointed out this morning, a greater share of the taxes to the Government are going to be borne by the middle class. What are more middle-class programs than Medicare and Social Security? Those are the middle-class programs. Those are the programs we have had for years to make sure that people who work hard and play by the rules, who raise their families, when they reach retirement age can retire with dignity and decent health care coverage.

Now we see the game plan of the Republicans and of this President: Cut Social Security. Cut Medicare. That is what their reform means.

Now they are going to use the argument that we will not have enough money to pay for the Medicare benefits, to pay for a decent prescription drug benefit, and to keep Social Security benefits going. We don't have enough money. Why? It all went to the wealthy. As I pointed out on the Senate floor during the tax cut debate, the projected shortfall in Social Security over the next 75 years would be more than made up by the shortfall in revenue of the tax cut bills, if they are extended as the President desires.

So you have to ask yourself, what is more important to the middle class in America? Is it making sure that Warren Buffett, the third richest man in the world, gets a $310 million tax break, which he himself said was wrong and that he should not be getting? He said the tax cut ought to go to the middle class, and I commend him for his honesty and forthrightness. What is more important? Is it giving him a $310 million tax break or is it more important to the middle class, to make sure we have a decent prescription drug benefit, to make sure we have a decent Medicare Program and a sound Social Security program? That is what is important to the middle class. That is what has been taken away by the tax cut bill. That is what the Republicans are trying to take away with cuts to Medicare, and that is what they are going to try to continue to take away with further cuts to Social Security. That is why we have to be out here to fight every day for the middle class in America.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Michigan is recognized.

## HEALTH CARE FOR OLDER AMERICANS

Ms. STABENOW. Mr. President, I wish to follow what my friend and colleague from Iowa was speaking about earlier in terms of the importance of Medicare. I think his comments were so right on point.

I find interesting—I was not around at the beginning for the debate—the debate on Medicare. I understand that in 1960, originally, there were proposals to provide a broad universal care for all Americans and that, in true compromise form, the Congress and the President, when there was not support for that, ended up with a plan called Medicare for seniors and the disabled in this country. So it was a compromise. It was viewed as a first step, not a last step, in providing universal care for all Americans.

I believe Medicare has been a great American success story. We have seen both Medicare and Social Security bring our seniors out of poverty. Today, we have about 10 percent of our seniors in poverty rather than close to 50 percent prior to Social Security and Medicare.

During that debate, if one reads the RECORD, there was a major concern about who could provide health care to seniors better—the private sector or the public sector through Medicare.

The reason the Congress, in its wisdom, decided to move forward with Medicare was because at least half the seniors could not find or could not afford health care insurance in the private sector. Seniors and all of us who are getting older and using more medications and going to the doctors more frequently understand that older Americans require more health care, more costs, and are not exactly the prize group an insurance company goes for. They want my son and daughter in their twenties and younger healthier people to balance out those of us who are getting older and needing more care.

We believed, as a great American value, it was important that older Americans have health care. It was important that those who are disabled have health care, be able to pick their own doctor, be able to go where they choose to receive their care but that they would know it was always there, it was stable, a constant premium; they would know what it would cost; they could pick their own doctor; and it has worked.

Since that time, there have been a lot of debates, and we have one going on today, about how to provide Medicare prescription drug coverage. But the real issue is beyond that. It is about how to provide health care for older Americans.

The next big change that happened of which I was aware in 1997 when I was in the House was to offer private Medicare HMOs. Also at that time, there were major cuts made in Medicare for providers. I believe they went way too far. Many of us have been trying to change that ever since. There were cuts to hospitals, home health agencies, and doctors that have affected people being able to get care.

At that time, something was put in place that was touted as this great new program. In fact, Tom Scully at the time predicted an Oklahoma land rush of moves to private health plans in

1999. He said: You are going to see seniors pouring into managed care Medicare.

In fact, that did not happen. That is not what happened. But what we have seen happen, unfortunately, is what the former Speaker, Newt Gingrich, talked about in terms of a strategy of cutting off resources so Medicare would wither on the vine, an effort to convince people that Medicare was not working, even though the majority of seniors know it is because they use it every day.

I found it interesting that back in 1997 there was a strategy paper put out by the Heritage Foundation, an extremely conservative organization that I know does not support Medicare as we have it today, advising my Republican colleagues. They recommended a strategy to move to the private sector by doing four things: First, to convince Americans that Medicare provides inferior medicine and poor financial security. They set out to do that. We are going to hear a lot about that in this Chamber, that it is inferior medicine, even though seniors know that is not true. There is not evidence that is true, but we are going to hear a lot of talk—and we have for 5 years—about how Medicare is not as good.

Second, convince Americans that Medicare cannot be sustained for long. We have heard continually that we cannot afford it anymore. As my colleague from Iowa pointed out, if there is concern about being able to afford it, it is only because we are spending the money on tax cuts for the privileged few instead of beefing up Medicare and Social Security. So it is a conscious choice. It is a question of values and priorities that we have to decide every day, just as American families do.

Third, compare or reform the Medicare system to the Federal Employees Health Benefits Program. We hear a lot about that now: Seniors should have the same kind of plan that we do. I happen to agree with that, but during the tax debate I offered an amendment that simply said we are going to defer the tax cut to the privileged few at the very top, less than 1 percent of folks who already received a tax cut 2 years ago; we are going to defer the next one until we can fund Medicare at the level that Senators and House Members and other Federal employees receive. My colleagues voted no on that issue. It would cost twice as much as in the budget resolution—$800 billion instead of $400 billion—and, unfortunately, the majority voted no. But we are going to continue to hear about how we should have private sector plans instead of Medicare, and it should be the same as we receive.

I agree with that, and I am happy to offer my amendment any time folks want to support it so we can pay for that benefit and make it real for our seniors.

Finally, fourth, they said protect current beneficiaries. They said the calculation was the private alternatives generated by the voucher-style option, private HMOs, would be so much more efficient and so much more attractive that fewer and fewer seniors would decide to remain in the traditional system. Hence, Speaker Gingrich's remarks that the traditional Medicare system would wither on the vine because the demand for that option would decline sharply over time.

Obviously, that is not true. Nine out of ten seniors in this country, when given a choice, have picked Medicare. Seniors have made their choice. Since 1997 when they were given the option of private HMOs, they have overwhelmingly said no.

It is very interesting; 89 percent of the seniors in this country right now are covered under Medicare, and 11 percent are covered under a private sector HMO. Some do not have that option. In Iowa, there is not a private sector HMO. In Michigan, only 2 percent of beneficiaries have that option. Of the 64 percent of the seniors who have that option, only 11 percent of them have chosen to go into a private sector HMO.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. Mr. President, I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I thank the Chair.

Mr. President, today I wish to debunk the myths we have heard and are going to keep hearing so that we can get through what is fact and what is myth and focus on what we need to be doing, which is to strengthen Medicare to cover prescription drugs.

I agree with Secretary Thompson who says we need to focus more on prescriptions. We can do that through traditional Medicare in which seniors overwhelmingly have voted to remain. We can make sure they have their own doctor, the stability of knowing what their cost is for their premium and their copay, and still update the system to modernize it, using more technology, making sure we have more prevention, and making sure we have prescription drugs.

Fundamentally, I do not believe that is what this debate is about. If we can agree that we are going to do it through Medicare, then I believe we can sit down with the dollars available and work up something together, and I hope we will because the seniors of this country have waited long enough. I am very hopeful we will be able to do that.

I will briefly debunk what we are going to hear, unfortunately, and that we have to get beyond.

First, seniors want the choice to be in a private plan. Obviously, not true.

The private sector plans will offer seniors more choices, including prescription drugs. Unfortunately, many seniors do not have access to the private plans, and there is not one offered in 80 percent of the counties nationwide. So the choice is not available to them.

I find it interesting that my mother, who is a very healthy 77-year-old woman and plays on three golf leagues—I am so glad I have her genes. I am very hopeful I will have the same opportunity she has had to enjoy her retirement. As a retired nurse, she chose an HMO. She is very healthy. She wanted prescription drug coverage. She could get it through an HMO, so she chose a Medicare HMO. The problem was she got dropped. This has happened to thousands of seniors where the HMO decides it is no longer financially viable for them to cover older adults under Medicare, and so they drop them. So my mother lost her doctor. She liked the HMO she was in. It worked for her. She lost that opportunity.

So even in situations where people chose Medicare+Choice, the HMOs go in and out of the market. Forty-one thousand people in Michigan chose Medicare+Choice, and they were dropped because the plans go in and out. So it is not dependable, it is not reliable. That is why the majority of seniors did not pick it—because they wanted the reliability of their own doctor, knowing it would be there, knowing it was not going to be complicated by new systems and new paperwork. They like Medicare.

We also hear that private plans will give seniors more choices while letting them continue to use their own doctor. Of course, that is not true because if one goes into an HMO or even a PPO and their doctor is not part of that system, they do not have the opportunity to go to that doctor or they may have to pay more to go to that doctor.

The private sector Medicare plans will save money; how many times have we heard that? We hear that they are more efficient. In fact, it is just the opposite. They are not more efficient and, in fact, cost more money than being in traditional Medicare.

In the year 2000, the General Accounting Office estimated that payments to Medicare HMOs exceeded the costs that would have been incurred by treating patients directly through traditional Medicare by an annual average of 13.2 percent. So it cost more for the folks who went into the HMO, it cost Medicare more than if they had stayed in traditional Medicare.

Two recent studies found that private health plan fees are about 15 percent higher than Medicare: This is the other part of the myth. Frankly, I think our providers would love it if we funded Medicare at the same level as private insurance does because on average they would get 15 percent more dollars. We are cutting our doctors, hospitals, home health agencies, and nursing homes. In the private sector, on average, in some cases it is much higher than 15 percent more for the same services. Surgical procedures I believe are closer to 25 percent more in the private sector. So in terms of dollars, we would see higher costs and higher rates.

The private sector plans have lower administrative costs than traditional Medicare: How many times have we heard that? Many studies have shown that Medicare has a lower overhead rate than private plans. Medicare has a 2 to 3 percent administrative cost. Private Medicare HMOs, on average, spend 15 percent on administrative costs, and some spend as much as 30 or 32 percent. So, again, it does not cost less. The administrative costs are not less under private plans.

Finally, the myth that we can provide a Medicare drug plan like Federal employees benefits for under $400 million over 10 years, which is in the budget resolution—in fact, the numbers we have been given indicate to us that it would cost twice as much as what is in this budget resolution. When given the opportunity, our colleagues on the other side of the aisle voted no on funding the same level that we receive through Federal employee health insurance.

So let's talk about myth, let's talk about facts, and let's get beyond all of this and say seniors of this country have chosen overwhelmingly to stay in Medicare. They like Medicare. It works. It just does not cover prescription drugs.

Mr. HARKIN. Will the Senator from Michigan yield for a question?

Ms. STABENOW. I am happy to yield.

Mr. HARKIN. First, I preface my question by thanking the Senator from Michigan for her depth of understanding of the whole Medicare issue and also for her clarity of argument. I should say her clarity of exposition, for exposing what this is all about. It is not about tinkering around with it; it is really about an assault on the Medicare system itself. So I thank the Senator from Michigan for pointing that out, and I hope the Senator will continue to do this so that the American people understand what this is really about. It is about a fight for Medicare, whether we are going to have it.

Now, my question is this: As the Senator pointed out, Mr. Scully and others, back when Medicare+Choice came in, were lauding it, saying we were going to see seniors pouring into managed care Medicare. The Senator talked about how Mr. Scully said this was going to be an Oklahoma land rush to move to private health plans, and the Republicans who put up Medicare+Choice had all of these visions that seniors would go into it. But as the Senator from Michigan pointed out, that did not happen, did it? It did not happen.

Ms. STABENOW. That is correct.

Mr. HARKIN. Now we only have 11 percent of seniors who chose that. I ask the Senator from Michigan, does it somehow appear that since voluntarily the Republicans could not get seniors into HMOs and private health care plans, there now seems to be an approach that we are going to force them into HMOs by doing away with the Medicare system and restructuring it into a private HMO type system that would force the elderly to do what the elderly do not want to do? Does that seem to be the kind of thing we see laid out in front of us?

Ms. STABENOW. Well, I think my colleague is very wise in pointing that out. I often say that seniors made their choice and now our colleagues on the other side of the aisle have said: We do not like that choice. Pick again. You cannot have this choice. Door No. 1 is closed and locked. You can only pick door No. 2. That is really what is happening. Even among the fancy words, now we are hearing that under Medicare there will be the same prescription drug proposal, the same plan as our private plans; we are going to give the same prescription drug plan. But then we hear, but other things will be better in the private sector plans, such as we will have more prevention; we will have a better catastrophic cap; we will have other things that are better. So they are moving the words around.

It may appear that the prescription drug part is the same, but other things will be better because of the belief—and there is a genuine philosophical difference, there is a divide, about what is the best way to proceed. There are colleagues who believe that probably Medicare should never have been enacted. I have heard it said it is a big government program, it should be private insurance run, and they would like very much to get back as close as they can to a privately run system.

Mr. HARKIN. Again, I thank the Senator for pointing this out. As the Senator knows, the majority of Republicans voted against Medicare when it came in, in 1965. Even my good friend Senator Dole, when he was running for President, said he voted against Medicare and he was proud of it.

Now I would give them that that is their philosophy, and that is where they are coming from. I understand that. I understand when Newt Gingrich says he wants to have Medicare wither on the vine. I understand when the third ranking Republican in the Senate says the Medicare benefit ought to be done away with. That is their philosophy and that is where they are headed.

So again, I thank the Senator for pointing out that this is really the goal.

Ms. STABENOW. Absolutely.

Mr. HARKIN. This is the goal that is out there, to destroy the Medicare system.

Ms. STABENOW. Absolutely.

Mr. HARKIN. Again, I ask the Senator from Michigan, when Medicare came in, was it not because the private sector had failed in terms of elderly health care in America?

Ms. STABENOW. Absolutely.

Mr. HARKIN. Was that not the history? And if one has these private plans, that they are going to pick and choose, and they are going to cherry pick, and they are going to have a segregation of elderly pushed off in some corner someplace, begging for some kind of health care if we do not have a universal Medicare system? Is that not what might happen?

Ms. STABENOW. I think the Senator is absolutely correct. It is not that there is not a place for private sector insurance, but when Medicare came into place, it was because half the seniors in the country could not find a private plan that would cover them or they could not afford it. So there was such a huge need.

We as Americans have a basic value about making sure older Americans can live in dignity and have access to health care and a quality of life that they deserve, as well as those who are disabled. This is a great American value. I believe it is a great American success story. Even though there are those who since that time have been trying in some way to undermine it, we should be proud as a country. I absolutely agree with colleagues who say it needs to be modernized. We can focus more on prevention strategies.

In addition to prescription drug coverage, there are other ways we can make the system better. We can use more technology, less paperwork, all of which are good. If we could get beyond the debate that says we should move back toward the private sector, and somehow that is cost effective and saves money and the dollars will go further—none of which is true; there is no evidence of that—if we could get beyond that, we could come up with a bipartisan plan that would be meaningful. The seniors have been waiting for us to get the message. They want Medicare. They just want prescription drug coverage. They want it modernized. But they want Medicare. They have been saying that loudly and clearly.

I hope we can get the message and work together to actually get it done.

Mr. HARKIN. I thank the Senator for her leadership on this issue.

Ms. STABENOW. We appreciate the opportunity to share this today.

We have a real opportunity here, as Members on both sides of the aisle, to do something very meaningful. I hope we will do that rather than debate whether or not Medicare has been successful and seniors want choices. I believe we should look at the choice they made. It is very clear. They want us to work together and get something done, and do it in a way that will allow seniors to know that medicine, which is such a critical part of their lives and a great cost to their pocketbook, will be covered or partially covered and they will receive some assistance to be able to afford such a critical part of health care today, which is outpatient prescription drugs. It is too important to people. We do not want them choosing between food and medicine in the morning. We want them to have confidence that Medicare will cover and help with the costs of prescription drugs.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 1588 by title.

The legislative clerk read as follows:

A bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 1050 is inserted in lieu thereof.

The PRESIDING OFFICER. The Senator from Massachusetts.

### AMENDMENT NO. 847

(Purpose: To change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes)

Mr. KENNEDY. Mr. President, I call up amendment No. 847.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, and Mr. SCHUMER, proposes an amendment numbered 847.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I offer this amendment on behalf of myself, Senators BROWNBACK, MCCAIN, REID, BINGAMAN, DURBIN, CANTWELL, LEAHY, CORNYN, INHOFE, CLINTON, KERRY, and SCHUMER.

First, I wish to express my very sincere appreciation to the floor managers for giving us an opportunity to address this issue which is of enormous importance to a number of our servicemen and servicewomen. We have debated matters of enormous importance in terms of our national security during the consideration of the Defense authorization bill. I appreciate the patience given by the chairmen of the committee, Senator WARNER, and Senator LEVIN, and I appreciate their willingness to give an opportunity for the consideration of this amendment.

I am very hopeful that after discussion of it there will be a willingness to accept the amendment.

Mr. President, I understand we have a half an hour. I yield myself such time as I might use.

Mr. President, the amendment we are offering is a bipartisan effort intended to recognize the enormous contributions by immigrants in the military. It gives immigrant men and women in our Armed Forces more rapid naturalization, and it establishes protections for their families if they are killed in action.

In all our wars, immigrants have fought side by side and given their lives to defend America's freedoms and ideals. One out of every five recipients of the Congressional Medal of Honor, the highest honor our Nation bestows on our war heroes, has been an immigrant. Their bravery is unequivocal proof that immigrants are as dedicated as any other Americans in defending our country.

Today, 37,000 men and women in the Army, Navy, Marines, Air Force, and Coast Guard have the status of permanent residents. Another 12,000 permanent residents are in the Reserves and the National Guard. Sadly, 10 immigrant soldiers were killed in Iraq. The President did the right thing by granting those who died posthumous citizenship, but it is clear that we must do more to ease the path to citizenship for all immigrants who serve in our forces.

This amendment improves access to naturalization for lawful permanent residents serving in the military. It provides expedited naturalization for members of the Selected Reserves during military conflicts, and it protects spouses, children, and parents of soldiers killed in action by preserving their ability to file for permanent residence in the United States.

Specifically, the amendment reduces from 3 to 2 the number of years requires for immigrants serving in the military during times of peace to become naturalized citizens. It exempts them from paying naturalization filing fees, and it enables them to be naturalized while stationed abroad. Affordable and timely naturalization is the least we can do for those who put their lives on the line to defend our Nation.

During times of war, recruiting needs are immediate and readiness is essential. Even though the war in Iraq has ended, our commitment to ending global terrorism will continue, and more and more of these brave men and women will be called to active duty. Many of them are members of the Selected Reserves.

I point out, for the benefit of my colleagues, we are just looking at the Selected Reserves. There are a number of aspects to the Reserve units. We have the Selected Reserves as a part of the Ready Reserve, but we are just targeting this on the Selected Reserves. It does not apply to the individual Ready Reserves, the inactive National Guard, Standby Reserve, or Retired Reserve. These are individuals who must keep their competency up under regular kinds of training programs and are very much involved and integrated into the military units. Many of the Selected Reserves have already been activated in the Reserve and National Guard units, and many more expect to be called up at a moment's notice to defend our country and assist in military operations.

Over the years, many Reserve and Guard units have become full partners with their active duty counterparts.

We saw that in Operation Iraqi Freedom, where you had the highest mobilization of our Reserves and Guard in recent years. Their active duty colleagues cannot go to war without them. Being a member of the Selected Reserves is nothing less than a continuing commitment to meet very demanding standards, and they deserve recognition for their bravery and sacrifice. The amendment allows permanent resident members of the Selected Reserves to expedite their naturalization applications during war or military hostilities.

Finally, the amendment provides immigration protection to immediate family members of soldiers killed in action. Provisions reached through compromise will give grieving mothers, fathers, spouses and children the opportunity to legalize their immigration status and avoid deportation in the event of the death of their loved one serving in our military.

It just permits them to be a permanent resident alien. Then they take their chances in moving along to become citizens.

We know the tragic losses endured by these families for their sacrifices, and it is unfair that they lose their immigration status as well.

The provisions of the amendment are identical to those in S. 922, the Naturalization and Family Protection for Military Members Act, which also has strong bipartisan support and is also endorsed by numerous veterans organizations such as the Veterans of Foreign Wars, the Air Force Sergeants Association, the Non-Commissioned Officers Association, and the Blue Star Mothers of America.

The amendment is a tribute to the sacrifices that these future Americans are already making now for their adopted country. They deserve this important recognition. I look forward to working with my colleagues to see that these provisions are enacted into law.

The provisions of this amendment, reached through compromise, give immigration protection to the family members of some slain soldiers. They do not, however, offer protection to all family members, particularly the ones who are undocumented.

Our duty to soldiers who give their lives does not depend on how their parents or spouses or children entered the United States. Deportation is never fair pay for the death of a family member. As we together enact these provisions, I will continue working to make sure that we uphold our duties to all of our immigrant soldiers.

Mr. President, I have had a chance to talk to the chairman of the committee and the ranking member of the committee and to work with their staffs over a period of time to respond to a number of their very important questions that they have had, and I am hopeful that the Senate will accept this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this amendment will expedite the naturalization process for noncitizen soldiers serving on active duty, in the Select Reserves, and will enact safeguards to protect noncitizen immediate relatives of American and noncitizen soldiers who are killed in action.

More than 48,900 noncitizens are currently serving in the United States military on active duty and in the Selected Reserves. Hundreds are serving from the State of Nevada. They place their lives on the line for our country every day.

In recognition and appreciation of their service, they deserve a naturalization process that does not unnecessarily delay the grant of citizenship or impose other restraints because they are stationed in another country.

These noncitizen soldiers love America so much they are willing to make great sacrifices to protect us and promote our values and even defend the Constitution—although they do not fully enjoy its protections. They deserve better treatment than they currently receive.

Like many Americans, I am moved by the story of Airman Dilia DeGrego, who is a legal resident of the State of Nevada.

Airman DeGrego's story is a tale of exemplary courage. She was born in Mexico and came to the United States at the age of 4. Airman DeGrego's family wanted so much for her to be a citizen that her mother relinquished her parental rights and gave full custody of Airman DeGrego and her two sisters to her aunt and uncle who live in the United States.

Airman DeGrego joined the Air Force, in her words, because she wants to serve her country. Her Country. Airman DeGrego knows no other home than the United States.

She is a proud member of the Air Force family and is a true patriot.

I am honored to tell you that last night Airman DeGrego sent a short message to my office stating that she has been granted an interview within the Office of Citizenship. She completed her message with two simple yet overwhelmingly powerful statements, "I have been blessed. God, bless America."

Who can say that active duty Airman DeGrego, citizen or not, is any less of a hero?

These noncitizen heroes have defended our liberty in every single Great War in which our Nation has participated and represent over 20 percent of the recipients of the Congressional Medal of Honor.

This amendment will provide necessary relief to current noncitizens serving in active duty and the selected reserves within the United States military by setting forth an expedited process of naturalization.

The amendment will also provide protections for noncitizen spouses, unmarried children, and parents of citizen and noncitizen soldiers who are killed as a result of their service, to file or preserve their application for lawful permanent residence.

This amendment is supported by the Veterans of Foreign Wars, the National Guard Association of the United States, the Air Force Sergeants Association, the Air Force Association, the Non-Commissioned Officers Association, the Blue Star Mothers of America, the National Council of La Raza, the National Asian Pacific American Legal Consortium, the National Federation of Filipino American Association, the National Association of Latino Elected Officials, the Mexican American Legal Defense Fund, and the American Immigration Lawyers Association.

I rise today in support of action that will recognize and honor current noncitizen soldiers serving in the United States armed forces and will honor the legacy of all of our soldiers who have been killed in action by providing fair and sympathetic treatment of their immediate relatives seeking legal permanent residency.

Mr. President, I ask unanimous consent that a letter written by Airman Dilia DeGrego, who portrays exactly what the Senator from Massachusetts is saying about the tremendous sacrifice made by these people who are willing to fight for our country—and they should be treated accordingly—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*To Whom It May Concern:*

My name is Airman Dilia DeGrego, I am a United States permanent resident presently active-duty military trying to become a U.S. citizen. I was born in Mexico June 3, 1984 and have been in the U.S. for about 15 years. I was brought here by my aunt Martha Ayala, who is a U.S. permanent resident as well, and my uncle, Antonio Ayala Jr. who is a U.S. citizen. I lived with them until I left for the Air Force. When I was 12 my biological mother gave full custody of myself as well as custody of my two younger sisters to my aunt and uncle. The adoption was complete approximately two years later. My parents sponsored my sisters and I and we received our permanent residency about three years later in April of 2002. I applied for my citizenship May 30, 2002. I have not received a response from the immigration office. My dates are not exact, but the INS has record of it all. February of this year I got married in El Paso, TX to Brian Andrew DeGrego, whom I love dearly and is also active-duty Air Force, currently serving a remote tour in Osan Air Base, Korea. My sisters received a permanent "green card" in October of 2002 and I did not receive anything. When I asked all I was told was that because my citizenship was pending I would not receive it. My original temporary permanent residency card expired April 21, 2003. I currently have a duplicate that expires December 21, 2003. I hope to receive some word about my citizenship before then because if not I will have to take leave and fly to El Paso, TX where my records are currently being held. I have mailed in a change of address form with a copy of my orders to the immigration office letting them know that I am currently assigned at Nellis AFB, Nevada. I did not receive word that they received my information. I currently do not know my status. Pardon me for complaining, but I don't think it's fair that I will have to keep renewing my "green card" and not actually getting a permanent card. I went to the Air Force and asked if I could apply through them to help my situation. I was told I could not and would have to wait until I get a reply from the INS office before the Air Force could do anything. I have called the immigration office in El Paso and received nothing more than a machine I have left messages. As far as I know I have to wait three years of being in the service or three years of being married to my husband. If the bill is passed I will be able to apply for my citizenship again August 2004. I don't understand where I am now in my situation. Anything you could do to help would be greatly appreciated.

I joined the Air Force to serve my country like many other permanent residents and U.S. citizens. To me this is the family that status did not matter, but I have experienced difficulty in my career as Public Affairs. I am unable to get an e-mail account or finish my security clearance thus unable to go on the flight line. I am unable to perform my job effectively. I am the base only staff writer for the base paper "The Bullseye" it is my job to work with people on a daily basis as well as all kinds of information. I cannot attend certain meetings if there is any unclassified information mentioned. I understand their reasons, but my job is communication and because I am not a U.S. citizen I cannot do my job the way it is suppose to be done. I am part of the Air Force family and I will fight to do all I can to do the best I can. It's unfortunate that I am in this situation, but sometimes you have to get tossed around to finally settle in somewhere. I love the Air Force and hope to be a proud member for the years to come, because despite what any paper says in my heart, I am a citizen. Serving as a member of the U.S. Air Force only makes me a prouder one. I know my situation may be common and that is why I can sincerely say that it would only help my brothers and sisters if this bill is passed. Thank you for your time and concern. God bless America!

Amn. DILIA DEGREGO,
AIR WARFARE PUBLIC AFFAIRS,
*U.S. Air Force.*

Mr. REID. So I commend and applaud the Senator from Massachusetts for offering this amendment. And, of course, as he indicated, I am a proud cosponsor of this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend my colleagues on this timely and very compassionate initiative. I particularly thank, on my side, Senator SESSIONS, Senator CORNYN from Texas—who momentarily will address this issue—and Senator KYL, who talked to me this morning. He expressed that the two of you had reconciled, in large measure, some concerns that he had.

So I say to Senator KENNEDY, we thank you for taking this initiative. We have all worked diligently as a team to provide this situation. Each of us knows the distinguished service by those who come from lands abroad in the Armed Forces of the United States. It is a part of our history, and it is a traditional means of demonstrating the allegiance and commitment to the ideals of this Nation to which these individuals have come to join our society.

I believe this amendment—which would shorten the waiting period from 3 years to 2 years for noncitizen service members, both Active Duty and Reserve, and which eliminates fees for processing, and which extends an accelerated naturalization process to certain spouses and parents and children of deceased alien members—has great merit and should be supported.

At this time, Mr. President, I yield such time as the distinguished Senator from Texas desires.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Texas.

Mr. CORNYN. Mr. President, I thank the distinguished Senator from Virginia, the chairman of the Armed Services Committee on which I serve, for his courtesy as well as that of Senator LEVIN, the ranking member. And I especially state my appreciation to Senator KENNEDY and those others who have cosponsored this amendment. I am proud to be one of them.

Mr. President, I rise today to say a few words about this amendment, the Naturalization and Family Protection for Military Members Act of 2003.

In every war our Nation has fought, from the Revolutionary War to Operation Iraqi Freedom, brave immigrants have fought alongside American-born citizens. They have fought with distinction and courage. Twenty percent of the recipients of the Congressional Medal of Honor, our Nation's highest honor for war heroes, have been immigrants.

One in 10 active duty military personnel call my home State of Texas their home. And as a member of the Armed Services Committee, I am dedicated to doing everything I can to look out not only for their interests but for the interests of all military personnel, including immigrants.

That is why earlier this year I introduced the Military Citizenship Act that will expedite the naturalization process for 37,000 men and women serving in our Armed Forces who are not U.S. citizens. I believe there is no better way to honor the heroism and sacrifice of those who serve than to offer them the opportunity for American citizenship they deserve.

I am proud to be a cosponsor of this amendment because I believe it fulfills a crucial responsibility to welcome those who fight for our Nation and to help immigrants become naturalized citizens, providing their families easy access to naturalization and family immigration protections.

All you need to do is look at this chart which sets out the scheme for an alien military service member to seek naturalization under current law. As you can tell, it is a sea of redtape and needless bureaucracy and is overly burdensome on those who want nothing more than to earn the opportunity of American citizenship and who have demonstrated their commitment to this Nation's ideals and values by their very service.

I believe it is time to do away with this sort of thing once and for all. This amendment and the provisions of this bill streamline the process and make it one that welcomes immigrant service members for their bravery and sacrifice and not one that sets up unnecessary obstacles to their becoming citizens.

I thank my distinguished colleagues for supporting the bill. I again express my appreciation to Chairman WARNER for including language in the Defense authorization bill that directs the Department of Defense to determine if any additional measures can be taken to assist in the naturalization of qualified service members and their families.

I also strongly support the action of the President, retroactive to September 11, 2001, to exempt military members from the requirement to serve 3 years on active duty before applying for citizenship. We must always remember that our own freedom was not won without cost but fought and paid for by the sacrifices of generations who have gone on before us. We must honor the heroic dead for their courage and commitment to the dream that is freedom, and we must honor the worthy heroes who fight today and embrace them as our fellow citizens.

In 1944, Winston Churchill spoke at Royal Albert Hall to the combined British and American troops and reminded them of a greater cause they served, regardless of the bounds of nations or cultures. He said:

> We are joined together in this union of action which has been forced upon us by our common hatred of tyranny, shedding our blood side by side, struggling for the same ideals, until the triumph of the great causes which we serve shall be made manifest. . . . Then, indeed, there will be a day of Thanksgiving, one in which all the world will share.

In Iraq, the brave men and women of our Armed Forces and the coalition forces fought against those who hate our Nation's values. They hate us because we believe that all men are created equal regardless of their nation of birth, regardless of their religious faith. They hate us because we believe in the God-given rights to life, liberty, and the pursuit of happiness, rights that extend to all mankind. They hate us because we still say: Give me your tired, your poor, your huddled masses yearning to breathe free.

These brave immigrant soldiers are taking on the uniform of our Nation, serving under the flag of our Nation, and fighting the enemies of our Nation and our values. It is only right that they should be welcomed as citizens of this great Nation.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Virginia.

Mr. WARNER. Mr. President, to my knowledge, there are no other speakers on this side of the aisle.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator KENNEDY and all of his cosponsors for offering this amendment. The Senator from Massachusetts has identified a significant shortcoming in our current naturalization law. When we have people who are here legally, legal immigrants who have green cards, who join the Armed Forces, who put their lives on the line for our Nation, the least we can do is to make it easier for them to become citizens through the naturalization process.

A number of things in this amendment highlight the clear and simple message we are trying to send to the men and women who are willing to go into harm's way for us and to make the commitment to our Nation that military service involves.

Just a few elements: Naturalization can be carried out abroad. Right now that is not possible. Men and women of the military would have to come here, back to the geographical limits of the United States, in order to become naturalized. They could be assigned abroad, on duty abroad, and surely we want to make it possible for them to file their naturalization papers, to be interviewed, to take the oath to this Nation abroad at U.S. embassies or consulates or military installations.

We also ought to take care of the members of the family of those who are killed or who die as a result of injury or disease that is incurred pursuant to military service. Those families, those noncitizen spouses and unmarried children and parents, who could become citizens while the loved one is alive surely should not lose that status and protection when the loved one is killed or lost in action or as a result of injury or disease.

So what is done here is fundamentally human but also fundamentally significant in terms of what this Nation is all about. The men and women who are willing to join our Armed Forces to go and put their lives on the line for this Nation surely are owed a major debt by our country. One way we can in part pay this debt to them as well as to all members of the Armed Forces is to adopt the Kennedy amendment.

Again, I commend him and all the cosponsors for offering it.

Mr. HATCH. Mr. President, I am pleased to support this amendment, which provides a more expeditious naturalization process for the brave noncitizens who serve in our Nation's military. It is a recognition of and an expression of appreciation for their dedication and sacrifice during this time of conflict. Moreover, this amendment reflects our Nation's compassion and gratitude to those who gave their lives in defense of our freedom, as it grants, for the first time, derivative benefits to the immediate family members of these fallen men and women who only became citizens posthumously.

Senator KENNEDY's amendment allows members of the military to apply for naturalization after 2 years of service instead of 3 years. It also provides for naturalization proceedings overseas so that the servicemen who serve abroad may become citizens without having to travel back to the United States at their own expense. In addition, the amendment benefits the immediate family members of servicemen who died in combat and are granted posthumous citizenship. Now, these family members will have at least an opportunity to derive immigration benefits based on the posthumous grant of citizenship. Indeed, this amendment allows these family members to stay in the country for which their loved ones gave their lives.

I thank Senator KENNEDY for his effort in reaching out for bipartisan support on this amendment, and for his willingness to accept the input and suggestions from Democrats and Republicans alike. In particular, I am grateful that Senator KENNEDY accepted my proposal to close some loopholes so that alien smugglers and other worthy individuals do not inadvertently reap a benefit from this amendment. I am confident that this amendment now appropriately reflects the values and virtues that are inviolable to all of us as Americans.

Mr. CHAMBLISS. Mr. President, I am pleased to support this amendment to provide for the men and women who serve in our armed forces. I particularly want to express my heart-felt appreciation to the families of servicemen who gave their lives in our fight for freedom and victory in Iraq.

This amendment accomplishes three purposes. First, for permanent residents who serve honorably in our Armed Forces, it changes the waiting period from 3 years to 2 years of service in order to begin the naturalization process. This provision also requires the Department of Defense to formulate a policy to ease and facilitate naturalization for these men and women.

Secondly, the amendment provides a process of immediate naturalization for our selected reserve Armed Forces serving during a time of hostility. In today's military, we rely heavily and strategically on our reservists, and it is only fair to extend this benefit to reserve as well as active duty personnel serving our country in a time of war.

Thirdly, the amendment benefits the immediate family members of servicemen who are U.S. citizens killed in combat. These immediate family members may be non-immigrants who rely on the citizenship of their spouse, father or mother, or even son or daughter to adjust their status to become permanent residents and eventually citizens themselves. In honor and respect of U.S. citizens who die in combat, this amendment will provide their families the temporary ability to continue the immigration process.

This amendment further compliments a bill that my Georgia colleague, Senator MILLER, and I passed in the Senate 2 months ago. That legislation expedites the granting of posthumous citizenship to immigrant soldiers who die in combat. Our bill and the amendment offered today reduce the waiting periods, eliminate the red tape, and reward those who serve in our armed services and especially those who make the ultimate sacrifice while defending freedom.

Today we will adopt an amendment to further respect servicemen like 19-year-old Diego Rincon from Conyers, GA, who was killed in Iraq. These members of our armed forces, whether citizens or permanent residents, and their families should be fully appreciated for their service to our country, and in some cases, receive the benefit of continuing the process to become citizens.

Mr. BROWNBACK. Mr. President, I am pleased to join Senators KENNEDY and MCCAIN today in submitting an amendment to honor the contributions of immigrants who have shown their dedication both to this country and to creating a better future for themselves by joining the military. This amendment will do two critically important things: it will offer easier access to naturalization for immigrant men and women of our armed forces, and it will establish immigration protections for their families if they are killed in action.

Having just been through a tough period of war, it is especially important to recognize those who fight on our behalf to preserve our freedom and our way of life. This is particularly true for those immigrants who have too often given their lives to defend our principles.

This is poignantly illustrated by an anecdote from the President's visit to Bethesda Naval Hospital with his wife, Laura, back in April. In the press conference afterward, visibly moved by the heroes he met, he noted a special moment for him—witnessing two wounded soldiers sworn in as citizens of the United States. As the President put it himself, "You know we got an amazing country where so powerful, the values we believe, that people would be willing to risk their own life and become a citizen after being wounded. It's an amazing moment. Really proud of it."

The President's words speak to exactly why this legislation is so important—and so worthwhile. These men and women are willing to risk their own lives on our behalf, even though they are not yet citizens of this country.

In fact, there are more than 30,000 noncitizens on active duty in the U.S. military—approximately two percent of the total U.S. forces—who are willing to risk their lives on our behalf without the privileges of citizenship. In the Reserves and the National Guard are another 20,000 noncitizens. These immigrants have proven a dedication to our country by joining the military or the Reserves or National Guard, dedication which should be recognized and rewarded.

Our amendment will do that. First, it provides easier access to naturalization to members of the armed services who are already lawful permanent residents. Currently, being a member of the armed services allows a permanent legal resident to reduce their wait time for naturalization from five years to three years—our legislation would reduce the time to only two years. It would also ease this process by allowing naturalization interviews and oath ceremonies abroad at U.S. embassies, consulates, and overseas military installations, and by waiving naturalization fees.

In addition, the language provides for the immediate families of immigrant service personnel killed in action by either giving them the opportunity to legalize their immigration status or by allowing them to proceed with their own applications for naturalization as if the death had not happened. By protecting their immigration status, this element provides critical acknowledgment of the sacrifices that the families of our military members make as well.

Finally, the amendment remembers those courageous men and women who ensure that in times of war or hostility, our country is ready and our recruiting needs are met, by saying that members of the Reserves or National Guard will have expedited naturalization during times of war or hostile military operations.

It is easy to see why so many groups are supporting this amendment—from the Veterans of Foreign Wars to the Non-Commissioned Officers Association to the National Council of La Raza to the National Asian Pacific American Legal Consortium, among others.

This amendment on the naturalization and family protection for military members is a vitally important piece of legislation that both honors and rewards immigrants to this nation. They are already legal permanent residents—this simply ensures that they have the opportunity to truly become a part of this country through citizenship. Therefore, I urge my colleagues to support this amendment today.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I observe no other speakers to this important amendment. The managers of the bill are prepared to take it on a voice vote. Therefore, I urge adoption of the amendment.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 847.

The amendment (No. 847) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we will proceed to a second amendment. Prior to that being done, I wish to advise the Senate there is a third amendment regarding the BRAC process which will be introduced by the Senator from North Dakota and the Senator from Mississippi. At this time, so the Senate is aware, we will ask for the yeas and nays on the amendment that will be offered.

The PRESIDING OFFICER. There is no amendment offered.

Mr. WARNER. We will wait.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from North Dakota is here. If I yield, he can go forward. I am happy to withhold.

Mr. DORGAN. Mr. President, I am waiting for Senator LOTT. I know he is near the Chamber. As soon as he arrives, we are ready to go. The Senator from Nevada may proceed first.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

### AMENDMENT NO. 848

Mr. REID. Mr. President, I call up amendment No. 848.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, and Mr. BIDEN, proposes an amendment numbered 848.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability)

At the appropriate place in title VI, add the following:

**SEC. . FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.**

(a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

**"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation**

"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

"(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

"(d) DEFINITIONS.—In this section:

"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.".

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(e) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).

Mr. REID. Mr. President, I rise today with Senators MCCAIN, DORGAN, INHOFE, BILL NELSON, JEFFORDS, COLLINS, EDWARDS, BINGAMAN, and MURRAY to offer an amendment on behalf of our Nation's disabled veterans.

This amendment would end the longstanding injustice that prevents disabled veterans from drawing the disability compensation and retirement pay they have rightfully earned. It sounds unusual, but it is true. This prohibition on "concurrent receipt" has plagued our veterans for more than a hundred years.

First, I thank Senators LEVIN and WARNER for their support on this issue year after year. As a result of their dedication, deliberation and fairness in conference, we have been able to make some progress each year, and I commend them for the work they have done. The establishment of the special compensation programs has ensured that about 30,000 veterans can receive the benefit of both retirement pay and disability pay. But there are still hundreds of thousands of disabled veterans who need our help.

Many people wonder why we return to this issue year after year in an attempt to keep this fight alive. After all, the White House and the Pentagon are opposed to concurrent receipt, and we are told by OMB there is no money for it. So why take up the struggle year after year in this environment?

For me, it is simply a matter of fairness. Why would we deny a veteran who served honorably for 20 years the right to the full value of his retirement pay because his service caused him to become disabled? That is what this terribly unfair law does. A retired and disabled veteran must deduct from his retirement, dollar for dollar, the amount of disability compensation received. In many cases, the effect is to totally wipe out the retirement pay. The end result is that the disabled military retiree loses all the value of his 20 or more years of service to our Nation. We don't subject any other Federal retiree to this kind of offset—only our disabled military retirees.

Let me give you a specific example that strikes close to home for this Senator. MAJ Len Shipley is a decorated Marine Corps officer from Henderson, NV. He served combat tours in Vietnam and in the first Gulf War. He retired in 1993 with 26 years of honorable service—13 years enlisted and 13 years as an officer. Tragically, last year, Major Shipley developed Lou Gehrig's disease, a terminal illness for which there is no cure. This disease kills most of its victims within 18 months of diagnosis. There are exceptions, of course, and I hope Major Shipley is one of them. But in all likelihood, he doesn't have much time left to live.

Subsequent to this diagnosis, the VA found Major Shipley to be 100 percent service-connected disabled. He was drawing his full retirement pay prior to receiving his disability rating, but once he was found to be entitled to disability compensation, he lost almost $2,400 of his monthly retirement pay because of the prohibitions on concurrent receipt. Major Shipley's wife, already a Navy reservist, has been forced to work overtime as a nurse in the local hospital to make ends meet. Her husband's disability—and now the loss of the retirement pay he has been collecting for more than a decade—has impacted her family severely.

We should be doing things to make Len Shipley's life better, not worse. He served his country honorably. The restriction on concurrent receipt is fundamentally unfair, unwise, and unsound policy. We should fix it.

I understand the new special compensation programs were designed to help veterans like Len Shipley, but he was told he does not qualify for this Severely Disabled Compensation Program because he received his disability rating more than 4 years after his retirement. Mr. President, Lou Gehrig's disease does not pause to consider when its victims retired from the military.

We still don't know whether Major Shipley will qualify under the Combat Related Special Compensation Program. I hope the program will be fairly administered, but I am already concerned about a Pentagon ruling that excludes the National Guard and Reserve forces from eligibility for special compensation benefits. I hope this is simply a mistake by the Pentagon that will be corrected immediately. If you are combat disabled and retirement eligible, why should it matter whether you served on active duty, the National Guard, or the Reserves? It was never the intent of Congress to exclude the National Guard and Reserves from the Special Compensation Program.

But these special compensation programs are necessary only because this ancient prohibition on concurrent receipt is still on the books. It is time to finally end the prohibition, get rid of the special compensation programs, and lift this unfairness from the backs of the disabled veterans.

The support for concurrent receipt in the Congress is clear. I have mentioned a few cosponsors of this most important amendment, but I believe if we shopped it, most of the Senate would sign on. About 90% of the entire 107th Congress was on record supporting full concurrent receipt in the 2003 National Defense Authorization Act. Disabled military retirees were extremely disappointed when the legislation fell short after a veto threat by President Bush.

So it is time for us to demonstrate a sense of fairness to our retired disabled veterans. Let's end this prohibition once and for all. I urge my colleagues to support this most worthy amendment.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I commend Senator Reid for his constancy and his commitment to this cause. His leadership has been nothing less than extraordinary. Last year, the legislation, which he initiated, to repeal this prohibition had 82 cosponsors. He has continued to fight for this repeal, fight the administration's significant opposition. I support that effort, and I think it is particularly important at a time when we have troops being shot at in Iraq and in Afghanistan. We know some of our service members are going to suffer injuries and disabilities because of that service and service elsewhere. We must assure them that if they complete a military career, they will not be deprived of the benefits they have earned. So I support this amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, our committee through the years has addressed this very important amendment. I, too, commend the distinguished Senator from Nevada, who has been the spearhead, together with others, on this issue. He has enumerated others, including Senator McCain on this side, who have fought so hard for this measure. Senator Levin just spoke of his endorsement, and I now add mine.

I don't wish to prolong this because in last year's record I spoke extensively on this measure. Each time I have addressed it, I have mentioned I have had two brief tours of active military duty, but pretty much of a lifetime association with the Reserves and the Guard in my State and others. My military career is insignificant compared to that of many valiant members of the Armed Forces, generations of whom, hopefully, are to be benefited, quite properly and justifiably and fairly, by this legislation.

I see no further speakers on our side.

Mr. REID. Mr. President, if I may say one thing, the Senator from Virginia has stated—and I heard him say this—his military career is insignificant. The Senator's military career, of course, was significant. Anybody who serves in the military adds to the dimension of our defense posture in the country.

I want the Record to reflect that the armed services, the men and women who serve in the U.S. military, have been improved as a result of the service of the Senator from Virginia as a member of the Senate. He has been devoted to the committee that is now handling this legislation, and the teamwork the Senator from Virginia has shown with the Senator from Michigan—talk about insignificant, mine is really insignificant; I have had no military service. I proudly serve in the Senate, doing what I can to help those people who have served in the military and are serving in the military.

My service in trying to accomplish what I think is important for the military is really insignificant compared to the work done by the two managers of the bill. When the history books are written about this era of our country, there will have to be a chapter about what has been done by the two Senators who are managing this bill for their cooperation, partnership, and for moving this legislation forward.

It would be very easy to have a very agitated relationship. We do not have that here. Senator Warner and Senator Levin set an example for the rest of the Congress as to how people can work together, even though their views may not always be in sync, to work together for the betterment of the country.

I thank them very much for working so hard on this legislation, as they have over the years. But for the two of them, as I have already stated on the record, we would not be anywhere. We can pass all kinds of legislation in the Senate, but when it passes Statuary Hall and goes to the House, many times issues are gone.

As a result of the work of Senator WARNER and Senator LEVIN, veterans in this country will forever be helped.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield?

Mr. REID. I will be happy to yield, but before yielding—I was going to say this—the Senator from North Dakota has been—I am trying to find a word to describe the push and pull, the ability to put legislation at the forefront of what we do. The Senator from North Dakota has done a remarkable job. But for him, we would not be where we are.

I will be happy to yield.

Mr. DORGAN. Mr. President, I wish to observe that what the Senator said about the chairman and ranking member is something most all of us in the Senate believe. They are two extraordinarily able people, and I am proud to serve with both of them. I think they produced a good piece of legislation.

I especially wish to say, as coauthor of the concurrent receipt legislation with Senator REID, I am pleased this will be accepted. My understanding is this will be part of the bill in the Senate. It is the right result for disabled veterans. I am very pleased they are allowing us to make this a part of the bill today. I thank Senator REID for his leadership.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am deeply humbled by Senator REID's kind remarks. I wish to say, certainly this is not about my own career. I always felt I benefited more from my brief tour of military service than did the military for my service in those days. I tried to, in a sense, pay back so that other members of the service today can have the same and greater benefits than I had. I would never have received a college education in all probability had it not been for the GI bill.

Although I did serve twice, I never placed myself in the category of combat arms and the valorous heroes of this great country but did my duty, as millions of others have, and was privileged to do so.

On the Committee of Armed Services, no one could have a more wonderful working partner than my colleague from Michigan. We have sat side by side this quarter of a century, but we have achieved a high water mark of bipartisanship because we are really there to be responsive to the needs of the men and women of the Armed Forces and the overall security needs of our country. As each President has sent forth his message to the Congress, we have done our best to fulfill that message.

I thank my colleague from Nevada and thank my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I must add a word of gratitude to Senator REID for his always gracious commentary. This institution could just simply not function as well as we do with all of the roadblocks we face without Senator REID. He is utterly unique in this institution in terms of moving the process forward. When we have setbacks or differences, he has overcome more of those than any other person in this Chamber as he serves as our assistant Democratic leader. I think everybody on both sides of the aisle is very much in his debt for his work, as well as for his excessively flattering comments for which I am personally indebted. I thank Senator DORGAN as well for his comments.

One word about Senator WARNER. Like him, I always look forward to our work on the Armed Services Committee. To put it in a nutshell, I have been blessed to have him as a partner. I just cannot conceive of having somebody with whom I would rather work on issues than having Senator WARNER working on them as he does day in and day out. I agree with Senator REID, it would not diminish his contribution militarily——

Mr. WARNER. We must move on, Mr. President.

(Laughter.)

Mr. LEVIN. I will take that as my time is up. I yield back the remainder of my time on Senator WARNER.

Mr. WARNER. Senator LEVIN should know my sentiments.

Mr. CHAMBLISS. Mr. President, I want to discuss Senator REID's amendment, which would permit retired members of the Armed Forces who have a service-connected disability to receive both their full military retired pay and disability compensation.

On March 27, I held a Personnel Subcommittee hearing with my colleague Senator NELSON specifically about this issue of concurrent receipt. Our colleague, Senator REID of Nevada, was the first to testify, and he was followed by Undersecretaries Dan Cooper and Charlie Able and several experts from the General Accounting Office, Congressional Budget Office, and various veterans groups. There was a lot to learn about the intricacies of Federal benefits and compensation, but ultimately the hearing reinforced the fact that this legislation is extraordinarily complex and expensive.

All said though, I intend to support this amendment because this compensation is long overdue for our Nations' veterans. It is unfortunate that the cost of concurrent receipt is so high, but America's veterans have earned their benefits through their long service to our Nation.

Last year, Congress funded a form of special compensation for retired soldiers who had certain combat-related disabilities. The first check for this limited compensation will be cut on July 1, 2003, and this is good news for those veterans who qualify. This is an important step in the fight to help our nation's veterans but we must do more.

These benefits for veterans and their families are important and we should honor those who interrupted their lives and the lives of their families to defend this country and preserve our freedom.

Mrs. LINCOLN. Mr. President, I rise to speak in strong support of the amendment offered by my friend and colleague from Nevada. This proposal to overturn current law that prohibits concurrent receipt of retired pay and disability benefits for military retirees with 20 years of service is long overdue. I believe the current policy is unfair and that our military retirees should receive their entire benefits package, just as any other Federal worker would.

Last year, the administration and leaders of the House and Senate Armed Services Committees negotiated a compromise that partially repealed the dollar-for-dollar offset for certain military retirees who also receive VA disability pension benefits. Although the passage of this provision represented a step in the right direction, I recognize that many veterans who sacrificed to defend our freedom did not benefit under the compromise signed into law last year. That is why I am proud to support, once again, the amendment before us today to fully repeal the dollar-for-dollar offset.

I have the highest respect for the men and women who have served our Nation in uniform. I congratulate the Senator from Nevada for his leadership on this important issue and I am pleased to join him and others today in honoring the sacrifice of the veterans in my State who have served our Nation so well.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 848.

The amendment (No. 848) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we are about to turn to an amendment by our colleague from North Dakota and our colleague from Mississippi. I say to these two fine, outstanding colleagues, while I must oppose this amendment, I have rarely seen such extraordinary tenacity as exhibited by these two Senators in their strong convictions with regard to the matter that is about to be put forward. I wonder if the two Senators will offer the amendment, and then I wish to do a housekeeping measure with regard to the vote.

The PRESIDING OFFICER. The Senator from North Dakota.

### AMENDMENT NO. 849

Mr. DORGAN. Mr. President, I send the amendment to the desk on behalf of myself, Senator LOTT, Senator DURBIN, Senator BOXER, Senator SNOWE, and Senator BINGAMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN), for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, and Mr. BINGAMAN, proposes an amendment numbered 849.

Mr. WARNER. Mr. President, I wonder if I may ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Without objection, the reading of the amendment is dispensed with.

The amendment is as follows:

(Purpose: To repeal the authorities and requirements for a base closure round in 2005)

At the appropriate place in the bill, add the following:

**SEC. . REPEAL OF AUTHORITIES AND REQUIREMENTS ON BASE CLOSURE ROUND IN 2005.**

(a) REPEAL.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking sections 2906A, 2912, 2913, and 2914.

(b) CONFORMING AMENDMENT.—Section 2904(a)(3) of that Act is amended by striking "in the 2005 report" and inserting "in a report submitted after 2001".

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that any votes ordered with respect to H.R. 1588 be postponed to occur at 2:50 p.m. today; provided further, that immediately following disposition of any pending amendments, the bill then be read a third time and the Senate proceed to a vote on passage, as provided for under the previous order. I further ask unanimous consent that passage of S. 1050 be vitiated, and that following the passage of H.R. 1588, the Senate substitute be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is we have 15 minutes on our side in support of the amendment; is that correct?

The PRESIDING OFFICER. The amendment has 30 minutes equally divided. The Senator is correct.

Mr. DORGAN. Mr. President, I wish to be reminded when I have consumed 5 minutes.

This amendment is really quite simple. It would rescind the provisions of law that now exist authorizing a round of military base closures in the year 2005. The Senate actually voted on this a couple years ago, in a relatively close vote, regarding an amendment offered by Senator BUNNING, supported by Senator LOTT and myself.

I bring the amendment to the floor with my colleague, Senator LOTT from Mississippi, today for a number of reasons. Let me begin to describe them.

First of all, President Bush says—and he is right—we are at war, a war against terrorism. We do not know when the war will end. We do know that on 9/11 2001, this country was struck by terrorists. Since then we have sent our forces to fight a war in Afghanistan and a war in Iraq, and we know there are significant other challenges that confront us. Yet the 2005 base-closing round, the one that provides for a BRAC Commission, was conceived prior to 9/11.

The shadow of 9/11 is long and has changed virtually everything. But we have not changed our pre-9/11 notion that we should have a base-closing round in 2005. Before 9/11 Secretary Rumsfeld said: Let's close as many bases in one round as we did in all four previous base closure rounds.

There are two reasons I think this is a bad idea. No. 1 is a military reason. We do not know what the military is going to look like 5, 10, and 20 years from now. We do not know how big it is going to be. We do not know the force structure. We do not know where our troops will be based. We have no idea how many troops will be based in Asia, in Europe, or the United States.

If we bring troops home from Europe, for example, where will we base them in the United States? We have mechanized divisions in Europe that were there to protect Western Europe against the Communist threat from Eastern Europe. But, of course, the Warsaw Pact and Communist Eastern Europe no longer exist. So will we bring those divisions home? If so, where will we house them?

We know the Army does not have enough large mobilization bases. That was proved when we mobilized the Guard and Reserve in the war against Iraq.

So all of these issues beg this question: What is the threat? Is the threat different now since 9/11? The answer is, yes. Do we know the answers to how will we reconstruct, reconfigure, and reformulate our defense establishment and our military to respond to this new threat? As it is now, before we develop the answers to that question, we will be propelled into a round of base closings that, in my judgment, could be very counterproductive to our military preparedness.

We might need more bases for homeland security purposes in this country, rather than fewer bases. I do not know. But before we know, the Pentagon wants to go ahead with a round of base closings which itself will be very expensive and very costly.

Two things: One, everything has changed since 9/11, except we still have in place this requirement for a BRAC round in 2005. It ought to be struck at this point. If there is unneeded capacity, let us respond to that and do it in a thoughtful way. But let's not put every military installation in this country at risk of being closed.

Second, I cannot think of a worse time to be considering this. We have an economy that is sputtering in this country. It is weaker than we would like it to be. In every major city, where there is a military installation, if an investor is told, oh, by the way, this military installation could very well be closed as a result of a 2005 BRAC round, what do you think an investor is going to do? What do you think a lender is going to do? They are going to say, we have to wait.

There is no quicker way to stunt economic growth in cities with military installations than to say there is going to be a BRAC round in 2005. Virtually every single military installation will be at risk of closure. In some States, and in some communities in those States, that closure of a military installation, according to studies, will mean there will be 20- to 30-percent unemployment.

Do you think it stunts the economic growth in those communities right now to have that specter in front of their military installation? The answer is, yes, of course.

So for two reasons, one a military reason and the other dealing with the precarious position of this country's economy, we ought to scrap the 2005 base-closing round. That does not mean that we should not be able to close some military installations that represent excess capacity. Of course, we should. But we ought not to create a commission that is required to meet in 2005, with a judgment that every military installation in this country will be at risk and potentially on the list. We ought not do that in contradiction to what we know is in the best interest of this country's military needs and also economic needs.

That is why Senator LOTT and I have offered this amendment. We have had some close votes on these issues, and they should not be represented as votes between people who believe we should never close a base versus those who believe we should always use a BRAC. I think there is room in between. It is just that at this time, at this place, at this intersection, with respect to our military needs and also our economic requirements, we ought not leave in law a requirement for the 2005 base-closing round. So I hope very much that we will receive a favorable vote on our amendment.

I am mindful that the White House senior advisers would recommend a veto to the President if this bill had this in it. I am sure my colleagues will point that out.

I cannot conceive of a President vetoing this bill because of this particular provision. This bill is a big bill.

It is a good bill. Senator WARNER and Senator LEVIN have given the administration almost all they want and need in this bill. This is a significant Defense authorization bill. I cannot conceive of an administration upset that we scrapped the 2005 base-closing rounds and then decide that they should veto this bill. I simply do not think that will happen. They have every right, of course, to use that as a technique prior to our vote to say vote for this and we will veto the bill, but I do not think there is a ghost of a chance of them doing that.

I do think it is in the public interest, both for military and economic reasons, for the amendment that Senator LOTT and I are offering to be passed by this Senate and to go to conference in the Defense authorization bill with the House of Representatives.

I know my colleague from Mississippi wishes to speak. I thank him for his cosponsorship. He has worked on this issue for a long while, not just this year or just last year. Senator LOTT has felt very strongly about the process of BRAC and its consequences, and I am pleased to join with him to express these concerns today and hope that we will get a favorable vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate very much the generous effort put forward by the Senator from Virginia, Mr. WARNER, and his ranking member on the Armed Services Committee, Mr. LEVIN, to make sure we had an opportunity to offer this amendment. He could have been so disposed to try to block it or stiff us or in some other way undermine the effort to have a full debate and a vote on this issue but he chose not to do that. I do appreciate it very much. He is always generous and kind, and he has proven that is the way he is proceeding on this amendment and this bill also. So I thank him.

I have worked very closely on Defense authorization bills ever since I came to the Senate some 15 years ago. I served on the Armed Services Committee for a number of years, I think almost 7 years. I worked there with Senator WARNER, Senator MCCAIN, and others in a bipartisan way. I can remember struggling as leader to find the time to carve out for the Defense authorization bill to be passed so the appropriators did not have to just move forward without an authorization bill, which I think is not a good way to proceed. Quite often, it took a couple of weeks to get it done. This year, this bill, which is I think one of the best Defense authorization bills I have seen in a long time, got through in almost record time, at least in recent history.

We were told that it might actually get through in 2 days. Well, I did not believe that, but I think when all of it is added up it may be 5 days, which with a bill of this importance and this magnitude, it is still warp time, and it is because the committee did a good job. They have a good bill, and I commend them for that. So my support of this amendment in no way should be an indication that I do not appreciate the work that has been done and the considerations that have been given of the issues that I really do care about and that are in this bill.

I think the record will also show that I have been consistent on this BRAC idea. Just a little history that maybe I should offer today, going back to when I was in the House of Representatives and I was the Republican whip in the House and on the Rules Committee. One day I was ambling up the center aisle and I met up with this young Congressman, maybe on his first or second term, named Dick Armey from Texas. He had this brilliant idea called BRAC, the Base Realignment and Closure Act. He wanted to know how he could get that done. I look back on it and question my judgment, but I told him as a member of the Rules Committee and the Republican leadership, well, this is probably how you would need to do that and how you would need to proceed, and explained what happened in the Rules Committee.

At that point, I said I do not agree with what you are trying to do. I think this is an abdication of responsibility. We should not be doing this, and if you think this is going to take politics out of it or make it easier, you have not been around long enough.

Well, dang if he did not go out and do it. So I am partially to blame, I guess, for the process that was put in place by that young Congressman who went on, of course, to be the majority leader.

The reason why I think it is an abdication of responsibility is, look, we have closed bases before. We did it after World War II. We did it after the Korean war. We did it after the Vietnam war. How do I know? I know of bases all around my region of the country: Brookley Air Force Base in Mobile, AL, the Greenville base, the Grenada base, the Greenwood base in my own State, lots of bases. How was that done? The Pentagon, particularly the military service personnel, looked at these bases, at what the requirements were and where the redundancy was. They made recommendations to Congress of what bases needed to be closed. In many instances, I do not know exactly how it worked, they either had to affirmatively approve it or, if they did not disapprove it, they could be closed. We could work that process out but, no, no, we want a process where we can say, no, I do not see it; I do not hear it; I am not involved, do not tell me about it; I do not want it.

What is the responsibility of the executive branch and the legislative branch? That is to do our job. I think this process takes out the considerations that can be given by a Congressman or by a Senator who knows about a base in Virginia or Montana or wherever it may be. They know all the ramifications, what the needs are, what the problems would be if it is closed.

I have never liked this process. The process has not been that unfair to me or to my State. We fared pretty well but then we do not have a whole lot of bases as compared to other States. But we were on the lists. Oh, yes, we were on the lists. There were bases that really should not have even been on the list. It does affect the economy and it does affect the people.

The cities and the States go out and hire Washington people who used to work on the Hill or worked at the Pentagon to be lobbyists.

Millions of dollars will be spent across America in fearful anticipation of this next round of BRAC, even in places where they are not going to be closed.

I have urged those responsible, if you are going to do this, target it where there is redundancy and there needs to be closure; specify those areas, and do not say, well, it could be every base. If you don't, hundreds of bases will be on the list. If they have been on the list before, they may be again. Everyone will run out and start trying to deal with this problem.

Some say people are not really worried about it. Once a month, I do a satellite feed to television stations in my State. Almost every month I get a question: What is happening on BRAC? Are we going to be on the list? They are in fearful anticipation. One in particular I refer to probably will not be on the list, but they are scared to death.

I question it on that basis. If you think this takes politics out of the process, take a look at the last process during the 1990s. There was a lot of concern about some on the list or taken off the list. Human beings are involved. They will use every tool they can to affect it or protect themselves. We should not think this is some pure process. It is not.

Also, the timing. We have been through 2½ rounds. We still are dealing with some of the aftermath of that, the cleanup. Could we reacquire them? Have they been transferred to the cities and States? When will we know the full benefit or the detriment of that? Sometime later on. The timing now is what bothers me.

We have troops all over the world, thousands in Asia and Europe and Afghanistan and Iraq, fighting a war—not a battle, a war on terrorism. Then we will say, well, we are going to start closing bases. What about some bases in Europe? We have been talking about that for 20 years. Before I came to the Senate, we were talking how we needed to take a look at our basing requirements in Europe. The Soviet Union is gone. Didn't anybody notice? Yet we are still positioned in Europe as if we were going to go with tanks and heavy equipment into the Soviet Union. When are we going to get around to this?

In defense of the Pentagon, they are busy, they have a lot going on, and they have done a great job. They have not had the time, perhaps, to decide what we are going to do in Okinawa and South Korea and the rest of Asia and Europe and what the future will hold. That is my point. Why should we do this?

Before we start closing bases in America, we need a full assessment of what our needs are around the world. Will we bring the troops back? What will our efforts be to protect forces and be mobile? What do we need here?

I could have maybe gone along with a deal and said we will go forward with this once we have done the assessment and have identified what we will change in Europe.

I have learned around this place, never say never. I could conceive of a time and a circumstance where maybe this would need to be done. At this particular time, we have not properly assessed our needs. We are at war. It sends a terrible signal, and it is bad for the economy. We are trying to get the economy going, and it has a negative impact on the economy.

Colleagues, look at what has been identified here. The criteria for this round include military value. Does it have value as a military asset? Should it be eliminated or outsourced? Read that language carefully. Does it have value as a military asset? Is that a way of saying, Do we need the Corps of Engineers? Should it be eliminated or outsourced? Outsourced, is that what is behind all of this?

Jointness: Does the base possess multiservice functionability? What does that mean, we are going to combine Air Force and Navy pilot training? Have we thought that through?

Preservation of training areas: Does the base have unique training areas hindered by encroachment or environmental issues? That is a good thing to consider.

Homeland defense: Does it play a vital role in homeland defense? That is interesting. We should consider that. And cost and its economic impact.

One of the areas that worries me, my impression is a lot of attention will be given to health-related installations. Look down the list. We are talking about Army health clinics, a clinic in Alaska, talking about medical groups in Alabama. I am not sure that is the place we need to focus either. It will have an effect on military personnel and on our veterans at a time when we are making a commitment to them under TRICARE and telling our military personnel they will have good health care service. Are we going to be looking at closing the facilities around the country? Beware.

I urge my colleagues to vote for this amendment. This would knock it out of the 2005 round. Maybe 2006 would be considered. Maybe something could be worked out in conference. I invite my colleagues to pay attention to this. This will wind up being a huge problem is my prediction.

Mr. WARNER. It is always a challenge, Mr. President, to go toe to toe with my distinguished colleague from Mississippi. The citizens are blessed for having such a powerful and respected voice in the Senate. We have had a long and strong relationship. I am still proud to call you leader. And you exhibit that leadership and have done so magnificently, particularly here recently.

Quickly, I digress from what I intended to say by way of opening with a couple of points. That is, the BRAC process will not begin until Congress has received and reviewed an overseas basing master plan from both the administration and an independent commission to Congress authorized in the bill. Both of these reports should be available by August 2004. That is an important point raised. We have addressed it. That information will be before the Congress.

Second, under the law as written, the Senator brings out a series of points about what this law does to protect us. There is quite a litany of steps. Congress will have numerous opportunities during the process to affect BRAC actions.

First, Congress will review by joint resolution the proposed BRAC criteria submitted by the Department of Defense to Congress in February 2004.

Second, Congress will review the DOD proposed force structure in February 2004 and can pass legislation at any point in the process to terminate the authority.

Third, Congress can exercise "advise and consent" prerogatives on nominees to the BRAC commission.

Fourth, Congress has 45 days after receiving the commission's list of recommended base closures and realignments to pass a motion of disapproval.

The law has carefully been drawn to protect the interests of the several States and to give the tools to its elected representatives, Senate and House, to step into this situation at a series of junctures to protect the interests of their constituents as this process goes on.

I pick up on another phrase used by my distinguished leader. With respect to the BRAC process, he enumerated his long association. Indeed, I have had quite an association with it myself. I suppose I go back to 1969 to 1974 when I was in the Navy Secretariat and had the decision to close, for example, the Boston Naval Shipyard and the Newport, RI, destroyer base. I am reminded of that on the floor of the Senate with great frequency by the colleagues from those distinguished States.

Nevertheless, in those days we did not have a BRAC process. The Secretary of Defense, in consultation with his Service Secretaries—Navy, Army, and Air Force—moved unilaterally.

Congress came in. I remember going through days of hearings in the Senate caucus room. There must have been a dozen cameras focused on us while the various Members of the Congress berated this humble public servant, and the Chief of Naval Operations sitting next to me, with regard to the faulty process. Nevertheless, we had to move on.

At that point in time, we were overburdened with an infrastructure that simply no longer was needed to support the size of the forces we had. That is the very thing we are confronted with today.

For example, since the late 1980s, the Department has reduced force structure by 36 percent. That is the numbers of men and women in uniform, Guard and Reserve. But infrastructure—that is the barracks, the bases, the airfields, the training grounds that support that force—has been reduced only by 21 percent. That is showing the total disjunction between force level personnel and infrastructure to support and train those personnel.

A 1998 DOD BRAC report to Congress, validated by the Congressional Budget Office, indicated the Department of Defense had 23 percent excess capacity. That basically still remains. I ask my colleagues, what businessperson in your State does not evaluate their infrastructure and determine what is needed and what must be disposed of in order to maintain the basic profit line and viability and the ability to keep its employees? Of course, we accept that as a pattern of business.

I say most respectfully, the Department of Defense is a business, a very large business involved in a mission that is vital to the security, today, tomorrow, and in the indefinite future of this country. The management of that business—four Presidents in sequence and the Secretaries of Defense acting under those Presidents—has come before the Congress and asked for the authority to bring into alignment the base structure as this country is rapidly moving, under the leadership of the current Secretary of Defense, to a transition of the Armed Forces so we can keep apace with modernization; whether it is the smart bombs we saw that were used in the most recent conflicts, or the new ships that are on the drawing board, or, frankly, the lifestyles of the soldiers, sailors, and marines.

When I was privileged to serve—we mentioned that more than we should this morning—I remember I slept in a barracks with 50 people all in one room. I was only 17 or 18. We got quickly adjusted to the lifestyle. We shared all types of facilities in World War II.

Today, we try to give our men and women of the Armed Forces living compartments, once recruit training is completed, where they have a certain measure of privacy and personal dignity that I think is owing to these people who volunteer today.

We cannot retain much of this infrastructure which is outdated, which still requires that it be heated, painted, maintained, drawing down O&M funds vital to build new facilities for the men and women of the Armed Forces.

I could go on about the needs of the services, but I bring to the attention of the Senate the letters that have been forwarded to this body. As a matter of fact, the letter approved by the President of the United States has just been sent to me at this very moment.

I will ask unanimous consent, during the course of this debate, that I can have printed in the RECORD letters from the Administration. Indeed, one from the Secretary of Defense makes it very clear that:

> The authority to realign and close bases we no longer need is an essential element of ensuring the right mix of bases and forces within our warfighting strategy as we transform the Department to meet the security challenges of the 21st century.

Then the concluding paragraph—this particular letter went to the House of Representatives, but basically an identical one is being transmitted to the Senate:

> If the President is presented a bill to repeal or delay BRAC, then I [the Secretary of Defense] would join other senior advisers to the President in recommending that he veto any such legislation.

Also accompanying that letter is a letter to me of 3 June, by the Chairman of the Joint Chiefs of Staff, supporting this current posture of BRAC; namely, that it is law today and joining me in urging Senators not to vote for the present legislation. I will quote the Chairman, General Richard Myers:

> In an environment where resources are scarce, we must eliminate excess physical capacity to allow for increased defense capability focused on "jointness."

There we are. The two spokesmen who are entrusted by law—not the BRAC law but the overall framework of the law of the United States as it relates to our security structure—these two men state unequivocally their opposition to the amendment that is presently before this Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
*Washington, DC, May 13, 2003.*

Hon. DUNCAN HUNTER,
*Chairman, Committee on Armed Services,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I write to reiterate the importance we place on conducting a single round of base closures and realignments in 2005. We have just seen our troops demonstrate an unprecedented effort in fighting for freedom and against terror. But as I have expressed before, in the wake of September 11, the imperative to convert excess capacity into warfighting ability for potential conflict is enhanced, not diminished. The authority to realign and close bases we no longer need is an essential element of ensuring the right mix of bases and forces within our warfighting strategy as we transform the Department to meet the security challenges of the 21st century.

Through base realignment and closures (BRAC) we will reconfigure our current infrastructure into one in which operational capacity maximizes both warfighting capability and efficiency. BRAC 2005 will also help the Department eliminate excess physical capacity—the operation, sustainment, and recapitalization of which diverts scarce resources from defense capability. BRAC's ability to achieve significant savings has been thoroughly reviewed and validated by both the Congressional Budget Office and the General Accounting Office.

With the continuing demands of the global war on terrorism we must seek every efficiency to meet our national security needs. Now more than ever we have an imperative to convert excess capacity into warfighting ability.

If the President is presented a bill to repeal or delay BRAC, then I would join other senior advisors to the President in recommending that he veto any such legislation.

Sincerely,

DONALD RUMSFELD.

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CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
*Washington, DC, June 3, 2003.*

Hon. JOHN W. WARNER,
*Chairman, Armed Services Committee,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: To ensure the security challenges of the 21st century are met, we must continue to transform the joint force. Capitalizing on the recent successes in Iraq and Afghanistan, BRAC 2005 provides us the opportunity to configure our infrastructure to maximize capability and efficiency.

In an environment where resources are scarce, we must eliminate excess physical capacity to allow for increased defense capability focused on "jointness."

I strongly support needed infrastructure reductions facilitated by BRAC 2005.

Sincerely,

RICHARD B. MYERS,
*Chairman of the*
*Joint Chiefs of Staff.*

Mr. WARNER. I want to return to Senator LOTT's comment when he said "Never say never," which indicates maybe someday a BRAC procedure. Senator LOTT very accurately portrayed the turmoil in the States, the cities, the towns, and the villages where military installations are located. It is a very painful procedure by which the Department has to evaluate each of those installations and make the determinations which are no longer needed for the viability of a modern military. Consequently, the mayors, the city councils, the Governors are working very hard—I know in my State—as they are in each of your States at this time to prepare themselves for the unknowns of BRAC. Considerable dollars in the local budgets, and in the State budgets, are expended to hire those individuals they believe are expert in how best to go before the BRAC Commission, should a base or a facility in that State be put on the DOD list. The Governors can address that Commission, and indeed the Members of Congress, to state the case for not closing a base.

All this is going on at great expense. As Senator LOTT said, "Never say never." Congress has spoken. It has put a law on the books under which our President is currently operating. He has indicated he is not going to let that law be removed. So if we take action today and send a signal that the Senate is repealing the previous law, there is a long course of uncertainty as to whether or not that decision by the Senate will stand. This President, whom I have come to respect enormously, when he says he is going to do something, does it. These communities—as Senator LOTT says, "Never say never"—will be in a great state of uncertainty for an indefinite period of time.

I do not say this by way of any threat. It is my own opinion. I believe the law that has been adopted by the President, that is in force, is going to stay in force. We better recognize that and get on with the business of this Nation to properly enable those of responsibility to realize the force and base structure of this country.

I yield the floor.

Mr. CARPER. Mr. President, an hour from now, we will have the opportunity to vote on an amendment pertaining to whether or not we go forward on the process called BRAC, the Base Realignment and Closure Act. For the last 20 years, we have debated in the House and the Senate, and around the country, whether or not we should take a look at our military bases—Army, Air Force, Navy, and Marine—to determine whether or not we have the right bases with the right mix of personnel with the appropriate aircraft, ships, and tanks, and decide whether the men, women, equipment, and materiel are where the bases are. We might have some bases that need to be closed, or perhaps we have some bases where we simply need to move men, women, equipment, and materiel to some other base where it makes more sense to maintain them.

Over the last month or two, we have debated our budget at some length. Today we find ourselves in a deplorable situation with respect to our budget deficit. Two or three years ago, we enjoyed the largest surplus in our Nation's history. This year we are looking at what might be the largest budget deficit that we will have ever had.

I, for one—and I know I have many colleagues who feel this way, too—do not worship at the altar of a balanced budget, but I sure care about getting closer to a more balanced budget. When I was Governor of Delaware, we cut taxes 7 out of 8 years. We also balanced the budget in 8 straight years.

One of the things I found troubling about the tax cuts Congress just passed is that we do not come close to balancing the budget this year, next year, or for the next 10 years. That is a problem for our country. But we have taken the action that we are going to take with respect to taxes, and now, over the next several months, we will be turning to the 13 appropriations bills.

About a year ago, when we were discussing military spending, we had the opportunity to decide whether or not we wanted to take another close look at our military base structure, largely in this country but also outside this country, to see if we have it right: if we have the bases, the personnel, the weaponry, and the military equipment where we need it in the 21st century. There is some reason to believe we do not. The wars we have just fought in Iraq and Afghanistan were different from the one in which I served in southeast Asia. Subsequently, the wars of the 21st century—I hope there are none, but history would suggest that there probably will be—those wars are going to be different from the ones we had in the last century.

Our military leadership tells us in this administration, just as they did in the last administration, and as they did during the Reagan and Bush 1 administrations, that from time to time we need to look at our base structure and determine whether or not it is appropriate for the threats we face. I, for one, believe it is time to take another look at where we have our bases, how they are structured, and how they are manned.

To the extent we find bases that ought to be closed, for they simply do not have the personnel to support or the missions to demand that kind of infrastructure, then we ought to have the political courage, as difficult as it is, to close them.

We have a whole lot at stake in my State. The largest employer in the central and southern part of my State is Dover Air Force Base. It is a great base, with a great reputation. We would like to think they are immune from the threat BRAC might pose, but I suppose one never knows. We have worked hard, and people on the base work hard, to make sure they will never be on a short list for BRAC.

I spent about 5 years on active duty and another 18 years in the Reserves as a naval flight officer. I have been stationed at any number of bases which, frankly, ought to be closed, if one looks at the people who were assigned to a particular base. Large bases with plenty of hangar space, plenty of space in the exchange and the other parts of the base, but not many people. I have been on other bases where they may have had the people who were stationed there but they did not have the support, whether it was the child development centers, schools, or other services for families.

This is not a bad time, as we face the threats of this century to our country, to look at the kind of military we are trying to shape.

Much is said of this administration's effort, led by Secretary Rumsfeld, to reshape and reform our military. Actually, a lot of the changes were undertaken in the last administration under the leadership of President Clinton and his Department of Defense Secretaries.

We want a military that is leaner in terms of personnel. We want a military that is better trained, better equipped, and better uses technology. We want a military that is able to deploy more quickly to trouble spots around the world. The threat we face, as we all know, is different today than it was 10 or 20 years ago. A lot different.

That also suggests to me this is a good time to slow down, to take stock, to assess where we have our men and women and materiels stationed around this country and the world and ask ourselves, does this allocation make sense? In many cases, it will; in some cases, it will not.

When we talk about budget deficits and bemoan the fact we have this huge budget deficit today, I don't want to hear from the administration, well, there is one thing we could have done to help whittle down that budget deficit a little bit without threatening our ability to defend ourselves or express our strength and extend our military strength around the world. I don't want it said that we undid what we agreed to do a year or two ago. I hope when we vote in less than an hour that we will support the position we took last year, we will let this commission be formed, we will let them do their work, and we will provide plenty of input to the commission as they do their work in our respective States, and in the end have an opportunity for an up-or-down vote on whether or not the status quo is just fine—I think it is not—or whether some changes are needed. Fair, reasonable, pragmatic changes are needed.

I yield the floor.

Mrs. CLINTON. Mr. President, today, I offer my support of the Dorgan amendment and oppose the base closing round scheduled for 2005. The world has changed since this legislation was voted on in 2001. I opposed it then and I oppose it now because we must complete an evaluation of our basing needs for the 21st century. And this argument carries more weight in this post-September 11 world.

Since we passed the base closing legislation in 2001, we have had the September 11 attacks, the war in Afghanistan, and the war in Iraq. Our men and women in uniform are operating under a tremendously demanding operations tempo. Until we are able to evaluate the lessons of these conflicts and how they should impact our base structure, it seems foolish to rush ahead to a base closing round that was conceived prior to September 11.

A number of New York installations have played a vital role in our homeland security as well as military action in Iraq and Afghanistan. As we know, troops from the 10th Mountain Division, Light Infantry, from Fort Drum fought in Operation Anaconda in Afghanistan and also contributed troops to Operation Iraqi Freedom. New York's Air National Guard units in Niagara Falls, Syracuse, Newburgh, Scotia, and Long Island have all contributed to homeland security or important missions abroad. And New York has numerous other installations that play an important role in our national defense and homeland security. Because our security needs have grown so much at home and abroad, we need to conduct a full evaluation of how our military bases fit into our homeland security structure before we push ahead with another base closing round.

Our troops need to know that we support them in their efforts. And standing by a bill that was passed in the months before September 11 does a disservice to them. It places communities under tremendous stress to have to prepare for a base closing round. As Senator DORGAN points out, it seems wasteful to ask communities in this economic climate to devote scarce resources to prepare for this round of base closures. And New York is no exception.

Until we can have a full debate on what form our post-9/11 military base structure should take, I will support the Dorgan amendment and oppose a 2005 base closing round.

Ms. SNOWE. Mr. President, I rise today as a cosponsor of the amendment offered by Senators DORGAN and LOTT to repeal the provisions in the fiscal year 2002 Defense authorization bill that authorize an additional base closure round in 2005.

Even before the horrific attacks of September 11, 2001, I along with many of my colleagues had serious questions about both the integrity of the base closing process itself as well as the actual benefits realized. Now, with acts of war committed against the United States, with Operation Enduring Freedom and Operation Iraqi Freedom ongoing, with our reservists having been called up and our troops being deployed and the unpredictability of future missions, this is not the time to be considering the closure of additional bases. Indeed, now, more than at any time in recent history, I believe it is absolutely critical that this Nation not sacrifice valuable defense infrastructure.

In addition, as we proceed in the stand up of the Department of Homeland Defense, we are still trying to understand the domestic military requirements of our nation. Until there is a complete assessment of these needs, we simply can't afford to lose more bases. After all, during previous base closure rounds over the last decade, the Northeast alone lost 49 bases, roughly 50 percent of what we had prior to BRAC. Furthermore, 173, or just under 35 percent of the installations on the East Coast, were closed during the previous rounds. Although the Department of Homeland Security will not take the place of the Department of Defense, all of our military installations will no doubt play a critical and prominent role in homeland security.

Instead of chasing illusive savings, I believe the Department of Defense needs a comprehensive plan that identifies the operational and maintenance infrastructure required to support the services' national security requirements. Once property is relinquished and remediated, it is permanently lost as a military asset for all practical purposes.

The administration and proponents of additional base closure rounds point out that reducing infrastructure has not kept pace with our post Cold war military force reductions. They say that bases must be downsized proportionate to the reduction in total force strength. However, the fact of the matter is, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Keep in mind, that force levels may have to be revisited once again in light of the new anti-terror mission our military faces, and may well require an increase. So would we then go and buy back property that we have given up in future base closure rounds to build new bases—I think not.

The Department of Defense hopes to eliminate 23 percent of its base structure in the 2005 BRAC round. That would exceed the 21 percent closed in all four of the previous rounds. Before we legislate defense-wide policy that will reduce the size and number of training areas critical to our force readiness, the Department of Defense ought to be able to tell us, through a comprehensive plan, the level of operational and maintenance infrastructure required to support our shifting national security requirements.

Proponents argue that the administration's approach will be based upon military value and removes parochial and political factors from the process, but in reality, the administration's Efficient Facilities Initiative is more similar to past BRAC rounds than one might think. Much has been made of the de-politicization of the process by including "military value," "jointness," and the other criteria in the legislation. However, review of the last process reveals that these criteria are nearly identical to those used in the 1995 round. This is very disturbing, because in my view, the past BRAC rounds were not fair or equitable, and were not based solely on military value.

I have been through BRAC before. And I have to say, I know how the criteria can be twisted to the advantage or disadvantage of a given facility. In fact we had not one but two Air Force generals defending the former Loring Air Force Base before a past BRAC commission; yet the Air Force claimed its facilities were "well below average"—and this despite the fact that $300 million had been spent there over a ten year period to replace or upgrade nearly everything on the base and it ended up being closed on so-called "quality of life" issues even though that was never supposed to be part of the criteria.

I strongly believe Congress must also consider the economic impact of base closures on communities in light of the uncertainty regarding the nation's economy and in those communities whose economy is tied to military installations, the threat of closure will provide a deterrent to any recovery.

In August 2001, GAO issued an overview on the status of economic recovery, land transfers, and environmental cleanup in communities that lost bases during previous BRAC rounds. GAO found that the short term impact of a base closure was traumatic for the surrounding community and that economic recovery was dependent on several factors including the strength of the national economy, federal assistance programs totaling more than $1.2 billion, and an area's natural resources and economic diversity.

Keep in mind, this assessment was done during a time of unprecedented economic growth and as GAO stated, the health of the national economy was critical to the ability of communities to adjust: "Local officials have cited the strong national or regional economy as one explanation of why their communities have avoided economic harm and found new areas for growth." GAO also noted: "Local officials from BRAC communities have stressed the importance of having a strong national economy and local industries that could soften the impact of job losses from a base closure."

With the slow-down of the economy, communities may not be able to rebound to the extent they have in previous years. Indeed, it is vital to note that not every community affected by base closures has fared so well in the past—those in rural areas still experienced above average unemployment and below average per capita incomes.

Advocates of base closure allege that billions of dollars will be saved, despite the fact that there is no consensus on the numbers among different sources. These estimates vary because, as the Congressional Budget Office explains, BRAC savings are really "avoided costs." Because these avoided costs are not actual expenditures and cannot be recorded and tracked by the Defense Department accounting systems, they cannot be validated, which has led to inaccurate and overinflated estimates.

The General Accounting Office found that land sales from the first base closure round in 1988 were estimated by Pentagon officials to produce $2.4 billion in revenue; however, as of 1995, the actual revenue generated was only $65.7 million. That's about 25 percent of the expected value. This type of overly optimistic accounting establishes a very poor foundation for initiating a policy that will have a permanent impact on both the military and the civilian communities surrounding these bases.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submarines, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our nation and its interests. I want to protect the economic viability of communities in every state. And I want to make absolutely sure that this nation maintains the military infrastructure it will need in the years to come to support the war of terrorism. We must not degrade the readiness of our armed forces by closing more bases, certainly not at this time. Certainly not without information on our future defense needs that we do not have.

In closing, I reaffirm my opposition to legislation authorizing additional BRAC rounds and encourage my colleagues to join me in supporting the Dorgan/Lott amendment.

Mr. CHAMBLISS. Mr. President, I rise today to oppose the amendment in question. I don't think anyone in the U.S. Senate is looking forward to the upcoming BRAC round in 2005, including myself. BRAC will have a negative impact in Georgia should any of the bases or posts in my state be closed.

However, I am convinced fiscal realities and some over capacity issues exist which we absolutely need to address, and if we don't do it now we will have to do it later. Putting off the BRAC 2005 round now will only prolong the anxiety in our communities surrounding our military installations.

The Department of Defense has stated that they are as much as 25 percent over-capitalized in their installations across the country. I do not agree with that assessment but I believe that if we are serious about transforming, the military for the 21st Century then we need to reduce capacity to more closely equal our force structure needs.

I personally have 13 major defense installations in my State of Georgia, and we are preparing now for the 2005 BRAC round. We have a tremendous amount to be proud of at every one of our Georgia installations and I never pass up an opportunity to say how proud I am of the soldiers, sailors, airmen, marines, Department of Defense (DoD) civilians—and their families—who serve at our bases. They have served our country well. And I believe our bases in Georgia are essential to the national security of the United States. All you have to do is look at the recent conflict in Iraq and see that Georgia's bases were all so strategically important. Georgia will prove that to the BRAC Commission when they come to visit us in the coming months.

Mrs. BOXER. Mr. President, I oppose the Pentagon's plan for a new round of military base closures in 2005. California has already endured more than its fair share of previous base closures. Of the 97 major military installations closed nationwide since 1988, 29 were in California. That's 30 percent of all major facilities closed.

Californians are all too familiar with the serious impact of closed military facilities on their communities. Jobs are lost, small businesses close down, and what is left is infrastructure that is difficult to reuse. In many cases, environmental contamination makes large tracts of land off limits until decades of cleanup are complete. By the Pentagon's own estimates, some closed California bases won't be fully cleaned up until 2069.

The former McClellan Air Force Base in Sacramento is a good example of the failure of the Department of Defense to clean-up bases that were closed through the BRAC process.

Rob Leonard, the former head of Sacramento's Military Base Conversion office, recently testified before the Senate Appropriations Committee about the status of McClellan. According to Mr. Leonard's testimony, 6 years ago the estimated cost to clean-up McClellan was $832 million and was projected to take 30 years. Today, the cost is estimated to be $1.3 billion and is anticipated to continue far beyond 2033.

At the same time, however, he goes on to say that "over the past two years the Air Force appropriation requests for the McClellan environmental program have not been fully supported by the Department of Defense and Congress; and as a result, the clean-up schedule has been adversely affected."

Another example is the former El Toro Marine Corps Air Station. This base, which was closed in the 1993 round of BRAC, will not be cleaned-up until 2034 at the earliest. The DOD's own estimates say that it will still take at least $77 million to complete the work. Contamination on the base, including a nine acre hazardous-waste dump, has led to delays in the reuse and redevelopment of the site.

These former California bases are not the exception—they are the norm. Consider the estimated clean-up completion dates for the following California bases: George Air Force Base—2031; Castle Air Force Base—2038; Tustin Marine Corps Air Station—2038; Moffett Field Naval Air Station—2032; and Fort Ord—2031.

It seems to me that the military should finish one job before it starts another. The DOD should concentrate on cleaning up what has already been closed so that these bases can be put to productive use by local communities.

Given that the Department of Defense continues to drag its feet on cleaning up BRAC sites while pushing for broad exemptions from environmental standards leads me to believe that it simply does not understand the importance of a safe and clean environment.

The Pentagon should focus its energy and resources on cleaning up the bases it has already closed rather than pursue another painful round of military base closures. I hope my colleagues share this view and I thank the Senator from North Dakota for his amendment.

Mr. LEVIN. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute 45 seconds.

Mr. WARNER. I ask unanimous consent the Senator from Michigan be given 5 minutes—add an extra 5 minutes to both sides. As I understand, there is another Senator. Let's suggest we add another 10 minutes to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I yield myself 5 minutes.

Mr. President, I oppose the amendment. I believe the men and women in uniform and the taxpayers are served best by ensuring that this 2005 BRAC process go forward. Every day since September 11, they have been on the front lines of our daily fight against terrorism. They have been sent directly into battle in Afghanistan and most recently in Iraq. Every dollar wasted denies them the resources needed to ensure their success and their safety, and the success and safety of future men and women whom we place in harm's way.

The Department of Defense estimates that as much as 25 percent of their current base structure is excess to their needs. We are spending billions of dollars year after year maintaining infrastructure that we simply do not need. It is a waste of public resources to hold onto this infrastructure, and it is an impediment to our efforts to protect our national security.

Estimates of previous savings in previous BRAC rounds stand at $17 billion. Perhaps more significant for this debate are the annual savings we could expect from future base closings which are estimated at $6 billion a year. These savings have been documented countless times by the Department of Defense, by the GAO, and by the Congressional Budget Office in letter after letter saying the savings are significant. Our forces need resources for training, for technology, for weapons, and to maintain facilities in better condition.

How do we justify asking our forces to go into combat and into harm's way if we ourselves are unwilling to take the difficult steps to give them the resources that they need and deserve and that we have the power to give to them?

One of the most important questions that has been raised is, Does September 11 change all of this? We answered that question 2 years ago when we adopted the 2005 round. We authorized it at that time, after September 11.

On November 16, 2001, GEN Richard Myers, Chairman of the Joint Chiefs, wrote us the following:

> We estimate that 23 percent of our facilities are underutilized. The Services cannot afford the costs associated with this excess infrastructure. The Department of Defense must have the ability to restructure the installations to better meet the current national security needs. The sustained campaign against international terrorism will require wise use of our resources and the aggressive elimination of waste.

A letter written on October 15, 2001—a month after September 11—signed by I think every former Secretary of Defense, says:

> We are concerned that the reluctance to close unneeded facilities is a drag on our military forces, particularly in an era when homeland security is being discussed as never before. The forces needed to defend bases that would perhaps otherwise be closed are forces unavailable for the campaign on terrorism. Further, money spent on a redundant facility is money not spent on the latest technology we'll need to win this campaign.

I ask unanimous consent that those two letters I have identified be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
*Washington, DC, November 16, 2001.*

Hon. CARL LEVIN,
*Chairman, Committee on Armed Services,*
*U.S. Senate Washington, DC.*

DEAR MR. CHAIRMAN: As the Conferees deliberate the FY 2002 Defense Authorization Bill, allow me to emphasize how critical it is that Congress authorize another round of base closures and realignments.

Installations contribute to overall force readiness; however, excess infrastructure detracts from military readiness by diverting limited resources from personnel, training, equipment modernization, and transformation. We estimate that 23% of our facilities are underutilized. The Services cannot afford the costs associated with this excess infrastructure. The Department of Defense must have the ability to restructure its installations to better meet the current national security needs. The sustained campaign against international terrorism will require wise use of our resources and the aggressive elimination of waste.

Therefore, I strongly endorse pending legislation to provide the Department the required tools to reduce our excess infrastructure. This authority is necessary for our forces to become more efficient and thus serve as better custodians of taxpayer money.

Finally, on behalf of our magnificent men and women in uniform, thank you for your strong and dedicated support.

Sincerely,

RICHARD B. MYERS,
*Chairman of the Joint Chiefs of Staff.*

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OCTOBER 15, 2001.

Hon. CARL LEVIN,
*Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This letter underscores the need for the Congress to approve an additional round of base realignment and closure. While we understand the sensitivity of this effort, our support for another round is unequivocal in light of the terrorist attacks of September 11, 2001. The Defense Department must be allowed to review its existing infrastructure to ensure it is positioned to support our current and evolving force structure and our war fighting plans.

We are concerned that the reluctance to close unneeded facilities is a drag on our military forces, particularly in an era when homeland security is being discussed as never before. The forces needed to defend bases that would perhaps otherwise be closed are forces unavailable for the campaign on terrorism. Further, money spent on a redundant facility is money not spent on the latest technology we'll need to win this campaign.

We thank you for all you have done to provide for our military forces, the finest in the world. We know closing or realigning bases will be difficult, but we expect you will face many difficult decisions in the coming weeks and months. With the support of Secretary Rumsfeld, together we stand ready to assist in any way we can.

Sincerely,

FORMER SECRETARIES OF DEFENSE.

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CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
*Washington, DC, September 25, 2001.*

Hon. CARL LEVIN,
*Chairman, Senate Armed Services Committee, U.S. Senate Washington, DC.*

DEAR MR. CHAIRMAN: As the full Senate deliberates the FY 2002 Defense Authorization Bill I would like to reiterate how critically important it is the Congress authorize another round of base closures and realignments.

Last Thursday the President outlined a sustained campaign to combat international terrorism. The efficient and effective use of the resources devoted to this effort will be the responsibility of the Services and the Combatant Commanders. The authority to eliminate excess infrastructure will be an important tool our forces will need to become more efficient and serve as better custodians of the taxpayers money. As I mentioned before, there is an estimated 23 percent under-utilization of our facilities. We can not afford the cost associated with carrying this excess infrastructure. The Department of Defense must have the ability to restructure its installations to meet our current national security needs.

I know you share my concerns that additional base closures are necessary. The Department is committed to accomplishing the required reshaping and restructuring in a single round of base closures and realignments. I hope the Congress will support this effort.

Sincerely,

HENRY H. SHELTON,
*Chairman of the Joint Chiefs of Staff.*

Mr. LEVIN. Mr. President, there is another issue which has been raised, and that is the future of our overseas bases. The question was asked, How do we consider the base structure in the United States before we determine the overseas base structure and what the requirements will be? There are three ongoing efforts in determining what our overseas presence will be for the future.

First, the BRAC law itself requires an infrastructure facility review on a worldwide basis before the 2005 round can proceed.

Second, in March, Secretary Rumsfeld requested input from the various combatant commanders in developing a comprehensive overseas presence in basing strategy looking out for the next 10 years. The results of that review are expected this July.

Finally, there is a provision in the bill before us that establishes an independent overseas basing commission that will provide recommendations on our overseas presence and a basic strategy to Congress that is due in August of 2004.

Senator DORGAN asked, How are we going to know what our needs are in 2005? That is when the recommendations are made to the Base Closing Commission—in May of 2005.

This isn't something being done now or this year; these recommendations are due in May of 2005.

I thank our colleagues who have maintained the difficult course here, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, you know there are issues that never go away. I have only been here since 1987. But we have revisited this issue—I think my colleagues from Michigan and Virginia would agree—probably more often than any other issue affecting our Nation's security. Issues come and go. This one keeps coming back.

Every expert on military national security who doesn't have any particular bias will tell you we have too many bases. We have too many military bases. I am happy to say we are already in the process in Europe of making some significant changes which will result in significant savings.

Why do we have the BRAC process? We have the BRAC process because we proved to anyone's satisfaction that we cannot close an individual base. Yes, we abrogated our responsibilities, but we didn't completely abrogate our responsibilities because it will still come back to the findings of the commission, and we will vote yes or no.

The issue that continues to intrigue me is this argument that it will cost more to close bases. If that logic were true, we never should have closed the bases following World War II when we had thousands of bases all over America. But we closed bases following World War II because we had a decrease in the requirements to meet our national security needs.

In 1991, we had approximately 3 million men and women in the military. We now have 1.4 million men and women in the military. And those reductions in the size of our military were made with the full knowledge, support, and legislative action of the Congress of the United States. The President didn't reduce the size of the military by Executive order. Every year, a part of our bill is the authorization of the numbers of people and appropriations to pay them. We are now down to 1.4 million Americans. Maybe we need some more. But there clearly is not the need for the number of bases we had in 1991.

The Secretary of Defense—obviously a strong leader, obviously a highly respected individual, as his predecessors have said—will recommend a veto of the entire legislation if this BRAC process is taken out of it and not allowed to proceed. Here we are placing at risk all of the hard work that has been done by the committee in hearings and coming up with our authorization. The bill is now at risk if we destroy the BRAC process.

I remind my colleagues that the BRAC process has worked. Yes, it has caused some pain. Yes, it has caused some dislocation. But over time in the vast majority of bases that are closed, revenue increases to the community rather than decreases.

That is not to say there isn't severe dislocation in the short term and severe economic difficulties because communities are dependent upon the military presence. But I urge my colleagues to do what is best for our Nation's security, as articulated by the Chairman of the Joint Chiefs of Staff, by our Secretary of Defense, and literally every other expert on national security: that we need to reduce the number of bases so we can spend the money on the men and women in the military, for their pay, their benefits, their health care, and their housing.

One of the reasons why we have dilapidated barracks in some bases in America is because we have too many of them. We cannot afford to maintain all of them at the level we would like for this magnificent All-Volunteer Force.

I urge my colleagues to reject this amendment. Let's move forward and have this bill enacted and signed into law by the President of the United States.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield time to myself.

I thank my colleague from Arizona. He, with a great sense of humility, can refer to his own long association with the Active and, indeed, Reserve and Guard Forces throughout this country. He knows full well that the purpose of the BRAC is to enable the men and women of the Armed Forces to have a better lifestyle together with their families—that coupled with the desperate need to continue with the modernization and transformation of these Armed Forces. I thank my colleague for his participation and strong support to maintain what is law today, and which law gives Congress adequate opportunity, as I have said, to protect the interests of our States.

I enumerated there are several parts of the bill which provide that. I enumerated very clearly they were going through quite a process with regard to the evaluation of overseas bases prior to final decisions on the BRAC. I believe Members have a role of participation to come in the days, months, and whatever period it takes.

Mr. President, I now have in hand the letter from the Secretary of Defense as authorized by the President. I have referred in part to an earlier communication from the Secretary of Defense to the House. It is parallel to the one received by the Senate, strongly stating the essential nature of this and concluding:

> If the President is presented a bill that amends the BRAC authority passed by Congress two years ago . . . then I would join other senior advisors to the President recommending that he veto any such legislation.

That is a perilous route to put the Senate in with regard to this important piece of legislation. In my years here, I have witnessed our legislation contested to the very last minute and how the Appropriations Committee then had the distasteful task of trying to pick out those portions of our bill which had to become law. So much of the work—of all the Members, not just the committee members—in that bill is lost in that process of dissembling our bill and putting portions on the Appropriations bill as it goes forward.

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. WARNER. I strongly urge that this amendment be rejected by the Senate. As I understand, Mr. President, the vote takes place at 2:50 today.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Now, Mr. President, all time has expired but I see the presence of a very valued member of our committee, the Senator from Oklahoma, so I ask unanimous consent that he be given 5 minutes to speak to this matter. Regrettably, he is not aligned with the chairman, but occasionally that occurs. I ask that his remarks be included as if stated within the time limitation.

The PRESIDING OFFICER. Ten minutes remain for the proponents of the amendment.

Mr. WARNER. Then he is within the bounds of his right to exercise such time as he wishes under the 10 minutes.

Mr. INHOFE. I thank the distinguished chairman.

Mr. President, first, I thank the distinguished chairman of the Senate Armed Services Committee for his remarks, and also the distinguished Senator from Arizona.

I would like to start off by saying, I was elected to the other body in 1986. In 1987, a very distinguished Congressman, Dick Armey, came up with the whole idea of how to get rid of excess infrastructure, using this system that should be free of political influence, or as free as possible. I supported it and voted for it. I went through four BRAC rounds. The first one was in 1988, the second one was in 1991, the third in 1993, and the fourth was in 1995.

During that period of time, it worked very well. We closed or realigned some 300 installations but 97 specific major installations were closed. There was a lot of pain that went with that. There were probably a few people who were defeated on the basis of that. But, nonetheless, the idea he had worked.

I made the statement during that time that with regard to the installations we have in my State of Oklahoma, if they came out through this process and said they, in fact, wanted to do something, and it was necessary to close a classified, excess infrastructure in one of my installations, I would support that statement. As it turned out, it did not happen.

There are three major reasons, that even though what my colleagues have said sounds very good—and I believe most of it is true and factual; and I know they believe it—but three things are different today than were in those four BRAC rounds.

No. 1, I look across the Chamber and I can see a chart that makes reference to the fact that the threat is different since September 11. Well, I will not belabor that point because I was not on the floor and I assume that point has been made.

When you talk about the threat that is out there, you are talking about a threat that could not have been foreseen 10 years ago or even 5 years ago or even 3 years ago. It is a totally different threat.

I can remember sitting in a hearing when we had expert testimony by individuals who were saying at that time that we will no longer need ground forces in 10 years. That was 10 years ago, and we have had two major victories—primarily on the ground—in the last year. So these things were not foreseen at that time. The change in the threat is going to cause us to make other adjustments.

The second thing that I have strong feelings about is this: I was listening to the distinguished Senator from Michigan talk about the amount of money that has been saved. I would question that. There are a lot of cleanups that have not been concluded yet. We hear glowing figures about how much is going to be saved by each installation that is closed. Some installation closings have resulted in no savings whatsoever. But there is one thing that is a certainty; and that is, when you close an installation, for the first 2 or 3 or 4 years, it is going to cost a lot of money. For that reason, and that reason alone, I would want to adopt this amendment so we do not have a 2005 BRAC round because we do not have any idea how many installations will be closed and how much money that will cost us.

Right now we are in a crisis in our defense system. I know a lot of people do not like to say this. A lot of people do not believe it. But we went through the last administration, when the proper attention was not given to defending America, and a lot of people had this great euphoria that the cold war was over and thinking there was no longer a threat out there and that we could cut down the size of our military; and, as the Senator from Arizona said, we did cut it down from some 3 million troops to 1.4 million. I am certain a mistake was made.

Now we look at the problems we have in our military and they go all the way across the board. No. 1, we have inadequate troop strength. We know that. That is a fact. We can't do what has to be done in Iraq and other places and have enough reserve for a contingency that might happen in North Korea, Syria, or any other place. This is something that has concerned us.

No. 2, force strength deficiency is resulting in a crisis in our reserve component. Our Guard and Reserves are all overworked. They are unable to carry on the responsibilities they have. We can't expect the employers to continue with all these deployments and pay these people, hold these jobs, particularly in an economy that is not robust. This problem is serious.

A third problem that took place over the last administration was a slowing down of our modernization program. I have said in the Senate that we are sending our troops out to fight on the ground with artillery that is World War II technology. The best thing we have in artillery right now operating is called Paladin. Paladin technology came about in the 1950s. When you tell people you have to get out and swab the breach after every shot, they don't believe you until they see that is the case. There are four countries, including South Africa, making artillery pieces better than that which we have.

Then with all of these problems out there, we find out that the threats are greater today than they were during the cold war. People don't like to hear that, but back in the cold war, we had one great threat. That was the Soviet Union. We were the two superpowers. They were predictable. We knew what each other had. We developed a program under a Republican administration that I did not agree with. That was a program of mutual assured destruction. That is, I will make you a deal: You don't defend yourself against us and an incoming missile; We will not defend ourselves. So if you fire on us, we will fire on you. Everybody dies and everybody is happy.

That seemed fairly reasonable at that time. Now we have a little sense of the changing threat out there and recognize it is not coming from one place. We have some 20 countries that have weapons of mass destruction or that are developing them. It is not something we can quantify now as to what kind of force structure we need.

That brings me to my second point one more time. While we don't know how much savings will be effected, we do know it is going to cost millions and millions of dollars for every installation that is closed. We cannot afford it now. We cannot afford to leave our force structure where it is, our modernization program where it is. We cannot allow the Russians, who are selling on the open market their S.U. series that are better than our F-15s and F-16s—we want to give our troops, the most capable troops in the world, the resources and modern resources to make sure they have something that is better than the enemy has.

The third reason it is very significant is, we are going to rebuild. We have been asking the administration to give us as much detail as to what our future force structure should look like. I am not criticizing them for not being able to come back with it because this is a moving target. We have threats that are out there we didn't have before. We have to learn how to accommodate these threats and how to combat them. Until such time as we know what the force structure is going to look like, I don't believe we should be closing any infrastructure. If we have an inadequate force structure right now that is down to here and we have perhaps more infrastructure, it does not make sense to bring the infrastructure down to an inadequate force structure and then build that up and wonder, wait a minute, why do we have something that can't be used.

So for that reason, until we find out what our force structure is going to look like, we don't know what remaining installations will be needed. Let's stop and remember, we had 97 major installations that have been closed. That is behind us. We supported that. Those were the four BRAC rounds. We are now to a point where we do not know what the threat is going to be. We don't know how we will have to rebuild our force structure and our system. So we don't know what kind of infrastructure it is going to take to accommodate that.

These three reasons were not present in 1989. They were not present in 1991, 1993, and 1995. But they are present today. So we have to face this crisis, which we will, and rebuild our military. And when we get to the point where we know what it is going to look like and how to adequately defend against this new threat, we had no idea it would be out there as recently as 3 or 4 years ago, then it is time to maybe look and reevaluate where we might be. It would be premature to do it at this time.

I support the amendment. These are three very good reasons that were not present in the future rounds.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period of morning business until 2:50 today with time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE PLACED ON THE CALENDAR—S. 1174

Mr. WARNER. Mr. President, I understand that S. 1174 is at the desk and is due for its second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The bill clerk read as follows:

A bill (S. 1174) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. WARNER. Mr. President, I ask that the Senate proceed to the measure and I object to further proceeding.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

Mr. INHOFE. I suggest the absence of a quorum and ask unanimous consent that time consumed during the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

The Senator from Illinois.

## OUR OCEANS AT RISK

Mr. DURBIN. Mr. President, I am a Midwesterner by birth. I come from the flatlands of Illinois, cornfields and prairies. Frankly, it has meant I see things differently than others. I can still recall as a young boy the first time I saw an ocean. I was off to my brother's wedding in California, all of about 9 or 10 years old, and I got to see the Pacific Ocean. It was an amazing spectacle to me. I had never seen anything like it. The closest I had come to that was the Mississippi River. I developed a special attachment and passion of taking my family, as they grew up, to oceans on a regular basis, to beaches, and the great time you have together.

I never reflected on the fact that the great, vast, mighty body of water, that ocean, might some day be vulnerable; it seemed so impenetrable, so vast, so diverse, so huge.

This week in Washington, the Pew Oceans Commission will release its report. The chairman of that commission is an old friend of mine, a great public servant, Leon Panetta of California. I commend this report to everyone in the country, whether you live near an ocean, as most Americans do, or you are from the Midwest and a flatlander, as I am. It talks about a great resource of America and a great resource of the world which is in crisis, the great resource of the world which is in peril.

The area of the ocean under United States jurisdiction spans 4.5 million square miles, more than any other single country. According to Jane Lubchenco, professor of Oregon State University, our ocean property as a nation is 23 percent larger than our Nation's land area, making our ocean the country's largest public domain.

I met Professor Lubchenco last week in Italy at a seminar that focused on international global environmental issues. She spoke at length and in stark terms about what is happening to the oceans. Our ocean ecosystems are unique treasures, places where we can discover the mystery of life, work and vacation, and pursue scientific study. Losing the quality of our oceans and marine life that thrives in them would be a tremendous loss.

In addition, damage to ocean ecosystems can cause significant damage to our economy, public health, and even our national security.

As the Pew Commission reports, our oceans face a crisis due to contamination and failure to address problems over the years. Take, for example, this statistic. The National Academy of Sciences estimates that oil running off of our streets and driveways in America ultimately flows into the ocean, creating an Exxon-Valdez-size spill every 8 months. I was at Prince William Sound in Alaska after the Exxon Valdez spill, something I will never forget, going to tiny remote islands, seeing them literally covered with crude oil, seeing the wildlife that had been rescued, some of it perished almost immediately, and with others, valiant attempts were made to save them; 10.9 million gallons of crude oil dumped in Prince William Sound. That is how much oil we dump as a nation into the ocean every 8 months with the runoff from driveways and parking lots finding its way to streams and rivers and our oceans.

These problems have tragic consequences. Many of our public beaches have been closed over the years due to high levels of harmful contamination. The United States Environmental Protection Agency about 8 or 9 years ago created a Web site which reported on ozone and the impact it would have on public health. It became increasingly popular as more and more parents with children facing asthma attacks went to this Web site to see if it was safe to send their kids to school. What was the ozone reading? Then, almost coincidentally, the EPA released information about beaches around America that had been closed because of contamination. That, too, became an extremely popular Web site. Families planning vacations and weekends would go to this Web site and find out whether the beach they wanted to visit would be open to the public or safe for bathing in.

It is an interesting comment, is it not, in the world we live in, the Nation we live in, with all of our progress, that one of the sources of information we turn to most frequently is whether we can breathe the air or can expose our children to a beach or lake shore that might be contaminated.

There is also a problem related to the fishing industry and its impact, the impact of the ocean contamination. There was a paper published in the May 15 issue of Scientific Journal, Nature, that reported 90 percent of all large fish—tuna, marlin, swordfish, shark, cod, and halibut—90 percent of those species are gone. Do you remember the fish orange roughy? I bet you do. In the last few years it was a pretty popular fish. Almost everywhere in America you would go to a restaurant and orange roughy was on the menu. Try to find it today. It has been fished to near extinction. They discovered where to fish for orange roughy on the coast of New Zealand and went to depths they had never been able to fish at before and successfully found the species. It was fished out. It turned out to be popular and no efforts were made to conserve it. As a consequence, you will be able to tell your children you once had a fish called orange roughy. It is not likely they will ever taste one.

An article in the Washington Post also reports the significant fish shortages and how the fishing industry is close to collapsing in many parts of the United States and around the world. This week's U.S. News & World Report devotes its cover story to the problem of empty oceans.

I will address one part of this problem, something we can do about it in a hurry. It relates to cruise ships.

One of the major contributors to ocean pollution is the cruise ship industry, which in 2001 carried 8.4 million passengers in North America. I do not have anything against cruise ships—they provide many Americans ample opportunities to relax and learn about oceans and marine wildlife. However, they are exempt from critical regulations that would help protect the beautiful and inspiring oceans and marine wildlife that many cruise ships aim to present to travelers.

I am going to give some data here that I think is incredibly shocking.

According to EPA and industry data, a typical 3,000 passenger cruise ship each week generates 210,000 gallons of black water, which is raw sewage; 1 million gallons of gray water, included runoff from showers, sinks and dishwashers; 37,000 gallons of oily bilge water, which collects in the bottom of ships and contains oil and chemicals from engine maintenance that are toxic to marine life; more than eight tons of solid waste; millions of gallons of ballast water, which is brought into ships to facilitate balance and then released back into the ocean, containing potential invasive species; and toxic wastes including dry cleaning chemicals such as PERC and photoprocessing chemicals.

These wastes are damaging to our oceans. Interestingly enough, any city in America which generated that kind of waste would never be allowed to dump it on the land or in an adjoining river. But if you happen to be a cruise ship that is traveling in the waters of America, you are virtually exempt from the Clean Water Act and you can dump, in certain locations within the oceans off the coasts of America, with virtual impunity, with one notable exception. The State of Alaska—thank goodness for them—has established much stricter standards than the Clean Water Act imposes on the cruise ship industry that does its business outside States around America.

According to the organization Oceana, raw sewage can sicken and kill marine life, including corals, and contributes to algae blooms that cloud the water, reduce oxygen levels and kill fish. Furthermore, invasive species, those that are not native to the area where they are released in ballast water, can colonize new areas, and, in so doing, replace and harm local species. We have become painfully familiar with invasive species in the Great Lakes, and the government and industry are making efforts to address it. I am proud to be representing a state that adjoins that great Lake Michigan, but we know about Zebra Mussels and forms of eels that have been dumped in ballast water and invaded what was a sound marine life in the Great Lakes.

Wastes from cruise ships can also affect human health. According to Oceana, the recent outbreaks of the Norwalk virus on cruise ships have sickened more than 3,000 passengers and crew, forcing many people to abandon their vacations early. The Norwalk virus is found in human waste and on hands and surfaces that may have had contact with it. It can be spread by shellfish contaminated by sewage from boats. In addition, wastes can wash up on our beaches and near our shoes, threatening people who work or vacation there.

Despite the fact that cruise ships generate all of this waste, and are an identifiable source of pollution, they are exempted from the regulations that implement the Clean Water Act's point source permitting system. Indeed, cruise ships can dump raw, untreated sewage into the water once the ship is more than three miles off U.S. shores. They can also dump gray water and ballast water without a permit, even when they are docked at ports that are in U.S. waters. Finally, they are permitted to dump solid garbage into the ocean when they are at least 12 miles from the shore.

This problem is not confined to our domestic cruise ship industry. According to a February 2000 GAO report, foreign-flagged cruise ships were involved in 87 confirmed illegal discharge cases in U.S. waters from 1993 to 1998.

In August 2000, EPA issued a "Cruise ship White Paper," providing a blueprint for strengthening the laws regulating cruise ships. However, Congress has failed to act on this issue.

We cannot delay any longer, that is why I will introduce legislation to strengthen the Clean Water Act and other relevant laws regarding the cruise ship industry.

Specifically,the legislation I am preparing is based on ideas and recommendations generated by the EPA, GAO, and interest groups. Here is what it would do:

Remove the exemption of cruise ships from existing Clean Water Act requirements;

Ban the release of raw sewage anywhere in the ocean, and require treatment standards similar to Alaska's strict standards;

Ban release of so-called "treated" wastes within a certain distance of our shores;

Provide for adequate measures to prevent ballast waters from spreading invasive species;

Provide for monitoring of compliance with these requirements and the availability of data for public review;

Enable citizens to bring lawsuits against cruise ships, as provided under the Clean Water Act; and

Increase resources for inspections and strengthen the inspection requirements.

This is truly an international issue, but the United States must not only do its part, it must lead the way. I urge my colleagues to join me. First, read this Pew Oceans Commission report. It is an eye opener. It is a revelation. Wherever you live in the United States, you will value our oceans and you will come to understand the dangers they face.

I also encourage my colleagues to join me by cosponsoring the legislation I am crafting. The oceans, that cover nearly 70 percent of our planet, cannot wait any longer.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PRYOR pertaining to the submission of S. Res. 121 are located in today's RECORD under "Submitted Resolutions.")

Mr. PRYOR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—Continued

Mr. DORGAN. Mr. President, what is the pending business?

### VOTE ON AMENDMENT NO. 849

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota.

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—42

Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Burns
Campbell
Clinton
Cochran
Collins
Conrad
Daschle
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feinstein
Gregg
Hatch
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Lott
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Sarbanes
Schumer
Shelby
Snowe
Specter
Stevens
Sununu
Thomas

NAYS—53

Akaka
Alexander
Allard
Allen
Biden
Brownback
Bunning
Byrd
Cantwell
Carper
Chafee
Chambliss
Coleman
Cornyn
Corzine
Craig
Dayton
DeWine
Dole
Ensign
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hollings
Jeffords
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lugar
McCain
McConnell
Miller
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sessions
Smith
Stabenow
Talent
Warner
Wyden

NOT VOTING—5

Crapo
Graham (FL)
Kerry
Lieberman
Voinovich

The amendment (No. 849) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The only remaining amendments authorized are of the chairman.

Mr. WARNER. Those amendments will not be forthcoming.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 1588), as amended, was passed, as follows:

(Note: S. 1047 is Division A; S. 1048 is Division B; S. 1049 is Division C.)

*Resolved*, That the bill from the House of Representatives (H.R. 1588) entitled "An Act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2004".*

### *SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.*

*(a) DIVISIONS.—This Act is organized into three divisions as follows:*

*(1) Division A—Department of Defense Authorizations.*

*(2) Division B—Military Construction Authorizations.*

*(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title.*
*Sec. 2. Organization of Act into divisions; table of contents.*
*Sec. 3. Congressional defense committees defined.*

## *DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS*

## *TITLE I—PROCUREMENT*

### *Subtitle A—Authorization of Appropriations*

*Sec. 101. Army.*
*Sec. 102. Navy and Marine Corps.*
*Sec. 103. Air Force.*
*Sec. 104. Defense-wide activities.*
*Sec. 105. Defense Inspector General.*
*Sec. 106. Chemical agents and munitions destruction, Defense.*
*Sec. 107. Defense health programs.*
*Sec. 108. Reduction in authorization.*

### *Subtitle B—Army Programs*

*Sec. 111. CH-47 helicopter program.*
*Sec. 112. Rapid infusion pumps.*

### *Subtitle C—Navy Programs*

*Sec. 121. Multiyear procurement authority for Navy programs.*
*Sec. 122. Pilot program for flexible funding of naval vessel conversions and overhauls.*

### *Subtitle D—Air Force Programs*

*Sec. 131. Elimination of quantity limitations on multiyear procurement. authority for C-130J aircraft.*
*Sec. 132. B-1B Bomber aircraft.*

## *TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION*

### *Subtitle A—Authorization of Appropriations*

*Sec. 201. Authorization of appropriations.*
*Sec. 202. Amount for science and technology.*
*Sec. 203. Defense Inspector General.*
*Sec. 204. Defense health programs.*

### *Subtitle B—Program Requirements, Restrictions, and Limitations*

*Sec. 211. Prohibition on transfer of certain programs outside the Office of the Secretary of Defense.*
*Sec. 212. Objective force indirect fires program.*
*Sec. 213. Amount for Joint Engineering Data Management Information and Control System.*

*Sec. 214. Human tissue engineering.*
*Sec. 215. Non-thermal imaging systems.*
*Sec. 216. Magnetic levitation.*
*Sec. 217. Composite sail test articles.*
*Sec. 218. Portable Mobile Emergency Broadband Systems.*
*Sec. 219. Boron energy cell technology.*
*Sec. 220. Modification of program element of short range air defense radar program of the Army.*
*Sec. 221. Amount for network centric operations.*

### *Subtitle C—Ballistic Missile Defense*

*Sec. 221. Fielding of ballistic missile defense capabilities.*
*Sec. 222. Repeal of requirement for certain program elements for Missile Defense Agency activities.*
*Sec. 223. Oversight of procurement, performance criteria, and operational test plans for ballistic missile defense programs.*
*Sec. 224. Renewal of authority to assist local communities impacted by ballistic missile defense system test bed.*
*Sec. 225. Requirement for specific authorization of Congress for design, development, or deployment of hit-to-kill ballistic missile interceptors.*
*Sec. 226. Prohibition on use of funds for nuclear armed interceptors in missile defense systems.*

### *Subtitle D—Other Matters*

*Sec. 231. Global Research Watch program in the Office of the Director of Defense Research and Engineering.*
*Sec. 232. Defense Advanced Research Projects Agency biennial strategic plan.*
*Sec. 233. Enhancement of authority of Secretary of Defense to support science, mathematics, engineering, and technology education.*
*Sec. 234. Department of Defense high-speed network-centric and bandwidth expansion program.*
*Sec. 235. Department of Defense strategy for management of electromagnetic spectrum.*
*Sec. 236. Amount for Collaborative Information Warfare Network.*
*Sec. 237. Coproduction of Arrow ballistic missile defense system.*

## *TITLE III—OPERATION AND MAINTENANCE*

### *Subtitle A—Authorization of Appropriations*

*Sec. 301. Operation and maintenance funding.*
*Sec. 302. Working capital funds.*
*Sec. 303. Armed Forces Retirement Home.*

### *Subtitle B—Program Requirements, Restrictions, and Limitations*

*Sec. 311. Emergency and morale communications programs.*
*Sec. 312. Commercial imagery industrial base.*
*Sec. 313. Information operations sustainment for land forces readiness of Army Reserve.*
*Sec. 314. Submittal of survey on perchlorate contamination at Department of Defense sites.*

### *Subtitle C—Environmental Provisions*

*Sec. 321. General definitions applicable to facilities and operations.*
*Sec. 322. Military readiness and conservation of protected species.*
*Sec. 323. Arctic and Western Pacific Environmental Technology Cooperation Program.*
*Sec. 324. Participation in wetland mitigation banks in connection with military construction projects.*
*Sec. 325. Extension of authority to use environmental restoration account funds for relocation of a contaminated facility.*
*Sec. 326. Applicability of certain procedural and administrative requirements to restoration advisory boards.*
*Sec. 327. Expansion of authorities on use of vessels stricken from the Naval Vessel Register for experimental purposes.*
*Sec. 328. Transfer of vessels stricken from the Naval Vessel Register for use as artificial reefs.*
*Sec. 329. Salvage facilities.*
*Sec. 330. Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona.*
*Sec. 331. Public health assessment of exposure to perchlorate.*

### *Subtitle D—Reimbursement Authorities*

*Sec. 341. Reimbursement of reserve component military personnel accounts for personnel costs of special operations reserve component personnel engaged in landmines clearance.*
*Sec. 342. Reimbursement of reserve component accounts for costs of intelligence activities support provided by reserve component personnel.*
*Sec. 343. Reimbursement rate for services provided to the Department of State.*

### *Subtitle E—Defense Dependents Education*

*Sec. 351. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.*
*Sec. 352. Impact aid for children with severe disabilities.*

### *Subtitle F—Other Matters*

*Sec. 361. Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract.*
*Sec. 362. Use of the Defense Modernization Account for life cycle cost reduction initiatives.*
*Sec. 363. Exemption of certain firefighting service contracts from prohibition on contracts for performance of firefighting functions.*
*Sec. 364. Technical amendment relating to termination of Sacramento Army Depot, Sacramento, California.*
*Sec. 365. Exception to competition requirement for workloads previously performed by depot-level activities.*
*Sec. 366. Support for transfers of decommissioned vessels and shipboard equipment.*
*Sec. 367. Aircraft for performance of aerial refueling mission.*
*Sec. 368. Contracting with employers of persons with disabilities.*
*Sec. 369. Repeal of calendar year limitations on use of commissary stores by certain Reserves and others.*

## *TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS*

### *Subtitle A—Active Forces*

*Sec. 401. End strengths for active forces.*
*Sec. 402. Increased maximum percentage of general and flag officers on active duty authorized to be serving in grades above Brigadier General and Rear Admiral (lower half).*
*Sec. 403. Extension of certain authorities relating to management of numbers of general and flag officers in certain grades.*

### *Subtitle B—Reserve Forces*

*Sec. 411. End strengths for Selected Reserve.*
*Sec. 412. End strengths for Reserves on active duty in support of the Reserves.*
*Sec. 413. End strengths for military technicians (dual status).*
*Sec. 414. Fiscal year 2004 limitations on non-dual status technicians.*

### *Subtitle C—Other Matters Relating to Personnel Strengths*

*Sec. 421. Revision of personnel strength authorization and accounting process.*
*Sec. 422. Exclusion of recalled retired members from certain strength limitations during period of war or national emergency.*

### *Subtitle D—Authorization of Appropriations*

*Sec. 431. Authorization of appropriations for military personnel.*

## *TITLE V—MILITARY PERSONNEL POLICY*

### *Subtitle A—Officer Personnel Policy*

*Sec. 501. Retention of health professions officers to fulfill active duty service obligations following failure of selection for promotion.*
*Sec. 502. Eligibility for appointment as Chief of Army Veterinary Corps.*

### *Subtitle B—Reserve Component Personnel Policy*

*Sec. 511. Expanded authority for use of Ready Reserve in response to terrorism.*
*Sec. 512. Streamlined process for continuing officers on the Reserve Active-status list.*
*Sec. 513. National Guard officers on active duty in command of National Guard units.*

### *Subtitle C—Revision of Retirement Authorities*

*Sec. 521. Permanent authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above Major and Lieutenant Commander.*

### *Subtitle D—Education and Training*

*Sec. 531. Increased flexibility for management of senior level education and post-education assignments.*
*Sec. 532. Expanded educational assistance authority for cadets and midshipmen receiving ROTC scholarships.*
*Sec. 533. Eligibility and cost reimbursement requirements for personnel to receive instruction at the Naval Postgraduate School.*
*Sec. 534. Actions to address sexual misconduct at the service academies.*
*Sec. 535. Funding of education assistance enlistment incentives to facilitate national service through Department of Defense Education Benefits Fund.*

### *Subtitle E—Military Justice*

*Sec. 551. Extended limitation period for prosecution of child abuse cases in courts-martial.*
*Sec. 552. Clarification of blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.*

### *Subtitle F—Other Matters*

*Sec. 561. High-tempo personnel management and allowance.*
*Sec. 562. Alternate initial military service obligation for persons accessed under direct entry program.*
*Sec. 563. Policy on concurrent deployment to combat zones of both military spouses of military families with minor children.*
*Sec. 564. Enhancement of voting rights of members of the uniformed services.*

Sec. 565. Certain travel and transportation allowances for dependents of members of the Armed Forces who have committed dependent abuse.

## TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

### Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2004.

Sec. 602. Revised annual pay adjustment process.

Sec. 603. Computation of basic pay rate for commissioned officers with prior enlisted or warrant officer service.

Sec. 604. Pilot program of monthly subsistence allowance for non-scholarship Senior ROTC members committing to continue ROTC participation as sophomores.

Sec. 605. Basic allowance for housing for each member married to another member without dependents when both spouses are on sea duty.

Sec. 606. Increased rate of family separation allowance.

### Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for Reserve forces.

Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.

Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.

Sec. 614. One-year extension of other bonus and special pay authorities.

Sec. 615. Special pay for reserve officers holding positions of unusual responsibility and of critical nature.

Sec. 616. Assignment incentive pay for service in Korea.

Sec. 617. Increased maximum amount of reenlistment bonus for active members.

Sec. 618. Payment of Selected Reserve reenlistment bonus to members of Selected Reserve who are mobilized.

Sec. 619. Increased rate of hostile fire and imminent danger special pay.

Sec. 620. Availability of hostile fire and imminent danger special pay for reserve component members on inactive duty.

Sec. 621. Expansion of overseas tour extension incentive program to officers.

Sec. 622. Eligibility of warrant officers for accession bonus for new officers in critical skills.

Sec. 623. Incentive bonus for conversion to military occupational specialty to ease personnel shortage.

### Subtitle C—Travel and Transportation Allowances

Sec. 631. Shipment of privately owned motor vehicle within continental United States.

Sec. 632. Payment or reimbursement of student baggage storage costs for dependent children of members stationed overseas.

Sec. 633. Contracts for full replacement value for loss or damage to personal property transported at Government expense.

Sec. 634. Transportation of dependents to presence of members of the Armed Forces who are retired for illness or injury incurred in active duty.

### Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Special rule for computation of retired pay base for commanders of combatant commands.

Sec. 642. Survivor Benefit Plan annuities for surviving spouses of Reserves not eligible for retirement who die from a cause incurred or aggravated while on inactive-duty training.

Sec. 643. Increase in death gratuity payable with respect to deceased members of the Armed Forces.

Sec. 644. Full payment of both retired pay and compensation to disabled military retirees.

### Subtitle E—Other Matters

Sec. 651. Retention of accumulated leave.

Sec. 652. GAO study.

### Subtitle F—Naturalization and Family Protection for Military Members

Sec. 661. Short title.

Sec. 662. Requirements for naturalization through service in the Armed Forces of the United States.

Sec. 663. Naturalization benefits for members of the Selected Reserve of the Ready Reserve.

Sec. 664. Extension of posthumous benefits to surviving spouses, children, and parents.

Sec. 665. Effective date.

## TITLE VII—HEALTH CARE

Sec. 701. Medical and dental screening for members of Selected Reserve units alerted for mobilization.

Sec. 702. TRICARE beneficiary counseling and assistance coordinators for Reserve component beneficiaries.

Sec. 703. Extension of authority to enter into personal services contracts for health care services to be performed at locations outside medical treatment facilities.

Sec. 704. Department of Defense Medicare-Eligible Retiree Health Care Fund valuations and contributions.

Sec. 705. Surveys on continued viability of TRICARE standard.

Sec. 706. Elimination of limitation on covered beneficiaries' eligibility to receive health care services from former Public Health Service treatment facilities.

Sec. 707. Modification of structure and duties of Department of Veterans Affairs-Department of Defense Health Executive Committee.

Sec. 708. Eligibility of reserve officers for health care pending orders to active duty following commissioning.

Sec. 709. Reimbursement of covered beneficiaries for certain travel expenses relating to specialized dental care.

## TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

### Subtitle A—Acquisition Policy and Management

Sec. 801. Temporary emergency procurement authority to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

Sec. 802. Special temporary contract closeout authority.

Sec. 803. Defense acquisition program management for use of radio frequency spectrum.

Sec. 804. National Security Agency Modernization Program.

Sec. 805. Quality control in procurement of aviation critical safety items and related services.

### Subtitle B—Procurement of Services

Sec. 811. Expansion and extension of incentive for use of performance-based contracts in procurements of services.

Sec. 812. Public-private competitions for the performance of Department of Defense functions.

Sec. 813. Authority to enter into personal services contracts.

### Subtitle C—Major Defense Acquisition Programs

Sec. 821. Certain weapons-related prototype projects.

Sec. 822. Applicability of Clinger-Cohen Act policies and requirements to equipment integral to a weapon or weapon system.

Sec. 823. Applicability of requirement for reports on maturity of technology at initiation of major defense acquisition programs.

### Subtitle D—Domestic Source Requirements

Sec. 831. Exceptions to Berry amendment for contingency operations and other urgent situations.

Sec. 832. Inapplicability of Berry amendment to procurements of waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.

Sec. 833. Waiver authority for domestic source or content requirements.

Sec. 834. Buy American exception for ball bearings and roller bearings used in foreign products.

### Subtitle E—Defense Acquisition and Support Workforce

Sec. 841. Flexibility for management of the defense acquisition and support workforce.

Sec. 842. Limitation and reinvestment authority relating to reduction of the defense acquisition and support workforce.

Sec. 843. Clarification and revision of authority for demonstration project relating to certain acquisition personnel management policies and procedures.

### Subtitle F—Federal Support for Procurement of Anti-Terrorism Technologies and Services by State and Local Governments

Sec. 851. Application of indemnification authority to State and local government contractors.

Sec. 852. Federal support for enhancement of State and local anti-terrorism response capabilities.

Sec. 853. Definitions.

### Subtitle G—General Contracting Authorities, Procedures, and Limitations, and Other Matters

Sec. 861. Limited acquisition authority for Commander of United States Joint Forces Command.

Sec. 862. Operational test and evaluation.

Sec. 863. Multiyear task and delivery order contracts.

Sec. 864. Repeal of requirement for contractor assurances regarding the completeness, accuracy, and contractual sufficiency of technical data provided by the contractor.

Sec. 865. Reestablishment of authority for short-term leases of real or personal property across fiscal years.

Sec. 866. Consolidation of contract requirements.

### *TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT*

#### *Subtitle A—Department Officers and Agencies*

*Sec. 901. Clarification of responsibility of military departments to support combatant commands.*
*Sec. 902. Redesignation of National Imagery and Mapping Agency as National Geospatial-Intelligence Agency.*
*Sec. 903. Standards of conduct for members of the Defense Policy Board and the Defense Science Board.*

#### *Subtitle B—Space Activities*

*Sec. 911. Coordination of space science and technology activities of the Department of Defense.*
*Sec. 912. Space personnel cadre.*
*Sec. 913. Policy regarding assured access to space for United States national security payloads.*
*Sec. 914. Pilot program to provide space surveillance network services to entities outside the United States Government.*
*Sec. 915. Content of biennial Global Positioning System report.*

#### *Subtitle C—Other Matters*

*Sec. 921. Combatant Commander Initiative Fund.*
*Sec. 922. Authority for the Marine Corps University to award the degree of master of operational studies.*
*Sec. 923. Report on changing roles of United States Special Operations Command.*
*Sec. 924. Integration of Defense intelligence, surveillance, and reconnaissance capabilities.*
*Sec. 925. Establishment of the National Guard of the Northern Mariana Islands.*

### *TITLE X—GENERAL PROVISIONS*

#### *Subtitle A—Financial Matters*

*Sec. 1001. Transfer authority.*
*Sec. 1002. United States contribution to NATO common-funded budgets in fiscal year 2004.*
*Sec. 1003. Authorization of supplemental appropriations for fiscal year 2003.*

#### *Subtitle B—Improvement of Travel Card Management*

*Sec. 1011. Mandatory disbursement of travel allowances directly to travel card creditors.*
*Sec. 1012. Determinations of creditworthiness for issuance of Defense travel card.*
*Sec. 1013. Disciplinary actions and assessing penalties for misuse of Defense travel cards.*

#### *Subtitle C—Reports*

*Sec. 1021. Elimination and revision of various reporting requirements applicable to the Department of Defense.*
*Sec. 1022. Global strike plan.*
*Sec. 1023. Report on the conduct of Operation Iraqi Freedom.*
*Sec. 1024. Report on mobilization of the reserves.*
*Sec. 1025. Study of beryllium industrial base.*

#### *Subtitle D—Other Matters*

*Sec. 1031. Blue forces tracking initiative.*
*Sec. 1032. Loan, donation, or exchange of obsolete or surplus property.*
*Sec. 1033. Acceptance of gifts and donations.*
*Sec. 1034. Provision of living quarters for certain students working at National Security Agency laboratory.*
*Sec. 1035. Protection of operational files of the National Security Agency.*
*Sec. 1036. Transfer of administration of National Security Education Program to Director of Central Intelligence.*
*Sec. 1037. Report on use of unmanned aerial vehicles for support of homeland security missions.*
*Sec. 1038. Conveyance of surplus T-37 aircraft to Air Force Aviation Heritage Foundation, Incorporated.*
*Sec. 1039. Sense of Senate on reward for information leading to resolution of status of members of the Armed Forces who remain missing in action.*
*Sec. 1040. Advanced shipbuilding enterprise.*
*Sec. 1041. Air fares for members of Armed Forces.*
*Sec. 1042. Sense of Senate on deployment of airborne chemical agent monitoring systems at chemical stockpile disposal sites in the United States.*
*Sec. 1043. Federal assistance for State programs under the National Guard Challenge Program.*
*Sec. 1044. Sense of Senate on reconsideration of decision to terminate border seaport inspection duties of National Guard under National Guard drug interdiction and counterdrug mission.*

### *TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL POLICY*

*Sec. 1101. Authority to employ civilian faculty members at the Western Hemisphere Institute for Security Cooperation.*
*Sec. 1102. Pay authority for critical positions.*
*Sec. 1103. Extension, expansion, and revision of authority for experimental personnel program for scientific and technical personnel.*
*Sec. 1104. Transfer of personnel investigative functions and related personnel of the Department of Defense.*

### *TITLE XII—MATTERS RELATING TO OTHER NATIONS*

*Sec. 1201. Authority to use funds for payment of costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.*
*Sec. 1202. Availability of funds to recognize superior noncombat achievements or performance of members of friendly foreign forces and other foreign nationals.*
*Sec. 1203. Check cashing and exchange transactions for foreign personnel in alliance or coalition forces.*
*Sec. 1204. Clarification and extension of authority to provide assistance for international nonproliferation activities.*
*Sec. 1205. Reimbursable costs relating to national security controls on satellite export licensing.*
*Sec. 1206. Annual report on the NATO Prague capabilities commitment and the NATO Response Force.*
*Sec. 1207. Expansion and extension of authority to provide additional support for counter-drug activities.*
*Sec. 1208. Use of funds for unified counterdrug and counterterrorism campaign in Colombia.*
*Sec. 1209. Competitive award of contracts for Iraqi reconstruction.*

### *TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION*

*Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.*
*Sec. 1302. Funding allocations.*
*Sec. 1303. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities.*
*Sec. 1304. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union.*
*Sec. 1305. One-year extension of inapplicability of certain conditions on use of funds for chemical weapons destruction.*

### *DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS*

*Sec. 2001. Short title.*

### *TITLE XXI—ARMY*

*Sec. 2101. Authorized Army construction and land acquisition projects.*
*Sec. 2102. Family housing.*
*Sec. 2103. Improvements to military family housing units.*
*Sec. 2104. Authorization of appropriations, Army.*
*Sec. 2105. Termination of authority to carry out certain fiscal year 2003 projects.*
*Sec. 2106. Modification of authority to carry out certain fiscal year 2003 projects.*
*Sec. 2107. Modification of authority to carry out certain fiscal year 2002 project.*
*Sec. 2108. Modification of authority to carry out certain fiscal year 2001 project.*

### *TITLE XXII—NAVY*

*Sec. 2201. Authorized Navy construction and land acquisition projects.*
*Sec. 2202. Family housing.*
*Sec. 2203. Improvements to military family housing units.*
*Sec. 2204. Authorization of appropriations, Navy.*
*Sec. 2205. Termination of authority to carry out certain fiscal year 2003 project.*

### *TITLE XXIII—AIR FORCE*

*Sec. 2301. Authorized Air Force construction and land acquisition projects.*
*Sec. 2302. Family housing.*
*Sec. 2303. Improvements to military family housing units.*
*Sec. 2304. Authorization of appropriations, Air Force.*
*Sec. 2305. Modification of fiscal year 2003 authority relating to improvement of military family housing units.*

### *TITLE XXIV—DEFENSE AGENCIES*

*Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.*
*Sec. 2402. Family housing.*
*Sec. 2403. Improvements to military family housing units.*
*Sec. 2404. Energy conservation projects.*
*Sec. 2405. Authorization of appropriations, Defense Agencies.*
*Sec. 2406. Modification of authority to carry out certain fiscal year 2003 project.*
*Sec. 2407. Modification of authority to carry out certain fiscal year 2003 projects.*

### *TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM*

*Sec. 2501. Authorized NATO construction and land acquisition projects.*
*Sec. 2502. Authorization of appropriations, NATO.*

### *TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES*

*Sec. 2601. Authorized guard and reserve construction and land acquisition projects.*

### *TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS*

*Sec. 2701. Expiration of authorizations and amounts required to be specified by law.*

*Sec. 2702. Extension of authorizations of certain fiscal year 2001 projects.*
*Sec. 2703. Extension of authorizations of certain fiscal year 2000 projects.*
*Sec. 2704. Effective date.*

### *TITLE XXVIII—GENERAL PROVISIONS*

### ***Subtitle A—Military Construction Program and Military Family Housing Changes***

*Sec. 2801. Modification of general definitions relating to military construction.*
*Sec. 2802. Increase in number of family housing units in Italy authorized for lease by the Navy.*

### ***Subtitle B—Real Property and Facilities Administration***

*Sec. 2811. Increase in threshold for reports to Congress on real property transactions.*
*Sec. 2812. Acceptance of in-kind consideration for easements.*
*Sec. 2813. Expansion to military unaccompanied housing of authority to transfer property at military installations to be closed in exchange for military housing.*
*Sec. 2814. Exemption from screening and use requirements under McKinney-Vento Homeless Assistance Act of Department of Defense property in emergency support of homeland security.*

### ***Subtitle C—Land Conveyances***

*Sec. 2821. Transfer of land at Fort Campbell, Kentucky and Tennessee.*
*Sec. 2822. Land conveyance, Fort Knox, Kentucky.*
*Sec. 2823. Land conveyance, Marine Corps Logistics Base, Albany, Georgia.*
*Sec. 2824. Land conveyance, Air Force and Army Exchange Service property, Dallas, Texas.*
*Sec. 2825. Land exchange, Naval and Marine Corps Reserve Center, Portland Oregon.*
*Sec. 2826. Land conveyance, Fort Ritchie, Maryland.*
*Sec. 2827. Feasibility study of conveyance of Louisiana Army Ammunition Plant, Doyline, Louisiana.*

### ***Subtitle D—Review of Overseas Military Facility Structure***

*Sec. 2841. Short title.*
*Sec. 2842. Establishment of Commission.*
*Sec. 2843. Duties of Commission.*
*Sec. 2844. Powers of Commission.*
*Sec. 2845. Commission personnel matters.*
*Sec. 2846. Security.*
*Sec. 2847. Termination of Commission.*
*Sec. 2848. Funding.*

### *DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS*

### *TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS*

### ***Subtitle A—National Security Programs Authorizations***

*Sec. 3101. National Nuclear Security Administration.*
*Sec. 3102. Defense environmental management.*
*Sec. 3103. Other defense activities.*
*Sec. 3104. Defense nuclear waste disposal.*
*Sec. 3105. Defense energy supply.*

### ***Subtitle B—Program Authorizations, Restrictions, and Limitations***

*Sec. 3131. Repeal of prohibition on research and development of low-yield nuclear weapons.*
*Sec. 3132. Readiness posture for resumption by the United States of underground nuclear weapons tests.*
*Sec. 3133. Technical base and facilities maintenance and recapitalization activities.*
*Sec. 3134. Continuation of processing, treatment, and disposition of legacy nuclear materials.*
*Sec. 3135. Requirement for specific authorization of Congress for commencement of engineering development phase or subsequent phase of robust nuclear earth penetrator.*

### ***Subtitle C—Proliferation Matters***

*Sec. 3141. Expansion of International Materials Protection, Control, and Accounting program.*
*Sec. 3142. Semi-annual financial reports on Defense Nuclear Nonproliferation program.*
*Sec. 3143. Report on reduction of excessive uncosted balances for defense nuclear nonproliferation activities.*

### ***Subtitle D—Other Matters***

*Sec. 3151. Modification of authorities on Department of Energy personnel security investigations.*
*Sec. 3152. Responsibilities of Environmental Management program and National Nuclear Security Administration of Department of Energy for environmental cleanup, decontamination and decommissioning, and waste management.*
*Sec. 3153. Update of report on stockpile stewardship criteria.*
*Sec. 3154. Progress reports on Energy Employees Occupational Illness Compensation Program.*
*Sec. 3155. Study on the application of technology from the Robust Nuclear Earth Penetrator Program to Conventional Hard and Deeply Buried Target Weapons Development Programs.*

### ***Subtitle E—Consolidation of General Provisions on Department of Energy National Security Programs***

*Sec. 3161. Consolidation and assembly of recurring and general provisions on Department of Energy national security programs.*

### *TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD*

*Sec. 3201. Authorization.*

### *SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.*

*For purposes of this Act, the term "congressional defense committees" means—*

*(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and*

*(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.*

### *DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS*

### *TITLE I—PROCUREMENT*

### ***Subtitle A—Authorization of Appropriations***

### *SEC. 101. ARMY.*

*Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Army as follows:*

*(1) For aircraft, $2,158,485,000.*

*(2) For missiles, $1,553,462,000.*

*(3) For weapons and tracked combat vehicles, $1,658,504,000.*

*(4) For ammunition, $1,363,305,000.*

*(5) For other procurement, $4,266,027,000.*

### *SEC. 102. NAVY AND MARINE CORPS.*

*(a) Navy.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Navy as follows:*

*(1) For aircraft, $8,996,948,000.*

*(2) For weapons, including missiles and torpedoes, $2,046,821,000.*

*(3) For shipbuilding and conversion, $11,707,984,000.*

*(4) For other procurement, $4,744,443,000.*

*(b) Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Marine Corps in the amount of $1,089,599,000.*

*(c) Navy and Marine Corps Ammunition.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement of ammunition for the Navy and the Marine Corps in the amount of $924,355,000.*

### *SEC. 103. AIR FORCE.*

*Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Air Force as follows:*

*(1) For aircraft, $12,082,760,000.*

*(2) For ammunition, $1,284,725,000.*

*(3) For missiles, $4,394,439,000.*

*(4) For other procurement, $11,630,659,000.*

### *SEC. 104. DEFENSE-WIDE ACTIVITIES.*

*Funds are hereby authorized to be appropriated for fiscal year 2004 for Defense-wide procurement in the amount of $3,884,106,000.*

### *SEC. 105. DEFENSE INSPECTOR GENERAL.*

*Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Inspector General of the Department of Defense in the amount of $2,100,000.*

### *SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.*

*There is hereby authorized to be appropriated for the Office of the Secretary of Defense for fiscal year 2004 the amount of $1,530,261,000 for—*

*(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and*

*(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.*

### *SEC. 107. DEFENSE HEALTH PROGRAMS.*

*Funds are hereby authorized to be appropriated for fiscal year 2004 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $327,826,000.*

### *SEC. 108. REDUCTION IN AUTHORIZATION.1*

*The total amount authorized to be appropriated under section 104 is hereby reduced by $3,300,000, with $2,100,000 of the reduction to be allocated to Special Operations Forces rotary upgrades and $1,200,000 to be allocated to Special Operations Forces operational enhancements.*

### ***Subtitle B—Army Programs***

### *SEC. 111. CH–47 HELICOPTER PROGRAM.*

*(a) Requirement for Study.—The Secretary of the Army shall study the feasibility and the costs and benefits of providing for the participation of a second source in the production of gears for the helicopter transmissions incorporated into CH–47 helicopters being procured by the Army with funds authorized to be appropriated by this Act.*

*(b) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to Congress.*

### *SEC. 112. RAPID INFUSION PUMPS.*

*(a) Availability of Funds.—(1) Of the amount authorized to be appropriated by section 101(5) for other procurement, Army, $2,000,000 may be available for medical equipment for the procurement of rapid infusion (IV) pumps.*

*(2) The total amount authorized to be appropriated under section 101(5) is hereby increased by $2,000,000.*

*(b) Offset.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance, Army, the amount available is hereby reduced by $2,000,000.*

### Subtitle C—Navy Programs

### SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR NAVY PROGRAMS.

(a) AUTHORITY.—Beginning with the fiscal year 2004 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for procurement for the following programs:

(1) The F/A–18 aircraft program.

(2) The E–2C aircraft program.

(3) The Tactical Tomahawk Cruise Missile program, subject to subsection (b).

(4) The Virginia class submarine, subject to subsection (c).

(5) The Phalanx Close In Weapon System program, Block 1B.

(b) TACTICAL TOMAHAWK CRUISE MISSILES.—The Secretary may not enter into a multiyear contract for the procurement of Tactical Tomahawk Cruise Missiles under subsection (a)(3) until the Secretary determines on the basis of operational testing that the Tactical Tomahawk Cruise Missile is effective for fleet use.

(c) VIRGINIA CLASS SUBMARINES.—Paragraphs (2)(A), (3), and (4) of section 121(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1648) shall apply in the exercise of authority to enter into a multiyear contract for the procurement of Virginia class submarines under subsection (a)(4).

### SEC. 122. PILOT PROGRAM FOR FLEXIBLE FUNDING OF NAVAL VESSEL CONVERSIONS AND OVERHAULS.

(a) ESTABLISHMENT.—The Secretary of the Navy may carry out a pilot program of flexible funding of conversions and overhauls of cruisers of the Navy in accordance with this section.

(b) AUTHORITY.—Under the pilot program the Secretary of the Navy may, subject to subsection (d), transfer appropriated funds described in subsection (c) to the appropriation for the Navy for procurement for shipbuilding and conversion for any fiscal year to continue to fund any conversion or overhaul of a cruiser of the Navy that was initially funded with the appropriation to which transferred.

(c) FUNDS AVAILABLE FOR TRANSFER.—The appropriations available for transfer under this section are the appropriations to the Navy for any fiscal year after fiscal year 2003 and before fiscal year 2013 for the following purposes:

(1) For procurement, as follows:

(A) For shipbuilding and conversion.

(B) For weapons procurement.

(C) For other procurement.

(2) For operation and maintenance.

(d) LIMITATIONS.—(1) A transfer may be made with respect to a cruiser under this section only to meet the following requirements:

(A) Any increase in the size of the workload for conversion or overhaul to meet existing requirements for the cruiser.

(B) Any new conversion or overhaul requirement resulting from a revision of the original baseline conversion or overhaul program for the cruiser.

(2) A transfer may not be made under this section before the date that is 30 days after the date on which the Secretary of the Navy transmits to the congressional defense committees a written notification of the intended transfer. The notification shall include the following matters:

(A) The purpose of the transfer.

(B) The amounts to be transferred.

(C) Each account from which the funds are to be transferred.

(D) Each program, project, or activity from which the funds are to be transferred.

(E) Each account to which the funds are to be transferred.

(F) A discussion of the implications of the transfer for the total cost of the cruiser conversion or overhaul program for which the transfer is to be made.

(e) MERGER OF FUNDS.—Amounts transferred to an appropriation with respect to the conversion or overhaul of a cruiser under this section shall be credited to and merged with other funds in the appropriation to which transferred and shall be available for the conversion or overhaul of such cruiser for the same period as the appropriation with which merged.

(f) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The authority to transfer funds under this section is in addition to any other authority provided by law to transfer appropriated funds and is not subject to any restriction, limitation, or procedure that is applicable to the exercise of any such other authority.

(g) FINAL REPORT.—Not later than October 1, 2011, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's evaluation of the efficacy of the authority provided under this section.

(h) TERMINATION OF PROGRAM.—No transfer may be made under this section after September 30, 2012.

### Subtitle D—Air Force Programs

### SEC. 131. ELIMINATION OF QUANTITY LIMITATIONS ON MULTIYEAR PROCUREMENT AUTHORITY FOR C–130J AIRCRAFT.

Section 131(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2475) is amended by striking "up to 40 C-130J aircraft in the CC–130J configuration and up to 24 C–130J aircraft in the KC–130J configuration" and inserting "C–130J aircraft in the CC–130J and KC–130J configurations".

### SEC. 132. B–1B BOMBER AIRCRAFT.

(a) AMOUNT FOR AIRCRAFT.—(1) Of the amount authorized to be appropriated under section 103(1), $20,300,000 may be available to reconstitute the fleet of B–1B bomber aircraft through modifications of 23 B–1B bomber aircraft otherwise scheduled to be retired in fiscal year 2003 that extend the service life of such aircraft and maintain or, as necessary, improve the capabilities of such aircraft for mission performance.

(2) The Secretary of the Air Force shall submit to the congressional defense committees a report that specifies the amounts necessary to be included in the future-years defense program to reconstitute the B–1B bomber aircraft fleet of the Air Force.

(b) ADJUSTMENT.—(1) The total amount authorized to be appropriated under section 103(1) is hereby increased by $20,300,000.

(2) The total amount authorized to be appropriated under section 104 is hereby reduced by $20,300,000, with the amount of the reduction to be allocated to Special Operations Forces operational enhancements.

## TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

### Subtitle A—Authorization of Appropriations

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,012,500,000.

(2) For the Navy, $14,590,284,000.

(3) For the Air Force, $20,382,407,000.

(4) For Defense-wide activities, $19,135,679,000, of which $286,661,000 is authorized for the Director of Operational Test and Evaluation.

### SEC. 202. AMOUNT FOR SCIENCE AND TECHNOLOGY.

(a) AMOUNT FOR PROJECTS.—Of the total amount authorized to be appropriated by section 201, $10,705,561,000 shall be available for science and technology projects.

(b) SCIENCE AND TECHNOLOGY DEFINED.—In this section, the term "science and technology project" means work funded in program elements for defense research, development, test, and evaluation under Department of Defense budget activities 1, 2, or 3.

### SEC. 203. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2004 for research, development, test, and evaluation for the Inspector General of the Department of Defense in the amount of $300,000.

### SEC. 204. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the Department of Defense for research, development, test, and evaluation for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $65,796,000.

### Subtitle B—Program Requirements, Restrictions, and Limitations

### SEC. 211. PROHIBITION ON TRANSFER OF CERTAIN PROGRAMS OUTSIDE THE OFFICE OF THE SECRETARY OF DEFENSE.

The Secretary of Defense may not designate any official outside the Office of the Secretary of Defense to exercise authority for programming or budgeting for any of the following programs:

(1) Explosive demilitarization technology (program element 0603104D8Z).

(2) High energy laser research initiative (program element 0601108D8Z).

(3) High energy laser research (program element 0602890D8Z).

(4) High energy laser advanced development (program element 0603924D8Z).

(5) University research initiative (program element 0601103D8Z).

### SEC. 212. OBJECTIVE FORCE INDIRECT FIRES PROGRAM.

(a) DISTINCT PROGRAM ELEMENT.—The Secretary of Defense shall ensure that, not later than October 1, 2003, the Objective Force Indirect Fires Program is being planned, programmed, and budgeted for as a distinct program element and that funds available for such program are being administered consistent with the budgetary status of the program as a distinct program element.

(b) PROHIBITION.—Effective on October 1, 2003, the Objective Force Indirect Fires Program may not be planned, programmed, and budgeted for, and funds available for such program may not be administered, in one program element in combination with the Armored Systems Modernization program.

(c) CERTIFICATION REQUIREMENT.—At the same time that the President submits the budget for fiscal year 2005 to Congress under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written certification that the Objective Force Indirect Fires Program is being planned, programmed, and budgeted for, and funds available for such program are being administered, in accordance with the requirement in subsection (a) and the prohibition in subsection (b).

### SEC. 213. AMOUNT FOR JOINT ENGINEERING DATA MANAGEMENT INFORMATION AND CONTROL SYSTEM.

(a) NAVY RDT&E.—The amount authorized to be appropriated under section 201(2) is hereby increased by $2,500,000. Such amount may be available for the Joint Engineering Data Management Information and Control System (JEDMICS).

(b) NAVY PROCUREMENT.—The amount authorized to be appropriated under section 102(a)(4) is hereby reduced by $2,500,000, to be derived from the amount provided for the Joint

*Engineering Data Management Information and Control System (JEDMICS).*

### SEC. 214. HUMAN TISSUE ENGINEERING.

*(a) AMOUNT.—Of the amount authorized to be appropriated under section 201(1), $1,700,000 may be available in PE 0602787 for human tissue engineering. The total amount authorized to be appropriated under section 201(1) is hereby increased by $1,700,000.*

*(b) OFFSETS.—Of the amount authorized to be appropriated under section 301(4) for Operations and Maintenance, Air Force is hereby reduced by $1,700,000.*

### SEC. 215. NON-THERMAL IMAGING SYSTEMS.

*(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Power Projection Applied Research (PE 602114N), $2,000,000 may be available for research and development of non-thermal imaging systems. The total amount authorized to be appropriated under section 201(2) is hereby increased by $2,000,000.*

*(b) OFFSETS.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance, Air Force is hereby reduced by $1,000,000 and the amount authorized to be appropriated by section 104 for Defense-wide activities, is hereby reduced by $1,000,000 for Special Operations Forces rotary wing upgrades.*

### SEC. 216. MAGNETIC LEVITATION.

*(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,100,000, with the amount of the increase to be allocated to Major Test and Evaluation Investment (PE 0604759F).*

*(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force and available for Major Test and Evaluation Investment, as increased by subsection (a), $2,100,000 may be available for research and development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico.*

*(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.*

*(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance, Air Force, is hereby reduced by $2,100,000.*

### SEC. 217. COMPOSITE SAIL TEST ARTICLES.

*(a) AVAILABILITY OF FUNDS.—The total amount authorized to be appropriated under section 201(2) for Virginia-class submarine development, may be increased by $2,000,000 for the development and fabrication of composite sail test articles for incorporation into designs for future submarines.*

*(b) OFFSET.—The amount authorized to be appropriated under section 104 may be reduced by $2,000,000, to be derived from the amount provided for Special Operations Forces operational enhancements.*

### SEC. 218. PORTABLE MOBILE EMERGENCY BROADBAND SYSTEMS.

*(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, $2,000,000 may be available for the development of Portable Mobile Emergency Broadband Systems (MEBS).*

*(2) The total amount authorized to be appropriated under section 201(1) is hereby increased by $2,000,000.*

*(b) OFFSET.—The amount authorized to be appropriated by section 104 for procurement, Defense-wide activities, Special Operations Forces operational enhancements is hereby reduced by $2,000,000.*

### SEC. 219. BORON ENERGY CELL TECHNOLOGY.

*(a) INCREASE IN RDT&E, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000.*

*(b) AVAILABILITY FOR BORON ENERGY CELL TECHNOLOGY.—(1) of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $5,000,000 may be available for research, development, test, and evaluation on boron energy cell technology.*

*(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.*

*(c) OFFSET FROM OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1), for operation and maintenance for the Army is hereby reduced by $5,000,000.*

### SEC. 220. MODIFICATION OF PROGRAM ELEMENT OF SHORT RANGE AIR DEFENSE RADAR PROGRAM OF THE ARMY.

*The program element of the short range air defense radar program of the Army may be modified from Program Element 602303A (Missile Technology) to Program Element 603772A (Advanced Tactical Computer Science and Sensor Technology).*

### SEC. 221. AMOUNT FOR NETWORK CENTRIC OPERATIONS.

*Of the amount authorized to be appropriated under section 201(1) for historically Black colleges and universities, $1,000,000 may be used for funding the initiation of a capability in such institutions to support the network centric operations of the Department of Defense.*

## Subtitle C—Ballistic Missile Defense

### SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

*Funds authorized to be appropriated under section 201(4) for the Missile Defense Agency may be used for the development and fielding of an initial set of ballistic missile defense capabilities.*

### SEC. 222. REPEAL OF REQUIREMENT FOR CERTAIN PROGRAM ELEMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES.

*Section 223 of title 10, United States Code is amended—*

*(1) by striking subsection (a);*

*(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and*

*(3) in subsection (b), as so redesignated, by striking "specified in subsection (a)".*

### SEC. 223. OVERSIGHT OF PROCUREMENT, PERFORMANCE CRITERIA, AND OPERATIONAL TEST PLANS FOR BALLISTIC MISSILE DEFENSE PROGRAMS.

*(a) PROCUREMENT.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 223 the following new section:*

**"§223a. Ballistic missile defense programs: procurement**

*"(a) BUDGET JUSTIFICATION MATERIALS.—(1) In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element, the following information:*

*"(A) For each ballistic missile defense element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:*

*"(i) The production rate capabilities of the production facilities planned to be used.*

*"(ii) The potential date of availability of the element for initial fielding.*

*"(iii) The expected costs of the initial production and fielding planned for the element.*

*"(iv) The estimated date on which the administration of the acquisition of the element is to be transferred to the Secretary of a military department.*

*"(B) The performance criteria prescribed under subsection (b).*

*"(2) The information provided under paragraph (1) shall be submitted in an unclassified form, but may include a classified annex as necessary.*

*"(b) PERFORMANCE CRITERIA.—(1) The Director of the Missile Defense Agency shall prescribe measurable performance criteria for all planned development phases (known as "blocks") of the ballistic missile defense system and each of its elements. The performance criteria may be updated as necessary while the program and any follow-on program remain in development.*

*"(2) The performance criteria prescribed for a block under paragraph (1) shall include one or more criteria that specifically describe, in relation to that block, the intended effectiveness against foreign adversary capabilities, including a description of countermeasures, for which the system is being designed as a defense.*

*"(c) OPERATIONAL TEST PLANS.—The Director of Operational Test and Evaluation, in consultation with the Director of the Missile Defense Agency, shall establish and approve for each ballistic missile defense system element appropriate plans and schedules for operational testing. The test plans shall include an estimate of when successful performance of the element in accordance with each performance criterion is to be verified by operational testing. The test plans for a program may be updated as necessary while the program and any follow-on program remain in development.*

*"(d) ANNUAL TESTING PROGRESS.— The annual report of the Director of Operational Test and Evaluation required under section 232(h) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) shall include the following:*

*"(1) The test plans established under subsection (c); and*

*"(2) An assessment of the progress being made toward verifying through operational testing the performance of the system under a missile defense system program as measured by the performance criteria prescribed for the program under subsection (b).*

*"(e) FUTURE-YEARS DEFENSE PROGRAM.—The future-years defense program submitted to Congress each year under section 221 of this title shall include an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.".*

*(2) The table of contents at the beginning of such chapter 9 is amended by inserting after the item relating to section 223 the following new item:*

*"223a. Ballistic missile defense programs: procurement.".*

*(b) EXCEPTION FOR FIRST ASSESSMENT.—The first assessment required under subsection (d) of section 223a of title 10, United States Code (as added by subsection (a)), shall be an interim assessment submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than July 31, 2004.*

### SEC. 224. RENEWAL OF AUTHORITY TO ASSIST LOCAL COMMUNITIES IMPACTED BY BALLISTIC MISSILE DEFENSE SYSTEM TEST BED.

*Section 235(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1041) is amended—*

*(1) in paragraph (1), by inserting ", 2004, 2005, or 2006" after "for fiscal year 2002"; and*

*(2) by adding at the end the following new paragraph:*

"(3) In the budget justification materials for the Department of Defense that the Secretary of Defense submits to Congress in connection with the submission of the budget for fiscal year 2004, the budget for fiscal year 2005, and the budget for fiscal year 2006 under section 1105(a) of title 31, United States Code, the Secretary shall include a description of the community assistance projects that are to be supported in such fiscal year under this subsection and an estimate of the total cost of each such project.".

### SEC. 225. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR DESIGN, DEVELOPMENT, OR DEPLOYMENT OF HIT-TO-KILL BALLISTIC MISSILE INTERCEPTORS.

(a) No amount authorized to be appropriated by this Act for research, development, test, and evaluation, Defense-wide, and available for Ballistic Missile Defense System Interceptors (PE 060886C), may be obligated or expended to design, develop, or deploy hit-to-kill interceptors or other weapons for placement in space unless specifically authorized by Congress.

(b) Of the amounts authorized to be appropriated for fiscal year 2004 for Ballistic Missile Defense System Interceptors, $14,000,000 is available for research and concept definition for the space based test bed.

### SEC. 226. PROHIBITION ON USE OF FUNDS FOR NUCLEAR ARMED INTERCEPTORS IN MISSILE DEFENSE SYSTEMS.

No funds authorized to be appropriated for the Department of Defense by this Act may be obligated or expended for research, development, test, and evaluation, procurement, or deployment of nuclear armed interceptors in a missile defense system.

## Subtitle D—Other Matters

### SEC. 231. GLOBAL RESEARCH WATCH PROGRAM IN THE OFFICE OF THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

Section 139a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Director shall carry out a Global Research Watch program.

"(2) The goals of the program are as follows:

"(A) To monitor and analyze the basic and applied research activities and capabilities of foreign nations in areas of military interest, including allies and competitors.

"(B) To provide standards for comparison and comparative analysis of research capabilities of foreign nations in relation to the research capabilities of the United States.

"(C) To assist Congress and Department of Defense officials in making investment decisions for research in technical areas where the United States may not be the global leader.

"(D) To identify areas where significant opportunities for cooperative research may exist.

"(E) To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies.

"(F) To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing cooperative programs.

"(3) The program shall be focused on research and technologies at a technical maturity level equivalent to Department of Defense basic and applied research programs.

"(4) The Director shall coordinate the program with the international cooperation and analysis activities of the military departments and Defense Agencies.

"(5) Information in electronic databases of the Global Research Watch program shall be maintained in unclassified form and, as determined necessary by the Director, in classified form in such databases.".

### SEC. 232. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY BIENNIAL STRATEGIC PLAN.

(a) REQUIREMENT FOR PLAN.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by inserting after section 201 the following new section:

**"§202. Defense Advanced Research Projects Agency: biennial strategic plan**

"(a) REQUIREMENT FOR STRATEGIC PLAN.—(1) Every other year, and in time for submission to Congress under subsection (b), the Director of the Defense Advanced Research Projects Agency shall prepare a strategic plan for the activities of the agency.

"(2) The strategic plan shall include the following matters:

"(A) The long-term strategic goals of the agency.

"(B) Identification of the research programs that support—

"(i) achievement of the strategic goals; and

"(ii) exploitation of opportunities that hold the potential for yielding significant military benefits.

"(C) The connection of agency activities and programs to activities and missions of the armed forces.

"(D) A technology transition strategy for agency programs.

"(E) An assessment of agency policies on the management, organization, and personnel of the agency.

"(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary of Defense shall submit the latest biennial strategic plan of the Defense Advanced Research Projects Agency to Congress at the same time that the President submits the budget for an even-numbered year to Congress under section 1105(a) of title 31.

"(c) REVIEW PANEL.—(1) The Secretary of Defense shall establish a panel to advise the Director of the Defense Research Projects Agency on the preparation, content, and execution of the biennial strategic plan.

"(2) The panel shall be composed of members appointed by the Secretary of Defense from among persons who are experienced and knowledgeable in research activities of potential military value, as follows:

"(A) The principal staff assistant to the Director of the Defense Advanced Research Projects Agency, who shall serve as chairman of the panel.

"(B) Three senior officers of the armed forces.

"(C) Three persons who are representative of—

"(i) private industry;

"(ii) academia; and

"(iii) federally funded research and development centers or similar nongovernmental organizations.

"(3) The members appointed under subparagraphs (B) and (C) of paragraph (2) shall be appointed for a term of two years. The members may be reappointed, except that every two years the Secretary of Defense shall appoint a replacement for at least one of the members appointed under such subparagraph (B) and a replacement for at least one of the members appointed under such subparagraph (C). Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

"(4) The panel shall meet at the call of the Chairman.

"(5) The panel shall provide the Director of the Defense Advanced Research Projects Agency with the following support:

"(A) Objective advice on—

"(i) the strategic plan; and

"(ii) the appropriate mix of agency supported research activities in technologies, including system-level technologies, to address new and evolving national security requirements and interests, and to fulfill the technology development mission of the agency.

"(B) An assessment of the extent to which the agency is successful in—

"(i) supporting missions of the armed forces; and

"(ii) achieving the transition of technologies into acquisition programs of the military departments.

"(C) An assessment of agency policies on the management, organization, and personnel of the agency, together with recommended modifications of such policies that could improve the mission performance of the agency.

"(D) Final approval of the biennial strategic plan.

"(6) Members of the panel who are not officers or employees of the United States shall serve without pay by reason of their work on the panel, and their services as members may be accepted without regard to section 1342 of title 31. However, such members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the panel.

"(7) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 201 the following new item:

"202. Defense Advanced Research Projects Agency: biennial strategic plan.".

(b) INITIAL APPOINTMENTS TO REVIEW PANEL.—The Secretary of Defense shall appoint the panel under subsection (c) of section 202 of title 10, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

### SEC. 233. ENHANCEMENT OF AUTHORITY OF SECRETARY OF DEFENSE TO SUPPORT SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY EDUCATION.

Section 2192 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) In furtherance of the authority of the Secretary of Defense under this chapter or any other provision of law to support educational programs in science, mathematics, engineering, and technology, the Secretary of Defense may—

"(A) enter into contracts and cooperative agreements with eligible persons;

"(B) make grants of financial assistance to eligible persons;

"(C) provide cash awards and other items to eligible persons; and

"(D) accept voluntary services from eligible persons.

"(2) In this subsection:

"(A) The term 'eligible person' includes a department or agency of the Federal Government, a State, a political subdivision of a State, an individual, and a not-for-profit or other organization in the private sector.

"(B) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.".

### SEC. 234. DEPARTMENT OF DEFENSE HIGH-SPEED NETWORK-CENTRIC AND BANDWIDTH EXPANSION PROGRAM.

(a) IN GENERAL.—The Secretary of Defense shall carry out a program of research and development to promote greater bandwidth capability *with high-speed network-centric communications.*

*(b) Purposes of Activities.—The purposes of activities required by subsection (a) are as follows:*

*(1) To facilitate the acceleration of the network-centric operational capabilities of the Armed Forces, including more extensive utilization of unmanned vehicles, satellite communications, and sensors, through the promotion of research and development, and the focused coordination of programs, to fully achieve high-bandwidth connectivity to military assets.*

*(2) To provide for the development of equipment and technologies for military high-bandwidth network-centric communications facilities.*

*(c) Research and Development Program.—(1) In carrying out the program of research and development required by subsection (a)(1), the Secretary shall—*

*(A) identify areas of advanced wireless communications in which research and development, or the leveraging of emerging technologies, has significant potential to improve the performance, efficiency, cost, and flexibility of advanced network-centric communications systems;*

*(B) develop a coordinated plan for research and development on—*

*(i) improved spectrum access through spectrum-efficient network-centric communications systems;*

*(ii) networks, including complex ad hoc adaptive network structures;*

*(iii) end user devices, including efficient receivers and transmitter devices;*

*(iv) applications, including robust security and encryption; and*

*(v) any other matters that the Secretary considers appropriate for purposes of this section;*

*(C) ensure joint research and development, and promote joint systems acquisition and deployment, among the various services and Defense Agencies, including the development of common cross-service technology requirements and doctrines, so as to enhance interoperability among the various services and Defense Agencies;*

*(D) conduct joint experimentation among the various Armed Forces, and coordinate with the Joint Forces Command, on experimentation to support network-centric warfare capabilities to small units of the Armed Forces; and*

*(E) develop, to the extent practicable and in consultation with other Federal entities and private industry, cooperative research and development efforts.*

*(2) The Secretary shall carry out the program of research and development through the Director of Defense Research and Engineering, in full coordination with the Secretaries of the military departments, the heads of appropriate Defense Agencies, and the heads of other appropriate elements of the Department of Defense.*

*(d) Report.—(1) The Secretary shall, acting through the Director of Defense Research and Engineering, submit to the congressional defense committees a report on the activities undertaken under this section as of the date of such report. The report shall be submitted together with the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code).*

*(2) The report under paragraph (1) shall include—*

*(A) a description of the research and development activities carried out under subsection (a), including particular activities under subsection (c)(1)(B);*

*(B) an assessment of current and proposed funding for the activities set forth in each of clauses (i) through (v) of subsection (c)(1)(B), including the adequacy of such funding to support such activities;*

*(C) an assessment of the extent and success of any joint research and development activities under subsection (c)(1)(C);*

*(D) a description of any joint experimentation activities under subsection (c)(1)(D);*

*(E) an assessment of the effects of limited communications bandwidth, and of limited access to electromagnetic spectrum, on recent military operations; and*

*(F) such recommendations for additional activities under this section as the Secretary considers appropriate to meet the purposes of this section.*

### SEC. 235. DEPARTMENT OF DEFENSE STRATEGY FOR MANAGEMENT OF ELECTROMAGNETIC SPECTRUM.

*(a) In General.—The Secretary of Defense shall—*

*(1) in accordance with subsection (b), develop a strategy for the Department of Defense for the management of the electromagnetic spectrum to improve spectrum access and high-bandwidth connectivity to military assets; and*

*(2) in accordance with subsection (c), communicate with civilian departments and agencies of the Federal Government in the development of the strategy identified in paragraph (1).*

*(b) Strategy for Department of Defense Spectrum Management.—(1) Not later than September 1, 2004, the Board shall develop a strategy for the Department of Defense for the management of the electromagnetic spectrum in order to ensure the development and use of spectrum-efficient technologies to facilitate the availability of adequate spectrum for network-centric warfare. The strategy shall include specific timelines, metrics, plans for implementation, including the implementation of technologies for the efficient use of spectrum, and proposals for program funding.*

*(2) In developing the strategy, the Board shall consider and take into account the research and development program carried out under section 234.*

*(3) The Board shall assist in updating the strategy developed under paragraph (1) on a biennial basis to address changes in circumstances.*

*(4) The Board shall communicate with other departments and agencies of the Federal Government in the development of the strategy described in subsection (a)(1), including representatives of the military departments, the Federal Communications Commission, the National Telecommunications and Information Administration, the Department of Homeland Security, the Federal Aviation Administration, and other appropriate departments and agencies of the Federal Government.*

*(c) Board Defined.—In this section, the term "Board" means the board of senior acquisition officials as defined in section 822.*

### SEC. 236. AMOUNT FOR COLLABORATIVE INFORMATION WARFARE NETWORK.

*(a) Availability of Funds.—(1) Of the amount authorized to be appropriated by section 201(2), for research and development, Navy, $8,000,000 may be available for the Collaborative Information Warfare Network.*

*(2) The total amount authorized to be appropriated under section 201(2) is hereby increased by $8,000,000.*

*(b) Offset.—Of the amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force, the amount is hereby reduced by $8,000,000.*

### SEC. 237. COPRODUCTION OF ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

*Of the total amount authorized to be appropriated under section 201 for ballistic missile defense, $115,000,000 may be available for coproduction of the Arrow ballistic missile defense system.*

## TITLE III—OPERATION AND MAINTENANCE

## Subtitle A—Authorization of Appropriations

### SEC. 301. OPERATION AND MAINTENANCE FUNDING.

*Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:*

*(1) For the Army, $21,668,004,000.*

*(2) For the Navy, $28,051,390,000.*

*(3) For the Marine Corps, $3,416,356,000.*

*(4) For the Air Force, $26,975,231,000.*

*(5) For Defense-wide activities, $15,739,047,000.*

*(6) For the Army Reserve, $1,952,009,000.*

*(7) For the Naval Reserve, $1,170,421,000.*

*(8) For the Marine Corps Reserve, $173,452,000.*

*(9) For the Air Force Reserve, $2,178,688,000.*

*(10) For the Army National Guard, $4,227,331,000.*

*(11) For the Air National Guard, $4,405,646,000.*

*(12) For the Defense Inspector General, $160,049,000.*

*(13) For the United States Court of Appeals for the Armed Forces, $10,333,000.*

*(14) For Environmental Restoration, Army, $396,018,000.*

*(15) For Environmental Restoration, Navy, $256,153,000.*

*(16) For Environmental Restoration, Air Force, $384,307,000.*

*(17) For Environmental Restoration, Defense-wide, $24,081,000.*

*(18) For Environmental Restoration, Formerly Used Defense Sites, $252,619,000.*

*(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.*

*(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $817,371,000.*

*(21) For Defense Health Program, $14,862,900,000.*

*(22) For Cooperative Threat Reduction programs, $450,800,000.*

### SEC. 302. WORKING CAPITAL FUNDS.

*Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:*

*(1) For the Defense Working Capital Funds, $1,661,307,000.*

*(2) For the National Defense Sealift Fund, $1,062,762,000.*

### SEC. 303. ARMED FORCES RETIREMENT HOME.

*There is hereby authorized to be appropriated for fiscal year 2004 from the Armed Forces Retirement Home Trust Fund the sum of $65,279,000 for the operation of the Armed Forces Retirement Home, including the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.*

## Subtitle B—Program Requirements, Restrictions, and Limitations

### SEC. 311. EMERGENCY AND MORALE COMMUNICATIONS PROGRAMS.

*(a) Armed Forces Emergency Services.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be made available to the American Red Cross to fund the Armed Forces Emergency Services.*

*(b) Department of Defense Morale Telecommunications Program.—(1) As soon as possible after the date of enactment of this Act, the Secretary of Defense shall establish and carry out a program to provide, wherever practicable,*

*prepaid phone cards, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who are directly supporting military operations in Iraq or Afghanistan (as determined by the Secretary) to enable them to make telephone calls to family and friends in the United States without cost to the member.*

*(2) The value of the benefit provided by paragraph (1) shall not exceed $40 per month per person.*

*(3) The program established by paragraph (1) shall terminate on September 30, 2004.*

*(4) In carrying out the program under this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private entities free or reduced-cost services, and programs to enhance morale and welfare. In addition, and notwithstanding any limitation on the expenditure or obligation of appropriated amounts, the Secretary may use available funds appropriated to or for the use of the Department of Defense that are not otherwise obligated or expended to carry out the program.*

*(5) The Secretary may accept gifts and donations in order to defray the costs of the program. Such gifts and donations may be accepted from foreign governments; foundations or other charitable organizations, including those organized or operating under the laws of a foreign country; and any source in the private sector of the United States or a foreign country.*

*(6) The Secretary shall work with telecommunications providers to facilitate the deployment of additional telephones for use in calling the United States under the program as quickly as practicable, consistent with the timely provision of telecommunications benefits of the program, the Secretary should carry out this subsection in a manner that allows for competition in the provision of such benefits.*

*(7) The Secretary shall not take any action under this subsection that would compromise the military objectives or mission of the Department of Defense.*

### *SEC. 312. COMMERCIAL IMAGERY INDUSTRIAL BASE.*

*(a) Limitation.—Not less than ninety percent of the total amount authorized to be appropriated under this title for the acquisition, processing, and licensing of commercial imagery, including amounts authorized to be appropriated under this title for experimentation related to commercial imagery, shall be used for the following purposes:*

*(1) To acquire space-based imagery from commercial sources.*

*(2) To support the development of next-generation commercial imagery satellites.*

*(b) Report.—(1) Not later than March 1, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken and to be taken by the Secretary to implement the President's commercial remote sensing policy. The Secretary shall consult with the Director of Central Intelligence in preparing the report.*

*(2) The report under paragraph (1) shall include an assessment of the following matters:*

*(A) The sufficiency of the policy, the funding for fiscal year 2004 for the procurement of imagery from commercial sources, and the funding planned in the future-years defense program for the procurement of imagery from commercial sources to sustain a viable commercial imagery industrial base in the United States.*

*(B) The extent to which the United States policy and programs relating to the procurement of imagery from commercial sources are sufficient to ensure that imagery is available to the Department of Defense from United States commercial firms to timely meet the needs of the Department of Defense for the imagery.*

### *SEC. 313. INFORMATION OPERATIONS SUSTAINMENT FOR LAND FORCES READINESS OF ARMY RESERVE.*

*(a) Increase in Authorization of Appropriations for Army Reserve.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $3,000,000.*

*(b) Availability for Information Operations Sustainment.—(1) Of the amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve, as increased by subsection (a), $3,000,000 may be available for Information Operations (Account #19640) for Land Forces Readiness-Information Operations Sustainment.*

*(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.*

*(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $3,000,000.*

### *SEC. 314. SUBMITTAL OF SURVEY ON PERCHLORATE CONTAMINATION AT DEPARTMENT OF DEFENSE SITES.*

*(a) Submittal of Perchlorate Survey.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress the 2001 survey to identify the potential for perchlorate contamination at all active and closed Department of Defense sites that was prepared by the United States Air Force Research Laboratory, Aerospace Expeditionary Force Technologies Division, Tyndall Air Force Base and Applied Research Associates.*

*(b) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—*

*(1) the Committee on Environment and Public Works of the Senate; and*

*(2) the Committee on Energy and Commerce of the House of Representatives.*

## *Subtitle C—Environmental Provisions*

### *SEC. 321. GENERAL DEFINITIONS APPLICABLE TO FACILITIES AND OPERATIONS.*

*(a) General Definitions Applicable to Facilities and Operations.—Section 101 of title 10, United States Code, is amended—*

*(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and*

*(2) by inserting after subsection (d) the following new subsection (e):*

*"(e) Facilities and Operations.—The following definitions relating to facilities and operations shall apply in this title:*

*"(1)(A) The term 'military munitions' means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.*

*"(B) The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, except that the term does include nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.*

*"(2) The term 'operational range' means a range under the jurisdiction, custody, or control of the Secretary concerned that—*

*"(A) is used for range activities; or*

*"(B) is not currently used for range activities, but is still considered by the Secretary concerned to be a range and has not been put to a new use that is incompatible with range activities.*

*"(3) The term 'range' means a designated land or water area that is set aside, managed, and used for range activities. The term includes firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, and buffer zones with restricted access and exclusionary areas. The term also includes airspace areas designated for military use according to regulations and procedures established by the Federal Aviation Administration such as special use airspace areas, military training routes, and other associated airspace.*

*"(4) The term 'range activities' means—*

*"(A) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and*

*"(B) the training of military personnel in the use and handling of military munitions, other ordnance, and weapons systems.*

*"(5) The term 'unexploded ordnance' means military munitions that—*

*"(A) have been primed, fused, armed, or otherwise prepared for action;*

*"(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and*

*"(C) remain unexploded either by malfunction, design, or any other cause.".*

*(b) Conforming Amendments.—Section 2710(e) of such title is amended by striking paragraphs (3), (5), and (9) and redesignating paragraphs (4), (6), (7), (8), and (10) as paragraphs (3), (4), (5), (6), and (7), respectively.*

### *SEC. 322. MILITARY READINESS AND CONSERVATION OF PROTECTED SPECIES.*

*(a) In General.—Part III of subtitle A of title 10, United States Code, is amended by inserting after chapter 101 the following new chapter:*

### "CHAPTER 101A—READINESS AND RANGE PRESERVATION

*"Sec.*

*"2020. Military readiness and conservation of protected species.*

### *"§2020. Military readiness and conservation of protected species*

*"(a) Limitation on Designation of Critical Habitat.—The Secretary of the Interior may not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary of the Interior determines in writing that—*

*"(1) the management activities identified in the plan will effectively conserve the threatened species and endangered species within the lands or areas covered by the plan; and*

*"(2) the plan provides assurances that adequate funding will be provided for such management activities.*

*"(b) Construction With Consultation Requirement.—Nothing in subsection (a) may be construed to affect the requirement to consult under section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1536(a)(2)) with respect to an agency action (as that term is defined in that section).".*

*(b) CLERICAL AMENDMENTS.—The table of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle, are each amended by inserting after the item relating to chapter 101 the following new item:*

***"101A. Readiness and Range Preservation .............................................. 2020".***

### *SEC. 323. ARCTIC AND WESTERN PACIFIC ENVIRONMENTAL TECHNOLOGY COOPERATION PROGRAM.*

*(a) IN GENERAL.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:*

***"§2350m. Arctic and Western Pacific Environmental Technology Cooperation Program***

*"(a) AUTHORITY TO CONDUCT PROGRAM.—The Secretary of Defense may, with the concurrence of the Secretary of State, conduct on a cooperative basis with countries located in the Arctic and Western Pacific regions a program of environmental activities provided for in subsection (b) in such regions. The program shall be known as the 'Arctic and Western Pacific Environmental Technology Cooperation Program'.*

*"(b) PROGRAM ACTIVITIES.—(1) Except as provided in paragraph (3), activities under the program under subsection (a) may include cooperation and assistance among elements of the Department of Defense and military departments or relevant agencies of other countries on activities that contribute to the demonstration of environmental technology.*

*"(2) Activities under the program shall be consistent with the requirements of the Cooperative Threat Reduction program.*

*"(3) Activities under the program may not include activities for purposes prohibited under section 1403 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960).*

*"(c) LIMITATION ON FUNDING FOR PROJECTS OTHER THAN RADIOLOGICAL PROJECTS.—Not more than 10 percent of the amount made available for the program under subsection (a) in any fiscal year may be available for projects under the program other than projects on radiological matters.*

*"(d) ANNUAL REPORT.—(1) Not later than March 1, 2004, and each year thereafter, the Secretary of Defense shall submit to Congress a report on activities under the program under subsection (a) during the preceding fiscal year.*

*"(2) The report on the program for a fiscal year under paragraph (1) shall include the following:*

*"(A) A description of the activities carried out under the program during that fiscal year, including a separate description of each project under the program.*

*"(B) A statement of the amounts obligated and expended for the program during that fiscal year, set forth in aggregate and by project.*

*"(C) A statement of the life cycle costs of each project, including the life cycle costs of such project as of the end of that fiscal year and an estimate of the total life cycle costs of such project upon completion of such project.*

*"(D) A statement of the participants in the activities carried out under the program during that fiscal year, including the elements of the Department of Defense and the military departments or agencies of other countries.*

*"(E) A description of the contributions of the military departments and agencies of other countries to the activities carried out under the program during that fiscal year, including any financial or other contributions to such activities.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that subchapter is amended by adding at the end the following new item:*

*"2350m. Arctic and Western Pacific Environmental Technology Cooperation Program.".*

### *SEC. 324. PARTICIPATION IN WETLAND MITIGATION BANKS IN CONNECTION WITH MILITARY CONSTRUCTION PROJECTS.*

*(a) AUTHORITY TO PARTICIPATE.—Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:*

***"§2697. Participation in wetland mitigation banks***

*"(a) AUTHORITY TO PARTICIPATE.—In the case of a military construction project that results, or may result, in the destruction of or impacts to wetlands, the Secretary concerned may make one or more payments to a wetland mitigation banking program or consolidated user site (also referred to as an 'in-lieu-fee' program) meeting the requirement of subsection (b) in lieu of creating a wetland on Federal property as mitigation for the project.*

*"(b) APPROVAL OF PROGRAM OR SITE REQUIRED.—The Secretary concerned may make a payment to a program or site under subsection (a) only if the program or site is approved in accordance with the Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks or the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 10 of the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403).*

*"(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated for a military construction project for which a payment is authorized by subsection (a) may be utilized for purposes of making the payment.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:*

*"2697. Participation in wetland mitigation banks.".*

### *SEC. 325. EXTENSION OF AUTHORITY TO USE ENVIRONMENTAL RESTORATION ACCOUNT FUNDS FOR RELOCATION OF A CONTAMINATED FACILITY.*

*Section 2703(c)(2) of title 10, United States Code, is amended by striking "September 30, 2003" and inserting "September 30, 2006".*

### *SEC. 326. APPLICABILITY OF CERTAIN PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS TO RESTORATION ADVISORY BOARDS.*

*Section 2705(d)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:*

*"(C)(i) Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), relating to publication in the Federal Register of notices of meetings of advisory committees, shall not apply to any meeting of a restoration advisory board under this subsection, but a restoration advisory board shall publish timely notice of each meeting of the restoration advisory board in a local newspaper of general circulation.*

*"(ii) No limitation under any provision of law or regulations on the total number of advisory committees (as that term is defined in section 3(2) of the Federal Advisory Committee Act) in existence at any one time shall operate to limit the number of restoration advisory boards in existence under this subsection at any one time.".*

### *SEC. 327. EXPANSION OF AUTHORITIES ON USE OF VESSELS .STRICKEN FROM THE NAVAL VESSEL REGISTER FOR EXPERIMENTAL PURPOSES.*

*(a) EXPANSION OF AUTHORITIES.—Subsection (b) of section 7306a of title 10, United States Code, is amended to read as follows:*

*"(b) STRIPPING AND ENVIRONMENTAL REMEDIATION OF VESSELS.—(1) Before using a vessel for experimental purposes pursuant to subsection (a), the Secretary shall carry out such stripping of the vessel as is practicable and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes.*

*"(2) Material and equipment stripped from a vessel under paragraph (1) may be sold by the contractor or by a sales agent approved by the Secretary.*

*"(3) Amounts received as proceeds from the stripping of a vessel pursuant to this subsection shall be credited to funds available for stripping and environmental remediation of other vessels for use for experimental purposes.".*

*(b) INCLUSION OF CERTAIN PURPOSES IN USE FOR EXPERIMENTAL PURPOSES.—That section is further amended by adding at the end the following new subsection:*

*"(c) USE FOR EXPERIMENTAL PURPOSES.—For purposes of this section, the term 'use for experimental purposes', in the case of a vessel, includes use of the vessel by the Navy in sink exercises and as a target.".*

### *SEC. 328. TRANSFER OF VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER FOR USE AS ARTIFICIAL REEFS.*

*(a) AUTHORITY TO MAKE TRANSFER.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7306a the following new section:*

***"§7306b. Vessels stricken from Naval Vessel Register; transfer by gift or otherwise for use as artificial reefs***

*"(a) AUTHORITY TO MAKE TRANSFER.—Subject to subsection (b), the Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof.*

*"(b) INAPPLICABILITY TO CERTAIN VESSELS.—The authority in subsection (a) shall not apply to vessels transferable to the Maritime Administration for disposal under section 548 of title 40.*

*"(c) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—*

*"(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (title II of Public Law 98–623; 33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if such use does not have an adverse effect on fishery resources (as that term is defined in section 2(14) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14)); and*

*"(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate, and local permits for using, siting, constructing, monitoring, and managing the vessel as an artificial reef.*

*"(d) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL REEF.—The Secretary shall ensure that the preparation of a vessel transferred under subsection (a) for use as an artificial reef is conducted in accordance with—*

*"(1) the environmental best management practices developed pursuant to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 16 U.S.C. 1220 note); and*

*"(2) any applicable environmental laws.*

*"(e) COST SHARING.—The Secretary may share with the recipient of a vessel transferred under subsection (a) any costs associated with transferring the vessel under that subsection, including costs of the preparation of the vessel under subsection (d).*

*"(f) NO LIMITATION ON NUMBER OF VESSELS TRANSFERABLE TO PARTICULAR RECIPIENT.—A State, Commonwealth, or possession of the United States, or any municipal corporation or*

*political subdivision thereof, may be the recipient of more than one vessel transferred under subsection (a).*

*"(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with a transfer authorized by subsection (a) as the Secretary considers appropriate.*

*"(h) Construction.—Nothing in this section shall be construed to establish a preference for the use as artificial reefs of vessels stricken from the Naval Vessel Register in lieu of other authorized uses of such vessels, including the domestic scrapping of such vessels, or other disposals of such vessels, under this chapter or other applicable authority.".*

*(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306a the following new item:*

*"7306b. Vessels stricken from Naval Vessel Register; transfer by gift or otherwise for use as artificial reefs.".*

### *SEC. 329. SALVAGE FACILITIES.*

*(a) Facilities To Include Environmental Protection Equipment.—Section 7361(a) of title 10, United States Code, is amended—*

*(1) by inserting "(1)" before "The Secretary"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) For purposes of this section, salvage facilities shall include equipment and gear utilized to prevent, abate, or minimize damage to the environment arising from salvage activities.".*

*(b) Claims To Include Compensation for Environmental Protection.—Section 7363 of such title is amended—*

*(1) by inserting "(a) Authority To Settle Claims.—" before "The Secretary"; and*

*(2) by adding at the end the following new subsection:*

*"(b) Environmental Protection Services.—A claim for salvage services covered by subsection (a) may include, in addition to a claim for such salvage services, a claim for compensation for services to prevent, abate, or minimize damage to the environment arising from such salvage services.".*

### *SEC. 330. TASK FORCE ON RESOLUTION OF CONFLICT BETWEEN MILITARY TRAINING AND ENDANGERED SPECIES PROTECTION AT BARRY M. GOLDWATER RANGE, ARIZONA.*

*(a) Purpose.—The purpose of this section is to facilitate the determination of effective means of resolving the current conflict between the dual objectives at Barry M. Goldwater Range, Arizona, of the full utilization of live ordnance delivery areas for military training and the protection of endangered species.*

*(b) Task Force.—The Secretary of Defense shall establish a task force to determine and assess various means of enabling full use of the live ordnance delivery areas at Barry M. Goldwater Range while also protecting endangered species that are present at Barry M. Goldwater Range.*

*(c) Composition.—(1) The task force established under subsection (b) shall be composed of the following:*

*(A) The Air Force range officer, who shall serve as chair of the task force.*

*(B) The range officer at Barry M. Goldwater Range.*

*(C) The commander of Luke Air Force Base, Arizona.*

*(D) The commander of Marine Corps Air Station, Yuma, Arizona.*

*(E) The Director of the United States Fish and Wildlife Service.*

*(F) The manager of the Cabeza Prieta National Wildlife Refuge, Arizona.*

*(G) A representative of the Department of Game and Fish of the State of Arizona, as selected by the Secretary in consultation with the Governor of the State of Arizona.*

*(H) A representative of a wildlife interest group in the State of Arizona, as selected by the Secretary in consultation with wildlife interest groups in the State of Arizona.*

*(I) A representative of an environmental interest group (other than a wildlife interest group) in the State of Arizona, as selected by the Secretary in consultation with environmental interest groups in the State of Arizona.*

*(2) The chair of the task force may secure for the task force the services of such experts with respect to the duties of the task force under subsection (d) as the chair considers advisable to carry out such duties.*

*(d) Duties.—The task force established under subsection (b) shall—*

*(1) assess the effects of the presence of endangered species on military training activities in the live ordnance delivery areas at Barry M. Goldwater Range and in any other areas of the range that are adversely effected by the presence of endangered species;*

*(2) determine various means of addressing any significant adverse effects on military training activities on Barry M. Goldwater Range that are identified pursuant to paragraph (1); and*

*(3) determine the benefits and costs associated with the implementation of each means identified under paragraph (2).*

*(e) Report.—Not later than February 28, 2005, the task force under subsection (b) shall submit to Congress a report on its activities under this section. The report shall include—*

*(1) a description of the assessments and determinations made under subsection (d);*

*(2) such recommendations for legislative and administrative action as the task force considers appropriate; and*

*(3) an evaluation of the utility of task force proceedings as a means of resolving conflicts between military training objectives and protection of endangered species at other military training and testing ranges.*

### *SEC. 331. PUBLIC HEALTH ASSESSMENT OF EXPOSURE TO PERCHLORATE.*

*(a) Epidemiological Study of Exposure to Perchlorate.—*

*(1) In General.—The Secretary of Defense shall provide for an independent epidemiological study of exposure to perchlorate in drinking water.*

*(2) Performance of Study.—The Secretary shall provide for the performance of the study under this subsection through the Centers for Disease Control, the National Institutes of Health, or another Federal entity with experience in environmental toxicology selected by the Secretary for purposes of the study.*

*(3) Matters To Be Included in Study.—In providing for the study under this subsection, the Secretary shall require the Federal entity conducting the study—*

*(A) to assess the incidence of thyroid disease and measurable effects of thyroid function in relation to exposure to perchlorate;*

*(B) to ensure that the study is of sufficient scope and scale to permit the making of meaningful conclusions of the measurable public health threat associated with exposure to perchlorate, especially the threat to sensitive subpopulations; and*

*(C) to study thyroid function, including measurements of urinary iodine and thyroid hormone levels, in a sufficient number of pregnant women, neonates, and infants exposed to perchlorate in drinking water and match measurements of perchlorate levels in the drinking water of each study participant in order to permit the development of meaningful conclusions on the public health threat to individuals exposed to perchlorate.*

*(4) Report on Study.—The Secretary shall require the Federal entity conducting the study under this subsection to submit to the Secretary a report on the study not later than June 1, 2005.*

*(b) Review of Effects of Perchlorate on Endocrine System.—*

*(1) In General.—The Secretary shall provide for an independent review of the effects of perchlorate on the human endocrine system.*

*(2) Performance of Review.—The Secretary shall provide for the performance of the review under this subsection through the Centers for Disease Control, the National Institutes of Health, or another appropriate Federal research entity with experience in human endocrinology selected by the Secretary for purposes of the review. The Secretary shall ensure that the panel conducting the review is composed of individuals with expertise in human endocrinology.*

*(3) Matters To Be Included in Review.—In providing for the review under this subsection, the Secretary shall require the Federal entity conducting the review to assess—*

*(A) available data on human exposure to perchlorate, including clinical data and data on exposure of sensitive subpopulations, and the levels at which health effects were observed; and*

*(B) available data on other substances that have endocrine effects similar to perchlorate to which the public is frequently exposed.*

*(4) Report on Review.—The Secretary shall require the Federal entity conducting the review under this subsection to submit to the Secretary a report on the review not later than June 1, 2005.*

## *Subtitle D—Reimbursement Authorities*

### *SEC. 341. REIMBURSEMENT OF RESERVE COMPONENT MILITARY PERSONNEL ACCOUNTS FOR PERSONNEL COSTS OF SPECIAL OPERATIONS RESERVE COMPONENT PERSONNEL ENGAGED IN LANDMINES CLEARANCE.*

*(a) Reimbursement.—Funds authorized to be appropriated under section 301 for Overseas Humanitarian, Disaster, and Civic Aid programs shall be available for transfer to reserve component military personnel accounts in reimbursement of such accounts for the pay and allowances paid to reserve component personnel under the United States Special Operations Command for duty performed by such personnel in connection with training and other activities relating to the clearing of landmines for humanitarian purposes.*

*(b) Maximum Amount.—Not more than $5,000,000 may be transferred under subsection (a).*

*(c) Merger of Transferred Funds.—Funds transferred to an account under this section shall be merged with other sums in the account and shall be available for the same period and purposes as the sums with which merged.*

*(d) Relationship to Other Transfer Authority.—The transfer authority under this section is in addition to the transfer authority provided under section 1001.*

### *SEC. 342. REIMBURSEMENT OF RESERVE COMPONENT ACCOUNTS FOR COSTS OF INTELLIGENCE ACTIVITIES SUPPORT PROVIDED BY RESERVE COMPONENT PERSONNEL.*

*(a) In General.—Chapter 1805 of title 10, United States Code, is amended by inserting after section 18502 the following new section:*

***"§ 18503. Reserve components: reimbursement for costs of intelligence support provided by reserve component personnel***

*"(a) Reimbursement Requirement.—The Secretary of Defense or the Secretary concerned shall transfer to the appropriate reserve component military personnel account or operation and maintenance account the amount necessary to reimburse such account for the costs charged that account for military pay and allowances or operation and maintenance associated with the*

*performance of duty described in subsection (b) by reserve component personnel.*

*"(b) REIMBURSABLE COSTS.—The transfer requirement under subsection (a) applies with respect to the performance of duty in providing intelligence support, counterintelligence support, or intelligence and counterintelligence support to a combatant command, Defense Agency, or joint intelligence activity, including any activity or program within the National Foreign Intelligence Program, the Joint Military Intelligence Program, or the Tactical Intelligence and Related Activities Program.*

*"(c) SOURCES OF REIMBURSEMENTS.—Funds available for operation and maintenance for the Army, Navy, Air Force, or Marine Corps, for a combatant command, or for a Defense Agency shall be available for transfer under this section to military personnel accounts and operation and maintenance accounts of the reserve components.*

*"(d) DISTRIBUTION TO UNITS.—Amounts reimbursed to an account for duty performed by reserve component personnel shall be distributed to the lowest level unit or other organization of such personnel that administers and is accountable for the appropriated funds charged the costs that are being reimbursed.*

*"(e) MERGER OF TRANSFERRED FUNDS.—Funds transferred to an account under this section shall be merged with other sums in the account and shall be available for the same period and purposes as the sums with which merged.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended inserting after the item relating to section 18502 the following new item:*

*"18503. Reserve components: reimbursement for costs of intelligence support provided by reserve component personnel.".*

### SEC. 343. REIMBURSEMENT RATE FOR SERVICES PROVIDED TO THE DEPARTMENT OF STATE.

*(a) AUTHORITY.—Subsection (a) of section 2642 of title 10, United States Code, is amended—*

*(1) by striking "(a) AUTHORITY" and all that follows through "the Department of Defense" and inserting the following:*

*"(a) AUTHORITY.—The Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military airlift services provided by a component of the Department of Defense as follows:*

*"(1) Military airlift services provided"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) Military airlift services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet unfulfilled requirements of the Department of State for armored motor vehicles in such foreign country.".*

*(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:*

***"§2642. Reimbursement rate for airlift services provided to Central Intelligence Agency or Department of State".***

*(2) The item relating to such section in the table of sections at the beginning of chapter 157 of such title is amended to read as follows:*

*"2642. Reimbursement rate for airlift services provided to Central Intelligence Agency or Department of State.".*

*(c) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—For any fee charged to the Department of Defense by the Department of State during any year for the maintenance, upgrade, or construction of United States diplomatic facilities, the Secretary of Defense may remit to the Department of State only that portion, if any, of the total amount of the fee charged for such year that exceeds the total amount of the costs incurred by the Department of Defense for providing goods and services to the Department of State during such year.*

## Subtitle E—Defense Dependents Education

### SEC. 351. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

*(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2004.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.*

*(b) NOTIFICATION.—Not later than June 30, 2004, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2004 of—*

*(1) that agency's eligibility for the assistance; and*

*(2) the amount of the assistance for which that agency is eligible.*

*(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).*

*(d) AVAILABILITY OF FUNDS FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY THE BROOKS AIR FORCE BASE DEMONSTRATION PROJECT.—(1) Up to $500,000 of the funds made available under subsection (a) may (notwithstanding the limitation in such subsection) also be used for making basic support payments for fiscal year 2004 to a local educational agency that received a basic support payment for fiscal year 2003, but whose payment for fiscal year 2004 would be reduced because of the conversion of Federal property to non-Federal ownership under the Department of Defense infrastructure demonstration project at Brooks Air Force Base, Texas, and the amounts of such basic support payments for fiscal year 2004 shall be computed as if the converted property were Federal property for purposes of receiving the basic support payments for the period in which the demonstration project is ongoing, as documented by the local educational agency to the satisfaction of the Secretary.*

*(2) If funds are used as authorized under paragraph (1), the Secretary shall reduce the amount of any basic support payment for fiscal year 2004 for a local educational agency described in paragraph (1) by the amount of any revenue that the agency received during fiscal year 2002 from the Brooks Development Authority as a result of the demonstration project described in paragraph (1).*

*(e) DEFINITIONS.—In this section:*

*(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).*

*(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).*

*(3) The term "basic support payment" means a payment authorized under section 8003(b(1)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).*

### SEC. 352. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

*Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).*

## Subtitle F—Other Matters

### SEC. 361. SALE OF DEFENSE INFORMATION SYSTEMS AGENCY SERVICES TO CONTRACTORS PERFORMING THE NAVY-MARINE CORPS INTRANET CONTRACT.

*(a) AUTHORITY.—The Secretary of Defense may sell working-capital funded services of the Defense Information Systems Agency to a person outside the Department of Defense for use by that person in the performance of the Navy-Marine Corps Intranet contract.*

*(b) REIMBURSEMENT.—The Secretary shall require reimbursement of each working-capital fund for the costs of services sold under subsection (a) that were paid for out of such fund. The sources of the reimbursement shall be the appropriation or appropriations funding the Navy-Marine Corps Intranet contract or any cash payments received by the Secretary for the services.*

*(c) NAVY-MARINE CORPS INTRANET CONTRACT DEFINED.—In this section, the term "Navy-Marine Corps Intranet contract" has the meaning given such term in section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–217)).*

### SEC. 362. USE OF THE DEFENSE MODERNIZATION ACCOUNT FOR LIFE CYCLE COST REDUCTION INITIATIVES.

*(a) FUNDS AVAILABLE FOR DEFENSE MODERNIZATION ACCOUNT.—Section 2216 of title 10, United States Code is amended—*

*(1) by striking subsection (c);*

*(2) by redesignating subsection (b) as subsection (c); and*

*(3) by inserting after subsection (a) the following new subsection (b):*

*"(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense Modernization Account shall consist of the following:*

*"(1) Amounts appropriated to the Defense Modernization Account for the costs of commencing projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsections (c)(1)(B)(iii) out of savings derived from such projects.*

*"(2) Amounts transferred to the Defense Modernization Account under subsection (c).".*

*(b) START-UP FUNDING.—Subsection (d) of such section is amended—*

*(1) by striking "available from the Defense Modernization Account pursuant to subsection (f) or (g)" and inserting "in the Defense Modernization Account";*

*(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and*

*(3) by inserting after "purposes:" the following new paragraph (1):*

*"(1) For paying the costs of commencing any project that, in accordance with criteria prescribed by the Secretary of Defense, is undertaken by the Secretary of a military department or the head of a Defense Agency or other element of the Department of Defense to reduce the life cycle cost of a new or existing system.".*

*(c) REIMBURSEMENT OF ACCOUNT OUT OF SAVINGS.—(1) Paragraph (1)(B) of subsection (c) of such section, as redesignated by subsection (a)(2), is amended by adding at the end the following new clause:*

*"(iii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more*

*projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).".*

*(2) Paragraph (2) of such subsection is amended by inserting ", other than funds referred to in paragraph subparagraph (B)(iii) of such paragraph," after "Funds referred to in paragraph (1)".*

*(d) REGULATIONS.—Subsection (h) of such section is amended—*

*(1) by inserting "(1)" after "COMPTROLLER.—"; and*

*(2) by adding at the end the following new paragraph (2):*

*"(2) The regulations prescribed under paragraph (1) shall, at a minimum, provide for—*

*"(A) the submission of proposals by the Secretaries concerned or heads of Defense Agencies or other elements of the Department of Defense to the Comptroller for the use of Defense Modernization Account funds for purposes set forth in subsection (d);*

*"(B) the use of a competitive process for the evaluation of such proposals and the selection of programs, projects, and activities to be funded out of the Defense Modernization Account from among those proposed for such funding; and*

*"(C) the calculation of—*

*"(i) the savings to be derived from projects described in subsection (d)(1) that are to be funded out of the Defense Modernization Account; and*

*"(ii) the amounts to be reimbursed to the Defense Modernization Account out of such savings pursuant to subsection (c)(1)(B)(iii).".*

*(e) ANNUAL REPORT.—Subsection (i) of such section is amended—*

*(1) by striking "(i) QUARTERLY REPORTS.—(1) Not later than 15 days after the end of each calendar quarter," and inserting "(i) ANNUAL REPORT.—(1) Not later than 15 days after the end of each fiscal year,"; and*

*(2) in paragraph (1), by striking "quarter" in subparagraphs (A), (B), and (C), and inserting "fiscal year".*

*(f) EXTENSION OF AUTHORITY.—Section 912(c)(1) of the National Defense Authorization Act for Fiscal Year 1996 is amended—*

*(1) by striking "section 2216(b)" and inserting "section 2216(c)"; and*

*(2) by striking "September 30, 2003" and inserting "September 30, 2006".*

### SEC. 363. EXEMPTION OF CERTAIN FIREFIGHTING SERVICE CONTRACTS FROM PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING FUNCTIONS.

*Section 2465(b) of title 10, United States Code, is amended—*

*(1) in paragraph (2), by striking "or" at the end;*

*(2) in paragraph (3), by striking the period and inserting "; or"; and*

*(3) by adding at the end the following new paragraph:*

*"(4) to a contract for the performance for firefighting functions if the contract is—*

*"(A) for a period of one year or less; and*

*"(B) for the performance of firefighting functions that would otherwise be performed by military firefighters who are otherwise deployed.".*

### SEC. 364. TECHNICAL AMENDMENT RELATING TO TERMINATION OF SACRAMENTO ARMY DEPOT, SACRAMENTO, CALIFORNIA.

*Section 2466 of title 10, United States Code, is amended by striking subsection (d).*

### SEC. 365. EXCEPTION TO COMPETITION REQUIREMENT FOR WORKLOADS PREVIOUSLY PERFORMED BY DEPOT-LEVEL ACTIVITIES.

*Section 2469 of title 10, United States Code, is amended—*

*(1) in subsection (b), by inserting ", except as provided in subsection (c)" before the period at the end;*

*(2) by redesignating subsection (c) as subsection (d); and*

*(3) by inserting after subsection (b) the following new subsection (c):*

*"(c) EXCEPTION.—Subsection (a) does not apply to any depot-level maintenance and repair workload that is performed by a public-private partnership under section 2474(b) of this title consisting of a depot-level activity and a private entity.".*

### SEC. 366. SUPPORT FOR TRANSFERS OF DECOMMISSIONED VESSELS AND SHIPBOARD EQUIPMENT.

*(a) IN GENERAL.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:*

### "§ 7316. Support for transfers of decommissioned vessels and shipboard equipment

*"(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Navy may provide an entity described in subsection (b) with assistance in support of a transfer of a vessel or shipboard equipment described in such subsection that is being executed under section 2572, 7306, 7307, or 7545 of this title, or under any other authority.*

*"(b) COVERED VESSELS AND EQUIPMENT.—The authority under this section applies—*

*"(1) in the case of a decommissioned vessel that—*

*"(A) is owned and maintained by the Navy, is located at a Navy facility, and is not in active use; and*

*"(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the vessel; and*

*"(2) in the case of any shipboard equipment that—*

*"(A) is on a vessel described in paragraph (1)(A); and*

*"(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the equipment.*

*"(c) REIMBURSEMENT.—The Secretary may require a recipient of assistance under subsection (a) to reimburse the Navy for amounts expended by the Navy in providing the assistance.*

*"(d) DEPOSIT OF FUNDS RECEIVED.—Funds received in a fiscal year under subsection (c) shall be credited to the appropriation available for such fiscal year for operation and maintenance for the office of the Navy managing inactive ships, shall be merged with other sums in the appropriation that are available for such office, and shall be available for the same purposes and period as the sums with which merged.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:*

*"7316. Support for transfers of decommissioned vessels and shipboard equipment.".*

### SEC. 367. AIRCRAFT FOR PERFORMANCE OF AERIAL REFUELING MISSION.

*(a) RESTRICTION ON RETIREMENT OF KC-135E AIRCRAFT.—The Secretary of the Air Force shall ensure that the number of KC-135E aircraft of the Air Force that are retired in fiscal year 2004, if any, does not exceed 12 such aircraft.*

*(b) REQUIRED ANALYSIS.—Not later than March 1, 2004, the Secretary of the Air Force shall submit to the congressional defense committees an analysis of alternatives for meeting the aerial refueling requirements that the Air Force has the mission to meet. The Secretary shall provide for the analysis to be performed by a federally funded research and development center or another entity independent of the Department of Defense.*

### SEC. 368. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

*(a) INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT.—The Randolph-Sheppard Act does not apply to any contract described in subsection (b) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.*

*(b) JAVITS-WAGNER-O'DAY CONTRACTS.—Subsection (a) applies to any contract for the operation of a Department of Defense facility described in subsection (c) that was entered into before the date of the enactment of this Act with a nonprofit agency for the blind or an agency for other severely handicapped in compliance with section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48) and is in effect on such date.*

*(c) COVERED FACILITIES.—The Department of Defense facilities referred to in subsection (b) are as follows:*

*(1) A military troop dining facility.*

*(2) A military mess hall.*

*(3) Any similar dining facility operated for the purpose of providing meals to members of the Armed Forces.*

*(d) ENACTMENT OF POPULAR NAME AS SHORT TITLE.—The Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly known as the "Randolph-Sheppard Act") (20 U.S.C. 107 et seq.), is amended by adding at the end the following new section:*

*"SEC. 11. This Act may be cited as the 'Randolph-Sheppard Act'.".*

*(e) DEMONSTRATION PROJECTS FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES.—(1) The Secretary of Defense may carry out two demonstration projects for the purpose of providing opportunities for participation by severely disabled individuals in the industries of manufacturing and information technology.*

*(2) Under each demonstration project, the Secretary may enter into one or more contracts with an eligible contractor for each of fiscal years 2004 and 2005 for the acquisition of—*

*(A) aerospace end items or components; or*

*(B) information technology products or services.*

*(3) The items, components, products, or services authorized to be procured under paragraph (2) include—*

*(A) computer numerically-controlled machining and metal fabrication;*

*(B) computer application development, testing, and support in document management, microfilming, and imaging; and*

*(C) any other items, components, products, or services described in paragraph (2) that are not described in subparagraph (A) or (B).*

*(4) In this subsection:*

*(A) The term "eligible contractor" means a business entity operated on a for-profit or nonprofit basis that—*

*(i) employs not more than 500 individuals;*

*(ii) employs severely disabled individuals at a rate that averages not less than 33 percent of its total workforce over a period prescribed by the Secretary;*

*(iii) employs each severely disabled individual in its workforce generally on the basis of 40 hours per week;*

*(iv) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) to the employees who are severely disabled individuals;*

*(v) provides for its employees health insurance and a retirement plan comparable to those provided for employees by business entities of similar size in its industrial sector or geographic region; and*

*(vi) has or can acquire a security clearance as necessary.*

*(B) The term "severely disabled individual" means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a severe physical or mental impairment that seriously limits one or more functional capacities.*

### SEC. 369. REPEAL OF CALENDAR YEAR LIMITATIONS ON USE OF COMMISSARY STORES BY CERTAIN RESERVES AND OTHERS.

*(a) MEMBERS OF THE READY RESERVE.—Section 1063(a) of title 10, United States Code, is amended by striking the period at the end of the first sentence and all that follows and inserting "in that calendar year.".*

*(b) CERTAIN OTHER PERSONS.—Section 1064 of such title is amended by striking "for 24 days each calendar year".*

## TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

### Subtitle A—Active Forces

### SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

*The Armed Forces are authorized strengths for active duty personnel as of September 30, 2004, as follows:*

*(1) The Army, 480,000.*

*(2) The Navy, 373,800.*

*(3) The Marine Corps, 175,000.*

*(4) The Air Force, 359,300.*

### SEC. 402. INCREASED MAXIMUM PERCENTAGE OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AUTHORIZED TO BE SERVING IN GRADES ABOVE BRIGADIER GENERAL AND REAR ADMIRAL (LOWER HALF).

*Section 525(a) of title 10, United States Code, is amended by striking "50 percent" both places it appears and inserting "55 percent".*

### SEC. 403. EXTENSION OF CERTAIN AUTHORITIES RELATING TO MANAGEMENT OF NUMBERS OF GENERAL AND FLAG OFFICERS IN CERTAIN GRADES.

*(a) SENIOR JOINT OFFICER POSITIONS.—Section 604(c) of title 10, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".*

*(b) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—Section 525(b)(5)(C) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".*

*(c) AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—Section 526(b)(3) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".*

### Subtitle B—Reserve Forces

### SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

*(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2004, as follows:*

*(1) The Army National Guard of the United States, 350,000.*

*(2) The Army Reserve, 205,000.*

*(3) The Naval Reserve, 85,900.*

*(4) The Marine Corps Reserve, 39,600.*

*(5) The Air National Guard of the United States, 107,030.*

*(6) The Air Force Reserve, 75,800.*

*(7) The Coast Guard Reserve, 10,000.*

*(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—*

*(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and*

*(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.*

*Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.*

### SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

*Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2004, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:*

*(1) The Army National Guard of the United States, 25,599.*

*(2) The Army Reserve, 14,374.*

*(3) The Naval Reserve, 14,384.*

*(4) The Marine Corps Reserve, 2,261.*

*(5) The Air National Guard of the United States, 12,191.*

*(6) The Air Force Reserve, 1,660.*

### SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

*The minimum number of military technicians (dual status) as of the last day of fiscal year 2004 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:*

*(1) For the Army Reserve, 6,699.*

*(2) For the Army National Guard of the United States, 24,589.*

*(3) For the Air Force Reserve, 9,991.*

*(4) For the Air National Guard of the United States, 22,806.*

### SEC. 414. FISCAL YEAR 2004 LIMITATIONS ON NON-DUAL STATUS TECHNICIANS.

*(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2004, may not exceed the following:*

*(A) For the Army National Guard of the United States, 1,600.*

*(B) For the Air National Guard of the United States, 350.*

*(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2004, may not exceed 895.*

*(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2004, may not exceed 90.*

*(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given the term in section 10217(a) of title 10, United States Code.*

### Subtitle C—Other Matters Relating to Personnel Strengths

### SEC. 421. REVISION OF PERSONNEL STRENGTH AUTHORIZATION AND ACCOUNTING PROCESS.

*(a) ANNUAL AUTHORIZATION OF STRENGTHS.—Subsection (a) of section 115 of title 10, United States Code, is amended to read as follows:*

*"(a) Congress shall authorize personnel strength levels for each fiscal year for each of the following:*

*"(1) The average strength for each of the armed forces (other than the Coast Guard) for active-duty personnel who are to be paid from funds appropriated for active-duty personnel.*

*"(2) The average strength for each of the armed forces (other than the Coast Guard) for active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel.*

*"(3) The average strength for the Selected Reserve of each reserve component of the armed forces.".*

*(b) LIMITATION ON USE OF FUNDS.—Subsection (b) of such section is amended by striking "end strength" in paragraphs (1) and (2) and inserting "strength".*

*(c) AUTHORITY OF SECRETARY OF DEFENSE TO VARY STRENGTHS.—Subsection (c) of such section is amended—*

*(1) by striking "end strength" each place it appears and inserting "strength";*

*(2) in paragraph (1), by striking "subsection (a)(1)(A)" and inserting "subsection (a)(1)";*

*(3) in paragraph (2), by striking "subsection (a)(1)(B)" and inserting "subsection (a)(2)"; and*

*(4) in paragraph (3), by striking "subsection (a)(2)" and inserting "subsection (a)(3)".*

*(d) COUNTING PERSONNEL.—Subsection (d) of such section is amended—*

*(1) by striking "end-strengths authorized pursuant to subsection (a)(1)" and inserting "strengths authorized pursuant to paragraphs (1) and (2) of subsection (a)"; and*

*(2) in paragraph (9)(B), by striking "subsection (a)(1)(A)" and inserting "subsection (a)(1)".*

*(e) NAVY STRENGTH WHEN AUGMENTED BY COAST GUARD.—Subsection (e) of such section is amended by striking "subsection (a)(1)" and inserting "paragraphs (1) and (2) of subsection (a)".*

*(f) AUTHORITY OF SECRETARIES OF MILITARY DEPARTMENTS TO VARY STRENGTHS.—Subsection (f) of such section is amended—*

*(1) by striking "end strength" both places it appears and inserting "strength"; and*

*(2) by striking "subsection (a)(1)(A)" in the first sentence and inserting "subsection (a)(1)".*

*(g) AUTHORIZATION OF STRENGTHS FOR DUAL STATUS MILITARY TECHNICIANS.—Subsection (g) of such section is amended by striking "end strength" both places it appears and inserting "strength".*

*(h) CONFORMING AMENDMENTS.—(1) Section 168(f)(1)(A) of title 10, United States Code, is amended by striking "end strength for active-duty personnel authorized pursuant to section 115(a)(1)" and inserting "strengths for active-duty personnel authorized pursuant to paragraphs (1) and (2) of section 115(a)".*

*(2) Section 691(f) of such title is amended by striking "section 115(a)(1)" and inserting "paragraphs (1) and (2) of section 115(a)".*

*(3) Section 3201(b) of such title is amended by striking "section 115(a)(1)" and inserting "paragraphs (1) and (2) of section 115(a)".*

*(4)(A) Section 10216 of such title is amended—*

*(i) by striking "end strengths" in subsections (b)(1) and (c)(1) and inserting "strengths"; and*

*(ii) by striking "end strength" each place it appears in subsection (c)(2)(A) and inserting "strength".*

*(B) The heading for subsection (c) is amended by striking "END".*

*(5) Section 12310(c)(4) of such title is amended by striking "end strength authorizations required by section 115(a)(1)(B) and 115(a)(2)" and inserting "strength authorizations required by paragraphs (2) and (3) of section 115(a)".*

*(6) Section 16132(d) of such title is amended by striking "end strength required to be authorized each year by section 115(a)(1)(B)" in the second sentence and inserting "strength required to be authorized each year by section 115(a)(2)".*

*(7) Section 112 of title 32, United States Code, is amended—*

*(A) in subsection (e)—*

*(i) in the heading, by striking "END-STRENGTH" and inserting "STRENGTH"; and*

*(ii) by striking "end strength" and inserting "strength";*

*(B) in subsection (f)—*

*(i) in the heading, by striking "END STRENGTH" and inserting "STRENGTH"; and*

*(ii) in paragraph (2), by striking "end strength" and inserting "strength"; and*

*(C) in subsection (g)(1), by striking "end strengths" and inserting "strengths".*

#### *SEC. 422. EXCLUSION OF RECALLED RETIRED MEMBERS FROM CERTAIN STRENGTH LIMITATIONS DURING PERIOD OF WAR OR NATIONAL EMERGENCY.*

*(a) ANNUAL AUTHORIZED END STRENGTHS.—Section 115(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:*

*"(12) Members of the armed forces ordered to active duty under section 688 of this title during any period of war declared by Congress or any period of national emergency declared by Congress or the President in which members of a reserve component are serving on active duty pursuant to an order to active duty under section 12301 or 12302 of this title, for so long as the members ordered to active duty under such section 688 continue to serve on active duty during the period of the war or national emergency and the one-year period beginning on the date of the termination of the war or national emergency, as the case may be."*

*(b) STRENGTH LIMITATIONS FOR OFFICERS IN PAY GRADES O–4 THROUGH O–6.—Section 523(b) of such title is amended by adding at the end the following new paragraph:*

*"(8) Officers ordered to active duty under section 688 of this title during any period of war declared by Congress or any period of national emergency declared by Congress or the President in which members of a reserve component are serving on active duty pursuant to an order to active duty under section 12301 or 12302 of this title, for so long as the members ordered to active duty under such section 688 continue to serve on active duty during the period of the war or national emergency and the one-year period beginning on the date of the termination of the war or national emergency, as the case may be.".*

### *Subtitle D—Authorization of Appropriations*

#### *SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.*

*There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2004 a total of $99,194,206,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2004.*

## *TITLE V—MILITARY PERSONNEL POLICY*

### *Subtitle A—Officer Personnel Policy*

#### *SEC. 501. RETENTION OF HEALTH PROFESSIONS OFFICERS TO FULFILL ACTIVE DUTY SERVICE OBLIGATIONS FOLLOWING FAILURE OF SELECTION FOR PROMOTION.*

*(a) IN GENERAL.—Subsection (a) of section 632 of title 10, United States Code, is amended—*

*(1) by striking "or" at the end of paragraph (2);*

*(2) by striking the period at the end of paragraph (3) and inserting "; or"; and*

*(3) by adding at the end the following new paragraph:*

*"(4) if the officer is a health professions officer described in subsection (c) who, as of the date of discharge determined for the officer under paragraph (1), has not completed an active duty service obligation incurred by the officer under section 2005, 2114, 2123, or 2603 of this title, be retained on active duty until the officer completes the active duty service for which obligated, unless the Secretary concerned determines that the completion of the service obligation by the officer is not in the best interest of the Army, Navy, Air Force, or Marine Corps, as the case may be.".*

*(b) COVERED HEALTH PROFESSIONS OFFICERS.—Section 632 of such title is amended by adding at the end the following new subsection:*

*"(c) HEALTH PROFESSIONS OFFICERS.—Subsection (a)(4) applies to the following officers:*

*"(1) A medical officer.*

*"(2) A dental officer.*

*"(3) Any other officer appointed in a medical skill (as defined in regulations prescribed by the Secretary of Defense).".*

*(c) TECHNICAL AMENDMENT.—Subsection (a)(3) of such section is amended by striking "clause (1)" and inserting "paragraph (1)".*

#### *SEC. 502. ELIGIBILITY FOR APPOINTMENT AS CHIEF OF ARMY VETERINARY CORPS.*

*(a) APPOINTMENT FROM AMONG MEMBERS OF THE CORPS.—Section 3084 of title 10, United States Code, is amended by inserting after "The Chief of the Veterinary Corps of the Army" the following: "shall be appointed from among officers of the Veterinary Corps. The Chief of the Veterinary Corps".*

*(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to appointments of the Chief of the Veterinary Corps of the Army that are made on or after the date of the enactment of this Act.*

### *Subtitle B—Reserve Component Personnel Policy*

#### *SEC. 511. EXPANDED AUTHORITY FOR USE OF READY RESERVE IN RESPONSE TO TERRORISM.*

*Section 12304(b)(2) of title 10, United States Code, is amended by striking "catastrophic".*

#### *SEC. 512. STREAMLINED PROCESS FOR CONTINUING OFFICERS ON THE RESERVE ACTIVE-STATUS LIST.*

*(a) CONTINUATION.—Section 14701 of title 10, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1), by striking "by a selection board convened under section 14101(b) of this title" and inserting "under regulations prescribed under subsection (b)";*

*(B) in paragraph (6), by striking "as a result of the convening of a selection board under section 14101(b) of this title";*

*(2) by striking subsections (b) and (c); and*

*(3) by redesignating subsection (d) as subsection (b).*

*(b) CONFORMING AMENDMENTS.—Subsection (b) of section 14101 of such title is amended—*

*(1) by striking paragraph (1); and*

*(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.*

#### *SEC. 513. NATIONAL GUARD OFFICERS ON ACTIVE DUTY IN COMMAND OF NATIONAL GUARD UNITS.*

*(a) CONTINUATION IN STATE STATUS.—Subsection (a) of section 325 of title 32, United States Code, is amended—*

*(1) by striking "(a) Each" and inserting "(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) An officer of the Army National Guard of the United States or the Air National Guard of the United States is not relieved from duty in the National Guard of his State or Territory, or of Puerto Rico or the District of Columbia, under paragraph (1) while serving on active duty in command of a National Guard unit if—*

*"(A) the President authorizes such service in both duty statuses; and*

*"(B) the Governor of his State or Territory or Puerto Rico, or the Commanding General of the District of Columbia National Guard, as the case may be, consents to such service in both duty statuses.".*

*(b) FORMAT AMENDMENT.—Subsection (b) of such section is amended by inserting "RETURN TO STATE STATUS.—" after "(b)".*

### *Subtitle C—Revision of Retirement Authorities*

#### *SEC. 521. PERMANENT AUTHORITY TO REDUCE THREE-YEAR TIME-IN-GRADE REQUIREMENT FOR RETIREMENT IN GRADE FOR OFFICERS IN GRADES ABOVE MAJOR AND LIEUTENANT COMMANDER.*

*Section 1370(a)(2)(A) of title 10, United States Code, is amended by striking "during the period beginning on October 1, 2002, and ending on December 31, 2003" and inserting "after September 30, 2002".*

### *Subtitle D—Education and Training*

#### *SEC. 531. INCREASED FLEXIBILITY FOR MANAGEMENT OF SENIOR LEVEL EDUCATION AND POST-EDUCATION ASSIGNMENTS.*

*(a) REPEAL OF POST-EDUCATION JOINT DUTY ASSIGNMENTS REQUIREMENT.—Subsection (d) of section 663 of title 10, United States Code, is repealed.*

*(b) REPEAL OF MINIMUM DURATION REQUIREMENT FOR PRINCIPAL COURSE OF INSTRUCTION AT THE JOINT FORCES STAFF COLLEGE.—Subsection (e) of such section is repealed.*

#### *SEC. 532. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR CADETS AND MIDSHIPMEN RECEIVING ROTC SCHOLARSHIPS.*

*(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended—*

*(1) in paragraph (1), by striking the first sentence and inserting the following: "The Secretary concerned may provide financial assistance described in paragraph (3) for a student appointed as a cadet or midshipman by the Secretary under subsection (a).";*

*(2) in paragraph (2), by striking "as described in paragraph (1)" and inserting "as described in paragraph (3)"; and*

*(3) by adding at the end the following new paragraphs:*

*"(3)(A) The financial assistance provided for a student under this subsection shall be the payment of one of the two sets of expenses selected by the Secretary, as follows:*

*"(i) Tuition, fees, books, and laboratory expenses.*

*"(ii) Expenses for room and board and any other necessary expenses imposed by the student's educational institution for the academic program in which the student is enrolled, which may include any of the expenses described in clause (i).*

*"(B) The total amount of the financial assistance provided for a student for an academic year under clause (ii) of subparagraph (A) may not exceed the total amount of the financial assistance that would otherwise have been provided for the student for that academic year under clause (i) of such subparagraph.*

*"(4) The Secretary of the military department concerned may provide for the payment of all expenses in the Secretary's department of administering the financial assistance program under this section, including the payment of expenses described in paragraph (3).".*

*(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended to read as follows:*

*"(c)(1) The Secretary of the Army may provide financial assistance described in paragraph (2) for a student appointed as a cadet by the Secretary under subsection (a).*

*"(2)(A) The financial assistance provided for a student under this subsection shall be the payment of one of the two sets of expenses selected by the Secretary concerned, as follows:*

*"(i) Tuition, fees, books, and laboratory expenses.*

*"(ii) Expenses for room and board and any other necessary expenses imposed by the student's educational institution for the academic*

*program in which the student is enrolled, which may include any of the expenses described in clause (i).*

*"(B) The total amount of the financial assistance provided for a student for an academic year under clause (ii) of subparagraph (A) may not exceed the total amount of the financial assistance that would otherwise have been provided for the student for that academic year under clause (i) of such subparagraph.*

*"(3) The Secretary may provide for the payment of all expenses in the Department of the Army for administering the financial assistance program under this section, including the payment of expenses described in paragraph (2).".*

### *SEC. 533. ELIGIBILITY AND COST REIMBURSEMENT REQUIREMENTS FOR PERSONNEL TO RECEIVE INSTRUCTION AT THE NAVAL POSTGRADUATE SCHOOL.*

*(a) Expanded Eligibility for Enlisted Personnel.—Subsection (a)(2) of section 7045 of title 10, United States Code, is amended—*

*(1) by inserting "(A)" after "(2)";*

*(2) by striking "this paragraph" in the second sentence and inserting "this subparagraph"; and*

*(3) by adding at the end the following new subparagraphs:*

*"(B) The Secretary may permit an enlisted member of the armed forces to receive instruction in an executive level seminar at the Naval Postgraduate School.*

*"(C) The Secretary may permit an eligible enlisted member of the armed forces to receive instruction in connection with pursuit of a program of education in information assurance as a participant in the Information Security Scholarship program under chapter 112 of this title. To be eligible for instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.".*

*(b) Payment of Costs for Participants in Information Security Scholarship Program.—Subsection (b) of such section is amended—*

*(1) by inserting "(1)" after "(b)"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) The requirements for payment of costs and fees under paragraph (1) shall be subject to such exceptions as the Secretary of Defense may prescribe for members of the armed forces who receive instruction at the Postgraduate School in connection with pursuit of a degree or certification as participants in the Information Security Scholarship program under chapter 112 of this title.".*

*(3) The Department of the Army, the Department of the Navy, and the Department of Transportation shall bear the cost of the instruction at the Air Force Institute of Technology that is received by officers detailed for that instruction by the Secretaries of the Army, Navy, and Transportation, respectively. In the case of an enlisted member permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).*

*(c) Conforming Amendments.—Paragraph (1) of such subsection (b), as redesignated by subsection (b)(1) of this section, is amended—*

*(A) in the first sentence, by striking "officers" and inserting "members of the armed forces who are"; and*

*(B) in the second sentence—*

*(i) by inserting "under subsection (a)(2)(A)" after "at the Postgraduate School"; and*

*(ii) by striking "(taking into consideration the admission of enlisted members on a space-available basis)".*

### *SEC. 534. ACTIONS TO ADDRESS SEXUAL MISCONDUCT AT THE SERVICE ACADEMIES.*

*(a) Policy on Sexual Misconduct.—(1) The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall, under guidance prescribed by the Secretary of Defense, direct the Superintendent of the United States Military Academy, the Superintendent of the United States Naval Academy, and the Superintendent of the United States Air Force Academy, respectively, to prescribe a policy on sexual misconduct applicable to the personnel of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, respectively.*

*(2) The policy on sexual misconduct prescribed for an academy shall specify the following:*

*(A) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve academy personnel.*

*(B) Procedures that a cadet or midshipman, as the case may be, should follow in the case of an occurrence of sexual misconduct, including—*

*(i) a specification of the person or persons to whom the alleged offense should be reported;*

*(ii) a specification of any other person whom the victim should contact; and*

*(iii) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.*

*(C) Procedures for disciplinary action in cases of alleged criminal sexual assault involving academy personnel.*

*(D) Any other sanctions authorized to be imposed in a substantiated case of misconduct involving academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.*

*(E) Required training on the policy for all academy personnel, including the specific training required for personnel who process allegations of sexual misconduct involving academy personnel.*

*(b) Annual Assessment.—(1) The Secretary of Defense, through the Secretaries of the military departments, shall direct each Superintendent to conduct at the academy under the jurisdiction of the Superintendent an assessment in each academy program year to determine the effectiveness of the academy's policies, training, and procedures on sexual misconduct to prevent criminal sexual misconduct involving academy personnel.*

*(2) For the assessment for each of the 2004, 2005, 2006, 2007, and 2008 academy program years, the Superintendent of the academy shall conduct a survey of all academy personnel—*

*(A) to measure—*

*(i) the incidence, in such program year, of sexual misconduct events, on or off the academy reservation, that have been reported to officials of the academy; and*

*(ii) the incidence, in such program year, of sexual misconduct events, on or off the academy reservation, that have not been reported to officials of the academy; and*

*(B) to assess the perceptions of academy personnel on—*

*(i) the policies, training, and procedures on sexual misconduct involving academy personnel;*

*(ii) the enforcement of such policies;*

*(iii) the incidence of sexual misconduct involving academy personnel in such program year; and*

*(iv) any other issues relating to sexual misconduct involving academy personnel.*

*(c) Annual Report.—(1) The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall direct the Superintendent of the United States Military Academy, the Superintendent of the United States Naval Academy, and the Superintendent of the United States Air Force Academy, respectively, to submit to the Secretary a report on sexual misconduct involving academy personnel for each of the 2004, 2005, 2006, 2007, and 2008 academy program years.*

*(2) The annual report for an academy under paragraph (1) shall contain, for the academy program year covered by the report, the following matters:*

*(A) The number of sexual assaults, rapes, and other sexual offenses involving academy personnel that have been reported to academy officials during the program year, and the number of the reported cases that have been substantiated.*

*(B) The policies, procedures, and processes implemented by the Secretary of the military department concerned and the leadership of the academy in response to sexual misconduct involving academy personnel during the program year.*

*(C) In the report for the 2004 academy program year, a discussion of the survey conducted under subsection (b), together with an analysis of the results of the survey and a discussion of any initiatives undertaken on the basis of such results and analysis.*

*(D) In the report for each of the subsequent academy program years, the results of the annual survey conducted in such program year under subsection (b).*

*(E) A plan for the actions that are to be taken in the following academy program year regarding prevention of and response to sexual misconduct involving academy personnel.*

*(3) The Secretary of a military department shall transmit the annual report on an academy under this subsection, together with the Secretary's comments on the report, to the Secretary of Defense and the Board of Visitors of the academy.*

*(4) The Secretary of Defense shall transmit the annual report on each academy under this subsection, together with the Secretary's comments on the report to, the Committees on Armed Services of the Senate and the House of Representatives.*

*(5) The report for the 2004 academy program year for an academy shall be submitted to the Secretary of the military department concerned not later than one year after the date of the enactment of this Act.*

*(6) In this subsection, the term "academy program year" with respect to a year, means the academy program year that ends in that year.*

### *SEC. 535. FUNDING OF EDUCATION ASSISTANCE ENLISTMENT INCENTIVES TO FACILITATE NATIONAL SERVICE THROUGH DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.*

*(a) In General.—Subsection (j) of section 510 of title 10, United States Code, is amended to read as follows:*

*"(j) Funding.—(1) Amounts for the payment of incentives under paragraphs (1) and (2) of subsection (e) shall be derived from amounts available to the Secretary of the military department concerned for the payment of pay, allowances and other expenses of the members of the armed force concerned.*

*"(2) Amounts for the payment of incentives under paragraphs (3) and (4) of subsection (e) shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.".*

*(b) Conforming Amendments.—Section 2006(b) of such title is amended—*

*(1) in paragraph (1), by inserting "paragraphs (3) and (4) of section 510(e) and" after "Department of Defense benefits under"; and*

*(2) in paragraph (2), by adding at the end the following new subparagraph:*

*"(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.".*

### *Subtitle E—Military Justice*

### *SEC. 551. EXTENDED LIMITATION PERIOD FOR PROSECUTION OF CHILD ABUSE CASES IN COURTS-MARTIAL.*

*Section 843(b) of title 10, United States Code (article 43 of the Uniform Code of Military Justice) is amended—*

*(1) by redesignating paragraph (2) as paragraph (3); and*

*(2) by inserting after paragraph (1) the following new paragraph (2):*

*"(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received before the child reaches the age of 25 years by an officer exercising summary court-martial jurisdiction with respect to that person.*

*"(B) In subparagraph (A), the term 'child abuse offense' means an act that involves sexual or physical abuse of a person under 16 years of age and constitutes any of the following offenses:*

*"(i) Rape or carnal knowledge in violation of section 920 of this title (article 120).*

*"(ii) Maiming in violation of section 924 of this title (article 124).*

*"(iii) Sodomy in violation of section 925 of this title (article 126).*

*"(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).*

*"(v) Indecent assault, assault with intent to commit murder, voluntary manslaughter, rape, or sodomy, or indecent acts or liberties with a child in violation of section 934 of this title (article 134).".*

### *SEC. 552. CLARIFICATION OF BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.*

*Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—*

*(1) in subsection (a)(2), by striking "is in excess of" and inserting "is equal to or exceeds"; and*

*(2) in subsection (b)—*

*(A) in paragraph (1), by striking subparagraph (A) and inserting the following:*

*"(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the lesser of—*

*"(i) the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State; or*

*"(ii) the blood alcohol content limit specified in paragraph (3)."; and*

*(B) by striking "maximum" in paragraphs (1)(B) and (3).*

### *Subtitle F—Other Matters*

### *SEC. 561. HIGH-TEMPO PERSONNEL MANAGEMENT AND ALLOWANCE.*

*(a) DEPLOYMENT MANAGEMENT.—Section 991(a) of title 10, United States Code, is amended to read as follows:*

*"(a) MANAGEMENT RESPONSIBILITIES.—(1) The deployment (or potential deployment) of a member of the armed forces shall be managed to ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed out of the preceding 365 days would exceed the maximum number of deployment days prescribed for the purposes of this section by the Under Secretary of Defense for Personnel and Readiness. The maximum number of deployment days so prescribed may not exceed 220 days.*

*"(2) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if such deployment, or continued deployment, is approved by—*

*"(A) a member of the Senior Executive Service designated by the Secretary of Defense to do so; or*

*"(B) the first officer in the member's chain of command who is—*

*"(i) a general officer or, in the case of the Navy, an officer in a grade above captain; or*

*"(ii) a colonel or, in the case of the Navy, a captain who is recommended for promotion to brigadier general or rear admiral, respectively, in a report of a selection board convened under section 611(a) or 14101(a) of this title that has been approved by the President.".*

*(b) HIGH-TEMPO ALLOWANCE.—(1) Subsection (a) of section 436 of title 37, United States Code, is amended to read as follows:*

*"(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned shall pay a high-tempo allowance to a member of the armed forces under the Secretary's jurisdiction for the following months:*

*"(1) Each month during which the member is deployed and has, as of any day during that month, been deployed—*

*"(A) for at least the number of days out of the preceding 730 days that is prescribed for the purpose of this subparagraph by the Under Secretary of Defense for Personnel and Readiness, except that the number of days so prescribed may not be more than 401 days; or*

*"(B) at least the number of consecutive days that is prescribed for the purpose of this subparagraph by the Under Secretary of Defense for Personnel and Readiness, except that the number of days so prescribed may not be more than 191 days.*

*"(2) Each month that includes a day on which the member serves on active duty pursuant to a call or order to active duty for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of title 10, if such period begins within one year after the date on which the member was released from previous service on active duty for a period of more than 30 days under a call or order issued under such a provision of law.".*

*(2) Subsection (c) of such section is amended to read as follows:*

*"(c) MONTHLY AMOUNT.—The Secretary of Defense shall prescribe the amount of the monthly allowance payable to a member under this section. The amount may not exceed $1,000.".*

*(3) Such section is further amended by adding at the end the following new subsection:*

*"(g) SERVICE IN EXEMPTED DUTY POSITIONS.—(1) Except as provided in paragraph (2), a member is not eligible for the high-tempo allowance under this section while serving in a duty position designated as exempt for the purpose of this subsection by the Secretary concerned with the approval of the Under Secretary of Defense for Personnel and Readiness.*

*"(2) A designation of a duty position as exempt under paragraph (1) does not terminate the eligibility for the high-tempo allowance under this section of a member serving in the duty position at the time the designation is made.*

*"(h) PAYMENT FROM OPERATION AND MAINTENANCE FUNDS.—The monthly allowance payable to a member under this section shall be paid from appropriations available for operation and maintenance for the armed force in which the member serves.".*

*(4) Such section is further amended—*

*(A) in subsections (d) and (e), by striking "high-deployment per diem" and inserting "high-tempo allowance"; and*

*(B) in subsection (f)—*

*(i) by striking "per diem" and inserting "allowance"; and*

*(ii) by striking "day on which" and inserting "month during which".*

*(5)(A) The heading of such section is amended to read as follows:*

***"§436. High-tempo allowance: lengthy or numerous deployments; frequent mobilizations".***

*(B) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:*

*"436. High-tempo allowance: lengthy or numerous deployments; frequent mobilizations.".*

*(c) MODIFIED REPORTING REQUIREMENT.—Section 487(b)(5) of title 10, United States Code, is amended to read as follows:*

*"(5) For each of the armed forces, the description shall indicate the number of members who received the high-tempo allowance under section 436 of title 37, the total number of months for which the allowance was paid to members, and the total amount spent on the allowance.".*

### *SEC. 562. ALTERNATE INITIAL MILITARY SERVICE OBLIGATION FOR PERSONS ACCESSED UNDER DIRECT ENTRY PROGRAM.*

*(a) REQUIREMENT FOR PROGRAM.—The Secretary of Defense shall carry out a direct entry program for persons with critical military skills who enter the Armed Forces for an initial period of service in the Armed Forces.*

*(b) ELIGIBLE PERSONS.—The Secretary shall prescribe the eligibility requirements for entering the Armed Forces under the direct entry program carried out under this section. The Secretary may limit eligibility as the Secretary determines appropriate to meet the needs of the Armed Forces.*

*(c) CRITICAL MILITARY SKILLS.—The Secretary shall designate the military skills that are critical military skills for the purposes of this section.*

*(d) INITIAL SERVICE OBLIGATION.—(1) The Secretary shall prescribe the period of initial service in the Armed Forces that is to be required of a person entering the Armed Forces under the direct entry program. The period may not be less than three years.*

*(2) Section 651(a) of title 10, United States Code, shall not apply to a person who enters the Armed Forces under the direct entry program.*

*(e) REPORTS.—(1) Not later than 30 days after the direct entry program commences under this section, the Secretary shall submit a report on the establishment of the program to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:*

*(A) A list of the military skills designated as critical military skills for the purposes of this section.*

*(B) The eligibility requirements for entering the Armed Forces under the program.*

*(C) A detailed discussion of the other features of the program.*

*(2) Whenever the list of critical military skills is revised, the Secretary shall promptly submit the revised list to the committees referred to in paragraph (1).*

*(3) The Secretary shall submit a final report on the program to Congress not later than 180 days after the date on which the direct entry program terminates under subsection (f). The report shall include the Secretary's assessment of the effectiveness of the direct entry program for recruiting personnel with critical military skills for the Armed Forces.*

*(f) PERIOD OF PROGRAM.—The direct entry program under this section shall commence on October 1, 2003, and shall terminate on September 30, 2005.*

### SEC. 563. POLICY ON CONCURRENT DEPLOYMENT TO COMBAT ZONES OF BOTH MILITARY SPOUSES OF MILITARY FAMILIES WITH MINOR CHILDREN.

*(a) PUBLICATION OF POLICY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—*

*(1) prescribe the policy of the Department of Defense on concurrent deployment to a combat zone of both spouses of a dual-military family with one or more minor children; and*

*(2) transmit the policy to the Committees on Armed Services of the Senate and the House of Representatives.*

*(b) DUAL-MILITARY FAMILY DEFINED.—In this section, the term "dual-military family" means a family in which both spouses are members of the Armed Forces.*

### SEC. 564. ENHANCEMENT OF VOTING RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.

*(a) STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.—.(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—*

*(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and*

*(B) by inserting after subsection (b) the following new subsection (c):*

*"(c) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—*

*"(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—*

*"(A) solely on the grounds that the ballot lacked—*

*"(i) a notarized witness signature;*

*"(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');*

*"(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or*

*"(iv) an overseas postmark; or*

*"(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.*

*"(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.".*

*(2) The amendments made by paragraph (1) shall apply with respect to ballots described in section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act, as added by paragraph (1), that are submitted with respect to elections that occur after the date of the enactment of this Act.*

*(b) MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.—(1) Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—*

*(A) in paragraph (4), by striking "and" at the end;*

*(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and*

*(C) by adding at the end the following new paragraphs:*

*"(6) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and*

*"(7) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—*

*"(A) has registered to vote under this section; and*

*"(B) is eligible to vote in that election under State law.".*

*(2) The amendments made by paragraph (1) shall apply with respect to elections for Federal office that occur after the date of the enactment of this Act.*

*(c) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—*

*(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (11), respectively;*

*(2) by inserting after paragraph (6) the following new paragraph:*

*"(7) 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—*

*"(A) presents to the election official Department of Defense form 214 evidencing the individual's former status as such a voter, or any other official proof of such status;*

*"(B) is no longer such a voter; and*

*"(C) is otherwise qualified to vote in that election;"; and*

*(3) by inserting after paragraph (9), as so redesignated, the following new paragraph:*

*"(10) 'uniformed services voter' means—*

*"(A) a member of a uniformed service in active service;*

*"(B) a member of the merchant marine; and*

*"(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote; and".*

### SEC. 565. CERTAIN TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO HAVE COMMITTED DEPENDENT ABUSE.

*Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:*

*"(4)(A) If the Secretary concerned makes a determination described in subparagraph (B) with respect to the spouse or a dependent of a member described in that subparagraph and a request described in subparagraph (C) has been by the spouse or on behalf of such dependent, the Secretary may provide any benefit authorized for a member under paragraph (1) or (3) to the spouse or such dependent in lieu of providing such benefit to the member.*

*"(B) A determination described in this subparagraph is a determination by the commanding officer of a member that—*

*"(i) the member has committed a dependent-abuse offense against the spouse or a dependent of the member;*

*"(ii) a safety plan and counseling have been provided to the spouse or such dependent;*

*"(iii) the safety of the spouse or such dependent is at risk; and*

*"(iv) the relocation of the spouse or such dependent is advisable.*

*"(C) A request described in this subparagraph is a request by the spouse of a member, or by the parent of a dependent child in the case of a dependent child of a member, for relocation.*

*"(D) Transportation may be provided under this paragraph for household effects or a motor vehicle only if a written agreement of the member, or an order of a court of competent jurisdiction, gives possession of the effects or vehicle to the spouse or dependent of the member concerned.*

*"(E) In this paragraph, the term 'dependent-abuse offense' means an offense described in section 1059(c) of title 10.".*

## TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

### Subtitle A—Pay and Allowances

### SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2004.

*(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2004 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.*

*(b) INCREASE IN BASIC PAY.—Effective on January 1, 2004, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:*

*COMMISSIONED OFFICERS[1]*

*Years of service computed under section 205 of title 37, United States Code*

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| O-10[2] | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| O-9 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| O-8 | 7,751.10 | 8,004.90 | 8,173.20 | 8,220.60 | 8,430.30 |
| O-7 | 6,440.70 | 6,739.80 | 6,878.40 | 6,988.50 | 7,187.40 |
| O-6 | 4,773.60 | 5,244.30 | 5,588.40 | 5,588.40 | 5,609.70 |
| O-5 | 3,979.50 | 4,482.90 | 4,793.40 | 4,851.60 | 5,044.80 |
| O-4 | 3,433.50 | 3,974.70 | 4,239.90 | 4,299.00 | 4,545.30 |
| O-3[3] | 3,018.90 | 3,422.40 | 3,693.90 | 4,027.20 | 4,220.10 |
| O-2[3] | 2,608.20 | 2,970.60 | 3,421.50 | 3,537.00 | 3,609.90 |
| O-1[3] | 2,264.40 | 2,356.50 | 2,848.50 | 2,848.50 | 2,848.50 |

| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
|---|---|---|---|---|---|
| O-10[2] | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| O-9 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| O-8 | 8,781.90 | 8,863.50 | 9,197.10 | 9,292.80 | 9,579.90 |
| O-7 | 7,384.20 | 7,611.90 | 7,839.00 | 8,066.70 | 8,781.90 |
| O-6 | 5,850.00 | 5,882.10 | 5,882.10 | 6,216.30 | 6,807.30 |
| O-5 | 5,161.20 | 5,415.90 | 5,602.80 | 5,844.00 | 6,213.60 |
| O-4 | 4,809.30 | 5,137.80 | 5,394.00 | 5,571.60 | 5,673.60 |

### COMMISSIONED OFFICERS[1]—Continued

*Years of service computed under section 205 of title 37, United States Code*

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| O-3[3] | 4,431.60 | 4,568.70 | 4,794.30 | 4,911.30 | 4,911.30 |
| O-2[3] | 3,609.90 | 3,609.90 | 3,609.90 | 3,609.90 | 3,609.90 |
| O-1[3] | 2,848.50 | 2,848.50 | 2,848.50 | 2,848.50 | 2,848.50 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| O-10[2] | $0.00 | $12,524.70 | $12,586.20 | $12,847.80 | $13,303.80 |
| O-9 | 0.00 | 10,954.50 | 11,112.30 | 11,340.30 | 11,738.40 |
| O-8 | 9,995.70 | 10,379.10 | 10,635.30 | 10,635.30 | 10,635.30 |
| O-7 | 9,386.10 | 9,386.10 | 9,386.10 | 9,386.10 | 9,433.50 |
| O-6 | 7,154.10 | 7,500.90 | 7,698.30 | 7,897.80 | 8,285.40 |
| O-5 | 6,389.70 | 6,563.40 | 6,760.80 | 6,760.80 | 6,760.80 |
| O-4 | 5,733.00 | 5,733.00 | 5,733.00 | 5,733.00 | 5,733.00 |
| O-3[3] | 4,911.30 | 4,911.30 | 4,911.30 | 4,911.30 | 4,911.30 |
| O-2[3] | 3,609.50 | 3,609.50 | 3,609.50 | 3,609.50 | 3,609.50 |
| O-1[3] | 2,848.50 | 2,848.50 | 2,848.50 | 2,848.50 | 2,848.50 |

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code) is $14,634.20, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

### COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

*Years of service computed under section 205 of title 37, United States Code*

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| O-3E | $0.00 | $0.00 | $0.00 | $4,027.20 | $4,220.10 |
| O-2E | 0.00 | 0.00 | 0.00 | 3,537.00 | 3,609.90 |
| O-1E | 0.00 | 0.00 | 0.00 | 2,848.50 | 3,042.30 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| O-3E | $4,431.60 | $4,568.70 | $4,794.30 | $4,984.20 | $5,092.80 |
| O-2E | 3,724.80 | 3,918.60 | 4,068.60 | 4,180.20 | 4,180.20 |
| O-1E | 3,154.50 | 3,269.40 | 3,382.20 | 3,537.00 | 3,537.00 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| O-3E | $5,241.30 | $5,241.30 | $5,241.30 | $5,241.30 | $5,241.30 |
| O-2E | 4,180.20 | 4,180.20 | 4,180.20 | 4,180.20 | 4,180.20 |
| O-1E | 3,537.00 | 3,537.00 | 3,537.00 | 3,537.00 | 3,537.00 |

### WARRANT OFFICERS[1]

*Years of service computed under section 205 of title 37, United States Code*

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| W-5 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| W-4 | 3,119.40 | 3,355.80 | 3,452.40 | 3,547.20 | 3,710.40 |
| W-3 | 2,848.80 | 2,967.90 | 3,089.40 | 3,129.30 | 3,257.10 |
| W-2 | 2,505.90 | 2,649.00 | 2,774.10 | 2,865.30 | 2,943.30 |
| W-1 | 2,212.80 | 2,394.00 | 2,515.20 | 2,593.50 | 2,802.30 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| W-5 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| W-4 | 3,871.50 | 4,035.00 | 4,194.30 | 4,359.00 | 4,617.30 |
| W-3 | 3,403.20 | 3,595.80 | 3,786.30 | 3,988.80 | 4,140.60 |
| W-2 | 3,157.80 | 3,321.60 | 3,443.40 | 3,562.20 | 3,643.80 |
| W-1 | 2,928.30 | 3,039.90 | 3,164.70 | 3,247.20 | 3,321.90 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| W-5 | $0.00 | $5,360.70 | $5,544.30 | $5,728.80 | $5,914.20 |
| W-4 | 4,782.60 | 4,944.30 | 5,112.00 | 5,277.00 | 5,445.90 |
| W-3 | 4,291.80 | 4,356.90 | 4,424.10 | 4,570.20 | 4,716.30 |
| W-2 | 3,712.50 | 3,843.00 | 3,972.60 | 4,103.70 | 4,103.70 |
| W-1 | 3,443.70 | 3,535.80 | 3,535.80 | 3,535.80 | 3,535.80 |

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

### ENLISTED MEMBERS[1]

*Years of service computed under section 205 of title 37, United States Code*

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| E-9[2] | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| E-8 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| E-7 | 2,145.00 | 2,341.20 | 2,430.60 | 2,549.70 | 2,642.10 |
| E-6 | 1,855.50 | 2,041.20 | 2,131.20 | 2,218.80 | 2,310.00 |
| E-5 | 1,700.10 | 1,813.50 | 1,901.10 | 1,991.10 | 2,130.60 |
| E-4 | 1,558.20 | 1,638.30 | 1,726.80 | 1,814.10 | 1,891.50 |

ENLISTED MEMBERS[1]—Continued

Years of service computed under section 205 of title 37, United States Code

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| E-3 | 1,407.00 | 1,495.50 | 1,585.50 | 1,585.50 | 1,585.50 |
| E-2 | 1,337.70 | 1,337.70 | 1,337.70 | 1,337.70 | 1,337.70 |
| E-1[3] | 1,193.40 | 1,193.40 | 1,193.40 | 1,193.40 | 1,193.40 |
|  | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| E-9[2] | $0.00 | $3,769.20 | $3,854.70 | $3,962.40 | $4,089.30 |
| E-8 | 3,085.50 | 3,222.00 | 3,306.30 | 3,407.70 | 3,517.50 |
| E-7 | 2,801.40 | 2,891.10 | 2,980.20 | 3,139.80 | 3,219.60 |
| E-6 | 2,516.10 | 2,596.20 | 2,685.30 | 2,763.30 | 2,790.90 |
| E-5 | 2,250.90 | 2,339.70 | 2,367.90 | 2,367.90 | 2,367.90 |
| E-4 | 1,891.50 | 1,891.50 | 1,891.50 | 1,891.50 | 1,891.50 |
| E-3 | 1,585.50 | 1,585.50 | 1,585.50 | 1,585.50 | 1,585.50 |
| E-2 | 1,337.70 | 1,337.70 | 1,337.70 | 1,337.70 | 1,337.70 |
| E-1[3] | 1,193.40 | 1,193.40 | 1,193.40 | 1,193.40 | 1,193.40 |
|  | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| E-9[2] | $4,216.50 | $4,421.10 | $4,594.20 | $4,776.60 | $5,054.70 |
| E-8 | 3,715.50 | 3,815.70 | 3,986.40 | 4,081.20 | 4,314.30 |
| E-7 | 3,295.50 | 3,341.70 | 3,498.00 | 3,599.10 | 3,855.00 |
| E-6 | 2,809.80 | 2,809.80 | 2,809.80 | 2,809.80 | 2,809.80 |
| E-5 | 2,367.90 | 2,367.90 | 2,367.90 | 2,367.90 | 2,367.90 |
| E-4 | 1,891.50 | 1,891.50 | 1,891.50 | 1,891.50 | 1,891.50 |
| E-3 | 1,585.50 | 1,585.50 | 1,585.50 | 1,585.50 | 1,585.50 |
| E-2 | 1,337.70 | 1,337.70 | 1,337.70 | 1,337.70 | 1,337.70 |
| E-1[3] | 1,193.40 | 1,193.40 | 1,193.40 | 1,193.40 | 1,193.40 |

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, is $6,090.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] In the case of members in pay grade E-1 who have served less than 4 months on active duty, the rate of basic pay is $1,104.00.

### SEC. 602. REVISED ANNUAL PAY ADJUSTMENT PROCESS.

(a) Requirement for Annual Adjustment.—Subsection (a) of section 1009 of title 37, United States Code, is amended to read as follows:

"(a) Requirement for Annual Adjustment.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.".

(b) Effectiveness of Adjustment.—Subsection (b) of such section is amended by striking "shall—" and all that follows and inserting "shall have the force and effect of law.".

(c) Percentage of Adjustment.—Subsection (c) of such section is amended to read as follow:

"(c) Equal Percentage Increase for All Members.—(1) An adjustment made under this section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of 1 percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

"(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be one-half of 1 percentage point higher than the percentage that would otherwise be applicable under such paragraph.".

(d) Repeal of Allocation Authority.—Such section is further amended—

(1) by striking subsections (d), (e), and (g); and

(2) redesignating subsection (f) as subsection (d).

(e) Presidential Determination of Need for Alternative Pay Adjustment.—Such section, as amended by subsection (d), is further amended adding at the end the following new subsection:

"(e) Presidential Determination of Need for Alternative Pay Adjustment.—(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.

"(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

"(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government's ability to recruit and retain well-qualified persons for the uniformed services.".

(f) Definitions.—Such section, as amended by subsection (e), is further amended by adding at the end the following:

"(f) Definitions.—In this section:

"(1) The term 'ECI' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

"(2) The term 'base quarter' for any year is the 3-month period ending on September 30 of such year.".

### SEC. 603. COMPUTATION OF BASIC PAY RATE FOR COMMISSIONED OFFICERS WITH PRIOR ENLISTED OR WARRANT OFFICER SERVICE.

Section 203(d)(2) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking "enlisted member," and all that follows through the period and inserting "enlisted member."; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Service as a warrant officer, as an enlisted member, or as a warrant officer and an enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.".

### SEC. 604. PILOT PROGRAM OF MONTHLY SUBSISTENCE ALLOWANCE FOR NON-SCHOLARSHIP SENIOR ROTC MEMBERS COMMITTING TO CONTINUE ROTC PARTICIPATION AS SOPHOMORES.

(a) Authority.—Section 209 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) Non-Scholarship Senior ROTC Members Not in Advanced Training.—(1) A member of the Senior Reserve Officers' Training Corps described in subsection (b) is entitled to a monthly subsistence allowance at a rate prescribed under subsection (a).

"(2) To be entitled to receive a subsistence allowance under this subsection, a member must—

"(A) be a citizen of the United States;

"(B) enlist in an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary;

"(C) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the military department concerned, or his designated representative, to serve for the period required by the program;

"(D) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that he will serve in the armed forces for the period prescribed by the Secretary;

"(E) successfully complete the first year of a four-year Senior Reserve Officers' Training Corps course;

"(F) not be eligible for advanced training under section 2104 of title 10;

"(G) not be appointed under section 2107 of title 10; and

"(H) execute a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.

"(3) The first month for which a monthly subsistence allowance is payable to a member under this subsection shall be a month designated by the Secretary of the military department concerned that begins after the member satisfies the condition in subparagraph (E) of paragraph (2).

Payment of the subsistence allowance shall continue for as long as the member continues to meet the conditions in such paragraph and the member's obligations under the enlistment, contract, and agreement entered into as described in such paragraph. In no event, however, may a member receive the monthly subsistence allowance for more than 20 months.

"(4) In this subsection, the term 'program' means the Senior Reserve Officers' Training Corps of an armed force.

"(5) No subsistence allowance may be paid under this subsection with respect to a contract that is entered into as described in paragraph (2)(C) after December 31, 2006.".

(b) EFFECTIVE DATE.—Subsection (e) of section 209 of title 37, United States Code (as added by subsection (a)), shall take effect on January 1, 2004.

### SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR EACH MEMBER MARRIED TO ANOTHER MEMBER WITHOUT DEPENDENTS WHEN BOTH SPOUSES ARE ON SEA DUTY.

(a) ENTITLEMENT.—Section 403(f)(2)(C) of title 37, United States Code, is amended—

(1) in the first sentence, by striking "are jointly entitled to one basic allowance for housing" and inserting "are each entitled to a basic allowance for housing"; and

(2) by striking "The amount of the allowance" and all that follows and inserting "The amount of the allowance payable to a member under the preceding sentence shall be based on the without dependents rate for the pay grade of the member.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2003.

### SEC. 606. INCREASED RATE OF FAMILY SEPARATION ALLOWANCE.

(a) RATE.—Section 427(a)(1) of title 37, United States Code, is amended by striking "$100" and inserting "$250".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

## Subtitle B—Bonuses and Special and Incentive Pays

### SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

### SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

### SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

### SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

### SEC. 615. SPECIAL PAY FOR RESERVE OFFICERS HOLDING POSITIONS OF UNUSUAL RESPONSIBILITY AND OF CRITICAL NATURE.

(a) ELIGIBILITY.—Section 306 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting "under section 201 of this title, or the compensation under section 206 of this title," after "is entitled to the basic pay";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) In the case of an officer who is a member of a reserve component, special pay under subsection (a) shall be paid at the rate of 1/30 of the monthly rate authorized by that subsection for each day of the performance of duties described in that subsection.".

(b) LIMITATION.—Subsection (d) of such section, as redesignated by subsection (a)(2) of this section, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) Of the number of officers in the Selected Reserve of the Ready Reserve of an armed force who are not on active duty (other than for training), not more than 5 percent of the number of such officers in each of the pay grades O-3 and below, and not more than 10 percent of the number of such officers in pay grade O-4, O-5, or O-6, may be paid special pay under subsection (b).".

### SEC. 616. ASSIGNMENT INCENTIVE PAY FOR SERVICE IN KOREA.

(a) AUTHORITY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 307a the following new section:

**"§ 307b. Special pay: Korea service incentive pay**

"(a) AUTHORITY.—The Secretary concerned shall pay monthly incentive pay under this section to a member of a uniformed service for the period that the member performs service in Korea while entitled to basic pay.

"(b) RATE.—The monthly rate of incentive pay payable to a member under this section is $100.

"(c) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(d) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.

"(e) TERMINATION OF AUTHORITY.—Special pay may not be paid under this section for months beginning after December 31, 2005.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 307a the following new item:

"307b. Special pay: Korea service incentive pay.".

(b) EFFECTIVE DATE.—Section 307(b) of title 37, United States Code (as added by subsection (a)), shall take effect on October 1, 2003.

### SEC. 617. INCREASED MAXIMUM AMOUNT OF REENLISTMENT BONUS FOR ACTIVE MEMBERS.

(a) MAXIMUM AMOUNT.—Section 308(a)(2)(B) of title 37, United States Code, is amended by striking "$60,000" and inserting "$70,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003, and shall apply with respect to reenlistments and extensions of enlistments that take effect on or after that date.

### SEC. 618. PAYMENT OF SELECTED RESERVE REENLISTMENT BONUS TO MEMBERS OF SELECTED RESERVE WHO ARE MOBILIZED.

Section 308b of title 37, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) PAYMENT TO MOBILIZED MEMBERS.—In the case of a member entitled to a bonus under this section who is called or ordered to active duty, any amount of such bonus that is payable to the member during the period of active duty of the member shall be paid the member during that period of active duty without regard to the fact that the member is serving on active duty pursuant to such call or order to active duty.".

### SEC. 619. INCREASED RATE OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY.

*(a) RATE.—Section 310(a) of title 37, United States Code, is amended by striking "$150" and inserting "$225".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.*

### SEC. 620. AVAILABILITY OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY FOR RESERVE COMPONENT MEMBERS ON INACTIVE DUTY.

*(a) EXPANSION AND CLARIFICATION OF CURRENT LAW.—Section 310 of title 37, United States Code, is amended—*

*(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and*

*(2) by striking subsection (a) and inserting the following new subsections:*

*"(a) ELIGIBILITY AND SPECIAL PAY AMOUNT.—Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $150 for any month in which—*

*"(1) the member was entitled to basic pay or compensation under section 204 or 206 of this title; and*

*"(2) the member—*

*"(A) was subject to hostile fire or explosion of hostile mines;*

*"(B) was on duty in an area in which the member was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period the member was on duty in the area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;*

*"(C) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or*

*"(D) was on duty in a foreign area in which the member was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.*

*"(b) CONTINUATION DURING HOSPITALIZATION.—A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound may be paid special pay under this section for not more than three additional months during which the member is so hospitalized.".*

*(b) CLERICAL AMENDMENTS.—Such section is further amended—*

*(1) in subsection (c), as redesignated by subsection (a)(1), by inserting "LIMITATIONS AND ADMINISTRATION.—" before "(1)"; and*

*(2) in subsection (d), as redesignated by subsection (a)(1), by inserting "DETERMINATIONS OF FACT.—" before "Any".*

*(c) EFFECTIVE DATE.—Subsections (a) and (b) of section 310 of title 37, United States Code, as added by subsection (a)(2), shall take effect as of September 11, 2001.*

### SEC. 621. EXPANSION OF OVERSEAS TOUR EXTENSION INCENTIVE PROGRAM TO OFFICERS.

*(a) SPECIAL PAY OR BONUS FOR EXTENDING OVERSEAS TOUR OF DUTY.—(1) Subsections (a) and (b) of section 314 of title 37, United States Code, are amended by striking "an enlisted member" and inserting "a member".*

*(2)(A) The heading of such section is amended to read as follows:*

***"§314. Special pay or bonus: qualified members extending duty at designated locations overseas".***

*(B) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:*

*"314. Special pay or bonus: qualified members extending duty at designated locations overseas.".*

*(b) REST AND RECUPERATIVE ABSENCE IN LIEU OF PAY OR BONUS.—(1) Subsection (a) of section 705 of title 10, United States Code, is amended by striking "an enlisted member" and inserting "a member".*

*(2)(A) The heading of such section is amended to read as follows:*

***"§705. Rest and recuperation absence: qualified members extending duty at designated locations overseas".***

*(B) The item relating to such section in the table of sections at the beginning of chapter 40 of such title is amended to read as follows:*

*"705. Rest and recuperation absence: qualified members extending duty at designated locations overseas.".*

### SEC. 622. ELIGIBILITY OF WARRANT OFFICERS FOR ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.

*(a) ELIGIBILITY.—Section 324 of title 37, United States Code, is amended in subsections (a) and (f)(1) by inserting "or an appointment" after "commission".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.*

### SEC. 623. INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.

*(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:*

***"§326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage***

*"(a) INCENTIVE BONUS AUTHORIZED.—The Secretary concerned may pay a bonus under this section to an eligible member of the armed forces who executes a written agreement to convert to, and serve for a period of not less than four years in, a military occupational specialty for which there is a shortage of trained and qualified personnel.*

*"(b) ELIGIBLE MEMBERS.—A member is eligible for a bonus under this section if—*

*"(1) the member is entitled to basic pay; and*

*"(2) at the time the agreement under subsection (a) is executed, the member is serving in—*

*"(A) pay grade E–6 with not more than 10 years of service computed under section 205 of this title; or*

*"(B) pay grade E–5 or below, regardless of years of service.*

*"(c) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $4,000.*

*"(2) A bonus payable under this section shall be disbursed in one lump sum when the member's conversion to the military occupational specialty is approved by the chief personnel officer of the member's armed force.*

*"(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.*

*"(e) REPAYMENT OF BONUS.—(1) A member who receives a bonus for conversion to a military occupational specialty under this section and who, voluntarily or because of misconduct, fails to serve in such military occupational specialty for the period specified in the agreement shall refund to the United States an amount that bears the same ratio to the bonus amount paid to the member as the unserved part of such period bears to the total period agreed to be served.*

*"(2) An obligation to reimburse the United States imposed under paragraph (1) is, for all purposes, a debt owed to the United States.*

*"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement for which a bonus was paid under this section shall not discharge the person signing such agreement from the debt arising under paragraph (1).*

*"(4) Under regulations prescribed pursuant to subsection (f), the Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.*

*"(f) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.*

*"(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2006.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:*

*"326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage.".*

## Subtitle C—Travel and Transportation Allowances

### SEC. 631. SHIPMENT OF PRIVATELY OWNED MOTOR VEHICLE WITHIN CONTINENTAL UNITED STATES.

*(a) AUTHORITY TO PROCURE CONTRACT FOR TRANSPORTATION OF MOTOR VEHICLE.—Section 2634 of title 10, United States Code, is amended—*

*(1) by redesignating subsection (h) as subsection (i); and*

*(2) by inserting after subsection (g) the following new subsection (h):*

*"(h) In the case of a member's change of permanent station described in subparagraph (A) or (B) of subsection (i)(1), the Secretary concerned may authorize the member to arrange for the shipment of the motor vehicle in lieu of transportation at the expense of the United States under this section. The Secretary concerned may pay the member a monetary allowance in lieu of transportation, as established under section 404(d)(1) of title 37, and the member shall be responsible for any transportation costs in excess of such allowance.".*

*(b) ALLOWANCE FOR SELF-PROCUREMENT OF TRANSPORTATION OF MOTOR VEHICLE.—Section 406(b)(1)(B) of title 37, United States Code, is amended by adding at the end the following new sentence: "In the case of the transportation of a motor vehicle arranged by the member under section 2634(h) of title 10, the Secretary concerned may pay the member, upon presentation of proof of shipment, a monetary allowance in lieu of transportation, as established under section 404(d)(1) of this title.".*

### SEC. 632. PAYMENT OR REIMBURSEMENT OF STUDENT BAGGAGE STORAGE COSTS FOR DEPENDENT CHILDREN OF MEMBERS STATIONED OVERSEAS.

*Section 430(b)(2) of title 37, United States Code, is amended in the first sentence by inserting before the period at the end the following: "or during a different period in the same fiscal year selected by the member".*

### SEC. 633. CONTRACTS FOR FULL REPLACEMENT VALUE FOR LOSS OR DAMAGE TO PERSONAL PROPERTY TRANSPORTED AT GOVERNMENT EXPENSE.

*(a) AUTHORITY.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2636 the following new section:*

***"§2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers***

*"(a) PROCUREMENT OF COVERAGE.—The Secretary of Defense may include in a contract for the transportation of baggage and household effects for members of the armed forces at Government expense a clause that requires the carrier*

*under the contract to pay the full replacement value for loss or damage to the baggage or household effects transported under the contract.*

*"(b) Deduction Upon Failure of Carrier To Settle.—In the case of a loss or damage of baggage or household effects transported under a contract with a carrier that includes a clause described in subsection (a), the amount equal to the full replacement value for the baggage or household effects may be deducted from the amount owed by the United States to the carrier under the contract upon a failure of the carrier to settle a claim for such loss or total damage within a reasonable time. The amount so deducted shall be remitted to the claimant, notwithstanding section 2636 of this title.*

*"(c) Inapplicability of Related Limits.—The limitations on amounts of claims that may be settled under section 3721(b) of title 31 do not apply to a carrier's contractual obligation to pay full replacement value under this section.*

*"(d) Regulations.—The Secretary of Defense shall prescribe regulations for administering this section. The regulations shall include policies and procedures for validating and evaluating claims, validating proper claimants, and determining reasonable time for settlement.*

*"(e) Transportation Defined.—In this section, the terms 'transportation' and 'transport', with respect to baggage or household effects, includes packing, crating, drayage, temporary storage, and unpacking of the baggage or household effects.".*

*(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2636 the following new item:*

*"2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers.".*

### SEC 634. TRANSPORTATION OF DEPENDENTS TO PRESENCE OF MEMBERS OF THE ARMED FORCES WHO ARE RETIRED FOR ILLNESS OR INJURY INCURRED IN ACTIVE DUTY.

*Section 411h(a) of title 37, United States Code, is amended—*

*(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";*

*(2) by redesignating paragraph (2) as paragraph (3);*

*(3) by inserting after paragraph (1) the following new paragraph (2):*

*"(2) Under the regulations prescribed under paragraph (1), transportation described in subsection (c) may be provided for not more than two family members of a member otherwise described in paragraph (3) who is retired for an illness or injury described in that paragraph if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine that the presence of the family member would be in the best interests of the family member."; and*

*(4) in paragraph (3), as so redesignated, by striking "paragraph (1)" and inserting "paragraph (1) or (2)".*

## Subtitle D—Retired Pay and Survivor Benefits

### SEC. 641. SPECIAL RULE FOR COMPUTATION OF RETIRED PAY BASE FOR COMMANDERS OF COMBATANT COMMANDS.

*(a) Treatment Equivalent to Chiefs of Service.—Subsection (i) of section 1406 of title 10, United States Code, is amended by inserting "as a commander of a unified or specified combatant command (as defined in section 161(c) of this title)," after "Chief of Service,".*

*(b) Conforming Amendment.—The heading for such subsection is amended by inserting "Commanders of Combatant Commands," after "Chiefs of Service,".*

*(c) Effective Date and Applicability.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to officers who first become entitled to retired pay under title 10, United States Code, on or after such date.*

### SEC. 642. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVING SPOUSES OF RESERVES NOT ELIGIBLE FOR RETIREMENT WHO DIE FROM A CAUSE INCURRED OR AGGRAVATED WHILE ON INACTIVE-DUTY TRAINING.

*(a) Surviving Spouse Annuity.—Paragraph (1) of section 1448(f) of title 10, United States Code, is amended to read as follows:*

*"(1) Surviving spouse annuity.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—*

*"(A) a person who is eligible to provide a reserve-component annuity and who dies—*

*"(i) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or*

*"(ii) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan; or*

*"(B) a member of a reserve component not described in subparagraph (A) who dies from an injury or illness incurred or aggravated in the line of duty during inactive-duty training.".*

*(b) Conforming Amendment.—The heading for subsection (f) of section 1448 of such title is amended by inserting "or Before" after "Dying When".*

*(c) Effective Date.—The amendments made by this section shall take effect as of September 10, 2001, and shall apply with respect to performance of inactive-duty training (as defined in section 101(d) of title 10, United States Code) on or after that date.*

### SEC. 643. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

*(a) Amount of Death Gratuity.—Section 1478(a) of title 10, United States Code, is amended by striking "$6,000" and inserting "$12,000".*

*(b) Effective Date.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.*

*(c) Death Benefits Study.—(1) It is the sense of Congress that—*

*(A) the sacrifices made by the members of the United States Armed Forces are significant and are worthy of meaningful expressions of gratitude by the Government of the United States, especially in cases of sacrifice through loss of life;*

*(B) the tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant disparity between the financial benefits for survivors of deceased members of the Armed Forces and the financial benefits for survivors of civilian victims of terrorism;*

*(C) the death benefits system composed of the death gratuity paid by the Department of Defense to survivors of members of the Armed Forces, the subsequently established Servicemembers' Group Life Insurance (SGLI) program, and other benefits for survivors of deceased members has evolved over time, but there are increasing indications that the evolution of such benefits has failed to keep pace with the expansion of indemnity and compensation available to segments of United States society outside the Armed Forces, a failure that is especially apparent in a comparison of the benefits for survivors of deceased members with the compensation provided to families of civilian victims of terrorism; and*

*(D) while Servicemembers' Group Life Insurance (SGLI) provides an assured source of life insurance for members of the Armed Forces that benefits the survivors of such members upon death, the SGLI program requires the members to pay for that life insurance coverage and does not provide an assured minimum benefit.*

*(2) The Secretary of Defense shall carry out a study of the totality of all current and projected death benefits for survivors of deceased members of the Armed Forces to determine the adequacy of such benefits. In carrying out the study, the Secretary shall—*

*(A) compare the Federal Government death benefits for survivors of deceased members of the Armed Forces with commercial and other private sector death benefits plans for segments of United States society outside the Armed Forces, and also with the benefits available under Public Law 107-37 (115 Stat. 219) (commonly known as the "Public Safety Officer Benefits Bill");*

*(B) assess the personnel policy effects that would result from a revision of the death gratuity benefit to provide a stratified schedule of entitlement amounts that places a premium on deaths resulting from participation in combat or from acts of terrorism;*

*(C) assess the adequacy of the current system of Survivor Benefit Plan annuities and Dependency and Indemnity Compensation and the anticipated effects of an elimination of the offset of Survivor Benefit Plan annuities by Dependency and Indemnity Compensation;*

*(D) examine the commercial insurability of members of the Armed Forces in high risk military occupational specialties; and*

*(E) examine the extent to which private trusts and foundations engage in fundraising or otherwise provide financial benefits for survivors of deceased members of the Armed Forces.*

*(3) Not later than March 1, 2004, the Secretary shall submit a report on the results of the study under paragraph (2) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:*

*(A) The assessments, analyses, and conclusions resulting from the study.*

*(B) Proposed legislation to address the deficiencies in the system of Federal Government death benefits for survivors of deceased members of the Armed Forces that are identified in the course of the study.*

*(C) An estimate of the costs of the system of death benefits provided for in the proposed legislation.*

*(4) The Comptroller General shall conduct a study to identify the death benefits that are payable under Federal, State, and local laws for employees of the Federal Government, State governments, and local governments. Not later than November 1, 2003, the Comptroller General shall submit a report containing the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.*

### SEC. 644. FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

*(a) Restoration of Full Retired Pay Benefits.—Section 1414 of title 10, United States Code, is amended to read as follows:*

**"§1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation**

*"(a) Payment of Both Retired Pay and Compensation.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.*

*"(b) Special Rule for Chapter 61 Career Retirees.—The retired pay of a member retired*

*under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.*

*"(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.*

*"(d) DEFINITIONS.—In this section:*

*"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.*

*"(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.".*

*(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.*

*(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:*

*"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on—*

*(1) the first day of the first month that begins after the date of the enactment of this Act; or*

*(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).*

*(e) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).*

## Subtitle E—Other Matters

### SEC. 651. RETENTION OF ACCUMULATED LEAVE.

*(a) HIGHER MAXIMUM LIMITATION ASSOCIATED WITH CERTAIN SERVICE.—Section 701(f) of title 10, United States Code, is amended to read as follows:*

*"(f)(1) The Secretary of Defense may authorize a member eligible under paragraph (2) to retain 120 days' leave accumulated by the end of the fiscal year described in such paragraph.*

*"(2) Paragraph (1) applies to a member who—*

*"(A) during a fiscal year—*

*"(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37; or*

*"(ii) is assigned to a deployable ship, to a mobile unit, to duty in support of a contingency operation, or to other duty designated for the purpose of this section; and*

*"(B) except for paragraph (1), would lose any accumulated leave in excess of 60 days at the end of the fiscal year.*

*"(3) Leave in excess of 60 days accumulated under this subsection is lost unless it is used by the member before the end of the third fiscal year after the fiscal year in which the service described in paragraph (2) terminated.".*

*(b) SAVINGS PROVISIONS.—Regulations in effect under subsection (f) of section 701 of title 10, United States Code, on the day before the date of the enactment of this Act shall remain in effect until revised or superseded by regulations prescribed to implement the authority under the amendment made by subsection (a).*

*(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.*

### SEC. 652. GAO STUDY.

*Not later than April 1, 2004, the Comptroller General shall submit a report regarding the adequacy of special pays and allowances for service members who experience frequent deployments away from their permanent duty stations for periods less than 30 days. The policies regarding eligibility for family separation allowance, including those relating to required duration of absences from the permanently assigned duty station, should be assessed.*

## Subtitle F—Naturalization and Family Protection for Military Members

### SEC. 661. SHORT TITLE.

*This subtitle may be cited as the "Naturalization and Family Protection for Military Members Act of 2003".*

### SEC. 662. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

*(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking "three years" and inserting "2 years".*

*(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—*

*(1) in section 328(b)—*

*(A) in paragraph (3)—*

*(i) by striking "honorable. The" and inserting "honorable (the"; and*

*(ii) by striking "discharge." and inserting "discharge); and"; and*

*(B) by adding at the end the following:*

*"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected."; and*

*(2) in section 329(b)—*

*(A) in paragraph (2), by striking "and" at the end;*

*(B) in paragraph (3), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.".*

*(c) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.*

*(d) FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:*

*(1) A high priority for grant of emergency leave.*

*(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.*

*(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking "Attorney General" and inserting "Secretary of Homeland Security".*

### SEC. 663. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.

*Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting "as a member of the Selected Reserve of the Ready Reserve or" after "has served honorably".*

### SEC. 664. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.

*(a) TREATMENT AS IMMEDIATE RELATIVES.—*

*(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.*

*(2) CHILDREN.—*

*(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.*

*(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).*

*(3) PARENTS.—*

*(A) IN GENERAL.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless*

*of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.*

*(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).*

*(C) EXCEPTION.—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.*

*(b) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.—*

*(1) IN GENERAL.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(B), may have such application adjudicated as if such death had not occurred.*

*(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—*

*(A) served honorably in an active duty status in the military, air, or naval forces of the United States;*

*(B) died as a result of injury or disease incurred in or aggravated by combat; and*

*(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).*

*(c) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—*

*(1) TREATMENT AS IMMEDIATE RELATIVES.—*

*(A) IN GENERAL.—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.*

*(B) PETITIONS.—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).*

*(2) SELF-PETITIONS.—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.*

*(3) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—*

*(A) served honorably in an active duty status in the military, air, or naval forces of the United States;*

*(B) died as a result of injury or disease incurred in or aggravated by combat; and*

*(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).*

*(d) PARENTS OF LAWFUL PERMANENT RESIDENT ALIENS.—*

*(1) SELF-PETITIONS.—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.*

*(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—*

*(A) served honorably in an active duty status in the military, air, or naval forces of the United States;*

*(B) died as a result of injury or disease incurred in or aggravated by combat; and*

*(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).*

*(e) ADJUSTMENT OF STATUS.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), an alien physically present in the United States who is the beneficiary of a petition under paragraph (1), (2)(B), or (3)(B) of subsection (a), paragraph (1)(B) or (2) of subsection (c), or subsection (d)(1) of this section, may apply to the Secretary of Homeland Security for adjustment of status to that of an alien lawfully admitted for permanent residence.*

*(f) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this section, the ground for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply, and notwithstanding any other provision of law, the Secretary of Homeland Security may waive paragraph (6)(A), (7), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) with respect to such an alien if the alien establishes exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation.*

*(g) BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—*

*(1) by striking subsection (e); and*

*(2) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security".*

*(h) TECHNICAL AND CONFORMING AMENDMENTS.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—*

*(1) by inserting ", child, or parent" after "surviving spouse";*

*(2) by inserting ", parent, or child" after "whose citizen spouse"; and*

*(3) by striking "who was living" and inserting "who, in the case of a surviving spouse, was living".*

### *SEC. 665. EFFECTIVE DATE.*

*This subtitle and the amendments made by this subtitle shall take effect as if enacted on September 11, 2001.*

## *TITLE VII—HEALTH CARE*

### *SEC. 701. MEDICAL AND DENTAL SCREENING FOR MEMBERS OF SELECTED RESERVE UNITS ALERTED FOR MOBILIZATION.*

*Section 1074a of title 10, United States Code, is amended by adding at the end the following new subsection:*

*"(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.*

*"(2) The screening and care authorized under paragraph (1) shall include screening and care under TRICARE, pursuant to eligibility under paragraph (3), and continuation of care benefits under paragraph (4).*

*"(3)(A) Members of the Selected Reserve of the Ready Reserve and members of the Individual Ready Reserve described in section 10144(b) of this title are eligible, subject to subparagraph (I), to enroll in TRICARE.*

*"(B) A member eligible under subparagraph (A) may enroll for either of the following types of coverage:*

*"(i) Self alone coverage.*

*"(ii) Self and family coverage.*

*"(C) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.*

*"(D) The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subparagraph (A) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.*

*"(E) A member and the dependents of a member enrolled in the TRICARE program under this paragraph shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively. Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.*

*"(F)(i) An enlisted member of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $330 for self-only coverage and $560 for self and family coverage for which enrolled under this section.*

*"(ii) An officer of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $380 for self-only coverage and $610 for self and family coverage for which enrolled under this section.*

*"(iii) The premiums payable by a member under this subparagraph may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.*

*"(iv) Amounts collected as premiums under this subparagraph shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.*

*"(G) A person who receives health care pursuant to an enrollment in a TRICARE program option under this paragraph, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option*

*to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.*

*"(H) A member enrolled in the TRICARE program under this paragraph may terminate the enrollment only during an open enrollment period provided under subparagraph (D), except as provided in subparagraph (I). An enrollment of a member for self alone or for self and family under this paragraph shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subparagraph (A). The enrollment of a member under this paragraph may be terminated on the basis of failure to pay the premium charged the member under this paragraph.*

*"(I) A member may not enroll in the TRICARE program under this paragraph while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section. A member who enrolls in the TRICARE program under this paragraph within 90 days after the date of the termination of the member's entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.*

*"(J) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this paragraph.*

*"(4)(A) The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subparagraph (J).*

*"(B) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subparagraph (A) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.*

*"(C) For the purposes of this paragraph, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—*

*"(i) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;*

*"(ii) on such date, the coverage applied to the member and dependents of the member described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and*

*"(iii) the coverage has not lapsed.*

*"(D) The applicable premium payable under this paragraph for continuation of health benefits plan coverage in the case of a member is the amount of the premium payable by the member for the coverage of the member and dependents.*

*"(E) The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for a member under this paragraph in a fiscal year may not exceed the amount determined by multiplying—*

*"(i) the sum of one plus the number of the member's dependents covered by the health benefits plan, by*

*"(ii) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.*

*"(F) The benefits coverage continuation period under this paragraph for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—*

*"(i) begins on the date of the call or order; and*

*"(ii) ends on the earlier of the date on which the member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section, or the date on which the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member.*

*"(G) Notwithstanding any other provision of law—*

*"(i) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for a member under this paragraph shall be deemed to be equal to the benefits coverage continuation period for such member under this paragraph; and*

*"(ii) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.*

*"(H) A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary concerned under this paragraph is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.*

*"(I) A member who makes an election under subparagraph (A) may revoke the election. Upon such a revocation, the member's dependents shall become eligible for benefits under the TRICARE program as provided for under this chapter.*

*"(J) The Secretary of Defense shall prescribe regulations for carrying out this paragraph. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.*

*"(5) For the purposes of this section, all members of the Ready Reserve who are to be called or ordered to active duty include all members of the Ready Reserve.*

*"(6) The Secretary concerned shall promptly notify all members of the Ready Reserve that they are eligible for screening and care under this section.*

*"(7) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.".*

### SEC. 702. TRICARE BENEFICIARY COUNSELING AND ASSISTANCE COORDINATORS FOR RESERVE COMPONENT BENEFICIARIES.

*Section 1095e(a)(1) of title 10, United States Code, is amended—*

*(1) by striking "and" at the end of subparagraph (A);*

*(2) by redesignating subparagraph (B) as subparagraph (C); and*

*(3) by inserting after subparagraph (A) the following new subparagraph (B):*

*"(B) designate for each of the TRICARE program regions at least one person (other than a person designated under subparagraph (A)) to serve full-time as a beneficiary counseling and assistance coordinator solely for members of the reserve components and their dependents who are beneficiaries under the TRICARE program; and".*

### SEC. 703. EXTENSION OF AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS FOR HEALTH CARE SERVICES TO BE PERFORMED AT LOCATIONS OUTSIDE MEDICAL TREATMENT FACILITIES.

*Section 1091(a)(2) of title 10, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2008".*

### SEC. 704. DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND VALUATIONS AND CONTRIBUTIONS.

*(a) Separate Periodic Actuarial Valuation for Single Uniformed Service.—Section 1115(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:*

*"(6) The Secretary of Defense may determine a single level dollar amount under subparagraph (A) or (B) of paragraph (1) for each or any of the participating uniformed services separately from the other participating uniformed services if the Secretary determines that a more accurate and appropriate actuarial valuation under such subparagraph would be achieved by doing so.".*

*(b) Associated Calculations of Payments Into the Fund.—Section 1116 of such title is amended—*

*(1) in subsection (a), by striking "the amount that" in the matter preceding paragraph (1) and inserting "the amount that, subject to subsection (b),";*

*(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and*

*(3) by inserting after subsection (a) the following new subsection (b):*

*"(b) If an actuarial valuation referred to in paragraph (1) or (2) of subsection (a) has been calculated in a single level dollar amount for a participating uniformed service separately from the other participating uniformed services under section 1115(c)(6) of this title, the administering Secretary for the department in which such uniformed service is operating shall calculate the amount under such paragraph separately for such uniformed service. If the administering Secretary is not the Secretary of Defense, the administering Secretary shall notify the Secretary of Defense of the amount so calculated. To determine a single amount for the purpose of paragraph (1) or (2) of subsection (a), as the case may be, the Secretary of Defense shall aggregate the amount calculated under this subsection for a uniformed service for the purpose of such paragraph with the amount or amounts calculated (whether separately or otherwise) for the other uniformed services for the purpose of such paragraph.".*

*(c) Technical Correction.—Section 1115(c)(1)(B) of such title is amended by striking "and other than members" and inserting "(other than members"*

*(d) Conforming Amendment.—Subsections (a) and (c)(5) of section 1115 of such title are amended by striking "section 1116(b) of this title" and inserting section "1116(c) of this title".*

### SEC. 705. SURVEYS ON CONTINUED VIABILITY OF TRICARE STANDARD.

*(a) Requirement for Surveys.—(1) The Secretary of Defense shall conduct surveys in the TRICARE Standard market areas in the continental United States to determine how many health care providers are accepting new patients under TRICARE Standard in each such market area.*

*(2) The Secretary shall carry out the surveys in at least 20 TRICARE market areas in the continental United States each fiscal year after fiscal year 2003 until all such market areas in the continental United States have been surveyed. The Secretary shall complete six of the fiscal year 2004 surveys not later than March 31, 2004.*

*(3) In prioritizing the market areas for the sequence in which market areas are to be surveyed under this subsection, the Secretary shall consult with representatives of TRICARE beneficiaries and health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard and shall give a high priority to surveying health care providers in such areas.*

(b) Supervision.—(1) The Secretary shall designate a senior official of the Department of Defense to take the actions necessary for achieving and maintaining participation of health care providers in TRICARE Standard in each TRICARE market area in a number that is adequate to ensure the viability of TRICARE Standard for TRICARE beneficiaries in that market area.

(2) The official designated under paragraph (1) shall have the following duties:

(A) To educate health care providers about TRICARE Standard.

(B) To encourage health care providers to accept patients under TRICARE Standard.

(C) To ensure that TRICARE beneficiaries have the information necessary to locate TRICARE Standard providers readily.

(D) To recommend adjustments in TRICARE Standard provider payment rates that the official considers necessary to ensure adequate availability of TRICARE Standard providers for TRICARE Standard beneficiaries.

(c) GAO Review.—(1) The Comptroller General shall, on an ongoing basis, review—

(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care providers accepting TRICARE Standard beneficiaries as patients under TRICARE Standard in each TRICARE market area; and

(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care under TRICARE Standard in each TRICARE market area.

(2)(A) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the results of the review under paragraph (1). The first semiannual report shall be submitted not later than June 30, 2004.

(B) The semiannual report under subparagraph (A) shall include the following:

(i) An analysis of the adequacy of the surveys under subsection (a).

(ii) The adequacy of existing statutory authority to address inadequate levels of participation by health care providers in TRICARE Standard.

(iii) Identification of policy-based obstacles to achieving adequacy of availability of TRICARE Standard health care in the TRICARE Standard market areas.

(iv) An assessment of the adequacy of Department of Defense education programs to inform health care providers about TRICARE Standard.

(v) An assessment of the adequacy of Department of Defense initiatives to encourage health care providers to accept patients under TRICARE Standard.

(vi) An assessment of the adequacy of information to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care under TRICARE Standard.

(vii) Any need for adjustment of health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care providers.

(d) Definition.—In this section, the term "TRICARE Standard" means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

### SEC. 706. ELIMINATION OF LIMITATION ON COVERED BENEFICIARIES' ELIGIBILITY TO RECEIVE HEALTH CARE SERVICES FROM FORMER PUBLIC HEALTH SERVICE TREATMENT FACILITIES.

Section 724(d) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) is amended by striking "who—" and all that follows through "(2) are enrolled" and inserting "who are enrolled".

### SEC. 707. MODIFICATION OF STRUCTURE AND DUTIES OF DEPARTMENT OF VETERANS AFFAIRS-DEPARTMENT OF DEFENSE HEALTH EXECUTIVE COMMITTEE.

(a) In General.—Subsection (c) of section 8111 of title 38, United States Code, is amended to read as follows:

"(c) DOD–VA Joint Executive Committee.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall be composed of—

"(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department as the Secretary may designate; and

"(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

"(3)(A) The Deputy Secretary and the Under Secretary shall determine the size and structure of the Committee, except that the Committee shall have subordinate committees as follows:

"(i) A Health Executive Committee.

"(ii) A Benefits Executive Committee.

"(iii) Such other subordinate committees as the Deputy Secretary and the Under Secretary consider appropriate.

"(B) The Deputy Secretary and the Under Secretary shall establish the administrative and procedural guidelines for the operation of the Committee.

"(C) The two Departments shall supply staff and resources to the Committee in order to provide such administrative support and services for the Committee as are necessary for the efficient operation of the Committee.

"(4) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing of efforts between and within the two Departments under this section, and shall oversee implementation of such coordination and efforts.

"(5) In order to enable the Committee to make recommendations under paragraph (4) in its annual report under paragraph (6), the Committee shall—

"(A) review existing policies, procedures, and practices relating to the coordination and sharing of health care resources and other resources between the two Departments;

"(B) identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of services and health care resources and other resources of the two Departments in order to achieve the goal of improving the quality, efficiency, and effectiveness of the delivery of benefits and services to veterans, members of the Armed Forces, military retirees, and their families through an enhanced partnership between the two Departments;

"(C) identify and assess further opportunities for coordination and collaboration between the two Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for benefits provided by either Department;

"(D) review the plans of both agencies for the acquisition of additional health care resources and other resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of such resources; and

"(E) review the implementation of activities designed to promote the coordination and sharing of health care resources and other resources between the two Departments.

"(6) The Committee shall submit to the Secretaries, and to Congress, each year a report containing such recommendations as the Committee considers appropriate, including recommendations in light of activities under paragraph (5).".

(b) Conforming Amendment.—Subsection (e)(1) of such section is amended by striking "subsection (c)(2)" and inserting "subsection (c)(4)".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2003, as if included in the amendments to section 8111 of title 38, United States Code, made by section 721 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2589), to which the amendments made by this section relate.

(d) Integrated Healing Care Practices.—(1) The Secretary of Defense and the Secretary of Veterans Affairs may, acting through the Department of Veterans Affairs-Department of Defense Joint Executive Committee, conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

(2) Amounts authorized to be appropriated by section 301(21) for the Defense Health Program may be available for the program under paragraph (1).

### SEC. 708. ELIGIBILITY OF RESERVE OFFICERS FOR HEALTH CARE PENDING ORDERS TO ACTIVE DUTY FOLLOWING COMMISSIONING.

Section 1074(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "who is on active duty" and inserting "described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) Members of the uniformed services referred to in paragraph (1) are as follows:

"(A) A member of a uniformed service on active duty.

"(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

"(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

"(ii) the request for orders has been approved;

"(iii) the orders are to be issued but have not been issued; and

"(iv) the member does not have health care insurance and is not covered by any other health benefits plan.".

### SEC. 709. REIMBURSEMENT OF COVERED BENEFICIARIES FOR CERTAIN TRAVEL EXPENSES RELATING TO SPECIALIZED DENTAL CARE.

Section 1074i of title 10, United States Code, is amended—

(1) by inserting "(a) In General.—" before "In any case"; and

(2) by adding at the end the following new subsection:

"(b) Specialty Care Providers.—For purposes of subsection (a), the term 'specialty care provider' includes a dental specialist (including an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist).".

## TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

### Subtitle A—Acquisition Policy and Management

### SEC. 801. TEMPORARY EMERGENCY PROCUREMENT AUTHORITY TO FACILITATE DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

(a) Extension of Authority.—Section 836(a) of the National Defense Authorization Act for

*Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1192; 10 U.S.C. 2302 note) is amended by striking "fiscal year 2002 and 2003" and inserting "fiscal years 2002, 2003, 2004, and 2005".*

*(b) Expanded Scope.—Such section 836(a) is further amended—*

*(1) in paragraph (1), by striking "the defense against terrorism or biological or chemical attack" and inserting "defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack"; and*

*(2) in paragraph (2), by striking "the defense against terrorism or biological attack" and inserting "defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack".*

*(c) Conforming Amendment.—The heading for such section is amended to read as follows:*

***"SEC. 836. TEMPORARY EMERGENCY PROCUREMENT AUTHORITY TO FACILITATE DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK."***

### SEC. 802. SPECIAL TEMPORARY CONTRACT CLOSEOUT AUTHORITY.

*(a) Authority.—The Secretary of Defense may settle any financial account for a contract entered into by the Secretary or the Secretary of a military department before October 1, 1996, that is administratively complete if the financial account has an unreconciled balance, either positive or negative, that is less than $100,000.*

*(b) Finality of Decision.—A settlement under this section shall be final and conclusive upon the accounting officers of the United States.*

*(c) Regulations.—The Secretary of Defense shall prescribe regulations for the administration of the authority under this section.*

*(d) Termination of Authority.—A financial account may not be settled under this section after September 30, 2006.*

### SEC. 803. DEFENSE ACQUISITION PROGRAM MANAGEMENT FOR USE OF RADIO FREQUENCY SPECTRUM.

*(a) Revision of Department of Defense Directive.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall revise and reissue Department of Defense Directive 4650.1, relating to management and use of the radio frequency spectrum, last issued on June 24, 1987, to update the procedures applicable to Department of Defense management and use of the radio frequency spectrum.*

*(b) Acquisition Program Requirements.—The Secretary of Defense shall—*

*(1) require that each military department or Defense Agency carrying out a program for the acquisition of a system that is to use the radio frequency spectrum consult with the official or board designated under subsection (c) on the usage of the spectrum by the system as early as practicable during the concept exploration and technology development phases of the acquisition program;*

*(2) prohibit the program from proceeding into system development and demonstration, or otherwise obtaining production or procuring any unit of the system, until—*

*(A) an evaluation of the proposed radio frequency spectrum usage by the system is completed in accordance with requirements prescribed by the Secretary; and*

*(B) the designated official or board reviews and approves the proposed usage of the spectrum by the system; and*

*(3) prescribe a procedure for waiving the prohibition imposed under paragraph (2) in any case in which it is determined necessary to do so in the national security interests of the United States.*

*(c) Designation of Official or Board.—The Secretary of Defense shall designate an appropriate official or board of the Department of Defense to perform the functions described for the official or board in subsection (b).*

### SEC. 804. NATIONAL SECURITY AGENCY MODERNIZATION PROGRAM.

*(a) Responsibilities of Under Secretary of Defense for Acquisition, Technology, and Logistics.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—*

*(1) direct and manage the acquisitions under the National Security Agency Modernization Program; and*

*(2) designate the projects under such program as major defense acquisition programs.*

*(b) Projects Comprising Program.—The National Security Agency Modernization Program includes the following projects of the National Security Agency:*

*(1) The Trailblazer project.*

*(2) The Groundbreaker project.*

*(3) Each cryptological mission management project.*

*(4) Each other project that—*

*(A) meets either of the dollar threshold requirements set forth in subsection (a)(2) of section 2430 of title 10, United States Code (as adjusted under subsection (b) of such section); and*

*(B) is determined by the Under Secretary of Defense for Acquisition, Technology, and Logistics as being a modernization project of the National Security Agency.*

*(c) Milestone Decision Authority.—(1) In the administration of subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall exercise the milestone decision authority for—*

*(A) each major defense acquisition program under the National Security Agency Modernization Program, as designated under subsection (a)(2); and*

*(B) the acquisition of each major system under the National Security Agency Modernization Program, as described in subsection (d).*

*(2) The Under Secretary may not delegate the milestone decision authority to any other official before October 1, 2006.*

*(3) The Under Secretary may delegate the milestone decision authority to the Director of the National Security Agency at any time after the later of September 30, 2006, or the date on which the following conditions are satisfied:*

*(A) The Under Secretary has determined that the Director has implemented acquisition management policies, procedures, and practices that are sufficiently mature to ensure that National Security Agency acquisitions are conducted in a manner consistent with a sound, efficient acquisition enterprise.*

*(B) The Under Secretary has consulted with the Under Secretary of Defense for Intelligence and the Deputy Director of Central Intelligence for Community Management on the delegation.*

*(C) The Secretary of Defense has approved the delegation.*

*(D) The Under Secretary has transmitted to the Committees on Armed Services of the Senate and the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a notification of the intention to delegate the authority, together with a detailed discussion of the justification for the delegation of authority.*

*(d) Major System Defined.—In this section, the term "major system" means a system that meets either of the dollar threshold requirements set forth in paragraph (1) or (2) of subsection (a) of section 2302d of title 10, United States Code (as adjusted under subsection (c) of such section).*

### SEC. 805. QUALITY CONTROL IN PROCUREMENT OF AVIATION CRITICAL SAFETY ITEMS AND RELATED SERVICES.

*(a) Quality Control Policy.—The Secretary of Defense shall prescribe a quality control policy for the procurement of aviation critical safety items and the procurement of modifications, repair, and overhaul of such items.*

*(b) Content of Policy.—The policy shall include the following requirements:*

*(1) That the head of the design control activity for aviation critical safety items establish processes to identify and manage aviation critical safety items and modifications, repair, and overhaul of such items.*

*(2) That the head of the contracting activity for an aviation critical safety item enter into a contract for such item only with a source approved by the design control activity in accordance with section 2319 of title 10, United States Code.*

*(3) That the aviation critical safety items delivered, and the services performed with respect to aviation critical safety items, meet all technical and quality requirements specified by the design control activity, except for any requirement determined unnecessary by the Secretary of Defense in writing.*

*(c) Definitions.—In this section, the terms "aviation critical safety item" and "design control activity" have the meanings given such terms in section 2319(g) of title 10, United States Code, as amended by subsection (d).*

*(d) Conforming Amendment to Title 10.—Section 2319 of title 10, United States Code, is amended—*

*(1) in subsection (c)(3), by inserting after "the contracting officer" the following: "(or, in the case of a contract for the procurement of an aviation critical item, the head of the design control activity for such item)"; and*

*(2) by adding at the end the following new subsection:*

*"(g) Definitions.—In this section:*

*"(1) The term 'aviation critical safety item' means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause a catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system, an unacceptable risk of personal injury or loss of life, an uncommanded engine shutdown that jeopardizes safety, or the failure of a military mission.*

*"(2) The term 'design control activity', with respect to an aviation critical safety item, means the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment in which the item is to be used.".*

## Subtitle B—Procurement of Services

### SEC. 811. EXPANSION AND EXTENSION OF INCENTIVE FOR USE OF PERFORMANCE-BASED CONTRACTS IN PROCUREMENTS OF SERVICES.

*(a) Increased Maximum Amount of Procurement Eligible for Commercial Items Treatment.—Paragraph (1)(A) of section 821(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–218; 10 U.S.C. 2302 note) is amended by striking "$5,000,000" and inserting '$10,000,000".*

*(b) Extension of Authority.—Paragraph (4) of such section 821(b) is amended by striking "more than 3 years after the date of the enactment of this Act" and inserting "after October 30, 2006".*

### SEC. 812. PUBLIC-PRIVATE COMPETITIONS FOR THE PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS.

*(a) Pilot Program for Best Value Source Selection for the Performance of Information Technology Services.—*

*(1) Authority.—The Secretary of Defense may carry out a pilot program for use of a best*

*value criterion in the selection of sources for performance of information technology services for the Department of Defense.*

*(2) CONVERSION TO PRIVATE SECTOR PERFORMANCE.—(A) Under the pilot program, an analysis of the performance of an information technology services function for the Department of Defense under section 2461(b)(3) of title 10, United States Code, shall include an examination of the performance of the function by Department of Defense civilian employees and by one or more private contractors to demonstrate whether change to performance by the private sector will result in the best value to the Government over the life of the contract, including in the examination the following:*

*(i) The cost to the Government, estimated by the Secretary of Defense (based on offers received), for performance of the function by the private sector.*

*(ii) The estimated cost to the Government of Department of Defense civilian employees performing the function.*

*(iii) Benefits in addition to price that warrant performance of the function by a particular source at a cost higher than that of performance by Department of Defense civilian employees.*

*(iv) In addition to the cost referred to in clause (i), an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract.*

*(B) Under the pilot program, subparagraph (A) of such section 2461(b)(3) shall not apply to an analysis of the performance of an information technology services function for the Department of Defense.*

*(3) CONTRACTING FOR INFORMATION TECHNOLOGY SERVICES.—(A) Under the pilot program, except as otherwise provided by law, the Secretary shall procure information technology services necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel) from a source in the private sector if performance by that source represents the best value to the United States, determined in accordance with the competition requirements of Office of Management and Budget Circular A–76.*

*(B) Under the pilot program, section 2462(a) of title 10, United States Code, shall not apply to a procurement described in paragraph (1).*

*(4) DURATION OF PILOT PROGRAM.—(A) The period for which the pilot program may be carried out under this subsection shall be fiscal years 2004 through 2008.*

*(B) An analysis commenced under the pilot program in accordance with paragraph (2), and a procurement for which a solicitation has been issued in accordance with paragraph (3), before the end of the pilot program period may be continued in accordance with paragraph (2) or (3), respectively, after the end of such period.*

*(5) GAO REVIEW.—(A) The Comptroller General shall review the administration of any pilot program carried out under this subsection to assess the extent to which the program is effective and is equitable for the potential public sources and the potential private sources of information technology services for the Department of Defense.*

*(B) Not later than February 1, 2008, the Comptroller General shall submit to the congressional defense committees a report on the review of the program under subparagraph (A). The report shall include the Comptroller General's assessment of the matters required under that subparagraph and any other conclusions resulting from the review.*

*(6) INFORMATION TECHNOLOGY SERVICES DEFINED.—In this subsection, the term "information technology service" means any service performed in the operation or maintenance of information technology (as defined in section 11101 of title 40, United States Code).*

*(b) RESOURCES-BASED SCHEDULES FOR COMPLETION OF PUBLIC-PRIVATE COMPETITIONS.—*

*(1) APPLICATION OF TIMEFRAMES.—Any interim or final deadline or other schedule-related milestone for the completion of a Department of Defense public-private competition shall be established solely on the basis of considered research and sound analysis regarding the availability of sufficient personnel, training, and technical resources to the Department of Defense to carry out such competition in a timely manner.*

*(2) EXTENSION OF TIMEFRAMES.—Any interim or final deadline or other schedule-related milestone established (consistent with paragraph (1)) for the completion of a Department of Defense public-private competition shall be extended if the Department of Defense official responsible for managing the competition determines under procedures prescribed by the Secretary of Defense that the personnel, training, or technical resources available to the Department of Defense to carry out such competition timely are insufficient.*

### *SEC. 813. AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.*

*(a) AUTHORITY.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2396 the following new section:*

***"§2397. Personal services: procurement by certain elements of the Department of Defense***

*"(a) AUTHORITY.—The head of an element of the Department of Defense referred to in subsection (b) may enter into a contract for the procurement of services described in section 3109 of title 5 that are necessary to carry out a mission of that element without regard to the limitations in such section if the head of that element determines in writing that the services to be procured are unique and that it would not be practicable to obtain such services by other means.*

*"(b) APPLICABILITY.—Subsection (a) applies to—*

*"(1) any element of the Department of Defense within the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and*

*"(2) the United States Special Operations Command, with respect to special operations activities described in paragraphs (1), (2), (3), and (4) of section 167(j) of this title.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2396 the following new item:*

*"2397. Personal services: procurement by certain elements of the Department of Defense.".*

## *Subtitle C—Major Defense Acquisition Programs*

### *SEC. 821. CERTAIN WEAPONS-RELATED PROTOTYPE PROJECTS.*

*(a) EXTENSION OF AUTHORITY.—Subsection (g) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking "September 30, 2004" and inserting "September 30, 2007".*

*(b) INCREASED SCOPE OF AUTHORITY.—Subsection (a) of such section is amended by inserting before the period at the end the following: ", or to improvement of weapons or weapon systems in use by the Armed Forces".*

*(c) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—Such section, as amended by subsection (a), is further amended—*

*(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and*

*(2) by inserting after subsection (d) the following new subsection (e):*

*"(e) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—(1) The Secretary of Defense is authorized to carry out a pilot program for follow-on contracting for the production of items or processes that are developed by nontraditional defense contractors under prototype projects carried out under this section.*

*"(2) Under the pilot program—*

*"(A) a qualifying contract for the procurement of such an item or process, or a qualifying subcontract under a contract for the procurement of such an item or process, may be treated as a contract or subcontract, respectively, for the procurement of commercial items, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and*

*"(B) the item or process may be treated as an item or process, respectively, that is developed in part with Federal funds and in part at private expense for the purposes of section 2320 of title 10, United States Code.*

*"(3) For the purposes of the pilot program, a qualifying contract or subcontract is a contract or subcontract, respectively, with a nontraditional defense contractor that—*

*"(A) does not exceed $50,000,000; and*

*"(B) is either—*

*"(i) a firm, fixed-price contract or subcontract; or*

*"(ii) a fixed-price contract or subcontract with economic price adjustment.*

*"(4) The authority to conduct a pilot program under this subsection shall terminate on September 30, 2007. The termination of the authority shall not affect the validity of contracts or subcontracts that are awarded or modified during the period of the pilot program, without regard to whether the contracts or subcontracts are performed during the period.".*

### *SEC. 822. APPLICABILITY OF CLINGER-COHEN ACT POLICIES AND REQUIREMENTS TO EQUIPMENT INTEGRAL TO A WEAPON OR WEAPON SYSTEM.*

*(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2223 the following:*

***"§2223a. Acquisition of equipment integral to a weapon or a weapon system: applicability of certain acquisition reform authorities and information technology-related requirements***

*"(a) BOARD OF SENIOR ACQUISITION OFFICIALS.—(1) The Secretary of Defense shall establish a board of senior acquisition officials to administer the implementation of the policies and requirements of chapter 113 of title 40 in procurements of information technology equipment determined by the Secretary as being an integral part of a weapon or a weapon system.*

*"(2) The Board shall be composed of the following officials:*

*"(A) Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall be the Chairman.*

*"(B) The acquisition executive of each of the military departments.*

*"(C) The Chief Information Officer of the Department of Defense.*

*"(c) RESPONSIBILITIES OF BOARD.—The Board shall be responsible for ensuring that—*

*"(1) the acquisition of information technology equipment determined by the Secretary of Defense as being an integral part of a weapon or a weapon system is conducted in a manner that is consistent with the capital planning, investment control, and performance and results-based management processes and requirements provided under sections 11302, 11303, 11312, and 11313 of title 40, to the extent that such processes requirements are applicable to the acquisition of such equipment;*

*"(2) issues of spectrum availability, interoperability, and information security are appropriately addressed in the development of weapons and weapon systems; and*

*"(3) in the case of information technology equipment that is to be incorporated into a weapon or a weapon system under a major defense acquisition program, the information technology equipment is incorporated in a manner that is consistent with—*

*"(A) the planned approach to applying certain provisions of law to major defense acquisition programs following the evolutionary acquisition process that the Secretary of Defense reported to Congress under section 802 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2602);*

*"(B) the acquisition policies that apply to spiral development programs under section 803 of such Act (116 Stat. 2603; 10 U.S.C. 2430 note); and*

*"(C) the software acquisition processes of the military department or Defense Agency concerned under section 804 of such Act (116 Stat. 2604; 10 U.S.C. 2430 note).*

*"(d) INAPPLICABILITY OF OTHER LAWS.—The following provisions of law do not apply to information technology equipment that is determined by the Secretary of Defense as being an integral part of a weapon or a weapon system:*

*"(1) Section 11315 of title 40.*

*"(2) The policies and procedures established under section 11316 of title 40.*

*"(3) Subsections (d) and (e) of section 811 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–211), and the requirements and prohibitions that are imposed by Department of Defense Directive 5000.1 pursuant to subsections (b) and (c) of such section.*

*"(4) Section 351 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2516; 10 U.S.C. 221 note).*

*"(e) DEFINITIONS.—In this section:*

*"(1) The term 'acquisition executive', with respect to a military department, means the official who is designated as the senior procurement executive of the military department under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).*

*"(2) The term 'information technology' has the meaning given such term in section 11101 of title 40.*

*"(3) The term 'major defense acquisition program' has the meaning given such term in section 2430 of this title.".*

*(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2223 the following new item:*

*"2223a. Acquisition of equipment integral to a weapon or a weapon system: applicability of certain acquisition reform authorities and information technology-related requirements.".*

*(b) CONFORMING AMENDMENT.—Section 2223 of such title is amended by adding at the end the following new subsection:*

*"(c) EQUIPMENT INTEGRAL TO A WEAPON OR WEAPON SYSTEM.—(1) In the case of information technology equipment determined by the Secretary of Defense as being an integral part of a weapon or a weapon system, the responsibilities under this section shall be performed by the board of senior acquisition officials established pursuant to section 2223a of this title.*

*"(2) In this subsection, the term 'information technology' has the meaning given such term in section 11101 of title 40.".*

### SEC. 823. APPLICABILITY OF REQUIREMENT FOR REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

*Section 804(a) of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–107; 115 Stat. 1180) is amended by striking ", as in effect on the date of enactment of this Act," and inserting "(as in effect on the date of the enactment of this Act), and the corresponding provision of any successor to such Instruction,".*

## *Subtitle D—Domestic Source Requirements*

### SEC. 831. EXCEPTIONS TO BERRY AMENDMENT FOR CONTINGENCY OPERATIONS AND OTHER URGENT SITUATIONS.

*Section 2533a(d) of title 10, United States Code, is amended—*

*(1) in paragraph (1), by inserting "or contingency operations" after "in support of combat operations"; and*

*(2) by adding at the end the following new paragraph:*

*"(4) Procurements for which the use of procedures other than competitive procedures has been approved on the basis of section 2304(c)(2) of this title, relating to unusual and compelling urgency of need.".*

### SEC. 832. INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF WASTE AND BYPRODUCTS OF COTTON AND WOOL FIBER FOR USE IN THE PRODUCTION OF PROPELLANTS AND EXPLOSIVES.

*Section 2533a(f) of title 10, United States Code, is amended—*

*(1) by striking "(f) EXCEPTION" and all that follows through "the procurement of" and inserting the following:*

*"(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a) does not preclude the procurement of the following:*

*"(1)";*

*(2) by capitalizing the initial letter of the word following "(1)", as added by paragraph (1); and*

*(3) by adding at the end the following new paragraph:*

*"(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.".*

### SEC. 833. WAIVER AUTHORITY FOR DOMESTIC SOURCE OR CONTENT REQUIREMENTS.

*(a) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:*

**"§2539c. Waiver of domestic source or content requirements**

*"(a) AUTHORITY.—Except as provided in subsection (f), the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (b) and thereby authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured—*

*"(1) in a foreign country that has a Declaration of Principles with the United States;*

*"(2) in a foreign country that has a Declaration of Principles with the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a Declaration of Principles with the United States; or*

*"(3) in the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a Declaration of Principles with the United States.*

*"(b) COVERED REQUIREMENTS.—For purposes of this section:*

*"(1) A domestic source requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item that is grown, reprocessed, reused, produced, or manufactured in the United States or by a manufacturer that is a part of the national technology and industrial base (as defined in section 2500(1) of this title).*

*"(2) A domestic content requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item produced or manufactured partly or wholly from components and materials grown, reprocessed, reused, produced, or manufactured in the United States.*

*"(c) APPLICABILITY.—The authority of the Secretary to waive the application of a domestic source or content requirements under subsection (a) applies to the procurement of items for which the Secretary of Defense determines that—*

*"(1) application of the requirement would impede the reciprocal procurement of defense items under a Declaration of Principles with the United States; and*

*"(2) such country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.*

*"(d) LIMITATION ON DELEGATION.—The authority of the Secretary to waive the application of domestic source or content requirements under subsection (a) may not be delegated to any officer or employee other than the Under Secretary of Defense for Acquisition, Technology and Logistics.*

*"(e) CONSULTATIONS.—The Secretary may grant a waiver of the application of a domestic source or content requirement under subsection (a) only after consultation with the United States Trade Representative, the Secretary of Commerce, and the Secretary of State.*

*"(f) LAWS NOT WAIVABLE.—The Secretary of Defense may not exercise the authority under subsection (a) to waive any domestic source or content requirement contained in any of the following laws:*

*"(1) The Small Business Act (15 U.S.C. 631 et seq.).*

*"(2) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).*

*"(3) Sections 7309 and 7310 of this title.*

*"(4) Section 2533a of this title.*

*"(g) RELATIONSHIP TO OTHER WAIVER AUTHORITY.—The authority under subsection (a) to waive a domestic source requirement or domestic content requirement is in addition to any other authority to waive such requirement.*

*"(h) CONSTRUCTION WITH RESPECT TO LATER ENACTED LAWS.—This section may not be construed as being inapplicable to a domestic source requirement or domestic content requirement that is set forth in a law enacted after the enactment of this section solely on the basis of the later enactment.*

*"(i) DECLARATION OF PRINCIPLES.—(1) In this section, the term 'Declaration of Principles' means a written understanding between the Department of Defense and its counterpart in a foreign country signifying a cooperative relationship between the Department and its counterpart to standardize or make interoperable defense equipment used by the armed forces and the armed forces of the foreign country across a broad spectrum of defense activities, including—*

*"(A) harmonization of military requirements and acquisition processes;*

*"(B) security of supply;*

*"(C) export procedures;*

*"(D) security of information;*

*"(E) ownership and corporate governance;*

*"(F) research and development;*

*"(G) flow of technical information; and*

*"(H) defense trade.*

*"(2) A Declaration of Principles is underpinned by a memorandum of understanding or other agreement providing for the reciprocal procurement of defense items between the United States and the foreign country concerned without unfair discrimination in accordance with section 2531 of this title.".*

*(b) Clerical Amendment.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2539b the following new item:*

*"2539c. Waiver of domestic source or content requirements.".*

### *SEC. 834. BUY AMERICAN EXCEPTION FOR BALL BEARINGS AND ROLLER BEARINGS USED IN FOREIGN PRODUCTS.*

*Section 2534(a)(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", except ball bearings and roller bearings being procured for use in an end product manufactured by a manufacturer that does not satisfy the requirements of subsection (b) or in a component part manufactured by such a manufacturer".*

## *Subtitle E—Defense Acquisition and Support Workforce*

### *SEC. 841. FLEXIBILITY FOR MANAGEMENT OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.*

*(a) Management Structure.—(1) Sections 1703, 1705, 1706, and 1707 of title 10, United States Code, are repealed.*

*(2) Section 1724(d) of such title is amended—*

*(A) in the first sentence, by striking "The acquisition career program board concerned" and all that follows through "if the board certifies" and inserting "The Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines";*

*(B) in the second sentence, by striking "the board" and inserting "the Secretary"; and*

*(C) by striking the third sentence.*

*(3) Section 1732(b) of such title is amended—*

*(A) in paragraph (1)(C), by striking ", as validated by the appropriate career program management board"; and*

*(B) in paragraph (2)(A)(ii), by striking "has been certified by the acquisition career program board of the employing military department as possessing" and inserting "possess".*

*(4) Section 1732(d) of such title is amended—*

*(A) in paragraph (1)—*

*(i) in the first sentence, by striking "the acquisition career program board of a military department" and all that follows through "if the board certifies" and inserting "The Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines";*

*(ii) in the second sentence, by striking "the board" and inserting "the Secretary"; and*

*(iii) by striking the third sentence; and*

*(B) in paragraph (2), by striking "The acquisition career program board of a military department" and inserting "The Secretary".*

*(5) Section 1734(d) of such title is amended—*

*(A) in subsection (d)—*

*(i) by striking paragraph (2); and*

*(ii) in paragraph (3), by striking the second sentence; and*

*(B) in subsection (e)(2), by striking ", by the acquisition career program board of the department concerned,".*

*(6) Section 1737(c) of such title is amended—*

*(A) by striking paragraph (2); and*

*(B) by striking "(1) The Secretary" and inserting "The Secretary".*

*(b) Elimination of Role of Office of Personnel Management.—(1) Section 1725 of such title is repealed.*

*(2) Section 1731 of such title is amended by striking subsection (c).*

*(3) Section 1732(c)(2) of such title is amended by striking the second and third sentences.*

*(4) Section 1734(g) of such title is amended—*

*(A) by striking paragraph (2); and*

*(B) in paragraph (1) by striking "(1) The Secretary" and inserting "The Secretary".*

*(5) Section 1737 of such title is amended by striking subsection (d).*

*(6) Section 1744(c)(3)(A)(i) of such title is amended by striking "and such other requirements as the Office of Personnel Management may prescribe".*

*(c) Single Acquisition Corps.—(1) Section 1731 of such title is amended—*

*(A) in subsection (a)—*

*(i) by striking "each of the military departments and one or more Corps, as he considers appropriate, for the other components of" in the first sentence; and*

*(ii) by striking the second sentence; and*

*(B) in subsection (b), by striking "an Acquisition Corps" and inserting "the Acquisition Corps".*

*(2) Sections 1732(a), 1732(e)(1), 1732(e)(2), 1733(a), 1734(e)(1), and 1737(a)(1) of such title are amended by striking "an Acquisition Corps" and inserting "the Acquisition Corps".*

*(3) Section 1734 of such title is amended—*

*(A) in subsection (g), by striking "each Acquisition Corps, a test program in which members of a Corps" and inserting "the Acquisition Corps, a test program in which members of the Corps"; and*

*(B) in subsection (h), by striking "making assignments of civilian and military members of the Acquisition Corps of that military department" and inserting "making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps".*

*(d) Consolidation of Certain Education and Training Program Requirements.—(1) Section 1742 of such title is amended to read as follows:*

***"§ 1742. Internship, cooperative education, and scholarship programs***

*"The Secretary of Defense shall conduct the following education and training programs:*

*"(1) An intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.*

*"(2) A cooperative education credit program under which the Secretary arranges, through cooperative arrangements entered into with one or more accredited institutions of higher education, for such institutions to grant undergraduate credit for work performed by students who are employed by the Department of Defense in acquisition positions.*

*"(3) A scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.".*

*(2) Sections 1743 and 1744 of such title are repealed.*

*(e) General Management Provisions.—Subchapter V of chapter 87 of such title is amended—*

*(1) by striking section 1763; and*

*(2) by adding at the end the following new section 1764:*

***"§ 1764. Authority to establish different minimum requirements***

*"(a) Authority.—(1) The Secretary of Defense may prescribe a different minimum number of years of experience, different minimum education qualifications, and different tenure of service qualifications to be required for eligibility for appointment or advancement to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter.*

*"(2) Any requirement prescribed under paragraph (1) for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.*

*"(b) Applicability.—This section applies to the following acquisition positions in the Department of Defense:*

*"(1) Contracting officer, except a position referred to in paragraph (5).*

*"(2) Program executive officer.*

*"(3) Senior contracting official.*

*"(4) Program manager.*

*"(5) A position in the contract contingency force of an armed force that is filled by a member of that armed force.*

*"(c) Definition.—In this section, the term 'contract contingency force', with respect to an armed force, has the meaning given such term in regulations prescribed by the Secretary concerned.".*

*(f) Clerical Amendments.—(1) The table of sections at the beginning of subchapter I of chapter 87 of title 10, United States Code, is amended by striking the items relating to sections 1703, 1705, 1706, and 1707.*

*(2) The table of sections at the beginning of subchapter II of such chapter is amended by striking the item relating to section 1725.*

*(3) The table of sections at the beginning of subchapter IV of such chapter is amended by striking the items relating to sections 1742, 1743, and 1744 and inserting the following:*

*"1742. Internship, cooperative education, and scholarship programs.".*

*(4) The table of sections at the beginning of subchapter V of such chapter is amended by striking the item relating to section 1763 and inserting the following:*

*"1764. Authority to establish different minimum requirements.".*

### *SEC. 842. LIMITATION AND REINVESTMENT AUTHORITY RELATING TO REDUCTION OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.*

*(a) Limitation.—Notwithstanding any other provision of law, the defense acquisition and support workforce may not be reduced, during fiscal years 2004, 2005, and 2006, below the level of that workforce as of September 30, 2002, determined on the basis of full-time equivalent positions, except as may be necessary to strengthen the defense acquisition and support workforce in higher priority positions in accordance with this section.*

*(b) Workforce Flexibility.—During fiscal years 2004, 2005, and 2006, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.*

*(c) Higher Priority Positions.—For the purposes of this section, higher priority positions in the defense acquisition and support workforce include the following positions:*

*(1) Positions the responsibilities of which include drafting performance-based work statements for services contracts and overseeing the performance of contracts awarded pursuant to such work statements.*

*(2) Positions the responsibilities of which include conducting spending analyses, negotiating company-wide pricing agreements, and taking other measures to reduce contract costs.*

*(3) Positions the responsibilities of which include reviewing contractor quality control systems, assessing and analyzing quality deficiency reports, and taking other measures to improve product quality.*

*(4) Positions the responsibilities of which include effectively conducting public-private competitions in accordance with Office of Management and Budget Circular A–76.*

*(5) Any other positions in the defense acquisition and support workforce that the Secretary identifies as being higher priority positions that are staffed at levels not likely to ensure efficient and effective performance of all of the responsibilities of those positions.*

*(d) Defense Acquisition and Support Workforce Defined.—In this section, the term "defense acquisition and support workforce"*

*means members of the Armed Forces and civilian personnel who are assigned to, or are employed in, an organization of the Department of Defense that has acquisition as its predominant mission, as determined by the Secretary of Defense.*

### SEC. 843. CLARIFICATION AND REVISION OF AUTHORITY FOR DEMONSTRATION PROJECT RELATING TO CERTAIN ACQUISITION PERSONNEL MANAGEMENT POLICIES AND PROCEDURES.

*Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1701 note) is amended—*

*(1) in subsection (b), by striking paragraph (3) and inserting the following:*

*"(3) Conditions.—Paragraph (2) shall not apply with respect to a demonstration project unless—*

*"(A) for each organization or team participating in the demonstration project—*

*"(i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and*

*"(ii) at least two-thirds of the workforce participating in the demonstration project consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and*

*"(B) the demonstration project commences before October 1, 2007.";*

*(2) in subsection (d), by striking "95,000" in subsection (d) and inserting "120,000";*

*(3) by redesignating subsection (e) as subsection (f); and*

*(4) by inserting after subsection (d) the following:*

*"(e) Effect of Reorganizations.—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.".*

## Subtitle F—Federal Support for Procurement of Anti-Terrorism Technologies and Services by State and Local Governments

### SEC. 851. APPLICATION OF INDEMNIFICATION AUTHORITY TO STATE AND LOCAL GOVERNMENT CONTRACTORS.

*(a) Authority.—Subject to the limitations of subsection (b), the President may exercise the discretionary authority under Public Law 85–804 (50 U.S.C. 1431 et seq.) so as to provide under such law for indemnification of contractors and subcontractors in procurements by States or units of local government of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.*

*(b) Limitations.—Any authority that is delegated by the President under subsection (a) to the head of a Federal agency to provide for the indemnification of contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) for procurements by States or units of local government may be exercised only—*

*(1) in the case of a procurement by a State or unit of local government that—*

*(A) is made under a contract awarded pursuant to section 852; and*

*(B) is approved, in writing, for the provision of indemnification by the President or the official designated by the President under section 852(a); and*

*(2) with respect to—*

*(A) amounts of losses or damages not fully covered by private liability insurance and State or local government-provided indemnification; and*

*(B) liabilities of a contractor or subcontractor not arising out of willful misconduct or lack of good faith on the part of the contractor or subcontractor, respectively.*

### SEC. 852. FEDERAL SUPPORT FOR ENHANCEMENT OF STATE AND LOCAL ANTI-TERRORISM RESPONSE CAPABILITIES.

*(a) Procurements of Anti-Terrorism Technologies and Services by State and Local Governments Through Federal Contracts.—*

*(1) Establishment of program.—The President shall designate an officer or employee of the United States—*

*(A) to establish, and the designated official shall establish, a program under which States and units of local government may procure through contracts entered into by the designated official anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism; and*

*(B) to carry out the SAFER grant program provided for under subsection (f).*

*(2) Designated federal procurement official for program.—In this section, the officer or employee designated by the President under paragraph (1) shall be referred to as the "designated Federal procurement official".*

*(3) Authorities.—Under the program, the designated Federal procurement official—*

*(A) may, but shall not be required to, award contracts using the same authorities as are provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act (41 U.S.C. 259(b)(3)); and*

*(B) may make SAFER grants in accordance with subsection (f).*

*(4) Offers not required to state and local governments.—A contractor that sells anti-terrorism technology or anti-terrorism services to the Federal Government may not be required to offer such technology or services to a State or unit of local government under the program.*

*(b) Responsibilities of the Contracting Official.—In carrying out the program established under this section, the designated Federal procurement official shall—*

*(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and*

*(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the designated official.*

*(c) Required Procedures.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities:*

*(1) Submissions by states.—*

*(A) Requests and payments.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the designated Federal procurement official under this section shall submit to that official in such form and manner and at such times as such official prescribes, the following:*

*(i) Request.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.*

*(ii) Payment.—Advance payment for each requested technology or service in an amount determined by the designated official based on estimated or actual costs of the technology or service and administrative costs incurred by such official.*

*(B) Other contracts.—The designated Federal procurement official may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contractors. No indemnification may be provided under Public Law 85–804 pursuant to an exercise of authority under section 851 for procurements that are made directly between contractors and States or units of local government.*

*(2) Permitted catalog technologies and services.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).*

*(3) Coordination of local requests within state.—The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.*

*(4) Shipment and transportation costs.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation of the technologies or services, respectively, to the State and localities within the State.*

*(d) Reimbursement of Actual Costs.—In the case of a procurement made by or for a State or unit of local government under the procedures established under this section, the designated Federal procurement official shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.*

*(e) Time for Implementation.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.*

*(f) SAFER Grant Program.—*

*(1) Authority.—The designated Federal procurement official, in cooperation with the Secretary of the Department of Homeland Security or his designee, is authorized to make grants to eligible entities for the purpose of supporting increases in the number of permanent positions for firefighters in fire services to ensure staffing at levels and with skill mixes that are adequate emergency response to incidents or threats of terrorism.*

*(2) Use of funds.—The proceeds of a SAFER grant to an eligible entity may be used only for the purpose specified in paragraph (1).*

*(3) Duration.—A SAFER grant to an eligible entity shall provide funding for a period of 4 years. The proceeds of the grant shall be disbursed to the eligible entity in 4 equal annual installments.*

*(4) Non-federal share.—*

*(A) Requirement.—An eligible entity may receive a SAFER grant only if the entity enters into an agreement with the designated Federal procurement official to contribute non-Federal funds to achieve the purpose of the grant in the following amounts:*

*(i) During the second year in which funds of a SAFER grant are received, an amount equal to 25 percent of the amount of the SAFER grant funds received that year.*

*(ii) During the third year in which funds of a SAFER grant are received, an amount equal to 50 percent of the amount of the SAFER grant funds received that year.*

*(iii) During the fourth year in which funds of a SAFER grant are received, an amount equal to 75 percent of the amount of the SAFER grant funds received that year.*

*(B) Waiver.—The designated Federal procurement official may waive the requirement for a non-Federal contribution described in subparagraph (A) in the case of any eligible entity.*

*(C) ASSET FORFEITURE FUNDS.—An eligible entity may use funds received from the disposal of property transferred to the eligible entity pursuant to section 9703(h) of title 31, United States Code, section 981(e) of title 18, United States Code, or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) to provide the non-Federal share required under paragraph (1).*

*(D) BIA FUNDS.—Funds appropriated for the activities of any agency of a tribal organization or for the Bureau of Indian Affairs to perform firefighting functions on any Indian lands may be used to provide the share required under subparagraph (A), and such funds shall be deemed to be non-Federal funds for such purpose.*

*(5) APPLICATIONS.—*

*(A) REQUIREMENT.—To receive a SAFER grant, an eligible entity shall submit an application for the grant to the designated Federal procurement official.*

*(B) CONTENT.—Each application for a SAFER grant shall contain, for each fire service covered by the application, the following information:*

*(i) A long-term strategy for increasing the force of firefighters in the fire service to ensure readiness for appropriate and effective emergency response to incidents or threats of terrorism.*

*(ii) A detailed plan for implementing the strategy that reflects consultation with community groups, consultation with appropriate private and public entities, and consideration of any master plan that applies to the eligible entity.*

*(iii) An assessment of the ability of the eligible entity to increase the force of firefighters in the fire service without Federal assistance.*

*(iv) An assessment of the levels of community support for increasing that force, including financial and in-kind contributions and any other available community resources.*

*(v) Specific plans for obtaining necessary support and continued funding for the firefighter positions proposed to be added to the fire service with SAFER grant funds.*

*(vi) An assurance that the eligible entity will, to the extent practicable, seek to recruit and employ (or accept the voluntary services of) firefighters who are members of racial and ethnic minority groups or women.*

*(vii) Any additional information that the designated Federal procurement official considers appropriate.*

*(C) SPECIAL RULE FOR SMALL COMMUNITIES.—The designated Federal procurement official may authorize an eligible entity responsible for a population of less than 50,000 to submit an application without information required under subparagraph (B), and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of an application by such an entity.*

*(D) PREFERENTIAL CONSIDERATION.—The designated Federal procurement official may give preferential consideration, to the extent feasible, to an application submitted by an eligible entity that agrees to contribute a non-Federal share higher than the share required under paragraph (4)(A).*

*(E) ASSISTANCE WITH APPLICATIONS.—The designated Federal procurement official is authorized to provide technical assistance to an eligible entity for the purpose of assisting with the preparation of an application for a SAFER grant.*

*(6) SPECIAL RULES ON USE OF FUNDS.—*

*(A) SUPPLEMENT NOT SUPPLANT.—The proceeds of a SAFER grant made to an eligible entity shall be used to supplement and not supplant other Federal funds, State funds, or funds from a subdivision of a State, or, in the case of a tribal organization, funds supplied by the Bureau of Indian Affairs, that are available for salaries or benefits for firefighters.*

*(B) LIMITATION RELATING TO COMPENSATION OF FIREFIGHTERS.—*

*(i) IN GENERAL.—The proceeds of a SAFER grant may not be used to fund the pay and benefits of a full-time firefighter if the total annual amount of the pay and benefits for that firefighter exceeds $100,000. The designated Federal procurement official may waive the prohibition in the preceding sentence in any particular case.*

*(ii) ADJUSTMENT FOR INFLATION.—Effective on October 1 of each year, the total annual amount applicable under subparagraph (A) shall be increased by the percentage (rounded to the nearest one-tenth of one percent) by which the Consumer Price Index for all-urban consumers published by the Department of Labor for July of such year exceeds the Consumer Price Index for all-urban consumers published by the Department of Labor for July of the preceding year. The first adjustment shall be made on October 1, 2004.*

*(7) PERFORMANCE EVALUATION.—*

*(A) REQUIREMENT FOR INFORMATION.—The designated Federal procurement official shall evaluate, each year, whether an entity receiving SAFER grant funds in such year is substantially complying with the terms and conditions of the grant. The entity shall submit to the designated Federal procurement official any information that the designated Federal procurement official requires for that year for the purpose of the evaluation.*

*(B) REVOCATION OR SUSPENSION OF FUNDING.—If the designated Federal procurement official determines that a recipient of a SAFER grant is not in substantial compliance with the terms and conditions of the grant the designated Federal procurement official may revoke or suspend funding of the grant.*

*(8) ACCESS TO DOCUMENTS.—*

*(A) AUDITS BY DESIGNATED FEDERAL PROCUREMENT OFFICIAL.—The designated Federal procurement official shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of an eligible entity that receives a SAFER grant.*

*(B) AUDITS BY THE COMPTROLLER GENERAL.—Subparagraph (A) shall also apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.*

*(9) TERMINATION OF SAFER GRANT AUTHORITY.—*

*(A) IN GENERAL.—The authority to award a SAFER grant shall terminate at the end of September 30, 2010.*

*(B) REPORT TO CONGRESS.—Not later than two years after the date of the enactment of this Act, the designated Federal procurement official shall submit to Congress a report on the SAFER grant program under this section. The report shall include an assessment of the effectiveness of the program for achieving its purpose, and may include any recommendations that the designated Federal procurement official has for increasing the forces of firefighters in fire services.*

*(10) DEFINITIONS.—In this subsection:*

*(A) ELIGIBLE ENTITY.—The term "eligible entity" means—*

*(i) a State;*

*(ii) a subdivision of a State;*

*(iii) a tribal organization;*

*(iv) any other public entity that the designated Federal procurement official determines appropriate for eligibility under this section; and*

*(v) a multijurisdictional or regional consortium of the entities described in clauses (i) through (iv).*

*(B) FIREFIGHTER.—The term "firefighter" means an employee or volunteer member of a fire service, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—*

*(i) is trained in fire suppression and has the legal authority and responsibility to engage in fire suppression; or*

*(ii) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.*

*(C) FIRE SERVICE.—The term "fire service" includes an organization described in section 4(5) of the Federal Fire Prevention and Control Act of 1974 that is under the jurisdiction of a tribal organization.*

*(D) MASTER PLAN.—The term "master plan" has the meaning given the term in section 10 of the Federal Fire Prevention and Control Act of 1974.*

*(E) SAFER GRANT.—The term 'SAFER grant' means a grant of financial assistance under this subsection.*

*(F) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this section such sums as may be necessary from the Department of Homeland Security, up to—*

*(A) $1,000,000,000 for fiscal year 2004;*

*(B) $1,030,000,000 for fiscal year 2005; and*

*(C) $1,061,000,000 for fiscal year 2006.*

### ***SEC. 853. DEFINITIONS.***

*In this subtitle:*

*(1) ANTI-TERRORISM TECHNOLOGY AND SERVICE.—The terms "anti-terrorism technology" and "anti-terrorism service" mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified, or procured for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.*

*(2) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning given such term in section 11101(6) of title 40, United States Code.*

*(3) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.*

*(4) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia Government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.*

## ***Subtitle G—General Contracting Authorities, Procedures, and Limitations, and Other Matters***

### ***SEC. 861. LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF UNITED STATES JOINT FORCES COMMAND.***

*Section 164 of title 10, United States Code, is amended by adding at the end the following new subsection:*

*"(h) LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF CERTAIN UNIFIED COMBATANT COMMAND.—(1) The Secretary of Defense shall delegate to the commander of the unified combatant command referred to in paragraph (2) authority of the Secretary under chapter 137 of this title sufficient to enable the commander to develop and acquire equipment described in paragraph (3). The exercise of authority so delegated is subject to the authority, direction, and control of the Secretary.*

*"(2) The commander to which authority is delegated under paragraph (1) is the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the Secretary of Defense.*

*"(3) The equipment referred to in paragraph (1) is as follows:*

*"(A) Battlefield command, control, communications, and intelligence equipment.*

*"(B) Any other equipment that the commander referred to in that paragraph determines necessary and appropriate for—*

*"(i) facilitating the use of joint forces in military operations; or*

*"(ii) enhancing the interoperability of equipment used by the various components of joint forces on the battlefield.*

*"(4) The authority delegated under paragraph (1) does not apply to the development or acquisition of a system for which—*

*"(A) the total expenditure for research, development, test, and evaluation is estimated to be $10,000,000 or more; or*

*"(B) the total expenditure for procurement of the system is estimated to be $50,000,000 or more.*

*"(5) The commander of the unified combatant command referred to in paragraph (1) shall require the inspector general of the command to conduct internal audits and inspections of purchasing and contracting administered by the commander under the authority delegated under subsection (a).".*

### SEC. 862. OPERATIONAL TEST AND EVALUATION.

*(a) Leadership and Duties of Department of Defense Test Resource Management Center.—(1) Subsection (b)(1) of section 196 of title 10, United States Code, is amended—*

*(A) by striking "on active duty. The Director" and inserting "on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director"; and*

*(B) by adding at the end the following: "A civilian officer or employee serving as the Director shall serve in a pay level equivalent in rank to lieutenant general.".*

*(2)(A) Subsection (c)(1)(B) of such section is amended by inserting after "Department of Defense" the following: "other than budgets and expenditures for activities described in section 139(i) of this title".*

*(B) Subsection (e)(1) of such section is amended—*

*(i) by striking ", the Director of Operational Test and Evaluation,"; and*

*(ii) by striking ", Director's".*

*(b) Deployment Before Completion of OT&E.—Section 806(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2607; 10 U.S.C. 2302 note) is amended by adding at the end the following new paragraph:*

*"(3) If items are deployed under the rapid acquisition and deployment procedures prescribed pursuant to this section, or under any other authority, before the completion of operational test and evaluation of the items, the Director of Operational Test and Evaluation shall have access to operational records and data relevant to such items in accordance with section 139(e)(3) of title 10, United States Code, for the purpose of completing operational test and evaluation of the items. The access to the operational records and data shall be provided in a time and manner determined by the Secretary of Defense consistent with requirements of operational security and other relevant operational requirements.".*

### SEC. 863. MULTIYEAR TASK AND DELIVERY ORDER CONTRACTS.

*(a) Repeal of Applicability of Existing Authority and Limitations.—Section 2306c of title 10, United States Code, is amended—*

*(1) by striking subsection (g); and*

*(2) by redesignating subsection (h) as subsection (g).*

*(b) Multiyear Contracting Authority.—Section 2304a of such title is amended—*

*(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and*

*(2) by inserting after subsection (e) the following new subsection (f):*

*"(f) Multiyear Contracts.—The head of an agency entering into a task or delivery order contract under this section may provide for the contract to cover any period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification of the contract. In no event, however, may the total contract period as extended exceed eight years.".*

### SEC. 864. REPEAL OF REQUIREMENT FOR CONTRACTOR ASSURANCES REGARDING THE COMPLETENESS, ACCURACY, AND CONTRACTUAL SUFFICIENCY OF TECHNICAL DATA PROVIDED BY THE CONTRACTOR.

*Section 2320(b) of title 10, United States Code, is amended—*

*(1) by striking paragraph (7); and*

*(2) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.*

### SEC. 865. REESTABLISHMENT OF AUTHORITY FOR SHORT-TERM LEASES OF REAL OR PERSONAL PROPERTY ACROSS FISCAL YEARS.

*(a) Reestablishment of Authority.—Subsection (a) of section 2410a of title 10, United States Code, is amended—*

*(1) by inserting "(1)" before "The Secretary of Defense";*

*(2) by striking "for procurement of severable services" and inserting "for a purpose described in paragraph (2)"; and*

*(3) by adding at the end the following new paragraph:*

*"(2) The purpose of a contract described in this paragraph is as follows:*

*"(A) The procurement of severable services.*

*"(B) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement.".*

*(b) Conforming and Clerical Amendments.—(1) The heading of such section is amended to read as follows:*

### "§2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property".

*(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2410a and inserting the following new item:*

*"2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property.".*

### SEC. 866. CONSOLIDATION OF CONTRACT REQUIREMENTS.

*(a) Amendment to Title 10.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2381 the following new section:*

### "§2382. Consolidation of contract requirements: policy and restrictions

*"(a) Policy.—The Secretary of Defense shall require the Secretary of each military department, the head of each Defense Agency, and the head of each Department of Defense Field Activity to ensure that the decisions made by that official regarding consolidation of contract requirements of the department, agency, or field activity, as the case may be, are made with a view to providing small business concerns with appropriate opportunities to participate in Department of Defense procurements as prime contractors and appropriate opportunities to participate in such procurements as subcontractors.*

*"(b) Limitation on Use of Acquisition Strategies Involving Consolidation.—(1) An official of a military department, Defense Agency, or Department of Defense Field Activity may not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive concerned first—*

*"(A) conducts market research;*

*"(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and*

*"(C) determines that the consolidation is necessary and justified.*

*"(2) A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under subparagraph (B) of that paragraph. However, savings in administrative or personnel costs alone do not constitute, for such purposes, a sufficient justification for a consolidation of contract requirements in a procurement unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.*

*"(3) Benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—*

*"(A) quality;*

*"(B) acquisition cycle;*

*"(C) terms and conditions; and*

*"(D) any other benefit.*

*"(c) Definitions.—In this section:*

*"(1) The terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a military department, Defense Agency, or Department of Defense Field Activity, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy two or more requirements of that department, agency, or activity for goods or services that have previously been provided to, or performed for, that department, agency, or activity under two or more separate contracts smaller in cost than the total cost of the contract for which the offers are solicited.*

*"(2) The term "multiple award contract" means—*

*"(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of this title;*

*"(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of this title or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and*

*"(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal agency with two or more sources pursuant to the same solicitation.*

*"(3) The term 'senior procurement executive concerned' means—*

*"(A) with respect to a military department, the official designated under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) as the senior procurement executive for the military department; or*

*"(B) with respect to a Defense Agency or a Department of Defense Field Activity, the official so designated for the Department of Defense.*

*"(4) The term 'small business concern' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section*

3(a) of the Small Business Act (15 U.S.C. 632(a)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2381 the following new item:

''2382. Consolidation of contract requirements: policy and restrictions.''.

(b) DATA REVIEW.—(1) The Secretary of Defense shall revise the data collection systems of the Department of Defense to ensure that such systems are capable of identifying each procurement that involves a consolidation of contract requirements within the department with a total value in excess of $5,000,000.

(2) The Secretary shall ensure that appropriate officials of the Department of Defense periodically review the information collected pursuant to paragraph (1) in cooperation with the Small Business Administration—

(A) to determine the extent of the consolidation of contract requirements in the Department of Defense; and

(B) to assess the impact of the consolidation of contract requirements on the availability of opportunities for small business concerns to participate in Department of Defense procurements, both as prime contractors and as subcontractors.

(3) In this subsection:

(A) The term ''consolidation of contract requirements'' has the meaning given that term in section 2382(c)(1) of title 10, United States Code, as added by subsection (a).

(B) The term ''small business concern'' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) APPLICABILITY.—This section applies only with respect to contracts entered into with funds authorized to be appropriated by this Act.

## TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

### Subtitle A—Department Officers and Agencies

### SEC. 901. CLARIFICATION OF RESPONSIBILITY OF MILITARY DEPARTMENTS TO SUPPORT COMBATANT COMMANDS.

Sections 3013(c)(4), 5013(c)(1), and 8013(3)(c)(4) of title 10, United States Code, are amended by striking ''(to the maximum extent practicable)''.

### SEC. 902. REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) REDESIGNATION.—The National Imagery and Mapping Agency (NIMA) is hereby redesignated as the National Geospatial-Intelligence Agency (NGA).

(b) CONFORMING AMENDMENTS.—

(1) TITLE 10, UNITED STATES CODE.—(A) Chapter 22 of title 10, United States Code, is amended by striking ''National Imagery and Mapping Agency'' each place it appears (other than the penultimate place it appears in section 461(b) of such title) and inserting ''National Geospatial-Intelligence Agency''.

(B) Section 453(b) of such title is amended by striking ''NIMA'' each place it appears and inserting ''NGA''.

(C)(i) Subsection (b)(3) of section 424 of such title is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(ii) The heading for such section is amended to read as follows:

**''§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Geospatial Intelligence Agency''.**

(iii) The table of sections at the beginning of subchapter I of chapter 21 of such title is amended in the item relating to section 424 by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(D) Section 425(a) of such title is amended—

(i) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph (3):

''(3) The words 'National Geospatial-Intelligence Agency', the initials 'NGA', or the seal of the National Geospatial-Intelligence Agency.''.

(E) Section 1614(2)(C) of such title is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(F)(i) The heading for chapter 22 of such title is amended to read as follows:

**''CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.''**

(ii) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part I of such subtitle, are each amended by striking the item relating to chapter 22 and inserting the following new item:

**''22. National Geospatial-Intelligence Agency .......................................... 441''.**

(2) NATIONAL SECURITY ACT OF 1947.—(A) Section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E)) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(B) That Act is further amended by striking ''National Imagery and Mapping Agency'' each place it appears in sections 105, 105A, 105C, 106, and 110 (50 U.S.C. 403–5, 403–5a, 403–5c, 403–6, 404e) and inserting ''National Geospatial-Intelligence Agency''.

(C) Section 105C of that Act (50 U.S.C. 403–5c) is further amended—

(i) by striking ''NIMA'' each place it appears and inserting ''NGA''; and

(ii) in subsection (a)(6)(B)(iv)(II), by striking ''NIMA's'' and inserting ''NGA's''.

(D) The heading for section 105C of that Act (50 U.S.C. 403–5c) is amended to read as follows:

''PROTECTION OF OPERATIONAL FILES OF THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(E) The heading for section 110 of that Act (50 U.S.C. 404e) is amended to read as follows:

''NATIONAL MISSION OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(F) The table of contents for that Act is amended—

(i) by striking the item relating to section 105C and inserting the following new item:

''Sec. 105C. Protection of operational files of the National Geospatial-Intelligence Agency.'';

and

(ii) by striking the item relating to section 110 and inserting the following new item:

''Sec. 110. National mission of National Geospatial-Intelligence Agency.''.

(c) REPORT ON UTILIZATION OF CERTAIN DATA EXTRACTION AND EXPLOITATION CAPABILITIES.—(1) Not later than 60 days after the date of the enactment of this Act, the Director of the National Geospatial-Intelligence Agency shall submit to the appropriate committees of Congress a report on the status of the efforts of the Agency to incorporate within the Commercial Joint Mapping Tool Kit (C/JMTK) applications for the rapid extraction and exploitation of three-dimensional geospatial data from reconnaissance imagery.

(2) In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) REFERENCES.—Any reference to the National Imagery and Mapping Agency or NIMA in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Geospatial-Intelligence Agency or NGA, respectively.

(e) MATTERS RELATING TO GEOSPATIAL INTELLIGENCE.—(1) Section 442(a)(2) of title 10, United States Code, is amended by striking ''Imagery, intelligence, and information'' and inserting ''Geospatial intelligence''.

(2) Section 467 of such title is amended by adding at the end the following new paragraph:

''(5) The term 'geospatial intelligence' means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth, and includes imagery, imagery intelligence, and geospatial information.''.

(3) Section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a)) is amended by striking ''imagery requirements'' and inserting ''geospatial intelligence requirements''.

### SEC. 903. STANDARDS OF CONDUCT FOR MEMBERS OF THE DEFENSE POLICY BOARD AND THE DEFENSE SCIENCE BOARD.

(a) STANDARDS REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall promulgate standards of conduct for members of the Defense Policy Board and the Defense Science Board. The purpose of the standards of conduct shall be to ensure public confidence in the Defense Policy Board and the Defense Science Board.

(b) ISSUES TO BE ADDRESSED.—The standards of conduct promulgated pursuant to subsection (a) shall address, at a minimum, the following:

(1) Conditions governing the access of Board members to classified information and other confidential information about the plans and operations of the Department of Defense and appropriate limitations on any use of such information for private gain.

(2) Guidelines for addressing conflicting financial interests and recusal from participation in matters affecting such interests.

(3) Guidelines regarding the lobbying of Department of Defense officials or other contacts with Department of Defense officials regarding matters in which Board members may have financial interests.

(c) REPORT TO CONGRESS.—The Secretary of Defense shall provide the Committees on Armed Services of the Senate and the House of Representatives with a copy of the standards of conduct promulgated pursuant to subsection (a) immediately upon promulgation of the standards.

### Subtitle B—Space Activities

### SEC. 911. COORDINATION OF SPACE SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) SPACE SCIENCE AND TECHNOLOGY STRATEGY.—(1) The Under Secretary of the Air Force, in consultation with the Director of Defense Research and Engineering, shall develop a space science and technology strategy and shall review and, as appropriate, revise the strategy annually.

(2) The strategy shall, at a minimum, address the following issues:

(A) Short-term and long-term goals of the space science and technology programs of the Department of Defense.

*(B) The process for achieving the goals, including an implementation plan.*

*(C) The process for assessing progress made toward achieving the goals.*

*(3) Not later than March 15, 2004, the Under Secretary shall submit a report on the space science and technology strategy to the Committees on Armed Services of the Senate and the House of Representatives.*

*(b) REQUIRED COORDINATION.—In executing the space science and technology strategy, the directors of the research laboratories of the Department of Defense, the heads of other Department of Defense research components, and the heads of all other appropriate organizations identified jointly by the Under Secretary of the Air Force and the Director of Defense Research and Engineering—*

*(1) shall identify research laboratory projects that make contributions pertaining directly and uniquely to the development of space technology; and*

*(2) may execute the identified projects only with the concurrence of the Under Secretary of the Air Force.*

*(c) GENERAL ACCOUNTING OFFICE REVIEW.—(1) The Comptroller General shall review and assess the space science and technology strategy developed under subsection (a) and the effectiveness of the coordination process required under subsection (b).*

*(2) Not later than September 1, 2004, the Comptroller General shall submit a report containing the findings and assessment under paragraph (1) to the committees on Armed Services of the Senate and the House of Representatives.*

*(d) DEFINITIONS.—In this section:*

*(1) The term "research laboratory of the Department of Defense" means the following:*

*(A) The Air Force Research Laboratory.*

*(B) The Naval Research Laboratory.*

*(C) The Office of Naval Research.*

*(D) The Army Research Laboratory.*

*(2) The term "other Department of Defense research component" means the following:*

*(A) The Defense Advanced Research Projects Agency.*

*(B) The National Reconnaissance Office.*

### *SEC. 912. SPACE PERSONNEL CADRE.*

*(a) STRATEGY REQUIRED.—(1) The Secretary of Defense shall develop a human capital resources strategy for space personnel of the Department of Defense.*

*(2) The strategy shall be designed to ensure that the space career fields of the military departments are integrated to the maximum extent practicable.*

*(b) REPORT.—Not later than February 1, 2004, the Secretary shall submit a report on the strategy to the Committees on Armed Services of the Senate and the House of Representatives. The report shall contain the following information:*

*(1) The strategy.*

*(2) An assessment of the progress made in integrating the space career fields of the military departments.*

*(3) A comprehensive assessment of the adequacy of the establishment of the Air Force officer career field for space under section 8084 of title 10, United States Code, as a solution for correcting deficiencies identified by the Commission To Assess United States National Security Space Management and Organization (established under section 1621 of Public Law 106–65; 113 Stat. 813; 10 U.S.C. 111 note).*

*(c) GENERAL ACCOUNTING OFFICE REVIEW.—(1) The Comptroller General shall review the strategy developed under subsection (a) the space career fields of the military departments and the plans of the military departments for developing space career fields. The review shall include an assessment of how effective the strategy and the space career fields and plans, when implemented, are likely to be for developing the necessary cadre of personnel who are expert in space systems development and space systems operations.*

*(2) Not later than June 15, 2004, the Comptroller General shall submit to the Committees referred to in subsection (a)(2) a report on the results of the review under paragraph (1), including the assessment required by such paragraph.*

### *SEC. 913. POLICY REGARDING ASSURED ACCESS TO SPACE FOR UNITED STATES NATIONAL SECURITY PAYLOADS.*

*(a) POLICY.—It is the policy of the United States for the President to undertake actions appropriate to ensure, to the maximum extent practicable, that the United States has the capabilities necessary to launch and insert United States national security payloads into space whenever such payloads are needed in space.*

*(b) INCLUDED ACTIONS.—The appropriate actions referred to in subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—*

*(1) the availability of at least two space launch vehicles or families of space launch vehicles capable of delivering into space all payloads designated as national security payloads by the Secretary of Defense and the Director of Central Intelligence; and*

*(2) a robust space launch infrastructure and industrial base.*

*(c) COORDINATION.—The Secretary of Defense shall, to the maximum extent practicable, pursue the attainment of the capabilities described in subsection (a) in coordination with the Administrator of the National Space and Aeronautics Administration.*

### *SEC. 914. PILOT PROGRAM TO PROVIDE SPACE SURVEILLANCE NETWORK SERVICES TO ENTITIES OUTSIDE THE UNITED STATES GOVERNMENT.*

*(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a pilot program to provide eligible entities outside the Federal Government with satellite tracking services using assets owned or controlled by the Department of Defense.*

*(b) ELIGIBLE ENTITIES.—The Secretary shall prescribe the requirements for eligibility to obtain services under the pilot program. The requirements shall, at a minimum, provide eligibility for the following entities:*

*(1) The governments of States.*

*(2) The governments of political subdivisions of States.*

*(3) United States commercial entities.*

*(4) The governments of foreign countries.*

*(5) Foreign commercial entities.*

*(c) SALE OF SERVICES.—Services under the pilot program may be provided by sale, except in the case of services provided to a government described in paragraph (1) or (2) of subsection (b).*

*(d) CONTRACTOR INTERMEDIARIES.—Services under the pilot program may be provided either directly to an eligible entity or through a contractor of the United States or a contractor of an eligible entity.*

*(e) SATELLITE DATA AND RELATED ANALYSES.—The services provided under the pilot program may include satellite tracking data or any analysis of satellite data if the Secretary determines that it is in the national security interests of the United States for the services to include such data or analysis, respectively.*

*(f) REIMBURSEMENT OF COSTS.—The Secretary may require an entity purchasing services under the pilot program to reimburse the Department of Defense for the costs incurred by the Department in entering into the sale.*

*(g) CREDITING TO CHARGED ACCOUNTS.—(1) The proceeds of a sale of services under the pilot program, together with any amounts reimbursed under subsection (f) in connection with the sale, shall be credited to the appropriation for the fiscal year in which collected that is or corresponds to the appropriation charged the costs of such services.*

*(2) Amounts credited to an appropriation under paragraph (1) shall be merged with other sums in the appropriation and shall be available for the same period and the same purposes as the sums with which merged.*

*(h) NONTRANSFERABILITY AGREEMENT.—The Secretary shall require a recipient of services under the pilot program to enter into an agreement not to transfer any data or technical information, including any analysis of satellite tracking data, to any other entity without the expressed approval of the Secretary.*

*(i) PROHIBITION CONCERNING INTELLIGENCE ASSETS OR DATA.—Services and information concerning, or derived from, United States intelligence assets or data may not be provided under the pilot program.*

*(j) DEFINITIONS.—In this section:*

*(1) The term "United States commercial entity" means an entity that is involved in commerce and is organized under laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or American Samoa.*

*(2) The term "foreign commercial entity" means an entity that is involved in commerce and is organized under laws of a foreign country.*

*(k) DURATION OF PILOT PROGRAM.—The pilot program under this section shall be conducted for three years beginning on a date designated by the Secretary of Defense, but not later than 180 days after the date of the enactment of this Act.*

### *SEC. 915. CONTENT OF BIENNIAL GLOBAL POSITIONING SYSTEM REPORT.*

*(a) REVISED CONTENT.—Paragraph (1) of section 2281(d) of title 10, United States Code, is amended—*

*(1) by striking subparagraph (C);*

*(2) in subparagraph (E), by striking "Any progress made toward" and inserting "Progress and challenges in";*

*(3) by striking subparagraph (F), and inserting the following:*

*"(F) Progress and challenges in protecting GPS from jamming, disruption, and interference.";*

*(4) by redesignating subparagraphs (D), (E), and (F), as subparagraphs (C), (D), and (E), respectively; and*

*(5) by inserting after subparagraph (E), as so redesignated, the following new subparagraph (F):*

*"(F) Progress and challenges in developing the enhanced Global Positioning System required by section 218(b) of Public Law 105–261 (112 Stat. 1951; 10 U.S.C. 2281 note).".*

*(b) CONFORMING AMENDMENT.—Paragraph (2) of such section 2281(d) is amended by inserting "(C)," after "under subparagraphs".*

## *Subtitle C—Other Matters*

### *SEC. 921. COMBATANT COMMANDER INITIATIVE FUND.*

*(a) REDESIGNATION OF CINC INITIATIVE FUND.—(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the "Combatant Commander Initiative Fund".*

*(2) Section 166a of title 10, United States Code, is amended—*

*(A) by striking the heading for subsection (a) and inserting "COMBATANT COMMANDER INITIATIVE FUND.—"; and*

*(B) by striking "CINC Initiative Fund" in subsections (a), (c), and (d), and inserting "Combatant Commander Initiative Fund".*

*(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund.*

*(b) Authorized Activities.—Subsection (b) of section 166a of title 10, United States Code, is amended by adding at the end the following new paragraph:*

*"(10) Joint warfighting capabilities.".*

*(c) Increased Maximum Amounts Authorized for Use.—Subsection (e)(1) of such section is amended—*

*(1) in subparagraph (A), by striking "$7,000,000" and inserting "$15,000,000";*

*(2) in subparagraph (B), by striking "$1,000,000" and inserting "$10,000,000"; and*

*(3) in subparagraph (C), by striking "$2,000,000" and inserting "$10,000,000".*

### *SEC. 922. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF OPERATIONAL STUDIES.*

*Section 7102(b) of title 10, United States Code, is amended—*

*(1) by striking "Marine Corps War College.—" and inserting "Awarding of Degrees.—(1)"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of operational studies upon graduates of the School of Advanced Warfighting of the Command and Staff College who fulfill the requirements for that degree.".*

### *SEC. 923. REPORT ON CHANGING ROLES OF UNITED STATES SPECIAL OPERATIONS COMMAND.*

*(a) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the changing roles of the United States Special Operations Command.*

*(b) Content of Report.—(1) The report shall specifically discuss in detail the following matters:*

*(A) The expanded role of the United States Special Operations Command in the global war on terrorism.*

*(B) The reorganization of the United States Special Operations Command to function as a supported combatant command for planning and executing operations.*

*(C) The role of the United States Special Operations Command as a supporting combatant command.*

*(2) The report shall also include, in addition to the matters discussed pursuant to paragraph (1), a discussion of the following matters:*

*(A) The military strategy to employ the United States Special Operations Command to fight the war on terrorism and how that strategy contributes to the overall national security strategy with regard to the global war on terrorism.*

*(B) The scope of the authority granted to the commander of the United States Special Operations Command to act as a supported commander and to prosecute the global war on terrorism.*

*(C) The operational and legal parameters within which the commander of the United States Special Operations Command is to exercise command authority in foreign countries when taking action against foreign and United States citizens engaged in terrorist activities.*

*(D) The decisionmaking procedures for authorizing, planning, and conducting individual missions, including procedures for consultation with Congress.*

*(E) The procedures for the commander of the United States Special Operations Command to use to coordinate with commanders of other combatant commands, especially geographic commands.*

*(F) Future organization plans and resource requirements for conducting the global counterterrorism mission.*

*(G) The impact of the changing role of the United States Special Operations Command on other special operations missions, including foreign internal defense, psychological operations, civil affairs, unconventional warfare, counterdrug activities, and humanitarian activities.*

*(c) Forms of Report.—The report shall be submitted in unclassified form and, as necessary, in classified form.*

### *SEC. 924. INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES*

*(a) Findings.—Congress makes the following findings:*

*(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.*

*(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.*

*(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum where the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.*

*(4) The current funding structure of a National Foreign Intelligence Program (NFIP), Joint Military Intelligence Program (JMIP), and Tactical Intelligence and Related Activities Program (TIARA) might not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.*

*(5) The position of Under Secretary of Defense for Intelligence was established in 2002 by Public Law 107–314 in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.*

*(b) Goal.—It shall be a goal of the Department of Defense to fully coordinate and integrate the intelligence, surveillance, and reconnaissance capabilities and developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.*

*(c) Requirement.—(1) The Under Secretary of Defense for Intelligence shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council to provide a permanent forum for the discussion and arbitration of issues relating to the integration of intelligence, surveillance, and reconnaissance capabilities.*

*(2) The Council shall be composed of the senior intelligence officers of the Armed Forces and the United States Special Operations Command, the Director of Operations of the Joint Staff, and the directors of the intelligence agencies of the Department of Defense.*

*(3) The Under Secretary of Defense for Intelligence shall invite the participation of the Director of Central Intelligence or his representative in the proceedings of the Council.*

*(d) ISR Integration Roadmap.—The Under Secretary of Defense for Intelligence, in consultation with the Intelligence, Surveillance, and Reconnaissance Integration Council and the Director of Central Intelligence, shall develop a comprehensive Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap to guide the development and integration of the Department of Defense intelligence, surveillance, and reconnaissance capabilities for 15 years.*

*(e) Report.—(1) Not later than September 30, 2004, the Under Secretary of Defense for Intelligence shall submit to the committees of Congress specified in paragraph (2) a report on the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap developed under subsection (d). The report shall include the following matters:*

*(A) The fundamental goals established in the roadmap.*

*(B) An overview of the intelligence, surveillance, and reconnaissance integration activities of the military departments and the intelligence agencies of the Department of Defense.*

*(C) An investment strategy for achieving—*

*(i) an integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities that ensures sustainment of needed tactical and operational efforts; and*

*(ii) efficient investment in new intelligence, surveillance, and reconnaissance capabilities.*

*(D) A discussion of how intelligence gathered and analyzed by the Department of Defense can enhance the role of the Department of Defense in fulfilling its homeland security responsibilities.*

*(E) A discussion of how counterintelligence activities of the Armed Forces and the Department of Defense intelligence agencies can be better integrated.*

*(F) Recommendations on how annual funding authorizations and appropriations can be optimally structured to best support the development of a fully integrated Department of Defense intelligence, surveillance, and reconnaissance architecture.*

*(2) The committees of Congress referred to in paragraph (1) are as follows:*

*(A) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.*

*(B) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.*

### *SEC. 925. ESTABLISHMENT OF THE NATIONAL GUARD OF THE NORTHERN MARIANA ISLANDS.*

*(a) Establishment.—The Secretary of Defense may cooperate with the Governor of the Northern Mariana Islands to establish the National Guard of the Northern Mariana Islands, and may integrate into the Army National Guard of the United States and the Air National Guard of the United States the members of the National Guard of the Northern Mariana Islands who are granted Federal recognition under title 32, United States Code.*

*(b) Amendments to Title 10.—(1) Section 101 of title 10, United States Code, is amended—*

*(A) in subsection (c), by inserting "the Northern Mariana Islands," after "Puerto Rico," in paragraphs (2) and (4); and*

*(B) in subsection (d)(5), by inserting "the Commonwealth of the Northern Mariana Islands," after "the Commonwealth of Puerto Rico,".*

*(2) Section 10001 of such title is amended by inserting "the Commonwealth of the Northern*

Mariana Islands," after "the Commonwealth of Puerto Rico,".

(c) AMENDMENTS TO TITLE 32.—Title 32, United States Code, is amended as follows:

(1) Section 101 is amended—

(A) in paragraphs (4) and (6), by inserting ", the Northern Mariana Islands," after "Puerto Rico"; and

(B) in paragraph (19), by inserting "the Commonwealth of the Northern Mariana Islands," after "the Commonwealth of Puerto Rico,".

(2) Section 103 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(3) Section 104 is amended—

(A) in subsection (a), by striking "and Puerto Rico" and inserting ", Puerto Rico, and the Northern Mariana Islands"; and

(B) in subsections (c) and (d), by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(4) Section 107(b) is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(5) Section 109 is amended by inserting "the Northern Mariana Islands" in subsections (a), (b), and (c) after "Puerto Rico,".

(6) Section 112(i)(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "the Commonwealth of Puerto Rico,".

(7) Section 304 is amended by inserting ", the Northern Mariana Islands," after "or of Puerto Rico" in the sentence following the oath.

(8) Section 314 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico" in subsections (a) and (d).

(9) Section 315 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico" each place it appears.

(10) Section 325(a) is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(11) Section 501(b) is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(12) Section 503(b) is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(13) Section 504(b) is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(14) Section 505 is amended by inserting "or the Northern Mariana Islands," after "Puerto Rico," in the first sentence.

(15) Section 509(l)(1) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "the Commonwealth of Puerto Rico,".

(16) Section 702 is amended—

(A) in subsection (a), by inserting ", or the Northern Mariana Islands," after "Puerto Rico"; and

(B) in subsections (b), (c), and (d), by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(17) Section 703 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico" in subsections (a) and (b).

(18) Section 704 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico" in subsections (a) and (b).

(19) Section 708 is amended—

(A) in subsection (a), by striking "and Puerto Rico," and inserting "Puerto Rico, and the Northern Mariana Islands,"; and

(B) in subsection (d), by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(20) Section 710 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico" each place it appears in subsections (c), (d)(3), (e), and (f)(1).

(21) Section 711 is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(22) Section 712(1) is amended by inserting ", the Northern Mariana Islands," after "Puerto Rico".

(23) Section 715(c) is amended by striking "or the District of Columbia or Puerto Rico," and inserting ", the District of Columbia, Puerto Rico, or the Northern Mariana Islands".

(d) AMENDMENTS TO TITLE 37.—Section 101 of title 37, United States Code, is amended by striking "the Canal Zone," in paragraphs (7) and (9) and inserting "the Northern Mariana Islands,".

(e) OTHER REFERENCES.—Any reference that is made in any other provision of law or in any regulation of the United States to a State, or to the Governor of a State, in relation to the National Guard (as defined in section 101(3) of title 32, United States Code) shall be considered to include a reference to the Commonwealth of the Northern Mariana Islands or to the Governor of the Northern Mariana Islands, respectively.

## TITLE X—GENERAL PROVISIONS

### Subtitle A—Financial Matters

#### SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2004 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

#### SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2004.

(a) FISCAL YEAR 2004 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2004 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2003, of funds appropriated for fiscal years before fiscal year 2004 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $853,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $207,125,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

#### SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2003.

(a) DOD AND DOE AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2003 in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to title I of Public Law 108–11.

(b) REPORT ON FISCAL YEAR 2003 TRANSFERS.—Not later than 30 days after the end of each fiscal quarter for which unexpended balances of funds appropriated under title I of Public Law 108–11 are available for the Department of Defense, the Secretary of Defense shall submit to the congressional defense committees a report stating, for each transfer of such funds during such fiscal quarter of an amount provided for the Department of Defense through a so-called "transfer account", including the Iraqi Freedom Fund or any other similar account—

(1) the amount of the transfer;

(2) the appropriation account to which the transfer was made; and

(3) the specific purpose for which the transferred funds were used or are to be used.

### Subtitle B—Improvement of Travel Card Management

#### SEC. 1011. MANDATORY DISBURSEMENT OF TRAVEL ALLOWANCES DIRECTLY TO TRAVEL CARD CREDITORS.

Section 2784a(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "The Secretary of Defense may require" and inserting "The Secretary of Defense shall require";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary of Defense may waive the requirement for a direct payment to a travel care issuer under paragraph (1) in any case in which it is determined under regulations prescribed by the Secretary that the direct payment would be against equity and good conscience or would be contrary to the best interests of the United States.".

#### SEC. 1012. DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.

Section 2784a of title 10, United States Code, is amended—

*(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and*

*(2) by inserting after subsection (c) the following new subsection (d):*

*"(d) DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.—(1) The Secretary of Defense shall require that the creditworthiness of an individual be evaluated before a Defense travel card is issued to the individual. The evaluation may include an examination of the individual's credit history in available credit records.*

*"(2) An individual may not be issued a Defense travel card if the individual is found not creditworthy as a result of the evaluation required under paragraph (1).".*

### *SEC. 1013. DISCIPLINARY ACTIONS AND ASSESSING PENALTIES FOR MISUSE OF DEFENSE TRAVEL CARDS.*

*(a) REQUIREMENT FOR GUIDANCE.—The Secretary of Defense shall prescribe guidelines and procedures for making determinations regarding the taking of disciplinary action, including assessment of penalties, against Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.*

*(b) ACTIONS COVERED.—The disciplinary actions and penalties covered by the guidance and procedures prescribed under subsection (a) may include the following:*

*(1) Civil actions for false claims under sections 3729 through 3731 of title 31, United States Code.*

*(2) Administrative remedies for false claims and statements provided under chapter 38 of title 31, United States Code.*

*(3) In the case of civilian personnel, adverse personnel actions under chapter 75 of title 5, United States Code, and any other disciplinary actions available under law for employees of the United States.*

*(4) In the case of members of the Armed Forces, disciplinary actions and penalties under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).*

*(c) REPORT.—Not later than February 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the guidelines and penalties prescribed under subsection (a). The report shall include the following:*

*(1) The guidelines and penalties.*

*(2) A discussion of the implementation of the guidelines and penalties.*

*(3) A discussion of any additional administrative action, or any recommended legislation, that the Secretary considers necessary to effectively take disciplinary action against and penalize Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.*

*(d) DEFENSE TRAVEL CARD DEFINED.—In this section, the term "Defense travel card" has the meaning given such term in section 2784a(d)(1) of title 10, United States Code.*

## *Subtitle C—Reports*

### *SEC. 1021. ELIMINATION AND REVISION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.*

*(a) PROVISIONS OF TITLE 10.—Title 10, United States Code, is amended as follows:*

*(1) Section 128 is amended by striking subsection (d).*

*(2) Section 437 is amended—*

*(A) by striking subsection (b); and*

*(B) in subsection (c)—*

*(i) by striking "and" at the end of paragraph (2);*

*(ii) by striking the period at the end of paragraph (3) and inserting "; and"; and*

*(iii) by adding at the end the following new paragraph:*

*"(4) a description of each corporation, partnership, and other legal entity that was established during such fiscal year.".*

*(3)(A) Section 520c is amended—*

*(i) by striking subsection (b);*

*(ii) by striking "(a) PROVISION OF MEALS AND REFRESHMENTS.—"; and*

*(iii) by striking the heading for such section and inserting the following:*

***"§520c. Provision of meals and refreshments for recruiting purposes".***

*(B) The item relating to such section in the table of sections at the beginning of chapter 31 of such title is amended to read as follow:*

*"520c. Provision of meals and refreshments for recruiting purposes.".*

*(4) Section 986 is amended by striking subsection (e).*

*(5) Section 1060 is amended by striking subsection (d).*

*(6) Section 2212 is amended by striking subsections (d) and (e).*

*(7) Section 2224 is amended by striking subsection (e).*

*(8) Section 2255(b) is amended—*

*(A) by striking paragraph (2);*

*(B) by striking "(b) EXCEPTION.—(1)" and inserting "(b) EXCEPTION.—";*

*(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and*

*(D) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.*

*(9) Section 2323(i) is amended by striking paragraph (3).*

*(10) Section 2350a is amended by striking subsection (f).*

*(11) Section 2350b(d) is amended—*

*(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:*

*"(1) Not later than 90 days after the end of each fiscal year in which the Secretary of Defense has authority delegated as described in subsection (a), the Secretary shall submit to Congress a report on the administration of such authority under this section. The report for a fiscal year shall include the following information:*

*"(A) Each prime contract that the Secretary required to be awarded to a particular prime contractor during such fiscal year, and each subcontract that the Secretary required be awarded to a particular subcontractor during such fiscal year, to comply with a cooperative agreement, together with the reasons that the Secretary exercised authority to designate a particular contractor or subcontractor, as the case may be.*

*"(B) Each exercise of the waiver authority under subsection (c) during such fiscal year, including the particular provision or provisions of law that were waived."; and*

*(B) by redesignating paragraph (3) as paragraph (2).*

*(12) Section 2371(h) is amended by adding at the end the following new paragraph:*

*"(3) No report is required under this section for fiscal years after fiscal year 2006.".*

*(13) Section 2515(d) is amended—*

*(A) by striking "ANNUAL REPORT.—" and inserting "BIENNIAL REPORT.—"; and*

*(B) in paragraph (1)—*

*(i) in the second sentence, by striking "each year" and inserting "each even-numbered year"; and*

*(ii) in the third sentence, by striking "during the fiscal year" and inserting "during the two fiscal years".*

*(14) Section 2541d is amended—*

*(A) by striking subsection (b); and*

*(B) by striking "(a) REPORT BY COMMERCIAL FIRMS TO SECRETARY OF DEFENSE.—".*

*(15) Section 2645(d) is amended—*

*(A) by striking "to Congress" and all that follows through "notification of the loss" in paragraph (1) and inserting "to Congress notification of the loss";*

*(B) by striking "loss; and" and inserting "loss."; and*

*(C) by striking paragraph (2).*

*(16) Section 2680 is amended by striking subsection (e).*

*(17) Section 2688(e) is amended to read as follows:*

*"(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to the congressional defense committees a report on the conveyances made under subsection (a) during such fiscal quarter. The report shall include, for each such conveyance, an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—*

*"(A) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and*

*"(B) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned.*

*"(2) In this section, the term 'congressional defense committees' means the following:*

*"(A) The Committee on Armed Services and the Committee on Appropriations of the Senate.*

*"(B) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.".*

*(18) Section 2807(b) is amended by striking "$500,000" and inserting "$1,000,000".*

*(19) Section 2827 is amended—*

*(A) by striking subsection (b); and*

*(B) by striking "(a) Subject to subsection (b), the Secretary" and inserting "The Secretary".*

*(20) Section 2902(g) is amended—*

*(A) by striking paragraph (2); and*

*(B) by striking "(g)(1)" and inserting "(g)".*

*(21) Section 9514 is amended—*

*(A) in subsection (c)—*

*(i) by striking "to Congress" and all that follows through "notification of the loss" in paragraph (1) and inserting "to Congress notification of the loss";*

*(ii) by striking "loss; and" and inserting "loss."; and*

*(iii) by striking paragraph (2); and*

*(B) by striking subsection (f).*

*(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993.—Section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note) is amended by striking subsection (c).*

*(c) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Section 324 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2367; 10 U.S.C. 2701 note) is amended—*

*(1) by striking subsection (b); and*

*(2) in subsection (a), by striking "(a) SENSE OF CONGRESS.—".*

*(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 721 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2804; 10 U.S.C. 1074 note) is amended by striking subsection (h).*

*(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—Section 324(c) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2480; 10 U.S.C. 2706 note) is amended by inserting "before 2006" after "submitted to Congress".*

*(f) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) is amended—*

*(1) in section 745(e) (112 Stat. 2078; 10 U.S.C. 1071 note)—*

*(A) by striking paragraph (2); and*

*(B) by striking "TRICARE.—(1) The" and inserting "TRICARE.—The" ; and*

*(2) effective on January 1, 2004, by striking section 1223 (112 Stat. 2154; 22 U.S.C. 1928 note).*

*(g) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended—*

*(1) by striking section 1025 (113 Stat. 748; 10 U.S.C. 113 note);*

*(2) in section 1039 (113 Stat. 756; 10 U.S.C. 113 note), by striking subsection (b); and*

*(3) in section 1201 (113 Stat. 779; 10 U.S.C. 168 note) by striking subsection (d).*

*(h) DEPARTMENT OF DEFENSE AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES ACT, 2002.—Section 8009 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117; 115 Stat. 2249) is amended by striking ", and these obligations shall be reported to the Congress as of September 30 of each year".*

### *SEC. 1022. GLOBAL STRIKE PLAN.*

*(a) INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE.—The Secretary of Defense shall prescribe an integrated plan for developing, deploying, and sustaining a prompt global strike capability in the Armed Forces. The Secretary shall update the plan annually.*

*(b) REPORTS REQUIRED.—(1) Not later than April 1 of each of 2004, 2005, and 2006, the Secretary shall submit to the congressional defense committees a report on the plan prescribed under subsection (a).*

*(2) Each report required under paragraph (1) shall include the following:*

*(A) A description and assessment of the targets against which long-range strike assets might be directed and the conditions under which the assets might be used.*

*(B) The role of, and plans for ensuring, sustainment and modernization of current long-range strike assets, including bombers, intercontinental ballistic missiles, and submarine launched ballistic missiles.*

*(C) A description of the capabilities desired for advanced long-range strike assets and plans to achieve those capabilities.*

*(D) A description of the capabilities desired for advanced conventional munitions and the plans to achieve those capabilities.*

*(E) An assessment of advanced nuclear concepts that could contribute to the prompt global strike mission.*

*(F) An assessment of the command, control, and communications capabilities necessary to support prompt global strike capabilities.*

*(G) An assessment of intelligence, surveillance, and reconnaissance capabilities necessary to support prompt global strike capabilities.*

*(H) A description of how prompt global strike capabilities are to be integrated with theater strike capabilities.*

*(I) An estimated schedule for achieving the desired prompt global strike capabilities.*

*(J) The estimated cost of achieving the desired prompt global strike capabilities.*

*(K) A description of ongoing and future studies necessary for updating the plan appropriately.*

### *SEC. 1023. REPORT ON THE CONDUCT OF OPERATION IRAQI FREEDOM.*

*(a) REPORT REQUIRED.—(1) The Secretary of Defense shall summit to the congressional defense committees, not later than March 31, 2004, a report on the conduct of military operations under Operation Iraqi Freedom.*

*(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the Commander of the United States Central Command, and such other officials as the Secretary considers appropriate.*

*(b) CONTENT.—(1) The report shall include a discussion of the matters described in paragraph (2), with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address the shortcomings.*

*(2) The matters to be discussed in the report are as follows:*

*(A) The military objectives of the international coalition conducting Operation Iraqi Freedom, the military strategy selected to achieve the objectives, and an assessment of the execution of the military strategy.*

*(B) The deployment process, including the adaptability of the process to unforeseen contingencies and changing requirements.*

*(C) The reserve component mobilization process, including the timeliness of notification, training, and subsequent demobilization.*

*(D) The use and performance of major items of United States military equipment, weapon systems, and munitions (including items classified under special access procedures and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of those items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.*

*(E) Any additional identified requirements for military equipment, weapon systems, and munitions, including mix and quantity for future contingencies.*

*(F) The effectiveness of joint air operations, including the doctrine for the employment of close air support in the varied environments of Operation Iraqi Freedom, and the effectiveness of attack helicopter operations.*

*(G) The use of special operations forces, including operational and intelligence uses.*

*(H) The scope of logistics support, including support from other nations.*

*(I) The incidents of accidental fratricide, together with a discussion of the effectiveness of the tracking of friendly forces and of the combat identification systems in mitigating friendly fire incidents.*

*(J) The adequacy of spectrum and bandwidth to transmit all necessary information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.*

*(K) The effectiveness of information operations, including the effectiveness of Commando Solo and other psychological operations assets, in achieving established objectives, together with a description of technological and other restrictions on the use of psychological operations capabilities.*

*(L) The effectiveness of the reserve component forces used in Operation Iraqi Freedom.*

*(M) The adequacy of intelligence support to the warfighter before, during, and after combat operations, including the adequacy of such support to facilitate searches for weapons of mass destruction.*

*(N) The rapid insertion and integration, if any, of developmental but mission-essential equipment during all phases of the operation.*

*(O) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes, and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces.*

*(P) The results of a study, carried out by the Secretary of Defense, regarding the availability of family support services provided to the dependents of members of the National Guard and other reserve components of the Armed Forces who are called or ordered to active duty (hereinafter in this subparagraph referred to as "mobilized members"), including, at a minimum, the following matters:*

*(i) A discussion of the extent to which cooperative agreements are in place or need to be entered into to ensure that dependents of mobilized members receive adequate family support services from within existing family readiness groups at military installations without regard to the members' armed force or component of an armed force.*

*(ii) A discussion of what additional family support services, and what additional family support agreements between and among the Armed Forces (including the Coast Guard), are necessary to ensure that adequate family support services are provided to the families of mobilized members.*

*(iii) A discussion of what additional resources are necessary to ensure that adequate family support services are available to the dependents of each mobilized member at the military installation nearest the residence of the dependents.*

*(iv) The additional outreach programs that should be established between families of mobilized members and the sources of family support services at the military installations in their respective regions.*

*(v) A discussion of the procedures in place for providing information on availability of family support services to families of mobilized members at the time the members are called or ordered to active duty.*

*(c) FORMS OF REPORT.—The report shall be submitted in unclassified form, but may also be submitted in classified form if necessary.*

*(d) REPORTING REQUIREMENT RELATING TO NONCOMPETITIVE CONTRACTING FOR THE RECONSTRUCTION OF INFRASTRUCTURE OF IRAQ.—(1) If a contract for the maintenance, rehabilitation, construction, or repair of infrastructure in Iraq is entered into under the oversight and direction of the Secretary of Defense or the Office of Reconstruction and Humanitarian Assistance in the Office of the Secretary of Defense without full and open competition, the Secretary shall publish in the Federal Register or Commerce Business Daily and otherwise make available to the public, not later than 30 days after the date on which the contract is entered into, the following information:*

*(i) The amount of the contract.*

*(ii) A brief description of the scope of the contract.*

*(iii) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.*

*(iv) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.*

*(B) Subparagraph (A) does not apply to a contract entered into more than one year after date of enactment.*

*(2)(A) The head of an executive agency may—*

*(i) withhold from publication and disclosure under paragraph (1) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and*

*(ii) redact any part so classified that is in a document not so classified before publication and disclosure of the document under paragraph (1).*

*(B) In any case in which the head of an executive agency withholds information under subparagraph (A), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:*

*(i) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.*

(ii) The Committees on Appropriations of the Senate and the House of Representatives.

(iii) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information relates.

(3) This subsection shall apply to contracts entered into on or after October 1, 2002, except that, in the case of a contract entered into before the date of the enactment of this Act, paragraph (1) shall be applied as if the contract had been entered into on the date of the enactment of this Act.

(4) Nothing in this subsection shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(5) In this subsection, the terms "executive agency" and "full and open competition" have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

### SEC. 1024. REPORT ON MOBILIZATION OF THE RESERVES.

(a) REQUIREMENT FOR REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the mobilization of reserve component forces during fiscal years 2002 and 2003.

(b) CONTENT.—The report under subsection (a) shall include, for the period covered by the report, the following information:

(1) The number of Reserves who were called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

(2) The number of such Reserves who were called or ordered to active duty for one year or more, including any extensions on active duty.

(3) The military specialties of the Reserves counted under paragraph (2).

(4) The number of Reserves who were called or ordered to active duty more than once under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

(5) The military specialties of the Reserves counted under paragraph (4).

(6) The known effects on the reserve components, including the effects on recruitment and retention of personnel for the reserve components, that have resulted from—

(A) the calls and orders of Reserves to active duty; and

(B) the tempo of the service of the Reserves on the active duty to which called or ordered.

(7) The changes in the Armed Forces, including any changes in the allocation of roles and missions between the active components and the reserve components of the Armed Forces, that are envisioned by the Secretary of Defense on the basis of—

(A) the effects discussed under paragraph (6); or

(B) the experienced need for calling and ordering Reserves to active duty during the period.

(8) An assessment of how necessary it would be to call or order Reserves to active duty in the event of a war or contingency operation (as defined in section 101(a)(13) of title 10, United States Code) if such changes were implemented.

(9) On the basis of the experience of calling and ordering Reserves to active duty during the period, an assessment of the process for calling and ordering Reserves to active duty, preparing such Reserves for the active duty, processing the Reserves into the force upon entry onto active duty, and deploying the Reserves, including an assessment of the adequacy of the alert and notification process from the perspectives of the individual Reserves, reserve component units, and employers of Reserves.

### SEC. 1025. STUDY OF BERYLLIUM INDUSTRIAL BASE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a study of the adequacy of the industrial base of the United States to meet defense requirements of the United States for beryllium.

(b) REPORT.—Not later than January 30, 2004, the Secretary shall submit a report on the results of the study to Congress. The report shall contain, at a minimum, the following information:

(1) A discussion of the issues identified with respect to the long-term supply of beryllium.

(2) An assessment of the need, if any, for modernization of the primary sources of production of beryllium.

(3) A discussion of the advisability of, and concepts for, meeting the future defense requirements of the United States for beryllium and maintaining a stable domestic industrial base of sources of beryllium through—

(A) cooperative arrangements commonly referred to as public-private partnerships;

(B) the administration of the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act; and

(C) any other means that the Secretary identifies as feasible.

## Subtitle D—Other Matters

### SEC. 1031. BLUE FORCES TRACKING INITIATIVE.

(a) FINDINGS.—Congress makes the following findings:

(1) For military commanders, a principal purpose of technology is to enable the commanders to ascertain the location of the units in their commands in near real time.

(2) Each of the Armed Forces is developing and testing a variety of technologies for tracking friendly forces (known as "blue forces").

(3) Situational awareness of blue forces has been much improved since the 1991 Persian Gulf War, but blue forces tracking remains a complex problem characterized by information that is incomplete, not fully accurate, or untimely.

(4) Casualties in recent warfare have declined, but casualties associated with friendly fire incidents have remained relatively constant.

(5) Despite significant investment, a coordinated, interoperable plan for tracking blue forces throughout a United States or coalition forces theater of operations has not been developed.

(b) GOAL.—It shall be a goal of the Department of Defense to fully coordinate the various efforts of the Joint Staff, the commanders of the combatant commands, and the military departments to develop an effective blue forces tracking system.

(c) JOINT BLUE FORCES TRACKING EXPERIMENT.—(1) The Secretary of Defense, through the Commander of the United States Joint Forces Command, shall carry out a joint experiment in fiscal year 2004 to demonstrate and evaluate available joint blue forces tracking technologies.

(2) The objectives of the experiment are as follows:

(A) To explore various options for tracking United States and other friendly forces during combat operations.

(B) To determine an optimal, achievable, and ungradable solution for the development, acquisition, and fielding of a system for tracking all United States military forces that is coordinated and interoperable and also accommodates the participation of military forces of allied nations with United States forces in combat operations.

(d) REPORT.—Not later than 60 days after the conclusion of the experiment under subsection (c), but not later than December 1, 2004, the Secretary shall submit to the congressional defense committees a report on the results of the experiment, together with a comprehensive plan for the development, acquisition, and fielding of a functional, near real time blue forces tracking system.

### SEC. 1032. LOAN, DONATION, OR EXCHANGE OF OBSOLETE OR SURPLUS PROPERTY.

During fiscal years 2004 and 2005, the Secretary of the military department concerned may exchange for an historical artifact any obsolete or surplus property held by such military department in accordance with section 2572 of title 10, United States Code, without regard to whether the property is described in subsection (c) of such section.

### SEC. 1033. ACCEPTANCE OF GIFTS AND DONATIONS.

(a) AUTHORIZED SOURCES OF GIFTS AND DONATIONS.—Subsection (a) of section 2611 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "foreign gifts and donations" and inserting "gifts and donations from sources described in paragraph (2)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The sources from which gifts and donations may be accepted under paragraph (1) are as follows:

"(A) A department or agency of the Federal Government.

"(B) The government of a State or of a political subdivision of a State.

"(C) The government of a foreign country.

"(D) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

"(E) Any source in the private sector of the United States or a foreign country.".

(b) CONFORMING AMENDMENTS.—(1) The headings for subsections (a) and (f) of such section are amended by striking "FOREIGN".

(2) Subsection (c) is amended by striking "foreign".

(3) Subsection (f) is amended—

(A) by striking "foreign"; and

(B) by striking "faculty services)" and all that follows and inserting "faculty services).".

(4)(A) The heading of such section is amended to read as follows:

**"§2611. Asia-Pacific Center for Security Studies: acceptance of gifts and donations".**

(B) The item relating to such section in the table of sections at the beginning of chapter 155 is amended to read as follows:

"2611. Asia-Pacific Center for Security Studies: acceptance of gifts and donations.".

(c) ACCEPTANCE OF GUARANTEES WITH GIFTS IN DEVELOPMENT OF MARINE CORPS HERITAGE CENTER, MARINE CORPS BASE, QUANTICO, VIRGINIA.—(1) The Secretary of the Navy may utilize the authority in section 6975 of title 10, United States Code, for purposes of the project to develop the Marine Corps Heritage Center at Marine Corps Base, Quantico, Virginia, authorized by section 2884 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; as enacted into law by Public Law 106–398; 114 Stat. 1654A-440).

(2) The authority in paragraph (1) shall expire on December 31, 2006.

(3) The expiration under paragraph (2) of the authority in paragraph (1) shall not effect any qualified guarantee accepted pursuant to such authority for purposes of the project referred to in paragraph (1) before the date of the expiration of such authority under paragraph (2).

### SEC. 1034. PROVISION OF LIVING QUARTERS FOR CERTAIN STUDENTS WORKING AT NATIONAL SECURITY AGENCY LABORATORY.

Section 2195 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Director of the National Security Agency may provide living quarters to a student in the Student Educational Employment Program or similar program (as prescribed by the Office of Personnel Management) while the student is employed at the laboratory of the Agency.

"(2) Notwithstanding section 5911(c) of title 5, living quarters may be provided under paragraph (1) without charge, or at rates or charges specified in regulations prescribed by the Director.".

### SEC. 1035. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to the end of title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

"SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Operational files of the National Security Agency (hereafter in this section referred to as 'NSA') may be exempted by the Director of NSA, in coordination with the Director of Central Intelligence, from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(2)(A) In this section, the term 'operational files' means—

"(i) files of the Signals Intelligence Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

"(ii) files of the Research Associate Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

"(B) Files which are the sole repository of disseminated intelligence, and files that have been accessioned into NSA Archives, or its successor organizations, are not operational files.

"(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

"(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

"(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

"(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

"(i) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(ii) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(iii) The Intelligence Oversight Board.

"(iv) The Department of Justice.

"(v) The Office of General Counsel of NSA.

"(vi) The Office of the Inspector General of the Department of Defense.

"(vii) The Office of the Director of NSA.

"(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

"(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

"(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

"(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

"(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

"(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

"(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

"(II) The court may not order NSA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

"(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

"(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

"(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking "For purposes of this title" and inserting "In this section and section 702,".

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking "enactment of this title" and inserting "October 15, 1984,".

(3)(A) The title heading for title VII of such Act is amended to read as follows:

"TITLE VII—PROTECTION OF OPERATIONAL FILES".

(B) The section heading for section 701 of such Act is amended to read as follows:

"PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY".

(C) The section heading for section 702 of such Act is amended to read as follows:

"DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES".

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D; and

(2) by striking the items relating to title VII and inserting the following new items:

"TITLE VII—PROTECTION OF OPERATIONAL FILES

"Sec. 701. Protection of operational files of the Central Intelligence Agency.
"Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.
"Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.
"Sec. 704. Protection of operational files of the National Reconnaissance Office.
"Sec. 705. Protection of operational files of the National Security Agency.".

### SEC. 1036. TRANSFER OF ADMINISTRATION OF NATIONAL SECURITY EDUCATION PROGRAM TO DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—Section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) in subsection (a), by striking "Secretary of Defense" and inserting "Director of Central Intelligence"; and

(2) by striking "Secretary" each place it appears (other than in subsection (h)) and inserting "Director".

(b) AWARDS TO ATTEND FOREIGN LANGUAGE CENTER.—Section 802(h) of such Act (50 U.S.C. 1902(h)) is amended by inserting "of Defense" after "Secretary" each place it appears.

(c) NATIONAL SECURITY EDUCATION BOARD.—(1) Section 803 of such Act (50 U.S.C. 1903) is amended—

(A) in subsection (a), by striking "Secretary of Defense" and inserting "Director";

(B) in subsection (b)—

(i) in paragraph (1), by striking "Secretary of Defense" and inserting "Director";

(ii) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(iii) by inserting after paragraph (1), as so amended, the following new paragraph (2):

"(2) The Secretary of Defense.";

(C) in subsection (c), by striking "subsection (b)(6)" and inserting "subsection (b)(8)"; and

(D) in subsection (d), by striking "Secretary" each place it appears and inserting "Director".

(2) Section 806(d) of such Act (50 U.S.C. 1906(d)) is amended by striking "paragraphs (1) through (7)" and inserting "paragraphs (2) through (8)".

(d) ADMINISTRATIVE PROVISIONS.—Section 805 of such Act (50 U.S.C. 1905) is amended by striking "Secretary" each place it appears and inserting "Director".

(e) ANNUAL REPORT.—Section 806 of such Act (50 U.S.C. 1906) is amended by striking "Secretary" each place it appears and inserting "Director".

(f) AUDITS.—Section 807 of such Act (50 U.S.C. 1907) is amended by striking "Department of Defense" and inserting "Central Intelligence Agency".

(g) DEFINITION.—Section 808 of such Act (50 U.S.C. 1908) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(2) by inserting before paragraph (2) the following new paragraph (1):

"(1) The term 'Director' means the Director of Central Intelligence.".

(h) MATTERS RELATING TO NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1) Effective as if included therein as enacted by section 333(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2396), section 802(i)(1) of the David L. Boren National Security Education Act of 1991 is amended by striking "Secretary" and inserting "Director".

(2) Effective as if included therein as enacted by section 333(b) of the Intelligence Authorization Act for Fiscal Year 2003 (116 Stat. 2397), section 811(a) of the David L. Boren National Security Education Act of 1991 is amended by striking "Secretary" each place it appears and inserting "Director".

(i) EFFECT OF TRANSFER OF ADMINISTRATION ON SERVICE AGREEMENTS.—(1) The transfer to the Director of Central Intelligence of the administration of the National Security Education Program as a result of the amendments made by this section shall not affect the force, validity, or terms of any service agreement entered into under section 802(b) of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902(b)) before the date of the enactment of this Act that is in force as of that date, except that the Director shall administer such service agreement in lieu of the Secretary of Defense.

(2) Notwithstanding any other provision of law, the Director of Central Intelligence may, for purposes of the implementation of any service agreement referred to in paragraph (1), adopt regulations for the implementation of such service agreement that were prescribed by the Secretary of Defense under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act.

(j) REPEAL OF SATISFIED REQUIREMENTS.—Section 802(g) of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(1)"; and

(B) by striking the second sentence; and

(2) by striking paragraph (2).

(k) TECHNICAL AMENDMENT.—Paragraph (5)(A) of section 808 of such Act, as redesignated by subsection (g)(1) of this section, is further amended by striking "a agency" and inserting "an agency".

### SEC. 1037. REPORT ON USE OF UNMANNED AERIAL VEHICLES FOR SUPPORT OF HOMELAND SECURITY MISSIONS.

(a) REQUIREMENT FOR REPORT.—Not later than April 1, 2004, the President shall submit to Congress a report on the potential uses of unmanned aerial vehicles for support of the performance of homeland security missions.

(b) CONTENT.—The report shall, at a minimum, include the following matters:

(1) An assessment of the potential for using unmanned aerial vehicles for monitoring activities in remote areas along the northern and southern borders of the United States.

(2) An assessment of the potential for using long-endurance, land-based unmanned aerial vehicles for supporting the Coast Guard in the performance of its homeland security missions, drug interdiction missions, and other maritime missions along the approximately 95,000 miles of inland waterways in the United States.

(3) An assessment of the potential for using unmanned aerial vehicles for monitoring the safety and integrity of critical infrastructure within the territory of the United States, including the following:

(A) Oil and gas pipelines.

(B) Dams.

(C) Hydroelectric power plants.

(D) Nuclear power plants.

(E) Drinking water utilities.

(F) Long-distance power transmission lines.

(4) An assessment of the potential for using unmanned aerial vehicles for monitoring the transportation of hazardous cargo.

(5) A discussion of the safety issues involved in—

(A) the use of unmanned aerial vehicles by agencies other than the Department of Defense; and

(B) the operation of unmanned aerial vehicles over populated areas of the United States.

(6) A discussion of—

(A) the effects on privacy and civil liberties that could result from the monitoring uses of unmanned aerial vehicles operated over the territory of the United States; and

(B) any restrictions on the domestic use of unmanned aerial vehicles that should be imposed, or any other actions that should be taken, to prevent any adverse effect of such a use of unmanned aerial vehicles on privacy or civil liberties.

(7) A discussion of what, if any, legislation and organizational changes may be necessary to accommodate the use of unmanned aerial vehicles of the Department of Defense in support of the performance of homeland security missions, including any amendment of section 1385 of title 18, United States Code (popularly referred to as the "Posse Comitatus Act").

(8) An evaluation of the capabilities of manufacturers of unmanned aerial vehicles to produce such vehicles at higher rates if necessary to meet any increased requirements for homeland security and homeland defense missions.

(c) REFERRAL TO COMMITTEES.—The report under subsection (a) shall be referred—

(1) upon receipt in the Senate, to the Committee on Armed Services of the Senate; and

(2) upon receipt in the House of Representatives, to the Committee on Armed Services of the House of Representatives.

### SEC. 1038. CONVEYANCE OF SURPLUS T–37 AIRCRAFT TO AIR FORCE AVIATION HERITAGE FOUNDATION, INCORPORATED.

(a) AUTHORITY.—The Secretary of the Air Force may convey, without consideration, to the Air Force Aviation Heritage Foundation, Incorporated, of Georgia (in this section referred to as the "Foundation"), all right, title, and interest of the United States in and to one surplus T–37 "Tweet" aircraft. The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The Secretary may not convey ownership of the aircraft under subsection (a) until the Secretary determines that the Foundation has altered the aircraft in such manner as the Secretary determines necessary to ensure that the aircraft does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) CONDITIONS FOR CONVEYANCE.—(1) The conveyance of a T–37 aircraft under this section shall be subject to the following conditions:

(A) That the Foundation not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary of the Air Force.

(B) That the operation and maintenance of the aircraft comply with all applicable limitations and maintenance requirements imposed by the Administrator of the Federal Aviation Administration.

(C) That if the Secretary of the Air Force determines at any time that the Foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in subparagraph (B), all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(2) The Secretary shall include the conditions under paragraph (1) in the instrument of conveyance of the T–37 aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—Any conveyance of a T–37 aircraft under this section shall be made at no cost to *the United States. Any costs associated with such conveyance, costs of determining compliance by the Foundation with the conditions in subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the Foundation.*

*(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.*

*(f) CLARIFICATION OF LIABILITY.—Notwithstanding any other provision of law, upon the conveyance of ownership of a T–37 aircraft to the Foundation under subsection (a), the United States shall not be liable for any death, injury, loss, or damage that results from any use of that aircraft by any person other than the United States.*

### ***SEC. 1039. SENSE OF SENATE ON REWARD FOR INFORMATION LEADING TO RESOLUTION OF STATUS OF MEMBERS OF THE ARMED FORCES WHO REMAIN MISSING IN ACTION.***

*(a) FINDINGS.—The Senate makes the following findings:*

*(1) The Department of Defense estimates that there are more than 10,000 members of the Armed Forces and others who as a result of activities during the Korean War or the Vietnam War were placed in a missing status or a prisoner of war status, or who were determined to have been killed in action although the body was not recovered, and who remain unaccounted for.*

*(2) One member of the Armed Forces, Navy Captain Michael Scott Speicher, remains missing in action from the first Persian Gulf War, and there have been credible reports of him being seen alive in Iraq in the years since his plane was shot down on January 16, 1991.*

*(3) The United States should always pursue every lead and leave no stone unturned to completely account for the fate of its missing members of the Armed Forces.*

*(4) The Secretary of Defense has the authority to disburse funds as a reward to individuals who provide information leading to the conclusive resolution of cases of missing members of the Armed Forces.*

*(b) SENSE OF SENATE.—It is the sense of the Senate—*

*(1) that the Secretary of Defense should use the authority available to the Secretary to disburse funds rewarding individuals who provide information leading to the conclusive resolution of the status of any missing member of the Armed Forces; and*

*(2) to encourage the Secretary to authorize and publicize a reward of $1,000,000 for information resolving the fate of those members of the Armed Forces, such as Michael Scott Speicher, who the Secretary has reason to believe may yet be alive in captivity.*

### ***SEC. 1040. ADVANCED SHIPBUILDING ENTERPRISE.***

*(a) FINDINGS.—Congress makes the following findings:*

*(1) The President's budget for fiscal year 2004, as submitted to Congress, includes $10,300,000 for the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program.*

*(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency among shipyards in the defense industrial base.*

*(3) The leaders of the Nation's shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method of exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all manufacturers in the industry.*

*(b) SENSE OF THE SENATE.—It is the sense of the Senate that—*

*(1) the Senate strongly supports the innovative Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program that has yielded new processes and techniques to reduce the cost of building and repairing ships in the United States;*

*(2) the Senate is concerned that the future-years defense program submitted to Congress for fiscal year 2004 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2004; and*

*(3) the Secretary of Defense and the Secretary of the Navy should continue funding the Advanced Shipbuilding Enterprise at a sustaining level through the future-years defense program to support subsequent rounds of research that reduce the cost of designing, building, and repairing ships.*

### ***SEC. 1041. AIR FARES FOR MEMBERS OF ARMED FORCES.***

*It is the sense of the Senate that each United States air carrier should—*

*(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and*

*(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.*

### ***SEC. 1042. SENSE OF SENATE ON DEPLOYMENT OF AIRBORNE CHEMICAL AGENT MONITORING SYSTEMS AT CHEMICAL STOCKPILE DISPOSAL SITES IN THE UNITED STATES.***

*(a) FINDINGS.—The Senate makes the following findings:*

*(1) Millions of assembled chemical weapons are stockpiled at chemical agent disposal facilities and depot sites across the United States.*

*(2) Some of these weapons are filled with nerve agents, such as GB and VX and blister agents such as HD (mustard agent).*

*(3) Hundreds of thousands of United States citizens live in the vicinity of these chemical weapons stockpile sites and depots.*

*(4) The airborne chemical agent monitoring systems at these sites are inefficient or outdated compared to newer and advanced technologies on the market.*

*(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Army should develop and deploy a program to upgrade the airborne chemical agent monitoring systems at all chemical stockpile disposal sites across the United States in order to achieve the broadest possible protection of the general public, personnel involved in the chemical demilitarization program, and the environment.*

### ***SEC. 1043. FEDERAL ASSISTANCE FOR STATE PROGRAMS UNDER THE NATIONAL GUARD CHALLENGE PROGRAM.***

*(a) MAXIMUM FEDERAL SHARE.—Section 509(d) of title 32, United States Code, is amended—*

*(1) by striking paragraphs (1), (2), and (3);*

*(2) by redesignating paragraph (4) as paragraph (1);*

*(3) in paragraph (1), as so redesignated, by striking the period at the end and inserting "; and"; and*

*(4) by adding at the end the following new paragraph (2);*

*"(2) for fiscal year 2001 (notwithstanding paragraph (1)), 65 percent of the costs of operating the State program during that year.".*

*(b) STUDY.—(1) The Secretary of Defense shall carry out a study to evaluate (A) the adequacy of the requirement under section 509(d) of title 32, United States Code, for the United States to fund 60 percent of the costs of operating a State program of the National Guard Challenge Program and the State to fund 40 percent of such costs, and (B) the value of the Challenge program to the Department of Defense.*

*(2) In carrying out the study under paragraph (1), the Secretary should identify potential alternatives to the matching funds structure provided for the National Guard Challenge Program under section 509(d) of title 32, United States Code, such as a range of Federal-State matching ratios, that would provide flexibility in the management of the program to better respond to temporary fiscal conditions.*

*(3) The Secretary shall include the results of the study, including findings, conclusions, and recommendations, in the next annual report to Congress under section 509(k) of title 32, United States Code, that is submitted to Congress after the date of the enactment of this Act.*

*(c) AMOUNT FOR FEDERAL ASSISTANCE.—(1) The amount authorized to be appropriated under section 301(10) is hereby increased by $3,000,000.*

*(2) Of the total amount authorized to be appropriated under section 301(10), $68,216,000 shall be available for the National Guard Challenge Program under section 509 of title 32, United States Code.*

*(3) The total amount authorized to be appropriated under section 301(4) is hereby reduced by $3,000,000.*

### ***SEC. 1044. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.***

*(a) FINDINGS.—The Senate makes the following findings:*

*(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.*

*(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.*

*(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.*

*(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.*

## ***TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL POLICY***

### ***SEC. 1101. AUTHORITY TO EMPLOY CIVILIAN FACULTY MEMBERS AT THE WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.***

*Section 1595(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:*

*"(6) The Western Hemisphere Institute for Security Cooperation.".*

### ***SEC. 1102. PAY AUTHORITY FOR CRITICAL POSITIONS.***

*(a) AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:*

***"§ 1599e. Pay authority for critical positions***

*"(a) AUTHORITY GENERALLY.—(1) When the Secretary of Defense seeks a grant of authority under section 5377 of title 5 for critical pay for one or more positions within the Department of Defense, the Director of the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307 of such title, at any rate up to the salary set in accordance with section 104 of title 3.*

*"(2) Notwithstanding section 5307 of title 5, no allowance, differential, bonus, award, or similar*

*cash payment may be paid to any employee receiving critical pay at a rate fixed under paragraph (1), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.*

*"(b) Temporary Streamlined Critical Pay Authority.—(1) The Secretary of Defense may establish, fix the compensation of, and appoint persons to positions designated as critical administrative, technical, or professional positions needed to carry out the functions of the Department of Defense, subject to paragraph (2).*

*"(2) The authority under paragraph (1) may be exercised with respect to a position only if—*

*"(A) the position—*

*"(i) requires expertise of an extremely high level in an administrative, technical, or professional field; and*

*"(ii) is critical to the successful accomplishment of an important mission by the Department of Defense;*

*"(B) the exercise of the authority is necessary to recruit or retain a person exceptionally well qualified for the position;*

*"(C) the number of all positions covered by the exercise of the authority does not exceed 40 at any one time;*

*"(D) in the case of a position designated as a critical administrative, technical, or professional position by an official other than the Secretary of Defense, the designation is approved by the Secretary;*

*"(E) the term of appointment to the position is limited to not more than four years;*

*"(F) the appointee to the position was not a Department of Defense employee before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004;*

*"(G) the total annual compensation for the appointee to the position does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and*

*"(H) the position is excluded from collective bargaining units.*

*"(3) The authority under this subsection may be exercised without regard to—*

*"(A) subsection (a);*

*"(B) the provisions of title 5 governing appointments in the competitive service or the Senior Executive Service; and*

*"(C) chapters 51 and 53 of title 5, relating to classification and pay rates.*

*"(4) The authority under this subsection may not be exercised after the date that is 10 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004.*

*"(5) For so long as a person continues to serve without a break in service in a position to which appointed under this subsection, the expiration of authority under this subsection does not terminate the position, terminate the person's appointment in the position before the end of the term for which appointed under this subsection, or affect the compensation fixed for the person's service in the position under this subsection during such term of appointment.*

*"(6) Subchapter II of chapter 75 of title 5 does not apply to an employee during a term of service in a critical administrative, technical, or professional position to which the employee is appointed under this subsection.".*

*(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:*

*"1599e. Pay authority for critical positions.".*

***SEC. 1103. EXTENSION, EXPANSION, AND REVISION OF AUTHORITY FOR EXPERIMENTAL PERSONNEL PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL.***

*(a) Extension of Program.—Subsection (e)(1) of section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2139; 5 U.S.C. 3104 note) is amended by striking "October 16, 2005" and inserting "September 30, 2008".*

*(b) Increased Limitation on Number of Appointments.—Subsection (b)(1)(A) of such section is amended by striking "40" and inserting "50".*

*(c) Commensurate Extension of Requirement for Annual Report.—Subsection (g) of such section is amended by striking "2006" and inserting "2009".*

***SEC. 1104. TRANSFER OF PERSONNEL INVESTIGATIVE FUNCTIONS AND RELATED PERSONNEL OF THE DEPARTMENT OF DEFENSE.***

*(a) Transfer of Functions.—(1) With the consent of the Director of the Office of Personnel Management, the Secretary of Defense may transfer to the Office of Personnel Management the personnel security investigations functions that, as of the date of the enactment of this Act, are performed by the Defense Security Service of the Department of Defense.*

*(2) The Director of the Office of Personnel Management may accept a transfer of functions under paragraph (1).*

*(3) Any transfer of a function under this subsection is a transfer of function within the meaning of section 3503 of title 5, United States Code.*

*(b) Transfer of Personnel.—(1) If the Director of the Office of Personnel Management accepts a transfer of functions under subsection (a), the Secretary of Defense shall also transfer to the Office of Personnel Management, and the Director shall accept—*

*(A) the Defense Security Service employees who perform those functions immediately before the transfer of functions; and*

*(B) the Defense Security Service employees who, as of such time, are first level supervisors of employees transferred under subparagraph (A).*

*(2) The Secretary may also transfer to the Office of Personnel Management any Defense Security Service employees (including higher level supervisors) who provide support services for the performance of the functions transferred under subsection (a) or for the personnel (including supervisors) transferred under paragraph (1) if the Director—*

*(A) determines that the transfer of such additional employees and the positions of such employees to the Office of Personnel Management is necessary in the interest of effective performance of the transferred functions; and*

*(B) accepts the transfer of the additional employees.*

*(3) In the case of an employee transferred to the Office of Personnel Management under paragraph (1) or (2), whether a full-time or part-time employee—*

*(A) subsections (b) and (c) of section 5362 of title 5, United States Code, relating to grade retention, shall apply to the employee, except that—*

*(i) the grade retention period shall be the one-year period beginning on the date of the transfer; and*

*(ii) paragraphs (1), (2), and (3) of such subsection (c) shall not apply to the employee; and*

*(B) the employee may not be separated, other than pursuant to chapter 75 of title 5, United States Code, during such one-year period.*

*(c) Actions After Transfer.—(1) Not later than one year after a transfer of functions to the Office of Personnel Management under subsection (a), the Secretary of Defense shall review all functions performed by personnel of the Defense Security Service at the time of the transfer and make a written determination regarding whether each such function is inherently governmental or is otherwise inappropriate for performance by contractor personnel.*

*(2) A function performed by Defense Security Service employees as of the date of the enactment of this Act may not be converted to contractor performance by the Director of the Office of Personnel Management until—*

*(A) the Secretary of Defense reviews the function in accordance with the requirements of paragraph (1) and makes a written determination that the function is not inherently governmental and is not otherwise inappropriate for contractor performance; and*

*(B) the Director conducts a public-private competition regarding the performance of that function in accordance with the requirements of the Office of Management and Budget Circular A-76.*

## *TITLE XII—MATTERS RELATING TO OTHER NATIONS*

***SEC. 1201. AUTHORITY TO USE FUNDS FOR PAYMENT OF COSTS OF ATTENDANCE OF FOREIGN VISITORS UNDER REGIONAL DEFENSE COUNTERTERRORISM FELLOWSHIP PROGRAM.***

*(a) Authority To Use Funds.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:*

***"§2249c. Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program***

*"(a) Authority To Use Funds.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense may be used to pay any costs associated with the attendance of foreign military officers, ministry of defense officials, or security officials at United States military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Counterterrorism Fellowship Program, including costs of transportation and travel and subsistence costs.*

*"(b) Limitation.—The total amount of funds used under the authority in subsection (a) in any fiscal year may not exceed $20,000,000.*

*"(c) Annual Report.—Not later than December 1 of each year, the Secretary of Defense shall submit to Congress a report on the administration of this section during the fiscal year ended in such year. The report shall include the following matters:*

*"(1) A complete accounting of the expenditure of appropriated funds for purposes authorized under subsection (a), including—*

*"(A) the countries of the foreign officers and officials for whom costs were paid; and*

*"(B) for each such country, the total amount of the costs paid.*

*"(2) The training courses attended by the foreign officers and officials, including a specification of which, if any, courses were conducted in foreign countries.*

*"(3) An assessment of the effectiveness of the Regional Defense Counterterrorism Fellowship Program in increasing the cooperation of the governments of foreign countries with the United States in the global war on terrorism.*

*"(4) A discussion of any actions being taken to improve the program.".*

*(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:*

*"2249c. Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.".*

*(b) Notification of Congress.—Not later than December 1, 2003, the Secretary of Defense shall—*

*(1) promulgate the final regulations for carrying out section 2249c of title 10, United States Code, as added by subsection (a); and*

(2) notify the congressional defense committees of the promulgation of such regulations.

### SEC. 1202. AVAILABILITY OF FUNDS TO RECOGNIZE SUPERIOR NONCOMBAT ACHIEVEMENTS OR PERFORMANCE OF MEMBERS OF FRIENDLY FOREIGN FORCES AND OTHER FOREIGN NATIONALS.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting the following new section:

**"§1051a. Bilateral or regional cooperation programs: availability of funds to recognize superior noncombat achievements or performance**

"(a) IN GENERAL.—The Secretary of Defense may expend amounts available to the Department of Defense or the military departments for operation and maintenance for the purpose of recognizing superior noncombat achievements or performance of members of friendly foreign forces, or other foreign nationals, that significantly enhance or support the national security strategy of the United States.

"(b) COVERED ACHIEVEMENTS OR PERFORMANCE.—The achievements or performance that may be recognized under subsection (a) include achievements or performance that—

"(1) play a crucial role in shaping the international security environment in a manner that protects and promotes the interests of the United States;

"(2) support or enhance the United States presence overseas or support or enhance United States peacetime engagement activities such as defense cooperation initiatives, security assistance training and programs, or training and exercises with the armed forces of the United States;

"(3) help deter aggression and coercion, build coalitions, or promote regional stability; or

"(4) serve as models for appropriate conduct for military forces in emerging democracies.

"(c) LIMITATION ON VALUE OF MEMENTOS.—The value of any memento procured or produced under subsection (a) may not exceed the minimal value in effect under section 7342(a)(5) of title 5.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051 the following new item:

"1051a. Bilateral or regional cooperation programs: availability of funds to recognize superior noncombat achievements or performance.".

### SEC. 1203. CHECK CASHING AND EXCHANGE TRANSACTIONS FOR FOREIGN PERSONNEL IN ALLIANCE OR COALITION FORCES.

Section 3342(b) of title 31, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(8) a member of the armed forces of a foreign nation who is participating in a combined operation, combined exercise, or combined humanitarian or peacekeeping mission that is carried out with armed forces of the United States pursuant to an alliance or coalition of the foreign nation with the United States if—

"(A) the senior commander of the armed forces of the United States participating in the operation, exercise, or mission has authorized the action under paragraph (1) or (2) of subsection (a);

"(B) the government of the foreign nation has guaranteed payment for any deficiency resulting from such action; and

"(C) in the case of an action on a negotiable instrument, the negotiable instrument is drawn on a financial institution located in the United States or on a foreign branch of such an institution.".

### SEC. 1204. CLARIFICATION AND EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2004.—The total amount of the assistance for fiscal year 2004 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a), including funds used for activities of the Department of Defense in support of the United Nations Monitoring, Verification and Inspection Commission, shall not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking "fiscal year 2003" and inserting "fiscal year 2004".

(c) REFERENCES TO UNITED NATIONS SPECIAL COMMISSION ON IRAQ.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is further amended—

(1) in subsection (b)(2), by striking "United Nations Special Commission on Iraq (or any successor organization)" and inserting "United Nations Monitoring, Verification and Inspection Commission"; and

(2) in subsection (d)(4)(A), by striking "United Nations Special Commission on Iraq (or any successor organization)" and inserting "United Nations Monitoring, Verification and Inspection Commission".

### SEC. 1205. REIMBURSABLE COSTS RELATING TO NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

(a) DIRECT COSTS OF MONITORING FOREIGN LAUNCHES OF SATELLITES.—Section 1514(a)(1)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 22 U.S.C. 2778 note) is amended by striking "The costs of such monitoring services" in the second sentence and inserting the following: "The Department of Defense costs that are directly related to monitoring the launch, including transportation and per diem costs,".

(b) GAO STUDY.—(1) The Comptroller General shall conduct a study of the Department of Defense costs of monitoring launches of satellites in a foreign country under section 1514 of Public Law 105–261.

(2) Not later than April 1, 2004, the Comptroller General shall submit a report on the study to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:

(A) An assessment of the Department of Defense costs of monitoring the satellite launches described in paragraph (1).

(B) A review of the costs reimbursed to the Department of Defense by each person or entity receiving the satellite launch monitoring services, including the extent to which indirect costs have been included.

### SEC. 1206. ANNUAL REPORT ON THE NATO PRAGUE CAPABILITIES COMMITMENT AND THE NATO RESPONSE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) At the meeting of the North Atlantic Council held in Prague in November 2002, the heads of states and governments of the North Atlantic Treaty Organization (NATO) launched a Prague Capabilities Commitment and decided to create a NATO Response Force.

(2) The Prague Capabilities Commitment is part of the continuing NATO effort to improve and develop new military capabilities for modern warfare in a high-threat environment. As part of this commitment, individual NATO allies have made firm and specific political commitments to improve their capabilities in the areas of—

(A) chemical, biological, radiological, and nuclear defense;

(B) intelligence, surveillance, and target acquisition;

(C) air-to-ground surveillance;

(D) command, control, and communications;

(E) combat effectiveness, including precision guided munitions and suppression of enemy air defenses;

(F) strategic air and sea lift;

(G) air-to-air refueling; and

(H) deployable combat support and combat service support units.

(3) The NATO Response Force is envisioned to be a technologically advanced, flexible, deployable, interoperable, and sustainable force that includes land, sea, and air elements ready to move quickly to wherever needed, as determined by the North Atlantic Council. The NATO Response Force is also intended to be a catalyst for focusing and promoting improvements in NATO's military capabilities. It is expected to have initial operational capability by October 2004, and full operational capability by October 2006.

(b) ANNUAL REPORT.—(1) Not later than January 31 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report, to be prepared in consultation with the Secretary of State, on implementation of the Prague Capabilities Commitment and development of the NATO Response Force by the member nations of NATO. The report shall include the following matters:

(A) A description of the actions taken by NATO as a whole and by each member nation of NATO other than the United States to further the Prague Capabilities Commitment, including any actions taken to improve capability shortfalls in the areas identified for improvement.

(B) A description of the actions taken by NATO as a whole and by each member nation of NATO, including the United States, to create the NATO Response Force.

(C) A discussion of the relationship between NATO's efforts to improve capabilities through the Prague Capabilities Commitment and those of the European Union to enhance European capabilities through the European Capabilities Action Plan, including the extent to which they are mutually reinforcing.

(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

(i) an assessment of whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and *other issues related to the Prague Capabilities Commitment or the NATO Response Force;*

*(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee;*

*(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and security decisionmaking within NATO relating to the Prague Capabilities Commitment, and NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes; and*

*(vii) if a report under this subparagraph is a report other than the first report under this subparagraph, the information submitted in such report under any of clauses (i) through (vi) may consist solely of an update of any information previously submitted under the applicable clause in a preceding report under this subparagraph.*

*(2) The report shall be submitted in unclassified form, but may also be submitted in classified form if necessary.*

### ***SEC. 1207. EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.***

*(a) GENERAL EXTENSION OF AUTHORITY.—Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as amended by section 1021 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), is further amended—*

*(1) in subsection (a)—*

*(A) by inserting after "subsection (f)," the following: "during fiscal years 1998 through 2006 in the case of the foreign governments named in paragraphs (1) and (2) of subsection (b), and fiscal years 2004 through 2006 in the case of the foreign governments named in paragraphs (3) through (9) of subsection (b),"; and*

*(B) by striking "either or both" and inserting "any"; and*

*(2) in subsection (b)—*

*(A) in paragraph (1), by striking ", for fiscal years 1998 through 2002"; and*

*(B) in paragraph (2), by striking ", for fiscal years 1998 through 2006".*

*(b) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—Subsection (b) of such section 1033 is further amended by adding at the end the following new paragraphs:*

*"(3) The Government of Afghanistan.*

*"(4) The Government of Bolivia.*

*"(5) The Government of Ecuador.*

*"(6) The Government of Pakistan.*

*"(7) The Government of Tajikistan.*

*"(8) The Government of Turkmenistan.*

*"(9) The Government of Uzbekistan.".*

*(c) TYPES OF SUPPORT.—Subsection (c) of such section 1033 is amended—*

*(1) in paragraph (2), by striking "riverine"; and*

*(2) in paragraph (3), by inserting "or upgrade" after "maintenance and repair".*

*(d) MAXIMUM ANNUAL AMOUNT OF SUPPORT.—Subsection (e)(2) of such section 1033, as amended by such section 1021, is further amended by striking "$20,000,000 during any of the fiscal years 1999 through 2006" and inserting "$20,000,000 during any of fiscal years 1999 through 2003, or $40,000,000 during any of fiscal years 2004 through 2006".*

*(e) COUNTER-DRUG PLAN.—(1) Subsection (h) of such section 1033 is amended—*

*(A) in the subsection caption, by striking "RIVERINE";*

*(B) in the matter preceding paragraph (1)—*

*(i) by inserting "in the case of the governments named in paragraphs (1) and (2) of subsection (b) and for fiscal year 2004 in the case of the governments named in paragraphs (3) through (9) of subsection (b)"; and*

*(ii) by striking "riverine"; and*

*(C) by striking "riverine" each place it appears in paragraphs (2), (7), (8), and (9).*

*(2) Subsection (f)(2)(A) of such section 1033 is amended by striking "riverine".*

*(f) CLERICAL AMENDMENT.—The heading for such section 1033 is amended by striking "**PERU AND COLOMBIA**" and inserting "**OTHER COUNTRIES**".*

### ***SEC. 1208. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTER-TERRORISM CAMPAIGN IN COLOMBIA.***

*(a) AUTHORITY.—(1) In fiscal years 2004 and 2005, the Secretary of Defense may use funds available for assistance to the Government of Colombia to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).*

*(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.*

*(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:*

*(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).*

*(2) Section 8093 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2267).*

*(3) The numerical limitations on the number of United States military personnel and United States individual civilian-contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575).*

*(c) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen (including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States).*

*(d) CONSTRUCTION WITH OTHER AUTHORITY.—The authority in subsection (a) to use funds to provide assistance to the Government of Colombia is in addition to any other authority in law to provide assistance to the Government of Colombia.*

### ***SEC. 1209. COMPETITIVE AWARD OF CONTRACTS FOR IRAQI RECONSTRUCTION.***

*(a) REQUIREMENT.—The Department of Defense shall fully comply with the Competition in Contracting Act (10 U.S.C. 2304 et seq.) for any contract awarded for reconstruction activities in Iraq and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry.*

*(b) REPORT TO CONGRESS.—If the Department of Defense does not have a fully competitive contract in place to replace the March 8, 2003 contract for the reconstruction of the Iraqi oil industry by August 31, 2003, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing this sole-source contract to continue. A follow-up report shall be submitted to Congress each 60 days thereafter until a competitive contract is in place.*

## ***TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION***

### ***SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.***

*(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).*

*(b) FISCAL YEAR 2004 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2004 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.*

*(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.*

### ***SEC. 1302. FUNDING ALLOCATIONS.***

*(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $450,800,000 authorized to be appropriated to the Department of Defense for fiscal year 2004 in section 301(22) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:*

*(1) For strategic offensive arms elimination in Russia, $57,600,000.*

*(2) For strategic nuclear arms elimination in Ukraine, $3,900,000.*

*(3) For nuclear weapons transportation security in Russia, $23,200,000.*

*(4) For weapons storage security in Russia, $48,000,000.*

*(5) For weapons of mass destruction proliferation prevention activities in the states of the former Soviet Union, $39,400,000.*

*(6) For chemical weapons destruction in Russia, $200,300,000.*

*(7) For biological weapons proliferation prevention activities in the former Soviet Union, $54,200,000.*

*(8) For defense and military contacts, $11,000,000.*

*(9) For activities designated as Other Assessments/Administrative Support, $13,100,000.*

*(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2004 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2004 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.*

*(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2004 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.*

*(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such*

*purpose may be made using the authority provided in paragraph (1) only after—*

*(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and*

*(B) 15 days have elapsed following the date of the notification.*

*(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (9) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.*

### *SEC. 1303. ANNUAL CERTIFICATIONS ON USE OF FACILITIES BEING CONSTRUCTED FOR COOPERATIVE THREAT REDUCTION PROJECTS OR ACTIVITIES.*

*(a) CERTIFICATION ON USE OF FACILITIES BEING CONSTRUCTED.—Not later than the first Monday of February each year, the Secretary of Defense shall submit to the congressional defense committees a certification for each facility for a Cooperative Threat Reduction project or activity for which construction occurred during the preceding fiscal year on matters as follows:*

*(1) Whether or not such facility will be used for its intended purpose by the country in which the facility is constructed.*

*(2) Whether or not the country remains committed to the use of such facility for its intended purpose.*

*(b) APPLICABILITY.—Subsection (a) shall apply to—*

*(1) any facility the construction of which commences on or after the date of the enactment of this Act; and*

*(2) any facility the construction of which is ongoing as of that date.*

### *SEC. 1304. AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.*

*(a) AUTHORITY.—The President may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the President determines that such project or activity will—*

*(1) assist the United States in the resolution of a critical emerging proliferation threat; or*

*(2) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals.*

*(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for the project or activity utilizing such funds, but does not include authority to provide cash directly to the project or activity.*

*(c) LIMITATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.*

*(d) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:*

*(1) Any requirement for prior notice or other reports to Congress on the use of Cooperative Threat Reduction funds or on Cooperative Threat Reduction projects or activities.*

*(2) Any limitation on the obligation or expenditure of Cooperative Threat Reduction funds.*

*(3) Any limitation on Cooperative Threat Reduction projects or activities.*

### *SEC. 1305. ONE-YEAR EXTENSION OF INAPPLICABILITY OF CERTAIN CONDITIONS ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION.*

*Section 8144 of Public Law 107–248 (116 Stat. 1571) is amended—*

*(1) in subsection (a), by striking "and 2003" and inserting "2003, and 2004"; and*

*(2) in subsection (b), by striking "September 30, 2003" and inserting "September 30, 2004".*

## *DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS*

### *SEC. 2001. SHORT TITLE.*

*This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2004".*

## *TITLE XXI—ARMY*

### *SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.*

*(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:*

**Army: Inside the United States**

| State | Installation or location | Amount |
|---|---|---|
| Alabama | Redstone Arsenal | $5,500,000 |
| Alaska | Fort Richardson | $10,700,000 |
| | Fort Wainwright | $138,800,000 |
| Georgia | Fort Benning | $30,000,000 |
| | Fort Stewart/Hunter Army Air Field | $138,550,000 |
| | Fort Gordon | $4,350,000 |
| Hawaii | Helemano Military Reservation | $20,800,000 |
| | Schofield Barracks | $100,000,000 |
| Kansas | Fort Leavenworth | $115,000,000 |
| | Fort Riley | $40,000,000 |
| Kentucky | Fort Knox | $13,500,000 |
| Louisiana | Fort Polk | $72,000,000 |
| Maryland | Aberdeen Proving Ground | $13,000,000 |
| | Fort Meade | $9,600,000 |
| New York | Fort Drum | $125,500,000 |
| North Carolina | Fort Bragg | $152,000,000 |
| Oklahoma | Fort Sill | $3,500,000 |
| Texas | Fort Hood | $49,800,000 |
| Virginia | Fort Myer | $9,000,000 |
| Washington | Fort Lewis | $3,900,000 |
| | Total | $1,055,500,000 |

*(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:*

**Army: Outside the United States**

| Country | Installation or location | Amount |
|---|---|---|
| Italy | Aviano Air Base | $15,500,000 |
| | Livorno | $22,000,000 |
| Korea | Camp Humphreys | $105,000,000 |

**Army: Outside the United States—Continued**

| Country | Installation or location | Amount |
|---|---|---|
| Kwajalein Atoll | Kwajalein Atoll | $9,400,000 |
| | Total | $151,900,000 |

**SEC. 2102. FAMILY HOUSING.**

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

**Army: Family Housing**

| State | Installation or location | Purpose | Amount |
|---|---|---|---|
| Alaska | Fort Wainwright | 140 Units | $64,000,000 |
| Arizona | Fort Huachuca | 220 Units | $41,000,000 |
| Kansas | Fort Riley | 72 Units | $16,700,000 |
| Kentucky | Fort Knox | 178 Units | $41,000,000 |
| New Mexico | White Sands Missile Range | 58 Units | $14,600,000 |
| Oklahoma | Fort Sill | 120 Units | $25,373,000 |
| Virginia | Fort Lee | 90 Units | $18,000,000 |
| | | Total: | $220,673,000 |

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $34,488,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $156,030,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,980,454,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $843,500,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $151,900,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $122,710,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $409,191,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,031,853,000.

(6) For the construction of phase 3 of Saddle Access Road, Pohakoula Training Facility, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–389)), as amended by section 2107 of this Act, $17,000,000.

(7) For the construction of phase 3 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2107 of this Act, $33,000,000.

(8) For the construction of phase 3 of a barracks complex, 17th and B Streets, at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $48,000,000.

(9) For the construction of phase 2 of a barracks complex, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(10) For the construction of phase 2 of a combined arms collective training facility at Fort Riley, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,600,000.

(11) For the construction of phase 2 of a barracks complex, Range Road, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(12) For the construction of phase 2 of a maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681) $13,000,000.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of—

(1) the total amount authorized to be appropriated under paragraphs (1), and (2) of subsection (a);

(2) $32,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks, Fort Stewart, Georgia);

(3) $87,000,000 (the balance of the amount authorized under section 2101(a) for construction of a Lewis and Clark instructional facility, Fort Leavenworth, Kansas);

(4) $43,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a barracks complex, Wheeler-Sack Army Airfield, Fort Drum, New York); and

(5) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina).

**SEC. 2105. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.**

(a) Military Construction Projects Outside the United States.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2682) is amended—

(1) by striking the item relating to Area Support Group, Bamberg, Germany;

(2) by striking the item relating to Coleman Barracks, Germany;

(3) by striking the item relating to Darmstadt, Germany;

(4) by striking the item relating to Mannheim, Germany;

(5) by striking the item relating to Schweinfurt, Germany; and

(6) by striking the amount identified as the total in the amount column and inserting "$288,066,000".

(b) Family Housing Outside the United States.—The table in section 2102(a) of that Act (116 Stat. 2683) is amended—

(1) by striking the item relating to Yongsan, Korea; and

(2) by striking the amount identified as the total in the amount column and inserting "$23,852,000".

(c) Improvements to Military Family Housing Units.—Section 2103 of that Act (116 Stat. 2683) is amended by striking "$239,751,000" and inserting "$190,551,000".

(d) Conforming Amendments.—Section 2104(a) of that Act (116 Stat. 2683) is amended—

(1) in the matter preceding paragraph (1), by striking "$3,104,176,000" and inserting "$2,985,826,000";

(2) in paragraph (2), by striking "$354,116,000" and inserting "$288,066,000"; and

(3) in paragraph (6)(A), by striking "$282,356,000" and inserting "$230,056,000".

### *SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.*

*(a) MILITARY CONSTRUCTION INSIDE THE UNITED STATES.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681) is amended—*

*(1) in the item relating to Fort Riley, Kansas, by striking "$81,095,000" in the amount column and inserting "$81,495,000"; and*

*(2) by striking the amount identified as the total in the amount column and inserting "$1,156,167,000".*

*(b) MILITARY CONSTRUCTION OUTSIDE THE UNITED STATES.—The table in section 2101(b) of that Act (116 Stat. 2682) is amended—*

*(1) by striking the item relating to Camp Castle, Korea;*

*(2) by striking the item relating to Camp Hovey, Korea;*

*(3) in the item relating to Camp Humphreys, Korea, by striking "$36,000,000" in the amount column and inserting "$107,800,000" ; and*

*(4) by striking the item relating to K16 Airfield, Korea.*

*(c) CONFORMING AMENDMENT.—Section 2104(b)(4) of that Act (116 Stat. 2684) is amended by striking "$13,200,000" and inserting "$13,600,000".*

### *SEC. 2107. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECT.*

*(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2689), is further amended—*

*(1) in the item relating to Fort Richardson, Alaska, by striking "$115,000,000" in the amount column and inserting "$117,000,000"; and*

*(2) by striking the amount identified as the total in the amount column and inserting "$1,364.750,000".*

*(b) CONFORMING AMENDMENT.—Section 2104(b)(2) of that Act (115 Stat. 1284) is amended by striking "$52,000,000" and inserting "$54,000,000".*

### *SEC. 2108. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECT.*

*(a) IN GENERAL.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–389)), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1285), is further amended—*

*(1) in the item relating to Pohakoula Training Facility, Hawaii, by striking "$32,000,000" in the amount column and inserting "$42,000,000"; and*

*(2) by striking the amount identified as the total in the amount column and inserting "$636,374,000".*

*(b) CONFORMING AMENDMENT.—Section 2104(b)(7) of the Military Construction Authorization Act for Fiscal Year 2001 (114 Stat. 1654A–392) is amended by striking "$20,000,000" and inserting "$30,000,000".*

## *TITLE XXII—NAVY*

### *SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.*

*(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:*

***Navy: Inside the United States***

| *State* | *Installation or location* | *Amount* |
|---|---|---|
| *Arizona* | *Marine Corps Air Station, Yuma* | *$22,230,000* |
| *California* | *Marine Corps Base, Camp Pendleton* | *$73,580,000* |
| | *Naval Air Station, Lemoore* | *$34,510,000* |
| | *Marine Corps Air Station, Miramar* | *$4,740,000* |
| | *Naval Air Station, North Island* | *$49,240,000* |
| | *Naval Air Warfare Center, China Lake* | *$12,890,000* |
| | *Naval Air Warfare Center, Point Mugu, San Nicholas Island* | *$9,150,000* |
| | *Naval Air Facility, San Clemente Island* | *$18,940,000* |
| | *Naval Postgraduate School, Monterey* | *$35,550,000* |
| | *Naval Station, San Diego* | *$42,710,000* |
| | *Marine Air Ground Task Force Training Center, Twentynine Palms* | *$28,390,000* |
| *Connecticut* | *New London* | *$3,000,000* |
| *District of Columbia* | *Marine Corps Barracks* | *$1,550,000* |
| *Florida* | *Naval Air Station, Jacksonville* | *$3,190,000* |
| | *Naval Air Station, Whiting Field, Milton* | *$4,830,000* |
| | *Naval Surface Warfare Center, Coastal Systems Station, Panama City* | *$9,550,000* |
| | *Blount Island (Jacksonville)* | *$115,711,000* |
| *Georgia* | *Strategic Weapons Facility Atlantic, Kings Bay* | *$11,510,000* |
| *Hawaii* | *Fleet and Industrial Supply Center, Pearl Harbor* | *$32,180,000* |
| | *Naval Magazine, Lualualei* | *$6,320,000* |
| | *Naval Shipyard, Pearl Harbor* | *$7,010,000* |
| *Illinois* | *Naval Training Center, Great Lakes* | *$137,120,000* |
| *Maryland* | *Naval Air Warfare Center, Patuxent River* | *$24,370,000* |
| | *Naval Surface Warfare Center, Indian Head* | *$14,850,000* |
| *Mississippi* | *Naval Air Station, Meridian* | *$4,570,000* |
| *Nevada* | *Naval Air Station, Fallon* | *$4,700,000* |
| *New Jersey* | *Naval Air Warfare Center, Lakehurst* | *$20,681,000* |
| | *Naval Weapons Station, Earle* | *$123,720,000* |
| *North Carolina* | *Marine Corps Air Station, Cherry Point* | *$1,270,000* |
| | *Marine Corps Air Station, New River* | *$6,240,000* |
| | *Marine Corps Base, Camp Lejeune* | *$29,450,000* |
| *Pennsylvania* | *Philadelphia Foundry* | *$10,200,000* |
| *Rhode Island* | *Naval Station, Newport* | *$18,690,000* |
| | *Naval Undersea Warfare Center, Newport* | *$10,890,000* |
| *Texas* | *Naval Station, Ingleside* | *$7,070,000* |
| *Virginia* | *Henderson Hall, Arlington* | *$1,970,000* |
| | *Marine Corps Combat Development Command, Quantico* | *$18,120,000* |
| | *Naval Amphibious Base, Little Creek* | *$3,810,000* |

### *Navy: Inside the United States—Continued*

| *State* | *Installation or location* | *Amount* |
|---|---|---|
| | *Naval Station, Norfolk* | *$182,240,000* |
| | *Naval Space Command Center, Dahlgren* | *$24,020,000* |
| | *Norfolk Naval Shipyard, Portsmouth* | *$17,770,000* |
| *Washington* | *Naval Magazine, Indian Island* | *$2,240,000* |
| | *Naval Submarine Base, Bangor* | *$33,820,000* |
| | *Strategic Weapons Facility Pacific, Bangor* | *$6,530,000* |
| *Various Locations* | *Various Locations, CONUS* | *$56,360,000* |
| | *Total* | *$1,287,482,000* |

*(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:*

### *Navy: Outside the United States*

| *Country* | *Installation or location* | *Amount* |
|---|---|---|
| *Bahrain* | *Naval Support Activity, Bahrain* | *$18,030,000* |
| *Italy* | *Naval Support Activity, La Madalena* | *$39,020,000* |
| | *Naval Air Station, Sigonella* | *$34,070,000* |
| *United Kingdom* | *Joint Maritime Facility, St. Mawgan* | *$7,070,000* |
| | *Total* | *$98,190,000* |

***SEC. 2202. FAMILY HOUSING.***

*(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:*

### *Navy: Family Housing*

| *State or Country* | *Installation or location* | *Purpose* | *Amount* |
|---|---|---|---|
| *California* | *Naval Air Station, Lemoore* | *187 Units* | *$41,585,000* |
| *Florida* | *Naval Air Station, Pensacola* | *25 Units* | *$3,197,000* |
| *North Carolina* | *Marine Corps Base, Camp Lejeune* | *519 Units* | *$67,781,000* |
| | *Marine Corps Air Station, Cherry Point* | *339 Units* | *$42,803,000* |
| | | *Total* | *$155,366,000* |

*(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,381,000.*

***SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.***

*Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $20,446,000.*

***SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.***

*(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,179,919,000, as follows:*

*(1) For military construction projects inside the United States authorized by section 2201(a), $959,702,000.*

*(2) For military construction projects outside the United States authorized by section 2201(b), $98,190,000.*

*(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,334,000.*

*(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,612,000.*

*(5) For military family housing functions:*

*(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $184,193,000.*

*(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $813,158,000.*

*(6) For construction of phase 2 of a bachelor enlisted quarters shipboard ashore at Naval Shipyard Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2687), $46,730,000.*

*(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of—*

*(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);*

*(2) $25,690,000 (the balance of the amount authorized under section 2201(a) for the construction of a tertiary sewage treatment complex, Marine Corps Base, Camp Pendleton, California);*

*(3) $58,190,000 (the balance of the amount authorized under section 2201(a) for the construction of a battle station training facility, Naval Training Center, Great Lakes, Illinois);*

*(4) $96,980,000 (the balance of the amount authorized under section 2201(a) for replacement of a general purpose berthing pier, Naval Weapons Station, Earle, New Jersey);*

*(5) $118,170,000 (the balance of the amount authorized under section 2201(a) for replacement of pier 11, Naval Station, Norfolk, Virginia); and*

*(6) $28,750,000 (the balance of the amount authorized under section 2201(a) for the construction of an outlying landing field and facilities at a location to be determined).*

***SEC. 2205. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.***

*(a) TERMINATION.—The table in section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2687) is amended—*

(1) by striking the item relating to Naval Air Station, Keflavik, Iceland; and

(2) by striking the amount identified as the total in the amount column and inserting "$135,900,000".

(b) CONFORMING AMENDMENTS.—Section 2204(a) of that Act (116 Stat. 2688) is amended—

(1) in the matter preceding paragraph (1), by striking "$2,576,381,000" and inserting "$2,561,461,000"; and

(2) in paragraph (2), by striking "$148,250,000" and inserting "$133,330,000".

### TITLE XXIII—AIR FORCE

### SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

| State | Installation or location | Amount |
|---|---|---|
| Alabama | Maxwell Air Force Base | $13,400,000 |
| Alaska | Eielson Air Force Base | $48,774,000 |
| | Elmendorf Air Force Base | $2,000,000 |
| Arizona | Davis-Monthan Air Force Base | $9,864,000 |
| | Luke Air Force Base | $14,300,000 |
| Arkansas | Little Rock Air Force Base | $7,372,000 |
| California | Beale Air Force Base | $22,300,000 |
| | Edwards Air Force Base | $19,060,000 |
| | Los Angeles Air Force Base | $5,000,000 |
| | Vandenberg Air Force Base | $16,500,000 |
| Colorado | Buckley Air Force Base | $6,957,000 |
| | Peterson Air Force Base | $10,200,000 |
| Delaware | Dover Air Force Base | $8,500,000 |
| District of Columbia | Bolling Air Force Base | $9,300,000 |
| Florida | Hurlburt Field | $27,200,000 |
| | Patrick Air Force Base | $8,800,000 |
| | Tyndall Air Force Base | $6,195,000 |
| Georgia | Moody Air Force Base | $7,600,000 |
| | Robins Air Force Base | $28,685,000 |
| Hawaii | Hickam Air Force Base | $78,276,000 |
| Idaho | Mountain Home Air Force Base | $15,137,000 |
| Illinois | Scott Air Force Base | $1,900,000 |
| Mississippi | Columbus Air Force Base | $5,500,000 |
| | Keesler Air Force Base | $2,900,000 |
| Nevada | Nellis Air Force Base | $11,800,000 |
| New Jersey | McGuire Air Force Base | $11,627,000 |
| New Mexico | Cannon Air Force Base | $9,000,000 |
| | Kirtland Air Force Base | $6,957,000 |
| | Tularosa Radar Test Site | $3,600,000 |
| North Carolina | Pope Air Force Base | $24,015,000 |
| | Seymour Johnson Air Force Base | $22,430,000 |
| North Dakota | Minot Air Force Base | $12,550,000 |
| Ohio | Wright-Patterson Air Force Base | $10,500,000 |
| Oklahoma | Altus Air Force Base | $1,144,000 |
| | Tinker Air Force Base | $25,560,000 |
| | Vance Air Force Base | $15,000,000 |
| South Carolina | Charleston Air Force Base | $8,863,000 |
| | Shaw Air Force Base | $8,500,000 |
| South Dakota | Ellsworth Air Force Base | $9,300,000 |
| Texas | Goodfellow Air Force Base | $19,970,000 |
| | Lackland Air Force Base | $64,926,000 |
| | Randolph Air Force Base | $13,600,000 |
| | Sheppard Air Force Base | $28,590,000 |
| Utah | Hill Air Force Base | $21,711,000 |
| Virginia | Langley Air Force Base | $24,969,000 |
| Washington | McChord Air Force Base | $19,000,000 |
| Wyoming | F.E. Warren Air Force Base | $10,000,000 |
| | Total | $740,909,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

### *Air Force: Outside the United States*

| Country | Installation or location | Amount |
|---|---|---|
| Germany | Ramstein Air Base | $35,616,000 |
| | Spangdahlem Air Base | $5,411,000 |
| Italy | Aviano Air Base | $14,025,000 |
| Korea | Kunsan Air Base | $7,059,000 |
| | Osan Air Base | $16,638,000 |
| Portugal | Lajes Field, Azores | $4,086,000 |
| United Kingdom | Royal Air Force, Lakenheath | $42,487,000 |
| | Royal Air Force, Mildenhall | $10,558,000 |
| Wake Island | Wake Island | $24,000,000 |
| | Total | $159,880,000 |

*(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:*

### *Air Force: Unspecified Worldwide*

| Location | Installation or location | Amount |
|---|---|---|
| Unspecified Worldwide | Classified Location | $28,981,000 |
| | Total | $28,981,000 |

***SEC. 2302. FAMILY HOUSING.***

*(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:*

### *Air Force: Family Housing*

| State or Country | Installation or location | Purpose | Amount |
|---|---|---|---|
| Arizona | Davis-Monthan Air Force Base | 93 Units | $19,357,000 |
| California | Travis Air Force Base | 56 Units | $12,723,000 |
| Delaware | Dover Air Force Base | 112 Units | $19,601,000 |
| Florida | Eglin Air Force Base | 279 Units | $32,166,000 |
| Idaho | Mountain Home Air Force Base | 186 Units | $37,126,000 |
| Maryland | Andrews Air Force Base | 50 Units | $20,233,000 |
| Missouri | Whiteman Air Force Base | 100 Units | $18,221,000 |
| Montana | Malmstrom Air Force Base | 94 Units | $19,368,000 |
| North Carolina | Seymour Johnson Air Force Base | 138 Units | $18,336,000 |
| North Dakota | Grand Forks Air Force Base | 144 Units | $29,550,000 |
| | Minot Air Force Base | 200 Units | $41,117,000 |
| South Dakota | Ellsworth Air Force Base | 75 Units | $16,240,000 |
| Texas | Dyess Air Force Base | 116 Units | $19,973,000 |
| | Randolph Air Force Base | 96 Units | $13,754,000 |
| Korea | Osan Air Base | 111 Units | $44,765,000 |
| Portugal | Lajes Field, Azores | 42 Units | $13,428,000 |
| United Kingdom | Royal Air Force, Lakenheath | 89 Units | $23,640,000 |
| | | Total | $399,598,000 |

*(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $33,488,000.*

***SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.***

*Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $223,979,000.*

***SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.***

*(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,505,373,000, as follows:*

*(1) For military construction projects inside the United States authorized by section 2301(a), $760,332,000.*

*(2) For military construction projects outside the United States authorized by section 2301(b), $159,880,000.*

*(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $28,981,000.*

*(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.*

*(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $74,345,000.*

*(6) For military housing functions:*

*(A) For construction and acquisition, plan-*

*ning and design, and improvement of military family housing and facilities, $657,065,000.*

*(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $812,770,000.*

*(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).*

### SEC. 2305. MODIFICATION OF FISCAL YEAR 2003 AUTHORITY RELATING TO IMPROVEMENT OF MILITARY FAMILY HOUSING UNITS.

*(a) MODIFICATION.—Section 2303 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2693) is amended by striking "$226,068,000" and inserting "$206,721,000".*

*(b) CONFORMING AMENDMENTS.—Section 2304(a) of that Act (116 Stat. 2693) is amended—*

*(1) in the matter preceding paragraph (1), by striking "$2,633,738,000" and inserting "$2,614,391,000"; and*

*(2) in paragraph (6)(A), by striking "$689,824,000" and inserting "$670,477,000".*

## TITLE XXIV—DEFENSE AGENCIES

### SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

*(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:*

***Defense Agencies: Inside the United States***

| Agency | Installation or location | Amount |
|---|---|---|
| Defense Education Activity | Marine Corps Base, Camp Lejeune, North Carolina | $15,259,000 |
| Defense Logistics Agency | Defense Distribution Depot, New Cumberland, Pennsylvania | $27,000,000 |
| | Eglin Air Force Base, Florida | $4,800,000 |
| | Eielson Air Force Base, Alaska | $17,000,000 |
| | Hickam Air Force Base, Hawaii | $14,100,000 |
| | Hurlburt Field, Florida | $3,500,000 |
| | Langley Air Force Base, Virginia | $13,000,000 |
| | Laughlin Air Force Base, Texas | $4,688,000 |
| | McChord Air Force Base, Washington | $8,100,000 |
| | Nellis Air Force Base, Nevada | $12,800,000 |
| | Offutt Air Force Base, Nebraska | $13,400,000 |
| National Security Agency | Fort Meade, Maryland | $1,842,000 |
| Special Operations Command | Dam Neck, Virginia | $15,281,000 |
| | Fort Benning, Georgia | $2,100,000 |
| | Fort Bragg, North Carolina | $36,300,000 |
| | Fort Campbell, Kentucky | $7,800,000 |
| | Harrisburg International Airport, Pennsylvania | $3,000,000 |
| | Hurlbut Field, Florida | $6,000,000 |
| | Little Creek, Virginia | $9,000,000 |
| | MacDill Air Force Base, Florida | $25,500,000 |
| Tri-Care Management Activity | Naval Station, Anacostia, District of Columbia | $15,714,000 |
| | Naval Submarine Base, New London, Connecticut | $6,400,000 |
| | United States Air Force Academy, Colorado | $21,500,000 |
| | Walter Reed Medical Center, District of Columbia | $9,000,000 |
| Washington Headquarters Services | Arlington, Virginia | $38,086,000 |
| | Total | $331,170,000 |

*(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:*

***Defense Agencies: Outside the United States***

| Agency | Installation or location | Amount |
|---|---|---|
| Defense Education Agency | Grafenwoehr, Germany | $36,247,000 |
| | Heidelberg, Germany | $3,086,000 |
| | Sigonella, Italy | $30,234,000 |
| | Vicenza, Italy | $16,374,000 |
| | Vilseck, Germany | $1,773,000 |
| Special Operations Command | Stuttgart, Germany | $11,400,000 |
| Tri-Care Management Activity | Andersen Air Force Base, Guam | $24,900,000 |
| | Grafenwoehr, Germany | $12,585,000 |
| | Total | $136,599,000 |

### SEC. 2402. FAMILY HOUSING.

*Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $300,000.*

### SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

### SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $69,500,000.

### SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,154,402,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $331,170,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $102,703,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,153,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,960,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $59,884,000.

(6) For energy conservation projects authorized by section 2404, $69,500,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $370,427,000.

(8) For military family housing functions:

(A) For planning, design, and improvement of military family housing and facilities, $350,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,440,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $300,000.

(9) For construction of the Defense Threat Reduction Center at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695), $25,700,000.

(10) For construction of phase 5 of an ammunition demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $88,388,000.

(11) For construction of phase 6 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1299) and section 2406 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $15,207,000.

(12) For construction of phase 4 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $16,220,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $16,265,000 (the balance of the amount authorized under section 2401(b) for the renovation and construction of an elementary and high school, Naval Station Sigonella, Italy); and

(3) $17,631,000 (the balance of the amount authorized under section 2401(b) for the construction of an elementary and middle school, Grafenwoehr, Germany).

### SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.

The table in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695) is amended in the matter relating to Department of Defense Dependent Schools by striking "Seoul, Korea" in the installation or location column and inserting "Camp Humphreys, Korea".

### SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) MODIFICATION.—The table in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695) is amended—

(1) in the matter relating to Department of Defense Dependent Schools—

(A) by striking "Seoul, Korea" in the installation or location column and inserting "Camp Humphreys, Korea"; and

(B) by striking the item relating to Spangdahlem Air Base, Germany; and

(2) by striking the amount identified as the total in the amount column and inserting "$205,586,000".

(b) CONFORMING AMENDMENTS.—Section 2404(a) of that Act (116 Stat. 2696) is amended—

(1) in the matter preceding paragraph (1), by striking $1,434,795,000" and inserting "$1,433,798,000"; and

(2) in paragraph (2), by striking "$206,583,000" and inserting "$205,586,000".

## TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

### SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

### SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $169,300,000.

## TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

### SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 2003, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $276,779,000; and

(B) for the Army Reserve, $74,478,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $34,132,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $208,530,000; and

(B) for the Air Force Reserve, $53,912,000.

## TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

### SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2007 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

### SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) EXTENSION OF CERTAIN PROJECTS.—Notwithstanding section 2701 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407), authorizations set forth in the tables in subsection (b), as provided in section 2102, 2201, 2401, or 2601 of that Act, shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

### *Army: Extension of 2001 Project Authorization*

| State | Installation or location | Project | Amount |
|---|---|---|---|
| South Carolina | Fort Jackson | New Construction—Family Housing (1 Unit) | $250,000 |

### *Navy: Extension of 2001 Project Authorization*

| State | Installation or location | Project | Amount |
|---|---|---|---|
| Pennsylvania | Naval Surface Warfare Center Shipyard Systems Engineering Station, Philadelphia | Gas Turbine Test Facility | $10,680,000 |

### *Defense Agencies: Extension of 2001 Project Authorizations*

| State or country | Installation or location | Project | Amount |
|---|---|---|---|
| Defense Education Activity | Seoul, Korea | Elementary School Full Day Kindergarten Classroom Addition | $2,317,000 |
| | Taegu, Korea | Elementary/High School Full Day Kindergarten Classroom Addition | $762,000 |

### *Army National Guard: Extension of 2001 Project Authorizations*

| State | Installation or location | Project | Amount |
|---|---|---|---|
| Arizona | Papago Park | Add/Alter Readiness Center | $2,265,000 |
| Pennsylvania | Mansfield | Readiness Center | $3,100,000 |

**SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The table referred to in subsection (a) is as follows:

### *Air Force: Extension of 2000 Project Authorization*

| State | Installation or location | Project | Amount |
|---|---|---|---|
| Oklahoma | Tinker Air Force Base | Replace Family Housing (41 Units) | $6,000,000 |

**Army National Guard: Extension of 2000 Project Authorization**

| State | Installation or location | Project | Amount |
|---|---|---|---|
| Virginia | Fort Pickett | Multi-purpose Range-Heavy | $13,500,000 |

**SEC. 2704. EFFECTIVE DATE.**

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2003; or

(2) the date of the enactment of this Act.

## TITLE XXVIII—GENERAL PROVISIONS

### Subtitle A—Military Construction Program and Military Family Housing Changes

**SEC. 2801. MODIFICATION OF GENERAL DEFINITIONS RELATING TO MILITARY CONSTRUCTION.**

(a) MILITARY CONSTRUCTION.—Subsection (a) of section 2801 of title 10, United States Code, is amended by inserting before the period the following: ", whether to satisfy temporary or permanent requirements".

(b) MILITARY INSTALLATION.—Subsection (c)(2) of such section is amended by inserting before the period the following: ", without regard to the duration of operational control".

**SEC. 2802. INCREASE IN NUMBER OF FAMILY HOUSING UNITS IN ITALY AUTHORIZED FOR LEASE BY THE NAVY.**

Section 2828(e)(2) of title 10, United States Code, is amended by striking "2,000" and inserting "2,800".

### Subtitle B—Real Property and Facilities Administration

**SEC. 2811. INCREASE IN THRESHOLD FOR REPORTS TO CONGRESS ON REAL PROPERTY TRANSACTIONS.**

Section 2662 of title 10, United States Code, is amended by striking "$500,000" each place it appears and inserting "$750,000".

**SEC. 2812. ACCEPTANCE OF IN-KIND CONSIDERATION FOR EASEMENTS.**

(a) EASEMENTS FOR RIGHTS-OF-WAY.—Section 2668 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) Subsection (c) of section 2667 of this title shall apply with respect to in-kind consideration received by the Secretary of a military department in connection with an easement granted under this section in the same manner as such subsection applies to in-kind consideration received pursuant to leases entered into by that Secretary under such section.".

(b) EASEMENTS FOR UTILITY LINES.—Section 2669 of such title is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) Subsection (c) of section 2667 of this title shall apply with respect to in-kind consideration received by the Secretary of a military department in connection with an easement granted under this section in the same manner as such subsection applies to in-kind consideration received pursuant to leases entered into by that Secretary under such section.".

**SEC. 2813. EXPANSION TO MILITARY UNACCOMPANIED HOUSING OF AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED IN EXCHANGE FOR MILITARY HOUSING.**

Section 2905(f)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "unaccompanied members of the Armed Forces or" before "members of the Armed Forces and their dependents"; and

(2) by striking "FAMILY" in the subsection heading.

**SEC. 2814. EXEMPTION FROM SCREENING AND USE REQUIREMENTS UNDER MCKINNEY-VENTO HOMELESS ASSISTANCE ACT OF DEPARTMENT OF DEFENSE PROPERTY IN EMERGENCY SUPPORT OF HOMELAND SECURITY.**

Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) APPLICABILITY TO DEPARTMENT OF DEFENSE PROPERTY IN EMERGENCY SUPPORT OF HOMELAND SECURITY.—The provisions of this section shall not apply to a building or property under the jurisdiction of the Department of Defense that the Secretary of Defense determines should be made available for use by a State or local government, or private entity, on a temporary basis, for emergency activities in support of homeland security.".

### Subtitle C—Land Conveyances

**SEC. 2821. TRANSFER OF LAND AT FORT CAMPBELL, KENTUCKY AND TENNESSEE.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the State of Tennessee, all right, title, and interest of the United States in and to a parcel of real property (right-of-way), including improvements thereon, located at Fort Campbell, Kentucky and Tennessee, for the purpose of realigning and upgrading United States Highway 79 from a 2-lane highway to a 4-lane highway.

(b) CONSIDERATION.—

(1) PAYMENT.—As consideration for the conveyance of the right-of-way parcel to be conveyed by subsection (a), the State of Tennessee shall pay from any source (including Federal funds made available to the State from the Highway Trust Fund) all of the Secretary's costs associated with the following:

(A) COSTS OF CONVEYANCE.—The conveyance of the right-of-way parcel, including the preparation of documents under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), surveys (including surveys under subsection (c)), appraisals, cultural reviews, administrative expenses, cemetery relocation, and other expenses necessary to transfer the property.

(B) ACQUISITION OF REPLACEMENT LAND.—The acquisition of approximately 200 acres of mission-essential replacement land required to support the training mission at Fort Campbell.

(C) DISPOSAL OF RESIDUAL PROPERTY.—The disposal of residual land located south of the realigned highway.

(2) ACCEPTANCE AND CREDIT.—The Secretary may accept funds under this subsection from the Federal Highway Administration or the State of Tennessee to pay the costs described in paragraph (1) and shall credit the funds to the appropriate Department of the Army accounts for the purpose of paying such costs.

(3) PERIOD OF AVAILABILITY.—All funds accepted by the Secretary under this subsection shall remain available until expended.

(c) DESCRIPTION OF PROPERTY.—The acreage of the real property to be conveyed, acquired, and disposed of under this section shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2822. LAND CONVEYANCE, FORT KNOX, KENTUCKY.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans Affairs of the Commonwealth of Kentucky (in this section referred to as the "Department"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 93 acres at Fort Knox, Kentucky, for the purpose of permitting the Department to establish and operate a State-run cemetery for veterans of the Armed Forces.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Department shall reimburse the Secretary for any costs incurred by the Secretary in making the conveyance authorized by subsection (a), including costs related to environmental documentation and other administrative costs. This paragraph does not apply to costs associated with the environmental remediation of the real property to be conveyed under such subsection.

(2) Any reimbursements received under paragraph (1) for costs described in that paragraph shall be deposited into the accounts from which the costs were paid, and amounts so deposited shall be merged with amounts in such accounts and available for the same purposes, and subject to the same conditions and limitations, as the amounts in such accounts with which merged.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Department.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2823. LAND CONVEYANCE, MARINE CORPS LOGISTICS BASE, ALBANY, GEORGIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey through negotiated sale to the Preferred Development Group Corporation, a corporation incorporated in the State of Georgia and authorized to do business in the State of Georgia (referred to in this section as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10.44 acres located at Boyett Village/Turner Field and McAdams Road in Albany, Georgia, for the purpose of permitting the Corporation to use the property for economic development.

*(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:*

*(1) That the Corporation accept the real property conveyed under subsection (a) as is.*

*(2) That the Corporation bear all costs related to the use and redevelopment of the real property.*

*(c) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the Corporation shall pay the United States an amount, determined pursuant to negotiations between the Secretary and the Corporation and based upon the fair market value of the property (as determined pursuant to an appraisal acceptable to the Secretary), that is appropriate for the property.*

*(d) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—The Secretary may require the Corporation to reimburse the Secretary for any costs incurred by the Secretary in making the conveyance authorized by subsection (a).*

*(e) DEPOSIT OF AMOUNTS.—(1) The consideration received under subsection (c) shall be deposited in the Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).*

*(2) Any reimbursements received under subsection (d) for costs described in that subsection shall be deposited into the accounts from which the costs were paid, and amounts so deposited shall be merged with amounts in such accounts and available for the same purposes, and subject to the same conditions and limitations, as the amounts in such accounts with which merged.*

*(f) EXEMPTION.—The conveyance authorized by subsection (a) shall be exempt from the requirement in section 2696 of title 10, United States Code, to screen the property for further Federal use.*

*(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.*

*(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.*

### ***SEC. 2824. LAND CONVEYANCE, AIR FORCE AND ARMY EXCHANGE SERVICE PROPERTY, DALLAS, TEXAS.***

*(a) CONVEYANCE AUTHORIZED.—The Secretary of Defense may authorize the Army and Air Force Exchange Service to convey through negotiated sale all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 7.5 acres located at 1515 Roundtable Drive in Dallas, Texas.*

*(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the purchaser shall pay the United States a single payment equal to the fair market value of the real property, as determined pursuant to an appraisal acceptable to the Secretary.*

*(c) DEPOSIT OF AMOUNTS.—Section 574 of title 40, United States Code, shall apply to the consideration received under subsection (b), except that in the application of such section, all of the proceeds shall be returned to the Army and Air Force Exchange Service.*

*(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.*

*(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.*

### ***SEC. 2825. LAND EXCHANGE, NAVAL AND MARINE CORPS RESERVE CENTER, PORTLAND OREGON.***

*(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the United Parcel Service, Inc. (in this section referred to as "UPS"), any or all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres in Portland, Oregon, and comprising the Naval and Marine Corps Reserve Center for the purpose of facilitating the expansion of the UPS main distribution complex in Portland.*

*(b) PROPERTY RECEIVED IN EXCHANGE.—(1) As consideration for the conveyance under subsection (a), UPS shall —*

*(A) convey to the United States a parcel of real property determined to be suitable by the Secretary; and*

*(B) design, construct, and convey such replacement facilities on the property conveyed under subparagraph (A) as the Secretary considers appropriate.*

*(2) The value of the real property and replacement facilities received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.*

*(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require UPS to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from UPS in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to UPS.*

*(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.*

*(d) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary determines that the replacement facilities required by subsection (b) are suitable and available for the relocation of the operations of the Naval and Marine Corps Reserve Center.*

*(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.*

*(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.*

*(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.*

### ***SEC. 2826. LAND CONVEYANCE, FORT RITCHIE, MARYLAND.***

*(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army shall convey, without consideration, to the PenMar Development Corporation, a public instrumentality of the State of Maryland (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, at former Fort Ritchie, Cascade, Maryland, consisting of approximately 33 acres, that is currently being leased by the International Masonry Institute (in this section referred to as the "Institute"), for the purpose of enabling the Corporation to sell the property to the Institute for the economic development of former Fort Ritchie.*

*(b) EXEMPTION FROM FEDERAL SCREENING REQUIREMENT.—The conveyance authorized by subsection (a) shall be exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code, under the Defense Base and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or under any other applicable law or regulation.*

*(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Corporation.*

*(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.*

### ***SEC. 2827. FEASIBILITY STUDY OF CONVEYANCE OF LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.***

*(a) STUDY REQUIRED.—(1) The Secretary of the Army shall conduct a study of the feasibility, costs, and benefits for the conveyance of the Louisiana Army Ammunition Plant as a model for a public-private partnership for the utilization and development of the Plant and similar parcels of real property.*

*(2) In conducting the study, the Secretary shall consider—*

*(A) the feasibility and advisability of entering into negotiations with the State of Louisiana or the Louisiana National Guard for the conveyance of the Plant;*

*(B) means by which the conveyance of the Plant could—*

*(i) facilitate the execution by the Department of Defense of its national security mission; and*

*(ii) facilitate the continued use of the Plant by the Louisiana National Guard and the execution by the Louisiana National Guard of its national security mission;*

*(C) evidence presented by the State of Louisiana of the means by which the conveyance of the Plant could benefit current and potential private sector and governmental tenants of the Plant and facilitate the contribution of such tenants to economic development in Northwestern Louisiana;*

*(D) the amount and type of consideration that is appropriate for the conveyance of the Plant;*

*(E) the evidence presented by the State of Louisiana of the extent to which the conveyance of the Plant to a public-private partnership will contribute to economic growth in the State of Louisiana and in Northwestern Louisiana in particular;*

*(F) the value of any mineral rights in the lands of the Plant; and*

*(G) the advisability of sharing revenues and rents paid by current and potential tenants of the Plant as a result of the Armament Retooling and Manufacturing Support Program.*

*(b) LOUISIANA ARMY AMMUNITION PLANT.—In this section, the term "Louisiana Army Ammunition Plant" means the Louisiana Army Ammunition Plant in Doyline, Louisiana, consisting of approximately 14,949 acres, of which*

13,665 acres are under license to the Military Department of the State of Louisiana and 1,284 acres are used by the Army Joint Munitions Command.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House or Representatives a report on the study conducted under subsection (a). The report shall include the results of the study and any other matters in light of the study that the Secretary considers appropriate.

## Subtitle D—Review of Overseas Military Facility Structure

### SEC. 2841. SHORT TITLE.

This subtitle may be cited as the "Overseas Military Facility and Range Structure Review Act of 2003".

### SEC. 2842. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the Commission on the Review of the Overseas Military Facility and Range Structure of the United States (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—(1) The Commission shall be composed of 9 members of whom—

(A) one shall be appointed by the Secretary of Defense;

(B) two shall be appointed by the Majority Leader of the Senate, in consultation with the Chairman of the Committee on Armed Services of the Senate and the Chairman of the Subcommittee on Defense of the Committee on Appropriations of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate, in consultation with the Ranking Member of the Committee on Armed Services of the Senate and the Ranking Member of the Subcommittee on Defense of the Committee on Appropriations of the Senate;

(D) two shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Armed Services of the House of Representatives and the Chairman of the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Armed Services of the House of Representatives and the Ranking Member of the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

(2) Individuals appointed to the Commission shall have significant experience in the national security or foreign policy of the United States.

(3) Appointments of the members of the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

### SEC. 2843. DUTIES OF COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of matters relating to the military facility and range structure of the United States overseas.

(b) MATTERS TO BE STUDIED.—In conducting the study, the Commission shall—

(1) assess the number of military personnel of the United States required to be based outside the United States;

(2) examine the current state of the military facilities and training ranges of the United States overseas for all permanent stations and deployed locations, including the condition of land and improvements at such facilities and ranges and the availability of additional land, if required, for such facilities and ranges;

(3) identify the amounts received by the United States, whether in direct payments, in-kind contributions, or otherwise, from foreign countries by reason of military facilities of the United States overseas;

(4) assess whether or not the current military basing and training range structure of the United States overseas is adequate to meet the current and future mission of the Department of Defense, including contingency, mobilization, and future force requirements;

(5) assess the feasibility and advisability of the closure or realignment of military facilities of the United States overseas, or the establishment of new military facilities of the United States overseas, to meet the requirements of the Department of Defense to provide for the national security of the United States; and

(6) consider or assess any other issue relating to military facilities and ranges of the United States overseas that the Commission considers appropriate.

(c) REPORT.—(1) Not later than August 30, 2004, the Commission shall submit to the President and Congress a report which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) In addition to the matters specified in paragraph (1), the report shall also include a proposal by the Commission for an overseas basing strategy for the Department of Defense in order to meet the current and future mission of the Department.

### SEC. 2844. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support necessary for the Commission to carry out its duties under this subtitle.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

### SEC. 2845. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission under this subtitle. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL.—(1) Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission under this subtitle.

(2) Members and staff of the Commission may receive transportation on aircraft of the Military Airlift Command to and from the United States, and overseas, for purposes of the performance of the duties of the Commission to the extent that such transportation will not interfere with the requirements of military operations.

(c) STAFF.—(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties under this subtitle. The employment of an executive director shall be subject to confirmation by the Commission.

(2) The Commission may employ a staff to assist the Commission in carrying out its duties. The total number of the staff of the Commission, including an executive director under paragraph (1), may not exceed 12.

(3) The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Department of Defense, the Department of State, or the General Accounting Office may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

### SEC. 2846. SECURITY.

(a) SECURITY CLEARANCES.—Members and staff of the Commission, and any experts and consultants to the Commission, shall possess security clearances appropriate for their duties with the Commission under this subtitle.

(b) IN GENERAL.—The Secretary of Defense shall assume responsibility for the handling and disposition of any information relating to the national security of the United States that is received, considered, or used by the Commission under this subtitle.

### SEC. 2847. TERMINATION OF COMMISSION.

The Commission shall terminate 45 days after the date on which the Commission submits its report under section 2843(c).

### SEC. 2848. FUNDING.

(a) IN GENERAL.—Of the amount authorized to be appropriated by section 301(5) for the Department of Defense for operation and maintenance, Defense-wide, $3,000,000 shall be available to the Commission to carry out this subtitle.

*(b) AVAILABILITY.—The amount authorized to be appropriated by subsection (a) shall remain available, without fiscal year limitation, until September 30, 2005.*

## *DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS*

## *TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS*

### *Subtitle A—National Security Programs Authorizations*

### *SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.*

*(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $8,933,847,000, to be allocated as follows:*

*(1) For weapons activities, $6,457,272,000.*

*(2) For defense nuclear nonproliferation activities, $1,340,195,000.*

*(3) For naval reactors, $788,400,000.*

*(4) For the Office of the Administrator for Nuclear Security, $347,980,000.*

*(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for weapons activities, as follows:*

*(1) Project 04–D–101, test capabilities revitalization, phase I, Sandia National Laboratories, Albuquerque, New Mexico, $36,450,000.*

*(2) Project 04–D–102, exterior communications infrastructure modernization, Sandia National Laboratories, Albuquerque, New Mexico, $20,000,000.*

*(3) Project 04–D–103, project engineering and design, various locations, $2,000,000.*

*(4) Project 04–D–125, chemistry and metallurgy research (CMR) facility replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,500,000.*

*(5) Project 04–D–126, building 12–44 production cells upgrade, Pantex Plant, Amarillo, Texas, $8,780,000.*

*(6) Project 04–D–127, cleaning and loading modifications (CALM), Savannah River Site, Aiken, South Carolina, $2,750,000.*

*(7) Project 04–D–128, TA–18 mission relocation project, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,820,000.*

*(8) Project 04–D–203, project engineering and design, facilities and infrastructure recapitalization program, various locations, $3,719,000.*

*(9) Project 03–D–102, sm.43 replacement administration building, Los Alamos National Laboratory, Los Alamos, New Mexico, $50,000,000.*

### *SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.*

*(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for environmental management activities in carrying out programs necessary for national security in the amount of $6,809,814,000, to be allocated as follows:*

*(1) For defense site acceleration completion, $5,814,635,000.*

*(2) For defense environmental services in carrying out environmental restoration and waste management activities necessary for national security programs, $995,179,000.*

*(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for defense site acceleration completion activities, as follows:*

*(1) Project 04–D–408, glass waste storage building #2, Savannah River Site, Aiken, South Carolina, $20,259,000.*

*(2) Project 04–D–414, project engineering and design, various locations, $23,500,000.*

*(3) Project 04–D–423, 3013 container surveillance capability in 235-F, Savannah River Site, Aiken, South Carolina, $1,134,000.*

### *SEC. 3103. OTHER DEFENSE ACTIVITIES.*

*Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for other defense activities in carrying out programs necessary for national security in the amount of $465,059,000.*

### *SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.*

*Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $360,000,000.*

### *SEC. 3105. DEFENSE ENERGY SUPPLY.*

*Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense energy supply in carrying out programs necessary for national security in the amount of $110,473,000.*

### *Subtitle B—Program Authorizations, Restrictions, and Limitations*

### *SEC. 3131. REPEAL OF PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.*

*(a) REPEAL.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note) is repealed.*

*(b) CONSTRUCTION.—Nothing in the repeal made by subsection (a) shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon.*

*(c) LIMITATION.—The Secretary of Energy may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.*

*(d) REPORT.—(1) Not later than March 1, 2004, the Secretary of State, the Secretary of Defense and the Secretary of Energy shall jointly submit to Congress a report assessing whether or not the repeal of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 will affect the ability of the United States to achieve its nonproliferation objectives and whether or not any changes in programs and activities would be required to achieve those objectives.*

*(2) The report shall be submitted in unclassified form, but may include a classified annex if necessary.*

### *SEC. 3132. READINESS POSTURE FOR RESUMPTION BY THE UNITED STATES OF UNDERGROUND NUCLEAR WEAPONS TESTS.*

*(a) 18-MONTH READINESS POSTURE REQUIRED.—Commencing not later than October 1, 2006, the Secretary of Energy shall achieve, and thereafter maintain, a readiness posture of 18 months for resumption by the United States of underground nuclear tests, subject to subsection (b).*

*(b) ALTERNATIVE READINESS POSTURE.—If as a result of the review conducted by the Secretary for purposes of the report required by section 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733) the Secretary, in consultation with the Administrator for Nuclear Security, determines that the optimal, advisable, and preferred readiness posture for resumption by the United States of underground nuclear tests is a number of months other than 18 months, the Secretary may, and is encouraged to, achieve and thereafter maintain under subsection (a) such optimal, advisable, and preferred readiness posture instead of the readiness posture of 18 months.*

*(c) REPORT ON DETERMINATION.—(1) The Secretary shall submit to the congressional defense committees a report on a determination described in subsection (b) if the determination leads to the achievement by the Secretary of a readiness posture of other than 18 months under that subsection.*

*(2) The report under paragraph (1) shall set forth—*

*(A) the determination described in that paragraph, including the reasons for the determination; and*

*(B) the number of months of the readiness posture to be achieved and maintained under subsection (b) as a result of the determination.*

*(3) The requirement for a report, if any, under paragraph (1) is in addition to the requirement for a report under section 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and the requirement in that paragraph shall not be construed as terminating, modifying, or otherwise affecting the requirement for a report under such section.*

*(d) READINESS POSTURE.—For purposes of this section, a readiness posture of a specified number of months for resumption by the United States of underground nuclear weapons tests is achieved when the Department of Energy has the capability to resume such tests, if directed by the President to resume such tests, not later than the specified number of months after the date on which the President so directs.*

### *SEC. 3133. TECHNICAL BASE AND FACILITIES MAINTENANCE AND RECAPITALIZATION ACTIVITIES.*

*(a) DEADLINE FOR INCLUSION OF PROJECTS IN FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—(1) The Administrator for Nuclear Security shall complete the selection of projects for inclusion in the Facilities and Infrastructure Recapitalization Program (FIRP) of the National Nuclear Security Administration not later than September 30, 2004.*

*(2) No project may be included in the Facilities and Infrastructure Recapitalization Program after September 30, 2004, unless such project has been selected for inclusion in that program as of that date.*

*(b) TERMINATION OF FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—The Administrator shall terminate the Facilities and Infrastructure Recapitalization Program not later than September 30, 2011.*

*(c) READINESS IN TECHNICAL BASE AND FACILITIES PROGRAM.—(1) Not later than September 30, 2004, the Administrator shall submit to the congressional defense committees a report setting forth guidelines on the conduct of the Readiness in Technical Base and Facilities (RTBF) program of the National Nuclear Security Administration.*

*(2) The guidelines on the Readiness in Technical Base and Facilities program shall include the following:*

*(A) Criteria for the inclusion of projects in the program, and for establishing priorities among projects included in the program.*

*(B) Mechanisms for the management of facilities under the program, including maintenance as provided pursuant to subparagraph (C).*

*(C) A description of the scope of maintenance activities under the program, including recurring maintenance, construction of facilities, recapitalization of facilities, and decontamination and decommissioning of facilities.*

*(3) The guidelines on the Readiness in Technical Base and Facilities program shall ensure that the maintenance activities provided for under paragraph (2)(C) are carried out in a timely and efficient manner designed to avoid maintenance backlogs.*

*(d) OPERATIONS OF FACILITIES PROGRAM.—(1) The Administration shall provide for the administration of the Operations of Facilities Program*

*of the National Nuclear Security Administration as a program independent of the Readiness in Technical Base and Facilities Program and of any other programs that the Operations of Facilities Program is intended to support.*

*(2) The Operations of Facilities Program shall be managed by the Associate Administrator of the National Nuclear Security Administration for Facilities and Operations, or by such other official within the National Nuclear Security Administration as the Administrator shall designate for that purpose.*

### ***SEC. 3134. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.***

*(a) Continuation of H-Canyon Facility.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is amended by striking "F-canyon and H-canyon facilities" and inserting "H-canyon facility".*

*(b) Modification of Limitation on Use of Funds for Decommissioning F-Canyon Facility.—Subsection (b) of such section is amended—*

*(1) by striking "and the Defense Nuclear Facilities Safety Board" and all that follows through "House of Representatives" and inserting "submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board,"; and*

*(2) by striking "the following:" and all that follows and inserting "a report setting forth—*

*"(1) an assessment whether or not all materials present in the F-canyon facility as of the date of the report that required stabilization have been safely stabilized as of that date;*

*"(2) an assessment whether or not the requirements applicable to the F-canyon facility to meet the future needs of the United States for fissile materials disposition can be met through full use of the H-canyon facility at the Savannah River Site; and*

*"(3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H-canyon facility—*

*"(A) an identification by the Secretary of each such requirement that cannot be met through full use of the H-canyon facility; and*

*"(B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H-canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.".*

*(c) Repeal of Superseded Plan Requirement.—Subsection (c) of such section is repealed.*

### ***SEC. 3135. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR COMMENCEMENT OF ENGINEERING DEVELOPMENT PHASE OR SUBSEQUENT PHASE OF ROBUST NUCLEAR EARTH PENETRATOR.***

*The Secretary of Energy may not commence the engineering development phase (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress.*

## ***Subtitle C—Proliferation Matters***

### ***SEC. 3141. EXPANSION OF INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.***

*(a) Expansion of Program to Additional Countries.—The Secretary of Energy may expand the International Materials, Protection, Control, and Accounting Program to carry out nuclear nonproliferation threat reduction activities and projects outside the states of the former Soviet Union.*

*(b) Notice to Congress of Use of Funds.—Not later than 15 days before the Secretary obligates funds for the International Materials Protection, Control, and Accounting Program for a project or activity in or with respect to a country outside the former Soviet Union pursuant to the authority in subsection (a), the Secretary shall submit to the congressional defense committees a notice on the obligation of such funds for the project or activity that shall specify—*

*(1) the project or activity, and forms of assistance, for which the Secretary proposes to obligate such funds;*

*(2) the amount of the proposed obligation; and*

*(3) the projected involvement (if any) of any United States department or agency (other than the Department of Energy), or the private sector, in the project, activity, or assistance for which the Secretary proposes to obligate such funds.*

### ***SEC. 3142. SEMI-ANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAM.***

*(a) Semiannual Reports Required.—Not later than April 30 and October 30 each year, the Administrator for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the financial status during the half fiscal year ending at the end of the preceding month of all Department of Energy defense nuclear nonproliferation programs for which funds were authorized to be appropriated for the fiscal year in which such half fiscal year falls.*

*(b) Contents.—Each report on a half fiscal year under subsection (a) shall set forth for each Department of Energy defense nuclear nonproliferation program for which funds were authorized to be appropriated for the fiscal year in which such half fiscal year falls—*

*(1) the aggregate amount appropriated for such fiscal year for such program; and*

*(2) of the aggregate amount appropriated for such fiscal year for such program—*

*(A) the amounts obligated for such program as of the end of the half fiscal year;*

*(B) the amounts committed for such program as of the end of the half fiscal year;*

*(C) the amounts disbursed for such program as of the end of the half fiscal year; and*

*(D) the amounts that remain available for obligation for such program as of the end of the half fiscal year.*

*(c) Applicability.—This section shall apply with respect to fiscal years after fiscal year 2003.*

### ***SEC. 3143. REPORT ON REDUCTION OF EXCESSIVE UNCOSTED BALANCES FOR DEFENSE NUCLEAR NONPROLIFERATION ACTIVITIES.***

*(a) Contingent Requirement for Report.—If as of September 30, 2004, the aggregate amount obligated but not expended for defense nuclear nonproliferation activities from amounts authorized to be appropriated for such activities in fiscal year 2004 exceeds an amount equal to 20 percent of the aggregate amount so obligated for such activities, the Administrator for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an aggressive plan to provide for the timely expenditure of amounts so obligated but not expended.*

*(b) Submittal Date.—If required to be submitted under subsection (a), the submittal date for the report under that subsection shall be November 30, 2004.*

## ***Subtitle D—Other Matters***

### ***SEC. 3151. MODIFICATION OF AUTHORITIES ON DEPARTMENT OF ENERGY PERSONNEL SECURITY INVESTIGATIONS.***

*(a) In General.—Subsection e. of section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165) is amended by striking paragraph (2) and inserting the following new paragraph (2):*

*"(2) In the case of any program designated by the Secretary of Energy as sensitive, the Secretary may require that any investigation required by subsections a., b., and c. of an individual employed in the program be made by the Federal Bureau of Investigation.".*

*(b) Conforming Amendment.—Subsection f. of such section is amended by striking "a majority of the members of the Commission shall certify those specific positions" and inserting "the Secretary of Energy may certify specific positions (in addition to positions in programs designated as sensitive under subsection e.)".*

### ***SEC. 3152. RESPONSIBILITIES OF ENVIRONMENTAL MANAGEMENT PROGRAM AND NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF ENERGY FOR ENVIRONMENTAL CLEANUP, DECONTAMINATION AND DECOMMISSIONING, AND WASTE MANAGEMENT.***

*(a) Delineation of Responsibilities.—The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report setting forth a delineation of responsibilities between and among the Environmental Management (EM) program and the National Nuclear Security Administration (NNSA) of the Department of Energy for activities on each of the following:*

*(1) Environmental cleanup.*

*(2) Decontamination and decommissioning (D&D).*

*(3) Waste management.*

*(b) Plan for Implementation of Delineated Responsibilities.—(1) The Secretary shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2006 (as so submitted) a report setting forth a plan to implement among the Environmental Management program and the National Nuclear Security Administration the responsibilities for activities referred to in subsection (a) as delineated under that subsection.*

*(2) The report under paragraph (1) shall include such recommendations for legislative action as the Secretary considers appropriate in order to—*

*(A) clarify in law the responsibilities delineated under subsection (a); and*

*(B) facilitate the implementation of the plan set forth in the report.*

*(c) Consultation.—The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.*

### ***SEC. 3153. UPDATE OF REPORT ON STOCKPILE STEWARDSHIP CRITERIA.***

*(a) Update of Report.—Not later than March 1, 2005, the Secretary of Energy shall submit to the committees referred to in subsection (c) of section 4202 of the Atomic Energy Defense Act a report updating the report submitted under subsection (a) of such section.*

*(b) Elements.—The report under subsection (a) of this section shall—*

*(1) update any information or criteria described in the report submitted under such section 4202;*

*(2) describe any additional information identified, or criteria established, on matters covered by such section 4202 during the period beginning on the date of the submittal of the report under such section 4202 and ending on the date of the submittal of the report under subsection (a) of this section; and*

*(3) for each science-based tool developed by the Department of Energy during such period—*

*(A) a description of the relationship of such science-based tool to the collection of information needed to determine that the nuclear weapons stockpile is safe and reliable; and*

*(B) a description of the criteria for judging whether or not such science-based tool provides for the collection of such information.*

### SEC. 3154. PROGRESS REPORTS ON ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

*(a) REPORT ON ACCESS TO INFORMATION FOR PERFORMANCE OF RADIATION DOSE RECONSTRUCTIONS.—(1) Not later than 90 days after the date of the enactment of this Act, the National Institute for Occupational Safety and Health shall submit to Congress a report on the ability of the Institute to obtain, in a timely, accurate, and complete manner, information necessary for the purpose of carrying out radiation dose reconstructions under the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.), including information requested from any element of the Department of Energy.*

*(2) The report shall include the following:*

*(A) An identification of each matter adversely affecting the ability of the Institute to obtain information described in paragraph (1) in a timely, accurate, and complete manner.*

*(B) For each facility with respect to which the Institute is carrying out one or more dose reconstructions described in paragraph (1)—*

*(i) a specification of the total number of claims requiring dose reconstruction;*

*(ii) a specification of the number of claims for which dose reconstruction has been adversely affected by any matter identified under paragraph (1); and*

*(iii) a specification of the number of claims requiring dose reconstruction for which, because of any matter identified under paragraph (1), dose reconstruction has not been completed within 150 days after the date on which the Secretary of Labor submitted the claim to the Secretary of Health and Human Services.*

*(b) REPORT ON DENIAL OF CLAIMS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report on the denial of claims under the Energy Employees Occupational Illness Compensation Program Act of 2000 as of the date of such report.*

*(2) The report shall include for each facility with respect to which the Secretary has received one or more claims under that Act the following:*

*(A) The number of claims received with respect to such facility that have been denied, including the percentage of total number of claims received with respect to such facility that have been denied.*

*(B) The reasons for the denial of such claims, including the number of claims denied for each such reason.*

### SEC. 3155. STUDY ON THE APPLICATION OF TECHNOLOGY FROM THE ROBUST NUCLEAR EARTH PENETRATOR PROGRAM TO CONVENTIONAL HARD AND DEEPLY BURIED TARGET WEAPONS DEVELOPMENT PROGRAMS.

*(a) FINDINGS.—Much of the work that will be carried out by the Secretary of Energy in the feasibility study for the Robust Nuclear Earth Penetrator will have applicability to a nuclear or a conventional earth penetrator, but the Department of Energy does not have responsibility for development of conventional earth penetrator or other conventional programs for hard and deeply buried targets.*

*(b) PLAN.—The Secretary of Energy and the Secretary of Defense shall develop, submit to Congress three months after the date of enactment of this Act, and implement, a plan to coordinate the Robust Nuclear Earth Penetrator feasibility study at the Department of Energy with the ongoing conventional hard and deeply buried weapons development programs at the Department of Defense. This plan shall ensure that over the course of the feasibility study for the Robust Nuclear Earth Penetrator the ongoing results of the work of the Department of Energy, with application to the Department of Defense programs, is shared with and integrated into the Department of Defense programs.*

## Subtitle E—Consolidation of General Provisions on Department of Energy National Security Programs

### SEC. 3161. CONSOLIDATION AND ASSEMBLY OF RECURRING AND GENERAL PROVISIONS ON DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

*(a) PURPOSE.—*

*(1) IN GENERAL.—The purpose of this section is to assemble together, without substantive amendment but with technical and conforming amendments of a non-substantive nature, recurring and general provisions of law on Department of Energy national security programs that remain in force in order to consolidate and organize such provisions of law into a single Act intended to comprise general provisions of law on such programs.*

*(2) CONSTRUCTION OF TRANSFERS.—The transfer of a provision of law by this section shall not be construed as amending, altering, or otherwise modifying the substantive effect of such provision.*

*(3) TREATMENT OF SATISFIED REQUIREMENTS.—Any requirement in a provision of law transferred under this section that has been fully satisfied in accordance with the terms of such provision of law as of the date of transfer under this section shall be treated as so fully satisfied, and shall not be treated as being revived solely by reason of transfer under this section.*

*(4) CLASSIFICATION.—The provisions of the Atomic Energy Defense Act, as amended by this section, shall be classified to the United States Code as a new chapter of title 50, United States Code.*

*(b) DIVISION HEADING.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended by adding at the end the following new division heading:*

### "DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS".

*(c) SHORT TITLE; DEFINITION.—*

*(1) SHORT TITLE.—Section 3601 of the Atomic Energy Defense Act (title XXXVI of Public Law 107–314; 116 Stat. 2756) is—*

*(A) transferred to the end of the Bob Stump National Defense Authorization Act for Fiscal Year 2003;*

*(B) redesignated as section 4001;*

*(C) inserted after the heading for division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by subsection (b); and*

*(D) amended by striking "title" and inserting "division".*

*(2) DEFINITION.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new section:*

### "SEC. 4002. DEFINITION.

*"In this division, the term 'congressional defense committees' means—*

*"(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and*

*"(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.".*

*(d) ORGANIZATIONAL MATTERS.—*

*(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following:*

### "TITLE XLI—ORGANIZATIONAL MATTERS".

*(2) NAVAL NUCLEAR PROPULSION PROGRAM.—Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2649) is—*

*(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);*

*(B) inserted after the title heading for such title, as so added; and*

*(C) amended—*

*(i) by striking the section heading and inserting the following new section heading:*

### "SEC. 4101. NAVAL NUCLEAR PROPULSION PROGRAM.";

*and*

*(ii) by striking "SEC. 1634.".*

*(3) MANAGEMENT STRUCTURE FOR FACILITIES AND LABORATORIES.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2833) is—*

*(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4102;*

*(C) inserted after section 4101, as added by paragraph (2); and*

*(D) amended in subsection (d)(2), by striking "120 days after the date of the enactment of this Act," and inserting "January 21, 1997,".*

*(4) RESTRICTION ON LICENSING REQUIREMENTS FOR CERTAIN ACTIVITIES AND FACILITIES.—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3202) is—*

*(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4102, as added by paragraph (3); and*

*(C) amended—*

*(i) by striking the section heading and inserting the following new section heading:*

### "SEC. 4103. RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES.";

*(ii) by striking "SEC. 210."; and*

*(iii) by striking "this or any other Act" and inserting "the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act".*

*(e) NUCLEAR WEAPONS STOCKPILE MATTERS.—*

*(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:*

### "TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

### "Subtitle A—Stockpile Stewardship and Weapons Production".

*(2) STOCKPILE STEWARDSHIP PROGRAM.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946), as amended by section 3152(e) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2042), is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);*

*(B) redesignated as section 4201; and*

*(C) inserted after the heading for subtitle A of such title, as so added.*

*(3) STOCKPILE STEWARDSHIP CRITERIA.—Section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2257), as amended, is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization*

*Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4202; and*

*(C) inserted after section 4201, as added by paragraph (2).*

*(4) PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN STOCKPILE.—Section 3151 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2041) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4203; and*

*(C) inserted after section 4202, as added by paragraph (3).*

*(5) STOCKPILE LIFE EXTENSION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 926) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4204;*

*(C) inserted after section 4203, as added by paragraph (4); and*

*(D) amended in subsection (c)(1) by striking "the date of the enactment of this Act" and inserting "October 5, 1999".*

*(6) ANNUAL ASSESSMENTS AND REPORTS ON CONDITION OF STOCKPILE.—Section 3141 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2730) is—*

*(A) transferred to title XLII of division D of such Act, as amended by this subsection;*

*(B) redesignated as section 4205;*

*(C) inserted after section 4204, as added by paragraph (5); and*

*(D) amended in subsection (d)(3)(B) by striking "section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note)" and inserting "section 4213".*

*(7) FORM OF CERTAIN CERTIFICATIONS REGARDING STOCKPILE.—Section 3194 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4206; and*

*(C) inserted after section 4205, as added by paragraph (6).*

*(8) NUCLEAR TEST BAN READINESS PROGRAM.—Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2075) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4207;*

*(C) inserted after section 4206, as added by paragraph (7); and*

*(D) amended in the section heading by adding a period at the end.*

*(9) STUDY ON NUCLEAR TEST READINESS POSTURES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623), as amended by section 3192 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4208; and*

*(C) inserted after section 4207, as added by paragraph (8).*

*(10) REQUIREMENTS FOR REQUESTS FOR NEW OR MODIFIED NUCLEAR WEAPONS.—Section 3143 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733) is—*

*(A) transferred to title XLII of division D of such Act, as amended by this subsection;*

*(B) redesignated as section 4209; and*

*(C) inserted after section 4208, as added by paragraph (9).*

*(11) LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.—Subsection (f) of section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–337; 106 Stat. 1345) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4209, as added by paragraph (10); and*

*(C) amended—*

*(i) by inserting before the text the following new section heading:*

**"SEC. 4210. LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.";**

*and*

*(ii) by striking "(f)".*

*(12) PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4211;*

*(C) inserted after section 4210, as added by paragraph (11); and*

*(D) amended in subsection (b) by striking "the date of the enactment of this Act," and inserting "November 30, 1993,".*

*(13) TESTING OF NUCLEAR WEAPONS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4212;*

*(C) inserted after section 4211, as added by paragraph (12); and*

*(D) amended—*

*(i) in subsection (a), by inserting "of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160)" after "section 3101(a)(2)"; and*

*(ii) in subsection (b), by striking "this Act" and inserting "the National Defense Authorization Act for Fiscal Year 1994".*

*(14) MANUFACTURING INFRASTRUCTURE FOR STOCKPILE.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620), as amended by section 3132 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2829), is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4213;*

*(C) inserted after section 4212, as added by paragraph (13); and*

*(D) amended in subsection (d) by inserting "of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)" after "section 3101(b)".*

*(15) REPORTS ON CRITICAL DIFFICULTIES AT LABORATORIES AND PLANTS.—Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2842), as amended by section 1305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1954) and section 3163 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 944), is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4214; and*

*(C) inserted after section 4213, as added by paragraph (14).*

*(16) SUBTITLE HEADING ON TRITIUM.—Title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle B—Tritium".***

*(17) TRITIUM PRODUCTION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 618) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4231;*

*(C) inserted after the heading for subtitle B of such title XLII, as added by paragraph (16); and*

*(D) amended—*

*(i) by striking "the date of the enactment of this Act" each place it appears and inserting "February 10, 1996"; and*

*(ii) in subsection (b), by inserting "of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)" after "section 3101".*

*(18) TRITIUM RECYCLING.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4232; and*

*(C) inserted after section 4231, as added by paragraph (17).*

*(19) TRITIUM PRODUCTION.—Subsections (c) and (d) of section 3133 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2830) are—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4232, as added by paragraph (18); and*

*(C) amended—*

*(i) by inserting before the text the following new section heading:*

**"SEC. 4233. TRITIUM PRODUCTION.";**

*(ii) by redesignating such subsections as subsections (a) and (b), respectively; and*

*(iii) in subsection (a), as so redesignated, by inserting "of Energy" after "The Secretary".*

*(20) MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) is—*

*(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4234;*

*(C) inserted after section 4233, as added by paragraph (19); and*

*(D) amended in subsection (b) by inserting "of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)" after "section 3101".*

(21) PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS.—Section 3134 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4235; and

(C) inserted after section 4234, as added by paragraph (20).

(f) PROLIFERATION MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new title heading:

**"TITLE XLIII—PROLIFERATION MATTERS".**

(2) INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036), as amended by sections 1069 and 3131 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2136, 2246), is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4301;

(C) inserted after the heading for such title, as so added; and

(D) amended in subsection (b)(3) by striking "of this Act" and inserting "of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)".

(3) NONPROLIFERATION INITIATIVES AND ACTIVITIES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4302;

(C) inserted after section 4301, as added by paragraph (2); and

(D) amended in subsection (b)(1) by striking "this title" and inserting "title XXXI of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)".

(4) ANNUAL REPORT ON MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.—Section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–475) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4303;

(C) inserted after section 4302, as added by paragraph (3); and

(D) amended in subsection (c)(1) by striking "this Act" and inserting "the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)".

(5) NUCLEAR CITIES INITIATIVE.—Section 3172 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–476) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4304; and

(C) inserted after section 4303, as added by paragraph (4).

(6) PROGRAMS ON FISSILE MATERIALS.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617), as amended by section 3152 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738), is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4305; and

(C) inserted after section 4304, as added by paragraph (5).

(7) DISPOSITION OF WEAPONS USABLE PLUTONIUM.—Section 3182 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2747) is—

(A) transferred to title XLIII of division D of such Act, as amended by this subsection;

(B) redesignated as section 4306; and

(C) inserted after section 4305, as added by paragraph (7).

(8) DISPOSITION OF SURPLUS DEFENSE PLUTONIUM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1378) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4307; and

(C) inserted after section 4306, as added by paragraph (7).

(g) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

**"TITLE XLIV—ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS**

***"Subtitle A—Environmental Restoration and Waste Management".***

(2) DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACCOUNT.—Section 3134 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4401; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAM.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4402;

(C) inserted after section 4401, as added by paragraph (2); and

(D) amended—

(i) in subsection (d), by striking "the date of the enactment of this Act" and inserting "September 23, 1996,"; and

(ii) in subsection (h)(1), by striking "the date of the enactment of this Act" and inserting "September 23, 1996".

(4) INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN.—Section 3172 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 948) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4403; and

(C) inserted after section 4402, as added by paragraph (3).

(5) BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950), as amended by section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3094), section 3152 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839), and section 3160 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048), is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4404; and

(C) inserted after section 4403, as added by paragraph (4).

(6) ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3156 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4405;

(C) inserted after section 4404, as added by paragraph (5); and

(D) amended in subsection (b)(2) by inserting before the period the following: ", the predecessor provision to section 1404 of this Act".

(7) DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM.—Section 3141 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1679) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4406;

(C) inserted after section 4405, as added by paragraph (6); and

(D) amended in the section heading by adding a period at the end.

(8) REPORT ON ENVIRONMENTAL RESTORATION EXPENDITURES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4407;

(C) inserted after section 4406, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Subsection (e) of section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4407, as added by paragraph (8); and

(C) amended—

(i) by inserting before the text the following new section heading:

**"SEC. 4408. PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT AT DEFENSE NUCLEAR FACILITIES.";**

and

(ii) by striking "(e) PUBLIC PARTICIPATION IN PLANNING.—".

(10) SUBTITLE HEADING ON CLOSURE OF FACILITIES.—Title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**"Subtitle B—Closure of Facilities".**

(11) PROJECTS TO ACCELERATE CLOSURE ACTIVITIES AT DEFENSE NUCLEAR FACILITIES.—Section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4421;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10); and

(D) amended in subsection (i), by striking "the expiration of the 15-year period beginning on the date of the enactment of this Act" and inserting "September 23, 2011".

(12) REPORTS IN CONNECTION WITH PERMANENT CLOSURE OF DEFENSE NUCLEAR FACILITIES.—Section 3156 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1683) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4422;

(C) inserted after section 4421, as added by paragraph (11); and

(D) amended in the section heading by adding a period at the end.

(13) SUBTITLE HEADING ON PRIVATIZATION.—Title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**"Subtitle C—Privatization".**

(14) DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION PROJECTS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2034) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4431;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (13); and

(D) amended—

(i) in subsections (a), (c)(1)(B)(i), and (d), by inserting "of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)" after "section 3102(i)"; and

(ii) in subsections (c)(1)(B)(ii) and (f), by striking "the date of enactment of this Act" and inserting "November 18, 1997".

(h) SAFEGUARDS AND SECURITY MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

**"TITLE XLV—SAFEGUARDS AND SECURITY MATTERS**

**"Subtitle A—Safeguards and Security".**

(2) PROHIBITION ON INTERNATIONAL INSPECTIONS OF FACILITIES WITHOUT PROTECTION OF RESTRICTED DATA.—Section 3154 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 624) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4501;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) by striking "(1) The" and inserting "The"; and

(ii) by striking "(2) For purposes of paragraph (1)," and inserting "(c) RESTRICTED DATA DEFINED.—In this section,".

(3) RESTRICTIONS ON ACCESS TO LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.—Section 3146 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4502;

(C) inserted after section 4501, as added by paragraph (2); and

(D) amended—

(i) in subsection (b)(2)—

(I) in the matter preceding subparagraph (A), by striking "30 days after the date of the enactment of this Act" and inserting "on November 4, 1999,"; and

(II) in subparagraph (A), by striking "The date that is 90 days after the date of the enactment of this Act" and inserting "January 3, 2000";

(ii) in subsection (d)(1), by striking "the date of the enactment of this Act," and inserting "October 5, 1999,"; and

(iii) in subsection (g), by adding at the end the following new paragraphs:

"(3) The term 'national laboratory' means any of the following:

"(A) Lawrence Livermore National Laboratory, Livermore, California.

"(B) Los Alamos National Laboratory, Los Alamos, New Mexico.

"(C) Sandia National Laboratories, Albuquerque, New Mexico and Livermore, California.

"(4) The term 'Restricted Data' has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).".

(4) BACKGROUND INVESTIGATIONS ON CERTAIN PERSONNEL.—Section 3143 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 934) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4503;

(C) inserted after section 4502, as added by paragraph (3); and

(D) amended—

(i) in subsection (b), by striking "the date of the enactment of this Act" and inserting "October 5, 1999,"; and

(ii) by adding at the end the following new subsection:

"(c) DEFINITIONS.—In this section, the terms 'national laboratory' and 'Restricted Data' have the meanings given such terms in section 4502(g)).".

(5) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—

(A) DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1376) is—

(i) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504;

(iii) inserted after section 4503, as added by paragraph (4); and

(iv) amended in subsection (c) by striking "section 3154 of the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999 (subtitle D of title XXXI of Public Law 106–65; 42 U.S.C. 7383h)" and inserting "section 4504A".

(B) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3154 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 941), as amended by section 3135 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–456), is—

(i) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504A;

(iii) inserted after section 4504, as added by subparagraph (A); and

(iv) amended in subsection (h) by striking "180 days after the date of the enactment of this Act," and inserting "April 5, 2000,".

(6) NOTICE OF SECURITY AND COUNTERINTELLIGENCE FAILURES.—Section 3150 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 939) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4505; and

(C) inserted after section 4504A, as added by paragraph (5)(B).

(7) ANNUAL REPORT ON SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2049) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4506;

(C) inserted after section 4505, as added by paragraph (6); and

(D) amended in subsection (b) by inserting "of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048; 42 U.S.C. 7251 note)" after "section 3161".

(8) REPORT ON COUNTERINTELLIGENCE AND SECURITY PRACTICES AT LABORATORIES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4507;

(C) inserted after section 4506, as added by paragraph (7); and

(D) amended by adding at the end the following new subsection:

"(c) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).".

(9) REPORT ON SECURITY VULNERABILITIES OF NATIONAL LABORATORY COMPUTERS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4508;

(C) inserted after section 4507, as added by paragraph (8); and

(D) amended by adding at the end the following new subsection:

"(f) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).".

(10) SUBTITLE HEADING ON CLASSIFIED INFORMATION.—Title XLV of division D of the Bob

*Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle B—Classified Information".***

*(11) REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—*

*(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4521; and*

*(C) inserted after the heading for subtitle B of such title, as added by paragraph (10).*

*(12) PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2259), as amended by section 1067(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) and section 3193 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—*

*(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4522;*

*(C) inserted after section 4521, as added by paragraph (11); and*

*(D) amended—*

*(i) in subsection (c)(1), by striking "the date of the enactment of this Act" and inserting "October 17, 1998,";*

*(ii) in subsection (f)(1), by striking "the date of the enactment of this Act" and inserting "October 17, 1998"; and*

*(iii) in subsection (f)(2), by striking "The Secretary" and inserting "Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary".*

*(13) SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3149 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 938) is—*

*(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4523;*

*(C) inserted after section 4522, as added by paragraph (12); and*

*(D) amended—*

*(i) in subsection (a), by striking "subsection (a) of section 3161 of the Strom Thurmond National Defense Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2260; 50 U.S.C. 435 note)" and inserting "subsection (a) of section 4522";*

*(ii) in subsection (b)—*

*(I) by striking "section 3161(b)(1) of that Act" and inserting "subsection (b)(1) of section 4522"; and*

*(II) by striking "the date of the enactment of that Act" and inserting "October 17, 1998,";*

*(iii) in subsection (c)—*

*(I) by striking "section 3161(c) of that Act" and inserting "subsection (c) of section 4522"; and*

*(II) by striking "section 3161(a) of that Act" and inserting "subsection (a) of such section"; and*

*(iv) in subsection (d), by striking "section 3161(d) of that Act" and inserting "subsection (d) of section 4522".*

*(14) PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES.—Section 3145 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—*

*(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4524; and*

*(C) inserted after section 4523, as added by paragraph (13).*

*(15) IDENTIFICATION IN BUDGETS OF AMOUNT FOR DECLASSIFICATION ACTIVITIES.—Section 3173 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 949) is—*

*(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4525;*

*(C) inserted after section 4524, as added by paragraph (14); and*

*(D) amended in subsection (b) by striking "the date of the enactment of this Act" and inserting "October 5, 1999,".*

*(16) SUBTITLE HEADING ON EMERGENCY RESPONSE.—Title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle C—Emergency Response".***

*(17) RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 626) is—*

*(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4541; and*

*(C) inserted after the heading for subtitle C of such title, as added by paragraph (16).*

*(i) PERSONNEL MATTERS.—*

*(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:*

***"TITLE XLVI—PERSONNEL MATTERS***

***"Subtitle A—Personnel Management".***

*(2) AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095), as amended by section 3139 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2040), sections 3152 and 3155 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2253, 2257), and section 3191 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);*

*(B) redesignated as section 4601; and*

*(C) inserted after the heading for subtitle A of such title, as so added.*

*(3) WHISTLEBLOWER PROTECTION PROGRAM.—Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 946) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4602;*

*(C) inserted after section 4601, as added by paragraph (2); and*

*(D) amended in subsection (n) by striking "60 days after the date of the enactment of this Act," and inserting "December 5, 1999,".*

*(4) EMPLOYEE INCENTIVES FOR WORKERS AT CLOSURE PROJECT FACILITIES.—Section 3136 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–458) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4603;*

*(C) inserted after section 4602, as added by paragraph (3); and*

*(D) amended—*

*(i) in subsections (c) and (i)(1)(A), by striking "section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)" and inserting "section 4421"; and*

*(ii) in subsection (g), by striking "section 3143(h) of the National Defense Authorization Act for Fiscal Year 1997" and inserting "section 4421(h)".*

*(5) DEFENSE NUCLEAR FACILITY WORKFORCE RESTRUCTURING PLAN.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644), as amended by section 1070(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857), Public Law 105–277 (112 Stat. 2681–419, 2681–430), and section 1048(h)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1229), is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4604;*

*(C) inserted after section 4603, as added by paragraph (4); and*

*(D) amended—*

*(i) in subsection (a), by striking "(hereinafter in this subtitle referred to as the 'Secretary')"; and*

*(ii) by adding at the end the following new subsection:*

*"(g) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term 'Department of Energy defense nuclear facility' means—*

*"(1) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;*

*"(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;*

*"(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada Test Site, Nevada; the Pinnellas Plant, Florida; and the Pantex facility, Texas);*

*"(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or*

*"(5) any facility described in paragraphs (1) through (4) that—*

*"(A) is no longer in operation;*

*"(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and*

*"(C) was operated for national security purposes.".*

*(6) AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO EMPLOYEES.—Section 3195 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4605; and*

*(C) inserted after section 4604, as added by paragraph (5).*

*(7) SUBTITLE HEADING ON TRAINING AND EDUCATION.—Title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle B—Education and Training".***

*(8) EXECUTIVE MANAGEMENT TRAINING.—Section 3142 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1680) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4621;*

*(C) inserted after the heading for subtitle B of such title, as added by paragraph (7); and*

*(D) amended in the section heading by adding a period at the end.*

*(9) STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3085) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4622;*

*(C) inserted after section 4621, as added by paragraph (8); and*

*(D) amended—*

*(i) in subsection (a)(1), by striking "section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note)" and inserting "section 4201"; and*

*(ii) in subsection (b)(2), by inserting "of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337)" after "section 3101(a)(1)".*

*(10) FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO NUCLEAR WEAPONS COMPLEX.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 621), as amended by section 3162 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 943), is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4623; and*

*(C) inserted after section 4622, as added by paragraph (9).*

*(11) SUBTITLE HEADING ON WORKER SAFETY.—Title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle C—Worker Safety".***

*(12) WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES.—Section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4641;*

*(C) inserted after the heading for subtitle C of such title, as added by paragraph (11); and*

*(D) amended in subsection (e) by inserting "of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190)" after "section 3101(9)(A)".*

*(13) SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.—Section 3163 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3097) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4642;*

*(C) inserted after section 4641, as added by paragraph (12); and*

*(D) amended in subsection (b) by striking "90 days after the date of the enactment of this Act," and inserting "January 5, 1995,".*

*(14) PROGRAM TO MONITOR WORKERS AT DEFENSE NUCLEAR FACILITIES EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2646) is—*

*(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4643;*

*(C) inserted after section 4642, as added by paragraph (13); and*

*(D) amended—*

*(i) in subsection (b)(6), by striking "1 year after the date of the enactment of this Act" and inserting "October 23, 1993";*

*(ii) in subsection (c), by striking "180 days after the date of the enactment of this Act," and inserting "April 23, 1993,"; and*

*(iii) by adding at the end the following new subsection:*

*"(c) DEFINITIONS.—In this section:*

*"(1) The term 'Department of Energy defense nuclear facility' has the meaning given that term in section 4604(g).*

*"(2) The term 'Department of Energy employee' means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor of subcontractor of the Department of Energy employed at such a facility.".*

*(j) BUDGET AND FINANCIAL MANAGEMENT MATTERS.—*

*(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:*

***"TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS***

***"Subtitle A—Recurring National Security Authorization Provisions".***

*(2) RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS.—Sections 3620 through 3631 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2756) are—*

*(A) transferred to title XLVII of division D of such Act, as added by paragraph (1);*

*(B) redesignated as sections 4701 through 4712, respectively;*

*(C) inserted after the heading for subtitle A of such title, as so added; and*

*(D) amended—*

*(i) in section 4702, as so redesignated, by striking "sections 3629 and 3630" and inserting "sections 4710 and 4711";*

*(ii) in section 4706(a)(3)(B), as so redesignated, by striking "section 3626" and inserting "section 4707";*

*(iii) in section 4707(c), as so redesignated, by striking "section 3625(b)(2)" and inserting "section 4706(b)(2)";*

*(iv) in section 4710(c), as so redesignated, by striking "section 3621" and inserting "section 4702";*

*(v) in section 4711(c), as so redesignated, by striking "section 3621" and inserting "section 4702"; and*

*(vi) in section 4712, as so redesignated, by striking "section 3621" and inserting "section 4702".*

*(3) SUBTITLE HEADING ON PENALTIES.—Title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle B—Penalties".***

*(4) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4063) is—*

*(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4721;*

*(C) inserted after the heading for subtitle B of such title, as added by paragraph (3); and*

*(D) amended in the section heading by adding a period at the end.*

*(5) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.—Section 211 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3203) is—*

*(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4721, as added by paragraph (4); and*

*(C) amended—*

*(i) by striking the section heading and inserting the following new section heading:*

**"SEC. 4722. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.";**

*(ii) by striking SEC. 211."; and*

*(iii) by striking "this or any other Act" and inserting "the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act".*

*(6) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle C—Other Matters".***

*(7) SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.—Section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979 (Public Law 95–509; 92 Stat. 1779) is—*

*(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after the heading for subtitle C of such title, as added by paragraph (6); and*

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

**"SEC. 4731. SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.";**

and

(ii) by striking "SEC. 208.".

(k) ADMINISTRATIVE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

**"TITLE XLVIII—ADMINISTRATIVE MATTERS**

**"Subtitle A—Contracts".**

(2) COSTS NOT ALLOWED UNDER CERTAIN CONTRACTS.—Section 1534 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 774), as amended by section 3131 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1238), is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4801;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (b)(1), by striking "the date of the enactment of this Act," and inserting "November 8, 1985,".

(3) PROHIBITION ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES.—Section 3151 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4802;

(C) inserted after section 4801, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking "the date of the enactment of this Act" and inserting "November 29, 1989";

(iii) in subsection (b), by striking "6 months after the date of the enactment of this Act," and inserting "May 29, 1990,"; and

(iv) in subsection (d), by striking "90 days after the date of the enactment of this Act" and inserting "March 1, 1990".

(4) CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING FROM ATOMIC WEAPONS TESTING PROGRAMS.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1837) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4803;

(C) inserted after section 4802, as added by paragraph (3); and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (d), by striking "the date of the enactment of this Act" each place it appears and inserting "November 5, 1990,".

(5) SUBTITLE HEADING ON RESEARCH AND DEVELOPMENT.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**"Subtitle B—Research and Development".**

(6) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1832) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4811;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (5); and

(D) amended in the section heading by adding a period at the end.

(7) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—

(A) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812;

(iii) inserted after section 4811, as added by paragraph (6); and

(iv) amended—

(I) in subsection (b), by striking "section 3136(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2831; 42 U.S.C. 7257b)" and inserting "section 4812A(b)";

(II) in subsection (d)—

(aa) by striking "section 3136(b)(1)" and inserting "section 4812A(b)(1)"; and

(bb) by striking "section 3132(c) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(c))" and inserting "section 4811(c)"; and

(III) in subsection (e), by striking "section 3132(d) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d))" and inserting "section 4811(d)".

(B) LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830), as amended by section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038), is—

(i) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812A;

(iii) inserted after section 4812, as added by paragraph (7); and

(iv) amended in subsection (a) by inserting "of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)" after "section 3101".

(8) CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 3136 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1577), as amended by section 203(b)(3) of Public Law 103–35 (107 Stat. 102), is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4813; and

(C) inserted after section 4812A, as added by paragraph (7)(B).

(9) UNIVERSITY-BASED RESEARCH COLLABORATION PROGRAM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4814;

(C) inserted after section 4813, as added by paragraph (8); and

(D) amended in subsection (c) by striking "this title" and inserting "title XXXI of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)".

(10) SUBTITLE HEADING ON FACILITIES MANAGEMENT.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**"Subtitle C—Facilities Management".**

(11) TRANSFERS OF REAL PROPERTY AT CERTAIN FACILITIES.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2046) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4831; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (10).

(12) ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION AT CERTAIN NUCLEAR WEAPONS PRODUCTION PLANTS.—Section 3156 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–467) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4832; and

(C) inserted after section 4831, as added by paragraph (11).

(13) PILOT PROGRAM ON USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN ASSETS.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2039) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4833;

(C) inserted after section 4832, as added by paragraph (12); and

(D) amended in subsection (d) by striking "sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484(j))" and inserting "subchapter II of chapter 5 and section 549 of title 40, United States Code,".

(14) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**"Subtitle D—Other Matters".**

(15) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—Subsection (f) of section 3153 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle D of such title, as added by paragraph (14); and

(C) amended—

(i) by inserting before the text the following new section heading:

**"SEC. 4851. SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.";**

(ii) by striking "(f) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—"; and *(iii) by striking "section 3161(c)(6) of the National Defense Authorization Act of Fiscal Year 1993 (42 U.S.C. 7274h(c)(6))" and inserting "section 4604(c)(6)".*

*(l) MATTERS RELATING TO PARTICULAR FACILITIES.—*

*(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:*

***"TITLE XLIX—MATTERS RELATING TO PARTICULAR FACILITIES***

***"Subtitle A—Hanford Reservation, Washington".***

*(2) SAFETY MEASURES FOR WASTE TANKS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);*

*(B) redesignated as section 4901;*

*(C) inserted after the heading for subtitle A of such title, as so added; and*

*(D) amended—*

*(i) in the section heading, by adding a period at the end;*

*(ii) in subsection (a), by striking "Within 90 days after the date of the enactment of this Act," and inserting "Not later than February 3, 1991,";*

*(iii) in subsection (b), by striking "Within 120 days after the date of the enactment of this Act," and inserting "Not later than March 5, 1991,";*

*(iv) in subsection (c), by striking "Beginning 120 days after the date of the enactment of this Act," and inserting "Beginning March 5, 1991,"; and*

*(v) in subsection (d), by striking "Within six months of the date of the enactment of this Act," and inserting "Not later than May 5, 1991,".*

*(3) PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD RESERVATION.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087), is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4902;*

*(C) inserted after section 4901, as added by paragraph (2); and*

*(D) amended—*

*(i) in the section heading, by adding a period at the end;*

*(ii) in subsection (a), by striking "this title" and inserting "title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)"; and*

*(iii) in subsection (c)—*

*(I) in paragraph (2), by striking "six months after the date of the enactment of this Act," and inserting "May 5, 1991,"; and*

*(II) in paragraph (3), by striking "18 months after the date of the enactment of this Act," and inserting "May 5, 1992,".*

*(4) WASTE TANK CLEANUP PROGRAM.—Section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2250), as amended by section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–463) and section 3135 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368), is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4903;*

*(C) inserted after section 4902, as added by paragraph (3); and*

*(D) amended in subsection (d) by striking "30 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001," and inserting "November 29, 2000,".*

*(5) RIVER PROTECTION PROJECT.—Subsection (a) of section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–462) is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4903, as added by paragraph (4); and*

*(C) amended—*

*(i) by inserting before the text the following new section heading:*

***"SEC. 4904. RIVER PROTECTION PROJECT.";***

*and*

*(ii) by striking "(a) REDESIGNATION OF PROJECT.—".*

*(6) FUNDING FOR TERMINATION COSTS OF RIVER PROTECTION PROJECT.—Section 3131 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–454) is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4905;*

*(C) inserted after section 4904, as added by paragraph (5); and*

*(D) amended—*

*(i) by striking "section 3141" and inserting "section 4904"; and*

*(ii) by striking "the date of the enactment of this Act" and inserting "October 30, 2000".*

*(7) SUBTITLE HEADING ON SAVANNAH RIVER SITE, SOUTH CAROLINA.—Title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle B—Savannah River Site, South Carolina".***

*(8) ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT DEFENSE WASTE PROCESSING FACILITY.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) redesignated as section 4911; and*

*(C) inserted after the heading for subtitle B of such title, as added by paragraph (7).*

*(9) MULTI-YEAR PLAN FOR CLEAN-UP.—Subsection (e) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4911, as added by paragraph (8); and*

*(C) amended—*

*(i) by inserting before the text the following new section heading:*

***"SEC. 4912. MULTI-YEAR PLAN FOR CLEAN-UP.";***

*and*

*(ii) by striking "(e) MULTI-YEAR PLAN FOR CLEAN-UP AT SAVANNAH RIVER SITE.—The Secretary" and inserting "The Secretary of Energy".*

*(10) CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.—*

*(A) FISCAL YEAR 2001.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat 1654A–460) is—*

*(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(ii) inserted after section 4912, as added by paragraph (9); and*

*(iii) amended—*

*(I) by inserting before the text the following new section heading:*

***"SEC. 4913. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";***

*and*

*(II) by striking "(a) CONTINUATION.—".*

*(B) FISCAL YEAR 2000.—Section 3132 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 924) is—*

*(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(ii) redesignated as section 4913A; and*

*(iii) inserted after section 4913, as added by subparagraph (A).*

*(C) FISCAL YEAR 1999.—Section 3135 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2248) is—*

*(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(ii) redesignated as section 4913B; and*

*(iii) inserted after section 4913A, as added by subparagraph (B).*

*(D) FISCAL YEAR 1998.—Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—*

*(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(ii) inserted after section 4913B, as added by subparagraph (C); and*

*(iii) amended—*

*(I) by inserting before the text the following new section heading:*

***"SEC. 4913C. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";***

*and*

*(II) by striking "(b) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—".*

*(E) FISCAL YEAR 1997.—Subsection (f) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—*

*(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(ii) inserted after section 4913C, as added by subparagraph (D); and*

*(iii) amended—*

*(I) by inserting before the text the following new section heading:*

***"SEC. 4913D. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";***

*(II) by striking "(f) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER*

*SITE.—The Secretary" and inserting "The Secretary of Energy"; and*

*(III) by striking "subsection (e)" and inserting "section 4912".*

*(11) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F-CANYON FACILITY.—Subsection (b) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is—*

*(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;*

*(B) inserted after section 4913D, as added by paragraph (10)(E); and*

*(C) amended—*

*(i) by inserting before the text the following new section heading:*

***"SEC. 4914. LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F-CANYON FACILITY.";***

*(ii) by striking "(b) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F-CANYON FACILITY.—";*

*(iii) by striking "this or any other Act" and inserting "the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act"; and*

*(iv) by striking "the Secretary" in the matter preceding paragraph (1) and inserting "the Secretary of Energy".*

*(12) SUBTITLE HEADING ON OTHER FACILITIES.—Title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:*

***"Subtitle C—Other Facilities".***

*(13) PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.—Section 3144 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2838) is—*

*(A) transferred to title XLIX of division D of such Act, as amended by this subsection;*

*(B) redesignated as section 4921; and*

*(C) inserted after the heading for subtitle C of such title, as added by paragraph (12).*

*(m) CONFORMING AMENDMENTS.—(1) Title XXXVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 1756) is repealed.*

*(2) Subtitle E of title XXXI of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h et seq.) is repealed.*

*(3) Section 8905a(d)(5)(A) of title 5, United States Code, is amended by striking "section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)" and inserting "section 4421 of the Atomic Energy Defense Act".*

### TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

***SEC. 3201. AUTHORIZATION.***

*There are authorized to be appropriated for fiscal year 2004, $19,559,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).*

Mr. WARNER. I thank all Senators for their participation. This last vote was not an easy vote. Nevertheless, it came out in the best interests of our national security. I thank my distinguished colleague, the ranking member. I thank the whips, the Senator from Nevada, the Senator from Kentucky, the two leaders, Senator FRIST, Senator DASCHLE, and particularly the members of the Senate Armed Services Committee and our fine staffs for enabling this bill to be put forward and voted favorably.

Mr. LEVIN. Mr. President, I thank the chairman for the extremely thoughtful and thorough way he handles these bills, the fair way he operates. We are all grateful to the committee and our staffs. We are both grateful to our staffs, and I thank all Members of this body.

This last vote was particularly a difficult vote for everyone, whichever way they voted. It was a difficult vote. We know that. Let's hope we can reach the right result.

The PRESIDING OFFICER. Under the previous order, passage of S. 1050 is vitiated. The Senate insists on its amendment and requests a conference with the House.

Mr. WARNER. On the last matter, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Chair appointed Mr. WARNER, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Mr. ALLARD, Mr. SESSIONS, Ms. COLLINS, Mr. ENSIGN, Mr. TALENT, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mrs. DOLE, Mr. CORNYN, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. BAYH, Mrs. CLINTON, and Mr. PRYOR, as conferees on the part of the Senate.

The PRESIDING OFFICER. The clerk will report the pending business.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent the engrossment of S. 1047 as earlier passed by the Senate be corrected by inserting the amendments to H.R. 1588 agreed to today in the respective bills as follows: S. 1047, amendment No. 847, Kennedy-Cornyn-Brownback-McCain; amendment No. 848, Reid-Inhofe.

Further, Mr. President, I ask unanimous consent that with respect to S. 1047, as corrected, S. 1048, and S. 1049, if the Senate receives a message with respect to any of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees, and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair. Further, I ask unanimous consent that S. 1050, as previously passed by the Senate, be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

## ENERGY POLICY ACT OF 2003—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Domenici/Bingaman Amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program (LIHEAP), weatherization assistance, and State energy programs.

Domenici (for Gregg) Amendment No. 841 (to Amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent amendment No. 840 be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 850

Mr. DOMENICI. On behalf of the majority leader and minority leader and other Senators listed, I send to the desk the ethanol amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. FRIST, for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND, proposes an amendment numbered 850.

Mr. DOMENICI. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under "Text of Amendments."

Mr. DOMENICI. Mr. President, for the benefit of the Senate, we are now back on the Energy bill. The pending business is the ethanol amendment. We did dispose of two amendments yesterday. I am hopeful we will not have to redo them, however there is going to be another amendment, at least one, perhaps two, on the ethanol amendment. But in the meantime, the distinguished

Republican whip has requested that he be permitted to speak for 5 minutes as in morning business.

I make that request in his behalf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask the Chair get order in the Senate so he can be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Kentucky.

(The remarks of Mr. MCCONNELL, Mr. MCCAIN, and Mrs. FEINSTEIN, pertaining to the introduction of S. 1182 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BROWNBACK. Mr. President, I rise today in support of the ethanol amendment No. 850 that has been offered by our distinguished majority leader, Senator FRIST. This is a bipartisan amendment which has been crafted thoughtfully by leadership on both sides of the aisle and proves to be a compromise bill that will triple the amount of domestically produced ethanol used in America. President Bush was right when he said 2 years ago that we are long overdue in implementing a comprehensive energy policy for our Nation. If he were to say the same thing today, he would still be right. We need a policy that broadens our base of energy resources to create stability, guarantee reasonable prices, and protect America's security.

I believe that increasing our use of alternative and renewable fuels such as ethanol and biodiesel is a key element in our effort to constructing that much needed stability. It is a clean burning, homegrown renewable fuel that we can rely on for generations to come. Ethanol is a step towards good stewardship of our environment. Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health. It just so happens that as we are looking out for our environment we are not only going to benefit in the arena of environmental friendliness but as the same time boost our economy.

Consumers will benefit from more efficient use of their vehicles at a lower cost. Adding 10 percent ethanol to a gallon of regular gas would reduce the retail price to consumers by almost seven cents per gallon according to the Energy Information Administration.

By continuing each year to increase the volume of ethanol in a gallon of gasoline, we can concurrently decrease the volume of crude oil needed for it. Crude oil prices have risen in 2003 as a result of the war with Iraq and international tensions. We must protect ourselves and be secure with our independence during these trying times and possible terrorism. It is no secret that we currently import over 58 percent of the oil we use. This dependence is not getting better. The Energy Information Administration estimates that our dependency on imported oil could grow to nearly 70 percent by 2020. We are so dependent on foreign oil, that the demand for renewable fuels such as ethanol and biodiesel is on the rise. Although our troops were successful in the liberation of Iraq, our greatest energy challenge remains the need to reduce our reliance on foreign sources to meet our energy needs.

The production and marketing of ethanol is very important to the economy of my state and the nation. The Energy Information Administration has proven that tripling the use nationally of renewable fuels over the next decade will increase U.S. GDP by $156 billion by 2012, reduce our National Trade Deficit by more than $34 billion, save taxpayers $2 billion annually in reduced government subsidies due to the creation of new markets for corn, and create more than 214,000 new jobs.

The benefits for the farm economy are even more pronounced. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State. Currently, ethanol production provides 192,000 jobs and $4.5 billion to net farm income nationwide. Passage of this amendment will increase net farm income by nearly $6 billion annually. Passage of this amendment will create $5.3 billion of new investment in renewable fuel production capacity. Kansas are loudly voicing their support of this legislation. Phasing out MTBE on a National basis will be good for our fuel suppliers. Refiners are under tremendous strain from having to make several different gasoline blends to meet various state clean air requirements. The MTBE phaseout provisions in this package will ensure that refiners will have less stress on their system.

This entire Nation's is in need of this environmentally friendly, sustainable fuel as we carry on in our efforts to be good stewards of our environment. Ethanol will boost our energy independence and become an aid to national security while we as a country find ourselves continuing the battle against terrorism. I cannot proclaim enough, the greatness of the positive impacts this fuel contains. Leaders here in our body have discovered it. The language in this bill has strong bipartisan support and is the result of long negotiations between the Renewable Fuels Association, National Corn Growers Association, Farm Bureau Federation, American Petroleum Institute, Northeast States for Coordinated Air Use Management, NESCAUM, and the American Lung Association.

Americans can rest more sound and secure as we further develop the use of our homegrown fuel, ethanol.

Mr. DOMENICI. Mr. President, I know there are many Senators who have plenty to do besides being concerned about this Energy bill on the floor of the Senate. But I want to say for some of us that the Energy Policy Act is a very important subject. The committee has worked very hard. We don't claim to have a perfect bill, but we claim to have a bill that deserves the consideration of the Senate.

For all those Senators who want to review the bill and haven't, I hope they will start. For those who have amendments and haven't reduced them to writing, I hope they get going. For those who have questions about the bill, we are going to be here working on it—both the minority whip and Senator BINGAMAN. His staff is adequate in numbers and capacity and will be available, as will mine.

With that in mind, we are back to the point where we have set aside the LIHEAP issue that came about yesterday—the issue with reference to the jurisdiction of the different LIHEAP provisions that we wanted to have in this bill where the chairman of the Committee on Health and Human Resources desires that it not be on the bill but rather be returned to his committee for jurisdictional consideration. That will be taken up later.

We are now back to ethanol. Yesterday we had two votes. They were very heavily debated for a long period of time. In each instance both failed. In each instance 60 votes or more were obtained on the side of supporting the bill, which is not just a Republican or Democrat bill. It is a bill put together by Democrats and Republicans, and all kinds of different leadership groups in this country that are concerned about our future in terms of dependence upon oil and its derivatives; those who are concerned about agricultural products and the fact that we produce so much more than we need and that the price is constantly a problem both to the Government because of its support programs and to the farmer because it is difficult to make a living.

Those who are concerned about rural America see this bill as a potential for the injection of tremendous amounts of real investments and real jobs and capital into all parts of rural America because facilities will have to be built that will cost billions of dollars in order to comply with the requirements of this national mandate for ethanol use.

The mandate is a good mandate. It is a national mandate. It is a mandate that says by a year certain we will be using certain quantities of ethanol in our petroleum products that feed the gasoline tanks, and thus the automobiles and trucks of America that use gasoline and diesel fuel.

I am sure there are additional amendments on this issue. I merely wanted to recap for the Senate where we are.

I also wish to say that while we have been on this bill for a number of days, it appears that the only amendments are those that pertain to ethanol. I know there are more. I implore Senators, I beg them, if they have amendments, let us get them ready and bring them down here. Who knows, they may have winners. They may have a much better approach to energy independence in this bill. We stand ready to accommodate and get them before the Senate and get the votes on them as soon as possible.

What I understand the situation to be now, so the Senators will understand, is that the distinguished minority manager, the junior Senator from New Mexico, has an amendment on ethanol. I understand that when he is finished, the distinguished Senator from New York has an amendment. He told the Senator from New Mexico that he would follow the amendment of the Senator from New Mexico. I hope that will be the case. If he comes forth, we will not have one vote at a time but rather back-to-back votes. There appears to be a couple of other amendments that may be offered before the day is out.

Then I suggest that as many Senators as possible begin to try to figure out what they want to do with this bill. I know there are Senators who have not had a chance to make up their mind about amendments but I ask that they do that. Actually, there are many of us who want to get an Energy bill. We think the remainder of this week, clear through Friday, and all of next week ought to be sufficient time to get this done. Some do not think so but I surmise that if we tried, and we had amendments going most of the day, with votes taking place each day, we would be surprised how soon we would get this bill completed.

Having said that, I yield the floor to my distinguished fellow Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I thank the chairman of the committee, Senator DOMENICI, for his comments. I agree with his request that we move ahead with amendments. I know there are many Senators with amendments they want to offer. I think the logical thing to do is to try to deal with all of the ethanol-related amendments at this stage in the consideration of the bill. I hope that by offering an ethanol-related amendment now, on behalf of myself and Senator SUNUNU, we can begin the process of considering these amendments in a thoughtful way and, hopefully, work through them over the next day or two.

### AMENDMENT NO. 851 TO AMENDMENT NO. 850

Mr. President, with that, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to amendment No. 850 that Senator DOMENICI offered on behalf of Senator FRIST and others.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. SUNUNU, proposes an amendment numbered 851 to amendment No. 850.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the Secretary of Energy to waive the ethanol mandate on the East and West Coast in the event of a significant price increase or supply interruption)

On page 18, after line 15, insert the following:

"(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

"(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

"(i) application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

"(ii) a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

"(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.".

Mr. BINGAMAN. Mr. President, as I indicated, this is an amendment I am offering on behalf of Senator SUNUNU and myself. It is to improve the waiver provisions in the renewable fuels standard in the Daschle-Frist amendment.

The amendment we are offering seeks to give the President the authority to suspend the ethanol mandate—he could suspend it with regard to a particular geographic area in the country—in the event there is a severe supply or price disruption to U.S. gasoline markets. We have a way of determining when that threshold is reached. It provides a path for immediate action to be taken to deal with that price circumstance.

This is not a requirement that the President act. This is merely authority for him to act if he chooses to do so. I think we need to make that point so all Members understand we are not requiring any action by this amendment; we are expanding the waiver authority so that additional authority exists if the President chooses to use it. Ultimately, someone needs to have the authority to take immediate action if there happens to be a crisis, if a crisis comes upon us.

The Daschle-Frist amendment waiver provisions—and this is on page 12 of the underlying Daschle-Frist amendment—those waiver provisions give each State the right to petition the Administrator for a waiver in the event of severe harm to the economy or the environment. The process that is outlined can take up to 90 days. It is not necessarily going to take 90 days. It could take longer, as there is no enforcement really built in, but it is supposed to take no more than 90 days.

The State files the petition. The Administrator has the 90 days, maximum, to make a determination of whether the petition should be granted. In making that determination, the Secretary is required to give public notice and an opportunity for comment. That is a 3-month period—or up to a 3-month period—for a determination to be made and for the mandate to be suspended.

In a crisis situation, a significant amount of economic or environmental damage could be done during that period while all of this notice and opportunity for comment is occurring. In my view, we cannot afford that. Ninety days is too long a period.

The amendment we are offering does not seek to disturb or to weaken the underlying Daschle-Frist amendment. It simply gives the President the authority to take immediate action to deal with urgent issues that may arise in particular regions. If a State or region experiences a supply disruption which they might experience with regard to ethanol or a price spike resulting from the mandate, and a suspension of the mandate is necessary, then we are giving the President authority to suspend the mandate for a 30-day period. He could renew that for an additional 30 days if he chose to. But that is the essence of our amendment. If the gasoline prices rise more than 10 cents as a result of the mandate, that is when this authority would come into place.

Now, this is not the price of ethanol rising 10 cents; this is the price of gasoline at the pump rising 10 cents because of the mandate to use ethanol as required in the Daschle-Frist amendment. If the price of gas at the pump rises over 10 cents, and the Secretary makes the determination that immediate action is necessary, then the mandate could be suspended for the 30 days in this affected PADD, this Petroleum Administration for Defense District, or in the effected State or region.

What does that 10-cent rise in the price of gasoline per gallon mean? Let me refer to this chart I have in the Chamber.

You can see that ethanol is going to be blended with other petroleum fuel in gasoline, and 10 percent of it is going to be ethanol. So, in fact, if you saw a 50-cent increase in the price of ethanol per gallon, that would mean a 5-cent-per-gallon rise in the price of gasoline. If you saw a $1 increase in the price of ethanol per gallon, that would mean a

10-cent-per-gallon increase in the price of gasoline.

I think this chart makes clear that what we are proposing gives the President the ability to act expeditiously. If there is this kind of $1 increase in the price of ethanol itself, that could translate approximately to a 10-cent increase in gasoline. This is a high threshold. Frankly, I know there are Members of this Senate who would say that should not be 10 cents; we ought to have the President have the authority to act if you have a 3-cent increase or a 2-cent increase or a 5-cent increase, and I might agree with some of that logic.

But the truth is, we have tried to write this in a way that makes it clear that this is not authority we would expect to be invoked or to be available to the President under most circumstances. This is authority which would only be available under extraordinary circumstances.

Today prices are at about $1.15 per gallon. Adjusted for inflation, this is roughly where they were back in 1998. There has been some fluctuation.

This second chart that I have in the Chamber shows what has happened to the price of gasoline from 1998 through the current period. You can see that there has been fluctuation in the price of ethanol, but we have not seen enough fluctuation in the price of ethanol from the average price to trigger this authority to ever take place, so that during this entire period this authority would not have come into place. It is clear we are not setting up some kind of a hair-trigger procedure here which will give the President or the Secretary of Energy the ability to step in at will and act.

The amendment we are proposing is simply a safety valve. As I have said several times, it is not automatic. If there is no disruption in supply, if prices do not spike substantially outside the range shown on this chart, then nothing would happen. However, in the event we do have a problem, we would have in place, with this amendment, a procedure for dealing with it.

The reason I think this amendment is important is because fuel transitions are inherently problematic.

We have a lot of history on which to base that judgment. All previous changes to the reformulated gasoline formula have resulted in severe price volatility in gasoline markets. We don't have to go back very far to see that this is the case. In 1996 and in the year 2000, we saw gasoline prices rise substantially, and both times this resulted in gasoline price spikes of more than 30 cents a gallon in California.

There are previous EIA studies that have been done, but they have not addressed short-term issues. That is what we are talking about, short-term supply disruptions. They either look at the long-term outcomes or act to analyze supply disruptions only after they have occurred.

The mandate we are proposing to put into law with the Frist-Daschle amendment does create substantial uncertainty. That has been discussed in some of the debate that has already occurred. The mandate says we will use 5 billion gallons of ethanol in the Nation's fuel supply by 2012. It bans the use of MTBE beginning in the year 2007. While some would prefer to call it a renewable fuels standard, it is in fact a mandate. All of us understand that. By the nature of a mandate, it creates a substantial amount of uncertainty.

While my colleagues may argue that they have crafted a plan that allows plenty of time for the transition from MTBE to ethanol, I have doubts about whether that is the case. Under the mandate in the Frist-Daschle amendment, it is possible that our motor fuels market will see disruptions in supply and price spikes that, if left unattended, could harm consumers and the economy. Our amendment tries to deal directly with that.

We have to keep in mind the MTBE ban affects supply immediately. Once the bill passes, MTBE will be quickly phased out and banned in 16 States; most importantly, in California and Washington and Arizona on the West Coast and in New York and Connecticut on the East Coast. These States in the Northeast in particular are heavily dependent on gasoline product imports from Europe and South America. Venezuela supplies 8 percent of the gasoline volume on the East Coast. The Venezuelan National Oil Company says a renewable fuels mandate could make it difficult if not impossible to import finished gasoline into the United States as they have been doing.

Most of the East Coast imports come into the New York area and need to be suitable for the reformulated gas markets.

As I have said in several ways, there is a lot of uncertainty that we just do not know the answers to. Let me list some of that again. Then I will defer to my colleague from New Hampshire who is here and wishes to speak on behalf of the amendment as well.

Some of the questions that still exist in my mind as regards this mandate are, No. 1, what if we have a supply shortage when refineries are already producing at capacity? What does that do to the price to the consumer? Second, what if our import capacity declines and prices spike even further? Third, what if there is a drought in the Midwest that affects corn production and therefore affects ethanol production? That could significantly affect the price. And it could get the price outside of this area that is reflected on the chart behind me.

Perhaps we could experience problems in transporting the ethanol or an important element in the refinery infrastructure could be damaged at a key hub. There is any number of scenarios that could lead us to supply disruptions, to price spikes. Under those circumstances, we need to have authority vested with the President to take action. We should not be requiring that he take that action, but we should be giving him the authority. We need to be proactive. We need to look forward and analyze potential problems the U.S. motor fuels market could face in the short term, and we need to do this before the disruption occurs.

I urge our colleagues to carefully consider the amendment. It is good policy to build in such a provision to protect consumers in the event of a crisis. It is a good safety valve to add to the bill. It substantially strengthens the bill. I hope my colleagues will agree and that we can add this as an amendment.

I yield the floor. I see my colleague, my cosponsor from New Hampshire, is in the Chamber waiting to speak.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the Bingaman amendment and I thank my colleague for allowing me to work with him on this initiative. I have expressed concerns about the ethanol mandate in this energy bill before, and the concerns this amendment tries to address are obviously an extension of those concerns.

As we have debated this Energy Bill prior to today, in the work I have done in the House, and the visits I've had back home with the people of New Hampshire, I have always emphasized that to the extent we are debating an energy bill, it ought to be about price and access. It should be about making sure we have available, stable, reliable sources of energy and a diversified supply for consumers, because those stable, reliable sources of energy are so central to economic growth.

At the end of the day, this debate ought to be about access and price. What this amendment attempts to do is to ensure that where the gasoline markets are concerned, consumers are protected on access and on price. We need to make sure that we have, as the Senator from New Mexico described, a safety valve—a way to ensure that if and when the very significant fuels mandate proposed for this bill is imposed on cities, towns, and States across America, there will not be major disruptions in supply that would lead to price spikes, and that consumers not be subjected to higher fuel costs unnecessarily.

There is a waiver provision in the underlying amendment. But we ought to be concerned about that waiver provision because of the 90-day window described by the Senator from New Mexico. This would allow the President and

Secretary to act if there is economic harm, but it would allow up to 90 days to do so. Ninety days can be a very long time, as anyone who sat through the price spikes two summers ago will tell you. Gasoline prices spiked up, 25, 50 cents, spiking well over $2 in some places. To the extent that those price spikes could have been avoided, many people would argue the President or the Secretary of Energy should have taken steps to avoid them. That is exactly what this kind of an amendment will allow.

If the cost of ethanol drives those prices up more than 10 cents a gallon, then the President can act with the Secretary and suspend the mandate for 30 days. It is a safety valve. It doesn't take away from the mandate, although I am one who would like to see more done in terms of eliminating the mandate. But, our amendment is a safety valve that allows the President to act. It does not force the President to act, and it does not require him to act. Instead, it gives the President and the Secretary the opportunity to take steps to protect consumers from unreasonable price spikes.

Supporters of the ethanol program, those who would like to see the mandate imposed no matter what the constraints, might say: Well, it is highly unlikely such spikes will occur. We can look at the graph presented by the Senator from New Mexico. It is highly unlikely we would see significant price spikes. Maybe this amendment is unnecessary.

But, Mr. President, we can't predict the future. We don't know with certainty what will or will not happen to the cost of fuel with the 5-billion gallon mandate on ethanol that has been proposed, but we should be prepared.

That is what we are trying to accomplish with this amendment. We could certainly see problems with ethanol production. We don't have the capacity to produce 5 billion gallons today. If the mandate were imposed, we would like to believe we could double the production capacity in a brief amount of time, but we don't know that for sure. We could have problems with ethanol production. Frankly, we are likely to have problems with ethanol distribution. They may not be huge problems, but ethanol has to be trucked or shipped around the country. It cannot be distributed through the existing pipeline system we use for gasoline in parts of the country.

So there are going to be new demands on the logistics governing our distribution system for gasoline. That could certainly have a big impact on prices. The Senator from New Mexico talked about the issue of importing gasoline from places such as Venezuela—there is no certainty that we would be able to continue to import finished gasoline; we might have to import the raw blend stock to be mixed with ethanol in the United States.

There is no guarantee of the reliability of those imports. And, of course, we may have unusual spikes in demand because of the MTBE bans that are likely to go into effect if and when this legislation becomes law. I come from a State where there has been strong support for banning the use of MTBE. Even more important, I would certainly like to see a provision in the bill—one that was proposed the other day by the Senator from California, Mrs. FEINSTEIN—to allow States to waive the requirement for this mandate, so that States could be free to meet the Clean Air Act without having to use MTBE or without having to use ethanol.

But the point is, there are uncertainties about the future price of gasoline. Those uncertainties are made greater by the potential 5-billion-gallon ethanol mandate in the bill. Our amendment would provide a safety valve so that if there were price spikes, the President and the Secretary could act in consumers' interests.

Despite my concerns about the mandate and all the other concerns I might have about this Energy bill, I think at the end of the day we should be looking to ensure that the bill protects consumers. This amendment does that. I think it is common sense.

I say to my colleagues, you can support the ethanol program and still support this amendment that protects consumers. Also, you can certainly oppose the ethanol program and support this amendment that protects consumers.

I hope my colleagues will join Senator BINGAMAN and me in doing the right thing for taxpayers and for consumers by supporting this amendment.

I yield the floor.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I come to the floor to speak in opposition to the Bingaman amendment. I must say as I begin, however, that there is no one in the caucus—and, I argue, in the Senate today—who knows more about the issues relating to energy than does my colleague from New Mexico, Senator BINGAMAN. He has been an outstanding leader, and I have enjoyed working with him on these issues now for many years. I recall so vividly his masterful work in getting us a bill that generated some 88 votes, if I recall, last year. That was after about 8 weeks of work. So it is not easy to take these issues or to move this legislation. He deserves great credit for the work he has done.

I take issue with this amendment for several reasons. I have had a chance to look at the amendment itself. There are phrases on line 9 and on line 2 of page 2 that are of particular concern to me. I will read the pertinent passages of the amendment, and I will explain my concern.

First, I have a little explanatory comment. Obviously, the distinguished Senator from New Mexico is interested in providing greater authority to the Secretary to suspend the requirements of the bill. Then he lists those instances in his amendment where the requirements of the bill would be lifted. It is in these areas that I find my initial concern, and then I will address some other concerns I have.

On line 9, page 1, it says:

> Application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to the end users in the District of ten cents per gallon or more.

Line 2, page 2, that he can suspend the requirements of the bill if, in the estimation of the Secretary of Energy:

> a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

The phrase that troubles me is "will result." We all would like to be able to anticipate the future. But I could easily see a Secretary who has opposition to renewable fuels, opposition to any real requirement that we move to find replacements for gasoline; or, for that matter, you could put this in a larger context, if we were talking about the renewable portfolio standard, to wind, solar, biomass, or any other renewable fuel, where you could see a Secretary announce: You know what, I have made a decision. I have made a decision that this will result at some point in the future in a cost increase, and the Senator here would set as the threshold 10 cents a gallon. But it will happen, and on that basis I am going to suspend the law.

First, the declarative authority on the part of the Secretary as a result of his ability to predict—weather men are wrong, politicians are wrong, and Secretaries could be wrong. Yet we would give him the authority, based on his judgment and his prediction that somehow he will know we are going to exceed 10 cents a gallon and, on that basis, suspend the law, take an action to suspend the law.

The second concern I have is the good government concern. If we are going to suspend the law, it seems to me we ought to have an opportunity to have comment, to have others express themselves on whether this will result in a price increase. As an advocate of good government, generally when we pass legislation, anytime we designate authority to somebody else, we say, look, you cannot do this without some ability to be heard. You have to be heard.

There has to be a process before we give dictatorial powers to somebody to change the law.

That is exactly what our bill does. Our bill says that in those instances when some economic disruption might occur, No. 1, there has to be a demonstration that it has occurred. No prediction that it might happen. It has to happen so we know with what we are dealing.

Secondly we say: If we are going to suspend a law passed by the U.S. Congress and signed into law by the President of the United States, there has to be a good government procedure, and that procedure simply says there has to be notice, there has to be an opportunity to be heard, and then a decision has to be made.

Then we even go beyond that. We say a decision has to be made within 90 days. At one point, in a previous version of this bill, we said it had to be done in 180 days. Some said that was too long a period. So we have already cut that in half. Then it said no later than 90 days. That is not the threshold to start the decisionmaking process. That is the threshold to end it.

Advocates of good government, I would think, would say that is a pretty good way to do it. If we are going to have price spikes—and I will get to that in just a minute—then it seems to us you ought to give somebody an opportunity to waive the requirements of law. That is understandable. We can do that. But to say, first, we are going to allow that person to make this decision based on what he thinks is going to happen, and then, secondly, allow him to make a decision based on what he thinks is going to happen without any good government application of the law, an opportunity to be heard, an opportunity to make some judgment based on facts, is an awfully troubling assertion or proposition to me.

Having said that, the Department of Energy, in January of last year, just a little over a year ago, completed a report on this very issue. I have not known the Department of Energy necessarily to be a cheerleader for ethanol. They have not been out there leading the pack. But they were asked: What analysis can you provide us with regard to this very concern? Here is their conclusion:

> No major infrastructure barriers exist to expand ethanol to 5 billion gallons per year comparable to the legislation before us today.

The Energy Information Agency said after their careful analysis in concert with this report:

> The cost of establishing a renewable fuels standard is less than half a penny per gallon for all gasoline.

That is not an assertion by the Senator from South Dakota. That is not the ethanol industry. That is the Federal Government in its analysis of the implications of what it is we are doing with this legislation—a half a penny per gallon for all gasoline.

In March of this year, the California Energy Commission analysis said it cannot establish any attributable increase in the price of gasoline based on the cost or availability of ethanol and the requirements under which they currently are living.

Mr. President, first, if you listen to our own analysis, the Government agencies that have provided their most objective review of the circumstances, we are talking about half a penny per gallon for all gasoline. We are talking about the California Energy Commission—and I might note, as I said yesterday, 65 percent of all the gasoline sold in California today has ethanol. It is going to go to 80 percent by summer. And we have the California Energy Commission saying they cannot find any tangible connection between the price of ethanol and the price of gasoline. But if, for whatever reason, it might happen, we say: Let's give the Secretary the authority. Let's make sure we are not going to hold consumers hostage to some sort of unexpected price hike, but let's, No. 1, make sure it happens, rather than give the Secretary this ability to predict and make some assertion it might happen. And, secondly, let's use the good government practices we have always used to ensure if we are going to change the law for whatever period of time, that we do so with the opportunity for Americans to be heard. So I hope we oppose this amendment.

I end where I started. The Senator from New Mexico deserves great credit for all he has done to bring us to this point. I respect him immensely and differ with him on this amendment. We could not be in better hands. I appreciate his cooperation on so many of these issues as we move forward. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 851, AS MODIFIED

Mr. BINGAMAN. Mr. President, I very much appreciate the comments of the leader. I know of his strong commitment to this underlying amendment. I will say what everyone in the Senate knows, which is his reputation, a well-earned reputation, for straight dealing. He indicated to me before I offered the amendment that he would be compelled to oppose it, and I certainly understand. I am anxious to accommodate some of the concerns he has raised.

With that in mind, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 18, after line 15, insert the following:

"(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

"(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

"(i) application of the requirements of paragraph (2) in the District has resulted in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

"(ii) a significant interruption in the supply of renewable fuel in the District has resulted in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

"(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.".

Mr. BINGAMAN. Mr. President, let me explain what I did with the modification. I dealt with the issue Senator DASCHLE raised about his concern that the language in the previous amendment, as I offered it with Senator SUNUNU, allowed the Secretary to act on the basis of a prediction about what was going to happen. That language was in the bill, and I just modified the bill to provide that the President—let me clarify that nothing in this amendment gives the Secretary authority to act. This amendment only gives the President authority to act. The President can only act on the basis of a determination made by his or her Secretary of Energy.

Now, with the modification, it would be a determination made by his or her Secretary of Energy that this ethanol mandate, in fact, has resulted in an increase in the average cost of gasoline to end users or it has resulted in a significant interruption or has resulted in an increase in the average cost by at least 10 cents per gallon as a result of the mandate.

In response to that concern Senator DASCHLE raised, I want to be clear that we have dealt with that in the modification I have just sent to the desk.

Let me also address briefly the other issues Senator DASCHLE raised.

He indicated the need for this is not there because, in fact, the Energy Information Agency in the Department of Energy has said this mandate will result in an increase in the price of gas per gallon of less than one-half of 1 cent per gallon, and the California Energy Commission has also concluded that there is no appreciable increase that will result from this mandate.

First of all, if you look into the analyses that were done both by the Department of Energy and the California Energy Commission, they were looking over the long term and saying over the long term there will not be, in their view, a substantial increase in the price of gasoline as a result of this mandate. That may well be true. Our amendment does not deal with the long term. Our amendment tries to deal with the short term, and that is where there is a price spike, where there is a supply disruption that causes the price to go up an additional 10 cents per gallon because of the ethanol mandate, if that occurs, and it may well not occur. So there is a difference between the studies that they did, which are long term, and the issue we are trying to deal with, which is short term.

I also point out that another sort of flaw in the argument, at least in my view, is that we are now saying we do not need to put this extra safety valve in the legislation because we have a prediction by the Energy Information Agency and we have a prediction by the California Energy Commission that this will not be needed down the road. It may well not be needed, and certainly I am not here to predict that it will be needed. I am just saying this is a good insurance policy. This is a good safety valve.

The Energy Information Agency has been known to make mistakes in their predictions. As to the California Energy Commission, although I am not totally familiar with all of their work, I would venture to say they have probably made a few mistakes in their predictions. I do not know exactly where they were on their predictions with regard to the price of electricity in California a few years ago, but they may well have missed the mark in predicting what that price was going to be, and they might well have wished there was some similar authority to this in place that could have been exercised or had been exercised when that crisis hit.

So I think this is good government practice, and clearly under most circumstances the appropriate course is to give public notice, to have opportunity for comment and hearings, have all the sides, all the interest groups come in and give their point of view. That is a good course. But if the price of ethanol has gone up substantially or there has been a supply disruption or there has been something that has occurred that has caused the price of gasoline to jump more than 10 cents that is directly traceable to this mandate, I believe the wise course is for us to give authority to the President to take action if he or she decides to take action.

As I say, there is nothing in this amendment that requires anyone to do anything. This amendment merely gives people authority to take action if a crisis occurs, if a price spike occurs, if they determine that action is appropriate.

It is possible, in some future administration, that there will be a Secretary of Energy who is opposed to ethanol perhaps, but I assume that the American people are going to elect Presidents in the future who reflect their views on most issues. If they do not reflect their views, then of course the voters have the opportunity to hold them accountable when there is a follow-on election.

Clearly, I think we are mandating a substantial increase in the use of ethanol. I am not opposing that in this amendment, but I am saying let us at least be a little bit humble about our own ability to predict what might occur in the future. If, in fact, there is a significant price spike because of some problem in transitioning to this new fuel mixture, if there is some price spike as a result of interruptions in supply, then let's have the President, with the authority, deal with the situation, and let's not just say, okay, we are going to require that they go through the normal hoops, give public notice and comments, have hearings, and all of that. I think there is certainly a time for all of that, but there is also a time to take action. When the American people elect a President, they expect the President to have authority to act when the circumstance requires. That is what our amendment would do, and we hope very much it will be agreed to.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Will the Senator join me in asking for the yeas and nays on his amendment?

Mr. BINGAMAN. I am glad to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Let me ask, does Senator REID know if there is another Senator who has an amendment?

Mr. REID. Senator SCHUMER is due any minute to offer an amendment on this subject.

Mr. DOMENICI. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have spoken to the two managers of the bill. We have been dealing now for the second day on the ethanol section. What we would like all Members to hear, if anyone has any desire to offer an amendment on the ethanol section, is they should let their respective Cloakrooms know immediately. The knowledge we have at this time is Senator BOXER has two amendments. Senator SCHUMER has one amendment, Senator CLINTON has one amendment, and Senator FEINSTEIN has two amendments.

If there are amendments other than these that I have just enumerated—BOXER, two; SCHUMER, one; CLINTON, one; FEINSTEIN, two—they should let the cloakrooms know. It is my understanding Senator NICKLES may or may not offer an amendment but he is on the list.

Mr. DOMENICI. Should we put NICKLES on the list?

We think he will come off.

Mr. REID. He is on the list. If anyone else wants to offer an amendment, let us know immediately. Otherwise we are going to enter into an agreement that the amendments I have just listed will be the only ones in order on the ethanol section.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from New Mexico.

Mr. DOMENICI. Might we do it this way, so there will be a bit of finality. It is 10 minutes to 5. Could we enter into an agreement that that is it, unless some Senator contacts you or Senator BINGAMAN or myself by 5 o'clock?

Mr. REID. We should give people a little bit of time.

Mr. DOMENICI. That is plenty, 10 minutes. At 5:30?

Mr. REID. I personally would like to get off this section. We hope to have a vote, it is my understanding, by 5:15. We would know as soon as that vote is completed.

Mr. DOMENICI. For now we are going with the fact this is all we are aware of. We hope Senators understand we are perilously close to making that a consent agreement but we have not yet, just in deference to somebody who might still come up with a new idea regarding this subject.

Mr. REID. If the Senator will yield, I have spoken to Senator FEINSTEIN. She is willing to offer one of her amendments tonight, as soon as the vote is completed. What we will try to do is have slots available, either tonight or first thing in the morning, to finish these amendments.

Mr. DOMENICI. I understand. To give her a little more time, I understand we could have two votes. What we will tell the Senate shortly, about LIHEAP, which may meet with your approval, Senator BINGAMAN—the idea would be to bring it back immediately following a vote on your amendment. It would make the pending business the LIHEAP amendments, both of them, at which time we would have a vote on the Domenici amendment that was offered in behalf of the chairman of the committee, and there would be a vote. Immediately following that vote there would be a vote, if required, on the LIHEAP amendment.

Mr. BINGAMAN. Madam President, in response to the question, my understanding is Senator CANTWELL, from Washington, did want to speak on this LIHEAP issue. I don't feel comfortable just agreeing we are going to lock her out of that opportunity. I think we have been advising people that the LIHEAP issue had been put aside for some period of time.

Until we can consult with her, at least, and find out—as I understand it, the Senator is suggesting we go ahead and go to a vote on the Gregg amendment?

Mr. DOMENICI. The Gregg amendment, yes.

Mr. BINGAMAN. That would essentially replace the LIHEAP provisions with a sense of the Senate.

Mr. DOMENICI. Right.

Mr. BINGAMAN. I am saying before I agree to that specific time I would like to be sure to protect Senator CANTWELL.

Mr. DOMENICI. I wonder if we could agree to vote on the Bingaman amendment and then say, when that vote has been completed and we finish it, there would be 10 minutes for debate, at which time I will give 5 of that to the Senator you just described, for her discussion, or 10, whatever you would like, after which we would have a vote? That gives you what you need and it sets up at least two votes and a disposition of your LIHEAP.

Mr. REID. If the Senator will yield, that may be appropriate, but we need to check with her first.

Mr. DOMENICI. All right. Could we just make sure everybody understands we are prepared to move, soon, to bring the LIHEAP issue back on the calendar where it belongs, and to dispose of it this evening?

With that, I assume we will proceed, Senator, to vote on your amendment, if that is all right with you.

Mr. BINGAMAN. Madam President, in response, I have no problem with proceeding to a vote on my amendment on ethanol at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 851

Mr. DOMENICI. Madam President, there has been ample argument in opposition to the Bingaman amendment. The Senator from New Mexico, the manager of the bill, would merely like to say, while I accept the argument of the distinguished junior Senator from New Mexico, it seems to this Senator from New Mexico that to adopt the amendment truly creates an unworkable situation with reference to the source, supply, and the management of petroleum needs in the United States. That is all I have to say. I believe there is ample flexibility in the underlying bill. I do not believe we ought to make it more difficult to turn the spigot on and off with reference to the impact of ethanol on the gasoline supply in the country.

I believe it is almost unworkable, for any President to decide, for instance, what caused the increase and to turn that on and off with reference to the supply and refining capacity and the like.

With that, I yield the floor. I am prepared to vote up or down on the Bingaman amendment to the ethanol amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. I am going to suggest the absence a quorum for about 10 minutes. Senators are being put on notice during that period of time that we are going to vote shortly. That is why we are having a 10-minute quorum call at this time. I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—37

Akaka
Allard
Allen
Bennett
Bingaman
Boxer
Cantwell
Clinton
Collins
Cornyn
Ensign
Feinstein
Gregg
Hatch
Hollings
Inouye
Jeffords
Kennedy
Kyl
Lautenberg
Leahy
McCain
Murray
Nelson (FL)
Nickles
Reed
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Sununu
Warner
Wyden

NAYS—58

Alexander
Baucus
Bayh
Biden
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Conrad
Corzine
Craig
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hutchison
Inhofe
Johnson
Kohl
Landrieu
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Nelson (NE)
Pryor
Reid
Roberts
Sarbanes
Stabenow
Stevens
Talent
Thomas

NOT VOTING—5

Crapo
Graham (FL)
Kerry
Lieberman
Voinovich

The amendment (No. 851) was rejected.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I say to fellow Senators, we are going to have a unanimous-consent request that will pertain to ethanol. There will be no further votes this evening. We will have a unanimous-consent request regarding three amendments on ethanol that will be entered into shortly. All three will be voted on tomorrow, and that will dispose of the ethanol second-degree amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. After visiting with the two managers of the bill, the next amendment that will be offered on this Frist-Daschle amendment is one by the Senator from New York on behalf of himself and Senator CLINTON. The agreement on that is that there will be 20 minutes equally divided. That basically is what would happen on this amendment. This is a second-degree amendment. So that is all the protection they need.

I ask unanimous consent that Senator SCHUMER be recognized to offer his amendment, that there be 20 minutes equally divided on this amendment, and that the vote would occur sometime tomorrow, which will be subject to the two leaders.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DOMENICI. Do we have the rest of the consent ready?

Mr. REID. He is not quite ready yet.

Mr. DOMENICI. Does the Senator think we should wait now and do it or let Senator SCHUMER begin?

Just so everybody understands, we do intend to have a consent that disposes of all three amendments, with votes on all three, Schumer and two others. But that consent agreement will come along shortly.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York is recognized.

AMENDMENT NO. 853 TO AMENDMENT NO. 850

Mr. SCHUMER. I have an amendment at the desk. I ask unanimous consent that Senator CLINTON be added as a cosponsor.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

> The Senator from New York [Mr. SCHUMER], for himself and Mrs. CLINTON, proposes an amendment numbered 853 to amendment No. 850.

Mr. SCHUMER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program)
>
> On page 4, strike lines 6 through 15 and insert the following:
>
> "(i) PROMULGATION.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Petroleum Administration for Defense Districts I, IV, and V), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

Mr. SCHUMER. Madam President, I rise today to offer an amendment that would modify the renewable fuels provision of this amendment and limit it to Petroleum Administration Defense Districts II and III where corn and ethanol are most naturally available.

The objection that those of us from the coasts and the Rocky Mountain areas have with this amendment is very simple. While corn is plentiful in the Middle West, as this chart shows, and ethanol will be a good additive for gasoline in terms of cleaner air, in terms of oxidation, it will not work on the coasts. First, we do not have the corn available. It has to be shipped. It has to be made into ethanol and then shipped. Since ethanol is combustible, shipping is expensive. It will raise prices for us. We do not know how much. There is a dispute. But when there is a better way to do it that will not raise any gasoline prices, there is no reason we should not be for this.

So this amendment would basically be very simple. It would say that PADDs II and III, the corn-growing areas of the country which produce most of the ethanol, would, indeed, still have the mandate before them, but it would allow PADDs I and IV and V to be exempt.

This body has no reason not to exempt. We have already exempted Alaska and Hawaii because they are far away. The issue is not the amount of water or land that must be traversed; it is how far the ethanol has to be transported, and it has to be transported quite a long distance to get to these other areas.

So I join with my colleague, Senator CLINTON, to offer this amendment and to say the main reason we are against this is very simple: There are cheaper ways to do this. This will raise the price of gasoline, and it will be an unfair burden, an unfair tax, on many of the people who live in the two coastal areas of this country and in the Rocky Mountain States.

Every one of my colleagues from the PADD IV, PADD V, and PADD I areas are not representing their constituents unless they vote for this amendment because the benefit for the few corn growers in our area will be far exceeded by the detriment to every driver in the area in terms of increased gasoline prices.

Some say it will not raise prices much. Most of the studies are admittedly divided on that, but there is too much evidence that says they will. If there is a better way to do it that does not require a mandate, why not? I say to my free market colleagues on the other side of the aisle, it is very hypocritical to be for the free market except when it benefits a product in their State. To force ethanol on areas that could do it better in other ways is not free market.

Ethanol is already subsidized dramatically. I have supported money for our corn growers, even though we have very few in New York. But if we are going to do it, it ought to come out of the Treasury, not out of the pockets of drivers throughout the Nation. We are going to be making a major mistake. We will come back 3, 4, 5 years from now, if we pass the Frist-Daschle amendment, and we will regret it.

Remember the catastrophic tax? This is the same type of thing. I do not want any of my colleagues to say they did not know, because we are giving them warning loudly and clearly that the chances that this will raise gasoline prices significantly are too high to risk it, particularly when there are other ways to require the clean burning of fuels other than ethanol.

So for my colleague from Tennessee and for my colleague from South Dakota, who are both fine people, we are not exempting their areas. If they want to do it there, that is fine. It is not going to cost them much. It will help their corn growers and not cost their drivers much. But for all the people on the east coast, the west coast, and the Rocky Mountain States, this makes a huge difference.

I urge my colleagues to support this amendment, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent that the following be the only remaining second-degree amendments to No. 850 and that they be related to ethanol: No. 1, Schumer, which we are hearing now, 20 minutes equally divided; Senator BOXER, 1 hour equally divided on two amendments. I further ask unanimous consent that following debate on the Schumer amendment this evening, the amendment be temporarily set aside. I further ask consent that when the Senate resumes consideration of the Energy bill on Thursday, Senator BOXER be recognized—at that time, she be recognized in order to offer her first amendment.

Finally, I ask unanimous consent that following debate on the above listed amendments, they be temporarily set aside and the votes occur in relation to the amendments in the order offered at a time determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Democratic assistant leader.

Mr. REID. I ask that there be 2 minutes equally divided between the votes.

The PRESIDING OFFICER. Is there objection to modifying the unanimous consent request?

Mr. DOMENICI. I do not want to object, but I want to ask a question because I am rereading what I just read. It does not seem to me that it says there is a second Boxer amendment.

Mr. REID. Yes, she has two. It does say that.

Mr. DOMENICI. It says Senator BOXER be recognized to offer her first amendment.

Finally, I ask unanimous consent that following the debate on the above listed amendments—it does not say her second amendment.

Mr. REID. We want to make sure she gets to offer her second amendment.

Mr. DOMENICI. All right.

Mr. REID. Madam President, Senator BOXER has indicated she would be willing to come anytime in the morning. It is my understanding, after having spoken to the managers of the bill, that she would need to be here at approximately 10 a.m. tomorrow.

Mr. DOMENICI. That is about right.

Mr. REID. We will go into session at 9:30. Staff should advise Senator BOXER to be here at 10.

The PRESIDING OFFICER. Is there objection to the request?

Mr. REID. Madam President, maybe I did not make it clear, because it was not clear, that we are going to have three votes. I assumed we would go right into the first vote and not need the 2 minutes, but we are going to do this later, so Senator SCHUMER would also need the 2 minutes as with the two Boxer amendments.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New York has 5 minutes remaining.

Mr. DOMENICI. I don't see anyone here who wants to argue in opposition to you. We have already voted. I know the Senator from New York has great, innovative capacity and that he has proudly come up with an amendment the likes of which the Senate has never seen or heard, but I have an inclination that it is similar to what we have voted heretofore; I don't believe it has been offered to do anything other than cause significant mischief to the ethanol bill which is before the Senate, which I understand has very broad support.

So my argument would merely be, in all deference, to suggest that enough is enough, and just as we voted heretofore in opposition to the other amendments, we follow suit and vote against the amendment of the distinguished Senator from New York.

I only used 3 minutes and I yield back any other time in opposition. I thank the Senator for being generous in only using a small amount of the Senate's time this evening. I do mean the latter seriously.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I conclude, first, one difference with this amendment—it has the support of the ranking Democrat on the Energy and Natural Resources Committee, which the others did not. Second, it affects all of the coastal States, not just one or two.

On the other amendments there was a general opt-out. Those who advocate ethanol would say every State could opt out and we would not have an ethanol program. Here, the main States that care about it in PADDs II and III, half of the States in the country or less, would not be allowed to opt out. It would be cheaper for them.

I say to my good friend, "mischief"? We are creating mischief with this amendment? My goodness, the amendment my good friend the chairman of the Energy and Natural Resources Committee is creating affecting the drivers in more than half the country is enormous, all to help the corn growers and to help the ethanol industry. That is the kind of mischief that people do not like about Washington.

They are saying, you are telling me, Mr. John Q. Smith of New York, Miss Mary E. Jones of Oregon, Miss Young Teenager who just learned to drive from Denver, CO, they must use ethanol even if it costs more.

I see my good friend from Pennsylvania, one of the great upholders of free market principles—except when it comes to steel and corn.

Let's be realistic here.

Mr. SANTORUM. If the Senator from New York would yield, if he checks my vote on the last 2 amendments he would find I am a great defender of the free market principle and have joined the Senator from New York in support of those.

Mr. SCHUMER. I retract my remarks. I should not have assumed the worst.

Mr. DOMENICI. Will the Senator yield?

Mr. SCHUMER. I say to my friend from New Mexico who also upholds free market principles that this is not a free market bill. This is the opposite. Even the Wall Street Journal editorial page has come out against this proposal.

Can't we form a nice little coalition of the States poorly affected, the States that are hurt by this, plus all those who believe in the great free market, like my good friend from Pennsylvania on the issue of corn?

Mr. DOMENICI. I remind the Senator, in response to the Senator from New Mexico and his remarks about this being more of the same and enough is enough and his comment, one thing is different, and that is that the ranking minority member of the Energy Committee was on his amendment, I remind the Senator that same Senator has offered his own amendment and it did not get enough votes. If you get as many votes as he got, you are doing quite well. I don't know that you can expect more by saying he is on it since he has tried his best and failed already.

Mr. SCHUMER. Reclaiming my time, I simply say to my friend from New Mexico, the underlying is so bad and so egregious it is worth trying and trying again.

You know the old song: what made you think that ram could punch a hole in the dam? Everyone knows a ram can't punch a hole in the dam, but he had high hopes. He had high hopes, high, apple pie-in-the-sky hopes.

That is what we have here. We know if we persist, because we are right, we can do it, just like the ad, that could not move a banana tree plant in the same aforementioned song.

We are going to keep trying. We know it is an uphill fight. We do not think that is because we are wrong. We think that is because there is a lot of power on the other side. I guess our lack of strength and votes thus far is somewhat made up for in the passion we felt about this issue in these amendments.

If my colleague would like to conclude, I yield him whatever time remains.

Mr. DOMENICI. I am anxiously awaiting for you to decide you have used your time up. Have you?

Mr. SCHUMER. I ask the President if I have.

The PRESIDING OFFICER. The Senator has 54 seconds.

Mr. SCHUMER. In deference to my good friend from New Mexico, and in hopes that he will see the error of his ways, I yield back those 54 seconds.

Mr. DOMENICI. I am so thrilled. That is the first act of generosity that has occurred with reference to the chairman, who has been trying to get this bill completed. I am very thrilled.

Tomorrow we will have three votes, as I indicated, starting sometime after 10 o'clock. They will all be on ethanol. We have a bill with all kinds of things in it and we will just be finishing the subject matter of both votes on ethanol.

I do thank the minority managers for their efforts, in particular Senator REID, in trying to narrow down the number of amendments on the Democratic side, which they have done.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate be in a period of morning business and Senators be permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

## ENDANGERED SPECIES FUNDING ACT

Mr. ENZI. Mr. President, there is no question that the goals of the Endangered Species Act are noble. Wyoming residents understand the desire to maintain a healthy environment and to manage and protect wildlife. In fact, it is a business we have been in for generations. The fact that today's private lands are the primary habitat for a more abundant range of wildlife than can be found on Federal public lands is a strong testament to my Wyoming's residents' belief in protecting wildlife and their willingness to put those beliefs in action.

It was the State of Wyoming, not the Federal Government, that took action to find the believed extinct black-footed ferret. The State then used its own money to build a facility that was able to nurse the ferret back into existence. As a result of the State's unilateral efforts we now have several populations of black-footed ferrets spread across several States.

Unfortunately, the ESA has moved beyond its goals of recovery species and had become a tool to control development, to shut down small businesses, and to impose costs—in the form of unfunded mandates—on States, local governments and private individuals.

Then there are those other costs, the ones that can't be put into exact dollar figures but which seem to drain the already limited resources of private land owners. Whether it is the grizzly bear, black-footed ferret, Canada lynx, Preble's meadow jumping mouse, gray wolf, whooping crane, bald eagle, western snowy plover, sage grouse, Wyoming toad, Colorado pikeminnow, razorback sucker, Colorado butterfly plant, or a flower called the Ute Ladies' tresses, Wyoming residents have been forced to invest valuable man hours and personal property to ensure these plants, fish and animals are managed according to national priorities as set by non-resident Federal agencies.

It is only fair that Federal dollars be provided to pay for Federal priorities.

Imagine, as a home owner, that an endangered species is discovered in your yard. What if you were then denied the use of your garden, back yard and driveway, couldn't mow or pull any weeds and were told, oh, yes, you have to change jobs too. You'd be on the phone to your lawyer, your governor, your Senator and the President. And all of them would say, "It's the law and you are not entitled to a dime of compensation." Now how would you feel about the Endangered Species Act?

Granted, a farm or ranch is larger than your garden or back yard, but it is often the sole source of support for some of our Nation's hardworking families—and to have acres taken away and out of use without compensation would appear to violate the Constitution! My bill merely provides for just compensation for this, a Federal priority and mandate.

My bill would guarantee funding for implementing the ESA while requiring the Federal Government to pay for all the costs relating to the establishment of State management plans, monitoring, consultation and administration, surveys, conservation agreements, land acquisitions, losses from predation, losses in value to real or personal property or any other cost imposed for mitigating management of a species covered by the ESA.

When they see the real costs of these regulations and their impact on communities, the American public will, for the first time, realize what it costs to declare a species as endangered. It's one thing to dictate how someone else or another community spends its resources, and it's quite another to face those costs and lost opportunities yourself.

There should be no question in anyone's mind that the Endangered Species Act is an unfunded mandate. For far too many years States, local governments and individual property owners have borne the brunt of implementing the Federal Endangered Species Act. They stagger beneath the momentous weight of having to pay for the mismanagement and policy decisions of Federal bureaucracies.

One of the biggest problems with this statute is that the people forcing implementation have no real perspective on what it does or how it impacts States and local communities. It is very easy for them to sit back in their protected communities, surrounded by granite walls and pavement, and dictate to the West that our herds of cows and flocks of sheep are needed to feed the wolves they transplanted here, or that species preservation is more important than providing jobs for the community and putting food on the table. It's easy for them because they don't have to live with the results of their decisions. It doesn't cost them anything and they have nothing to lose. The only investment most Americans make in the Endangered Species Act is rhetoric.

I love Wyoming and the plants and animals that populate it. I would hate to see anything happen that would change the ability of Wyoming and individuals to continue managing its land with the kind of productivity that we now have.

The reality is, however, that the Endangered Species Act has become more of a hindrance than a help. Not one species has been recovered because of the rules and regulations imposed by this statute. What has had the biggest impact has been the people on the ground who are not allowed to make personal choices on how they manage their own property. If we continue to impose the costs and expenses on local landowners and communities, there will come a day when they are no longer there to make the wise and well informed management decisions that will make a real difference in the future existence of our Nation's endangered species.

I hope my colleagues will consider this bill and the costs it puts on individuals and recognize that the Endangered Species Act is a Federal priority and, as such, it should be a Federal cost, not a personal cost.

I yield the floor.

## COMMEMORATING THE 100TH ANNIVERSARY OF THE HISTORIC FRANKLIN HOTEL

Mr. DASCHLE. Mr. President, I would like to congratulate my dear friend Bill Walsh on the 100th anniversary of the Historic Franklin Hotel in Deadwood, SD.

The Franklin Hotel is truly a piece of living history and a jewel of the Black Hills. Throughout the decades, the Franklin has accommodated Presidents and celebrities, including Teddy Roosevelt, William Taft, John Wayne, and the great Babe Ruth. In addition to being a much-celebrated destination for visitors to the Black Hills, the Franklin has also served as a cornerstone for the community of Deadwood. The Franklin was a source of comfort for city dwellers during the Great Depression, and hosted the first radio broadcast in the State of South Dakota.

Today, the Franklin continues to be a place of celebration, as it accommodates thousands of tourists in the Black Hills each year. From viewing the Days of '76 Parade on the veranda, to celebrating St. Patrick's Day in Durty Nelly's, to a grand New Year's Eve celebration, the Franklin continues to be a source of great entertainment and a place where special memories are made daily.

The Historic Franklin Hotel is a true reminder of our rich Western heritage. Today, on its 100th anniversary, the task of maintaining and preserving this rich cultural treasure rests on the shoulders of Bill Walsh. If founder Harris Franklin were alive today, he would be proud of Bill's dedication to the preservation of this historic landmark. I extend my best wishes to Bill and the Franklin Hotel's Board of Directors, Jo Roebuck Pearson, Mike Trucano, Taffy Tucker, and Orville Bryan.

Congratulations to all of you as you celebrate this extraordinary milestone. We look forward to the next 100 years.

## RELEASE OF AUNG SAN SUU KYI

Mr. LUGAR. Mr. President, today I rise to affirm the call from Secretary of State Powell that military leaders in Burma release Aung San Suu Kyi from continued "protective custody."

The reimposition of custody of Daw Aung San Suu Kyi and the denial of requests by United States and other officials to meet with her and assure her good health and well-being are unconscionable. She should be released immediately and unconditionally. In addition to the release of other National League for Democracy leaders who have been arrested, I also call upon the government of Burma to allow the NLD to reopen its offices throughout the country.

The only hope for democracy in Burma will be found in dialogue among the National League for Democracy, the State Peace and Development Council and the ethnic nationalities. The arrest of Aung San Suu Kyi is a major setback to meaningful reform, and raises serious questions about whether the current ruling junta can be trusted to live up to any of its promises. The United States must continue to support Daw Aung San Suu Kyi and the NLD.

I am pleased that the Bush administration, in coordination with the United Nations Security Council and other members of the international community, is "considering all measures available in our efforts to foster this transition to democracy."

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on April 10, 2003. A day after taking part in the national Day of Silence to promote school safety for gay, lesbian, bisexual, and transgendered students, 16-year-old Caitlin Meuse was savagely attacked in Concord, MA. According to police, the attack may have been related to her participation in the event at her high school. Meuse had been struck by a blunt object such as a baseball bat or a tire iron. Knocked unconscious and bleeding from the head, Caitlin was found lying in the street by a neighbor near her home. She was held in intensive care at the hospital for 2 days and was treated for a head injury, missing front teeth, a fractured nose, deep cuts and severe facial swelling.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

## HONORING THE GIRL SCOUTS WHO HAVE RECEIVED THE SILVER AND GOLD AWARDS

• Mr. CHAFEE. Mr. President, I rise today to honor the Girl Scouts in Rhode Island who have received the Silver and Gold Awards for 2002.

I praise all of the hard work the girls have done throughout the year to receive their respective awards.

The Girl Scout Gold Award is the highest and most prestigious award a girl can earn in girl scouting. A girl who has earned the Girl Scout Gold Award can look forward to greater access to college scholarships, paid internships, and community awards.,

I ask that the list of the girls receiving the awards be printed in the RECORD.

The list follows.

### GOLD AWARD RECIPIENTS

Allison Arden, Erin Blackbird, Stephanie Bobola, Laura Cochran, Rachel Cooper, Marie De Noia, Jillian Dean, Kellie Deschene, Mary Dolan, Feliscia Facenda, Amanda Fandetti, Sarah Gautreau, Milena Gianfrancesco, and Melissa Gibb.

Allison Gibbs, Rachel Glidden, Heather Hopkins, Kimberly McCarthy, Meghan McDermott, Maria Ousterhout, Jessica Piemonte, Brittany Rousseau, Martha Seeger, Brittany Smith, Meredith Uhl, Clara Weinstock, April Whiting, and Stacia Wierzbicki.

### SILVER AWARD RECIPIENTS

Jenna Alessandro, Danielle Almeida, Ludovica Almeida, Whitney Anderson, Heather Arzoomanian, Lauren Asermely, Amanda Ayrassran, Ashley Badeau, Rebecca Bessette, Lauren Bray, Caroline Canning, Sara Caron, Julie Correia, Gina Cosimano, Meagan Covino, Kara Creelman, Katherine Crossley, Amanda Crough, Shaina Curran, Jacqueline Cyr, Brenna De Cotis, and Justine De Cotis.

Danielle Dube, Katie Flynn, Lauren Gainor, Sarah Gardner, Christa Gignac, Julie Gillard, Kristen Girard, Jennifer Gregson, Julie Hall, Rebecca Hamel, Nicole Henderson, Lee Ann Hennessey, Hannah Hughes, Cailiin Humphreys, Alex Innocenti, Meaghan Kennedy, Alexandra Klara, Keeley Klitz, Elizabeth Kubiak, Emily Lonardo, Christina Lorenzo, and Sarah Lozy.

Jessica Martin, Lauren McCormick, Molly McKeen, Kasie McMahon, Peggy McQuaid, Amanda Mitchell, Ashley Mitchell, Ashley Mogayzel, Danielle Morin, Danielle Mott, Amy Mullen, Miranda Nero, Shaina O'Malley, Diana Otto, Lauren Palmer, Brianna Petty, Hanna Phelan, Ashley Pincins, Stephanie Pitassi, Brittany Pope, Allison Powell, and Amanda Ricci.

Genie Rudolph, Lauren Ruggieri, Laura Saltzman, Kara Schnabel, Amanda Shurtleff, Katelyn Singleton, Molly Smith, Kirsten Stickel, Katherine Swiczewicz, Molly Tierney, Andrea Tomasso, Lauren Turgeon, Marissa Varin, Kayla Wall, Christina Washington, Kayla Wilcox, Katie Williams, Jessica Woolmington, Taylor Woolmington, Amanda Wordell, Jessika Wordell.•

## HONORING QUINCY JONES

• Ms. CANTWELL. Mr. President, 2003 is the officially designated Year of the Blues. As we now look to music and the arts to guide us through trying times, it is an honor to pay tribute to an international monument to music: Quincy Delight Jones, Jr. and his passion for music education.

He is a veritable Renaissance Man, an orchestrator, arranger, conductor, composer, magazine publisher, executive, writer—and music, film and television producer. In his far-flung enterprises, he is the very modern model of a major music mogul. It will take another artist decades to approach his record 27 Grammy Awards and Kennedy Center Honors. And it can be said without exaggeration that the music of Quincy Jones is otherworldly: Apollo 11 astronaut Buzz Aldrin chose the Quincy Jones-Frank Sinatra rendition of "Fly Me to the Moon" as the first song to be played on lunar soil.

Quincy Jones's own musical odyssey began in earnest in Seattle, where his family had moved to seek better job opportunities in the industrial boom of World War II America. Still trapped in poverty, Quincy and his brother broke into a Seattle recreation hall in search of a free meal, but stumbled upon an upright piano. Merely riffing on the ivory keys summoned pleasure in an instant. Playing the piano, he wrote later, enabled him to "hope and cope."

Early on Quincy Jones could straddle styles of music—and the egos of musicians. In Seattle, as a student in integrated schools and a band member with Ray Charles playing gigs at black and white venues, he learned to gracefully balance the cusp between commerce and art. He is, as Duke Ellington would say, "beyond category."

Quincy, says arranger Bill Mathieu, is "a culminator . . . his music contains nearly everything of value that has been done before." He was—and is—an innovator, able, as Washington University Professor Gerald Early wrote, to shape the world artistically, breaking down barriers and moving across boundaries. "Jones has become a virtual epoch in American popular cultural history, a person of such importance and achievement that it is difficult to imagine the era without him."

His greatest contribution to our times may be as a passionate proselytizer for music education in the classroom. Half a century ago, in his first forays abroad, Quincy made the startling discovery that people around the globe knew and cherished American music—sometimes more than Americans themselves did. So in his early twenties, even as he was inventing new music, he made it his mission to teach and preserve the legacy of our musical heritage.

Music consists of only 12 notes, yet in its infinite varieties it beguiles, bewitches and beckons us. It can, as Leonard Bernstein observed, name the unnamble and communicate the unknowable. Music not only entertains and uplifts—it edifies and empowers. To know the history of American music is to grasp the history of America.

Duke Ellington divided the entire musical opus into two categories: Good and Bad. Thomas Jefferson, perhaps the most lyrical of the founding fathers and himself a composer, believed not only in public education, but that music and musical training were essential components of good citizenship.

President John F. Kennedy knew that arts were good for the nation, good for the soul. "The life of the arts, far from being an interruption, a distraction, in the life of a nation, is close to the center of a nation's purpose—and is a test of the quality of a nation's civilization."

Widely lauded children's television programming such as Sesame Street and Mr. Roger's Neighborhood have long discovered that the lessons of learning and of life are best realized when music is attached to them. As the late, beloved Fred Rogers often claimed about his early piano playing, "By the time I was five years old, I could laugh or be very angry through the ends of my fingers."

"If you don't get kids in kindergarten" cautions Fred Anton, the CEO of Warner Bros. Publications, "you won't get them later in high school. If you can reach children when they are young, music will stay with them forever." To that end, Warner Bros. has spent four years bringing together pioneers in music, linguistics, the sciences and fine arts and asked them to reinvigorate music education. Music education, from pre-K through high school, benefits everyone, says Anton, not just future virtuosos: "You are going to develop critical thinking skills and better team players. And this won't be the dreary music programs of 20 or 40 years ago. This is for today's kids."

A classic musical piece such as "Follow the Drinking Gourd" incorporates the new thinking. Children learn that in the Civil War era slaves sang code songs to each other, passing along messages of where to escape and find safe houses. The Drinking Gourd was the North Star. By teaching the kids the story—the "Behind the Music" vignette—it brings them into the song, while at the same time teaches lessons in history, social studies, and even astronomy.

Whether a genius such as Quincy Jones or an enthusiastic student embracing early violin lessons, artists at all levels savor the undiluted joy of the musical mind. It is the flow experience, where passion and precision unite, and one loses track of time and space. In a musical mode, dreamers dream and the impossible seems possible.

Music stirs our creative impulses—and it invariably contributes to our math, linguistic and science learning. The most ardent champion of music education today would indubitably be Albert Einstein. When asked about the theory of relativity, he explained, "It occurred to me by intuition, and music was the driving force behind that intuition. My discovery was the result of musical perception."

Harvard University's Dr. Howard Gardner, whose landmark research in Mind Intelligences was first published 20 years ago, asserts that all of us are gifted with music in the brain, an intelligence that when tapped—especially when we are young—generates bountiful lifetime rewards in all of our other academic and social endeavors.

We have empirical data linking music education to higher test scores, lower school dropout rates, higher cognitive skills and an increased ability for students to analyze and evaluate information. A University of California School for Medicine, San Francisco paper concluded that learning to play an instrument "refines the development of the brain and entire neuromuscular system."

Other brain research contends that music and arts activities develop the intellect, lead to higher test results in mathematics, science and history and strengthen synapses and spatial reasoning in all brain systems.

Students exposed to music education are more disciplined, dexterous, coordinated, creative and self-assured. They listen better, learn better, write better and speak better. Or as Charlie Parker would have succinctly put it, "They get in the groove."

Yet despite the overwhelming scientific and anecdotal evidence showcasing the benefits of music, music education programs throughout the country are in peril. Some fine arts education budgets have been drastically cut; others have been eliminated entirely. The consequences will harm both our music industry and concert halls, but even more seriously our nation's youth.

As Dr. Jean Houston implored 15 years ago, long before the latest rounds of budget cuts, "Children without access to an arts program are actually damaging their brain. They are not being exposed to non-verbal modalities which help them learn skills like reading, writing and math much more easily."

Which is why Quincy Jones, Warner Bros. Publications, and other titans of the music world are joining the battle. The fight to initiate and restore arts and music education to our schools needs a volunteer army of teachers, researchers, parents, elected officials, school boards and legislators in formation with the arts industries and artists themselves.

For the Year of the Blues, Seattle's Experience Music Project is partnering with the Blues Foundation in Memphis and PBS for a multi-media project that will include a television series, The Blues, executive produced by Martin Scorsese, a public radio series, a comprehensive Web site and education program, a companion book, DVDs and boxed CD set, and a traveling interactive exhibit.

Today's advanced multimedia technology will seek to capture the spirit and times of the blues, an era when at myriad clubs jazz greats would come in after working hours and fold into jam sessions. Guests, and the musicians themselves, were treated to wild flights of fantasy and improvisation. On any given night the likes of Sydney Bechet, Jack Teagarden, Louis and Lil Armstrong, and Bud Freeman would sit together and play the music they felt. It was the dawn of great female artists: Dinah Washington, Billie Holliday and Bessie Smith.

Music in all its incarnations is one of the most eloquent and memorable reflections of our loud and boisterous democracy. Jazz and the blues represented the vibrant merger of African music, plantation songs, ragtime and the plaintive yearnings of what was then known as hillbilly music. It follows that from jazz, the rivers of rock and roll, hip-hop and rap flowed.

The genius of Quincy Jones is his ability to siphon off music from all eras and seemingly reinvent it. It is as if he were a scientist, extrapolating findings from all disciplines and effortlessly merging them into brand new medical breakthroughs. The challenge for educators is to build upon existing layers of history, knowledge and research to structure a new paradigm, deftly blending the elements to produce the finest school system in the world.

Artists such as Quincy Jones have a gift for revering music's past, while keenly anticipating its future. For as Nadia Boulanger, possibly the greatest music teacher of the 20th century said, "A person's music can be no more or less than they are as a human being."●

● Mr. WYDEN. Mr. President, I rise today to pay tribute to Ann Reiner from Portland, OR, a former member of the Oncology Nursing Society's Board of Directors. Ann has been helping individuals with cancer and their families for 20 years. Currently, Ann is the Program Director for Cancer Services and the Director of Outreach and Education for the Cancer Institute at the Oregon Health and Science University, OHSU. Ann is also an Instructor at the School of Nursing at OHSU.

Since 1983, Ann has been a member of the Oncology Nursing Society and most recently stepped down from serving on its Board of Directors. The Oncology Nursing Society, the largest professional oncology group in the United States composed of more than 30,000 nurses and other health professionals, exists to promote excellence in oncology nursing and the provision of quality care to those individuals affected by cancer. As part of its mission, the Society honors and maintains nursing's historical and essential commitment to advocacy for the public good.

Ann Reiner has received numerous awards for her work on behalf of individuals with cancer, including a Doctoral Degree in Cancer Nursing Scholarship from the American Cancer Society and a Fellow at the Oncology Nursing Society's Inaugural Leadership Development Institute. In addition, Ann is a member of the Institutional Review Board at OSHU, a member of the Breast and Cervical Cancer Program Medical Advisory Committee with the Oregon Department of Health, and a member and coordinator for the Portland area Citywide Annual Skin Cancer Screening.

A number of studies and articles that Ann has written on quality cancer care and the nursing shortage have been published in distinguished publications such as Cancer Prevention, Detection and Control: A Nursing Perspective, Puget Sound Chapter Oncology Nursing Society Quarterly, Manual of Patient Care Standards, Blood, The Cancer Experience: Nursing Diagnosis and Management, Journal of Nursing Quality Assurance, and the Regional Oncology Nurses' Quarterly. Since the 1980s, Ann has given over seventy presentations and has presented thirty papers to national audiences on a host of cancer care, health, and nursing shortage issues.

Over the last 10 years, the setting where treatment for cancer is provided has changed dramatically. An estimated 80 percent of all Americans receive cancer care in community settings, including cancer centers, physicians' offices, and hospital outpatient departments. Treatment regimens are as complex, if not more so, than regimens given in the inpatient setting a few short years ago. Oncology nurses, like Ann, are on the front lines of the provision of quality cancer care for individuals with cancer each and everyday. Nurses are involved in the care of a cancer patient from the beginning through the end of treatment. Oncology nurses are the front-line providers of care by administering chemotherapy, managing patient therapies and side effects, working with insurance companies to ensure that patients receive the appropriate treatment, and provide counseling to patients and family members, in addition to many other daily acts on behalf of cancer patients.

With an increasing number of people with cancer needing high quality health care coupled with an inadequate nursing workforce, our Nation could quickly face a cancer care crises of serious proportion, limiting access to quality cancer care, particularly in traditionally underserved areas. Without an adequate supply of nurses there will not be enough qualified oncology nurses to provide quality cancer care to a growing population of people in need. I was proud to support the passage of the Nurse Reinvestment Act in the 107th Congress. This important legislation expanded and implemented programs to address the multiple problems contributing to the nationwide nursing shortage, including the decline in nursing student enrollments, shortage of faculty, and dissatisfaction with nurse workplace environments.

I commend Ann Reiner and the Oncology Nursing Society for all of their hard work to prevent and reduce suffering from cancer and to improve the lives of those 1.3 million Americans who will be diagnosed with cancer in 2003. I wish Ann and the Oncology Nursing Society the best of luck in all of their endeavors.●

## HONORING A MOMENT IN HISTORY: FIFTY YEARS SINCE MAN FIRST REACHED THE ROOF OF THE WORLD

Mrs. FEINSTEIN. Mr. President, May 29, 2003 marks a true milestone, a triumph of the human spirit. On that day, 50 years earlier, two young men—Edmund Hillary and Tenzing Norgay—became the first to reach the highest point on earth, the fabled summit of Mt. Everest.

At 29,028 feet above sea level, Everest had defied 15 earlier attempts, including the doomed expedition of George Mallory, in 1924.

Some have called Everest the Third Pole, after the North Pole, first reached in 1909, and the South Pole, reached in 1911.

Small wonder, then, that these two intrepid climbers—the lanky beekeeper from New Zealand and the sprightly Sherpa born in Tibet—became instant celebrities back in 1953, and have since evolved into legendary figures.

The son of a yak herder, Tenzing Norgay, who died in 1986, became the first humbly born Asian to rise to global fame entirely through his own efforts and sheer willpower. In many ways his story has a strong American flavor to it—with enough determination and hard work, anyone can achieve anything.

Norgay spoke 13 languages but could neither read nor write. He always told his children: "I climbed Everest so you wouldn't have to." His son, Norbu, now a resident of San Francisco, took these words to heart. College became his Everest.

Equally extraordinary is how Hillary and Norgay used their fame not for personal gain, but as champions of their people and, later, to help and protect the unique culture of the Sherpas.

For nearly 25 years now, I have been honored to consider Sir Edmund Hillary my friend. In September of 1981, he was with my husband when he fulfilled a dream: entering the beautiful Kanshung valley, in an attempt to climb the east face of Everest from Tibet.

In concert with the American Himalayan Foundation, Sir Edmund's Himalayan Trust, which was established in 1962, has been leading the effort to build schools, bridges, hospitals, and micro hydro plants, out of his deep and lasting affection for the Sherpa people.

To date, they have built 27 schools where once there were none. I am not talking about just funding alone—Sir Edmund actually took part in the actual construction of these and other buildings. Here is a man who puts the divots back. Just ask the Sherpa children who grew up tending yaks who are now doctors, pilots and investment bankers.

The Himalayan Trust has also built two hospitals, one in Khunde and one in Paphlu, and 11 village clinics that provide health care for the Sherpa communities and trekkers alike.

The Trust has worked to combat the deforestation of the Khumbu, caused largely by tourism, by planting more than 1 million trees, to restore the sacred monasteries at Tengbouche and Thame—central sites for the spirituality of the Sherpas, and in the establishment, in 1976, of the Sagarmatha National Park. Sagarmatha is the Nepali name for Mount Everest.

At 83 years old, New Zealand's former High Commissioner to India is still going strong. For half a century now he has been one of the enduring figures of our time.

He has taught me and so many others about the simple yet majestic power of the Himalayas and the marvelous but far too often forgotten people whose ancient culture is tied so closely to those amazing mountains.

Being the first to reach the top of the world would ensure anyone's name in the history books—and Hillary and Norgay achieved that the moment news spread of their heroic accomplishment.

But I believe had they not been the men they were—soft spoken and down to earth, devoted to actions and example, to helping others rather than themselves—then they would have ended up as mere footnotes.

Instead, the names of Hillary and Norgay remain an inspiration to people around the world. And I am absolutely certain that the same will be true 50 years from now, when it comes time to celebrate the 100th anniversary, and for many other anniversaries to follow.

## MESSAGE FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

## MEASURE REFERRED

The following joint resolution was read the first time and the second time by unanimous consent, and referred as indicated:

H.J. Res. 4. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1174. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2476. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Utah: Final Authorization of State Hazardous Waste Management Program Revision (FRL 7505–1)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2477. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District (FRL 7505–5)" received on June 1, 2003; to the Committee on Energy and Natural Resources.

EC–2478. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and South Coast Air Quality Management District (FRL 7495–4)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2479. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee Implementation Plan (FRL 7506–8)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2480. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to Maintenance Plan for Northern Kentucky (FRL 7505–3)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2481. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Georgia Update of Materials Incorporated by Reference (FRL 7500–9)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2482. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Removal of Alternative Emission Reduction Limitations (FRL 7504–6)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2483. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulation to Prevent and Control Particulate Matter Air Pollution From Manufacturing Processes and Associated Operations (FRL 7503–9)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2484. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulations to Prevent and Control Air Pollution from the Emission of Sulfur Oxides (FRL 7500–2)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2485. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to the Control of Volatile Organic Compounds from Chemical Production and Polytetrafluoroethylene Installations (FRL 7503–7)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2486. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Colorado; State Implementation Plan Correction (FRL 7503–4)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2487. A communication from the Inspector General, Environmental Protection Agency, transmitting, pursuant to law, the Annual Report of the Office Inspector General work in the Environmental Protection Agency's Superfund program for Fiscal Year 2002; to the Committee on Environment and Public Works.

EC–2488. A communication from the Director, Office of Congressional Affairs, Office of the General Counsel, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "General License for the Import of Major Nuclear Reactor Components (RIN 3150–AH21)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2489. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Establishment of Nonessential Experimental Population Status and Reintroduction of Black-Footed Ferrets in South-Central South Dakota (1018–AI60)" received on May 20, 2003; to the Committee on Environment and Public Works.

EC–2490. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal-Aid Highway Systems (RIN 2125–AD74)" received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2491. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency (EPA), transmitting, the issuance of several documents that are not regulations that are related to EPA regulatory programs, received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2492. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions, and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Section, Section 112(g) and 112(j)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2493. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (FRL 7502–7)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2494. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions from Existing Small Municipal Waste Combustion Units (FRL 7503–2)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2495. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont, Negative Declaration (FRL 7502–1)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2496. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1998: State New Hampshire Department of Environmental Services (FRL 7490–6)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2497. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to Regional Haze Rule to Incorporate Sulfur Dioxide Milestones and Blacktop Emissions Trading Program for Nine Western States and Eligible Indian Tribes Within the Geographic Area (FRL 7504–4)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2498. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Stationary Gas Turbines (FRL 7502–4)" received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2499. A communication from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Rule 13b2–2 under the Securities Exchange Act of 1934, Representatives and conduct in connection with the preparation of required reports and documents (RIN 3235–AI67)" received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2500. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Interpretation of Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934 (Exchange Act Release No. 47910)" received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2501. A communication from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Regulation CC (Availability of Funds and Collection of Checks) (Doc No. R-1150)" received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2502. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992 and Kosovo in Executive Order 13088 on June 9, 1998, received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2503. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report relative to transactions involving U.S. exports to Morocco, received on June 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2504. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report relative to transactions involving U.S. exports to Taiwan, received on June 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2505. A communication from the Attorney/Advisor, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Telecommunications Relay Services and the Americans with Disabilities Act 1990 (CC Doc. No. 90-571, FCC 02-269)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2506. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Schools and Libraries Universal Service Support Mechanism (CC Doc. 02-6, FCC 03-101)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2507. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Learjet Model 45 Airplanes; Docket no. 2003–NM–88 (2120–AA64)(2003–0174)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2508. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (98)' Amdt. No. 3055 (2120–AA65)(2003–0021)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2509. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (31); Amdt. No. 3056 (2120–AA65)(2003–0022)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2510. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Various Surplus Military Airplanes Manufactured by the Consolidated, Consolidated Vultee, and Corvair; Docket no. 2003–NM–23 (2120–AA64)(2003–0173)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2511. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (29); Amdt No. 3053 (2120–AA65)(2003–0023)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2512. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace at Richfield Municipal airports, Richfield, UT; Docket No. FAA–01–ANM–16 (2120–AA66)(2003–0079)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2513. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (26); Amdt No. 3054 (2120–AA65)(2003–0024)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2514. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D Airspace; Fome, NY; Docket no. 03–AEA–02 (2120–AA66)(2003–0080)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2515. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Herington, KS; Docket no. 03–ACE–10 (2120–AA66)(2003–0083)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2516. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Larned, KS; Docket no. 03–ACE–11 (2120–AA66)(2003–0084)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2517. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Surface Area Airspace; and Modification of Class D Airspace; Topeka, Forbes Field, KS; CORRECTION; Docket No. 03–ACE–5 (2120–AA66)(2003–0081)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2518. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Angel Fire Airport, Angel Fire NM; docket no. 2001–ASW–13 (2120–AA66)(2003–0082)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2519. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Lebanon, MO; Docket no. 03–ACE–6 (2120–AA66)(2003–0089)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2520. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace, Aes, IA; Docket no. 03–ACE–7 (2120–AA66)(2003–0088)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2521. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; and Modification of Class E Airspace; Topeka, Philip Billard Municipal Airport, KS; Docket no. 03–ACE–4 (2120–AA66)(2003–0087)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2522. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace, Ankeny, IA; docket no. 03–ACE–8 (2120–AA66)(2003–0086)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2523. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Clarinda, IA; Docket No. 03–ACE–12 (2120–AA66)(2003–0085)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2524. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: (Including 2 Regulations) [COTP Philadelphia 03–005] [CGD01–03–060] (1625–AA00)(2003–0023)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2525. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: (Including 3 regulations) [COTP San Francisco Bay 03–002] [CGD13–02–020] [CGD13–03–008]" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2526. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Mystic River, CT (CGD01–03–047)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2527. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulations; SLR; Atlantic Ocean, Point Pleasant Beach to Bay Head, New Jersey (1625–AA08)(2003–0007)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2528. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulation: SLR; Delaware River, PEA Patch Island to Delaware City, Delaware (CGD05–03–013)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2529. A communication from the Deputy Assistant, Operations, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Correction to cross reference in the Regulatory text of 50 CFR part 679.20 paragraph redesignations (0679)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2530. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States, Scup Fishery; Gear Restricted Area Exemptions Program (RIN 0648–AQ30)" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2531. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure prohibiting directed fishing of polluck in the West Yakutat District of the Gulf of Alaska (GOA), Effective from 1200 hours Alaska local time (A.L.t.) on April 27, 2003 through 2400 hours A.L.t., December 31, 2003" received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2532. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies; Mitigation of Orbital Debris (IB Doc. No. 02–34 and 02–54)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2533. A communication from the Under Secretary of Transportation for Security, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report relative to fulfilling the requirements of Section 423(b) of the Homeland Security Act, received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2534. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the 2003 Annual Report of the Supplemental Security Income Program, received on June 1, 2003; to the Committee on Finance.

EC–2535. A communication from the Secretary of the Health and Human Services, transmitting, pursuant to law, the Report to Congress on state payment limitations for Medicare cost for Medicare cost sharing, received on June 1, 2003; to the Committee on Finance.

EC–2536. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System for Long-Term Care Hospitable: Annual Payment Rate Updates and Policy Changes (RIN 0938–AL92)" received on June 1, 2003; to the Committee on Finance.

EC–2537. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 355—Change Circumstances (Rev. Rul. 2003–55)" received on May 21, 2003; to the Committee on Finance.

EC–2538. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 355 Requirement—Going own way (Rev. Rul. 2003–52)" received on May 21, 2003; to the Committee on Finance.

EC–2539. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Time for Making Certain Plan Amendments (Rev. Proc. 2002–73)" received on May 21, 2003; to the Committee on Finance.

EC–2540. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice (Notice 2003–14)" received on May 21, 2003; to the Committee on Finance.

EC–2541. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Cosmetic Procedures and Medical Care Under 213 (Revenue Ruling 2003–57)" received on May 21, 2003; to the Committee on Finance.

EC–2542. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Earned Income Credit and Tribal Child Placements (Notice 2003–28)" received on May 21, 2003; to the Committee on Finance.

EC–2543. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—June 2003 (Rev. Rul 2003–60)" received on May 21, 2003; to the Committee on Finance.

EC–2544. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Commercial Revitalization Deduction (Rev. Proc. 2003–38)" received on May 21, 2003; to the Committee on Finance.

EC–2545. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the Fiscal Year 2002 Accounting of Drug Control Funds, received on June 1, 2003; to the Committee on the Judiciary.

EC–2546. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "First Interim Report on the Informatics for Diabetes Education and Telemedicine (IDEATel) Demonstrations" received on May 21, 2003; to the Committee on Health, Education, Labor, and Pensions.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENZI:

S. 1178. A bill to amend the Endangered Species Act of 1973 to require the Federal Government to assume all costs relating to implementation of and compliance with that Act; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER:

S. 1179. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. Baucus):

S. 1180. A bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. Lautenberg, and Mr. Akaka):

S. 1181. A bill to promote youth financial education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCONNELL (for himself, Mrs. Feinstein, Mr. McCain, Mr. Leahy, Mr. Specter, Mr. Kennedy, Ms. Mikulski, Mr. Kyl, Mr. Daschle, Mr. Santorum, and Mr. Brownback):

S. 1182. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on Foreign Relations.

By Mr. KYL (for himself and Mr. Wyden):

S. 1183. A bill to develop and deploy technologies to defeat Internet jamming and censorship, and for other purposes; to the Committee on Foreign Relations.

By Mr. SMITH (for himself, Mrs. Clinton, Mrs. Murray, Mr. Fitzgerald, and Mr. Lautenberg):

S. 1184. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THOMAS (for himself, Mr. Harkin, Mr. Domenici, Mr. Bingaman, Mr. Roberts, Mr. Dayton, Mr. Smith, Ms. Cantwell, Mr. Inouye, Mr. Burns, Mr. Johnson, Mr. Enzi, Mrs. Lincoln, Ms. Collins, Mr. Daschle, Mr. Hagel, and Mr. Conrad):

S. 1185. A bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for medicare beneficiaries who reside in rural areas, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS:

S. 1186. A bill to provide for a reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. CLINTON:

S. 1187. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to require that ready-to-eat meat or poultry products that are not produced under a scientifically validated program to address Listeria monocytogenes be required to bear a label advising pregnant women and other at-risk consumers of the recommendations of the Department of Agriculture and the Food and Drug Administration regarding consumption of ready-to-eat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRYOR (for himself, Mr. KENNEDY, Mr. EDWARDS, Mrs. LINCOLN, Mr. GRAHAM of Florida, Mr. REED, Mr. BINGAMAN, Mr. LEAHY, Ms. LANDRIEU, Mr. JEFFORDS, Mr. DURBIN, Mr. BAUCUS, Mr. CARPER, and Mrs. MURRAY):

S. Res. 159. A resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. CRAIG, Ms. LANDRIEU, Ms. CANTWELL, and Mr. DEWINE):

S. Con. Res. 48. A concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging funding for epilepsy research and service programs; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. DODD, Mr. LAUTENBERG, Mr. WYDEN, Mr. COCHRAN, Mr. CARPER, Mr. INOUYE, Mr. BREAUX, Mr. SUNUNU , Mrs. BOXER, Mr. AKAKA, Mr. REED, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, and Mrs. FEINSTEIN):

S. Con. Res. 49. A concurrent resolution designating the week of June 9, 2003, as National Oceans Week and urging the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 104

At the request of Mr. HOLLINGS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 104, a bill to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

### S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

### S. 221

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 221, a bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes.

### S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

### S. 281

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 281, a bill to amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes, to provide for training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, and for other purposes.

### S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

### S. 392

At the request of Mr. REID, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

### S. 459

At the request of Mr. LEAHY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 459, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

### S. 518

At the request of Ms. COLLINS, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

### S. 560

At the request of Mr. CRAIG, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

### S. 569

At the request of Mr. ENSIGN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

### S. 632

At the request of Mr. CRAIG, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 632, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease.

### S. 641

At the request of Mrs. LINCOLN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 641, a bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

### S. 652

At the request of Mr. CHAFEE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

### S. 780

At the request of Mr. LOTT, the names of the Senator from Missouri (Mr. BOND) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

### S. 816

At the request of Mr. CONRAD, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 816, a bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

### S. 852

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

### S. 874

At the request of Mr. TALENT, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 874, a bill to amend title

XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 985

At the request of Mr. DODD, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Michigan (Ms. STABENOW) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1027

At the request of Mr. NELSON of Nebraska, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1027, a bill to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.

S. 1076

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1082

At the request of Mr. BROWNBACK, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1082, a bill to provide support for democracy in Iran.

S. 1152

At the request of Mr. MCCAIN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1152, a bill to reauthorize the United States Fire Administration, and for other purposes.

S. 1157

At the request of Mr. BROWNBACK, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

S. 1162

At the request of Mrs. LINCOLN, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1162

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1162, supra.

S. 1172

At the request of Mr. FRIST, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1172, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1173

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1173, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1174

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1174, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 1179. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I come to the floor today to introduce the Medicare Chronic Care Improvement Act of 2003. For the last three decades, the Medicare program has fulfilled our promise to care for older Americans who have spent a lifetime working and contributing to our Nation's economy. Currently, 41 million seniors depend on Medicare for critical health care assistance. Those seniors have been asking Congress for many years to strengthen Medicare. This Congress, we must respond by taking action. We must enact legislation this year that fills the gaps in Medicare.

When Congress and President Johnson designed the Medicare program in 1965, they could not have foreseen the health care system that exists today. New technology, advances in research and an aging population have changed both what beneficiaries need and the system that is responding to those needs. One of the unforseen implications of these changes is a growing number of Americans living with chronic conditions.

In 2000, over 45 percent of Americans had a chronic condition. That number continues to grow and, by 2020, more than 48 percent or 157 million Americans, will have at least one chronic condition. Chronic conditions encompass an array of health conditions that are persistent, recurring, and cannot be cured. They include severely impairing conditions like Alzheimer's disease, congestive heart failure, chronic obstructive pulmonary disease, diabetes, depression, hypertension, and arthritis.

Treating serious and disabling chronic conditions is the highest cost and fastest growing segment of health care. People with chronic conditions represent 78 percent of all health care spending. These people are the heaviest users of home health care visits, prescriptions, physician visits, and inpatient stays.

As we grow older, the chances of developing a chronic condition increase. Thus, it should be no surprise that nearly 80 percent of Medicare beneficiaries have at least one chronic condition and two-thirds have two or more chronic conditions. However, the Medicare fee-for-service program does not currently cover many of the services needed to provide quality care to beneficiaries who are managing complex chronic conditions.

To meet the needs of these individuals, our Medicare fee-for-service system must reflect a person-centered, system-oriented approach to care. Payers and providers who serve the same person must be empowered to work together to help people with chronic conditions prevent, delay, or minimize disease and disability progression and maximize their health and well being.

That is why I am here to reintroduce a much needed solution—the Medicare Chronic Care Improvement Act of 2003. This bill establishes a comprehensive plan to improve and strengthen the Medicare fee-for-service and Medicare+Choice systems by generating better health outcomes for beneficiaries with chronic conditions and increasing efficiency.

This bill would achieve these results by, first, helping to prevent, delay, and minimize the progression of chronic conditions by authorizing the Secretary of Health and Human Services to expand coverage of preventive health benefits. The bill permits providers to waive deductibles and co-payments for preventive and wellness services currently covered by Medicare and streamlines the process of approving new preventive benefits.

Second, this bill provides a person-centered, system-oriented approach to care for this extremely vulnerable segment of our population by expanding Medicare coverage to include assessment, care-coordination, self-management services, and patient and family caregiver education and counseling.

For more detail, I am also entering a section-by-section bill summary into the CONGRESSIONAL RECORD following this statement.

The Medicare Chronic Care Improvement Act provides a comprehensive solution to improving the quality of life and health for millions of Americans who are struggling with serious and disabling chronic conditions. Not only that, it has the potential to save the Medicare program money, by better managing and treating chronic conditions before costly complications result. That is good for seniors and good for Medicare—a win-win situation.

It is time to step up to the plate and fulfill our obligation to our Nation's most vulnerable citizens. Improving Medicare is the right thing to do, but only if we do it the right way. I believe that this bill is a critical component of the right recipe for strengthening the Medicare program for today and tomorrow's beneficiaries. Unlike the administration's Medicare reform plan, the Medicare Chronic Care Improvement Act gives beneficiaries better care while maintaining consumer choice and improving the program's efficiency. Because these are the results that West Virginians want, I will fight to include the provisions of this bill in any Medicare reform package that moves through the Finance Committee or the Senate floor.

I would like the record to reflect that the following groups publicly support this legislation: Alzheimer's Association; American Geriatrics Society; Center for Medicare Advocacy; Families USA; and Medicare Rights Center.

National Chronic Care Consortium, representing such organizations as: Aging and Disability Services Administration, State of Washington (Olympia, WA); Aging in America, Inc (Bronx, NY); Albert Einstein Healthcare Network (Philadelphia, PA); Area Agency on Aging 10B Inc. (Akron, OH); Baylor Health Care System (Dallas, TX); Benjamin Rose (Cleveland, OH); Beth Abraham Family of Health Services (Bronx, NY); Blue Cross & Blue Shield of Minnesota (Eagan, MN); Carle Foundation Hospital-Health Systems Research Center (Mahomet, IL); Catholic Health Initiatives (Parker, CO); Centura Health (Denver, CO); Community Health Partnership, Inc. (Eau Claire, WI); Fairview Health Services/Enbenezer (Minneapolis, MN); Halleland Health Consulting (Minneapolis, MN); Hebrew Home and Hospital (Hartford, CT); Highmark Blue Cross Blue Shield (Pittsburgh, PA); Inglis Innovative Services (Philadelphia, PA); Lancaster General Hospital (Lancaster, PA); Masonicare (Wallingford, CT); Mercy Medical Center—North Iowa (Mason City, IA); MetroHealth System (Cleveland, OH); Metropolitan Jewish Health System (Brooklyn, NY); Minnesota Senior Health Options (MSHO) (St. Paul, MN); Motion Picture and Television Fund (Woodland Hills, CA); Northeast Health (Troy, NY); Presbyterian SeniorCare (Pittsburgh, PA); Saint Michael's Hospital (Stevens Point, WI); SCAN (Long Beach, CA); Sierra Health Services (Las Vegas, NV); Summa Health System (Akron, OH); Sutter Health (Sacramento, CA); Total Longterm Care, Inc. (Denver, CO); Upstate NY Network of the U.S. Dept. of Veterans Affairs, VISN 2 (Albany, NY); ViaHealth (Rochester, NY); Visiting Nurse Service of New York (New York, NY); Volunteers of America National Services (Eden Prairie, MN); and Wisconsin Partnership Program at Community Living Alliance (Madison, WI).

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1179

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Medicare Chronic Care Improvement Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS.

Subtitle A—Improving Access to Preventive Services

Sec. 101. Elimination of deductibles and coinsurance for existing preventive health benefits.

Sec. 102. Institute of Medicine medicare prevention benefit study and report.

Sec. 103. Authority to administratively provide for coverage of additional preventive benefits.

Sec. 104. Coverage of an initial preventive physical examination.

Subtitle B—Medicare Coverage for Care Coordination and Assessment Services

Sec. 111. Care coordination and assessment services.

Sec. 112. Care coordination and assessment services and quality improvement program in Medicare+Choice plans.

Sec. 113. Improving chronic care coordination through information technology.

Subtitle C—Additional Provisions

Sec. 121. Review of coverage standards.

TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE

Sec. 201. Institute of Medicine medicare chronic condition care improvement study and report.

## TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS.

### Subtitle A—Improving Access to Preventive Services

**SEC. 101. ELIMINATION OF DEDUCTIBLES AND COINSURANCE FOR EXISTING PREVENTIVE HEALTH BENEFITS.**

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after subsection (o) the following new subsection:

"(p) DEDUCTIBLES AND COINSURANCE WAIVED FOR PREVENTIVE HEALTH ITEMS AND SERVICES.—The Secretary shall not require the payment of any deductible or coinsurance under subsection (a) or (b), respectively, of any individual enrolled for coverage under this part for any of the following preventive health items and services:

"(1) Blood-testing strips, lancets, and blood glucose monitors for individuals with diabetes described in section 1861(n).

"(2) Diabetes outpatient self-management training services (as defined in section 1861(qq)(1)).

"(3) Pneumococcal, influenza, and hepatitis B vaccines and administration described in section 1861(s)(10).

"(4) Screening mammography (as defined in section 1861(jj)).

"(5) Screening pap smear and screening pelvic exam (as defined in paragraphs (1) and (2) of section 1861(nn), respectively).

"(6) Bone mass measurement (as defined in section 1861(rr)(1)).

"(7) Prostate cancer screening test (as defined in section 1861(oo)(1)).

"(8) Colorectal cancer screening test (as defined in section 1861(pp)(1)).

"(9) Screening for glaucoma (as defined in section 1861(uu)).

"(10) Medical nutrition therapy services (as defined in section 1861(vv)(1)).".

(b) WAIVER OF COINSURANCE.—

(1) IN GENERAL.—Section 1833(a)(1)(B) of the Social Security Act (42 U.S.C. 1395l(a)(1)(B)) is amended to read as follows: "(B) with respect to preventive health items and services described in subsection (p), the amounts paid shall be 100 percent of the fee schedule or other basis of payment under this title for the particular item or service,".

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", preventive health items and services described in section 1833(p),".

(c) WAIVER OF APPLICATION OF DEDUCTIBLE.—Section 1833(b)(1) of the Social Security Act (42 U.S.C. 1395l(b)(1)) is amended to read as follows: "(1) such deductible shall not apply with respect to preventive health items and services described in subsection (p),".

(d) ADDING "LANCET" TO DEFINITION OF DME.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by striking "blood-testing strips and blood glucose monitors" and inserting "blood-testing strips, lancets, and blood glucose monitors".

(e) CONFORMING AMENDMENTS.—

(1) ELIMINATION OF COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a))

are each amended by inserting "or which are described in subsection (p)" after "assignment-related basis".

(2) ELIMINATION OF COINSURANCE FOR CERTAIN DME.—Section 1834(a)(1)(A) of the Social Security Act (42 U.S.C. 1395m(a)(1)(A)) is amended by inserting "(or 100 percent, in the case of such an item described in section 1833(p))" after "80 percent".

(3) ELIMINATION OF DEDUCTIBLES AND COINSURANCE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) is amended—

(A) in paragraph (2)(C)—

(i) by striking "(C) FACILITY PAYMENT LIMIT.—" and all that follows through "Notwithstanding subsections" and inserting the following:

"(C) FACILITY PAYMENT LIMIT.—Notwithstanding subsections";

(ii) by striking "(I) in accordance" and inserting the following:

"(i) in accordance";

(iii) by striking "(II) are performed" and all that follows through "payment under" and inserting the following:

"(ii) are performed in an ambulatory surgical center or hospital outpatient department.

payment under"; and

(iv) by striking clause (ii); and

(B) in paragraph (3)(C)—

(i) by striking "(C) FACILITY PAYMENT LIMIT.—" and all that follows through "Notwithstanding subsections" and inserting the following:

"(C) FACILITY PAYMENT LIMIT.—Notwithstanding subsections"; and

(ii) by striking clause (ii).

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004.

### SEC. 102. INSTITUTE OF MEDICINE MEDICARE PREVENTION BENEFIT STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to—

(A) conduct a comprehensive study of current literature and best practices in the field of health promotion and disease prevention among medicare beneficiaries, including the issues described in paragraph (2); and

(B) submit the report described in subsection (b).

(2) ISSUES STUDIED.—The study required under paragraph (1) shall include.an assessment of—

(A) whether each health promotion and disease prevention benefit covered under the medicare program is medically effective (as defined in subsection (d)(3));

(B) utilization by medicare beneficiaries of such benefits (including any barriers to or incentives to increase utilization);

(C) quality of life issues associated with such benefits; and

(D) whether health promotion and disease prevention benefits that are not covered under the medicare program that would affect all medicare beneficiaries are likely to be medically effective (as so defined).

(b) REPORTS.—

(1) THREE-YEAR REPORT.—On the date that is 3 years after the date of enactment of this Act, and each successive 3-year anniversary thereafter, the Institute of Medicine of the National Academy of Sciences shall submit to the President a report that contains—

(A) a detailed statement of the findings and conclusions of the study conducted under subsection (a); and

(B) the recommendations for legislation described in paragraph (3).

(2) INTERIM REPORT BASED ON NEW GUIDELINES.—If the United States Preventive Services Task Force or the Task Force on Community Preventive Services establishes new guidelines regarding preventive health benefits for medicare beneficiaries more than 1 year prior to the date that a report described in paragraph (1) is due to be submitted to the President, then not later than 6 months after the date such new guidelines are established, the Institute of Medicine of the National Academy of Sciences shall submit to the President a report that contains a detailed description of such new guidelines. Such report may also contain recommendations for legislation described in paragraph (3).

(3) RECOMMENDATIONS FOR LEGISLATION.—The Institute of Medicine of the National Academy of Sciences, in consultation with the United States Preventive Services Task Force and the Task Force on Community Preventive Services, shall develop recommendations in legislative form that—

(A) prioritize the preventive health benefits under the medicare program; and

(B) modify such benefits, including adding new benefits under such program, based on the study conducted under subsection (a).

(c) TRANSMISSION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), on the day that is 6 months after the date on which the report described in paragraph (1) of subsection (b) (or paragraph (2) of such subsection if the report contains recommendations in legislative form described in subsection (b)(3)) is submitted to the President, the President shall transmit the report and recommendations to Congress.

(2) REGULATORY ACTION BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.—If the Secretary of Health and Human Services has exercised the authority under section 103(a) to adopt by regulation one or more of the recommendations under subsection (b)(3), the President shall only submit to Congress those recommendations under subsection (b)(3) that have not been adopted by the Secretary.

(3) DELIVERY.—Copies of the report and recommendations in legislative form required to be transmitted to Congress under paragraph (1) shall be delivered—

(A) to both Houses of Congress on the same day;

(B) to the Clerk of the House of Representatives if the House is not in session; and

(C) to the Secretary of the Senate if the Senate is not in session.

(d) DEFINITION OF MEDICALLY EFFECTIVE.—In this section, the term "medically effective" means, with respect to a benefit or technique, that the benefit or technique has been—

(1) subject to peer review;

(2) described in scientific journals; and

(3) determined to achieve an intended goal under normal programmatic conditions.

### SEC. 103. AUTHORITY TO ADMINISTRATIVELY PROVIDE FOR COVERAGE OF ADDITIONAL PREVENTIVE BENEFITS.

(a) IN GENERAL.—The Secretary of Health and Human Services may by regulation adopt any or all of the legislative recommendations developed by the Institute of Medicine of the National Academy of Sciences, in consultation with the United States Preventive Services Task Force and the Task Force on Community Preventive Services in a report under section 102(b)(3) (relating to prioritizing and modifying preventive health benefits under the medicare program and the addition of new preventive benefits), consistent with subsection (b).

(b) ELIMINATION OF COST-SHARING.—With respect to items and services furnished under the medicare program that the Secretary has incorporated by regulation under subsection (a), the provisions of section 1833(p) of the Social Security Act (relating to elimination of cost-sharing for preventive benefits), as added by section 101(a), shall apply to those items and services in the same manner as such section applies to the items and services described in paragraphs (1) through (10) of such section.

### SEC. 104. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking "and" at the end;

(2) in subparagraph (V), by inserting "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(W) an initial preventive physical examination (as defined in subsection (ww));".

(b) SERVICES DESCRIBED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Initial Preventive Physical Examination

"(ww) The term 'initial preventive physical examination' means physicians' services consisting of a physical examination with the goal of health promotion and disease detection and includes a history and physical exam, a health risk appraisal, and health risk counseling, and laboratory tests or other items and services as determined by the Secretary in consultation with the United States Preventive Services Task Force.".

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking "and" before "(6)", and

(B) by inserting before the period at the end the following: ", and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))".

(2) COINSURANCE.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting "(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))" after "80 percent"; and

(B) in clause (O), by inserting "(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))" after "80 percent".

(d) PAYMENT AS PHYSICIANS' SERVICES.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(W)," after "(2)(S),".

(e) OTHER CONFORMING AMENDMENTS.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(J) in the case of an initial preventive physical examination (as defined in section 1861(ww)), which is performed not later than 6 months after the date the individual's first coverage period begins under part B;"; and

(2) in paragraph (7), by striking "or (H)" and inserting "(H), or (J)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

## Subtitle B—Medicare Coverage for Care Coordination and Assessment Services

### SEC. 111. CARE COORDINATION AND ASSESSMENT SERVICES.

(a) Services Authorized.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“CARE COORDINATION AND ASSESSMENT SERVICES

“Sec. 1897. (a) Purpose.—

“(1) In general.—The purpose of this section is to provide the appropriate level and mix of follow-up care to an individual with a chronic condition who qualifies as an eligible beneficiary (as defined in paragraph (2)).

“(2) Eligible beneficiary defined.—In this section, the term ‘eligible beneficiary’ means a beneficiary who—

“(A) has a serious and disabling chronic condition (as defined in subsection (f)(1)); or

“(B) has four or more chronic conditions (as defined in subsection (f)(4)).

“(b) Election of Care Coordination and Assessment Services.—

“(1) In general.—On or after January 1, 2005, an eligible beneficiary may elect to receive care coordination services in accordance with the provisions of this section under which, in appropriate circumstances, the eligible beneficiary has health care services covered under this title managed and coordinated by a care coordinator who is qualified under subsection (e) to furnish care coordination services under this section.

“(2) Revocation of election.—An eligible beneficiary who has made an election under paragraph (1) may revoke that election at any time.

“(c) Outreach.—The Secretary shall provide for the wide dissemination of information to beneficiaries and providers of services, physicians, practitioners, and suppliers with respect to the availability of and requirements for care coordination services under this section.

“(d) Care Coordination and Assessment Services Described.—Care coordination services under this section shall include the following:

“(1) Basic care coordination and assessment services.—Except as otherwise provided in this section, eligible beneficiaries who have made an election under this section shall receive the following services:

“(A)(i) An initial assessment of an individual's medical condition, functional and cognitive capacity, and environmental and psychosocial needs.

“(ii) Annual assessments after the initial assessment performed under clause (i), unless the physician or care coordinator of the individual determines that additional assessments are required due to sentinel health events or changes in the health status of the individual that may require changes in the plan of care developed for the individual.

“(B) The development of an initial plan of care, and subsequent appropriate revisions to that plan of care.

“(C) The management of, and referral for, medical and other health services, including multidisciplinary care conferences and coordination with other providers.

“(D) The monitoring and management of medications.

“(E) Patient education and counseling services.

“(F) Family caregiver education and counseling services.

“(G) Self-management services, including health education and risk appraisal to identify behavioral risk factors through self-assessment.

“(H) Consultations by telephone with physicians and other appropriate health care professionals, including 24-hour access to a care coordinator.

“(I) Coordination with the principal caregiver in the home.

“(J) The managing and facilitating of transitions among health care professionals and across settings of care, including the following:

“(i) The pursuit the treatment option elected by the individual.

“(ii) The inclusion of any advance directive executed by the individual in the medical file of the individual.

“(K) Activities that facilitate continuity of care and patient adherence to plans of care.

“(L) Information about, and referral to, community-based services, including patient and family caregiver education and counseling about such services, and facilitating access to such services when elected.

“(M) Information about, and referral to, hospice services and palliative care, including patient and family caregiver education and counseling about hospice services and palliative care, and facilitating transition to hospice when elected.

“(N) Such other medical and health care services for which payment would not otherwise be made under this title as the Secretary determines to be appropriate for effective care coordination, including the additional items and services as described in paragraph (2).

“(2) Additional benefits.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to eligible beneficiaries who have made an election under this section (subject to an assessment by the care coordinator of an individual beneficiary's circumstances and need for such benefits) in order to encourage the receipt of, or to improve the effectiveness of, care coordination services.

“(e) Care Coordinators.—

“(1) Requirement for Certification.—

“(A) In general.—In order to be qualified to furnish care coordination and assessment services under this section, an individual or entity shall be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) who has been certified for a period (as provided in subparagraph (B)) by the Secretary, or by an organization recognized by the Secretary, as having met such criteria as the Secretary may establish for the furnishing of care coordination under this section (which may include experience in the provision of care coordination or primary care physician's services).

“(B) Period of certification.—The period of certification for an individual referred to in subparagraph (A) is as follows:

“(i) A one-year period for each of the first three years of participation under this section.

“(ii) A three-year period thereafter.

“(2) Additional requirements.—

“(A) Submission of data.—A care coordinator shall comply with such data collection and reporting requirements as the Secretary determines necessary to assess the effect of care coordination on health outcomes.

“(B) Participation in quality improvement program.—A care coordinator shall participate in the quality improvement program under paragraph (3).

“(C) Additional terms.—A care coordinator shall comply with such other terms and conditions as the Secretary may specify.

“(3) Quality improvement program.—

“(A) In general.—The Secretary shall establish a chronic care quality assurance program to monitor and improve clinical outcomes for beneficiaries with chronic conditions.

“(B) Elements of Program.—Under the program, the Secretary shall—

“(i) establish standards to measure—

“(I) quality and performance of the care of chronic conditions;

“(II) the continuity and coordination of care that eligible beneficiaries under this section receive; and

“(III) both underutilization and overutilization of services;

“(ii) provide to care coordinators periodic reports on their performance on such measures; and

“(iii) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of care coordination options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate).

“(C) Review of claims.—

“(i) In general.—Subject to clause (ii), under the program the Secretary shall make available to care coordinators claims data relating to a beneficiary for whom the coordinator coordinates care under this section for the coordinator's review and subsequent appropriate follow-up action.

“(ii) Authorization.—Data may only be provided to a care coordinator under clause (i) if the eligible beneficiary involved has given written authorization for such information to be so provided.

“(4) Limitation on number of care coordinators.—Payment may only be made under this section for care coordination services furnished during a period to one care coordinator with respect to an eligible beneficiary.

“(5) Payment for services.—

“(A) In general.—The Secretary shall establish payment terms and conditions and payment rates for basic care coordination and assessment services described in subsection (d).

“(B) Payment methodology.—Payment under this section shall be made in a manner that bundles payment for all care coordination and assessment services furnished during a period, as specified by the Secretary.

“(C) Codes.—The Secretary may establish new billing codes to carry out the provisions of this paragraph.

“(f) Definitions.—In this section:

“(1) Serious and disabling chronic condition.—The term ‘serious and disabling chronic condition’ means, with respect to an individual, that the individual has at least one chronic condition and a licensed health care practitioner has certified within the preceding 12-month period that—

“(A) the individual has a level of disability such that the individual is unable to perform (without substantial assistance from another individual) for a period of at least 90 days due to a loss of functional capacity—

“(i) at least 2 activities of daily living; or

“(ii) such number of instrumental activities of daily living that is equivalent (as determined by the Secretary) to the level of disability described in clause (i);

“(B) the individual has a level of disability equivalent (as determined by the Secretary) to the level of disability described in subparagraph (A); or

"(C) the individual requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

"(2) Activities of daily living.—The term 'activities of daily living' means each of the following:

"(A) Eating.

"(B) Toileting.

"(C) Transferring.

"(D) Bathing.

"(E) Dressing.

"(F) Continence.

"(3) Instrumental activities of daily living.—The term 'instrumental activities of daily living' means each of the following:

"(A) Medication management.

"(B) Meal preparation.

"(C) Shopping.

"(D) Housekeeping.

"(E) Laundry.

"(F) Money management.

"(G) Telephone use.

"(H) Transportation use.

"(4) Chronic condition.—The term 'chronic condition' means an illness, functional limitation, or cognitive impairment that—

"(A) lasts, or is expected to last, at least one year;

"(B) limits what a person can do; and

"(C) requires on-going medical care.

"(5) Beneficiary.—The term 'beneficiary' means an individual entitled to benefits under part A and enrolled under part B, including an individual enrolled under the Medicare+Choice program under part C.".

(b) Coverage of Care Coordination and Assessment Services as a Part B Medical Service.—

(1) In general.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(A) in the second sentence, by redesignating paragraphs (16) and (17) as clauses (i) and (ii); and

(B) in the first sentence—

(i) by striking "and" at the end of paragraph (14);

(ii) by striking the period at the end of paragraph (15) and inserting "; and"; and

(iii) by adding after paragraph (15) the following new paragraph:

"(16) care coordination and assessment services furnished by a care coordinator in accordance with section 1897.".

(2) Conforming amendments.—Sections 1864(a) 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (16) and (17)" each place it appears and inserting "clauses (i) and (ii) of the second sentence".

(3) Part B coinsurance and deductible not applicable to care coordination and assessment services.—

(A) Coinsurance.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking "and" at the end of subparagraph (T); and

(ii) by inserting before the final semicolon ", and (V) with respect to care coordination and assessment services described in section 1861(s)(16) that are furnished by, or coordinated through, a care coordinator, the amounts paid shall be 100 percent of the payment amount established under section 1897".

(B) Deductible.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(i) by striking "and" at the end of paragraph (5); and

(ii) by inserting before the final period ", and (7) such deductible shall not apply with respect to care coordination and assessment services (as described in section 1861(s)(16))".

(C) Elimination of coinsurance in outpatient hospital settings.—The third sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)), as amended by section 101(b)(2), is further amended by inserting after "section 1833(p)," the following: "with respect to care coordination and assessment services (as described in section 1861(s)(16)),".

### **SEC. 112. CARE COORDINATION AND ASSESSMENT SERVICES AND QUALITY IMPROVEMENT PROGRAM IN MEDICARE+CHOICE PLANS.**

Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w–22(e)(1)) is amended by inserting before the period at the end the following: ", including a quality improvement program for coordinated care services referred to in section 1897(e)(3)".

### **SEC. 113. IMPROVING CHRONIC CARE COORDINATION THROUGH INFORMATION TECHNOLOGY.**

(a) Technology Improvement Grants.—

(1) In general.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall make grants to eligible entities to enable such entities to develop, implement, or train personnel in the use of standardized clinical information technology systems designed to—

(A) improve the coordination and quality of care furnished to medicare beneficiaries with chronic conditions; and

(B) increase administrative efficiencies of such entities.

(2) Care coordinators as eligible entities.—In this section, an eligible entity is a care coordinator who furnishes care coordination services to medicare beneficiaries under section 1897 of the Social Security Act.

(b) Eligibility.—To be eligible to receive a grant under subsection (a), a care coordinator shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the clinical information technology system that the care coordinator intends to implement using amounts received under the grant;

(2) provide assurances that are satisfactory to the Secretary that such system, for which amounts are to be expended under the grant, conforms to the standards established by the Secretary under part C of title XI of the Social Security Act, and such other standards as the Secretary may specify; and

(3) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the project for which the grant is made; and

(B) ensure that funding provided under the grant is expended for the purposes for which it is made.

(c) Matching Requirement.—The Secretary may not make a grant to a care coordinator under subsection (a) unless that care coordinator agrees that, with respect to the costs to be incurred by the care coordinator in carrying out the activities for which the grant is being awarded, the care coordinator will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to $1 for each $1 of Federal funds provided under the grant.

(d) Reports to Congress.—

(1) Initial Report.—Not later than 18 months after the first grant has been made under this section, the Secretary shall submit an initial report to Congress containing the information referred to in paragraph (3) as well as any recommendations with respect to grants under this section.

(2) Final Report.—Not later than 6 months after the last grant has been awarded (as determined by the Secretary) under this section, the Secretary shall submit a final report to Congress containing the information referred to in paragraph (2) as well as any recommendations with respect to grants under this section.

(3) Contents of report.—The reports under this subsection shall include the following:

(A) A description of the number and nature of grants made under this section.

(B) An evaluation of—

(i) improvements in the coordination and quality of care furnished to beneficiaries with chronic conditions; and

(ii) increases in administrative efficiencies of care coordinators.

(e) Authorization of Appropriations.—For each of fiscal years 2005, 2006, and 2007, there are authorized to be appropriated to the Secretary $10,000,000 to carry out the program under this section.

### **Subtitle C—Additional Provisions**

### **SEC. 121. REVIEW OF COVERAGE STANDARDS.**

(a) Review.—With respect to determinations under section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) (relating to whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury for purposes of payment under title XVIII of such Act), the Secretary of Health and Human Services shall conduct a review of—

(1) regulations, policies, procedures, and instructions of the Centers for Medicare & Medicaid Services for making those determinations; and

(2) policies, procedures, local medical review policies, manual instructions, interpretative rules, statements of policy, and guidelines of general applicability of fiscal intermediaries (under section 1816 of the Social Security Act (42 U.S.C. 1395h)) and carriers under section 1842 of such Act (42 U.S.C. 1395u) for making those determinations.

(b) Modification.—Insofar as the Secretary determines that the Centers for Medicare & Medicaid Services, a fiscal intermediary, or a carrier has misapplied such standard by requiring that the item or service improve the condition of the patient with respect to such illness or injury, the Secretary shall take such corrective measures as are appropriate to ensure the Centers, intermediary, or carrier (as the case may be) applies the proper standard for making such determinations.

(c) Report.—On the date that is 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the review conducted under subsection (a);

(2) a detailed statement of the modifications made under subsection (b); and

(3) recommendations to avoid misapplication of the standard in the future.

## **TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE**

### **SEC. 201. INSTITUTE OF MEDICINE MEDICARE CHRONIC CONDITION CARE IMPROVEMENT STUDY AND REPORT.**

(a) Study.—

(1) In general.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to—

(A) conduct a comprehensive study of the medicare program to identify—

(i) factors that facilitate provision of effective care (including, where appropriate, hospice care) for medicare beneficiaries with chronic conditions; and

(ii) factors that impede provision of such care for such beneficiaries,

including the issues studied under paragraph (2); and

(B) submit the report described in subsection (b).

(2) ISSUES STUDIED.—The study required under paragraph (1) shall—

(A) identify inconsistent clinical, financial, or administrative requirements across provider and supplier settings or professional services with respect to medicare beneficiaries;

(B) identify requirements under the program imposed by law or regulation that—

(i) promote costshifting across providers and suppliers;

(ii) impede provision of effective, seamless transitions across health care settings, such as between hospitals, skilled nursing facilities, home health services, hospice care, and care in the home;

(iii) impose unnecessary burdens on such beneficiaries and their family caregivers;

(iv) impede the establishment of administrative information systems to track health status, utilization, cost, and quality data across providers and suppliers and provider settings;

(v) impede the establishment of clinical information systems that support continuity of care across settings and over time; or

(vi) impede the alignment of financial incentives among the medicare program, the medicaid program, and group health plans and providers and suppliers that furnish services to the same beneficiary.

(b) REPORT.—On the date that is 18 months after the date of enactment of this Act, the Institute of Medicine of the National Academy of Sciences shall submit to Congress and the Secretary of Health and Human Services a report that contains—

(1) a detailed statement of the findings and conclusions of the study conducted under subsection (a); and

(2) recommendations to improve provision of effective care for medicare beneficiaries with chronic conditions.

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By Mr. SANTORUM (for himself and Mr. BAUCUS):

S. 1180. A bill to amend the Internal Revenue Code of 1986 to modify to work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join Senator BAUCUS in the introduction of the Encouraging Work Act of 2003. The Work Opportunity Tax Credit, WOTC, and Welfare-to-Work Tax Credit, W-t-W, are tax incentives that encouraging employers to hire public assistance recipients and other individuals with barriers to employment. The combination of Welfare Reform passed by Congress in 1996 and the assistance to employers found in the WOTC and W-t-W has enabled expanded opportunity for many Americans. Yet more can be done.

Under present law, WOTC provides a 40 percent tax credit on the first $6,000 of wages for those working at least 400 hours, or a partial credit of 25 percent for those working 120–399 hours. W-t-W provides a 35 percent tax credit on the first $10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first $10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2.200.000 previously dependent persons to find jobs.

Eligibility is limited to: 1. recipients of Temporary, Assistance to Needy Families, TANF, in 9 of the 18 months ending on the hiring date; 2. individuals receiving Supplemental Security Income, SSI, benefits; 3. disabled individuals with vocational rehabilitation referrals; 4. veterans on food stamps; 5. individuals aged 18–24 in households receiving food stamp benefits; 6. qualified summer youth employees; 7. low-income ex-felons; and 8. individuals ages 18–24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously dependent on public assistance programs. These credits are both a hiring incentive, offsetting some of the higher costs of recruiting, hiring, and retaining public assistance recipients and other low-skilled individuals, and a retention incentive, providing a higher reward for those who stay longer on the job.

Without action by Congress WOTC and W-t-W will expire on December 31, 2003. After seven years of experience with these programs, their value has been well demonstrated. In 2001, the GAO issued a report that indicated that employers have significantly changed their hiring practices because of WOTC. With the resources provided by WOTC, employers have provided job mentors, lengthened training periods, engaged in recruiting outreach, and listed jobs or requested referrals from public agencies or partnerships. WOTC and W-t-W have become a true public-private partnership in which the Department of Labor, the Internal Revenue Service, the states, and employers have forged excellent working relationships.

But the challenges for employers and those looking for better opportunities are real. The job skills of eligible persons leaving welfare are sometimes limited, and the costs of recruiting, training, and supervising low-skilled individuals cause many employers to look elsewhere for employees. The weak economy and rising unemployment give employers more hiring options. WOTC and W-t-W are proven incentives for encouraging employers to seek employees from the targeted groups.

Despite the considerable success of WOTC and W-t-W, many vulnerable individuals still need a boost in finding employment. This is particularly true during periods of high unemployment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers.

The Administration's FY 2004 budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees and $6,000 for other target groups ($3,000 for summer youth). In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the six months preceding the hiring date are eligible for WOTC. The Administration's FY 2004 budget proposes to eliminate the family income attribution rule.

Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the "food stamp category" would greatly improve the job prospects for many absentee fathers and other "at risk" males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

The Work Opportunity Credit and Welfare-to-Work Credit have been successful in moving traditionally hard-to-employ persons off welfare and into the workforce, where they contribute to our economy. However, employer participation in these important programs can be increased, particularly among small and medium-sized employers. This is due to the complexity of the credits and the fact that they are both only temporary provisions of the tax code subject to renewal every year or two. Small, medium, and even some large employers find it difficult to justify developing the necessary infrastructure to administer and participate in these programs when their continued existence beyond one or two years is constantly in question.

This legislation will remedy this problem by combining WOTC and W-t-W into one, more easily administered tax credit, and by making it a permanent part of the tax code. Many organizations including the National Council of Chain Restaurants, National Retail Federation, Food Marketing Institute, National Association of Convenience Stores, National Restaurant Association, American Hotel & Lodging Association, National Roofing Contractors Association, National Association of Chain Drug Stores, American Nursery and Landscape Association, and the American Health Care Association support this legislation. Representatives Amo Houghton, R-NY, and Charles Rangel, D-NY, have introduced identical legislation in the House of Representatives. I urge my colleagues to join us in supporting this legislation.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator SANTORUM, and my other Senate colleagues in introducing legislation to permanently extend and improve upon the Work Opportunity and the Welfare-to-Work tax credits. During this year's debate on the Jobs and Growth Tax Reconciliation Act, I voted to extend these tax credits were not included in the final conference agreement, but I continue to strongly support the passage of legislation this year to make these credits permanent and make several reforms in the programs to improve their effectiveness.

Over the past seven years, the Work Opportunity Tax Credit, WOTC, and the Welfare-to-Work, W-t-W, tax credit have helped over 2.2 million public assistance dependent individuals enter the workforce. Both of these important programs are scheduled to expire on December 31, 2003. These hiring tax incentives have clearly demonstrated their effectiveness in helping to level the job selection playing field for low-skilled individuals by providing employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment, and this is particularly critical during periods of high unemployment. The weak economy and rising unemployment give employers many more hiring options because of the larger pool of experienced laid-off workers. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals reaching their welfare eligibility ceiling this year.

Because of the costs involved in setting up and administering a WOTC/W-t-W program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

WOTC provides employers with a graduated tax credit equal to 25-percent of the first $6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first $6,000 in wages for those working over 400 hours. The W-t-W tax credit is geared toward long term welfare recipients and provides a 35-percent tax credit on the first $10,000 in wages during the first year of employment and a 50-percent credit on the first $10,000 for those who stay on the job a second year.

In my own State of Montana many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC/W-t-W program, however, are low-income families, under the Food Stamp Program and the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, program, and also low income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during the past 18 months, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC/TANF recipients, and 52 U.S. veterans.

The bill we are introducing provides for a permanent program extension of the two credits. After seven years of experience with WOTC and W-t-W, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

The bill also includes a proposal to simplify the programs by combining them into one credit and making the rules for computing the combined credits simpler. This would be accomplished by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under present work opportunity tax credit would apply to W-t-W employees. THe maximum amount of eligible wages would continue to be $10,000 for W-t-W employees. In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. Because of the program's eligibility criteria, over 80 percent of those hired are women leaving welfare. Since men generally are not eligible for TANF benefits, the fathers of children on welfare receive little help in finding work, even though they often face even greater barriers to work than women on welfare. We propose to help absentee fathers find work and provide the resources to assume their family responsibilities by opening up WOTC eligibility to anyone 39 years old or younger in families receiving food stamps or residing in enterprise zones or empowerment communities. Raising the eligibility limits in these two categories will extend eligibility to hundreds of thousands of at-risk men.

I urge my colleagues to support this important piece of legislation.

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By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. AKAKA):

S. 1181. A bill to promote youth financial education; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce along with Senators LAUTENBERG and AKAKA the Youth Financial Literacy Act to call attention to an important issue in education: teaching students the basic principles of financial literacy to prepare them to be responsible consumers. This legislation will give young Americans the tools they need to succeed in this ever-changing economy.

Today, it is as important for young people to learn about staying out of debt, maintaining good credit and building up their savings as it is for them to learn about geography, science and history.

Far too many of our youth enter adulthood lacking basic financial literacy skills, not knowing how to budget their wages or salaries or build personal savings. A recent survey by the non-profit JumpStart Coalition reveals that the only 21 percent of students between the ages of 16 and 22 say they have taken a personal finance course at school. The study also found that when high school seniors were tested on basic financial literacy, they answered a mere 50.2 percent of the questions correctly. That, is simply not acceptable.

Providing financial education to our nation's young people must be a priority. Indeed it is time for our schools to make a more concerted effort to prepare our children for success in new ways including their future financial decision-making.

I am not alone in advocating the importance of financial literacy. Federal Reserve Chairman Alan Greenspan has said, "Improving basic financial education at the elementary and secondary school levels is essential to providing a foundation for financial literacy that can help prevent younger people from making poor financial decisions."

Today, I hope to elevate the discussion of this issue by introducing the Youth Financial Education Act, which would provide $100 million in grants to states to help them develop and implement financial education programs in elementary and secondary schools, including helping to prepare teachers to provide financial education. It would also establish a national clearinghouse for instructional materials and information regarding model financial education programs.

I am happy to report that in my state of New Jersey many have already started the ball rolling on financial literacy education. My State allows local schools the option of offering financial education in high school, and the New Jersey Coalition for Financial Education is working with the New Jersey Department of Education to develop and implement core curriculum standards. I believe it is time for our Nation to follow suit and begin to focus on the financial literacy education of all young Americans.

We must not sit idly by while so many of our children lack financial literacy. So I ask for my colleagues to join me in support of the Youth Financial Literacy Act, which will ensure that our next generation is prepared to meet the challenges of the new economy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1181

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROMOTING YOUTH FINANCIAL LITERACY.**

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

## "PART D—PROMOTING YOUTH FINANCIAL LITERACY

**"SEC. 4401. SHORT TITLE AND FINDINGS.**

"(a) SHORT TITLE.—This part may be cited as the 'Youth Financial Education Act'.

"(b) FINDINGS.—Congress finds the following:

"(1) In order to succeed in our dynamic American economy, young people must obtain the skills, knowledge, and experience necessary to manage their personal finances and obtain general financial literacy. All young adults should have the educational tools necessary to make informed financial decisions.

"(2) Despite the critical importance of financial literacy to young people, the average student who graduates from high school lacks basic skills in the management of personal financial affairs. A nationwide survey conducted in 2002 by the Jump$tart Coalition for Personal Financial Literacy examined the financial knowledge of 4,024 12th graders. On average, survey respondents answered only 50 percent of the questions correctly. This figure is down from the 52 percent average score in 2000 and the 57 percent average score in 1997.

"(3) An evaluation by the National Endowment for Financial Education High School Financial Planning Program undertaken jointly with the United States Department of Agriculture Cooperative State Research, Education, and Extension Service demonstrates that as little as 10 hours of classroom instruction can impart substantial knowledge and affect significant change in how teens handle their money.

"(4) State educational leaders have recognized the importance of providing a basic financial education to students in kindergarten through grade 12 by integrating financial education into State educational standards, but by 2002 only 4 States required students to complete a course that covered personal finance before graduating from high school.

"(5) Teacher training and professional development are critical to achieving youth financial literacy. Teachers confirm the need for professional development in personal finance education. In a survey by the National Institute for Consumer Education, 77 percent of a State's economics teachers revealed that they had never had a college course in personal finance.

"(6) Personal financial education helps prepare students for the workforce and for financial independence by developing their sense of individual responsibility, improving their life skills, and providing them with a thorough understanding of consumer economics that will benefit them for their entire lives.

"(7) Financial education integrates instruction in valuable life skills with instruction in economics, including income and taxes, money management, investment and spending, and the importance of personal savings.

"(8) The consumers and investors of tomorrow are in our schools today. The teaching of personal finance should be encouraged at all levels of our Nation's educational system, from kindergarten through grade 12.

**"SEC. 4402. STATE GRANT PROGRAM.**

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to provide grants to State educational agencies to develop and integrate youth financial education programs for students in elementary schools and secondary schools.

"(b) STATE PLAN.—

"(1) APPROVED STATE PLAN REQUIRED.—To be eligible to receive a grant under this section, a State educational agency shall submit an application that includes a State plan, described in paragraph (2), that is approved by the Secretary.

"(2) STATE PLAN CONTENTS.—The State plan referred to in paragraph (1) shall include—

"(A) a description of how the State educational agency will use grant funds;

"(B) a description of how the programs supported by a grant will be coordinated with other relevant Federal, State, regional, and local programs; and

"(C) a description of how the State educational agency will evaluate program performance.

"(c) ALLOCATION OF FUNDS.—

"(1) ALLOCATION FACTORS.—Except as otherwise provided in paragraph (2), the Secretary shall allocate the amounts made available to carry out this section pursuant to subsection (a) to each State according to the relative populations in all the States of students in kindergarten through grade 12, as determined by the Secretary based on the most recent satisfactory data.

"(2) MINIMUM ALLOCATION.—Subject to the availability of appropriations and notwithstanding paragraph (1), a State that has submitted a plan under subsection (b) that is approved by the Secretary shall be allocated an amount that is not less than $500,000 for a fiscal year.

"(3) REALLOCATION.—In any fiscal year an allocation under this subsection—

"(A) for a State that has not submitted a plan under subsection (b); or

"(B) for a State whose plan submitted under subsection (b) has been disapproved by the Secretary;

shall be reallocated to States with approved plans under this section in accordance with paragraph (1).

"(d) USE OF GRANT FUNDS.—

"(1) REQUIRED USES.—A grant made to a State educational agency under this part shall be used—

"(A) to provide funds to local educational agencies and public schools to carry out financial education programs for students in kindergarten through grade 12 based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, and investing;

"(B) to carry out professional development programs to prepare teachers and administrators for financial education; and

"(C) to monitor and evaluate programs supported under subparagraphs (A) and (B).

"(2) LIMITATION ON ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under subsection (a) may use not more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out this section.

"(e) REPORT TO THE SECRETARY.—Each State educational agency receiving a grant under this section shall transmit a report to the Secretary with respect to each fiscal year for which a grant is received. The report shall describe the programs supported by the grant and the results of the State educational agency's monitoring and evaluation of such programs.

**"SEC. 4403. CLEARINGHOUSE.**

"(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary shall make a grant to, or execute a contract with, an eligible entity with substantial experience in the field of financial education, such as the Jump$tart Coalition for Personal Financial Literacy, to establish, operate, and maintain a national clearinghouse (in this part referred to as the 'Clearinghouse') for instructional materials and information regarding model financial education programs and best practices.

"(b) Eligible Entity.—In this section, the term 'eligible entity' means a national nonprofit organization with a proven record of—

"(1) cataloging youth financial literacy materials; and

"(2) providing support services and materials to schools and other organizations that work to promote youth financial literacy.

"(c) Application.—An eligible entity desiring to establish, operate, and maintain the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

"(d) Basis and Term.—The Secretary shall make the grant or contract authorized under subsection (a) on a competitive, merit basis for a term of 5 years.

"(e) Use of Funds.—The Clearinghouse shall use the funds provided under a grant or contract made under subsection (a)—

"(1) to maintain a repository of instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens, for use by States, localities, and the general public;

"(2) to disseminate to States, localities, and the general public, through electronic and other means, instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens; and

"(3) to the extent that resources allow, to provide technical assistance to States, localities, and the general public on the design, establishment, and implementation of financial education programs for elementary schools and secondary schools, including kindergartens.

"(f) Consultation.—The chief executive officer of the eligible entity selected to establish and operate the Clearinghouse shall consult with the Department of the Treasury and the Securities Exchange Commission with respect to its activities under subsection (e).

"(g) Submission to Clearinghouse.—Each Federal agency or department that develops financial education programs and instructional materials for such programs shall submit to the Clearinghouse information on the programs and copies of the materials.

"(h) Application of Copyright Laws.—In carrying out this section the Clearinghouse shall comply with the provisions of title 17 of the United States Code.

**"SEC. 4404. EVALUATION AND REPORT.**

"(a) Performance Measures.—The Secretary shall develop measures to evaluate the performance of programs assisted under sections 4402 and 4403.

"(b) Evaluation According to Performance Measures.—Applying the performance measures developed under subsection (a), the Secretary shall evaluate programs assisted under sections 4402 and 4403—

"(1) to judge their performance and effectiveness;

"(2) to identify which of the programs represent the best practices of entities developing financial education programs for students in kindergarten through grade 12; and

"(3) to identify which of the programs may be replicated and used to provide technical assistance to States, localities, and the general public.

"(c) Report.—For each fiscal year for which there are appropriations under section 4407(a), the Secretary shall transmit a report to Congress describing the status of the implementation of this part. The report shall include the results of the evaluation required under subsection (b) and a description of the programs supported under section 4402.

**"SEC. 4405. DEFINITIONS.**

"In this part:

"(1) Financial education.—The term 'financial education' means educational activities and experiences, planned and supervised by qualified teachers, that enable students to understand basic economic and consumer principals, acquire the skills and knowledge necessary to manage personal and household finances, and develop a range of competencies that will enable them to become responsible consumers in today's complex economy.

"(2) Qualified teacher.—The term 'qualified teacher' means a teacher who holds a valid teaching certification or is considered to be qualified by the State educational agency in the State in which the teacher works.

**"SEC. 4406. PROHIBITION.**

"Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

**"SEC. 4407. AUTHORIZATION OF APPROPRIATIONS.**

"(a) Authorization.—For the purposes of carrying out this part, there are authorized to be appropriated $100,000,000 for each of the fiscal years 2004 through 2008.

"(b) Limitation on Funds for Clearinghouse.—The Secretary may use not less than 2 percent and not more than 5 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4403.

"(c) Limitation on Funds for Secretary Evaluation.—The Secretary may use not more than $200,000 from the amounts appropriated under subsection (a) for each fiscal year to carry out subsections (a) and (b) of section 4404.

"(d) Limitation on Administrative Costs.—Except as necessary to carry out subsections (a) and (b) of section 4404 using amounts described in subsection (c) of this section, the Secretary shall not use any portion of the amounts appropriated under subsection (a) for the costs of administering this part.".

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By Mr. McCONNELL (for himself, Mrs. Feinstein, Mr. McCain, Mr. Leahy, Mr. Specter, Mr. Kennedy, Ms. Mikulski, Mr. Kyl, Mr. Daschle, Mr. Santorum, and Mr. Brownback):

S. 1182. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on Foreign Relations.

Mr. McCONNELL. Mr. President, while democracy activists in Burma have been murdered, intimidated and harassed for well over a decade, the blitzkrieg on freedom launched last weekend by the illegitimate State Peace and Development Council—SPDC—killed and injured scores of supporters from the National League for Democracy—NLD.

Democracy leader Aung San Suu Kyi and numerous other activists were brutalized, arrested and today remain held incommunicado. Reports indicate that Suu Kyi is being held in the Yemon military camp, 40 kilometers outside of Rangoon. It is believed she suffers from lacerations to her face and a broken shoulder. The administration should waste no time in gaining access to Suu Kyi to ensure her safety and security.

I have come to the floor every day this week to draw attention to the untenable situation in that country. On Monday, I urged the administration to act promptly and decisively in support of democracy in Burma. The State Department can take specific action without the need for legislation—such as broadening visa restrictions, freezing assets, and downgrading Burma's diplomatic status in Washington.

Mr. McCAIN. Will the Senator yield for a question?

Mr. McCONNELL. Yes.

Mr. McCAIN. I thank the Senator from Kentucky for his advocacy for, not only one of the world's great, courageous figures, but also on behalf of democracy and freedom in a small country far away.

Is the Senator from Kentucky aware of any action, or even any statements being made by our friends in Asia, including ASEAN, and how does he feel about that?

Mr. McCONNELL. I would say to my friend from Arizona, there will be a regional ASEAN meeting in Phnom Penh on June 18 and 19. Secretary Powell is scheduled to be there. I hope that will be an opportunity to hear from the other Asian, ASEAN countries, that maybe, for once, they will understand what a pariah regime that is and work with us in a coordinated fashion to impose sanctions that will actually mean something in bringing down the regime.

Mr. McCAIN. If the Senator will yield for one further question, has the Senator heard about a statement of the Japanese Foreign Minister that basically is saying that everything was pretty well—the status quo was pretty well satisfactory in Burma? And before I ask the Senator to answer the question, I want to say again, I thank him for his advocacy of many years, for the democratic movement in Burma, sometimes known as Myanmar. I thank him and look forward to working with him.

I think the Congress can act, and I hope we can work in concert with the administration.

Mr. McCONNELL. I thank my friend from Arizona. I understand the Japanese may be reconsidering their statement of yesterday. There could well be a subsequent statement today that might be more pleasing to the Senator from Arizona and myself.

I thank him for being an extraordinary leader on this issue, as well, and for agreeing to cosponsor the bill I am about to introduce.

I also might mention, I had an opportunity to talk with the Deputy Secretary of State and Deputy Secretary of Defense today to encourage them to take a very great interest and recommend the President take a very great interest in this issue. The only way, obviously, we are going to have an impact in Burma is for the United States to use the kind of leadership only it can provide to rally the world around a sanctions regime and tighten the noose around this regime and hopefully this will be the beginning of that effort.

Mr. McCAIN. I thank my friend.

Mr. McCONNELL. The White House should utilize all authority at its disposal to immediately sanction the junta, including banning imports from Burma and raising the brutal crackdown on democracy before the U.N. Security Council.

On Tuesday, I appealed to the international community to stand by the people of Burma during their dark hour of need, and called upon the world's democracies to act in support of Suu Kyi and her courageous supporters. Elected representatives cannot stand by idly while democracy in Burma is strangled by the SPDC.

Today, along with my colleagues Senators FEINSTEIN, McCAIN, LEAHY, SPECTER, KENNEDY, MIKULSKI, KYL, DASCHLE, and SANTORUM, I am introducing the "Burmese Freedom and Democracy Act of 2003". This act recognizes that what is needed in Burma is fewer carrots and more sticks.

Among other restrictions that I will describe shortly, the act imposes an import ban on articles produced, mined, manufactured, grown, or assembled in Burma. It prohibits the import of goods to the United States produced by the SPDC, companies in which the junta has a financial interest, and the SPDC's political arm, the Union Solidarity Development Association—USDA.

Lest my colleagues forget, the USDA, under the direction of the junta, orchestrated the recent terror in the townships that left scores dead and Suu Kyi injured. They are Burma's fedayeen.

There are some who discount economic sanctions as a tool to coerce and modify the behavior of repressive nations. According to their argument, sanctions hurt the very people they are intended to help.

Sanctions in Burma will not rape ethnic girls and women; burn down their villages and murder their brothers, husbands, and sons.

Sanctions in Burma will not impress children into the military, drug them, and send them off to dangerous battlefields.

Sanctions in Burma will not use slave labor, nor will they profit from an illicit narcotics trade that wreaks havoc among the region's youth and contributes to an exploding HIV/AIDS rate along Burma's borders.

Finally, sanctions in Burma will not attack peaceful supporters of the NLD or democracy leader Aung San Suu Kyi, nor will they ever take a single life by an act of violence.

The SPDC is guilty of committing the laundry list of heinous crimes that I just described. Every single one of them is an assault on the human rights and dignity of the Burmese people. Burma's junta is as chronic an abuser of human rights as Kim Jong-Il in North Korea—and as was the Taliban in Afghanistan and Saddam Hussein in Iraq.

The fact of the matter is that the import ban will impact a negligible percentage of Burma's population. It will deny Burma the ability to import some $350 million to $470 million worth of goods to the United States—most of which are garments and textiles—thus denying the SPDC legitimate revenue.

Unfortunately, the people of Burma reap almost no benefits from this income. The SPDC is more interested in spending revenue on itself than in investing in the welfare of the people of Burma.

With over one-quarter of Burma's imports currently destined for the United States, the ban will hit the SPDC where it hurts most—in the pocketbook and its public image.

South African Bishop Desmond Tutu, who knows a thing or two about sanctions and repression, said of Burma earlier this week:

> We urge freedom loving governments everywhere to impose sanctions on this illegitimate regime. They worked for us in South Africa. If applied conscientiously, they will work in Burma too. Freeze the assets of the regime and impose stringent travel restrictions on them and their supporters. We need a regime change [in Burma].

I supported sanctions against the apartheid regime in South Africa then, and I support sanctions against the military junta in Burma now.

Sanctions will empower Burma's democrats who have already demonstrated their support for freedom by overwhelmingly electing the NLD in the 1990 elections. These polls were never recognized by the SPDC. Instead, the junta has spent the past decade trying to suffocate the aspirations for democracy by all of Burma's people and imprisoning their leader, Suu Kyi.

In addition to the import ban, the act also freezes the assets of the SPDC in the United States and requires the U.S. to oppose and vote against loans or other assistance proposed for Burma by international financial institutions.

It expands the visa ban to former and present SPDC leadership and the Union Solidarity Development Association and requires coordination with the European Union's visa ban list. Let me be clear that the SPDC leadership includes all officer-level individuals associated with the regime.

Finally, the act requires the Secretary of State to promote greater awareness of the abuses of the SPDC, requires the State Department to more proactively promote awareness of U.S. policy toward Burma, and encourages greater support for Burmese democracy activists.

Let me close with a few words and observations about Daw Aung San Suu Kyi. Over the years, the daughter of the father of Burma's independence has stood squarely between the people of Burma and the thuggish regime. Against great odds and often in great danger, Suu Kyi has consistently and successfully stared down SPDC generals and their military might. She has never wavered—not once—in her support for democracy and the rule of law for Burma.

Our thoughts and prayers continue to be with Suu Kyi and the people she so ably represents. She is obviously the greatest hope for that country.

I ask my colleagues: If America does not stand with Suu Kyi and the NLD now, whither freedom and justice in Burma? Without us, it has no chance.

Pressure, patience and persistence will bring political change to Burma. Suu Kyi knows this in her heart and mind, as we all do. America must lead. And if we do, others will rally.

I thank my friend from New Mexico. I yield the floor and ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I commend the distinguished majority whip for his eloquent statement today and compliment him on his persistence with reference to the cause of freedom and democracy in Burma.

Mr. DASCHLE. Mr. President, for 6 days, Aung San Suu Kyi—the courageous voice of democracy and freedom in Burma—has been in jail. Her crime? Support for reform and democracy in one of the world's most isolated and repressive countries.

One of the world's great democrats is currently being held by a military junta disingenuously named State Peace and Development Council. Late last week, the Junta announced that it had Suu Kyi in "protective custody." The truth, of course, is that she was beaten with a bamboo pole and detained in an ambush that killed four of her supporters. Several observers noted that her arrest is the latest in a vicious and coordinated attack which has claimed 70 of her supporters.

This is evidence of the junta's deplorable disregard for international standards of decency and for the people it rules. It also tells us what we can expect from the junta. A year ago, after Suu Kyi was released from her 15 year long detention, there was a glimmer of hope for reform and democracy in Burma. Rather than re-engaging the world, however, the junta holds fast to its failed policies of the past.

The Special Envoy from the United Nations is scheduled to travel to Burma this weekend as part of a larger effort to promote democracy. Yet with its actions this past week, the SPDC confirms what we had all feared—and what Suu Kyi warned: the military junta in power in Burma cannot and will not take the necessary steps to bring about democracy and freedom. I hope the UN Envoy will make clear his disappointment, indeed the world's disappointment, with these latest developments.

Given the gravity of this situation in Burma, I am pleased to join with Senators FEINSTEIN and MCCONNELL, among others, in introducing legislation that underscores the depth of our concern and the strength of our resolve in ensuring democracy in Burma. The bill would ban imports from Burma, freeze SPDC assets in this country, tighten the visa ban on Burmese officials, and urge specific diplomatic steps to raise the importance of this issue with our friends in the international community.

In the National Security Strategy, President Bush proclaimed that "our first imperative is to clarify what we stand for: the United States must defend liberty and justice because these principles are right and true for all people everywhere. No nation owns these aspirations, and no nation is exempt from them . . . We will champion the cause of human dignity and oppose those who resist it." The SPDC is doing everything it can to rob the Burmese people of liberty, of justice, and of human dignity. It is time for the Senate to make clear just where the United States stands in the face of this injustice.

Mrs. FEINSTEIN. Mr. President, I rise along with my distinguished colleague from Kentucky, Senator MCCONNELL, to introduce the Burmese Freedom and Democracy Act of 2003, which would establish a complete import ban on all products from Burma.

On May 30, Aung San Suu Kyi and at least 17 officials of the National League for Democracy, NLD, were detained after a clash in the town of Yeu, after reportedly being attacked by members of the Union Solidarity Development Association, a paramilitary organization created by the ruling military junta, the State Peace and Development Council, SPDC.

Four people were killed and 50 injured in the attacks. Aung San Suu Kyi has been officially placed in "protective custody", but her whereabouts remain unconfirmed.

Still more disturbing are reports in today's Washington Post that Suu Kyi may have suffered a head wound and a broken arm in the attacks and is possibly being held at a military hospital near Rangoon. The military junta continues to insist that she is in good health and in a "safe place", yet they are unwilling to allow independent verification of Suu Kyi's condition.

One year ago the military junta freed Suu Kyi following 19 months of house arrest, while promising cooperation and dialogue toward political accommodation. Had I discussed Burma on the floor of the Senate back then, I would have sounded a note of cautious optimism, echoing Aung San Suu Kyi's own statement that "it's a new dawn for the country".

But as the events of May 30 have so tragically illustrated, the SPDC have broken every promise to work towards political dialogue and, in fact, have launched a new campaign of repression.

Given the military regime's utter contempt for the welfare and safety of its people and the repeated and ongoing human rights abuses against Aung San Suu Kyi and the members of the NLD, I now feel we have no choice but to strengthen the sanctions imposed in 1997.

The actions of the SPDC are simply outrageous and I join the State Department, the United Nations and the many voices from around the world in demanding that Suu Kyi and the others be released immediately, and to allow the U.N. Special Rapporteur on Human Rights in Burma to conduct an independent investigation into the attack on Aung San Suu Kyi and her party.

Not content to stop with arresting the leadership of the NLD, the regime has tightened its crackdown on the pro-democracy movement, closing universities and shutting down at least six NLD offices. In addition, two NLD leaders have been arrested on charges of "subversion".

Let us recall, the NLD overwhelmingly won Burma's national elections in 1990. The NLD are Burma's rightful leaders, not the military junta which seized power in 1988, crushing a widespread popular uprising.

Such actions are only the tip of the iceberg of the regime's brutality. According to the Council on Foreign Relations Task Force report on Burma, which both the Senator from Kentucky, and I had the honor of serving on, gross human rights violations continue under the SPDC: over 1,300 political prisoners are still in jail; the practice of rape as a form of repression has been sanctioned by the Burmese military; the use of forced labor is widespread; trafficking in young boys and girls as sex slaves is rampant; the government engages in the production and distribution of opium and methamphetamine.

In addition, the report notes that because of SPDC mismanagement, the Burmese economy is in shambles, with poor rice harvests and, most recently, a February 2003 financial crisis sparked by government closure of private deposit companies.

In the face of such brutality it is imperative that the United States take strong and decisive action to express our disapproval of the SPDC and its tactics, and our support of those forces working for peace in Burma.

The United States must act. Although in general I do not support the use of trade embargoes as an effective instrument of foreign policy, in certain circumstances and when faced with certain conditions I believe they are necessary and proper and can, in fact, provide effective leverage.

Burma, I believe, is such a case and an import ban is a proper and much needed step to take.

Our legislation: imposes a complete ban on all imports from Burma until the President determines and certifies to Congress that Burma has made substantial and measurable progress on a number of democracy and human rights issues; allows the President to waive the import ban should he determine and notify Congress that it is in the national security interests of the United States to do so; allows the President to waive any provision of the bill found to be in violation of any international obligations of the U.S. pursuant to World Trade Organization dispute settlement procedures; freezes the assets of the Burmese regime in the United States; directs United States executive directors at international financial institutions to vote against loans to the Burma; expands the visa ban against the past and present leadership of the military junta; encourages the Secretary of State to highlight the abysmal record of the SPDC in the international community, and; authorizes the President to use all available resources to assist democracy activists in Burma.

Both business and labor are united in support of a ban. The American Apparel and Footwear Association, which represents apparel, footwear, and sewn products companies and their suppliers, has called for a ban.

President and CEO Kevin M. Burke stated, "The government of Burma continues to abuse its citizens through force and intimidation, and refuses to respect the basic human rights of its people. AAFA believes this unacceptable behavior should be met with condemnation from not only the international public community, but from private industry as well."

A number of stores, including Saks, Macy's, Bloomingdale's, Ames, and The Gap have already voluntarily stopped importing or selling goods from Burma. The AFL–CIO and other labor groups also support a ban.

In addition, the International Labor Organization, for the first time in its history, called on all ILO members to impose sanctions on Burma.

Such diversity in support of this legislation speaks volumes about the brutality of the SPDC regime and its single-minded unwillingness to take even a modest step towards democracy and national reconciliation.

Currently, Burma exports approximately $400 million in goods per year to the United States. These exports are the regime's major source of foreign currency. Rest assured, the regime will take notice if this bill becomes law.

As events of the past few days have shown, all other avenues have been tried and failed. There is no other resource but to introduce this legislation, that would put pressure on the military junta to cease its violations of human rights and respect the free will of the Burmese people as expressed in the 1990 elections.

We must make a stand on the side of the people of Burma. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 1182

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Burmese Freedom and Democracy Act of 2003".

### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's "Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma" dated March 28, 2003, the SPDC has become "more confrontational" in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its "strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma" and called upon the United States Government to "impose an outright ban on U.S. imports" of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

### SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) GENERAL BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) BAN ON IMPORTS FROM CERTAIN COMPANIES.—The import restrictions contained in paragraph (1) shall apply tö, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term "appropriate congressional committees" means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives that to do so is in the national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

(c) DURATION OF TRADE BAN.—The President may terminate the restrictions contained in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in subsection (a)(3) have been met.

### SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

### SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma until such time as the conditions described in section 3(a)(3) are met.

### SEC. 6. EXPANSION OF VISA BAN.

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

### SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

### SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

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By Mr. KYL (for himself and Mr. WYDEN):

S. 1183. A bill to develop and deploy technologies to defeat Internet jamming and censorship, and for other purposes; to the Committee on Foreign Relations.

Mr. KYL. Mr. President, I ask unanimous consent that the "Global Internet Freedom Act of 2003" be printed in today's CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1183

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Internet Freedom Act of 2003".

### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Freedom of speech, freedom of the press, and freedom of association are fundamental characteristics of a free society. The first amendment to the Constitution of the United States guarantees that "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble.". These constitutional provisions guarantee the rights of Americans to communicate and associate with one another without restriction, including unfettered communication and association via the Internet. Article 19 of the United Nation's Universal Declaration of Human Rights explicitly guarantees the freedom to "receive and impart information and ideas through any media and regardless of frontiers".

(2) All people have the right to communicate freely with others, and to have unrestricted access to news and information, on the Internet.

(3) With nearly 10 percent of the world's population now online, and more gaining access each day, the Internet stands to become the most powerful engine for democratization and the free exchange of ideas ever invented.

(4) Unrestricted access to news and information on the Internet is a check on repressive rule by authoritarian regimes around the world.

(5) The governments of Burma, Cuba, Laos, North Korea, the People's Republic of China, Saudi Arabia, Syria, and Vietnam, among others, are taking active measures to keep their citizens from freely accessing the Internet and obtaining international political, religious, and economic news and information.

(6) Intergovernmental, nongovernmental, and media organizations have reported the widespread and increasing pattern by authoritarian governments to block, jam, and monitor Internet access and content using methods that include—

(A) firewalls, filters, and "black boxes";

(B) surveillance of e-mail messages and message boards;

(C) the use of particular words to identify content to be monitored;

(D) "stealth blocking" individuals from visiting websites;

(E) the development of "black lists" of users that visit certain websites; and

(F) the denial of access to the Internet.

(7) The transmission of the Voice of America and Radio Free Asia, as well as hundreds of news sources with an Internet presence, are routinely being jammed by repressive governments.

(8) Since the 1940s, the United States has deployed anti-jamming technologies to make Voice of America and other United States Government sponsored broadcasting available to people in nations with governments that seek to block news and information.

(9) The United States Government has thus far commenced only modest steps to fund and deploy technologies to defeat Internet censorship. As of January 2003, the Voice of America and Radio Free Asia have committed a total of $1,000,000 for technology to counter Internet jamming by the People's Republic of China. This technology, which has been successful in attracting 100,000 electronic hits per day from the People's Republic of China, has been relied upon by Voice of America and Radio Free Asia to ensure access to their programming by citizens of the People's Republic of China, but United States Government financial support for the technology has lapsed. In most other countries there is no meaningful United States support for Internet freedom.

(10) The success of United States policy in support of freedom of speech, press, and association requires new initiatives to defeat totalitarian and authoritarian controls on news and information over the Internet.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to adopt an effective and robust global Internet freedom policy;

(2) to establish an office within the International Broadcasting Bureau with the sole mission of countering Internet jamming and blocking by repressive regimes;

(3) to expedite the development and deployment of technology to protect Internet freedom around the world;

(4) to authorize the commitment of a substantial portion of United States international broadcasting resources to the continued development and implementation of technologies to counter the jamming of the Internet;

(5) to utilize the expertise of the private sector in the development and implementation of such technologies, so that the many current technologies used commercially for securing business transactions and providing virtual meeting space can be used to promote democracy and freedom; and

(6) to bring to bear the pressure of the free world on repressive governments guilty of Internet censorship and the intimidation and persecution of their citizens who use the Internet.

### SEC. 4. DEVELOPMENT AND DEPLOYMENT OF TECHNOLOGIES TO DEFEAT INTERNET JAMMING AND CENSORSHIP.

(a) ESTABLISHMENT OF OFFICE OF GLOBAL INTERNET FREEDOM.—There is established in the International Broadcasting Bureau the Office of Global Internet Freedom (hereinafter in this section referred to as the "Office"). The Office shall be headed by a Director who shall develop and implement a comprehensive global strategy to combat state-sponsored and state-directed jamming of the Internet and persecution of those who use the Internet.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $30,000,000 for each of the fiscal years 2004 and 2005.

(c) COOPERATION OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The head of each department and agency of the United States Government shall cooperate fully with, and assist in the implementation of, the strategy developed by the Director of the Office and shall make such resources and information available to the Director as is necessary for the achievement of the purposes of this Act.

(d) REPORT TO CONGRESS.—

(1) IN GENERAL.—On March 1 following the date of enactment of this Act, and annually thereafter, the Director of the Office shall submit to Congress a report on the status of state interference with Internet use and of efforts by the United States to counter such interference.

(2) CONTENT.—Each report required by paragraph (1) shall—

(A) list the countries that pursue policies of Internet censorship, blocking, and other abuses;

(B) provide information concerning the government agencies or quasi-governmental organizations that implement Internet censorship; and

(C) describe with the greatest particularity practicable the technological means by which such blocking and other abuses are accomplished.

(3) FORMS OF REPORT.—In the discretion of the Director, a report required by paragraph (1) may be submitted in both a classified and a nonclassified form.

(e) LIMITATION ON AUTHORITY.—Nothing in this Act shall be interpreted to authorize any action by the United States to interfere with foreign national censorship in furtherance of legitimate law enforcement aims that is consistent with the United Nation's Universal Declaration of Human Rights.

**SEC. 5. SENSE OF CONGRESS.**

It is the sense of Congress that the United States should—

(1) publicly, prominently, and consistently denounce governments that restrict, censor, ban, and block access to information on the Internet;

(2) direct the United States Representative to the United Nations to submit a resolution at the first annual meeting of the United Nations Human Rights Commission after the date of enactment of this Act that condemns all governments that practice Internet censorship and deny individuals the freedom to access and share information; and

(3) deploy, at the earliest practicable date, technologies aimed at defeating state-directed Internet censorship and the persecution of those who use the Internet.

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By Mr. SMITH (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. FITZGERALD, and Mr. LAUTENBERG):

S. 1184. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SMITH. Mr. President, I rise today to introduce the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act of 2003. In this effort, I am joined by my colleagues: Senator CLINTON from New York, Senator MURRAY from Washington, Senator, LAUTENBERG from New Jersey and Senator DODD from Connecticut. I appreciate their support for this important legislation.

We are motivated by a desire to achieve justice for Holocaust victims and their families, and we recognize that if such justice is to be attained, the United States must continue to lead the world by example.

The United States has provided leadership in this area ever since American troops liberated the death camps in Nazi Germany. This legislation recognizes that the struggle for justice requires continued American leadership and that the Foundation is the appropriate mechanism for that leadership.

The purpose of this act is to create a public/private Foundation dedicated to supporting research and education in the area of Holocaust-era assets and restitution policy and promoting innovative solutions to restitution issues.

The need for the Foundation arises from the findings of the Presidential advisory Commission on Holocaust Assets in the United States. I was proud to serve as commissioner on that Commission. The Commission identified several policy initiatives that require U.S. leadership, including: creating mechanisms to assist claimants in obtaining resolution of claims; supporting databases of victims' claims for the restitution of personal property; reviewing the degree to which other nations have adhered to agreements reached at international conferences on Holocaust issues; synthesizing the work of other national commissions throughout the world; supporting further research and review of Holocaust-era assets; and disseminating information about restitution programs to survivors and their families.

If the nations of the world are to be convinced of our lasting commitment to justice for Holocaust victims and if continued work on Holocaust assets issues is to be truly effective, the Foundation must have the stamp of the Federal Government. But the Federal Government cannot, and should not, perform these tasks by itself. It will coordinate the efforts of the Federal Government, State governments, the private sector and individuals here, and abroad, to help people locate and identify assets who would otherwise have no ability to do so. It will encourage policy makers to deal with contemporary restitution issues, including how best to treat unclaimed assets.

Each passing day reveals the existence of still unclaimed assets. This bill will create an institution able to provide the academic center of research into this area of continuing importance. It will also show that the United States is willing to ask of itself no less than it asks of the international community.

The restitution of property is part of a larger process of obtaining a measure of justice for the victims of Europe's major human disasters of the 20th century—fascism and communism. Justice for these individuals is long overdue. Having had justice delayed for so long, they are entitled to expect that democratic governments will move promptly to bring closure during their lifetimes.

I ask unanimous consent that the text of the Holocaust Victims' assets, Restitution Policy, and Remembrance Act of 2003 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1184

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Holocaust Victims' Assets, Restitution Policy, and Remembrance Act".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The United States should continue to lead the international effort to identify, protect, and return looted assets taken by the Nazis and their collaborators from victims of the Holocaust.

(2) The citizens of the United States should understand exactly how the United States Government dealt with the assets looted from victims of the Nazis that came into its possession.

(3) The United States forces in Europe made extraordinary efforts to locate and restitute assets taken by the Nazis and their collaborators from victims of the Holocaust.

(4) However, the restitution policy formulated by the United States and implemented in the countries in Europe occupied by the United States had many inadequacies and fell short of realizing the goal of returning stolen property to the victims.

(5) As a result of these United States policies and their implementation, there remain today many survivors or heirs of survivors who have not had restored to them that which the Nazis looted.

(6) The Presidential Advisory Commission on Holocaust Assets in the United States, established in Public Law 105–186, found the following:

(A) Despite the undertaking by United States agencies to preserve, protect, and return looted assets, United States restitution policy could never fully address the unimaginable dimension and complexity of restituting assets to victims of the Holocaust. Many inadequacies reveal that United States authorities were driven by necessity, and practical concerns of restitution commingled with conflicting interests, priorities, and political considerations. Restitution competed with, and was often subordinated to, the desire to bring American troops home, the need to rebuild devastated European economies, and provide humanitarian assistance to millions of displaced persons, and the Cold War.

(B) With respect to many types of assets, the United States followed international legal tradition and undertook only to restore property to national governments, which it assumed would be responsible for satisfying the claims of their citizens. Because this practice excluded those who no longer had a nation to represent their interests, or who had fallen victim to the Nazi genocide, the United States also designated certain "successor organizations" to sell heirless and unclaimed property and apply the proceeds to the care, resettlement, and rehabilitation of surviving victims. This practice led many assets to be too hastily labeled as heirless or unidentifiable, with the result that they were assigned to the successor organizations, rather than returned to their rightful owners.

(C) Far more regrettable is the United States failure to adequately assist victims, heirs, and successor organizations to identify victims' assets, instead relying upon them to present their own claims, often within unrealistically short deadlines, with the result that much victim property was never recovered.

(D) Even when property was returned to individual owners or their heirs, it was often only after protracted, cumbersome, and expensive administrative proceedings that yielded settlements far less than the full value of the assets concerned.

(E) While the overall record of the United States is one in which its citizens can legitimately take pride, even the most farsighted and best-intentioned policies intended to restitute stolen property to its country of origin failed to realize the goal of returning property to the victims who suffered the loss.

(F) In many instances, policy and circumstance combined and led to results that can be improved upon now, to provide a modicum of justice to Holocaust victims and their heirs and in memory of those who did not survive.

(7) The United States Government should promote both the review of Holocaust-era assets in Federal, State, and private institutions, and the return of such assets to victims or their heirs.

(8) The best way to achieve this is to create a single institution to serve as a centralized repository for research and information about Holocaust-era assets.

(9) Enhancing these policies will also assist victims of future armed conflicts around the world.

(10) The Government of the United States has worked to address the consequences of the National Socialist era with other governments and nongovernmental organizations, including the Conference on Jewish Material Claims Against Germany, which has worked since 1951 with the Government of the United States and with other governments to accomplish material restitution of the looted assets of Holocaust victims, wherever those assets were identified, and has played a major role in allocating restitution funds and funds contributed by the United States and other donor countries to the Nazi Persecutee Relief Fund.

**SEC. 3. ESTABLISHMENT AND PURPOSES.**

(a) ESTABLISHMENT.—There is established a National Foundation for the Study of Holocaust Assets (in this Act referred to as the "Foundation").

(b) PURPOSES.—The purposes of the Foundation are—

(1) to serve as a centralized repository for research and information about Holocaust-era assets by—

(A) compiling and publishing a comprehensive report that integrates and supplements where necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust;

(B) working with the Department of State's Special Envoy for Holocaust Issues to review the degree to which foreign governments have implemented the principles adopted at the Washington Conference on Holocaust-era Assets and the Vilnius International Forum on Holocaust-era Looted Cultural Property, and should encourage the signatories that have not yet implemented those principles to do so; and

(C) collecting and disseminating information about restitution programs around the world;

(2) to create tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets and to enable claimants to obtain the speedy resolution of their personal property claims by—

(A) ensuring the implementation of the agreements entered into by the Presidential Advisory Commission on Holocaust Assets in the United States with the American Association of Museums and the Association of Art Museum Directors to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United States, beginning with European paintings and Judaica;

(B) funding grants to museums, libraries, universities, and other institutions that hold Holocaust-era cultural property and adhere to the agreements referred to in subparagraph (A), to conduct provenance research;

(C) encouraging the creation and maintenance of mechanisms such as an Internet-based, searchable portal of Holocaust victims' claims for the restitution of personal property;

(D) funding a cross match of records developed by the 50 States of escheated property from the Holocaust era against databases of victims' names and publicizing the results of this effort;

(E) assisting State governments in the preservation and automation of records of unclaimed property that may include Holocaust-era property; and

(F) regularly publishing lists of Holocaust-era artworks returned to claimants by museums in the United States;

(3) to work with private sector institutions to develop and promote common standards and best practices for research and information gathering on Holocaust-era assets by—

(A) promoting and monitoring banks' implementation of the suggested best practices developed by the Presidential Advisory Commission on Holocaust Assets in the United States and the New York Bankers' Association;

(B) promoting the development of common standards and best practices for research by United States corporations into their records concerning whether they conducted business with Nazi Germany in the period preceding the onset of hostilities in December 1941;

(C) encouraging the International Commission on Holocaust Era Insurance Claims (ICHEIC) to prepare a report on the results of its claims process; and

(D) promoting the study and development of policies regarding the treatment of cultural property in circumstances of armed conflict; and

(4) other purposes the Board considers appropriate.

**SEC. 4. BOARD OF DIRECTORS.**

(a) MEMBERSHIP AND TERMS.—The Foundation shall have a Board of Directors (in this Act referred to as the "Board"), which shall consist of 17 members, each of whom shall be a United States citizen.

(b) APPOINTMENT.—Members of the Board shall be appointed as follows:

(1) Nine members of the Board shall be representatives of government departments, agencies and establishments, appointed by the President, by and with the advice and consent of the Senate as follows:

(A) One representative each from the Department of State, Department of Justice, Department of the Treasury, Department of the Army, National Archives and Records Administration, and Library of Congress.

(B) One representative each from the United States Holocaust, Memorial Council, National Gallery of Art, and National Foundation on the Arts and Humanities.

(2) Eight members of the Board shall be individuals who have a record of demonstrated leadership relating to the Holocaust or in the fields of commerce, culture, or education, appointed by the President, by and with the advice and consent of the Senate, after consideration of the recommendations of the congressional leadership, as follows:

(A) Two members each shall be appointed after consideration of the recommendations of the Majority Leader of the Senate and after consideration of the recommendations of the Minority Leader of the Senate.

(B) Two members each shall be appointed after consideration of the recommendations of the Speaker of the House of Representatives and after consideration of the recommendations of the Minority Leader of the House of Representatives.

(c) CHAIRMAN.—The President shall appoint a Chair from among the members of the Board.

(d) QUORUM AND VOTING.—A majority of the membership of the Board shall constitute a quorum for the transaction of business. Voting shall be by simple majority of those members voting.

(e) MEETINGS AND CONSULTATIONS.—The Board shall meet at the call of the Chairman at least twice a year. Where appropriate, members of the Board shall consult with relevant agencies of the Federal Government, and with the United States Holocaust Memorial Council and Museum.

(f) REIMBURSEMENTS.—Members of the Board shall serve without pay, but shall be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

**SEC. 5. OFFICERS AND EMPLOYEES.**

(a) EXECUTIVE DIRECTOR.—The Foundation shall have an Executive Director appointed by the Board and such other officers as the Board may appoint. The Executive Director and the other officers of the Foundation shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(b) EMPLOYEES.—Subject to the approval of the Board, the Foundation may employ such individuals at such rates of compensation as the Executive Director determines appropriate.

(c) VOLUNTEERS.—Subject to the approval of the Board, the Foundation may accept the services of volunteers in the performance of the functions of the Foundation.

**SEC. 6. FUNCTION AND CORPORATE POWERS.**

The Foundation—

(1) may conduct business in the United States and abroad;

(2) shall have its principal offices in the District of Columbia or its environs; and

(3) shall have the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom, or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any real or personal property or income therefrom;

(D) to enter into contracts or other arrangements with public agencies, private organizations, and other persons, and to make such payments as may be necessary to carry out its purposes; and

(E) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

**SEC. 7. REPORTING REQUIREMENTS.**

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during that fiscal year, including a full and complete statement of its receipts, expenditures, and investments, and a description of all acquisition and disposal of real property.

### SEC. 8. ADMINISTRATIVE SERVICES AND SUPPORT.

The Secretary of the Treasury, the Secretary of Education, the Secretary of State, and the heads of any other Federal agencies may provide personnel, facilities, and other administrative services to the Foundation.

### SEC. 9. SUNSET PROVISION.

The Foundation shall exist until September 30, 2013, at which time the Foundation's functions and research materials and products shall be transferred to the United States Holocaust Memorial Museum, or to other appropriate entities, as determined by the Board.

### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Foundation such sums as may be necessary to carry out this Act.

(b) LIMITATION.—No funds appropriated to carry out this Act may be used to pay attorneys' fees in the pursuit of private claims.

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By Mr. THOMAS (for himself, Mr. HARKIN, Mr. DOMENICI, Mr. BINGAMAN, Mr. ROBERTS, Mr. DAYTON, Mr. SMITH, Ms. CANTWELL, Mr. INOUYE, Mr. BURNS, Mr. JOHNSON, Mr. ENZI, Mrs. LINCOLN, Ms. COLLINS, Mr. DASCHLE, Mr. HAGEL, and Mr. CONRAD):

S. 1185. A bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for Medicare beneficiaries who reside in rural areas, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the "Rural Provider Equity Act of 2003" with Senator HARKIN and other members of the Senate Rural Health Caucus. This legislation comprehensively addresses the Medicare payment issues of rural physicians, rural health clinics, ambulance providers, home health agencies, community health centers, mental health providers and other critical mid-level clinicians.

The current Medicare program has many payment formula disparities that are biased against rural providers, which result in them being paid significantly less than their urban counterparts for the same services. The geographic inequities that exist within the Medicare program continually put rural providers at a disadvantage and adversely affect seniors' access to quality health care in these communities.

Many physicians are being forced to limit the number of Medicare patients they serve because of poor reimbursement rates. The "Rural Providers Equity Act" is necessary to adequately pay physicians so they can continue caring for the elderly. In addition to establishing a work geographic index of 1.0, physicians practicing in federally designated Health Professional Shortage Areas will automatically start receiving the Medicare ten percent bonus payment to which they are entitled.

In recognition of the difficulties rural and frontier communities face in recruiting and retaining primary care clinicians, this legislation includes a provision providing tax exemptions to National Health Service Corps, NHSC, loan-repayments. The NHSC provides scholarships, loan-repayments, and stipends for clinicians who agree to serve in nationally designated underserved urban and rural communities. In the current NHSC loan program, recipients are given money to offset their tax liabilities. If this money was made available, more clinicians would be able to participate in the program and care for the underserved.

Home health care agencies and ambulance services are critical elements of the continuum of care in rural areas. These providers face unique circumstances in the distances they are required to travel to provide services. The current Medicare payment system does not make adequate adjustments to reflect the reality of rural and frontier health care. The "Rural Provider Equity Act of 2003" recognizes the situation of these providers by increasing their Medicare payments to better cover their costs of providing services to seniors.

By caring for folks in underserved areas, rural health clinics and community health centers are a key component of the rural health care delivery system. As not every small town can sustain a hospital, we need to ensure these types of facilities are paid adequately and are provided enough flexibility to meet the health care needs of the communities they serve.

The "Rural Providers Equity Act of 2003" also permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services where they live.

Rural seniors are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of this provision will more than double the number of mental health providers available to seniors in my state with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the State.

Health care in rural America is at a critical juncture, and Congress must act now so providers receive this down payment towards Medicare equity to ensure rural seniors continue to have access to the health care services they deserve. I urge all my colleagues interested in rural health to cosponsor the "Rural Provider Equity Act of 2003."

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1185

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rural Provider Equity Act of 2003".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; table of contents.
Sec. 2. Rural physician reimbursement improvements.
Sec. 3. Physician assistant, nurse practitioner, and clinical nurse specialist improvements.
Sec. 4. Rural health clinic improvements.
Sec. 5. Extension of temporary increase for home health services furnished in a rural area.
Sec. 6. Rural community health center improvements.
Sec. 7. Ensuring appropriate coverage of ambulance services under ambulance fee schedule.
Sec. 8. Rural mental health care accessibility improvements.
Sec. 9. Rural health services research improvements.
Sec. 10. Exclusion for loan payments under National Health Service Corps loan repayment program.
Sec. 11. Virtual pharmacist consultation service demonstration projects.

### SEC. 2. RURAL PHYSICIAN REIMBURSEMENT IMPROVEMENTS.

(a) MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS.—

(1) PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.—Section 1833(m) (42 U.S.C. 1395*l*(m)) is amended—

(A) by inserting "(1)" after "(m)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary shall establish procedures under which the Secretary, and not the physician furnishing the service, is responsible for determining when a payment is required to be made under paragraph (1).".

(2) EDUCATIONAL PROGRAM REGARDING THE MEDICARE INCENTIVE PAYMENT PROGRAM.—The Secretary of Health and Human Services shall establish and implement an ongoing educational program to provide education to physicians under the Medicare program on the Medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)).

(3) ONGOING STUDY AND ANNUAL REPORT ON THE MEDICARE INCENTIVE PAYMENT PROGRAM.—

(A) ONGOING STUDY.—The Secretary of Health and Human Services shall conduct an ongoing study on the Medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)). Such study shall focus on whether such program increases the access of Medicare beneficiaries who reside in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a health professional shortage area to physicians' services under the Medicare program.

(B) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(b) PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking "subparagraphs (B) and (C)" and inserting "subparagraphs (B), (C), and (E)"; and

(2) by adding at the end the following new subparagraph:

"(E) FLOOR FOR WORK GEOGRAPHIC INDICES.—

"(i) IN GENERAL.—After calculating the work geographic indices in subparagraph (A)(iii) for a year (beginning with 2004), the Secretary shall increase the work geographic index for the year to the applicable floor index for the year for any locality for which such geographic index is less than such applicable floor index.

"(ii) APPLICABLE FLOOR INDEX.—For purposes of clause (i), the term 'applicable floor index' means—

"(I) 0.900 for services furnished during 2004;

"(II) 1.000 for services furnished during 2005 and subsequent years.".

### SEC. 3. PHYSICIAN ASSISTANT, NURSE PRACTITIONER, AND CLINICAL NURSE SPECIALIST IMPROVEMENTS.

(a) BROADENING MEDICARE BENEFICIARIES ACCESS TO HOME HEALTH SERVICES AND HOSPICE CARE.—Section 1861(r) (42 U.S.C. 1395f(x)) is amended by adding at the end the following new sentences: "For purposes of sections 1814(a)(2)(C), 1814(a)(7)(B), 1835(a)(2)(A), 1861(m), 1861(dd), and 1895(c)(1), the term 'physician' includes a nurse practitioner, a clinical nurse specialist, and a physician assistant (as such terms are defined in subsection (aa)(5)) who does not have a direct or indirect employment relationship with the home health agency or hospice program (as the case may be), and is legally authorized to perform the services of a nurse practitioner, a clinical nurse specialist, or a physician assistant (as the case may be) in the jurisdiction in which the services are performed. For purposes of the preceding sentence, the provisions of section 1833(a)(1)(O) shall continue to apply with respect to amounts paid for services furnished by such a nurse practitioner, a clinical nurse specialist, and a physician assistant.".

(b) SKILLED NURSING FACILITIES.—Section 1819(b)(6) (42 U.S.C. 1395i–3(b)(6)) is amended—

(1) in the paragraph heading, by inserting "OR NURSE PRACTITIONER" after "PHYSICIAN"; and

(2) in subparagraph (A), by inserting "or nurse practitioner, including approving in writing a recommendation that an individual be admitted to a skilled nursing facility, admitting an individual to a skilled nursing facility, and performing the initial admitting assessment and all visits thereafter" before the semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

### SEC. 4. RURAL HEALTH CLINIC IMPROVEMENTS.

(a) IMPROVEMENT IN RURAL HEALTH CLINIC REIMBURSEMENT UNDER MEDICARE.—Section 1833(f) (42 U.S.C. 1395*l*(f)) is amended—

(1) in paragraph (1), by striking ", and" at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) by striking "in a subsequent year" and inserting "in 1989 through 2002"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) in 2003, at $82 per visit; and

"(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as so defined) applicable to primary care services (as so defined) furnished as of the first day of that year.".

(b) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)) is amended—

(A) in clause (i)(II), by striking "clauses (ii) and (iii)" and inserting "clauses (ii), (iii), and (iv)"; and

(B) by adding at the end the following new clause:

"(iv) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are—

"(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

"(II) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were not furnished by an individual affiliated with a rural health clinic or a Federally qualified health center.".

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2003.

### SEC. 5. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–533), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(1) in the heading, by striking "24-MONTH INCREASE BEGINNING APRIL 1, 2001" and inserting "IN GENERAL";

(2) by striking "April 1, 2003" and inserting "April 1, 2004"; and

(3) by inserting before the period at the end the following: "(or 5 percent in the case of such services furnished on or after April 1, 2003, and before April 1, 2004)".

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–553), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking "the period beginning on April 1, 2001, and ending on September 30, 2002," and inserting "a period under such section".

(c) RETROACTIVE APPLICATION.—The amendments made by this section shall apply with respect to home health services furnished in a rural area on or after April 1, 2003.

### SEC. 6. RURAL COMMUNITY HEALTH CENTER IMPROVEMENTS.

(a) DELIVERY OF MEDICARE-COVERED PRIMARY AND PREVENTIVE SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.—

(1) COVERAGE OF MEDICARE-COVERED AMBULATORY SERVICES BY FQHCS.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended to read as follows:

"(3) The term 'Federally qualified health center services' means—

"(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and such other services furnished by a Federally qualified health center for which payment may otherwise be made under this title if such services were furnished by a health care provider or health care professional other than a Federally qualified health center; and

"(B) preventive primary health services that a center is required to provide under section 330 of the Public Health Service Act,

when furnished to an individual as a patient of a Federally qualified health center and such services when provided by a health care provider or health care professional employed by or under contract with a Federally qualified health center shall be treated as billable visits for purposes of payment to the Federally qualified health center.".

(2) ENSURING FQHC REIMBURSEMENT UNDER HOSPITAL AND SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEMS.—Section 1862(a)(14) (42 U.S.C. 1395y(a)) is amended by inserting "Federally qualified health center services," after "qualified psychologist services,".

(3) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking "(other than subsection (h))".

(4) EFFECTIVE DATES.—The amendments made—

(A) by paragraphs (1) and (2) shall apply to services furnished on or after January 1, 2004; and

(B) by paragraph (3) shall take effect on the date of enactment of this Act.

(b) PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.—

(1) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in subparagraph (E), by striking "and" after the semicolon at the end;

(B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(G) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.".

(2) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary") shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(G) of the Social Security Act, as added by paragraph (1), for health center entity arrangements to the antikickback penalties.

(ii) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under clause (i):

(I) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(II) Whether the arrangement between the health center entity and the other party restricts or limits a patient's freedom of choice.

(III) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(B) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under subparagraph (A)(ii). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this paragraph.

### SEC. 7. ENSURING APPROPRIATE COVERAGE OF AMBULANCE SERVICES UNDER AMBULANCE FEE SCHEDULE.

(a) AIR AMBULANCE SERVICE.—

(1) COVERAGE.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(A) by redesignating paragraph (8), as added by section 221(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-486), as enacted into law by section 1(a)(6) of Public Law 106-554, as paragraph (9); and

(B) by adding at the end the following new paragraph:

"(10) ENSURING APPROPRIATE COVERAGE OF AIR AMBULANCE SERVICES.—

"(A) IN GENERAL.—The regulations described in section 1861(s)(7) shall ensure that air ambulance services (as defined in subparagraph (C)) are reimbursed under this subsection at the air ambulance rate if the air ambulance service—

"(i) is medically necessary based on the health condition of the individual being transported at or immediately prior to the time of the transport; and

"(ii) complies with equipment and crew requirements established by the Secretary.

"(B) MEDICALLY NECESSARY.—An air ambulance service shall be considered to be medically necessary for purposes of subparagraph (A)(i) if such service is requested—

"(i) by a physician or a hospital in accordance with the physician's or hospital's responsibilities under section 1867 (commonly known as the 'Emergency Medical Treatment and Active Labor Act');

"(ii) as a result of a protocol established by a State or regional emergency medical service (EMS) agency;

"(iii) by a physician, nurse practitioner, physician assistant, registered nurse, or emergency medical responder who reasonably determines or certifies that the patient's condition is such that the time needed to transport the individual by land or the lack of an appropriate ground ambulance, significantly increases the medical risks for the individual; or

"(iv) by a Federal or State agency to relocate patients following a natural disaster, an act of war, or a terrorist attack.

"(C) AIR AMBULANCE SERVICES DEFINED.—For purposes of this paragraph, the term 'air ambulance service' means fixed wing and rotary wing air ambulance services.".

(2) CONFORMING AMENDMENT.—Section 1861(s)(7) (42 U.S.C. 1395x(s)(7)) is amended by inserting ", subject to section 1834(l)(10)," after "but".

(b) GROUND AMBULANCE SERVICE.—

(1) PAYMENT RATES.—

(A) IN GENERAL.—Section 1834(l)(3) (42 U.S.C. 1395m(l)(3)) is amended to read as follows:

"(3) PAYMENT RATES.—

"(A) IN GENERAL.—Subject to any adjustment under subparagraph (B) and paragraph (9) and the full payment of a national mileage rate pursuant to paragraph (2)(E), in establishing such fee schedule, the following rules shall apply:

"(i) PAYMENT RATES IN 2003.—

"(I) GROUND AMBULANCE SERVICES.—In the case of ground ambulance services furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services at a rate based on the average costs (as determined by the Secretary on the basis of the most recent and reliable information available) incurred by full cost ambulance suppliers in providing nonemergency basic life support ambulance services covered under this title, with adjustments to the rates for other ground ambulance service levels to be determined based on the rule established under paragraph (1). For the purposes of the preceding sentence, the term 'full cost ambulance supplier' means a supplier for which volunteers or other unpaid staff comprise less than 20 percent of the supplier's total staff and which receives less than 20 percent of space and other capital assets free of charge.

"(II) OTHER AMBULANCE SERVICES.—In the case of ambulance services not described in subclause (I) that are furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services based on the rule established under paragraph (1).

"(ii) PAYMENT RATES IN SUBSEQUENT YEARS FOR ALL AMBULANCE SERVICES.—In the case of any ambulance service furnished under this part in 2004 or any subsequent year, the Secretary shall set the payment rates under the fee schedule for such service at amounts equal to the payment rate under the fee schedule for that service furnished during the previous year, increased by the percentage increase in the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.

"(B) ADJUSTMENT IN RURAL RATES.—For years beginning with 2004, the Secretary, after taking into consideration the recommendations contained in the report submitted under section 221(b)(3) the Medicare, Medicaid, and SCHIP Benefits Improvements and Protection Act of 2000, shall adjust the fee schedule payment rates that would otherwise apply under this subsection for ambulance services provided in low density rural areas based on the increased cost (if any) of providing such services in such areas.".

(B) CONFORMING AMENDMENT.—Section 221(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-487), as enacted into law by section 1(a)(6) of Public Law 106-554, is repealed.

(2) USE OF MEDICAL CONDITIONS FOR CODING AMBULANCE SERVICES.—Section 1834(l)(7) (42 U.S.C. 1395m(l)(7)) is amended to read as follows:

"(7) CODING SYSTEM.—

"(A) IN GENERAL.—The Secretary shall, in accordance with section 1173(c)(1)(B), establish a system or systems for the coding of claims for ambulance services for which payment is made under this subsection, including a code set specifying the medical condition of the individual who is transported and the level of service that is appropriate for the transportation of an individual with that medical condition.

"(B) MEDICAL CONDITIONS.—The code set established under subparagraph (A) shall—

"(i) take into account the list of medical conditions developed in the course of the negotiated rulemaking process conducted under paragraph (1); and

"(ii) notwithstanding any other provision of law, be adopted as a standard code set under section 1173(c).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

### SEC. 8. RURAL MENTAL HEALTH CARE ACCESSIBILITY IMPROVEMENTS.

(a) INTERDISCIPLINARY GRANT PROGRAM.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

### "SEC. 330L. INTERDISCIPLINARY GRANT PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) shall award grants to eligible entities to establish interdisciplinary training programs that include significant mental health training in rural areas for certain health care providers.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public university or other educational institution that provides training for mental health care providers or primary health care providers.

"(2) MENTAL HEALTH CARE PROVIDER.—The term 'mental health care provider' means—

"(A) a physician with postgraduate training in a residency program of psychiatry;

"(B) a licensed psychologist (as defined by the Secretary for purposes of section 1861(ii) of such Act (42 U.S.C. 1395x(ii)));

"(C) a clinical social worker (as defined in section 1861(hh)(1) of such Act (42 U.S.C. 1395x(hh)(1)); or

"(D) a clinical nurse specialist (as defined in section 1861(aa)(5)(B) of such Act (42 U.S.C. 1395x(aa)(5)(B))).

"(3) PRIMARY HEALTH CARE PROVIDER.—The term 'primary health care provider' includes family practice, internal medicine, pediatrics, obstetrics and gynecology, geriatrics, and emergency medicine physicians as well as physician assistants and nurse practitioners.

“(4) Rural area.—The term ‘rural area’ means a rural area as defined in section 1886(d)(2)(D) of the Social Security Act, or such an area in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)), or any other geographical area that the Director designates as a rural area.

“(c) Duration.—Grants awarded under subsection (a) shall be awarded for a period of 5 years.

“(d) Use of Funds.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to administer an interdisciplinary, side-by-side training program for mental health care providers and primary health care providers, that includes providing, under appropriate supervision, health care services to patients in underserved, rural areas without regard to patients' ability to pay for such services.

“(e) Application.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require, including—

“(1) a description of the activities which the eligible entity intends to carry out using amounts provided under the grant;

“(2) a description of the manner in which the activities funded under the grant will meet the mental health care needs of underserved rural populations within the State; and

“(3) a description of the network agreement with partnering facilities.

“(f) Evaluations; Report.—Each eligible entity that receives a grant under this section shall submit to the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) an evaluation describing the programs authorized under this section and any other information that the Director deems appropriate. After receiving such evaluations, the Director shall submit to the appropriate committees of Congress a report describing such evaluations.

“(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.”.

(b) Coverage of Marriage and Family Therapist Services and Mental Health Counselor Services Under Part B of the Medicare Program.—

(1) Coverage of services.—

(A) In general.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (U), by striking “and” after the semicolon at the end;

(ii) in subparagraph (V)(iii), by inserting “and” after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

“(W) marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in subsection (ww)(3));”.

(B) Definitions.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

“(ww)(1) The term ‘marriage and family therapist services’ means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘marriage and family therapist’ means an individual who—

“(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

“(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

“(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

“(3) The term ‘mental health counselor services’ means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(4) The term ‘mental health counselor’ means an individual who—

“(A) possesses a master's or doctor's degree in mental health counseling or a related field;

“(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

“(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.”.

(C) Provision for payment under part B.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

“(v) marriage and family therapist services and mental health counselor services;”.

(D) Amount of payment.—Section 1833(a)(1) (42 U.S.C. 1395*l*(a)(1)) is amended—

(i) by striking “and (U)” and inserting “(U)”; and

(ii) by inserting before the semicolon at the end the following: “, and (V) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)”.

(E) Exclusion of marriage and family therapist services and mental health counselor services from skilled nursing facility prospective payment system.—

(i) In general.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)), as amended by section 4(b)(1)(B), is amended—

(I) in clause (i)(II), by striking “clauses (ii), (iii), and (iv)” and inserting “clauses (ii), (iii), (iv), and (v)”; and

(II) by adding at the end the following new clause:

“(v) Exclusion of marriage and family therapist services and mental health counselor services.—Services described in this clause are marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in section 1861(ww)(3)).”.

(ii) Effective date.—The amendments made by clause (i) shall apply to services furnished on or after January 1, 2003.

(F) Inclusion of marriage and family therapists and mental health counselors as practitioners for assignment of claims.—Section 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

“(vii) A marriage and family therapist (as defined in section 1861(ww)(2)).

“(viii) A mental health counselor (as defined in section 1861(ww)(4)).”.

(b) Coverage of Certain Mental Health Services Provided in Certain Settings.—

(1) Rural health clinics and federally qualified health centers.—Section 1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ww)(2)), or by a mental health counselor (as defined in subsection (ww)(4)),”.

(2) Hospice programs.—Section 1861(dd)(2)(B)(i)(III) (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting “or a marriage and family therapist (as defined in subsection (ww)(2))” after “social worker”.

(c) Authorization of Marriage and Family Therapists To Develop Discharge Plans for Post-Hospital Services.—Section 1861(ee)(2)(G) (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting “marriage and family therapist (as defined in subsection (ww)(2)),” after “social worker,”.

(d) Effective Date.—The amendments made by this subsection shall apply with respect to services furnished on or after January 1, 2004.

**SEC. 9. RURAL HEALTH SERVICES RESEARCH IMPROVEMENTS.**

(a) In General.—Section 711(b) (42 U.S.C. 912(b)) is amended—

(1) in paragraph (3), by striking “and” after the comma at the end;

(2) in paragraph (4), by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following new paragraph:

“(5) have the authority to administer grants to support rural health services research.”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on January 1, 2004.

**SEC. 10. EXCLUSION FOR LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.**

(a) In General.—Section 117 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) Loan Payments Under National Health Service Corps Loan Repayment Program.—Gross income shall not include any amount received under section 338B(g) of the Public Health Service Act.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts received by an individual in taxable years beginning after December 31, 2002.

### SEC. 11. VIRTUAL PHARMACIST CONSULTATION SERVICE DEMONSTRATION PROJECTS.

(a) Definitions.—In this section:

(1) Demonstration project.—The term "demonstration project" means a demonstration project established by the Secretary under subsection (b)(1).

(2) Drug.—The term "drug" means any drug or biological (as those terms are defined in section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)), regardless of whether payment may be made for such drug or biological under the medicare program.

(3) Eligible beneficiary.—The term "eligible beneficiary" means an individual enrolled under part B of the medicare program for whom a drug is being prescribed.

(4) Eligible originating site.—The term "eligible originating site" means the site at which a health care provider (as defined by the Secretary) is located at the time a drug is prescribed which may be—

(A) the office of a physician (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))) or a practitioner (as described in section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C)));

(B) a rural health clinic (as defined in section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)));

(C) a hospital (as defined in section 1861(e) of such Act (42 U.S.C. 1395x(e))) located in a rural area (as defined in section 1886(d)(2) of such Act (42 U.S.C. 1395ww(d)(2)));

(D) a critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1)));

(E) a community mental health center (as described in section 1861(ff)(2)(B) of such Act (42 U.S.C. 1395x(ff)(2)(B))); or

(F) a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of such Act).

(5) Eligible pharmacist.—The term "eligible pharmacist" means a pharmacist who meets such requirements as the Secretary may establish for purposes of the demonstration projects and who is a full-time employee of a school of pharmacy.

(6) Medicare program.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(7) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(8) Virtual pharmacist consultation service.—The term "virtual pharmacist consultation service" means professional consultations furnished by an eligible pharmacist and any additional service specified by the Secretary that is furnished by such a pharmacist.

(b) Virtual Pharmacist · Consultation Service Demonstration Projects.—

(1) Establishment.—The Secretary shall establish demonstration projects in accordance with the provisions of this section to provide virtual pharmacist consultation services with respect to drugs being prescribed to eligible beneficiaries.

(2) Participation.—Any eligible pharmacist located at a school of pharmacy may furnish virtual pharmacist consultation services under the demonstration projects and any eligible originating site that does not have a pharmacist on staff may participate in the demonstration projects on a voluntary basis.

(c) Payment for Virtual Pharmacist Consultation Services.—

(1) In general.—The Secretary shall pay for virtual pharmacist consultation services that are furnished via a telecommunications system by an eligible pharmacist with respect to a drug that is being prescribed to an eligible beneficiary.

(2) Payment amount.—

(A) Eligible pharmacists at schools of pharmacy.—The Secretary shall pay an amount determined by the Secretary for purposes of the demonstration projects to an eligible pharmacist who furnishes a virtual pharmacist consultation service while such pharmacist is located at a school of pharmacy that furnishes a virtual pharmacist consultation service with respect to a drug prescribed to an eligible beneficiary.

(B) Facility fee for eligible originating site.—If the Secretary determines that it is appropriate, the Secretary may pay the eligible originating site a facility fee determined by the Secretary for purposes of the demonstration projects which may not exceed the facility fee determined under section 1834(m)(2)(B) of the Social Security Act (42 U.S.C. 1395m(m)(2)(B)).

(3) No beneficiary charges.—An eligible beneficiary may not be charged any amount by an eligible pharmacist, eligible originating site, the Secretary or any other individual or entity for a virtual pharmacist service furnished under a demonstration project.

(d) Conduct of Demonstration Projects.—

(1) Demonstration areas.—

(A) In general.—The Secretary shall conduct demonstration projects in 5 demonstration areas selected on the basis of proposals submitted under subparagraph (B). Such demonstration areas shall be geographically disparate.

(B) Proposals.—The Secretary shall accept proposals to furnish virtual pharmacist consultation services under the demonstration projects from any school of pharmacy that is able to furnish virtual pharmacist services to an underserved rural area.

(2) Duration.—The Secretary shall complete the demonstration projects by the date that is 3 years after the date on which the first demonstration project is implemented.

(e) Report to Congress.—Not later than the date that is 6 months after the date on which the demonstration projects end, the Secretary shall submit to Congress a report on the demonstration projects together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(f) Waiver of Medicare Requirements.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(g) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the demonstration projects under this section, including such sums as may be necessary to develop, implement, and evaluate such projects.

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By Mrs. CLINTON:

S. 1187. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to require that ready-to-eat meat or poultry products that are not produced under a scientifically validated program to address Listeria monocytogenes be required to bear a label advising pregnant women and other at-risk consumers of the recommendations of the Department of Agriculture and the Food and Drug Administration regarding consumption of ready-to-eat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1187

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION. 1. SHORT TITLE.

This Act may be cited as the "At-Risk Consumer Protection Through Food Safety Labeling Act".

### SEC. 2. FINDINGS.

Congress finds that—

(1) consumption of food contaminated with microbial pathogens such as bacteria, parasites, viruses, and their toxins causes an estimated 76,000,000 illnesses, 325,000 hospitalizations, and 5,000 deaths each year in the United States;

(2) Government economists estimate that illnesses from Campylobacter, Salmonella, E. coli O157:H7, E. coli non-O157:H7 STEC, Listeria, and Toxoplasma gondii cause $6,900,000,000 in medical costs, lost productivity, and premature death in the United States each year;

(3) in particular, Listeria monocytogenes is the cause of 2,500 illnesses and 500 deaths annually, with economic costs of $2,300,000,000;

(4) people that face relatively higher risks from foodborne illness and associated complications include the very young, the very old, pregnant women, and the immunocompromised, such as persons with AIDS and cancer;

(5) outbreaks of foodborne illness are becoming increasingly widespread in both geographic area and duration, making detection and containment difficult;

(6) in 1998, following a major listeriosis outbreak from deli meats, many ready-to-eat meat and poultry processors established Listeria testing programs, but others have no Listeria testing and control program at all, giving them an unfair advantage in production costs over firms that are taking steps to protect public health;

(7)(A) in 1989, the Secretary of Agriculture established a performance standard allowing zero tolerance for Listeria monocytogenes that prohibits detectable levels of the pathogen in ready-to-eat meat and poultry products; and

(B) a performance standard for Listeria monocytogenes of nondetectable levels in ready-to-eat meat products—

(i) is appropriate to protect at-risk consumers (including pregnant women) (referred to in this section as "at-risk consumers") from severe health consequences or death from exposure to Listeria monocytogenes; and

(ii) is necessary to provide an adequate safety margin for at-risk consumers;

(8) in February 2001, the Secretary of Agriculture proposed regulations establishing

performance standards for the production of processed meat and poultry products, including requirements for controlling Listeria monocytogenes, but, in the time since the public comment period closed in September 2001, little progress has been made in finalizing the regulation;

(9) in 2002, an outbreak of foodborne listeriosis linked to ready-to-eat turkey deli meat in Pennsylvania, New York, New Jersey, Delaware, Maryland, Connecticut, and Michigan—

(A) sickened 53 persons;

(B) killed 8 persons; and

(C) caused at least 3 pregnant women to suffer miscarriages or stillbirths;

(10) in a March 21, 2003, speech to the North American Meat Processors, Food Safety and Inspection Service Administrator Dr. Gary McKee said the agency's December 2002 directive outlining Listeria testing procedures for agency inspectors is only an interim measure;

(11) to ensure the safety of at-risk consumers, ready-to-eat meat and poultry products not produced under a scientifically validated program to address Listeria monocytogenes should be required to bear a label advising at-risk consumers of the Government's recommendations not to consume ready-to-eat meat and poultry products without heating the products until steaming hot; and

(12) all data generated through scientifically validated programs to address Listeria monocytogenes should be shared with the Department of Agriculture and used to improve scientific research regarding the safety of ready-to-eat foods.

**SEC. 3. READY-TO-EAT MEAT PRODUCTS.**

(a) In General.—Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

"(g) Ready-To-Eat Meat Products.—

"(1) Definitions.—In this subsection:

"(A) At-risk consumer.—The term 'at-risk consumer' includes a pregnant woman.

"(B) Ready-to-eat meat product.—The term 'ready-to-eat meat product' means a meat product that has been processed so that the meat product may be safely consumed without further preparation by the consumer, that is, without cooking or application of some other lethality treatment to destroy pathogens.

"(2) Labeling requirement.—Except as provided in paragraph (3) or (4), a ready-to-eat meat product shall bear a label advising consumers that an at-risk consumer—

"(A) should not consume the ready-to-eat meat product unless the ready-to-eat meat product is heated until steaming hot; or

"(B) should follow such other instructions as the Secretary may prescribe in accordance with health guidelines and recommendations published by the Secretary and the Secretary of Health and Human Services.

"(3) Exemptions for producers.—On the motion of the Secretary or on petition of a producer of a ready-to-eat meat product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all producers of the ready-to-eat meat product or by order applicable to a particular producer of the ready-to-eat meat product, provide an exemption from the requirement of paragraph (2) if—

"(A) in the case of a ready-to-eat meat product that the Secretary determines presents a low risk to at-risk consumers, the producer—

"(i) has a scientifically validated program (as determined by the Secretary) to control Listeria monocytogenes; and

"(ii) makes all Listeria control program records (including the results of any testing of plant environment, food-contact surfaces, or meat product) available for inspection by the Secretary; or

"(B) in the case of any ready-to-eat meat product that the Secretary determines presents a greater risk to at-risk consumers, the producer of the ready-to-eat meat product has a scientifically valid program to address Listeria monocytogenes under which the producer—

"(i) tests food-contact surfaces for Listeria monocytogenes—

"(I) at least once every 2 days of production; and

"(II) if a food-contact surface tests positive—

"(aa) at least 3 times per day until the surface tests negative on 3 consecutive days; or

"(bb) in accordance with such other regimen as the Secretary may specify;

"(ii) tests the plant environment in the ready-to-eat meat processing area for the Listeria species—

"(I) at least once every 2 days of production; and

"(II) if any part of the plant environment in the ready-to-eat meat processing area tests positive—

"(aa) at least 3 times per day until the plant environment tests negative on 3 consecutive days; or

"(bb) in accordance with such other regimen as the Secretary may specify;

"(iii)(I) tests final products for Listeria monocytogenes at least 5 times per month to measure the effectiveness of the Listeria control program; and

"(II) if any food-contact surface tests positive, conducts daily testing of the meat product from the line found to be positive until the surface tests negative for 3 days;

"(iv) makes all control program records (including the results of any testing of plant environment, food-contact surfaces, or meat product) available for inspection by the Secretary; and

"(v) meets any other requirement that the Secretary may specify.

"(4) Exemptions for distributors.—On the motion of the Secretary or on petition of a distributor of a ready-to-eat meat product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all distributors of the ready-to-eat meat product or by order applicable to a particular distributor of the ready-to-eat meat product, provide an exemption from the requirement of paragraph (2) if—

"(A) the distributor has purchasing specifications incorporating the requirements of paragraph (3); and

"(B) the Secretary determines that the suppliers of the distributor are in compliance with paragraph (3).

"(5) Reports by the secretary.—Not later than 3 years after the date of enactment of this section, and at least triennially thereafter, the Secretary shall compile and disseminate information from records made available under paragraphs (3)(A)(ii), (3)(B)(iv), and (4) to Federal agencies, universities, and other research institutions and other entities, as appropriate (excluding any such proprietary or confidential information as is protected from disclosure), for the purpose of furthering scientific research.

"(6) Performance standard.—A performance standard of the Secretary that provides zero tolerance for detectable levels of Listeria monocytogenes in ready-to-eat meats—

"(A) shall not be modified to permit any detectable level of Listeria monocytogenes in any ready-to-eat meat product; and

"(B) shall be based on scientifically validated testing methods for the detection of Listeria monocytogenes, as determined by the Secretary.".

(b) Misbranding.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended—

(1) in paragraph (11), by striking "or" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(13) if it is a ready-to-eat meat product that is required to bear a label under section 7(g), and it does not bear such a label.".

**SEC. 4. READY-TO-EAT POULTRY PRODUCTS.**

(a) In General.—Section 8 of the Poultry Products Inspection Act (21 U.S.C. 457) is amended by adding at the end the following:

"(e) Ready-To-Eat Poultry Products.—

"(1) Definitions.—In this subsection:

"(A) At-risk consumer.—The term 'at-risk consumer' includes a pregnant woman.

"(B) Ready-to-eat poultry product.—The term 'ready-to-eat poultry product' means a poultry product that has been processed so that the poultry product may be safely consumed without further preparation by the consumer, that is, without cooking or application of some other lethality treatment to destroy pathogens.

"(2) Labeling requirement.—Except as provided in paragraph (3) or (4), a ready-to-eat poultry product shall bear a label advising consumers that an at-risk consumer—

"(A) should not consume the ready-to-eat poultry product unless the ready-to-eat poultry product is heated until steaming hot; or

"(B) should follow such other instructions as the Secretary may prescribe in accordance with health guidelines and recommendations published by the Secretary and the Secretary of Health and Human Services.

"(3) Exemptions for producers.—On the motion of the Secretary or on petition of a producer of a ready-to-eat poultry product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all producers of the ready-to-eat poultry product or by order applicable to a particular producer of the ready-to-eat poultry product, provide an exemption from the requirement of paragraph (2) if—

"(A) in the case of a ready-to-eat poultry product that the Secretary determines presents a low risk to at-risk consumers, the producer—

"(i) has a scientifically validated program (as determined by the Secretary) to control Listeria monocytogenes; and

"(ii) makes all Listeria control program records (including the results of any testing of plant environment, food-contact surfaces, or poultry product) available for inspection by the Secretary; or

"(B) in the case of any ready-to-eat poultry product that the Secretary determines presents a greater risk to at-risk consumers, the producer of the ready-to-eat poultry product has a scientifically valid program to address Listeria monocytogenes under which the producer—

"(i) tests food-contact surfaces for Listeria monocytogenes—

"(I) at least once every 2 days of production; and

"(II) if a food-contact surface tests positive—

"(aa) at least 3 times per day until the surface tests negative on 3 consecutive days; or

"(bb) in accordance with such other regimen as the Secretary may specify;

"(ii) tests the plant environment in the ready-to-eat poultry processing area for the Listeria species—

"(I) at least once every 2 days of production; and

"(II) if any part of the plant environment in the ready-to-eat poultry processing area tests positive—

"(aa) at least 3 times per day until the plant environment tests negative on 3 consecutive days; or

"(bb) in accordance with such other regimen as the Secretary may specify;

"(iii)(I) tests final products for Listeria monocytogenes at least 5 times per month to measure the effectiveness of the Listeria control program; and

"(II) if any food-contact surface tests positive, conducts daily testing of the poultry product from the line found to be positive until the surface tests negative for 3 days;

"(iv) makes all control program records (including the results of any testing of plant environment, food-contact surfaces, or poultry product) available for inspection by the Secretary; and

"(v) meets any other requirement that the Secretary may specify.

"(4) EXEMPTIONS FOR DISTRIBUTORS.—On the motion of the Secretary or on petition of a distributor of a ready-to-eat poultry product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all distributors of the ready-to-eat poultry product or by order applicable to a particular distributor of the ready-to-eat poultry product, provide an exemption from the requirement of paragraph (2) if—

"(A) the distributor has purchasing specifications incorporating the requirements of paragraph (3); and

"(B) the Secretary determines that the suppliers of the distributor are in compliance with paragraph (3).

"(5) REPORTS BY THE SECRETARY.—Not later than 3 years after the date of enactment of this section, and at least triennially thereafter, the Secretary shall compile and disseminate information from records made available under paragraphs (3)(A)(ii), (3)(B)(iv), and (4) to Federal agencies, universities, and other research institutions and other entities, as appropriate (excluding any such proprietary or confidential information as is protected from disclosure), for the purpose of furthering scientific research.

"(6) PERFORMANCE STANDARD.—A performance standard of the Secretary that provides zero tolerance for detectable levels of Listeria monocytogenes in ready-to-eat poultry products—

"(A) shall not be modified to permit any detectable level of Listeria monocytogenes in any ready-to-eat poultry product; and

"(B) shall be based on scientifically validated testing methods for the detection of Listeria monocytogenes, as determined by the Secretary.".

(b) MISBRANDING.—Section 4(h) of the Poultry Products Inspection Act (21 U.S.C. 453(h)) is amended—

(1) in paragraph (11), by striking "or" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(13) if it is a ready-to-eat poultry product that is required to bear a label under section 8(e), and it does not bear such a label.".

## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 159—EXPRESSING THE SENSE OF THE SENATE THAT THE JUNE 2, 2003, RULING OF THE FEDERAL COMMUNICATIONS COMMISSION WEAKENING THE NATION'S MEDIA OWNERSHIP RULES IS NOT IN THE PUBLIC INTEREST AND SHOULD BE RESCINDED

Mr. PRYOR (for himself, Mr. KENNEDY, Mr. EDWARDS, Mrs. LINCOLN, Mr. GRAHAM of Florida, Mr. REED, Mr. BINGAMAN, Mr. LEAHY, Ms. LANDRIEU, Mr. JEFFORDS, Mr. DURBIN, Mr. BAUCUS, Mr. CARPER, and Mrs. MURRAY) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 159

Whereas the Federal Communications Commission moved with unreasonable haste in considering the issue of media concentration and did not previously disclose the proposed ownership rule the Commission implemented in its June 2, 2003, ruling on media ownership rules;

Whereas the Commission did not provide an opportunity for the public to review, debate, and comment on the proposed changes prior to the ruling;

Whereas it would have been appropriate for the Commission to include such public review, debate, and comment on the specific provisions of its proposal prior to issuing a ruling with such broad implications;

Whereas there is no indication that the Commission has adequately addressed the impact of the proposed ownership rule changes on industry market share and consumer prices;

Whereas greater media concentration could threaten the diversity of and extent of local content in broadcast programming and news, and has the potential to inhibit or remove local control over such programming;

Whereas, despite the rapid growth of vital Spanish-language media outlets in the past several years, there is no indication that the Commission considered treating Spanish-language media separately for purposes of its broadcast media ownership restrictions, thereby failing to extend to Spanish speakers the same protections afforded members of the English-speaking broadcast community; and

Whereas it is in the public interest to maintain local control and promote diversity in television programming, which the previous ownership rules had been designed to ensure: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

Mr. PRYOR. Mr. President, lying on the desk before us is a resolution relating to the Federal Communications Commission's June 2, 2003, ruling weakening the Nation's media ownership rules. I say very emphatically that those rules are not in the public interest and should be rescinded. I have laid that on the desk for my colleagues. I encourage all Members to get a copy of that and read it. I respectfully request that if anyone wants to be a cosponsor, I would love to have them cosponsor that today.

As we all know, 2 days ago, the Federal Communications Commission by a vote of 3 to 2 rolled back longstanding rules governing media ownership. This ruling eases the ban on cross-ownership of newspapers, television stations, and radio stations, and allows media corporations to own more outlets locally and nationwide.

The new rules have the potential of placing significant control over what the public sees and hears and reads in the hands of a small number of media conglomerates. Ultimately, having a few entities control a vast percentage of the American media market will stifle the diversity of ideas, viewpoints, and opinions.

It reminds me a little bit of Henry Ford who at one point told his customers that could order any color they wanted as long as it was black. I feel the same way—that we may be getting to that point with regard to our media; that we can see and read and hear anything we want as long as it comes through them.

The diversity of viewpoints is critical to our democracy. It is one of the foundations of American society and the American system of government. One thing we believe very strongly in America is the marketplace of ideas—a free and open and robust marketplace of ideas where people can exchange ideas and concepts freely and openly and not have that go through a national corporate conglomeration.

I am very confident that this proposed rule change sets the stage for homegeniztion—not diversification but homogenization. That is not a good thing for this country. It is not a good thing for our system.

Supporters of the FCC ruling say that the large media mergers do not stifle diversity. What they say is you can turn on cable right now and you get dozens—maybe hundreds—of channels in some systems, or you can turn on a radio station. But let me say this. Is it really diversity when the ideologies, the principles, and the viewpoints are being presented through the myopic lens of a singular, cookie-cutter point of view? I am concerned that is where we are getting to today with this ruling that will rush us headlong into this calamity.

I think if the majority of Americans look at this issue they would understand that it does; that this ruling does not promote diversity but, in fact, limits it.

There is a broad array of special interest groups, of consumer advocates, of civil rights and religious groups, small business, whatever—a broad array of interests—that are opposed. They are opposed to this ruling for very sound reasons. That is why I rise today to offer this resolution.

I also wish to take this moment to publicly support the efforts of Senator TED STEVENS and Senator FRITZ HOLLINGS because they are taking the lead in trying to codify the 35-percent ownership cap. I am not only supportive of their legislation but I am also a cosponsor.

This resolution is in no way competition to that but, in my view, this resolution is a logical extension of their efforts. It is unfortunate that we have to come here today to consider resolutions and legislation on this issue. The frustrations and the hostility out there in the public domain about this ruling and about corporate ownership of media outlets has been exacerbated by the FCC's inability to communicate to the public in rational terms and explain why this proposal is a good idea.

In spite of 2 years of study, we need more time to study this. So far, the advocates of this position have made a very unconvincing case.

One thing we need to understand in this country is that there is a fundamental difference in owning and operating a newspaper and in owning and operating regular television stations. Anyone today, if they chose to, could start a newspaper. All you really need in today's world is the ability to do some desk-top publishing and get out there and have a way to distribute your publication. But to have a radio station or a television station requires a license from the Government. That license is a sacred trust. It is a trust that they are going to have broadcasts in the community interest. They are going to have the programming that the community wants. They are going to play a vital role in our system when it comes to news and information and getting information out to the public which is important for them to have.

One example of the FCC's shortcoming on this issue is the fact that the FCC has made no case for examining the Spanish language media as a separate market. I think everybody in this room understands it is a separate market. But because they have not seen it as a separate market, they look at mergers and acquisitions and their analysis is skewed in favor of the merger and the acquisition.

Thank you, Mr. President and other Members of the Senate, for the indulgence and this time.

I would like to remind everyone that this is out here for everyone to look at. I would very much appreciate as many cosponsors as we could have. I think it is important that the Senate send a very clear message on this topic.

## SENATE CONCURRENT RESOLUTION 48—SUPPORTING THE GOALS AND IDEALS OF "NATIONAL EPILEPSY AWARENESS MONTH" AND URGING FUNDING FOR EPILEPSY RESEARCH AND SERVICE PROGRAMS

Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. CRAIG, Ms. LANDRIEU, Ms. CANTWELL, and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

### S. CON. RES. 48

Whereas epilepsy is a neurological condition that causes seizures and affects 2,300,000 people in the United States;

Whereas a seizure is a disturbance in the electrical activity of the brain, and 1 in every 12 Americans will suffer at least 1 seizure;

Whereas 180,000 new cases of seizures and epilepsy are diagnosed each year, and 3 percent of Americans will develop epilepsy by the time they are 75;

Whereas 41 percent of people who currently have epilepsy experience persistent seizures despite the treatment they are receiving;

Whereas a survey conducted by the Centers for Disease Control and Prevention demonstrated that the hardships imposed by epilepsy are comparable to those imposed by cancer, diabetes, and arthritis;

Whereas epilepsy in older children and adults remains a formidable barrier to leading a normal life by affecting education, employment, marriage, childbearing, and personal fulfillment;

Whereas uncontrollable seizures in a child can create multiple problems affecting the child's development, education, socialization, and daily life activities;

Whereas the social stigma surrounding epilepsy continues to fuel discrimination, and isolates people who suffer from seizure disorders from mainstream life;

Whereas in spite of these formidable obstacles, people with epilepsy can live healthy and productive lives and make significant contributions to society;

Whereas November is an appropriate month to designate as "National Epilepsy Awareness Month";

Whereas the designation of a "National Epilepsy Awareness Month" would help to focus attention on, and increase understanding of, epilepsy and those people who suffer from it: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) supports the goals and ideals of a "National Epilepsy Awareness Month";

(2) requests the President to issue a proclamation declaring an annual "National Epilepsy Awareness Month";

(3) calls upon the American people to observe "National Epilepsy Awareness Month" with appropriate programs and activities;

(4) urges an increase in funding for epilepsy research programs at the National Institutes of Health and at the Centers for Disease Control and Prevention; and '

(5) urges that initial funding be provided to the Health Resources and Services Administration of the Department of Health and Human Services to create demonstration projects to serve people with epilepsy who may lack access to adequate medical care for the treatment of such disease.

## SENATE CONCURRENT RESOLUTION 49—DESIGNATING THE WEEK OF JUNE 9, 2003, AS NATIONAL OCEANS WEEK AND URGING THE PRESIDENT TO ISSUE A PROCLAMATION CALLING UPON THE PEOPLE OF THE UNITED STATES TO OBSERVE THIS WEEK WITH APPROPRIATE RECOGNITION, PROGRAMS, CEREMONIES, AND ACTIVITIES TO FURTHER OCEAN LITERACY, EDUCATION, AND EXPLORATION

Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. DODD, Mr. LAUTENBERG, Mr. WYDEN, Mr. COCHRAN, Mr. CARPER, Mr. INOUYE, Mr. BREAUX, Mr. SUNUNU, Mrs. BOXER, Mr. AKAKA, Mr. REED, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

### S. CON. RES. 49

Whereas 95 percent of the deep ocean is unexplored and unknown, and the ocean is truly the last frontier on Earth for science and civilization;

Whereas the ocean comprises nearly three quarters of the Earth's surface and sustains 80 percent of all life on Earth, including a large part of the Earth's biodiversity;

Whereas the oceans play a critical role in the global water cycle, carbon cycle and in regulating climate; and over 90 percent of the oxygen in the Earth's atmosphere, essential to life on Earth, comes from the world's oceans and rivers;

Whereas the oceans are an important source of food, provide a wealth of other natural products, and the oceans and sea floor contain vast energy and mineral resources that are critical to the economy of the United States and the world;

Whereas the United States has more than 95,000 miles of coastline and more than 50 percent of the population of the United States lives within 50 miles of the ocean or the Great Lakes;

Whereas coastal areas are regions of remarkably high biological productivity, are of considerable importance for a variety of recreational and commercial activities, and provide a vital means of transportation;

Whereas ocean resources are limited and susceptible to change as a direct and indirect result of human activities, and such changes can impact the ability of the ocean to provide the benefits upon which the Nation depends;

Whereas the rich biodiversity of marine organisms provides society with an essential biomedical resource, a promising source of novel compounds with therapeutic potential, and a potentially important contribution to the national economy;

Whereas there exists significant promise for the development of new ocean technologies for stewardship of ocean resources that will contribute to the economy through business and manufacturing innovations and the creation of new jobs;

Whereas the President's Panel on Ocean Exploration recommended to the White House and to the Congress in its Year 2000 final report, "Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration," a 10-year program to launch the first national plan for ocean exploration;

Whereas the Oceans Act of 2000 passed by the United States Congress authorized the establishment of the U.S. Commission on Ocean Policy and directed it to conduct a comprehensive review of present and future ocean programs and activities and provide comprehensive ocean policy recommendations to the Congress and the President by 2003; and

Whereas our oceans are vital to our national security and our national economy, and with America's greatest era of ocean exploration and discovery still ahead: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)* That it is the sense of the Congress that—

(1) the ocean is of paramount importance to the economic future, environmental quality, and national security of the United States;

(2) the United States has a responsibility to exercise and promote comprehensive stewardship and understanding of the ocean and the living marine resources it contains; and

(3) the week of June 9, 2003, be designated as National Oceans Week and urges the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration.

Ms. SNOWE. Mr. President, I am pleased to rise today to submit a Senate Concurrent Resolution designating the week of June 9, 2003 as National Oceans Week.

As a Nation with more than 95,000 miles of coastline, the United States is highly dependent on the resources and services of the oceans that affect many important aspects of our lives, often in ways we do not fully realize. As Chair of the Commerce Committee's Subcommittee on Oceans, Fisheries, and Coast Guard, I believe it is important for us to recognize the many benefits that the oceans provide, and I am happy that 19 other Senators are joining me in sponsoring this Senate Concurrent Resolution that formally recognizes the ocean's many benefits.

Our oceans are capable of significant biological productivity that produces food, which provides nourishment for citizens across the globe and sustains fishery dependent communities. Oceans regulate global climate and the cycling of oxygen, carbon, and water in our atmosphere, and oceans provide a vital means of transporting goods between countries and thereby support the global economy. In addition to these biological, physical, and economic benefits, the oceans remain a largely unexplored domain that can enrich our lives in countless other ways. For all these reasons and more, I believe it is important to recognize the many ways we rely upon the oceans.

The capacity of the oceans to supply these resources and services, however, is finite. Much of our nation's attention is currently focused on several recent reports that point to the destructive nature of foreign overfishing, the negative impacts of harmful algal blooms and oil spills, and the coastal habitat loss associated with uncoordinated development activities. Collectively, these and other human impacts can significantly affect how oceans function. We need to be constantly looking for ways to minimize these impacts and help sustain the oceans' productive capacity, which in turn will provide us with the resources that enhance the quality of our lives.

Given the extent to which the United States depends on and uses the oceans, it is incumbent upon us to take a leadership role in ocean science and conservation. We must recognize this responsibility and continue to seek ways to promote comprehensive stewardship and understanding of the ocean and the resources it contains. For this and other reasons, I co-sponsored Senator HOLLINGS' legislation establishing the U.S. Commission on Ocean Policy in 2000, and I look forward to reviewing its recommendations later this year.

The Resolution we are submitting today urges the President to issue a proclamation calling upon the people of the United States to observe the week of June 9, 2003, with appropriate recognition, programs, and activities to further ocean literacy, education, and exploration. During this week on Capitol Hill, I am pleased to be an Honorary Co-host of Capitol Hill Oceans Week, a series of events and discussions designed to facilitate awareness of the oceans within the Congress. As a country, we should use this week to further expand our awareness of the oceans and engage in discussions and activities that will help ocean resource conservation.

I would like to thank my fellow Senators who are joining me in this effort to establish National Oceans Week, and I hope that this week will help contribute to a better awareness of and appreciation for the oceans. It is through such efforts that ocean stewardship can expand and take hold as an important national ethic.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I am proud to cosponsor this resolution with Senators SNOWE, HOLLINGS, and MCCAIN. In 1998 we recognized the International Year of the Oceans, and it is time we underscore the importance of oceans in our daily lives through an annual celebration of National Oceans Week. The global oceans need our attention now more than ever. Today, we are faced with the challenge of sustainably managing our interactions with the marine environment, in the face of increasing pressures from population growth and a global economy. While we have been making significant progress in this arena, there are constant reminders that we have not yet achieved our goal of supporting ocean-related industries while maintaining high ecological standards.

The recent oil spill of the Bouchard barge in Buzzard's Bay, MA, vividly demonstrates that we must be ever vigilant in striving for the balance between ecological protection and economic growth—as well as the need to balance competing economic interests—in this case, an important local seafood industry with our need for energy. Although we have seen a marked improvement in the safe marine transport of oil since the passage of the Oil Pollution Act in 1990, all possible care must be taken to ensure that we have a system in place that adequately protects our marine environment.

Marine fisheries are also a vitally important component of our coastal economies and culture, especially in the Bay State. We are making progress in restoring our overfished stocks to sustainable levels, and we are committed to staying the course to reduce mortality, improve water quality and restore habitat. But we must press forward to ensure all nations are pulling their weight in providing sustainable fisheries management. Recent reports show international fleets have had a dramatic impact that appears to go largely unchecked. Living marine resources, particularly highly migratory species like tuna and swordfish, know no boundaries, and we cannot tolerate lawlessness by any nation in the management of these stocks.

The Marine Mammal Protection Act has proved to be a very successful conservation tool, bringing numerous species back from the brink of extinction. However, there is still much more to be done. I am particularly familiar with the example of the North Atlantic right whales, one of the most endangered species of marine mammals in the world, with a population of approximately 300 individuals. Unfortunately, our local New England waters are often the areas where these endangered whales literally collide with the fishing industry and the marine transportation industry. The plight of the right whales highlights the importance of working with a wide variety of interests to find solutions that will make a difference.

Congress has already asked a panel of experts to develop a plan of action for our oceans in the Oceans Act of 2000. This federal mandated U.S. Commission on Ocean Policy will help us understand what steps are needed to advance our knowledge and improve our management of the marine environment. Later this year, the Commission will make recommendations on how we can improve our ocean governance, investment and implementation, research, education and marine operations, and stewardship. Despite these great efforts, there is much more to do. Increased public attention to our Nation's ocean issues is essential if we are to make further headway. This is why, today, I am honored to join Senator

SNOWE in introducing this resolution to declare the week of June 9, 2003, as National Oceans Week.●

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## AMENDMENTS SUBMITTED & PROPOSED

SA 847. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. SCHUMER, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, Mrs. BOXER, Mr. CORZINE, Mr. SUNUNU, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 848. Mr. REID (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. GRAHAM of South Carolina, Mr. KERRY, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, supra.

SA 849. Mr. DORGAN (for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, Mr. BINGAMAN, and Ms. MURKOWSKI) proposed an amendment to the bill H.R. 1588, supra.

SA 850. Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 851. Mr. BINGAMAN (for himself, Mr. SUNUNU, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

SA 852. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 853. Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

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## TEXT OF AMENDMENTS

**SA 847.** Mr. KENNEDY (for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. SCHUMER, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, Mrs. BOXER, Mr. CORZINE, Mr. SUNUNU, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

### Subtitle F—Naturalization and Family Protection for Military Members

### SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Naturalization and Family Protection for Military Members Act of 2003".

### SEC. 662. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking "three years" and inserting "2 years".

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking "honorable. The" and inserting "honorable (the"; and

(ii) by striking "discharge." and inserting "discharge); and"; and

(B) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected."; and

(2) in section 329(b)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.".

(c) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(d) FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

(1) A high priority for grant of emergency leave.

(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking "Attorney General" and inserting "Secretary of Homeland Security".

### SEC. 663. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting "as a member of the Selected Reserve of the Ready Reserve or" after "has served honorably".

### SEC. 664. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) PARENTS.—

(A) In general.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) Petitions.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(C) Exception.—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.

(b) Applications for Adjustment of Status by Surviving Spouses, Children, and Parents.—

(1) In general.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(B), may have such application adjudicated as if such death had not occurred.

(2) Alien described.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(c) Spouses and Children of Lawful Permanent Resident Aliens.—

(1) Treatment as immediate relatives.—

(A) In general.—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(B) Petitions.—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(2) Self-petitions.—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(3) Alien described.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(d) Parents of Lawful Permanent Resident Aliens.—

(1) Self-petitions.—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) Alien described.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(e) Adjustment of Status.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), an alien physically present in the United States who is the beneficiary of a petition under paragraph (1), (2)(B), or (3)(B) of subsection (a), paragraph (1)(B) or (2) of subsection (c), or subsection (d)(1) of this section, may apply to the Secretary of Homeland Security for adjustment of status to that of an alien lawfully admitted for permanent residence.

(f) Waiver of Certain Grounds of Inadmissibility.—In determining the admissibility of any alien accorded an immigration benefit under this section, the ground for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply, and notwithstanding any other provision of law, the Secretary of Homeland Security may waive paragraphs (6)(A), (7), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) with respect to such an alien if the alien establishes exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation.

(g) Benefits to Survivors; Technical Amendment.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440-1) is amended—

(1) by striking subsection (e); and

(2) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security".

(h) Technical and Conforming Amendments.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—

(1) by inserting ", child, or parent" after "surviving spouse";

(2) by inserting ", parent, or child" after "whose citizen spouse"; and

(3) by striking "who was living" and inserting "who, in the case of a surviving spouse, was living".

### SEC. 665. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect as if enacted on September 11, 2001.

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**SA 848.** Mr. REID (for himself, Mr. McCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. GRAHAM of South Carolina, Mr. KERRY, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title VI, add the following:

### SEC. . FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) Restoration of Full Retired Pay Benefits.—Section 1414 of title 10, United States Code, is amended to read as follows:

### "§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

"(a) Payment of Both Retired Pay and Compensation.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

"(b) Special Rule for Chapter 61 Career Retirees.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(c) Exception.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

"(d) Definitions.—In this section:

"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.".

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(e) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).

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**SA 849.** Mr. DORGAN (for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, Mr. BINGAMAN, and Ms. MURKOWSKI) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

### SEC. . REPEAL OF AUTHORITIES AND REQUIREMENTS ON BASE CLOSURE ROUND IN 2005.

(a) REPEAL.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking sections 2906A, 2912, 2913, and 2914.

(b) CONFORMING AMENDMENT.—Section 2904(a)(3) of that Act is amended by striking "in the 2005 report" and inserting "in a report submitted after 2001".

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**SA 850.** Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of title V, add the following:

### Subtitle —General Provisions Relating to Renewable Fuels

### SEC. 5 1. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

"(o) RENEWABLE FUEL PROGRAM.—

"(1) DEFINITIONS.—In this section:

"(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(i) dedicated energy crops and trees;

"(ii) wood and wood residues;

"(iii) plants;

"(iv) grasses;

"(v) agricultural residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) municipal solid waste.

"(B) RENEWABLE FUEL.—

"(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) INCLUSION.—The term 'renewable fuel' includes—

"(I) cellulosic biomass ethanol; and

"(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

"(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) RENEWABLE FUEL PROGRAM.—

"(A) REGULATIONS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Alaska and Hawaii), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

"(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

"(I) shall contain compliance provisions applicable to refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

"(II) shall not—

"(aa) restrict cases in geographic areas in which renewable fuel may be used; or

"(bb) impose any per-gallon obligation for the use of renewable fuel.

"(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 1.8 percent for calendar year 2005.

"(B) APPLICABLE VOLUME.—

"(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

| **"Calendar year:** | **Applicable volume of renewable fuel (in billions of gallons):** |
|---|---|
| 2005 | 2.6 |
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5,000,000,000 gallons of renewable fuel; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—

"(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

"(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

"(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

"(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

"(I) be applicable to refiners, blenders, and importers, as appropriate;

"(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

"(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

"(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

"(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

"(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

"(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

“(ii) for the generation of an appropriate amount of credits for biodiesel; and

“(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

“(B) Use of credits.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) Duration of credits.—A credit generated under this paragraph shall be valid to show compliance—

“(i) subject to clause (ii), for the calendar year in which the credit was generated or the following calendar year; or

“(ii) if the Administrator promulgates regulations under paragraph (6), for the calendar year in which the credit was generated or any of the following 2 calendar years.

“(D) Inability to generate or purchase sufficient credits.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

“(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

“(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

“(6) Seasonal variations in renewable fuel use.—

“(A) Study.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

“(B) Regulation of excessive seasonal variations.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

“(C) Determinations.—The determinations referred to in subparagraph (B) are that—

“(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

“(D) Periods.—The 2 periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) Exclusion.—Renewable fuel blended or consumed in calendar year 2005 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

“(7) Waivers.—

“(A) In general.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) Petitions for waivers.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(C) Termination of waivers.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(8) Study and waiver for initial year of program.—

“(A) In general.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2005, on a national, regional, or State basis.

“(B) Required evaluations.—The study shall evaluate renewable fuel—

“(i) supplies and prices;

“(ii) blendstock supplies; and

“(iii) supply and distribution system capabilities.

“(C) Recommendations by the Secretary.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

“(D) Waiver.—

“(i) In general.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar 2005.

“(ii) No effect on waiver authority.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

“(9) Small refineries.—

“(A) Temporary exemption.—

“(i) In general.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

“(ii) Extension of exemption.—

“(I) Study by Secretary of Energy.—Not later than December 31, 2007, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

“(II) Extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

“(B) Petitions based on disproportionate economic hardship.—

“(i) Extension of exemption.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

“(ii) Evaluation of petitions.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

“(iii) Deadline for action on petitions.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

“(C) Credit program.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

“(D) Opt-in for small refineries.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

“(10) Ethanol market concentration analysis.—

“(A) Analysis.—

“(i) In general.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

“(ii) Scoring.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) Report.—Not later than December 1, 2004, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

“(p) Renewable Fuel Safe Harbor.—

“(1) In general.—

“(A) Safe harbor.—Notwithstanding any other provision of Federal or State law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason of the fact that the fuel is, or contains, renewable fuel, if—

“(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

“(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

“(B) Safe harbor not applicable.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

"(2) Exception.—This subsection does not apply to ethers.

"(3) Applicability.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.".

(b) Penalties and Enforcement.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "or (n)" each place it appears and inserting "(n), or (o)"; and

(B) in the second sentence, by striking "or (m)" and inserting "(m), or (o)"; and

(2) in the first sentence of paragraph (2), by striking "and (n)" each place it appears and inserting "(n), and (o)".

(c) Exclusion From Ethanol Waiver.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

"(5) Exclusion from ethanol waiver.—

"(A) Promulgation of regulations.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

"(B) Deadline for promulgation.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

"(C) Effective date.—

"(i) In general.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

"(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

"(II) 1 year after the date of receipt of the notification.

"(ii) Extension of effective date based on determination of insufficient supply.—

"(I) In general.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

"(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) Deadline for action on petitions.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

**SEC. 5 2. RENEWABLE FUEL.**

(a) In General.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

**"SEC. 212. RENEWABLE FUEL.**

"(a) Definitions.—In this section:

"(1) Municipal solid waste.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

"(2) RFG state.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

"(3) Secretary.—The term 'Secretary' means the Secretary of Energy.

"(b) Survey of Renewable Fuel Market.—

"(1) Survey and report.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

"(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

"(i) conventional gasoline containing ethanol;

"(ii) reformulated gasoline containing ethanol;

"(iii) conventional gasoline containing renewable fuel; and

"(iv) reformulated gasoline containing renewable fuel; and

"(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

"(2) Recordkeeping and reporting requirements.—

"(A) In general.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

"(B) Reliance on existing requirements.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and recordkeeping requirements in effect on the date of enactment of this section.

"(3) Confidentiality.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

"(c) Commercial Byproducts From Municipal Solid Waste Loan Guarantee Program.—

"(1) Establishment of program.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

"(2) Requirements.—The Secretary may provide a loan guarantee under paragraph (1) to an applicant if—

"(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (1);

"(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

"(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

"(4) Criteria.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

"(A) meet all applicable Federal and State permitting requirements;

"(B) are most likely to be successful; and

"(C) are located in local markets that have the greatest need for the facility because of—

"(i) the limited availability of land for waste disposal; or

"(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

"(5) Maturity.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 20 years.

"(6) Terms and conditions.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

"(7) Assurance of repayment.—The Secretary shall require that an applicant for a loan guarantee under paragraph (1) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

"(8) Guarantee fee.—The recipient of a loan guarantee under paragraph (1) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

"(9) Full faith and credit.—

"(A) In general.—The full faith and credit the United States is pledged to the payment of all guarantees made under this subsection.

"(B) Conclusive evidence.—Any guarantee made by the Secretary under this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

"(C) Validity.—The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

"(10) Reports.—Until each guaranteed loan under this subsection has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this subsection.

"(11) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

"(12) Termination of authority.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of enactment of this section.

"(d) Authorization of Appropriations for Resource Center.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of Mississippi and the University of Oklahoma, $4,000,000 for each of fiscal years 2004 through 2006.

"(e) Renewable Fuel Production Research and Development Grants.—

"(1) In general.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

"(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2004 through 2008.

"(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE—

"(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

"(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

"(A) is located in the United States; and

"(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

"(A) $100,000,000 for fiscal year 2004;

"(B) $250,000,000 for fiscal year 2005; and

"(C) $400,000000 for fiscal year 2006.".

(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

"212. Renewable fuels.".

### SEC. 5 3. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

"(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

"(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

"(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

"(A) the quantity of renewable fuels produced;

"(B) the cost of production;

"(C) the cost of blending and marketing;

"(D) the quantity of renewable fuels blended;

"(E) the quantity of renewable fuels imported; and

"(F) market price data.".

## Subtitle —Federal Reformulated Fuels

### SEC. 5 1. SHORT TITLE.

This subtitle may be cited as the "Federal Reformulated Fuels Act of 2003".

### SEC. 5 2. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by inserting "and section 9010" before "if"; and

(2) by adding at the end the following:

"(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

"(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

"(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

"(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

"(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

### "SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

"(1) by a State (pursuant to section 9003(h)(7)) acting under—

"(A) a program approved under section 9004; or

"(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

"(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

### "SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

"In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

"(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended; and

"(2) to carry out section 9010—

"(A) $50,000,000 for fiscal year 2003; and

"(B) $30,000,000 for each of fiscal years 2004 through 2008.".

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

"Sec. 9010. Release prevention and compliance.
"Sec. 9011. Authorization of appropriations.".

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking "sustances" and inserting "substances".

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking "referred to" and all that follows and inserting "referred to in subparagraph (A) or (B), or both, of section 9001(2).".

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

### SEC. 5 3. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled "Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline" and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) Purposes.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) Authority for Water Quality Protection From Fuels.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) Restrictions on use of MTBE.—

"(A) In general.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

"(B) Regulations.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

"(C) States that authorize use.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

"(D) Publication of notice.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

"(E) Trace quantities.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

"(6) MTBE merchant producer conversion assistance.—

"(A) In general.—

"(i) Grants.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

"(i) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

"(ii) any other fuel additive that meets the criteria specified in subparagraph (B).

"(B) Criteria.—The criteria referred to in subparagraph (A) are that—

"(i) use of the fuel additive is consistent with this subsection;

"(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

"(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

"(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

"(C) Eligible production facilities.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

"(D) Authorization of appropriations.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2004 through 2007.".

(d) No Effect on Law Concerning State Authority.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

**SEC. 5 4. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.**

(a) Elimination.—

(1) In general.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) Applicability.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) Maintenance of Toxic Air Pollutant Emission Reductions.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) In general.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) Maintenance of toxic air pollutant emissions reductions from reformulated gasoline.—

"(i) Definition of PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) Regulations concerning emissions of toxic air pollutants.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

"(iii) Standards applicable to specific refineries or importers.—

"(I) Applicability of standards.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

"(II) Applicability of other standards.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) Credit program.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) Regional protection of toxics reduction baselines.—

"(I) In general.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) Effect of failure to maintain aggregate toxics reductions.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

“(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).”.

(c) COMMINGLING.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

“(11) COMMINGLING.—The regulations under paragraph (1) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

“(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

“(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.”

(d) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 203(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

### SEC. 5 5. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking “may also” and inserting “shall, on a regular basis,”; and

(B) by striking subparagraph (A) and inserting the following:

“(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and”; and

(2) by adding at the end the following:

“(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

“(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

“(I) ethyl tertiary butyl ether;

“(II) tertiary amyl methyl ether;

“(III) di-isopropyl ether;

“(IV) tertiary butyl alcohol;

“(V) other ethers and heavy alcohols, as determined by then Administrator;

“(VI) ethanol;

“(VII) iso-octane; and

“(VIII) alkylates; and

“(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

“(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

“(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

“(i) the national energy laboratories; and

“(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).”.

### SEC. 5 6. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 5 1(a)) is amended by inserting after subsection (p) the following:

“(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

“(1) ANTI-BACKSLIDING ANALYSIS.—

“(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Reliable Fuels Act.

“(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

“(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2006.”.

### SEC. 5 7. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking “(6) OPT-IN AREAS.—(A) Upon” and inserting the following:

“(6) OPT-IN AREAS.—

“(A) CLASSIFIED AREAS.—

“(i) IN GENERAL.—Upon”;

(2) in subparagraph (B), by striking “(B) If” and inserting the following:

“(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If”;

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking “subparagraph (A)” and inserting “clause (i)”; and

(B) in the second sentence, by striking “this paragraph” and inserting “this subparagraph”; and

(4) by adding at the end the following:

“(B) OZONE TRANSPORT REGION.—

“(i) APPLICATION OF PROHIBITION.—

“(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

“(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

“(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

“(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

“(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

“(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

“(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

“(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and "(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) Deadline for action on petitions.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

### SEC. 5 8. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking "(C) A State" and inserting the following:

"(C) Authority of State to control fuels and fuel additives for reasons of necessity.—

"(i) In general.—A State"; and

(2) by adding at the end the following:

"(ii) Enforcement by the Administrator.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.".

### SEC. 5 9. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) Study.—

(1) In general.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) Required elements.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations,, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) Report.—

(1) In general.—Not later than June 1, 2007, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) Recommendations.—

(A) In general.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) Required considerations.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) Consultation.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

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**SA 851.** Mr. BINGAMAN (for himself, Mr. Sununu, and Mrs. Feinstein) proposed an amendment to amendment SA 850 proposed by Mr. Domenici (for Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, Mr. Baucus, Mr. Bunning, and Mr. Bond)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 18, after line 15, insert the following:

"(11) Significant price increase or supply interruption.—

"(A) Suspension of requirements.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

"(i) application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

"(ii) a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

"(B) Duration of suspension.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.".

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**SA 852.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

## Subtitle I—Miscellaneous

### SEC. 1195. CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) In General.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/2006" and inserting "12/31/2012".

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

| | | | | | |
|---|---|---|---|---|---|
| "9902.84.03 | Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00) ...... | Free | No change | No change | On or before 12/31/2012". |

(b) Effective Date.—

(1) In general.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2003.

(2) Retroactive application.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2003; and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry, shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) Entry.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(4) Requests.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

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**SA 853.** Mr. SCHUMER (for himself and Mrs. Clinton) proposed an amendment to amendment SA 850 proposed by Mr. Domenici (for Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, Mr. Baucus, Mr. Bunning, and Mr. Bond)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 4, strike lines 6 through 15 and insert the following:

"(i) PROMULGATION.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Petroleum Administration for Defense Districts I, IV, and V), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 12, 2003 in SR–328A at 10:00 a.m. The purpose of this hearing is to discuss the United States Department of Agriculture's (USDA) implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.

### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled "Patient Safety: Instilling Hospitals with a Culture of Continuous Improvement." The Subcommittee intends to examine the progress made and obstacles that remain in the health care industry in terms of patient safety through better management, reducing costs and increasing quality.

The hearing will take place on Wednesday, June 11, 2003, at 9 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Joseph V. Kennedy of the Subcommittee staff at 224–3721.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEES ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 4, 2003, at 9:30 a.m. on FCC Oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 4, 2003 at 9:30 a.m. to hold a hearing on Iraq Stabilization and Reconstruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENT AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 4, 2003, at 9:30 a.m. for a hearing entitled "Transforming the Department of Defense Personnel System: Finding the Right Approach."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 4, 2003 at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on Proposals to Amend the Indian Reservation Roads Program—S. 281, the Indian Tribal Surface Transportation Improvement Act of 2003, and S. 725, the Tribal Transportation Program Improvement Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 4, 2003 at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Impacts on Tribal Fish and Wildlife Management Programs in the Pacific Northwest.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Solving the Asbestos Litigation Crisis: S. 1125, the Fairness in Asbestos Injury Resolution Act of 2003" on Wednesday, June 4, 2003, at 10 a.m., in the Hart Senate Office Building Room 216.

Witness List: Professor Laurence H. Tribe, Ralph S. Tyler, Professor of Constitutional Law, Harvard Law School, Cambridge, MA; Jennifer L. Biggs, Tillinghast-Towers Perrin, St. Louis, MO; Dr. Mark A. Peterson, Legal Analysis Systems, Thousand Oaks, CA; Fred Dunbar, Senior Vice President, National Economic Research Associates, New York, NY; Professor Eric D. Green, Boston University School of Law, Boston, MA; Robert Harwick, Chief Economist, Insurance Information Institute, New York, NY; Dr. James D. Crapo, M.D., Department of S/M Pulmonary Sciences/Critical Care Medicine, National Jewish Medical Research Center, Denver, CO; Dr. Laura Stewart Welsh, M.D., Medical Director, Center to Protect Workers Rights, Silver Spring, MD; and Dr. John E. (Jack) Parker, M.D., Department of Medicine, University of West Virginia, Morgantown, WV.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled "SBA Reauthorization: Programming for Success" and other matters on Wednesday, June 4, 2003, beginning at 2 p.m. in Room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, June 4 at 10 a.m. to receive testimony regarding S. 391, the Wild Sky Wilderness Act of 2003: S. 1003, to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River; H.R. 417, to revoke a public land order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California: and S. 924—to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Ms. STABENOW. Mr. President, I ask unanimous consent that Oliver Kim, a fellow in my office, be granted floor privileges today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I ask unanimous consent that my detailee, James Flood, be granted the privilege of the floor during the duration of debate on S. 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR THURSDAY, JUNE 5, 2003

Mr. DOMENICI. On behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, June 5. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until the hour of 10 a.m., with the time under the control of Senator DOLE, provided that at 10 a.m., the Senate resume consideration of S. 14, the Energy bill, and Senator BOXER be recognized as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. DOMENICI. For the information of all Senators, tomorrow morning Senator DOLE will deliver her maiden speech. When the Senate resumes the Energy bill, Senator BOXER will offer the first of two ethanol amendments. The votes in relation to these amendments, as well as the pending Schumer amendment, will be stacked to occur later in the day. It is hoped that Senators who have additional amendments on any part of this bill would make themselves available to offer those amendments so that further progress can be made on this important legislation.

I would also add, it is hoped we can reach an agreement so that all of the amendments must be filed at the desk by a time certain. We will continue to work toward that agreement.

Having said that, votes will occur tomorrow on amendments to the Energy bill with the hope of making substantial progress.

If there is no further business to come before the Senate——

Mr. REID. If I can interrupt my friend, I ask the Senate adjourn following the appearance of the Senator from Arkansas, Mr. PRYOR, to make a unanimous consent request. Following that, the Senate would adjourn under the previous order.

Mr. DOMENICI. I have no objection.

I repeat to the Senators, we are going to make every effort. The distinguished Senators, Mr. BINGAMAN and Mr. REID, and myself and the distinguished majority leader, we are going to do everything we can to try to get a list of amendments and a date certain for first-degree amendments with reference to this bill.

Having said that, votes are going to occur tomorrow on amendments to the Energy bill with the hope of making substantial progress.

## ORDER FOR ADJOURNMENT

Mr. DOMENICI. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator PRYOR as heretofore agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT REQUEST

Mr. PRYOR. Mr. President, I ask unanimous consent that the resolution I have at the desk be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. In my capacity as a Senator from Tennessee, on behalf of other Senators, I object.

Mr. PRYOR. Thank you, Mr. President.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:20 p.m., adjourned until Thursday, June 5, 2003, at 9:30 a.m.

# HOUSE OF REPRESENTATIVES—*Wednesday, June 4, 2003*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BASS).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*June 4, 2003.*

I hereby appoint the Honorable CHARLES F. BASS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend Clint Decker, Pastor, Clay Center Wesleyan Church, Clay Center, Kansas, offered the following prayer:

My Father, who rules the universe from Your throne in heaven, holy is Your Name. Your kingdom now lives in the hearts of Your children and will one day rule this earth. May Your will be done in and through these Representatives today as it is freely done in heaven. May Your wisdom be sought and Scriptures obeyed. Thank You for our daily bread. You have given us the food we eat and this free country we live in.

Father, forgive us our sins. Forgive our pride, our selfishness and, at times, our stubborn hearts. Also, forgive those who have sinned against us, those who have mistreated us. Protect us from the Evil One today. Guard marriages in this Chamber he will try to defeat. Guard souls he will try to tempt. May Your presence be acknowledged many times today.

To You, God, belongs all glory, honor and power. In the name of Jesus I pray. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. NEY) come forward and lead the House in the Pledge of Allegiance.

Mr. NEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 313. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

## INTRODUCTION OF THE REVEREND CLINT DECKER

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Kansas. Mr. Speaker, it is my great honor today to welcome to the House of Representatives the Reverend Clint Decker. Through radio interviews and his involvement in his community of Clay Center, Kansas, I have worked with Clint for many years, and I am pleased to have him here today to offer our opening prayer.

I am also happy to welcome his wife, Kathe Decker, a State Representative from the 64th district in Kansas. She has served our State very well in the State capital. Also joining them today is their granddaughter Jessica, who is visiting Washington, D.C., for the very first time.

Clint is an ordained minister in the Wesleyan Church. He has served in the positions of Assistant Pastor and Youth Pastor in Clay Center Wesleyan Church since 1997.

Over the last 3 years, Clint has served as the Assistant News Director for KCLY and KFRM radio. In these positions he has earned State awards for his work and has also helped the station earn Station of the Year honors.

Clint has been involved in the Detour Youth Center, a local community youth ministry, since 2000. He has served on the board and been the ministry's director and has been a regular speaker in working with youth.

In 1990, Clint's life was transformed and he later left a promising career in business to pursue service in the full-time ministry. Clint attended the Mid-America Nazarene University in Olathe, Kansas, and completed his requirements for ordination in Indiana.

Clint was born in Poughkeepsie, New York, and has also lived in Ohio, Colorado, and Missouri. He is the youngest of one brother and two sisters. His father is an ordained minister in the Church of the Nazarene. His mother and father have been in the pastorate for over 25 years.

Mr. Speaker, I welcome Clint and his family to the Nation's Capital.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to ten 1-minutes from each side of the aisle.

## INTERNET GAMBLING BILL

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the offshore casino industry would like us to think that Internet gambling is a harmless activity that can be tamed by Federal regulation. The problem is, it cannot happen.

Proponents of regulation are selling it because it sounds reasonable. Their arguments for regulation are nothing but a smoke screen to cover up what is already illegal activity. They seem to be more interested in regulating around the law than taking legitimate action to stop illegal activity.

That is the bottom line. Internet gambling is illegal according to the Department of Justice and the FBI. However, there is no effective way to regulate it. The only way to stop it is to cut off the financial flow through the legal Internet casino industry, and that is what H.R. 2143 does.

H.R. 2143 does not define what is legal and what is illegal. It simply ensures that law enforcement has the means to stop illegal activity. It is time to pass the bill.

## RESERVIST PAY GAP

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to pay tribute to our Nation's National Guard and Reserve. These brave Americans voluntarily leave behind families and their civilian duties to serve in our Nation's military for the sake of protecting our Nation. And how do we repay them? By requiring long terms of duty and often paying them less salary than they would earn by staying at home.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Today, the House will consider House Resolution 201, paying tribute to private companies who have been willing to support these troops in part by filling in this pay gap for some of our reservists. However, just last month, when my colleagues and I tried to introduce amendments to the Defense authorization bill that would have ended all pay gaps for reservists, they were not only defeated by my Republican counterparts, but they were not even allowed to be debated on this House floor.

It is time that Congress does more for the reservists than just pay accolades to private industry. To truly give tribute to our national reservists we must pass legislation so that all of these individuals who risk their lives for our country will not risk financial disaster.

## PIED PIPER NURSERY

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, today I want to talk about Pied Piper Nursery in St. Clairsville, Ohio. We have a lot of turbulence in the world, but I think we always need to point out the bright spots, Mr. Speaker.

The owners are Karen Griener and Jean Fulton, and the teachers are Cathie Cilles, Joan West, Joyce Snider, and Teri Coleman. There are 100 students in total, and it is strictly educational.

A while back, Mr. Speaker, I went to Pied Piper Nursery and the young children sang songs, they talked about their country and they asked questions. I just wanted to keep a promise that I made to those students that I would let our Congress know about a bright spot, and that is the Pied Piper Nursery. We applaud the parents, the teachers, the owners, and especially the young students.

## BUDGET UNDERFUNDS VETERANS' HEALTH CARE

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, this House recently passed a budget which woefully underfunds veterans' health care by $6.2 billion. The result: Many veterans will no longer be able to get health care through the VA system. It is a shame that we are rationing health care for our veterans.

This House also passed a tax bill that takes care of the millionaires, but leaves thousands of children behind, even children whose moms and dads at this very moment are serving in Iraq. So this is what my Republican colleagues have done. They have taken care of the millionaires and they have left our veterans and our children behind. Shame on them.

## IN HONOR OF PRIVATE FIRST CLASS ERIC BLEYTHING

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor one of America's bravest, Private First Class Eric Bleything of the 3rd District of Arkansas.

Private First Class Bleything, a scout with the 3rd Armored Calvary Regiment in Iraq, was wounded last week when the eight-vehicle resupply convoy he was with was attacked. He was shot in the stomach with an AK-47. Fortunately, the bullet missed all vital organs, and he is in good condition.

Private First Class Bleything is one of the many heroes currently stationed in Iraq. However, what makes his story even more special is that Private First Class Bleything had an opportunity to stay in the U.S. rather than ship out with his unit in April. His wife had just been diagnosed with cancer, and his commanders told him he could stay behind to be with her through the treatments. However, they decided he should go and be with his unit. As Marcie herself said, he felt the obligation to go and serve his country.

Mr. Speaker, Private First Class Bleything embodies the courage and sacrifice of America's men and women. My thoughts and prayers are with him as he continues to recover from this attack.

## BENEFITS OF BROADBAND

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, we all know the Internet is a powerful tool. It makes distance and location irrelevant. It evens the playing field between small and large businesses and increases worker productivity.

The next revolution is broadband. We will be able to do so much and do it more efficiently. But we can only do it if we have the infrastructure to do it with. The FCC ruled in February that DSL, telephone company-provided broadband connections, should not be subject to certain rules imposed on local voice telephone networks. This is a good beginning and it should start some companies on the road to more broadband deployment. Verizon, the largest phone company in my State, plans to make broadband available to 10 million more residences and small businesses nationwide in 2003 alone.

The problem is that the FCC has not issued its February order. That order will detail the new rules that companies know how broadband will be regulated and guides investment decisions. Until it is released, however, these companies cannot move forward. I urge the FCC to issue its order as quickly as possible so that millions of Americans can begin to experience the new opportunities that broadband will provide.

## IN MEMORY OF DEPUTY SHERIFF SHELBY GREEN

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, in the early morning hours of Thursday, May 15, Deputy Sheriff Shelby Green, of the Anderson County, Texas, Sheriff's Department, was brutally murdered in the line of duty by an unknown assailant.

After attempting to stop a suspicious vehicle, Deputy Green pursued the assailant for 10 miles as bullets were smashing through his windshield. When the chase ended, Deputy Green was left dead with a fatal gunshot wound to his chest.

A decorated law enforcement officer, last year Deputy Green received the Award of Valor from the Drug Enforcement Administration.

Mr. Speaker, today we honor and mourn the loss of this 39-year-old hero, a family man. He served and protected our community with distinction and valor. Our most heartfelt thoughts and prayers go out to his family, his friends, his fellow deputies, especially to his wife, Diane, and their three sons, Steven, Trey, and Scott.

May his killer be brought to justice and may God bless and keep Deputy Sheriff Shelby Green.

□ 1015

## FULL FUNDING FOR NO CHILD LEFT BEHIND ACT

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise this morning to call on Congress to fully fund the President's No Child Left Behind for school reform. Last Congress we passed legislation to create tough new standards our schools must meet and vigorous assessments to measure progress in meeting those standards.

As a former superintendent of North Carolina schools, I voted for this bill because my State has led the Nation in standard-based reform, and the administration promised historic new funding to make the bill work, but the administration has broken that promise. This year's budget request shortchanges No Child Left Behind by $9.7 billion; and over the first 3 years of the new law, the administration is proposing nearly $20 billion in cuts to No Child Left Behind.

Mr. Speaker, a promise is a promise and a deal is a deal, and Congress must hold the administration accountable for its commitments. I am working with others to help make sure No Child Left Behind is fully funded before the tough new requirements take effect. If the White House is going to talk the talk, Congress had better make sure that they walk the walk. I urge Members to join me in this vital effort to do right by our schools and our children.

### IMMIGRATION REFORM

(Mr. TANCREDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANCREDO. Mr. Speaker, several foreign governments have undertaken to distribute identification cards to their nationals living illegally in the United States. Some of these governments, specifically one of them, Mexico, has taken this one step further and decided to begin to use their consular offices here to lobby State and local governments in the United States to get them to accept these cards, thereby aiding and abetting people living in this country illegally.

Mr. Speaker, if the United States had asked its consular offices in Mexico or any other country to undertake such a practice, there would be a storm of protest, and rightly so. Consular offices would be closed; officials would be recalled. It would be appropriate for governments to respond that way. Our government has not said a word about this. It is time, however, that the Government of the United States issue a formal protest to the Government of Mexico for this egregious, outrageous behavior, and it is time for this government to take control of its own immigration policy.

### LOW-INCOME AMERICANS ENTITLED TO TAX RELIEF

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, Mark Twain said that humans were the only species that would feel embarrassment, or needed to. That is an appropriate quote today when many of my Republican colleagues are terribly embarrassed because they got caught with their hand in the cookie jar giving over $90,000 tax relief to millionaires, and to children of families who earn less than $26,000, gave them zero tax relief for the child deduction.

This is scandalous, and many of my good Republican friends are terribly embarrassed that they have been caught in this fashion. But now I call on my Republican colleagues to admit that they made a mistake and fix the problem. I am told that the majority leader, the gentleman from Texas (Mr. DELAY), said that people who earn $26,000 do not pay taxes. Excuse me, they pay property taxes, they pay withholding taxes, they pay sales taxes, and they are entitled to fair treatment.

Mr. Speaker, we cannot excuse the inexcusable. I am calling for my Republican friends to call the gentleman from Texas (Mr. DELAY) to fix this problem today.

### SUPPORT GLOBAL PATHOGEN SURVEILLANCE ACT

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, today the gentlewoman from California (Mrs. TAUSCHER) and I will introduce the Global Pathogen Surveillance Act of 2003. Identical to the Biden-Lugar bill in the Senate, it will assist in fighting the threats of bioterrorism and naturally-occurring infectious diseases.

International trade and travel offer new opportunities for pathogens to cross national borders. Infectious disease epidemics, wherever they occur, are a potential threat to all nations. Americans have become all too familiar with the threat from bioterrorism and deadly agents capable of spreading death, anthrax, Ebola, smallpox, and SARS. They are just the most recent examples.

The Kirk-Tauscher bill authorizes $150 million over 2 years to assist developing countries to train personnel in epidemiological techniques, acquire laboratory equipment, and obtain equipment to communicate inside the country and with the World Health Organization. Our legislation has the strong support of Dr. David Heymann, the highest-ranking American at the World Health Organization. It will contribute to our homeland security while at the same time making other countries safer for Americans traveling abroad. I thank the gentlewoman from California (Mrs. TAUSCHER) for cosponsoring this important bill.

### CHILD TAX CREDIT UNFAIR

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, listen carefully, the growing sound and the roar we hear from the Senate is the sound of Republican Senators rushing to change their position on the child tax credit. What we hear is them now recognizing the incredible injustice they did to hard-working families with children who earned under $26,000 a year who will not get that $400 check for each of their children like other families this summer. The Republicans have recognized the injustice; but the gentleman from Texas (Mr. DELAY), the leader of the Republicans in the House——

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The gentleman will suspend. The gentleman will refrain from references characterizing the Senate.

Mr. GEORGE MILLER of California. Mr. Speaker, I am only reporting on what the Senate is doing. I am reporting; I am not characterizing.

The SPEAKER pro tempore. The gentleman must not characterize them or their actions.

Mr. GEORGE MILLER of California. Mr. Speaker, Senators are changing their position on the child care tax credit. It is in The New York Times. I could read the names of the Senators. That is what is happening there.

Here, the gentleman from Texas (Mr. DELAY) says they are not going to correct this injustice to these families. These families will go without their $400 check that is so important to the income of those families and the ability to raise their children. How dare the Republicans suggest that these children are less valuable than the children of other American families.

### AMERICAN IDEALS ADMIRED

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise to share some good news about America's number one export: our ideals of democracy, freedom, and free enterprise. This is from a new survey by the Pew Research Center for the people and the press. In contrast to harsh criticism often heard from U.S. bashers, both here and internationally, this survey of 66,000 people in 44 countries over 2 years reveals that the majority demonstrates strong preferences in seeing democratic governments formed in Muslim countries. Also majorities in 33 of the these 44 countries believe people live better in a free market, even if it leads to wealth and income disparities.

According to this survey: "This is not to say that they accept democracy and capitalism without qualification, or that they are not concerned about many of the problems of modern life. By and large, however, the people of the world accept the concept and values that underlie the American approach to governance and business." This is also good news for the people of Iraq.

### FUND CHILD TAX CREDIT

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, I rise today to ask this Congress to fund the child tax credit. For 6 million families, it would only cost $3.5 billion. We have the $3.5 billion, but we want to give it to the top 1 percent. All we would have to do is take the top tax bracket and instead of cutting it down to 35 percent, cut it down to 35.3 percent, and we would have enough money to give the child tax credit to working families, single parents with children, single mothers trying to raise their children.

Mr. Speaker, we have enough time in this Congress to honor Sammy Sosa and his corked bat, but we do not have enough time to honor the children in single families in this Congress.

## HONORING TEXAS TEACHERS OF THE YEAR

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I would like to spotlight several distinguished teachers from the Third Congressional District of Texas.

Great teachers nurture our country's best hope for tomorrow, our children. Children may be a fraction of our society, but they are 100 percent of our future. These educators go beyond the call of duty and selflessly make our children better and make Texas a better place to live.

These are the teachers of the year from the third district: from Allen, Texas, Nancy Jung and Joyce Carson; from Garland, Michael Robertson; from McKinney, Sharon Guynes and Betty Rutledge; from Plano, Marilyn Caruthers and Roxanne Burchfiel; from Princeton, Janice Bohannan and Diane Talley; from Richardson, Lisa Cunningham and Rick Urbanczyk; and from Wylie, Doug Grether.

It is outstanding teachers like these who strive for excellence and make a difference in the lives of our children. They are heroes for our children, for America, for our freedom, for our future. God bless all of them. I salute our teachers all over the country.

## MIDDLE-INCOME TAXPAYERS WILL PAY GREATER SHARE OF FEDERAL TAXES

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, two stories today in the papers tell it all. One, "Delay Rebuffs Move to Restore Lost Tax Credit," a credit for 6.5 million low-income families. The gentleman from Texas (Mr. DELAY) says, "There are a lot of other things that are more important than that."

The second story, the headline is, "Middle Class Tax Share Set to Rise," and it says that as a result of three successive tax cuts of the Bush administration, middle-income taxpayers will be paying a greater share of all Federal taxes by the end of the decade.

When we raise these issues, the majority here likes to say it is class warfare. There is class warfare against middle- and low-income families under the Republican majority rule. We ask this question to taxpayers of America. Whose side are you on? It is clear the Republicans are on the side, as said in the paper, of Americans who earn $337,000 or more per year.

## SUPPORTING AMERICA'S CHILDREN

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today in support of America's children. Since January 7, the 108th Congress has acted on a number of bold initiatives to secure the future of all children. We have successfully passed legislation to protect children from dangerous predators through the AMBER Alert legislation. We will soon vote on a conference report to improve child abuse prevention and treatment, called CAPTA; and the House recently passed my child medication safety legislation, H.R. 1170.

We have passed sensible, economic-growth legislation that increased the child tax credit from $600 to $1,000. Many have expressed concern about the fact that credit was not extended to those who pay no taxes.

I believe that Congress has done more to assist poor children and their parents with real jobs and real opportunities. Specifically, the jobs and growth bill recently signed into law removes major barriers to capital formation for individuals and small businesses, allowing these businesses to provide more jobs, more paychecks, and more economic benefits that will enrich the lives of all of the Nation's poorest children.

Mr. Speaker, I support this legislation, and I believe the 108th Congress has delivered on behalf of America's children.

## HIGH-INCOME TAX BENEFICIARIES

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, again two stories in the paper say it all. The Washington Post says three successive tax cuts pushed by President Bush will leave middle-income taxpayers paying a greater share of all Federal taxes by the end of the decade, according to new analyses of the Bush administration's tax policies.

As critics of the tax cuts in 2001, 2002, and 2003 have noted, the very wealthiest Americans, those earning $337,000 or more per year, will be the greatest beneficiaries of the changes in the Nation's tax laws.

☐ 1030

Also, we read in the New York Times today that the House will not consider a Democratic measure to provide an increased tax credit to 6.5 million low-income families who did not receive it in the new tax law. So the policies of the Republican majority here are becoming increasingly clear. They are fiscally irresponsible, the borrow-and-spend Republican majority.

Let us see what they have done with the tax cuts: Helped the rich, hurt the middle class and poor, and stuck our children and grandchildren with the bill. Deficits as far as the eye can see. "Let's enjoy the tax cuts now because our children and our grandchildren will be paying the bill." This is morally unconscionable and should be changed.

## MIDDLE EAST SUMMIT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, today is a day of history and opportunity for the world and for the war-torn region known as the Middle East. I pray for the peace of Jerusalem and was yesterday greatly encouraged when five Arab leaders pledged to actively fight what they called the culture of extremism and violence in the region. I am also encouraged by Prime Minister Mahmoud Abbas who has called for an end to violence against Israeli citizens. But I was astounded this morning when the network television shows were all stressing what our President today in Jordan must demand of our ally, Israel.

The truth is, as we welcome this day of history and opportunity, we must be clear that any progress toward peace must require that Palestinians first recognize Israel; second, renounce terrorism; and, third, dismantle the infrastructure of murder within their midst. Then and only then can our Nation ask our ally Israel to make the concessions necessary for the advancement of peace.

## REGARDING THE LATEST TAX CUT

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, last week President Bush signed the new tax cut law. That law is going to give $93,500 per year to the 200,000 taxpayers making over $1 million a year while the majority of all taxpayers would get less than $100 under this new Republican tax plan.

But to rub salt into wounds, there was a deliberate decision to deny every family whose income is under $26,625 a year the child tax credit. That includes most of the working class in this country. It includes nearly all men and women in combat. Their earned income is not $26,625, so they do not even qualify for the child tax credit and here they are putting their lives on the line for our country.

This is unbelievable. The fact is, the families of the 12 million children denied this credit do pay taxes. Millions of them pay into the Social Security trust fund. That is the money we are having to borrow to pay for this tax cut.

## RECESS

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 32 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1302

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 1 o'clock and 2 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any RECORD vote on postponed questions will be taken later today.

## RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 177) recognizing and commending the members of the United States Armed Forces and their leaders, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations, as amended.

The Clerk read as follows:

H. CON. RES. 177

Whereas the September 11, 2001, terrorist attacks on the United States, which killed thousands of people from the United States and other countries in New York, Virginia, and Pennsylvania, inaugurated the Global War on Terrorism;

Whereas the intelligence community quickly identified Al Qaeda as a terrorist organization with global reach and the President determined that United States national security required the elimination of the Al Qaeda terrorist organization;

Whereas the Taliban regime of Afghanistan had long harbored Al Qaeda, providing members of that organization a safe haven from which to attack the United States and its friends and allies, and the refusal of that regime to discontinue its support for international terrorism and surrender Al Qaeda's leaders to the United States made it a threat to international peace and security;

Whereas Saddam Hussein and his regime's longstanding sponsorship of international terrorism, active pursuit of weapons of mass destruction, use of such weapons against Iraq's own citizens and neighboring countries, aggression against Iraq's neighbors, and brutal repression of Iraq's population made Saddam Hussein and his regime a threat to international peace and security;

Whereas the United States pursued sustained diplomatic, political, and economic efforts to remove those threats peacefully;

Whereas on October 7, 2001, the Armed Forces of the United States and its coalition allies launched military operations in Afghanistan, designated as Operation Enduring Freedom, that quickly caused the collapse of the Taliban regime, the elimination of Afghanistan's terrorist infrastructure, and the capture of significant and numerous members of Al Qaeda;

Whereas on March 19, 2003, the Armed Forces of the United States and its coalition allies launched military operations, designated as Operation Iraqi Freedom, that quickly caused the collapse of Saddam Hussein's regime, the elimination of Iraq's terrorist infrastructure, the end of Iraq's illicit and illegal programs to acquire weapons of mass destruction, and the capture of significant international terrorists;

Whereas in those two campaigns in the Global War on Terrorism, as of May 1, 2003, nearly 330,000 members of the United States Armed Forces, comprised of active, reserve, and National Guard members and units, had deployed for Operation Enduring Freedom and Operation Iraqi Freedom;

Whereas as of May 1, 2003, some 224,500 Reserve and National Guard members of the Armed Forces had been called to active duty in support of Operation Enduring Freedom and Operation Iraqi Freedom;

Whereas in the conduct of Operation Enduring Freedom and Operation Iraqi Freedom, as of May 1, 2003, 67 military servicemembers and other United States personnel had given their lives in Afghanistan and 140 had been lost in Iraq, while over 700 had been wounded and 8 were held as prisoners of war;

Whereas success in those two campaigns in the Global War on Terrorism would not have been possible without the dedication, courage, and service of the members of the United States Armed Forces and the military and irregular forces of the friends and allies of the United States;

Whereas the support, love, and commitment from the families of United States service personnel participating in those two operations, as well as that of the communities and patriotic organizations which provided support through the United Services Organization (USO), Operation Dear Abby, and Operation UpLink, helped to sustain those service personnel and enabled them to eliminate significant threats to United States national security while liberating oppressed peoples from dictatorial regimes;

Whereas the civilian employees of the Department of Defense, through their hard work and dedication, enabled United States military forces to quickly and effectively achieve the United States military missions in Afghanistan and Iraq;

Whereas the commitment of companies making their employees available for military service, the creativity and initiative of contractors equipping the Nation's Armed Forces with the best and most modern equipment, and the ingenuity of service companies assisting with the global overseas deployment of the Armed Forces demonstrates that the entrepreneurial spirit of the United States is an extraordinarily valuable defense asset; and

Whereas the Nation should pause to recognize with appropriate tributes and days of remembrance the sacrifice of those members of the Armed Forces who died or were wounded in Operation Enduring Freedom and Operation Iraqi Freedom, as well as all who served in or supported either of those operations: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) conveys its deepest sympathy and condolences to the families and friends of the members of United States and coalition forces who have been injured, wounded, or killed during Operation Enduring Freedom and Operation Iraqi Freedom;

(2) commends President George W. Bush, Secretary of Defense Donald H. Rumsfeld, and United States Central Command commander General Tommy Franks, United States Army, for their planning and execution of enormously successful military campaigns in Operation Enduring Freedom and Operation Iraqi Freedom;

(3) expresses its highest commendation and most sincere appreciation to the members of the United States Armed Forces who participated in Operation Enduring Freedom and Operation Iraqi Freedom, including the members of the organizational elements specified in section 2 of this resolution;

(4) commends the Department of Defense civilian employees and the defense contractor personnel whose skills made possible the equipping of the greatest Armed Force in the annals of modern military endeavor;

(5) calls upon communities across the Nation—

(A) to prepare appropriate homecoming ceremonies to honor and welcome home the members of the Armed Forces participating in Operation Enduring Freedom and Operation Iraqi Freedom and to recognize their contributions to United States homeland security and to the Global War on Terrorism; and

(B) to prepare appropriate ceremonies to commemorate with tributes and days of remembrance the service and sacrifice of those servicemembers killed or wounded during either of those operations;

(6) expresses the deep gratitude of the Nation to the 21 steadfast allies in Operation Enduring Freedom and to the 49 coalition members in Operation Iraqi Freedom, especially the United Kingdom, Australia, and Poland, whose forces, support, and contributions were invaluable and unforgettable; and

(7) recommits the United States to ensuring the safety of the United States homeland, to preventing weapons of mass destruction from reaching the hands of terrorists, and to helping the people of Iraq and Afghanistan build free and vibrant democratic societies.

Sec. 2. (a) Operation Iraqi Freedom.—The organizational elements of the Armed Forces referred to in paragraph (3) of the first section of this resolution members of which participated in Operation Iraqi Freedom are the following:

(1) From the Army—

(A) Army Forces Central Command—3rd United States Army.

(B) V Corps Command Element.

(C) 3rd Infantry Division (Mechanized).

(D) 101st Airborne Division (Air Assault).

(E) 82nd Airborne Division.

(F) 4th Infantry Division (Mechanized).

(G) Elements of the 1st Infantry Division, 10th Mountain Division, and 1st Armored Division.

(H) 2nd Armored Cavalry Regiment.

(I) 3rd Armored Cavalry Regiment.

(J) 173rd Airborne Brigade (Sep).

(K) 11th Aviation Group.

(2) From the Marine Corps—

(A) Marine Forces Central Command.

(B) 1st Marine Expeditionary Brigade.

(C) 1st Marine Division.

(D) 3rd Marine Air Wing.

(E) 1st Force Service Support Group.

(F) 2nd Force Service Support Group/Marine Logistics Command.

(G) 2nd Marine Expeditionary Brigade (Task Force Tarawa).

(H) The following Marine expeditionary units:

(i) 15th Marine Expeditionary Unit.

(ii) 24th Marine Expeditionary Unit.

(iii) 26th Marine Expeditionary Unit.

(3) From the Navy—

(A) Naval Forces Central Command—United States 5th Fleet.

(B) Theodore Roosevelt Carrier Strike Force.

(C) Nimitz Carrier Strike Force.

(D) Abraham Lincoln Carrier Strike Force.

(E) Constellation Carrier Strike Force.

(F) Kitty Hawk Carrier Strike Force.

(G) Harry S Truman Carrier Strike Force.

(H) Amphibious Task Force East.

(I) Amphibious Task Force West.

(J) Nassau Amphibious Ready Group.

(K) Tarawa Amphibious Ready Group.

(L) Iwo Jima Amphibious Ready Group.

(M) Amphibious Group 3.

(N) The following maritime prepositioning squadrons:

(i) Maritime Prepositioning Squadron 1.

(ii) Maritime Prepositioning Squadron 2.

(iii) Maritime Prepositioning Squadron 4.

(4) From the Air Force—

(A) Air Forces Central Command—9th Air Force.

(B) The following air expeditionary task forces:

(i) 9th Air Expeditionary Task Force.

(ii) 16th Air Expeditionary Task Force.

(C) The following air expeditionary wings:

(i) 39th Air Expeditionary Wing.

(ii) 40th Air Expeditionary Wing.

(iii) 64th Air Expeditionary Wing.

(iv) 320th Air Expeditionary Wing.

(v) 321st Air Expeditionary Wing.

(vi) 332nd Air Expeditionary Wing.

(vii) 363rd Air Expeditionary Wing.

(viii) 376th Air Expeditionary Wing.

(ix) 379th Air Expeditionary Wing.

(x) 380th Air Expeditionary Wing.

(xi) 384th Air Expeditionary Wing.

(xii) 386th Air Expeditionary Wing.

(xiii) 401st Air Expeditionary Wing.

(xiv) 405th Air Expeditionary Wing.

(xv) 410th Air Expeditionary Wing.

(xvi) 484th Air Expeditionary Wing.

(xvii) 485th Air Expeditionary Wing.

(xviii) 486th Air Expeditionary Wing.

(xix) 487th Air Expeditionary Wing.

(D) The following air expeditionary groups:

(i) 387th Air Expeditionary Group.

(ii) 398th Air Expeditionary Group.

(iii) 407th Air Expeditionary Group.

(iv) 409th Air Expeditionary Group.

(v) 444th Air Expeditionary Group.

(vi) 447th Air Expeditionary Group.

(vii) 449th Air Expeditionary Group.

(viii) 457th Air Expeditionary Group.

(ix) 458th Air Expeditionary Group.

(x) 506th Air Expeditionary Group.

(E) The following expeditionary air support operations groups:

(i) 3rd Expeditionary Air Support Operations Group.

(ii) 4th Expeditionary Air Support Operations Group.

(iii) 18th Expeditionary Air Support Operations Group.

(F) 1st Expeditionary RED HORSE Group.

(G) 86th Contingency Response Group.

(H) 15th Expeditionary Reconnaissance Squadron.

(5) From the United States Special Operations Command—

(A) Special Operations Command Central.

(B) From the Army Special Operations Command—

(i) 5th Special Forces Group (Airborne).

(ii) 3rd Special Forces Group (Airborne).

(iii) 10th Special Forces Group (Airborne).

(iv) 160th Special Operations Aviation Regiment.

(v) 75th Ranger Regiment.

(vi) 350th Civil Affairs Command.

(vii) 352nd Civil Affairs Command.

(viii) 304th, 308th, and 358th Civil Affairs Brigades.

(C) From the Naval Special Warfare Command—

(i) Naval Special Warfare Group One.

(ii) Naval Special Warfare Group Three.

(D) From the Air Force Special Operations Command—

(i) 16th Special Operations Wing.

(ii) 193rd Special Operations Wing.

(iii) 919th Special Operations Wing.

(iv) 352nd Special Operations Group.

(v) 720th Special Operations Group.

(vi) 123rd Special Tactics Squadron.

(vii) 280th Command Control Squadron.

(6) From the Coast Guard—

(A) The following vessels:

(i) USCGC Boutwell.

(ii) USCGC Dallas.

(iii) USCGC Walnut.

(iv) USCGC Aquidneck.

(v) USCGC Adak.

(vi) USCGC Wrangell.

(vii) USCGC Baranof.

(viii) USCGC Bainbridge Island.

(ix) USCGC Grande Isle.

(x) USCGC Knight Island.

(xi) USCGC Pea Island.

(xii) USCGC Sapelo.

(B) Mobile Support Unit.

(C) The following port security units:

(i) Port Security Unit 313.

(ii) Port Security Unit 311.

(iii) Port Security Unit 309.

(iv) Port Security Unit 305.

(D) Law Enforcement Detachments (101, 202, 204, 205, 404, 406, 411).

(E) Atlantic Strike Team Detachment.

(F) Law Enforcement Attachment (augmenting PCs).

(G) The following Harbor Defense Command units:

(i) Harbor Defense Command Unit 114.

(ii) Harbor Defense Command Unit 206.

(b) Operation Enduring Freedom.—The organizational elements of the Armed Forces referred to in paragraph (3) of the first section of this resolution members of which participated in Operation Enduring Freedom are the following:

(1) From the Army—

(A) Army Forces Central Command.

(B) Combined Joint Task Force 180.

(C) 10th Mountain Division.

(D) 101st Airborne Division.

(E) 82nd Airborne Division.

(2) From the Marine Corps—

(A) Marine Forces Central Command.

(B) Commander Joint Task Force—Horn of Africa.

(C) Combined Joint Task Force 58.

(D) The following Marine expeditionary units:

(i) 11th Marine Expeditionary Unit.

(ii) 13th Marine Expeditionary Unit.

(iii) 15th Marine Expeditionary Unit.

(iv) 22nd Marine Expeditionary Unit.

(v) 26th Marine Expeditionary Unit.

(E) Detachments, 4th Marine Expeditionary Brigade (Anti-Terrorism).

(3) From the Navy—

(A) Navy Forces Central Command—United States 5th Fleet.

(B) Theodore Roosevelt Carrier Strike Force.

(C) Kitty Hawk Carrier Strike Force.

(D) Abraham Lincoln Carrier Strike Force.

(E) Enterprise Carrier Strike Force.

(F) Carl Vinson Carrier Strike Force.

(G) John C. Stennis Carrier Strike Force.

(H) John F. Kennedy Carrier Strike Force.

(I) George Washington Carrier Strike Force.

(J) Bonhomme Richard Amphibious Ready Group.

(K) Bataan Amphibious Ready Group.

(L) Peleliu Amphibious Ready Group.

(M) Wasp Amphibious Ready Group.

(4) From the Air Force—

(A) Air Forces Central Command—9th Air Force.

(B) The following air expeditionary task forces:

(i) 9th Air Expeditionary Task Force.

(ii) 13th Air Expeditionary Task Force.

(C) The following air expeditionary wings:

(i) 28th Air Expeditionary Wing.

(ii) 40th Air Expeditionary Wing.

(iii) 64th Air Expeditionary Wing.

(iv) 320th Air Expeditionary Wing.

(v) 321st Air Expeditionary Wing.

(vi) 322nd Air Expeditionary Wing.

(vii) 363rd Air Expeditionary Wing.

(viii) 366th Air Expeditionary Wing.

(ix) 376th Air Expeditionary Wing.

(x) 379th Air Expeditionary Wing.

(xi) 380th Air Expeditionary Wing.

(xii) 384th Air Expeditionary Wing.

(xiii) 386th Air Expeditionary Wing.

(xiv) 405th Air Expeditionary Wing.

(xv) 455th Air Expeditionary Wing.

(D) The following air expeditionary groups:

(i) 416th Air Expeditionary Group.

(ii) 438th Air Expeditionary Group.

(iii) 451st Air Expeditionary Group.

(E) 1st Expeditionary RED HORSE Group.

(5) From the United States Special Operations Command—

(A) Special Operations Command Central.

(B) From the Army Special Operations Command—

(i) 5th Special Forces Group (Airborne).

(ii) 3rd Special Forces Group (Airborne).

(iii) 19th Special Forces Group (Airborne).

(iv) 20th Special Forces Group (Airborne).

(v) 2nd Battalion, 7th Special Forces Group (Airborne).

(vi) 160th Special Operations Aviation Regiment.

(vii) 75th Ranger Regiment.

(viii) 350th Civil Affairs Command.

(ix) 354th, 360th, and 403rd Civil Affairs Brigades.

(x) 310th Psychological Operations Brigade.

(C) From the Naval Special Warfare Command—

(i) Naval Special Warfare Group One.

(ii) Naval Special Warfare Group Three.

(D) From the Air Force Special Operations Command—

(i) 16th Special Operations Wing.

(ii) 352nd Special Operations Group.

(iii) 193rd Special Operations Wing.

(iv) 919th Special Operations Wing.

(v) 720th Special Operations Group.

(vi) 123rd Special Tactics Squadron.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

### GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 177, the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Con. Res. 177, a resolution commending the members of the Armed Forces and our allies, their armed forces and all those who were involved in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.

As we stand here today, U.S. forces are deployed around the world engaged in the global war on terrorism. The first two campaigns in that war, Operation Enduring Freedom and Operation Iraqi Freedom, proved our resolve in taking the fight to anyone, anywhere, who wishes to do us harm. The results showed that the United States military remains the most powerful and effective military in the history of mankind.

The after-action reports will show many reasons for our success. However, I believe that the most important factor is the simplest one: our people. The United States is blessed to have the most highly trained, equipped and motivated force in the world. It is through the dedication, creativity and ability of our young men and women in uniform that we were able to prevail. I, and all my colleagues, commend them for their service.

Through both these operations, our forces stood shoulder to shoulder with 21 allied nations in Afghanistan and 49 coalition members in Iraq. And I might mention specifically the 40,000-plus troops of Great Britain and the 2,000-plus troops from Australia and the 200 Special Operators from Poland, who aided us in this fight. And without the help of these allies who contributed so much, we would not have enjoyed the success that we have had at this point.

Neither could we have succeeded without the support of the civilian employees of the DOD, industry employees and leadership. Of course, we had lots of contractors working our systems, helping out in that operation and, of course, we had community organizations and employers. Very importantly, Mr. Speaker, employers who made their Guardsmen and Reservists available for these endeavors and those employers who accommodated their absence to go out and defend our country. Their support to the men and women in the field made these operations possible.

H. Con. Res. 177 commends the bravery, dedication and resolve of all those who contributed to the success of these two operations. In particular, however, I want to express the condolences and thanks of a grateful Nation and a grateful Congress to the families of those American service personnel who made the ultimate sacrifice during these operations. Nothing we do here today can adequately express our sorrow at the loss of these brave men and women. The sole consolation that we can offer is that it is our conviction that they did not die in vain. Our country and the entire world is safer and freer today because of their sacrifice. We honor their service and we mourn their loss.

I urge my colleagues to support this resolution.

Mr. Speaker, just one last point. I was in Iraq a couple of days ago. And in talking at our last visit in Kirkuk, in getting our briefings from the commander of the 4th Infantry Division, I asked him the inevitable question. That is, of the 26,000 folks you have in theater right now, how many incidents have you had of mistreatment of Iraqi citizens? Of course, these things happen when you have hundreds of thousands of people deployed, you now and again have incidents like that. But he looked surprised when I asked the question, and he answered not one, not one incident of mistreatment of Iraqi civilians by our military forces.

Mr. Speaker, that reflection on the professionalism and the goodness of our people during this occupation following the war is itself another reason for us to commend our troops and commend their service to our country.

Mr. Speaker, I would urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

As a stalwart supporter of our troops and as cosponsor of House Concurrent Resolution 177, I am pleased to join my colleague and my friend, the chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), in support of this bill.

This resolution commends and expresses the Nation's sincere appreciation to the men and women in uniform and our allies who served and are serving in Operation Enduring Freedom and Operation Iraqi Freedom. It also recognizes the outstanding contributions of the Department of Defense civilian employees and civil and defense contractors who have contributed tremendously to the success of these operations. And it urges communities across the country to honor and welcome home these brave and courageous patriots.

Today we have an all-volunteer force that proudly stands watch over the Nation's interests both here and abroad. Over 1.4 million active duty service members and an additional 875,000 citizen soldiers, National Guardsmen and Reservists, part-time volunteers, comprise the finest, best-trained fighting force the world has ever seen.

Let me say I am especially proud of the men and women in uniform from my home State of Missouri. Over 289,000 Guardsmen and Reservists have been activated since September 11, 2001, and nearly 220,000 have been called to active duty for Operation Enduring Freedom and Operation Iraqi Freedom. And as these fine young men and women return home, I urge my colleagues to visit an active duty base, Reserve center or National Guard armory and spend some time with these dedicated individuals to thank them and their families for their commitment and for their sacrifice. I promise you will never forget the experience of meeting these fine men and women. I know my visits to bases in Missouri always make a lasting impression on me.

When we send our fathers and our mothers and our sons and daughters, sisters and brothers, aunts, uncles, cousins in defense of this Nation, we are reminded that the price of freedom is not free.

I would also like to commend our Nation's civil servants and contractors who provide support to our service members. Americans may be surprised to learn that there are also civil service and civilian contractors serving overseas in Operation Enduring Freedom and Operation Iraqi Freedom. Our Nation also calls upon its dedicated and committed civil service personnel and contractors to support those serving in a combat zone. Their contributions were also important to the success of these operations, and they too deserve our recognition and our respect for their service to our Nation's security.

While those in uniform volunteer to make these sacrifices, their families are the ones that must shoulder these burdens as well. Anxiety, frustration, sadness, anger, pride, happiness, satisfaction, understanding, and reassurance are all feelings that military families must face during the months of separation. Hundreds of babies have been born while a parent was deployed to Afghanistan or to Iraq. Tragically, some will never know their parent who died while serving.

Yet, time continues on, missed birthdays, proms, graduations, holidays; the loss of a loved one is normal hardship that military families endure. Military families endure much hardship and sacrifice, and to that end, they too serve.

Reservists and National Guardsmen and their families often face similar problems when called to active duty. But Reservists and National guardsmen are also dependent on support from their employer. Thousands of employers across the country have gone the extra step and provided additional support in a number of ways. That includes paying the difference between civilian pay and military pay when an employee is activated, and continuing health care coverage for families that are left behind. Without the support of our Nation's employers, Reservists and National Guardsmen would not be able to volunteer to defend this Nation.

I believe that it is of paramount importance to support the troops, the men and women in uniform who are literally putting their lives on the line for our country. More than 200 service members have died since the global war on terrorism began, and over 700 have been wounded or injured, and eight were held as prisoners of war. These individuals and their families have sacrificed for our freedom, and our thoughts and our prayers are truly with them. The Nation will not forget the price they paid to defend our country and the freedoms we all enjoy.

While there are no words that can adequately express the Nation's appreciation for their sacrifice, our sympathies and our prayers go out to these families.

It does not take too many hours of watching our troops in action on television to know that they are demonstrating acts of personal sacrifice and heroism on a daily basis. We have an obligation to let them know that we appreciate and admire their contribution to our national security.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Speaker, I would like to thank the gentleman from California (Mr. HUNTER) for sponsoring this resolution. I thank the gentleman from Missouri (Mr. SKELTON) for also cosponsoring it.

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This resolution, I think, covers the ground of a way for us to say thanks to those people who answered the call to arms.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The gentleman will suspend.

Will the conversations in the gallery please terminate.

The gentleman may proceed.

Mr. MCINNIS. Mr. Speaker, this is a very serious resolution, and I think it demands appropriate attention. Every generation is concerned about the generation behind them, will they answer to the call of arms, will they be able to protect this country, will they have this feeling of patriotism; and this resolution is going to pass unanimously because we can all say with a great deal of pride that generation did rise, they were prepared and they have responded and they have delivered.

I am so proud of those young men and women who did rise and were willing to serve this country and unfortunately in some cases were killed in action defending the principles and the people of this country.

As the chairman has pointed out, there is a lot of thanks not only to the people who are on the front line of combat but for the families across this country that support and believed in the American flag and the symbolism and the pride of this Nation and the history of this Nation, and also a special thanks as my colleague pointed out and as the gentleman from Missouri (Mr. SKELTON) has pointed out, thanks to all the civilian employees and all the defense employees and the people in the armed services that were not on the front line, but also participated in this nationwide effort and a big thanks to our communities. I know in Colorado, where I come from, all the small towns, it is a big parade. They are welcoming these people back, those brave men and women that have come home. They are coming home with open arms.

This is a Nation that strongly supports its military. This is a Nation that sends a message out to the rest of the world, and that is, when the call comes, this Nation will respond. This Nation has principles, and it is willing to defend those principles. It has friends, and it is willing to defend those friends; and it will defend freedom.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I want to thank the gentleman from California (Mr. HUNTER), the chairman; and the gentleman from Missouri (Mr. SKELTON), the ranking member, for bringing this important resolution to the floor today. Like all Members, I will strongly support this resolution; but let none of us forget, while the battle of Baghdad has been won, the peace that all of us hope for in Iraq is yet to be achieved and our brave men and women in uniform and our allies are still in harm's way.

Today, The Washington Post reports that another American soldier died on Tuesday after being attacked by a small arms fire and rocket-propelled grenade at an Army checkpoint 50 miles north of Baghdad. May God bless his soul and provide comfort to his family. Our grateful Nation will forever be indebted to his service and sacrifice, as it is to the service and sacrifice of those comrades mentioned by the gentleman from Missouri (Mr. SKELTON) who also lost their lives and were injured in the defense of freedom.

Mr. Speaker, having witnessed Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq, there can be little doubt that the United States of America has the finest, best-led, best-equipped and best-educated fighting force in the history of the world. Our military is smarter, faster, and more lethal than it was 12 years ago during Desert Storm, and it was very good then. It took 250,000 troops to topple Saddam Hussein and liberate the Iraqi people. Twelve years ago, it took 500,000 troops to oust him from Kuwait. About 90 percent of our bombs and missiles were precision-guided in Operation Iraqi Freedom. In Desert Storm, that figure was 10 percent.

I want to congratulate the gentleman from California (Mr. HUNTER); I want to congratulate the gentleman from Missouri (Mr. SKELTON) and all the members of the Committee on Armed Services for giving our troops the tools to become better, better equipped, better able to defend freedom and protect themselves.

It is evident, therefore, that assertions regarding the American military being in decline, hollowed out, are not ready, are and always were patently wrong. Moreover, only an uninformed person, I think, would deny that our Commander in Chief led a fighting force which was bequeathed to him by his predecessor President Clinton and bequeathed to him by his predecessor George Bush and also by President Reagan.

As Vice President CHENEY remarked at the Air Force Academy 2 years ago, "No President ever deploys the force he builds. There is nothing quick about preparation." That is a message that we must always remain ready, that we must always support the strength of our military and the safety of our personnel.

As the Taliban or the Hussein regime could attest, the myth of a hollowed-out American military is nothing more than that, a myth. I rise with my colleagues to thank, to support and commend our brave men and women in the Armed Forces of the United States of America.

Mr. HUNTER. Mr. Speaker, I yield 2½ minutes to the gentleman from Colorado (Mr. HEFLEY), the chairman of the Subcommittee on Readiness.

Mr. HEFLEY. Mr. Speaker, I thank the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for bringing this to us today.

After 9/11, the President stood right up there, and he said we will go anywhere we have to go to get people who would perpetrate the kind of action that occurred on September 11. We will go get him, and he meant what he said; and that is what we have been in the process of doing, and Iraq was part of that pattern. They were a threat to us, but they were a threat to the world; and we know they had weapons of mass destruction. What they have done with them we are not quite sure at this point, but we know they had those; and we know they had a hatred for the United States and would have had no compunction about giving or selling those weapons to people who would actually use them against the United States or the free world.

What we saw in 21 days of war and the aftermath that has come since then and the Afghanistan activity before that was the ultimate in professionalism and training and equipment and planning; and I think we can all be very proud of that. We do not want war, but we will defend ourselves wherever we have to go to do that. We have shown that we have the capability to get the job done.

We also have seen a tremendous dedication among these young troops that we have deployed. We are so proud of them and all the troops that we have over there that are willing to uproot their lives and leave their families and risk their lives in the pursuit of freedom.

I spend a lot of time, as the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) do, with the troops; and I have never seen a better attitude than they have today. They feel like they are doing something that is meaningful for world peace.

Our prayers and our support, of course, go to the families that have lost loved ones. We always hate that. We do not want to lose one single person, but we know in war we do lose some people and we are sorry for that, and we want to extend our appreciation to them for giving their loved ones to the cause.

So our thanks go to all of the coalition forces. What we are doing today is a small way to say thanks from a grateful Nation.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. HARMAN), who is one of the original cosponsors of this legislation together with the gentleman from California (Mr. CUNNINGHAM).

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding me the time, and I commend him for his leadership on this issue and so many others.

Mr. Speaker, I rise in strong support of this resolution, which honors our troops and calls on communities all across the Nation to warmly welcome home the service women and men serving in Operation Iraqi Freedom and Operation Enduring Freedom.

Such an expression is critically important. Many of us who grew up during the Vietnam War are haunted by memories of the treatment afforded returning veterans of that conflict. Painted by an unpopular policy, many who risked their lives for their country and suffered physical and emotional wounds were ignored and their courage and sacrifice dishonored and ridiculed.

We must not let that happen again.

The resolution before us, like the one introduced earlier by the gentleman from California (Mr. CUNNINGHAM) and me, recognizes the service of more than 380,000 members of the United States Armed Forces, comprised of active component forces, National Guard and Reserve personnel, who were deployed thousands of miles from home as part of Operation Iraqi Freedom and Operation Enduring Freedom.

Thirty-five service members from the Los Angeles Air Force base located in my district were sent to the Persian Gulf. Many more were local Guard and Reserve members who were required to take indefinite leave from places of employment. All left loved ones behind and faced danger. And as my colleagues have heard, our Armed Forces suffered a number of casualties, including deaths, injuries and incarceration as prisoners of war.

One of the first casualties of Operation Iraqi Freedom was Marine Corps Lance Corporal Jose Gutierrez, who came from his native Guatemala to my district in California, lived with a foster family before joining the Marines to "pay back a little of what he'd gotten from the U.S." Our condolences go out to his family and all families who lost loved ones during war.

Mr. Speaker, the homecomings have already begun. The city of Torrance, California, dedicated its May 17 Armed Forces Day parade to the returning servicemembers. Other cities have scheduled 4th of July festivities, and families throughout my district are planning neighborhood block parties and other celebrations to welcome home sons, daughters, brothers, sisters, fathers, and mothers.

I commend the Committee on Armed Services, its chair and ranking member especially, for bringing this resolution to the floor today. We must never forget the courage and selfless sacrifice of the women and men in our Armed Forces. We must always undertake efforts to protect their safety as they continue to be deployed in Iraq, Afghanistan, Korea, and other theaters in which they will continue to face danger; and we must afford them a warm welcome home.

These are important steps. This resolution does this. Again, I commend its passage and hope our vote will be unanimous.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentlewoman and assure her that her and the gentleman from California's (Mr. CUNNINGHAM) resolution is very much embodied in what the committee produced and thank her for her great efforts.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, in a former life I worked for the military for 18 years in a number of capacities. During that time, I gained an enormous respect for our military personnel.

For the last 11 years since coming to the Congress, I have had the privilege and the honor of serving on the Committee on Armed Services where I gained even more respect for our military personnel.

I would have thought that this long association with the military would have prepared me for an event of a couple of years ago, but it really did not. This event was a paralyzed veterans reception in Cannon Caucus, and I knew what I was going to see when I went there, but I really was not prepared for the emotional response that I had.

I went to that big conference room, and there were many, many service personnel on crutches and in wheelchairs. It finally struck me that they were paralyzed, and they were there so that I could continue to live in this great free country, I and 280 million other Americans; and then I thought of those that were not so lucky, that were filling graves in foreign countries or in this country who, in Abraham Lincoln's words, gave that last full measure of devotion for their country.

Less than one person in a hundred serves in our military, but to this very small percent of our population this grateful Nation owes an enormous debt. I thank my colleagues for bringing this resolution to the floor today.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, how very timely is the old warning of Abraham Lincoln about those "trusting to escape [the] scrutiny [of war] by fixing the public gaze upon the exceeding brightness of military glory." Our troops deserve our fullest support for their tremendous sacrifices, and they certainly have mine. Let us truly honor American sons and daughters in uniform, not with mere words, but with adequate health care and a thriving economy, not an Everest of public debt for their children. Let our nation-building begin here at home with adequate schools, jobs, and opportunity.

What this Administration calls a "coalition" is, in fact, the U.S., the UK, and hefty advertising. No war in American history has been better marketed.

□ 1330

The very weakness of our new "first strike," "security through attack" policy and the repeated failure to connect Iraq with the outrage of 9/11 necessitates resolutions like this that must borrow strength from the bold courage of our troops. Surely the thousands combing Iraq today for weapons of mass destruction will find at least a trace, but an honest assessment requires asking whether this second-rate tyrant, unable to effectively defend himself, really ever had the capability to endanger our families.

Americans continue to do most of the dying and will do almost all of the paying for this indefinite engagement. Let us guard against it becoming a war without end. With unlimited dollars, we have mastered so well the terrible technology of death, but true security demands wisdom as well as strength.

Mr. HUNTER. Mr. Speaker, I yield myself 1 minute to say to my colleague who just spoke, and I would like to get his attention, because when the gentleman gets up on these resolutions and implies that there is somehow a political agenda behind them, it tends, I think, to do a disservice to the resolutions.

This resolution came about because lots of Members, like the gentlewoman from the party of the gentleman who just spoke, have asked to put resolutions forward commending our troops and recognizing their sacrifice. The Committee on Armed Services, seeing all these resolutions being put out, with Members on the Democrat and Republican side wanting to commend this unit or that unit coming back to their country, we took all of those and we looked at them and we decided to do one large resolution that commended everyone in these operations. And we have, literally, at the end of this resolution, we have named every single American unit that participated in the operation.

There is no political agenda here. This is a consolidating of all of the efforts and the input from Members of this body, Democrat and Republican, some of them for the war, presumably some against the war, who wanted to commend the people who participated in it. It is that and it is nothing more. And by implying a political agenda, the gentleman, in fact, injects a political agenda into the debate.

Mr. Speaker, I yield 2½ minutes to my friend, the gentleman from California (Mr. CUNNINGHAM), who is so closely associated with that great aircraft carrier which steamed into San Diego a couple of days ago at the end of its career, the Constellation, America's Navy, along with Willy Driscoll from the Vietnam War.

Mr. CUNNINGHAM. Mr. Speaker, a few weeks back, the gentlewoman from California (Ms. HARMAN) came to me with an idea for this resolution. It was not my idea, Mr. Speaker; I am just flying wing on the gentlewoman from California at this time, and I thank her for her foresight in bringing this forward.

Many of the words that the gentlewoman and myself placed in it are supported both by the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) in this resolution, and I thank them both.

The gentleman from California (Mr. HUNTER) spent his life supporting our troops, and what better person to bring a resolution. His father was a Marine, he was a combat veteran in Vietnam, and his young son is in the United States Marine Corps.

And, Mr. Speaker, I owe great homage to the gentleman from Missouri (Mr. SKELTON). I served on the authorization committee and learned to love and support him. When we were in the minority at one time, I was just hotter than a hatter because the majority was stopping me from an amendment, and I was about ready to go to battle stations. The gentleman from Missouri (Mr. SKELTON) pulled me aside and he sat me there in that third row chair and started talking to me about his heritage as a descendant of Daniel Boone. After 30 minutes of speaking and calming me down, he said, "Duke, are you settled down now?" It was his way of saying "Ease up, Duke," and I will never forget that.

But many of us have tears in the well. It is difficult to send men and women to combat. And the most difficult thing is that we may have to do it again: that as long as we have an al-Qaeda, a Mujahedin, a Hamas, a Hezbollah, and people that want to hurt not only us overseas but even in our own homeland, it is a difficult choice.

I know that the gentleman from California (Mr. HUNTER) flew out to the U.S.S. *Constellation*, and then I heard the gentleman from Missouri (Mr. SKELTON) the other day say that he also flew out to the carrier that pulled into the East Coast, and the troops really appreciate that.

I know there was a lot of heyday made when the President flew out to a carrier, but I was with Major Dan "Knuckles" Shipley, this weekend when he flew in off the *Connie*. And he said, "Duke, tell the President that we love him. We know that he supports us." Many of us criticized President Clinton at times, and sometimes I think we were wrong. I never did it after we got into conflict. But you need to stand behind the President, especially at a time of war, whether it is Bill Clinton or President George W. Bush.

Mr. Speaker, I want to thank the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) for this resolution.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume to first say that this resolution has no political agenda. We are here merely to say "thank you."

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I join in the praise of the chairman, the gentleman from California (Mr. HUNTER) and my dear friend, the gentleman from Missouri (Mr. SKELTON) in bringing this to the floor. I am one of the politicians that do not find anything wrong with politics. And if it is politically right to laud the efforts of our men and women overseas that are coming home, then no matter how it is described, I want to be among those that would do it.

These young men and women are dedicated, and we have to make certain that we give them a little more than praise and a parade. Because I recall in 1952, when I came home from Korea, those medals did not get me a job; it was people reaching out, trying to help me to put my life together. And so I think this is what we have to do.

My friend, the gentleman from California (Mr. CUNNINGHAM), says how difficult it is to send our young people into harm's way and that we may have to consider doing this more in the future. Well, I hope not, because if we take a good look at those that will be coming home, we will be taking a harder look at those that we sent.

Most of my colleagues know that I really truly believe that what is in the best interest of the United States of America is that we consider draft legislation, where everyone would be exposed to defending this great Republic, rather than seeing who will be coming home, and worse still who will not be coming home, those that come from our inner cities, our rural areas, and those that we are now trying to further recruit.

While patriotism is up in this House of Representatives, recruitment is not up. We are now giving mandatory extensions to those people who have volunteered, and we are bringing out the

Reservists. Sure, they are dedicated, but we are asking them to serve two and three times a year, or a 2-year period, and of course, our National Guard are being called. So as we find expanded need for military, we ought to expand the pool from which they come.

So what I am saying is that I want to join in the spirit of this resolution. I will be there at the parades. I am there at the armories. But for God's sake, let us have something of substance in the legislation.

I know that most of the Members are not aware that that the tax bill that we passed on this floor excluded benefits for members of the military for extended child credits for those people that have incomes of $26,000 or less. Let me share with my colleagues the Catch 22 that our members of the Armed Forces are in.

One, if they were under $26,000, and we know most of them are, they were cut out of the bill. They were dropped out of the bill, and the leadership said they may not come back. For those people who served in combat and had a larger amount of their income to be tax exclusive, they would get over $26,000 and once again lose the tax credit.

Let us pay tribute, but let us have some substance and benefits for our beloved veterans.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

It is good to hear Members such as our friend from New York (Mr. RANGEL), the gentleman from California (Mr. CUNNINGHAM), the gentleman from California (Mr. HUNTER), all veterans, speaking so well today for the young men and young women in the armed services. We appreciate it and their words so very, very much.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, while I am pleased we are here to applaud our Nation's businesses and business owners for the support they have provided our troops and our military families, I am disappointed that in this resolution Congress is simply voicing thanks. We had an opportunity to do something truly meaningful when we considered the Defense authorization legislation 2 weeks ago. Rather than doing something to help our Reservists and National Guardsmen and -women, this resolution simply expresses empty thanks.

According to a survey conducted by the Pentagon, four in ten members of the Reserves or National Guard suffer a loss of salary when they are activated. For instance, Russell Wright, a father of two and a sergeant in the Marine Reserves, was activated for a year and, as a result, will lose about 50 percent of his civilian salary.

Mr. Speaker, I am sure my colleagues will agree that this is a deplorable comment on how our country treats its Reserves and National Guardsmen. Instead of merely praising the Nation's businesses for their support of our troops, we should be helping our activated men and women.

An amendment offered by my good friend, the gentleman from Texas (Mr. BELL), and myself to require the Federal Government to pay its employees the difference between their civilian and military salaries passed unanimously by voice vote in a recent Committee on Government Reform meeting. Unfortunately, Mr. Speaker, that amendment was excluded from consideration of the Defense authorization bill that we passed 2 weeks ago.

It is a grave disappointment to me that instead of making up the salary loss suffered by numerous Federal employees who are also Reservists, we are only offering a meaningless tribute to our Nation's businesses for doing what we in Congress are not willing to do.

Mr. Speaker, because I support House Resolution 201, I wanted to take a moment to commend the nearly 200 conscientious businesses that have taken the initiative to pay their employees the difference between their military and civilian salaries. These companies include the Oracle Corporation, located in my own congressional district.

Mr. Speaker, when my colleagues come down to vote on this resolution, I want them to think about the families which are suffering as a result of the pay gap, and I urge all of my colleagues to join me in rectifying this outrageous problem.

[From USA Today, May 15, 2003]

### RESERVISTS UNDER ECONOMIC FIRE

(By Kathy Kiely)

WASHINGTON.—Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Four in 10 members of the National Guard or reserves lose money when they leave their civilian jobs for active duty, according to a Pentagon survey taken in 2000. Of 1.2 million members, 223,000 are on active duty around the world.

Concern is growing in Congress, and several lawmakers in both parties have introduced legislation to ease it.

Janet Wright says she "sat down and cried" when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Middle East. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, LA, his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

She doesn't know how long she'll have to pinch pennies. Like his fellow reservists, Russell Wright has been called up for one year. He could be sent home sooner, or the military could exercise its option to extend his tour of duty for a second year. Even so, Janet Wright considers her family lucky: She can still pay the mortgage, and the children's pediatrician accepts Tricare, the military health plan.

Ray Korizon, a 23-year veteran with the Air Force Reserve and an employee of the Federal Aviation Administration, says his income will also be cut in half if his unit ships out. Korizon, who lives in Schaumburg, Ill., knows the financial costs of doing his patriotic duty from bitter experience. Before the Persian Gulf War in 1991, he owned a Chicago construction company with 26 employees. He was sent overseas for six months and lost the business.

Still, he never considered leaving the reserve. Korizon says he enjoys the work and the camaraderie. But he worries about whether his two kids can continue to see the same doctor when he shifts to military health coverage. "It's hard to go out and do the job you want to do when you're worried about things back home" he says.

Once regarded as "weekend warriors," they have become an integral part of U.S. battle plans. Call-ups have been longer and more frequent.

"The last time you saw this type of mobilization activity was during World War II," says Maj. Charles Kohler of the Maryland National Guard. Of the Maryland Guard's 8,000 members, 3,500 are on active duty. Kohler knows several who are in serious financial trouble. One had to file for bankruptcy after a yearlong deployment, during which his take-home pay fell by two-thirds.

Stories like that are the result of a shift in military policy. Since the end of the Cold War, the ranks of the full-time military have been reduced by one-third. The Pentagon has increasingly relied on the nation's part-time soldiers. More than 525,000 members of the Guard and reserves have been mobilized in the 12 years since the Persian Gulf War. For the previous 36 years, the figure was 199,877.

The end of fighting in Iraq isn't likely to lessen the pressure on the Guard and reserves. They'll stay on with the regular military in a peacekeeping role. Nobody knows how long, but in Bosnia, Guard members and reservists are on duty seven years after the mission began.

Korizon, who maintains avionics systems on C–130 cargo planes, has been told his Milwaukee-based reserve unit may be called up for humanitarian missions.

Some of the specialists who are in the greatest demand—physicians and experts in biological and chemical agents—command six-figure salaries in civilian life. The average pay for a midlevel officer is $50,000 to $55,000.

"They were prepared to be called up. They were prepared to serve their country," Sen. BARBARA MIKULSKI, D-MD, says. "They were not prepared to be part of a regular force and be away from home 200 to 300 days a year."

Concerns are growing on Capitol Hill. As the nation's reliance on the Guard and reserves has increased, "funding for training and benefits simply have not kept up," says Republican Sen. SAXBY CHAMBLISS of Georgia, a member of the Armed Services Committee.

The General Accounting Office, Congress' auditing arm, is studying pay and benefits for Guard members and reservists. A report is due in September. Meanwhile, members of Congress are pushing several bills to ease the burden:

Closing the pay gap.—Some employers make up the difference in salary for reservists on active duty. But many, including the federal government, do not. A bill sponsored by Democratic Sens. MIKULSKI, DICK DURBIN of Illinois and MARY LANDRIEU of Louisiana would require the federal government to make up lost pay. LANDRIEU is doing that for one legislative aide who has been called up for active duty.

She has also introduced a bill to give private employers a 50% tax credit if they subsidize reservists' salaries.

Closing the health gap.—Once on active duty, reservists, Guard members and their families are covered by Tricare.

But for the 75% of reserve and Guard families living more than 50 miles from military treatment facilities, finding physicians who participate in Tricare can be difficult. A measure sponsored by Sen. MIKE DEWINE, R-Ohio, would give reservists and Guard members the option of making Tricare their regular insurer or having the federal government pay premiums for their civilian health insurance while they are on active duty. Several senior Democratic Senators, including Minority Leader TOM DASCHLE and EDWARD KENNEDY of Massachusetts, support the idea.

Keeping creditors at bay.—The Soldiers and Sailors Relief Act caps interest rates on mortgages, car payments and other debts owed by military personnel at 6% while they are on active duty. But Sen. LINDSEY GRAHAM, a South Carolina Republican who is the Senate's only reservist, says the act doesn't apply to debts that are held in the name of a spouse who is not a member of the military. He plans to introduce legislation to cover spouses.

Despite a groundswell of support for troops, none of the bills is assured of passage. There's concern among some administration officials about the cost of some of the proposals. In addition, some at the Pentagon think morale would be hurt if some reservists end up with higher incomes than their counterparts in the regular ranks.

Mr. HUNTER. Mr. Speaker, how much time do we have left?

The SPEAKER pro tempore (Mr. BASS). The gentleman from California (Mr. HUNTER) has 6½ minutes remaining, and the time of the gentleman from Missouri (Mr. SKELTON) has expired.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume, and I will be happy to yield some time to my colleague in a minute.

But I want to say to the gentleman from California (Mr. LANTOS), before he leaves the floor, that he mentioned this important issue, that I know he had taken up with me and he feels is very important, to try to give what I think we could call pay parity to folks in the Guard and the Reserve. I think there is merit in his proposal. But I did want to mention that we do some meaningful things in this Defense bill in which we marked up this particular resolution.

□ 1345

Mr. Speaker, it was not just commendations that we gave our troops. We also marked up a 4.1 percent pay raise, decreased the out-of-pocket expenses for our folks, increased the amount of money for family housing, and we did a number of things that will accrue to the benefit of our troops, both active Guard and Reserve.

Having said that, Mr. Speaker, I thought one thing that I might do at this point is yield to the gentleman from Missouri (Mr. SKELTON) to close, and then I wanted to read the units that participated in Operation Iraqi Freedom and Operation Enduring Freedom and put on the record the folks who participated in these operations.

Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), who is my partner on the Committee on Armed Services who has done so much great work.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, a great Roman orator once said that gratitude is the greatest of all virtues, and that is what this resolution does: no more, no less. It expresses gratitude, appreciation and thankfulness to those young men and women in uniform, to those civilian employees who back them up, as well as civilian contractors. It is our way of saying thank you from the Congress of the United States. They are the pride of our country, and we wish to express our deep and sincere appreciation to them through this means.

Mr. HUNTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just conclude this resolution by reciting the units that participated in Operation Iraqi Freedom. From the Army: Army Forces Central Command—3rd United States Army; V Corps Command Element; 3rd Infantry Division (Mechanized); 101st Airborne Division (Air Assault); 82nd Airborne Division; 4th Infantry Division (Mechanized); Elements of the 1st Infantry Division; 10th Mountain Division, and 1st Armored Division; 2nd Armored Cavalry Regiment; 3rd Armored Cavalry Regiment; 173rd Airborne Brigade (Sep); 11th Aviation Group.

From the Marine Corps: Marine Forces Central Command; 1st Marine Expeditionary Brigade; 1st Marine Division; 3rd Marine Air Wing; 1st Force Service Support Group; 2nd Force Service Support Group/Marine Logistics Command; 2nd Marine Expeditionary Brigade (Task Force Tarawa); 15th, 24th, and 26th Marine Expeditionary Units.

From the Navy: Naval Forces Central Command—United States 5th Fleet; Theodore Roosevelt Carrier Strike Force; Nimitz Carrier Strike Force; Abraham Lincoln Carrier Strike Force; Constellation Carrier Strike Force; Kitty Hawk Carrier Strike Force; Harry S. Truman Carrier Strike Force; Amphibious Task Force East; Amphibious Task Force West; Nassau Amphibious Ready Group; Tarawa Amphibious Ready Group; Iwo Jima Amphibious Ready Group; Amphibious Group 3; Maritime Prepositioning Squadrons 1, 2, and 4.

From the Air Force: Air Forces Central Command—9th Air Force; 9th Air Expeditionary Task Force; 16th Air Expeditionary Task Force; and the following air expeditionary wings: 39th, 40th, 64th, 320th, 321st, 332nd, 363rd, 376th, 379th, 380th, 384th, 386th, 401st, 405th, 410th, 484th, 485th, 486th, and 487th Air Expeditionary Wing. And the following Air Expeditionary groups: 387th, 398th, 407th, 409th, 444th, 447th, 449th, 457th, 449th, 457th, 458th, and 506th.

The following Expeditionary Air Support Operations Groups: 3rd, 4th, 18th, 1st Expeditionary RED HORSE Group, the 86th Contingency Response Group, 15th Expeditionary Reconnaissance Squadron.

From the United States Special Operations Command: Special Operations Command Central; 5th Special Forces Group (Airborne); 3rd Special Forces Group (Airborne); 10th Special Forces Group (Airborne); 160th Special Operations Aviation Regiment; 75th Ranger Regiment; 352nd Civil Affairs Command; 350th Civil Affairs Command; 304th, 308th, and 358th Civil Affairs Brigades.

From the Naval Special Warfare Command: Naval Special Warfare Group One; Naval Special Warfare Group Three.

From the Air Force Special Operations Command: 16th Special Operations Wing; 919th Special Operations Wing; 193rd Special Operations Wing; 720th Special Operations Group; 352nd Special Operations Group; 123rd Special Tactics Squadron; 280th Command Control Squadron.

From the Coast Guard: U.S. Coast Guard Cutters Boutwell, Dallas, Walnut, Aquidneck, Adak, Wrangell, Baranof, Bainbridge Island, Grande Isle, Knight Island, Pea Island, and Sapelo.

The following port security units: Port Security Units 313, 311, 309, 305.

Law Enforcement Detachments 101, 202, 204, 205, 404, 406, and 411; Atlantic Strike Team Detachment; Law Enforcement Attachment; Harbor Defense Command Units 114 and 206.

Operation Enduring Freedom—

From the Army: Army Forces Central Command, Combined Joint Task Force 180; 10th Mountain Division; 101st Airborne Division; and 82d Airborne Division.

From the Marine Corps: Marine Forces Central Command; Commander Joint Task Force—Horn of Africa; Combined Joint Task Force 58; and the following Marine Expeditionary Units: 11th, 13th, 15th, 22nd, 26th.

Detachments: 4th Marine Expeditionary Brigade.

From the Navy: Navy Forces Central Command—U.S. 5th Fleet; Theodore Roosevelt Carrier Strike Force; Kitty Hawk Carrier Strike Force; Abraham Lincoln Carrier Strike Force; Enterprise Carrier Strike Force; Carl Vinson Carrier Strike Force; John C. Stennis Carrier Strike Force; John F. Kennedy Carrier Strike Force; George Washington Carrier Strike Force; Bonhomme Richard Amphibious Ready

Group; Bataan Amphibious Ready Group; Peleliu Amphibious Ready Group; Wasp Amphibious Ready Group.

From the Air Force: Air Forces Central Command—9th Air Force. The following Air Expeditionary task forces: the 9th and the 13th. The following Air Expeditionary Wings: 28th, 40th, 64th, 320th, 321st, 322nd, 363rd, 366th, 376th, 379th, 380th, 384th, 386th, 405th, and the 455th.

The following Air Expeditionary Groups: 416th, 438th, 451st, the First Expeditionary RED HORSE Group.

From the United States Special Operations Command: 5th Special Forces Group (Airborne); 3rd Special Forces Group (Airborne); 19th Special Forces Group (Airborne); 20th Special Forces Group (Airborne); 2nd Battalion, 7th Special Forces Group (Airborne); 160th Special Operations Aviation Regiment; 75th Ranger Regiment; 350th Civil Affairs Command; 354th, 360th, and 403rd Civil Affairs Brigades; 310th Psychological Operations Brigade.

From the Naval Special Warfare Command: Group 1 and Naval Special Warfare Group Three; 16th Special Operations Wing; 352nd Special Operations Group; 919th Special Operations Wing; 193rd Special Operations Wing; 720th Special Operations Group; and 123rd Special Tactics Squadron.

Mr. Speaker, thank you for allowing us to, in the words of the gentleman from Colorado (Mr. HEFLEY), give this thanks from a grateful Nation to the people who carried freedom to very difficult and remote parts of the world in Operation Enduring Freedom and Operation Iraqi Freedom. I thank the gentleman from Missouri (Mr. SKELTON) for his participation.

Ms. SCHAKOWSKY. Mr. Speaker, today I choose to vote present on H. Con. Res. 177. I support our brave soldiers who served or are currently serving in the war against terrorism. Whether they are in Iraq, In Afghanistan, or here at home, I praise our courageous men and women for risking their lives to defend our country and our freedom. However, I believe that the war on Iraq was unnecessary. I cannot vote in favor of a resolution that commends the President for putting American soldiers' lives in harm's way because of bad policy and misguided decision making.

I will continue to support efforts that support our troops, their families, and our veterans. Each one of them is an American hero and each one of them makes me proud to be an American.

Mr. NUSSLE. Mr. Speaker, Iowans should be proud of the tremendous accomplishments of our dedicated troops over the last couple of years, particularly those serving with Operation Enduring Freedom and Operation Iraqi Freedom. These men and women have risked their lives and made sacrifices to keep their country safe and secure.

We should thank each and every one of them, and welcome them home with honor.

Our thanks must also extend to the loved ones of those who serve. Family members do their best to carry on with their lives while they wait, worry, and sometimes watch, what their son, daughter, wife, husband, father or mother is facing on the other side of the world. Some families have been changed forever by tragic loss. Steve and Marilyn Korthaus of Davenport, Iowa will always miss their son Bradley, a Marine sergeant who died bravely in Iraq in March. They will also be forever proud of him. May they find comfort in knowing he died with honor, and may all of us join them in appreciating the sacrifice he made in the name of freedom.

While our men and women in uniform have accomplished so much in Iraq and in the overall war on terror, important work remains. They may not be in front of us 24 hours a day on television, but it is vital to remember and support those troops still deployed to the Persian Gulf and other areas around the world.

The Ohnesorge family of Dubuque, Iowa is keenly aware that many of our troops remain in danger. Their son, Army Specialist Abraham Ohnesorge, was seriously injured just last week by a rocket-propelled grenade in Iraq.

As members of Congress, we can show our gratitude to Brad, Abraham and the thousands of other troops serving us by providing whatever resources are necessary to defend our nation and win the continuing war against terrorism. It is an unquestioned priority for Iowans and for all Americans. Our armed forces need the newest and best tools available to meet the challenges they face. We should also provide fair and equitable pay, housing and tax policies for members of the military. As House Budget Committee chairman, I take each of these responsibilities very seriously.

The excellent work accomplished in support of both Operation Enduring Freedom and Operation Iraqi Freedom by the employees of the Rock Island Arsenal also deserves our gratitude. These dedicated workers rose to the challenge.

Many members of military reserve units and the National Guard were called from the civilian world. The employers and coworkers who support their service should also be commended.

America is blessed to have such well-trained individuals of excellence who are willing to serve not only our interests, but the interests of the entire world. May we see a day when all our troops deployed in the far reaches of the world are home safely with the people they love.

Mr. PAUL. Mr. Speaker, I rise to commend the members of our armed forces, who serve our country in the most difficult of circumstances. They endure terrible hardships in the course of their service: they are shipped thousands of miles across the globe for everything from border control duty to combat duty, enduring terribly long separations from their families and loved ones.

I believe it is appropriate for Congress to recognize and commend this service to our country and I join with my colleagues to do so. I am concerned, however, that legislation like H. Con. Res. 177 seeks to use our support for the troops to advance a very political and controversial message. In addition to expressing sympathy and condolences to the families of those who have lost their lives in service to our country, for example, this legislation endorses the kind of open-ended occupation and nation-building that causes me great concern. It "recommits" the United States to "helping the people of Iraq and Afghanistan build free and vibrant democratic societies." What this means is hundreds of thousands of American troops remaining in Iraq and Afghanistan for years to come, engaged in nation-building activities that the military is neither trained nor suited for. It also means tens and perhaps hundreds of billions of American tax dollars being shipped abroad at a time when our national debt is reaching unprecedented levels.

The legislation inaccurately links our military action against Afghanistan, whose government was in partnership with Al-Qaeda, with our recent attack on Iraq, claiming that these were two similar campaigns in the war on terror. In fact, some of us are more concerned that the policy of pre-emptive military action, such as was the case in Iraq, will actually increase the likelihood of terrorist attacks against the United States—a phenomenon already predicted by the CIA.

Mr. Speaker, it is unfortunate that some would politicize an issue like this. If we are to commend our troops let us commend our troops. We should not be forced to endorse the enormously expensive and counter-productive practice of nation-building and pre-emptive military strikes to do so.

Ms. DEGETTE. Mr. Speaker, I rise to express my support for H. Con. Res. 177, a resolution commending the members of the United States armed forces for their brave and successful actions against the Taliban in Afghanistan and the forces of Saddam Hussein in Iraq. I support this bill because I believe it is important for the U.S. Congress to express its thanks to the tireless men and women of our armed forces. I also believe Congress has an absolute duty to demand that outstanding questions be answered by the Administration about the evidence used to justify a war in Iraq that put our troops in great danger.

The valiant men and women of the U.S. armed forces left their homes and families to take up arms against two tyrannical regimes. Some members of the Reserves were activated for the war and took time away from their jobs—often taking significant cuts in their pay—to contribute to this endeavor. These men and women were given the call to duty, met it confidently, and returned as victors.

Although the United States was victorious in Iraq, our job is far from over. Indeed, some members of our military remain in Iraq, attempting to establish law and order and a true peace. I believe the Administration owes it to the brave men and women of our military and to the American people to answer difficult questions about its justifications for war.

Leading up to the Iraq war, President Bush, Vice President DICK CHENEY, and Secretary of State Colin Powell repeatedly stated that Iraq's possession of weapons of mass destruction and ties to Al Qaeda posed a direct threat to American national security.

On March 16, 2003, Vice President CHENEY unambiguously told Meet the Press that Iraq had "reconstituted nuclear weapons." Despite American control of Iraq, the United States has found no evidence of an Iraqi nuclear program. Even worse, some of the intelligence cited by the Administration about Iraq's nuclear program has turned out to be fraudulent.

Between January and March 2003, both President Bush and Secretary Powell linked Iraq to Al Qaeda. In the State of the Union, the President warned that Iraq was harboring members of Al Qaeda. At the United Nations, Powell claimed that Iraq was sheltering Al Qaeda lieutenant Abu Musab Zarqawi, proving a "sinister nexus between Iraq and the Al Qaeda terrorist network." No proof has been produced to verify either of these statements.

The lynchpin of the Administration's justification for war in Iraq was the presence of biological and chemical weapons of mass destruction. The President, Vice President CHENEY and Secretary Powell all repeatedly spoke of Hussein's stockpile of biological and chemical munitions. Iraq was described as having such weapons labs across the country. No evidence has been found that Hussein possessed or was producing any biological or chemical weapons, much less the stockpiles asserted by the Administration.

Congress has an obligation to ask questions about the statements made by the Administration to justify the war in Iraq and the Administration has a responsibility to answer them truthfully and honestly. The justifications for war matter. They matter to the men and women of the armed forces, whom we are saluting today, because the Administration used them to destroy a threat it maintains existed against the United States. They matter to the families and friends of those brave men and women who watched as their loved ones shipped off to war. They matter to the American people who are, after all, the final authority in this government.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in strong support of this resolution to recognize the efforts of those who have contributed to Operation Enduring Freedom and Operation Iraqi Freedom.

Today we recognize and thank those soldiers, sailors, airmen, marines, and all the individuals in our defense and intelligence communities whose commitment and dedication ensure our continued success. They are members of the greatest fighting force the world has known, representing not only our Nation's strength, but our bravery, skill, honor and resolve. We also thank their families, who so graciously share their loved ones with their country.

Liberty must be guarded and defended, and no nation has given more in this defense than America. Throughout our history, our Nation has been blessed to have individuals willing to make the ultimate sacrifice in order to keep the flames of freedom and liberty burning brightly throughout the world. They selflessly dedicate their life to protecting freedom, ensuring liberty, and defending the principles of this country through great personal sacrifice. On behalf of a grateful Nation, we pay tribute to these brave men and women.

Today, as we recognize and commend the actions already taken, we also renew our commitment to ensuring the security of our homeland. We renew our commitment to destroying Al Qaeda and other terrorist organizations that threaten the free world. We do not know what the future holds, however we can say with certainty that because of the men and women we honor with this resolution, we will prevail.

Mr. CASTLE. Mr. Speaker, I thank Chairman HUNTER for introducing this important resolution. Today, we recognize, support, and commend our brave service men and women for their dedication, for their sacrifice, and for their supreme love of country. We thank and honor those, including our allies, who serve on behalf of liberty and freedom, and remember those who have been wounded or died in the line of duty.

Our Nation has committed our military to defend the world from grave danger and to assure the security for all nations. These men and women have risen to the highest level and have succeeded in overthrowing the Taliban in Afghanistan and the regime of Saddam Hussein in Iraq. While they are working diligently to bring peace, stability and prosperity to the people of Afghanistan and Iraq, our men and women of our armed forces continue to face danger each and every day.

In the coming weeks and months, it will be critically important for our Nation to continue our support and pray for the safety of our troops. Their mission may not be completed for a long time, and it is important that we reiterate our strong support. At the same time, I would like to commend the military families, the employers and the communities around the United States for their sacrifices and patriotism.

Our focus must be on working with the world community to fight the war against terrorism, and to rebuild Afghanistan and Iraq following the military actions. As we move forward in Iraq, and in other crisis spots around the world, I am hopeful that the United States will continue to strengthen its unity with the international community and provide hope to those nations that have been trapped under dictatorial regimes.

Today, we stand firmly behind our armed forces and our allies. We thank the brave men and women who risk their lives to keep our Nation free and safe. We offer our respect, our utmost gratitude, and the promise that we shall not forget your bravery and your sacrifice. We are proud of you. May God bless you and keep you safe.

Mr. KIND. Mr. Speaker, I rise today in support of this resolution honoring our brave men and women of the Armed Services. Their duty and sacrifice in Iraq and Afghanistan are appreciated by all Americans.

New challenges facing our Nation demand increased vigilance on the part of our Armed Services. With these increased demands, the role of the National Guard and Reserve Forces is critical in providing the total force necessary to ensure our security. Over the past year, I have had the opportunity to meet with many National Guard and Reserve members from western Wisconsin who have been called up for service Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq.

Over 2,300 members of the Wisconsin Air and Army National Guard are serving on active duty. The people of western Wisconsin are proud of their service and the service of all the men and women of our Armed Forces during this important time in our Nation's history.

We still have much to do in terms of peacekeeping and rebuilding in Iraq and Afghanistan. In this effort, it is important that we engage our allies to share responsibility and pursue an effective, sustained commitment to peace and stability in the region. If we can do this right, we will not have to again, sometime down the road, send our military forces over to fight.

In addition, we recognize today all of the 'round-the-clock' work put in by the military personnel and DoD civilian employees at military mobilization platforms around our Nation. In western Wisconsin, I represent Fort McCoy, one of the Army Reserves' power projection platforms. Ft. McCoy has been continuously processing and training mobilized members of the National Guard and Reserve for the past six months. Their efforts have been key in getting our forces ready for combat.

It is also important that we recognize the support and sacrifice of the families and employers of our troops. They are the backbone of our fighting forces, and we appreciate their commitment during these challenging times.

The American people and the Congress of the United States stand behind our Armed Service Members and those that support them. As our military effort continues, I and other Members of Congress will continue to work to ensure that our service men and women have all the resources necessary to fulfil their mission.

My thoughts and prayers are with those serving our Country overseas, as well as their families. America is firmly behind our troops, and we're all hoping to see them home safe, secure and soon.

May God continue to bless the United States of America.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 177, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2180

Mr. GORDON. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2180.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

## SENSE OF THE HOUSE COMMENDING NATION'S BUSINESSES AND BUSINESS OWNERS FOR SUPPORT OF OUR TROOPS AND THEIR FAMILIES

Mr. STEARNS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 201) expressing the sense of the House of Representatives that our Nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country in many ways, especially in these days of increased engagement of our military in strategic locations around our Nation and around the world.

The Clerk read as follows:

H. Res. 201

Whereas over 216,931 members of the reserve components of the Armed Forces have been called to leave their families and their jobs, in service to this country and her citizens;

Whereas businesses of every size and scope have been impacted as their employees who are members of the reserve components of the Armed Forces have been called away from their employment in local business and industry;

Whereas businesses across the Nation have been exceptionally accommodating to the unique demands on the time, resources, and responsibilities of employee spouses and families of active duty military personnel who have been deployed for service; and

Whereas business owners have made sacrifices so that they might ensure observance of the letter and the spirit of the Uniformed Services Employment and Reemployment Rights Act in many ways including: restoring employment status after military service obligation has been fulfilled, providing continuation of health benefits to active duty employees and their dependents, and committing uninterrupted pension and retirement benefits: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that—

(1) the businesses that establish the backbone of our Nation in times of peace and rise to a greater standard of resolve in times of challenge do so by—

(A) carrying on the good work of commerce, industry, and innovation; and

(B) steadfastly supporting the members of our military and their families; and

(2) the business owners of our Nation deserve our commendation and sincere expression of gratitude.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. STEARNS) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

GENERAL LEAVE

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 201.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 201, authored by the gentleman from Michigan (Mr. ROGERS). The resolution commends America's businesses and business owners for their support of our troops and their families, in particular their support for the Reservists and National Guardsmen called into active duty.

As of today, nearly 220,000 members of the Reserve component of our Armed Forces have been called to active duty, leaving their families, homes, and their jobs to serve their country. Over 5,300 of those brave, part-time soldiers are from my home State of Florida. These men and women have volunteered to lay down their lives in defense of our country and the principles for which it stands, and have done so in their capacity as ordinary citizens, not professional soldiers.

They are extraordinary citizens with ordinary jobs. They are cooks, teachers, mechanics, doctors, salesmen, truckers, secretaries, lawyers, technicians and so forth, that when called to serve their country, became extraordinary citizens and full-time warriors sacrificing greatly, both personally and, of course, financially.

Our military today is dependent on these extraordinary citizens and of course these part-time soldiers. The 1.2 million Guard and Reserve personnel now make up nearly 46 percent of all U.S. military forces. When activated, Reservists and National Guardsmen have to leave their jobs abruptly, forcing their employers to face the serious challenge of losing a very valuable employee.

American businesses have stood by their employees called to serve their country. H. Res. 201 aptly states American businesses "have made sacrifices so that they might ensure observance of the letter and the spirit of the Uniformed Services Employment and Reemployment Rights Act in many ways including: restoring employment status after military service obligation has been fulfilled, providing continuation of health benefits to active duty employees and their dependents, and committing uninterrupted pension and retirement benefits."

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Indeed, Mr. Speaker, many American businesses, recognizing the hardship placed on the families of these servicemen due to the differential in their civilian and military incomes while on active duty, make up that difference for a period of between several days and a year or more. A recent survey by the Reserve Officers Association of the United States found that of the 154 Fortune 500 corporations that responded to the survey, 105 companies, or 68 percent, make up the difference in that pay. Last year, just 75 of the 132 responding companies, or 56 percent, did so. And in the year 2001, the number was 53 of 119, or 45 percent of the responding companies.

Mr. Speaker, I conclude by wishing our men and women of the Armed Forces Godspeed and commending American businesses that have supported them, especially our Reservists and National Guardsmen, the extraordinary citizen. I urge my colleagues to support this piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume to make a few brief comments in support of H. Res. 201.

House Resolution 201 honors businesses and business owners across our great Nation for their unwavering support for the men and women of the Reserves who have been called into service in unprecedented numbers to fight the war against terrorism at home and abroad. Businesses large and small have been exceptional in their commitment to supporting active duty Reservists and their families. Because of their support, the men and women of the Reserves can be secure in knowing that their job will be waiting for them when their service is fulfilled, with no loss of pension and retirement benefits or promotion opportunities, and that their families' needs were provided for in their absence.

These businesses embody the true spirit of America. For these reasons I urge adoption of House Resolution 201.

Mr. Speaker, I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I am very, very pleased that we are here commending America's businesses and, more specifically, American business men and women for what they have done in their places of work to help support our war effort in the war in Iraq, the war in Afghanistan, and the war against terror, because, frankly, the war against terror has placed an enormous burden on our economy.

According to the United States Chamber of Commerce, fear of terrorism since September 11, fear of the war in Iraq and now a mysterious respiratory disease called SARS have disrupted both business and leisure travel to the extent that half of all jobs lost since September 11 have been in the travel and tourism industry. One out of every seven people in the U.S. private sector workforce—or 18 million people—are employed directly or indirectly in travel and tourism jobs. This industry is a big industry. It is a $100 billion industry, not in revenue, not in assets, but in taxes paid to Federal, State and local governments.

Losing so many jobs in this industry is obviously a victory for the terrorists, but it is a victory that will be short-lived. Obviously, when people stop flying, when they stop traveling, they obviously stop staying in hotels, stop going to restaurants, visiting museums or theme parks, renting cars or shopping. This economic toll is precisely what the terrorists had in mind.

If the damage on September 11 had been limited to the thousands of lives lost and the property damage suffered, as horrible as that would have been, we would not be experiencing these downstream victories for the war waged by terrorists against the United States. I do not think we can make any mistake about this. Beyond murdering Americans, the terrorists wish to destroy America's economy.

The way for America to fight back is for working men and women, for small business owners, for entrepreneurs, for businesses of all sizes to go about their business, to show up for work early, to do a little more, to take the family vacation, to do those things that make us Americans and to keep our life normal because it is the disruption of normalcy that the terrorists seek to accomplish.

As chairman of the Select Committee on Homeland Security in the Congress, I can tell Members that 50 of our colleagues, including eight chairmen of standing committees in this House of Representatives, are working diligently with the Department of Homeland Security to ensure Americans' safety. We are engaged in oversight to ensure that Secretary Ridge and his new department succeed.

Secretary Ridge testified before the Select Committee on Homeland Security at a recent hearing on what we have accomplished in a few short months. We have orchestrated and launched Operation Liberty Shield, the first comprehensive, national plan to increase protection of America's citizens and infrastructure. We have deployed new technologies and tools at land, air and sea borders. We have established the Homeland Security Command Center, a national 24/7 watch operation. We have initiated a comprehensive reorganization of the border agencies, as well as other administrative measures to enhance departmental services and capabilities. We have completed the transition of 21 out of 22 component agencies of the Department of Homeland Security, none of which were previously focused primarily on preventing domestic terrorism.

We have conducted hearings, and the department itself has conducted on-site visits at strategic ports throughout the United States and begun the development of security measures and plans for vessels, facilities and ports that we put in place in the Maritime Security Act of 2002. And, of course, the department has completed TOPOFF II, the largest terrorist response exercise in our Nation's history.

Mr. Speaker, American workers and consumers are safer today than we were before September 11, but we are still threatened by terrorists who seek to destroy American lives and our economy, the very basis of American power. We must work together as consumers, as workers, as business proprietors to make sure that the terrorists do not succeed. Keeping America at work is job one in that effort. I thank American business for what they have done in these wars.

Mr. STEARNS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. ROGERS), the author of the bill.

Mr. ROGERS of Michigan. Mr. Speaker, I thank my colleagues on both sides of the aisle at what I think is an important moment to recognize some other unsung heroes.

Earlier today we recognized those very brave men and women who wear the uniform of the United States military and all of their sacrifices, and certainly rightly so. We have also discovered, I think recently, the many forms that patriotism can take. Maybe it is the spouse of a soldier who keeps the home fires burning. It is every American who believes in liberty's blessings and who cares to pursue every opportunity and every challenge that democracy offers. But during Iraqi Freedom and Enduring Freedom, both of those operations, we have seen a new patriot emerge.

You can imagine, Mr. Speaker, at the time of your notice as a Reservist or a National Guardsman or -woman all across this country when that notice comes in and your country calls. You have trained for it, you have prepared for it, you are willing to serve. But there is always in the back of your mind that great concern about the family that you leave behind. Will they be taken care of? Will my employment be there when I get home? The law requires that at least your employment be there when you get home, but really nothing more. What we saw is that when those soldiers gathered up their family and kissed and hugged them good-bye and went off to do America's good service, our employers, from smaller companies to large companies, stood tall. Because the people who were called up were building cars for GM and Ford, they were delivering packages for United Parcel Service, they were mechanics, they were nurses, they were doctors, they were paramedics, police officers; they were machinists in small shops all across America. Maybe they were working retail. Maybe they were financial advisers.

In all of those cases, in many, many cases all across this country these companies stood up and have gone beyond the call of duty in an effort to maintain their aid and comfort to the soldiers who serve our great Nation. In many cases, they provided differential pay for these soldiers and sailors and Marines and airmen and women, those in the Coast Guard. They provided continued health care for those families. They continued insurance, all on their own accord. Some even offered full payment of their services even though they were not working. We had a smaller company, a fourth-generation company, Magnolia Marketing Company in Louisiana, who offered its employees when they were notified that they would leave, that upon their departure they would be paid in full in addition to their military salaries, and stepped up even further by setting up a fund with the United Way and challenged everybody on a matching grant of $35,000 for those companies who could not afford those kinds of things to provide some help to those families who were left behind when their country called. This happened again and again and again, from Michigan to California, from Maine to Florida, and everybody in between.

Mr. Speaker, there is a new breed of patriot in America, somebody that understands that the war on terror is fought by every one of us, not just those who wear the uniform so proudly and so bravely, but those of us at home who need to stand tall and make sure that the home fires are burning, that they know that our love and compassion for them usurps our sole concern for the bottom line.

We need to stand tall today together supporting H. Res. 201, to stand tall for every business who went beyond the call of duty and stood firm for the men and women who serve so that their families would not have to worry when they got home. Mr. Speaker, they deserve our praise and our admiration. They deserve the call of patriot as we stand here and recognize them today with the passage of H. Res. 201.

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I am proud today to rise to support this resolution honoring our Nation's business owners for their very strong support of our employees who are members of the National Guard and Reserve.

The world really witnessed the capability of our troops as they brought down the repressive Taliban regime in Afghanistan and, of course, brought freedom to the Afghan people. We again saw recently the brilliant performance of our troops as they drove out the brutal regime of Saddam Hussein and freed the Iraqi people. A major component of both of those efforts was the contribution of the members of the National Guard and Reserve.

I come from Macomb County, Michigan, very proud home to Selfridge Air National Guard Base. In fact, Selfridge is somewhat unique in the inventory, I think nationally, because almost every facet, in fact every facet of the military is represented there. As I say, it is a Guard and Reserve base and it became sort of a staging area almost in the region, and we watched so many of those very brave citizen-soldiers mobilizing to defend our Nation. They left behind their jobs, they left behind their families to unselfishly serve to protect our freedom at home and abroad.

This service absolutely could not have been possible without the commitment, without the support of the business owners who do their patriotic duty and support their employees who are called upon by their Nation.

This, of course, is some hardship to many of these employers. And oftentimes we see that the Guard and Reserve, many members of them are members of their local fire fighting force, members of their local police agency or law enforcement; yet they have the full support of their employers. The Guard and Reserve are such an important component of our national defense, as many times has been said, a critical component of the total force concept. We must continue to fully support them in their vital mission.

I certainly join my distinguished colleague from Michigan. Both of us are so proud of having Selfridge. Of course it is in my district, but MIKE ROGERS is almost right next door there. He is very familiar, as I am, with the incredible mission of Selfridge Air National Guard Base as we see what is happening in our Great Lakes State of Michigan and throughout our Nation with our Guard and Reserve. I join him in recognizing the commitment of our Nation's employers because without their continuing support, none of the service of the outstanding Guard and Reserve members would be possible.

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Mr. GORDON. Mr. Speaker, I yield back the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in my home congressional district, I have the headquarters for the National Guard at Camp Blanding in North Central Florida; so I am well aware of the sacrifices these folks make when they go off to war. Interestingly enough, a lot of Americans do not realize this, so I think it is altogether appropriate today that we recognize the businesses and National Guard, because prior to this we had the resolution honoring the military who participated over in the war in Iraq, and we mentioned the National Guard. But, of course, this resolution is concentrating on the businesses.

There are 216,931 members of the Reserve components of the Armed Forces. When you think about each one of these people leaving their families and jobs in service to their country to go off to the war in Iraq, of course they leave behind employment.

We are talking about hundreds of thousands of employers that had these people employed. It might be a small business of five people, and it might be a business of 5,000 or 6,000 employees. But if you take a small business and you have one individual that leaves it, he represents 20 percent of the employees of the business. That is a major sacrifice.

So I think it is altogether fitting this afternoon that we take this time to recognize these businesses for their exceptional accommodation for these men and women and to honor them for what they are trying to do. Of course, under the Uniformed Service Employment and Reemployment Rights Act, they have many responsibilities. Again, these responsibilities are mandated by Congress, but in many ways most of these businesses, almost all of them, are obligated through patriotism and a sense of resolve to the war in Iraq to take these people back, to care for them and, in many cases, give them their back pay. So I think it is altogether fitting that we this afternoon honor the businesses.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and agree to the resolution, H. Res. 201.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. STEARNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## SPORTS AGENT RESPONSIBILITY AND TRUST ACT

Mr. STEARNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 361) to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission, as amended.

The Clerk read as follows:

H.R. 361

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Sports Agent Responsibility and Trust Act".*

***SEC. 2. DEFINITIONS.***

*As used in this Act, the following definitions apply:*

*(1) AGENCY CONTRACT.—The term "agency contract" means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.*

*(2) ATHLETE AGENT.—The term "athlete agent" means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.*

*(3) ATHLETIC DIRECTOR.—The term "athletic director" means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.*

*(4) COMMISSION.—The term "Commission" means the Federal Trade Commission.*

*(5) ENDORSEMENT CONTRACT.—The term "endorsement contract" means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual's person, name, image, or likeness in the promotion of any product, service, or event.*

*(6) INTERCOLLEGIATE SPORT.—The term "intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.*

*(7) PROFESSIONAL SPORTS CONTRACT.—The term "professional sports contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.*

*(8) STATE.—The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*

*(9) STUDENT ATHLETE.—The term "student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.*

***SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.***

*(a) CONDUCT PROHIBITED.—It is unlawful for an athlete agent to—*

*(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—*

*(A) giving any false or misleading information or making a false promise or representation; or*

*(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract, including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;*

*(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or*

*(3) predate or postdate an agency contract.*

*(b) REQUIRED DISCLOSURE BY ATHLETE AGENTS TO STUDENT ATHLETES.—*

*(1) IN GENERAL.—In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18, to such student athlete's parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.*

*(2) SIGNATURE OF STUDENT ATHLETE.—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18, by such student athlete's parent or legal guardian, prior to entering into the agency contract.*

*(3) REQUIRED LANGUAGE.—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete's parent or legal guardian, a conspicuous notice in boldface type stating: "Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract.".*

### *SEC. 4. ENFORCEMENT.*

*(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).*

*(b) ACTIONS BY THE COMMISSION.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.*

### *SEC. 5. ACTIONS BY STATES.*

*(a) IN GENERAL.—*

*(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—*

*(A) enjoin that practice;*

*(B) enforce compliance with this Act; or*

*(C) obtain damage, restitution, or other compensation on behalf of residents of the State.*

*(2) NOTICE.—*

*(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—*

*(i) written notice of that action; and*

*(ii) a copy of the complaint for that action.*

*(B) EXEMPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.*

*(b) INTERVENTION.—*

*(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.*

*(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—*

*(A) to be heard with respect to any matter that arises in that action; and*

*(B) to file a petition for appeal.*

*(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—*

*(1) conduct investigations;*

*(2) administer oaths or affirmations; or*

*(3) compel the attendance of witnesses or the production of documentary and other evidence.*

*(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action.*

*(e) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.*

*(f) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—*

*(1) is an inhabitant; or*

*(2) may be found.*

### *SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.*

*(a) NOTICE REQUIRED.—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such educational institution, that the student athlete has entered into an agency contract, and the athlete agent shall provide the athletic director with notice in writing of such a contract.*

*(b) CIVIL REMEDY.—*

*(1) IN GENERAL.—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.*

*(2) DAMAGES.—Damages of an educational institution may include and are limited to actual losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.*

*(3) COSTS AND ATTORNEYS FEES.—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.*

*(4) EFFECT ON OTHER RIGHTS, REMEDIES AND DEFENSES.—This section does not restrict the rights, remedies, or defenses of any person under law or equity.*

### *SEC. 7. LIMITATION.*

*Nothing in this Act shall be construed to prohibit an individual from seeking any remedies available under existing Federal or State law or equity.*

### *SEC. 8. SENSE OF CONGRESS.*

*It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. STEARNS) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

### GENERAL LEAVE

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 361, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 361, the Sports Agent Trust and Responsibility Act.

Mr. Speaker, this legislation is sponsored by my friend and colleague on the Committee on Energy and Commerce, the gentleman from Tennessee (Mr. GORDON), for whom this has been a long-standing concern. Additionally, our colleague, the gentleman from Nebraska (Mr. OSBORNE), also has first-hand experience in dealing with the problem in this bill in his prior career and is a major cosponsor.

The Subcommittee on Commerce, Trade and Consumer Protection held hearings on this legislation last year and heard from many experts regarding the problems facing promising student athletes in this country. My colleagues and I on the Committee on Energy and Commerce agree there is a problem and that this bill, H.R. 361, is a responsible and necessary legislative solution. We passed the legislation out of our committee unanimously in the 107th Congress.

For my colleagues who may be unaware of the nature of the problem, let me briefly explain this afternoon. I am sure the gentleman from Tennessee (Mr. GORDON) and the gentleman from Nebraska (Mr. OSBORNE) will also amplify my comments on how destructive this behavior can be to the student athletes, their families, and to the schools.

I share their concern that student athletes are often targeted by unscrupulous agents who suffer little or no consequence for their continued deception. In today's multibillion dollar professional sports industry, collegiate athletes with even the slightest potential of becoming a highly paid professional athlete often find themselves in the cross hairs of sports agents. Because the odds of an athlete making it to the professional ranks is very, very low, the financial reward for those who do make it can be extraordinary, and the financial windfall to an agent representing the athlete is highly significant.

For an agent who may not be an established name in the business, success for this agent may be dependent upon either signing a superstar or playing the simple percentages and representing multiple promising athletes in hopes of at least one making it to the professional leagues.

Unfortunately, Mr. Speaker, the agents looking to make a quick buck are often the same ones who do not have the athlete's best interest in mind. While the reputable agents respect the athletes, and, of course, they follow the rules, the unscrupulous agents have been reported to take extreme measures to sign the athlete with little regard for the consequences to the athlete. Why do they do this? For those agents lacking any integrity, the financial payout can be very, very large; and there are few, if any, consequences to dissuade them.

While we do not currently have a Federal remedy to address these problems, many of our States do. They have recognized the problem and have varying State laws to address the behavior of these sports agents. Because the inconsistency of the State laws has prevented meaningful enforcement, the States recently approved a uniform State athlete agent act in the Year 2000. More than a dozen States have since enacted the law, and it is working its way through many other State legislatures.

As promising as this sounds, it is a long process that does not guarantee that all of the States will adopt it. While this may not sound significant to my colleagues, the law can only be completely effective if it is enforced uniformly in every State in this Nation.

The States deserve credit for addressing this problem. Yet, Mr. Speaker, the reality is that there is still a gaping hole that this legislation will finally fill. Not only does this legislation provide the Federal Trade Commission with the authority to enforce the act, but it also provides the States with the authority to bring civil action against violators in the Federal courts. Additionally, the legislation requires a new disclosure to the student athlete, and, finally, places a measure of responsibility on the agent himself so that there should be no misunderstanding regarding the signing of a contract.

Mr. Speaker, this legislation provides a Federal remedy to a problem that many of us did not know about, but it is no less deserving of a cure this afternoon. H.R. 361 provides a measured response. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I intend to make a few brief remarks in support of H.R. 361, the Sports Agent Responsibility and Trust Act, or SPARTA. The combination of a patchwork of weak State laws and the lure of big money has made student athletes an irresistible target for certain unscrupulous sports agents willing to break the rules concerning amateur athletics. Such agents use any means necessary to convince a student athlete who has even a remote chance of playing professional sports to drop out of school and go pro early, including deceptive information about their chances in the draft, secret payments to their friends and families, lavish gifts, and sometimes even blackmail.

This kind of elicit behavior can quickly cost student athletes their scholarships and eligibility to play college sports. The school may face substantial fines and other economic losses.

The only person not held accountable is the sports agent. Unfortunately, under the current patchwork of State sports agent laws, the agents face little or no consequences for damages they have caused.

H.R. 361 addresses this problem head on by providing baseline Federal remedies to protect student athletes and educational institutions, particularly in those States with no existing law regulating sports agent conduct.

Specifically, the bill would make a number of unethical recruiting tactics unfair and deceptive trade practices under the Federal Trade Act. This includes making false or misleading promises or representations, providing anything of value to the student athletes or anyone associated with the athlete in order to entice them into an agency contract, failing to tell the student signing the contract that it will end their college eligibility, and predating or post-dating contracts.

The pressures on student athletes and colleges are tremendous. We have a responsibility to educate our student athletes and protect them from unscrupulous sports agents who try to trick or trap them into dropping out of school. This legislation will send a strong signal to the rotten apple agents that they will be held accountable for unethical recruiting practices. I urge all Members to support this bill.

Finally, Mr. Speaker, let me give my sincere thanks to the gentleman from the State and University of Nebraska (Mr. OSBORNE). The gentleman has brought a unique perspective to this bill and persuasiveness that has helped us get this passed.

Also I want to thank the subcommittee chairman from the Committee on Energy and Commerce, the gentleman from Florida (Mr. STEARNS), for expediting this procedure and helping us move through his committee, as well as the ranking member, the gentleman from New York (Mr. TOWNS).

I also want to thank the gentleman from Louisiana (Chairman TAUZIN) and the ranking member, the gentleman from Michigan (Mr. DINGELL), for their help. Certainly with joint jurisdiction with the Committee on the Judiciary, the gentleman from Wisconsin (Chairman SENSENBRENNER) should be thanked for his help; as well as the subcommittee chairman, the gentleman from Utah (Mr. CANNON); the ranking member, the gentleman from North Carolina (Mr. WATT); and the ranking member, the gentleman from Michigan (Mr. CONYERS).

Finally, let me thank a diligent member of my staff, Dana Lichtenberg, who has done an outstanding job with her tenaciousness in moving this bill forward, and also a friend of mine from home, Ken Shipp. Coach Shipp came by my office a few years ago on the Square in Murfreesboro and told me about this problem; and, like so many things, I get my best advice from home, and so I thank Coach Shipp for his advice.

Mr. Speaker, I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of H.R. 361. This legislation, which is known as the SPARTA Act, is important for the sports industry, which in recent years has become ever more just so that, an industry. The thrill of pure athletic accomplishment has been overwhelmed as a motivating incentive by the desire for economic gain. While understandable, we cannot allow this desire to lead to the abuse of individuals, the public and private universities and colleges, and the system itself.

We as Americans love sports. Who does not enjoy sitting back on a relaxing weekend watching their favorite college and professional sports teams performing? In Wisconsin, every Sunday during the fall we watch the Green Bay Packers with the intensity and caring of a mother bear watching her cubs. We have dedicated a month to an American tradition called March Madness and watch some of the most athletically gifted students in the Nation compete in the drama which can have only one victor at the day's end.

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However, even with all this talent, only 1 percent of the NCAA athletes make it to the professional level, and then often only in a back-up role. For those who do make it to the big leagues, the rewards are great.

Athlete agents want to reap this reward, as well. As a result, some agents deploy questionable tactics in a generally unregulated field. They send runners to befriend these athletes and give them money and other enticements, and support the friends and family of the athlete with money and gifts.

This is done in consideration of an agreement for future representation.

which is illegal by NCAA standards and causes the athlete to lose their collegiate eligibility. In many States, the penalty to the agent is nothing.

Mr. Speaker, the Uniform Athlete Agents Act, which addresses this situation, has been adopted by over 20 States. However, given the nature of intercollegiate sports, State boundaries are crossed constantly. Agents can forum-shop by waiting in a State that has not adopted the UAAA and wait for the visiting team to arrive before approaching college stars.

Because of this unique situation, this Federal solution is necessary. Geographic loopholes must be closed so that agents will comply with the modest guidelines set forth for recruitment by the NCAA.

Mr. Speaker, this bill deserves the full support of the House, and I urge its adoption.

Mr. GORDON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me first of all give much applause to the gentleman from Tennessee (Mr. GORDON) for a very thoughtful, but very important legislative initiative. I am very proud as a member of the Committee on the Judiciary to have had an opportunity to have had oversight and jurisdiction over this legislation. I am also grateful for the response of the gentleman from Florida (Chairman STEARNS) in bringing this legislation to the floor.

Let me speak from a personal perspective, I guess, because I have an 11th grader whose almost every waking moment deals with what is happening on the basketball court. I work very hard as a parent to ensure that his academics are safe and secure.

We realize that America loves sports, young people love sports, but particularly in rural and inner-city communities many of our young people find their way out of poverty by seeking opportunities in a sports arena. I remember being with a family just a few weeks ago who was praying that their young man would be able to get into a certain college, and they were prayerful that his future would be great in some sports arena.

So this bill, I say to the gentleman from Tennessee (Mr. GORDON), is extremely important because what it does is it provides an even playing field for the innocent youngster, the young person whose parents are hopeful that their lives will be different than the lives of their parents, struggling every day to work and provide resources for the family.

The unscrupulous will be charged and the Federal Government, which I believe should be the major problem-solver of this Nation, will be right in the midst. We will not blame and see the headlines of the young people who may have gotten a car or may have been somewhere where they should not have been, while the other guy, who continues to have his fabulous rings and fancy cars, the sports agent, of which I do not label all of them, goes without penalty.

Let me give a compliment to many sports agents that I know who work very hard to speak accurately to the families, and work with the young people. But I believe this legislation will set a litmus test to ensure that we balance these hopes and dreams and aspirations, these goals for these young people, and the right thing to do.

So I applaud this legislation and I rise enthusiastically to support it. I know it will make life better for those who are trying to make life better for themselves.

Mr. STEARNS. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE), who has actually run premier athletic programs and has run multiple national college football championships at the University of Nebraska. If anyone knows about this problem of unscrupulous sports agents, the gentleman from Nebraska would know that.

Mr. OSBORNE. Mr. Speaker, I thank the chairman for yielding time to me, and I appreciate his help very much.

I would also like to thank the gentleman from Tennessee (Mr. GORDON) and his staff for all the work they have put in; the gentleman from Louisiana (Chairman TAUZIN) and the gentleman from Wisconsin (Chairman SENSENBRENNER) and their staffs; and also Lisa Knott from my staff. Many people have cooperated.

As has been mentioned, currently only 20 States have comprehensive laws regulating sports agents; 17 States have no laws at all. My State, Nebraska, is one of those. Thirteen States have a patchwork of laws governing sports agents.

Here is the problem. I will use primarily a football illustration, because that is what I understand the best. As of April, 2002, the National Football League Players Association reported 1,200 certified agents to represent NFL players. The problem is that of those 1,200, only 400 had clients, so we have 800 people who say they are agents and they have nobody to represent.

There are also several hundred other agents who are not even certified by the National Football League who also call themselves agents. So if they call themselves agents and do not have a client, they are pretty desperate. What these guys do is, they will go after undergraduates, and they will sometimes be very unscrupulous in doing so. There are some good agents, but many are not. So here are some of the things that happen.

They will offer an undergraduate athlete cars, clothes, cash, sometimes even drugs, to sign an agency contract. Of course, immediately this renders the student athlete ineligible.

They promise an athlete that he will be drafted higher. The National Football League tells them they will be drafted in the fourth round, and the agent says, that is a lot of baloney. I will get you a personal trainer, I will get you a nutritionist, we will go to California, we will work hard, you are going to get bigger, faster, stronger, you are going to be a first-round pick, and you are going to make $6 million just to sign your name.

Of course, that is totally untrue. They cannot get a player drafted higher because of the agent's activities. So the player drops out of school at that point, and he gets a nutritionist, and nothing happens.

They use runners, as has been mentioned. These are usually former players. These are student athletes in the school. Sometimes they are simply students in the school. The player has no idea that he is dealing with somebody who represents an agent. So the runner takes him out to dinner and gets him obligated.

They sometimes threaten athletes with physical harm.

Lastly, they often tell a student athlete they will predate or postdate a contract so they will not jeopardize their eligibility, which is absolutely untrue. The minute they verbally agree to a contract or sign it, no matter whether it is predated or postdated, they are ineligible. These are some of the problems.

With these problems in mind, the gentleman from Tennessee (Mr. GORDON) and I have introduced H.R. 361, which has been referred to previously as SPARTA. It makes it illegal for sports agents to entice student athletes with false or misleading information, promises, or representations.

SPARTA requires the agent to inform the undergraduate athlete and his school in writing that the player has signed an agency contract and is ineligible. What often happens is a school does not know that they have got a guy out there playing who is ineligible, that he has already signed a contract, so this forces the agent to let the school know in writing that he has a player under contract and that player is ineligible.

Under SPARTA, sports agents who engage in illegal recruiting will be fined up to $11,000 per incident per day. The Committee on Energy and Commerce passed this legislation by voice vote. The Committee on the Judiciary passed SPARTA by voice vote. So this legislation is bipartisan and it is noncontroversial.

I urge my colleagues to support this legislation. I do not know any college athletic director, coach, reputable athlete, or most reputable agents themselves who would oppose this legislation.

Again, I want to thank my colleague, the gentleman from Tennessee (Mr.

GORDON), all those involved, and urge passage of this, what I think is a very important Federal backstop, very important legislation.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me once again thank the gentleman from Nebraska (Mr. OSBORNE) for his efforts. To just elaborate a little on his comments, this legislation has been endorsed by virtually every organization that is affected in the country, by the American Football Coaching Association, the Black Coaches Association, the Knight Foundation Commission on Intercollegiate Athletics, the National Association of Basketball Coaches, the National Association of College Directors of Athletics, the NCAA, the Junior College Athletic Association, the Big 12, the Big East, the Pac-10, the Sunbelt Conference, and coaches and athletic departments all across the country.

Mr. Speaker, I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise in support of H.R. 361.

This bill is important for all of the reasons that have already been discussed. An athletic agent is in a unique position in that while he stands to gain from his relationship with the student athlete, that student athlete client shoulders much of the risk when rules are not followed.

H.R. 361 evens the responsibilities and will help to act as a deterrent for agents who would otherwise not play by the rules of the game.

H.R. 361 will prohibit an athlete agent from recruiting or soliciting a student athlete to enter into an agency contract through the use of false or misleading information, or by the provision of anything of value to the athlete or those associated with him.

In addition, the bill would require the contract between the agent and the student athlete to have a conspicuous notice in bold typeface stating that the agreement for agent representation may result in the termination of the student athlete's eligibility to compete in collegiate sports.

Violations of this act may be addressed by the Federal Trade Commission or the attorney general of the State of occurrence. The FTC may pursue an action as an unfair or deceptive act or practice. States are authorized to commence civil actions against the agent who is in violation of this act and seek remedies, including enjoining the practice, enforcing compliance, obtaining damages, restitution, or other compensation on behalf of the State's residents.

In addition, this bill allows for educational institutions to seek damages in the event that a university athletic director is not informed of a new contractual relationship within 72 hours, either of the signing or the first event that the athlete is eligible to participate in.

Failure to so instruct may allow the ineligible athlete to compete, thus causing exposure for the institution to be liable or penalized under sanctions, fines, forfeitures, or disqualifications. The bill allows the institution to file suit against the agent for his failure to disclose, and to seek compensation for those damages which the educational institution suffered.

At the subcommittee, with the support of the gentleman from Tennessee (Mr. GORDON) and the gentleman from Nebraska (Mr. OSBORNE), working with the minority and with the distinguished ranking subcommittee member, the gentleman from North Carolina (Mr. WATT), I offered an amendment in the nature of a substitute which made this bill better.

The amendment clarified several portions of the bill to make it clear what behavior will and will not be tolerated. The amendment clarified that the only representation to be prohibited is that of an agent, and should not otherwise prohibit or discourage an athlete from seeking legal representation.

Further, the amendment included a specific ban on the giving of loans or acting as guarantor or co-guarantor for anything of value to the athlete or those associated with those athletes. This subterfuge is currently a common way of skirting NCAA rules.

Finally, the amendment clarified that nothing in this bill was meant to prohibit an individual from seeking Federal, State, or equity remedies under existing law, thus strengthening the student athlete's right to pursue a claim under existing contractual law.

Mr. Speaker, I join with my colleagues in urging the House to give its full support to the adoption of H.R. 361.

Mr. GORDON. Mr. Speaker, I yield myself the balance of my time.

Finally, Mr. Speaker, let me just say that this bill does not penalize the many legitimate sports agents. This bill does not stop any athlete from, with full information, going pro. Also, this bill does not set up a national sports police.

What it does is it deputizes the various States' attorneys general to follow up on the deceptive acts, and deal with these incidents or these problems on a local basis.

Once again, my thanks to all the Members that have made this bill possible to come to the floor and possibly pass today.

Mr. Speaker, I yield back the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just in conclusion, maybe just a quick history on this bill. The gentleman from Tennessee (Mr. GORDON) dropped the bill in the 107th Congress. We had a hearing out of the subcommittee that I chair, the Subcommittee on Commerce, Trade, and Consumer Protection. We had the NCAA and we had lots of witnesses. Everybody endorsed this bill.

I think for those who are worried that this is a Federal mandate, it is basically a bill to give a little bit more support to the States, particularly those States, perhaps in Nebraska, where they do not have any law, and give those State attorneys general the opportunity to prosecute those unscrupulous sports agents.

I think the gentleman from Tennessee (Mr. GORDON) is to be commended for his hard work on this over a long period of time, and for pushing it forward.

Also, I want to thank the gentleman from Louisiana (Mr. TAUZIN) for allowing a hearing on this. Eventually we are here this afternoon. I wish we could have passed this in the 107th Congress, but we are here in the 108th Congress, and hopefully we will get this bill passed.

Again, I commend all those who have been involved.

Mr. DINGELL. Mr. Speaker, I am a proud cosponsor of H.R. 361, the "Sports Agent Responsibility and Trust Act" (SPARTA). This legislation will hold unscrupulous sports agents responsible for their actions by authorizing the Federal Trade Commission and State attorneys general to enforce common sense protections for amateur athletes. I commend the chief sponsor of this bill, the gentleman from Tennessee, for his hard work on this bill.

This legislation empowers students with the ability to decide when and where they become professionals and protects them from the underhanded tactics that have become all too common in this field. Under this legislation, student athletes can no longer be tricked into signaling contracts through the deception or bribery of a sports agent. And agents must clearly disclose to students that they will no longer be amateurs if they sign an agency contract, before they sign the contract.

SPARTA enjoys wide support in the academic community and has been endorsed by the NCAA and over 30 colleges and universities, including the University of Michigan. I urge my colleagues to support this legislation and send a strong message to the unprincipled sports agents who prey on our youth.

Mr. STEARNS. Mr. Speaker, I yield back the balance of my time.

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The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and pass the bill, H.R. 361, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## ARMED FORCES NATURALIZATION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker. I move to suspend the rules and pass the bill (H.R. 1954) to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1954

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Armed Forces Naturalization Act of 2003".

### SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED FORCES.

(a) Reduction of Period for Required Service.—

(1) In general.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking "three years," and inserting "one year,".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to applications for naturalization filed or pending on or after the date of the enactment of this Act.

(b) Prohibition on Imposition of Fees Relating to Naturalization.—

(1) In general.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(A) in section 328(b)—

(i) in paragraph (3)—

(I) by striking "honorable. The" and inserting "honorable (the"; and

(II) by striking "discharge." and inserting "discharge); and"; and

(ii) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected."; and

(B) in section 329(b)—

(i) in paragraph (2), by striking "and" at the end;

(ii) in paragraph (3), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.".

(2) Effective date.—The amendments made by paragraph (1) shall apply with respect to applications for naturalization filed, and certificates of naturalization issued, on or after the date of the enactment of this Act. Such amendments shall not be construed to require the refund or return of any fee collected before such date.

(c) Revocation of Citizenship for Separation From Military Service Under Other Than Honorable Conditions.—

(1) In general.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(A) by adding at the end of section 328 the following:

"(f) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 340. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service."; and

(B) by amending section 329(c) to read as follows:

"(c) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 340. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.".

(2) Effective date.—The amendments made by paragraph (1) shall apply to citizenship granted on or after the date of the enactment of this Act.

(d) Naturalization Proceedings Overseas for Members of Armed Forces.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available, to the maximum extent practicable, through United States embassies, consulates, and United States military installations overseas.

(e) Technical Amendment.—

(1) In general.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking "Attorney General," and inserting "Secretary of Homeland Security,".

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if enacted on March 1, 2003.

### SEC. 3. POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN ARMED FORCES.

(a) Prohibition on Imposition of Fees; Benefits for Survivors.—

(1) In general.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended by striking subsection (e) and inserting the following:

"(e) Prohibition on Imposition of Fees.—Notwithstanding any other provision of law, no fee shall be charged or collected from a person for filing a request for the granting of posthumous citizenship under subsection (c), or for the issuance of a document under subsection (d).

"(f) Benefits for Survivors.—

"(1) Applicability.—Notwithstanding any other provision of this subsection, this subsection shall apply only to the surviving spouses, children, and parents of persons dying on or after September 11, 2001.

"(2) Spouses.—Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving spouse of a person granted posthumous citizenship under this section, and who was living in marital union with the citizen spouse at the time of death, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.

"(3) Children.—Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving child of a person granted posthumous citizenship under this section, and who is an unmarried person under 21 years of age on the date of such grant, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after the date of such grant).

"(4) Parents.—Notwithstanding the first sentence of section 201(b)(2)(A)(i), a person who is the surviving parent of a person granted posthumous citizenship under this section, and who is lawfully authorized to be present in the United States on the date of the citizen's death (disregarding any departure for a temporary visit abroad), shall be considered, for purposes of section 201(b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

"(5) Self-petitions.—

"(A) In general.—In the case of a surviving spouse, child, or parent who remains an immediate relative after the date of a citizen's death pursuant to paragraph (2), (3), or (4), any petition under section 204 otherwise required to be filed by the citizen to classify the spouse, child, or parent under section 201(b)(2)(A)(i) may be filed instead by the spouse, child, or parent. A surviving spouse's petition may include derivative children in the same manner as is permitted under section 204(a)(1)(A)(ii).

"(B) Minor children.—In the case of a child under 18 years of age on the filing date, any nonderivative petition described in subparagraph (A) shall be filed on behalf of the child by a parent or legal guardian of the child.

"(6) Deadline.—Paragraphs (1) through (5) shall apply only if the petition under paragraph (5) is filed not later than 2 years after the date on which the request under subsection (c) is granted.

"(7) Conversion of petitions.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the alien's petitioning spouse or parent being lawfully admitted for permanent residence, upon the grant of posthumous citizenship under this section to the petitioner, the Secretary of Homeland Security, unless the alien otherwise has attained the status of an alien lawfully admitted for permanent residence—

"(A) shall convert such petition to a petition filed under paragraph (5) to classify the alien as an immediate relative under subsection (b)(2)(A)(i); and

"(B) shall ensure that the filing date of the original petition is maintained.

"(8) WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this subsection, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.

"(9) NO BENEFITS FOR OTHER RELATIVES.—Nothing in this section shall be construed as providing for any benefit under this Act for any relative of a person granted posthumous citizenship under this section who is not treated as a spouse, child, or parent under this subsection.".

(2) CONVERSION OF PETITIONS.—In the case of a surviving spouse or child accorded an immigration benefit under section 329(f) of the Immigration and Nationality Act, as added by paragraph (1), if the spouse or child was the beneficiary of a petition described in paragraph (7) of such section, unless the beneficiary otherwise has attained the status of an alien lawfully admitted for permanent residence, the Secretary of Homeland Security shall provide for—

(A) the reinstatement of such petition, if it was revoked or terminated (or otherwise rendered null), either before or after its approval, due to the death of the petitioner; and

(B) the conversion of such petition in accordance with such section.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply with respect to posthumous citizenship granted before, on, or after the date of the enactment of this section.

(B) FEES.—Section 329A(e) of the Immigration and Nationality Act, as amended by paragraph (1), shall apply with respect to requests for posthumous citizenship filed, and documentation of posthumous citizenship issued, on or after the date of the enactment of this Act. Such section shall not be construed to require the refund or return of any fee collected before such date.

(b) NATURALIZATION FOR SURVIVING SPOUSES.—

(1) IN GENERAL.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended by adding at the end the following: "For purposes of this subsection, the terms 'United States citizen' and 'citizen spouse' include a person granted posthumous citizenship under section 329A.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to persons granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) due to death on or after September 11, 2001.

(c) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on March 1, 2003.

### SEC. 4. IMMIGRATION BENEFITS FOR SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE DURING SERVICE IN ARMED FORCES.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) IN GENERAL.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

"(4) SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE DURING SERVICE IN ARMED FORCES.—

"(A) BENEFITS FOR SURVIVORS.—

"(i) IN GENERAL.—The benefits under this paragraph shall apply only to a surviving spouse, child, or parent of a person who, while a citizen of the United States, died on or after September 11, 2001, during a period of honorable service in the Armed Forces as a result of injury or disease incurred in or aggravated by such service.

"(ii) DETERMINATIONS.—The executive department under which the citizen so served shall determine whether the citizen satisfied the requirements of clause (i).

"(B) SPOUSES.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving spouse described in subparagraph (A), and who was living in marital union with the citizen described in such subparagraph at the time of death, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.

"(C) CHILDREN.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving child described in subparagraph (A), and who is an unmarried person under 21 years of age on the date on which a petition described in subparagraph (E) to classify the alien as an immediate relative is filed, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after such filing date).

"(D) PARENTS.—Notwithstanding the first sentence of subsection (b)(2)(A)(i), and subject to subparagraph (E), a person who is a surviving parent described in subparagraph (A) shall be considered, for purposes of subsection (b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

"(E) TREATMENT OF PETITIONS.—

"(i) CONTINUATION OF PETITIONS.—A petition properly filed on behalf of a spouse, child, or parent under section 204(a)(1)(A)(i) by a citizen described in subparagraph (A) prior to the citizen's death shall be valid to classify the spouse, child, or parent as an immediate relative pursuant to this paragraph. No new petition shall be required to be filed, and any filing date assigned prior to the death shall be maintained.

"(ii) SELF-PETITIONS.—

"(I) SPOUSES.—In the case of a surviving spouse who remains an immediate relative after the date of a citizen's death pursuant to subparagraph (B), the spouse may file a petition under section 204(a)(1)(A)(ii) for classification of the spouse (and the spouse's children) under subsection (b)(2)(A)(i). The spouse shall be treated as an alien spouse described in the second sentence of subsection (b)(2)(A)(i) for such purpose.

"(II) CHILDREN.—In the case of a surviving child who remains an immediate relative after the date of a citizen's death pursuant to subparagraph (C), any petition under section 204 otherwise required to be filed by the citizen to classify the child under subsection (b)(2)(A)(i) may be filed instead by the child. In the case of a child under 18 years of age on the filing date, the petition described in this subclause shall be filed on behalf of the child by a parent or legal guardian of the child.

"(III) PARENTS.—In the case of a surviving parent who remains an immediate relative after the date of a citizen's death pursuant to subparagraph (D), any petition under section 204 otherwise required to be filed by the citizen to classify the parent under subsection (b)(2)(A)(i) may be filed instead by the parent, but only if the parent was lawfully authorized to be present in the United States on the date of the citizen's death (disregarding any departure for a temporary visit abroad).

"(iii) DEADLINE.—In the case of petition under clause (ii), subparagraphs (B), (C), and (D) shall apply only if such petition is filed not later than 2 years after the date of the citizen's death.

"(F) WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this paragraph, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.".

(2) CONTINUATION OF PETITIONS.—

(A) IN GENERAL.—The Secretary of Homeland Security shall provide for the reinstatement of any petition filed by a deceased person described in subparagraph (A) of section 201(f)(4) of the Immigration and Nationality Act, as added by paragraph (1), if such petition is described in subparagraph (E)(i) of such section and was revoked or terminated (or otherwise rendered null), either before or after its approval, due to the death of such person, unless the beneficiary otherwise has attained the status of an alien lawfully admitted for permanent residence.

(B) EXCEPTION.—A petition otherwise satisfying the requirements of subparagraph (A) and filed by a citizen on behalf of a parent shall not be reinstated unless the parent was lawfully authorized to be present in the United States on the date of the citizen's death (disregarding any departure for a temporary visit abroad).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 201(f)(1) of the Immigration and Nationality Act (8 U.S.C. 201(f)(1)) is amended by striking "Attorney General" and inserting "Secretary of Homeland Security".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on March 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1954, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the beginning of Operation Iraqi Freedom and the news that 10 members of our Armed Forces who died in combat were not U.S. citizens, several bills have been introduced to either ease the naturalization requirements of legal permanent residents in the Armed Forces or to provide immigration benefits to the surviving family members of those killed in service to America, or both.

We can never adequately express our gratitude to those noncitizen members of our military who made the ultimate sacrifice, but we can bring reasonable changes to the naturalization process for other permanent resident service members willing to make the same sacrifice and to provide immigration benefits to family members of those who died.

The Committee on the Judiciary has worked closely with those who have introduced bills on this issue, including the gentleman from Washington (Mr. HASTINGS), the gentleman from Texas (Mr. FROST), the gentleman from North Carolina (Mr. JONES), the gentlewoman from California (Ms. SOLIS), the gentleman from Illinois (Mr. GUTIERREZ), and the gentleman from California (Mr. ISSA), as well as the ranking member, the gentleman from Michigan (Mr. CONYERS) and Subcommittee on Immigration, Border Security, and Claims ranking member, the gentlewoman from Texas (Ms. JACKSON-LEE), to come up with a bipartisan compromise bill.

In addition, six Members not on the Committee on the Judiciary testified at a hearing before the Subcommittee on Immigration, Border Security, and Claims regarding their legislation.

H.R. 1954, the Armed Forces Naturalization Act is a consensus bill in which I have done my best to address the concerns of the other interested Members and to balance competing priorities. I am grateful that the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from Texas (Ms. JACKSON-LEE) have signed on as original cosponsors.

Not every Member got everything they wanted in this bill, but each of the Members we consulted with got something that they wanted. As a result, we have a bill that should easily be able to pass the House with support from Members with widely varying views on immigration who all want to honor the service to our country of permanent residents in the Armed Forces.

H.R. 1954 reduces the military service requirement to apply for naturalization during peacetime from 3 years to 1 year. Some of the earlier bills reduced the requirement to 2 years and another bill reduced it to zero years. One year is an obvious compromise.

It lowers the required years of service while maintaining the requirement that a military member must still establish their worthiness for expedited naturalization through a period of honorable military service during peacetime. For soldiers, this bill also waives the fees for the naturalization petition or naturalization certificate, along with related State fees and waives the fees for the posthumous citizenship application. This will ease the financial burden for military members who perform an outstanding service for our country and receive little money in return.

The bill permits the revocation of citizenship if a person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for 5 years in either peacetime or wartime. In addition to the 5-year military revocation, an alien would remain subject to denaturalization at any time if, for example, the alien committed fraud to gain citizenship or the underlying green card.

I would also add that this bill does not allow for the naturalization or acquisition of permanent resident status to undocumented aliens.

H.R. 1954 would require the Departments of Homeland Security, State and Defense to ensure that naturalization applications, interviews, filings, oaths and ceremonies are available to the maximum extent practicable at U.S. embassies, consulates and military installations. Currently, a soldier must be physically present in the United States to file a naturalization application, to be interviewed for the application and to take the oath of citizenship. This requirement causes some soldiers who are stationed outside the United States to leave their post abroad and to return the United States at their own expense. This is both expensive and causes unnecessary interruption in their military service.

The bill would also permit surviving immediate family members of both military members who are U.S. citizens before death and immigrant military members who are granted citizenship posthumously to apply for immigration benefits as if the military family member had not died. Under current law, family members of posthumous citizens cannot apply for immigration benefits through the posthumous citizen. This bill would permit the spouse, the children and certain parents to do so.

Under current law, a lawful permanent resident spouse of a U.S. citizen may apply for naturalization in 3 years instead of 5 years. If the U.S. citizen spouse happens to be in the military and dies during military service, the lawful permanent resident spouse may apply for naturalization immediately rather than wait 3 years.

H.R. 1954 extends this immediate eligibility for naturalization to lawful permanent resident spouses of military members who gain U.S. citizenship posthumously.

Finally, the bill would waive the affidavit of support/public charge ground of inadmissibility for family members applying for adjustment of status. If the military member was the breadwinner, we elected not to penalize the immediate relative because their means of support died during service to our country.

I urge my colleagues to support this carefully crafted and broadly supported compromise bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a great day today. Mr. Speaker, I might add my support to H. Con. Res. 177, that commends the troops for the Iraqi operation, and H. Res. 201, that commends the business support of the troops, because this is the day when we further acknowledge that there is no divide amongst Americans or amongst those of us who are Members of the United States Congress in commemorating, celebrating and appreciating the valid service of the United States troops.

I am very pleased to join the chairman of the Committee on the Judiciary in full support of H.R. 1954, the Armed Forces Naturalization Act of 2003.

I do want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), as full committee chairman, and, as well, the chairman of the subcommittee, the gentleman from Indiana (Mr. HOSTETTLER) for working with the ranking member of the full committee, the gentleman from Michigan (Mr. CONYERS) and myself as the ranking member of the subcommittee, in what is an important legislative action that we are joined in by any number of my colleagues who have done an outstanding job in recognizing this very important challenge.

This work is a culmination of a bipartisan effort to improve the military naturalization provisions of the Immigration and Nationality Act.

The gentleman from Wisconsin (Mr. SENSENBRENNER) was quick to respond and sensitive to the need of moving this legislation along very quickly. I am proud to be an original cosponsor of this bill that was later introduced by the chairman, but more importantly, to be working very closely on the drafting of these issues within the bill and to make the bill as responsive as possible, along with the gentleman from Michigan (Mr. CONYERS), to the issues of concern to those brave and valiant individuals who serve us and create an opportunity for our freedom.

Mr. Speaker, I also want to thank the Members who cooperated with this project by combining their individual naturalization bills to produce a comprehensive Armed Forces Naturalization Act. Certainly the gentleman from Washington (Mr. HASTINGS), the gentleman from Texas (Mr. FROST), the gentleman from North Carolina (Mr. JONES), the gentlewoman from California (Ms. SOLIS), the gentleman from California (Mr. ISSA), and the gentleman from illinois (Mr. GUTIERREZ), all of them had brilliant ideas, brilliant piece of legislation focusing on very important aspects of this work. We could not have done this legislation without them.

Marine Corporal Jose Angel Garibay and Lance Corporal Jose Gutierrez were among the 129 men and women killed during the Iraqi war. Those numbers obviously have increased. When they volunteered for military service and fought in this war, they were immigrants with resident status and not citizens of the United States.

Jose A. Gutierrez was an orphan from Guatemala when he hitchhiked on railcars into Mexico in 1997. He entered the United States illegally. Later, however, he obtained permanent resident status. And according to Martha Espinosa, one of his former foster mothers, he once told her, "I was born the day I arrived in this country."

Garibay was a native of Jalisco, Mexico, whose family moved to the United States when he was a baby. He joined the Marines 3 years ago. "He probably thought he was more an American than a Mexican," said his sister. With the help of their families and fellow Marines, these brave young Americans unfortunately lost their lives in the war in Iraq; and so we would hope that as we move this legislation forward, these brave young Marines will also obtain their citizenship posthumously.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for noncitizen members of the United States military even in peacetime. For instance, section 328 of the INA allows noncitizen members of the military to become citizens after 3 years of peacetime service instead of the usual 5-year wait required of nonmilitary applicants.

Section 329 of the INA allows noncitizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities.

Under this section of the INA, 143,000 noncitizen military participants in World Wars I and II, and 31,000 members of the United States military who fought during the Korean War became naturalized American citizens. More than 100,000 members of the United States became citizens following Vietnam and the Persian Gulf War collectively.

The important point, Mr. Speaker, is to realize that this Nation continues to be a Nation built upon immigrants and their desire to be part of this great democracy. And it also shows how much we are united, united in our war against terrorism, and that immigration does not equate to terrorism.

The Armed Forces Naturalization Act of 2003 would reduce the time that a peacetime member of the Armed Forces has to serve for naturalization eligibility purposes from 3 years to a single year. The fees normally charged for naturalization will be waived for members of the Armed Forces.

Moreover, effort will be made to provide locations overseas at which soldiers will be able to take the naturalization examination, the interviews and other steps in the naturalization process. If you can imagine, before this legislation and the vision of the gentleman from Texas (Mr. FROST), these persons had to come back from their posts, and that was very, very difficult, to proceed to naturalize. This will avoid the expense to that soldier serving overseas of paying his or her transportation to and from the United States to complete the naturalization process.

The current law provides for posthumous citizenship when a soldier has been killed during a period that has been declared a time of military hostilities, but the current law explicitly denies derivative immigrant benefits for the soldier's spouse and children. This bill will correct that inequity by allowing the spouse, children and parents of such a soldier to self-petition for immediate relative status on the basis of the soldier's posthumous citizenship.

The bill as offered at the mark-up, however, did not extend similar benefits to the case in which the soldier's surviving spouse is already a lawful permanent resident. This omission was corrected by an amendment I offered at the mark-up. Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of 3 years before becoming eligible for naturalization as a spouse of a United States citizen. Section 319(d) of the INA waives that requirement when a lawful permanent resident's citizen spouse dies in the Armed Forces.

The pertinent part section of 319(d) reads as follows:

"Any person who is a surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States shall be required."

My amendment provides the same waiver in the case of the lawful permanent resident spouse whose soldier spouse receives citizenship posthumously.

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The only difference between the two situations is that the one permitted under current law involves a soldier who received his citizenship before he died; whereas in the second situation, the citizenship is received posthumously. In both cases, the soldier is a citizen who is killed during a period of honorable military service. I am pleased that the committee voted to approve that amendment.

There are two instances of concern that I have. One amendment provides that anyone naturalized under the bill's 1 year of service in the Armed Forces measure can have such citizenship revoked if the individual is subsequently separated from the military under other than honorable conditions. No such provision currently exists for revoking the citizenship of Armed Forces personnel who obtain naturalization pursuant to peacetime service. I am concerned about that and hope we can work through conference on that issue.

I am also concerned about an amendment that modifies the provisions in the bill that are intended to grant immigration benefits to the parents of soldiers who receive citizenship posthumously. The original provisions in the bill make the parents eligible for immediate relative status without imposing any additional eligibility requirements. Immediate relative status would permit them to obtain an immigrant visa without having to wait for a visa number.

The amendment that was in this bill limits the benefit to parents who are lawfully authorized to be present in the United States on the date of the soldier's death. Aside from unusual situations, such as when the parents happen to be college students or have visas for temporary employment in the United States as computer experts, et cetera, this is a problem because we can imagine problems of where a parent might be on any given day when the son or daughter dies, whether or not they are out of the country; and I would hope that we could make a correction as we move forward with this legislation.

I do want to acknowledge that this is an important bill that has come about through bipartisan efforts, and I do want to acknowledge that there are problems that we want to work through; and clearly, we want to make sure that the problems that we face will be ones that can be corrected.

I believe, Mr. Speaker, that we worked in a bipartisan way for the betterment and good of these heroes, valiant heroes; and I would ask that my colleagues support this legislation.

Mr. Speaker, the "Armed Forces Naturalization Act of 2003" is the culmination of a bi-partisan effort to improve the military naturalization provisions of the Immigration and Nationality Act (INA). I am proud to be an original cosponsor of this bill, which was introduced by Representative F. JAMES SENSENBRENNER, the Chairman of the Committee on the Judiciary. I want to thank Chairman SENSENBRENNER and the Ranking Member of the Judiciary Committee, Representative JOHN CONYERS, for their leadership. I also want to thank the members who cooperated with this project by combining their individual naturalization bills to produce the comprehensive Armed Forces Naturalization Act, Representatives DOC HASTINGS, MARTIN FROST, WALTER JONES, HILDA SOLIS, DARRELL ISSA, and LUIS GUTIERREZ.

Marine Corporal Jose Angel Garibay and Lance Corporal Jose Gutierrez were among the 129 men and women killed during the Iraqi war. When they volunteered for military service and fought in this war, they were immigrants with resident status, not citizens of the United States.

Jose A. Gutierrez was an orphan from Guatemala when he hitchhiked on railcars into Mexico in 1997. He entered the United States illegally. Later, however, he obtained permanent resident status. According to Martha Espinosa, one of his former foster mothers, "He once told me, ' was born the day I arrived in this country.'" Garibay was a native of Jalisco, Mexico, whose family moved to the United States when he was a baby. He joined the Marines three years ago. "He probably thought he was more an American than a Mexican," said Garibay's sister Crystal. With the help of their families and fellow Marines, Garibay and Gutierrez became American citizens posthumously.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for non-citizen members of the United States military, even in peacetime. For instance, Section 328 of the INA allows non-citizen members of the military to become citizens after 3 years of peacetime service, instead of the usual 5-year wait required of non-military applicants.

Section 329 of INA allows non-citizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities. Under this Section of the INA, 143,000 non-citizen military participants in World Wars I and II, and 31,000 members of the United States military who fought during the Korean War, became naturalized American citizens. More than 100,000 members of the United States military became citizens following Vietnam and the Persian Gulf War collectively.

The Armed Forces Naturalization Act of 2003 will reduce the time that a peacetime member of the armed forces has to serve for naturalization eligibility purposes from 3 years to a single year. The fees normally charged for naturalization will be waived for members of the armed forces. Moreover, effort will be made to provide locations overseas at which soldiers will be able to take the naturalization examination, the interviews, and the other steps in the naturalization process. This will avoid the expense to the soldier serving overseas of paying for his or her own transportation to and from the United States to complete the naturalization process.

Current law provides for posthumous citizenship when a soldier is killed during a period that has been declared a time of military hostilities, but the current law explicitly denies derivative immigration benefits to the soldier's spouse and children. this bill will correct that inequity by allowing the spouse, children, and parents of such a soldier to self-petition for immediate relative status on the basis of the soldier's posthumous citizenship. the bill as offered at the markup, however, did not extend similar benefits to the case in which the soldier's surviving spouse is already a lawful permanent resident. This omission was corrected by an amendment I offered at the markup.

Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of 3 years before becoming eligible for naturalization as the spouse of a United States citizen. Section 319(d) of the INA waives that requirement when the lawful permanent resident's citizen spouse dies during a period of honorable service in the Armed Forces. the pertinent part of section 319(d) read as follows:

> Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in the Armed Forces of the United States and who was living in martial union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States . . . shall be required.

My amendment provides the same waiver in the case of the lawful permanent resident spouse whose soldier spouse receives citizenship posthumously. The only difference between the two situations is that the one permitted under current law involves a soldier who received his citizenship before he died, whereas in the second situation, the citizenship is received posthumously. In both cases the soldier is a citizen who is killed during a period of honorable military service. I am pleased that Committee voted to approve my amendment.

I am concerned, however, about two amendments from Representative STEVE KING that also were approved at the markup. Representative KING's first amendment provides that anyone naturalized under the bill's "one year of service in the Armed Forces" measure can have such citizenship revoked if the individual is subsequently "separated from the military . . . under other than honorable conditions." No such provision currently exists for revoking the citizenship of armed forces personnel who obtain naturalization pursuant to peacetime service.

Representative KING's second amendment is even more troubling. It modifies the provisions in the bill that are intended to grant immigration benefits to the parents of a soldier who receives citizenship posthumously. The original provisions in the bill make the parents eligible for immediate relative status without imposing any additional eligibility requirements. Immediate relative status would permit them to obtain an immigrant visa without having to wait for a visa number. Mr. KING's amendment limits the benefit to parents who are lawfully authorized to be present in the United States on the date of the soldier's death. Aside from unusual situations, such as when the parents happen to be college students or have visas for temporary employment in the United States as computer experts or agricultural workers, the King amendment limits the immediate relatives status benefit to parents who have coordinated their vacation plans with the death of their soldier son or daughter.

For instance, if the parents are in the United States for two weeks in June as nonimmigrant visitors and their soldier son or daughter dies in combat in July, they are not eligible for immediate relative status. Although they were authorized to be in the United States when they visited in June, they were not authorized to be present in the United States in July, which is when their son or daughter dies in this hypothetical example. The results is this irrational in every situation I can image. It makes no sense to limit eligibility in this manner.

I also want to note that although the Armed Forces Naturalization Act will make important changes in the military naturalization provisions, there is more to be done. In the coming months of this session, we also need to work on benefits for the brothers and sisters of soldiers who are killed while serving our country. Currently, immigration status is not available in that situation. I offered an amendment at the markup to fix this problem, but it was not approved.

Another problem is the fact that immigrants who are in the United States in an unlawful status for more than 6 months are barred thereafter from becoming a permanent resident for a period of 3 years. If they are in an unlawful status for more than a year, they are barred from becoming a permanent resident for a period of 10 years. Moreover, the waivers available to people who face such bars are far too narrow. If we cannot agree to eliminate these bars, we must work together to create reasonable waivers so that discretion is available when it is needed to prevent an injustice.

Nevertheless, the fact that we have more work ahead of us does not diminish the importance of enacting the Armed Forces Naturalization Act of 2003. It is an excellent bill that demonstrates how much we can accomplish when we work together. I urge you to vote for it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me the time; and, Mr. Speaker, I rise in support of H.R. 1954 and would like to commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, for his leadership on this important issue.

Mr. Speaker, I am particularly pleased that the committee's bill includes the principal provisions of my legislation, the Armed Forces Citizenship Act. I introduced my bill during the recent war in Iraq in order to make it possible for legal immigrants serving in America's Armed Forces to become U.S. citizens after 1 year in uniform rather than the 3 to 5 years required for naturalization under current law.

Mr. Speaker, these patriotic men and women have willingly volunteered to carry out one of the most solemn duties any nation can ask of its citizens, the defense of freedom. In doing so, I believe that they have truly earned the opportunity to become citizens of the country that they serve to protect.

After all, is there any better way to demonstrate our fitness for citizenship than to make that kind of commitment to what our Nation stands for? Are not these precisely, Mr. Speaker, the kinds of individuals that we should want as United States citizens? By enacting this legislation, America can do the right thing for some very brave men and women who are doing the right thing for America.

As my colleagues know, some of our troops who died in Iraq wearing the uniform of the United States gave their lives before they were truly entitled to call themselves Americans. Frankly, Mr. Speaker, that is just plain wrong, and it is an injustice; and I am pleased that Congress is moving quickly to correct that injustice.

So, Mr. Speaker, let us recognize their love of this country by voting today to enable legal immigrants serving America's Armed Forces to become citizens before, not after, they begin risking their lives to save ours.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to yield 4 minutes to the distinguished gentleman from California (Mr. BERMAN), a member of the full Committee on the Judiciary and the Subcommittee on Immigration, Border Security, and Claims.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman, the ranking member of the subcommittee, both for her excellent work and for yielding me this time.

I rise in strong support of the bill, but I do want to point out a few issues that were addressed in the Committee on the Judiciary where I think we could have gone farther to be fair to the families of our soldiers.

I very much appreciate the gentleman from Wisconsin's (Mr. SENSENBRENNER) willingness to create a bipartisan process in the negotiations on this bill, a process that started with at least seven different bills on the topic. I think the goal of all the Members who introduced those bills, and of most of us in the House, were the same. We wanted to reward the dedication of lawful, permanent residents in the military by making it as easy as possible for them to become full members of the country they are serving on the battlefield.

Secondly, we wanted to honor the sacrifice of both lawful, permanent residents and U.S. citizens who have been killed in service; and we are doing that by ensuring that their families are treated fairly by the country that they gave their lives to defend.

As I indicated, the bill is a very good start. The problem is that there will be some families of these brave soldiers who will not be helped by this bill. My hope is that in the conference with the other body we will be able to address those issues so we can be sure that we are not creating a situation where we have to, for example, tell the mother of a young man who gave his life for his country, our country, that we thank him very much for his service but his mother will have to leave. As one of my colleagues on the committee put it, we ought to be sure that the family members of our fallen heroes have the right to tend to the grave of their loved one.

When the Committee on the Judiciary considered this bill, I offered an amendment that would have provided the Secretary of Homeland Security the discretion, the discretion, to waive certain bars in our immigration laws that otherwise could be an obstacle to relief for the spouses, children, parents of the soldier killed in combat. We are not talking an automatic waiver. What we asked for was an opportunity for the Secretary of Homeland Security to do an investigation and, in his discretion, provide relief where he deemed it appropriate.

I think it is right to offer some level of forgiveness to these families whose spouse or child or sibling has given the ultimate sacrifice to our country; and by giving that discretion to the Secretary of Homeland Security, we would have ensured that the waiver posed no threat to our national security.

The second issue of concern in this legislation is one raised by the gentlewoman from Texas, the ranking member, that we have drawn an arbitrary line with respect to immigration relief for the parents of both U.S. citizen soldiers and soldiers granted posthumous citizenship under the bill.

Under current law, legal permanent residents cannot petition for their parents to come to this country as immigrants. Naturalized citizens can petition for their parents. Under the language of this bill, the parent of a legal permanent resident soldier who is killed in combat and is given posthumous citizenship cannot get immigration benefits if they were waiting outside the country for their child to naturalize and then petition for them.

If a U.S. citizen soldier filed a petition for their parents before they were killed in combat and their parents do not happen to have a visa to be in the U.S. on the exact date that their child was killed, the petition would be extinguished. In other words, the parent patiently waiting, playing by the rules, is turned away by the country their son or daughter died for.

In a bizarre and totally arbitrary twist, if that parent happened to get a visitor's visa to enter the country, say to help take care of the soldier's children while he was deployed, and that time in the U.S. happened to include the exact date on which their child was killed in combat, then the parent of a legal permanent resident soldier would be eligible for relief. This distinction makes no sense and we should correct it. A parent is a parent whether they are in Mexico waiting patiently or here on a tourist visa helping with the kids.

I would hope we could address these issues in conference.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for yielding me the time, and I want to thank the chairman of this committee and the ranking member for working with me on H.R. 1799, the Fallen Heroes Immigrant Spouse Fairness Act.

Mr. Speaker, this came to my attention when I attended the funeral of a Marine who was killed in Operation Iraqi Freedom. His name was Michael Bitz. Sergeant Bitz was married to a lady, Janina Bitz, who was from Australia, and at the time we were concerned with the fact that he had lost his life, that his wife might have to start the process again of becoming a naturalized citizen.

When I attended the funeral down at Camp Lejeune of Sergeant Bitz, I met Pat Millush, the military liaison to the Bureau of Citizenship and Immigration Service at Camp Lejeune. Pat said to me the immigrant spouses of military personnel were treated unfairly under current immigration law.

By knowing that, Mr. Speaker, I decided that I would put this legislation in that would allow the spouse of a member of the military who had lost their life, whether it be in war or by accident or in training, that if they had not reached that 2-year period of time, that they would still be able to continue the naturalization process without being penalized.

I am delighted and want to thank again the chairman of the committee and the ranking member for not only working with me on this issue but other Members who have been named today, because the men and women who serve this great Nation and their families need to be honored; and I think this bill itself is a way to honor those who have given their lives for this great Nation.

Basically what 1799 did, which has been included in this bill, allows the immigrant spouse of military personnel who die as a result of a service-connected injury or disease to continue the immigration process regardless of the number of years of the marriage. Mr. Speaker, I have outside of my office, 422 Cannon, a photograph of everyone who has died in the war for freedom in Iraq, and I am pleased and honored that this committee would accept the language in 1799 and encompass it in this naturalization bill to honor our men and women in uniform.

Mr. Speaker, again, I will close by saying I ask God to please bless our men and women in uniform. I ask God to please bless the families of the loved ones fighting for freedom; and again, I thank the leadership, the Republican leadership and the Democratic leadership, for this honor that they have given to Michael Bitz who gave his life for America.

Ms. JACKSON-LEE of Texas. Mr. Speaker, can I inquire the time remaining.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from Texas (Ms. JACKSON-LEE) has 7 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 9½ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Texas (Mr. FROST), the distinguished ranking member of the Committee on Rules and a major proponent but also author of legislation that has been part of this bipartisan legislation.

Mr. FROST. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I am here today to express my support for H.R. 1954, the Armed Forces Naturalization Act of 2003.

In the war against Saddam Hussein, noncitizen soldiers were among the first brave men and women to fall. Some were born in Mexico before joining the U.S. military like Pfc. Francisco Martinez Flores, Corporal Jose Angel Garibay, and Lance Corporal Jesus Suarez del Solar. Others were born in Guatemala, like Lance Corporal Jose Gutierrez; but all died fighting for a country where they could not even cast a vote.

Mr. Speaker, in the last Congress, in May of 2002 to be precise, I first introduced legislation to help remedy the obstacles these brave soldiers faced on their path to citizenship, and I reintroduced my bill in this Congress before the war with Saddam Hussein began. So I am pleased that we are finally here today voting to ease the burdens placed on our legal permanent resident troops.

The men and women who serve honorably in the Armed Forces have earned the respect and gratitude of every American citizen. All of those who have chosen to make the ultimate sacrifice for the defense of our country certainly have earned the full rights and privileges of U.S. citizenship.

While it is unfortunate that it took a war to shed light on the sacrifices of our green card troops and compel the House as a body to act, I am hopeful that we will focus our attention on rewarding and enhancing our military personnel in time of peace as well as times of war.

According to the Department of Defense, the number of legal permanent residents serving on active duty has risen to 37,401, or about 3 percent of our military. Additionally, thousands of immigrants serve in the Reserves and were called up for active duty.

The ranks of noncitizens serving in the Armed Forces are growing, and today's immigrants are building upon a rich legacy of service in the U.S. military. Immigrants have fought in every American conflict from the Revolutionary War to the war with Iraq. The military service of immigrants reflects the strong strain of patriotism among generations who have chosen to come to America, and the patriotism of today's large Hispanic immigrant communities is particularly strong.

However, thousands of those troops are still not citizens today because of the significant obstacles that remain.

The sacrifices of legal permanent residents in our military are unique. They choose to defend freedom of American citizens while not sharing in the full rights and privileges of citizenship themselves. Unfortunately, the process for granting citizenship to immigrants within the U.S. still places heavy burdens upon them, especially those serving in the toughest overseas assignments.

Mr. Speaker, simply stated, the Armed Forces Naturalization Act of 2003 will help remove unfair and unnecessary obstacles facing thousands of legal permanent residents serving honorably in the U.S. military trying to obtain their citizenship. While there are some differences in the bill that I originally introduced and the bill we are debating today, I am hopeful that certain changes can be made in conference.

This is why I urge my colleagues to vote in favor of this legislation. Let us honor our truly brave soldiers who have shown the willingness to make the ultimate sacrifice for the country they dearly wish to be citizens of.

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Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I thank the gentleman for yielding me this time.

As Americans, we owe the men and women who serve our Nation a great debt of gratitude, and that is why I rise in strong support of H.R. 1954, the Armed Forces Naturalization Act of 2003.

Many immigrants have proven their patriotism by fighting in this country's wars. These soldiers are real patriots, adopting America as their home to honor and defend. America's armed services have long included soldiers, sailors, airmen and Marines who were noncitizen residents of the United States. These men and women fight and die along with their fellow citizen-soldiers and deserve the privilege of U.S. citizenship.

Currently, over 37,000, or 2.6 percent of active members of the armed services are noncitizens or immigrants. There is one specific American patriot I would like to honor today, Lance Corporal Jakub H. Kowalik. Sadly, having given the ultimate sacrifice, Jakub died in an ordnance explosion while serving in Iraq on May 12 of this year.

Jakub, a native of Poland, migrated with his family in 1991, settling in Schaumburg, Illinois. He played football at Maine East High School, where he graduated in 2002. Jakub enjoyed fishing with his father, Henryk, who preceded him in death 2 years after their arrival in the United States. Jakub enlisted in the Marines his senior year in high school, a few months before the attacks of September 11. His older brother, Paul, called him his best friend and hero. His mother said he just enjoyed being a Marine. Jakub is but one example of the many noncitizens who have proudly served our country.

The message of this legislation is very clear: While we can never fully repay these men and women who have willingly entered harm's way to preserve, protect, and defend our freedom around the world, serving with courage and selflessness, we can honor and respect them for their service. Throughout history they have answered the call. Today, we have the opportunity to reply with the greatest privilege we have to offer, which is U.S. citizenship.

My colleagues, I urge passage and bipartisan support for this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. SOLIS), who was also one of the authors of legislation that contributed to this bipartisan bill that is on the floor today.

Ms. SOLIS. Mr. Speaker, I wish to thank the gentlewoman for yielding me this time, and I also would like to thank the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), the ranking member, the gentleman from Michigan (Mr. CONYERS), the ranking member of the subcommittee, the gentlewoman from Texas (Ms. JACKSON-LEE), and others who helped to put forward this piece of legislation.

Mr. Speaker, I was moved to put forward legislation on this issue because we have several young soldiers that are in my district that are serving now, but one in particular, Francisco Martinez Flores, who actually lost his life. He lost his life just 2 weeks short of becoming a U.S. citizen. Most of his family is here legally, with the exception of his father. Without this piece of legislation, his father is out there on his own for the time being, and it would take a while for him to become a U.S. citizen.

I am very appreciative of the work that has taken place on the bill. Thirty-seven thousand legal permanent residents will be eligible, through this legislation, in 1 year to become citizens, and their family members. That is first and foremost in my mind in terms of what we need to do for the families.

I had a chance to meet with several of those families in my own district, many of whom are waiting, wanting their children to come home and hoping they do come home. The fact we are moving in this direction today to provide opportunities for them to continue to support our country is something we can all take pleasure and pride in today.

I also want to thank the gentleman from Texas (Mr. FROST) for putting forward legislation that is also incorporated in this piece of legislation, for having the foresight to put forward his idea even before the conflict began.

There are many different angles and parts of this bill that I could speak on. I know I have limited time here, but I do want to say that we should make some corrections. One piece that is amiss in the bill that I put forward was to try to allow for parents that are not here with appropriate documentation to be allowed to become legal permanent residents even if their son or daughter is serving and may be a fallen soldier.

We need to look at that and continue to work on this legislation to make sure that we take care of those family members because there are many, many that are not here, that are in Mexico or Central America waiting to hear about their children.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DREIER), the very distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend, the very, very able chairman of the Committee on the Judiciary for yielding me this time, and I thank him for the tremendous time and energy he puts into so much of the heavy lifting that goes on in this institution.

I rise in strong support of this very important legislation. As we think about the sacrifice that has been made, and it has obviously come to the forefront in the past several months, I believe that steps towards recognizing those sacrifices that have been made by people regardless of their background and citizenship, I think this piece of legislation which has been crafted in a bipartisan way to address this important need will go a long way toward sending a signal of great, unwavering appreciation of those of us in the United States Congress and the American people on behalf of that sacrifice that has been made.

I want to congratulate my fellow colleague, the gentlewoman from California (Ms. SOLIS) for her work on this, obviously the gentleman from Washington (Mr. HASTINGS), the gentleman from California (Mr. BERMAN), and the others who have been involved in this legislation; and I look forward to its speedy passage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to inquire of the Speaker how much time is remaining.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from Texas (Ms. JACKSON-LEE) has 2 minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 6½ minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Speaker, I thank the distinguished chairman for yielding me this time, and I appreciate his leadership on this important issue.

I rise in support of H.R. 1954. Our servicemen and women shoulder the burden of defense as one of the responsibilities of citizenship in this country. Having participated in protecting our rights of U.S. citizenship, and having met lethal force on battlefields around the world, they are more than qualified to appreciate and treasure the blessings of citizenship in the country they so proudly serve.

The relationship of citizenship to the all-volunteer force is very real. That force is a reflection of the intrinsic civic virtue of military service. That civic virtue is as strong today among America's citizen-soldiers as with the first minutemen. And making it easier for military service members to gain citizenship is a minimal act of gratitude by an often all-too-ungrateful Nation.

A citizen of the United States is accorded a number of benefits not granted to lawful permanent residents. He has the right to vote and to hold public office and may qualify for various jobs from which permanent residents are barred. But who is more deserving to receive those benefits of U.S. citizenship than a member of the Armed Forces?

I am delighted that the committee's bill incorporated my legislation, H.R. 1806, along with others, as part of the final package. It came to my attention that this was the right thing to do for our citizen-soldiers when one of my district caseworkers notified me that some of our own constituents were courageously serving in our Armed Forces, defending our freedom, and sadly, some of those who had been killed had yet to be granted U.S. citizenship.

More so than most, these individuals have earned their opportunity to become citizens of the country they defend. These active duty service members who have shown such courage and bravery in the defense of our homeland deserve to become citizens before not after they begin risking their lives to defend ours.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the distinguished chairman of the Democratic Caucus and a proponent of this legislation.

Mr. MENENDEZ. Mr. Speaker, I rise in support of the Armed Forces Naturalization Act, and I hope that it will give rise to some other opportunities that have been discussed here in terms of those who serve our country and their families.

I remember during the 107th Congress when a Republican colleague of ours referred to legal permanent residents as enemies of the State on this very floor during campaign finance reform debate. Thousands of these enemies of the State, as they were referred to, are serving in our Armed Forces. They fight for our country, they shed blood for the country, and in some cases, they die for this country. They are also protecting our airports, our seaports, and our borders. They risk their lives daily in Afghanistan, Iraq, and other places around the world to protect us here at home.

These members of the so-called green-card military, the more than 37,000 noncitizen legal immigrants currently serving in America's Armed Forces, have been fighting, and in some cases dying, for their adopted country. In fact, a noncitizen, Lance Corporal Jose Gutierrez of Guatemala was the first U.S. casualty in the war with Iraq, and at least seven other noncitizen soldiers also made the ultimate sacrifice in Iraq.

So this legislation rectifies a variety of barriers faced by U.S. servicemen and women seeking to become citizens of the country that they serve and that they risk their lives for. I hope we will not only pass this, but it will give rise to other opportunities.

Mr. SENSENBRENNER. Mr. Speaker, has the time allocated to the minority expired?

The SPEAKER pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) has 30 seconds remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 30 seconds to the distinguished gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the full committee and a member of the subcommittee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I am pleased to stand here and support this bill, but I just want to bring people's attention to one part of the bill in particular I am concerned about, and that is parents of legal permanent resident soldiers killed in combat who are not eligible for citizenship if they were outside the United States at the time their child was killed. Those same parents would be eligible for citizenship if they are here in the United States. It makes no sense to differentiate between the two.

A parent is a parent, whether or not they happen to have gone to their home country for a short time, or whether they are in the process of waiting for a visa application renewal, or whether some other circumstances have forced them to be outside the U.S. when their child was killed.

I urge the other body to correct this aspect of the bill, but I rise in support of the bill and urge my colleagues to do the same.

In this country, non-citizens have worn our military uniforms and fought in our battles throughout our history. One of my uncles served in the military as a legal permanent resident during the Korean War. Now, approximately 3 percent of our military are legal permanent residents.

I am a strong supporter of measures that provide opportunities for legal permanent residents serving in our military to become U.S. citizens. These individuals are making enormous sacrifices. Without being citizens, and without having the protections that status would give them, these immigrant men and women are willing to risk their own lives to defend this nation. The least we can do is give them something in return.

What this bill does is to provide them the opportunity to apply for citizenship after 2 years of military service, instead of the 3 years requirement in current law. It also allows for the spouse and children of legal permanent resident soldiers, killed in action, to apply for citizenship.

I commend Chairman SENSENBRENNER, and other Members of the House, for introducing legislation to address this issue. I appreciate Chairman SENSENBRENNER'S willingness and diligence in working closely with Democrats to produce a bill that we can support. I still have some concerns with aspects of this bill, however, and hope that we are able to work out these issues.

In particular, I am concerned that parents of legal permanent resident soldiers killed in combat and not eligible for citizenship if they were outside the U.S. at the time their child was killed. Those same parents would be eligible if they are here in the U.S. It makes no sense. A parent is a parent, whether or not they happen to have gone to their home country for a short time, or whether they are in the process of waiting for a visa application renewal, or whether some other circumstance has forced them to be outside the U.S. when their child was killed. I urge the other body to correct this aspect of the bill. In addition, during consideration of this bill in the Judiciary Committee, I joined with Mr. Berman in offering an amendment to provide a discretionary waiver to the Secretary of Homeland Security for three categories of people. Unfortunately, that amendment failed. I will work with Mr. Berman to encourage the other Body to include this provision in their version.

Again, I applaud Chairman SENSENBRENNER and other Members who have worked so diligently on this issue. I hope that, with continued work in conference with the other Body, we can produce a bill that truly honors our legal permanent resident soldiers.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS) to show how bipartisan we in the Committee on the Judiciary are on practically everything.

Mr. CONYERS. Mr. Speaker, I thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

Mr. Speaker, the reason this is on the consent calendar is that the members of the Committee on the Judiciary, as well as the Members in the House, agree that we should take steps to make sure citizenship is granted to some 37,000 military people who happen to be noncitizens. And it is in that spirit that I rise to commend the ranking subcommittee chair, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), and the subcommittee chairman, the chairman of the full committee, and all of the members on the Committee on the Judiciary that worked on this.

We are trying to still improve this measure as it goes to conference, and I would like to urge everyone to give it a rousing vote this afternoon.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the chairman of the committee for yielding me this time, and I also want to thank the ranking member, my neighbor from Houston. I am really happy that H.R. 1954 is up today.

There is no more powerful or honorable way to serve our country than in our Armed Forces. Our military men and women are willing to put their lives on the line to defend freedom and democracy. This type of service is remarkable, particularly for our non-native born.

We have legal permanent residents who volunteer, and I have some who were actually drafted in World War II, Korea, and the Vietnam War who deserve their citizenship. We have worked with them to get them through the system with INS to get their citizenship, but this bill just gives us a statute that will make it work.

Mr. Speaker, again, I thank the chairman and I thank all the members of the Committee on the Judiciary for allowing this. We had more than 300,000 Mexican Americans that served in our Armed Forces just in World War II. I have constituents whom I have talked to who served and who were told they would get their citizenship, but they did not. Again, that is our constituent work, working together, but this makes it so much easier.

Mr. Speaker, I rise today in support of H.R. 1954, the Armed Forces Naturalization Act of 2003.

Legal Permanent Residents who volunteer in our U.S. Armed Forces demonstrate the highest level of patriotism and service to our country.

They serve, not out of obligation or a sense of duty to their homeland, but because they have embraced everything that America stands for.

These individuals are willing to risk their own lives, so that their children and grandchildren can grow up as citizens of this great land.

Legal permanent residents have a long history of serving our country and protecting our democracy.

More than 300,000 Mexican Americans served in the armed forces during World War II. Most enlisted in the army, and more Hispanics served in combat divisions than any other ethnic group.

Of the fourteen Texans awarded the Medal of Honor during WWII, five were Mexican Americans. By the end of the war, seventeen Mexican Americans had earned the Medal of Honor. Five were awarded posthumously.

Today, immigrants continue to play an important role in the United States military.

As of February 2003, more than 37,000 people in active duty status in the Army, Navy, Air Force and Marines were non-citizens.

During our war with Iraq some of the first fallen soldiers were immigrants who were not naturalized citizens. The least we can do for these individuals—who are willing to serve in ways that many American born individuals aren't—is to recognize them as citizens.

The Armed Forces Naturalization Act of 2003 will allow immigrant service men and women who have risked death—and those who have made the ultimate sacrifice—to come a step closer to fulfilling the American Dream by giving them the opportunity to become a naturalized citizen.

I urge my colleagues to vote for the Armed Forces Naturalization Act of 2003 and grant citizenship to non-citizen immigrants who have honorably served in our military.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. REYES).

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Mr. REYES. Mr. Speaker, I am pleased to rise today in favor of H.R. 1954, the Armed Forces Naturalization Act, which recognizes the contributions made to our country by over 37,000 legal permanent residents serving in our armed services. As a member of the Committee on Armed Services who has had an opportunity to visit Iraq and other parts of the world where our men and women are serving proudly in the military, this bill is the right recognition for their services and for putting their lives on the line. So I strongly recommend that all my colleagues support it.

I am pleased to rise today in favor of H.R. 1954, the Armed Forces Naturalization Act, which recognizes the contributions made to our country by the 38,000 legal permanent residents serving in our armed forces. These men and women dedicate their energies and put their lives on the line to defend the freedoms and liberties of this great nation. It is only appropriate that in exchange for their sacrifice, we remove barriers to obtaining citizenship.

They have earned this.

H.R. 1954 would allow immigrants serving in our armed forces to apply for citizenship after one year of service, down from three years under current law. The bill removes administrative barriers to the naturalization process by making citizenship applications, interviews, filings, oaths, ceremonies and other such proceedings available to members of the armed forces at our military bases, diplomatic missions, and consulates overseas. The bill also waives application fees. In both this Congress and the 107th Congress, I have been a proud original co-sponsor of legislation introduced by my colleague from Texas, Congressman MARTIN FROST, known as the Citizenship for America's Troops Act, that sought to make these changes. I am pleased that they are part of the bill we are voting on today.

The bill also allows spouses, children and parents of naturalized soldiers who die in the line of duty to apply for permanent residency status. Additionally, this bill recognizes the important support that spouses provide to our soldiers by waiving the three-year residency requirement to apply for citizenship. These provisions recognize the important role that family plays and ensures that when their loved one dies in the line of duty, they are not made to suffer even more by having their residency status placed in jeopardy.

Despite these very good provisions, I must express my disappointment that the bill does nothing for immediate family members who are undocumented. I was an original cosponsor of legislation introduced by my colleague HILDA SOLIS, which would have provided immigration protections to immediate family members of soldiers who die in the line of duty, regardless of their immigration status. A father does not cease to be a father, and a wife does cease to be a wife, just because of the immigration papers they may or may not have.

I am further disappointed, startled in fact, that the bill actually expands existing rules allowing for citizenship to be revoked from naturalized servicemembers who are discharged under other than honorable conditions. The major problem here is that there are other forms of discharge that are not termed honorable, but which are not necessarily dishonorable. The language in the bill would actually punish someone who is discharged for medical reasons. For example, someone who serves in our armed forces, applies for and obtains citizenship, continues to serve for four years and then has to be discharged for a medical condition, would have his or her citizenship revoked. I cannot believe that the authors of this bill intended for that to be the case. I strongly urge my colleagues to resolve this in conference.

On balance, Mr. Speaker, this legislation, H.R. 1954, demonstrates the appreciation of a grateful nation to the thousands of people who come to this country from around the world to contribute to the freedom, strength and prosperity of America. I would like to thank my colleagues, Representatives SOLIS and FROST, for all their work in championing this issue, and most of all, I would like to thank the members of our armed services for the sacrifices they make on our behalf. I urge all my colleagues to vote yes on H.R. 1954.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1954 is a bill that has almost universal support in this House because it is a compromise. The Committee on the Judiciary on legislation relating to the Immigration and Naturalization Act has deep divisions.

The reason this bill is so strongly supported is twofold. One is that there is a demonstrated need to provide a naturalization road and the immigration benefits to those who have served our country, their immediate families and their survivors. Everybody agrees that this is part of the immigration law that needs to be changed and updated, particularly in light of those who have paid the ultimate price in defending America's freedoms in Iraq.

But I would like to give a word of caution, because this bill is a compromise. Everybody with an oar in the water and a differing viewpoint gave up something to ease the passage of this bill. If we allow the bill to emphasize the divisions that we have in the Congress and in the Committee on the Judiciary on immigration law and in the conference, then it is not going to have an easy road from here. But what we have given up to make H.R. 1954 an agreed-upon bill that will get an overwhelming vote in a few minutes should continue to be given up in the conference so we can speedily turn this bill into law and give the benefits to the people that we want to give the benefits to. As we proceed in this, I urge all of my colleagues to keep that in mind.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 1954, a bill that honors all of the men and women who place themselves in harms way for the sake of this Nation. America is composed of individuals from across the globe—people who come from various nations all united by their strong belief in the ideals for which America stands. Some of those who have come to the United States are brave enough and committed enough to serve in the military defending our country. It is partly because of individuals like these that our democracy maintains its strength in a sometimes perilous world. Accordingly, our democracy should respect their sacrifice. A year's honorable service in the Armed Forces of the United States, especially in this time of heightened security, is surely ample proof that such a person deserves the full rights of United States Citizenship. Additionally, if such a person loses his or her life so serving, family members should not be forced to leave America—on the contrary, they should be embraced by this Nation quickly and expeditiously. Current laws are not adequate on either front: required service time is unnecessarily long, and surviving family members must undergo too much to gain immigration benefits.

I am proud to be the cosponsor of similar measures that have been introduced by my colleagues Mr. FROST and Ms. SOLIS. Those two bills, and the one before this Chamber today, uphold the spirit of honor and respect that must be accorded to any individual willing to commit themselves to the defense of our Nation. Such individuals come from New Jersey, Texas, and California, but they also come from Poland, India, and Mexico. Over 37,000 of the 1.4 million active duty members of the Armed Forces are noncitizens—they and their families deserve the right and honor of citizenship in the United States. I applaud their service, and I eagerly welcome these men and women as fellow citizens.

Mr. CONYERS. Mr. Speaker, since this Nation's founding, more than 55 million immigrants from every continent have settled in the United States. Many of these immigrants have not only payed taxes and adopted the American way of life, they have honorably defended our Nation as members of the military.

During the recent war with Iraq, immigrant soldiers have continued to defend our country in large numbers, and tragically 10 noncitizens have lost their lives. It is important that we honor the extraordinary contributions these immigrants make to the Armed Forces by facilitating their naturalization and establishing important protections for their families if they are killed in action. Surely, if these immigrants are willing to risk their lives for our country, the least we can do is grant them the citizenship they so greatly desire.

Unfortunately, the rigidness of current immigrant laws often prevents individuals like these soldiers, who are truly deserving, to be granted citizenship. In particular, a noncitizen who is honorably serving in our military must leave his post abroad and return to the United States to file a naturalization application, be interviewed for the application, and to take the oath of citizenship. Consequently, soldiers serving abroad must spend prohibitive amounts of money in order to become citizens of the country they are defending.

And yet even more shocking is the scenario in which a citizen or noncitizen soldier is killed while serving in our military; current law would void most pending applications for immigration benefits made by the soldier on behalf of his immediate family. This is hardly a way to show our thanks to families that have sacrificed their loved ones in the name of our country.

H.R. 1954, the Armed Forces Naturalization Act of 2003, reduces the 3 year military requirement to naturalize to 1 year, waives fees for naturalization petitions, and allows surviving family members of citizens and posthumous granted citizens to apply for immigration benefits. These substantive changes to immigration law will surely benefit those defending our Nation and will ensure that immigrant families of our fallen soldiers are not penalized for their great sacrifice to our nation.

This is not a perfect bill. For example, it does not go as far as I would have liked in helping the families of deceased servicemen and women obtain green cards. The result is that spouses, children, and parents of a soldier killed in combat who have been rendered removable or ineligible for immigration benefits by the 1996 immigration laws will be precluded from enjoying the benefits of this bill. This means that we will be deporting many of the spouses, children and parents of soldiers who have given their lives serving our country.

I am also concerned with two amendments added to this legislation in the Judiciary Committee. The first amendment will require revocation of citizenship granted through 1 year of military service if the soldier is discharged under less than honorable terms within his first 5 years of military service. This bill was drafted with the intent to reward those who have taken a great risk and made great sacrifice for our country. However, allowing for the revocation of naturalization for less than honorable discharge would punish Service Members in a way that does not currently exist for soldiers applying for naturalization pursuant to completion of service during a time of peace.

The second amendment added to the bill in the Judiciary Committee will prevent parents of citizen soldiers and the parents of soldiers granted citizenship posthumously from obtaining immigration benefits if they are out of the country at the time that their child is killed in combat. The amendment is drafted in such a broad manner that it would exclude from benefits even parents who have not violated any immigration laws, including parents who are waiting abroad for a pending petition filed by their citizen child to be approved. Rather than honoring the sacrifice made by the fallen soldier and his parents, this amendment arbitrarily picks out the category of parents and adds a new requirement that would not have existed had the soldier lived and applied for benefits on behalf of his parents.

H.R. 1954 is a positive step in loosening the rigid restrictions immigration law has imposed on immigrant soldiers and their families. H.R. 1954 would: (a) Expedite the naturalization process by allowing military members to naturalize after serving 1 year in the military, waive naturalization fees, and allow naturalization interviews and oath ceremonies to take place abroad; (b) waive posthumous citizenship fees; and (c) ensure the ability of lawful permanent resident spouses, parents legally present in the United States, and unmarried children of citizen or posthumous granted citizen soldiers killed as a result of military service to self petition for immigration benefits or continue to pursue already filed petitions as if the U.S. citizen had not died. These substantive changes to immigration law will benefit those defending our Nation and will help ensure that many immigrant families of our fallen soldiers are not penalized for their great sacrifice. I am disappointed, however, that the bill passed by the committee is not more generous in addressing the unique needs of immigrant families and, in some cases, makes existing law worse.

More than 37,000 noncitizen soldiers are currently serving on active duty in the U.S. Armed Forces and some of the first U.S. casualties in the current war in Iraq were noncitizens. Unfortunately, the rigidness of current immigration laws often prevents individuals like these soldiers, who are truly deserving, to be granted citizenship. In particular, a noncitizen who is honorably serving in our military must leave his post abroad and return to the United States to file a naturalization application, be interviewed for the application, and to take the oath of citizenship. Consequently, soldiers serving abroad must spend prohibitive amounts of money in order to become citizens of the country they are defending. And yet even more shocking is the scenario in which a citizen or noncitizen soldier is killed while serving in our military; current law would void most pending applications for immigration benefits made by the soldier on behalf of his immediate family.

H.R. 1954 makes many meaningful improvements to existing law. However, I would have preferred that the committee go much further in assisting the immigrant families of our fallen soldiers. One of the unjust consequences of the 1996 immigration laws is that many individuals in the U.S. became ineligible for permanent residence due to a prior unlawful entry or a minor scrape with the law many years prior. The result is that spouses, children, and parents of a soldier killed in combat who have been rendered removable or ineligible for immigration benefits by the 1996 laws will be precluded from enjoying the benefits of this bill. This means that we will be deporting many of the spouses, children and parents of soldiers who have given their lives serving our country. In response, Reps. HOWARD BERMAN and LINDA SÁNCHEZ offered an amendment, defeated by a party line vote, that would have waived certain documentation requirements, and authorized the Department of Homeland Security, on a discretionary basis, to waive categories of inadmissibility for spouses, children, and parents of soldiers killed in service to the military. This proposal would have balanced the goal of honoring the sacrifice these families have made with our duty to national security.

I further believe that this bill does not go far enough in extending immigration benefits to all noncitizens serving the U.S. military, including the Selected Reservists. Current law grants the President authority to designate by Executive order a period of military hostilities that would trigger immediate naturalization eligibility for active duty members of the Armed Forces. Unlike traditional members of the Armed Forces, Selected Reservists are not eligible for immediate citizenship under this law if they do not serve in combat during times of hostility. Rep. ZOE LOFGREN offered an amendment, defeated by voice vote, that would have applied immediate naturalization benefits to Select Reservists during times of hostility regardless of whether they serve in combat. This amendment would have addressed the fact that the rationale for providing benefits to members of the Armed Forces and members of the Select Reserves is nearly identical because during times of hostility they both must be ready to leave family, friends, and familiar surroundings at a moment's notice and potentially die for their country.

I take great issue with two amendments added to this legislation by Rep. STEVE KING. The first amendment will require revocation of citizenship granted through 1 year of military service if the soldier is discharged under less than honorable terms. This bill was drafted with the intent to reward those who have taken a great risk and made great sacrifice for our country. However, allowing for the revocation of naturalization for less than honorable discharge would punish Service Members in a way that does not currently exist for soldiers applying for naturalization pursuant to completion of service during a time of peace. I understand Rep. KING's desire to make the bill parallel to current law in 329(c) of the INA, but he overlooks that 329(c) applies exclusively to a special case in which members of the Armed Forces are eligible for immediate naturalization during a time of hostility without the requirement of any prior service or commitment to the military. The provision added to H.R. 1954 would bestow conditional citizenship on all immigrants naturalized through a demonstrated commitment to military service and would create a perverse incentive for noncitizens not to join the military. Moreover, this language would allow military authorities to routinely make legal decisions that in effect would deprive a U.S. citizen of his or her citizenship. In some cases, these decisions would be based on conduct that would be completely lawful in civilian contexts, but is considered a military offense under the Uniform Code of Military Justice.

The second amendment added to the bill by Representative KING will prevent parents of citizen soldiers and the parent of soldiers granted citizenship posthumously from obtaining immigration benefits if they are out of the country at the time that their child is killed in combat. The amendment is drafted in such a broad manner that it would exclude from benefits even parents who have not violated any immigration laws, including parents who are waiting abroad for a pending petition filed by their citizen child to be approved and parents who lawfully reside in the United States, but have left the country temporarily at the time of their child's death. Rather than honoring the sacrifice made by the fallen soldier and his parents, this amendment arbitrarily picks out the category of parents and adds a new requirement that would not have existed had the soldier lived and applied for benefits on behalf of his parents.

I reiterate that the Armed Forces Naturalization Act of 2003 does not go far enough in assisting the immigrant families of our fallen soldiers. Moreover, amendments added to the bill in the Judiciary committee would punish noncitizen soldiers and their families, rather than reward them for their service and sacrifice, by creating a conditional class of citizenship and putting additional restrictions on immigrant parents of soldiers.

While this bill is not perfect, it does make many meaningful improvements to existing immigration law and takes a significant step help our soldiers and their families be granted the citizenship they so greatly desire. It is my hope that as this bill goes to conference will seriously consider the negative repercussions these two amendments will have on the people this bill intends to honor. It is for these reasons that I think we can all support this bill.

Mr. HONDA. Mr. Speaker, I rise today in support of H.R. 1954, legislation that I view as a good first step towards recognizing and rewarding the significant contributions made by immigrants who serve in our armed services.

Since our Nation's founding, immigrants have played a prominent role in defending our country. For example, I have introduced H.J. Res. 125, which grants honorary citizenship to all civil war soldiers of Asian descent as a symbolic gesture to correct the historical injustices they suffered.

But just as we endeavor to correct the mistakes of the past, we should remedy current laws that treat some members of our Armed Forces unfairly. That is why H.R. 1954 is so important and I am pleased it is on the floor today.

By passing this legislation, the House of Representatives will be begin to recognize the contributions of immigrant soldiers by providing them and their family members just immigration laws.

Again, I reiterate this is a good first step, but there is much more we can do to help make immigration laws more fair in this country.

Ms. LOFGREN. Mr. Speaker, I rise today in support of our troops who serve our Nation in both peace and war and to support their families who must endure the loneliness and fear of losing a loved one to uphold the strength of our Nation.

I support this bill that not only eases requirements for immigrant soldiers to become U.S. citizens, but also extends immigration benefits to surviving family members of soldiers who gave their lives to defend our Nation. I can't think of a better way to recognize the service of immigrant soldiers and honor the memory of those that have died fighting for their country, while also showing our appreciation to their families for their tremendous sacrifices.

Although the Armed Forces Naturalization Act does much to help immigrant soldiers and their families, we could and should have done more. And we tried, but the Republican majority, so intent on limiting immigration benefits, wouldn't even allow some mothers of soldiers killed in combat to legally remain in this country.

How about this Republican logic? When an immigrant proudly serves in the military and dies for the country, it is obvious that he or she has shown devotion to our country. What about the families of soldiers whom so proudly serve our Nation? If the mother of the soldier has overstayed her visa, she is excluded from the benefits of this bill.

How about this? Your son is killed in combat: but you are deported. How are you to put flowers on your son's grave? Republicans, so caught up in anti-immigrant philosophies, want to short-change them and limit their immigration benefits. What a shame.

There are 37,000 immigrants currently serving in our military and at least 10 who have been killed in recent combat. It is time for us to recognize and honor their service to our country by granting them full and complete citizenship that extends full immigration benefits to their families.

This bill is certainly a step in the right direction, but I know that if it wasn't for the Republican majority, we could have done more.

Mr. BEREUTER. Mr. Speaker, this Member rises in reluctant opposition to H.R. 1954, the Armed Forces Naturalization Act. Certainly, this Member has no objections to expediting citizenship for noncitizen members serving in U.S. armed services and supports efforts to provide appropriate incentives for a very small percentage of few noncitizens who meet established requirements to join our professional military forces. However, in granting citizenship to these qualified men and women, it is not necessary or desirable to also grant priority to their parents, spouses, and children. And it is certainly not appropriate to waive the requirement that such family members financially support themselves in the U.S. Unfortunately, provisions in H.R. 1954 would have that effect.

Through this bill, the spouses, children under the age of 21, and parents of men and women who have been granted citizenship based on their service in the U.S. Armed Forces and who have died in the line of duty would be authorized to seek permanent resident status on an expedited basis. Then, unlike other people seeking legal immigrant status, these family members would not be required to meet financial thresholds which indicate that they would not immediately be public charges.

Most of the American public is unaware of these provisions. Enacting such excessive inducements for joining the U.S. military is a step in the wrong direction, particularly if it results in this country increasingly depending upon what could come to be thought of and called foreign mercenaries to serve in the Armed Forces. This practice has too many similarities to the mercenary forces of the Roman Empire in its decline as Roman citizens themselves became unwilling to serve in the Roman legions. Imagine, too, the reactions of foreign nations that begin to see our forces as forces that serve to gain citizenship for themselves and their families.

Mr. Speaker, this Member encourages his colleagues to vote against H.R. 1954 and to push strenuously for changing this legislation before enactment.

Mr. ISSA. Mr. Speaker, I rise today to support H.R. 1954, the "Armed Forces Naturalization Act of 2003," a bill that helps the families of non-citizen military personnel killed in combat gain what their loved ones died defending—the rights and freedoms of Americans.

Camp Pendleton Marine Corps Base in my Congressional district is home to over 50,000 Marines. Many of these Marines were deployed to liberate Iraq from Saddam Hussein's oppressive regime. While many have returned to their families, some were not as fortunate. One of the Marines that died in Iraq was a non-citizen stationed at Camp Pendleton. I was told that he would receive posthumous citizenship—under current law, a strictly honorary award.

Posthumous citizenship is a hollow benefit for a fallen hero if his spouse and children are subsequently asked to leave the country he died defending. Existing immigration and naturalization law permits the President to award posthumous citizenship to non-citizens killed in any military hostility, but denies immigration benefits for their spouse and children. H.R. 1954 will honor the sacrifice of fallen heroes by allowing their spouses and children to enjoy the benefits and freedoms of the country they were fighting to defend, and would have eventually gained had their loved one not perished.

There are nearly 38,000 non-U.S. citizens serving in our nation's armed forces. These men and women are called upon to protect this nation. I want them to know that when they make the ultimate sacrifice for America their family will not face a cruel and unnecessary legal sanction. H.R. 1954 will allow surviving family members of military personnel, killed in defense of our freedom, to enjoy a real benefit from a posthumous grant of citizenship.

I thank you for the opportunity to speak on this bill. I urge all my colleagues to vote in favor of this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1954, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## PROVIDING FOR CONSIDERATION OF H.R. 760, PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 257 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 257

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 760) to prohibit the procedure commonly known as partial-birth abortion. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Greenwood of Pennsylvania or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 760, it shall be in order to take from the Speaker's table S. 3 and to consider the Senate bill in the House. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 760 as passed by the House. All points of order against that motion are waived.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, on Tuesday the Committee on Rules met and granted a modified closed rule for the partial-birth abortion ban of 2003. This rule makes in order an amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Maryland (Mr. HOYER). While I personally oppose this amendment, the Committee on Rules is allowing for fair and open debate on this amendment.

H.R. 760 makes it illegal in the United States for a physician to perform a partial-birth abortion. As an original cosponsor of this legislation. I am very pleased to see it finally reach the floor of the House of Representatives. I also believe that President Bush deserves the opportunity to put an end to this horrific act of human violence by signing this legislation into law. I also want to thank my colleagues on the other side of the Rotunda for passing this important legislation.

I must tell my colleagues as a mother and grandmother, it is astonishing to me that this is still even legal in the United States today, but it is. And as we will no doubt hear on the floor today, it is practiced all too often in this country.

Partial-birth abortion is a procedure where a pregnant woman's cervix is forcefully dilated over a 3-day time period, and the vast majority of partial-birth abortions are performed on healthy babies and healthy mothers.

Although language banning this procedure has been struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court's concerns. The five-Justice majority in Stenberg v. Carhart thought that Nebraska's definition of "partial-birth abortion" was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed, but also the more common dilation and evacuation, or D&E method.

H.R. 760 defines partial-birth abortion as an abortion in which "the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus."

The tighter definition not only clarifies the procedure so that the Court will not reject it; it also draws attention to the violence of partial-birth abortion by describing how far out the baby can be. I am pleased that we are bringing this to the floor again today.

We have changed the bill, adding findings of fact to overcome constitutional barriers; and I am confident that it will survive judicial review.

Mr. Speaker, the American people want this bill in overwhelming numbers, believing in their hearts that we as a Nation are better than this. We are a better people. To that end I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume and thank the gentlewoman for yielding me the customary 30 minutes.

Mr. Speaker, here we are again, considering the rule for the same unconstitutional bill. I must voice my grave concern with H.R. 760, the so-called Partial-Birth Abortion Ban Act of 2003. Today The New York Times says in an editorial, "Partial Birth Mendacity," which means lie, that although promoted as narrowly focused on a single late-term abortion procedure, the measure's wording adds up to a sweeping prohibition that would, in effect, overturn Roe v. Wade by criminalizing the most common procedures used after the first trimester, but well before fetal viability.

My constituents are facing unemployment. They are losing out on child tax credit. They need more funding for our first responders, they need the promised health care for our veterans; but here we are debating a rule on legislation that violates fundamental constitutional rights and threatens women's health.

Mr. Speaker, 3 years ago the United States Supreme Court struck down similar legislation that banned safe and effective abortion procedures. They confirmed again a woman's reproductive rights as recognized in Roe v. Wade and reaffirmed 2 decades later in Planned Parenthood of Southeastern Pennsylvania v. Casey.

H.R. 760 suffers from the same constitutional flaws as the Nebraska statute thrown out by the Court. The ban on medical procedures is vague and overbroad, and it does not contain an exception from the procedure ban when a woman's health is threatened. And it goes so far as to give the father of the fetus the right to sue the woman or the doctor for money even if he has beaten his wife or rapes her or had threatened her life or has deserted her. How crazy is that?

Obstetricians and gynecologists say that the term "partial-birth abortion" is not a medical term, and they are right. It is purely a political creation. The definition of the procedure that H.R. 760 seeks to ban is written in nonmedical language that could cover at least two different procedures, one of which is the most commonly used abortion procedure. This vague and overbroad definition, which is probably not by accident, would create so much confusion in the medical community that doctors would not know which medical procedures might land them in jail with a huge fine. We should not make our doctors into criminals.

The American College of Obstetricians and Gynecologists, the doctors who perform these procedures, say that the procedure the bill seeks to proscribe may be the best or most appropriate procedure in a particular circumstance to save the life or to preserve the health of the woman and only the physician in consultation with the patient and based on her circumstances can make this decision. The Congress of the United States has never, ever outlawed a medical procedure. What are we doing here, and what in the name of God is next?

Medical professionals and every Federal court in the country that has heard this issue, except for one, have agreed that these are safe procedures and may be the safest procedures in some circumstances; but we are going to take that away. And who will suffer for that? The American women.

Physicians and not politicians and pundits should provide women and their families with medical advice. I want a doctor to treat my daughters and granddaughters. Women and their families, not the government, should make these difficult, private, medical decisions; and if that is not the case, then every time a procedure is done, there should be a Member of Congress standing at the door okaying it.

The bill would deprive doctors of the ability to care for their patients by outlawing safe and effective medical procedures, something we have never done. We assume that once they have gone through medical school, done their internship and their residencies, they ought to know what they are doing. Congress would subject women to even more dangerous medical procedures and put their health and lives in jeopardy. Everybody deserves the best medical care based on the circumstances of their particular situation.

□ 1545

Instead of making abortion more difficult and dangerous for women, we should pass legislation that helps reduce the need for abortion by reducing the number of unintended pregnancies. That is the most important thing that we could do; and by increasing funding for title X, to require the insurance coverage of contraception, which we will not do, making emergency contraception more available, which we are afraid of, and increasing research for other contraceptive methods. Indeed, I am not at all sure that after this bill is passed and signed by the President that the sale of contraceptives will not be in danger.

H.R. 760 brazenly seeks to sidestep the Constitution. The Supreme Court has plainly determined that the Constitution requires an exception when the woman's health is endangered. Pages and pages of congressional findings do not change or fulfill constitutional demands or protect women's health.

The authors of this bill hope that the Federal courts, most especially the United States Supreme Court, will defer to these congressional findings and waive this constitutional requirement, but the Court has unequivocally said that the power to interpret the Constitution in a case or controversy remains in the judiciary, and the Court has said that simply because Congress makes a conclusion does not, in the Court's opinion, make it true.

Just because the findings in the bill assert that there is no medical reason for a health exception does not make that true and it does not change the demand of the Constitution. As Ruth Marcus, writing in the Washington Post, noted today, "Justice Clarence Thomas wrote in a different context that if Congress could make a statute unconstitutional simply by finding that black is white or freedom is slavery, judicial review would be an elaborate farce." Think about that for a moment. That if Congress could make a statute constitutional simply by finding that black is white and we were to determine that, or that freedom and slavery are not different, then why would we have judicial review?

So why are we today considering a rule for this unconstitutional bill? Richard Posner, chief judge of the U.S. Court of Appeals for the Seventh Circuit, who was appointed by President Reagan, gave us the answer. He wrote that proponents of similar legislation "are concerned with making a statement in an ongoing war for public opinion, though an incidental effect of that opinion may be to discourage late-term abortions. The statement is that fetal life is more valuable than women's health."

Judge Posner went on to say that if a statute burdens constitutional rights and all that can be said on its behalf is that it is the vehicle that legislators have chosen for expressing their hostility to those rights, then the burden is undue. Those are very important words, Mr. Speaker. Those are words from jurists and people who know whereof they speak.

Again Ruth Marcus' article points out that the political agenda is clear. Ken Connor, who is the president of the conservative Family Research Council, spelled it out in an e-mail after the Senate voted on a measure similar to this last March. "With this bill," he wrote, "we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade.

As the mother of three daughters, a grandmother and a longtime advocate for women's health, I strongly believe that this bill is a threat to women's health and an attempt to whittle away at a woman's constitutional right to choose.

I urge my colleagues to oppose this rule and to oppose H.R. 760.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank the gentlewoman for yielding me this time.

Mr. Speaker, partial-birth abortion is a gruesome and inhumane procedure and it is a grave attack against human dignity and justice. This practice must be banned. The bill before us seeks to do just that. Life is a gift, and it must be embraced and respected at all stages.

In a country which espouses the importance of protecting the inherent rights of every person, partial-birth abortion denies the rights of our most innocent and vulnerable members, our children. We as legislators must strive to uphold the truths upon which our great Nation was founded, especially that every individual is entitled to life, liberty and the pursuit of happiness.

Partial-birth abortion is not a sign that women are "free to choose." It is a sign that women have been abandoned, that they have not had the support and care that they so desperately need.

There is increasing evidence, Mr. Speaker, that abortion causes extreme emotional and psychological damage. We must strive every day to ensure that each and every person is guaranteed the most basic of human rights, the right to life. Women deserve better than to endure the psychological, the physical and the emotional pain and suffering associated with partial-birth abortion, and children deserve the chance to live.

It is time for partial-birth abortion to stop. We must have the courage and the strength to fight against one of the greatest of all human rights violations, partial-birth abortion.

I urge my colleagues to vote in favor of H.R. 760, the partial-birth abortion ban. A vote for the ban is a vote for life.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, this bill is unconstitutional.

The bill before us will not prohibit any abortions. Its supporters claim it prohibits a procedure, but the abortion will still take place involving another procedure, and I will not inflame the debate by describing in detail the alternative procedures that may be used. But I will point out that Nebraska had a law banning the same procedure. Nearly 3 years ago the United States Supreme Court held in Stenberg v. Carhart that that law was unconstitutional.

The Supreme Court said five times in its majority opinion and other times in concurring opinions that in order to make a partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedure, quote, "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." That is what five Supreme Court justices said was necessary to make the bill constitutional. All five are still on the Supreme Court.

In that case, the Court said:

The question before us is whether Nebraska's statute making criminal the performance of a partial-birth abortion violates the Federal Constitution as interpreted in Planned Parenthood v. Casey and Roe v. Wade. We conclude that it does for at least two independent reasons.

They said the first reason was that the law lacked an exception for the preservation of the health of the mother. The Stenberg court reminded us what a long line of cases has held, that, and they say, "subsequent to viability, the State may, if it chooses, regulate and even proscribe abortion," and they put this in italics, "except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."

It goes on to say, in quotes, in case we did not understand the italics, that the governing standard requires an exception, quote, "where it is necessary in the appropriate medical judgment for the preservation of the life or health of the mother."

The Court continues talking about the health exception by saying and mentions another quote:

Justice Thomas said that "The cases just cited limit this principle to situations where the pregnancy itself creates a threat to health." He is wrong. The cases cited, reaffirmed in Casey, recognize that a State cannot subject women's health to significant health risks both in that context and also where State regulations force women to use riskier methods of abortion. Our cases have repeatedly invalidated statutes that in the process of regulating the methods of abortion imposed significant health risks. They make it clear that the risk to a woman's health is the same whether it happens to arise from regulating a particular method of abortion or from barring abortions entirely.

Finally, the Court says:

Nebraska has not convinced us that a health exception is, quote, "never medically necessary to preserve the health of women." Rather, a statute that altogether forbids the partial-birth abortion creates a significant health risk. The statute subsequently must contain a health exception.

And if we did not get it, the Court reiterates again:

"By no means must a State grant physicians unfettered discretion in their selection of methods. But where substantial medical authority supports the proposition that banning a particular method could endanger women's health, Casey requires the statute to include a health exception when the procedure is, quote, 'necessary in appropriate medical judgment for the preservation of the life or health of the mother.' Requiring such an exception in this case is no departure from Casey, but simply a straightforward application of its holding."

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law. The Supreme Court in one opinion said at least five times that a health exception must be included for the statute to be constitutional. Furthermore, they put the exact phrase to be used, "necessary, in appropriate medical judgment, for the preservation of the life or health of the mother" in italics and quotations.

The majority proposes that we consider a bill without this unqualified health exception. The Court made it clear that such a health exception is required and, therefore, this rule that requires us to consider a bill without that exception ought not pass.

Mr. Speaker, I ask the House to defeat the rule so that we can have a bill considered with a health exception that might possibly be constitutional.

Mr. Speaker, I include for the Record a Statement of Policy from the American College of Obstetricians and Gynecologists which says that this procedure may be necessary in some circumstances.

### The American College of Obstetricians and Gynecologists Statement of Policy on Abortion

The following statement in the American College of Obstetricians and Gynecologists' (ACOG) general policy related to abortion, with specific reference to the procedure referred to as "intact dilatation and extraction" (intact D & X).

1. The abortion debate in this country is marked by serious moral pluralism. Different positions in the debate represent different but important values. The diversity of beliefs should be respected.

2. ACOG recognizes that the issue of support of or opposition to abortion is a matter of profound moral conviction to its members. ACOG, therefore, respects the need and responsibility of its members to determine their individual positions based on personal values or beliefs.

3. Termination of pregnancy before viability is a medical matter between the patient and physician, subject to the physician's clinical judgment, the patient's informed consent and the availability of appropriate facilities.

4. The need for abortions, other than those indicated by serious fetal anomalies or conditions which threaten maternal welfare, represents failures in the social environment and the educational system.

The most effective way to reduce the number of abortions is to prevent unwanted and unintended pregnancies. This can be accomplished by open and honest education, beginning in the home, religious institutions and the primary schools. This education should stress the biology of reproduction and the responsibilities involved by boys, girls, men and women in creating life and the desirability of delaying pregnancies until circumstances are appropriate and pregnancies are planned.

In addition, everyone should be made aware of the dangers of sexually transmitted diseases and the means of protecting each other from their transmission. To accomplish these aims, support of the community and the school system is essential.

The medical curriculum should be expanded to include a focus on the components of reproductive biology which pertain to conception control. Physicians should be encouraged to apply these principles in their own practices and to support them at the community level.

Society also has a responsibility to support research leading to improved methods of contraception for men and women.

5. Informed consent is an expression of respect for the patient as a person; it particularly respects a patient's moral right to bodily integrity, to self-determination regarding sexuality and reproductive capacities, and to the support of the patient's freedom within caring relationships.

A pregnant women should be fully informed in a balanced manner about all options, including raising the child herself, placing the child for adoption, and abortion. The information conveyed should be appropriate to the duration of the pregnancy. The professional should make every effort to avoid introducing personal bias.

6. ACOG supports access to care for all individuals, irrespective of financial status, and supports the availability of all reproductive options. ACOG opposes unnecessary regulations that limit or delay access to care.

7. If abortion is to be performed, it should be performed safely and as early as possible.

8. ACOG opposes the harassment of abortion providers and patients.

9. ACOG strongly supports those activities which prevent unintended pregnancy.

The College continues to affirm the legal right of a woman to obtain an abortion prior to fetal viability. ACOG is opposed to abortion of the healthy fetus that has attained viability in a healthy woman. Viability is the capacity of the fetus to survive outside the mother's uterus. Whether or not this capacity exists is a medical determination, may vary with each pregnancy and is a matter for the judgment of the responsible attending physician.

### INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning "partial birth abortion," and "brain sucking abortions," has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

ACOG believes the intent of such legislative proposals is to prohibit a procedure referred to as "intact dilatation and extraction" (Intact D & X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;

2. instrumental conversion of the fetus to a footling breech;

3. breech extraction of the body excepting the head; and

4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X. Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 18 weeks, intact D & X is one method of terminating a pregnancy.

The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother.

Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Approval by the Executive Board. General policy: January 1993. Reaffirmed and revised July 1997. Intact D & X statement: January 1997. Combined: and reaffirmed September 2000.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, today we are considering, as has already been said, the Partial-Birth Abortion Ban Act. I have joined with 161 Members in cosponsoring this legislation, and I commend the gentleman from Ohio (Mr. CHABOT) for bringing forward this legislation. This is the fifth Congress during which this debate has taken place, four of which I have been a part of, and I believe an overwhelming majority of Americans hope this will be the last and that we will pass this bill and have it sent to the President and signed into law.

I know that it has been repeated time and time again here on the floor of the House, but this afternoon I think it is important to remind my colleagues of the details of this deplorable procedure. Partial-birth abortion is a procedure in which the mother's cervix is forcibly dilated over a 3-day period. On the third day the child is pulled feet first through the birth canal until his or her entire body, except for the head, is outside the womb. While the fetus is stuck in this position, dangling partly out of the mother's body and just a few inches from taking its first breath, the physician inserts and opens scissors into the base of the baby's skull, creating a hole in the baby's head.

The physician then either crushes the baby's skull with instruments or suctions out the baby's brain. With the head now small enough to slip through the mother's cervix, the physician pulls the now-lifeless body the rest of the way out of its mother, and discards the baby's body as medical waste.

Today you will hear some supporters of partial-birth abortion claim this procedure is a critical alternative that must remain legal to protect women's health. However, the medical profession offers no support for such claims.

I urge my colleagues to vote "yes" on this bill to protect the most vulnerable in our Nation.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise today in opposition to this rule. The proponents of the bill claim that it addresses partial-birth abortion, but I think the American people deserve to know what we are really voting on today. We are voting to limit a woman's access to safe and accepted medical procedures, restrictions that will subject a woman to unnecessary risks when she exercises her reproductive right.

We should be promoting a woman's health. We should not be endangering it. We should be debating concrete measures to reduce the number of unintended pregnancies and to ensure that all pregnant women have affordable access to the care they need to deliver healthy babies. Instead, here we are spending our time debating legislation that the Supreme Court has already found to be unconstitutional.

The Supreme Court has clearly recognized the need for protecting the health of the mother. Yet the anti-choice lobby has chosen to forge ahead in their attempts to politicize women's health and chip away at our constitutional rights.

As terrible as it is to acknowledge, things can go tragically wrong in the final stages of pregnancy, and in these unimaginable circumstances, a woman should not be required to risk her health and future fertility by continuing a dangerous pregnancy. I am not a doctor, so I am not going to stand here and pretend that I have the necessary expertise to make medical decisions for my constituents. Instead, I want every woman in my district and every woman in the Nation to have access to whatever procedure she and her physician feel is safest and the most appropriate way for her to settle and handle the situation.

Let us be honest. The debate today is not about aborting viable, healthy children. Few late-term abortions occur in the first place.

□ 1600

Those that do are tragically necessary to save the life or health of the mother. So this debate is actually about limiting a woman's right to choose by restricting access to constitutionally protected medical procedures.

The American people deserve to know what we are really doing here today. We are really desperately trying to take away reproductive choice of every woman in America. I urge my colleagues, do not let this happen. Oppose the rule, and oppose H.R. 760.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I am pro-life. I do not apologize for it. I do not demonize people who hold a different view; but I would say respectfully to the previous speaker, to the gentlewoman, that this really is not a debate about a woman's right to choose or the right to life. It does not really find itself divided in that way. Survey after survey proves the point.

Mr. Speaker, I rise in strong support of the rule and the underlying ban on partial-birth abortion because this is just an antiseptic term for a barbaric procedure. As the late Daniel Patrick Moynihan, a Democratic Senator, said, memorably, partial-birth abortion is "near infanticide."

We can have arguments about this bill, about its constitutionality. The gentleman from Ohio (Chairman CHABOT) has gone to great lengths to improve this legislation, and we are confident that it is superior to the Nebraska bill that failed constitutional muster.

We can argue the medicine, and we can argue the facts; but the one thing that is inarguable is that this practice is inherently, morally wrong. What is not arguable is that the practice of delivering a newborn child alive, feet first, holding it in the birth canal squirming while the back of its head is stabbed with a suction device is evil. That, Mr. Speaker, is not arguable.

Today we will follow our colleagues at the other end of this building to take one more step to render that practice unlawful and make that which virtually every American knows in his heart to be evil and morally wrong also illegal in America.

Justice has always been defined in this Nation and every society by how they deal with the innocent and those who do them harm. Of the innocent and defenseless we are urged to do what we can for the least of these. Banning partial-birth abortion is the least we can do for the least of these.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 15 seconds just to say to the previous speaker that we know what the agenda is. It was pointed out today. Kent Connor, the president of the Conservative Family Research Council spelled it out. He said, "With this bill we will dismantle, brick by brick, Roe v. Wade."

I hope that all of my colleagues are listening in the House, because this may be the last vote we will have on choice.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in opposition to this rule and to the underlying bill.

For 30 years, women in this country have had the right to make reproductive choices over their bodies. H.R. 760 is a horrifying attempt to seize those hard-earned rights away from women. What this legislation claims to do is ban a medical procedure used in late term pregnancies, but it does not. Instead, this bill is drafted in such a way as to effectively ban a woman's right to choose at any point in her pregnancy.

Let us be clear: this bill opens the door to outlawing all abortions, regardless of the circumstances. Furthermore, this bill makes no exception for cases when a woman's health is in grave danger or when carrying a no-longer viable fetus to term would jeopardize a woman's ability to conceive children in the future.

Equally disturbing is the fact that this bill is blatantly unconstitutional. The Supreme Court has consistently ruled that, when dealing with restriction on reproductive procedures, an exception must always be made to protect both the life and the health of the mother.

I cannot support a blatantly unconstitutional bill that tells women that their health or future reproductive health must be sacrificed, nor can I support a bill that has a clear ulterior motive of banning a woman's right to make choices over her own body.

I am pro-choice and believe that the government should stay out of people's private, personal decisions. I will protect a woman's right to choose, and so I will vote against this unconstitutional, anti-woman's rights bill. I strongly urge my colleagues to do the same and to not slam the door on a fundamental right that women have had in this country for 30 years.

I urge my colleagues to vote "no" on the rule and to vote "no" on H.R. 760.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER of Ohio. Mr. Speaker, I rise to speak in support of this rule and this bill. I am from Dayton, Ohio; and this bill is incredibly important to the people of Ohio and my district, and as a result, from our experience, I believe for the people of this country.

Ohio passed its ban on this horrific procedure known as partial-birth abortion because the people of Ohio know how inhumane and how unsafe the practice is. In my district, in Dayton, Ohio, the Women's Medical Plus Center of Dayton has performed this horrific procedure, despite the fact that the facility is not properly licensed by the

Ohio Department of Health. It has nothing to do with women's health; it has nothing to do with Roe v. Wade. It has to do with late-term abortions and killing viable children.

The State Health Department attempted to close the Women's Medical Plus Center of Dayton, but has been unsuccessful. This bill is an important first step in protecting women's health from this center.

A woman 5 months pregnant came to the Women's Medical Plus Center in Dayton, Ohio, to receive a partial-birth abortion. During the 3 days it takes to have the procedure, she began to have stomach pains and was rushed to a nearby hospital. Within minutes, she was giving birth. A medical technician pointed out that the child was alive, but apparently the chances of survival from the procedure were slim. After 3 hours and 8 minutes, this baby died. The community named the baby Hope. Hope was a person, a child, a baby, that fought to retain the life that others were seeking to end.

Just 6 months after Baby Hope died, another baby in the middle of this 3-day abortion procedure was born alive in the Dayton, Ohio, hospital, when her mother went into labor before the abortion could be completed. The woman was believed to be 26 weeks pregnant. This time, however, despite the massive trauma of the baby's environment, a miracle occurred. By grace, this little baby survived, and so she is now called by the community Grace.

I am appalled by the fact that these heinous partial-birth abortion attempts occur. Our local paper has indicated most are performed on healthy women, that most are performed on healthy fetuses.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am always dismayed by the fact that these fetuses are described as "viable." That is one of the saddest things in the world.

I have talked to parents who had this procedure, babies who were in utero with their brains on the outside, with no lungs, no possibility of living. Always the notion is given if they were just allowed not to go through that procedure, they would get down and almost run around the room.

It is not true. It is not true. The parents who have to go through this are heartbroken over it, but it is the way they can have further children. The American College of Obstetricians and Gynecologists who perform these procedures say it may be the best or most appropriate procedure in a particular circumstance.

What if your wife or your daughter is in a particular circumstance, and you had voted to outlaw the procedure that would be the best for her future and her life and maybe even save her life? We have no right to do that, Mr. Speaker, no right at all.

Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, one of my fundamental principles is that government not interfere with the basic freedoms of our families, and a basic freedom for the health of women includes reproductive health choices. This legislation threatens that freedom by inappropriately intervening in the decisions of patients and their doctors.

Late-term abortions are, as has been demonstrated time and again, accepted medical practice that at times is the only procedure available to protect a woman's life and her ability to safely have a healthy baby in the future.

Years ago, when we first started debating this legislation on the floor of this House, I was struck that while proponents try to horrify people, I was indeed struck by the real cases of real families that would be devastated by this amendment, as was pointed out by the gentlewoman from New York.

This legislation further is part of an insidious ongoing assault to erode not just reproductive freedoms, but perpetuate a trend as shocking as it is unfortunate of some in this Congress, imposing their theology on our citizens, regardless of other people's own strongly held beliefs and individual needs.

Only weeks ago, this Congress, because of a theological clash with science, voted to make it illegal to use potentially life-saving therapies to help with Alzheimer's, Parkinson's, and other degenerative or traumatic diseases, leaving people crippled and dying. The vote was not just to deny scientific research here, but deny access to medicines developed anywhere else. They would make our loved ones suffer in their zeal to make their point.

People who oppose abortion should not have one. Nothing would make me happier than for every American woman to have the knowledge, the well-being, the medical care and the good fortune so that there would never have to be another abortion. But until such a day comes, it is wrong to prevent a woman's doctor from offering professional skills so that she and her family can determine the safest and most appropriate medical care for their family.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I rise today in the defense of the most defenseless population in our society, unborn children. Specifically, I rise to support the ban on partial-birth abortion.

This procedure is so horrific that no justification can be given for its continuation. In this procedure, a baby is brought through the birth canal and just as the baby is about to take his or her first breath, the child is killed. If this procedure were done just seconds later, it would be considered murder. I cannot think of a set of circumstances that would justify this brutal act. To allow the continuation of this practice is to devalue the sanctity of life itself.

We cannot allow children, almost born and completely viable outside of the womb, to be disposed of in such a heartless manner. Our society is based on the idea that every individual should have the right to life. I believe that right extends to those who are just about to enter our world.

I urge my colleagues to help defend those who cannot defend themselves.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I do not want to say anything contradictory to my friends on the other side who want to make sure these children are born; but if they are poor, they are not going to get the benefit of the tax rebate.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, the supporters of this measure are so determined to end safe and legal abortion in this country, no matter what the procedure, that they are unwilling to consider reasonable amendments that would protect the health and life of the woman and also would ensure the constitutionality of the underlying bill.

We will vote shortly to reject the Greenwood-Hoyer-Johnson amendment, which would permit the particular medical procedure banned by the bill if the physician determines that it is necessary to spare the woman from serious adverse health consequences. I understand from the hearings before the Committee on the Judiciary that supporters of the bill expressed concern that the term "health consequences" could very well allow the attending physician too much latitude.

But what is fascinating is that another amendment that was proposed by my friend and colleague, the gentleman from Massachusetts (Mr. FRANK), and myself that would have placed even more stringent restrictions on the use of this particular procedure, permitting it only to protect the mother from serious adverse physical, and let me repeat, physical health consequences, was not made in order.

This rule should be defeated, Mr. Speaker, because without the language that I just enumerated, this bill can put women at risk and threaten their daughters with prosecution if they care for them in the way they determine to be medically safe and sound.

□ 1615

Furthermore, without this language, the bill is susceptible to being considered by the Supreme Court and ruled unconstitutional again.

Now, why pass an extreme measure that would be found unconstitutional, rather than accept an amendment that would address its potential constitutional defects? Perhaps because we are not serious about enacting a bill into law that passes constitutional muster, using this bill, if you will, as a perennial political exercise.

But I would suggest that that is not what we ought to be about. Let me submit that this bill, as it is presently before this body, is a disturbing example of legislative excess.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, today I rise in support of the rule and of the Partial-Birth Abortion Ban Act of 2003.

For the last decade, thousands of healthy babies have been tortured and murdered every year through the procedure that is commonly known as partial-birth abortion. This procedure, which is routinely used during the fifth and sixth months of pregnancy, kills a baby just seconds before he or she takes that first breath outside the womb.

Mr. Speaker, this congressional body must act now to preserve the future of the next generation of this Nation, or this Nation will reap the horrible consequences of allowing partial-birth abortion to continue.

Some opponents advocate that this bill is in violation of a fundamental right to an abortion as stated in Roe v. Wade. Mr. Speaker, they are wrong. Numerous medical practitioners and the American Medical Association have testified in committee that partial-birth abortion is never medically necessary in any situation and is severely below the standard of good medical care. In fact, partial-birth abortion can threaten the mother's health or her ability to carry future children to term.

As representatives of the people of the United States, we are charged with the duty to protect the life and the liberty of the innocent, and passage of this bill is a prime example of fulfilling that duty.

I urge all my colleagues to remember this duty and vote for H.R. 760.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, this has become an all too familiar moment for me. You see, this is the ninth time in 8 years that the Republicans have pushed a ban on so-called partial-birth abortion. Yet I continue to be outraged every year at this leadership's self-righteous attempt to turn back the clock on women's constitutionally protected rights, back to the time when women had to leave the country or risk their lives in dangerous back-alley procedures.

The Supreme Court agrees that medical decisions should be made by the patient and her doctor and not by a bunch of politicians in Washington and their special interests. This is why several medical and health organizations, including the American College of OB-GYNs, oppose this legislation.

This legislation was wrong 8 years ago, and it is still wrong. It contains no exception whatsoever for women's health. It simply puts women's lives at risk. This is a perfect example of how mean-spirited and extreme this administration can be. This is a direct attack on Roe v. Wade. But more than that, it is another example in a long line of this administration's attacks on our rights.

I cannot stand by and watch as one by one this White House and the leadership in this House chew up our rights and spit them out. I stand today as a woman and as an American to fight for our constitutionally protected rights. I urge a "no" vote on the rule and a "no" vote on the underlying bill. Wake up, America.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, today I rise in support of H.R. 760, the Partial-Birth Abortion Ban Act of 2003.

It is true that the vast majority of partial-birth abortions are performed on healthy babies of healthy mothers. Dr. James McMahon, one of the founders of the partial-birth abortion method, in his June 15, 1995, testimony before the Committee on the Judiciary, testified that in a series of about 2,000 partial-birth abortions he performed, only 9 percent of those abortions were performed for maternal health reasons. Of that group, the most common reason given was depression.

It is clear many partial-birth abortion procedures occur for purely elective or frivolous reasons. He also cited that he performed partial-birth abortions on babies with no flaws whatsoever, even in the third trimester, many as late as 29 weeks, well into the seventh month of pregnancy.

No matter where we stand on the issue of life, most Americans agree that the brutal and horrific practice of partial-birth abortion must cease to exist. I urge my colleagues to pass H.R. 760 and to right the wrong that has existed for far too long.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I rise in support of the rule and in support of the Partial-Birth Abortion Ban Act of 2003.

We are told that most of these partial-birth abortions take place in the fifth and sixth month. This is the same time that I got to share in a most wonderful experience, one of the most wonderful experiences of my lifetime. My son and daughter-in-law invited me to come in for the ultrasound of my grandbaby.

It was incredible to me as the three of us were in that room and as the technician went about moving the instrument around on my daughter-in-law's abdomen what we saw inside of that womb. We saw the profile of a little boy, a profile that made us realize that he was going to look much like his father. We saw his little faithful heart beating away. We saw the little gestures that he made with his hands. As we looked at that little boy, my daughter-in-law and my son knew what they were going to name him. They were going to name him after his great grandfather. I left that and I went out and I bought the little outfit that that little boy would wear home from the hospital.

May we end this horrible practice in our Nation, where we are endowed by our Creator of certain inalienable rights: life, liberty, and the pursuit of happiness.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to say to my colleague, the gentlewoman from Colorado, how happy I am that she had that experience. I am even more happy that that experience showed that that fetus was in good shape and would be able to be born and to be healthy.

We are talking today about women who are faced with the fact that the fetus will not be. I think we are getting astray from that.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. LINDER), another member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I rise in support of the rule. Mr. Speaker, House Resolution 257 is a fair rule that will permit the full House to work its will on H.R. 760, the Partial-Birth Abortion Ban Act of 2003. This rule makes in order the Greenwood-Hoyer amendment to H.R. 760 and provides for one motion to recommit, with or without instructions.

Why is the House debating this legislation yet again? Unfortunately, the answer to that is those who oppose it have claimed that Congress has no power to legislate a ban on partial-birth abortion because of the Supreme Court's Stenberg v. Carhart ruling.

Many of these same House Members, however, had no objection to standing up to the Supreme Court on other issues. For example, 413 House Members voted to ban child pornography even after the Supreme Court held that the 1996 Child Pornography Prevention Act was unconstitutional.

Mr. Speaker, with respect to the underlying bill, any taking of innocent life is wrong. This procedure is demonstrably offensive and wrong. When a Nation puts people in jail and fines them for destroying the potential life of an unborn loggerhead turtle or bald eagle, and pays people for taking the potential life of unborn babies, that Nation has lost its way.

Mr. Speaker, I urge my colleagues to join me in voting for the rule and the underlying bill.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today in strong support of this rule and the Partial-Birth Abortion Ban Act. Since the first time I had an opportunity to vote for this ban, I have had a nephew born who is less than 2 pounds when he was born. You could hold him in the palm of your hand.

We have an estimated 3,000 to 5,000 healthy babies that are victims of this partial-birth abortion each year, many of them larger than my nephew, who lives today. In a country founded on the principle of respect for the dignity of life, this is deplorable and must be stopped.

Doctors agree that this is not necessary, and it has been labeled not good medicine by the AMA. It can significantly threaten the mother's health and future pregnancies; and they inflict terrible pain upon the baby, who is a few inches from being born and taking its first breath.

Twice we have passed this and President Clinton has vetoed it. Today we have an opportunity to put this into law. Thomas Jefferson had it right when he said that liberty and the pursuit of happiness begins with life. I urge my fellow Members to support this rule and to support passage.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, today is a great day for America as we are poised to pass H.R. 760, the Partial-Birth Abortion Ban. This legislation would stop the gruesome procedure that kills a child just inches from birth.

I will not go into the gory details of this particularly cruel procedure, but I will mention that numerous medical experts have testified that fetuses are able to fully feel pain after 20 weeks of development, at the time when most partial-birth abortion procedures occur.

It is also important to note that health experts agree that partial-birth abortions are never needed to save the life of the mother. Even the AMA has stated that partial-birth abortions pose serious health risks to women, and indeed, are not accepted medical practice. Yet this gruesome and evil practice continues to take place.

Today, we take a giant leap forward to end this practice. I look forward for the President to sign this bill into law. I urge passage of the rule and of the bill to protect the most innocent of our society.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, today we are voting on a bill to ban partial-birth abortion, called that because the baby is mostly delivered before being killed. Finally, after many years of debate and two vetos by our former President, this bill is going to become law.

In a Nation where we have laws to protect turtles' eggs and the developing offspring of other endangered species, finally we will extend some modest measure of protection to our own developing young humans. Finally, the deception of those who defend this procedure has been exposed. Ron Fitzsimmons, a leader in the abortion industry, admitted that they "lied through their teeth" when they claimed this procedure was rare.

In my State of New Jersey, there are at least 1,500 partial-birth abortions done each year at one clinic alone. They admit that most of these are done on healthy mothers carrying healthy babies. Is this the best our culture has to offer? Is this the best our society can offer to those who are in need? Is this brutal and barbaric procedure something we as a society are willing to accept and condone? What does it say about us as a civilized society, as a culture, if we cannot condemn and outlaw this kind of brutality?

Let us say today that we will not accept this, that we are better than this. Let us support this rule, and let us pass this bill.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

☐ 1630

Mr. RYUN of Kansas. Mr. Speaker, today we have the opportunity to protect the lives of women and children in the United States. We must ban partial-birth abortions.

This type of abortion procedure is gruesome. I cannot imagine how anyone could have the stomach to perform it. Who, may I ask, who could possibly pull a baby from the womb by its feet first, and then stab the half-delivered child in the head and then vacuum out its brain? The child was inches from taking its first breath, but now it is dead and discarded as garbage.

The last five Congresses have supported a ban on partial-birth abortion because a partial-birth abortion is never medically necessary, and because a partial-birth abortion poses significant health risks to the mother, and because partial-birth abortion is not recognized as a valid medical procedure by the mainstream medical community.

For this reason, I support the rule. I support H.R. 760, and I oppose the Greenwood substitute. I urge my colleagues to join me in banning this inhuman procedure once and for all.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to put into the record something that is stated in a recent New York Times article, because we keep hearing that these are babies that have extreme abnormalities. And I quote from the article, "One aspect of the debate has changed. When it began, some opponents of the ban said the targeted form of abortion was used only when a fetus had extreme abnormalities or a mother's health was endangered by pregnancy. Now both sides acknowledge that abortions done late in the second trimester, no matter how they are conducted, are most often performed to end healthy pregnancies because the woman arrived relatively late to her decision to abort."

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I want to say that the statistics on the clinic in Pennsylvania were really quite shocking. I thought these were all done in hospital situations. I have never heard those kinds of figures for anything.

That aside, let me read about a woman who terminated a pregnancy that, they are very rare, I still believe that.

The decision to terminate a pregnant late in term is an agonizing decision for the women and their families. Listen to the story of Viki Wilson and her family as she told it in her own words:

"In the spring of 1994, I was pregnant and expecting Abigail, my third child. My husband, Bill, an emergency room physician had delivered our other children and would do it again this time. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected that all of my previous prenatal testing had failed to detect. Approximately two-thirds of my daughter's brains had formed outside her skull. What I had thought were big, healthy, strong baby movements were, in fact, seizures.

"My doctor sent me to several specialists, including a perinatologist, a pediatric radiologist, and a geneticist, in a desperate attempt to find a way to save her; but everyone agreed she would not survive outside my body. They also feared that as the pregnancy progressed and before I went into labor, she would probably die from the increased compression in her brain.

"Our doctors explained our options, which included labor and delivery, c-section, or termination of pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process probably rendering me sterile. The doctors also recommended against a c-section because they could not justify the risks to my health when there was not any hope of saving Abigail.

"We agonized over our options. Both Bill and I are medical professionals. I am a registered nurse and Bill is a physician, so we understood the medical risks inherent in each of our options. And after discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an intact D&E.

Losing Abigail was the hardest thing that has ever happened to us in our lives, but I am grateful that Bill and I were able to make this difficult decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies that we already face. Oppose H.R. 760."

Mr. Speaker, for Viki and her family and for other Vikis yet to come, I hope that my colleagues will oppose this rule and oppose the underlying bill, H.R. 760. And I urge them to remember that once this bill passes the House, if it does, then it will be substituted for the Senate bill. The Senate bill at least had the protection in it that was passed by Senator DORGAN on his request that says that Roe v. Wade would be preserved. Obviously, by substituting this bill for that bill, Roe v. Wade will not be preserved.

[From the New York Times, June 4, 2003]

### "PARTIAL BIRTH" MENDACITY, AGAIN

If the so-called partial-birth abortion ban now careering toward almost certain approval by the full House this week has a decidedly familiar ring, it is not your imagination playing tricks. The trickery here belongs to the measure's sponsors.

Although promoted as narrowly focused on a single late-term abortion procedure, the measure's wording adds up to a sweeping prohibition that would, in effect, overturn Roe v. Wade by criminalizing the most common procedures used after the first trimester, but well before fetal viability. Indeed, the measure replicates the key defects that led the Supreme Court to reject a strikingly similar state law a mere three years ago. In addition to its deceptively broad sweep, the bill unconstitutionally omits an exception to protect the health of the woman.

Plainly, the measure's backers are counting on the public not to read the fine print. Their strategy is to curtail access to abortion further as the inevitable legal challenge wends its way back to the Supreme Court for another showdown. They obviously hope that by that time, there will have been a personnel change that will shift the outcome their way.

House members who vote for this bill will be participating in a cynical exercise that disrespects the rule of law and women's health while threatening the fundamental right of women to make their own childbearing decisions. Representatives who care about such things will not go along.

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[From The Washington Post, June 4, 2003]

### 'PARTIAL BIRTH,' PARTIAL TRUTHS

(By Ruth Marcus)

The poisonous national debate over what's known as partial-birth abortion resumes this week, and this time for real: The House is expected to handily approve a prohibition on the procedure, and the Senate has already passed its version. While his predecessor twice vetoed bills outlawing partial-birth abortion, President Bush is eager to sign legislation that he says will "protect infants at the very hour of their birth."

For those who support abortion rights, partial-birth abortion is not the battleground of choice, which is precisely why those who oppose abortion have seized on the issue. The procedure is gruesome, as indeed are all abortions performed at that stage of pregnancy. Although partial-birth abortion is routinely described as a late-term procedure, this label is misleading. The procedure isn't performed until after the 16th week of pregnancy, but it's already legal for states to prohibit abortions once a fetus is viable, at about 24 weeks. More than 40 states have such bans, and properly so. The Supreme Court has said that abortions must be available even after fetuses are viable if necessary to protect the life or health of the mother, and it may be that the health exception ought to be stricter. But this has nothing to do with a partial-birth abortion ban. The law would not prevent any abortion, before viability or after. Instead, it would make one particular procedure—one that may be the safest method for some women—a criminal act.

Indeed, even as they dwell on the gory details of the partial-birth procedure, the groups pushing for a ban on it don't seem to be doing anything to make it easier for women to obtain abortions earlier. Rather, the rest of their antiabortion agenda has been devoted to putting practical and legal roadblocks in the way of women seeking abortions at any stage of pregnancy. Thus, a pregnant teenager faced with multiple hurdles—no abortion provider nearby, no money, a parental consent law—may end up letting her pregnancy progress to the point where she is seeking a second-trimester abortion.

Then there are situations arising from the availability of medical technology that permits a previously impossible glimpse inside the womb. Amniocentesis, which doctors urge for women over 35 because of the heightened risk of birth defects, is not performed until the 15th or 16th week of pregnancy. Other fetal defects may be detected on sonograms only at that stage or later. This puts women squarely in the zone where partial-birth abortion becomes an awful possibility.

When it struck down Nebraska's partial-birth abortion law three years ago, the Supreme Court cited two distinct problems. First, the law was supposed to prohibit only partial-birth abortion, in which the fetus is partially delivered and then dismembered. But, intentionally or not, it was written so inexactly that it could also apply to the most common—though scarcely less grisly—technique for second-trimester abortions, dilation and evacuation, in which the fetus is dismembered before being removed from the womb. Such a bar, the court said, would be unconstitutional because it imposes an "undue burden" on a woman's right to abortion before the fetus is viable.

Second, the ban made no exception that would allow the procedure to be performed when necessary to protect the health of the mother. In cases of hydrocephaly, for example, partially delivering the fetus and then collapsing the skull can reduce damage to the cervix—and possibly preserve a woman's ability to carry another child to term. The American College of Obstetricians and Gynecologists told the justices that the partial-birth procedure "presents a variety of potential safety advantages. Especially for women with particular health conditions, there is medical evidence that [it] may be safer than available alternatives."

The legislation now before Congress tries to avoid the first problem identified by the court by defining partial-birth abortion more precisely. Opponents contend that the new definition could still apply to the more common technique. The bill's supporters argue this is not true, but they could have explicitly exempted such abortions from the law's reach if they really wanted to make that clear.

A bigger problem is the cavalier way in which Congress leapfrogged the court's requirement for a health exception: Lawmakers simply declared that partial-birth abortion "is never medically indicated to preserve the health of the mother." As Justice Clarence Thomas wrote in a different context, if Congress "could make a statute constitutional simply by 'finding' that black is white or freedom, slavery, judicial review would be an elaborate farce." What if Congress, in the aftermath of Brown v. Board of Education, "found" that segregated schools could be equal after all?

The political agenda is clear. Ken Connor, president of the conservative Family Research Council, spelled this out in an e-mail after the Senate vote last March. "With this bill," he wrote, "we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade." Indeed, in urging the overturning of partial-birth abortion laws in Illinois and Wisconsin, federal appeals court Judge Richard Posner, one of the nation's most prominent conservative jurist, said such statutes have nothing to do with protecting fetuses. Rather, said the judge, "they are concerned with making a statement in an ongoing war for public opinion. . . . The statement is that fetal life is more valuable than women's health."

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Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I rise today to express my strong support for the rule on the passage of the Partial-Birth Abortion Ban Act of 2003. As a member of the bipartisan congressional prolife caucus and as a doctor who has dedicated over 2 decades of my life to my obstetrics practice, I believe this unnecessary procedure should be banned.

As a physician who has delivered over 3,000 babies, I am personally opposed to any type of abortion, but in particular the only reason to select the partial-birth abortion procedure is to ensure that the baby is dead when it is delivered.

As a physician, I recognize that serious complications can occur during the last trimester of pregnancy. However, if the mother's health dictates that the pregnancy must be concluded and a normal birth is not possible, the baby, of course, may be delivered by hysterotomy or cesarean section. Whether the infant lives or dies depends upon the severity of the medical complications and the degree of prematurity, but that outcome is dictated by the disease process itself. The fate of the infant during a partial-birth abortion procedure is predetermined by the nature of the procedure performed, and it is uniformly fatal.

During my 2 decades of the practice of obstetrics, with my share of high-risk pregnancies, I never encountered a situation where the partial-birth abortion procedure was required. I believe that it is inhuman and never medically necessary. The procedure itself, always fatal to the baby, carries substantial risk for the mother as well.

Partial birth abortions are done in the third trimester when an unborn child has developed organs and all the characteristics of a newborn baby. Through the use of technology, patients now have the opportunity to see how life develops before birth. Parents can now watch the beating of an unborn child's heart as early as 20 days after conception and can see movement of the child's arms and legs after 3 months' gestation.

In 1995, a panel of 12 doctors representing the American Medical Association voted unanimously to recommend banning partial-birth abortion, calling it "basically repulsive."

I agree with my colleagues at the AMA that it is repulsive and unnecessary. I strongly support the Partial-Birth Abortion Ban Act of 2003. I believe the United States Constitution is very clear when it guarantees a right to life. Partial-birth abortion has no place in a civilized society.

Mr. LARSON of Connecticut. Mr. Speaker, I regret that due to a family medical emergency, I am unable to be present for the debate and vote on H. Res. 257, the rule providing for consideration of the bill H.R. 760. However, I wish to submit this statement for the RECORD to ensure that my position on this legislation is clear.

While I am opposed to H.R. 760, I am encouraged that the Rules Committee has finally allowed a substitute amendment to this bill. For the fifth time in nine years, this bill has been brought to the floor of the House for a vote. But, for the first time, a compromise substitute amendment is being allowed. I support the substitute amendment offered by Representatives GREENWOOD and HOYER and therefore, if I had been present, would have voted in favor of H. Res. 257 to allow this compromise to be brought to the floor.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Following this vote, proceedings will resume on 3 motions to suspend the rules considered earlier today and those votes will be conducted as 5-minute votes.

The vote was taken by electronic device, and there were—yeas 280, nays 138, not voting 15, as follows:

[Roll No 236]

YEAS—280

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryun (KS)
Saxton
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Waters
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—138

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Doggett
Dooley (CA)
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kaptur
Kilpatrick
Kind
Kucinich
Larsen (WA)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Oberstar
Pickering
Rothman
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1658

Messrs. HONDA, SPRATT and BERMAN changed their vote from "yea" to "nay."

Messrs. HINOJOSA, JOHN, ISRAEL and BUYER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Con. Res. 177, by the yeas and nays;

H. Res. 201, by the yeas and nays; and

H.R. 1954, by the yeas and nays.

Remaining electronic votes will be conducted as 5-minute votes.

## RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 177, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 177, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 2, answered "present" 8, not voting 17, as follows:

[Roll No. 237]

YEAS—406

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Honda
Kucinich

ANSWERED "PRESENT"—8

Farr
Lee
Lofgren
McDermott
Miller, George
Paul
Schakowsky
Stark

NOT VOTING—17

Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Hart
Hunter
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Pickering
Rothman
Rush
Ryan (WI)
Smith (WA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1706

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. HART. Mr. Speaker, on rollcall No. 237 I was unavoidably detained. Had I been present, I would have voted "yea."

## SENSE OF THE HOUSE COMMENDING NATION'S BUSINESSES AND BUSINESS OWNERS FOR SUPPORT OF OUR TROOPS AND THEIR FAMILIES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 201.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and agree to the resolution, H. Res. 201, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, answered "present" 7, not voting 16, as follows:

[Roll No. 238]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin

Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### ANSWERED "PRESENT"—7

Conyers
Kucinich
Lee
McDermott
Owens
Stark
Waters

### NOT VOTING—16

Barton (TX)
Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Peterson (PA)
Pickering
Rothman
Ryan (WI)
Smith (WA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1713

Ms. WATERS changed her vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## ARMED FORCES NATURALIZATION ACT OF 2003

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question of suspending the rules and passing the bill, H.R. 1954, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1954, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 5, not voting 14, as follows:

[Roll No. 239]

### YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes

Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Bereuter
Goode
Hostettler
Johnson, Sam
Smith (MI)

NOT VOTING—14

Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Pickering
Rothman
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1721

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE SUPPLEMENTAL REPORT ON H.R. 1086, STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have permission to file a supplemental report on the bill H.R. 1086, the Standards Development Organization Advancement Act of 2003.

This request has been cleared by the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 257, I call up the bill (H.R. 760) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 257, the bill is considered read for amendment.

The text of H.R. 760 is as follows:

### H.R. 760

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Partial-Birth Abortion Ban Act of 2003".

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart, 530 U.S. 914, 932 (2000), the United States Supreme Court opined "that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure" for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an "undue burden" on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the "health" of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not "clearly erroneous". A finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed". Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently". Id. at 574.

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the "clearly erroneous" standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.". Id. at 653.

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the "bail-out" provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that "congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose". City of Rome, Georgia v. U.S., 472 F. Supp. 221 (D. D. Col. 1979) aff'd City of Rome, Georgia v. U.S., 446 U.S. 156 (1980).

(11) The Court continued its practice of deferring to congressional factual findings in

reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) (Turner I) and Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized". The Turner I Court recognized that as an institution, "Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here". 512 U.S. at 665–66. Although the Court recognized that "the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,'" its "obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence." Id. at 666.

(12) Three years later in Turner II, the Court upheld the "must-carry" provisions based upon Congress' findings, stating the Court's "sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'" 520 U.S. at 195. Citing its ruling in Turner I, the Court reiterated that "[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to "amass and evaluate the vast amounts of data" bearing upon' legislative questions," id. at 195, and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." Id. at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a "health" exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th, 105th, and 107th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, and 107th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, "there are very few, if any, indications for . . . other than for delivery of a second twin"; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is "not an accepted medical practice," that it has "never been subject to even a minimal amount of the normal medical practice development," that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown," and that "there is no consensus among obstetricians about its use". The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is "ethically wrong," and "is never the only appropriate procedure".

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child "in a state of being born and before actual birth," was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a "person" under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a "person". Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are "ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb". According to this medical association, the "'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body".

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

### SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

### “CHAPTER 74—PARTIAL-BIRTH ABORTIONS

“Sec.
“1531. Partial-birth abortions prohibited.

**“§ 1531. Partial-birth abortions prohibited**

“(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

“(b) As used in this section—

“(1) the term ‘partial-birth abortion’ means an abortion in which—

“(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

“(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

“(2) the term ‘physician’ means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

“(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

“(2) Such relief shall include—

“(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

“(B) statutory damages equal to three times the cost of the partial-birth abortion.

“(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

“(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

“(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

**“74. Partial-birth abortions ............... 1531”.**

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider an amendment printed in House Report 108–139, if offered by the gentleman from Pennsylvania (Mr. GREENWOOD) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 760.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, H.R. 760, the Partial-Birth Abortion Ban Act of 2003, would prohibit the gruesome and inhumane procedure of partial-birth abortion that, unfortunately, we are all too familiar with. An abortionist who violates this ban would be subject to fines, a maximum of 2 years' imprisonment, or both. The bill includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother. An identical bill, H.R. 4965, was approved by this Chamber last summer by a 274–151 vote, but the then-Democratic leadership in the other body chose not to bring it up for a vote.

A moral, medical, and ethical consensus exists that partial-birth abortion is an unsafe and inhumane procedure that is never medically necessary and should be prohibited. Contrary to the claims of advocates of this gruesome procedure, the procedure remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession. Unfortunately, two Federal bans that were passed by prior Republican Congresses and sent to President Clinton's desk were promptly vetoed.

In June 2000, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar, but not identical, to bans previously passed by Congress. The Court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from the other more commonly performed second trimester abortion procedures. The Court also held, on the basis of highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

H.R. 760's new definition of partial-birth abortion addresses the Court's first concern by clearly and unambiguously defining the prohibited procedure. The bill also addresses the Court's second objection to the Nebraska law by including extensive congressional findings based upon medical evidence received in a series of legislative hearings, that, contrary to the factual findings of the district court in Stenberg, a partial-birth abortion is never medically necessary to preserve a woman's health, poses serious risk to a woman's health, and in fact is below the requisite standard of medical care.

H.R. 760's lack of a health exception is based upon Congress's factual determination that partial-birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress's factual conclusions. In doing so, the Court has recognized that Congress's institutional structure makes it better suited than the judiciary to assess facts upon which it will make policy determinations.

As Justice Rehnquist has stated, the Court must be, “particularly careful not to substitute its judgment of what is desirable for that of Congress, or its own evaluation of evidence for a reasonable evaluation by the legislative branch.” Thus in Katzenback v. Morgan, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress's factual determination that section 4(e) would assist the Puerto Rican community in “gaining nondiscriminatory treatment in public services,” stating: “It is not for us to review the congressional resolution” of the various issues it had before it to consider. Rather, “It is enough that we are able to perceive a basis upon which the Congress might resolve the conflict as it did.”

Similarly in Fullilove v. Klutznick, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record and factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority.

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In addition to the health risks to women who undergo the partial-birth abortion procedure, it is particularly brutal and inhumane to the nearly born infant as virtually all the infants upon whom this procedure is performed are alive and feel excruciating pain. Furthermore, a child upon whom a partial-birth abortion is being performed will not be significantly affected by medication administered to the mother during the performance of the procedure.

As credible testimony received by the Subcommittee on the Constitution confirms, "Current methods for providing maternal anesthesia during partial-birth abortions are unlikely to prevent the experience of pain and stress" that the child will feel during the procedure. Thus, claims that a child is almost certain to be either dead or unconscious and near death prior to the commencement of the partial-birth abortion are unsubstantiated.

H.R. 760 enjoys overwhelming support from members of both parties precisely because of the barbaric nature of this procedure and the dangers it poses to women who undergo it. Additionally, the American Medical Association has recognized that partial-birth abortions are "ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed out of the womb." Thus, the "partial birth" gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body.

Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns but all vulnerable and innocent human life. Thus, Congress has a compelling interest in acting, indeed it must, to prohibit this inhumane procedure.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise today opposing H.R. 760 and supporting the substitute.

Mr. Speaker, I rise today to express my opposition to H.R. 760, the Partial Birth Abortion Ban of 2003.

This is always an ugly and difficult debate. I am not comfortable with the notion of a pregnancy being terminated when a woman is in the last trimester.

I doubt that many people believe a woman who is eight months pregnant should be able to just change her mind and terminate the pregnancy. And I really don't believe that that situation happens.

But there are times when late term abortions are necessary to protect the life and health of the mother, or to save the fetus from undue pain and suffering due to irreversible birth defects.

In those cases, we should make sure that women have access to safe, appropriate medical procedures.

Unfortunately, the legislation we are considering today is almost identical to a Nebraska law that the Supreme Court found unconstitutional.

In Stenberg v. Carhart, the Court found that the Nebraska law outlaws several procedures, including the safest and most commonly used method for performing pre-viability second trimester abortions.

Second, the Court ruled that any ban on methods of abortion must provide an exception for women's health, and also struck down the Nebraska law for failing to include such an exception.

H.R. 760 continues to flout the Supreme Court's rulings by continuing to ban certain procedures, and failing to protect the life of the mother.

If we are serious about banning truly late-term abortions, than we should do what Texas did.

My home state has a law which says that "No abortion may be performed in the third trimester on a viable fetus unless necessary to preserve the woman's life or prevent a "substantial risk of serious impairment" to her physical or mental health or if the fetus has a severe and irreversible abnormality."

I supported this law when it passed the State Legislature, and support the Hoyer-Greenwood Amendment being offered today, which provides similar protections for women facing this awful choice.

I urge my colleagues to reject H.R. 760, and instead support the Hoyer-Greenwood substitute, which is similar to common sense Texas law.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I want to thank very much the ranking member of the subcommittee on Judiciary that is managing this bill, I want to thank him for the great work that he and the Judiciary staff have done in trying to bring some understanding to the significance of what we are doing here today.

First of all, let us begin the discussion by recognizing that the term "partial-birth abortion" is a political term or a rhetorical term. It is not found in the medical journals. It is not found in the textbooks on medicine. The reason is that it was invented in the Congress. Okay?

The bill before us is different from other bills that have attempted to ban abortion because this bill has now determined that they would get around the Supreme Court ban on these procedures which require the health of the mother be taken into consideration by saying, we have a bill here that has about 14 pages of findings, congressional findings, that now make it unnecessary to follow Roe v. Wade and the other major case that precludes these bills from being constitutional. They have been struck down repeatedly, repeatedly, repeatedly. But this bill is now going to be okay because we have congressional findings.

Flash to the Congress. All congressional findings are not approved by the Supreme Court. Sorry about that, gentlemen. We have here, that I will put into the RECORD, and I hope we will have some discussion on it, the Turner Broadcasting case, Supreme Court case; the Morrison case, the Penhurst case, we go on and on with a long list of cases that say all findings are not findings and that therefore the Supreme Court is going to say, oh, okay, you had two or three doctors testify before your subcommittee and from this you draw findings and so, therefore, now all the Supreme Court decisions about the protection of the health and life of the mother are void. Not so.

The reason is that H.R. 760 simply states that the district court erred in its finding of fact and law, but as a matter of fact, this bill does not add a health exception, but instead simply states that the procedures covered by the bill are not necessary and that therefore their use pose no risk to the mother's health.

We listen to some doctors, we then determine that we have now exceptions and we pack them into this bill and we say, That's it. We don't need to determine that the health and welfare of the mother is as critical as the Supreme Court used to think because now we have findings, congressional findings. And the Supreme Court has got to follow congressional findings. Right? Wrong.

It would seem that on the basis that this was done, it will be pretty easy for the Supreme Court to look behind this bill, H.R. 760.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Michigan is right. The Supreme Court is not required to accept congressional findings. In the cases that I have cited, they have given great deference to congressional findings. Here in the Stenberg case, the Supreme Court accepted the findings of the district court. We believe the district court's findings were in error. That is why there are extensive findings contained in H.R. 760 which we hope are substantiated by extensive hearing records and that the Supreme Court will give the same type of deference that it has done in the past in civil rights and employment cases.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time. Partial-birth abortion is the termination of the life of a living baby just seconds before it takes its first breath outside the womb. The procedure is violent, it is gruesome, it is horrific, it is barbaric, it is infanticide.

Proponents of this procedure will tell you a different story today. They want you to believe it is about politics or ideology. They will do anything to divert attention from the cold, hard facts about partial-birth abortion.

I want to remind everybody that we have seen these same tactics for many years and that the misinformation touted by the abortion lobby was exposed as blatant propaganda back in 1997. We might recall that the executive director of the National Coalition of Abortion Providers admitted that he, quote, "lied through his teeth when he stated that partial-birth abortions were rarely performed." He went on to say that the procedure is most often performed on healthy mothers who are about 5 months pregnant with healthy fetuses.

So as we debate this compassionate bill today, I ask that you remember the truth: Partial-birth abortion remains an untested, unproven and dangerous procedure that has never been embraced by the mainstream medical community.

I would like to take a few minutes to discuss this legislation in more detail. Two years ago in Stenberg v. Carhart, the United States Supreme Court struck down Nebraska's partial-birth abortion ban which was similar, but not identical, to bans passed by previous Congresses. To address the constitutional concerns raised by the majority in Stenberg, our legislation differs from previous proposals in two areas. First, the bill contains a new, more precise definition of the prohibited procedure that, as expert medical testimony received by the Subcommittee on the Constitution indicated, clearly distinguishes it from more commonly performed abortion procedures.

Opponents of this legislation claim that doctors will be confused by the definition of partial-birth abortion. Despite the assertions of the abortionists who defend this procedure, the new definition provides physicians anatomical guideposts so that there will be no confusion about which procedure is prohibited.

Second, our legislation addresses the Stenberg majority's opinion that the Nebraska ban placed an undue burden on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the health of the mother. The Stenberg court based its conclusion on the trial court's factual findings regarding the relative health and safety benefits of partial-birth abortions, findings which were highly disputed.

Under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the clearly erroneous standard. Rather, as the Supreme Court, explained in Turner Broadcasting System, Inc. v. Federal Communications Commission, the United States Congress is entitled to reach its own factual findings, findings that the Supreme Court consistently relies upon and accords great deference, and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution and draws reasonable inferences based upon substantial evidence. That is exactly what we have done in this legislation.

The first section of our legislation contains Congress' extensive factual findings that, based upon extensive medical evidence compiled during congressional hearings, partial-birth abortion poses serious risks to women's health, is never medically indicated, and is outside standard medical care. In fact, the district court's factual findings in Stenberg are inconsistent with the overwhelming weight of authority regarding the safety and medical necessity of partial-birth abortion.

According to the American Medical Association, "There is no consensus among obstetricians about its use, it has never been subject to even a minimal amount of normal medical practice development, and it is not in the medical textbooks." In addition, no controlled studies of partial-birth abortions have been conducted, nor have any comparative studies been conducted to demonstrate its efficacy compared to other abortion methods.

Leading proponents of partial-birth abortion also acknowledge that it poses additional health risks because of the many difficulties required in that particular procedure. It has even been called a rogue procedure.

Partial-birth abortion is truly a national tragedy. Fortunately, the American people and the President recognize the horrors of partial-birth abortion and are waiting for Congress to again take action. On March 13, 2003, the other body passed virtually identical legislation by a 64 to 33 vote.

I urge my colleagues to support our bill and help end this barbaric and inhumane practice once and for all in this country. It is now time for us to pass this legislation. I feel confident that we will do so today.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have a very bad combination, a combination of Members of Congress who want to play doctor and Members of Congress who want to play Supreme Court. When you put the two together, you have a prescription for some very bad medicine for the women in this country.

We have been through this debate often enough to know that you will not find the term "partial-birth abortion" in any medical textbook. There are procedures that you will find in medical textbooks, but the authors of this legislation would prefer to use the language of propaganda rather than the language of medical science. This bill is so vague that it could be read to prohibit many common procedures used during the second trimester. This, the Supreme Court has said, Congress may not constitutionally do.

The bill as written fails every test the Supreme Court has laid down for constitutional regulation of abortion. It reads almost as if the authors went through the Supreme Court's controlling decision in Stenberg v. Carhart and went out of their way to thumb their noses at the Court. Unless the authors think that when the Court has made repeated and clear statements over the years of what the Constitution requires in this area, they were just pulling our leg, this bill has to be considered facially unconstitutional.

In addition, in just one example of an obnoxious clause, the bill allows the husband of a woman who seeks an abortion to sue her and her doctor if the husband did not consent to the procedure. This would include a husband who had abused the woman, punched her causing massive damage to the fetus, deserted her, and then allow him to realize a huge windfall after she is left alone to deal with the consequences of his wrongdoing.

This is the position of people who call themselves pro-life? It is an obscenity and people who support it should not be proud.

The Supreme Court has repeatedly said any restriction on the right to choose must have a clear exception to preserve the life and health of a woman at any stage of pregnancy.

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The bill lacks an exception for the health of the woman. I know that some of my colleagues do not like the constitutional rule that has been in place and reaffirmed by the Court for 30 years; but that is the supreme law of the land, and no amount of rhetoric, even if written into legislation, will change that. Even the Ashcroft Justice Department in its brief defending an Ohio statute before the Court has acknowledged that a health exception is required by law.

The sponsors say that findings in the bill to the effect that so-called partial-birth abortion is never medically necessary will satisfy the constitutional requirement of a health exception to any limitation on the right to choose an abortion. But while the Court has made clear that it now requires Congress to support our legislation with findings of fact and that the Court has arrogated to itself the right to decide whether the facts established are sufficient to establish that the legislation is appropriate and proportionate to the evil to be remedied in order to render the legislation constitutional, that is an affirmative requirement within the power of Congress to legislate.

It is not. The Court has said the opposite. The Court has not said where Congress has no power to legislate, such as abortion regulation, without an exception for the health of the woman, that findings of fact can expand the power to legislate. The fact requirement is established by the Court as a limitation on Congress, not as an expansion of the power of Congress.

Whatever deference the Court may have shown to Congress's fact findings, the Court has made clear it is the final arbiter of the fact, not Congress, even if we put so-called fact findings in the bill. I do not like that anymore than other Members of the House, but there you have it; and frankly, the contention that the findings in this bill negate the necessity for the health exception to make this constitutional is laughable, and I do not believe any Member who knows anything about constitutional law can seriously and honestly suggest anything other than that.

While I realize many of the proponents of this bill view all abortion as tantamount to infanticide, that is not a mainstream view. The proponents of this bill are attempting to foist a marginal view on the general public by characterizing it as having to do with abortions involving healthy fetuses that are already viable. But, of course, the definition in this bill will go into second trimester abortions also.

If they really wanted to deal with post-viability abortions and situations in which a woman's life and health are not in jeopardy, then let them write a bill dealing with late-term abortions. We already have such laws in 40 Sates, and they would not find much opposition, if any opposition, to that. But it is clear that the majority is not interested in a bill that could pass into law and naturally be upheld as constitutional. What they want is simply an inflammatory piece of rhetoric to start undermining the political support of Roe v. Wade. The real purpose of this bill is not, as we have been told, to save babies, but to save elections.

We now have a President who has expressed a willingness to sign this bill. He may in fact get his chance.

Perhaps here in the Halls of Congress the health of women takes a back seat to the most extreme views of the antichoice movement. Perhaps the President does not care about the health of women. We will find that out, perhaps.

Let us hope that this administration does not get the opportunity to pack the Supreme Court with fanatics who are also indifferent to the lives and health of women. Until then, fortunately, the Constitution still serves as a bulwark against dangerous, malicious, destructive, and misogynistic particular bills like this one. I am thankful for that.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, what really amazes me when you listen to the debate on this bill is the huge disconnect between the rhetoric we hear and what the bill actually before us is about.

This bill is not about choice, and this bill is really not about abortion. This bill substantively, when you look at it, is about one procedure, one procedure that is so painful to an unborn baby, so barbaric, so egregious, that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

The overwhelming testimony is that a partial-birth abortion is never necessary to protect the health of the mother. This procedure is infanticide, and its cruelty stretches the limits of human decency.

This issue comes down to one simple question: Is there no limit, is there no amount of pain, is there no procedure that is so extreme that we can apply to this unborn child or this fetus that we are willing as a country to say that just goes too far and we cannot allow that to happen? That is what partial-birth abortion does. It goes too far. That is why it is so important that we pass this bill today.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, after commemorating the 30th anniversary of the Supreme Court's decision in Roe v. Wade just 6 months ago, we are reminded again today that the fight to preserve a woman's right to choose is far from over. We are here today considering a ban on so-called partial-birth abortions for the ninth time in 8 years because the proponents of this bill disagree with the Supreme Court. They want to overturn Roe v. Wade and Stenberg v. Carhart and go back to the days when women had no options, when they left the country or died in back alleys.

In reflecting on the long debate over this bill starting in 1995, I was struck by something Sandra Day O'Connor said on CNN recently. Justice O'Connor said that she was drawn to the law because she saw the role it plays in shaping our society. "I don't think law often leads society," she said. "It really is a statement of society's beliefs in a way."

The proponents of this bill and I would likely agree with Justice O'Connor, except I believe that Roe v. Wade continues to express our society's beliefs, and they do not. Roe said that the decision to terminate a pregnancy is private and personal and should be made by a woman and her family without undue interference from the government. I, and the American people, still believe that. Supporters of the bill do not.

Roe and Stenberg said that a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's life and health must come first and be protected throughout pregnancy. I and the American people still believe that. Supporters of the bill do not.

Roe and Stenberg said that determinations about viability and health risks must be made for each woman by her physician. A blanket government decree about medicine is irresponsible and dangerous. I and the American people still believe that. Supporters of the bill do not.

The supporters of H.R. 760 disagree with the Court's reflection of our society and reject the principles embodied in its decisions. Holding their opinion is their right. Disregarding the Constitution is wrong.

The Supreme Court's decisions in Roe v. Wade and Stenberg v. Carhart rested on precedent, including Marbury v. Madison, decided 200 years ago this year. Marbury was critically important to the development of our democracy because it established the Supreme Court as the final and ultimate authority on what the Constitution means.

In 1803, the Supreme Court became in fact, not just on paper, an equal partner in government, co-equal with the executive and the legislature. But in 2003, this Congress has decided to ignore the Court. The Court made clear that a partial-birth abortion ban was extreme and dangerous because it limited safe options for women and failed to protect the health of women.

Yet the bill before us contains no protection for the health of the woman, leaves no role for the physician treating a woman, and never mentions fetal viability. Congress ignores women, families, doctors and the Supreme Court, and makes all the decisions.

Congress is wrong to pass this ban and the President would be wrong to sign it. I urge my colleagues to respect the law of the land, support American values in Roe v. Wade, Stenberg v. Carhart, leave decisions in the hands of families, protect the health of women. Please vote against this bill.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would kindly ask Members to mute electronic devices while on the floor of the House.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding. And I deeply appreciate both Chairman SENSENBRENNER's and Chairman CHABOT's courageous leadership on this human right issue.

Mr. Speaker, slowly, but inexorably, the movement to reinfranchise unborn children in law as respected and cherished members of the human family is growing.

The most recent issue of Newsweek, it is a cover story entitled, "Should a Fetus Have Rights: How Science Is Changing the Debate," absolutely shatters the myth that unborn children are somehow less human and less alive than their born brothers and sisters.

Indeed, a second Newsweek story also in this week's edition, "Treating the Tiniest Patients," notes that "medicine has already granted unborn babies a unique form of personhood, as patients."

Newsweek points out that, "Once just grainy blobs on a TV monitor, new high-tech fetal ultrasound images allow prospective parents to see tiny fingers and toes, arms and legs, and a beating heart as early as 12 weeks. While these images make a parent's heart leap for joy, they also pack such an emotional punch that even the most hard-line abortions rights supporters may find themselves questioning their beliefs."

Mr. Speaker, let us hope so. May the questioning begin. We have lived in denial concerning the violence of abortion for far too long. We have, by our actions, or more so by our inaction, enabled and empowered abortionists to dismember, decapitate and chemically poison more than 43 million innocent and precious babies since 1973.

Today, Mr. Speaker, we can stop some of this violence against children. Today we can take one of those weapons out of the hands of the abortionist. Today we can tell America that partially delivering a baby, only to stab that child in the skull so that his or her brains can be sucked out, is the nightmarish world of a Hannibal Lecter, not American medicine or jurisprudence.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, if Members could actually wade through the absurd and fallacious rhetoric that is being bandied about today, it would not be difficult to see that this unconstitutional legislation is not actually about so-called partial-birth abortion; it is about two things and two things only.

The first is the question of who gets to make the medical decisions about a woman's health, the actual woman, in consultation with her family and physician, or the agitated and hyperbolic politicians in attendance today? I vote for the woman.

The second is the fact that passage of this bill is one more step down the path where a woman's right to choose no longer exists, and that is clearly what the House and Senate and White House have said all along.

Do not be fooled. There is no actual procedure called this. So-called late-term abortions are quite rare, and they usually occur under the most difficult of circumstances.

To pass this legislation is to elevate the rhetoric of politicians over the sound medical advice of doctors. To pass this bill today is to deny women a safe and legal procedure when tragedy strikes.

If the other side really cared about these types of abortions, they would vote for women's health, which they do not. They would not pass an unconstitutional bill which is wasting this body's time, when we could be talking about child tax credits and other issues and not spending all of this money. They could really put their efforts on stopping unwanted pregnancies in general.

I urge my colleagues to think rationally and compassionately and vote "no" on this terrible piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, life, life is a precious gift. Life is a precious gift from God. Partial-birth abortion is a gruesome procedure that has no place in our society, has no place in a civilized society.

Partial-birth abortions are performed in the U.S. They are performed thousands of times annually on healthy babies and healthy mothers. In 1997, Ron Fitzimmons, executive director of the National Coalition of Abortion Providers, estimated that the method was used 3,000 to 5,000 times annually. "In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along," Fitzimmons said.

Not that polls are all that important on this issue, it is what is right or wrong, but in January of 2003 a Gallup Poll found that 70 percent of Americans favored a law making it illegal to perform a partial-birth abortion except in cases necessary to save the life of the mother.

□ 1800

These folks recognize the preciousness of the gift of life. H.R. 760 would prohibit the partial-birth abortion procedure unless it is medically necessary to save the life of the mother.

H.R. 760 addresses the concerns identified by the Supreme Court when it struck down Nebraska's partial-birth abortion ban by a 5–4 ruling. The five-Justice majority thought that the Nebraska law was too vague. H.R. 760 contains a new and a more precise definition of the prohibited procedure.

I thank my colleague for bringing this bill forward. I hope that today this House will join the other body in moving this legislation forward and, hopefully, moving it to the President's desk. We have passed similar legislation a number of times, but never have we been able to get it on the President's desk where the President will sign it.

Let us move this bill and let us get it on the President's desk.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today for my annual statement in opposition to this bill. Republicans say they are for smaller government. In reality, they want to make government just small enough to fit inside our bedroom.

This bill forces government to step between pregnant mothers and their doctors, interfering with the doctor's ability to make the safest and healthiest decisions for the mother, never mind that this bill is certifiably unconstitutional.

Proponents of this bill should be ashamed to go home to their wives, their daughters, nieces, sisters, and women constituents and explain to them why they voted for a bill that not only blatantly disregards their health, but tries to claim that it is not an issue; explain to them why they voted for a bill that would criminalize the behavior of their doctors, who acted in their best interests, because the law said that their health did not matter.

This bill is not about late-term abortion or even a so-called "partial-birth abortion" procedure, which has no medical definition in this bill. This bill is about banning safe abortion procedures that sometimes are the safest method of previability, second-trimester abortions.

For us to be true to the Constitution, to be true to the sentiments of equality and freedom, women must have control over their bodies. Instead, proponents of this bill, including the Bush administration, are using this bill as part of a broader agenda to take away a woman's constitutionally guaranteed right to choose.

This assault on a woman's right to control her body and her health must stop. I urge my colleagues to vote "no" on H.R. 760.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have heard from the people who oppose this legislation that it infringes on Roe v. Wade. Roe v. Wade very clearly gives Congress and the several States the right to prohibit abortions on viable babies.

There is one State in the Union, Kansas, that collects statistics on partial-birth abortions. Let me quote from page 17 of the committee report: "The experiences of the State of Kansas, the only State to require physicians to report the performance of partial-birth abortions, are instructive on this point. Under its mandatory reporting scheme for partial-birth abortions, in 1998, 58 partial-birth abortions were performed, all of which were on viable babies and all of which were necessary to prevent a substantial or irreversible impairment of a major body function, which was the impairment of the patient's mental function.

"Similarly, in 1990, 182 such procedures were performed," all for the same reason, and again, all on viable babies.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, let us all be clear: the bill before us is unconstitutional because it does not contain an exemption for the health of the woman who seeks to exercise her reproductive rights. There is no doubt about that. This is because the U.S. Supreme Court has already ruled on very similar legislation in Stenberg v. Carhart. Opponents of the right to reproductive choice should know that.

This bill likely will not prevent a single abortion, but it does defeat the rights of women. I believe that equal protection under the law and the right to privacy should be freedoms enjoyed by women as well as men, but women will not be equal to men if this constitutionally protected right is denied. This bill infringes on those rights for women. That is why I will oppose it.

Throughout my career, I have worked to reduce the need for abortions by preventing unwanted pregnancies through comprehensive sex education, birth control, and increased access to health care. I think that all of my colleagues would agree that we should work to prevent unwanted pregnancies that lead to abortions.

I will continue those efforts, but the bill before us today is the wrong way to do that. Advocates of this bill who want to stand in defense of life would be helpful if they worked to support families with adequate child care funding, child tax credit relief for vulnerable families, and peace.

For some, this debate is only about politics. The fact that other abortion legislation, the Unborn Victims of Violence Act, has been advanced on the publicity of the Laci Peterson tragedy shows the unfortunate politicization of this debate.

I know there are many who are sincere in their desire to reduce the need for abortions. In leading this Nation towards this goal, we must preserve constitutional rights. We must respect the freedom and equality of women. The best path for our country is not to escalate the divisiveness and political nature of this debate. Rather, it is to remember the principles of this Nation and refrain from undermining freedom of choice. We must respect the basic human dignity of women to make personal decisions.

This House can do better to truly work to reduce the need for abortions while respecting the freedom of choice. For these reasons, I will oppose the bill today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, partial-birth abortion is what some call getting away with murder on a technicality. By law, a baby who has taken a breath outside the womb is considered a human being, a person. No one would think of killing it. To kill him would be murder.

To get around this technicality, abortionists turn the baby around so they can partially deliver the baby feet first, like a breech birth. While the baby's head remains in the birth canal, then they stick him in the back of the neck with surgical scissors and suck out his brain. Because the baby's head is held inside the mother's birth canal, the law does not count it as murder. Therefore, it is called getting away with murder on a technicality.

This is one of the most disgusting ways of circumventing the law I can think of. How can we justify saying a baby who can live on its own is not allowed to survive simply because someone is holding its head inside its mother's body? We cannot, not if we believe in the dignity of human life.

But we can stop this terrible procedure and save thousands of lives of healthy babies who are dying every year. Vote for this bill and close this loophole that allows people to literally get away with murder and infanticide.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise deeply troubled that the House is again voting on this ill-conceived bill to ban a medical procedure. Let us be honest: The underlying issue is really about whether or not a woman should have the legal right to choose to end a seriously flawed pregnancy.

As my colleagues stated, the term "partial-birth abortion" cannot be found in any medical literature. Lawmakers have continued this misnomer, "partial-birth abortion," and have succeeded in confusing the public's understanding of the issue.

Federal law already bans procedures performed after fetal viability unless the mother's health is at risk. But this bill directly defies the Supreme Court because it once again lacks an adequate health exception, and it could outlaw procedures used in the first or second trimester before viability that can safely protect the health of the mother.

By criminalizing these constitutionally protected procedures, physicians are left with limited options when treating a patient in a crisis. The ban would force a woman to undergo potentially more damaging, risky, and rarely performed procedures or otherwise continue a very unsafe pregnancy.

Sadly, there are times when it may be necessary for a woman to terminate a wanted pregnancy. It is often impossible to detect fetal abnormalities before the second trimester, and it is at this stage that certain preexisting medical conditions exacerbated by pregnancy may worsen for a woman. At these unfortunate times, a woman, in consultation with doctors and families, must freely be able to determine the best course to preserve her life, her health, her future fertility.

Congress is treading in dangerous waters with this legislation. In this Chamber we often insist that we should not be telling doctors how to practice medicine, we should not usurp the opinions of medical experts when considering patient safety, standards of care for diseases, and the administration of drugs.

But with this bill today, Congress, comprised predominantly of lawyers, is entering into a hospital room, acting as a gatekeeper, and dictating what doctors can and cannot do in medical practice.

For these reasons, I support the Hoyer-Greenwood substitute. This substitute clearly and in medical terms bans all post-viability abortions except in cases where serious, adverse health consequences could result to the woman's health, or the woman's life is at stake.

This amendment would allow physicians to continue to make these critical medical decisions. I urge my colleagues to reject the underlying bill and to support the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I rise in support of this important bill. Not one of us looks in society and we see the changes, the abuse against our children. Not one of us has stared in incredulity at the actions of new mothers who have disposed of their children in disposals, or placed them in a wastebasket and went back to the dance.

We cannot overlook our treatment of the unborn, and especially this treatment of the unborn in a partial-birth abortion, and the changes that we find in society.

Mr. Speaker, I rise in strong support of the bill and request our colleagues to support this gentleman's fine bill.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, if there is one frivolous late-term abortion in America, in my book that is one too many. But this bill is a false promise for two reasons.

First, it is clearly unconstitutional, since it has no health exception for the mother. Passing an unconstitutional bill will not save one child. That is a fact.

Second, supporters of this bill have misled the American people to think the bill outlaws late-term abortions. It does not. The truth is, this bill focuses on prohibiting one type of late-term abortion while keeping perfectly legal other types of late-term abortion procedures.

Let me state a fact that is going to surprise many Americans who have been misled regarding this bill. The truth is, this partial-birth abortion bill will allow late-term abortions to remain legal. Supporters of this bill have never really honestly answered this question. If they really believe a woman is a monster and wants to abort a late-term fetus for absolutely frivolous reasons, then why are Members just banning one procedure? That will just let her tell the doctor to use another procedure. They have not saved one child and they know it.

Perhaps the real answer to that question, Mr. Speaker, lies in the statement of Ralph Reed, who said several years ago that this partial-birth abortion bill is a silver political bullet. This bill is about sound-bite politics and campaign attack ads, not saving babies.

In contrast, 16 years ago as a Texas State senator I worked with pro-choice and pro-life groups to pass a constitutional bill that did not ban one late-term abortion procedure; we banned in 1987 all late-term abortion procedures. Then we worked with those groups in good faith, put in a constitutionally mandated health exception. We knew that health exception was necessary 16 years ago, and they know it is necessary today.

I think it is a shame that the House leadership has put politics above policy. I hope some people will wake up to recognize that had that not been the case, we could have passed a ban on all late-term abortion procedures in this Congress and it would have been signed into law 8 years ago. Instead, we are voting today on a false promise.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we have heard the allegation that this is about politics. This is about protecting innocent, unborn, little human beings who cannot defend themselves, and so, under this Supreme Court decision, it is necessary for Congress to take action. We believe that this bill does pass constitutional muster.

We have also heard that these are generally seriously flawed pregnancies. We have heard earlier this afternoon time and time again that these were rare, and that they were done basically because there was a baby that was in jeopardy.

The New York Times in a recent article dated April 22, not exactly a bastion of conservative newspapers, said, "One aspect of the debate about partial-birth abortion has changed. When it began, some opponents of the ban," in other words, those on the other side of the aisle who are in favor of continuing to allow it in this country, "said the targeted form of abortion was used only when a fetus had extreme abnormalities or the mother's health was endangered by pregnancy. Now both sides acknowledge that abortions done late in the second trimester, no matter how they are conducted, are most often performed on healthy pregnancies."

□ 1815

So there are some times when these are pregnancies that are in jeopardy, but overall the statistics now show that these are healthy mothers, that these are healthy babies. That is the bulk of the partial-birth abortions that are performed in this country. It is not about politics. It is about protecting those innocent human lives. And we have already heard the other side, again, who clearly stated in their own words, they were lying through their teeth when they indicated that these abortions are rare.

Most of the experts say there are anywhere from 2,200 to 5,000 of these performed in this country every single year. These are lives that have a right to be born and they are destroyed. It is exactly as the gentleman from Pennsylvania (Mr. PITTS) said, this is murder, is what it amounts to. We need to protect these babies.

Mr. NADLER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman makes the comments about an inhumane form of abortion, but of course, the fact is the gentleman would not support any form of abortion. He does not care that one form is more or less humane than the others. That is why this bill makes no sense at all.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank my colleague for yielding me time and I congratulate him on his extraordinary leadership on this issue.

Mr. Speaker, I first would like to respond to my colleague on the other side of the aisle who referenced an article in the New York Times. I would like to place into the RECORD the Times editorial from today, not only the New York Times editorial but the Washington Post editorial, both of which strongly came out against the Republican bill before us today.

The bill is extreme, it is vicious, mean-spirited, antiwoman, and it is unconstitutional.

We have heard a great deal of graphic rhetoric from the majority party today. But let me tell you what we have not heard and that is their true agenda, which is to roll back, chip away at a woman's right to choose. That is what this debate is about. That is totally what it is about. And since the Republican majority came to Congress in 1994, I have kept a score card on their antichoice votes. Today marks their 202nd vote against a woman's right to choose. It is on my Web site.

Mr. Speaker, I ask my colleagues today to stand in defense of a woman's reproductive health and to vote against this bill which deprives women of safe, quality medical care at a time when they need it most. The right to choose is meaningless without the access to choose. And this bill is so broadly written that it would, in effect, undermine a woman's legal right to abortion in this country.

When I go home, my constituents ask me about many things, but believe me, they have never asked me to be their doctor, nor do they want Members of Congress to be making medical decisions. It is unprecedented. It is wrong. It is unconstitutional. Vote against this Republican bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY) on this bipartisan bill.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 760. The abomination of this procedure, the facts of it are undisputed. It is an inhumane practice. It cannot be tolerated in a civilized today society and it cannot be tolerated amongst people who value the sanctity of human life.

It is often overlooked that partial-birth abortion can cause physical and emotional harm. Women who undergo this procedure can have difficulty conceiving children in the future and can experience gut-wrenching guilt and regret.

In 1993, a nurse practitioner named Brenda Pratt Shafer described such an incident in her testimony before Congress. She was a pro-choice nurse in an abortion clinic, who quit her job the day that she witnessed the grief of a woman who received a partial-birth abortion. She told Members of Congress, "What I saw is branded forever in my mind. The woman wanted to see her baby after the procedure, so they cleaned up the baby and put it in a blanket and handed the baby to her. She cried the whole time as she kept saying, 'I am so sorry. Please forgive me.' I was crying too. I could not take it, a baby boy with the most perfect, angelic face I had ever seen."

It amazes me that in the year 2003, the United States still permits this procedure, this act of death. Allowing partial-birth abortion to remain legal would be a tragedy for all. It would lower our standards of conscience and humanity. I strongly urge my colleagues to join me in supporting H.R. 760 and bringing an end to this era of suffering in our Nation.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have another story; it is one that I have watched and heard and seen over the years that we have been dealing with this concept, political concept of partial-birth abortion.

I have the story of several women appearing in the Committee on the Judiciary room some years ago. I believe at that time there may have been only two women on the Committee on the Judiciary, each of us having our own personal story of childbirth and understanding the enormous challenge, burden and emotion of that particular act or procedure along with family members encouraging and hoping for a wonderful live birth.

We listened to women from around the country who came and said that had it not been for a procedure that allowed them to live, they might not have been able to procreate ever again. We heard women say that they had tried and tried and tried to retain the pregnancy, but that under the advice of their doctors in certain months, they were asked to have that particular pregnancy terminated.

Mr. Speaker, this is not a foolish nor is it a frivolous nor is it a political question. This is a question of privacy. We recently honored the 30th anniversary of the landmark Roe v. Wade decision and that decision reaffirmed a woman's right to choose.

I respect my opponents for they have their own reasons, but I will say that I respect life and I respect the right of a woman to make that decision between her god, her family, and her physician.

Partial-birth abortion is not a medical term. The opponents know that. They know that the Supreme Court has reaffirmed a woman's right to choose. They also realize that it does not allow a health exemption which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion. They realize that this bill is flawed. They realize that it will not save lives.

But most importantly, what we are doing here today is not promoting the sanctity of life, but we are saying to women that you do not count. They count. Vote against this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) is wrong. This bill will save lives. It will save the lives of viable babies who are subjected to this brutal and inhumane treatment. The gentlewoman from Texas (Ms. JACKSON-LEE) was not listening when I quoted the Kansas report that said of the partial-birth abortions that were reported under their State law, most of them were on viable fetuses.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Speaker, I appreciate the gentleman yielding me time.

Mr. Speaker, what we are talking about today is extending the debate that took place yesterday in the Committee on Rules on this exact same subject as we were rendering a rule about this debate that would take place today.

I found yesterday, as I find today, that many of the speakers on the other side do not understand that there are three types of late-term abortions. One of those three is called a partial-birth abortion. There are two other procedures.

Today, this bill is about partial-birth abortion. And for anyone to characterize this debate as it is not going to stop another abortion, it is not going to do anything, it is meaningless, that is simply not only untruthful, but it is disregarding the facts that are being placed before our colleagues today.

What we are going to stop is a late-term abortion, and we recognize that there are two other types of late-term abortions that take place. There are some who suggest that as a result of Supreme Court laws and tests, that because those abortions would take place, in essence, in the womb, that they would not be legal.

We, today, my party, this Committee on the Judiciary, this House of Representatives, is debating and will outlaw that which is known as partial-birth abortion.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, let me ask and I would like to have an honest debate on this. I appreciate what the gentleman has said. He has been very honest and straightforward about outlining one procedure and not two others.

My question is, if we assume a mother is going to take a perfectly healthy baby later term and have that child aborted for frivolous reasons, why would she not go and use one of the other two procedures? What babies have you saved?

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I oppose this legislation, not because of political ideology, not because I believe my wife, my two sisters, and my three daughters should have the right to decide when to bring a child into this world, but because I read the bill. I researched the history and I understand the real issues involved here.

Unfortunately, H.R. 760, the so-called partial-birth abortion ban and, again, partial-birth abortion is not a medical term, distorts the issue. H.R. 760 is a broadly written piece of legislation that would outlaw some of the safest and most common abortion procedures and makes no exception to preserve a woman's health or her fertility.

There are other so-called facts in this bill that are not supported by medical research. Contained in the bill, it is written that the procedure is never necessary to preserve the health of the woman. The key word here is never necessary. Well, I say ask Vikki Stella, a diabetic who, after examining all other options with her doctor, made a decision, along with her husband, to terminate her pregnancy of a much-wanted son. Vikki's option to choose this procedure was believed to be the safest and most appropriate, leaving her the opportunity to live a healthy life with her husband and two young daughters, as well as the opportunity to bear the son that they later gave birth to, Nicholas.

This bill distorts the truth and politicizes a constitutional right of all women in this country. And the in rulings of Roe, Casey and Stenberg by the Supreme Court, the Court stated that every abortion restriction must contain a health exception that allows an abortion when necessary in appropriate medical judgment for the preservation of the life or health of the mother.

This bill does not do it. I ask my colleagues to vote "no" on this bill in its present form.

Mr. Speaker, I come before this body with two purposes in mind. First, to discuss the demons I battled as I came to a conclusion regarding my position on the legislation before us today. Secondly, to hopefully educate those listening and watching this debate taking place before us.

As I sat in my office yesterday evening confronting my long-held beliefs and realizing the possible collision that my surfacing position on this issue may have with my political ideology, I chose to delve deep into the heart of the issue and question my beliefs regarding abortion that I had never questioned before. As I further focused over the legality and morality of ending a pregnancy, the rights of a woman, and the rights of an unborn child pre-viability and post-viability, I came to the decision to oppose this legislation. No, not to oppose it because of political ideology. No, not to oppose it because I believe my wife, two sisters, and three daughters should have a right to decide when to bring a child into the world. But because, I read the bill, I researched the history, and I came to terms with the real issue. Unfortunately, H.R. 760, the so-called Partial Birth Abortion Ban of 2003 distorts the real issue—preventing members in this body and constituents throughout the nation from truly understanding what is at stake.

H.R. 760 is a broadly written piece of legislation that would outlaw some of the safest and most common abortion procedures, and it makes no exception to preserve a woman's health or future fertility. As the supporters of this bill incorrectly label the procedure of dilation and extraction, commonly known as D & X, but for the purposes of this bill as partial birth abortion, they vividly describe a procedure that they wish to ban in 2000 was found constitutional in the Supreme Court case Stenberg v. Carhart.

First, I will address the manner in which this legislation describes the fetus as a child. Medical journals describe the object in the womb of the mother as a fetus until fully delivered. And I, like many of you, not being a member of society who holds accredited medical credentials must follow the standards put forth by the medical society. The proponents of the bill truly attempt to be creative in its attempts to have readers of the language imagine an actual child going through this procedure. It almost worked on me, but that is when I looked closer at the language and focused on Section 2, subsection 5 of the legislation. There, contained in the bill, it is written that the procedure "is never necessary to preserve the health of a woman." And here is where H.R. 760 further distorts the truth. They key phrase here is never necessary. Well, this all depends on what one values as a necessity. Yes, one procedure could have an advantage over another in certain cases. Where one doctor may prefer dilation and evacuation, commonly known as D & E, which involves a doctor inserting an instrument into a woman's womb and dismembering the fetus, because it is the safest procedure to ensure the woman's life and health, that same doctor may choose D & X for another patient because it is the safest and most appropriate procedure for that particular patient to ensure the woman's life and health. Unlike the proponents of this bill, I will stand on this House floor today and admit that sometimes this gruesome procedure is a necessity for some women. For example, it was the only option for Vikki Stella—a diabetic who, after examining all other options with her doctor, made the decision along with her husband to terminate her pregnancy of her much-wanted son. Vicki's option to choose this procedure was believed to be the safest and most appropriate—leaving her the opportunity to live a healthy life with her husband and two young daughters—as well as the opportunity to bear the son she later gave birth to, Nicholas.

My colleagues, this bill distorts the truth and politicizes a constitutional right of all women in this country. Incorrectly labeling the procedure and overriding the ruling of the Supreme Court as reaffirmed by the majority in Stenberg that a woman's health must be the paramount consideration, women across the nation are being denied their constitutional right. As a result of the ruling by the Supreme Court, every abortion restriction must contain a health exception that allows an abortion when "necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." H.R. 760 does not do this. And for this reason, I find the so-called Partial Birth Abortion Ban of 2003 unconstitutional and unworthy of my support, the support of my colleagues, and the support of the people of this great Nation. I ask my colleagues to vote against this bill in its present form.

Mr. SENSENBRENNER. Mr. Speaker, I am prepared to close general debate if the gentleman from New York (Mr. NADLER) wants to use the rest of his time.

Mr. NADLER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from New York (Mr. NADLER) has 1 minute remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 3½ minutes remaining.

Mr. NADLER. Mr. Speaker, I thought I had 3 minutes remaining.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has 1 minute remaining.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, two key points to be made. One, if the real purpose of this bill is to ban late-term abortions with all the gruesome descriptions we have heard, you could do it very simply by including a health and life exception for the mother as the Supreme Court requires. No one would oppose it. We have such laws in 40 States.

□ 1830

That is not the goal here. The goal is a propaganda goal.

Second point, the declaration by the majority here that they can get around the health exception requirement of the Supreme Court by saying, by a legislative finding that such a procedure is never necessary for the health of the mother runs into the observation by Justice Clarence Thomas in a different context that "if Congress 'could make a statute constitutional simply by finding that black is white or freedom, slavery, judicial review would be an elaborate farce.' What if Congress, in the aftermath of Brown versus Board of Education found that segregated schools could be equal after all?"

With reference to Ruth Marcus' column in The Washington Post, from which I just quoted, this morning she points out that Judge Posner, a distinguished conservative appeals court judge, said the purpose of this statute is that they are concerned with making a statement in an ongoing war for public opinion. The statement is that fetal life is more valuable than women's health.

That is the real purpose of this bill, not to protect babies, not to save lives, but to undermine Roe v. Wade, to undermine a woman's right to choose and to declare that fetal life is more sacred than the life of the existing woman.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman's time has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the major argument that gets to the substance of this bill that the opponents have stated in the last hour is that the findings that Congress makes that are contained in H.R. 760 the Supreme Court will just completely ignore.

I will be the first to concede that the Supreme Court does not have to accept congressional findings, nor does the Supreme Court have to accept findings that have been made by lower courts either that reach their own conclusions; but there is a string of cases in the last 20 years or so that have indicated that the Supreme Court will defer to congressional fact finding, and they have been highly and historically deferential to Congress's factual determination, regardless of the legal authority upon which Congress has sought to legislate, as the following case quotes demonstrate.

First, "The fact that the Court is not exercising a primary judgment but sitting in judgment upon those who also have taken the oath to observe the Constitution and who have the responsibility for carrying on government compels the court to be particularly careful not to substitute our judgment of what is desirable for that of Congress, or our own evaluation of evidence for a reasonable evaluation by the legislative branch." That is Rostker v. Goldberg, 1981.

Second, "It is for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did." Katzenbach v. Morgan, 1966.

Third, "Here we pass on a considered decision of Congress and the President. We are bound to approach our task with appropriate deference to the Congress, a co-equal branch." Fullilove v. Klutznick, 1980.

Fourth, "The Supreme Court 'must afford great weight to the decisions of Congress. The judgment of the legislative branch cannot be ignored or undervalued. When the Court faces a complex problem with many hard questions and few easy answers, it does well to pay careful attention to how the other branches of government have addressed the same problem.'" Columbia Broadcasting System v. The Democratic National Committee, 1973.

Fifth, "Congress is far better equipped than the judiciary to amass and evaluate the vast amounts of data bearing upon an issue as complex and dynamic as that presented here." Turner Broadcasting System v. FCC, 1994.

Finally, "We owe Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." Turner Broadcasting System, Inc. v. FCC, 1997, which was the second case.

What the opponents of this bill are saying is they do not agree with the findings that are contained in H.R. 760. That is their right, and that is their prerogative; but if this bill passes, they are in the minority, and the majority who voted for this bill will have disagreed with their conclusion on those findings.

Mr. BRADY of Texas. Mr. Speaker, partial birth abortion is one of the more barbaric procedures of modern times. Doctors confirm it is never medically necessary. Never. So much so that it is not even taught in our nation's medical schools.

Yet more than 3,000 healthy babies are subject to this horrible procedure each year. Too many of them are more than 5 months old in fetal development—able to live outside the womb if just given the same chance as you and me.

Today we have an opportunity to protect our nation's mothers.

Today we can save the lives of precious babies too tiny to save themselves.

Today we ban partial birth abortions and close this grisly chapter in America's history.

Mr. VAN HOLLEN. Mr. Speaker, today the House considers a measure which will seriously impinge on a woman's right to choose a safe and legal abortion. A women's right to choose is a fundamental one, and the Congress should not tell a woman how to manage her health or reproductive care. Unfortunately, what should be a private matter between a woman and her doctor has become a political football.

Each individual case is different and involves a variety of factors. The decision in each case should be left to the woman and her family, in consultation with her doctor. We must not pass legislation that curbs the ability to make a decision which might be necessary to protect the life and health of the mother.

Moreover, we cannot exert a power we do not have. The Supreme Court, in Roe v. Wade, has determined that a woman has a constitutional right to choose a safe and legal abortion during the pre-viability period. Many people have been misled into believing that this so-called "partial-birth" abortion bill is about banning late term abortions. It is not. It applies to all abortions in which a certain medical procedure is used regardless of when the abortion is performed. We should leave it to the doctors—not politicians—to determine what method is necessary to best protect the health of a woman. Limiting a woman's sovereignty over reproductive choice and restricting access to the best health options comprise the essence of this bill. I urge my colleagues to oppose it.

Mr. FILNER. Mr. Speaker and collagues, I rise to voice my opposition to H.R. 760, the so-called Partial Birth Abortion Ban.

This is a bill that immediately provokes strong feelings on both sides of the abortion issue. No one is in favor of abortion. I am not in favor of abortion, and in Congress, I am focused on making abortions less and less necessary.

However, in a few situations each year, the procedure that this bill seeks to ban is necessary to protect the life or the health of the mother—or because of multiple abnormalities of the fetus, making viability virtually impossible.

A woman, in this situation, has the constitutional right to an abortion, and there is a wealth of credible medical evidence that this procedure in some instances is much safer than other available procedures. H.R. 760 seeks to criminalize these safe, legal, and rare abortion procedures.

A major problem with this bill is its name. The term, "partial birth," is not a medical term. There is no medical definition of a "partial birth" abortion. It is a loaded, political term made up by the anti-choice movement to inflame the debate. It is not helpful to an enlightened discussion of this issue.

In addition, as I have said, the bill is unconstitutional. In 2000, the Supreme Court found Nebraska's "partial-birth" abortion ban unconstitutional in Carhart v. Stenberg because it prevented a women's constitutional right to choose by banning safety abortion procedures and because it lacked the constitutionally-required exception to protect women's health. The Court noted that "the absence of a health exception will place women at an unnecessary risk of tragic health consequences". These flaws are also present in H.R. 760.

This bill definitely endangers women's health. Doctors will be forced to choose between providing care that is safe for their patients and going to jail. Despite repeated opportunities, anti-choice lawmakers refuse to include in their bills an exception to protect women's health.

Finally, a majority of Americans agree that government has no place in private medical decisions that need to be made by a woman, her family, and her physician. Politicians should not be legislating medical care. H.R. 760 is an unprecedented intrusion into the doctor-patient relationship.

This bill is opposed by a large number of respected medical and health organizations such as the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association, and the American Public Health Association, and the American Medical Association has withdrawn its support of these bans.

As difficult as this vote may be, there is no way to vote for H.R. 760. A vote for this bill would be a vote for legislation that is unconstitutional, that allows government to intervene in personal and private decisions, and that provides no protections for women's health.

Mr. LARSON of Connecticut. Mr. Speaker, I regret that due to a family medical emergency, I am unable to be present for the debate and vote on H.R. 760, the Partial-Birth Abortion Ban Act of 2003. However, I wish to submit this statement for the record to ensure that my position on this legislation is clear.

While I am against late term abortions, H.R. 760 fails to make an exception for instances where the procedure was deemed medically necessary for preservation of the life or health of the mother. If enacted, this legislation would most likely stop physicians form performing lifesaving medical procedures when a fetus will not survive, or when a woman's life, health, or future reproductive capacity may be severely threatened. Therefore, had I been present I would have opposed this bill.

However, I do support the compromise substitute amendment offered by Representatives GREENWOOD and HOYER, which would prohibit all late-term abortions, irrespective of procedure, with exceptions only to protect the life of the mother and to avert serious, adverse consequences to her health. Had I been present, I would have voted in favor of this amendment. Additionally, I would have voted in favor of the motion to recommit offered by Representative BALDWIN to return H.R. 760 to committee to include exceptions for the preservation of the life or health of the mother.

Mr. FARR. Mr. Speaker, I rise today in strong opposition to the ongoing campaign to undermine the constitutionally established right to privacy, which threatens women's access to safe and comprehensive reproductive healthcare. The latest attack on these rights is H.R. 760, The Partial Birth Abortion Ban of 2003. The proponents of this legislation have consistently used vague language and shock tactics in an attempt to undermine the basic tenets of the Supreme Court's decisions in Roe v. Wade and Stenberg v. Carhart.

In 1973, the Supreme Court handed down its decision, Roe v. Wade, which gave women a constitutionally protected right to an abortion. The Court allows a state to ban abortions after fetal viability (the point at which a fetus may survive independent of a woman, but not independent of technology), but only if the state provides exceptions for the protection of a woman's life and health. In 2000, in the case of Stenberg v. Carhart, the Court struck down a Nebraska ban on partial birth abortions because it did not contain an exception for the protection of the health of the woman, and utilized a vague definition of which procedures would be banned.

Disregarding 30 years of established Supreme Court precedent, the Partial Birth Abortion Ban of 2003 contains the same flaws as the ban ruled unconstitutional in Stenberg v. Carhart.

H.R. 760 fails to provide an exception to protect the health of the mother. Rather, this legislation presumes that the authors' findings overrule those of the Supreme Court. The very text of this bill audaciously promotes ignoring the Supreme Court ruling in Stenberg v. Carhart.

The definition of the banned procedure in H.R. 760 is vague and could be interpreted to prohibit some of the safest and most common abortion procedures that are used before viability during the 2nd trimester. This legislation could have been written using precise, medical terms, and exemptions for procedures that are used pre-viability. However, the bill's unclear definition reveals the broad anti-choice agenda that this bill promotes.

The Supreme Court's decisions have clearly, and correctly protected a woman's right to make personal, and sometimes difficult decisions regarding her reproductive health. In addition to a legal obligation established by the Supreme Court, we have a moral and ethical obligation to protect the health of the mother. Every woman deserves the honest, accurate, professional advice of her doctor, a right that is endangered by H.R. 760. There is no place for Congress in the very private relationship between doctor and patient.

Furthermore, this ban is opposed by many groups of healthcare professionals who take their responsibility to preserve the health of their patients very seriously. These organizations include: the American College of Obstetricians and Gynecologists (ACOG), the American Medical Association (AMA), the American Nurses Association (ANA), and the California Medical Association (CMA).

Let me assure you that I grappled with the issue of partial birth abortion and determined that this procedure should be used only when medically necessary to protect the life and health of the mother. My decision to oppose legislation banning this procedure was based on my personal conversations with one of my constituents who faced this terrible situation and relied on the medical judgment of her doctor to make the only medically sound decision that preserved her ability to have children in the future.

I urge all of my colleagues to oppose H.R. 760 and vote against this harmful and unconstitutional legislation.

Mr. SOUDER. Mr. Speaker, as a cosponsor of H.R. 760, the Partial-Birth Abortion Ban Act, I strongly believe that the Congress must act now to pass this important bill. We should no longer allow the abhorrent killing of a partially-delivered baby to be lawful.

Leading up to a partial-birth abortion, a pregnant woman's cervix is forcibly dilated over a three-day time period. On the third day, the abortionist pulls a living baby feet-first out of the womb and into the birth canal, except for the head, which the abortionist purposely keeps lodged just inside the cervix. While the fetus is stuck in this position, dangling partly out of the woman's body, and just a few inches from a completed birth, the abortionist punctures the base of the skull with a surgical instrument, such as a pair of long scissors or a pointed hollow metal tube called a trochar. He or she then inserts a catheter into the wound and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now-dead baby. The corpse is discarded, usually as medical waste.

H.R. 760 would ban performance of this heinous procedure except if it were necessary to save a mother's life. The bill would permit use of the procedure if "necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself."

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, partial-birth abortions are performed 3,000 to 5,000 times annually, usually in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. It has also been used to perform abortions as late as in the third trimester, which is the seventh month and later. Many of these babies are old enough to survive outside the womb, and many of them are developed enough to feel the pain of this horrendous procedure.

Most of us have seen the dreadful images of these near-to-term victims of an abortionist, and while recoiling in horror, we have resolved to end this painful outrage. Twice previously, both houses of Congress voted to ban partial-birth abortion, only for the bans to be vetoed. Now, with a president who values the sanctity of life and who will sign this important protection into law, we have the greatest chance ever to end this contemptible practice. We must pass H.R. 760 to ensure that partially delivered babies are protected and that the gruesome procedure used to perform partial-birth abortions is banned under law.

Mr. CONYERS. Mr. Speaker, the Supreme Court has accorded some deference to congressional findings as Congress is the legislative body representing the people. The Court has ruled that it is not necessary for Congress to present conclusive evidence when declaring findings, and Congress has the discretion to weigh evidence and make reasonable inferences.

Nonetheless, the courts do not blindly follow congressional findings. In numerous cases, including Turner, Morrison, and Pennhurst, courts review evidence and look at sworn testimony that is subject to cross-examination before coming to a conclusion. Thus, the implication in H.R. 760 that courts strictly defer to congressional findings is not correct.

H.R. 760 cites Turner Broadcasting System, Inc. v. Federal Communications Commission ("Turner I") and Turner Broadcasting System, Inc. v. Federal Communications Commission ("Turner II") to show that the Court pays great deference to congressional findings. However, in Turner I and Turner II, the Court deferred to the overwhelming array of factual evidence presented by Congress. Evidence presented included extensive case law, Senate Reports, numerous hearings held by numerous committees and subcommittees, declarations, and reports. The Court paid great deference to the factual propositions Congress presented. The Court stated that Congress could weight the evidence it uncovered and make "reasonable inferences based on substantial evidence."

The key difference is that H.R. 760 simply states that the District Court erred in its findings of fact and law. Gainsaying, no matter how presented, is not the same as fact findings. For example, H.R. 760 does not add a health exception but instead simply states that the procedures covered by the bill are not necessary and that their probation poses no risk to the mother's health. This declaration goes directly against the ruling of the Supreme Court in Stenberg and the findings of fact in the lower court. The "findings," in effect, are an attempt to overturn Stenberg. Congress cannot simply refute findings of fact made by the District Court by presenting its own "findings" that are contrary to the evidence the Court depended upon to make its ruling.

In Pennhurst State School and Hospital v. Halderman, a patient at a Pennsylvania hospital for the mentally retarded challenged the conditions of the hospital. The patient claimed Pennhurst Hospital had violated the terms of § 6010 of the Developmentally Disabled Assistance and Bill of Rights Act of 1976 ("DDABRA"). §§ 6010(1) and (2) of the DDABRA was "the bill of rights provision," and it "grant[ed] to mentally retarded persons a right to 'appropriate treatment, services, and habilitation' in 'the setting that is least restrictive of . . . personal liberty.' "In § 6010, Congress made a series of findings that were repudiated by the Court. The Court found that § 6010 "is simply a general statement of 'findings' " and "does no more than express a congressional preference for a certain kind of treatment." The Court held that the "bill of rights" did not create a requirement for States to provide the least restrictive environment or to provide certain kinds of treatment to the mentally retarded.

Likewise, in United States v. Morrison, the Court struck down a section of the Violence Against Women Act ("VAWA") as a violation of the Commerce Clause in the face of overwhelming congressional findings that domestic violence affected interstate commerce. The Court stated, "[T]he existence of congressional findings is not sufficient, by itself, to sustain the constitutionality of Commerce Clause legislation." Therefore, although the Court defers to congressional findings, findings alone are not sufficient to make an unconstitutional act constitutional.

As with Pennhurst, the "findings" in H.R. 760 express a congressional preference, and it is unlikely that any court would defer to the findings. The language in the proposed bill is similar to the challenged language in Pennhurst in that the "findings" include precatory language. For example, the "findings" include the statement that so-called "partial-birth" abortions are never medically necessary even though the Court in Stenberg concluded otherwise.

H.R. 760 also purports to rely on the Supreme Court's holding in Katzenbach v. Morgan for the proposition that the Court will employ a "highly deferential review of Congress's factual conclusions." However, Katzenbach involved Congress's power under section 5 of the 14th Amendment to craft a remedy to a 14th amendment violation Congress had identified. Congress went beyond what the Supreme Court had deemed required as a remedy by the 14th Amendment. In that case, the Court held that provisions of the Voting Rights Act prohibiting the enforcement of a New York law requiring the ability to read and write English as a condition of voting was an appropriate exercise of Congress's section 5 powers. Specifically, the Court said that while Congress could use its enforcement power to provide additional protections for a right guaranteed by the 14th Amendment, it could not narrow that right. H.R. 760 would do exactly the opposite of what the Court approved in Katzenbach in that it narrows, rather than enforces a right protected under the 14th Amendment; in this case, the right to choose as delineated in Roe.

Moreover, in the intervening years, the Court has become far less deferential to Congress's enforcement powers under sec. 5, and to Congress as a finder of fact.

It is unclear what types of procedures are covered by the legislation. Although some believe the legislation would apply to an abortion technique known as "Dilation and Extraction" (D & X), or "Intact Dilation and Evacuation," it is not clear the term would be limited to a particular and identifiable practice. For example, the American College of Obstetrics and Gynecologists has noted that the definitions in the bill "are vague and do not delineate a specified procedure recognized in the medical literature. Moreover the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques." As a result, the bill could well apply to additional abortion procedures known as D & E (Dilation and Evacuation), and induction.

In the wake of the controversies over partial birth abortions, a number of states have taken up similar legislation. Like the federal bill, most of the state measures are so vague and so broad that they cover a wide range of abortion methods.

The overwhelming majority of courts to have ruled on challenges to state so-called "partial-birth abortion" bans have declared the bans unconstitutional and enjoined their enforcement. In the last three years, medical providers have challenged the state statutes that ban "partial-birth abortion" in twenty states. In eighteen of those states—Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, Nebraska, New Jersey, Rhode Island, West Virginia, and Wisconsin—the bans are currently enjoined, in whole or in part. In a nineteenth, Alabama, the state attorney general has limited the ban's enforcement to postviability abortions. In only one state, Virginia, has a court considered the constitutional challenges but nevertheless permitted enforcement of the statute pending further proceedings. Six federal district courts have entered permanent injunctions against statutes that are virtually identical, word for word, with H.R. 760.

The reality concerning quantitative data is that there is no national figures on the absolute number of D & X procedures performed. The two authorities which have the most comprehensive information on abortion—the Centers for Disease Control and Prevention (CDC) and the Alan Guttmacher Institute (AGI) do not compile data on the number of D & X procedures before or after viability.

According to AGI, in the most recent year for which data is available—1996—the total number of abortions nationally fell to 1.35 million from a high of 1.61 million in 1990. Of these, "an estimated total of 31 providers performed the [D&X] procedure 2,200 times in 2000, and 0.17% of all abortions performed in that year used this method."

Proponents of H.R. 760 also ignore the fact that most women do not simply elect to delay the time of their abortion or gratuitously choose the D & X procedure. The causes for delay are varied, including a dearth of abortion providers in many poor or rural areas, lack of availability of Medicaid funding, fear of violence at local clinics, teenagers fearful of notifying their parents or subject to delays caused by notice and informational requirements, and women who only learn of severe fetal abnormalities as a result of late term ultrasound or amniocentesis tests (which is subject to a mandatory wait for results). Physicians will not recommend a particular type of abortion procedure—D & X or otherwise—unless they believe it to be the safest for their patients.

Mr. STARK. Mr. Speaker, I rise today to strongly oppose H.R. 760, the so-called Partial-Birth Act.

I'd like to ask my colleagues, in what medical book can the procedure partial-birth abortion be found? Nowhere. This is a conjured up term used by opponents of abortions. "Partial birth" is a political term, not a medical one. At this very moment, Congress is legislating medical protocols that should be the determination of doctors and their patients. Most members have no medical training and are unequipped to make medical determinations of this nature.

The medically accepted, rarely-used procedure that is being targeted today, which is so graphically described by the supporters of this ban, is nearly always used in the third trimester when the life or health of the mother is in danger. But this bill put forward by proclaimed anti-choice proponents goes far further than that. Their ban would not just apply to procedures performed in the third trimester. It criminalizes numerous abortion procedures—including the safest and most commonly used methods of abortion that are performed in the second trimester.

If this legislation passes, it opens a Pandora's box of restrictions on the rights of women and on the ability of doctors to practice medicine. Just imagine the country we will live in. In communities across the nation, law enforcement officers will be conducting sting operations in doctors' offices to arrest pregnant women and their physicians. Is that what we want for America? I certainly don't.

This bill isn't about banning one procedure. Let's be honest. It is an attempt to re-ignite an anti-abortion campaign to eviscerate Roe v. Wade.

Just 3 years ago, the Supreme Court in Stenberg v. Carhart, struck down as unconstitutional a Nebraska law virtually identical to legislation before us today. Moreover, countless medical organizations disagree with this legislation—the American Medical Association, the American College of Obstetricians, the American Nurses Association, and the California Medical Association to name a few.

H.R. 760 could ban what may be the safest choice to protect a woman's life and health. Once again, this difficult decision is one I believe wholeheartedly is best left in the hands of those who have the skills to make these medical determinations, and those patients and families the decision is affecting—not Congress.

Vote no on H.R. 760.

Mr. PAUL. Mr. Speaker, like many Americans, I am greatly concerned about abortion. Abortion on demand is no doubt the most serious sociopolitical problem of our age. The lack of respect for life that permits abortion significantly contributes to our violent culture and our careless attitude toward liberty. As an obstetrician, I know that partial birth abortion is never a necessary medical procedure. It is a gruesome, uncivilized solution to a social problem.

Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the continuation of a civilized society. There is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-advised Roe v. Wade ruling, a ruling that constitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of Roe v. Wade.

Unfortunately, H.R. 760 takes a different approach, one that is not only constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language used in this bill does not further the pro-life cause, but rather cements fallacious principles into both our culture and legal system.

For example, 14G in the "Findings" section of this bill states, ". . . such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide . . ." The question I pose in response is this: Is not the fact that life begins at conception the main tenet advanced by the pro-life community? By stating that we draw a "bright line" between abortion and infanticide, I fear that we simply reinforce the dangerous idea underlying Roe v. Wade, which is the belief that we as human beings can determine which members of the human family are "expendable," and which are not.

Another problem with this bill is its citation of the interstate commerce clause as a justification for a federal law banning partial-birth abortion. This greatly stretches the definition of interstate commerce. The abuse of both the interstate commerce clause and the general welfare clause is precisely the reason our Federal Government no longer conforms to constitutional dictates but, instead, balloons out of control in its growth and scope. H.R. 760 inadvertently justifies federal government intervention into every medical procedure through the gross distortion of the interstate commerce clause.

H.R. 760 also depends heavily upon a "distinction" made by the Court in both Roe v. Wade and Planned Parenthood v. Casey, which establishes that a child within the womb is not protected under law, but one outside of the womb is. By depending upon this illogical "distinction," I fear that H.R. 760, as I stated before, ingrains the principles of Roe v. Wade into our justice system, rather than refutes them as it should.

Despite its severe flaws, this bill nonetheless has the possibility of saving innocent human life, and I will vote in favor of it. I fear, though, that when the pro-life community uses the arguments of the opposing side to advance its agenda, it does more harm than good.

Mr. STEARNS. Mr. Speaker, today opponents of the proposed ban on partial birth abortion will levy a great deal of unfair derision against those of us who will stand today to speak on behalf of the unborn. These same opponents repeatedly deny the terrible facts regarding partial birth abortion despite overwhelming evidence. They fight against common sense efforts such as parental notification and demonstrate, through their actions, that the unborn are not worthy of protection in their eyes. I emphatically disagree.

The phrase "partial-birth abortion" describes the process employed in this late-term abortion procedure. It refers to any abortion in which the baby is delivered "past the navel . . . outside the mother's body" and then is killed by any means effective. This method is usually employed after 24 weeks gestation at which point these babies have eyebrows and eyelashes and have shown to be sensitive to pain.

It is difficult and painful for all of us to hear of the violence against these unborn children. It is mournful that any child has ever known such brutality and in this case with the permission of the law.

Opponents of the ban have a difficult task before them because the truth of the matter is so painfully clear. They attempt to rationalize that if the baby's head and shoulders are still inside of the mother that it is worthless tissue to be discarded without regret. Is the line between murder and medical procedure really only five inches!? Such an argument is baseless and preposterous.

I am hopeful that this year's debate will be our last and we will finally ban this abhorrent procedure.

Mr. PORTMAN. Mr. Speaker, as an original co-sponsor of the Partial-Birth Abortion Ban Act, I want to express my strong support for outlawing the troublesome practice of partial-birth abortions.

Opponents of the ban suggest that partial-birth abortions are needed to protect mothers with pregnancy-related complications, but this argument simply does not hold up to the testimony of abortion providers and medical experts. Former Surgeon General of the United States C. Everett Koop has said that there is "no way" he can see a medical necessity for this barbaric procedure. The American Medical Association's legislative council has unanimously supported the partial-birth abortion ban.

Mr. Speaker, I ask you: What will future generations think of a society that allows this practice? For the moral health of our country, and for future generations, we should take action today to ban partial-birth abortions.

Congress has the opportunity today to do the right thing by banning partial-birth abortions. We have a duty to protect the unborn from this horrific procedure. I hope my colleagues will listen to their consciences and vote to make partial-birth abortions illegal once and for all.

Mrs. MALONEY. Mr. Speaker, I rise in opposition to this bill. Again, we are facing a bill that deprives women of safe, high quality medical care at a time when they need it most. And yet again, this bill places undue burden on a woman's right to seek an abortion.

Let's put this bill in perspective. Since the majority party took power in 1994, I've kept a scorecard. This is their 202nd strike against reproductive rights, and you can check the list at any website *www.house.gov/Maloney*.

Language similar to this bill has already been struck down in Stenberg v. Carhart on the grounds that it fails to take the health of the woman into account.

What this bill is about is the right to choose. The bill is extreme, it's vicious, and it's unconstitutional. The Supreme Court, The New York Times and the Washington Post agree, and I ask permission to place a copy of the Times and Post editorials in the RECORD.

The fact is that this bill says it's banning intact dilation and extraction, a procedure acknowledged by the experts, the American College of Obstetrics and Gynecology, as safe to end late-term pregnancy—when it's necessary. The opposition shows horrible pictures and yells about how grotesque this procedure is. It is, but so are lots of medical procedures. But they're still good care. This bill flatly disrespects medical opinion.

My constituents ask my opinion on important things—like low income women asking where their child tax credit went; like the Federal Communications Commission's ruling to consolidate access to news in the hands of a few. That's important, that's dangerous. But, I gotta tell you, not one of my constituents has asked me to be their doctor!

The Supreme Court has said that neither the Court nor Congress may ban a medical procedure appropriate to save the woman's life and health. Period

The blatant disregard for this fact and for the rights of women to choose is astonishing. I urge you all to vote "no" on this measure.

[From the New York Times, June 4, 2003]

### "PARTIAL BIRTH" MENDACITY, AGAIN

If the so-called partial-birth abortion ban now careering toward almost certain approval by the full House this week has a decidedly familiar ring, it is not your imagination playing tricks. The trickery here belongs to the measure's sponsors.

Although promoted as narrowly focused on a single late-term abortion procedure, the measure's wording adds up to a sweeping prohibition that would, in effect, overturn Roe v. Wade by criminalizing the most common procedures used after the first trimester, but well before fetal viability. Indeed, the measure replicates the key defects that led the Supreme Court to reject a strikingly similar state law a mere three years ago. In addition to its deceptively broad sweep, the bill unconstitutionally omits an exception to protect the health of the woman.

Plainly, the measure's backers are counting on the public not to read the fine print. Their strategy is to curtail access to abortion further as the inevitable legal challenge wends its way back to the Supreme Court for another showdown. They obviously hope that by that time, there will have been a personnel change that will shift the outcome their way.

House members who vote for this bill will be participating in a cynical exercise that disrespects the rule of law and women's health while threatening the fundamental right of women to make their own child-bearing decisions. Representatives who care about such things will not go along.

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[From the Washington Post, June 4, 2003]

### "PARTIAL BIRTH," PARTIAL TRUTHS

(By Ruth Marcus)

The poisonous national debate over what's known as partial-birth abortion resumes this week, and this time for real: The House is expected to handily approve a prohibition on the procedure, and the Senate has already passed its version. While his predecessor twice vetoed bills outlawing partial-birth abortion, President Bush is eager to sign legislation that he says will "protect infants at the very hour of their birth."

For those who support abortion rights, partial-birth abortion is not the battleground of choice, which is precisely why those who oppose abortion have seized on the issue. The procedure is gruesome, as indeed are all abortions performed at that stage of pregnancy. Although partial-birth abortion is routinely described as a late-term procedure, this label is misleading. The procedure isn't performed until after the 16th week of pregnancy, but it's already legal for states to prohibit abortions once a fetus is viable, at about 24 weeks. More than 40 states have such bans, and properly so. The Supreme Court has said that abortions must be available even after fetuses are viable if necessary to protect the life or health of the mother, and it may be that the health exception ought to be stricter. But this has nothing to do with a partial-birth abortion ban. The law would not prevent any abortion, before viability or after. Instead, it would make one particular procedure—one that may be the safest method for some women—a criminal act.

Indeed, even as they dwell on the gory details of the partial-birth procedure, the groups pushing for a ban on it don't seem to be doing anything to make it easier for women to obtain abortions earlier. Rather, the rest of their antiabortion agenda has been devoted to putting practical and legal roadblocks in the way of women seeking abortions at any stage of pregnancy. Thus, a pregnant teenager faced with multiple hurdles—no abortion provider nearby, no money, a parental consent law—may end up letting her pregnancy progress to the point where she is seeking a second-trimester abortion.

Then there are situations arising from the availability of medical technology that permits a previously impossible glimpse inside the womb. Amniocentesis, which doctors urge for women over 35 because of the heightened risk of birth defects, is not performed until the 15th or 16th week of pregnancy. Other fetal defects may be detected on sonograms only at that stage or later. This puts women squarely in the zone where partial-birth abortion becomes an awful possibility.

When it struck down Nebraska's partial-birth abortion law three years ago, the Supreme Court cited two distinct problems. First, the law was supposed to prohibit only partial-birth abortion, in which the fetus is partially delivered and then dismembered. But, intentionally or not, it was written so inexactly that it could also apply to the most common—though scarcely less grisly—technique for second-trimester abortions, dilation and evacuation, in which the fetus is dismembered before being removed from the womb. Such a bar, the court said, would be unconstitutional because it imposes an "undue burden" on a woman's right to abortion before the fetus is viable.

Second, the ban made no exception that would allow the procedure to be performed when necessary to protect the health of the mother. In cases of hydrocephaly, for example, partially delivering the fetus and then collapsing the skull can reduce damage to the cervix—and possibly preserve a woman's ability to carry another child to term. The American College of Obstetricians and Gynecologists told the justices that the partial-birth procedure "presents a variety of potential safety advantages. Especially for women with particular health conditions, there is medical evidence that [it] may be safer than available alternatives."

The legislation now before Congress tries to avoid the first problem identified by the court by defining partial-birth abortion more precisely. Opponents contend that the new definition could still apply to the more common technique. The bill's supporters argue this is not true, but they could have explicitly exempted such abortions from the law's reach if they really wanted to make that clear.

A bigger problem is the cavalier way in which Congress leapfrogged the court's requirement for a health exception: Lawmakers simply declared that partial-birth abortion "is never medically indicated to preserve the health of the mother." As Justice Clarence Thomas wrote in a different context, if Congress "could make a statute constitutional simply by 'finding' that black is white or freedom, slavery, judicial review would be an elaborate farce." What if Congress, in the aftermath of Brown v. Board of Education, "found" that segregated schools could be equal after all?

The political agenda is clear. Ken Connor, president of the conservative Family Research Council, spelled this out in an e-mail after the Senate vote last March. "With this bill," he wrote, "we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade." Indeed, in urging the overturning of partial-birth abortion laws in Illinois and Wisconsin, federal appeals court Judge Richard Posner, one of the nation's most prominent conservative jurists, said such statutes have nothing to do with protecting fetuses. Rather, said the judge, "they are concerned with making a statement in an ongoing war for public opinion. . . . The statement is that fetal life is more valuable than women's health."

Mrs. EMERSON. Mr. Speaker, I rise today to speak in support of a measure soon to be considered by this legislative body, H.R. 760, the Partial-Birth Abortion Ban Act, and to call to attention the moral duty of the United States House of Representatives to ban this procedure.

It is not necessary for me to walk you through the gruesome steps required for a physician to commit a partial birth abortion procedure as you are certainly well familiar with it from the testimony of previous speakers today. While the means of the procedure need not be repeated, the end to these means must be restated. Simply put, this procedure results in the end of a human life. A life that was moments before on the path towards formally entering the world—a path leading toward a life of loving, dreaming, learning—a path of potential. No, I do not need to define for you the cold, methodical death procedure that is a partial birth abortion or the pain experienced by the fetus. A child is deprived of a future; that should be moral reason enough to suspend the practice.

For this fetus, this baby, all rights are forbidden in order for the mother to exercise her right to personal privacy under the Fourteenth Amendment. In America, we do not hold the rights of one person over those of another; there is equal treatment under the law. This is of course with the exception of abortion, where restrictions cannot be made on an abortion procedure unless the potential life of the fetus is considered "viable." Even though I do not personally require the fetus to be viable in order for a life to be significant, it is an important justifying factor to the Supreme Court that many partial-birth abortions are performed on viable fetuses. A legal reason to suspend the practice.

I do not believe that we, in Congress, are in any position to pick one life over another, which is why I believe that when the life of the mother is in danger, abortion should remain an option. Mr. Speaker, please know that I do not favor legislation that would decide for a family who should die, the mother or the child, but H.R. 760 is careful to address this issue. This measure includes a factual finding demonstrating that partial-birth abortion is never necessary to protect the health of a woman.

Mr. Speaker, this legislation not only protects the rights of the unborn, but it is also a carefully crafted piece of legislation that addresses the concerns of the U.S. Supreme Court expressed in Stenberg v. Carhart. For a few thousand children, upon whom the partial-birth abortion procedure will be committed in the next year, H.R. 760 is not just legislation; it is life. Mr. Speaker I urge my colleagues to pass H.R. 760.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 760. By debating this bill, this Chamber is once again considering anti-choice legislation that is unconstitutional and dangerous to women's health. As I have in the past, once again I oppose this legislation.

We recently honored the 30th anniversary of the landmark Roe v. Wade decision. This decision reaffirmed a woman's right to choose. H.R. 760 is not only unconstitutional but it is yet another attempt to ban so-called "partial birth abortions." This is a non-medical term. The U.S. Supreme Court struck down a similar statute in Stenberg v. Carhart. The Court invalidated a Nebraska statute banning so-called "partial birth abortions." So, this legislation is at odds with the court's ruling. In Roe v. Wade, the court held that women had a privacy interest in electing to have an abortion, based on the 5th and 14th Amendments' concept of personal liberty.

Despite the fact that the Supreme Court struck down legislation virtually identical to H.R. 760 in the year 2000, anti-choice Members of Congress continue to jeopardize women's health by promoting this legislation to advance their ultimate goal of eliminating a woman's right to choose altogether.

H.R. 760 is unconstitutional for the same two reasons the Supreme Court found other statutes attempting to ban partial birth abortions unconstitutional. First, H.R. 760 lacks a health exception, which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion. Second, the non-medical term "partial birth abortion" is overly broad and would include a ban of safe, previability abortions. Banning the safest abortion option imposes an undue burden on a woman's ability to choose.

There are several safe procedures at issue in H.R. 760: the intact dilation and extraction or dilation and extraction ("intact D&E" or "D&X"), the dilation and evacuation ("D&E"), and induction abortions. The proponents of H.R. 760 claim the bill would ban only the D&X procedure, but medical experts argue otherwise.

D&E is the most commonly used procedure for second-trimester abortions. Together, D&E and D&X abortions comprise approximately 96 percent of all second-trimester abortions performed in this country. Induction abortions account for the majority of the remaining 4 percent of second-trimester abortions, require hospitalization, and are more expensive than D&E or D&X abortion. While induction is a safe procedure, for some women, it poses unacceptable risks.

With the vast majority of second-trimester abortion procedures performed using the D&E or D&X methods or by induction, banning these procedures would ban virtually all previability second-trimester abortions in this country. If H.R. 760 passes, physicians will be left with very few options to protect the safety of their patients. Physicians will have to choose between performing practically all second-trimester abortions under threat of criminal and civil prosecution, changing their medical practices to the detriment of the maternal health and financial health of their patients, or stop providing second-trimester abortions altogether.

Forcing physicians to choose from these limited options, prevents physicians from electing a procedure that is within the accepted standard of care, is safe, and for some women may be safer than the options remaining. The D&X abortion procedure offers a variety of safety advantages over other procedures. Compared to D&X abortions, D&X involves less risk of uterine perforation or cervical laceration because the physician makes fewer passes into the uterus with sharp instruments. There is substantial medical evidence that D&X reduces the risk of retained fetal tissue, a complication that can cause maternal death or injury. The D&X procedure is a safer option than other procedures for women with particular health conditions. Finally, D&X procedures usually take less time than other abortion methods used at a comparable stage of pregnancy, which can have significant health advantages.

In fact, as the American College of Obstetricians and Gynecologists (ACOG) has concluded, D&X may be "the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

H.R. 760 would improperly put the legislature in the physician's office. Allowing physicians to exercise their medical judgment is not only good policy—it is also the law. In Stenberg v. Carhart, 530 U.S. 914 (2000), the Supreme Court rules that all abortion legislation must allow the physician to exercise reasonable medical judgment, even where medical opinions differ. The Court made clear that exceptions to an abortion ban cannot be limited to situations where the health risk is an "absolute necessity," nor can the law require unanimity of medical opinion as to the need for a particular abortion method.

The proponents of H.R. 760 have further compromised the medical safety of women by refusing to draft an exception to the ban on certain abortion procedures to protect women's health. Such an exception is required under the Constitution. The Supreme Court has concluded in several cases that a women's health is always the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health.

The bill's ban on safe abortion procedures that are within the standard of care strips physicians of the discretion they need to make critical medical judgments. This will result in an unacceptable risk to women's health. Given the safety advantages of D&E, D&X and induction procedures over other abortion procedures, banning these procedures will necessarily harm women and deprive them of optimal care. As a physician and a woman, I consider this result unacceptable.

The findings to H.R. 760 attempt to justify the fact that the bill directly conflicts with Carhart by suggesting that the Supreme Court must defer to Congressional fact-finding, even if Congress's so-called "facts" conflict with the preponderance of evidence in litigation before the Court. But the drafters of H.R. 760 are wrong. First, a fundamental tenet of our constitutional structure, which establishes three separate branches of the Federal government, is that Congress can enact laws, but it cannot decide whether those laws are constitutional.

The power to decide what laws are constitutional is exclusively the Supreme Court's role.

Second, the Supreme Court is not required to defer to Congressional fact-finding. Rather, the Court has the power and the duty to independently assess the evidence that is presented to it, as it did in Carhart, and has no obligation to defer to Congressional findings on "partial-birth abortion."

The drafters of H.R. 760 are clearly wrong in asserting that they can overrule Carhart through legislation. Prior attempts by Congress to undo disfavored Supreme Court rulings (such as Congress's attempt to legislatively overturn Miranda v. Arizona, 384 U.S. 436 (1966), and Employment Division, Dep't of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990)) have been soundly rejected by the Supreme Court. Given the utter absence of legal support for this bill, it must be seen as a purely political gesture, not as a serious attempt at legislation.

The ACOG, whose more than 44,000 members represent approximately 95 percent of all board-certified obstetricians and gynecologists practicing in the United States, opposes abortion ban legislation and has stated that ". . . [t]he intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous."

In addition to ACOG, other medical groups have opposed attempts by Congress to enact abortion ban legislation, including:

The American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical Student Association, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the Association of Women Psychiatrists, the National Asian Woman's Health Organization, the National Association of Nurse Practitioners in Reproductive Health, the National Black Women's Health Project, the National Latina Institute for Reproductive Health, the National Women's Health Network, and the Rhode Island Medical Society.

Mr. Speaker, the medical community has voiced wide-spread opposition to H.R. 760. Likewise, the Supreme Court has opposed the bans on abortion procedures proposed in H.R. 760. I join the medical community and the Supreme Court is standing up for women's constitutionally protected right to choose safe abortion procedures. I oppose H.R. 760 and I urge my colleagues to do the same.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 760, the Partial-Birth Abortion Ban Act.

I am pro-choice, but believe late-term abortions are wrong. Abortion is a very personal decision and a woman's right to choose whether to terminate a pregnancy subject to the restrictions of Roe v. Wade must be protected. In my judgment, however, the use of this particular procedure cannot be justified.

I have personally spoken with doctors, both pro-choice and pro-life, who made it very clear to me that the "partial-birth" procedure is never medically necessary.

The debate on partial-birth abortion has been difficult for me. I voted against the ban back in 1996 believing this procedure was rare and used mostly in cases where it was necessary to save the life of the pregnant woman, to prevent severe consequences to her health, or when severe fetal genetic deformities exist.

After voting, I learned this procedure was not as uncommon as it was made out to be; rather than a few hundred partial-birth abortions each year, there have been thousands. Now, choice advocates acknowledge this procedure is often used for elective abortions of healthy fetuses.

For this reason, Mr. Speaker, I have voted for the ban since 1997 and urge my colleagues to support this bill.

Mr. CRANE. Mr. Speaker, as a cosponsor of H.R. 760, I rise in strong support of the Partial-Birth Abortion Ban Act of 2003. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in a most gruesome way.

During this procedure, which is used in second and third trimester abortions, the infant's body is delivered, leaving only the head in the womb. At that point the abortionist pieces the back of the infant's skull with a sharp instrument and then proceeds to vacuum out the infant's brain tissue, thus collapsing the skull, allowing the now-dead infant's body to be extracted.

This legislation makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under H.R. 760, anyone who knowingly preforms a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother, and further provides that those findings may be admissible at trial.

The House has passed legislation in each of the last four Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans. Both times the House voted to override the veto, but the Senate sustained it.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. Thanks to President Bush, this Congress has an opportunity to finally ban the gruesome procedure without the threat of a presidential veto. By passing H.R. 760 today, we will take a giant step towards protecting innocent babies who, through no fault of their own, have their lives taken.

Mr. EVANS. Mr. Speaker, I believe that the decision to terminate a pregnancy is one that should be made between a woman, her doctor, and her God. Ending a pregnancy is not done lightly; it is the most difficult decision a woman can make. As a Member of Congress, I do not believe that it is the role of this legislative body to make deeply personal, medical decisions for the women of this nation.

Three years ago, the Supreme Court heard a case involving late-term abortion. In Stenberg v. Carhart (2000), the Court found a Nebraska law banning a specific late-term abortion procedure to be unconstitutional because the statute lacked any exemption for the preservation of the health of the mother. It also found that the law violated Roe v. Wade (1973), in that the language in the law was so vague that it may be applied to a common, safe, early-term abortion practice as well as a late-term abortion procedure.

Today, we see on the floor an attempt to make this rare, life-saving medical procedure into a criminal act. The circumstances that make late-term abortions necessary are largely due to a tragic illness or event that compromises either the health of the fetus or its mother. This bill, H.R. 760, seeks to interfere with a woman's access to necessary health care services by making doctors criminally liable and subject to imprisonment. This is the punishment for performing a procedure that is in the doctor's judgement the best option for the mother's life or health.

I cannot support H.R. 760; I stand by American women's right to safe and legal reproductive health care.

Mr. LANTOS. Mr. Speaker, I deeply regret that once again the time of this House and its members will be spent dealing with the so-called "partial birth abortion" issue. I would emphasize that the term "partial birth abortion" is not a medical term, but rather a political term which the sponsors of this legislation have created in order to shock people into supporting this legislation.

I will not be able to cast my vote today when the roll call is taken on this pernicious piece of legislation, so I would like to take this opportunity to indicate my views on the underlying legislation (H.R. 760) and on the Greenwood/Hoyer/Johnson (of Connecticut) amendment that will be offered to this bill.

Mr. Speaker, the amendment in the nature of a substitute that our colleague from Pennsylvania, Mr. GREENWOOD, is offering makes it unlawful to knowingly perform an abortion after the fetus has become viable, unless, in the medical judgment of the attending physician, it is necessary to preserve the life of the woman or to avert serious adverse health consequences to her. I am not in support of the Congress substituting its judgment for that of a physician in a matter of medicine and health, but clearly this amendment is a substantial improvement over the original text of H.R. 760. I want to commend our colleagues—Mr. GREENWOOD, Mr. HOYER, and Ms. JOHNSON of Connecticut—for offering this amendment. If I where able to be here for the vote on this amendment, I would cast my vote in favor.

Mr. Speaker, even if the more reasonable and moderate language of the Greenwood Amendment is approved by this House, however, I would cast my vote against this bill if I were here when the House considers final passage later today. Even with the Greenwood language, the house is being asked to specify that a rarely utilized medical procedure is illegal. It seems to me that it is not particularly useful for the Congress of the United States to tell physicians how to practice medicine. The matter of terminating a pregnancy is a deeply personal and private matter, and it ought to be left to the woman and her physician. It is not a matter for the Congress of the United States to decide. I find it hypocritical that most members of the majority party in this body are anxious to keep the federal government out of the lives of Americans, but in the case of this most personal and most private of decisions, they seek to have the federal government take over that decision.

Mr. Speaker, I urge my colleagues to vote "no" on H.R. 760.

Mr. COLLINS. Mr. Speaker, America has always been a nation which values human life. We have spent trillions of dollars, and sacrificed the best and bravest of our men and women in far-flung lands to prevent the destruction of innocent life. We as a nation fight for the right of every man and woman to live without tyranny.

Our foundational document, the Declaration of Independence states "We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life. . . ."

The issue before us today is not about choice. It is not about convenience. It is not about privacy. The issue before us today is whether the United States will live up to its responsibilities, its foundational principals, and protect innocent human life.

I won't describe the brutal and barbaric practice of Partial Birth Abortion. What I will do, is urge every person within the sound of my voice to consider what allowing this practice to continue says about the American people.

In the most prosperous nation in the world, we currently allow 4,000 to 5,000 infants each year to be brutally murdered in this manner moments before they take their first, liberty laden breath.

On September 11, 2001, more than three thousand Americans lost their lives. This tremendous loss of life led to tremendous outrage, military action, and was the most tragic experience this nation has ever faced. Yet each year we allow the brutality of between four and five thousand partial birth abortions to occur.

Mr. Speaker, I am proud to be an original cosponsor of this bill. I am proud that the American people have said "enough" and elected us to represent them here today so that we can prevent any more needless, tragic, painful, barbaric deaths from partial birth abortion.

I urge my colleagues to defend these innocent ones. I urge the Members of this House to support this ban on partial birth abortion.

Mr. MILLER of Florida. Mr. Speaker, I rise in strong support of H.R. 760, the Partial Birth Abortion Ban Act. I would like to thank Mr. CHABOT for introducing this important legislation and for his leadership in protecting the life of the unborn.

As elected officials, banning this horrific practice may be one of the most important matters we will ever do. For years I have listened to the dislike opponents have for this bill and for this cause. And in all honesty, their concerns deeply disturb me.

Throughout this debate, we have repeatedly heard the details of this so-called "medical procedure."

Doctors have described to us how the baby is pulled partly out of the mother's body, only inches from a completed birth and how an abortionist inserts scissors into the skull creating a hole where the baby's brain can be suctioned out. We have all seen pictures of the lifeless body pulled from the mother and tossed away like trash.

After seeing this, why is their even debate? Partial Birth abortion is murder. Anti-life advocates claim this is about a woman's right to choose. The are wrong. This is about a child's right to live.

President Reagan wrote in his work "Abortion And The Conscience Of The Nation", that "every legislator, every doctor, and every citizen needs to recognize that the real issue is whether to affirm and protect the sanctity of all human life, or to embrace a social ethic where some human lives are valued and others are not. As a nation, we must choose between the sanctity of life ethic and the quality of life ethic." For me, like our former President, the choice is simple. We must ensure that the sanctity of human life is never compromised. The unborn child has no voice and cannot protect itself. It is up to all of us to guarantee their voices are heard and their right to life is protected.

I urge my colleagues to help protect the lives of the most innocent, helpless and defenseless among us and support the Partial Birth Abortion Ban Act.

Mr. WELDON of Florida. Mr. Speaker, as a physician, I find the practice of partial birth abortion extremely disturbing. It is an agonizing experience for the mother, a slow painful death for the child and is utterly unnecessary. Supporters of Partial Birth Abortions will say that these procedures are necessary for the mother, that it may be the safest procedure for some women in emergency situations. I ask them to consider the facts of the procedure. It is important to understand the procedure that we are banning in this bill.

The woman is subjected to three days of slow dilation of the cervix. The feet, body and arms of the baby are delivered. Only the head is not delivered. Then the abortionist kills the child by puncturing the back of the child's neck and removing his/her brain. If the baby's head were three inches further out of the birth canal, this practice would be recognized as murder under our court system.

The procedure is not in the best interest of women and even the American Medical Association has said that the procedure is "not good medicine." In fact, it presents a number of serious risks to mothers. No woman and no child should be subjected to this gruesome and unnecessary procedure. In fact, this procedure is no troubling that scores of pro-choice Members of Congress have joined us in voting to ban this procedure.

Opponents of this bill are attempting to add an exemption for the mother's "health." I know and they know that the courts have defined the term "health" to include a definition of mental health so broad as to make any ban virtually meaningless.

President Bush has said that he would sign a bill banning this practice. My hope is that the 108th Congress will give the President the Partial Birth Abortion Ban Act of 2003 for him to do just that. I urge my colleagues to do the right thing today and vote for this ban.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of H.R. 760, the ban on the procedure known as partial birth abortion. I was appalled when I learned of the partial birth abortion procedure and have been working diligently to abolish it ever since. This heinous procedure involves partially delivering fully formed babies, and then killing them. It is one of the most horrible forms of abortion practiced. The difference between abortion and murder is literally a few inches. I believe that there is no justification for this brutal and heartless procedure, and only the most calloused among us can hear the description of this procedure and not react with disgust.

We must act now to ban this appalling procedure and protect the innocent unborn from violent deaths. A vote in favor of H.R. 760 will stop the killing of innocent children and will send a message to the world that our Nation views life as a sacred and precious gift.

The overwhelming majority of the American people want to ban partial-birth abortions and no matter what your position is on abortion, this grisly procedure is indefensible in a civilized society. Thus, this vote on H.R. 760 gives all of us an opportunity to join together in protecting innocent children from this horrific and gruesome procedure.

H.R. 760 is effective legislation to ban an unbelievably gruesome act. I urge each of my colleagues to support this legislation and to protect those who cannot protect themselves.

Mr. SMITH of Texas. Mr. Speaker, I support the Partial Birth Abortion Ban Act, which bans partial-birth abortions unless they are necessary to save a mother's life. Partial birth abortion is a gruesome and inhumane procedure.

The American Medical Association has stated that partial-birth abortion is "not an accepted medical practice," is "ethically wrong," and is "never the only appropriate procedure."

A recent survey of abortion providers estimated that 2,200 partial birth abortions were performed in 2000. Most of these abortions are performed in the fifth and sixth months of pregnancy. Infants then are usually viable—that is, if they are born premature at this stage, they are born alive and usually enjoy long lives. This makes the procedure even more disturbing.

The Senate recently passed this legislation and the American public overwhelmingly supports this ban. A poll this year found that 70 percent of those asked favored a law to make partial birth abortions illegal except in cases where needed to save the life of the mother.

This bill is the same text that the House passed last year. Congress has twice approved a ban on partial-birth abortions, but both times the bills were vetoed by President Clinton. Hopefully, this time, because President Bush supports the ban, we will be successful in implementing a new policy.

Ms. ROS-LEHTINEN, Mr. Speaker, this critical legislation would prohibit physicians from performing partial-birth abortions, a horrific and heinous procedure.

Mr. Speaker, there is overwhelming evidence that shows that partial-birth abortion is not medically necessary to preserve the health of the woman, but rather poses serious consequences to her health.

Even organizations such as the AMA have said that this procedure is "not good medicine" and is not medically necessary.

Partial-birth abortion is a gruesome and inhumane procedure in which the child is forcibly pulled from the mother, with only the head remaining inside the cervical canal. The head of the child is then punctured at the base of the skull, and the brain is removed with a powerful vacuum. This is a barbaric act that is a grave attack against human dignity and justice, and it must be banned. Life is a gift, and it must be embraced and respected at all stages.

In a country which espouses the importance of protecting the inherent rights of every person, partial-birth abortion denies the rights of our most innocent and vulnerable members, our children. We, as legislators, must strive to uphold the truths upon which our great Nation was founded, especially that every individual is entitled to life, liberty, and the pursuit of happiness.

Partial-birth abortion is not a sign that women are "free to choose." It is a sign that women have been abandoned. They have not had the support and care that they so desperately need. Rather, abortion is the only option offered. There is increasing evidence that abortion causes extreme emotional and psychological damage. It has been determined that many abortions occur later in pregnancy when women do not want an abortion at all, but rather feel pressure to hide their pregnancy from their boyfriends or parents.

We must strive to ensure that each and every person is guaranteed the most basic human rights, the right to life. Women deserve better than to endure the physical and emotional pain and suffering associated with partial-birth abortion, and children deserve the chance to live.

I ardently support efforts to protect the dignity of women and children. As women, we have a unique role in society, to nurture and protect that dignity. Such dignity is only possible if it is promoted on every level.

It is time for partial-birth abortion to stop. We must have the courage and the strength to fight against the greatest of all human rights violations—partial-birth abortion. Women deserve better than abortion. I urge my colleagues to vote in favor of H.R. 760 the Partial-Birth Abortion Ban. A vote for the ban is a vote for life.

Mr. FRANKS of Arizona. Mr. Speaker, I rise today in support of legislation offered by colleague, Mr. CHABOT, to ban the procedure known as partial-birth abortion. Over the past 30 years, abortion has placed 42 million separate scars on America's soul. Each time, a mother was never quite the same. Each time, a nameless baby died a tragic and lonely death and all the gifts the child might have brought to humanity were lost forever. Mothers were impoverished while doctors were enriched.

I recently read the story about Samuel Armas, a three and a half year old from Villa Rica, Georgia. Samuel underwent experimental surgery at 21 weeks of gestational age to close a hole at the bottom of his spinal cord. An astonishing photo from this surgery shows Samuel's innocent and curious little hand emerging from his mother's womb during the surgery—an irrefutable example of just how precious and fragile a human life can be. The grasp of Samuel's five tiny fingers stunningly illustrates the miracle of life within the womb. The unspeakable and far-reaching cost of diminished respect for human life, born and unborn, is beginning to dawn in the hearts of us all. I urge my colleagues to vote in favor of this legislation to ban this horrific procedure, and oppose any amendment that would allow for exceptions. I commend my colleague Mr. CHABOT for this gallant legislation made in the interest of children and humanity everywhere.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREENWOOD

Mr. GREENWOOD. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GREENWOOD:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Late Term Abortion Restriction Act".

**SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.**

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion after the fetus has become viable.

(b) EXCEPTION.—This section does not prohibit any abortion if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

(c) CIVIL PENALTY.—A physician who violates this section shall be subject to a civil penalty not to exceed $10,000. The civil penalty provided by this subsection is the exclusive remedy for a violation of this section.

The SPEAKER pro tempore. Pursuant to House Resolution 257, the gentleman from Pennsylvania (Mr. GREENWOOD) and a Member opposed each will control 30 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the Greenwood substitute and claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will control the time in opposition.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent to yield 15 minutes to the gentleman from Maryland (Mr. HOYER) for the purposes of control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GREENWOOD. Mr. Speaker, I yield myself such time as I may consume.

Debates as the one we are having today always focus on the differences between us; and there are, in fact, differences between us.

We who offer this substitute amendment believe that the 90 percent of abortions that occur in the first trimester of pregnancy should be private and legal. The proponents of this bill do not. We believe that the 99.6 percent of all abortions performed in the country that are not affected by this legislation at all should be private and legal. They do not.

But there are points of agreement. We all believe that abortions that might be performed post-viability, that are not done to protect the life or preserve the health of the woman, should be illegal. We agree on that; and now let us see which of these bills, theirs or ours, actually accomplishes this goal.

Proponents of the underlying bill claim that their legislation will stop a particular type of abortion. They are wrong. It will not.

Thirty-one States have passed this legislation and the United States Supreme Court in the famous case of Stenberg v. Carhart deemed those bills, which are essentially identical to this bill, unconstitutional; and fundamentally, they said that what was wrong with those bills was that they made no exceptions for when the woman's health was a serious issue. Our substitute, not the underlying bill, complies with the Court's requirement that there must be a health exception.

Secondly, proponents claim that they want this dilation and extraction procedure, which is what it is actually called, they say it is being performed on healthy women. Yet their bill makes no exceptions for sick women. We have heard over and over again this procedure is done on healthy women with healthy babies. Then put a bill in, as we have, that talks about making the procedure illegal for women who are healthy, but allows it for those who are sick and need it.

Third, the proponents of this legislation claim that they want to eliminate late-term abortions. Yet their bill fails to accomplish this not once, but twice. First, it does not limit itself to post-viability pregnancies, late-term abortions; but it reaches way back into the early second trimester. Secondly, it fails to ban post-viability abortions by other means, as has been said repeatedly. So women who seek post-viability abortions for important medical reasons, who would be denied access to dilation and extraction procedures under this legislation, would still be perfectly free to use other, albeit more dangerous, procedures.

Our substitute bill bans all post-viability abortions by any means, not just one means but all means, unless the woman has a serious medical reason for needing that procedure. Our substitute substitutes policy for politics, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this substitute is identical to H.R. 809, and that bill is a phony ban which would grant a giant loophole that allows abortionists to perform partial-birth and third-trimester abortions at will. The substitute, which would prohibit the performance of an abortion after the unborn infant became viable, would not prohibit any abortion, from the substitute, "if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman."

The proponents of this substitute admit that their measure would allow any abortion at any stage of pregnancy if the mother's mental health is at risk. Thus, by its own term, this bill would not prohibit partial-birth abortions, nor would it prohibit late-term abortions because it grants the abortionist, who has a financial interest in performing as many abortions as possible, unbridled discretion to determine whether a partial-birth or third-trimester abortion may be performed.

Abortionists have demonstrated that they can and will justify any abortion on the grounds that it, in the judgment of the attending physician, is necessary to avert serious adverse health consequences to the woman. For example, Dr. Warren Hern of Colorado, the author of the standard textbook on abortion procedures who also performs many third-trimester abortions, has stated, "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." This is a man who has a financial interest in performing the abortion, and this is the physician who under the Greenwood substitute would be able to certify that the loophole is proper and the abortion can be performed.

I will quote from Dr. Hern again: "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health."

The substitute sponsors have stated that even psychological trauma caused by the pregnancy could justify an abortion, including a partial-birth abortion at any stage of pregnancy, including the third trimester.

The substitute would also have no effect on most partial-birth abortions because the bill only prohibits abortions after the fetus is viable in the vast majority of partial-birth abortions are performed on babies 4½ to 5½ months in development. Before it can be proven beyond a reasonable doubt that a given baby is viable, remember we are dealing with criminal statutes here; and prosecution, if this bill becomes law, the substitute becomes law, must prove that the fetus is viable in order for the ban to kick in.

The lung development of babies at this stage of pregnancy is such that most of them cannot survive if delivered from the mother's womb prematurely. Many of them can survive, but the percentages are such estimates of 39 percent of babies born at 23 weeks that it would be impossible for the government to prove beyond a reasonable doubt that any given one of these babies would have survived in a given case.

Given the substitute's failure to define the term "viable," it would not be sufficient to show that the baby had a one in three or one in two or even a three in four chance of survival. Unless the baby was in the seventh month of pregnancy or later, reasonable doubt would remain as to whether that particular baby would have survived outside the womb.

Furthermore, the notion that viability is a prerequisite for giving any legal protection to a child is misguided. Premature infants who are born before the third trimester with little or no chance of survival are fully entitled to the protections of law while they are alive. A person could not, for example, just walk into a neonatal intensive care unit and kill an infant who was born 23 weeks into the pregnancy and is in an incubator struggling to survive. That child has only a 39 percent chance of surviving, but his ultimate viability has no bearing on whether or not he is entitled to the protections of the law.

In the same way, partially born children with little or no chance of survival outside the womb are entitled to the protections of law. Viability is simply not a prerequisite for legal protection of born or partially born children.

For these reasons, I urge my colleagues to vote against the substitute.

Mr. Speaker, I reserve the balance of my time.

□ 1845

Mr. HOYER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, first, let us stipulate, I hope, that no one on this floor is pro-abortion any more than George Bush is pro-war. I supported President Bush, and I am not pro-war. There are times, though, when the health of the mother, her life, and, yes, her psychological health require and dictate, and the Supreme Court has upheld her right to seek, the termination of a pregnancy.

I do not believe that anyone here truly believes in his or her heart that abortion is a desired outcome to a woman's pregnancy. And I think, Mr. Speaker, without question, that this belief is even stronger when an abortion is obtained in the late stages of pregnancy. Yet the authors of the Partial-Birth Abortion Ban Act cannot escape the indisputable fact that their legislation would not prevent one late-term abortion or, I suggest, any other abortion at any other time, period. Not simply because the legislation they offer is undoubtedly unconstitutional, but also because there are alternative ways to terminate a pregnancy.

If my colleagues' interpretation of their legislation is that it precludes all types of termination of pregnancy, then they ought to state it as such. If, however, as they state, it is simply the elimination of a procedure, with admittedly alternative procedures available, then it does not prevent any abortion.

Mr. Speaker, on an issue of this magnitude, an issue that is fraught with emotion, that is susceptible to demagoguery and that requires us to balance a woman's right to personal autonomy with the rights of an unborn fetus, this House should seize what common ground exists.

Common ground, we do not find common ground in this House very often. We ought to find it on this issue. That is precisely what this bipartisan substitute, the Late-Term Abortion Restriction Act would do.

In short, this substitute addresses the very heart of the matter in this contentious debate, the termination of viable fetuses in the late stages of pregnancy. Unlike the Partial-Birth Abortion Ban Act, this bill focuses on when abortions are performed rather than how they are performed. It would ban all late-term abortions. Hear me: It would ban all late-term abortions constitutionally. That is to say, the Supreme Court has articulated exceptions that must be in legislation; specifically, protection of the life of the mother and the health of the mother. Thus, this substitute comports with the constitutional requirements articulated in Stenberg v. Carhart.

Recall that the Court in Stenberg struck down a Nebraska law prescribing partial-birth abortions because it, one, lacked the requisite exceptions, and two, impermissibly placed an undue burden upon a woman's right to choose. It is evident that where the Late-Term Abortion Restriction Act is constitutional, the Partial-Birth Abortion Ban Act, which deliberately excludes an exception for the health of the mother, is not.

The authors of the Partial-Birth Abortion Ban Act recognize the constitutional infirmity of their bill and thus seek to alter the facts upon which Stenberg was decided. Specifically, they reject the court's findings that partial-birth abortion may in some circumstances be the safest abortion procedure, and they state that partial-birth abortion is never necessary. But let me read to my distinguished friend a justice that I do not usually support the opinion of. In this case I think he is absolutely correct.

Justice Clarence Thomas, in a different context, says if Congress "could make a statute constitutional simply by finding that black is white or freedom, slavery, judicial review would be an elaborate farce." It is not an elaborate farce and, therefore, we cannot simply state that this is constitutional or this is not necessary. That will be subject to proof and the Court's determination.

I urge my colleagues to vote for this substitute, which resembles the law in 41 States of the Nation, including the chairman's State and my own. Let us not be driven further apart by our differences, but seize what common ground exists in this daunting debate.

I would tell my friend that our statute is not a criminal statute. If my friend will read it, it is a civil statute, a civil penalty, and, therefore, the burden of proof would be much less. And I say that in this context: If the doctor is a charlatan, if the doctor is not going to follow the law, no matter what we pass will make no difference. However, it will make a difference in the final analysis because the court, the jury, the finder of fact and the finder of the law will in fact be able to make a determination that there was not the risk of serious adverse health consequences to the mother and, therefore, in that instance, a late-term abortion was not appropriate.

I am not for late-term abortion except in an instance where the life of the mother must be saved or serious health care consequences must be avoided. But let me say this. Not all of my colleagues, some are, I think, intellectually consistent, but some give credence to an exception for abortion if it results from rape or incest. That, of course, is a psychological exception not a physical exception.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I was just thinking, an idle mind, I guess crazy thoughts go through your head. I was thinking of theme songs, and I was thinking for the pro-life people, "People Who Need People Are the Luckiest People in the World." I think it is a great theme song for us, and I am trying to think of a funeral dirge that would fit the so-called pro-choice people, but I cannot.

My good friend, the gentleman from New York (Mr. NADLER), said this is designed to undermine Roe v. Wade. Not at all. This is designed to say there ought to be civilized limits on the exercise of the abortion license. With 1.5 million abortions a year, one would think somebody would look at that and say, what can we do to stem that tide.

We are talking about human life. We are talking about death. We are talking about abortion, which does not terminate a pregnancy, it exterminates a pregnancy. And we are talking about a particularly hideous, gruesome form of abortion called partial-birth abortion.

Yesterday, we decided that flags were not for burning. I hope today we decide that little infants are not for killing. Partial-birth abortion is exactly what the pro-choice late Senator from New York said it is: infanticide.

The substitute offered by my friend from Maryland is a tactical maneuver in the ongoing war between the quality-of-life people, who think if you cannot have a decent quality of life, life is not worth living; and the sanctity-of-life people over here who think every life is important and has intrinsic value.

The victim is a nearly-delivered baby, four-fifths delivered out of the birth canal. The doctor takes a Metzenbaum scissor, jams it in the neck of the little baby, sucks out the brains and collapses the skull. How can we defend a process that we would not impose on a laboratory dog or a hamster? Cruel? Can we understand the pain that that little one must feel? Oh, my colleagues might deny it, but the medical texts are clear, absolutely.

The law exists to protect the weak from the strong. I cannot think of anything weaker than a little baby, a little nearly born infant, with little legs flailing, little arms flailing waiting for the knife to hit him in the back. The people we pretend to defend, the powerless, those who cannot escape, who cannot rise up in the streets, those are the ones that ought to be protected by the law. The law exists to protect the weak from the strong.

Let me just say this: The great Horace Mann said something interesting. He said, "You ought to be ashamed to die unless you have achieved some victory for mankind." Well, I think if we can put partial-birth abortion into the torture chamber, where it belongs, and get rid of it, that may not be a major victory, but it will be a victory for humanity. I want to be on that side.

Mr. GREENWOOD. Mr. Speaker, I yield myself 30 seconds, and our theme song is "We Trust the Women of America to Do What Is Right."

But to respond to my friend, the chairman of the Committee on the Judiciary, who argued that our health exception is too broad and allows loopholes. Their response is to have no health exception whatsoever. If the issue here is that we want to make sure that this procedure is only used where health requirements demand it, then we should be working together to create a very tight health exception not eliminating one entirely.

Mr. Speaker, I yield 3 minutes to the gentleman Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I want the gentleman from Illinois (Mr. HYDE) to know that he is still my hero, and with a gentle heart, I rise in opposition to the position he outlined.

Mr. Speaker, our goal is to end late-term abortions, and therefore, we must pass legislation that will be upheld by the Supreme Court. If we are to save babies, then we must do it effectively. When the underlying bill passes the House today, it will sit for 2 years while lower courts enjoin it, the Supreme Court reviews it and eventually declares it unconstitutional. So what is our goal, to end late-term abortions or to make a political statement?

The Supreme Court of the United States clearly indicated in Stenberg that any law prohibiting late-term abortions "requires that the statute include a health exception from the majority holding." H.R. 760 does not include a health exception and goes far to declare that the procedure is "never medically necessary." We are setting Congress up for a defeat at the hands of our highest Court, rendering the action we take today totally ineffective and the current law permitting late-term abortions unchanged.

I was not elected to Congress as a medical doctor and do not intend to tie the hands of physicians who should have the right to discuss all available options with their patients. Are Congressmen competent to regularly vote now on common medical procedures as never medically necessary? If we set this massive precedent to declare what a physician can and cannot do in their medical judgment, we give an awesome power to future Presidents and Congresses that will not share our gentle philosophy or our calm responsibility. Congressmen cannot suddenly declare they have medical degrees and are board certified to practice medicine. If my wife and I were faced with this dilemma, I would certainly hope that our physician was not hamstrung by distant Congressmen in Washington.

I urge my colleagues to support the Greenwood substitute, which effectively bans late-term abortions. To do otherwise only serves the interest of pressure groups and lawyers that will make a killing as the Supreme Court strikes down the underlying bill. The Court in Stenberg gives us a clear direction. While the underlying bill cannot survive in the Supreme Court, the substitute offered by the gentleman from Pennsylvania (Mr. GREENWOOD) does.

I oppose late-term abortions and will support effective measures to change the law and make the ban effective. Unlike H.R. 760, the Greenwood substitute bans late-term abortions in a way the Supreme Court will sustain. Passage of the Greenwood substitute would mean a quick end to litigation and a rapid change in U.S. law.

□ 1900

Failure to pass the substitute means continuing litigation and defeat at the hands of the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, make no mistake about it, the Greenwood-Hoyer substitute is not a real ban at all. It is a giant loophole that allows partial-birth abortions and third-trimester abortions on demand. The substitute contains no definition of "viable." It imposes no objective criteria that would bind an abortionist. An abortionist has unconstrained discretion to define and declare whether or not any given child is deemed to be viable.

If Members vote for this substitute, they might as well vote against the ban on partial-birth abortion. Why do so many Members want to ban this horrific procedure? I have never seen one. I would venture to say nobody in this room has probably seen one before, but one person did. Brenda Schaefer who was a registered nurse for Dr. Martin Haskell, the physician in Dayton, Ohio, who is credited with developing this horrible practice.

She describes it as follows: "Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal, and then he delivered the baby's body and the arms, everything except the head. The doctor kept the head just inside the uterus. The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head, and the baby's arms jerked out like a startle reaction, like a flinch, like a baby does when he thinks he is falling. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. He cut the umbilical cord and delivered the placenta. He threw the baby in a pan along with the placenta and the instruments he had just used. I saw the baby moved in the pan. I asked another nurse, and she said it was just reflexes. That baby boy had the most perfect, angelic face I think I have ever seen in my life."

That is what Brenda Schaefer witnessed with her own eyes, and that is why so many of us want to pass this today, and pass it in a form that will really mean something; and that means passing it without this phony ban, without this substitute. .

Mr. Speaker, if Members vote for this substitute, they might as well vote against the bill.

Mr. HOYER. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from Maryland for introducing this substitute along with the gentleman from Pennsylvania (Mr. GREENWOOD).

I have voted for the ban on partial-birth abortion at every other point when it has come up. We are talking about a procedure that represents less than one-fifth of 1 percent of the abortions that are performed in this country. Every one of us wants abortions to be rare; none of us favor abortion. We would love to see not just the issue taken off the floor, but that option taken off the table so that every family could have a healthy baby and every mother could continue to live a full life.

I am changing my vote, and I could suggest it is for legalistic intellectual reasons. I could cite the Stenberg v. Carhart decision in Nebraska where the so-called partial-birth abortion law was struck down. The Supreme Court has already deemed it unconstitutional. But my decision is not coming from the mind as much as the heart. It is because I have talked to too many families I know that I represent.

These are devoted parents, loving partners that want their children, who place their family above everything else; but when a family finds that they have a seriously deformed fetus or where they find that the mother has a very serious illness, cancer, heart disease, any number of other possible illnesses, that couple sits down at the kitchen table, or lies together at night agonizing, as agonizing a decision as they could make, and what right do we have to barge into their bedroom, to sit down at their kitchen table and put our hands on our hips and preach to them what they should do.

Do we for a moment think that they love their child in the concrete less than we do in the abstract? We are talking about the abstract here. They are talking in the concrete. We have got to respect the sovereignty of the American family. That is what this is about. They have the right to make this decision, and only they do in the context of their religion, their family, what is right for their family, what is right for each other. They know best; they know better than we do. Support the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in opposition to the substitute and in support of the original bill, H.R. 760, the Partial-Birth Abortion Ban Act.

Supporters of the substitute claim it would restrict late-term abortions, meaning after a child is viable unless a physician determines that the abortion is necessary to avert a serious health consequence to the woman; but it leaves so many doors open to the exceptions that it will have no practical effect whatsoever. It would do nothing to ban the partial-birth abortion procedure which is what we are trying to accomplish today.

As a sponsor of the substitute has stated, health consequences can mean almost anything, a level of mental health problem or a psychological trauma. The substitute also does nothing to ban a gruesome procedure known as partial-birth abortion which is shamefully legal in this country. It simply refers to late-term abortions. Seventy percent of the American people understand that this procedure is horrific, and they want it banned. The substitute ignores their pleas.

If this substitute becomes law, partial-birth abortions would continue to be performed, which is especially troubling at a time when this procedure has become even more common. Since 1994, the Alan Gutt Marker Institute noted that the number of partial-birth abortions has tripled. In fact, the substitute places no restrictions on these abortions in the fifth or sixth month of pregnancy when the vast majority of these abortions are performed. The main health reason for performing these is mental health, but it is undefined in the law.

Under Kansas law, abortion providers must report the reason for this type of abortions. Of the 182 performed last year, none of these were performed because of a problem with health of the mother or the child. It was simply and generically "mental health." What does this mean? According to testimony before the Committee on the Judiciary, Dr. James McMann, who developed the procedure, said the most common reason for performing this procedure was depression.

Finally, as the findings in the bill note, partial-birth abortions are a health risk to the mother. We have had endless testimony in the last several sessions stating this. Our bill will ban it; the substitute will not. In a country where we allow such things, we should be ashamed. We should take the opportunity now to support the bill and say no to the substitute.

Mr. GREENWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would state that the gentlewoman from Pennsylvania (Ms. HART) indicated that the people of this country are calling for this kind of a law. In the three States where this has been on a referendum, it has been defeated in each case.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the Committee on Rules for making this amendment in order. This is a very important issue because it involves the balancing of conflicting rights, the right of the fetus and the right of the mother; and it is because balancing rights is the very hardest thing a democracy has to do that this is a constitutional issue. It ought to matter to the proponents that every single State law has been found wanting and been overturned because it does not balance these rights fairly. It does not allow the mother, the woman, to consider her health; but the system can only consider her life and every court has overturned every single State law for this constitutional deficiency.

Some Members wonder why I am so passionate about this subject. I can tell Members it is not because I am pro-abortion. I oppose abortion. I do not like abortion. But my husband trained as an obstetrician and gynecologist in this country when abortion was illegal.

I do not know what song, Henry, you would like to have on your side, but I wonder what song you would sing to this family. My husband stood by the bedside of a woman, the mother of five children with her husband sitting there weeping as she died of an aseptic abortion because abortions were not legal and she could not get the care she desperately sought. But she and her husband, in accord with their beliefs and conscience, had sought a very early termination to preserve their ability to parent their five children.

And, yes, he saw a beautiful young woman, 22 years old, single, die of an aseptic abortion.

This bill, because it is so broad, will have such a chilling effect on the availability of abortions that there will be many forced to go back alley and will die as a consequence. I think that matters. I think there is a balance of competing rights here. That is why the American College of Obstetrics and Gynecology said D&X may be the best and most appropriate procedure in a particular circumstance to save the life or preserve the health of a mother. A particular circumstance. We do not know that circumstance. We will not be in the operating room when that circumstance comes up, and yet we are going to tell the physician you cannot do this.

Do Members know what the physician might do instead that would be perfectly legal? He can do a hysterectomy. He will have taken care of what he considers to be a life-threatening situation without running the risk of suit, which we are putting on him now; without running the risk of jail time, which we are putting on him now. This is not in the interest of the woman's life or her health.

In my substitute, we take a very evenhanded approach. We balance the rights, we allow the exception for life and serious adverse health consequences. This is not lighthearted, and I think it is a slap at all women that anyone would put out that out of fear of open space, that that would represent an adverse impact on your health. That is ridiculous and it is demeaning to women. But in certain situations you need to be able to consider health as well as life. Our amendment is evenhanded. It bans all forms of abortion after viability and all procedures equally.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE), whose name was taken in vain.

Mr. HYDE. Mr. Speaker, my name was not taken in vain. The gentlewoman is incapable of taking a name in vain.

Mr. Speaker, I just want to say that it is tragic that that woman died from a bungled abortion; but every abortion is lethal and fatal to the baby, so that is a greater tragedy in my opinion.

By the way, I thought of the theme song for the pro-choice people, "Mahler's Tenth." You ought to hear it. It will really make you feel sad.

Mr. SENSENBRENNER. Mr. Speaker, the example the gentlewoman from Connecticut (Mrs. JOHNSON) gave would have fallen under the exception that is contained in H.R. 760. The subsection which is the ban does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

□ 1915

The real-life story that the gentlewoman from Connecticut's husband faced would have fallen under the exception and would have allowed a partial-birth abortion. That is why this bill should pass and the substitute should be defeated.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I very much appreciate the gentleman yielding me this time.

As I looked at this situation, there were two things that jumped out at me that cried to be answered. One of them was, as I thumbed through the Washington, D.C., phone book, I came across, by accident, "Abortion Services."

And we talk about viability, there is ad after ad in there, multiple pages, that advertise they will provide abortions up to 24 weeks. It is in print, it is standard practice, and that is past that point of viability that has been talked about here.

It is chilling to see that, for someone who comes from the Middle West where we do not have such a thing. There is nothing in any phone books that I have seen in the Middle West. But it shocked me.

Another issue, as I sat in the Committee on the Judiciary and listened to remarks, and I am going to speak specifically to the remarks that were made by the gentleman from New York who said that we were cynical about this, that we simply wanted to ban partial-birth abortion for political reasons and that 41 States have banned late-term abortions, and that if we were serious, we would just go forward and do that. And that is what this amendment seeks to do. I rise in opposition to this substitute for that reason, because we know why it would not be effective and why it would gut this bill.

I am not a lawyer. I grew up in a cornfield and rode out on a bulldozer, but I can tell you I know this much about law. How did we get here to this point? I do not think anybody has referenced it now, and that is the case in 1965, Griswold v. Connecticut, right to privacy, when Connecticut outlawed contraceptives and the Supreme Court ruled that the State of Connecticut had no business getting into the privacy of the family and, therefore, found their law that outlawed contraceptives unconstitutional. That is the foundation for right to privacy.

Just a few years later, 8 years later, along came Roe v. Wade. That was the piece that said, well, that right to privacy extends to the woman's womb and in our declaration where it defines life, liberty, pursuit of happiness, those rights are prioritized except that the right of the liberty of the pregnant female takes priority over the life of the unborn. And then Roe v. Wade, of course, outlawed, though it did not make an exception for, late-term post-viability abortions.

But same day, concurrent decision, Doe v. Bolton gave that definition that I think we have heard that addresses the health of the mother. It does not prohibit any abortion if in the medical judgment of the attending physician the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman, a hole you could drive a truck through. That is also what this amendment seeks to do, and that is another reason that I oppose it.

Planned Parenthood v. Casey reaffirmed Roe v. Wade. That is what it looks like to this fellow who did not go to law school, but does read the cases and that precedent of right to privacy takes us to the floor of this House Chamber tonight to debate something that would be a chilling concept to us if we had been confronted with that in the environment when we were children.

And so Stenberg v. Carhart. I will just say this, it is a ghastly, ghoulish, gruesome procedure and that child is one inch from screaming for its own mercy. If ultrasound could hear the silent scream, we would not be in this debate tonight.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I support the Hoyer-Greenwood amendment for two reasons. First, this amendment makes illegal all late-term abortion procedures, unlike the underlying bill that only outlaws one late-term abortion procedure while, amazingly, allowing all other late-term abortion procedures to be left perfectly legal.

Second, passing an unconstitutional bill is not going to save one child's life. Not one. We know what the Supreme Court decision has said. It said it June 28 of 2000. The Supreme Court said, even in italics, that if you do not have a health exception, the bill will not become law. To put it in italics by the Supreme Court makes it about as clear as we can make the English language be.

I find it, Mr. Speaker, amazing that those who say their goal, and I trust their convictions, is to save babies' lives, why would you not want to ban all late-term abortions? If you assume these women are such monsters that just seconds before a perfectly healthy childbirth they would want to kill that baby, then I guess you could also assume very understandably she would just ask the doctor to use one of the other late-term abortion procedures.

Sixteen years ago, as a member of the Texas Senate, I was not interested in sound bites or partisanship. I was interested in banning all late-term abortion procedures, because no matter how a baby dies, if he dies frivolously late term, that is morally wrong in my book. But we knew then what we know today and that is, if you tonight have a health exception, your bill will not be law.

I ask once again, to the supporters of this bill, the question that has never been answered. If you assume a woman wants to kill a baby in the last seconds before a normal childbirth, why are you allowing her to do that under your bill just using other procedures?

This bill is a false promise. Vote for the Hoyer-Greenwood amendment and we can stop all late-term abortion procedures.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY) who knows more about delivering babies than practically all of us.

Mr. GINGREY. Mr. Speaker, I rise in strong opposition to this substitute amendment. The Greenwood-Hoyer substitute, make no doubt about it, will gut this bill to ban late trimester pregnancy termination just as surely as the procedure itself barbarically guts the life out of nearly born healthy children.

There are physicians who, unfortunately, and for a generous consultation fee, will readily certify that a woman's health is endangered by the pregnancy. In fact, the coauthor just a few minutes ago said that health exceptions would include psychological syndromes such as, you name it, extreme anxiety, as well as nebulous physical syndromes, such as chronic adult fatigue. So, in essence, the mother's health exception could be claimed literally in every one of these cases if we approved this substitute amendment and we would have no bill.

You talk about the fact that the Supreme Court could possibly rule this ban on partial-birth abortion as unconstitutional. If we vote in support of this substitute amendment, the bill dies right here tonight. In fact, the so-called consultant that I mentioned theoretically could come into the delivery room and declare the woman's health to be endangered within minutes of a spontaneous live birth.

The gentlewoman from Connecticut talked about sepsis. I have actually seen these tools that are used to perform this abominable procedure called partial-birth abortion. And you talk about the risk of sepsis developing after that type of a procedure. The gentleman from Virginia talked about the loving parents who would want to terminate the life of a child who was not going to be born perfect. A loving parent will allow that child an opportunity for life no matter how short it may be.

Mr. HOYER. Mr. Speaker, I yield myself 1 minute.

I ask this because I believe it is the nub of the debate. Does the gentleman from Georgia believe there is a procedure to terminate a pregnancy that is more humane or more appropriate than the partial-birth abortion?

Mr. GINGREY. If the gentleman will yield, will the gentleman mind repeating that question?

Mr. HOYER. Do you believe there is a procedure that is more humane or more acceptable than partial birth for the termination of a pregnancy?

Mr. GINGREY. The gentleman from Texas earlier talked about other late-term pregnancy termination procedures other than this one we know as partial-birth abortion. I do not know exactly what he or you are referring to.

Mr. HOYER. Reclaiming my time, and obviously I do not have more time, I wish I had more time because this is an important debate. My question to you is, A; let me ask you this, yes or no, if you can. Do you believe the only way to terminate an abortion is late-term, the procedure referred to in this bill?

Mr. GINGREY. I do not believe there is another way to terminate a pregnancy in late term.

Mr. HOYER. In late term than this? Is that correct?

Mr. GINGREY. I am sorry, I am not understanding you.

Mr. HOYER. In late term, this is the only way to terminate a pregnancy?

Mr. GINGREY. It is the only way to terminate a pregnancy without delivering a live born child. These pregnancies can be terminated by injecting saline or they can be terminated by performing a cesarean section, but the problem there is it is a live child.

Mr. HOYER. In which case, reclaiming my time, the child would not be live; am I correct?

Mr. GINGREY. In those instances, the child would be alive.

Mr. HOYER. You believe that that is more humane.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I rise today in support of the Hoyer-Greenwood substitute. As a pro-choice, pro-child Member of Congress and mother, I believe that abortions should be safe, legal and rare. For more than a quarter of a century, the Supreme Court has drawn a very clear line on this issue. As Americans and lawmakers, we are bound by the Constitution and we must realize that a ban on a specific late-term procedure that fails to include the life-and-health-of-the-mother standard the Supreme Court established in Roe and upheld in both Casey and Webster will be overturned by the Supreme Court.

What is wrong with the underlying bill? First, it does not take into consideration the health of the mother. Second, it bans an overly broad class of medical procedures that are also useful during pre-viability stages.

The Hoyer-Greenwood substitute gives Congress an opportunity to do the right thing. This bipartisan bill would prohibit all late-term abortions, but it makes the constitutionally required exception for when it would be necessary to save the mother's life or avert serious health consequences. Congress should leave a decision as deeply personal as whether to have an abortion to a woman, her family, her doctor and her God.

My colleagues, this vote is a test. Are we interested in banning late-term abortions? Or are we just wasting everybody's time and beating our chests just to pass something that we know will be overturned by the Supreme Court?

Let us do the right thing. Let us ban these procedures in late term. I urge my colleagues to vote for the Hoyer-Greenwood substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, all of us love this Nation. But how can all of us love this land unconditionally when there exists a law on the books that allows partial-birth abortion?

In America today, an abortionist begins partial-birth abortion by causing a woman to go into labor. Involuntary contractions begin that push a pre-born American child into the birth canal. This law, as shown on this diagram, then allows an abortionist to reach into the womb and, with the baby in the breech position, begin to pull the baby out by its feet and legs. The law and the amendment we debate today allows an abortionist to pull the baby almost all the way out of its mother, and as shown here on this diagram, insert his scissors into the base of this pre-born American child's brainstem and vacuum out its brains.

This is abuse of pre-born American children. This is violence against pre-born American babies. This is the torture and murder of future American patriots who deserve this Nation. And it is a corrupt law forced upon the land by the Supreme Court. This amendment says that an abortionist may continue to conduct this violence if he is trying to avert serious health consequences. This exemption is so big that it is nothing but a giant loophole. It once again allows the abortionist, the very menace to the child that is waiting to be paid, to define what averting serious health consequences means.

□ 1930

Think about it. The possibility of serious pain, serious stress, the possibility of serious health consequences, is what women endure in labor and in giving birth. Therefore, the very act of childbirth under this amendment would trigger the exemption. Those who have written it so broadly, so loosely defined, allow the possibilities of that which is endured during the very act of childbirth itself to be enough of a standard by which this amendment would allow an abortionist to continue his horror.

As the father of 12 children, I want to teach my children to love our Nation unconditionally, to revere her, to respect her laws and to be drawn into complying with the laws of this Nation, because her laws represent goodness, because they are filled with integrity, and because we are bound by a moral sense of obligation to abide by them.

Let us love our Nation unconditionally by removing these decrepit and immoral corrupt laws from the same books that contain our sacred rights and liberties. Stop the torture and infanticide of our preborn American children and our future patriots which this Nation needs to be born. Let them have life. Oppose this amendment.

Mr. GREENWOOD. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the previous speaker used very good words. Unfortunately, the bill that he advocates will not ban the procedure he abhors. Our amendment will.

The previous speaker talked about the broadness of our health exception. If the proponents of this legislation wanted to make sure that no healthy woman could ever get a late-term abortion, they would be advocating legislation that would require a second doctor's opinion, a clearly defined definition or list of medical conditions. That is what they would be doing if they were serious about that. But because they are opposed to abortion under any circumstances virtually at all, they cannot go there.

Now, they are very good at describing the gruesome details of abortion. Let us talk about the gruesome realities that sometimes make abortion necessary.

In March 1995, Tammy Watts from Arizona and her husband Mitch made the agonizing decision to end a wanted pregnancy at 28 weeks gestation. It would have been their first child. The fetus, however, had extensive, ultimately lethal, anomalies related to a genetic condition known as trisomy-13.

The Watts daughter, which they had already named McKenzie, was missing chambers in her heart, her brain was severely damaged and her skull had not formed in the back. Her liver and kidneys were oversized and already failing irreparably. Her bowel, bladder and intestines were formed on the outside of her body and had grown into a nonfunctioning mass of tissues. Doctors also told the couple that Tammy's health was at risk from a continued pregnancy, especially if the baby died in utero.

They decided to terminate the pregnancy, and Tammy and Mitchell were able to conceive again and announced the birth of their daughter, Savannah Whitnee, last July.

These are the realities that American women confront with their physicians, and that is why, in cases where their life or their health is at risk, this is none of our business and we do not belong in this decision.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in opposition to the substitute amendment to H.R. 760, the Partial-Birth Abortion Ban Act of 2003.

The partial-birth abortion procedure is a brutal and violent act that kills a living baby just seconds before it takes its first breath outside the woman. We must call partial-birth abortion what it really is, the murder of a baby during delivery.

Former Surgeon General C. Everett Koop has stated, "Partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both."

The substitute amendment being offered today includes a so-called health exception to the partial-birth abortion ban. Yet this broad definition, according to the Supreme Court, includes factors such as physical, emotional and psychological issues. All of these factors relate to health. Subsequent testimony has clarified that this health exception includes age, depression and even a fear of open spaces.

Mr. Speaker, this substitute is a facade. It is a ploy designed to gut the intent of the ban on partial-birth abortion.

The future of our Nation depends on decisions such as this. Does America have the moral and ethical fortitude to protect the most basic of human rights, the right to live? We as a civilized culture cannot stand by and allow defenseless, innocent children to be killed. We are not savages. We are not barbarians. We are human beings. Partial-birth abortion is insane, and this killing must end.

I am proud to offer my support for the partial-birth abortion ban. I urge my colleagues to reject this substitute amendment and pass the underlying bill, H.R. 760.

Mr. HOYER. Mr. Speaker, I reserve the balance of my time.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to correct the record to some extent. It was said that the case examples that I gave would have been covered under the underlying bill. I want to make clear that they would not have been covered, because those women were dying of the infections caused by being forced to get back-alley abortions under unsterile circumstances. If they had been allowed to be in a hospital and get the legal treatments that are available under our law, they would not have gotten the infection and they would not have died. But this underlying bill denies them that right because its definition is so broad. It reaches way down to fairly early decisions to terminate. So I do not accept that those women's lives would be saved under the underlying bill.

I also regret that one of my colleagues, a very skilled colleague who himself has a lot of experience, maintained that there were no other techniques other than late-term abortions that could be used. There are other techniques that are just as harsh, they look just as bad on a poster, and the underlying bill does not ban them.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Speaker, I rise to support the underlying bill and to strongly oppose the substitute amendment.

Mr. Speaker, I just want to point out that this substitute amendment is built on two myths. The first is the myth that this specific procedure we are talking about is somehow medically necessary in certain circumstances. It is not.

The American College of Obstetricians and Gynecologists states, "There are no circumstances under which the procedure would be the only option to save the life of the mother and preserve the health of the woman."

In 1995, a panel of 12 doctors with the AMA voted unanimously to ban the procedure, calling it "basically repulsive."

As one of my colleagues mentioned, former Surgeon General C. Everett Koop says that this procedure is "never medically necessary to protect a mother's life or her future fertility. On the contrary, this procedure can pose a significant threat to both."

So if we want to follow medical advice, let us do that and admit this procedure is never medically necessary.

The second big myth is that somehow this exception in the substitute amendment will in fact allow a real ban, and it will not. The health exception, you can drive a truck through it. That is clear in 41 states, and it will be no ban whatsoever.

Mr. HOYER. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, the last speaker just read part of the American College of Obstetricians and Gynecologists' statement. He said that they could identify no circumstances under which the procedure identified above could be the only option to save the life or preserve the health of the woman. Then he stopped. The rest of it is, "However, it may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of the woman, and only the doctor, in consultation with the patient, based on the woman's particular circumstances, can make that decision."

We just want the whole statement in the RECORD.

Mr. HOYER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the AMA opposes this bill. The Organization of Obstetricians and Gynecologists, you heard their statement. We are speaking past one another and we are not speaking to the American public.

Your bill is unconstitutional. You know it. You tried in 17 or 18 pages to restore it. You cannot do it, because you do not include what the Supreme Court requires, protecting the health of the mother.

Our bill is constitutional, and, except for the premise that you make that doctors are charlatans and will not be held accountable for breaking this law, which has to be proved only by a preponderance of the evidence, you say this law does nothing. In fact, it is the only statute on this floor which will preclude abortions at late-term being performed by any procedure; by any procedure.

Now, I tried to get the gentleman from Georgia (Mr. GINGREY) to respond. He would not respond. Why would he not respond? Because my friend, the gentleman from Illinois (Mr. HYDE), for whom I have unrestrained respect, believes the termination of a pregnancy, the taking of a life of a fetus, is wrong, however you do it. He is shaking his head affirmatively. That is an intellectually honest position. I respect it.

Partial-birth as described is an awful procedure. Abortion is an awful procedure. I accept that. And I personally oppose late-term abortions. When I am accused of being for abortion on demand at the 8th month, 29th day, I am not. We ought to protect those lives. But we have to balance it. That is what the Court says, that is what the Constitution of the United States says.

Support the Greenwood-Hoyer alternative. It is the only legislation that will be effective in trying to make some sense of this issue that so vexes America.

Mr. GREENWOOD. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, why are we here? Are we here because we are about to vote on a piece of legislation that will become law? No, we are not. It will not. It has been abundantly clear. The Supreme Court has voted on this issue. It has nullified every identical state law, and, as sure as God made little green apples, if this bill goes to the United States Supreme Court, by a vote of 5 to 4 it will be discarded.

So we have engaged in a political issue. I know what the political issue is. The political issue is to try to make those of us who are pro-choice appear to be extreme. Good politics, lousy use of this Chamber. It is a lousy use of this Chamber.

If Members who propose this legislation were serious about limiting late-term abortions and joining us in that effort, what would they do? They would help us create a tight, tight law that makes it clear that healthy women with healthy fetuses cannot get late-term abortions. We would all be in agreement. We would get something done.

□ 1945

We would make sure all of this talk of a loophole big enough we can drive a truck through would be gone. We would settle that.

But they cannot go in because they do not believe in a woman's right to choose at all, so they cannot craft reasonable legislation that would take care of the late-term issue. They cannot do that. So all they can do is go to the extreme, create the most exaggerated circumstances, and point to the most gruesome photographs and drawings.

I submit that this is an exercise in futility and urge Members to support the Greenwood-Hoyer-Johnson substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the chairman bringing this bill to the floor.

Mr. Speaker, as I have watched the debate, and it has been a good debate, what I have heard from the proponents of the substitute are two factors.

One is that this is unconstitutional, theirs is constitutional, and they have made a decision for the courts. I did not come to the House to make a decision for the courts. I came to the House to pass very strong, important legislation and then to fight in the courts for my position. I do not let the courts decide what direction I go. I do not make those decisions in this Chamber. If Members want to make decisions for the courts, then go down to the White House and get a nomination from the President.

The second is that their amendment will end late-term abortions, as if they are more pro-life than the gentleman from Illinois (Mr. HYDE). It is amazing to me. If we took this substitute and put it out here freestanding as a bill, which we may get the opportunity to do, they would vote against it and their outside groups, their pro-abortion groups and pro-choice groups, would be rallying outside these doors against their substitute.

So, Mr. Speaker, we have, though, a chance today to make the world a little less cruel for the defenseless. Opponents of this bill have condemned it to the top of their lungs, but we will not mistake volume for veracity. Despite the howls of extremism, all this bill really says is that even in this violent world, we can still tell the difference between right and wrong. We can still recognize that the inhumanity of this procedure has no place in a moral society. We can still recoil at brutality.

We should set aside the politics for a moment and just close our eyes and try to imagine what it is we are talking about. Think of the grip of the doctor's hand, like a vice, pulling a frightened baby, pulling on a frightened baby's legs out of the womb and into the world. Think of the frantic wriggling of that little body in that gloved hand. Think of that moment of pure terror when those sanitized scissors puncture the baby's neck. Then ask yourself, is this the best that we can do for unborn children, however unwanted; for pregnant women, however desperate; for the American people, however divided?

How can anyone think so? After all, women do not ask for partial-birth abortions. No, its violence is unleashed for the convenience of the doctor, not the health of the patient. Women who undergo the procedure run the risk of infection, future pregnancy difficulties, and infertility. Yet its defenders tell us that this cruel, dangerous, and medically unnecessary procedure is essential to the well-being of American women.

Mr. Speaker, it is just not true, but it is an untruth we will not have to bear or hear again after today. After 8 long years and many partial-birth abortions, Congress will finally send the Partial-Birth Abortion Ban Act of 2003 to a President who is willing to sign it.

When he does, abortion will still be with us. The debate over the rights of the unborn will continue and new battles will be fought. But in the meantime, in the meantime, the American people will take this one stand, this one stand on behalf of the innocent, to tame the savageness of man and to make gentle the life of this world.

Take that stand with them now. Vote against this substitute and vote for the bill.

Mr. MENENDEZ. Mr. Speaker, I rise today in strong support of he Hoyer-Greenwood substitute. It is refreshing to finally give policy a chance over politics. By allowing us the opportunity to vote on the Hoyer-Greenwood alternative as a substitute, the debate today is about making good public policy.

Our goal should be to increase services that prevent unwanted pregnancies. However, when the unintended happens, let us remember that the decision to have an abortion is an extremely difficult and personal one. I believe it is a decision that is best left to a woman in consultation with her doctor, her family, her loved ones, and her faith.

The Hoyer-Greenwood substitute is a superior alternative providing the most broad-based restriction on late-term abortions of any bill being considered in the House.

This proposal ensures that no healthy women with a healthy fetus can terminate her pregnancy in the third trimester, regardless of the type of procedure used. I strongly support these restrictions and always have. But for the life and extreme health threats to the mother, I know of no compelling reason to terminate a pregnancy at this late stage, and the Hoyer-Greenwood alternative would ban all such procedures.

Evidently, my Republican colleagues oppose what President Bush governed under in Texas. The Texas law is even broader than the Hoyer-Greenwood substitute we are now considering. It says that no abortion may be performed in the third trimester on a viable fetus unless necessary to preserve the woman's life or prevent a "substantial risk of serious impairment to her physical or mental health, or if the fetus has a severed and irreversible abnormality." That is the law in the State of Texas. That is the law under which President Bush operated during his terms as Governor of the State of Texas. It is a law similar to the 41 laws that have been passed in the different states that have such meaningful late-term abortion restrictions.

I hope all of my colleagues recognize the opportunity we have today, an opportunity to vote in support of commonsense legislation. I urge my colleagues to support the Hoyer-Greenwood substitute.

Mr. KIND. Mr. Speaker, I rise today in support of the Hoyer/Greenwood/Johnson substitute, the Late Term Abortion Restriction Act, and in opposition to the underlying bill.

In June 2000, in Stenberg v. Carhart, the U.S. Supreme Court invalidated a Nebraska statute that ostensibly prohibited "partial-birth" abortions. The court based its decision on two determinations: (1) the statute lacked any exception for the preservation of a woman's health; (2) the statute placed an "undue burden" on the right to choose abortion because its vague definition of "partial birth" abortion could cover multiple procedures, at any time during a pregnancy, regardless of viability. Due to these determinations, the court found the Nebraska statute unconstitutional.

Justice Sandra Day O'Connor, however, indicated that if changes were made in the legislation to address these concerns, restrictions on late-term abortions could be found constitutional. Unfortunately, the authors of H.R. 760, the underlying bill, failed to follow the outline by Justice O'Connor.

The legislation I support, the Hoyer/Greenwood/Johnson substitute, is a bipartisan effort that meets the Supreme Court's criteria. This substitute would ban all abortions after fetal viability, allowing an exception to protect the life or health of the mother. This bill did not eliminate a particular procedure; it would prohibit all late-term post-viability abortions by whatever method or procedure.

Most people, even those who oppose abortion, would make allowances for pregnancies as a result of rape or incest. There is no doubt that a young girl who becomes pregnant as the result of rape or incest can medically carry the pregnancy to term. However, many of us would say that that young girl should have the option to terminate that pregnancy as a means to safeguard emotional well-being—that is an argument in favor of recognizing the traumatic impact of a pregnancy due to rape or incest.

Some would argue that the pregnancy could be terminated earlier. We would hope so. However, the psychiatric and sociological record is replete with scientific and anecdotal evidence that even in the most supportive environments, girls who are victims of rape and incest are reluctant to reveal their abuse, leaving them vulnerable to emotional and mental breakdown, self-destructive behavior, and, in the worst case, unrecognized or unacknowledged pregnancies up until the last trimester. Only the Hoyer/Greenwood/Johnson substitute would adequately address this serious issue.

While this has been a difficult issue, I must oppose H.R. 760. This bill does not recognize the constitutionality issues raised by the Supreme Court. It does not contain an exception for a woman's health, nor does it adequately define "partial birth" abortion in such a way as to address the issue of "undue burden." I am confident that if this bill is signed into law, the Supreme Court would strike it down.

As a Member of the U.S. Congress, I took an oath to uphold the Constitution of the United States. I will not betray that oath. Now that the Supreme Court has determined the constitutional parameters for a partial-birth abortion ban in the Stenberg case, I must adhere to that decision and cannot vote for a bill that is blatantly unconstitutional. H.R. 760 does not comply with the Court's decision.

Mr. KOLBE. Mr. Speaker, I rise today in support of the Greenwood, Hoyer, and Johnson amendment to the Partial-Birth Abortion Ban Act of 2003, H.R. 760.

For several years, Congress and the American people have endured a wrenching debate concerning abortions. Although I believe in a woman's right to determine her reproductive destiny, I do not support partial birth abortion. In fact, I am opposed to any post-viability abortion by whatever method, unless it is performed to save the life of the woman or to avert serious adverse consequences to her health.

To date, congressional debate has centered on legislation that would federalize the regulation of abortion, a matter historically left to the discretion of the States. And, for the first time in medical history, it would ban a specific procedure, known medically as a dilation and extraction, D&X. I cannot support this legislation because of its uncompromising language banning this specific late term abortion method even in a case where a pregnancy goes tragically wrong and the woman's health is placed in serious peril.

Recognizing the need for some answers in a debate that has generated more heat than light, I join my colleagues, Congressman JIM GREENWOOD, and STENY HOYER, and Congresswoman NANCY JOHNSON in support of an amendment that would prohibit all late-term abortions, regardless of the method used to terminate the abortion. The Greenwood, Hoyer, and Johnson amendment applies to all abortions performed after "viability", defined as that time when a fetus is able to survive outside the womb. The amendment provides an exception only in cases where it is necessary to save the life of the woman or to avert serious adverse consequences to her health.

The Greenwood, Hoyer, and Johnson amendment correctly puts the emphasis on when abortions are performed, not how they are performed. This amendment does not try to put Congress in the inappropriate role of determining the correctness of one particular medical procedure. Instead, this amendment makes clear that throughout the course of a pregnancy, prior to viability, medical decisions regarding a woman's personal care and treatment must lie with the patient, her physician, and her family—not lawmakers in Washington.

Mr. Chairman, the Greenwood, Hoyer, and Johnson amendment would prohibit all post-viability abortions even if the woman suddenly decided she no longer wanted the child or was emotionally unable to care for a child. I cannot and I will not justify a late-term abortion in these instances. However, when an abortion is medically necessary, I want every woman to have available to her the procedure that is the safest. I encourage all my colleagues, Republicans and Democrats alike, to support this amendment.

Mr. LEVIN. Mr. Speaker, I rise in support of the Greenwood-Hoyer Substitute, the Late Term Abortion Restriction Act, and in opposition to the underlying bill.

I oppose all late term abortions with exceptions only when the mother's own life is at risk or to prevent serious adverse consequences to her health.

Federal courts have ruled unconstitutional at least 19 different State laws with similar or identical language to the underlying bill because they do not contain adequate health exceptions. In Stenberg v. Carhart, the U.S. Supreme Court noted that "a State may promote but not endanger a woman's health when it regulates the methods of abortion" and that "the absence of a health exception will place women at an unnecessary risk of tragic health consequences." Despite this clear Court opinion, the bill's sponsors refuse to allow an exception to protect against adequate health consequences to a woman's health.

We should be working together to approve legislation that bans late-term abortions in a manner which protects the mother's health and which is consistent to the decisions of the Federal courts and the Supreme Court. The Late Term Abortion Restriction Act, which I cosponsor, does just this.

Mr. HOSTETTLER. Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute. This amendment inserts a so-called "health exception" in the ban.

I hope my colleagues will realize that this substitute would completely destroy the ban on partial-birth abortions. The amendment relies upon an outrageously broad definition of health that would effectively allow the doctor to determine that any circumstance qualifies for a "health exception."

That means that a doctor could prescribe a partial-birth abortion because a mother is suffering from temporary depression or any number of other such circumstances.

The mother's depression should be taken seriously and she should receive the best care possible, but snuffing out the life of her child is not a good cure for depression.

In fact, partial-birth abortion has a great likelihood of being injurious to a woman's health—the doctor, while jabbing a pair of scissors into the child, could also stab the mother, as well.

The Subcommittee on the Constitution held hearings on the Partial Birth Abortion Ban on March 25, and during that hearing, Dr. Mark Neerhof testified that hemorrhage, infection, and uterine perforation are all possible results of partial birth abortion. These women are put at greater risk of severe bleeding, uterine rupture, and death, as well.

Women deserve better. Do not sell women short by making them pawns of abortion providers. It is not right to murder children—we should make strides to help these mothers without killing their children.

Every child is precious in God's eyes, and we must learn to look at all children and their parents through God's eyes.

I urge my colleagues to support the ban on partial-birth abortion, and to oppose the substitute.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD) has expired.

Pursuant to House Resolution 257, the previous question is ordered on the bill and on the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HOYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 133, nays 287, not voting 14, as follows:

### [Roll No. 240]

### YEAS—133

Abercrombie
Allen
Andrews
Baca
Baird
Ballance
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Delahunt
DeLauro
Dingell
Dooley (CA)
Edwards
Emanuel
Etheridge
Evans
Farr
Fattah
Filner
Ford

Frank (MA)
Frelinghuysen
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hill
Hoeffel
Hooley (OR)
Houghton
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kelly
Kennedy (RI)
Kind
Kirk
Kleczka
Kolbe
Larsen (WA)
Levin
Lewis (GA)
Lynch
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore

Moran (VA)
Napolitano
Neal (MA)
Obey
Olver
Ose
Pascrell
Pastor
Price (NC)
Ramstad
Rangel
Reyes
Rodriguez
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Schiff
Scott (GA)
Scott (VA)
Shays
Sherman
Simmons
Snyder
Spratt
Strickland
Sweeney
Tauscher
Thomas
Thompson (MS)
Tierney
Towns
Turner (TX)
Van Hollen
Visclosky
Watson
Watt
Waxman
Wu
Wynn

### NAYS—287

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Chabot

Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)

Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Grijalva
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hostettler
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam

Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Latham
LaTourette
Lee
Lewis (CA)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCotter
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt

Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryun (KS)
Sanders
Saxton
Schakowsky
Schrock
Sensenbrenner
Serrano
Sessions

Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Stark
Stearns
Stenholm
Stupak
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Waters
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

### NOT VOTING—14

Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt

Jones (OH)
Lantos
Larson (CT)
Leach
Lewis (KY)

Lofgren
Rothman
Ryan (WI)
Smith (WA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 2011

Messrs. OWENS, JANKLOW, HINCHEY, NADLER, HONDA, HOLT, ENGEL and Ms. WATERS changed their vote from "yea" to "nay."

Messrs. BACA, FATTAH, SWEENEY, GUTIERREZ, Ms. HARMAN and Ms. LINDA T. SÁNCHEZ of California changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. BALDWIN. I am. Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Ms. BALDWIN moves to recommit the bill H.R. 760 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:
>
> Page 17, line 2, strike "abortion" and all that follows through "itself" in line 6, and insert "abortion that is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes in support of her motion.

Ms. BALDWIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to offer a motion to recommit that would provide an exemption to protect the health of the woman.

Women do face profound medical crises during pregnancy. Conditions like hypertension, heart defects, diabetes, and breast cancer can cause serious trauma to a pregnancy. These potential traumas demand a health exception.

The consequences of this sweeping ban are frightening. Women may face severe health consequences such as death, infertility, paralysis, coma, stroke, hemorrhage, brain damage, infection, liver damage, and kidney damage.

□ 2015

Mr. Speaker, the list of consequences becomes even more horrifying when we realize that the families faced with crisis pregnancies are real.

Allow me to tell my colleagues the story of a Wisconsin family, Kathy and her husband, Chris. Kathy was over 6 months into her pregnancy when doctors discovered through an ultrasound that their baby had no brain. There was a tumor in the baby's brain cavity, and the ultrasound revealed other factors that would complicate the delivery and jeopardize Kathy's health. Her doctor recommended that she have an abortion. After the procedure, Kathy was in tears for weeks suffering from depression. She felt alienated and shamed, even though she had done nothing wrong.

The women who face this terrible decision want nothing more than to have a child and are devastated to learn that their baby cannot survive outside the womb. In consultation with their doctors and families, they make this difficult decision to preserve their own health and in many cases to preserve their ability to have children in the future.

How can we look a woman like Kathy in the eye and tell her that she cannot have a safe procedure that would preserve her health and give her the best chance to have children in the future?

Simple humanity alone should be sufficient to justify a health exception; but if my colleagues need more, the U.S. Supreme Court has made it clear that such an exception is legally required. In Stenberg v. Carhart, the Court held the Nebraska ban was unconstitutional because there was no health exception for the mother.

Language in this motion is taken directly from the Supreme Court ruling. Denying a health exception is wrong and unconstitutional. If this bill passes today without this motion, women who are already dealing with the tragic consequences of crisis pregnancies will have their health put in serious danger.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, even if this bill were constitutional, it would not stop any abortions, just a procedure. The abortion would still take place using an alternative procedure. I am not going to inflame the debate by describing those alternative procedures; but this bill in its present form, without this amendment, is clearly unconstitutional.

This amendment would make it constitutional. The Supreme Court said in Stenberg v. Carhart that the ban on partial birth abortions was unconstitutional because the law lacked any exception for the preservation of the health of the; mother, and reading out of the case, it says subsequent to viability the State, in promoting the interests of the potentiality of human life, may, if it chooses, proscribe an abortion and in italics it says except where it is necessary in appropriate medical judgment for preservation of the life or health of the mother. This is what this amendment says. That was in italics.

Later down it says the governing standard requires an exception, and it says, where it is necessary in appropriate medical judgment for preservation of the life or health of the mother. That is the language of this amendment. It also says, our cases have repeatedly invalidated statutes, and the process of regulating the methods of abortion imposed significant health risks.

Finally, it says, but where the substantial medical authority supports the proposition that banning a particular abortion procedure could endanger women's health case law requires the statute to include a health exception when the procedure is, and listen up, necessary in appropriate medical judgment for the preservation of life or health of the mother.

That is what the Supreme Court said in June 2000. Five judges found that opinion. All five are still on the Court. They used the same language in this amendment in plain print, in italics and in quotes. They were serious about this legislation. We ought to read the case and apply the law and adopt the motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman's time has expired.

Who claims time in opposition?

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

This motion to recommit should be rejected for several reasons. The overwhelming weight of evidence compiled in a series of hearings indicates that partial-birth abortions are never necessary to preserve the health of a mother and, in fact, pose substantial health risks to women undergoing the procedure.

No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy as compared to other abortion methods. There have been no articles published in peer review journals that establish that partial-birth abortions are superior in any way to establish abortion procedures.

Furthermore, experience indicates that partial-birth abortions are not performed to preserve the health of a woman. The late Dr. James McMahon, developed this method and performed thousands of them, some as late as the ninth month. In 1995, Dr. McMahon submitted to the Committee on the Judiciary a graph and explanation that explicitly showed that he aborted healthy babies even in the third trimester which begins after the 26th week of pregnancy. His own graph showed, for example, that at 29 or 30 weeks one-fourth of the aborted babies had no flaw.

Furthermore, leading proponents of partial-birth abortion acknowledge that it could pose additional health risks because, among other things, the procedure requires a high degree of surgical skill to pierce the infant's skull with a sharp instrument in a blind procedure.

Dr. Warren Hern testified that he had very serious reservations about this procedure and that he could not imagine a circumstance in which this procedure would be safest. Although he was opposed to legislation banning partial-birth abortion, he also stated, "You really can't defend it. I'm not going to tell somebody else they should not do this procedure, but I'm not going to do it." He also stated, "I would dispute any statement that this is the safest procedure to use."

The procedure also poses the following additional health risk to the woman: an increase in the woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position.

Finally, a health exception, no matter how narrowly defined, gives the abortionist unfettered discretion in determining when a partial-birth abortion may be performed, and abortionists have demonstrated they can justify any abortion on this ground. Again, Dr. Warren Hern, "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." I repeat, "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health."

It is clear then that a law that includes such an exception would not ban a single-birth abortion; and for that reason, I would urge a "no" vote on the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. BALDWIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 165, nays 256, not voting 13, as follows:

[Roll No. 241]

YEAS—165

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Kolbe
Kucinich
Larsen (WA)
Lee
Levin
Lewis (GA)
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—256

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Lofgren
Rothman
Ryan (WI)
Smith (WA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 2040

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 282, nays 139, not voting 13, as follows:

[Roll No. 242]

YEAS—282

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly

Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
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Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
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Paul
Pearce
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Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
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Shaw
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Sherwood
Shimkus
Shuster
Simpson
Skelton
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Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NAYS—139

Abercrombie
Ackerman
Allen
Andrews
Baca
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Ballance
Becerra
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Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Doggett
Dooley (CA)
Edwards
Emanuel
Engel
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
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Larsen (WA)
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Sanchez, Loretta
Sanders
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Simmons
Slaughter
Snyder
Solis
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Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
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Waters
Watson
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Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOT VOTING—13

Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Lofgren
Rothman
Ryan (WI)
Smith (WA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 2047

Mr. BERMAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I could not be present today, Wednesday, June 4, 2003, to vote on rollcall vote Nos. 236 through 242 due to a family medical emergency.

Had I been present, I would have voted:

"Yea" on rollcall No. 236 on H. Res. 257; "yea" on rollcall No. 237 on H. Con. Res. 177; "yea" on rollcall vote No. 238 on H. Res. 201; "yea" on rollcall vote No. 239 on H.R. 1954; "yea" on rollcall vote No. 240; "yea" on rollcall vote No. 241; and "no" on rollcall vote No. 242.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 257, I call up from the Speaker's table the Senate bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 3 is as follows:

### S. 3

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Partial-Birth Abortion Ban Act of 2003".

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart (530 U.S. 914, 932 (2000)), the United States Supreme Court opined "that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure" for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an "undue burden" on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the "health" of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not "clearly erroneous". A finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed". Anderson v. City of Bessemer City, North Carolina (470 U.S. 564, 573 (1985)). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently" (Id. at 574).

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the "clearly erroneous" standard. Rather, the United

States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan (384 U.S. 641 (1966)), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case." (Id. at 653).

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the "bail-out" provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that "congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose". City of Rome, Georgia v. U.S. (472 F. Supp. 221 (D. D. Col. 1979)) aff'd City of Rome, Georgia v. U.S. (46 U.S. 156 (1980)).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission (512 U.S. 622 (1994) (Turner I)) and Turner Broadcasting System, Inc. v. Federal Communications Commission (520 U.S. 180 (1997) (Turner II)). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized". The Turner I Court recognized that as an institution, "Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here" (512 U.S. at 665–66). Although the Court recognized that "the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,'" its "obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial 'evidence." (Id. at 666).

(12) Three years later in Turner II, the Court upheld the "must-carry" provisions based upon Congress' findings, stating the Court's "sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'" (520 U.S. at 195). Citing its ruling in Turner I, the Court reiterated that "[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to "amass and evaluate the vast amounts of data" bearing upon' legislative questions," (Id. at 195), and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." (Id. at 196).

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a "health" exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th, 105th, and 107th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, and 107th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, "there are very few, if any, indications for . . . other than for delivery of a second twin"; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is "not an accepted medical practice," that it has "never been subject to even a minimal amount of the normal medical practice development," that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown," and that "there is no consensus among obstetricians about its use". The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is "ethically wrong," and "is never the only appropriate procedure".

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade (410 U.S. 113 (1973)) and Planned Parenthood v. Casey (505 U.S. 833 (1992)), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child "in a state of being born and before actual birth," was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a "person" under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a "person". Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are "ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb". According to this medical association, the "'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body".

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

### SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

### "CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.
"1531. Partial-birth abortions prohibited.

**"§ 1531. Partial-birth abortions prohibited**

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the date of enactment of this chapter.

"(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however*, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

**"74. Partial-birth abortions ................ 1531".**

### SEC. 4. SENSE OF THE SENATE CONCERNING ROE V. WADE.

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in Roe v. Wade (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in Roe v. Wade established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in Roe v. Wade (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

### MOTION OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 257, I offer a motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves to strike all after the Enacting clause of S. 3, and insert in lieu thereof the provisions of H.R. 760 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

### MOTION TO GO TO CONFERENCE

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1 of rule XXII, I offer a motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the House insist on its amendment to S. 3 and request a conference with the Senate thereon.

The motion was agreed to.

A motion to reconsider was laid on the table.

### MOTION TO INSTRUCT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Speaker, I offer a motion to instruct the conferees.

The Clerk read as follows:

Mr. NADLER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S. 3 be instructed to insist that—

(1) the committee of conference allow opportunity for members of the committee of conference to offer and debate amendments at all meetings of such conference; and

(2) all meetings of the committee of conference—

(A) be open to the public and to the print and electronic media; and

(B) be held in venues selected to maximize the capacity for attendance of the public and the media.

Mr. NADLER (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The gentleman from New York (Mr. NADLER) is recognized for 30 minutes.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, as I understand it, the motion says that the conferences should be open, and I am pleased to support the motion.

Mr. NADLER. Reclaiming my time, the gentleman is correct, the motion is to have the conference be open. I appreciate the gentleman's support.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume, and I just want to say that I support the motion, and hope it passes.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. NADLER).

The motion to instruct was agreed to.

### APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: From the Committee on the Judiciary for consideration of the Senate bill and the House amendment, and modifications committed to conference: Messrs. SENSENBRENNER, HYDE and NADLER.

There was no objection.

### PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on Monday June 2, 2003, I was unavoidably detained in my district in Houston on official business and missed the following rollcall votes: Rollcall vote 227, H. Res. 159, if I had been present, I would have voted aye; rollcall vote 228, H. Res. 195, if I had been present, I would have voted aye; and rollcall vote 229, H.R. 1469, if I had been present, I would have voted aye.

### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 898

Mr. MCINTYRE. Mr. Speaker, I ask unanimous consent to have the gentleman from Missouri (Mr. GEPHARDT) removed as a cosponsor of H.R. 898.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

### PARTIAL-BIRTH ABORTION BAN UNCONSTITUTIONAL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, in an intent to correct the record, in the debate that we just finished, H.R. 760, I was taken to task of being wrong for a proposition that I raised on this floor.

Let me correct the record and say I was not wrong. I was right. This partial-birth abortion bill, H.R. 760, is unconstitutional for the same two reasons that the Supreme Court found other statutes attempting to ban partial-birth abortions unconstitutional.

First, H.R. 760 lacks a health exception which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion.

Second, the nonmedical term partial-birth abortion is overly broad and would include a ban of safe previability abortions. Banning the safest abortion option imposes an undue burden on a woman's ability to choose, and the life of the mother and the health of the mother, and the mother's ability to give birth in the future.

Finally, let me say this: We want to save lives, H.R. 760 does not.

### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

### DISPARITY OF COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise tonight again to talk about the issue of the disparity between the price that Americans pay for prescription drugs and what the rest of the world pays for the same drugs.

On several occasions I have used articles from the newspapers, whether it be the New York Times or the Wall Street Journal, other newspapers, and I started many of my conversations with something that Will Rogers said so many years ago, and that is "All I know is what I read in the newspapers."

Today I read in one in the publications up here on Capitol Hill a story that really surprised me, the first story that they have actually done on the whole issue of prescription drugs, and they decided to do essentially a piece that destroys the credibility of one of the groups that I have gotten much of the research information that I have gotten in the past from, and that is the Life Extension Foundation, and I want to talk about some of the numbers that they have sent me.

I have never personally met anybody from Life Extension, but everything they have sent me checks out. So I have used their statistics in the past, and I will use them in the future. I have also been quoting from a book by Katharine Greider. The title of the book, and I recommend it to all of my colleagues, is "The Big Fix: How the Pharmaceutical Industry Rips Off America." I do not know what her philosophy is. I do not know what her politics are. I do not know what religion she practices, but I have to say that the research that she has done is extremely good and it raises some very difficult questions.

□ 2100

The other thing that I have been doing is talking to Members about these huge disparities between what we pay in America and what the rest of the world pays for the same drugs. Let me give my colleagues some examples. These are my own research, drugs that we actually bought at the Munich airport in Munich, Germany, and then we compared what the price is in the United States. Let us take the drug Glucophage. Glucophage is a wonderful drug, particularly for those people suffering from diabetes. Glucophage in the United States, 30 tablets, 850 milligrams, sells for about $30. That same drug in Germany sells for $5.

We can go on down the line. Cipro. This is the drug Cipro, a very commonly prescribed, very effective antibiotic made by a company called Bayer. In the United States we usually call it Bayer, Bayer aspirin. We are probably more familiar with that. But this drug in the United States sells for an average of about $55. It sells in Germany for $35.

We go on down the list. I will not read the whole list tonight, but the one that really chaps my hide is this drug right here. This is Tamoxifen. We bought this drug at the airport pharmacy in Munich, Germany, for $59.05 American. In this quantity, 100 tablets, 20 milligrams, in the United States this same drug sells for $360. $60 in Germany, $360 here.

The real point is this. I have shared this story, too. If you go to Tokyo, Japan and you order a steak dinner, about the cheapest you will find it in Tokyo is about $100. You can buy an equal quality, in fact perhaps a better quality steak anywhere here in the United States for probably $20. Why is there so much difference between what you pay for a steak in Tokyo versus here in the United States? The answer is simple. The people of Japan are a captive market. They do not allow other products to come in. That is what we have done with drugs in this country. We literally have made Americans a captive market.

We are talking about a prescription drug benefit and everybody is talking about coverage. Ladies and gentlemen, the issue is not so much coverage, because every senior in America has at least the opportunity to buy prescription drug coverage through the AARP and lots of other organizations. The problem is not coverage. The problem is affordability. We will never solve the entire problem for all of those seniors. One of the points that is made by Ms. Greider in her book, she mentions a study that was done. This is one of the most damning studies and every one of us should be ashamed. The study says that 29 percent of seniors say that they have had prescriptions that went unfilled simply because they could not afford them.

A couple of weeks ago I was addressing community pharmacists, and I asked them the question: Have you ever had a senior come in and give you a prescription and you told that senior how much this was going to be and they sort of dropped their head and said, well, maybe I'll be back tomorrow. And they do not come back because they cannot afford it. That is something we can change, that is within our power to change. Shame on us if we do not. I hope you will cosponsor my bill to give Americans access to world class drugs at world market prices.

## VETERANS BUDGET CUTS

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to remind my colleagues who yesterday were announcing so passionately their love of the flag and all it represents, how 75 short days ago in this same room we stood in the People's House and stripped the veterans budget by almost $30 billion.

I have heard my colleagues on the other side accuse those who oppose the flag amendment as being unpatriotic. No, Mr. Speaker, what is disgracefully unpatriotic and a flagrant dishonor to the hundreds of thousands of Americans who died defending this country, and to those who even now are still in harm's way overseas, are the reverse Robin Hoods that walk these halls of Congress, the ones who find it so easy to sneak money to their country club buddies for their tax breaks while stripping the benefits and services from those who fought to defend the very freedoms that our flag represents. To all of those who are so quick to question their opponents' patriotism, where was your patriotism when you cut almost 20,000 VA nurses? Where was your patriotism when you voted for the loss of 6.6 million outpatient visits? Were you waving your flag as you voted to drop over 160,000 veterans from the VA health care system? I missed the rendition of the Star Spangled Banner when you voted to reach into the pockets of our Nation's service-connected veterans and rob them and their survivors, their widows and children, of a portion of their promised compensation.

And the list goes on. Just today these same hypocrites, calling themselves patriots, fought to take away women's constitutionally protected rights. This administration laughs in the face of our Bill of Rights as it holds thousands of people in jail without any due process under the guise of national security. At this very moment there are Haitians being held illegally in prison even after a judge ruled in their favor. They offer no threat to this country, but Attorney General Ashcroft is arbitrarily taking their rights. Not only is this administration arresting adults but they are arresting children. These are the actions of a dictator. And worst of all, the administration has lied time and time again to the American people when trying to invent reasons to preemptively invade Iraq. I cannot find a shred of patriotism in any of this.

Mr. Speaker, I call on my so-called patriots here who proclaim so loudly their love of the flag to put their money where their mouth is. Everybody can talk the talk. It takes a real patriot to walk the walk. I stand in protest of this House being derelict in its duties and leaving our veterans behind. Wake up, America.

## REGARDING THE CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, once again this week the Republican majority showed its true colors, a party looking out for the elite at the detriment of middle- and low-income working families. During the final negotiations on their tax package, Republicans deliberately chose to leave more than 12 million children behind. The omission of a provision that would have extended a $400 child tax credit to working families making $10,000 to $26,000 a year was neither an accident nor an oversight. The provision, which had not been included in President Bush's initial $726 billion proposal or the House Republicans' $550 billion, was added in the Senate by a Democrat, Senator BLANCHE LINCOLN. Why did this considerably small provision, $3.5 billion out of a giant $350 billion tax bill, make the Republicans' chopping block during their final negotiations with each House? As my colleagues already know, not one Democrat was allowed to negotiate the differences between the House and the Senate bill.

White House press secretary Ari Fleischer probably explained it best when he said, "Does tax relief go to people who pay income taxes or does it go above and beyond the forgiving of all income taxes and you actually get a check from the government for more than you ever owed in income taxes?" The House majority leader supported Fleischer's claims yesterday when he said, "To me, it's a little difficult to give tax relief to people that don't pay income taxes."

Mr. Speaker, what the President's press secretary seems to forget and what the majority leader seems to ignore is that these workers do pay Federal taxes. 7.65 percent of their earnings go to pay for Social Security and Medicare. They are in fact paying taxes. Bob Herbert of the New York Times called the Republican action "the reverse Robin Hood" and he wrote, "The fat cats will get their tax cuts. But in the new American plutocracy, there won't even be crumbs left over for the working folks at the bottom of the pyramid to scramble for."

After realizing that the Republicans had left this provision out of the final tax bill, several of my Democratic colleagues introduced a bill earlier this week that would repair the damage from this irresponsible tax package. Congressman RANGEL'S legislation would provide greater tax relief to the families of 19 million children and the legislation is fully paid for so this relief would not add to the record deficits created by the President and the Republicans in Congress.

Yesterday, Democrats in the House said they would not allow business to continue as usual around here until Republicans agreed to address the Rangel legislation. Not only did Majority Leader TOM DELAY say the House would not consider the Rangel legislation, but in attempting to justify this action, the gentleman from Texas (Mr. DELAY) said, "There are a lot of other things that are more important than that."

Mr. Speaker, how can the majority leader say that helping these children is not important? I think it is very sad, Mr. Speaker, because the Republican leader's statement is not shocking to anyone who watches what goes on around here. In fact, unlike some of his Republican colleagues, at least Congressman DELAY tells it like it is. And what it is, is that the Republican leadership continues to do the important work for the wealthiest elite in this country at the detriment of low- and middle-income families. Just 2 weeks after the Republicans passed their tax bill, the Tax Policy Institute released a report yesterday showing that the middle class tax share is set to rise, a surprise to no one. The report, which analyzed the three tax initiatives President Bush has signed into law, concluded Americans earning between $28,000 and up to $337,000 will soon take on a greater share of the taxes than they had before President Bush took office. The only people that benefit are the millionaires.

Mr. Speaker, I just hope that one day these Republican attacks on low- and middle-class people will come to an end, but so far they are not coming to an end and I expect them to continue with this Republican leadership.

## REPORT CONCERNING IRAQ'S WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, as the President arrived in Europe during this recent and historic journey, culminating, we hope, in progress today in the nation of Jordan, several days ago he was greeted with what can only be described as a hysterical European press attack on what were called the lies and distortions of this administration relative to its pronouncements about Iraq's weapons of mass destruction in the months leading up to Operation Iraqi Freedom.

After that hysteria in the European press, even some editorial pages in the United States have gone forward with similar recriminations and I thought that it would be useful tonight, Mr. Speaker, to rise and talk about the facts of weapons of mass destruction. I do so having literally just come this morning from a briefing by the Under Secretary for Arms Control for the United States Department of State, Mr. John Bolton, perhaps one of the most distinguished and informed leaders in our Nation, on the subject of arms control and weapons proliferation.

Mr. Bolton spoke before us today of the efforts within Iraq, the Iraq survey group, that he believed would bear fruit soon, in his words, in finding both evidence of a WMD program and also ultimately weapons of mass destruction themselves. He said that he believed that we would be soon finding weapons and the means of production in due course. But where comes his confidence, Mr. Speaker? Perhaps it comes with a brief recitation of the history of the region. People are very quick to forget, especially in the European press that seems to suggest that this idea of Iraq having weapons of mass destruction was somehow invented out of whole cloth.

Many seem to forget that it was Iraq themselves, 18 April 1991, that provided an initial declaration required under U.N. resolution 687 declaring themselves. Iraq declared themselves in the possession of chemical weapons and materials and 53 al Hussein and Scud type long-range ballistic missiles. At that point in April of 1991, they denied the presence of any biological weapons. By May, Iraq submitted a revised declaration covering additional chemical weapons and a refinement of the missile declaration. And then after pressure from UNSCOM, Iraq admitted in August of 1991 that they had a biological research program for defensive military purposes.

According to UNSCOM estimates, Iraq acknowledged that they were in possession of 10,000 nerve gas warheads, 1,500 chemical weapons and 412 tons of chemical weapon agents. 1991. As Under Secretary Bolton said today, it has been the unchanged position throughout the Clinton administration and through the Bush administration that those weapons are unaccounted for to this day. Both administrations held, in Mr. Bolton's words as a representative of the State Department, precisely the same view of these weapons, that were not invented by some political spinmeister in the run-up to Operation Iraqi Freedom, they were admitted to by the regime in Baghdad, who went on year after year delaying inspections, denying their presence and refusing to prove their destruction, leading up to the 1998 expulsion of U.N. weapons inspectors, resulting in President Clinton's attack on Iraq with cruise missiles. And President Clinton, of course, gave the reason at that time that he needed to "attack Iraq's nuclear, chemical and biological programs and their capacity to threaten their neighbors."

And so I thought it important tonight, after hearing on the International Relations Committee, Mr. Speaker, from John Bolton, the Under Secretary of Arms Control, that there is confidence that the Iraq survey group at the State Department will bear fruit. We will continue to find evidence, like the mobile labs, like the unarmed aerial vehicles, we will continue to find evidence of a WMD program in Iraq.

□ 2115

That confidence arises not from the heart of the White House or the West Wing, but, rather, from the pronouncements of the regime in Iraq about their own possession a decade ago of hundreds of tons of chemical and biological agents. The facts speak for themselves.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 222, ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT AND S. 273, GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–140) on the resolution (H. Res. 258) providing for consideration of the Senate bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes, and for consideration of the Senate bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION ESTABLISHING JOINT COMMITTEE TO REVIEW HOUSE AND SENATE MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS FOR THE AMERICAN PEOPLE

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–141) on the concurrent resolution (H. Con. Res. 190) to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people, which was referred to the House Calendar and ordered to be printed.

## MAKING IN ORDER AT ANY TIME CONSIDERATION OF H. CON. RES. 190, ESTABLISHING JOINT COMMITTEE TO REVIEW HOUSE AND SENATE MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS FOR THE AMERICAN PEOPLE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider House Concurrent Resolution 190;

The concurrent resolution shall be considered as read for amendment;

The concurrent resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and

The previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from California?

Mr. McDERMOTT. Mr. Speaker, reserving the right to object, maybe a little explanation about what we are doing would help.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

We have, I am very happy to say, in the Committee on Rules worked with the minority to put into place an agreement where, under unanimous consent, we will establish a joint committee that will be addressing the issue of the continuity of Congress. We are going to be tomorrow working on this with the gentleman from Texas (Mr. FROST), and this request will simply allow us to bring this measure up.

Mr. McDERMOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## TAX RELIEF FOR ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, yesterday those opposed to tax relief came to the floor to wage an orchestrated campaign of disinformation against the Jobs and Growth Act. Having lost the battle to convince the voters that tax relief is fundamentally bad, and unable to win the legislative battle over passage of the tax cuts, Democrats are now engaged in damage control. That means that they will lie, twist and distort the truth about the benefits of the plan, benefits that extend to nearly every person who actually pays Federal income taxes.

They were on the wrong side of the issue then, and they are on the wrong side of the issue now. At least they are consistent.

Fortunately, Republicans have the truth on our side and we are also consistent. We are consistently supporting legislation that will give working families tax relief.

The facts are that the tax cuts Republicans passed will do these things:

First, it will take an additional 3 million low income families off the Federal tax rolls completely. Let me repeat this, because I know as soon as I am finished, an opponent of tax relief will say this bill does nothing for the working poor. This bill takes an additional 3 million low-income families off the Federal tax rolls completely.

Second, we have also expanded the 10 percent tax bracket and increased the standard deduction for married couples. Both of these provisions are targeted to low and middle-income families.

Third, the decision at the center of this maelstrom of misinformation, the child tax credit. Republicans raised the child tax credit from $600 to $1,000 effective immediately. All those families with children who pay Federal taxes will be able to take advantage of this credit.

Those who oppose the tax relief plan are claiming this provision ignores some families. Absolutely untrue. Families that pay zero Federal taxes will not get this tax credit because they are already exempt from paying any Federal taxes. This credit is for the millions of families that do pay Federal taxes, giving them tax relief.

The frantic attempts to discredit the jobs and growth plan are proof of just how great these tax cuts are for hard-working Americans. Those who oppose tax relief know that they have made a mistake and, instead of owning up to that mistake, they are trying to cover it up.

Mr. Speaker, taxpayers should immediately adjust the amount withheld from their paychecks for Federal income taxes so that they feel the tax relief as soon as possible. When Americans start to keep more of their paychecks, when they get that child tax credit, they are going to remember who stood here and told them they did not deserve tax relief, and it was not the Republicans.

## WHERE IS THE JUSTIFICATION FOR WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, it is very difficult to stand on the floor of the House to question whether those in power deliberately misled and deceived the American people and the community of nations. However, the events in Iraq leave me no other choice.

Our President, Secretary of State, Secretary of Defense and Undersecretary of Defense told the men, women and children of this Nation and of the world that we must go to war in Iraq because the country had weapons of mass destruction. Time and time again, they told us that Iraq posed a clear and present danger to the health, well-being and life of our people.

Why? Because Iraq had weapons of mass destruction and was prepared to use them or give them to terrorists who would use them.

So where are the weapons that President Bush promised?

Saddam is gone. For several weeks, American troops have been free to search Iraq. They have been free to search Iraq, virtually at will. Today we find no weapons of mass destruction. No chemical weapons, no biological weapons, no nuclear weapons. Nothing.

Where are the weapons? Where is the threat?

Mr. President, where is your justification for war? The credibility of this administration is at stake.

Americans died in Iraq because President Bush told us that Iraq had weapons of mass destruction. Children lost their mothers and fathers. Parents lost their sons and daughters. Women lost their husbands, and husbands lost their wives.

For what?

Excuses and explanations cannot answer this question. We need, we deserve, we demand justification.

What justified the loss of American lives? What justified taking $100 billion out of the pockets of our children, our grandchildren and unborn generations?

Three major American news organizations have cited leaks from Federal intelligence officials that the Bush administration manipulated intelligence about weapons of mass destruction, that the President and his advisers told the intelligence community to provide evidence to support the war in Iraq.

In Britain, senior war correspondent Max Hastings, who supported the war against Iraq, wrote that "the Prime Minister committed British troops and sacrificed British lives on the basis of a deceit, and that stinks."

These accusations cannot go unanswered. We are not just talking about the veracity of the Bush administration. We are talking about the credibility of the United States of America. Our Nation's reputation is at stake.

The next time we go to our allies, the next time we go to the United Nations, they will doubt what we say. Our enemies will be safer, and our citizens will be less secure.

The President and members of his administration have an obligation to come clean, to put their cards on the table and level with the American people. What did they really know and when did they know it?

They are the ones who toured the country, beating the drums of war. They are the ones who told the American people that we needed to go to war. They are the ones who traveled the globe campaigning for a war to save us all from weapons of mass destruction.

In the name of our fallen soldiers, in the name of the credibility of the United States of America, in the name of what is right and just and true.

We need an answer, and we need it now.

## JOBS AND GROWTH, TAX CREDITS AND SMALL BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, last Wednesday President Bush signed the Jobs and Growth Act of 2003, a bill that I was proud to cosponsor. As a former small businessman, I believe I know something about what it takes to help build businesses and create jobs. But although our bill had to be compromised, it still has the ability to create more and better jobs for the American people.

Yet there are some in this body who say that this legislation is not fair. They say there is not sufficient tax relief for low income Americans.

Mr. Speaker, number one, they are wrong; and, number two, this is just another example of Democrats trying to foment class warfare in America.

Let us get beyond the usual class warfare rhetoric and examine the facts.

First of all, for all practical purposes, low-income people do not pay income taxes. In fact, in this bill we take 3.7 million Americans off the tax rolls. That is right, almost 4 million people who paid income taxes last year will pay no income taxes this year. None. How much more tax relief can you receive than having your tax bill torn up, thrown away, abandoned?

These Americans join millions of other low-income Americans who have already been taken off the tax rolls in recent history.

Additionally, Mr. Speaker, by lowering marginal rates, other low-income Americans benefit as well. Millions who were in the 15 percent tax bracket last year are now in the 10 percent tax bracket. More tax relief for low-income families.

The net result now is this: The bottom 50 percent of wage earners in America pay only 3.9 percent of the income taxes. In other words, half of all Americans, low-income Americans, pay almost none of the national income tax burden. In contrast, the top 10 percent of wage earners in America pay almost two-thirds of the income taxes.

Mr. Speaker, the critics of the jobs and growth bill fail to appreciate two other important facts:

Number one, tax relief is for taxpayers. If you do not pay taxes, you should not expect tax relief.

Number two, if you want jobs, give job creators tax relief. Tax relief is about capital. You cannot have capitalism without capital. You cannot claim to love jobs and then vilify job creators.

Mr. Speaker, it is clear that some in this body want to turn our Tax Code into a welfare system. Well, guess what? We already have a welfare system. Fortunately, under a Republican Congress we have continued to move millions of Americans from welfare to work. And, to dispel the Democrat's disinformation campaign, we have increased Federal child care funding by 166 percent. We have increased Federal funding for housing by 75 percent. And, just this past year, we committed $17 billion to the TANF welfare program.

Tax relief is different from welfare. Tax relief is about allowing taxpayers to keep more of what they earn, earn through their hard work, helping to keep them keeping more of their own wages for their own families.

□ 2130

Mr. Speaker, let us not forget, it is not the government's money, it is the American family's money.

Furthermore, if critics of the Jobs and Growth Act truly care about low-income people, they should join us and help us move them off of welfare checks and onto paychecks, move them up from smaller paychecks to bigger paychecks. In other words, these critics should help us join together and create more jobs.

But Mr. Speaker, jobs are not created here in Washington, D.C. They are not created by the Federal Government. Jobs are created by hardworking risk-taking visionary men and women who, when granted access to capital, will roll up their sleeves and work hard to create that next generation of software or that new automobile repair shop or that innovative sign painting company, or any other enterprise. That is where jobs come from.

But Mr. Speaker, the number one impediment to launching new job-creating enterprises in America is access to capital. That is why we cut capital gains and dividend taxes in this bill. Additionally, we have lowered marginal tax rates. That is important because 80 percent of the tax relief at the top marginal rate goes to small businesses and entrepreneurs.

If we truly care about low-income families in America, let us quit trying to turn the Tax Code into a welfare system. If we want jobs, tax relief should go to job creators. If we want job fairness, then tax relief should go to taxpayers.

## CHILD TAX CREDIT

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, our working families need a break. They need a break more than anyone in this country, especially since they bear the brunt of this weak economy. But, for some reason, the Bush administration continues to cast them aside in favor of the privileged few.

Working men and women are the backbone of this Nation. They are the ones who struggle day in and day out to provide the bare necessities for stable, happy homes. They know how hard it is to balance work and family, and they need our support.

The Bush administration, however, and the Republican leadership, in their faux "compassionate conservatism," continue to slap working families in the face. They said that the recent tax cut bill would provide relief for all Americans. But here is the truth: increases to the child tax credits were given to the families who need it the least, while low-income families were left with nothing. Worse hit were working families earning between $10,500 and $26,600 a year. Working families in this tax bracket were completely ignored. The Republican leadership denied them their fair share.

Mr. Speaker, I want Members to hear about a mother from my district, the Sixth District of California north of San Francisco across the Golden Gate Bridge. Cori and her family were cast aside by the Republicans.

Let me tell the Members about Cori. Cori came to a local Head Start program at a low point in her life. She was a single parent without a support system and with very little money and very little self-esteem. She had just completed a recovery program and was seeking to put her life back together. It was the first time in years that she felt needed, comfortable, and good about herself and her life.

Cori went on to volunteer for Head Start. She then completed an AA degree in early childhood development because she wanted to give back to the program that got her on her feet. Now Cori has been a Head Start employee for the past 3 years, with the goal of getting a Bachelor of Arts degree.

Mr. Speaker, why should Cori be denied the child tax credit, while those making more than $1 million a year received overall tax cuts totalling $93,500 each? What definition of compassionate are we using here?

This attack on our working families must end. But sadly, the attack on working families does not stop with denying the child tax credit to Cori. Sometime soon we will debate a Republican bill to deny workers the benefits of overtime pay, the heart of the very Fair Labor Standards Act.

If the poorly named "Family Time Flexibility Act" passes, the Republican leadership will take a step to undermine protection of the 40-hour work week, so employers can avoid paying their workers like Cori overtime. This is not only poor economics for struggling families who count on overtime, it is just plain bad public policy.

It is time that we restore the balance for families so they can earn a living and meet family demands at the same time. We must pass H.R. 2286, which will expand the child tax credit and marriage penalty relief for lower-income families like Cori and her two children. Passing the legislation can be the first step in reversing the wrong done to these hard workers.

In the coming year, I plan to introduce legislation called the Balancing Act, which will improve the lives of working families and their children. That would mean providing paid family leave after the birth of a child, increasing the funding for child care, granting school breakfasts for all students, and helping with the care of aging parents. I urge my colleagues to join me in that effort.

Mr. Speaker, it is time to restore compassion for our Nation's working families, rather than our Nation's millionaires. Our families need to know that we have not forgotten them.

## THE HAND OF HOPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, it is often repeated that a picture is worth a thousand words. A very powerful picture exemplifying that statement began circulating across America this last November. I would cite the commentary that accompanied it.

It should be the picture of the year, or perhaps the picture of the decade, but it will not be. In fact, unless Members obtain a copy of the U.S. paper in which it was published, they probably never saw it.

The picture was that of a 21-week-old unborn baby boy named Samuel Alexander Armas. He was being operated on by a surgeon by the name of Dr. Joseph Bruner. The baby was diagnosed with spina bifida, and would not have survived if removed from his mother's womb. But little Samuel's mother, Julie Armas, was an obstetrics nurse in Atlanta and she knew of Dr. Bruner's remarkable surgical procedure. Practicing at Vanderbilt University Medical Center in Nashville, he performs these special operations while the baby is still in the womb.

During the procedure, the doctor removes the uterus via the C-section, and makes a small incision to operate on the baby. As Dr. Bruner completed the surgery on Samuel, this amazing little baby reached out his tiny but fully developed hand through the incision and firmly grasped the surgeon's finger. Dr. Bruner was reported as saying that when his finger was grasped, it was the most emotional moment of his life, and that for an instant during the procedure he was completely frozen and completely immobile.

The photograph captures this amazing event with perfect clarity. The editors title the picture "hand of hope." They said that this tiny little hand seemed to emerge to grasp the finger of Dr. Joseph Bruner, as if thanking him for the gift of life. Little Samuel's mother said they wept for days when they saw the picture. She said the photo reminds us that pregnancy is not about disability or an illness, it is about a little person. The operation was 100 percent successful, and little Samuel was born in perfect health.

Mr. Speaker, abortion on demand has taken the lives of 43 million little Americans. That is 10,000 times as many innocent lives as were taken in the tragedy of 9–11. Before the sun sets in America today, 4,000 more will have died, nameless and alone.

Mr. Speaker, it is time for those of us on both sides of this aisle to begin to ask ourselves the real question, and the real question simply is this: does abortion take the life of a child? If it does not, then it is a nonissue. But if abortion really does kill a baby, then those of us in the seat of freedom standing here, given the charge to protect the innocent, are living in the midst of the greatest human holocaust in the history of humanity.

I would suggest, Mr. Speaker, if we lose the courage to protect the innocent in this place we will never find the will or the courage to protect any kind of liberty for anyone.

Mr. Speaker, today we were asked to protect a very small number of those children who were already partially born and only moments away from taking their very first breath. It beggars human imagination that voting to support such basic compassionate humanity is even debatable, and that it got 100 votes to the contrary is a disgrace beyond expression.

Mr. Speaker, the tiny hand of hope reaches out to all of us today and asks only for mercy. God help us all to hear that little voice in our own hearts.

## CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise tonight to address the way that the Republicans have devastated the child tax credit for low-income families.

When the child tax credit was created in 1975, it was for the purpose of helping families, not hurting them; and it was not meant to create divisions within parents and families, it was intended to include and benefit all families.

Initially, it seemed that the Republicans and President Bush's $400 per child increase in the child tax credit was meant for all families. At least, that is what we were told. According to the Bush plan, families would receive the checks for this credit in either July or August as a way to jumpstart the economy that, of course, this administration has crippled, losing more than $2.7 million jobs since the beginning of the Bush presidency.

Somehow, though, the attempt to help families did not extend to low-income families. The same people who were already left out of the President's tax cut on dividends, which President Bush, of course, offered the wealthiest of Americans, are the same individuals, the same families that the budget cuts are hitting the hardest.

When Republican negotiators went behind closed doors without any Democratic conferees, suddenly the families of approximately 12 million children were excluded from the child tax credit. Nationwide, this means that one out of every six American children were excluded.

What the Republicans did here is really revealing on two different levels. First, it says that their credibility really is an issue. Second, even worse, it says that they think that the priorities of the country should focus on fattening the wallets of the wealthy, not helping those who need help the most.

The Republicans' actions clearly represent a credibility gap, also. When the tax plan first came through the House and Senate it included the child tax credit, but apparently that credit did not fit with the numbers that they needed. It did not fit with their effort to provide tax cuts for the wealthiest Americans. They needed $3.5 billion more for the cuts for the wealthiest Americans, so they eliminated credit for all families making between $10,500 and $26,625. What a terrible thing to do.

The Republicans, with the blessing of the White House, clearly recognized the possibility of a backlash, I assume. Otherwise, why did they hide their actions from public view? President Bush said that all Americans would receive tax relief, but that was not the case. This sort of double-talk is not the way to run a country, not the way to run this country.

This double-talk also reflects the misplaced priorities that the Republicans and their leadership have for this country. What they are telling us is that it is important to have a dividend tax break for people who live well, extremely well. What they are also telling us is that it is not important to help those people who are struggling to find adequate housing, enough food, or a decent job.

Of course, children, unfortunately, are hit the hardest. These children come from families where the parents work hard and play by the rules. They deserve the same tax credit that other parents will receive, and they, of course, need much more. Their families do not have the advantages that others have.

In a jobs depression like President Bush has put us in, the loss of the $400 tax credit is really rubbing salt into their wounds. 8.1 million taxpayers will receive no relief under the Republican tax cuts, and 1.6 million of these taxpayers are Hispanic. 8.1 million represents 44 times the number of taxpayers who have incomes exceeding $1 million, yet the President and the Republicans have gone out of their way to help the wealthy.

□ 2145

In fact, those people with incomes over $1 million will receive an average tax cut of $93,500 in 2003. In terms of the child tax credit, one-half of all African-American families will not get the full tax credit and one-quarter will receive no tax credit.

For Hispanic families, 40 percent will not get the full tax credit, while one-fifth of Hispanic families will receive no child tax credit at all.

What message does this send to minorities? Of course, the Republicans have a checkered history of offending minorities, so perhaps this behavior is to be expected. But interestingly enough, the Republicans' actions on the child tax credit also offend military families. According to the Washington Post, as many as 200,000 military families were excluded from the increased child tax credit by the actions of the last few weeks.

This is just downright wrong. We should move immediately to pass legislation to restore the child tax credit and we should do it now.

## MISREPRESENTED JOBS AND GROWTH PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to discuss some of the recent misrepresentations of the Jobs and Growth Package, a package that this Congress passed before the Memorial Day recess.

Last night I had the opportunity to listen to many of our friends on the other side characterize the tax cuts as misdirected and targeted to the wrong people.

According to the Joint Economic Committee, this tax bill provides the largest percentage reductions in the income taxes of low and middle income Americans, thereby shifting the tax burden upward. The Jobs and Growth Tax Act exempts another 3 million workers entirely from Federal tax liability. And low income families in particular benefit from this economic and growth tax package relief through a number of provisions.

First, there is the acceleration of the expansion of the 10 percent rate bracket which means that workers can earn more before they get moved into the 15 and 25 percent tax brackets, elimination of the marriage penalty, and the acceleration of the President's 2001 tax cut provisions to increase the child tax credit to $1,000.

Accelerating the expansion of the child tax credit will provide 26 million families with an average tax cut of over $600. This could mean a great deal to a family of 4 working to make ends meet each year. Even families who do not owe taxes may benefit from the increase in the child credit to $1,000 because of the current refundable feature of the credits.

So some ask, Who benefits from this credit? Well, what about 44 million children who will benefit?

So, Mr. Speaker, do not be fooled when certain groups do not explain the whole story. Some low income Americans are not included in this credit because their family income is low, but they qualify for other, more beneficial anti-poverty programs. And let us not forget that that group of low income taxpayers received significant benefit from the tax cuts that passed in this Congress in 2001, and they continue to benefit from that legislation today.

The fact is, Mr. Speaker, we cannot continue to punish those who work hard, take risks and are subsequently successful. We need their success for the economy to recover. The country needs the jobs their success will generate.

I remember a few weeks ago when the folks on the other side of the aisle opposed a tax cut of any kind during the debate on the economic stimulus bill. Well, Mr. Speaker, the time has come for them to figure out where they stand.

## TAX CUT HURTS LOW INCOME CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, when the President and the Republican party made a decision that they would not extend the financial benefits of the increase in the child tax credit to all families, they essentially made a decision that they would leave out millions of young children who live in families who earn between $10,000 and $26,000 a year.

What they said was somehow those families and those children were not worth as much as the rest of children and families in this country. Thirty years ago we made a decision to have a child tax credit to help families with the cost of raising their children, to ease the burdens of raising their children, educating them, providing health care, and it was extended to all Americans with children.

Over time we have increased that child tax credit, and this year a decision was made that we would increase that child tax credit by $400 for each child, and those checks would go out this summer. But, tragically, in a back room, in the late night, in negotiating the bill under the leadership of Vice President CHENEY, the Republicans made a decision that low income working families would not get that child tax credit for their children. They will not get that $400 per child increase this summer.

Erin Doyel of Vallejo, California in the district in which I represent and her daughter, Adrienne, will not get that tax cut. Erin is going to work every day and earning $12,675 as a financial administrative assistant. Erin is doing everything that this Federal Government told her to do: To get off of welfare, to take responsibility for her child and to get a job. And she has been doing it and she is doing it well.

But as we can see here, Erin and her daughter Adrienne, Erin is asking the question, What about my kid? Why is not my kid worth the same tax credit as the other children? Because I only make $12,000 a year?

She needs this help for her family. She needs this benefit for her family so that she can provide the education, she can provide the wherewithal to hold her family together. She knows how much she needs it. She says they made a big mistake when they left her daughter out of the tax cut. She needs this money to help her pay the rent, to pay for her car, to pay for her job expenses.

That is what she would do with that money. She would immediately put it back into the economy. That is why that tax credit was given to help those families with those expenses in a difficult environment.

Some people say that this was a mistake by the Republicans, but the fact is we know now as the facts have come out it was no mistake. The Senate, in fact, put this tax credit in for Erin and her daughter, Adrienne. But the Republicans in the House decided they were not going to accept it. They wanted to use the money that, that tax credit would cost to give a greater tax cut to those people making over a million dollars. If they had given a $400 tax credit to Erin and her daughter, Adrienne, and to other similarly situated families and children, those millionaires would have only gotten a tax cut this year of $88,000 as opposed to $93,000.

So the Republicans in the House made a choice that they were going to deny Erin and Adrienne the tax credit. They were going to give it to the millionaires.

Now, we understand that the Senate is going to change this. The Senate has come to its senses. The Senate now understands what they have done to Erin and her daughter, Adrienne, and the impact that they are having on her ability to hold their family together. But we are also told that the majority leader, the Republican majority leader, the gentleman from Texas (Mr. DELAY) has said he is not going to do that. He is not going to pass that tax cut to Erin and her daughter, Adrienne. He is not going to do it. Republicans in the Senate who sponsored it originally, who voted for it, who participated have said we wanted to do this. It is a matter of equity. It is a matter of fairness. It is a matter of justice to these families who are working hard, as the gentlewoman from California (Ms. LEE) stated, playing by the rules, doing what we asked them, that they should be able to share in this tax cut like other families with children. But the Republicans in the House say no.

They say no to 12 million children and families earning between $10,000 and $26,000 a year. However you measure it, it is not very much money to survive in American society today. These are people who work hard. They do not get paid terribly well, but they get up every day and they go to work and they do many of the jobs that many other Americans would prefer not to do. And that is why we created the tax credit. To help them. And somehow, somehow along the way to finalizing that tax bill, somehow the Republicans in the House became mean spirited. Somehow they lost their sense of humanity and somehow they lost their direction in terms of economic justice and decency for all families and all children in America.

It is a sad and tragic day when a party loses its direction and becomes that cynical about decent people like Erin and her daughter, Adrienne.

## TAX CUT HELPS WORKING AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, it is an interesting use of words that are employed to describe this event, this process, this phenomenon we call a tax cut, and those who are helped and those who are hurt. And we sit here tonight and we listen to people describe the perils of those who do not receive a "tax cut."

Tax cut. Now, let us analyze those two words. A tax. Something people pay. A cut. A reduction in that amount. In the case that was just brought to us and the case that, in fact, has been characterized over and over and over again as the people who do not, who will not be getting this tax cut, who are purposefully left out of this tax cut because we are so hardhearted on our side, we are so mean and hateful to people who make a little bit of money, very poor people, so that we decided, I know what. Let us make their life even more miserable. We will not give them their tax cut.

Mr. Speaker, it has nothing to do with this process of a tax cut. Because, of course, the people that we are talking about here, the people that are suggested are not participating in this, do not pay taxes; therefore, we cannot cut the taxes they pay. And they do not get a refund of those taxes because, in fact, they do not come to the government in the first place.

So now if you want to simply move money from one source to another, if you want to redistribute the wealth, which is, of course, part of our great tax scheme and something the Democrats have been so cozy with for so long, something they feel strongly about, something they can endorse wholeheartedly, moving money from people who pay taxes to those who do not, that is a different plan. That is okay. We do it all the time. It is called welfare. And that is, of course, an acceptable thing in this Nation. It is just not part of a tax cut plan.

The reality is that this is a problem we face with more than just this issue. The whole concept of what we are doing for working Americans, what we are doing with a tax cut proposal that is designed to increase the number of jobs out there. I certainly support this concept. I certainly supported the job stimulus package that was passed here in the House, and I hope that it works. It is designed to do just that. If we leave more money in the hands of the people out there to invest, to, in fact, create jobs, that is good, I am happy. Then people like the ones that we were talking about here earlier and that had been brought to our attention who are in the lower income levels of society, those people will benefit also and that is the whole purpose of a stimulus package. It is to increase the economic benefit to all Americans, to all working Americans. That is the whole idea.

Now, let us look at another aspect of this that I never ever see in terms of this being discussed, in terms of what really could help American jobholders or those people who are job seekers, the millions of Americans who are today unemployed or underemployed, the people who are making minimum wage, the people who are desperately looking to better their lives and are wondering about, in fact, what the government can do to help.

Well, I agree that one of the things we can do to help is, in fact, propose and, in fact, pass a tax cut like we have done. But there is something else that we can do and then I would encourage all of my friends on the other side of the aisle to help us do. And that is to do something about the massive number of people who are in this country illegally and working illegally, people who are here, low-wage, low-skilled workers who have come into the United States.

There are something like 13 million, maybe more than that, who are here today employed and they are actually illegally employed. They are employed by people who know that they are here illegally but it does not matter. They take their jobs, the jobs that could be going to other Americans, and, in fact, we allow that to occur. We encourage that.

□ 2200

We have all kinds of loopholes in our immigration, not just in the borders that exist, not just in the fact that we have porous borders through which these people come, take the jobs that American citizens would take if they had the opportunity, and in fact, even those jobs, American citizens who are working, many of them are working for very low wages. As has been talked about tonight over and over again, that is true, but the reality is that those wages are kept low by the massive number of people who are coming into this country illegally, with low skills and, therefore, get paid low wages, and just the numbers here depress the wage base.

I would like to have people support our efforts to try and secure the borders and stop all the loopholes in our immigration law. That would help working Americans.

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## FAMILIES DO MATTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, meet the Narvaez family. Maria Guadalupe Narvaez and her two daughters, Alma and Elia. Maria also has a son.

Ms. Narvaez works very hard to take care of her children. As a day care teacher at the Howard Area Community Center in Chicago, which is my District, she takes good care of other people's children, too. She cares for other people's children as if they were her own. In this picture, she is standing in front of a sign at Family Matters, a community organization in my District that helps hardworking families with a variety of services.

Sadly, the Narvaez family does not matter much to the Republican leadership. For those of us on this side of the aisle, though, her family does matter. So, too, do the families of the 12 million other children who were tossed aside by the Republican tax bill negotiators.

About 1 million of those 12 million children who were left out live with parents who are serving on active military duty, our veterans, or who have spouses serving in the Armed Forces, the very people that this House today earlier paid verbal tribute to, even as they were dumped from the tax cut bill. By the way, the tax credit we are talking about, this refundable tax credit was started in the Nixon and Ford administrations.

Those children would have benefited in 2003 from the child tax credit provisions that the Republicans stripped from their bill in order to provide even more giveaways to millionaires.

Denying Ms. Narvaez and her three children and our heroic families from their child tax credit is unfair. It is mean-spirited and it is bad for the economy. After all, Mrs. Narvaez is not likely to invest her money in Bermuda tax havens. If the Republicans had given her the child tax credit she deserves, she would be buying shoes and clothes and other necessities for her children from local businesses. The money would have gone straight into circulation, helping the economy and creating jobs.

The Narvaez family matters to me. If it were up to me, they would get the child tax credit that they need and deserve. Unfortunately, the decision was not up to me. Maria and Alma and Elia were not ignored by accident. They were deliberately and callously determined to be unimportant.

They were included. They had been in the tax bill that was in the United States Senate until it became clear that the tax cuts had gone too high. So instead of saying, okay, well, what can we do to bring that dollar figure down, maybe we ought to slightly reduce the tax break that we give to millionaires; oh, no, this is the family that they decided to go after and millions of others like them.

The Republican leader, the gentleman from Texas (Mr. DELAY), yesterday made it perfectly clear what his priorities and values were. He said very succinctly, "There are a lot of other things that are more important." According to him, low income children do not deserve to be a priority because their families pay little or no income taxes, even if they work every day, even if they are good and productive members of their community, and even though they do pay taxes. They pay payroll taxes, sales taxes, property taxes.

Families matter to Democrats, including families living in the majority leader's District, that he and his party and his President have so shamefully, or should I say shamelessly, chosen to leave behind.

So what is more important to the majority Republican leader? How about providing tax breaks to special interests and to members of the Bush cabinet. Treasury Secretary John Snow was the CEO of CSX Corporation, a corporation that paid no Federal income taxes, zero, in 2001, 2000 and 1998. John Snow would get at least $330,000 a year in dividend and capital gains tax cuts, more than Maria Guadalupe Narvaez would earn in 16 years at her current salary. That is how much his tax break is worth.

Most Americans think it is wrong to allow big companies to avoid taxes by stashing profits in offshore tax havens, but to the Republican leader, the gentleman from Texas (Mr. DELAY), it is more important to protect corporate tax evaders than to provide a little relief, a little help to Alma, Elia and Maria.

The Republicans took care of those who they cared about most and tossed aside those they do not care about at all. It is time for us to change the priorities of this country and give this deserving family the help that they need and want.

## CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I applaud American enterprise. I applaud those successful individuals who even in the backdrop of a horrible economy are making millions and millions of dollars and seeing the money roll in as they count the dollars one by one by one by one. I applaud it. America is a capitalistic society. We encourage people to pull themselves up by their boot straps, be creative, found businesses and roll on to success.

We have looked at a world of corporate success over the last year, the WorldComs of the world, the Enrons of the world, and the list goes on and on and on. In spite of the great successes and failures that these great corporations have had, the tax bill that we have just passed has decided to reward them and their many other friends. Why? Because my good friends on the other side of the aisle say that they pay taxes and we do not want to reward those deadbeat, hardworking Americans who make between $10,500 to $26,625, working every day, leaving at 4 and 5 and 6 a.m. in the morning, arriving home on the local mode of transportation at 6, 7, 8 or 9 p.m., working every day, preparing dinner for their family minimally and rising again the next day, because they do not pay taxes, Mr. Speaker.

Let me correct the record. They do pay taxes. They pay payroll taxes, property taxes, sales taxes. They pay taxes.

I am a little offended, Mr. Speaker, when someone can suggest that we are trying to change the IRS system into a welfare system. The one thing that we have said in this country is that all of us deserve the dignity and respect that comes from being simply a human being. All of us may come upon hard times. In fact, we have been so generous over the years that we have been willing to bail out large corporations, wealthy in their own right, but we have said we need to bail out these corporations. Many of us have said that maybe that should be called corporate welfare, but we believe that because the engine of this Nation is business that we need to provide assistance so that these corporations can survive, but yet Republicans want to denigrate hardworking Americans making $10,500 a year and deny them a child tax credit.

Even more so, they do not want to come to this floor of the House for a lousy $3.5 billion and correct the travesty that they created just 2 weeks ago. And do my colleagues know that, Mr. Speaker, even the child tax credit that is in the bill, do my colleagues know the real secret? It expires in 2004. Why? Because they did not want us to know that they were actually imploding the budget, building the deficit and they did not want us to know that really this is a meager pittance that they are giving on the child tax credit because it really expires in 2004 because they wanted to give us the mirage of a $350 billion tax cut that ultimately may be $1.6 trillion, and the way to do that is to have these little expiration dates.

Not only are we playing games with hardworking Americans, denigrating them and suggesting that they are only welfare recipients and the only way that they should be able to get a child tax credit is we make the IRS system or the tax system a welfare system, but let me tell my colleagues again the secret, that this actually does not give Americans much of a break because in the Republican plan it expires in 2004.

Mr. Speaker, I am here to stand here tonight to applaud the hardworking Americans who get up every morning and do the things that make this country run. I am proud of standing with them. I am proud of the Americans that work overtime and deserve overtime compensation, and I will stand against any legislation that desires to eliminate overtime compensation for comp time that may be given or may not, just as I am willing to stand for all the teachers' aides, nurses' aides, all of the hardworking bus drivers, all the hardworking sanitation workers and anybody else that works hard every day helping this country run.

I want people to have a child tax credit, 6.5 million families, 12 million children. Any day of this year, any day of my career, I will stand with the hardworking Americans over those folks who are fat and happy talking about they pay taxes. Americans who work hard pay taxes, too.

## VETERANS BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I think the folks watching C-SPAN may sometimes get confused because they hear us stand here and give confusing or contradictory arguments. They do not know perhaps who to believe, but I want to speak about two things that we have done in the House recently, and I would challenge my colleagues on the other side of the aisle or the leadership within this administration to contradict what I am saying.

This House passed a budget not many weeks ago that cut veterans benefits over the next 10 years by $6.2 billion. That is a fact. It is an absolute fact, and tonight, in the United States of America, while we have young men and women defending our Nation in Iraq, we are rationing health care to our Nation's veterans, rationing health care.

This administration has decided to say to a whole host of veterans, which they call priority eight veterans, you are high income and, consequently, you are out of here, you cannot participate in the VA health care system.

What do they mean by high income? In my District, they can be making as little as $22,000 a year and be considered high income. Think of that. Not only are they wanting to simply deny care for many veterans, but for others they want to impose additional financial burdens. They want to increase the cost of a prescription drug from $7 to $15 a prescription. They want to add a new annual enrollment fee of $250. They want to increase the cost of a clinic visit from $15 to $20.

Mr. Speaker, when is it going to stop? When are we going to stop requiring more out of our veterans so that we can give larger tax cuts to the richest people in this country, many of whom have never served in the military?

□ 2215

But we did something else in this House a few days ago. We passed a tax cut bill. And in that tax cut bill we took care of the millionaires. In fact, in that bill, if you have an annual income of $1 million, you get a tax cut of about $93,000. But we did something else that is shameful. We actually excluded children of poor working families from receiving the child tax credit benefit. It was not a mistake. It was done purposefully. We excluded about 12 million of America's children from that benefit. Think of that.

CNN reported that "Mr. DELAY, the conservative Texan, brushed aside criticism that the last bill didn't make an expanded child tax credit available to millions of poor families. But he said the House Republicans might support doing so if it prodded seniors to vote for a broader tax relief package."

In other words, the majority leader is going to hold poor children hostage in an attempt to get a larger tax break for his wealthy friends. I think that is shameful. I know of no other word that accurately describes that policy.

But do not take my word for it, Mr. Speaker. I hope those watching on C–SPAN do not just assume that because I am a Democrat that I am standing up here and taking an unfair shot at the Republicans. Senator JOHN MCCAIN is quoted in this same CNN story as saying, in regard to this leaving out 12 million children in the Republican tax plan, "My God, what kind of message are we sending when we leave out low-income families?"

And exactly in that category are the enlisted men and women who are fighting in Iraq. At this moment, in Iraq, are moms and dads who have children waiting here in this country. And the Republican tax plan excludes those children from this tax credit benefit.

Senator MCCAIN concludes his remarks by saying, "it's beyond belief." That is not a Democrat talking, that is Republican Senator JOHN MCCAIN.

Mr. Speaker, this issue gets to the heart of who we are as a people. We are willing to give huge tax cuts to the richest among us and exclude 12 million of America's children who live in poor families.

## REPUBLICAN TAX RELIEF BILL

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, we all could bring a picture, as some of my colleagues have done, of a family who has contacted them and told them a story. Mine today was from a woman, a grandmother, who told me "I can't understand the unfairness of this bill. Why should my son and his wife and two children not be eligible for any kind of tax relief?"

Her son works at a job where he gets $11 an hour. If you multiply that out times 40 hours a week, times 52 weeks a year, no vacation, you are going to wind up around $22,000. And one of the interesting things is the answer that comes from deep in the heart of Texas, and that is "there are a lot of other things that are more important than that," giving tax breaks to this family. "To me, it is a little difficult to give tax relief to people that do not pay income tax."

Now, those are the words of our distinguished majority leader on the other side, which really reveals where he is coming from. He says, if you do not pay income taxes. Now, every single one, including my family and the family that the gentleman from California (Mr. GEORGE MILLER) had up here and the family the gentlewoman from Illinois (Ms. SCHAKOWSKY) had up here all pay payroll taxes. They pay for Social Security and they pay for Medicare. They pay 7 percent of their paycheck for that, which means that my family that makes $22,000 pays $1,400 in taxes into the Medicare account and into the Social Security account.

The Republicans say we are going to take that money out of the Social Security account and that money out of the Medicare account and give it to the rich people, and we are not going to give one thin dime to somebody who is working 8 hours a day, 40 hours a week, 52 weeks a year. Not one thin dime. But we are going to give his payroll taxes to the rich. That is the only way we could be $400 billion in debt this year is to keep borrowing from every account possible, including Medicare and Social Security.

Now, I want to take it a little bit further here. We have got more important things to do, the majority leader said. Well, what were the more important things we have to do? Today, we did not have a vote until 4:30. Oh, it is only, I suppose, a happenstance that that is when people got off the green from the Kemper Open golf course. That was what was more important than working on that issue.

Or, if you want to look at what we have done on the calendar this week, what have we done? Well, we congratulated Sammy Sosa for hitting 500 home runs. We renamed a post office in North Carolina. We dealt with some Indian water rights in the southwest. We did a land exchange in the Grand Teton National Park. We named a courthouse in Indiana for Birch Bayh, a former Senator. Then we got to the heavy stuff. The heavy stuff. That is when we went after the first amendment again for the tenth time in the last 6 years. We voted on flag burning. Oh, but we have to do that again. We have done it every year since 1994, but we had to do it again because we did not have any time.

Actually, what we had to do was fill up the time so we would not have any time to deal with a tax credit for the working class in this country, the people who work and do not have any of the perks. They do not have anything. They have to get up every morning and go to these jobs where they make $7, $8, $9, or $10 an hour.

Oh, the other thing we did today. We did not have any time today because we had to spend, after we got back from the golf course, we had to have a big debate on partial-birth abortion. We have done that I do not know how many times, and it probably is going to get through and get to the Supreme Court and be declared unconstitutional, but we had to do that today.

We could not give $400 to a working class family. We are giving $350 billion but we could not find $3.5 billion to give that $400. Yes, we are very busy, Mr. Majority Leader. I hope you shot a good game today.

## TAX RELIEF BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. KINGSTON) is recognized for half the time remaining before midnight as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I have to say the Democrats evidently are fired up tonight. They are feeling good. They think they have some rhetorical traction here. And it is all rhetoric when you listen to the Democrats, including the last Member, who said our majority leader was playing golf today, which was absolutely not the case. And I resent the fact that somebody would be saying a Member of Congress was out goofing off today, particularly when it is a member who works about an 80 or 90 hour workweek on average.

It is just silly, though, Mr. Speaker. The Democrat party had an opportunity to take three million low-income workers off the tax rolls 2 weeks ago, and nearly every one of them voted against that. I want to repeat that. The Democrats had an opportunity to take three million low-income workers off the tax rolls and they voted against doing it. Now, in typical fashion, the battle has been fought, the soldiers have kind of gone home, and they are wishing to reinvent the history and say, well, you all should have done this, you should have done that. But where were they at the time? This proposal was out there and they did not do it.

But just keep in mind, only in Washington do you give a rebate to somebody who has not paid into a system. The reality is, in the real world, you get a rebate when you have paid something in. The Democrats are simply back on their mantra of the Democrat party: Expanding welfare. They should not be talking about tax refunds, they should be talking about welfare expansion.

And maybe the welfare bill needs to be looked at again. It has been reauthorized. We know that under the Democrat leadership there were 14 million people on welfare. Today there are five million. That is a drop of nine million people off welfare under Republican leadership. Welfare reform, which all the Democrats voted against, has been a great success, but we do not get that kind of real discussion with them. Now they want to expand welfare. Maybe if their idea is a good one they should come out with a new welfare expansion bill so we can talk about it.

Here we have under our bill a family of four making $11,000, pays no income taxes, about $842 in payroll taxes, and receives about $4,140 under the earned income tax credit. We are trying to do everything we can to reach out and help the working poor. We would like to have the Democrats help with this. Unfortunately, they do not seem to be there. As a matter of fact, this so-called tax refundability was part of the Bush 2001 tax bill, which they all voted against. So they are now mad because they voted no 2 weeks ago and they voted no 2 years ago, and they are blaming it on us.

Come on, guys, give us a helping hand. We want your ideas, but do not vote no, then pout and go home, which seems to be kind of the trend these days. They did not like the war, they do not like Bush, and so any success Bush seems to have in terms of legislative battles in Washington they will vote no on.

Mr. Speaker, I will submit this for the RECORD, but I am going to read a part of it. It is an editorial from the Wall Street Journal today. Unfortunately, I do not have the specific author of it. It says, "The new tax bill exempts another three million plus low-income workers from any Federal tax liability." And you would think that they would be pleased, but instead they all have outrage, saying it should go further. "The tax bill the President signed last week increases the per child Federal income tax credit to $1,000, up from the partially refundable $600 credit passed in the 2000 bill." Again, a bill all the Democrats enthusiastically voted against. What the Democrats are saying is they want more refundable tax credits. Again, it is just welfare.

So I am going to submit this for the RECORD, Mr. Speaker.

[The Wall Street Journal, June 4, 2002]

EVEN LUCKIER DUCKIES

The new tax bill exempts another three million-plus low-income workers from any federal tax liability whatsoever, so you'd think the nation's class warriors would be pleased. But instead we are all now being treated to their outrage because the law doesn't go further and "cut" incomes taxes for those who don't pay them.

This is the essence of the uproar over the shape of the child-care tax credit. The tax bill the President signed last week increases the per child federal income tax credit to $1,000, up from the partially refundable $600 credit passed in the 2001 tax bill. But Republican conferees decided that the increase will not be paid out to those too poor to have any tax liability to begin with.

Most Americans probably don't realize that it is possible to cut taxes beyond zero. But then they don't live in Washington, where politicians regularly demand that tax credits be made "refundable," which means that the government writes a check to people whose income after deductions is too low to owe any taxes. In more honest precincts, this might even be called "welfare."

But among tax cut opponents it is a political spinning opportunity. "Simply unconscionable," says Presidential hopeful John Kerry. The Democratic National Committee declares that the "Bush tax scheme leaves millions of children out in the cold . . . one out every six children under the age of 17, families and children pushed aside to make room for the massive tax cuts to the wealthy."

Senator Olympia Snowe, the media's favorite Republican now that John McCain isn't actively running for President, says she is dismayed." "I don't know why they would cut that out of the bill," adds Senator Blanche Lincoln (D., Ark.). Those last two remarks take chutzpah, because if either woman had been willing to vote for the tax bill, a refundability provision would have been in it.

Senator Lincoln introduced the idea in the Senate Finance Committee, but then announced she wasn't going to vote for the bill anyway. Ms. Snowe was also one of those, along with Senator George Voinovich (R., Ohio), who insisted that the bill's total "cost"—in tax cuts and new spending—not exceed $350 billion. Something had to give in House-Senate conference to meet that dollar limit, and out went refundability. The bill passed by a single Senate vote, with Vice President Dick Cheney breaking the tie.

As it happens, the tax bill does a great deal for low-income families even without the refundable child credit addition. It expands the 10 percent income tax bracket, meaning that workers can earn more before leaping into the 15% and 25% brackets. This is a far better way to provide a tax cut than is a refundable credit, because it lowers the high marginal-tax rate wall that these workers face as their credits phase out at higher income levels.

There's also $10 billion in the bill earmarked for Medicaid, the state-federal health insurance program for the poor. And any family that actually has any remaining tax liability benefits from the extra $400 in child tax credit.

More broadly, the critics want everyone to forget how steeply progressive the tax code already is. IRS data released late last year show that the top 1% of earners paid 37.4% of all federal income taxes in 2000. The top 5% paid 56.5% of federal taxes, and the top half of all earners paid 96.1%. In other words, even before President Bush started slashing taxes on the poor by increasing the child tax credit in 2001, the bottom 50 percent of filers had next to no federal income tax liability.

But don't low-income workers have to cough up the payroll tax? They certainly do, but don't forget that the Federal Earned Income Tax Credit was designed to offset payroll taxes and is also "refundable." In 2000, the EITC totaled $31.8 billion for 19.2 million Americans, for an average credit of $1,658. Some 86% of that went to workers who had little or no income tax liability.

Republicans who just voted for the tax cut could be less defensive and try to explain all of this. But instead too many of them are heading for the tall grass, with Senate Finance Chairman Chuck Grassley already promising to cave as early as this week on the child tax credit. This is the kind of political box Republicans walk into when they endorse tax credits that favor one group over another. Democrats are better at playing favorites.

We raised some hackles last year when we noted this growing trend that more and more Americans paid little or no tax. "Lucky duckies," we called this non-taxpaying class at the time. Notwithstanding liberal spinners, after this tax bill they're even luckier.

Let me just speak again for the House, Mr. Speaker. We want the Democrats' ideas. We want the Democrats at the table. We do not like this pouting: I did not get it my way, therefore, I am going to vote no. Offer an amendment, and if your amendment passes, vote for the bill. If they just want to spout the rhetoric and not the policy, that is one thing, and of course it is mighty suspicious that that might be what they are doing, but there are a lot of things we would like the Democrats' help on. We in the Republican Party would like to make the child tax credit permanent. Right now, the thousand dollar child tax credit expires in 2 years. We would like to have the Democrats help us out on that. Do you think they will?

If the Democrats want to help families with children, they should join us in eliminating the marriage tax penalty because that is phasing out. Will they help us? Will they help make the marriage tax penalty relief permanent? If they really want to help us, they could make the 10 percent tax bracket permanent. Will they do that, Mr. Speaker? Probably not. These are things that will help the American working poor and they will help American families.

Another thing they could help us with, Mr. Speaker, not that they go out of their way to ask me for my opinions, but they could help us with tax simplification. The gentleman from Georgia (Mr. LINDER) and the gentleman from Minnesota (Mr. PETERSON), a Democrat, has offered a tax simplification bill which I think would be extremely helpful. But we cannot get much support from most of the Democrats, and certainly none of the Democrat leadership.

Incidentally, Mr. Speaker, I am going to help the Democrats refresh their memory. I am pulling up the voting record. And if I get that from the cloak room before I finish tonight, I will submit it for the RECORD. For those Democrats who are demanding that this tax credit be changed, I want to make sure they realize they voted against the original bill. This is just for those people who may be tuning in and listening, at the risk of missing a Seinfeld rerun tonight.

☐ 2230

Well, here we go. These are the folks who voted against H.R. 1836 on May 16, 2001. This was the refundable tax credit, as the Democrats call it. I cannot ask the Speaker which Democrats were speaking tonight. I do not know if that is allowed under the parliamentary rules, so I am going to go from memory. I believe the gentlewoman from Texas (Ms. JACKSON-LEE) was raising Cain, and she voted no in the first place. The gentleman from Washington (Mr. MCDERMOTT), I cannot see offhand how he voted. Oh, the gentleman from Washington (Mr. MCDERMOTT) voted no for the original bill.

Let us check the gentlewoman from California (Ms. PELOSI). She is one of their leaders, as I recall. I cannot quite see her name. She voted no, Mr. Speaker. In fact, 197 Democrats voted no to begin with. All this righteous indignation we are hearing about they do not like our refundable tax credit, they all voted against in 2001. I will submit this so my dear friends on the other side of the aisle can check and see how they voted. Maybe that will soften their rhetoric. Maybe they can start their speeches saying I voted against this, but you all should have done a better job even though I was against you the whole way.

### FINAL VOTE RESULTS FOR ROLLCALL 118

H.R. 1836: Yea-and-Nay, 16-May-2001, 4:10 p.m.

Question: On Passage.

Bill Title: Economic Growth and Tax Relief Reconciliation Act.

| | Yeas | Nays | Pres | NV |
|---|---|---|---|---|
| Republican | 216 | | ......... | 4 |
| Democratic | 13 | 196 | ......... | 1 |
| Independent | 1 | 1 | ......... | ......... |
| Totals | 230 | 197 | ......... | 5 |

### YEAS

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Fossela
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlate
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

### NAYS

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Blagjevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriquez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woosley
Wu
Wynn

### NOT VOTING

Cannon
Cooksey
Cubin
Horn
Schakowsky

Getting back to tax simplification and national sales tax, our current IRS code is 8 million words. It is something that requires something like $200 billion in compliance costs. That is every time you and I fill out our taxes, pay an accountant, pay a lawyer, H.R. Block, whoever, help us figure out how much we owe to Uncle Sam, we pay about $200 billion. We spend something like 4.5 billion man-hours to fill out our taxes. There are something like 500 different forms for the Tax Code. The problem is that it gets more and more complicated every year.

What the gentleman from Georgia (Mr. LINDER) proposes is let us go to 23 percent sales tax. We will not tax anything but consumption. Savings will not be taxed. Savings on used goods will not be there. The average tax liability for the average person will fall by about 7 percent, or even more, simply because you are paying right now about 30 percent. So this will help Americans not only have a simpler tax life, but it will also only tax consumption, and it will give less of a tax liability than we have right now.

This bill is in the Committee on Ways and Means. I hope that we will start having hearings on it. It is worth a debate. We could put a small credit in there to exempt food, medical items, so the working poor are not picking up a heavier burden here. These are some of the things that we want to move to in this House, and I am hoping we can get good bipartisan support on it.

Mr. Speaker, I wanted to speak tonight about Iraq because a large portion of this session has been spent on Iraq. The liberation of this country has been extremely well received. In fact, I have an article written by Jonathan Foreman who is a reporter there, and he talks about some of the things that he sees that do not quite make it to the prime time left wing media.

He says that it seems like the old women and young flirt outrageously with GIs, lifting their veils to smile, waving from high windows, and shyly calling hello from half-open doors, or the way little girls seem to speak English better than the little boys who are elbowing them out of the way, or the way the troops get a sense of gender violence endemic in their culture. He writes that yesterday in a poor neighborhood, two 14-year-old sisters introduced themselves to me, and they were chased away by a rock-wielding male relative.

### BAD REPORTING IN BAGHDAD

#### YOU HAVE NO IDEA HOW WELL THINGS ARE GOING

(By Jonathan Foreman)

BAGHDAD.—It's endlessly fascinating to watch the interactions between U.S. patrols and the residents of Baghdad. It's not just the love bombing the troops continue to receive from all classes of Baghdad—though the intensity of the population's pro-American enthusiasm is astonishing, even to an early believer in the liberation of Iraq, and continues unabated despite delays in restoring power and water to the city. It's things like the reaction of the locals to black troops. They seem to be amazed by their presence in the American army. One group of kids in a poor neighborhood shouted "Mike Tyson, Mike Tyson" at Staff Sergeant Darren Swain; the daughter of a diplomat on the other hand informed him, "One of my maids has the same skin as you."

It's things like the way the women old and young flirt outrageously with GIs, lifting their veils to smile, waving from high windows, and shyly calling hello from half-opened doors. Or the way the little girls seem to speak much better English than the little boys who are always elbowing them out of the way. Or the way the troops get a sense of the gender violence endemic in the culture: Yesterday in the poor al Sahliya neighborhood two sweet 12 to 14-year-old sisters on a rooftop who introduced themselves to me and Staff Sergeant Gannon Edgy as Souha and Samaha were chased away by a rock-wielding male relative. His violent anger hinted at problems to come here.

But you won't see much of this on TV or read about it in the papers. To an amazing degree, the Baghdad-based press corps avoids writing about or filming the friendly dealings between U.S. forces here and the local population—most likely because to do so would require them to report the extravagant expressions of gratitude that accompany every such encounter. Instead you read story after story about the supposed fury of Baghdadis at the Americans for allowing the breakdown of law and order in their city.

Well, I've met hundreds of Iraqis as I accompanied army patrols all over the city during the past two weeks and I've never encountered any such fury (even in areas that were formerly controlled by the Marines, who as the premier warrior force were never expected to carry out peacekeeping or policing functions). There is understandable frustration about the continuing failure of the Americans to get the water supply and the electricity turned back on, though the ubiquity of generators indicates that the latter was always a problem. And there are appeals for more protection (difficult to provide with only 12,000 troops in a city of 6 million that has not been placed under strict martial law). But there is no fury.

Given that a large proportion of the city's poorest residents have taken part in looting the Baathist elite's ministries, homes, and institutions, that should tell you something about the sources preferred by the denizens of the Palestine Hotel (the preferred home of the press corps). Indeed it's striking that while many of the troops I've accompanied find themselves feeling some sympathy for the inhabitants of "Typhoid Alley" and other destitute neighborhoods and their attempts to obtain fans, furniture, TVs, etc., the press corps often seems solidly on the side of those who grew fat under the Saddam regime. (That said, imagine the press hysteria that would have greeted a decision by U.S. troops to use deadly force against the looters and defend the property of the city's elite.) Even in the wealthiest neighborhoods—places like the Mansoor district, where you still see intact pictures of Saddam Hussein—poeple seem to be a lot more pro-American than you could ever imagine from reading the wires.

Perhaps this is just another case of reporters with an Anti-American or antiwar agenda. Perhaps living in Saddam's totalitarian Baghdad has left some of the press here with a case of Stockholm syndrome. It may also be a byproduct of depending on interpreters and fixers who were connected to or worked with the approval of the Saddam regime. And you cannot underestimate the herd instinct that can take over when you have a lot of media folk in a confined area for any length of time. But whatever the cause, the result has been very selective reporting.

The Associated Press's Hamza Hendawi, for instance, massively exaggerated and misrepresented the nature of the looting in Baghdad in the first days after the U.S. armored forces took key points in the city. Like so many Baghdad-based reporters, she described an "unchecked frenzy" that did not exist at that time (the looting was targeted and nonviolent, in the sense that the looters attacked neither persons nor inhabited dwellings). Read her pieces and you'll meet a veritable parade of Iraqis who are angry with the United States.

Then there were those exaggerated reports of Aprill 8 claiming (as Reuters' Hassan Hafidh put it) that "Tens of thousands of protesters demanded on Friday that the United States get out of Iraq. . . . In the biggest protest since U.S. forces toppled Saddam Hussein's iron-fisted, 24-year-long rule nine days ago, Muslims poured out of mosques and into the streets of Baghdad, calling for an Islamic state to be established." Demonstrators did come out of one mosque, but reporters seem to have confused them with the large numbers of Shia Muslims gathering for the pilgrimage to Karbala—a pilgrimage long forbidden by the Saddam regime.

There are frequent small demonstrations in the blocks outside the Palestine an Sheraton hotels—partly because that is where the press corps is congregated, but also because it's an area that many Baath party officials fled to after the war began. Anyone who assumes that the atmosphere of that downtown area is in any way representative of the city would be gravely mistaken. However, many reporters have chosen to do just that rather than venture further out to places where they would have seen that far more typical and frequent "demonstrations" involve hundreds or even thousands of Iraqis gathering to cheer U.S. troops. Admittedly, some of those crowds include people begging for money, desperate for aid, or just curious about these strange-looking foreigners. "Most children here have never seen a foreigner" one Iraqi civilian explained to me, "that is why they are so excited." Another told me with a smile, "Everyone here wanted to go to America; now America has come here!"

More irritating is the myth constantly repeated by antiwar columnists that the military let the city be destroyed—in particular the hospitals and the national museum—while guarding the Ministry of Oil. The museum looting is turning out to have been grotesquely exaggerated. And there is no evidence for the ministry of oil story. Depending on the article, the Marines had either a tank or a machine gun nest outside the ministry. Look for a photo of that tank or that machine gun nest and you'll look in vain. And even if the Marines had briefly guarded the oil ministry it would have been by accident: The Marines defended only the streets around their own headquarters and so-called Areas of Operation. Again, though, given the pro-regime sources favored by so many of the press corps huddled in the Palestine Hotel, it's not surprising that this rumor became gospel.

A typical piece of reporting on the "destruction" in Baghdad came from the Washington Post's Rajiv Chandrasekaran on April 22, which repeated all the usual gossip about the ministry of oil and then quoted Saad Jawad, a professor of political science at Baghdad University: "The Iraqis had very high hopes for the Americans," Jawad told him. "But all this euphoria about change, all this relief, went away when they saw the amount of destruction to the infrastructure of the country and the carelessness of the Americans to the Iraqis' day-to-day lives." Yes, euphoria is bound dissipate, but there's no sign it has yet. More important, what infrastructure destruction? The reporter lets the charge stand undisputed but must be aware that roads, bridges, power stations, and rails lines were all left unbombed and intact by U.S. forces. The exception was power substations that fed key government buildings and broadcasting facilities (unless you count army bases and secret police headquarters as "infrastructure").

But my favorite mad media moment was when an AP journalist turned up in a car heading to the Ministry of Information, the top floor of which was on fire. "Why aren't you putting out the fire?" she angrily demanded of Sgt. William Moore. He looked at her with astonishment and asked, "How the hell am I supposed to do that?" Turning away, he muttered, "Piss on it?"

It is true that the military has been slow in some respects to make the transition to an occupation role. And the senior brass here and at CENTCOM have a lot of explaining to do about their planning for postwar operations—the Army arrived here with virtually no Arabic speakers and even after two weeks there were only a handful. But as Gen. Buford Blount of the 3rd Infantry Division pointed out the same day as the Ministry of Information fire, "It's only a week since we were in combat here," and the media have bizarrely high expectations about how quickly a conquered city should return to normal.

Even embedded journalists (or perhaps their editors) can unconsciously misconstrue the facts on the ground. For instance, David Zucchino of the Los Angeles Times, who like me is embedded with the 4th Battalion of the 64th Armored Regiment, 3rd Infantry Division, recently accompanied my Scout platoon on a patrol. We went to an upmarket residential area, in which houses that formerly belonged to top Baath officials had been taken over by looters—and in which a house owned by Qusay Hussein had been destroyed by a JDAM bomb. I was talking to Dr. Ali Faraj al Salih, a cardiologist trained at Edinburgh, when Zucchino, a fine, experienced foreign correspondent, walked over and began listening in. I asked Dr. Ali if he'd had any trouble with looters. "No" he replied, "I have guns, with license from the government. And I have two bodyguards." "Have you always had the bodyguards?" I asked him. "Oh yes," he said.

But Zucchino's April 22 article in the L.A. Times—headlined "In Postwar 'Dodge City,' Soldiers Now Deputies"—reports "Dr. Ali Faraj, a cardiologist, stood before his well-appointed home and mentioned that he has hired two armed guards," as if the doctor had been driven to this expense by unrest following the arrival of the Americans.

Things may yet go horribly wrong here in American-occupied Baghdad. But it is bizarre and sad that so few journalists are able or willing to recognize this honeymoon period for what it is.

A lot of these things we are not going to see on TV because the press corps avoids writing about the friendly dealings with the U.S. forces and the local population, and really focuses more on rioting and looting and kind of misrepresenting the nature of things.

One report said, for example, that looting was going on in an unchecked frenzy, and that was not the case at all, and many things were actually returned. I want to submit this also for the Record, but it just goes to show that even now the left cannot let it rest.

Their first reaction after 9/11 was why do they hate us, as if people in the World Trade Center were somehow to blame for a madman flying a plane into their office building.

Then we heard if we go to war, it is going to the west, America versus all of the Islamic states. We are going to have the west versus Muslims. That did not happen. Then they said we are going to have thousands and thousands of our finest young and men returning home in body bags. That did not happen. Tragically some did come home in body bags, but not the thousands and thousands.

Then when we started up the Euphrates River, they said the worst fighting is further up river. Then we go to the towns, oh, it is the plan, it is the plan. And then it seems like every retired general who is looking for a little media time who wanted to dissent could get on nightly news and say what was going wrong in Iraq.

The next thing you know, we won, and they jump on a 23-year-old marine corporal because before tearing down the Saddam Hussein statue, he puts an American flag on it. Then the statue comes down and the report is about looting, and that is the way, unfortunately, the media looks at the world and looks at America. It is the blame America first crowd.

Here are some quotes from their allies in Hollywood, I do not know David Clennon, an actor, but here is what he said. "I'm saying that the moral climate within the ruling class in America is not different from the moral climate within the ruling class of Hitler's Germany."

Here is Janeanne Garofalo, another actress, "So when I see the American flag, I go, 'Oh my God, you're insulting me.' "

Here is Whoopi Goldberg, "I don't really view communism as a bad thing." That is an interesting view, but communism was not in question in the war on Iraq, but that has never stopped Hollywood, if you do not know the facts, still jump in as long as you have the microphone.

Here is somebody named Chrissie Hynde, "Let's get rid of the economic (expletive) this country represents. Bring it on, I hope the Muslims win."

Here is Oliver Stone. "Bin Laden was completely protected by the oil companies in this country who told President Bush not to go after him or it would tick off the Saudis." I cleaned that one up a little bit.

Richard Roeper, of Ebert & Roeper, sends a strong a message to the Hollywood anti-war crowd:

"Even though you are among the luckiest and best-rewarded human beings in the history of civilization, you have moaned long and loud about life in the oppressive United States of America. And you have complained that free speech is practically an endangered species—though it's not as if you've been kidnapped, bound and gagged for expressing your views . . . But I'm just wondering: If you're such a crusader for kindness and decency and the rules of fair play, when are you going to say something about the atrocities committed by Iraqis since this war broke out?"

"I'm saying that the moral climate within the ruling class in this country is not that different from the moral climate within the ruling class of Hitler's Germany."—David Clennon.

"So when I see the American flag, I go, 'Oh my God, You're insulting me.' "

" 'We're here, we're queer!'—that's what makes my heart swell. Not the flag, but a gay naked man or woman burning the flag. I get choked up with pride."—Janeanne Garofalo.

Trendy Protesting (of Republicans): Explaining why she and other anti-war protesters didn't organize demonstrations when President Clinton launched attacks on Iraq, Bosnia, Afghanistan and the Sudan "It wasn't very hip" [to protest Clinton's Wars].

"I don't really view communism as a bad thing."—Whoopi Goldberg.

"Have we gone to war yet? We (expletive) deserve to get bombed. Bring it on."

"Let's get rid of all the economic (expletive) this country represents! Bring it on, I hope the Muslims win!"—Chrissie Hynde.

"I think America has no experience with terrorism or even with war. In Europe, we know a little bit more about these things."—Bono.

"Bin Laden was completely protected by the oil companies in this country who told [President] Bush not to go after him because it would piss off the Saudis."—Oliver Stone.

Mr. Speaker, this is the caliber of debate we hear out of Hollywood, and it seems to be echoed by so much of the media. I was actually born in Texas, and I live in Georgia right now. I used to be a Dixie Chicks fan; I am not any more. I will say this, and I am speaking as a native-born Texan, but if the Dixie Chicks are ashamed that President Bush is from Texas, I have news for them, I am ashamed that you all are from Dixie. I will say in addition to that, if you do not like it, go sell your records in Paris, and I am sure they will really like it over there.

There is a big debate going on now about who is going to help rebuild Iraq. I think that there is a humanitarian role for the U.N., but I want to point out if the U.N. is left completely in charge, they do not have such a great track record. We have been out of Kosovo for 4 years. Kosovo is a country that used to export electricity, and now they have to have rolling blackouts. Every 4 hours in Kosovo, you have to turn off your lights.

The U.N. also requires when they have free elections, that 30 percent of the candidates need to be female. They might need to be 100 percent. Free elections are supposed to decide that, not some politically correct U.N. mandate.

They have also discouraged private investment, insurance companies and so forth, are discouraged from investing in the rebuilding of Kosovo. If you do not have insurance companies investing, you do not get bank loans. If you do not get bank loans, you do not get outside investors. So the Kosovo rebuilding under the U.N. has not gone well, and that is why it is important for America to keep its presence there.

I want to say to France and Russia and to the other countries who oppose what we are doing, we are not going to kick you out of the rebuilding process, it is just when you come, bring your own checkbook.

In terms of the Brits and the 49 other countries that were in the coalition, we want them there. It is very important.

I want to read a letter from one of my constituents, Mr. Bob Braddy. He wrote a letter to Prime Minister Tony Blair in the U.K. and he says, "Dear Mr. Prime Minister, Recognizing you are extremely busy with your country's business and world affairs, my family and I wanted to take a moment to thank you for your support of George Bush and the United States with regards to the Iraq situation.

"Your steadfastness and determination along with the coalition of nations will have historical ramifications for that country that will take generations to unfold and benefit the Middle Eastern area.

"Thank you so much and Godspeed to you in all the days to come.

"Sincerely, Mr. Robert Braddy."

And Tony Blair wrote him back. "10 Downing Street. Thank you for your kind words and good wishes. I appreciate you taking the time to write. My best wishes to you and your family." It is signed Tony Blair.

Savannah, GA,
*March 22, 2003.*

Mr. Tony Blair,
*United Kingdom Prime Minister,*
*London, England.*

Dear Prime Minister Tony Blair: Recognizing that you are extremely busy with your country's business and world affairs, my family and I wanted to take a moment to Thank You for your support of President George Bush and the United States with regards to the Iraq situation.

Your steadfastness and determination along with the coalition of nations will have historical ramifications for that Country that will take generations to unfold and benefit the entire Middle Eastern Area.

Thank you so much and God Speed for you in all the days to come.

Sincerely,

Robert J. Braddy.

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London SW1A 2AA.

Thank you for your kind words and good wishes. I appreciate you taking the time to write. My best wishes to you and your family.

Tony Blair.

That is an example of the grass roots affection that goes on between Americans and the Brits. We do not feel that way about every country in the world, and that is okay, too. But we want to work together on what is best for Iraq and what is best for world affairs.

I also wanted to talk about some of the other initiatives that we have going on in the House. The House continues to be very productive. We have passed already some medical liability reform, tort reform to stop frivolous medical lawsuits. If you talk to any doctor, hospital or health care provider, they will tell you that one of their biggest expenses these days is fear of frivolous medical lawsuits.

The interesting thing is that in 70 percent of these claims, no payment ever makes it to the injured party. When it does, when money does get to them, it is an average of only 50 cents on the dollar.

□ 2245

Our bill caps some of the benefits, not the economic loss but some of the noncompensatory losses. It is modeled after a law in California which has held down frivolous medical lawsuits. I hope that the other body will take this up and do something about it, because it is very important to keep down the cost of health care.

We are also going to look at asbestos liability reform. An interesting note is that right now asbestos lawsuits, there are about 200,000 pending in Federal courts. Ninety thousand new ones are filed every year. Of those 90,000 new claims, 80 percent of them have no injury involved. Eighty percent of the claimants are not even hurt. Interestingly enough, 95 percent of them are filed in six counties in the United States of America. Yes, something is going on. We need to address it.

I want to also talk about a bill we passed out of the House that we believe will turn the economy around along with our recently passed jobs package which the Democrats opposed, and that is the energy bill. Our energy bill has three components to it, three triangles. One is conservation, another one is research and then the other one is more exploration with less dependence on foreign sources of oil. I want to just start with that. Just keep in mind, we hear so much from the environmental extremists about Alaskan oil reserves. The Alaska wildlife reserve area is the size of South Carolina. Remember, Alaska is the largest State. Texas fits inside Alaska. South Carolina is a fairly large State on the east coast. That is the size of the wildlife reserve. And in it we are talking about exploring for oil in 2,000 acres. We heard from the left and the environmentalists before in Prudhoe Bay, if you do this, it is going to hurt the caribou tribe. The funny thing is the caribou tribe actually went up after we started exploration in Prudhoe Bay. So I think we can do these things in an environmentally sensitive way. But it also ties into national security and also personal security. If somebody wants to drive an SUV and, Mr. Speaker, I know you are a single man down there in Florida, but I am a domestic guy. I have four children. I about 2 years ago was driving up to New York. I was going up I-95 from Savannah, Georgia. I did not know that you go through Delaware to get to New York. I was just driving and all of a sudden I am in a four-car collision. I have four kids in the family and my wife. I want as much metal in between me and the other guy as possible. I am driving my Suburban, which is a politically incorrect thing to many folks on the left and, lo and behold, the car behind me has to be towed away and we do not even have a scratch on the Suburban. The Delaware police who were very nice and professional said, you can go on. And so I drove on to New York in my Suburban, politically as incorrect as possible, with every kid in my family safe and unharmed. That is why I want a big car. That is why I think the moms in America should have the option of a big car. That is why it is important to realize that we have got to keep a good fossil fuel supply in this country and not just be dependent on some of our Middle Eastern allies who are not always the best allies in the world. We need to look at Alaska reserves, we need to look at Venezuela, we need to look at Russia. We need to just keep our options open, but that is a major part of our energy package.

The other thing is research. There are so many exciting things going on in research right now, cell fuels, hydrogen fuels. I was reading the other day, there is a car now that is a hovercraft. It is made by Moeller International. I think it is called an M400 Skycar. I want one as soon as possible, because it flies off the ground. It has a vertical-horizontal uptake. In fact, the gentleman from Pennsylvania probably already knows about it because he is such a fan of the Osprey, which can do that. This car just takes off and it can toot around, a great way to get rid of the traffic jams on 395 in Washington, D.C. There is also a contraption that has already been built that if you think about it maybe like this, a lectern, the size of a phone booth, that you step in it and it flies. It is an individual spacecraft. It will go about 40 miles an hour and has a range of about 100 miles, right out of Johnny Quest which I know, Mr. Speaker, you have no idea who Johnny Quest was but I know the gentleman from Pennsylvania is an old man like me, he remembers Johnny Quest and Hadji his faithful assistant and Bandit the dog but they would fly around in these things. I am looking forward to that. It will get the kids out of the house. It will be fun.

There are so many things that the private sector is doing in the name of research right now. We are putting a lot of money in our energy bill, into more bold inventions and ways of stretching out that energy dollar. The final component of our energy bill is conservation. My dad was raised in Brooklyn during the Depression, and one of the things he taught us in Athens, Georgia, is you do not leave the room with the light left on. You do not brush your teeth with the water flowing out of the faucet. You take care of the stuff because it is all money. My dad was an early environmentalist, and he did not know it, because he made sure that we used as little energy as possible. And we recycled all kinds of things. But as I drive down Independence Avenue or Pennsylvania Avenue in Washington, D.C. and I see buildings, guess whose buildings have every single light left on? The Federal Government. You can drive by the Department of Energy, and I hate to say it, it does not matter who is in charge, Democrats or Republicans, the lights are left on. We have got to turn the lights off. We in the Federal Government need to lead the way in conservation. That is part of our energy bill, is credits for smart buildings, credits for energy-wise construction and all kinds of things like that. I hope that the other body will take this important piece of legislation up.

We also have other things that we have passed, such as the healthy forests initiative, very important. We have some endangered species relief for our military in a very good defense package. We have Medicare coming up, Medicare reform which will have a prescription drug package. We are going to have some post office reform coming up. A lot of things for veterans. The left does not like it but we did increase veterans health care spending by about 12 percent. I believe they all voted against that. The gentleman from Pennsylvania says yes. We are going to continue to stand up and do everything we can for the veterans. I am a supporter of the veterans history project which the Library of Congress is initiating and was passed under Republicans in the House. The great thing about the veterans history project is if you are a veteran of any war and you have a story to tell, not necessarily a glorious story but we want to know about your experience in the war, contact the Library of Congress, contact your local Congressman and we can archive that forever so that your great great grandchildren can go back and see what you did in the war.

Mr. Speaker, in closing I want to commend the gentleman from Pennsylvania on his work on the defense authorization bill. I think it is a great bill, and also for touching the sensitive area of training in the areas where there are endangered species, because I think you have got a good balance in there but many people do not understand that some of the training that our military does has greatly been hampered by the possibility that a species may be there and it is not even confirmed that they are. I represent Fort Stewart. They have a big problem with the red-cockaded woodpecker.

## RESULTS OF TRIP TO NORTH KOREA

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under the Speaker's announced guidelines, the balance of the majority leader's hour is reallocated to the gentleman from Pennsylvania (Mr. WELDON), and, without objection, his previous order for 5 minutes is vacated.

There was no objection.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentleman for allowing me to take the rest of this time. It is tough to follow the gentleman from Georgia. He is not only a nice human being but he is a real genuine person as you can tell by the way he handles issues, totally committed to his job and his family. I want to let the gentleman know he is someone for whom I have the highest admiration and always brings a few laughs to us while he use that kind of down-home southern humor to convey the real message of what the American people want us to be doing. I thank my friend and colleague for his comments.

Mr. Speaker, tonight I rise for the major purpose of outlining the results of a trip that I led to North Korea this past weekend, but I want to start out by responding to some of the concerns raised by my colleagues on the other side where they have continued to demagog and basically say that President Bush and the administration lied about the reasons for the Iraqi war. I heard one of our colleagues earlier say, show me the evidence of weapons of mass destruction. I could not help let that go by, Mr. Speaker. I am the vice chairman of the House Committee on Armed Services. I work issues involving proliferation of weapons of mass destruction technology, and for anyone to suggest that there just was not a case of weapons of mass destruction in Iraq is just plain wrong. In fact, all one has to do is go to the U.N. and look through the records of the U.N. on abuses of human rights and look at the record of Saddam Hussein.

In fact, Mr. Speaker, I will at this point in time insert in the RECORD two charts. One is the past Iraqi use of weapons of mass destruction and the second is the amount of weapons of mass destruction that Iraq admitted to having at the time of the war.

1. PAST IRAQI USE OF WMDS

| Date | Area used | Agent | Casualities | Target pop. |
|---|---|---|---|---|
| 1983 | Hajj Umran | Mustard | <100 | Iranians/ Kurds. |
| 1983 | Panjwin | Mustard | 3,000 | Iranians/ Kurds. |
| 1984 | Majnoon Island. | Mustard | 2,500 | Iranians. |
| 1984 | al-Basrah | Tabun | 50–100 | Iranians. |
| 1985 | Hawizah Marsh. | Mustard/ Tabun. | 3,000 | Iranians. |
| 1986 | al-Faw | Mustard/ Tabun. | 8–10,000 | Iranians. |
| 1986 | Umm ar Rasas. | Mustard | 5,000 | Iranians. |
| 1987 | al-Basrah | Mustard/ Tabun. | 5,000 | Iranians. |
| 1987 | Sumar/ Mehran. | Mustard/ Nerve. | 3,000 | Iranians. |
| 1988 | Halabaj | Mustard/ Nerve. | 800 | Kurds. |

2. AMOUNT OF WMDS IRAQ ADMITS HAVING

| Weapon | Effect | Quantity Iraq claimed |
|---|---|---|
| VX | Nerve Agent—Paralysis and Death | 3.9 Tons. |
| Sarin | Nerve Agent—Paralysis and Death | 812 Tons. |
| Mustard Gas | Blister Agent—Burns Skin, Eyes, and Lungs. | 3,080 Tons. |
| Anthrax | Bio Agent—Lung Infection and Death. | 2,200 Gallons. |
| Botulinum | Bio Agent—Death if inhaled or Digested. | 5,300 Gallons. |
| Aflatoxin | Bio Agent—Causes Liver Cancer | 520 Gallons. |

Mr. Speaker, the facts cannot be refuted. Saddam Hussein was responsible for killing over 20,000 human beings by using weapons of mass destruction. What were they? Mustard gas, tabun, nerve gas. From 1983 to 1988, known facts in this chart which our colleagues can read tomorrow in the CONGRESSIONAL RECORD are the specific dates, the locations and who was killed. And who was killed? Iranians and Kurds. Innocent people. And what did Iraq admit when in 1991 they in fact were kicked out of Kuwait? What did they tell the U.N. they had? They told the U.N. they had VX, which is a nerve agent, causes paralysis and death. In fact, they publicly said we have 3.9 tons of VX. They said they had sarin gas, nerve agent, causes paralysis and death, 812 tons. They said they had mustard gas, a blister agent, burns the skin, eyes and lungs, 3,080 tons. They said they had anthrax, a biological agent, lung infection and death, 2,200 gallons. They said they had Botulinum, a biological agent, death if inhaled or digested, 5,300 gallons; and they said they had aflatoxin, another bioagent that causes liver cancer, 520 gallons.

Mr. Speaker, this was the leadership of Iraq publicly telling the U.N. what weapons of mass destruction they had. For my colleagues and friends to stand up here and say they do not have any weapons of mass destruction and therefore the administration lied is just wrong and it is really unfair. In fact, every major debate involving the events leading up to the war in Iraq, both on the Democrat and the Republican side in this body and the other, they were not arguing over whether or not there were weapons of mass destruction, they were arguing over whether we should let the U.N. inspectors continue or in fact get more time or whether we should follow the President's lead because the time had run out. Because we have not found anything since the war ended, their rallying cry is, well, where are the weapons of mass destruction? First of all, you are talking about a country the size of California, which is an extremely large area to go through, to look in every school, every underground complex, every building. And we already have found two trailers that we know were used for the development of weapons of mass destruction. The fact is we are going to continue to look and I am convinced that we will find additional evidence of weapons of mass destruction. But to say that they had no weapons of mass destruction is ridiculous. I have put in the RECORD tonight the documentation of what we have in fact verified, what the U.N. has verified.

But let me get to another point for those who criticize the President. What about Saddam's record of human rights violations? My colleagues on the other side were quick to support Bill Clinton 4 years ago when he decided we should go to war in Yugoslavia, an independent nation, because he decided the human rights record of Slobodan Milosevic was so bad that we should remove him with force. Incidentally and ironically coerced by both the French and Germans, we decided not to go to the U.N. but to bypass the U.N. because the Russians were going to issue a veto of any U.N. resolution and for the first and only time ever in the Clinton administration, we used NATO, which is a defensive body, for an offensive purpose, pushed by France, Germany and the U.S., we invaded a non-NATO country to remove the sitting head of state. Why? Because he had weapons of mass destruction? No. Because he was committing human rights violations.

In the case of Saddam Hussein, every organization on the face of the earth, from Amnesty International to the U.N., has clearly stated that Saddam Hussein's human rights record is far worse than anyone since Adolf Hitler. And so this argument being put forth by the left that somehow the Bush administration was not truthful with Congress and the American people leading up to the war is just plain wrong.

☐ 2300

It is a case to try to be used by the candidates running for the nomination of the other party to try to get some kind of traction or leverage against President Bush.

The fact is, we did what we did because Saddam Hussein had a terrible human rights record, he used weapons of mass destruction. We wanted to make sure he never had that chance to use them again, and that is exactly what we have accomplished.

Mr. Speaker, the real and primary purpose of my special order tonight was to focus on a trip that I just led, we got back yesterday, from North

Korea, the Democratic People's Republic of Korea.

Mr. Speaker, no one from America in an elected capacity had been to Pyongyang, North Korea, for the past 6 years, and in fact the only contact we have had with the leadership of DPRK has been through our State Department diplomats. We had a team there almost a year ago, or last fall, actually, and we had our Assistant Secretary of State, Secretary Kelly, meet in Beijing to have further discussions with North Korea.

About a year ago, Mr. Speaker, I decided it was important that the Congress attempt to understand what was happening inside of DPRK, because of the tensions building between North and South Korea. I wanted to make sure we did not end up in another conflict. So I set out to take a delegation of 13 of our colleagues into Pyongyang last May.

We sat in Beijing and we sat in Seoul for 4 days waiting for the visas to be approved. They never came. The reason given by the North Korean government was that President Bush had referred to North Korea as a part of the axis of evil, and, therefore, they did not think it right we should be allowed admittance to their country.

But, Mr. Speaker, I persevered, and throughout the last 12 months traveled up to the UN on at least two occasions, met with the Ambassador for the DPRK mission at the UN, Ambassador Han, the only representative of North Korea allowed in America, and I talked to him about taking a delegation in.

Every time I met with him, as I have done in all of my contacts, I made sure I talked to the folks at the White House, the National Security Council and the State Department, so I kept them informed.

I used seven or eight individuals and groups that have contacts inside of North Korea to convey the message that it was more important for us to bring in a delegation of non-diplomats. There was an added sense of urgency because in the late summer-early fall our intelligence community gave the evidence to the State Department that in fact North Korea had an active nuclear weapons program under way, which was a clear violation of the 1994 agreed upon framework that was negotiated in the Clinton administration.

So, for all of those reasons I kept the pressure on to take a group into Pyongyang to meet with the officials of that country, not as diplomats, not as representatives of the President, not as representatives of the State Department, but as elected officials from our country, to put a face on the American people and to tell the people of North Korea that none of us want war, none of us want conflict.

Approximately 10 days ago, Mr. Speaker, at the 11th hour, after I had planned a trip to go to Moscow and then on into North Korea, we were initially told the visas were not coming forward. Then the day after we canceled that trip I got a call from the New York embassy or New York office of the mission at the United Nations and Ambassador Han said Congressman WELDON, Pyongyang has invited you to bring your delegation into my country.

Very quickly we reassembled a team, three Democrats and three Republicans, and traveled to Pyongyang on a naval aircraft. The Navy did a fantastic job in providing support to us. We left on a Wednesday evening and flew all night. The trip took us about 30 hours, with the fuel stops that we had to make in the C–9 we were traveling in, and we arrived into Pyongyang, North Korea, from a stop in Japan, at approximately 9:30 a.m. last Friday.

For 3 days, we were hosted by the leadership of the Ministry of Foreign Affairs of the DPRK regime.

Mr. Speaker, I would say at the outset that we let it be known going in we were not going in to represent the President of the United States, nor the State Department. We were not going in to do any negotiations. We were simply going in to put a face on America so that the leadership of DPRK that has been so outrageously nasty within their country toward America and the American people should see who we are, not as diplomats, but as ordinary people.

The three Democrats and the three Republicans who went to Pyongyang made it be known that we were not going to negotiate because that is not our position, and in fact we were going in supporting the position of President Bush and Secretary Powell: that a multilateral approach to dealing with North Korea in the end had to be the vehicle, the way to get this issue of this nuclear threat under control.

Our goal was to put the human face on, and we did. In fact, during the 3 days that we were in Pyongyang, North Korea, it was an unbelievable experience. I had asked in advance, Mr. Speaker, to visit 10 sites so that we would not just be taken where they wanted us to go, but rather we would pick the type of sites that we would like to see. In fact, half of those sites they agreed to and we visited.

One was a school, a school with 1,800 children from the age of 3 years to 18 years. It was an impressive sight, a model school for the country. But it gave us an understanding of the support of the DPRK government to educate their children.

The second was the Pyongyang Computer Center, one of three buildings in the downtown city area that are used to develop North Korea's technology and information and the use of computers.

We had to visit a film studio because the leader of North Korea, Kim Chong-Il, has a major interest in producing video productions, actually movies. He does not import any from the West for his people because society in North Korea is totally closed. So I thought it would be relevant to visit what I had heard to be one of the largest studio complexes outside of Hollywood and Orlando, Florida. We visited that site where there are 1,500 employees.

Mr. Speaker, to say the least, it was unbelievable. We were driven through the back lot. I have been through the back lot of Universal Studios, and I can tell you, that this rivaled that back lot. There were scenes for movies that could be shot about Japan, about China, about Korea, about Europe, about the West. All of these sets were established so that North Korea each year can produce between 20 and 25 feature lengths films that are shown in the movie houses of North Korea, which are all oriented toward the propaganda message and the message of the North Korean leadership. So we visited that facility.

We had a shopping visit to interact with the ordinary people that were in the city. We visited restaurants.

Mr. Speaker, on the last day we were there, we were scheduled to meet with the Minister of Trade, but I asked the delegation the night before if they wanted to do that meeting, and they said not really. So I told the representative who handles U.S. issues for the Ministry of Foreign Affairs that we did not want to go to the meeting with the Minister of Trade, but instead on Sunday morning we wanted to go to church.

They agreed. They picked us up at our hotel at 9:45 in the morning, and six Members of Congress went to church in a Protestant church on a hill in North Korea, in the middle of this closed society, where there were no pictures of Kim Chong-Il or Kim Il-Song, his father, but rather were crosses, and with 300 people we worshipped in a Protestant church, much like churches all over America do every Sunday morning. So we had a good glimpse of this closed society.

Let me say, Mr. Speaker, I have visited the Soviet Union when it was communist many times and I visited China under its communist system. North Korea makes those two societies in their worst days of communism look like an open society. It is an absolutely closed society to the outside world, no access to outside media, no access to newspapers, totally closed. In fact, limitation on people traveling in is also closed.

But, Mr. Speaker, we are in a tense situation right now, because North Korea has admitted publicly in our meetings that we held that they have nuclear weapons today. They admitted that they are reprocessing the 8,000 nuclear rods from their nuclear power plants and they admitted that that reprocessed nuclear weapons grade fuel will be used to build more nuclear weapons.

Mr. Speaker, the fact is that if North Korea uses the fuel from those 8,000 rods, they will have the ability within a year to build four to six additional nuclear weapons. That is unacceptable, Mr. Speaker, and that is why we have to aggressively at this point in time move in to find a common way to solve the nuclear crisis that exists between North Korea and the rest of the world.

The thing I wanted to mention to our colleagues, Mr. Speaker, is after meeting with the leadership, after meeting with the foreign minister, the speaker of their parliament called the Supreme People's Assembly and the vice foreign minister, I came away convinced that we in fact can find a way to get the North Koreans to give up their nuclear capability.

□ 2310

Tomorrow morning I will talk to Secretary Powell on the phone, and I will relay to him the exact details of what I think could become the basis for his experts and professionals to conduct negotiations within the context that the President and the Secretary of State have defined to allow us to move away from the brink of nuclear war.

Mr. Speaker, the alternative is unacceptable. The alternative would be for North Korea to continue to develop nuclear weapons. If we try an economic embargo, they would likely offer to sell their nuclear weapons to other nations, rogue groups, terrorist organizations. That is unacceptable.

Regime change by means of war I think is unacceptable, at least until we make every possible effort to find a way to convince the North Koreans, as President Putin and Chinese President Hu Jintao have said, to have them remove nuclear weapons from the Korean Peninsula.

Mr. Speaker, I would like to include the trip report, and I would like to thank our congressional delegation Members, the gentleman from Texas (Mr. ORTIZ), who was my co-chair; the gentleman from Texas (Mr. REYES); the gentleman from New York (Mr. ENGEL); the gentleman from South Carolina (Mr. WILSON); the gentleman from Florida (Mr. MILLER). They were a dynamic team, and together we have now brought back to our colleagues the knowledge and a fuller understanding of this nation that has been so secretive.

But more importantly, we bring back to America the possibility that we can resolve this nuclear crisis on the Korean Peninsula through peaceful discussions and through peaceful resolution. Hopefully, Mr. Speaker, under the leadership of our great President and our Secretary of State and Condoleezza Rice, our security adviser, we will in fact this year be able to solve this very difficult challenge in a peaceful way.

The material referred to earlier is as follows:

## U.S. CONGRESSIONAL DELEGATION (CODEL) WELDON VISIT TO NORTH AND SOUTH KOREA—DEMOCRATIC PEOPLES' REPUBLIC OF KOREA (DPRK) AND REPUBLIC OF KOREA (ROK), MAY 30–JUNE 2, 2003

### OVERVIEW

### *North Korea DPRK*

The delegation was the largest congressional delegation to visit the DPRK and the first CODEL to visit the DPRK in five years. The visit occurred during a period of escalating tensions between the DPRK, the United States, and nations of the region resulting from the DPRK October, 2002, admission of its nuclear weapons-related uranium enrichment program. Subsequent DPRK withdrawal from the Nuclear Nonproliferation Treaty (NPT); confirmation of its possession of nuclear weapons; expelling of IAEA inspectors; declared intentions to reprocess its spent fuel; continued sales of missiles and technology to terrorist nations; and allegations of nation-sponsored drug trafficking all served to further raise tensions between the DPRK and the international community.

The delegation visit was the culmination of over a year-long effort by Representative Weldon to gain entry into the DPRK for the purpose of engaging senior DPRK officials in informal discussions, free of the formality of traditional posturing and imposed pressures of negotiation objectives, to share mutual perspectives on the major political, military, and economic issues.

The resulting visit achieved its purpose by providing the Members an opportunity to engage senior DPRK officials (attachment 2) in lengthy, candid, unstructured, and often pointed, yet respectful, discussions, in several venues covering the complete range of outstanding issues. While discussions with senior DPRK officials included the predictable hard line rhetoric associated with recent DPRK public statements, balanced discussion took place in the formal as well as more personal informal sessions. The demonstrated goodwill and willingness to go beyond first level posturing gave the delegation reason to believe that there are options that should be considered to avoid conflict and resolve critical outstanding issues in a way satisfactory to both sides. There is unanimous agreement within the delegation that a way must be found to initiate discussions in an agreed framework at the earliest possible opportunity. Concern exists that failure to address these crictical issues in a timely manner could result in the proliferation of nuclear weapons and/or technology to terrorist organizations and States.

Repeated statements were made by the DPRK leadership that their brief is that the Bush Administration seeks regime change in North Korea. "The Bush Administration finds regime change in different nations very attractive . . . and is trying to have regime change, one by one. This kind of conduct damages the U.S. image in the world and weakens the leadership role of the U.S. This is the heart of the question. If the U.S. would sign a non-aggression pact, we would give up nuclear programs and weapons." The DPRK seeks normalization of relations and non-interference with its economic relations with South Korea and Japan. Chairman Weldon indicated he did not believe regime change to be the goal of the U.S.—and stated his position of not advocating regime change. The issue of regime change is seen as the determining factor in whether a peaceful resolution to the current standoff is possible.

Chairman Weldon also stated his concern that the establishment of a DPRK nuclear weapons program would lead to similar programs in surrounding nations. He cited Hu-Putin statements calling for a nuclear free Korean Peninsula. The DPRK, Vice Minister Kim, acknowledged this as a valid point, but indicated that the other nations can rely on the U.S. "nuclear umbrella," while the DPRK has no such option.

A major issue often voiced by DPRK officials remains a requirement on their part to achieve a satisfactory framework for bilateral discussions because of their belief that certain issues "are too serious" to be dealt with in an multilateral framework. The delegation believes flexibility exists within a multilateral framework to satisfy the DPRK officials desires for bilateral discussions.

Requested visits by the delegation to the Pyongyang Information (Computer) Center, a school for gifted students, Kim Il Sung's birth place, the North Korean movie studio production facilities, and a Christian church as well as casual evening social events permitted the delegation to interact with a wide variety of North Koreans and to travel to several sections of the city.

Prior to departure, Ministry of Foreign Affairs officials extended an open invitation to the delegation for a return visit and further indicated a willingness to consider visits to the Yong Byon nuclear facility.

### *Seoul, ROK*

In Seoul, the delegation was hosted by President Roh for a breakfast meeting, met with Foreign Minister Yoon, Members of the National Assembly, Ambassador Hubbard, General LaPorte, and other officials to discuss the meetings in the DPRK. The ROK officials expressed their appreciation for the efforts of the delegation and reinforced the need for dialogue with the North.

### *Observations*

Each of the senior DPRK officials with whom the delegation met cited the importance of the visit, given the current tense relationship between the DPRK and the U.S. They also noted their understanding of the role of Congress and that the delegation was not visiting to negotiate issues for the United States, but to enhance mutual understanding between the two nations.

In each of the meetings, Chairman Weldon cited the past and continued importance of inter-parliamentary exchanges in improving relationships with nations and improving the well-being of the peoples once considered to be enemies of the United States, including the People's Republic of China and the U.S.S.R., and expressed his belief that this could be the case with the DPRK once normalized relations could be established. He also expressed his belief that no one in the Congress wishes ill-will toward the North Korean people and that no one wants another war.

Each of the senior DPRK officials noted the tense international situation and sought to place the blame on the U.S. "because the U.S. seeks to make us give up our military forces which safeguard our political system." Each of the leaders also cited their preference for the "Clinton approach" in the bilateral relationship and took strong exception to President Bush's inclusion of the DPRK as part of the "Axis of Evil." They stated their belief that such a characterization demonstrates that the U.S. is unwilling to "accommodate with our country" and the U.S. seeks regime change. "Further, the U.S.

is enlisting other nations to prepare a nuclear first strike—seeking to blackmail and intimidate us . . . The U.S. does not want to coexist with us . . . And not only does the Bush Administration not want to coexist, but wishes to get rid of my nation with its nuclear strength . . . We see the U.S. preparing for a military strike . . . The U.S. must change its hostile policy." Without necessarily supporting the Bush Administration policies toward the DPRK, all members of the delegation agreed with Representative Engel's point to DPRK officials, that violations of the 1994 Agreed Framework by the DPRK were the reason for the current tensions, not Bush Administration policies.

The DPRK officials stated their belief that the situation can only be resolved by acceptance of the current leadership—coexistence—and dialogue. And in the meantime it intends to continue to develop its "restraint capability" (nuclear deterrent). "We have tried dialogue and have been patient . . . Our willingness to meet in Beijing in April shows our flexibility to allow the U.S. to save face, showing our flexibility and sincerity to resolve the issues at any cost . . . We have not had concrete results. The Bush Administration has not responded to our request for bilateral talks—they are more focused on our first giving up our nuclear program . . . This causes us to believe that the Bush Administration has not changed its policy about disarming my nation . . . We want to conclude a non-aggression treaty between the two countries and avoid a military strike on my country."

DPRK officials explicitly reconfirmed their nation's possession of nuclear weapons and repeated previous public statements regarding the reprocessing of the 8,000 spent fuel rods from the Yong Byon facility. They also indicated they will use the reprocessed materials for making weapons. They further indicated that the only option open to them, given their inclusion in the "Axis of Evil" and U.S. refusal to engage in bilateral discussions, "is to strengthen and possess restraint (deterrent) capability and we are putting that into action . . . I know some say we possess dirty weapons. We want to deny they are dirty ones . . . I apologize for being so frank, but I believe you have good intentions and I want to be frank. We are not blackmailing or intimidating the U.S. side. We are not in a position to blackmail the U.S.—the only super power. Our purpose in having a restraint (deterrent) is related to the war in Iraq. This is also related to statements by the hawks within the the U.S. Administration. Our lesson learned is that if we don't have nuclear restraint (deterrent), we cannot defend ourselves."

DPRK officials maintained that their nuclear program is only for deterrence and not being pursued to seek economic aid—that "we only wish to be left alone. The nuclear issue is directly linked to the security of our nation . . . We need frank exchange on nuclear policies." DPRK officials indicated that economic sanctions would be viewed as a proclamation of war.

*Attachment 1*

CODEL WELDON—Members of Congress: Curt Weldon (R–PA); Solomon Ortiz (D–TX); Silvestre Reyes (D–TX); Joe Wilson (R–SC); Jeff Miller (R–FL); Eliot Engel (D–NY).

Professional Staff: Doug Roach; Bob Lautrup.

State Department Interpreter: Tong Kim.

Navy Escorts: Commander Lorin Selby; Lt Commander/Dr. Erik Sawyers; Lt Frank Cristinzio; Lt Tamara Mills.

*Attachment 2*

DPRK—PAEK, Nam Sun, Foreign Minister; KIM Gye Gwan, Vice Minister, Ministry of Foreign Affairs; CHAI Tae Bok, Chairman, Supreme People's Assembly (SPA); CHO, Seung Ju, Director General, Bureau of U.S. Affairs, Ministry of Foreign Affairs; RHEE Sang No, Director of External Affairs, Presidium of SPA; PAK Myong Guk, Director of U.S. Affairs, Ministry of Foreign Affairs.

ROK—ROH, Moo-Hyun, President; YOON, Foreign Minister; YOO, Jay-Kun, Member, National Assembly; KIM Un-yong, Member, National Assembly; LEE, Jae-joung, Member, National Assembly; SONG, Young-gil, Member, National Assembly; LEE By-yang, Member, National Assembly; PARK, Jin, Member, National Assembly; KIM, Suh-woo, Chief of Staff to the Speaker, National Assembly; SOHN, Jang-nai, former Ambassador to Indonesia; Thomas C. Hubbard, U.S. Ambassador to ROK; General Leon LaPorte, Commander, USFK.

## HEALTH DISPARITIES AMONG MINORITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. DAVIS) is recognized for the remaining time before midnight as the designee of the minority leader.

Mr. DAVIS of Illinois. Mr. Speaker, I had planned to talk about health care as a result of the Congressional Black Caucus' chairman, the gentleman from Maryland (Mr. CUMMINGS), coming to Chicago on Sunday to participate in a forum dealing with health care issues that is going to be held at the Illinois Institute of Technology.

But listening to much of the discussion this evening as special order speeches have been made talking about tax cuts and tax breaks and which groups got them and which groups did not, I could not help but be reminded of the fact that President Bush has been in office now for about 2 years after being selected by the Supreme Court, and has actually presided over one of the worst downturns in our Nation's history. We have lost 2.7 million jobs, as many as 500,000 in the last 2 months alone. The only answers that I have heard the Republicans give is, tax cuts, tax cuts, and more tax cuts as we have gone from a surplus to a $350 billion deficit, the largest deficit in the history of this country.

As I listen to all of the information about tax cuts and the inability to give certain groups a break, the top 1 percent of the tax cuts that we have made will receive on an average of $24,100 in 2003, this year. Those with incomes of more than $1 million will receive an average of $93,500.

I hear people talk about what will happen for small businesses, and 52 percent of small business owners will only get between zero and $500. Seventy-nine percent of the benefits will go to individuals who have incomes of over $100,000. Twenty-nine percent of the population will go or 29 percent of the breaks will go to individuals who make more than $1 million.

More than two-thirds of the tax cuts will go to the top 10 percent of the population, and over 50 percent of the tax cuts will go to the top 5 percent of the population. The bottom 60 percent of the taxpayers will only get 8.6 percent, averaging less than $100 a year for the next 4 years. The average reduction for the richest 1 percent will be $103,899 for 4 years. Thirty-nine percent will go to this tiny group. The best off 1 percent of the population will get 52 percent of the benefit.

I am not one that always pays a great deal of attention, but oftentimes I do read them, to what newspapers have to say about these proposals and what we are doing. But as we talk about the need to stimulate the economy, I was reading the New York Times on May 9, and they indicated or they stated, they said, that lower-income families, of course, would be the quickest to spend the money to help provide some of the stimulus the Republicans claim is their first priority. Instead, the GOP remains fixated on high-income concerns. Framing the reconciliation talks is more than an exercise in dueling sugar plums.

So I guess, concerning this whole business of who gets what, a friend of mine told me the other day that there was a quote that said the history of the world, my friend, is relationships between where the money goes, and that after everything else is talked about, look and see where the money goes.

It seems to me that as we have dealt with the tax cut issue, most of the money continues to go to the wealthy. Most of the money continues to go to those who have the most.

At any rate, our health situation is still in bad shape. I am going to spend the rest of my time talking a little bit about that. Our health care system is unacceptable for the world's most powerful and wealthy country. I would say that the state of health care in this country is one of the top critical issues facing the Nation. I do not believe that it can be cured by putting too much of our resources in one population group.

Even as we come to an end of the war against Iraq, there will still be and still are individuals in need of health care. It is true that the state of education, the state of unemployment, and the state of housing are all in dire need of improvement, as well; but they all connect to the need to have a solid, concrete health care system that serves all people.

The state of one's health sets the precedent for everything else in our lives. If we are not in good health, we cannot perform our jobs well or do well in school. If we are not in good health and do not have insurance, we end up with an exorbitant amount of debt that will be virtually impossible for anyone to pay off, if we have been sick.

The numbers are absolutely startling. There are approximately 60 million people without health insurance at some point during the year in this country. Many people believe that it is only the unemployed or individuals with low incomes that cannot afford health insurance.

However, nearly 80 percent of the uninsured are individuals from working families who cannot afford health insurance or cannot access employer-provided health insurance plans. More than one out of every five families making $75,000 a year or more has at least one member without health insurance.

□ 2320

In Chicago, those making between $25,000 and $75,000 or 34 percent have at least one family member without health insurance, as do 41 percent of families making up to $25,000. In Illinois, almost 10 percent of those with at least a bachelor's degree and 20 percent of full time workers are uninsured. America needs to realize that the face of the uninsured has changed. The level of education or salary will not automatically guarantee an individual insurance anymore.

The health crisis is not only due to the number of uninsured in our Nation. There are millions more than the estimated 60 million uninsured at some point that have less comprehensive insurance than what they actually need, and, therefore, are under-insured. They are the families working for small firms or family-owned businesses that are being hit the hardest by the current state of the economy, forcing the employers to cut back and have the employee pay higher premiums. There are senior citizens on Medicare that are being denied care by physicians who can no longer afford to care for them. These are the components of a failing health care system. With State and the Federal Government slashing Medicaid, the safety net we once depended on is instead not a net at all.

Currently in Congress there are numerous resolutions that would help mend our Nation's health care crisis as a whole. The proposed solutions range from a refundable tax credit, to purchasing private insurance, to Congress enacting health care for every American, to amending the United States Constitution. There are also resolutions to help to resolve a single issue plaguing the health system, whether it is the cost of prescription drugs, the reimbursement amounts for a mammogram under Medicare, or a new formula for FMAP.

Although minor changes in health care may be easier for a Member to get passed, it allows many Americans to remain stuck, still unable to afford expensive health insurance. I believe that Congress must act sooner rather than later and reform our health care system as a whole.

One of my American Medical Student Associate fellows, Amanda Muellenberg, once explained the problem of fixing Medicare piece by piece with an old Dutch story. She said there was once a young boy walking down the road and realized that the town's dike had a hole in it. To save the town, the young boy put his thumb in the hole to stop the leaking. Soon another crack and a hole appeared and then another and another. It was not long until the young boy ran out of fingers to clog the holes, and still with all his efforts, he could not stop the dike from leaking. Instead of clogging each new hole in our health care system, we need to rebuild it.

The Kaiser Family Foundation found that uninsured Americans cost Federal, State, and local governments about $35 billion in 2001. Much of that money went to treating individuals who had become seriously ill due to a lack of medical attention. I believe this amount that is spent on helping the uninsured ill could be better used to give screenings and preventative care, leaving less of a financial burden on taxpayers and hospitals for admissions.

President Bush made the commitment to America to leave no child behind in education. Instead, we need to ensure that no American is left behind in preventative care, access to medical treatment, and affordable insurance. The way to accomplish this and the only real way is through enactment of a national health plan, where everyone is in and nobody is out. And as much of a problem that we have across the board with health care and health insurance, when it comes to some population groups, especially when it comes to minorities, nowhere are the divisions of race, ethnicity, and culture more sharply drawn than in the health of the people in the United States.

Despite recent progress in overall national health, there are continuing disparities in the incidents of illness and death among African-Americans, Latino/Hispanic-Americans, Native Americans, Asian-Americans, Alaskan Natives and Pacific Islanders as compared with the U.S. population as a whole. We can point to 6 areas in particular: One, cancer; two, cardiovascular disease; three, infant mortality; four, diabetes; five, HIV/AIDS; and six, child and adult immunizations, aggressively.

Cancer, for example, research shows in general that people of diverse racial, ethnic, and cultural heritage are less likely to get regular medical checkups, receive immunizations, and be routinely tested for cancer when compared with the majority of the U.S. population. Cancer deaths are disproportionately high among Latino/Hispanic-Americans and African-Americans. Vietnamese women are 5 times more likely to have cervical cancer and Chinese-Americans are 5 times more likely to have liver cancer.

Cardiovascular disease. Disparities exist in the prevalence of risk factors for cardiovascular disease, coronary heart disease and stroke. Racial and ethnic groups have higher rates of hypertension, tend to develop hypertension at an earlier age, and are less likely to undergo treatment to control their high blood pressure.

Mexican-American men and women have elevated blood pressure rates. Obesity continues to be higher for African-American and Mexican-American women. Only 50 percent of Native American, 44 percent of Asian-Americans, and 38 percent of Mexican-Americans have had their cholesterol checked within the past 2 years. Coronary heart disease mortality is higher for African-Americans. Stroke is the only leading cause of death for which mortality is higher for Asian-American males.

We look at infant mortality, current studies document that despite advances, African-American and Native American babies still die at a rate that is 2 to 3 times higher than the rate for white Americans. Infant mortality is really a measure that health professionals use to measure quality of life. If infant mortality is high, it usually means that the quality of life is low. If infant mortality is low, it usually means that the quality of life is high.

Statistics revealed that among Native Americans and Alaskan Natives, the incidents of Sudden Infant Death Syndrome, SIDS, is more than 3 to 4 times the rate for white American babies. And while the overall infant mortality rate has declined, the gap between black and white infant mortality rates has widened.

□ 2330

Diabetes, studies indicate that diabetes is the 7th leading cause of death in the United States. Approximately 16 million people in the U.S. have diabetes. African Americans are 1.7 times more likely. Latino Hispanic Americans are 2.0 times more likely. The Alaskan natives and Native Americans are 2.8 times more likely to have diabetes than whites. The Pima tribe of Arizona has the highest known prevalence of diabetes of any population in the world. Native Americans and African Americans have higher rates of diabetes-related complications such as kidney disease and amputation as compared to the total population.

HIV/AIDS, recent data from prevalence surveys and from HIV/AIDS cases surveillance continue to reflect the disproportionate impact of the epidemic on racially, ethnic and linguistically diverse population groups, especially women, youth and children.

The African Americans and Hispanic Latino group accounted for 47 and 20 percent respectively of persons diagnosed with AIDS in 1997. Among African Americans, 56 percent of new HIV infection and AIDS cases are a result of intravenous drug usage. For Hispanic Latino groups, 20 percent of new HIV infections and AIDS cases results from intravenous drug use. Seventy-five percent of HIV/AIDS cases reported among women and children occur among diverse racial and ethnic groups.

Six, child and adult immunizations. Statistics from the President's Initiative on Race reveal that for the most critical childhood vaccines, vaccination levels for preschool children of all racial and ethnic groups are about the same. However, immunization levels for racial and ethnic groups are lower.

School age children and elder adults of diverse racial and ethnic backgrounds continue to lag when compared to the overall vaccination rates for the U.S. general population. While 79 percent of white preschoolers are fully immunized by 2 years of age, only 74 percent of African American and 71 percent of Hispanic Latino children, including preschoolers and school age children, are fully vaccinated against childhood diseases.

Annually, approximately 45,000 adults die of infections related to influenza, pneumonia infections and hepatitis B, despite the availability of preventive vaccine. Among the elderly, there is a disproportionate amount of vaccine preventable diseases in racial, ethnic and underserved populations.

Although the reasons for these disturbing gaps are not well understood, it appears that disproportionate poverty, discrimination in the delivery of health services and the failure of health care organizations and programs to provide culturally competent health care to diverse racial, ethnic and cultural populations are all contributing factors.

For people under 65, blacks and Hispanics have a higher percentage of being uninsured than whites; 12.7 percent of non-Hispanic whites are uninsured; 22.8 percent of blacks are uninsured; and 24 percent of Hispanics are uninsured.

Minorities face greater difficulty in communicating with physicians. Hispanics are more than twice as likely as whites, 33 percent versus 16 percent, to cite one or more communication problems, such as understanding the doctor, not feeling the doctor listens to them or that they had questions for the doctor but did not get asked. Twenty-seven percent of Asian Americans and 23 percent of blacks cite that they also have communication problems.

Minorities, of course, are more likely to be without a regular doctor. Hispanics are twice as likely to not have a regular doctor than whites, 41 percent versus 19 percent. Thirty-one percent of Asian Americans and 28 percent of blacks are without a regular doctor.

Compared with the rates for whites, coronary heart disease mortality was 40 percent more for Asian Americans but 40 percent higher for blacks in 1995. Stroke is the leading cause of death for which mortality is higher for Asian American males than for white males.

Racial and ethnic minorities have higher rates of hypertension, tend to develop hypertension at an earlier age, are less likely to undergo treatment to control their blood pressure. From 1988 to 1994, 35 percent of black males 20 to 74 had hypertension compared to 25 percent of all men.

Among adult women, the age-adjusted prevalence of overweight continues to be higher for black women, 53 percent, and Mexican American women, 52 percent, than for white women. Only 50 percent of American Indians, native Alaskans, 44 percent of Asian Americans and 38 percent of Mexican Americans have had their cholesterol checked in the last 2 years.

According to the 2001 Surgeon General's Report on Mental Health, the prevalence of mental disorders is believed to be higher among African Americans than whites, and African Americans are less likely to be treated for mental problems such as depression or anxiety.

Infant death rates among blacks, American Indians and Alaskan natives and Hispanics in 1995 and 1996 were all above the national average of 7.2 deaths to 1,000 births. The black infant death rate is 14.2 deaths per 1,000 births. This is nearly two-and-a-half times that of white infants, 6 deaths, 1,000 births. Puerto Ricans have a rate of 8.9 deaths, 1,000 births, and overall, American Indians have a rate of 9 deaths to 1,000 live births.

HIV/AIDS is the sixth leading cause of death for African American males and the 10th leading cause of death for African American females. In 2000, 47 percent of all cases reported in the United States were among African Americans. The rate of new AIDS cases among African Americans was almost 10 times higher than among whites.

Cancer is the second leading cause of death in the United States, accounting for more than 544,000 deaths each year. For men and women combined, blacks have a cancer death rate about 35 percent higher than that for whites, 171.6 versus 127 per 100,000. The death rate for cancer for black men is about 50 percent higher than that for white men, 226.8 versus 151.8 per 100,000. The prostate cancer mortality rate for black men is more than twice of that of white men, 55.5 versus 23.8 per 100,000. The death rate for lung cancer is about 27 percent higher for blacks than for whites, 49.9 versus 39.3.

□ 2340

Incident rates for lung cancer in black men is about 50 percent higher than in white men, 110.7 versus 72.6 per 100,000. Native Hawaiian men have also elevated rates of lung cancer compared with white men. Alaskan native men and women suffer disproportionately higher rates of cancer of the colon and rectum than do whites. Vietnamese women in the United States have a cervical cancer rate five times that of white women, 47.3 versus 8.7 per 100,000. Hispanic women also suffer elevated rates of cervical cancer. Black women have the highest death rate from cervical cancer. Stomach cancer mortality is substantially higher among Pacific Islanders, including Native Hawaiians, than other populations.

We mention these numbers because America, our country tis of thee, has a goal to create equal justice, equal opportunity, equal service. The idea that out of many can be one, and one not just in concept but also one in reality. And to make real these ideas, there is obviously a need for special programs and special activities, in addition to changing the way we provide treatment in some instances.

There is a need to increase the numbers of minorities in medical schools, in nursing schools, and to train more professionals. There is the need to put more ambulatory care programs in places where there are none. There is a need to increase accessibility. Of course we know that poverty plays a tremendous role. There is a need for more education, more assistance for individuals to take control of their own health.

And that is why the Congressional Black Caucus has made health one of its top priority issues. That is why we are pleased that our chairman, the gentleman from Maryland (Mr. CUMMINGS), will in fact be in Chicago on one of his stops as he and other members of the caucus go across the country trying to help raise the issue, trying to help people to understand what they can themselves do, and also continuing to suggest to America that we have to put our resources where our conversations are; that we have to make available quality comprehensive health care to all people in this great country without regard to their ability to pay.

So, Mr. Speaker, as I come to the close of my special order, I want to thank you for your indulgence. I want to thank the American people for watching and listening. And I hope that we can indeed let America be America again, the land that never has been and yet must be. The America that we all continue to dream about. The America that we all continue to hope for. The America that can ultimately crown its good with brotherhood from sea to shining sea. And the America that can have quality comprehensive health care for you and quality comprehensive health care for me.

Ms. LEE. Mr. Speaker, today members of the Congressional Black Caucus rise to expose the truth about minority health disparities in our health care system.

Many of my colleagues will outline the ongoing racial divide when it come to minorities' reliance on emergency and ambulatory services, the issue of access to health care and how minorities are disproportionately uninsured. Others will talk about the leading illnesses and health conditions that kill more Blacks and Latinos than Whites because of social and economic community distrust of the health care system.

However, tonight I want to bring attention to the increasing minority health disparities connected to environmental racism. The simple fact is the environment affects your health, and Blacks, Latinos and other people of color are suffering and dying because of toxins in the environment.

Dr. Martin Luther King, Jr. laid the groundwork when he declared that "we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream." The metaphors of nature are the metaphors of life, and that is fundamentally where environmental justice begins and ends.

Unfortunately, the waters themselves in much of the world are tainted, and the toxic streams flow all too often through neighborhoods at the economic margins of society, particularly minority neighborhoods.

Far too often, the issue of minority health and the environment is ignored. Now, the Administration continues to roll back all of the environmental protections that Democrats have fought for, minorities will pay the highest price of all, trapped in homes near brown fields, power lines and sanitation plants. Democrats must stand against the Administration and the deceptive conservatism that continues to sweep our policy debates and our nation.

Members of the Congressional Black Caucus see the forces of environmental injustice playing themselves out in terms of minority health disparities.

These disparities follow a cradle to grave cycle: beginning with infant mortality, continuing with workplace hazards and increased exposure to pollution, and ending with disparate access to healthcare, diagnoses, and medical treatment.

We see these forces clearly in diseases that strike most deeply into our cities and affect children most severely.

Asthma rates among the urban poor are reaching alarming proportions. Death rates from asthma, and a host of other treatable diseases, are significantly higher among African Americans than any other ethnic group.

In my own district, asthma rates are among the highest in the country, and children in West Oakland are seven times more likely to be hospitalized for asthma than children in the rest of California.

Over twenty-eight percent of low-income African American children suffer from lead poisoning, more than twice the level of exposure among low income white children, and far higher than among children of the middle class or wealthy.

Toxins concentrate along the color lines that have historically divided American society. Children of color are much more likely to suffer from lead poisoning, resulting in devastating effects on mental development. We are also finding that public housing communities have been secretly dealing with mold for years, another place where minorities are disproportionately located. These are minority health injustices that we cannot accept.

Environmental minority health disparities grow not only out of poverty, but racism. We must address the ravages of the past while we forge sounder policies for tomorrow. Our environment may be defined as our surroundings. Inner city neighborhoods that have liquor stores but no grocery stores speak to years of less than benign neglect and to the need for meaningful social and economic investment. That is a form of racism. Superfund sites that are under-funded; factories and plants that emit carcinogens under the protections of grandfather clauses; healthcare that is inadequate and racially biased; all demand our attention and financial resources. They are all forms of environmental racism.

We must demand environment health justice for our communities. The gap between minorities and whites in health care continues to grow, but I stand here today in support of universal health care, more resources for minority health initiatives, and a re-evaluation of the national agenda for health and justice. We must consider the environmental health agenda because it affects our homes, our communities, and the overall health of America.

Mr. CONYERS. Mr. Speaker, in 2002, the Institute of Medicine released a telling report entitled: Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care. The report documented many troubling findings which unfortunately, health experts in the underserved communities have been crying out about for decades. It documents the case that the American health care system was set up so that African Americans, Hispanics, and other underserved minorities would receive "second class back of the bus health care" in public hospitals and community clinic—many of which are on the verge of economic collapse.

Minority Americans are at least twice as likely as white Americans to be uninsured. More than 30 percent of Latinos and 20 percent of African Americans do not have health insurance—and the gap has been widening over the last decade. Astoundingly, minorities now account for two thirds of the new AIDS cases, and HIV infection is the leading cause of death among younger African Americans. Yet, African Americans are 41 percent–73 percent less likely than whites to receive particular drug therapies.

African American women are far less likely to receive a mammogram than white women and are at far greater risk of being diagnosed with breast cancer. Black men are also 1.5 times more likely to develop prostate cancer than white men, and they are three times more likely to die of the disease. Even more disturbing, African American children are plagued by asthma. They are twice as likely to be diagnosed with the disease and a whopping six times as likely to die from it as white children. Just last month the Harlem Hospital found that an incredible 25 percent of children in central Harlem has asthma—one of the highest rates ever documented in an American neighborhood. Add to all the previously noted findings the fact that African American infant mortality rates are three times higher than the rate for white American babies, and the diagnosis for the future of the African American family seems not only chilling but painfully malignant.

Under George W. Bush and the Republicans, the current health disparities are likely to get worse—the principle reason is that they are gutting health care in general and Medicaid in particular. Medicaid is the bedrock of health coverage for poor Americans in general and minorities in particular—it insures one out of five children in America and two thirds of all nursing home residents.

Because of the budget crisis in the states, the Center on Budget and Policy Priorities has predicted that as many as 1.7 million Americans could lose health coverage entirely under Medicaid cut back proposals in the states. Amazingly, the Bush Administration is opposing efforts to help the States pay their Medicaid responsibilities and help keep poor and minority Americans insured.

This Congress I have been dedicated to bridging the gap in health care disparities amongst Americans. I have introduced a bill that would provide universal health care for all Americans. H.R. 676, "Medicare For All" is a national health insurance bill endorsed by 4000 physicians across the country. I also reintroduced H. Con. Res. 99, a resolution that commits to covering all of the uninsured by 2005. Just last month, the Congressional Black Caucus launched campaign to end racial disparities in healthcare by backing my universal healthcare resolution. I am also planning to introduce legislation that will bring Medicaid to anyone earning less than 200 percent of the poverty level. This will allow almost all working poor and unemployed Americans to have health coverage. It will also ensure that major urban hospitals can receive sufficient reimbursements so that they are not forced to shut their doors.

In 2003, in without a doubt the most powerful and wealthy society in the history of the world, there is absolutely no excuse for the health disparities that are crippling and killing off our African American and minority communities. I urge my colleagues today to support the efforts of the CBC and others who are fighting to improve the health of all Americans.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

## GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. JONES of Ohio (at the request of Ms. PELOSI) for today on account of official business.

Mr. LEWIS of Kentucky (at the request of Mr. DELAY) for today and June 5 on account of a death in the family.

Mr. RYAN of Wisconsin (at the request of Mr. DELAY) for today on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TURNER of Texas) to revise and extend their remarks and include extraneous material:)

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, June 11.

Mr. PENCE, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mrs. BLACKBURN, for 5 minutes, today.

Mr. HENSARLING, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. WOLF, for 5 minutes, June 5.

Mr. COLLINS, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WAXMAN, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $780.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 313. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Energy and Commerce.

## ADJOURNMENT

Mr. DAVIS of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 45 minutes p.m.), the House adjourned until Thursday, June 5, 2003, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2511. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Importation of Beef from Uruguay [Docket No. 02-109-3] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2512. A letter from the Director, Regulations Policy and Management Staff, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Canada Because of BSE [Docket No. 03-058-1] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2513. A letter from the Under Secretary, Department of Defense, transmitting the Department's quarterly report entitled, "Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account," pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

2514. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Service, transmitting the Department's final rule — Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use [Docket No. 02N-0359] (RIN: 0910-AA01] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2515. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Antidiarrheal Drug Products for Over-the-Counter Human Use; Final Monograph [Docket No. 78N-036D] (RIN: 0910-AA01) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2516. A letter from the Director, Office of Management and Budget, transmitting the Office's FY 2002 report on Federal Government Information Security Reform; to the Committee on Government Reform.

2517. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska: Yellowfin Sole by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area [Docket No. 021212307-3037-02; I.D. 052103B] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2518. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Framework Adjustment 2 [Docket No. 030225045-3096-02; I.D. 020603A] (RIN: 0648-AQ29) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2519. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Revision of Charter Vessel and Headboat Permit Moratorium Eligibility Criterion [Docket No. 030303053-3118-02; I.D. 022403] (RIN: 0648-AQ70) received May 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2520. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Mystic River, CT [CGD01-03-047] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2521. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Correction of Compliance Dates [Docket No. RSPA-01-10373 (HM-220D)] (RIN: 2137-AD58) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2522. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Atlantic Ocean, Point Pleasant Beach to Bay Head, New Jersey [CGD05-03-049] (RIN: 1625-AA08) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2523. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Delaware City, Delaware [CGD05-03-013] (RIN: 1625-AA08 (Formerly RIN: 2115-AE46)) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2524. A letter from the Assistant Chief Counsel, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Regulated Transactions Involving Documented Vessels and Other Maritime Interests; Inflation Adjustment of Civil Monetary Penalties (RIN: 2133-AB48) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2525. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Transportation of Hazardous Materials; Unloading of Intermodal (IM) and UN Portable Tanks on Transport Vehicles [Docket No. RSPA-01-10533 (HM-218A)] (RIN: 2137-AD44) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2526. A letter from the Regulations Officer, FHWA, Department of Transportation, transmitting the Department's final rule — Federal-Aid Highway System [FHWA Docket No. FHWA-97-2394] (RIN: 2125-AD74) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2527. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of a Report of Building Project Survey for Columbia, MO, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2528. A letter from the Commissioner, Social Security Administration, transmitting the 2003 Annual Report of the Supplemental Security Income Program, pursuant to Public Law 104—193, section 231 (110 Stat. 2197); to the Committee on Ways and Means.

2529. A letter from the Director, Office of Personnel Management, transmitting the Office's legislative proposal "To amend title 28, United States Code, to eliminate the requirement for a separate system of pay and benefits for FBI police"; jointly to the Committees on the Judiciary and Government Reform.

2530. A letter from the Secretary, Department of Homeland Security, transmitting the Department's legislative proposal entitled the "Coast Guard Authorization Act of 2003"; jointly to the Committees on Transportation and Infrastructure, Government Reform, Armed Services, and the Judiciary.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. Supplemental report on H.R. 1086. A bill to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes (Rept. 108-125, Pt. 2).

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 258. Resolution providing for consideration of the bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes, and for consideration of the bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes (Rept. 108-140). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Concurrent Resolution 190. Resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people (Rept. 108-141). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. Alexander, Mr. Andrews, Ms. Baldwin, Ms. Berkley, Mr. Boswell, Ms. Corrine Brown of Florida, Mrs. Capito, Mr. Capuano, Mr. Carson of Oklahoma, Ms. Carson of Indiana, Mr. Costello, Mr. Cramer, Mrs. Davis of California, Mr. DeFazio, Mr. Delahunt, Ms. DeLauro, Mr. Dingell, Mr. Doyle, Mr. Filner, Mr. Frank of Massachusetts, Mr. Frost, Mr. Gibbons, Mr. Gordon, Mr. Green of Texas, Mr. Gutierrez, Mr. Hinojosa, Mr. Hoeffel, Mr. Holden, Mr. Holt, Mr. Honda, Ms. Hooley of Oregon, Mr. Israel, Ms. Jackson-Lee of Texas, Mr. Jenkins, Mr. Kanjorski, Mr. Kennedy of Rhode Island, Mr. Larsen of Washington, Mr. Larson of Connecticut, Ms. Lofgren, Mr. Lucas of Kentucky, Mr. Lynch, Mrs. Maloney, Mr. Menendez, Mrs. McCarthy of New York, Ms. McCollum, Mr. McDermott, Mr. McGovern, Mr. McIntyre, Mr. McNulty, Mr. Michaud, Ms. Millender-McDonald, Mr. Neal of Massachusetts, Mr. Oberstar, Mr. Pallone, Mr. Pascrell, Mr. Payne, Mr. Reyes, Mr. Rodriguez, Mr. Ryan of Ohio, Mr. Sanders, Mr. Sandlin, Mr. Scott of Georgia, Mr. Smith of Washington, Mr. Souder, Mr. Strickland, Mr. Stupak, Mrs. Jones of Ohio, Mr. Udall of New Mexico, Mr. Van Hollen, Mr. Walden of Oregon, Mr. Wexler, Ms. Woolsey, Mr. Sullivan, Mrs. Christensen, Mr. Towns, and Mr. Grijalva):

H.R. 2318. A bill to amend title 38, United States Code, to provide for a assured adequate level of funding for veterans health care; to the Committee on Veterans' Affairs.

By Mr. COX (for himself, Mr. Frost, Mr. Vitter, Mr. Baird, Ms. Jackson-Lee of Texas, Mr. Camp, and Mr. Shadegg):

H.R. 2319. A bill to include the Secretary of Homeland Security within the order of Presidential succession which applies in the absence of a qualified President and Vice President, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 2320. A bill to amend title XIX of the Social Security Act to require Medicaid coverage of disabled children, and individuals who became disabled as children, without regard to income or assets; to the Committee on Energy and Commerce.

By Mr. ANDREWS (for himself and Mr. Payne):

H.R. 2321. A bill to promote and facilitate expansion of coverage under group health plans, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 2322. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of certain disabled individuals who have no health insurance coverage; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 2323. A bill to amend title 5, United States Code, to provide that the Civil Service Retirement and Disability Fund be excluded from the budget of the United States Government; to the Committee on the Budget, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPITO:

H.R. 2324. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the child tax credit and to expand the refundability of such credit, and for other purposes; to the Committee on Ways and Means.

By Ms. DeLAURO (for herself, Mr. Alexander, Mr. Emanuel, Mr. Rangel, Mr. Hoyer, Mr. Davis of Alabama, Ms. Schakowsky, Mr. Levin, Mr. Stark, Mr. Cardin, Mr. Stenholm, Mr. Jefferson, Mr. Neal of Massachusetts, Mr. Lewis of Georgia, Mr. Spratt, Mr. McDermott, Mr. Brown of Ohio, Mr. Oberstar, Mr. Rodriguez, Mr. Olver, Mr. McGovern, Mr. George Miller of California, Mr. Moran of Virginia, Mr. Capuano, Mr. Langevin, Mr. Menendez, Mr. Hinchey, Mr. Serrano, Mr. Gonzalez, Mr. Boucher, Mr. Ryan of Ohio, Ms. Slaughter, Ms. Woolsey, Mrs. Lowey, Mr. Evans, Ms. Eshoo, Mr. Ford, Mr. Engel, Mr. Tanner, Ms. Lee, Mrs. Davis of California, Mr. Tierney, Mr. Lantos, Mr. Baird, Ms. Roybal-Allard, Mr. McNulty, Mr. Sandlin, Mr. Michaud, Mr. Inslee, Mr. Markey, Mr. Grijalva, Mr. Davis of Florida, Mr. Blumenauer, Mr. Israel, Mr. Delahunt, Mr. Hoeffel, Mr. Reyes, Mr. Clyburn, Mr. Wynn, Mr. Pallone, Ms. Bordallo, Mr. Conyers, Mr. Pascrell, Ms. Solis, Mr. Cooper, Mrs. Maloney, Mr. Towns, Ms. Corrine Brown of Florida, Mr. Pomeroy, Mr. Doggett, Mr. Berry, Mr. Davis of Tennessee, Mr. Taylor of Mississippi, Mr. Skelton, Mr. Strickland, Mr. Udall of New Mexico, Mr. DeFazio, Mr. Sanders, Ms. Kaptur, Mr. Doyle, Mr. Scott of Virginia, Mr. Abercrombie, Mrs. McCarthy of New York, Ms. DeGette, Mr. Acevedo-Vilá, Mr. John, Mrs. Capps, Mr. Crowley, Mr. Edwards, Mr. Cummings, Mr. Scott of Georgia, Mr. Frost, Mr. Kucinich, Mr. Matsui, Mr. Hastings of Florida, Mr. Thompson of Mississippi, Mr. Meehan, Ms. McCollum, Mr. Case, Mr. Hinojosa, Mr. Holt, Mr. Owens, Mr. Cardoza, Mr. Ruppersberger, Mr. Price of North Carolina, Mr. Obey, Mr. Boswell, Mr. Jackson of Illinois, Mr. Lampson, Mr. Pastor, Mr. Ortiz, Mr. Becerra, and Mr. Filner):

H.R. 2325. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 2326. A bill to require the conveyance of certain Bureau of Land Management lands in Nye County, Nevada, to Ponderosa Dairy in Amargosa, Nevada; to the Committee on Resources.

By Mr. GOODE (for himself and Mr. Hill):

H.R. 2327. A bill to amend the National Trails System Act to extend the Lewis and

Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes; to the Committee on Resources.

By Mr. HOEFFEL (for himself, Mr. Brady of Pennsylvania, Mr. Doyle, Mr. English, Mr. Fattah, Mr. Gerlach, Mr. Greenwood, Ms. Hart, Mr. Holden, Mr. Kanjorski, Mr. Murphy, Mr. Murtha, Mr. Peterson of Pennsylvania, Mr. Pitts, Mr. Platts, Mr. Sherwood, Mr. Shuster, Mr. Toomey, Mr. Weldon of Pennsylvania, Mr. Oberstar, Mr. LaTourette, Mrs. Tauscher, and Mr. Lampson):

H.R. 2328. A bill to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the "Robert A. Borski Post Office Building"; to the Committee on Government Reform.

By Mr. KIRK (for himself and Mrs. Tauscher):

H.R. 2329. A bill to provide for global pathogen surveillance and response; to the Committee on International Relations.

By Mr. LANTOS (for himself, Mr. King of New York, Mr. Hyde, Mr. Smith of New Jersey, Mr. Rangel, Ms. Ros-Lehtinen, Mr. Menendez, Mr. Rohrabacher, Mr. Faleomavaega, Mr. Pitts, Mr. Levin, Mr. Souder, Mr. Ackerman, Mr. Sherman, Mr. George Miller of California, Mr. Crowley, Mr. Hoeffel, Mr. Brown of Ohio, Mr. Engel, Mr. Blumenauer, Mr. Schiff, Mr. Andrews, Mr. McGovern, Mr. Olver, Mr. Farr, Mr. Evans, and Mr. Abercrombie):

H.R. 2330. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATHESON (for himself, Mr. Renzi, and Mr. Udall of New Mexico):

H.R. 2331. A bill to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MILLER of Florida:

H.R. 2332. A bill to amend the Jobs and Growth Tax Relief Reconciliation Act of 2003 to make permanent the treatment of dividend income as capital gains; to the Committee on Ways and Means.

By Mr. MORAN of Kansas (for himself, Mr. Pomeroy, Mr. Bereuter, Mr. Osborne, Mr. McIntyre, Mrs. Emerson, Mr. Peterson of Pennsylvania, Mr. Walden of Oregon, Mr. Towns, Mr. Berry, Mr. Kind, Mr. Turner of Texas, Mr. Leach, Mr. Alexander, Mr. Marshall, Mr. Udall of New Mexico, Mr. Edwards, Mr. King of Iowa, and Mr. Nunes):

H.R. 2333. A bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for Medicare beneficiaries who reside in rural areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON:

H.R. 2334. A bill to amend the District of Columbia Home Rule Act to establish the Office of the District Attorney for the District of Columbia, headed by a locally elected and independent District Attorney, and for other purposes; to the Committee on Government Reform.

By Mr. OWENS:

H.R. 2335. A bill to provide for general revenue sharing and assistance for education for States and their local governments; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI (for himself, Mr. Rahall, Mr. Dreier, Mr. Wicker, and Mr. Garrett of New Jersey):

H.R. 2336. A bill to amend the Higher Education Act to establish and strengthen postsecondary programs and courses in the subjects of traditional American history, free institutions, and Western civilization, available to students preparing to teach these subjects, and to other students; to the Committee on Education and the Workforce.

By Mr. REYNOLDS:

H.R. 2337. A bill to provide for the Secretary of Veterans Affairs to conduct a pilot program to determine the effectiveness of contracting for the use of private memory care facilities for veterans with Alzheimer's Disease; to the Committee on Veterans' Affairs.

By Mr. SAXTON:

H.R. 2338. A bill to prevent loans for Iraq from the International Monetary Fund or the International Bank for Reconstruction and Development from being used to pay off Iraq's creditors; to the Committee on Financial Services.

By Mr. SAXTON:

H.R. 2339. A bill to require door delivery of mail sent to persons residing in senior communities; to the Committee on Government Reform.

By Mr. SAXTON:

H.R. 2340. A bill to amend the Internal Revenue Code of 1986 to repeal the required beginning date for distributions from individual retirement plans and for distributions of elective deferrals under qualified cash or deferred arrangements; to the Committee on Ways and Means.

By Mr. SESSIONS (for himself, Mr. Pomeroy, Mr. Souder, Mr. Smith of Texas, Mr. Peterson of Pennsylvania, Mr. Paul, Mr. Bonilla, Mr. Nethercutt, Mr. Gonzalez, and Mr. Edwards):

H.R. 2341. A bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. Rangel, Mr. Matsui, Mr. McDermott, Mr. Sandlin, and Mrs. Jones of Ohio):

H.R. 2342. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 2343. A bill to amend title XVIII of the Social Security Act to exclude services of certain providers from the skilled nursing facility prospective payment system under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS:

H. Con. Res. 206. Concurrent resolution supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER:

H. Con. Res. 207. Concurrent resolution supporting the efforts to establish a moderate and tolerant political system in Afghanistan that is protective of the rights and dignity of all communities; to the Committee on International Relations.

By Mr. MARKEY:

H. Res. 259. A resolution calling for robust inspections in Iran; to the Committee on International Relations.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

63. The SPEAKER presented a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8015 memorializing the United States Congress to pray that new federal procedures be established to assure that future sales of wheat stocks from federally held grain reserves be conducted in a manner that such sales will not unduly disrupt the market while also fulfilling the original intent; to the Committee on Agriculture.

64. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 58 memorializing the United States Congress to continue providing assistance to Michigan to help eradicate bovine tuberculosis; to the Committee on Agriculture.

65. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8000 memorializing the United States Congress to pray that the Federal Energy Regulatory Commission leave the Northwest electricity system in place and withdraw the Notice of Proposed Rulemaking establishing a Standard Market Design for electricity; to the Committee on Energy and Commerce.

66. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8012 memorializing the United States Congress to pray that the Federal Energy Regulatory Commission leave the Northwest electricity system in place; to the Committee on Energy and Commerce.

67. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1168 Joint Resolution memorializing the President, the United States Congress, and the United States Department of Transportation to not cut essential air services funding; to the Committee on Transportation and Infrastructure.

68. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 14 memorializing the President and the United States Congress to pursue and support fuel cell research projects in Michigan; to the Committee on Science.

69. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8003 memorializing the United States Congress to pray to restore the deduction of retail sales under the federal income tax; to the Committee on Ways and Means.

70. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8002 memorializing the United States Congress to provide adequate funding levels for the United States Forest Service and continually assess the progress towards a healthy forest environment; jointly to the Committees on Agriculture and Resources.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. FORD.

H.R. 49: Mr. UPTON.

H.R. 58: Mrs. KELLY, Mr. REYES, and Mr. HOLT.

H.R. 179: Mr. FLETCHER.

H.R. 188: Ms. LEE.

H.R. 193: Mr. WICKER.

H.R. 262: Mr. KLINE.

H.R. 303: Mr. BARTON of Texas, Mr. LANGEVIN, Mr. HOYER, and Ms. BORDALLO.

H.R. 310: Mr. ROGERS of Kentucky.

H.R. 331: Mr. McINTYRE and Mr. RANGEL.

H.R. 369: Ms. KILPATRICK, Mr. CONYERS, and Mr. DINGELL.

H.R. 391: Mr. BROWN of South Carolina, Mr. MICA, Mr. BURGESS, Mr. DEAL of Georgia, Mr. LATHAM, Mr. GINGREY, Mr. JONES of North Carolina, and Mr. GUTKNECHT.

H.R. 401: Mr. CARDOZA and Mr. CHOCOLA.

H.R. 414: Mr. DAVIS of Illinois and Mr. OWENS.

H.R. 430: Mr. BURGESS.

H.R. 438: Mr. EHLERS.

H.R. 459: Mr. BURGESS.

H.R. 465: Mr. GREEN of Wisconsin.

H.R. 490: Mr. GUTIERREZ.

H.R. 502: Ms. GINNY BROWN-WAITE of Florida.

H.R. 527: Mr. ROGERS of Kentucky.

H.R. 584: Mr. DELAHUNT and Mr. LATHAM.

H.R. 589: Mr. CUNNINGHAM and Mr. CANNON.

H.R. 648: Mr. SIMPSON, Mr. BISHOP of Utah, Mr. ENGLISH, and Mr. PETRI.

H.R. 660: Mr. HULSHOF, Mr. ISTOOK, Mr. SHADEGG, Mr. CHABOT, Mrs. MYRICK, and Mr. GIBBONS.

H.R. 687: Mr. EVERETT, Mrs. MUSGRAVE, Mr. SIMMONS, Mr. MILLER of Florida, and Mr. STENHOLM.

H.R. 713: Mr. GARY G. MILLER of California and Mr. STUPAK.

H.R. 731: Mr. HOLDEN and Mr. BROWN of Ohio.

H.R. 756: Mr. WICKER.

H.R. 785: Mr. OSBORNE.

H.R. 817: Mr. BOUCHER, Mr. McCOTTER, and Ms. DeLAURO.

H.R. 822: Mr. GRIJALVA, Mr. MARKEY, and Mr. NADLER.

H.R. 857: Mr. OWENS.

H.R. 876: Mr. HASTINGS of Florida, Mr. BURGESS, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. WICKER, and Mr. SNYDER.

H.R. 898: Mrs. BIGGERT and Ms. KAPTUR.

H.R. 973: Mr. ANDREWS.

H.R. 976: Mr. LaHOOD.

H.R. 979: Mr. THOMPSON of Mississippi.

H.R. 980: Mr. LEWIS of Kentucky.

H.R. 983: Mr. GARY G. MILLER of California.

H.R. 996: Mr. GUTKNECHT, Mr. LATHAM, Mrs. CAPITO, Mr. JOHN, Mr. WICKER, Mrs. MYRICK, Mr. BONNER, and Mr. FORD.

H.R. 997: Mr. McHUGH and Mrs. EMERSON.

H.R. 998: Mr. HOLT.

H.R. 1007: Mrs. McCARTHY of New York.

H.R. 1031: Mr. LINCOLN DIAZ-BALART of Florida and Mr. DEUTSCH.

H.R. 1049: Mr. BISHOP of Utah.

H.R. 1052: Mr. UDALL of Colorado.

H.R. 1063: Mr. PITTS and Mr. PALLONE.

H.R. 1105: Mr. CONYERS.

H.R. 1115: Mr. BRADLEY of New Hampshire, Mr. WICKER, and Mr. GOODE.

H.R. 1125: Mr. ROGERS of Kentucky.

H.R. 1130: Mr. BALLANCE and Mr. THOMPSON of Mississippi.

H.R. 1157: Mr. MORAN of Kansas.

H.R. 1179: Mr. CULBERSON.

H.R. 1220: Mr. MANZULLO.

H.R. 1244: Mr. BACA.

H.R. 1268: Mr. GONZALEZ and Mr. HONDA.

H.R. 1294: Mr. DAVIS of Illinois, Mr. NADLER, Ms. BALDWIN, and Ms. KAPTUR.

H.R. 1305: Mr. STEARNS and Mr. GARY G. MILLER of California.

H.R. 1321: Mr. COOPER, Mr. OWENS, Mr. GRIJALVA, and Mr. GUTIERREZ.

H.R. 1421: Mr. RANGEL.

H.R. 1472: Ms. WOOLSEY, Mr. BAIRD, Mr. WYNN, Mr. CAPUANO, Mr. ACEVEDO-VILÁ, and Mr. ORTIZ.

H.R. 1479: Mr. McCRERY and Mrs. JO ANN DAVIS of Virginia.

H.R. 1508: Mr. PALLONE, Mr. BACA, and Mr. JACKSON of Illinois.

H.R. 1513: Ms. ROS-LEHTINEN, Mr. EHLERS, Mr. GORDON, and Mr. SANDLIN.

H.R. 1532: Ms. KILPATRICK, Mr. OLVER, Mr. LARSON of Connecticut, Mr. WAXMAN, and Mr. SMITH of New Jersey.

H.R. 1536: Mr. SULLIVAN.

H.R. 1539: Ms. LEE.

H.R. 1551: Ms. LINDA T. SÁNCHEZ of California and Ms. McCOLLUM.

H.R. 1565: Ms. JACKSON-LEE of Texas.

H.R. 1586: Mr. BISHOP of Utah.

H.R. 1655: Mr. LUCAS of Kentucky, Mr. FARR, Mr. HINCHEY, Mr. McNULTY, Mr. LANTOS, Mr. FROST, and Mr. WAXMAN.

H.R. 1675: Mr. COLE and Mr. CARDOZA.

H.R. 1710: Mr. HOLDEN and Mr. MURPHY.

H.R. 1725: Mr. MICA and Mr. BURGESS.

H.R. 1738: Mr. MICHAUD, and Mr. FRANK of Massachusetts.

H.R. 1742: Ms. LINDA T. SÁNCHEZ of California and Mr. BONILLA.

H.R. 1749: Mr. RAHALL.

H.R. 1755: Mr. CHOCOLA.

H.R. 1767: Mr. SULLIVAN, Mr. AKIN, Mr. HAYES, Mr. FEENEY, Mr. ROHRABACHER, Mr. PENCE, and Mr. SIMMONS.

H.R. 1769: Mr. SAXTON and Mr. CARTER.

H.R. 1784: Mr. LEWIS of Kentucky and Mr. REYES.

H.R. 1813: Mr. CARDIN, Mr. WAXMAN, Ms. WATERS, and Ms. SCHAKOWKSY.

H.R. 1824: Mr. ENGEL, Mr. BAKER, Mr. GALLEGLY, Mr. FEENEY, and Mr. BRADLEY of New Hampshire.

H.R. 1881: Mr. OSE.

H.R. 1902: Mr. MILLER of Florida, Mr. McDERMOTT, Mr. NEAL of Massachusetts, and Ms. KAPTUR.

H.R. 1926: Mr. MILLER of Florida.

H.R. 2012: Mr. MENENDEZ.

H.R. 2017: Ms. BALDWIN.

H.R. 2023: Mr. LANTOS.

H.R. 2030: Mr. SCHIFF.

H.R. 2032: Mr. BROWN of Ohio, Mr. FRANK of Massachusetts, and Mr. BOEHLERT.

H.R. 2037: Mr. RAHALL.

H.R. 2052: Mr. HINCHEY, Ms. WATSON, Mr. FILNER, Mrs. JOHNSON of Connecticut, Mr. SCOTT of Georgia, Mr. ABERCROMBIE, Mr. ISAKSON, Mr. GOODE, Mrs. MYRICK, Mr. PENCE, Mr. LUCAS of Oklahoma, Mr. BRADLEY of New Hampshire, Ms. SOLIS, Mr. BACA, Ms. DeLAURO, Mr. COX, Mr. MORAN of Virginia, Mr. MORAN of Kansas, Mr. LEACH, Mr. HOYER, Mr. FRANK of Massachusetts, Mr. GREEN of Wisconsin, Mr. LATHAM, Mrs. MALONEY, Mr. DEUTSCH, Mr. PICKERING, Mr. UDALL of New Mexico, Mr. MENENDEZ, Ms. JACKSON-LEE of Texas, Mr. COOPER, Mr. DUNCAN, Mr. SPRATT, and Mr. COBLE.

H.R. 2068: Mr. McDERMOTT, Mr. MARKEY, Mr. GREEN of Texas, Mr. RODRIGUEZ, and Mr. ANDREWS.

H.R. 2069: Mr. McDERMOTT, Mr. MARKEY, Mr. GREEN of Texas, Mr. RODRIGUEZ, Mr. ANDREWS, and Mr. LANTOS.

H.R. 2077: Mr. McHUGH.

H.R. 2125: Mr. McDERMOTT and Ms. MILLENDER-McDONALD.

H.R. 2127: Mr. OWENS.

H.R. 2131: Mr. DAVIS of Florida.

H.R. 2133: Mrs. KELLY.

H.R. 2152: Ms. JACKSON-LEE of Texas.

H.R. 2162: Mr. ISRAEL.

H.R. 2169: Mr. RYAN of Ohio.

H.R. 2182: Mr. BOUCHER, Mr. FROST, Mr. STARK, Mr. CARDIN, and Mr. McNULTY.

H.R. 2183: Mr. CANTOR.

H.R. 2198: Mr. HOLT, Mr. PALLONE, and Mr. DEAL of Georgia.

H.R. 2203: Ms. HART and Ms. McCOLLUM.

H.R. 2205: Mr. JEFFERSON, Mr. CLYBURN, Mr. OLVER, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CHRISTENSEN, Mr. LANTOS, Mr. HONDA, Mr. ISAKSON, Mr. FOSSELLA, Mr. CLAY, Mr. SHAYS, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mr. LEACH, Mr. McNULTY, Mr. OWENS, Mr. RANGEL, Mr. WYNN, Mr. MOORE, and Ms. DeLAURO.

H.R. 2212: Mr. OWENS.

H.R. 2213: Mr. DAVIS of Florida.

H.R. 2233: Mr. LANTOS, Mr. OLVER, Mr. MORAN of Virginia, and Mr. UDALL of Colorado.

H.R. 2242: Mr. WELLER.

H.R. 2246: Mr. KILDEE, Mr. HOEFFEL, Mrs. LOWEY, and Mrs. KELLY.

H.R. 2247: Mr. OWENS, Ms. SCHAKOWSKY, Mrs. CAPPS, Ms. McCOLLUM, Ms. SOLIS, Mr. DAVIS of Illinois, Ms. CORRINE BROWN of Florida, Ms. ESHOO, Mr. HOEFFEL, Mr. BOSWELL, Ms. LINDA T. SÁNCHEZ of California, Mr. GONZALEZ, Mrs. TAUSCHER, Mr. GEPHARDT, Ms. WOOLSEY, Mr. LEVIN, and Ms. MILLENDER-McDONALD.

H.R. 2249: Mr. LUCAS of Kentucky and Mr. WAXMAN.

H.R. 2250: Mr. OWENS, Mrs. CHRISTENSEN, and Mr. GONZALEZ.

H.R. 2268: Mr. FROST, Ms. WATERS, Mr. SCHIFF, Mr. PASCRELL, Mr. DAVIS of Illinois, and Ms. LEE.

H.R. 2286: Mr. MATSUI, Mr. DOGGETT, Mr. POMEROY, Mrs. JONES of Ohio, Mrs. DAVIS of California, Ms. LOFGREN, Mr. TIERNEY, Mr. OBERSTAR, Mr. NADLER, Mr. OLVER, Mr. FILNER, Mr. BELL, Mr. LANTOS, Ms. HARMAN, Mr. LANGEVIN, Mr. FRANK of Massachusetts, Mr. McNULTY, Mr. WYNN, and Mr. CARDIN.

H.R. 2291: Mr. PLATTS, Mrs. CHRISTENSEN, and Mr. STARK.

H. Con. Res. 60: Mr. GORDON, Ms. WATSON, Mr. RAMSTAD, Mr. CANNON, Mr. COLLINS, Mr. TERRY, Mr. SULLIVAN, Mr. AKIN, Mr. GOODE, and Mrs. BONO.

H. Con. Res. 78: Mr. GRIJALVA.

H. Con. Res. 93: Mr. THOMPSON of California, Mr. GALLEGLY, Mr. MILLER of Florida, Mr. DOOLITTLE, Mr. FARR, Mr. BERMAN, Mr. COX, Mr. HERGER, Mr. HUNTER, Mr. ISSA, Mr. GARY G. MILLER of California, Mr. GEORGE MILLER of California, Mr. NUNES, Mr. POMBO, Mr. RADANOVICH, Mr. THOMAS, and Mr. STUPAK.

H. Con. Res. 99: Mr. FRANK of Massachusetts and Ms. DELAURO.

H. Con. Res. 115: Mr. ACKERMAN and Ms. SCHAKOWSKY.

H. Con. Res. 116: Mr. FLAKE.

H. Con. Res. 122: Mr. FRANK of Massachusetts, Ms. LEE, and Ms. MCCOLLUM.

H. Con. Res. 190: Mr. GOSS, Mr. LINDER, Ms. PRYCE of Ohio, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HASTINGS of Washington, Mrs. MYRICK, Mr. SESSIONS, Mr. REYNOLDS, Ms. SLAUGHTER, Mr. MCGOVERN, and Mr. HASTINGS of Florida.

H. Res. 157: Ms. LOFGREN.

H. Res. 233: Ms. LEE.

H. Res. 234: Mr. CLAY and Mr. CAPUANO.

H. Res. 242: Ms. HARRIS and Mr. GALLEGLY.

H. Res. 246: Mr. MICHAUD, Mrs. JONES of Ohio, and Ms. WOOLSEY.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 898: Mr. GEPHARDT.

H.R. 2180: Mr. GORDON.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

### H.R. 1474

OFFERED BY: MS. HART

AMENDMENT NO. 1: In section 1, insert "or the 'Check 21 Act'" before the period at the end.

# EXTENSIONS OF REMARKS

## CONGRATULATING SAMMY SOSA OF CHICAGO CUBS FOR HITTING 500 MAJOR LEAGUE HOME RUNS

SPEECH OF

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 2, 2003*

Mr. RANGEL. Mr. Speaker, I rise in support of H. Res. 195, a resolution to congratulate Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs.

There is no doubt that Mr. Sosa's exploits on the baseball diamond will one day earn him a place in Major League Baseball's Hall of Fame in Cooperstown, NY. There is no doubt that his drive and talent make him a role model to scores of American children who one day hope to stare down a fastball in the batter's box of any ballpark.

However, it is his spirit, energy and commitment off the field that has earned him a place in the hearts of citizens all over the world, including those in his native Dominican Republic. Just a couple of weeks after he and Mark McGwire shattered baseball's single season home run record in 1998, he traveled to the Dominican Republic to help rebuild the country after it was devastated by Hurricane Gorges. He continues to offer his time and money to provide children with the opportunities that poverty denied him, allowing them to dream that they too can rise above their economic circumstances and reach their potential.

Those in my district, which includes the proud Dominican community of Washington Heights, know that Sammy Sosa isn't the first Dominican to achieve success in the Big Leagues. He follows in the footsteps of trailblazers like Felipe Alou, Joaquin Andujar, George Bell, Rico Carty, Tony Fernandez, Pedro Guerrero, Juan Marichal, and Jose Rijo. He, as well as contemporaries like Pedro Martinez, Manny Ramirez and Alex Rodriguez, remind others of how necessary it is to use fame and fortune to help others.

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## A CONGRESSIONAL TRIBUTE TO AUDREY FERGUSON, 2002–2003 TEACHER OF THE YEAR

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CLAY. Mr. Speaker, I rise to pay tribute to Ms. Audrey Ferguson, a teacher at the Laclede Elementary School in the St. Louis Public School system and winner of the 2002–2003 Teacher of the Year Award.

Ms. Ferguson is the first teacher from the St. Louis Public Schools to win Missouri's Teacher of the Year Award since its inception 50 years ago. Ms. Ferguson has been teaching for 32 years and has held her current post at Laclede Elementary School for 26 years.

Also, it should be noted that this year Laclede Elementary School received the distinction of being named a Gold Star School, making it one of the top 15 elementary schools in the state of Missouri. So you see, success at the school is more than personal, it is systemic.

Ms. Ferguson's major subject area is mathematics, in grades 1–5. Also, she is certified to teach English and social studies and has certifications for teaching students with learning disabilities, students who are mentally handicapped and students with behavior disorders.

When Ms. Ferguson was 9 years old she was sent to a reading clinic to assist her with her difficulty in reading. In four years she transformed herself from a non-reading student into one who was well on her way to becoming an honor roll student. She chose to follow in the footsteps of the teachers in the reading clinic and became an educator in order to do for others what they had done for her.

In her own words, "Teachers have been given the awesome responsibility of preparing the Nation's leaders of tomorrow. Teachers must know that they are the gatekeepers of opportunity for millions of children. We have the power to open doors that lead to great futures and we have the power to cut off access to the pathways that lead to the top," she said.

Ms. Ferguson has received numerous awards—the "Parent of the Year Award" from INROADS, St. Louis in 1994; she is listed in the Marquis' Who's Who of American Women, 21st Edition; and was also among the "100 Women Children's Advocate for 2001" produced by the Annie Malone Children's Home.

In December of 1981, she published a method of mathematical instruction in the NCTM Arithmetic Teacher's Journal called the "Stored Ten" method. Laclede teachers have used her method for many years since.

In addition to her work for the school, Ms. Ferguson has been an involved member of the community. She served as president for the INROADS PSG for one year as well as a membership chairperson for several years; volunteers annually for the United Negro College Fund Walk; and worked on community partnerships such as the "Laclede Book Buddy Program," the "Laclede Parent Partners Program," the "Laclede Parent Day Trip Program," and the "Laclede Community/School Garden Project."

Clearly, Ms. Ferguson has acted with great determination in uniting school and community.

Also, Ms. Ferguson has been involved in many workshops and conferences aimed at improving the quality of education, including but not limited to: The Successful Schools Information and Planning Meetings, the MAP Math Training Meetings and the NCTM Conference and the Title I Conference.

As evidence of her unrelenting pursuit of education, she recently received District Recognition for improving Math MAP Scores.

From her beginnings as a student in need of extra help to her current status as a devoted life-long educator, Ms. Ferguson has earned the Teacher of the Year Award through hard work and determination.

Mr. Speaker, please join me in congratulating Ms. Audrey Ferguson and thanking her for her devotion to the children of the St. Louis Public school system and the children of America.

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## TRIBUTE TO THE CERES, CALIFORNIA CHAPTER OF FUTURE FARMERS OF AMERICA

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CARDOZA. Mr. Speaker, I rise to honor Ceres High School Future Farmers of America as they celebrate their 75th anniversary. The Ceres, California Chapter of Future Farmers of America was chartered into the California Future Farmers of America Association in the 1928. It was the 28th Chapter chartered in the State of California.

After the Chapter became chartered, they became very competitive at local, state and national levels in various competitions winning several and holding titles such as Master Champion throughout their 75 years.

Mr. Speaker, it is with great honor that I stand before my colleagues today to pay tribute to the Ceres High School Future Farmers of America and to their current as well as past members. They have served our community well and are a tremendous asset to Ceres High School. They are our future in agriculture and are very deserving of this recognition.

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## HONORING MARVIN DAVIES

### HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Marvin Davies, a longtime civil rights leader in Florida who recently lost his life to cancer.

Davies began his battle for equality at an early age. By the time he was a college student at Florida Agricultural and Mechanical University, Davies was participating in protests with Dr. Martin Luther King Jr. and boycotts in Tallahassee, St. Augustine and Montgomery,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Alabama. Chosen as Student of the Year, he graduated from FAMU ranked second in his class.

At age 32, Davies was offered the position of Field Secretary for Florida's NAACP. He served Florida's 138 NAACP branches for seven years and became a leader in the fight for equal opportunities for all Americans in employment, schools, hospitals and all other public places.

Later, Davies served as a special assistant and advisor to Senator BOB GRAHAM during his terms as Florida Governor and U.S. Senator, and worked as the state coordinator of the Martin Luther King, Jr. Foundation. Throughout his entire career, Davies was a public voice for minorities and improving the lives of young people in minority communities.

However, the people of St. Petersburg will remember him best for his work in our community. In 1968, Davies returned to St. Petersburg in support of city sanitation workers who were on strike for better wages and benefits. He served on the Coalition of African-American Leadership, created following the St. Petersburg city riots in 1996, as well as the Citizens Advisory Commission, appointed by the Clinton Administration to oversee the federal assistance to the city after the civil unrest.

On behalf of the Tampa Bay area, I extend my deepest sympathies to Marvin Davies's family and friends. His life work will never be forgotten.

## INTRODUCTION OF THE MEDICARE CHRONIC CARE IMPROVEMENT ACT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. STARK. Mr. Speaker, today I join with several colleagues to introduce the Medicare Chronic Care Improvement Act of 2003. This legislation would strengthen Medicare in the truest sense, by improving the quality of care delivered to Medicare beneficiaries. The bill would make these improvements without forcing beneficiaries to leave the traditional Medicare program and join private insurance plans, and without restricting beneficiaries' choice of doctor, hospital, or other health care provider.

Medicare beneficiaries have significant chronic care needs. Nearly 90 percent of those aged 65 and older have one chronic condition and two thirds have two or more chronic conditions. Beneficiaries with five or more chronic conditions comprise 20 percent of the Medicare population, but they account for an astonishing 66 percent of program spending. On average, Medicare beneficiaries with chronic conditions see eight different physicians regularly.

Unfortunately, Medicare—like the rest of our health care system—is designed around acute care needs. We generally do not adequately compensate providers for on-going care such as the time spent communicating with each other around complex patient needs, monitoring for harmful drug interactions, or teaching patients and caregivers how to better manage their conditions. As a result, these crucial care coordination services are rarely provided.

President Bush and some of my Republican colleagues would have us believe that we can solve this problem by forcing seniors into private insurance plans. Simply put, that claim is ridiculous. The need for chronic care improvements is just as pervasive among private insurers and the rest of the health care system as it is in Medicare. That is why the National Academy of Social Insurance (NASI) Study Panel on Medicare and Chronic Care in the 21st Century concluded earlier this year that, "Medicare has the potential to refocus its Medicare program—as well as the nation's health care system—and should take a leading role in improving chronic care."

The Medicare Chronic Care Improvement Act would follow through on that expert recommendation. This bill provides the Medicare improvements that seniors and people with disabilities need by: Improving access to preventive and wellness services; expanding coverage for care coordination and assessment services for Medicare beneficiaries with chronic conditions; implementing a chronic care Quality Improvement Program; providing federal matching grants for clinical information technology systems that improve the coordination and quality of chronic care; ensuring that Medicare beneficiaries are not inappropriately denied coverage for services that are necessary to maintain health or functional status; commissioning an Institute of Medicine study and report on additional ways to ensure effective chronic care.

For more detail, I am entering a section-by-section bill summary into the CONGRESSIONAL RECORD following this statement.

The Medicare Chronic Care Improvement Act is supported by a variety of health organizations representing consumers and providers, including the Alzheimer's Association, the American Geriatrics Society, the Center for Medicare Advocacy, Families USA, the Medicare Rights Center, and the National Chronic Care Consortium.

The Medicare Chronic Care Improvement Act enjoys wide support because it strengthens Medicare for all beneficiaries, whether they are in traditional Medicare or private plans that contract with Medicare. Unlike the President's Medicare "reform" plan or plans being developing by Congressional Republicans, the Medicare Chronic Care Improve Act would never force elderly and disabled Americans to give up traditional Medicare in order to get crucial benefits. They will never be forced to choose between the doctors they know and trust and the coverage they need. Those are not real choices and will not improve the quality of care beneficiaries receive.

I urge my colleagues to support real Medicare reform by cosponsoring the Medicare Chronic Care Improvement Act.

### MEDICARE CHRONIC CARE IMPROVEMENT ACT OF 2003

Representative Stark and Senator Rockefeller

#### TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS

Improve Access to Preventive Services: Eliminate all cost-sharing (deductibles and co-insurance) for preventive services that Medicare covers today; Direct the Secretary of Health and Human Services (HHS) to contract with the Institute of Medicine (IOM) to investigate and recommend new Medicare preventive benefits every three years; Streamline Medicare benefit improvements by granting the Secretary the authority to expand Medicare coverage of preventive benefits in accordance with IOM recommendations; Provide coverage for a "Welcome to Medicare" initial preventive exam, in which beneficiaries would receive initial preventive screening tests, a physical exam, and discuss prevention and health promotion with their doctors.

Expand Coverage for Care Coordination and Assessment Services: Create a new care coordination benefit for Medicare beneficiaries with chronic conditions; Examples of items and services to be covered include: initial and periodic health assessments; management and referral for medical and other health services; medication management; patient and family caregiver education and counseling; 24-hour access to care coordinators; management of transitions across care settings; information and referral to community-based services and hospice care; other services and benefits specified by the Secretary; Beneficiaries eligible for these benefits include those with either a serious and disabling chronic condition or four or more chronic conditions; Care coordinators (including physicians, physician group practices, or other health care professionals or entities) must be periodically certified and must agree to participate in a quality improvement program.

Implement Chronic Care Quality Improvement Program: Direct the Secretary of HHS to establish a program to monitor and improve clinical outcomes for beneficiaries with chronic conditions. Under this program, the Secretary will establish performance measures, collect data, and provide performance reports to care coordinators and beneficiaries.

Improve Medicare+Choice for Beneficiaries with Chronic Conditions: Require Medicare+Choice plans to provide care coordination services and implement chronic care quality improvement programs.

Improve Chronic Care Coordination through Information Technology: Establish federal matching grants to support clinical information technology systems development, implementation, and training among Medicare-participating care coordinators.

Ensure Proper Medicare Coverage Standards: Direct the Secretary of HHS to review all Medicare coverage policies. The Secretary must ensure that Medicare contractors properly apply the Medicare statute and not demand a showing of improvement to find that items or services are reasonable and necessary.

#### TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE

Recommend Medicare Improvements to Ensure Effective Care for Beneficiaries with Chronic Conditions: Direct the Secretary to contract with the IOM to investigate and identify barriers and facilitators to effective care for Medicare beneficiaries with chronic conditions, including inconsistent clinical, financial, or administrative requirements across care settings. The IOM report must include recommendations to improve the provision of effective care, including seamless transitions across health care settings.

Definitions: "Chronic condition" means an illness, functional limitation, or cognitive impairment that is expected to last at least one year, limits what a person can do, and requires on-going medical care; "Serious and disabling chronic condition(s)" means the individual has at least one chronic condition and has been certified by a licensed health care practitioner within the preceding 12 months as having a level of disability such that the individual, for at least 90 days, is unable to perform at least 2 ADLs or a number of IADLs or other measure indicating an equivalent level of disability or requiring substantial supervision due to severe cognitive impairment.

## HONORING WASHINGTON HEIGHTS' DENISE DE LA NUECES

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. RANGEL. Mr. Speaker, I rise to honor Ms. Denise De La Nueces, who last month graduated summa cum laude from Columbia University's undergraduate program.

A first generation daughter of Dominican immigrants, this remarkable young woman overcame numerous challenges, including poverty and a stuttering habit, to become the first Latina salutatorian in the College's 250-year history.

Born and raised in Washington Heights, Ms. De La Nueces attended the neighborhood parochial school of St. Rose of Lima before earning valedictorian honors at Cathedral High School. She entered Columbia in 1999 as one of the first recipients of The New York Times College Scholarship, a program founded to assist promising service-oriented students who have faced financial and other obstacles.

Although highly focused on excelling academically in biology, Ms. De La Nueces carefully balanced her studies with an equally strong commitment to her campus and neighborhood community. She was an active member of cultural organizations, working with students and alumni to develop and maintain the school's Latino mentoring program. She found time to step outside Columbia's walls to volunteer with Project HEALTH, a community-based program that works with physicians, educators, families and local leaders to design and implement curricula that empowers children to take control of their health.

She also found time to tutor at the Double Discovery Center (DDC), a Columbia-based educational nonprofit that works with students from low-income and historically disadvantaged backgrounds. A DDC alumnus herself, Ms. De La Nueces will spend the summer working there before getting her pediatrics career off to a good start at Harvard Medical School this fall.

Ms. De La Nueces' achievements are exceptional, but she is by no means a statistical fluke. Although far too many children of low-income and historically disadvantaged backgrounds are failing to reach their potential in our educational system, each May brings forth a new generation of graduates that under the radar of the media have broken barriers and shattered stereotypes to earn degrees. The challenge for these and other graduates is not only to blaze new paths with their individual success, but also to reach back to their alma maters and provide support within these difficult educational institutions.

In her remarks on graduation day, Ms. De Las Nueces thanked her diverse group of mentors for providing this support. She also thanked them for helping her find a sense of community in the midst of so many differences. "In them, I have found the desire to improve the world community by looking beyond themselves," the Columbia Daily Spectator reported. "Let us strive to reach beyond ourselves, beyond the small spheres of our individual confines."

Ms. De La Nueces' experience is an example of how inclusion and diversity can provide opportunities not only for minority students to excel, but also for all members of the student body to be enriched. An example of how leaders and mentors can be found and developed in all communities, if we are willing to invest in their search.

## SSM HEALTH CARE IS FIRST HEALTH CARE FIRM IN NATION TO WIN MALCOLM BALDRIGE NATIONAL QUALITY AWARD

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CLAY. Mr. Speaker, I rise today to honor SSM Health Care, the first health care organization in the country to be named a Malcolm Baldrige National Quality Award winner.

As a 2002 award recipient of the prestigious award, SSM was recently honored, along with two other recipients—Motorola, for manufacturing; and Branch-Smith Printing Division, for small business—during a ceremony in Alexandria, VA in May, 2003.

Named for the late Commerce Secretary in the Reagan Cabinet, the award is given by the U.S. Department of Commerce and as you know, is the top honor a U.S. company can receive for quality management and quality achievement in the categories of manufacturing, service, small business, education and health care.

Normally presented by the President of the United States, this year Vice President DICK CHENEY did the honors.

In a message from President George W. Bush, the Chief Executive said: "As we embrace new opportunities and face new challenges, these organizations are setting an example of quality and excellence that helps strengthen our Nation and points the way to a brighter, more prosperous future for all."

In his remarks, Secretary of Commerce Donald L. Evans noted that SSM, which is sponsored by the St. Louis-based Franciscan Sisters of Mary, is a role model of world-class excellence and has achieved extraordinary results.

"The men and women of this organization represent the highest ethical standards in public responsibility and corporate stewardship," Evans said. "I am particularly pleased to join the President in announcing a first-time winner for health care. The three 2002 Baldrige Award winners are role models of world-class excellence, and they have achieved extraordinary results."

Dick Davidson, President of The Foundation for the Malcolm Baldrige National Quality Award, also joined in praise of SSM.

"The clearest path to success for any organization is the one that embraces quality principles and the continuous improvement that they can unlock," Davidson said. "The Malcolm Baldrige National Quality Award highlights those organizations in business, health care and education that have followed this path and, in doing so, have set the standard for excellence in quality processes and results. The Foundation salutes the recipients of the 2002 Award and is pleased to continue its support of the Award."

Sister Mary Jean Ryan, President and CEO of SSM, and Sister Jacqueline Motzel, SSM Chairperson, received the award.

Sister Ryan said: "This Award is a wonderful recognition of the excellent performance of our employees and physicians and of their strong commitment to their mission—to reveal the healing presence of God through our exceptional health care services."

In competing for the award, SSM staff submitted a 50-page application and last October were subjected to comprehensive site visits at the corporate office and its facilities in four states. The visits took place at all hours of the day, and were meant to clarify and verify information included in the application.

Baldrige examiners spoke with more than 800 employees and physicians, systemwide, and measured performance in seven areas: leadership, strategic planning, customer and market focus, information and analysis, human resources focus, process management and business results.

An example of the SSM success model is its employees. Comprised of a workforce of 82 percent women employees, among the hospitals many achievements has been to reduce employee turnover from a rate of 21 percent in 1999 to 13 percent in 2002.

Mr. Speaker, I am especially proud of SSM Health Care for receiving this honor. A not-for-profit Catholic health care system, it provides primary, secondary and tertiary health care services by way of 21 acute care hospitals and three nursing homes in four states—Missouri, Illinois, Wisconsin and Oklahoma—which it owns or manages.

Nearly 5000 affiliated physicians and 22,200 employees work together to provide a wide range of services, including: inpatient, outpatient, emergency, ambulatory, physician practices, residential and skilled nursing.

The Foundation for the Malcolm Baldrige National Quality Award was created to provide the private sector a means of accomplishing better employee relations, higher productivity, greater customer satisfaction, increased market share and improved operating performance.

As a recipient of this most prestigious award, SSM Health Care joins the company of other winners, including: Boeing Airlift and Tanker Programs, Merrill Lynch Credit Corp., Xerox Business Services, AT&T Consumer Communications Services, Eastman Chemical Co., the Ritz-Carlton Hotel, Express Corp., Cadillac Motor Car Division, Motorola Inc., and Westinghouse Electric Corp.

In addition to winning a Baldrige Award, SSM Health Care is also the 2003 Missouri Industry of the Year, in the large company classification. That award, sponsored by the Associated Industries of Missouri and the Mid-Missouri Business Journal, annually recognizes the best and brightest Missouri businesses that are working to make Missouri a better place to live and work.

Also, SSM Health Care was a Missouri Quality Award recipient in 1999.

Through a series of 2003 Baldrige Sharing Dates—June 18, August 20, October 23 and December 18—the SSM staff is sharing its winning techniques with other executives from all industries to learn first-hand from the top SSM leaders. I urge any organization on a quest for success to consider looking at the SSM Health Care model. It has proven its success, not only to its patients, its staff and St. Louis, but also to the nation.

In an April 9 column by Washington Post reporter David S. Broder noted SSM's success, something which "Congress and the press were too busy with other things to notice." Calling SSM "A Beacon for Better Health Care," Broder observed how SSM was proving that good medicine is also an economic asset and how Sister Ryan began as a nurse and rose into management.

In his remarks, Broder offered this quote: "We are living proof that health care in the United States is capable of improving, despite many predictions to the contrary. We are proof that large and complex health care organizations can push themselves to step out of their comfort zones to exceptional results. And the more of us that commit to performance excellence, the greater will be our ability to deliver health care breathtakingly better than it's ever been done before. The nation deserves no less."

"Those words," Broder said, "and the performance behind them, deserve more attention than Washington gave them last week."

Today, Mr. Speaker, let us add our voices to the celebration of a successful health care system. At a time when hospitals are closing in vast numbers and the high cost of malpractice insurance is causing many physicians to limit their practices, we have found a health care system that works. The choice is ours. We can heal the health care delivery problem in this nation or we can let it overwhelm and consume us, to the detriment of us all.

SSM is a model for success. Today, in Congress, let us register a much-deserved celebration of that fact.

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## HONORING THE MEMORY OF JUDY MARRON

## HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. STARK. Mr. Speaker, I rise today with a saddened heart at the passing on of Judy Marron, beloved wife of Owen Marron, and devoted mother of six children.

Judy began her career in the State of California Department of Transportation, and then worked for the Heavy Highway Association until 1975. In 1978 Judy returned to employment as a clerk with the State Department of Transportation, rising through various positions to become executive secretary to the director of the department. In 1984 she became the national recruiter of engineers for the Department of Transportation.

In 1987, Judy went to work for the State Department of Health, where she retired as building manager for the department headquarters in Berkeley. She worked tirelessly to integrate women into the building trades and increase employment access for disabled individuals at the Berkeley facility.

Upon her retirement, Judy continued her activism and was retained as a consultant for various special projects, including a new health facility under development in Richmond, California.

Judy held memberships in the National University Alumni Association, American Association of Professional Women, The Association of Executive Secretaries in State Service, ACLU, National Wildlife Federation, Soroptomists of the East Bay, and the California State Employees' Association, SEIU Local 1000.

As an ardent advocate for the rights of working people, women, and disabled individuals, Judy contributed much to the labor movement. She provided valuable assistance to her husband, Owen, during his long tenure as executive secretary-treasurer of the Central Labor Council of Alameda County. Judy could always be counted on to help with marches, rallies, electoral activities, Labor Day picnics, Unionist of the Year events and other important functions to support the community and further the goals of the labor movement.

Judy leaves a legacy of activism filled with caring, commitment and devotion. Her family and all who were privileged to know and work with her will miss her.

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## TRIBUTE TO MR. LAZAR C. PIRO

## HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CARDOZA. Mr. Speaker, I rise today to honor my friend, Mr. Lazar C. Piro, as he is inaugurated for his second term as President of the Assyrian National Council of Stanislaus. Lazar was again chosen by the community to continue the Council's work to provide social, cultural and spiritual welfare to our Assyrian and non-Assyrian communities. As one of the founders of the Assyrian National Council of Stanislaus, Lazar interacts with local, state and federal agencies on behalf of the Assyrian community.

With 20 local Assyrian organizations as members of the Council, our community is fortunate to benefit from their leadership and guidance on matters concerning the community. I consider Lazar and members of the Council invaluable resources in the 18th Congressional District. The Council has provided a voice to so many who have made America their home.

I am honored to recognize the Council's achievements under Lazar's direction. Lazar has never shied from community involvement. In addition to his work at Piro Trading International, Lazar is a member of the Board of Trustees for the University of California. He is also actively involved with the Assyrian American Civic Club, the Assyrian Church of the East and the Assyrian Welfare Committee to name a few. Lazar and his wife, Francia, reside in Turlock and have three children and three grandchildren.

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## HONORING SOLDIERS FROM TAMPA BAY

## HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of four brave soldiers from the Tampa Bay area who lost their lives while serving our country in Iraq. These four men went to war to protect us and our liberty and ultimately gave their lives to preserve our inalienable rights.

On April 3, Staff Sgt. Wilbert Davis, 40, of the 3rd Battalion, 69th Armor, 3rd Infantry Division, died when his vehicle ran off the road as he was driving journalist Michael Kelly to Baghdad. A native of Tampa, Davis grew up in College Hill, pitched for the Belmont Heights Little League team, all the way to the World Series, and graduated from Tampa Bay Tech High School. A devoted husband and father of four, friends and family recall how dedicated Davis was to service. Joining the Army in 1985, he served in the Persian Gulf War and in Bosnia, Kosovo, Korea and Germany.

Just one day later, Tampa lost Sgt. First Class Paul R. Smith, 33, of the 11th Engineer Battalion. Also a graduate of Tampa Bay Tech, Smith knew early on that he wanted to serve as a professional soldier and raise a family. This husband and father of two enlisted right out of high school and served in the Gulf War, Bosnia and Kosovo. A man who is remembered for his dedication to the soldiers he led, Smith has been nominated for the prestigious Medal of Honor for saving dozens of lives before losing his own. During a surprise Iraqi assault, Smith died while manning a .50-caliber machine to fend off the attackers.

On April 7, Lance Cpl. Andrew Julian Aviles, 18, of the 4th Assault Amphibian Battalion, 4th Marine Division, was killed when an enemy artillery round struck his amphibious assault vehicle. A young man with an infectious sense of humor and a promising future in store, Aviles was the student government president of Robinson High School, played on the football and wrestling teams and graduated third in his class. A member of JROTC, Aviles passed up a full academic scholarship to Florida State University to enlist because he felt an obligation to serve his country.

On April 17, another bright future was lost when Cpl. John T. Rivero, 23, of the Florida National Guard's C Company, 2nd Battalion, 124th Infantry Regiment was killed when his Humvee overturned on a mission with Special Forces. A computer science and engineering student at USF, Rivero grew up in Gainesville and joined the Guard in 1998. He was promoted to Corporal during his service in the Middle East. Friends and family remember his big smile and even bigger heart and talk about his dedication to doing his best at everything he tried.

On behalf of the Tampa Bay community, I would like to extend my deepest sympathies to the families and friends of these four courageous soldiers. These men shared a dedication to the ideals that have made this country great. Their bravery and patriotism makes us all proud, and we will never forget their sacrifice.

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## HONORING THE LIFE OF CESAR CHAVEZ

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. RANGEL. Mr. Speaker, I rise today to remember and pay, tribute to Cesar Chavez, a human rights advocate and a man of justice and peace who worked tirelessly to end the oppressive conditions of so many American farm workers. Founder of the United Farm Workers of America, Mr. Chavez sacrificed his life to those who suffered hardship without any voice of support. Although the ten-year anniversary of his death passed on April 23, 2003, the legacy of this great man and the inspiration of his mission carries on.

Cesar Chavez was born in 1927 as the son of a poor farm worker and general store owner. The loss of his family's land during the Depression forced him to quit school and work in the fields, where he gained a first-hand understanding for the dingy, overcrowded quarters that these workers must endure—often without electricity, bathrooms, or running water. Although he never owned a house or earned more then $6,000 a year, he moved to California in the early 1960s with his family and began his lifelong mission to advocate an end to such conditions.

Mr. Chavez once said, "We can choose to use our lives for others to bring about a better and more just world for our children . . . and in giving of yourself you will discover a whole new life full of meaning and love." This great man was a selflessly giving leader who should inspire and motivate us all. Through the United Farm Workers of America his life was used for the benefit of future generations, proving that there can be strength and power in unity, no matter how hopeless the situation.

Cesar Chavez must not be forgotten, and neither can his work. In focusing on our treatment of farm workers, and teaching us how to care for fellow Americans, he also showed that there is much work still to be done. We must remember that there are still too many below-poverty wages, unsafe working conditions, and individuals who suffer from substandard living standards without proper benefits. We must use this ten-year anniversary to respond to the continued injustice that exists for farm workers that Mr. Chavez would not tolerate. By continuing the work of this fine man, the mission he had for human rights will carry on and the spirit of his great life will most directly be remembered.

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## IN HONOR OF MELVINA CONLEY, PRESERVER OF THE "FREEDOM SUITS" ARCHIVE, ST. LOUIS CIRCUIT COURT 1978-2001

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CLAY. Mr. Speaker, I rise to pay tribute to Ms. Melvina Conley, a former employee of the St. Louis Circuit Court, Clerk's Office, who realized the value of old lawsuits filed by slaves seeking their freedom, and worked diligently for many years to protect and preserve the documents, now known as the "Freedom Suits."

A collection of lawsuits filed in St. Louis by slaves of African descent, who were seeking their freedom, have become the focus of a restoration project by the clerk of the St. Louis Circuit Court. Working with the Court in the state of Missouri and Washington University. This is a great find for St. Louis, a treasure within our own midst. I'm excited that we have a national gift, a part of our history, to share with the world.

So far, at least 281 lawsuits, along with the historic Dred Scott lawsuit (which figured prominently in the start of the Civil War), have been selected for preservation and placed on display on the web site maintained by Washington University at www.stlcourtrecords.wustl.edu.

Called the St. Louis Circuit Court Historical Records Project, the site includes details of the lawsuits—who filed, against whom, when and where—and a copy of the actual handwritten document. Lawsuits also included allegations of trespass, assault and battery, false imprisonment, as well as petition affirming status as a free man.

Found among approximately four million pages of aging court records dating back to 1782, the nearly 300 "freedom suits" (filed between 1806 and 1865) were found covered with coal dust, in the labyrinth of the St. Louis Circuit Court system.

As early as 1807, under Missouri territorial statutes, persons held in wrongful servitude could sue for freedom if they had evidence of wrongful enslavement. The territorial statute was codified in Missouri State law in 1824 and remained in effect until after the Civil War.

Most people using this law to obtain their freedom were enslaved Africans. Since their cases were all brought for the same reason, to obtain the basic right to freedom, collectively, historians refer to the cases as "freedom suits."

In an effort to protect the "freedom suits" and the hundreds of thousands of other old cases from decay, rats and other plagues, courthouse officials began removing them from vulnerable "off-site" storerooms to a more secure archive in the main Courthouse and the Old Globe-Democrat Building on Tucker Boulevard. In September 1999, St. Louis Circuit Court Clerk Mariano V. Favazza invited the Missouri State Archives, a division of Missouri's Office of Secretary of State, to initiate a project to preserve and make accessible the historical records. So extensive were the files, a cut-off date of before 1875 was used for the project. The court was founded in 1804.

The freedom suits brought by Dred Scott and his wife, Harriet, in 1846, became the first cases to go online in January 2001, attracting nearly a million information requests from visitors from around the world in their first year on the web. That fall, the American Culture Studies Program in Arts & Sciences agreed to expand this initiative by digitizing additional cases and creating a web-based search tool.

While I thank everyone involved with the project for finding the documents and preserving them, Mr. Speaker, I especially want to make a special tribute to Ms. Melvina Conley, as Preserver of the "Freedom Suits."

A 33-year employee of the St. Louis Circuit Clerk's Office—from 1969 to 2001—Ms. Conley spent many years working as a data entry clerk.

In 1978, she began working in a second-floor office in the old and dusty archive section of the courthouse, where she commenced a search for the legendary "Freedom Suits" or "Slave Cases."

Because of her interest in history, Mrs. Conley was willing to do a job that others did not want to do. Sifting through the old files was literally a dirty business that few wanted.

At the time, the famous Dred Scott case was protected in a vault in the courthouse and she knew Dred Scott was not the first case filed and that there were probably many others. In 1979 she commenced a search of the archive's 444 drawers for suits. The first suit she found was of a mother and her two sons, ages 5 and 2. The mother had filed suit—and lost—to keep her young sons from being "hired out." "I thought I had died and gone to heaven," Ms. Conley says now, describing how she felt at the time of the find.

Preserving the "Freedom Suits" in boxes, Ms. Conley became an unofficial historian, archivist and preserver of history in her duties as a data entry clerk. In 1999 when Circuit Clerk Favazza joined forces with city, state and federal agencies to preserve the files, Ms. Conley became a key instrument in helping to make that transition, as well, having helped to carefully preserve the Dred Scott suit and hundreds of other "Freedom Suits" for posterity in her adopted home.

Born in Charleston, Mo., Ms. Conley attended Cote Brilliante Grade School, and graduated from Sumner High School in 1957.

After high school she married John Conley who became a politician and served St. Louis and Missouri as a committeeman and a state representative. They have five children, four stepchildren, 16 grandchildren and one great grandchild. In 2001 Ms. Conley retired from her job as an Accountant 1, Supervisor, in the St. Louis Circuit Court.

Joining me in recognizing Melvina Conley's dedication to the nurturing of the "Freedom Suits" and the continued nurturing and care of the files by the St. Louis Circuit Court, is U.S. Representative MAXINE WATERS, of California and a St. Louis native.

Recently, the Honorable Ms. WATERS and I visited the archive located in the old Globe-Democrat Building, in the 700 block of N. Tucker Blvd., to meet with city, state and university officials. During our visit we were welcomed enthusiastically by Mr. Michael

Everman, CA and Field Archivist, Local Records Program with the Missouri State Archives; and State Archivist Dr. Kenneth Winn. Ms. WATERS said she first learned about the project from a Los Angeles Times article and made arrangements to visit the archive. Both she and I were told by Favazza that "HBO and Hollywood producers" have made inquiries to his office about the lawsuits.

"The connection for me between St. Louis and Hollywood is just absolute," Ms. WATERS said. Honorable Speaker, I want to find the funds needed to ensure permanent protection for the documents and to keep them safe for future generations. This is just the beginning. I know I can count on my colleague, MAXINE WATERS, to help get national exposure. It is the history of our country, which originated in St. Louis. It makes you proud of their actions—if you can find a silver lining in slavery. You have to preserve your history or you will be doomed to repeat it.

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## HONORING TAIWAN AND PRESIDENT CHEN SHUI-BIAN

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CARDOZA. Mr. Speaker, I rise today to congratulate Republic of China President Chen Shui-bian on his third anniversary in office and for Taiwan's continued support and friendship with the United States.

Since his election three years ago, President Chen has continued to make strides toward full democracy by guaranteeing greater constitutional and human rights to the citizens of Taiwan. Today, Taiwan is home to more than ninety political parties, and virtually every political office is actively contested through free and fair elections. In fact, President Chen is a former political dissident himself. Taiwan's constitution guarantees its citizens extensive political, personal and religious freedoms. Further, President Chen has committed Taiwan to many international human rights treaties.

Under President Chen's strong leadership, Taiwan has remained true to its democratic values and has continued to be a model for its neighbors in the region. But as the Taiwanese people celebrate the third anniversary of their President's election, they also are struggling to contain the recent outbreak of Severe Acute Respiratory Syndrome, or SARS, in their country. The SARS outbreak is a good demonstration of what Secretary of State Colin Powell said recently—that the deadly virus recognizes no international borders. Taiwan is a part of the world that has been deeply affected by SARS and needs to play its proper role in preventing further spread of the virus. For these reasons, Taiwan urgently needs representation in the WHO.

I also strongly support Taiwan's democratization at home and its campaign to join international organizations abroad. Taiwan is a strong ally which stood shoulder to shoulder with the United States after the events of September 11, 2001. We in the United States Congress appreciate Taiwan's support for our nation—a solid partnership that has endured for many years.

Taiwan is making significant contributions to the international community and I know that our bilateral relations will only grow stronger in the coming years. Again, congratulations to President Chen and to the people of Taiwan.

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## CONGRATULATING SAI GUNTURI ON WINNING THE 76TH ANNUAL SCRIPPS HOWARD NATIONAL SPELLING BEE

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. SESSIONS. Mr. Speaker, I rise this morning to honor the champion of the 76th annual Scripps Howard National Spelling Bee. 251 spellers advanced to the finals of the National Spelling Bee that were held here in Washington, D.C. during May 28–29.

The champion of the spelling bee is Sai Gunturi, an eighth grader at St. Mark's School of Texas, that is located in Dallas. Sai was challenged throughout the 15th round of competition, and ultimately won the tournament by correctly spelling the word pococurante {pO-kO-kyu-'ran-tE} (pococurante is defined as caring little or indifferent, nonchalant). Sai was sponsored by The Dallas Morning News and comes from a fine family tradition of spelling excellence, as his sister Nivedita, tied for eighth place in the 1997 National Spelling Bee.

Sai is not just a terrific speller, but also a tremendous asset to the greater St. Mark's school community. He is a community leader and an astounding scholar. My sincere congratulations go out to Sai, his family, and to his teachers and friends at St. Mark's.

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## HONORING SAINT RICHARD PARISH

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to St. Richard Parish. On June 8, 2003, St. Richard will celebrate its 75th Anniversary. With its location on the southwest side of Chicago, St. Richard Parish has a warm and rich heritage which warrants recognition.

On the 8th of June 1928, His eminence George Cardinal Mundelein established St. Richard Parish. The Parish was named after St. Richard de Wyche, bishop of Chichester, England.

Reverend Horace Wellman was appointed the first pastor and in late June 1928, he celebrated his first mass. The first mass was given in a storefront on 51st Street that also served as a temporary home for the church. A census was taken over the following months to determine how many families would support a newly established church. Results from the census comprised of many different ethnic backgrounds for a total 110 families.

Property for St. Richard Parish was purchased at the intersections of Kostner Avenue, 50th Street, and Kenneth Avenue. Within a month the new church was ready and on September 2, 1928 the first mass was presented. The official blessing of St. Richard Church took place October 21st, with Rt. Rev. Msgr. D.J. Dunner D.D. officiating.

Father Wellman served his people well until he unfortunately and surprisingly passed away from a heart attack in 1931. The second pastor appointed to St. Richard Parish was Father Francis J. Quinn who officially took over on October 17, 1931. Under the direction of Father Quinn the Parish grew steadily in number, while also recovering from the Great Depression.

In April 1944, Father Quinn left St. Richard to assume the pastorate of St. Ambrose Church and was succeeded by Father Joseph Griffin. Father Griffin had to resign because of poor health, after serving as pastor for six months.

On November 10, 1944, Reverend Edward L. Kilroy was appointed pastor of St. Richard Church and helped continue the growth of the Parish. Under his direction and guidance, a new brick building combining both church and school was erected. It was Father Kilroy who asked the Dominican Sisters from Sinsinawa, Wisconsin to teach in the school, which opened in September of 1947. By the late 50's the enrollment in the school had passed 1,000 students. Father Kilroy recognized the need for expansion and so in 1959, a new church was erected on the southwest corner of West 50th Street and South Kostner.

In March 1966, Father Kilroy was given the honorary title of Pastor Emeritus and retired from his pastoral duties. Father William Fisher was assigned to succeed Father Kilroy as pastor of St. Richard Parish.

Father Fisher and the people of St. Richard combined their efforts and talents to organize what has become known as the "annual county fair," more commonly known as a carnival. Since 1972, the annual county fair has become a staple within the community.

Father Fisher retired from St. Richard Parish in 1981 as Pastor Emeritus and was succeeded by Reverend Jerome Siwek. Under Father Siwek the church was remodeled and lay minister programs were developed. Father Siwek became Pastor Emeritus on June 13, 1999.

Reverend Thomas Bernas followed Father Siwek and was installed as Pastor of St. Richard Church in June 1999. Upon his arrival he completed many projects that were planned as part of the "Into the 21st Century" campaign. Father Bernas sought to expand the vision of St. Richard Parish and has presided over the continued growth in its ministries and programs.

Organizations and groups continue to meet the many and diverse needs of the Parishioners. Because of St. Richard's excellent reputation, and because of the hard work of the faculty and staff, the school continues to see an increase in enrollment. Father Bernas also involved the Parish in a variety of community groups and organizations. St. Richard Parish is an active member of the Archer Heights Civic Association and the Chicago Police Caps Program.

This year marks the 75th Anniversary of St. Richard Parish. For 75 years God has generously blessed this Parish. Hopefully this will be a year of jubilee and celebration. St. Richard Parish has been and continues to be a proud community where people gather to worship God, socialize, work together, learn together, and celebrate as a family of faith.

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## EXPRESSING SUPPORT FOR FREEDOM AND DEMOCRACY IN BURMA

### HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CUNNINGHAM. Mr. Speaker, I rise today to show my wholehearted support for those struggling for freedom and democracy in Burma and to condemn Burma's ruling military junta for their premeditated and cowardly attack on Daw Aung San Suu Kyi—whose whereabouts and condition are still unknown—and members of her National League for Democracy this past weekend.

Although they won an overwhelming victory over the military junta in Burma's 1990 election and are the legitimate, elected government of Burma, Aung San Suu Kyi and the NLD's mandate to rule has been ignored by the junta for 13 years and one week as of today. While Aung San Suu Kyi and the NLD are committed to working with the junta in order to reach a non-violent political solution to restore democracy in Burma, the junta has shown their utter contempt for such civilities and has resorted to violence as every scared, impotent dictatorship does when it feels threatened. In this case, the evil-doers did not stop at a brutal assault, they followed up their premeditated attack by putting the nobel laureate and her top officials in so-called "protective custody," then proceeded to shut down their party offices around the country, tear down their party flags, cut party members' phone lines and place top members under house arrest. So afraid of the power and will of their people and especially the youth of their country, the junta went so far as to shut down all universities the day after the attack.

Mr. Speaker, the United States stands for freedom and we have always shared the goals of others around the world who strive for democracy. These cowardly attacks are an assault on free people everywhere, and we must act now to condemn them and immediately increase pressure on this evil regime. I urge my colleagues to join with me in condemning these despicable attacks.

Daw Aung San Suu Kyi once said, "Please use your liberty to promote ours (Burma's)." I believe I just did. I encourage others to heed this plea as well.

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## TRIBUTE TO MR. WAYNE BUTLER AND MR. JOHN SPARKMAN

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BLUNT. Mr. Speaker, I rise today to pay tribute to the memories of two individuals who made important contributions to Missouri agriculture, Wayne Butler and John Sparkman. As friends and neighbors, these men will be remembered for the indelible impression they left on Missouri's farmsteads and ranches.

These men exemplified the strength of our Nation through their passion for community involvement. Wayne was a cattleman and forage producer who understood the importance of community service. John was a dairyman and outspoken advocate for issues impacting Missouri agriculture.

Over the years, southwest Missouri and I benefited greatly from the leadership, wise counsel and combined experience of Wayne and John. Both men served as the president of the Greene County Missouri Farm Bureau Chapter and as members of my Southwest Missouri Agriculture/Agri-Business Advisory Committee.

Thomas Jefferson said, "The spirit of our citizens will make this government in practice what it is in principle, a model for the protection of man in a state of freedom and order." Wayne and John were men of faith, family and community. They will be missed; however, their love and dedication to Missouri agriculture will endure.

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## INTRODUCTION OF THE HIGHER EDUCATION FOR FREEDOM ACT OF 2003

### HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. PETRI. Mr. Speaker, today I am introducing the Higher Education For Freedom Act. This legislation establishes a competitive grant program making available funds to institutions of higher education, centers within such institutions, and associated nonprofit foundations to promote programs focused on the teaching and study of traditional American history, free institutions, and the history and achievements of Western Civilization at both the graduate and undergraduate level, including those that serve students enrolled in K–12 teacher education programs.

Several years ago I was involved in a congressional effort to highlight the decline in historical and civic literacy among American college students. This effort led to the unanimous, bicameral passage of a concurrent resolution, S. Con. Res. 129, which stated, in part, that "the historical illiteracy of America's college and university graduates is a serious problem that should be addressed by the Nation's higher education community."

Given the increased threat to American ideals in the trying times in which we live, it is easy to see how the lack of historical and civic literacy among today's college students has become a more pressing issue. Nevertheless, most of the Nation's colleges and universities no longer require U.S. history or systematic study of Western civilization and free institutions as a general prerequisite to graduation, or for completing a teacher education program.

I believe it is time for Congress to take a more active role in addressing this matter. Our country's higher education system must do a better job of providing the basic knowledge that is essential to full and informed participation in civic life and to the larger vibrancy of the American experiment in self-government, binding together a diverse people into a single Nation with common purposes.

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## HONORING COURTNEY NORTON

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Courtney Norton, who recently completed the seventh grade at Main Street Junior High School in Madera, California. Courtney was awarded first place prize for the Western Region in the Annual Elks Writing Contest for an entry she submitted while in the sixth grade at Lincoln Elementary School in Madera. The writing prompt was "What does the flag of the United States of America stand for?" Courtney responded to the prompt with this poem:

I am the Star Spangled Banner,
The flag of the United States of America,
I stand for freedom, peace, justice, liberty, and dreams,
I have seen every battle fought by our country over the last two hundred years,
I have been flown in France, Korea, Vietnam and Rome.
I have been ripped, torn, spit on, burnt and trampled, but I still stand proud.
I stand for immigrants who gave their lives to make this country a better place to live.
I stand for every soldier in every war who fought for this country.
I stand for a nation of love, hope, and opportunities.
These colors don't run!
I am worshipped, loved, saluted and respected.
I stand for the United States of America, the land of the free and the home of the brave.
FOREVER MAY I WAVE!

As a result of her first place prize, Norton was invited to the Elks annual convention in San Diego to read her poem for the conventioneers. Her poem also caught the attention of Operation Mom, an organization of mothers of the military, who asked Courtney for her permission to include a copy of her poem in each of the thousands of care packages that they send to the service men and women posted overseas. In addition, the organization invited Norton to present her poem at their Operation Welcome Home Rally, scheduled for August 19, 2003, in Livermore, California.

Mr. Speaker, I am pleased to honor Courtney Norton for her outstanding accomplishments, patriotic spirit, and support for our men and women in uniform. I urge my colleagues to join me in wishing Courtney many years of continued success.

## PERSONAL EXPLANATION

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BEREUTER. Mr. Speaker, this Member was in his congressional district on official business on Monday, June 2, 2003, and therefore missed three rollcall votes. If this Member had been present, he would have voted as follows:

Rollcall No. 227 (H. Res. 159, expressing profound sorrow on the occasion of the death of Texas State Representative Irma Rangel)—"aye";

Rollcall No. 228 (H. Res. 195, congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs)—"aye"; and

Rollcall No. 229 (H.R. 1465, to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office")—"aye".

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## UPPER DUBLIN LUTHERAN CHURCH CELEBRATES 250TH ANNIVERSARY

### HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Upper Dublin Lutheran Church, located in Montgomery County, Pennsylvania, on its 250th anniversary of community involvement and dedication.

Since its beginning in 1753, the Upper Dublin Lutheran Church has represented the efforts of an entire community. The building itself has changed several times, but the underlying spirit never wavered.

The Upper Dublin Lutheran Church represents a long history of helping the community. The church's involvement includes helping soldiers as far back as the Revolutionary War. The dedication of its members continued, even when the church itself was destroyed and rebuilt. A tradition was started with Harvest Homes when members of the community would bring fruits and vegetables they could spare from their harvest to give to the less fortunate. The church also started "Puff's Broadcaster," a 12-page monthly newsletter providing poetry, business tips, stories of moral integrity, and important announcements for the community.

Today the Upper Dublin Lutheran Church still stands as a symbol of service and tradition to the Upper Dublin community. The "Build to Witness" campaign has provided a magnificent new facility for Sunday school and continues to provide spiritual leadership accompanied by devoted community outreach programs. I am confident that the impact the church has had since its establishment will continue in the future. I wish the members of the church continued success and commend them for 250 years of service.

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## A NEW MEXICO DESERT FLOWER FLOR DE LAS FLORES

### HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mrs. WILSON of New Mexico. Mr. Speaker, today I bring to your attention Al Hurricane, a musical legend and the Godfather of New Mexico music. Al Hurricane has brought Norteño music to audiences throughout the Southwest and Mexico for 50 years.

Al Hurricane was born on July 10, 1936 in Dixon, New Mexico. His birth name is Alberto Nelson Sanchez, but his mother gave him his famous nickname because he was like a little "Hurricane," always knocking things over at the dinner table and running through objects in his path.

He began singing when he was 3 and started playing the guitar when he was 5 years old. He was only 12 when he started to sing and play guitar at local restaurants. Throughout his 50 years of music, he formed several bands and played with legendary artists like Fats Domino, Marvin Gaye, Chuck Berry, Jimmy Clanton and Chubby Checker. He has recorded over 40 albums, tapes and CDs. His trademark "black eye patch" is a result of an injury he received in a serious automobile accident. Of course, he was on his way to play at a sold-out performance. The accident and the new eye patch could not stop his music.

While Al Hurricane is known for playing and performing music, like Flor de las Flores, or Sentimiento, we cannot forget his strong commitment to his family and his community. He has eight children, several of whom have followed their father's footsteps into the music business. He has won numerous public service awards such as The Lifetime Achievement Award given to him by the New Mexico Hispanic Awards Association and the Governor's Award for Music. He is currently the State Chairperson for the National Education Association-New Mexico's Read Across America.

Mr. Speaker, I ask you to join me and all the residents of New Mexico in honoring and thanking Al Hurricane for 50 years of bringing joy into our lives through his music and his commitment to our community. Here's to another 50 years of Rancheras, Norteñas, and Corridos from the Godfather of New Mexico music, Al Hurricane.

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## CONGRATULATIONS TO PRESIDENT CHEN SHUI-BIAN ON THIRD ANNIVERSARY

### HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. SCHROCK. Mr. Speaker, 3 years ago, in the first peaceful and successful transition of power in Taiwan's history, voters elected Mr. Chen Shui-bian President of the Republic of China on Taiwan. Leading his country's transition from an authoritarian state to a democracy, President Chen has shown to the international community that democracy is indeed alive and able to thrive in a Chinese society like Taiwan. Now in 2003, President Chen has continued to make strides toward full democracy by guaranteeing Taiwan's citizens full constitutional and human rights, which include free elections and a totally free press.

Since his election, President Chen Shui-bian has ardently sought a meaningful dialogue with his counterparts in the People's Republic of China (PRC). He has repeatedly urged them to discuss issues of mutual interest and has talked of sending a delegation to Beijing, further emphasizing his struggle for peace. Unfortunately, China has ignored President Chen's many gestures of friendship and cross-straight dialogue. Positioning hundreds of short-range missiles aimed at Taiwan, China has made it obvious that it does not believe that peace and stability in the Taiwan Strait is a priority. We hope Beijing will soon realize that peace and stability in the Strait is indeed in everyone's best interest and will pursue a peaceful resolution of tensions with Taiwan.

We in the United States Congress greatly appreciate Taiwan's overwhelming support for our initiatives both home and abroad throughout the years. Since the tragic terrorist attacks of September 11, 2001, Taiwan has graciously offered assistance to the United States in helping the country fight global terrorism. Assuring Washington of its support in the anti-terrorism effort in Iraq, the Taiwan government issued a statement during Operation Iraqi Freedom supporting the Coalition of the Willing's cause and pledging to offer humanitarian assistance to postwar-Iraq.

Taiwan is currently enduring an outbreak of the alarming disease Severe Acute Respiratory Syndrome (SARS). We wish Taiwan's government every success in their endeavor to fight against this disease and acknowledge the need for Taiwan's representation in the World Health Organization. As Secretary of State Colin Powell stated recently, SARS recognizes no international borders, and Taiwan should be able to utilize every opportunity to contribute to the battle to conquer this disease.

On the third anniversary of President Chen's election, I wish President Chen well and wish Taiwan continued success in gaining a greater international role. The world has much to gain from what Taiwan has to offer, and the United States affirms its support for President Chen and his country.

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## AMERICA: A POEM BY MARK E. CRISPELL

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BOEHLERT. Mr. Speaker, I respectfully submit the poem of my constituent, Mark E. Crispell of Brooktondale, NY, for submission into the CONGRESSIONAL RECORD. Mr. Crispell has dedicated this inspirational work to the House and the Senate.

In addition to his gift to Congress, Mr. Crispell has also been able to donate this poem to various VFW and American Legion chapters across the New York State. It has touched the hearts of all who read it, as it honors the men and women who have risked their lives to protect America.

I commend Mr. Crispell for his creativity as well as his thoughtful gift.

AMERICA

In the valleys and on the hilltops
you could hear that horrible roar
thousands of men on horseback
riding off to war
red coats on the offensive
us turncoats out of sight
with our blood and a strong belief
we fought with all our might

When the war was over
as the white smoke rolled away
I cried with pain through tears of loss
it's Independence Day
but I'm so young, I'm just a child,
I don't think I can lead
I hope my fathers get together
and write the laws I need

1861, again I heard my fathers say
mount your horses head for the South
the South will head this way
my knees grow weak I could not stand
and to the floor I knelt
oh God if you can hear my cry
remember the pain I felt

The cost of war is so much more
I said to God that day
if Your will be satisfied make it go away
but shots were heard as muskets fired
and white smoke filled the day
young boy hollers, I've been hit
as his brother rides away

When the war was over
I hung my head and cried
and asked myself through my tears
why so many died
it was then God raised my head
to see a black man say
through the pain and tears of loss
it's Independence Day!

So I pledge allegiance to our flag
for the wars that I've been through
I fought more wars as before
for freedom and for you
so when from afar you can hear me sing
"God shed His grace on thee"
know I'm united under God
for justice and liberty

I was older now and wiser
historically in my teens
but in those days of my youth
food became so lean
but even in my darkest hour
I didn't give up the fight
I plowed the fields for our next meal
thanking God for every bite

And in the 20th century
when at times things seemed their worst
we embraced the changes
God bestowed upon us first
horses learned to fly
their tails grew into wings
letters turned to digits
phones began to ring
cars come here and take us there
never leaving us far behind
technology seems to challenge
my ever evolving mind

Now Vietnam has come and gone
history takes its place
oh, God forgive me for I have sinned
when I tried to hide my face
Desert Storm let's not forget
the blood that you had shed
so men and women could return
to the countries that they fled
And for all the men and women
who will answer a fatal call
I say to you I'll place your name
upon my strongest wall
and when at war and we need it most
our founding fathers will say
hear ye, hear ye,
then you'll hear them pray

Yes I'm fighting hard
as my father's son
so men and women can be free
that's why those wars were won
so it doesn't really matter
where you are and when you say
God bless America
it's Independence Day!

Yes,
God bless America
it's Independence Day!

## 2003 BLOOMFIELD CITIZENS COUNCIL AWARDS

## HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. DOYLE. Mr. Speaker, I rise today to pay tribute to a number of Pittsburgh residents who were honored on May 3rd 2003 with Bloomfield Citizens Council Awards.

Every year, the Bloomfield Citizens Council gives out these awards to recognize members of the community who have improved the quality of life in the Bloomfield neighborhood of Pittsburgh. I would like to take this opportunity to commend the 2003 award winners for their efforts to make Bloomfield a better place to live.

Emil DelCimuto has been selected as the recipient of the Mary Cercone Outstanding Citizen Award for his commitment to helping others in the community. As a volunteer for the Bloomfield Lions Club, the St. Joseph Nursing Home, and Meals on Wheels, Mr. DelCimuto has dedicated his time and energy to the people of Bloomfield. He is also an active member of the Bloomfield Preservation and Heritage Society and a sports columnist for several local newspapers.

The Distinguished Patriotism Award was presented to Raymond Fern. As a Korean War Veteran and life member of the Veterans of Foreign Wars, Mr. Fern is currently Commander of District 29, which has 15,000 members. Mr. Fern also became the first Pennsylvanian in 25 years to receive the All Star Grand Commander of the Military Order of the Cootie in 2000 for his strong commitment to hospitalized veterans.

The People of Vision Award was presented to David Voelker, Richard Voelker and Marcia Deaktor for their financial investments in the economic growth and development of Bloomfield.

The Bloomfield Citizens Council will present two awards for Christmas decorations this year. Joe and Toni Surmacy received the Keeping Christ in Christmas Award for their holiday arrangement with a religious theme, and Art and Mary Harrover received the Most Outstanding and Completely Decorated Home for their detailed Christmas designs.

In closing, I would like to congratulate the recipients of the 2003 Bloomfield Citizens Council Awards on their important contributions to the quality of life in Bloomfield. On behalf of the residents of Bloomfield and the rest of the 14th Congressional District, I thank them for their efforts.

## SUCCESS WITH SCALLOPS

## HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. FRANK of Massachusetts. Mr. Speaker, we hear too rarely of our public policy successes, because of a natural tendency for people to focus on areas where our efforts have fallen short of what we sought to achieve.

It is important to examine the policies which have not worked well, so that we can change them. But when organizations, the media, and others pay attention only to failure, the public gets a distorted overall picture, and people become unduly pessimistic about our ability to achieve important goals through public policy.

One area in which the private and public sectors can work together to produce a very favorable current situation is that of the scallop fishery. This does not mean that no errors were made in the course of this work, and to some extent we have seen here a process of trial and error. One of the errors we had previously made was to rely exclusively on science conducted by the regulators, and in recent years, independent scientific assessment of the fishery has proven to be an extremely useful tool.

Today, the scallop fishery is a very successful one. The catch is high, the stock has been replenished, the economy of the Greater New Bedford area—and other scallop fisheries—benefits, and, perhaps most importantly, consumers are able to receive a steady supply of a food that is both good and good for them. Sadly, this success seems, in some cases, to have angered some conservationists when it should, instead, have given them a sense of confidence about our ability to make public policy decisions. As the Representative of the City of New Bedford, the Town of Fairhaven, and other communities in which scallop fishing is important, I have had the disappointing experience of seeing some—by no means all—environmental organizations take unreasonable positions, and maintain them even in the face of contradictory experience.

I hope, Mr. Speaker, that when we reauthorize the Sustainable Fisheries Act, we build on the experience that we have gained in the scallop fishery, as well as in other fisheries, and make changes in the law that will enhance our ability to achieve the public policy successes that we have seen in the regulation of scalloping.

In a very comprehensive and thoughtful article, our former colleague, Gerry Studds, and Dr. Trevor Kenchington, a marine biologist, present the story of the success in the scallop fishery—as the sub-headline of their article in the May 25 issue of the New Bedford Standard Times correctly notes, "cooperation between managers and fishermen has rebuilt stocks."

Those who served with Gerry Studds during his twenty four years in the House, including his service as Chair of the Committee on Merchant Marine and Fisheries before its abolition, will not be surprised to read his cogent and balanced presentation. As a leading voice in this House on the question of fishing, Mr. Studds had a major role in bringing about many of the achievements chronicled in this article, and I am proud as his successor in representing the major scallop fishery in American to have been able to carry on his work.

Because this is a very important issue that we will, I hope, be addressing in legislation this year, I ask that the very informative article "Success With Scallops" offered by Mr. Studds and Dr. Kenchington and carried in the New Bedford Standard Times, be reprinted here.

## SUCCESS WITH SCALLOPS

### COOPERATION BETWEEN MANAGERS AND FISHERMEN HAS REBUILT STOCKS

(By Trevor J. Kenchington and Gerry E. Studds)

If you thought all living marine resources were either severely depleted or on the verge of extinction, due to a combination of ineffective management and the greed and short-sightedness of fishermen, you could hardly be blamed. After all, that is the message conveyed to you day after day in the media—and in the fund-raising solicitations of many environmental groups.

You might be more than a little surprised, therefore, to learn that an immensely valuable component of commercial fishing in New England and the Mid-Atlantic—the Atlantic sea scallop fishery—presents a shining example of successful management and an unprecedented instance of cooperation between fishermen and managers.

"The scallop resource on Georges Bank and in the Mid-Atlantic region has not only increased dramatically in recent years, but is at record high levels and considered fully rebuilt," said the Executive Director of the New England Fishery Management Council last fall. (Heading Toward Recovery: Rebuilding New England's Fisheries, Fall 2002)

Under these circumstances, you might be even more surprised to learn that several environmental organizations and their allies have gone to court again and again to block these management efforts. To date, their legal challenges have been uniformly unsuccessful. But they have succeeded in tying managers and fishermen in expensive, litigious knots.

Why is it that these groups, among them the Conservation Law Foundation and Oceans, have painted a target on the backs of the scallop fishermen when pinning a medal on their chests for innovative, proactive citizenship might seem more appropriate?

Let's take a closer look, first at the scallops themselves and their importance to the country and to local communities, then at the recent history of scallop management.

Scallops feed on the lowest level in the marine ecosystem—microscopic floating plants. Much as cattle turn grass into beef, scallops turn natural plant energy into meat. Scallop meat is, moreover, nutritious, low fat and a prized delicacy when fresh.

Left to themselves, however, scallops are not an efficient pathway for the plants to feed the rest of the ecosystem. Scallops, with their strong shells, resist most predators. Enter humans. With effective management of the U.S. Atlantic scallop fishery, annual production of some 40 million pounds of high-quality scallop meat can be landed and enjoyed by consumers, replacing high-priced imports with fresh product. Importantly, because scallops are "shucked" (opened) at sea with only their meats brought ashore, their viscera are discarded overboard and thereupon become a food source for predatory fish such as cod.

The scallop industry is very important to the social fabric of shoreside communities from Maine to North Carolina. The bulk of the catch is harvested by approximately 200 full-time scallop vessels, while another 100 or so fish for scallops to a lesser extent. Some 2,000 people are directly employed in the harvesting. In the process of supplying this product to consumers, the scallop fishery can earn between $150 million and $200 million per year, valued at the point of landing. Even more value is added and more jobs supported in processing, distribution and sales.

Income from scalloping contributes to the economies and way of life of many coastal communities in a half-dozen states. That is an important contribution for some ports like Stonington, Conn.; Cape May, N.J.; and Hampton Roads, Va. But, scalloping is vital to New Bedford, where the majority of Atlantic scallops are landed. In fact, the revitalization of the scallop fishery has propelled New Bedford into its current position as the No. 1 fishing port in the United States, measured by dollar value of product landed.

But it is not foreordained that the scallop industry should have its current success. In the past, scallop fishermen, like those in so many other U.S. fisheries, compensated for a declining resource by fishing harder (and more dangerously) struggling to maintain their income but driving the scallops down further.

### 1994 RULES

In 1994, all that began to change when strict rules were implemented limiting the number of participants in the fishery and, more importantly, the number of days that scallop vessels could fish in a given year. Further cuts followed, particularly in 1998. Full-time scallop vessels are now limited to 120 days at sea each year compared to the 250 or more that many worked before restrictions began. They are also now limited to seven men, which severely limits their catching power, compared to the 13 men commonly carried in earlier years. In addition, large portions of the most productive scallop grounds in the world (on Georges Bank, off Massachusetts) were closed in order to assist federal efforts to rebuild stocks of groundfish (cod, flounder, and haddock). About 80 percent of the Georges Bank scallops (roughly half of the entire Atlantic scallop resource) is currently off-limits to fishing.

Under these strict management measures, the weight of scallops alive in the ocean has increased almost eight-fold since its low point in 1993. It is now safely above target levels set by federal managers for rebuilding the stock pursuant to the federal Sustainable Fisheries Act. For scallops, a formal 10-year rebuilding plan was initiated in 1999. By 2001—just three years—scallop stocks had rebuilt to their target level.

### RELATED REASONS

They rebuilt so quickly for a series of inter-related reasons.

First, scallop stocks can be, and were, very productive. Second, significant conservation measures were imposed in time to capitalize on a large, natural up-tick in scallop productivity. Third, the scallop fleet responded to challenges imposed by the Sustainable Fisheries Act by organizing itself to partner with the federal government to achieve conservation goals. Almost 200 full-time participants in the Atlantic scallop fishery have come together under the banner of the Fisheries Survival Fund (FSF), which is headquartered in Fairhaven, Massachusetts, just outside New Bedford.

FSF participants have worked with the federal government to develop innovative approaches to improve scallop yield, reduce the (already very limited) bycatch of other fish species by scallop dredges and reduce the potential for interactions between scallop dredges and the ocean bottom habitat. FSF members have also worked in partnership with major East Coast universities, such as the University of Massachusetts School for Marine Sciences and Technology and the Virginia Institute of Marine Sciences at the College of William & Mary, using both scallop gear and high-resolution video cameras to survey scallop stocks, to learn about the ocean bottom in scallop areas and to develop gear that can reduce the potential for fish bycatches and the small potential for interaction of scallop dredges with endangered sea turtles.

Pilot projects, involving the industry, academia and the federal government, were undertaken in 1999 and 2000 to reopen portions of the Georges Bank groundfish closed areas to environmentally responsible scallop fishing. Areas have been closed in the Mid-Atlantic to allow concentration of small scallops detected in those regions to grow and then to spread the catches of these large concentrations of harvestable scallops over a period of years, rather than have them be taken in one "gold-rush" event.

### ROTATING CLOSURES

The FSF has also been working since 1999 to devise a systematic approach to rotational management of scallop beds—an effort that promises important habitat benefits and further reductions in the already small bycatches.

Few, if any, fishery participants nationwide have invested more time, effort and material resources in developing proactive management approaches. Significantly, moreover, these cooperative management efforts have repeatedly (and, sad to say, expensively) stood the test of determined court challenges.

This is fisheries management for the 21st century. If anything became clear in the 20th century, it was the top-down management of fisheries, in an atmosphere of conflict between managers and the managed, has failed worldwide and would not have worked for the Atlantic scallop fishery.

It is, finally, important to recognize that the scallop fishery is an environmentally clean fishery. Scalloping involves very little bycatch. There are only negligible catches of cod, haddock and most other species of fish. Bycatches of flounder, monkfish and skate are a bit higher but still relatively small.

Scalloping alone would pose no threat to those populations; however, there can be issues when a resource has been depleted by directed fishing (that is, not by scalloping) or by environmental factors. The potential for scalloper bycatch is something that needs to be considered in developing rebuilding measures in these cases. The scallop industry is working with managers to identify and resolve these specific issues when they arise.

### DESIGNED TO WORK

Then there is the issue of the scallop dredge itself. Simply put, harvesting scallops from deep offshore waters requires towed gear. Thus, dredges are necessarily used for the bulk of the scallop fishery. Importantly, however, while the dredge is a large and heavy device when sitting on land or aboard a boat, when towed under the water, hydrodynamic forces literally lift it off the bottom. In fact, the New Bedford style scallop dredge used in the Atlantic has been called an "airplane" dredge and actually requires "depressor plates" (which function as upside-down airplane wings) to maintain contact with the bottom—contact that involves chains and skids skimming across the bottom, rather than digging into it. Contrary to the impressions created by some, dredges do not plow the bottom for scallops; rather, water flow behind the depressor plates causes scallops to be sucked off the bottom and whirled into the bag portion of the dredge.

Moreover, scallopers tend to avoid areas with even occasional boulders unless they are forced there by lack of resource elsewhere or by closures of productive scalloping areas. Their gear is not efficient in those areas while damage to expensive dredges is both common and dangerous. It is those rocky bottom areas that represent the main focus of efforts to protect essential groundfish habitat from the adverse effects of fishing gear. Scallops and scalloping on the other hand are most productive where the seabed is sand or fine gravel.

Managers are currently working, as they should be, towards focusing scallop fishing efforts on large concentrations of large scallops, including those in closed areas of Georges Bank. Moreover, focusing scallop effort on areas where scallops are abundant also reduces the potential for any impact of the scallop dredge on the ocean bottom and the potential for bycatch of other species. Scallopers fishing in areas of high abundance spend less time fishing for scallops and more time processing them. This reality is at the heart of scallop rotation management, as championed by the industry. Successful rotation management, therefore, requires access to areas of scallop abundance.

So, to return to where we began, why is it that the fisherman who regularly risks his life in the most dangerous of all occupations to wrest a living from the sea and put food on our table who has not only played by the rules but has taken the initiative (at considerable expense to himself) to help develop an innovative, conservation-positive management system that is working and working well—why is it that, in addition to the forces of nature and the processes of regulatory bureaucracy, he must now contend with a sustained legal assault from groups that seek to portray him as the most avaricious and irresponsible of men?

Might it be that the scallop industry has "stepped on the message" of some whose world view has no place for them? Are there those whose agenda is somehow threatened by proof that a fishery can be both successful and sustainable? These are questions that thoughtful and responsible people would do well to ponder.

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## RECOGNIZING WORCESTER COMMUNITY ACTION COUNCIL WARM FRIENDS AWARDS RECIPIENTS

### HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to this year's Worcester Community Action Council Warm Friends Award recipients from the City of Worcester. I am very proud of the service these recipients have given to the people of the City of Worcester.

Mr. Speaker, the Worcester Community Action Council (WCAC), created in 1965, serves as an umbrella organization for 20 education and social service programs. It includes Energy Assistance, Head Start, Healthy Families, Training and Youth Education Mediation, Consumer Council, and Community Connections. WCAC's mission is "to stimulate change in the fundamental causes of poverty and to create and provide opportunities for economic self-sufficiency through services, partnership, and advocacy."

Mr. Speaker, this ceremony honors organizations and individuals who promote economic self-sufficiency and work tirelessly on behalf of those less fortunate in our society. The following recipients are being honored today for their commitment to the education of all of our children: Allmerica Financial, for their support of WCAC's Cityworks Program; Anne Quinne for her work to develop programs for at-risk youth; and Lisa Perez for her efforts to encourage parent involvement in Worcester's schools.

Mr. Speaker, I am honored to acknowledge the contributions of the following organizations: Nstar Gas for its support of weatherization services for families; University Home Improvement and Ken Martinetty for their services as weatherization contractors; and Amara Thomas for her participation in the Cityworks corps member and current IDA participant.

Finally, Mr. Speaker, we are also honoring the contributions of the following community leaders: State Representative Robert Spellane for his service on behalf of families in need; Worcester County Treasurer Michael Donoghue for his exemplary community service; Mike Keegan for his leadership of WCAC; Winifred Octave for her parent leadership efforts; Dr. James Ostromecky for his free dental services for Head Start children; Christopher and Laura Pallotta for their support of WCAC's mediation services; Marge Perves for her community involvement and volunteer mediation services; Larry Raymond for his commitment to family and self sufficiency; and Steve Teasdale for his efforts to revitalize the Main South neighborhood.

Mr. Speaker these individuals are the embodiment of our collective common good, and I am sure that my colleagues in the House of Representatives join me in extending sincere thanks to the recipients of WCAC's Warm Friends Awards.

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## THE GLOBAL PATHOGEN SURVEILLANCE ACT

### HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mrs. TAUSCHER. Mr. Speaker, I am pleased to introduce the Global Pathogen Surveillance Act of 2003 with my colleague, Congressman MARK KIRK. This important bipartisan legislation mirrors legislation offered by Senators BIDEN and LUGAR, and will reduce the risk of infectious diseases entering this country.

As we have learned from the outbreak of severe acute respiratory syndrome, or SARS, and the anthrax attacks, nature and terrorists do not stand still while the world finds ways to improve its preparedness against biological threats.

Indeed, new diseases—no matter where they start—can spread to the United States in days or even hours. Many of them, including smallpox, SARS and the plague have lengthy incubation times, lasting two to twelve days.

The flight time between any two cities, however, is under 36 hours. Any of the 140 million people who enter the United States by air each year can, unknowingly, carry these dangerous pathogens with them.

SARS, for example, came to the world's attention in East Asia in March. Today, there are over eight thousand cases worldwide, with the highest number of cases in the United States occurring in my home state of California.

Because it was not reported immediately and a strong international network was not in place to monitor and control it, SARS has become a worldwide epidemic.

It has put a severe strain on hospitals and health care systems and caused financial chaos in dozens of countries.

While Congress has been generous in funding measures to improve domestic biopreparedness, rapid detection of outbreaks requires significant improvements in international disease surveillance.

While developing nations are most likely to experience rapid disease outbreak, they don't have the trained personnel, the laboratory equipment or the public health infrastructure to deal with epidemics—much less warn the rest of the world.

Our bill would help train public health professionals in developing countries to use electronic syndrome surveillance systems and traditional epidemiology methods to better detect, diagnose and contain infectious disease outbreaks.

Our bill would also help developing countries purchase public health laboratory equipment for health surveillance and diagnosis as well as communications technology to transmit information about infectious diseases.

This legislation would also develop and enhance existing regional health networks and establish lab-to-lab cooperative relationships between the United States and public health laboratories and foreign counterparts.

It would also strengthen the reporting capabilities of the World Health Organization, whose decision to issue a global alert in March allowed health officials around the world to take appropriate measures to control the spread of SARS.

All these provisions strengthen a global surveillance network which will detect the unique symptoms of an epidemic before it spreads and allow earlier diagnosis and better containment measures.

I call on my colleagues to support this important bill and help us close the huge gaps in our defense against emerging diseases.

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## CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

SPEECH OF

### HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mrs. CUBIN. Mr. Speaker, I rise today in strong support of H.J. Res. 4, a constitutional amendment to restore protections for the most widely recognized symbol of our nation and our traditions, the flag of the United States of America.

Some would call stuffing an American flag in a toilet or a trash can a work of art. I would call it a disgrace. Too many brave Americans have fought and died in defense of our flag to allow it to be soiled. In fact, they're fighting even today in Afghanistan, Iraq and all over the globe to secure the ideals for which the flag stands.

Mr. Speaker, I spent this past weekend in my home state of Wyoming to celebrate Memorial Day. I spoke to a veteran there who wore a shirt with a picture of our flag and the legend, "This flag wasn't earned to be burned."

Over the course of our history, more than a million brave Americans have given their lives in defense of our flag. We should honor their sacrifice by defending the flag with the same conviction they did. I urge the passage of this bill and yield back the balance of my time.

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## PERSONAL EXPLANATION

### HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. KOLBE. Mr. Speaker, on Rollcall 234 on H.J. Res. 4, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, I inadvertently voted "yea" but I meant to vote "nay." Although I abhor desecration of our flag, I believe it is a form of political expression and dissent protected under the First Amendment. I would like the record to reflect that my intended vote was "nay"

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## ASSURED FUNDING FOR VETERANS HEALTH CARE ACT OF 2003

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. EVANS. Mr. Speaker, today, on behalf of myself and 72 of my colleagues, I am introducing H.R. 2318 the "Assured Funding for Veterans Health Care Act of 2003." Starting in Fiscal Year 2005, the bill would require the Secretary of the Treasury to provide funding for the Department of Veterans Affairs Health Care System based on the number of enrollees in the system and the consumer price index for hospital and related services. I believe the measure I am offering will create a vastly improved funding system that better responds to the needs of our veterans.

Last week the President's Task Force to Improve Health Care Delivery For Our Nation's Veterans issued its final report. In it, the "growing mismatch between funding and demand" is repeatedly referenced. To address this problem, the report recommended: The Federal Government should provide full funding to ensure that enrolled veterans in Priority Groups 1 through 7 (new) are provided the current comprehensive benefit in accordance with VA's established access standards. Full funding should occur through modifications to the current budget and appropriations process, by using a mandatory funding mechanism, or by some other changes in the process that achieve the desired goal. (p. 77)

In addition, the Task Force addressed the need to clarify standards of access for Priority 8 veterans. Priority 8 veterans are the so-called "high-income" veterans without compensable service-connected conditions. Who are these individuals? Anyone with an income level of more than the geographically adjusted Housing and Urban Development threshold for low-income housing is considered "high income". In some communities, this means veterans with incomes of more than $24,644—most often work-a-day folks who sometimes have to choose between prescription drugs and heat or groceries. My bill would cover these veterans.

Some will say that we've done well by our veterans this year. I would say it might well have gone the other way. This body passed a budget resolution that would have required us to cut veterans benefits during a period of war. It still remains unclear how veterans' health care will fare when pitted against such disparate programs as low-income housing, the space program and other independent agencies. Other health programs such as Medicare and TRICARE for Life are not subject to the same types of considerations because funding for these programs is based on need.

The result of this funding process is the "growing mismatch" addressed by the President's task force—the system is starving! We all have heard the numbers of veterans who have waited more than six months for health care services. There were more than 200,000 veterans in the queue at the beginning of the year. Even with increases proposed in the joint budget resolution, VA will still impose some regulatory constraints on access and has identified more than a billion in illusory "management efficiencies."

Last year, I cosponsored H.R. 5250, the "Veterans Health Care Funding Guarantee Act of 2002" with 129 other members of the House. The bill I am offering today closely resembles that legislation. The Congressional Budget Office slapped a hefty price tag on H.R. 5250 largely assuming huge increases in demand would result if the veterans' health care system were adequately funded! Think about this—our budget office assumes that our health care system for veterans is so fiscally deprived that a fairer funding system that responds to changes in demand would create a run on health care!

Our veterans deserve better than a chronically underfunded health care system. I believe veterans—all veterans—have earned the right to access the health care system that was created to serve their needs. The price we pay as a Nation for assuring timely access to high-quality health care services is small in relation to the price we have asked them to pay in securing our freedom.

I urge my colleagues to join me and the 72 other members of the House that believe this is the right thing to do for our veterans. Every major veterans service organization, including The American Legion, Disabled American Veterans, and Veterans of Foreign Wars, has stated support for this bill. Join us in the fight to do the right thing for our veterans. Join me in cosponsoring the "Assured Funding for Veterans Health Care Act of 2003".

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## THE SANTA CLARA COUNTY CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATIONS HONOR AMY B. DEAN

### HON. ANNA G. ESHOO

OF CALIFORNIA

### HON. MICHAEL M. HONDA

OF CALIFORNIA

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Ms. ESHOO. Mr. Speaker, Mr. HONDA, Ms. LOFGREN, and myself, rise to honor Amy B. Dean, Chief Executive Officer of the South Bay AFL–CIO Labor Council who is leaving the Bay Area to go back to her original home of Chicago. On June 7, 2003, Amy Dean will be participating in her final COPE Awards Banquet as CEO of the organization she has so ably led.

Through Amy Dean's leadership, the South Bay AFL–CIO Labor Council has been extremely successful in working for living wage contracts for city workers, affordable housing requirements in new developments, and health insurance for every child in Santa Clara County. Amy Dean has been a tireless and passionate advocate for social justice and has helped to strengthen the labor movement, bringing dignity and hope to countless families, whether they are union or non-union workers. Amy Dean was the youngest person in the country to lead a large metropolitan labor council and the first woman to head a labor council as large as the South Bay AFL–CIO Labor Council. She founded Working Partnerships USA, a non-profit organization dedicated to rebuilding the links between regional economic policy and community well-being. She will continue her advocacy for community-centered economic development through Working Partnerships in Chicago. She has been widely recognized for her many accomplishments, has served on many committees and advisory boards and has written extensively on labor issues.

Mr. Speaker, we ask our colleagues to join us in honoring Amy B. Dean for her extraordinary service to our community as an ardent advocate for working women and men and their families.

## A TRIBUTE TO OLUYEMI O. BADERO, MD., FACC

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. Oluyemi O. Badero, in recognition of his outstanding accomplishments in the field of medicine.

Dr. Badero was born in Nigeria. Four years after completing medical school in Nigeria, he came to the United States in 1988. Dr. Badero, who is a U.S. citizen, received his internship and residency training in internal medicine at SUNY Downstate-Kings County Hospitals in Brooklyn, New York where he also served as chief resident, a prestigious position.

He completed three separate fellowship training programs in critical care medicine, cardiovascular disease and interventional cardiology, the latter at the Yale University Program in Bridgeport, Connecticut.

Dr. Badero is board certified in internal medicine, cardiovascular disease and interventional cardiology. He is one of a very few African-American specialists in his field. In fact in February 2003, The Network Journal, named Dr. Badero as one of the top black doctors for cardiology based on his experience, expertise and bedside manner.

Having completed an unprecedented nine consecutive years of post-graduate training, Dr. Badero is a highly regarded expert in cardiology. He is a fellow of the American College of Cardiology and an active member of several other professional organizations.

Dr. Badero has been widely published on a wide range of medical topics and has won numerous awards for his accomplishments. He currently serves as the Associate Chief of Cardiology and Associate Director of Cardiac Catheterization Laboratory at Interfaith Medical Center, the Director of the Cardiology Clinic at Kings County Hospital, Director of Cardiac Screening Clinic and Assistant Professor of Clinical Medicine at SUNY Health Science Center. All of these medical institutions are located in Brooklyn, New York.

Mr. Speaker, Dr. Oluyemi O. Badero has reached the highest levels of medicine in our country, all the way from Nigeria, and he has used his expertise to improve the lives of his community. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

## A PROCLAMATION RECOGNIZING CASSIE SHAW

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. NEY. Mr. Speaker, whereas, Cassie Shaw has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Cassie Shaw has shared her time and talent with the community in which she resides; and

Whereas, Cassie Shaw has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Cassie Shaw must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Kingston and the entire 18th Congressional District in congratulating Cassie Shaw as she receives the Girl Scout Gold Award.

## CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in opposition to H.J. Res. 4, the proposed amendment to the Constitution to prohibit the physical desecration of the United States flag. I respect our flag, what it stands for, and personally deplore acts of desecration against the flag. However, I believe that our commitment to respecting our flag while preserving our fundamental freedoms, as symbolized by our flag and embodied in the Constitution and Bill of Rights, can be met without amending the Constitution.

Many Members of Congress see continued tension between "free speech" decisions of the Supreme Court, which protect flag desecration as an expression of first amendment speech, and the symbolic significance of the United States flag. Consequently, every Congress that has convened since those decisions were issued has considered possible measures to permit the punishment of those who engage in flag desecration. However, the amendment offered today by the majority would diminish the First Amendment's guarantee of freedom of expression, one of our most fundamental guarantees of the Bill of Rights.

Amending the U.S. Constitution is necessarily and understandably a rigorous task. To become the law of the land, the flag desecration amendment would have to get the approval of two-thirds of both chambers of Congress and then be ratified by three quarters of the state legislatures. The fact that only 27 amendments, including the Bill of Rights, the civil rights amendments, and women's suffrage, have been made to the Constitution in the past 200 years illuminates the infrequency of such legislative initiatives. Moreover, since its ratification in 1791, the Bill of Rights has not been altered in any manner. Consequently, I believe that passage of such an amendment would set a dangerous precedent for further erosion of our constitutional rights and freedoms.

Not only is amending the Constitution a task that must not be taken lightly, we must be absolutely sure that it is necessary. In this case, I am not convinced that the requisite level of necessity has been met. For example, flag burning is an exceedingly rare occurrence—since the Supreme Court's free speech, flag desecration decisions, fewer than 10 flag burning incidents have been reported each year.

Considering this, I believe that amending the Constitution to address the shameful conduct of such a minute portion of our general populace is simply unnecessary. This conviction is generally supported by a letter sent to Senator PATRICK LEAHY in May 1999, in which General Colin Powell, now Secretary of State, wrote that "The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away." Secretary Powell, one of our most noted patriots and war heroes, obviously believes that diminishing our First Amendment rights is not the solution to the perceived problem at hand.

Taking into account the infrequency of flag desecration, as noted by Secretary of State Powell, I question today what it is that we are trying to regulate: is it the act of physical desecration itself or rather the sentiment behind the action? I believe that H.J. Res. 4 would affectively and severely abridge our rights of free expression. As such, I will oppose passage of this proposed constitutional amendment.

## TRIBUTE TO MR. JACOB HOFFMAN

### HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor a respected member of the Philadelphia community. Mr. Jacob Hoffman is turning 100 years young.

Mr. Hoffman, a resident of Brith Shalom House, will celebrate his 100th birthday this July 2, 2003. A retired real estate broker and developer, Mr. Hoffman is well regarded in the real estate community. He served on the Philadelphia Board of Realtors and was a founder of the south Philadelphia Realty Board in 1929.

Mr. Hoffman has remained very active in Jewish circles. He received a citation for being a member of B'nai B'rith for over 50 years. He is the oldest board member of Har Zion Temple and is also a member of the Lions Club.

Along with his two daughters, three grandchildren, and two great grandchildren, I ask that you and my other distinguished colleagues join me in congratulating Mr. Jacob Hoffman during his 100th birthday celebration.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 5, 2003 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### JUNE 6

9:30 a.m.
Judiciary
To hold hearings to examine the nomination of Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.
SD–226

10 a.m.
Finance
To hold hearings to examine issues related to strengthening and improving Medicare.
SD–215

### JUNE 10

9:30 a.m.
Armed Services
To hold closed hearings to examine certain intelligence programs.
S–407, Capitol

Commerce, Science, and Transportation
To hold hearings to examine reauthorization of the Federal Motor Carrier Safety Administration.
SR–253

Governmental Affairs
To hold hearings to examine castaway children, focusing on whether parents must relinquish custody in order to secure mental health services for their children.
SD–342

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the reauthorization of the Federal Public Transportation Assistance Program.
SD–538

Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold hearings to examine the current regulatory and legal status of federal jurisdiction of navigable waters under the Clean Water Act, focusing on issues raised by the Supreme Court in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers No. 99–1178.
SD–406

2 p.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine internally displaced persons in the Caucasus Region and Southeastern Anatolia.
334, Cannon Building

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 499, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers, S. 546, to provide for the protection of paleontological resources on Federal lands, S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, S. 677, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, S. 1060 and H.R. 1577, bills to designate the visitor center in Organ Pipe National Monument in Arizona as the "Kris Eggle Visitor Center", H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretative Center in Nebraska City, Nebraska, and H.R. 1012, to establish the Carter G. Woodson Home National Historic Site in the District of Columbia.
SD–366

### JUNE 11

9 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine patient safety, focusing on instilling hospitals with a culture of continuous improvement.
SD–342

9:30 a.m.
Judiciary
To hold hearings to examine the nominations of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, and Diane M. Stuart, of Utah, to be Director of the Violence Against Women Office, Department of Justice.
SD–266

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

Indian Affairs
To hold hearings to examine S. 1146, to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota, and the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services.
SR–485

2 p.m.
Judiciary
To hold hearings to examine P2P file-sharing networks, focusing on personal and national security risks.
SD–226

2:30 p.m.
Commerce, Science, and Transportation
Competition, Foreign Commerce, and Infrastructure Subcommittee
To hold hearings to examine reauthorization of the Federal Trade Commission.
SR–253

### JUNE 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine global overfishing.
SR–253

Foreign Relations
To hold hearings to examine repercussions of Iraq stabilization and reconstruction policies.
SD–419

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the Department of Agriculture's implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.
SR–328A

Health, Education, Labor, and Pensions
To hold hearings to examine private sector lessons for Medicare.
SD–430

2 p.m.
Health, Education, Labor, and Pensions
To hold hearings to examine certain issues relative to TWA.
Room to be announced

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 434, to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes, S. 435, to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, S. 490, to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California, H.R. 762, to amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of certain rights-of-way granted, issued, or renewed under these Acts, S.

1111, to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the RECORD of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad, and H.R. 622, to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona.

SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings to examine issues relating to cloning.

SR–253

JUNE 17

10 a.m.

Governmental Affairs

Business meeting to consider pending calendar items.

SD–342

JUNE 18

9:30 a.m.

Governmental Affairs

To hold hearings to examine the nominations of Fern Flanagan Saddler, Judith Nan Macaluso, Joseph Michael Francis Ryan III, and Jerry Stewart Byrd, all of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD–342

10 a.m.

Indian Affairs

To hold oversight hearings to examine Native American sacred places.

SR–485

JUNE 19

10 a.m.

Governmental Affairs

To hold hearings to conduct an initial review of the ULLICO matter, focusing on self-dealing and breach of duty.

SD–342

JUNE 24

10 a.m.

Governmental Affairs

To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.

SH–216

JUNE 25

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

JUNE 26

9:30 a.m.

Governmental Affairs

To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.

SD–342

2 p.m.

Foreign Relations

To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.

SD–419

## POSTPONEMENTS

JUNE 10

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the Head Start program.

SD–430

# HOUSE OF REPRESENTATIVES—*Thursday, June 5, 2003*

The House met at 10 a.m.

The Very Reverend Ernesto Medina, Provost, Cathedral Center of St. Paul, Los Angeles, California, offered the following prayer:

Loving God, in Your word You have given us a vision of that holy city to which the nations of the world bring their glory. Behold and visit, we pray, the communities on this Earth. Renew the ties of mutual regard which form our civic life. Send us honest and able leaders. Enable us to eliminate poverty, prejudice and oppression, that peace may prevail with righteousness, and justice with order, and that men and women from different cultures and with differing talents may find with one another the fulfillment of their humanity.

O God, the fountain of wisdom, whose will is good and gracious and whose law is truth: We pray You so to guide and bless our Representatives in Congress assembled, that they may enact such laws as shall please You, to the glory of Your name and the welfare of this people; in Your holy name we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California (Mr. BECERRA) come forward and lead the House in the Pledge of Allegiance.

Mr. BECERRA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1588. An act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1588) "An Act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WARNER, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Mr. ALLARD, Mr. SESSIONS, Ms. COLLINS, Mr. ENSIGN, Mr. TALENT, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mrs. DOLE, Mr. CORNYN, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. BAYH, Mrs. CLINTON, and Mr. PRYOR, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1047. An act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 1048. An act to authorize appropriations for fiscal year 2004 for military construction, and for other purposes.

S. 1049. An act to authorize appropriations for fiscal year 2004 for defense activities of the Department of Energy, and for other purposes.

## WELCOMING THE VERY REVEREND ERNESTO MEDINA

(Mr. BECERRA asked and was given permission to address the House for 1 minute.)

Mr. BECERRA. Mr. Speaker, it is an honor for me to rise today to introduce our guest chaplain, the Very Reverend Ernesto R. Medina of the Cathedral Center of St. Paul in Los Angeles, California. Reverend Medina is an ordained minister and a graduate of the Church Divinity School of the Pacific as well as the University of California at San Diego.

Reverend Medina is more than just the pastor of the Cathedral Center of St. Paul. He is neighbor, friend, and indispensable spiritual leader in the community of Echo Park in Los Angeles. He is the first Latino to be appointed as a provost within the Episcopalian Church in this country. Reverend Medina has demonstrated a leadership style that has endeared him not only to the members of his congregation and the community of Echo Park but also to those throughout the community of Los Angeles who have been fortunate enough to work with him.

Not long ago, there was a collapse of an apartment building not far from the Cathedral Center where, were it not for the efforts of Reverend Medina, several families would have been left homeless. But quickly, Reverend Medina and the parishioners of the Cathedral Center came forward and offered families with small children a place to stay and a place to eat. Today the parish of Cathedral Center is much blessed by the work that has been done by Reverend Medina. His compassion not only for the residents of Echo Park but for all of Los Angeles has exemplified the type of work that is done by the Episcopalian Church. I am very proud to say that today, the first day perhaps in more than 2 weeks when we see the sun out in Washington, D.C., that Reverend Medina has come forward.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would simply like to join my friend in welcoming Reverend Medina, who has just informed me that he is a constituent of mine. We are very appreciative of the prayer and the very kind words.

Mr. BECERRA. I join with my colleague from California (Mr. DREIER) in recognizing that not only is he an able reverend but he is also a very important constituent. I thank the Speaker for this opportunity to express some thoughts for this 1 minute. I thank the reverend for making the trip to Washington, D.C., and bringing the sunshine with him.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, June 4, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Ms. Ann McGeehan, Director of Elections, State of Texas, indicating that, according to the unofficial returns of the Special Election held June 3, 2003, the Honorable Randy Neugebauer was elected

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Representative in Congress for the Nineteenth Congressional District, State of Texas.

With best wishes, I am

Sincerely,

JEFF TRANDAHL.

Attachment.

STATE OF TEXAS,
ELECTIONS DIVISION,
*Austin, TX, June 4, 2003.*

Hon. JEFF TRANDAHL,
*Clerk, House of Representatives,*
*The Capitol, Washington, DC.*

DEAR MR. TRANDAHL: This to advise you that the unofficial results of the Special Runoff Election held on Tuesday, June 3, 2003, for Representative in Congress from the Nineteenth Congressional District of Texas show that Randy Neugebauer won the runoff election.

The Governor will canvass the election returns no later than June 10, 2003 and will issue certificate of election to Congressman-elect Neugebauer.

I am enclosing a copy of the unofficial election results. As soon as the results are official, I will forward them to you along with the certificate of election.

Your truly,

ANN MCGEEHAN,
*Director of Elections.*

Enc.

| | Vote total | % of vote | Early voting | % of early vote |
|---|---|---|---|---|
| Mike Conaway—Rep | 27,959 | 49.48 | 14,582 | 50.90 |
| Randy Neugebauer—Rep | 28,546 | 50.52 | 14,067 | 49.10 |
| Vote total | 56,505 | 100.00 | 28,649 | 100.00 |

## SWEARING IN OF THE HONORABLE RANDY NEUGEBAUER OF TEXAS AS A MEMBER OF THE HOUSE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. NEUGEBAUER) be permitted to take the oath of office today.

His certificate of election has not arrived; but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Will the Representative-elect and the members of the Texas delegation present themselves in the well.

Mr. NEUGEBAUER appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the 108th Congress.

## INTRODUCING THE HONORABLE RANDY NEUGEBAUER AS NEWEST MEMBER OF 108TH CONGRESS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute.)

Mr. BARTON of Texas. Mr. Speaker, it is my distinct privilege to introduce to the House of Representatives the fourth member to represent the 19th Congressional District of Texas, the 236th Texan to serve in the House, and 9,833rd U.S. citizen to serve as a member of the House of Representatives, the Honorable RANDY NEUGEBAUER, born on December 24, Christmas Eve, 1949, graduate of Texas Tech University, High Plains citizen, small businessman, banker, home developer, and the winner of a historic vote, I believe, by 700 votes. He will say that there were more people in Lubbock that wanted to vote than wanted to vote in Midland, Texas. He now represents both the Permian Basin and the High Plains. We are absolutely delighted to have you. You join such former Texans, Presidents like Lyndon Johnson and George W. Bush, Speakers like Jim Wright and Sam Rayburn, majority leaders like TOM DELAY and Dick Armey in this august body.

We are delighted to have you. Welcome to the United States House of Representatives.

## MAIDEN SPEECH OF THE HONORABLE RANDY NEUGEBAUER AS NEWEST MEMBER OF 108TH CONGRESS

(Mr. NEUGEBAUER asked and was given permission to address the House for 1 minute.)

Mr. NEUGEBAUER. Mr. Speaker, thank you very much. Only the people sitting on this floor understand what I am feeling right now. It is a privilege and an honor to be a part of history and to be with this body today.

I want to recognize my wife and my partner of 33 years who is up in the balcony there and my family. There is a scripture in Corinthians that says, "I am what I am by the grace of God." I am here today because of the grace of God. I understand that, and I look forward to working with you.

I have one regret. I would have really liked to have been here yesterday and voted on the partial-birth abortion. I would have voted an affirmative banning the partial-birth abortion. I am glad to see that you did that. It is a pleasure to be here.

Thank you, Mr. Speaker. I look forward to working with you. I am the new kid on the block. I am the 435th ranking Member of the House of Representatives. I bumped some people up today, and I know they are glad of that. We certainly appreciate the Texas delegation and other Members being here today. We look forward to doing good work for the American people.

Thank you and God bless you.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will take 10 one-minutes on each side.

## RECOGNIZING ANTONIO ARGIZ FOR HIS CONTRIBUTIONS TO THE SOUTH FLORIDA COMMUNITY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today I stand in recognition of the wonderful contributions of a friend of the South Florida community, Mr. Antonio Argiz. Tony bravely journeyed to the United States from Cuba, without his parents, at the age of 8, thanks to Operation Peter Pan.

Determined to live the American dream, Tony attended Florida International University, where he earned his accounting degree. Recognized as an expert in forensic accounting, he was the first Cuban American appointed by the Governor to chair Florida's board of accountancy.

□ 1015

Tony's passion for business is matched by his dedication to our community in South Florida. Tony serves as the cochair of the United Way of Miami-Dade and has served on the statewide Florida Constitutional Revision Commission.

Tony is a loving husband and the father of three who continues to put passion in his every endeavor. He is a true inspiration and an exemplary Floridian.

Gracias por todo mi amigo. Thank you, Tony.

## ENSURE HEAD START'S CONTINUED SUCCESS

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to celebrate the 38th anniversary of the Head Start Program. As a former Head Start kid, I know firsthand the valuable, comprehensive education program that Head Start does for low-income families, and I celebrate the program's many achievements.

The Republicans, on the other hand, will celebrate Head Start's 38 years of success by pushing forward with the School Readiness Act. This legislation is not only a bad idea, it has the possibility of eliminating key services to nearly 1 million students by converting the Head Start Program to a block grant program. Block granting Head

Start is a blockheaded idea that will undoubtedly hurt this very successful program.

One problem in particular with this plan is that States are already dealing with huge budget deficits, and they may be tempted to divert Head Start funds to use for other purposes. How would that improve the Head Start Program?

I urge my colleagues to celebrate Head Start's 38th anniversary by opposing this misguided legislation.

## WHERE ARE IRAQI WEAPONS OF MASS DESTRUCTION?

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, Americans, indeed the whole world, are asking, why have we not we found any weapons of mass destruction in Iraq, the vast quantities of anthrax, small pox, serin, mustard gas and other agents, the nuclear weapons, or the near-nuclear weapons?

Congress has an obligation to the American people and to our men and women in uniform to conduct a full inquiry. I think the House Permanent Select Committee on Intelligence is the right forum to do that.

Now, the administration says that Iraq has had 12 years of practice in hiding; the weapons were there, perhaps, but were destroyed; or maybe they were there, but they were moved; or maybe they were not there, but could be constituted on demand. In any case, either there is something wrong, or the intelligence was too vague and imprecise to track what has happened to them.

The President says we are going to find weapons of mass destruction. He may be right. But it seems to me that before the President sent our troops into battle and committed our Nation to this war, we should have had a very good idea of just where those weapons of mass destruction were so that we could secure them and track them.

## STATE VETERANS CEMETERY FAIRNESS ACT OF 2003

(Mr. CASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASE. Mr. Speaker, as our troops come home from Iraq and we look forward to D-Day's 60th anniversary, we all feel a deep and renewed sense of gratitude for our Nation's veterans. And as increasing numbers, like members of my own Hawaii's famed 100th Battalion and 442nd Regimental Combat Team, pass on, we must also remember that one of our basic promises to them is to be buried with their comrades in our great national cemeteries, from Arlington to my own National Cemetery of the Pacific.

But increasing numbers of States, 17 at last count, have no Federal VA cemetery, or else those cemeteries are now full. These States must pick up an increasing burden, which is and should be the Federal Government's, and the reality is that, for these veterans, their final resting places are suffering.

Today I introduced a simple bill to raise the Federal reimbursement for veteran burials in State cemeteries where there is no Federal VA option from $300 to $750. This is only fair, and I ask for my colleagues' support.

## BIRTHDAY WISHES TO BOB HOPE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, at a very early point in my life, I was taught that you can celebrate your birthday the week before and the week after the actual date.

A week ago today, we all know that Bob Hope celebrated his 100th birthday. We are actually in the midst of the celebration of the 50th birthday of our colleague, the gentleman from California (Mr. CALVERT).

When I think about Bob Hope, he is someone who I have been privileged to know for many years and have had the opportunity to spend time with him and his wonderful wife Delores and their family. But I will tell you, even when you are in small company with Bob Hope, you cannot help but be in awe of an individual who is virtually unparalleled in his commitment to the United States of America.

A year ago we were able to honor him by naming the Chapel at the Veterans Cemetery in West Los Angeles, with the help of his friends, Mary Jane and Charles Wick. There are countless people all over this world who have to continue to be indebted to Bob Hope for the great sacrifice that he has made and the happiness that he has brought to so many millions of individuals.

Happy birthday, Mr. Hope.

## LOW AND MIDDLE INCOME AMERICANS TREATED DIFFERENTLY

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Erin Doyel asked the question, "what about my kid?" Her kid in this case is Adrienne. Erin works as a financial administrative assistant. She earns $12,675 a year. She goes to work every day. She is eligible for the child tax credit. In fact, she receives the child tax credit.

But what she will not receive is she will not receive the increase in the child tax credit that was passed this year, which would mean $400 to families with children who are eligible. But the Republicans made a decision that people like Erin and her daughter Adrienne will not receive it because they earn between $10,000 and $26,000 a year.

These are families with children who go to work every day, but they will not be given the benefit of the tax cut, they will not get the increase in the child tax credit, they will not have an easier time supporting their family for all of the hard work they do at very difficult and low wages, because the Republicans made a decision that Erin and Adrienne will not be included.

That is why Erin Doyel from Vallejo, California, is asking, what about my kid? Why are we treated differently than the rest of America's families?

## ENSURING AMERICA'S SECURITY FROM TERRORISM

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, we have heard it said it so many times that it risks becoming a cliche: Our Nation is engaged in a war against terrorism. If I may be permitted one more cliche: Money is the lifeblood of any terrorist organization.

The ability of the September 11th terrorists to move money through American banks without sending up any cautionary red flags was critical to their success and our national tragedy. People attempting to open accounts in this country without Social Security numbers ought to be seen as a giant, flashing red neon flag. That is why we must refuse to allow banks to accept as legitimate identification any foreign government-issued identification document in lieu of a Social Security number.

The Department of Treasury and the banks see things differently. The Treasury Department has issued a final rule to allow banks to accept the Mexican matricula I.D. card. But at the request of the banks, Treasury went even further. Their rule does not even require banks to maintain copies of the matricula cards.

Ignorance in this case might be good business practice, but it is dangerous and foolhardy security policy. Our responsibility as Members of Congress is to make sure that terrorists cannot use American banks to finance attacks on our people.

## HELPING CHILDREN WHO NEED HELP THE MOST

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, 2 weeks ago this House made a terrible mistake in the tax cut bill, partly because that bill was rammed through this House under the so-called marshal law rule, with minimal notice or debate. Some 12 million American children who need the help the most were left out of that bill: 444,000 Tennessee children were left out of that bill.

It is not too late to correct the mistake, and I hope that this House will take prompt action to help those 12 million children, including the 444,000 Tennessee children who need the help the most. The clock is ticking, Mr. Speaker. The world is watching. Let us help these kids.

## ISRAELI-PALESTINIAN PEACE PROCESS

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, yesterday we saw a truly historic event as President Bush pushed the Israeli-Palestinian peace process forward. The road map to peace that President Bush has laid out has been accepted by the Israeli government, Palestinian Prime Minister Abu Mazan and other Arab leaders.

In fact, Abu Mazan became the first Palestinian leader to denounce terrorism as a solution to the conflict with Israel; and, significantly, those words were spoken in Arabic for the entire Arab world to hear.

Prime Minister Sharon also has helped move the process forward by not only continuing the dialogue but by taking concrete steps to show the commitment of the Israeli people to peace.

This is all very promising, but now words need to be backed up with action. None of this would have been possible without the bold leadership of President George W. Bush. I praise President Bush for his efforts. This is just another example of the President's consistent message to the world that the United States is ready to lead the world in the fight against terrorism and in the pursuit of peace and freedom.

## EXTEND TAX CREDIT FOR CHILDREN TO ALL AMERICANS

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, the Democrats feel very strongly that we need to move to put back in place this tax credit for children and families of children at lower income levels. These are working people. The Republicans made a huge mistake, and it shows where they are coming from when they eliminated giving a child tax credit to these working families at the lower end of the income spectrum.

But now what I hear is that the Republicans in the other body say, well, they are not going to do this unless we also give a child tax credit to people at a little higher income level. Now we hear that here in this House the Republican leadership says that they are probably not going to do it anyway, because they do not want to give the tax credit to the families of these lower-income working families.

Once again, the Republicans created this problem because they would not include the child tax credit for these working families, and they are still trying to stop it from becoming law and demanding that more money go to higher income people in order to pay for it.

When is this going to stop? When are we going to wake up and realize that what the Republican leadership is really all about in this tax bill and this series of tax bills is just helping the elite, the wealthy elite?

## WEAPONS OF MASS DESTRUCTION EXIST IN IRAQ

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, no weapons of mass destruction in Iraq? We know to a moral certitude of such weapons. How do we know? Saddam Hussein told us. On December 7 of last year, he told the U.N. that he owned 30,000 chemical weapons, but he forgot where he put them. We have not even found the chemical weapons that Saddam admitted to the U.N. he made. There are over 500 WMD sites in Iraq, and we have inspected less than half of them.

□ 1030

Remember Dr. Hussein Kamel? The U.N. inspected Iraq for 4 years between 1991 and 1995 and found no nuclear program. Dr. Kamel then told us that 40,000 Iraqis worked on nuclear weapons, but our intelligence missed it all.

WMD in Iraq, it is inevitable that a final chapter will be written in this story. As Paul Harvey would say, and then we will say, "and now for the rest of the story."

## PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, a children's health agency has reportedly diverted Federal funds to a study of the sexual predilections of aging men.

Now, the National Institute of Child Health and Human Development has provided more than $137,000 for a 3-year study to provide the most comprehensive picture to date of the sexual behavior of aging men. The grants were sent in two fiscal years to the New England Research Institute to examine trends in a range of sexual behavior.

Good grief, we talk about budget deficits, and we spend our money like this. We should be ashamed. This money was intended to help children affiliated with pediatric illnesses and diseases, not to study sexual habits of America's senior men.

The National Institute of Child Health and Human Development gets my Porker of the Week Award.

## TAX CUT

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I also wish to rise and express my outrage that, in the passing of an irresponsible tax cut, Republicans deliberately prevented families with incomes under $26,625 from receiving a child tax credit.

Here is a family that I represent in my district. They also happen to be a family that sent one of their sons to war. He is still in Iraq. He would not even qualify for a rebate. It is outrageous that 31 percent of California families right now will not be eligible for any tax credit, child tax credit. That is 2.4 million children in California alone, a State that I represent. In my district, one out of every four families will get no child tax credit.

Families like this work hard, pay their taxes, are expecting to get some help from the government, and get nothing. They do not want a handout; they just want to be treated fairly. Yet somehow Republicans found $90 billion to give to 200,000 millionaire families. I do not even have one millionaire family that lives in my district.

This is the wrong thing to do. We need to not declare a war on working-class people.

## CHILD TAX CREDIT

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, I recently listened to many of our friends on the other side of the aisle characterize the tax cuts as misdirected and targeted to the wrong people. According to the Joint Economic Committee, the new tax bill provides the largest percentage reductions in the income taxes of low- and middle-income groups, thereby shifting the tax burden upward.

Low-income families in particular benefit from this economic growth and tax relief package through a number of provisions, including increasing the child tax credit to $1,000. Even families who do not owe taxes may benefit from the tax credit because of the current refundable feature of the credit.

Let us not forget that this group of low-income taxpayers received significant benefit from the tax cuts that passed in 2001, and they continue to benefit from this legislation today.

Mr. Speaker, we cannot continue to punish those who work hard, take risks, and are successful. We need the success of those individuals for the economy to recover. The country needs the jobs that their success will generate.

I remember weeks ago when the folks on the other side of the aisle opposed a tax cut of any kind during the debate on the economic stimulus bill. I believe it is time for some to figure out where they stand today.

## PAYING TRIBUTE TO THE VICTIMS AND SURVIVORS OF BREAST CANCER

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to pay tribute to the victims and the survivors of breast cancer. This Saturday, June 7, the Susan G. Komen Breast Cancer Foundation will sponsor the 14th annual Race for the Cure. Along with Members of my staff, I am entering this race in pursuit of a cure of this rampant disease.

Breast cancer is a disease that has affected the lives of many Georgians and many throughout our Nation. In fact, my wonderful wife of 30 years, Laura, is a breast cancer survivor. I know firsthand the strength and the dignity that she showed throughout this challenge.

I also know all too well the challenges that families face when confronting the harsh realities of breast cancer. But with early detection and aggressive treatment, we know that breast cancer does not mean a life sentence for women.

I am encouraged by the progress that cancer research has made and the struggle to defeat breast cancer. I realize we have a long way to go. But, Mr. Speaker, my wife and thousands of survivors like her are living proof that breast cancer is not an in insurmountable challenge.

## PROVIDING FOR CONSIDERATION OF H.R. 1474, CHECK CLEARING FOR THE 21ST CENTURY ACT

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 256 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 256

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the rule, House Resolution 256. This rule provides for consideration of H.R. 1474, the Check Clearing for the 21st Century Act.

The Committee on Rules on Tuesday afternoon granted an open rule providing for 1 hour of general debate in the House on the underlying bill, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill, and provides one motion to recommit, with or without instructions.

I would like to reiterate to the House my satisfaction in the open rule granted for consideration of the underlying piece of legislation that we are debating today, which is also known as CHECK–21.

CHECK–21 is an important bill, although it may seem a bit confusing at first blush for America's banking customers and check writers. The good news is this bill garnered bipartisan support in both the Committee on Financial Services and the Committee on Rules, and I anticipate the same result as we move forward towards final passage on the floor today.

The legislative work our House of Representatives will complete today builds on the legislative work that was started back in 1987 to foster innovation in the check collection system. The Expedited Funds Availability Act, which became law back in 1987, directed the Board of Governors of the Federal Reserve System to improve our check processing system.

Today we are making logical extensions to the work started in 1987 by using our much-improved electronic transfer technology to make check writing speedier and more reliable for all parties involved.

Mr. Speaker, each check that is written and used for payment must actually make its way back to the check writer's home bank. That is how each bank patron with a checking account gets the check he or she wrote mailed back to them so that it can appear in their monthly statement.

When we stop to think about it, there is a lot of time, money, and effort invested in getting checks back to their home banks. Checks that are written in one corner of our country today will be trucked and flown to their home bank, wherever they reside, all over the country as a normal part of American commerce, a great expense of time and money. Today, American commerce bears the great expense of time and money associated with shipping checks around the country because it is worth it. Checks are an important commercial instrument that help keep our economy moving.

Today, as a cosponsor of the Check Clearing for the 21st Century Act, I am proud to announce the introduction of a new instrument of commerce into the American economy, the substitute check. The substitute check will provide opportunities to greatly decrease the frantic highway and air traffic associated with the gargantuan task of shipping and flying billions of dollars worth of checks around this country every single year.

Thanks to electronic imaging, paper checks have the opportunity to be converted into electronic form, transmitted in seconds to the home bank across the country, and printed out at their final destination as substitute checks.

The bill provides all those institutions that see electronic transfer of commercial paper as the latest wave in modernizing our economic system the opportunity to use substitute checks, but does not require it. That way we all have a chance to ease into the new potential provided by the creation and introduction of substitute checks into the mainstream of commerce.

Finally, Mr. Speaker, I would like to reassure customers that the same protections provided today under the Uniform Commercial Code for paper checks would also apply to substitute checks. Additionally, CHECK–21 provides legal indemnification protection to bank customers for losses arising from the receipt of substitute checks.

CHECK–21 is a great bill, Mr. Speaker. I congratulate the gentleman from Ohio (Mr. OXLEY) of the Committee on Financial Services, the gentleman from California (Mr. DREIER) of the Committee on Rules, as well as the gentleman from Alabama (Mr. BACHUS), who is the subcommittee chairman that is directing this legislation today, as well as all the original cosponsors of this very important bill.

Therefore, Mr. Speaker, I urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, we are here today to consider the rule for H.R. 1474, the Check Clearing for the 21st Century Act. I urge my colleagues to look at this resolution very closely, to study it, because it is a very, very rare specimen.

We all know some of the more famous endangered species, including the Virginia big-eared bat, the buff-headed marmoset, and the yellow-footed rock wallaby; but just as rare is the House open rule. Do not make any sudden moves because we might startle it.

So far this year, the House has considered a total of 38 rules. So far, exactly four of them have been open, four for 38. That is a batting average of .105, which would get us kicked off my son's T-ball team.

This is what passes for democracy around here, which brings us to the rule for H.R. 1474, the Check Clearing for the 21st Century Act. This is an open rule for a noncontroversial bill. The issue for me, Mr. Speaker, is not the rule or the bill, but the fact that this open and fair process is almost never used in this body. Whenever an issue is the least bit contentious, whenever there is even a hint of disagreement about a bill, the majority clamps down on its Members, chokes debates, and forces a closed rule through this House. It is a lousy way to run a legislature, Mr. Speaker.

In the meantime, the Check Clearing for the 21st Century Act, also known as CHECK–21, is a bipartisan bill that will modernize the Nation's check payment system for the 21st century. This legislation will help consumers, businesses, and banks by guaranteeing that check processing and payment will be quicker, and more importantly, lead to more efficient banking.

As many of us remember, the days and weeks following the tragic events of September 11 were filled with confusion in the banking industry. Because many of our planes were grounded, checks were held up around the country. Similar delays occurred during the anthrax crisis.

With the passage of CHECK–21, Congress and the banking industry will harness the innovations of the 21st century so our banking system is not crippled as a result of terrorism, natural disasters, or transportation problems.

□ 1045

In my district, I proudly represent the largest credit union in New England, Digital Credit Union.

According to Mary Ann Clancy, Senior Vice President and General Counsel of the Massachusetts Credit Union League, "Digital has been able to make cleared checks available to members in a more timely, secure and efficient manner ranging from weeks to immediate access. It also helps keep members' information confidential and saves them time searching through piles of checks to balance their checking accounts."

Mr. Speaker, Democrats have no objection to this bill. Check 21 was reported unanimously out of the Committee on Financial Services. The gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), and the members of the committee should be commended for working in a bipartisan way, something the leadership of this House cannot seem to do.

Which, Mr. Speaker, brings us to the Child Tax Credit. As most people know, during their late-night, back-room negotiations on the tax bill, the Republican leadership deliberately dropped a provision that would have helped nearly 12 million children and their families to get the child tax credit.

Their attack on American workers, on those in the middle, on those trying to get into the middle, continues.

Governing is about choices, Mr. Speaker. The Republican leadership chose to keep the tax breaks for millionaires, and they chose to scrap the help for low-income working families.

So at the end of this debate on the rule, I will ask my colleagues to vote no on the previous question. If the previous question is defeated, I will offer an amendment to provide for the consideration of the Rangel/Davis/DeLauro bill to help the people the Republicans would rather leave behind.

In Massachusetts, for example, 225,000 children would benefit from the Democratic bill. Our proposal provides real relief for the people who need it most, not another giveaway for those who need it least. And we actually pay for our tax relief by closing some of the corporate tax-shelter scams that some greedy corporations like to use.

I am not sure if any of my Republican colleagues remember, but they used to think that burdening our children and grandchildren with huge debt was a bad thing.

I know my Republican colleagues would rather not talk about this. I know they would have been happier if their secret agreements would have remained secret. But I will put them on notice. We are going to keep on discussing this issue until you do the right thing. We are going to be here today and tomorrow and next week and next month, and we are going to fight for the people who deserve a helping hand.

The Majority Leader made it quite clear the other day what the Republican priorities are. When asked whether he would consider granting relief to those who had been dropped by the leadership in their secret negotiations, he said, "There are a lot of other things that are more important."

If anyone on the other side of the aisle could name one, I would love to hear it.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The Committee on Rules meets on a regular basis throughout the week, taking important pieces of legislation, hearing debate. It is not unusual for us to be in the Committee on Rules not only at odd hours of the day and night but also to hear hours of testimony from Members of Congress who have important legislation that they wish to bring forward; and I would like to be one member of that committee that stands up and says that I believe that the leadership of the gentleman from California (Mr. DREIER), our chairman, and his balance and wisdom and his dedication to a fair process is something that I believe sets this Committee on Rules up for success every single day. This bill that is on the floor is yet another example of that success that the chairman and this committee achieve.

Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mr. BACHUS. Mr. Speaker, the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Tennessee (Mr. FORD), along with the gentleman from New Jersey (Mr. FERGUSON) introduced this legislation; and the title of this legislation, I think, basically describes what this is all about. It is the Check Clearing for the 21st Century Act. That is what we are doing.

We are replacing what the Chamber of Commerce has described as an antiquated method of presenting and returning checks.

It is amazing to me that we had not taken this step 10 or 15 or 20 years ago. But I do want to commend the gentlewoman from Pennsylvania (Ms. HART), and I want to commend the gentleman from Tennessee (Mr. FORD). I want to commend a bipartisan group of Members who come together to push this legislation and bring it out on the floor today.

This is a model for bipartisanship. There are 33 co-sponsors, Democrats, Republicans. The gentleman from Massachusetts (Mr. FRANK), the ranking member, and the gentleman from Ohio (Mr. OXLEY), both made this a priority.

We have an amendment that was introduced by the gentleman from North Carolina (Mr. WATT) which is included on page 11 in section 3, paragraph E. Part of that language clarifies that nothing in this act shall diminish in any way and everything in this act shall preserve all consumer protections. In fact, we have added consumer protections in this act.

But let me be very brief and say what this does in a nutshell. Americans write 42.5 billion checks a year; and about three-fourths of those checks have to move physically from the bank where they were deposited to the bank where the original maker was, many of them all the way across the country. Most of them travel by air, but a good many of them travel by truck. When they do, they burn oil, making us more oil dependent. This bill as much as anything will help lessen our reliance on foreign oil.

And a lot of people have probably not thought about this, but it is good news for those who travel by air because it will lessen the congestion at our airports. In fact, it is amazing that most Americans do not realize that literally every day tens of thousands of aircraft take to the sky taking back these original checks.

Now, what we are changing today is not something we have not been doing. What the system will go to is actually the system the credit unions in this country have used for over 20 years. So this is nothing new. The credit unions have been using this process. In fact, some of our larger banks by agreement have been doing this process for years without any problems.

The Federal Reserve has urged for several years that we go to this system. It is good for our economy. Not only will it lessen our dependence on foreign oil, not only will it relieve congestion on our highways and airports, but it will also make our process of clearing checks more efficient. In a world economy when we compete with European nations which are already doing this, we do not need costs and burdens to our financial system that they do not have. In fact, we need to have the most efficient system in the world; and, in fact, this legislation will assure that this happens.

In conclusion, we will talk about the nuts and bolts of this legislation in the main debate. We will hear from the gentlewoman from Pennsylvania (Ms. HART) on this legislation. I want to commend the chairman, the gentleman from Ohio (Mr. OXLEY), for making this a priority. I want to commend the gentleman from Tennessee (Mr. FORD) for his leadership on this issue.

In conclusion, I want to commend all the Members of this body for coming together on this important legislation. We built such a consensus piece of legislation that we have the credit unions endorsing this legislation. We have the community banks endorsing this legislation. We have the independent banks endorsing this legislation. We have the largest 100 financial institutions in the country endorsing this legislation. We have the regulators endorsing this legislation. We have the Chamber of Commerce and several consumer groups endorsing this legislation. And I fully expect that the overwhelming vote that this legislation received in the committee will be repeated out here on the floor with a strong bipartisan majority.

I would think that anyone that understands this legislation will vote in favor of it.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, the sort of checks that Americans are interested in hearing about are not the check clearing system technicality but the checks they receive as a result of their hard work or as a result of tax refunds.

This July most all Americans with children will be receiving a check in their mailbox as a result of the child tax credit that we passed some 2 weeks ago. Except for the parents who are in the military, who are in the National Guard who do not make a whole lot of money serving our country, and except for the low-income parents who work hard every day for minimum wage or a little bit above, they and their children will not be receiving these checks.

Why? Six million parents, 12 million of the most deserving people in our country, will not be receiving checks because of a deliberate, secret, backroom deal cut by Republican leadership.

Now, most of my constituents want bipartisan government. They want Democrats and Republicans to work together for the greater good of this Nation. And now that our government is under the control of a Republican White House, a Republican Senate, and a Republican House leadership, people are asking, what decisions are they making?

Well, they are making decisions to leave out 12 million poor children, 12 million deserving folks who need a future in this country; and $400 each would do them a lot of good. It would not only stimulate the economy, it would address the fundamental fairness of that legislation.

Now, many of the folks on the right are saying, well, their parents do not pay taxes. They do pay payroll taxes. They pay property taxes. They pay sales taxes. I dare any of the Members to go to these people and say they do not pay taxes. These are not welfare recipients. These are hard-working people trying to build the American dream, and this House deliberately left out those parents and their 12 million children because we did not have room to fit it into a $350 billion tax bill. All we are asking for is 1 percent of that bill, $3.5 billion to be devoted to the needs of 12 million deserving American kids.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I recall, the debate about this tax bill was all about deficits and all about whether the increase of the debt, the public debt limit was going to be achieved. And what happened is that, as we deliberated about the bill, any motion to instruct conferees from the other party was about those two issues. It was not about the substance of the bill as it related to anything that was contained within or to be talked about by the conferees. But, rather, they were focussed entirely on the debt and the amount of money that would be as a part of bill.

Now we find out that, oh, my gosh, there was a part of this great tax cut that they maybe were for even though they were voting against that. So it is very interesting to hear this debate today.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just remind the gentleman that, unlike the Republican tax bill, we actually pay for this by closing corporate loopholes so we do not add to the debt or deficit.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise in opposition to the rule because the Republican leadership is not allowing us to bring up the Child Tax Credit for these lower-income working families.

Exactly what my colleague from Massachusetts said is certainly true. This provision which the Republicans eliminated because they did not want to help the working class and working people was financially paid for, and, again, we are trying to get it passed again and it is paid for completely by closing up corporate tax loopholes.

The problem is that the Republicans, they just do not want to give it to these working families. Already the other side the other body is saying that they want to add a child tax credit for people at a higher income level, or the gentleman from Texas (Mr. DELAY) has said that he wants to add more tax cuts here for wealthy people and for corporate interests.

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That is the thing that would cause an increase in deficit because they have not paid for it. We are saying, as Democrats, we can pay for this child tax credit for these working families under $26,000-or-so in income annually by closing tax corporate tax loopholes; and the Republicans are saying, oh, no, we cannot do that because the only way we will consider it is if we give some child tax credit to higher-income people or other tax cuts to other wealthy people and millionaires, and we do not care whether we pay for that because we do not have any way to pay for that. That just goes into the deficit.

The hypocrisy is unbelievable. My colleagues should simply admit that the Republicans really do not care about the working people at the lower-income levels. They are not willing to give them any kind of tax credit. They can pass the bill today in the other body and send it over here or vice versa, and it is fully paid for; but they are not going to do it, and I can tell my colleagues there are about 200,000 people, children of soldiers in the Armed Forces, that are also being left out of this.

We did a little analysis and found out that these 12 million children that are left out, a good many of them are children of military personnel. So these guys and their families, they are fighting over in Iraq or they are stationed somewhere in the world and defending the country, and they cannot get a lousy child tax credit. It is outrageous.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

This debate has gone very quickly away from the subject that we had at hand, but I would like to remind my colleagues that tax cuts do work. They get money back to people who are able to utilize them, just like the families that are being talked about here.

The fact of the matter is that this fabulous jobs and growth package that was signed by the President last week has already begun to work in the marketplace. It is seen as a catalyst now for people to want to come and invest more money, not only in this country but also for corporations to have an opportunity to begin employing people, an opportunity for the American people to see the opportunity for them to have jobs and more money back in their pockets; and it is amazing how the debate over all these years and even from just about 10 days ago, May 22, when every single tax cut was bad and every single thing that we would do to take money away from our precious government was seen as a threat to national security, and yet, today, my colleagues on the other side of the aisle are talking about a tax cut that would be necessary to help out the American people again.

That is why we will stay after this. That is why the Republican Party will continue to not only believe in tax cuts that are great for people but an opportunity to give more money back to people who have earned that money and to help out families and children. This is why we have had as part of the bill the marriage penalty because we do not believe that one spouse that works even part-time should be taxed at the highest rate of the household income.

We are proud of what we are doing, and we are going to keep doing it; and so I am pleased to hear my colleagues talk about the need for tax cuts for all Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I just respond to the gentleman that I cannot believe he finally met a tax cut he did not like. Unfortunately, what we are talking about here is trying to help people, low-income workers and their children; and because of the Republicans' late-night maneuver, these people are being denied the tax cut that he says that they are very much dedicated to.

Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the majority party spokesman for the Committee on Rules was somewhat inaccurate in describing our position. The effort that we are engaged in to provide some financial relief to some of the poorest and hardest-working people in this country and their children would not cost the government revenues anymore. It would be balanced.

We find, unlike him, a number of unfairnesses in the Tax Code; and I was struck by, in his conversation, the complete absence of any defense of the decision to deny this benefit to these people.

I came down here today as the ranking member of the Committee on Financial Services to talk about check truncation, but I would agree with my colleagues that fairness truncation is a far more important issue; and that is what we are talking about.

The gentleman who spoke said this is a Republican Party and he is proud of it. I think there is too good of appreciation in the country today of the real differences that exist between the parties. Partisanship is not always a bad thing. There is a legitimate aspect in a democratic society to recognizing differences. The gentleman from Texas is proud that they passed a tax bill that excluded the poorest working people in America.

He said he was proud of it, and I think we are proud on our side to be appalled by it. We are proud on our side to say that we can, without further draining our ability to pay for important public needs, provide help to these lower-income people; and as I said, it is a matter of fairness truncation.

By the way, one of the misarguments that is used to defend stiffing the poorest people in this country when the wealthiest are doing very well is, well, they do not pay taxes. Do people in this Chamber really not notice something called the Social Security payroll tax? In fact, anybody who works pays Social Security payroll taxes. Deductions are made, and in fact, the people who are making $25,000, $30,000, $20,000, they are paying a very large percentage of their income in those taxes.

I hope that we will soon do the noncontroversial bill that allows banks to truncate checks, and I hope we will then undo the Republican decision to truncate fairness and equity even further than it is and use some of the resources that we were able to use for a very large overall tax cut and spend a very few dollars on the poorest people in this country, including children.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

This rule that is before us about check clearing is really something that I think that consumers and the banking community are going to find of interest, and I am sorry that the debate is not on this modernization of the system.

What we are going to do with this wonderful bill that we have before us today is to, once again, prove that an agenda that can move forward problems that are facing the American public, costs that are in its way, inefficiencies in our banking system which is what this bill is about, we are going to solve, be another part of the solution today; and I am very, very proud of not only the gentlewoman from Pennsylvania (Ms. HART), a bright young Member that we have, and the gentleman from New Jersey (Mr. FERGUSON) and the gentleman from Tennessee (Mr. FORD) for bringing this bill, these ideas forward. But I think it shows that, as we talk about and move forward in this great body, the important aspects of that make a difference in America, just like tax cuts; that the American people will see that this House of Representatives not only works, it provides tax relief.

It provides things in our banking system that will keep modernizing America. It will make sure that we are prepared for the future, and as we go past this bill into other areas, whether it be appropriations or working with intelligence or matters of national security, that this House of Representatives every time brings forth a full debate, not only on the issues but makes sure that time is allocated for even the minority party to stand up and to talk about their frustrations.

I think what we are doing today with this bill makes sense. I think the American people see that this House of Representatives and this administration intends to move forward in a proactive, positive way that all Americans can have not only confidence in their government but also confidence in the free market enterprise system that we are so proud of that produces jobs and keeps our economy going.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I congratulate the gentleman from Texas in the discretion he showed in continuing to avoid defending this outrageous decision to stiff the poor people.

As to the check truncation bill, I appreciate his discussion of the work. As the ranking member, let me say I appreciate we have an open rule here. We do have an inverse relationship here. Well, we have two.

One, the poorer a person is, the less fairly they are going to be treated in the tax bill. Secondly, the less important the legislation, the more openhanded the Committee on Rules will be in letting us discuss it.

I am glad that we are bringing this bill forward. I was the ranking member when it was put forward, but I have to tell my colleagues I am glad that it is going to pass; but it probably will not make it into my next biography. I do not expect being remembered as the coauthor of the check truncation bill will be part of my legacy. So I thank the gentleman for his concern.

The reason we are not debating it is very simple. There is nothing left to say. The banks are going to use the different kinds of paper. People will be able to get a record of their checks. That is the end of it.

I understand why the gentleman would rather talk about something else than being unfair to poor people. Unfortunately, there is not enough substance here.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

This Republican House has since 1997 made sure that we reduce taxes on people all across the board; and under this new tax cut that we are talking about, a single mother with two children earning $20,000 will receive over $2,000 in payment from the government with no tax liability, no tax liability and $2,000 back. So we really do care about people. We have reduced the tax burden on the American public and will keep doing that.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman for yielding me the time.

I am sitting through this debate because I am here to talk about the check truncation legislation which we are going to debate shortly. However, my life experience and history of working as a State senator in Pennsylvania and chairing the Committee on Taxation compels me to rise regarding some of the comments made by the other side.

I believe that the general public knows what a tax credit is. However, it is clear to me that the other side of the aisle does not. One must pay taxes, income taxes, in order to receive a tax credit; and in fact, in our tax bill that we passed and fortunately was signed last week, there is an increase in the child tax credit. The general public has asked us for that, and it has been provided.

Those hard-working parents who have been paying income taxes do receive credit, as the gentleman stated, and additional moneys for the raising of their children. Claims have been made that that is not the case, but that is just not true. A tax credit is only paid to those who pay income taxes, and that is exactly what we do.

Also regarding that issue, it is very important for us to note also that since I have joined this body about 2½ years ago, the Republican majority has consistently exempted people who are very low income from paying income taxes. It is important to note that because that is clearly something also that those on the other side of the aisle either are not aware of or have ignored.

Our goal has been to encourage families to keep working, even though they may just recently have left the welfare rolls, even though they may have had a difficulty with a layoff and have taken maybe a more entry-level-related job. Our goal is to make sure that those who work and work hard to support their families have a lower burden. The goal is to encourage them to keep working and be promoted and make more money and eventually become taxpayers.

Once they become income tax payers, they then will qualify for things like tax credits because, like I said earlier, one must pay an income tax in order to earn a tax credit. That is the way it works.

I would also like to note a couple of other things, and I represent a district that is very diverse economically and, unfortunately, has seen more unemployment in the last couple of months. Folks I talk to tell me this, they are very pleased that we have made a very good effort to extend the unemployment which is very important for those who respect working and are not receiving an income.

Our Republican majority has done that several times. We have extended unemployment twice now. We intend to keep watching the economy, try to make it move forward as we have done with this tax bill, which will help employers hire more people and reduce the unemployment rolls. While those good people are still unemployed, we are trying to make sure that they have enough money, and it is extended in our unemployment extension so they continue to support their families until they can find that job.

Finally, I just need to note that the partisan rancor in this body is getting a bit silly. It is disappointing to me as a person who has come to Washington with a lot of positive ideas. I am going to continue to work with those who want to work with us and not create kind of their own version of what passed into law. I am going to continue to work for a positive economy, for growth, for opportunity and for more employment because I know people across the United States need it.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would say to the gentlewoman from Pennsylvania that our side of the aisle would be more than happy to work with her side of the aisle. Unfortunately, we are always shut out of the process; and I would also say to the gentleman from Texas who earlier referred to this Republican House, this is the people's House, something that those on his side of the aisle seem to have forgotten by leaving millions of working families and children out in the cold.

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Mr. Speaker, I yield 2½ minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me this time, and I rise against the rule on this check-cashing bill. And the reason I rise against the rule is because we are not afforded the opportunity in this House to bring up H.R. 2286, the Rangel-DeLauro bill, that would allow us to include all of America's working families in the relief for child tax credits.

Who is left out? Who is left out are people who earn between $10,500 a year and $26,600 a year who have children. The bill that passed last week left them out. The gentleman from Texas is wrong. Democrats did not even know what was in that bill. The ranking member on our sides of the aisle had to find the room the conference committee was being held in. No Democrat read that bill, and we know the Republicans cut a deal.

My Republican colleagues left out working families who live at the bottom of this economy, and they have 19 million children, not a single one of whom are going to get the extra $400 refund, where those checks are going to be cashed out of this government when they are sent out this summer. Not a one. They left out 6 million families, 19 million children.

The Republicans refuse to see them, but we see them. We really believe in not leaving any child behind. But now, Vice President CHENEY, what does he get? He gets $93,700. Republicans are leaving 19 million children twisting in the wind, but that is par for the course. One of their favorite sports is golf. They leave a lot of people out there in the sand traps. But the defining difference between Democrats and Republicans is we include everybody. Everybody.

We think some people got too much out of your bill. Vice President CHENEY does not need that money. He will just go out and buy another yacht. But who do we see this bill leaves out? The bill leaves out moms who work at McDonald's. They will not get any refund from the child tax credit refund. It leaves out the janitors that clean the World Trade Towers who have children. They do not get anything either. And the Republicans' bill leaves out our privates and specialists in the Army, Navy, and Air Force who are at the bottom of the pay scale in our Armed Forces. They will not get the child tax credit refund either.

These folks pay taxes. They not only pay Social Security and Medicare taxes, they pay property taxes, the Federal gas tax, and the cigarette tax. They do not have anybody giving them taxes back. They do not have lobbyists coming in to lobby on their behalf, who are the winners in this bill.

Mr. Speaker, we have a right to include all families. We ought to vote down this rule and demand that the leadership bring up H.R. 2286 to include all of America's children and families.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Prior to 2001, the child tax credit was $500 for an eligible child. The child tax credit was not refundable for most families. However, for families with three or more eligible children the credit was refundable, to the extent the family had payroll liability that was not offset by the earned income tax credit.

What we have attempted to do, and what was signed into law on May 28, accelerates and increases the child credit. Certainly one has to qualify, but the child credit will increase from $600 per child to $1,000 per child in 2003 and 2004, and in 2005 the credit will revert back to its 2001 act-in phase. That means that what we have done is to move forward very quickly an acceleration, because I believe, and my party believes, and this bill believes that it is the right thing to do.

The bottom line is that due to political constraints there was not as much money. So what we did is we moved forward from $600 to $1,000, but it is only good for 2 tax years. We have a lot of work to do, Mr. Speaker; but I am ready to do that work. I think this body is ready to do that work, and we intend to get it done.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume to ask my colleagues to review an editorial from the Washington Post entitled, "Children Left Behind," and also today's New York Times editorial entitled, "The Poor Held Hostage for Tax Cuts," which I now submit for the RECORD.

[From the Washington Post, June 2, 2003]

### CHILDREN LEFT BEHIND

Even for a debate over taxes, the public discussion taking place right now about child credits in the new tax law is particularly galling, hypocritical and ill-informed. The new law bumps up the credit for each child from $600 to $1,000 (though the benefit phases out for families that earn more than $110,000). This increase, part of the 2001 tax law, was pushed forward to this year under the new law. The 2001 law also allowed some low-income families that don't pay income taxes to benefit from the child tax credit; these families receive money from the government, just as with the Earned Income Tax Credit. Those amounts were set to increase in 2005—but that part was not speeded up under the new law. If it had been, it would have cost $3.5 billion, or 1 percent of the supposed cost of the tax bill, and would have helped almost 12 million children whose families make between $10,500 and $26,625.

Stiffing these children was not a last-minute oversight or the unfortunate result of an unreasonably tight $350 billion ceiling. "Adjustments had to be made," a spokeswoman for the House Ways and Means Committee said, as if those on her side would have preferred otherwise. In fact, the administration didn't include this provision in its original, $726 billion proposal. The House didn't include it in its $550 billion version. The Senate Finance Committee didn't include it in its original package. Most Republicans wanted relief only for those who pay income tax. As White House spokesman Ari Fleischer framed it, "Does tax relief go to people who pay income taxes . . . or does it go above and beyond the forgiving of all income taxes, and you actually get a check back from the government for more than you ever owed in income taxes?"

But it's not as if these workers pay no federal taxes; they shell out 7.65 percent of their earnings in Social Security and Medicare payroll taxes. More fundamentally, if it makes sense to help families with children, why shouldn't the aid go to those who need it most? If speeding up the tax credit makes sense for some, why not for everyone? If one goal of the tax bill is to pump money into the economy quickly, why not give it to those most apt to spend it? Such relief could be paid for by cutting the rates for those in the top brackets (people with taxable income of more than about $312,000) just a smidgen less. These folks already get the biggest rate reduction of all, from 38.6 percent to 35 percent; merely edging that up to 35.3 percent would have paid for the extra child credits. If anything, the question lawmakers should consider is why those who make less than $10,50 shouldn't be entitled to some credit as well. The theory has been not to subsidize those who choose to work only part time, but in this economy any number of people are working fewer hours because that is all that is available. Some 8 million children live in families who earn below the current threshold.

Indeed, the discussion should be broadened to include the question of why the bill, in a similar fashion, speeded up marriage penalty relief for everyone but the bottom tier, those who qualify for the Earned Income Tax Credit. This is arguably even more unfair than the failure to accelerate the entire child credit: the backwardness of the social policy—discouraging marriage—is obvious, and the marriage penalty is particularly steep in this category. For example, two single parents, each with one child and each earning $10,000, would receive about $2,500 through the tax credit; if the married, their tax benefits would drop by more than $1,000.

Democrats, who somehow never managed to get traction with an argument about the unfairness of the cuts before the bill was passed, are seizing on the new attention to the child credit. Today Sens. Blanche L. Lincoln (D-Ark.) and Olympia J. Snowe (R-Maine) plan to introduce a bill that would accelerate the credit, paid for by curbing corporate tax shelters and imposing some user fees. We're looking forward to the debate.

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[From the New York Times, June 5, 2003]

### THE POOR HELD HOSTAGE FOR TAX CUTS

Millions of low-income families were cruelly denied child credits in the administration's latest detaxation victory. Now, with consummate arrogance, Republican leaders in Congress are threatening another irresponsible tax-cut bidding war as the price for repairing the damage. "There are a lot of other things that are more important than that," said Tom Delay, the House Republican majority leader, signaling that revisiting the child-care issue will open the door to even worse deficit-feeding tax-cut plans. Mr. DeLay at least offered unabashed candor instead of the crocodile tears of other Republicans. They are now embarrassed over the furor that low-income families were deleted in the final G.O.P. deal on the tax-cut boon weighted so shamelessly last month to favor the wealthiest Americans.

There is a clear and sensible solution to restore the $400 child-credit increase to the working poor in a Senate proposal from Blanche Lincoln, Democrat of Arkansas, and Olympia Snowe, Republican of Maine. Their measure, which would cost $3.5 billion and help nearly 12 million children, would be paid for by eliminating some of the tax-shelter abuses that fed the Enron scandal.

Republicans are scrambling for political cover now, fearing the wrath of the mythic soccer-mom voting bloc next year. But the rival child-care solution being offered by Senator Charles Grassley, Republican of Iowa and the finance chairman, introduces a whole new scale of irresponsibility to the tax-cut games. This would expand the credit to 6.5 million low-income households, although not to minimum-wage earners of less than $10,500 a year. But at the same time, the upper-bracket limit would be generously, gratuitously raised another $40,000 to benefit families earning up to $189,000, hardly the neediest among us. Plus the credits would be made permanent instead of temporary, as currently enacted.

This makes it a $100-billion-plus budget-busting measure lacking the cost offsets of the sane and prudent Lincoln-Stowe approach. The fiction of Republican leaders' promises to contain the deficit damage of their tax cuts is becoming clearer with each wad of debt rolled onto future generations.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I also rise today to voice my strong opposition to this rule. There is a lot of talk about what the recent tax cuts would do for our economy and for working families, and I would like to talk a little bit about what they will not do.

The $350 billion in tax cuts leaves out working families, in particular, families that make anywhere between $10,000 and $26,000. They will not qualify for a child care tax credit. I ask my colleagues to look at this photograph that I have here. This is a working family, a representation of a family that lives in my district. They make $24,000 a year. They will not get a rebate. They have a son that is serving in our war, that is serving in our war in Iraq; but he will not get any benefit from this tax cut.

Let us really talk about working families and what they do for our economy. They do pay Social Security taxes, they do pay sales taxes. In fact, they are taxed so much that they are looking to us as representatives of this House to do the right thing. One million children in military families, like these families, will get no tax break or credit. This is wrong.

We know that somehow the Republicans found $90 billion to give to 200,000 millionaire families. Imagine that. That money will not make it to my district because I do not have a single millionaire that lives in my district. We have people that make less than $20,000, so they do not get the benefit of that money.

Republicans say this is class warfare that we are discussing. Look at the facts. The money does not come home to the districts that send money here to Washington because our Republican colleagues are sending it to their friends. In fact, in California, 31 percent of California families will not receive any child tax credit, and that includes 2.4 million children in California alone. Forty-seven percent of those Californians will get a total tax credit of less than $100; $100 does not even help to pay rent in my district, where an apartment goes from $800 to $1,000.

I urge Members to vote "no" on the rule. Let us do a child tax credit that is fair for working families.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, the first time I got up, I talked about the subject at hand, and that was Check-21. But I do want to address what the Democratic Members have talked about, and that is the recently passed tax cut.

One would not think there would be such an uproar from the other side because, in fact, the bill we passed exempts 3 million-plus low-income workers from any Federal tax liability. But there is still an uproar. It increases the child tax credit from $600 to $1,000. But there is still an uproar. It actually gives back, and only in Washington could you give back a tax refund above what people pay in, but it actually gives back $2,000 more to low-income families with children than they paid in; yet there is still an uproar.

Why the uproar? Because the other side wants to take tax money, taxpayers' money that was paid in, and pay it back to people who did not pay taxes. In other words, an individual paying in $1,500 ought to get back $3,500. Well, let me tell my colleagues that there is only one problem with that, and that is who pays the $2,000? The answer is the middle class.

In Alabama, if my colleagues talk to my constituents and say to them that they are going to pay back $2,000 to people who did not pay taxes, with their tax dollars, because they have children, they are going to call that welfare. And that is exactly what it is. When we pay folks because they have children, and we pay them back $4,000 just because they have children, not in money they paid in but with someone else's money, that is welfare.

The other side is still upset that we cut welfare several years ago, and they want to use this as an opportunity to start a new welfare program and to fund it out of middle-class taxpayers' pockets.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, yes, there is an uproar; and, yes, we are appalled. We are appalled that the children of 12 million working families have been excluded from this bill. They are quite content to give $93,000 in tax cuts to the very wealthy millionaires; but we have 12 million children who have been excluded, 196,000 from my State of Maryland. Yes, there is an uproar. There is something fundamentally wrong with that.

What the Republicans are trying to tell Americans is that these people do not pay taxes. Oh, yes, they do. Number one, they work every day. Every one of these families works every day. Number two, they pay property tax, sales tax, entertainment tax, and they pay all the other kinds of taxes. Importantly, many of these people are in the military. They are privates, they are grunts, they are the people who do the dirty work to defend our country. Yet our Republican colleagues say it is okay to give a millionaire $93,000 in tax cuts, but it is not okay to give someone making less than $26,000 a tax break.

Mr. Speaker, I do not call that welfare; I call that democracy. We are Democrats. Every time we talk about this issue, the Republicans want to say that is class warfare. Yes, that is class warfare. But let me talk about that class. It is a class composed of people who work every day and make less than $26,000 a year. They have 12 million children, and they are not going to get the benefit of tax relief.

Republicans want to talk about putting money back into Americans' pockets. What about the class of Americans that work every day but do not get the benefit of this big $350 billion tax deal? This tax deal gives a $90,000 tax cut to millionaires, but they cannot give $1,000 to a family that works every day and has a child. My colleagues have the audacity to come on this floor and say it is welfare. Yes, there is going to be an uproar. Yes, I am appalled, because it is undemocratic, it is unfair, and it is disgraceful.

All my Republican colleagues want to do is give more money to the very rich; and when we tell them that people are working and need a tax break, they cannot see fit to do it, particularly when some of those people are in our military. It is a disgrace. Let us reject the Republican approach.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, can you inform us how much time is left on both sides?

The SPEAKER pro tempore (Mr. SWEENEY). The gentleman from Massachusetts (Mr. McGOVERN) has 10 minutes remaining, and the gentleman from Texas (Mr. SESSIONS) has 4½ minutes remaining.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, it seems as if we have hit a nerve here. We are supposedly talking about a bill that would make it easier to get checks, and the Republicans are clearly embarrassed that there is a whole lot of people, in fact 12 million children, whose families are not going to get checks. They know darn well that that provision that would have sent the check was in the legislation in the Senate, and in a late-night deal that money was taken out.

Here is one of the families. They live in my district. It is Maria, that is the mom, Alma and Elia Narvaez. They are not going to get a check. They are one of the 6.8 million families that thought they were going to get one, but they are not. Along with them, as has been pointed out, there are going to be a million children whose families were going to get checks of people in the military, our young men and women who went off to serve, the low-level private first class. They are not going to get a check.

So it is not just an uproar from this side of the aisle; there is an uproar going on in the country right now.

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We read about it in the press, and we hear about it from our constituents. So who is getting the money?

They are talking about it only goes to taxpayers and ask these people if they pay taxes, but who is getting the money?

Well, let us look at the Bush cabinet. We are talking about Treasury Secretary John Snow. He was the CEO of the CSX Corporation, a corporation that paid no Federal income tax in 2001, 2000, and 1998. Do Members know how much he is going to get in a tax break? He is going to get $330,000 a year in dividend capital gains tax cuts. That is more than Maria Narvaez makes in 16 years. That is his tax cut for 1 year, what she makes in 16 years.

Think about it another way, what the Secretary of the Treasury gets, $330,000 in 1 year in a tax break, 1,000 families could get a check. Members decide what is fair.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, let me preface by saying I rise in support of the rule and rise in strong support of the bill and thank the gentlewoman from Pennsylvania (Ms. HART), the gentleman from Ohio (Mr. OXLEY) and the gentleman from Alabama (Mr. BACHUS) for all of their hard work.

In light of the conversation that is occurring, there has been a lot of back and forth. I rise just to say two things: One, this really represents the difference in priorities between the two parties. While one cannot dispute that the bill that passed here a few nights ago in the form of a jobs bill or a tax cut bill, whatever Members choose to call it, the President has suggested that his tax bill will produce a million jobs, so I have taken to calling it a jobs creation bill.

The reality is the bill cuts taxes for some people but not enough people. The $3.5 billion that was taken out of the bill, tax cuts that were removed from the bill to make room for other tax cuts, my side characterizes it as tax cuts for wealthy Americans. The other side characterizes it differently.

The reality is $3.5 billion was taken out of the tax cut that would have gone primarily to families who earn under $25,000 a year. It is suggested that up to 12 million children will lose out.

The gentleman from Alabama (Mr. BACHUS) is my friend, but I take issue with one characterization. This is not a welfare program. These people earning under $25,000, they work. Some may work not only in the military but here on this Capitol Hill where we work day in and day out. I believe people who work day in and day out deserve a break.

Not only do these people need it to help feed their families and pay their higher energy bills, they will also spend it in ways that will help rejuvenate this economy.

A point was made about the middle class, and I will submit for the RECORD yesterday's Washington Post piece that shows numerous studies indicate that the middle-class tax share is set to rise after the passage of the 2001, 2002, and 2003 tax bills. We may not like this, but these are the facts. It reports that people earning between $28,000 and $337,000 a year will end up paying a higher share of taxes than any other group of Americans after the passage of the 2001, 2002 and 2003 tax bills.

Mr. Speaker, I hope that my friends who label this as an effort to increase welfare will take a look at the facts of the tax bills that this Republican House and Republican Senate have passed.

[From the Washington Post, June 4, 2003]

### MIDDLE CLASS TAX SHARE SET TO RISE

(By Dana Milbank and Jonathan Weisman)

Three successive tax cuts pushed by President Bush will leave middle-income taxpayers paying a greater share of all federal taxes by the end of the decade, according to new analyses of the Bush administration's tax policies.

As critics of the tax cuts in 2001, 2002 and 2003 have noted, the very wealthiest Americans—those earning $337,000 or more per year—will be the greatest beneficiaries of the changes in the nation's tax laws. And, as administration officials have argued, low-income taxpayers will also enjoy a disproportionately lighter tax burden.

The result is that a broad swath of lower-middle, middle- and upper-middle-income people, as well as some rich Americans, will carry a greater share of the federal tax burden after the laws passed in the past three years are fully implemented. While taxes are scheduled to decline for all income groups, those earning more than $28,000 but less than $337,000 will end up paying a greater share of the taxes than they did before the changes.

The findings, by two groups that have been critical of the Bush administration's tax policies, add a new wrinkle to the increasingly contentious debate over the fairness of Bush's tax policies and which income groups would benefit most.

Liberal groups have argued that the Bush administration is penalizing the poor while rewarding the rich. In part to answer those critics, Republicans have targeted the poor with expanded tax refund checks for families with children, a new 10 percent tax bracket and a larger earned-income credit for married couples who are poor.

The result may be a surprise to both sides: By the end of the decade, the middle class will be picking up a greater share of the government's tab.

"It's hard to get a lot of progressivity at the very top," said R. Glenn Hubbard, the architect of Bush's most recent tax cut proposal and a former chairman of the White House Council of Economic Advisers. By slashing taxes on dividends, capital gains and inheritances, the cuts ensure that tax burdens will no longer rise consistently with income, as they would with a perfectly "progressive" system. "But," Hubbard added, "we've very much retained progressivity overall because so much money was dumped into the bottom rates."

The two studies focused on separate issues. Citizens for Tax Justice examined the percentage changes in total federal taxes that would be paid by different income groups through 2010. The Tax Policy Center, jointly run by the Brookings Institution and the Urban Institute, looked at the share of federal taxes that would remain for the various groups once those changes are fully phased in. But the studies reached similar conclusions.

Citizens for Tax Justice found that for the lowest fifth of taxpayers—those earning below $16,000—federal taxes would fall 10 percent between now and 2010, while federal taxes for those in the second quintile—earning between $16,000 to $28,000—would fall 12 percent. At the other end of the scale, the decline for the top 1 percent of taxpayers—those making $337,000 and up—would be 15 percent.

In contrast, for taxpayers earning between $45,000 and $337,000, the decline would be 7 percent, less than half the cut reaped by the very wealthy.

Citizens for Tax Justice assumed that those provisions in the tax laws scheduled to expire before 2011 would expire as scheduled, although administration officials have said they are determined to make those changes permanent.

The Tax Policy Center assumed that all proposed tax cuts would become permanent. It found that the share of federal taxes paid by the top 1 percent of taxpayers would drop to 22.8 percent of the total in 2011, from 24.3 percent today, while the share paid by the lowest 40 percent would fall to 2 percent, from 2.2 percent.

All others would have a slightly larger proportion of the federal tax burden in 2011 than they do today. For families earning between $22,955 and $80,903, their share of federal taxes would rise from 25.5 percent to 26.1 percent.

Both groups included all federal income, payroll, corporate and estate taxes; Citizens for Tax Justice also included excise taxes.

Treasury Department officials said the studies are skewed because they include Social Security and Medicare payroll taxes, which the tax cuts did not seek to reduce. Pamela F. Olson, the assistant Treasury secretary for tax policy, said that if Social Security taxes are included, then Social Security benefits should also be measured. "Then you would have a very progressive system," she said.

Instead, Olson pointed to the Treasury's analysis of the impact of successive tax cuts on individual income taxes only. In that analysis, all taxpayers with less than $100,000 in income are shown to be paying a smaller percentage of their income in taxes than they did before Bush took office. Households earning $100,000 or more are now paying 73.3 percent of federal income taxes, up from 70 percent.

Figuring out whether tax policy benefits the wealthy or the poor is a hotly disputed subject. Liberals favor a progressive tax system in which households pay higher tax rates and a higher share of their total income as they climb up the income ladder. By that measure, the Bush tax cuts have made the tax code less progressive. By 2011, the poorest taxpayers' after-tax income will have risen only 0.3 percent, according to the Tax Policy Center, while household income for the richest 1 percent of taxpayers will have jumped 8.6 percent.

Conservatives say the better measure is which group winds up paying a greater proportion of the tax burden after the tax cut. The rich may get the largest dollar benefit from the tax cuts, but the top 20 percent of households will still be paying 71.5 percent of all federal taxes in 2011.

Conservatives and liberals alike agree that Bush's tax policies have shifted more of the tax burden to the middle class. Kevin Hassett, a conservative economist with the American Enterprise Institute, said it "makes complete sense" that this would happen as a result of Bush's policies.

Changes such as the elimination of the estate tax and the reduction of the stock-dividend tax disproportionately benefit the wealthiest 1 percent, who have the largest amount of assets and capital. Those at the other end of the income spectrum benefit disproportionately from targeted tax cuts such as the child tax credit.

With the biggest gains going to the wealthiest and to low-income taxpayers, those in the middle inevitably get a higher tax burden because they don't qualify for the targeted tax breaks that go to the poor or the investment-related tax breaks that go to the wealthy. "The middle class is predominantly labor income," Hassett said.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, it is shameful enough that the Republican leadership in Congress has chosen to gamble our children's future on a risky and unsustainable tax scheme such as the one signed into law just last week. But what is even more shameful is that the Republicans sold out the very men and women who recently fought for our country in Iraq by cutting many of them out of that tax cut.

That is right. Only hours before Congress was set to vote on President Bush's big tax giveaway, Republicans cut out provisions to expand the child tax credit for working families in order to give the President's wealthy friends a bigger tax cut. The child tax credit provisions Republicans erased would have benefited millions of working families, including many families of Americans soldiers, sailors, airmen and women just as they return from war. This is outrageous, and my outrage grows when I hear Members of the other party's leadership suggesting that this is grounds to write another tax bill for wealthy investors and accuse us of a new welfare scheme. How can they in all honesty stand on this floor representing the United States and say that kind of thing?

Mr. Speaker, I appeal to Members to fix this problem immediately. This House vote to restore the deleted provisions that would help millions of Americans and their children is one that needs to be taken immediately, so please bring H.R. 2286 to the floor.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I have been listening with a lot of interest to this debate concerning aspects of the Jobs and Growth Act, a bill that I was happy to cosponsor. America needs jobs, needs growth, but I think some on the other side of the aisle forget where jobs come from. Jobs do not come out of this United States Congress. They do not come out of Washington, D.C., or out of the Federal Government. If we want jobs, the people who need tax relief are job creators. Often when I listen to some of the rhetoric on the other side of the aisle, it is as if these people love jobs, but they hate job creators.

Another point, tax relief ought to be for taxpayers. We have a welfare system. I decline those who would take our Tax Code and turn it into a welfare system. We already have a welfare system; and as Republicans have controlled Congress, we have managed to move people off welfare and onto work. This is an excellent debate because it shows the clear differences between the two parties. It is as if the other side will not be happy until everyone is dependent upon a government check. We will not be happy until every American has an opportunity to have a paycheck, and that is a clear difference between the two parties.

So what we need to do once again, if we want to have jobs, we need to give tax relief to job creators. If we want to be fair, we need to give tax relief to taxpayers. That is the difference here, Mr. Speaker.

Mr. McGOVERN. Mr. Speaker, I yield 10 seconds to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. I can sit and listen to a lot of this, and I have a lot of friends on the other side of the aisle. But let us be fair. These people making less than $25,000 a year get up and go to work just like you and I do every single day. They pay a payroll tax which is the highest tax paid by 82 percent of Americans. So the other side of the aisle can label us not being for tax cuts if you choose, but do not call this a welfare plan. This is a plan designed to help people who go to work day in and day out but who earn under $25,000 a year.

Mr. SESSIONS. Mr. Speaker, I would like to inquire as to the time remaining.

The SPEAKER pro tempore (Mr. SWEENEY). The gentleman from Texas (Mr. SESSIONS) has 2½ minutes remaining. The gentleman from Massachusetts (Mr. McGOVERN) has 4¼ minutes remaining.

Mr. SESSIONS. Mr. Speaker, I will allow the minority the opportunity to consume their time, and then I will close.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, it is unfortunate that the gentleman from Texas (Mr. HENSARLING) who had time remaining would not yield to defend his remarks. He did not have the courage to yield to the gentleman from Tennessee (Mr. FORD) who asked him to do so.

Mr. Speaker, as Americans picked up their newspapers this morning, in USA Today they could read about the controversy about Sammy Sosa or the tragedy of Martha Stewart. As they thumbed through the newspaper, they would also read something else, they would read that the child tax credit is not available to 250,000 of our veterans. One in five children in the military will not get the tax credit. Some 750,000 veterans, veterans, their children will not get this tax credit.

It is a shame. How did this happen? How did 250,000 children of active duty veterans, people fighting for this country, their children will not be eligible for the child tax credit?

Let me set the stage. It is late at night. The Republicans are arguing over tax cuts. Some people want to defend the corporations that go to Bermuda, other Members want to defend millionaires. Vice president DICK CHENEY is running between the Republican factions. It is all in the record. He is putting out fires. He has to make a decision: Do you help these veterans? Do you help these active duty people with their children, give them the tax credit? Or, Vice President CHENEY, if he does that, he will only get $93,000 in tax cuts. If he gives it to the children of hard-working American families earning under $26,000, DICK CHENEY will have to take a reduction. He will only get $88,000.

DICK CHENEY is now the chief negotiator running between the House and the Senate. He is running between the extreme position of the House, Republicans who say no tax credits for these children, and the Senate which voted to give tax credits to the children. DICK CHENEY does not know what to do. What does he do?

He decides he is going to give himself a $93,000 tax cut; and these kids, it is tough. But one would have thought, Mr. Speaker, one would have thought that a former Secretary of Defense would have just dropped off a little change to the troops, to their families and to their children, and to the veterans and their families and their children. It would not have cost DICK CHENEY much. If he just took care of the children, he would have still gotten over $90,000 a year in tax cuts. He could not see it.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair must remind the Member to refrain from making personally offensive remarks concerning the Vice President.

Mr. GEORGE MILLER of California. Mr. Speaker, I am just reporting what has been reported in the press.

### PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from California yield for that purpose?

Mr. GEORGE MILLER of California. Yes.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Mr. Speaker, I did not hear the gentleman from California say anything personally offensive to the Vice President. I wonder when we are being told that something was personally offensive to the Vice President, what would that be? He may be more thick-skinned than you give him credit for, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California leveled an innuendo of pecuniary gain.

Mr. FRANK of Massachusetts. So the ruling is or the indication is that any suggestion that the Vice President might be interested in making money would be personally offensive?

Mr. SESSIONS. Mr. Speaker, regular order.

The SPEAKER pro tempore. The Chair would need to hear the remark in context.

The gentleman from California (Mr. GEORGE MILLER) may proceed in order.

Mr. GEORGE MILLER of California. Mr. Speaker, the context is this: When the Vice President went into the room, the children of veterans and active duty service people had the tax credit. When he left the room, he had the big tax cut; they had nothing.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will be asking for a no vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule.

My amendment will provide that immediately after the House passes the Check Clearing for the 21st Century Act, it will take up H.R. 2286, the Working Families Tax Credit Act of 2003. The Rangel Working Families Tax Credit bill will give immediate help to more working families by providing the child tax credit to an estimated 19 million additional children. It will also help families of soldiers in combat by extending the child tax credit to them, and it will speed up the marriage penalty relief to lower-income working couples.

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It does not increase the deficit, not by one dime. It is entirely paid for by closing the shameful corporate loophole that allows corporations to move offshore simply to avoid paying taxes.

Let me make very clear that a "no" vote on the previous question will not stop the consideration of the Check Clearing for the 21st Century Act. A "no" vote will allow the House to vote on both the check bill and the tax fairness bill. However, a "yes" vote on the previous question will prevent the House from voting on this bill and the child tax credit for working families. I urge a "no" vote on the previous question.

The time to fix this is now. These hard-working taxpayers were left behind, deliberately cut from the tax bill in the middle of the night by the Republican leadership. That is wrong. That is also cruel. These are taxpayers. These are taxpayers. These are workers. I urge my colleagues to do the right thing. Let us come together in a bipartisan way to right a terrible wrong.

I ask unanimous consent, Mr. Speaker, that the text of the amendment and the description of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

We are having this debate on the rule for CHECK-21. It quickly went to child tax credits.

I include for the RECORD information on this from the Committee on Ways and Means.

EXAMPLES—REFUNDABILITY OF CHILD CREDIT FOR 2003

| | Pre-2001 Law | 2001 Law | 2003 Law |
|---|---|---|---|
| EXAMPLE 1: MARRIED COUPLE EARNING $30,000 WITH 3 CHILDREN | | | |
| Tax Liability Before Credits: | | | |
| Earnings | 30,000 | 30,000 | 30,000 |
| Standard deduction | (7,950) | (7,950) | (9,500) |
| Personal exemptions | (15,250) | (15,250) | (15,250) |
| Taxable income | 6,800 | 6,800 | 5,250 |
| Marginal tax rate | 15% | 10% | 10% |
| Income tax liability | 1,020 | 680 | 525 |
| Payroll tax liability | 2,160 | 2,160 | 2,160 |
| Child credit | 1,500 | 1,800 | 2,475 |
| Earned income credit | 782 | 992 | 992 |
| Tax Liability After EIC and Child Credit: | | | |
| Income tax liability | 0 | 0 | 0 |
| Payroll tax liability | 898 | 48 | 0 |
| Payment from government | 0 | 0 | 782 |
| EXAMPLE 2: SINGLE MOTHER EARNING $20,000 WITH 2 CHILDREN | | | |
| Tax Liability before Credits: | | | |
| Earnings | 20,000 | 20,000 | 20,000 |
| Standard deduction | (7,000) | (7,000) | (7,000) |
| Personal exemptions | (9,150) | (9,150) | (9,150) |
| Taxable income | 3,850 | 3,850 | 3,850 |
| Marginal tax rate | 15% | 10% | 10% |
| Income tax liability | 578 | 385 | 385 |
| Payroll tax liability | 1,440 | 1,440 | 1,440 |
| Child credit | 578 | 1,200 | 1,335 |
| Earned income credit | 2,888 | 2,888 | 2,888 |
| Tax Liability After EIC and Child Credit: | | | |
| Income tax liability | 0 | 0 | 0 |
| Payroll tax liability | 0 | 0 | 0 |
| Payment from government | 1,748 | 2,263 | 2,398 |

COMMITTEE ON WAYS AND MEANS

CHILD CREDIT REFUNDABILITY—FACT SHEET

What is a refundable credit?

Most tax credits are nonrefundable. In other words, individuals are eligible for the credit only to the extent they have income tax liability. A credit is refundable if it is payable to individuals who have no income tax liability. The "refundable" amount of the credit is the amount that exceeds the individual's income tax liability.

What was the child credit prior to 2001?

Prior to 2001, the child credit was $500 per eligible child. The credit was not refundable for most families. However, for families with 3 or more eligible children, the credit was refundable to the extent the family had payroll tax liability that was not offset by the Earned Income Credit (EIC).

How was the child credit expanded in 2001?

The Economic Growth and Tax Relief Reconciliation Act of 2001 significantly expanded the child credit in two important ways:

(1) The law gradually increased the credit from $500 to $1,000. The credit was $600 for 2003 and was scheduled to reach $1,000 in 2010.

(2) The law made the child credit partially refundable for all families with children—not just those with 3 or more children. The credit is now refundable by an amount equal to 10% of the family's earned income in excess of $10,000 (Families with three or more children get the greater of payroll tax liability or 10% of earning income over $10,000). The $10,000 threshold is indexed annually for inflation (it is $10,500 for 2003), and the 10% refundability rate will increase to 15% in 2005.

How was the child credit expanded in the Jobs and Growth Law of 2003?

The Jobs and Growth Tax Relief Reconciliation Act of 2003, which was signed into law on May 28, accelerates the increase in the child credit. The credit will increase from $600 per child to $1,000 per child in 2003 and 2004. In 2005, the credit will revert to its 2001 Act phase-in schedule, and the 10% refundability rate will increase to 15%.

Who will benefit from the new law?

According to the Joint Committee on Taxation, 44 million children (27 million families) will benefit from the acceleration of the increase in the child credit. Some of these children will receive larger refundable credits because of the new law.

Criticisms from the Very Liberal Center on Budget and Policy Priorities

The Center on Budget and Policy Priorities (CBPP), an extremely far left political organization, recently released a "report" arguing that 12 million children would receive more benefits if the new law included a provision to accelerate the increase in the refundability rate from 10% to 15%. Of this 12 million, 8 million receive no new benefits under the new child credit law and 4 million would receive higher benefits if the refundability were accelerated. However, several factors should be kept in mind.

The new tax law includes several provisions that would benefit low-income families. The expansion of the 10% tax bracket and the increase in the standard deduction for married couples are both targeted to low- and middle-income families. Plus, $10 billion in State aid was directed to Medicaid, the health care program for the poor.

The new tax law takes an additional 3 million low-income families off the tax rolls entirely.

The child credit provision in the new law tax is refundable to the extent of 10% of earned income in excess of $10,500. In 2005, the 10% rate will increase to 15%.

Accelerating the increase in the refundability rate from 10% to 15% would affect families who pay no income taxes. In fact, these families generally have negative income tax liability because they are already receiving government payments from the Earned Income Credit and the refundable child credit that was enacted in 2001.

Expanded refundability was not included in President Bush's $726 billion tax proposal; it was not included in the $50 billion tax proposal that passed the House, and it was not included in Chairman GRASSLEY's mark. Instead, expanded refundability was added during the Senate Committee markup as a member item. With the exception of State aid, the final conference report does not include any narrow items or revenue raisers that were added in the Senate.

Expanded refundability would not benefit all children—14 million children would be left out. These children would continue to be left out because their family income is so low (less than $10,500 of earned income) that they pay no income tax and quality for many other anti-poverty programs or these families' incomes are too high (more than $75,000 of Adjusted Gross Income for single parents and $100,000 for married couples with children).

The partisan Democrats at the Center on budget and Policy Priorities vehemently opposed any tax cut of any kind during the debate on the growth bill. Now they are arguing that the tax cut wasn't large enough for families who don't pay income taxes in the first place.

Congress needs to expeditiously consider a significant expansion of the child tax credit.

Mr. Speaker, the American system which we are all a part of and which we support works. It works because we allow the free enterprise system to employ people, to have our economy work; but the tax policy that we have in this country is repressive. Too many people are paying too much in taxes and that is why we have had continuing tax relief. But in the overall system, if you just look at a book that was called "The Myth of the Rich and Poor in America," which was published several years ago, it talked about 76 percent of those who were considered poor in the eighties became the middle class in the nineties. That was because here in America, we have a system, a system that is fair for people, that if they get up and go to work, as has been suggested that a number of people do, they will find in time that they will be a part of the American Dream, a system that works. I believe that the tax cut bill of the President's growths and jobs package is the right thing to do. I believe that our Check-21 bill is another example of the things that this body continues to maintain.

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION FOR H. RES. 256—RULE ON H.R. 1474 CHECK CLEARING FOR THE 21ST CENTURY ACT

At the end of the resolution add the following new section:

"SEC. . Immediately after disposition of the bill H.R. 1474, it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2286) the Working Families Tax Credit Act of 2003. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the Chairman and ranking Minority Member of the Committee on the Ways and Means; and (2) one motion to recommit with or without instructions."

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 220, nays 198, not voting 16, as follows:

[Roll No. 243]

YEAS—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield

Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—16

Burton (IN)
Carson (OK)
Cox
Dicks
Eshoo
Gephardt
Lantos
Larson (CT)
Lewis (KY)
Lofgren
McInnis
Moore
Ryan (WI)
Smith (WA)
Toomey
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1208

Mrs. LOWEY changed her vote from "yea" to "nay."

Mr. REYNOLDS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1329

Mr. STUPAK. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1329.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## GENERAL LEAVE

Mr. BACHUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1474.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

## CHECK CLEARING FOR THE 21ST CENTURY ACT

The SPEAKER pro tempore. Pursuant to House Resolution 256 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1474.

☐ 1210

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alabama (Mr. BACHUS) and the gentleman from Massachusetts (Mr. FRANK) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Pennsylvania (Ms. HART).

(Ms. HART asked and was given permission to revise and extend her remarks.)

Ms. HART. Mr. Chairman, I rise in support of H.R. 1474.

A lot of people are not familiar with the legislation. We have been calling it "check truncation." The official title is Check Clearing for the 21st Century Act. Our truncated name is CHECK–21.

This legislation holds the promise of a more efficient check collection system by removing legal barriers to the full utilization of new technologies. It is a win for consumers. It is a win for the financial services industry. It will empower banks to help prevent fraud. It will empower consumers to have more control over their accounts and more efficiency in the transfer of their funds.

Our current check system's legal framework has not kept up with technological advances and has constrained the efforts of many banks to use innovations like digital check imaging to improve check processing efficiency, providing improved service to customers and substantial reductions in transportation and other check processing costs.

This digital check imaging looks like a check. It simply is a copy that is transferable digitally, transferable more quickly, than a paper check. It also can be copied and utilized just like a canceled check.

It is important to implement the technological advances made in the field of payment systems so that we provide customers with expedited access to capital, to credit, yet they will be ensured that they are protected from fraud.

This legislation permits banks, credit unions and other financial institutions to truncate checks, just simply not have to transport that canceled check. It allows them to process and clear checks electronically, without moving those paper checks to clearinghouses and returning the original cancelled checks to customers.

☐ 1215

The problem with the current system is that over and over these checks are processed, and it takes a lot of time. It requires physical delivery of the check from the institution of deposit through an intermediary, such as clearinghouses or the Federal Reserve Bank, to the bank of the customer who wrote the check before it can be paid. Each step of this inefficient process relies on the physical transportation of that check, resulting in billions of checks being driven or flown across the country every day.

The problem with this legal framework was highlighted in the days following the September 11 attacks when the Nation's planes were grounded, and the flow of checks transported by air came to a complete stop. During that time, the Federal Reserve's daily check float grew from its normal few hundred million dollars to over $47 billion.

Under current law, banks, credit unions, and other financial institutions are unable to truncate checks. They are only able to truncate checks if they have special arrangements with other institutions that are part of the transaction. There are over 15,000 banks, thrifts, and credit unions, and they are all negotiating separate agreements among themselves, so it is impossible to follow and keep in touch with all of those, even for the most diligent financial institution.

The way this bill would work, a Pennsylvania bank would no longer have to ship a check drawn on a California bank all the way across the country in order for it to clear, for it to be processed, and for the actual payment of the check. This is done by creating a new negotiable instrument called a substitute check.

Again, the substitute check would permit banks to truncate the original check; and it would process the information electronically, immediately, and print and deliver the substitute checks to banks and bank customers. So the customer who wishes to retain that record, such as a canceled check, would have something that looks just like it.

This shows exactly what that substitute check looks like. It looks familiar, does it not? It is just an identical copy of a canceled check.

This is the legal equivalent of the original check under our legislation. It would include all the information contained on the original check and the image of the front and back of the original check, as well as the machine-readable numbers which appear on the bottom of the check. And because the substitute check can be processed just like an original check, a bank would not need to invest in any new technology or otherwise change its current check processing operation, unless the bank chooses to update its technology.

Consumers benefit, and this is the most important part of the legislation. Customers maintain the same protections that they have with this law as they have with their original check. Reducing processing costs will result in efficiency gains and expedited services for customers. Accessing images of checks will take a fraction of the time that it currently takes to access microfilm or the physical archives or the canceled check itself. Customers will no longer have to wait for a copy of the check to be obtained from a central processing facility or the microfilm library.

Institutions that have already implemented this check imaging technology offer their customers a wide variety of ways to access these images, including in person at branches as they would today, or through the mail but also over the Internet and in image statements and advanced ATMs. So, for the customer, this is just a wonderful boost.

Customers will also benefit from the availability of check imaging to help combat fraud and the problems associated with bad checks. The ability to access check images on the Internet helps consumers to quickly and conveniently verify their transactions. They can identify potential errors. They can detect fraudulent transactions sooner, rather than waiting until the end of the month when they receive their traditional statement.

Identifying errors and potential fraud as soon as possible helps everyone. It helps the banks minimize customer inconvenience and cost. It helps control potential losses. It helps give law enforcement an advantage in tracking down the perpetrators of fraud.

Promoting this image technology can help speed processing and encourage banks to provide new and improved products and services to consumers. Financial institutions will be able to establish branches or ATMs in remote locations to further service their customers, provide more cost-effective service, provide customers with later deposit and cut-off times, and provide printed copies of checks deposited at ATMs on ATM receipts. Such changes could result in a check being credited a day earlier and interest accruing a day earlier on interest-bearing accounts. Obviously, that will make customers quite happy.

In conclusion, this is a win-win for everyone. It is a win for the industry, but it is especially a win for consumers. I encourage my colleagues to support H.R. 1474 and significantly increase the efficiency of the Nation's check clearing process.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think this is a very good idea. It is efficient. We make sure consumers are fully protected. I agree with just about everything everybody else is going to say today.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank the sponsors for giving me an opportunity to speak.

This is clearly a bill, as the previous speaker outlined, that improves efficiency and hopefully reduces costs to banks. One thing that was not addressed in this legislation, though, is a remaining area of patent unfairness to consumers.

We all know that a check is essentially an article of faith. It is a contract between two people. From time to time, people write checks that they simply do not have the money to cover. They are penalized. They pay a fine by their bank, anywhere in the neighborhood of $15 to $25.

But what continues to be the case in this country, in many banks, in the neighborhood of about 85 percent of the big banks and about 75 percent of smaller banks, is someone who receives the check, who is already out the amount of money that they were supposed to be given, is also charged a fee, a fine. This is patently unfair. It is counterintuitive; and, frankly, it is indefensible. I think we should address this in this House.

Some of the arguments that are raised to defend the idea that the person who gets the check should be fined when someone bounces a check say that there is an added cost to banks when someone bounces a check.

This is true. It is estimated that that cost is in the neighborhood of 48 to 65 cents, depending on what study we see. It is clear that someone should be penalized for that. Frankly, we can argue it is too high, but the person who wrote the check is already getting a $20-some-odd-dollar fine.

Also, there is a relationship between all banks in the system that when there is a bounced check, if the credit union has a bounced check that they have to return to CitiBank, there is a relationship there that they exchange a few dimes to make up for that cost.

The net of all of this is the banking business makes about $6.1 billion of profits, according to 1999 numbers, just on these transactions. They cover the costs, and then industry-wide they make about $6.1 billion. So the idea that the costs are not getting covered is certainly not the case.

Secondly, some have argued that we need to have a disincentive for a merchant who is going to get a bad check. We have to incentivize them, checking vigorously to make sure they are getting it from a legitimate person.

Well, this is the silliest argument. They already have the greatest incentive of all. If they get a bad check, they are out the money or they are out the service or they are out the product that they exchange in exchange for that. That is why we all go to our local diners and we see the checks up, notices up, "we do not accept checks from this person," because they definitely do not want to get snookered a second time. So the idea that they should get a $20, a $15 or $10 fine, somehow creates a disincentive is simply not the case.

A third argument made is that, well, when we are receiving a check, we should be extra vigilant. We should call up to make sure the person has the money in their account. Well, I have news, because of excellent legislation passed by the gentleman from Ohio (Mr. OXLEY) and others, we cannot do that. We cannot receive a check for $100 and call up the bank and say, listen, I have account number 1751. Do they have $100 in their account? They cannot even exchange that information, so there is no way you as the person receiving the check can avoid that fee.

Some people have said, well, the receiving banks have costs just like the issuing bank has costs. As I mentioned, those costs are already covered.

Then, finally, after we cut through all of it, I have found in my one experience with this, and some industry leaders have said, do you know what, at the end of the day if you make a stink about it, we do not charge. That is not any way to run a railroad.

Frankly, this fee, this fine, this penalty is indefensible. It does not penalize someone who does something wrong, it does not disincentivize activity in any way, and it does not encourage any type of activity that a person can protect.

One of the things we are doing here is making this transaction more efficient. The gentleman from Alabama (Mr. BACHUS) said it in the debate on the rule, do we want to improve the efficiency here? That is the rationale. But I think we also have to restore a sense of fairness. This is one open fissure in the law that I look for opportunities to address.

Now, I know that we are here under an open rule and I have the opportunity, but I would ask the gentleman from Massachusetts if perhaps there might be other opportunities to address this inequity.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The gentleman is right, we are trying in everything we have done, and I think we have accomplished that in our committee so far. The chairman has been very cooperative in promoting efficiency while protecting consumers. This bill, as I said, does do that with regard to your ability to get the check if you actually need it.

The gentleman raises a point that had not previously occurred to me that I think is a good one. I think it ought to be addressed. I would be obviously, as I have told him, very reluctant to do it now without a chance to examine it and have some hearings.

We do have pending in the process a more comprehensive bill called the Regulatory Relief Bill into which I believe this would fit. The bill passed our committee. It is being sequentially referred to the Committee on the Judiciary.

There are some important issues there, particularly including the industrial loan corporations, where we have given assurances that we are going to try and work some compromises out. So I can guarantee to the gentleman from New York (Mr. WEINER), who has raised this very important issue, that further work remains to be done on regulatory relief. I have spoken to the chairman of both the full committee and the subcommittee, and we agree that this is an issue worthy of consideration.

I would say this, whether or not we would all ultimately agree on a solution cannot be predicted. Certainly the gentleman will, I believe, have an opportunity if not to offer it today to offer it later, and I hope then to be able to offer it with a good deal more agreement.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank the gentleman for yielding, Mr. Chairman.

Mr. Chairman, the gentleman from New York makes an excellent point. This is an issue that needs to be addressed. I think, indeed, the avenue that the gentleman from Massachusetts (Mr. FRANK) mentioned would be the most appropriate, as opposed to this check truncation bill. So I appreciate the gentleman's withholding the amendment until we have an opportunity to find out where it fits.

Indeed, as the regulatory relief bill works its way through the process, the gentleman would have adequate opportunity to work his amendment in that particular venue. So I appreciate the gentleman for yielding and look forward to working with him.

Mr. WEINER. Mr. Chairman, I thank the chairman and the ranking member for those words. Perhaps in the interim we could also inform some of the small business groups and advocates, who are probably the primary victims of these fees, small businesses who are in good faith accepting these things. The larger businesses, the Wal-Marts of the world, probably say to their banks, we refuse to pay them.

But this will be an opportunity. I appreciate the gentleman's willingness to give me another bite at this apple at the appropriate time.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent that the gentleman from Tennessee (Mr. FORD) be allowed to manage the remainder of our time on this bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY), the chairman of the full committee.

Mr. OXLEY. Mr. Chairman, I rise today to encourage my colleagues to support this important legislation.

I want to particularly pay my highest regards and admiration to the gentleman from Alabama (Chairman BACHUS) for working so well in a bipartisan way on this legislation; to our good friend, the gentlewoman from Pennsylvania (Ms. HART); my good friend, the gentleman from Tennessee (Mr. FORD), for being the lead Democrat to sponsor on this legislation; and the gentleman from New Jersey (Mr. FERGUSON).

This is a very important piece of legislation that modernizes the system. Just think about it. We are in many ways operating in kind of a Pony Express system today in moving checks around. Admittedly, instead of ponies, we do it by airplane.

We have found in our hearings, in our deliberations on this legislation, that the 4 days after 9/11/01 were 4 days in which nobody was flying. The checks were piling up. We process 42 billion checks in this economy every year, and the system was badly in need of modernization. I think that 4-day period pointed that out so well.

So this is really recognizing the technology that is out there.

I had an opportunity to visit NCR headquarters in Dayton, just south of my congressional district, last year. I got an eyewitness look at the new technology that is out there that allows this bill to come to fruition. It allows us to move a step forward in the check-clearing process and at the same time making us more efficient as we proceed. That is an amazing effort that can bring about a great deal of change.

So I want to encourage my colleagues to support this legislation. It is long overdue. I again thank the leaders, particularly the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Tennessee (Mr. FORD), for their leadership on this issue.

Mr. FORD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Alabama (Mr. BACHUS) for his leadership, as well as the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from New Jersey (Mr. FERGUSON), and all my friends on the committee and all my friends on the Democrat side.

The rule kind of got heated and spirited over another issue that probably deserves some heat and spirit, but I think this issue here is one that should enjoy relative ease as we move forward.

I thank the gentleman from Ohio (Mr. OXLEY) (for working with the gentleman from New York (Mr. WEINER) and the gentleman from Massachusetts (Mr. FRANK) in addressing what also is an important issue in how people's checks are cashed and how they may be penalized for someone else wronging them.

☐ 1230

That being said, the gentlewoman from Pennsylvania (Ms. HART) has walked through in pretty good detail what this bill seeks to do. In a lot of ways, Check 21 is pretty simple in what it does. It just modernizes the Nation's check payment system and tries to keep up with all the new technologies in the 21st century.

The gentleman from Alabama (Mr. BACHUS) mentioned how many millions of dollars can flow across the continents and across the oceans with the click of a mouse and the challenge we faced 2 years ago after the tragedies of

9/11 and how this bill really tries to respond. I know some people suggested, my good friend, the gentleman from Texas (Mr. SESSIONS), suggested earlier somehow or another this would really help to decrease oil costs. I hope we are not overstating the impact of the bill, and this will help in our fight against terrorism. Perhaps it will.

But one thing can be said, it is pro-consumer. It is pro-business in a lot of ways, not only pro-business for the banks but pro-business for those institutions who electronically transfer monies and those who depend heavily on checks.

My good friend, the gentleman from Vermont (Mr. SANDERS), who deserves some thanks also on our side of the aisle for working with the gentleman from Alabama (Mr. BACHUS), in particular raised some legitimate concerns throughout the debate about checks and whether or not these substitute checks that have now been introduced as a legal equivalent will somehow or another diminish the rights of those who rely on checks heavily, particularly seniors.

Perhaps the opposite is true. Not only does this legislation not affect arrangements between banks and customers moving forward, but it will probably also allow for a cheaper, more efficient way for checks to be used. I say that because banks will actually save money on the process and will actually be able to provide a greater array of services to all of its customers, particularly those customers who may rely more on checks.

The year upwards of 60 billion checks will be written in the United States; and although, more and more people are relying on forms of electronic pavements, the Fed makes clear that checks will remain an indispensable part of our financial system.

Mr. Chairman, I could go on and on about the bill, but I take 30 more seconds before yielding to the gentlewoman from New York (Mrs. MALONEY) for some comments on the bill.

We talked about check truncation, and just to be real simple about what this is, we wanted to find a way to sort of foster innovation without mandating the receipt of checks in electronic form. It is important for banks and businesses, consumers to continue to have that option of accepting checks in paper form.

Essentially, what truncation is is when information on the paper check is captured off the check and delivered electronically, instead of the paper check being presented physically. Through check truncation, paper checks are rendered into zeros and one digital signals which can move through the payment system at digital speeds.

CHECK–21 accomplishes this by establishing this new negotiable instrument, a substitute check which has the same legal status as original checks. The substitute checks would contain the two-face image of the original check. They would include the magnetic code at the bottom so that any bank could process them using existing equipment.

They would conform to standards for size, paper stock and the like. The substitute checks can then be used by banks and consumers in the same way as original checks.

I make one last comment about my friend from North Carolina (Mr. WATT). He and the gentleman from Alabama (Mr. DAVIS) both contributed heavily to this bill ending up as good as it has, largely because of concerns they raised about the language. But for the gentleman from North Carolina (Mr. WATT) bringing to our attention how there might have been some ambiguity regarding coverage of the Uniform Commercial Code as it relates to certain disputes between banks, we might not have tightened the language. And but for the work of the gentleman from Alabama (Mr. DAVIS), who will speak in a few minutes, the language regarding the recredit provision, which actually is a new protection for consumers, might not have been included.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of the CHECK–21 legislation that will modernize the Nation's check clearing system and benefit our constituents across the country. I thank the ranking member, the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Tennessee (Mr. FORD) and the gentleman from Vermont (Mr. SANDERS), along with the gentleman from Ohio (Mr. OXLEY) and the gentleman from Alabama (Mr. BACHUS) for their hard work on this bill.

This legislation will increase electronic check presentment and lower the cost of check clearing, and it will make it easier for the payments system to proceed without breakdown in the event of another terrorist attack.

Today, the technology exists to allow customers to view images of checks on their own home computers so they do not have to wait until the end of the month to get their checks. This legislation complements this technology and will spur more financial institutions to offer these services to consumers.

As a practical matter, the ability of a consumer to see an electronic imagine of a check will allow them to more easily resolve disputed checks and combat fraud. The legislation also includes important consumer provisions that will allow customers to retrieve and properly debit funds.

Check truncation legislation will help prevent another post-9/11 situation where the grounding of the Nation's airplanes prevented checks from being cleared. Currently, checks that are not truncated have to be physically flown to their paying bank. With the planes grounded, massive float built up in the payment system after the terror attack and could have threatened a widespread economic interruption had flights not resumed.

Not only was this a problem after 9/11, but there is a long history of inefficiency in the transfer of checks by airplane, especially with respect to check-clearing services provided by the Federal Reserve. I have had a long interest in this issue, and I thank the sponsors of this legislation for including language in the bill that adds check transportation services to the Monetary Control Act.

I have had an interest in this issue and I thank the sponsors of the legislation for including language in the bill that adds check transportation services to the Monetary Control Act.

This provision will require the Federal Reserve the disclosure of costs related to check transportation and prevent further inefficiency.

This legislation is the product of years of work by the Federal Reserve and the Financial Services Committee. It represents contributions from many Members over the course of countless hearings.

I urge my colleagues to support the underlying bill.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), who is last year's sponsor of the bill and is an original cosponsor this year.

Mr. FERGUSON. Mr. Chairman, I am pleased to be here. I certainly appreciate the chairman of the subcommittee and the chairman of the full committee for their work on this, and the ranking member of the full committee and the subcommittee and certainly my friend, the gentlewoman from Pennsylvania (Ms. HART), my friend, the gentleman from Tennessee (Mr. FORD), for their great work in sponsoring this legislation in this Congress.

I rise in support of this important legislation. It is common-sense legislation. It has garnered overwhelming support from financial institutions, from technology companies, from various trade associations, and from the Federal Reserve.

The way in which banks currently handle check transfers is totally outdated. Currently, banks are required to physically present and return original paper checks. It is a tedious process that is inefficient. It is expensive, and it is rife with potential for fraud. As a result, millions of paper checks are physically transported between banks every day. The system relies solely on uninterrupted air and ground traffic in order to ensure that checks are presented to paying banks in a timely manner.

When the horrific events of September 11 grounded all air traffic in the

United States, hundreds of millions of checks did not move and the U.S. payment system was stalled, creating a situation that severely threatened our economic security. That is why the Federal Reserve, after consulting with the banking industry, technology companies, and consumer groups, submitted a proposal to Congress that would reduce the need for physical transportation of checks through increased electronic truncation.

Last Congress, I sponsored CHECK-21, a bill which builds on the Federal Reserves proposal and modernizes the Nation's check payments system by allowing banks to exchange checks electronically. This Congress, I am proud to be a co-sponsor of the gentlewoman from Pennsylvania's (Ms. HART) and the gentleman from Tennessee's (Mr. FORD) legislation.

CHECK-21 strengthens our economic security by capitalizing on existing technology to make the collection process faster and more efficient while improving customer service, access to funds, and any fraud protections. CHECK-21 is simply a better, more efficient way of transferring checks that takes advantage of the technology that we have at hand.

Mr. Chairman, I am pleased that we were poised to pass this legislation.

Mr. FORD. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama (Mr. DAVIS), a new colleague but one who has already distinguished himself in the Congress.

Mr. DAVIS of Alabama. Mr. Chairman, I want to thank the gentleman for yielding me time.

This is somewhat of a departure from the debate of the morning and from the debate that we may have this afternoon on some issues, but it is something of a welcome departure I suspect for some of us.

The way this institution works when it is at its best is we find a way to work with the best interests of the business community and we find a way to work with the best interests of the consumer community; and if we get some efficiency out of the process, well, all the better.

This legislation is a good bill. It is outstanding legislation, and I want to compliment the leadership of this committee. I want to compliment our very able colleague, the gentlewoman from Pennsylvania (Ms. HART), as well as my good friend, my very able colleague, the gentleman from Tennessee (Mr. FORD), as well as a number of members of this committee who have contributed to taking what was a good bill and getting it to the point that it is an excellent piece of legislation.

A number of people have extolled the virtues of this bill as far as efficiencies are concerned. A number of people have extolled its virtues as far as making a system that has been something of a maze a much more comprehensible process.

I want to dwell for a minute on an act of simplification that this bill creates with respect to consumers. Right now, a good many of the people who are watching this or who are part of our districts have had the experience of looking at their bank ledgers and finding out that they have been credited for something that they did not think they wrote. A lot of people regularly run into these kinds of very small issues with the banking community, and those of us who went to law school can recall the portions of our bar books that summarize the UCC and the various protections, and they have been something of an imponderable maze.

This bill improves that. The expedited recredit provision has a number of very simple but very important features.

The first one is that if it is determined that a bank has falsely credited someone's account, within 1 day of that determination the bank must recredit the account. And there is a very specific window of time that is set to resolve a dispute. If a bank has not determined that a claim is valid within 10 business days, the bank has two options: either recrediting the lesser of the amount charged or $25 with interest being recredited and any remaining amount within 45 calendar days. That is an important act of simplification.

Another important act is that if there is an invalid claim or notice of recredit, the consumer must receive it no later than the day after the bank makes the determination. Why is that maze of words important? Because a lot of banks, Mr. Chairman, have not necessarily had the clearest or best guidance from the UCC on what to do in the very simple instance someone comes into a bank and wants to straighten out their account. This bill helps.

Another instance, we had a question during the committee process about the substitute check and a number of valid questions were raised about the meaning of the substitute check. In working with our colleagues on the other side of the aisle, we managed to clear up a lot of these ambiguities. It is now very clear that someone who may not have a substitute check in hand, that individual can still take advantage of the expedited recredit provisions. That is important in a world where paper sometimes gets lost in the mail.

So I will conclude, Mr. Chairman, by saying that this bill reflects what we can do when we are able to step outside of our partisan boxes and what we can do when we bring a little bit of common sense to the process. Again, I want to thank the leadership of the committee for bringing this to place.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I rise today in support of H.R. 1474, the Check Clearing for the 21st Century Act.

This bill, which modernizes check-clearing transactions, is a win-win for both consumers and financial institutions. CHECK-21 will result in fewer errors in check transactions while providing consumers with more choices.

Because of increased on-line access, consumers can now have more confidence when inquiring about the status of their personal checks, and they can receive a much quicker response from their bank.

Consumers will further benefit by the reduced cost associated with modernization of check clearing, and CHECK-21 ensures that banks remain fully accountable to the consumers they serve.

Mr. Chairman, the act will make banking more efficient, reduce transactional cost, provide consumers with more choices, and help our financial services industry remain preeminent in the world.

I want to thank the gentleman from Alabama (Mr. BACHUS) and my friends, the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Tennessee (Mr. FORD), for their leadership on this important legislation. I urge all of my colleagues to vote yes on H.R. 1474.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Chairman, I rise in support of H.R. 1474, the Check Clearing for the 21st Century Act.

Every day banks assume enormous risks in order to create jobs and build opportunities. They have infused our economy with its lifeblood of capital and credit, while maintaining the health of our global economy's circulatory arteries. Nevertheless, banks still must cope with costly and antiquated laws and regulations that do not accurately reflect the realities, demands, and opportunities of today's cyber economy.

Under the current law that governs the check-clearing process, banks must physically transport checks to a recipient bank, unless an electronic exchange agreement is in place with that recipient bank.

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This requirement is costly, time-consuming and completely unnecessary in light of the safeguards and security available through digital imaging and electronic transmission.

H.R. 1474 helps us bring our banking system into the 21st century by granting full legal standing to substitute checks which can be digital images of the front and back of the original check that contain all of the information in readable form.

This bill modernizes the check collection process enabling banks to provide customers with faster and less expensive service. Moreover, H.R. 1474 retains and enhances all of the legal protections against fraud and errors that consumers enjoy under the current system while preserving the flexibility of recipient banks to process an electronically received check in the same way they would process the original.

Mr. Chairman, I urge my colleagues to support this long overdue legislation which will play a critical role in preserving the health of our financial system and revitalizing our economy, and I applaud the leadership and the sponsors this bill.

Mr. FORD. Mr. Chairman, I yield myself the remaining time. I will consume the shortest period of time as I possibly can, Mr. Chairman.

The gentleman from New Jersey (Mr. FERGUSON), who walked off the floor, deserves a lot of credit for this, and forgive me for not mentioning him more, and obviously the gentlewoman from Pennsylvania (Ms. HART), it is her bill this go around; but the gentleman from New Jersey (Mr. FERGUSON) brought my attention to the bill, and I thank him for that.

I think all the merits of the bill have been talked about pretty extensively and maybe the more we talk we may lose what unanimous support we have. So I am not going to talk much longer other than to thank a few people.

I want to thank Roger Ferguson at the Federal Reserve, the vice chair. I want to thank Ed Hill and Grant Cole at Bank of America. I want to thank Janelle Duncan with the Consumers Union, as well as the Consumer Federation of America and the United States Public Interest Research Group, for all of their hard work. As the gentleman from Alabama (Mr. DAVIS) said, this is one bill that I think in a lot of ways can be accurately described as pro-business and pro-consumer.

I want to thank Brant Imperatore with O'Conner and Hannan, and of course, the committee staff on both sides, Erika Jeffers, who is a law school classmate, and Ken Swab and Jaime Lizarraga; as well as the gentleman from Ohio's (Mr. OXLEY) staff, Kevin MacMillan, Deena Ellis, Jim Clinger, Carter McDowell.

There were a number of groups outside of here, the Independent Community Bankers, America's Community Bankers, Credit Union National Association and many others, who contributed to making this final product as good as it is.

I ask my colleagues to support the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield myself such time as may consume.

Mr. Chairman, present law requires that checks be returned to the bank where they were originally drawn, and that way of doing business has basically been the law and the procedure in this country for over 100 years. We have technology now that makes something else possible, and that is electronic transfer, as opposed to transfer of the paper check.

What we have in our country today is an antiquated process, which is also a tedious process, which each day involves as many as 10 to 12,000 cars, trucks and airplanes returning checks when none of this is necessary.

The credit unions some 20 years ago went away from this process. They have had zero consumer complaints. The largest banks have made agreements between banks, and they have gone away from this process; but today, two-thirds of the checks still are processed in this outdated manner.

What this House has done in a bipartisan way is take a bill that has been cosponsored by two of our most able Members, the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Tennessee (Mr. FORD), very aware of this issue, very knowledgeable on the issue, they have drafted this bill. The committee has looked at the bill. We have made changes to protect the consumer, slight changes. The bill as it exists today has been endorsed by the Federal Reserve, all the regulators, all the financial institutions involved, all the trade groups, consumer groups. It is a model for what this House can do when it puts aside its differences and works together for the good of the Nation as a whole.

This bill is good for customers. This bill is good for consumers. This bill is good for the economy.

We have talked about little things such as airport congestion, how this will help address that, congestion on the roadway, our energy dependence.

I want to commend, in closing, the gentleman from Ohio (Mr. OXLEY), who has made this one of his three goals for this year to move this legislation; the gentleman from Massachusetts (Mr. FRANK), the ranking member, who identified this as necessary legislation.

My colleagues may say, well, this ought to be simple. For 20 years we tried to reform our check-clearing process. We have not been able to do it until this moment. This House today I think will take a historic step in making us more competitive in the world economy by bringing our check-clearing system up to a model for the world.

Mr. Chairman, I commend the gentleman from Tennessee (Mr. FORD) and the gentlewoman from Pennsylvania (Ms. HART).

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Chairman, before the gentleman yields back, Jim Worth, I forgot to mention him, the legislative counsel. I thank him as well.

Mr. BACHUS. That is absolutely true. Our staff worked together very closely and in a very bipartisan spirit.

Mr. HINOJOSA. Mr. Chairman, I rise today in strong support of H.R. 1474, the Check Clearing for the 21st Century Act. I commend Representatives MELISSA HART and HAROLD FORD for introducing the legislation and for tenaciously working to ensure the legislation came to the House floor today.

I also want to thank Chairman OXLEY, Chairman BACHUS, Ranking Member FRANK and Ranking Member SANDERS for bringing this legislation to the floor today.

H.R. 1474 will modernize the nation's check payment system by allowing, but not mandating, banks to exchange checks electronically. Recognizing that not all banks have the ability to accept electronic transmission of a check, H.R. 1474 authorizes the creation of substitute checks for payment.

This substitute check would be used in place of the original paper check, and it would be a negotiable instrument. Banks that create an electronic check will be able to create a substitute check and use that for presentment to a bank that has not upgraded its system to accept electronic checks.

This legislation capitalizes on existing technology to make the current process faster and more efficient, while increasing customer service, improving access to funds and increasing antifraud measures that ensure our economic security. H.R. 1474 will decrease our check payment system's financial dependence on physically transporting checks, thus avoiding any types of delays or paralysis in the U.S. payment system that might be created by another September 11th terrorist attack.

I believe that the Committee successfully crafted very difficult and complicated recredit provisions in the legislation that address the concerns of consumer groups.

This legislation is a well-crafted bill that will provide the structure for an efficient financial payments framework to enable financial institutions to provide better customer service. I encourage my colleagues to support this legislation.

Mr. OXLEY. Mr. Chairman, I wanted to take this opportunity to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the Judiciary Committee, for his assistance in bringing this important measure to the floor. I am inserting for the RECORD an exchange of correspondence regarding his committee's jurisdiction over the measure.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, May 22, 2003.*

Hon. MICHAEL OXLEY,
*Chairman, Committee on Financial Services,*
*House of Representatives, Washington, DC.*

DEAR CHAIRMAN OXLEY: In recognition of the desire to expedite floor consideration of H.R. 1474, the "Check Clearing for the 21st Century Act," the Committee on the Judiciary hereby waives consideration of the bill. Certain provisions of the bill relating to the litigation of claims relating to check clearing fall within the Committee on the Judiciary's Rule X jurisdiction. However, given the need to expedite this legislation, I will not seek a sequential referral based on their inclusion.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter in your committee report on H.R. 1474 and in the Congressional Record during consideration of H.R. 1474 on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, DC, May 22, 2003.*

Hon. F. JAMES SENSENBRENNER, JR.,
*Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 1474, the Check Clearing for the 21st Century Act.

I acknowledge your committee's jurisdictional interest in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or similar legislation. I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.

Sincerely,

MICHAEL G. OXLEY,
*Chairman.*

Mr. BACHUS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1474

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.***

*(a) Short Title.—This Act may be cited as the "Check Clearing for the 21st Century Act".*

*(b) Findings.—The Congress finds as follows:*

*(1) In the Expedited Funds Availability Act, enacted on August 10, 1987, the Congress directed the Board of Governors of the Federal Reserve System to consider establishing regulations requiring Federal reserve banks and depository institutions to provide for check truncation, in order to improve the check processing system.*

*(2) In that same Act, the Congress—*

*(A) provided the Board of Governors of the Federal Reserve System with full authority to regulate all aspects of the payment system, including the receipt, payment, collection, and clearing of checks, and related functions of the payment system pertaining to checks; and*

*(B) directed that the exercise of such authority by the Board superseded any State law, including the Uniform Commercial Code, as in effect in any State.*

*(3) Check truncation is no less desirable today for both financial service customers and the financial services industry, to reduce costs, improve efficiency in check collections, and expedite funds availability for customers than it was over 15 years ago when Congress first directed the Board to consider establishing such a process.*

*(c) Purposes.—The purposes of this Act are as follows:*

*(1) To facilitate check truncation by authorizing substitute checks.*

*(2) To foster innovation in the check collection system without mandating receipt of checks in electronic form.*

*(3) To improve the overall efficiency of the Nation's payments system.*

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENT NO. 1 OFFERED BY MS. HART

Ms. HART. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Ms. HART:

In section 1, insert "or the 'Check 21 Act' " before the period at the end.

Ms. HART. Mr. Chairman, this amendment is actually very brief. It is one line. It is very simple; and it is, as far as I can tell, completely noncontroversial.

The amendment simply adds another name to this legislation to the title of the bill. It will be, by this amendment, also referred to as the Check 21 Act. Everyone who has been familiar with this bill has commonly referred to it as CHECK-21, and this amendment simply brings clarity to that issue.

I would urge my colleagues to support the amendment.

Also, I would like to add to the thanks for the cooperation on a bipartisan basis for the bill itself as well. I would like to thank the gentleman from Ohio (Mr. OXLEY), the gentleman from Alabama (Mr. BACHUS), the ranking member as well, and also my fellow sponsors, the gentleman from Tennessee (Mr. FORD) and the gentleman from New Jersey (Mr. FERGUSON).

Everyone's cooperated well and explained this issue; but those who have not been mentioned today, those in the private sector who will be affected by this legislation have also been extremely supportive and very cooperative in working out differences that they had during the process of moving this legislation forward, and I wish to recognize them as well. When we as the sponsors had asked them to sit down and iron some issues out, they did so and they did so very efficiently.

Mr. Chairman, I simply offer my amendment and ask for its approval, very simply adding the name Check 21 Act.

The CHAIRMAN. Does any other Member wish to speak on this amendment?

The question is on the amendment offered by the gentlewoman from Pennsylvania (Ms. HART).

The amendment was agreed to.

Mr. BACHUS. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

***SEC. 2. DEFINITIONS.***

*For purposes of this Act, the following definitions shall apply:*

*(1) Account.—The term "account" means a deposit account at a bank.*

*(2) Bank.—The term "bank" means any person that is located in a State and engaged in the business of banking and includes—*

*(A) any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act);*

*(B) any Federal reserve bank;*

*(C) any Federal home loan bank; or*

*(D) to the extent it acts as a payor—*

*(i) the Treasury of the United States;*

*(ii) the United States Postal Service;*

*(iii) a State government; or*

*(iv) a unit of general local government (as defined in section 602(24) of the Expedited Funds Availability Act).*

*(3) Banking terms.—*

*(A) Claimant bank.—The term "claimant bank" means a bank that submits a claim for recredit under section 7 to an indemnifying bank.*

*(B) Collecting bank.—The term "collecting bank" means any bank handling a check for collection except the paying bank.*

*(C) Depositary bank.—The term "depositary bank" means—*

*(i) the first bank to which a check is transferred, even if such bank is also the paying bank or the payee; or*

*(ii) a bank to which a check is transferred for deposit in an account at such bank, even if the check is physically received and indorsed first by another bank.*

*(D) Paying bank.—The term "paying bank" means—*

*(i) the bank by which a check is payable, unless the check is payable at or through another bank and is sent to the other bank for payment or collection; or*

*(ii) the bank at or through which a check is payable and to which the check is sent for payment or collection.*

*(E) Returning bank.—*

*(i) In general.—The term "returning bank" means a bank (other than the paying or depositary bank) handling a returned check or notice in lieu of return.*

*(ii) Treatment as collecting bank.—No provision of this Act shall be construed as affecting the treatment of a returning bank as a collecting bank for purposes of section 4-202(b) of the Uniform Commercial Code.*

*(4) Board.—The term "Board" means the Board of Governors of the Federal Reserve System.*

*(5) Business day.—The term "business day" has the same meaning as in section 602(3) of the Expedited Funds Availability Act.*

*(6) Check.—The term "check"—*

*(A) means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check; and*

*(B) does not include a noncash item or an item payable in a medium other than United States dollars.*

*(7) CONSUMER.—The term "consumer" means an individual who—*

*(A) with respect to a check handled for forward collection, draws the check on a consumer account; or*

*(B) with respect to a check handled for return, deposits the check into, or cashes the check against, a consumer account.*

*(8) CONSUMER ACCOUNT.—The term "consumer account" has the same meaning as in section 602(10) of the Expedited Funds Availability Act.*

*(9) CUSTOMER.—The term "customer" means a person having an account with a bank.*

*(10) FORWARD COLLECTION.—The term "forward collection" means the transfer by a bank of a check to a collecting bank for settlement or the paying bank for payment.*

*(11) INDEMNIFYING BANK.—The term "indemnifying bank" means a bank that is providing an indemnity under section 5 with respect to a substitute check.*

*(12) MICR LINE.—The terms "MICR line" and "magnetic ink character recognition line" mean the numbers, which may include the bank routing number, account number, check number, check amount, and other information, that are printed near the bottom of a check in magnetic ink in accordance with generally applicable industry standards.*

*(13) NONCASH ITEM.—The term "noncash item" has the same meaning as in section 602(14) of the Expedited Funds Availability Act.*

*(14) PERSON.—The term "person" means a natural person, corporation, unincorporated company, partnership, government unit or instrumentality, trust, or any other entity or organization.*

*(15) RECONVERTING BANK.—The term "reconverting bank" means—*

*(A) the bank that creates a substitute check; or*

*(B) if a substitute check is created by a person other than a bank, the first bank that transfers or presents such substitute check.*

*(16) SUBSTITUTE CHECK.—The term "substitute check" means a paper reproduction of the original check that—*

*(A) contains an image of the front and back of the original check;*

*(B) bears a MICR line containing all the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks;*

*(C) conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and*

*(D) is suitable for automated processing in the same manner as the original check.*

*(17) STATE.—The term "State" has the same meaning as in section 3(a)(3) of the Federal Deposit Insurance Act.*

*(18) TRUNCATE.—The term "truncate" means to remove an original paper check from the check collection or return process and send to a recipient, in lieu of such original paper check, a substitute check or, by agreement, information relating to the original check (including data taken from the MICR line of the original check or an electronic image of the original check), whether with or without subsequent delivery of the original paper check.*

*(19) UNIFORM COMMERCIAL CODE.—The term "Uniform Commercial Code" means the Uniform Commercial Code in effect in a State.*

*(20) OTHER TERMS.—Unless the context requires otherwise, the terms not defined in this section shall have the same meanings as in the Uniform Commercial Code.*

### SEC. 3. GENERAL PROVISIONS GOVERNING SUBSTITUTE CHECKS.

*(a) NO AGREEMENT REQUIRED.—A person may deposit, present, or send for collection or return a substitute check without an agreement with the recipient, so long as a bank has made the warranties in section 4 with respect to such substitute check.*

*(b) LEGAL EQUIVALENCE.—A substitute check shall be the legal equivalent of the original check for all purposes, including any provision of any Federal or State law, and for all persons if the substitute check—*

*(1) accurately represents all of the information on the front and back of the original check as of the time the original check was truncated; and*

*(2) bears the legend: "This is a legal copy of your check. You can use it the same way you would use the original check.".*

*(c) ENDORSEMENTS.—A bank shall ensure that the substitute check for which the bank is the reconverting bank bears all endorsements applied by parties that previously handled the check (whether in electronic form or in the form of the original paper check or a substitute check) for forward collection or return.*

*(d) IDENTIFICATION OF RECONVERTING BANK.—A bank shall identify itself as a reconverting bank on any substitute check for which the bank is a reconverting bank so as to preserve any previous reconverting bank identifications in conformance with generally applicable industry standards.*

*(e) APPLICABLE LAW.—A substitute check that is the legal equivalent of the original check under subsection (b) shall be subject to any provision, including any provision relating to the protection of customers, of part 229 of title 12 of the Code of Federal Regulations, the Uniform Commercial Code, and any other applicable Federal or State law as if such substitute check were the original check, to the extent such provision of law is not inconsistent with this Act.*

### SEC. 4. SUBSTITUTE CHECK WARRANTIES.

*A bank that transfers, presents, or returns a substitute check and receives consideration for the check warrants, as a matter of law, to the transferee, any subsequent collecting or returning bank, the depositary bank, the drawee, the drawer, the payee, the depositor, and any endorser (regardless of whether the warrantee receives the substitute check or another paper or electronic form of the substitute check or original check) that—*

*(1) the substitute check meets all the requirements for legal equivalence under section 3(b); and*

*(2) no depositary bank, drawee, drawer, or endorser will receive presentment or return of the substitute check, the original check, or a copy or other paper or electronic version of the substitute check or original check such that the bank, drawee, drawer, or endorser will be asked to make a payment based on a check that the bank, drawee, drawer, or endorser has already paid.*

### SEC. 5. INDEMNITY.

*(a) INDEMNITY.—A reconverting bank and each bank that subsequently transfers, presents, or returns a substitute check in any electronic or paper form, and receives consideration for such transfer, presentment, or return shall indemnify the transferee, any subsequent collecting or returning bank, the depositary bank, the drawee, the drawer, the payee, the depositor, and any endorser, up to the amount described in subsections (b) and (c), as applicable, to the extent of any loss incurred by any recipient of a substitute check if that loss occurred due to the receipt of a substitute check instead of the original check.*

*(b) INDEMNITY AMOUNT.—*

*(1) AMOUNT IN EVENT OF BREACH OF WARRANTY.—The amount of the indemnity under subsection (a) shall be the amount of any loss (including costs and reasonable attorney's fees and other expenses of representation) proximately caused by a breach of a warranty provided under section 4.*

*(2) AMOUNT IN ABSENCE OF BREACH OF WARRANTY.—In the absence of a breach of a warranty provided under section 4, the amount of the indemnity under subsection (a) shall be the sum of—*

*(A) the amount of any loss, up to the amount of the substitute check; and*

*(B) interest and expenses (including costs and reasonable attorney's fees and other expenses of representation).*

*(c) COMPARATIVE NEGLIGENCE.—If a loss described in subsection (a) results in whole or in part from the negligence or failure to act in good faith on the part of an indemnified party, then that party's indemnification under this section shall be reduced in proportion to the amount of negligence or bad faith attributable to that party.*

*(d) EFFECT OF PRODUCING ORIGINAL CHECK OR COPY.—*

*(1) IN GENERAL.—If the indemnifying bank produces the original check or a copy of the original check (including an image or a substitute check) that accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated) or is otherwise sufficient to determine whether or not a claim is valid, the indemnifying bank shall—*

*(A) be liable under this section only for losses covered by the indemnity that are incurred up to the time the original check or such copy is provided to the indemnified party; and*

*(B) have a right to the return of any funds the bank has paid under the indemnity in excess of those losses.*

*(2) COORDINATION OF INDEMNITY WITH IMPLIED WARRANTY.—The production of the original check, a substitute check, or a copy under paragraph (1) by an indemnifying bank shall not absolve the bank from any liability on a warranty established under this Act or any other provision of law.*

*(e) SUBROGATION OF RIGHTS.—*

*(1) IN GENERAL.—Each indemnifying bank shall be subrogated to the rights of any indemnified party to the extent of the indemnity.*

*(2) RECOVERY UNDER WARRANTY.—A bank that indemnifies a party under this section may attempt to recover from another party based on a warranty or other claim.*

*(3) DUTY OF INDEMNIFIED PARTY.—Each indemnified party shall have a duty to comply with all reasonable requests for assistance from an indemnifying bank in connection with any claim the indemnifying bank brings against a warrantor or other party related to a check that forms the basis for the indemnification.*

### SEC. 6. EXPEDITED RECREDIT FOR CONSUMERS.

*(a) RECREDIT CLAIMS.—*

*(1) IN GENERAL.—A consumer may make a claim for expedited recredit from the bank that holds the account of the consumer with respect to a substitute check, if the consumer asserts in good faith that—*

*(A) the bank charged the consumer's account for a substitute check that was provided to the consumer;*

*(B) either—*

*(i) the check was not properly charged to the consumer's account; or*

*(ii) the consumer has a warranty claim with respect to such substitute check;*

*(C) the consumer suffered a resulting loss; and*

*(D) the production of the original check or a better copy of the original check is necessary to determine the validity of any claim described in subparagraph (B).*

*(2) 30-DAY PERIOD.—Any claim under paragraph (1) with respect to a consumer account may be submitted by a consumer before the end of the 30-day period beginning on the later of—*

*(A) the date on which the consumer receives the periodic statement of account for such account which contains information concerning the transaction giving rise to the claim; or*

*(B) the date the substitute check is made available to the consumer.*

*(3) EXTENSION UNDER EXTENUATING CIRCUMSTANCES.—If the consumer's ability to submit the claim within the 30-day period under paragraph (2) is delayed due to extenuating circumstances, including extended travel or the illness of the consumer, the 30-day period shall be extended for a total not to exceed 30 additional days.*

*(b) PROCEDURES FOR CLAIMS.—*

*(1) IN GENERAL.—To make a claim for an expedited recredit under subsection (a) with respect to a substitute check, the consumer shall provide to the bank that holds the account of such consumer—*

*(A) a description of the claim, including an explanation of—*

*(i) why the substitute check was not properly charged to the consumer's account; or*

*(ii) the warranty claim with respect to such check;*

*(B) a statement that the consumer suffered a loss and an estimate of the amount of the loss;*

*(C) the reason why production of the original check or a better copy of the original check is necessary to determine the validity of the charge to the consumer's account or the warranty claim; and*

*(D) sufficient information to identify the substitute check and to investigate the claim.*

*(2) CLAIM IN WRITING.—The bank holding the consumer account that is the subject of a claim by the consumer under subsection (a) may, in the discretion of the bank, require the consumer to submit the information required under paragraph (1) in writing.*

*(c) RECREDIT TO CONSUMER.—*

*(1) CONDITIONS FOR RECREDIT.—The bank shall recredit a consumer account in accordance with paragraph (2) for the amount of a substitute check that was charged against the consumer account if—*

*(A) a consumer submits a claim to the bank with respect to that substitute check that meets the requirement of subsection (b); and*

*(B) the bank has not provided to the consumer the original check, a substitute check, or a copy of the original check and demonstrates that the substitute check was properly charged to the consumer's account.*

*(2) TIMING OF RECREDIT.—*

*(A) IN GENERAL.—The bank shall recredit the consumer's account for the amount described in paragraph (1) no later than the end of the business day following the business day on which the bank determines the consumer's claim is valid.*

*(B) RECREDIT PENDING INVESTIGATION.—If the bank has not yet determined that the consumer's claim is valid before the end of the 10th business day after the business day on which the consumer submitted the claim, the bank shall recredit the consumer's account for—*

*(i) the lesser of the amount of the substitute check that was charged against the consumer account, or $2,500, together with interest if the account is an interest-bearing account, no later than the end of such 10th business day; and*

*(ii) the remaining amount of the substitute check that was charged against the consumer account, if any, together with interest if the account is an interest-bearing account, not later than the 45th calendar day following the business day on which the consumer submits the claim.*

*(d) AVAILABILITY OF RECREDIT.—*

*(1) NEXT BUSINESS DAY AVAILABILITY.—Except as provided in paragraph (2), a bank that provides a recredit to a consumer account under subsection (c) shall make the recredited funds available for withdrawal by the consumer by the start of the next business day after the business day on which the bank recredits the consumer's account under subsection (c).*

*(2) SAFEGUARD EXCEPTIONS.—A bank may delay availability to a consumer of a recredit provided under subsection (c)(2)(B)(i) until the start of either the business day following the business day on which the bank determines that the consumer's claim is valid or the 45th calendar day following the business day on which the consumer submits a claim for such recredit in accordance with subsection (b), whichever is earlier, in any of the following circumstances:*

*(A) NEW ACCOUNTS.—The claim is made during the 30-day period beginning on the business day the consumer account was established.*

*(B) REPEATED OVERDRAFTS.—Without regard to the charge that is the subject of the claim for which the recredit was made—*

*(i) on 6 or more business days during the 6-month period ending on the date on which the consumer submits the claim, the balance in the consumer account was negative or would have become negative if checks or other charges to the account had been paid; or*

*(ii) on 2 or more business days during such 6-month period, the balance in the consumer account was negative or would have become negative in the amount of $5,000 or more if checks or other charges to the account had been paid.*

*(C) PREVENTION OF FRAUD LOSSES.—The bank has reasonable cause to believe that the claim is fraudulent, based on facts (other than the fact that the check in question or the consumer is of a particular class) that would cause a well-grounded belief in the mind of a reasonable person that the claim is fraudulent.*

*(3) OVERDRAFT FEES.—No bank that, in accordance with paragraph (2), delays the availability of a recredit under subsection (c) to any consumer account may impose any overdraft fees with respect to drafts drawn by the consumer on such recredited amount before the end of the 5-day period beginning on the date notice of the delay in the availability of such amount is sent by the bank to the consumer.*

*(e) REVERSAL OF RECREDIT.—A bank may reverse a recredit to a consumer account if the bank—*

*(1) determines that a substitute check for which the bank recredited a consumer account under subsection (c) was in fact properly charged to the consumer account; and*

*(2) notifies the consumer in accordance with subsection (f)(3).*

*(f) NOTICE TO CONSUMER.—*

*(1) NOTICE IF CONSUMER CLAIM NOT VALID.—If a bank determines that a substitute check subject to the consumer's claim was in fact properly charged to the consumer's account, the bank shall send to the consumer, no later than the business day following the business day on which the bank makes a determination—*

*(A) the original check or a copy of the original check (including an image or a substitute check) that—*

*(i) accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated); or*

*(ii) is otherwise sufficient to determine whether or not the consumer's claim is valid; and*

*(B) an explanation of the basis for the determination by the bank that the substitute check was properly charged, including copies of any information or documents on which the bank relied in making the determination.*

*(2) NOTICE OF RECREDIT.—If a bank recredits a consumer account under subsection (c), the bank shall send to the consumer, no later than the business day following the business day on which the bank makes the recredit, a notice of—*

*(A) the amount of the recredit; and*

*(B) the date the recredited funds will be available for withdrawal.*

*(3) NOTICE OF REVERSAL OF RECREDIT.—In addition to the notice required under paragraph (1), if a bank reverses a recredited amount under subsection (e), the bank shall send to the consumer, no later than the business day following the business day on which the bank reverses the recredit, a notice of—*

*(A) the amount of the reversal; and*

*(B) the date the recredit was reversed.*

*(4) MODE OF DELIVERY.—A notice described in this subsection shall be delivered by United States mail or by any other means through which the consumer has agreed to receive account information.*

*(g) OTHER CLAIMS NOT AFFECTED.—Providing a recredit in accordance with this section shall not absolve the bank from liability for a claim made under any other law, such as a claim for wrongful dishonor under the Uniform Commercial Code, or from liability for additional damages under section 5 or 9.*

*(h) CLARIFICATION CONCERNING CONSUMER POSSESSION.—A consumer who was provided a substitute check may make a claim for an expedited recredit under this section with regard to a transaction involving the substitute check whether or not the consumer is in possession of the substitute check.*

*(i) SCOPE OF APPLICATION.—This section shall only apply to customers who are consumers.*

### SEC. 7. EXPEDITED RECREDIT PROCEDURES FOR BANKS.

*(a) RECREDIT CLAIMS.—*

*(1) IN GENERAL.—A bank may make a claim against an indemnifying bank for expedited recredit for which that bank is indemnified if—*

*(A) the claimant bank (or a bank that the claimant bank has indemnified) has received a claim for expedited recredit from a consumer under section 6 with respect to a substitute check or would have been subject to such a claim had the consumer's account been charged;*

*(B) the claimant bank has suffered a resulting loss or is obligated to recredit a consumer account under section 6 with respect to such substitute check; and*

*(C) production of the original check, another substitute check, or a better copy of the original check is necessary to determine the validity of the charge to the customer account or any warranty claim connected with such substitute check.*

*(2) 120-DAY PERIOD.—Any claim under paragraph (1) may be submitted by the claimant bank to an indemnifying bank before the end of the 120-day beginning on the date of the transaction that gave rise to the claim.*

*(b) PROCEDURES FOR CLAIMS.—*

*(1) IN GENERAL.—To make a claim under subsection (a) for an expedited recredit relating to a substitute check, the claimant bank shall send to the indemnifying bank—*

*(A) a description of—*

*(i) the claim, including an explanation of why the substitute check cannot be properly charged to the consumer account; or*

*(ii) the warranty claim;*

*(B) a statement that the claimant bank has suffered a loss or is obligated to recredit the consumer's account under section 6, together with an estimate of the amount of the loss or recredit;*

*(C) the reason why production of the original check, another substitute check, or a better copy of the original check is necessary to determine the validity of the charge to the consumer account or the warranty claim; and*

*(D) information sufficient for the indemnifying bank to identify the substitute check and to investigate the claim.*

*(2) REQUIREMENTS RELATING TO COPIES OF SUBSTITUTE CHECKS.—If the information submitted by a claimant bank pursuant to paragraph (1) in connection with a claim for an expedited recredit includes a copy of any substitute check for which any such claim is made, the claimant bank shall take reasonable steps to ensure that any such copy cannot be—*

*(A) mistaken for the legal equivalent of the check under section 3(b); or*

*(B) sent or handled by any bank, including the indemnifying bank, as a forward collection or returned check.*

*(3) CLAIM IN WRITING.—An indemnifying bank may, in the bank's discretion, require the claimant bank to submit in writing the information required by paragraph (1), including a copy of the written claim, if any, that the consumer submitted in accordance with section 6(b).*

*(c) RECREDIT BY INDEMNIFYING BANK.—*

*(1) PROMPT ACTION REQUIRED.—No later than 10 business days after the business day on which an indemnifying bank receives a claim under subsection (a) from a claimant bank with respect to a substitute check, the indemnifying bank shall—*

*(A) provide, to the claimant bank, the original check (with respect to such substitute check) or a copy of the original check (including an image or a substitute check) that—*

*(i) accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated); or*

*(ii) is otherwise sufficient to determine the bank's claim is not valid; and*

*(B) recredit the claimant bank for the amount of the claim up to the amount of the substitute check, plus interest if applicable; or*

*(C) provide information to the claimant bank as to why the indemnifying bank is not obligated to comply with subparagraph (A) or (B).*

*(2) RECREDIT DOES NOT ABROGATE OTHER LIABILITIES.—Providing a recredit under this subsection to a claimant bank with respect to a substitute check shall not absolve the indemnifying bank from liability for claims brought under any other law or from additional damages under section 5 or 9 with respect to such check.*

*(3) REFUND TO INDEMNIFYING BANK.—If a claimant bank reverses, in accordance with section 6(e), a recredit previously made to a consumer account under section 6(c), or otherwise receives a credit or recredit with regard to such substitute check, the claimant bank shall promptly refund to any indemnifying bank any amount previously advanced by the indemnifying bank in connection with such substitute check.*

*(d) PRODUCTION OF ORIGINAL CHECK OR A SUFFICIENT COPY GOVERNED BY SECTION 5(d).—If the indemnifying bank provides the claimant bank with the original check or a copy of the original check (including an image or a substitute check) under subsection (c)(1)(A), section 5(d) shall govern any right of the indemnifying bank to any repayment of any funds the indemnifying bank has recredited to the claimant bank pursuant to subsection (c).*

### SEC. 8. DELAYS IN AN EMERGENCY.

*Delay by a bank beyond the time limits prescribed or permitted by this Act is excused if the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of a bank and if the bank uses such diligence as the circumstances require.*

### SEC. 9. MEASURE OF DAMAGES.

*(a) LIABILITY.—*

*(1) IN GENERAL.—Except as provided in section 5, any person who, in connection with a substitute check, breaches any warranty under this Act or fails to comply with any requirement imposed by, or regulation prescribed pursuant to, this Act with respect to any other person shall be liable to such person in an amount equal to the sum of—*

*(A) the lesser of—*

*(i) the amount of the loss suffered by the other person as a result of the breach or failure; or*

*(ii) the amount of the substitute check; and*

*(B) interest and expenses (including costs and reasonable attorney's fees and other expenses of representation) related to the substitute check.*

*(2) OFFSET OF RECREDITS.—The amount of damages any person receives under paragraph (1), if any, shall be reduced by the amount, if any, that the claimant receives and retains as a recredit under section 6 or 7.*

*(b) COMPARATIVE NEGLIGENCE.—If a person incurs damages that resulted in whole or in part from the negligence or failure of that person to act in good faith, then the amount of any liability due to that person under subsection (a) shall be reduced in proportion to the amount of negligence or bad faith attributable to that person.*

### SEC. 10. STATUTE OF LIMITATIONS AND NOTICE OF CLAIM.

*(a) ACTIONS UNDER THIS ACT.—*

*(1) IN GENERAL.—An action to enforce a claim under this Act may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the cause of action accrues.*

*(2) ACCRUAL.—A cause of action accrues as of the date the injured party first learns, or by which such person reasonably should have learned, of the facts and circumstances giving rise to the cause of action.*

*(b) DISCHARGE OF CLAIMS.—Except as provided in subsection (c), unless a person gives notice of a claim to the indemnifying or warranting bank within 30 days after the person has reason to know of the claim and the identity of the indemnifying or warranting bank, the indemnifying or warranting bank is discharged to the extent of any loss caused by the delay in giving notice of the claim.*

*(c) NOTICE OF CLAIM BY CONSUMER.—A timely claim by a consumer under section 6 for expedited recredit constitutes timely notice of a claim by the consumer for purposes of subsection (b).*

### SEC. 11. CONSUMER AWARENESS.

*(a) IN GENERAL.—Each bank shall provide, in accordance with subsection (b), a brief notice about substitute checks that describes—*

*(1) the process of check substitution and how the process may be different than the check clearing process with which the consumer may be familiar; and*

*(2) a description of the consumer recredit rights established under section 6 when a consumer believes in good faith that a substitute check was not properly charged to the consumer's account.*

*(b) DISTRIBUTION.—*

*(1) EXISTING CUSTOMERS.—With respect to consumers that are customers of a bank on the effective date of this Act, a bank shall provide the notice described in subsection (a) to each such consumer no later than the first regularly scheduled communication with the consumer after the effective date of this Act.*

*(2) NEW ACCOUNT HOLDERS.—A bank shall provide the notice described in subsection (a) to each consumer, other than existing customers referred to in paragraph (1), at the time at which the customer relationship is initiated.*

*(3) MODE OF DELIVERY.—A bank may send the notices required by this subsection by United States mail or by any other means through which the consumer has agreed to receive account information.*

*(c) MODEL LANGUAGE.—*

*(1) IN GENERAL.—No later than 1 year after the date of enactment of this Act, the Board shall publish model forms and clauses that a depository institution may use to describe each of the elements required by subsection (a).*

*(2) SAFE HARBOR.—A bank shall be treated as being in compliance with the requirements of subsection (a) if the bank's substitute check notice uses a model form or clause published by the Board and such model form or clause accurately describes the bank's policies and practices. A bank may delete any information in the model form or clause that is not required by this Act or rearrange the format.*

*(3) USE OF MODEL LANGUAGE NOT REQUIRED.—This section shall not be construed as requiring any bank to use a model form or clause that the Board prepares under this subsection.*

### SEC. 12. EFFECT ON OTHER LAW.

*This Act shall supersede any provision of Federal or State law, including the Uniform Commercial Code, that is inconsistent with this Act, but only to the extent of the inconsistency.*

### SEC. 13. VARIATION BY AGREEMENT.

*(a) SECTION 7.—Any provision of section 7 may be varied by agreement of the banks involved.*

*(b) NO OTHER PROVISIONS MAY BE VARIED.—Except as provided in subsection (a), no provision of this Act may be varied by agreement of any person or persons.*

### SEC. 14. REGULATIONS.

*(a) IN GENERAL.—The Board may, by regulation, clarify or otherwise implement the provisions of this Act or may modify the requirements imposed by this Act with respect to substitute checks to further the purposes of this Act, including reducing risk, accommodating technological or other developments, and alleviating undue compliance burdens.*

*(b) BOARD MONITORING OF CHECK COLLECTION AND RETURN PROCESS; ADJUSTMENT OF TIME PERIODS.—*

*(1) MONITORING OF CHECK COLLECTION AND RETURN PROCESS.—The Board shall monitor the extent to which—*

*(A) original checks are converted to substitute checks in the check collection and return process, and*

*(B) checks are collected and returned electronically rather than in paper form.*

*(2) ADJUSTMENT OF TIME PERIODS.—The Board shall exercise the Board's authority under section 603(d)(1) of the Expedited Funds Availability Act to reduce the time periods applicable under subsections (b) and (e) of section 603 of such Act for making funds available for withdrawal, when warranted.*

*(c) PUBLICATION OF SCHEDULE BY BOARD FOR CHECK TRANSPORTATION SERVICES.—Section 11A(b) of the Federal Reserve Act (12 U.S.C. 248a(b)) is amended—*

*(1) by striking "and" at the end of paragraph (7);*

*(2) by redesignating paragraph (8) as paragraph (9); and*

*(3) by inserting after paragraph (7) the following new paragraph:*

*"(8) check transportation services; and".*

### SEC. 15. EFFECTIVE DATE.

*This Act shall take effect at the end of the 18-month period beginning on the date of the enactment of this Act, except as otherwise specifically provided in this Act.*

The CHAIRMAN. Are there any further amendments?

The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr.

ADERHOLT) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes, pursuant to House Resolution 256, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BACHUS. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## ESTABLISHING JOINT COMMITTEE TO REVIEW HOUSE AND SENATE MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS FOR THE AMERICAN PEOPLE

Mr. DREIER. Mr. Speaker, pursuant to the order of the House yesterday, I call up the concurrent resolution (H. Con. Res. 190) to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The text of H. Con. Res. 190 is as follows:

### H. CON. RES. 190

Whereas the Government must be able to function during emergencies in a manner that gives confidence and security to the American people; and

Whereas the Government must ensure the continuation of congressional operations, including procedures for replacing Members, in the aftermath of a catastrophic attack: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That (a) there is hereby established a joint committee composed of 20 members as follows:

(1) 10 Members of the House of Representatives as follows: 5 from the majority party to be appointed by the Speaker of the House, including the chairman of the Committee on Rules, who shall serve as co-chairman, and 5 from the minority party to be appointed by the Speaker of the House (after consultation with the Minority Leader); and

(2) 10 Members of the Senate as follows: 5 from the majority party, including the chairman of the Committee on Rules and Administration, who shall serve as co-chairman, and 5 from the minority party, to be appointed by the Majority Leader of the Senate (after consultation with the Minority Leader).

A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection.

(b)(1) The joint committee shall make a full study and review of the procedures which should be adopted by the House of Representatives, the Senate, and the Congress for the purpose of (A) ensuring the continuity and authority of Congress during times of crisis, (B) improving congressional procedures necessary for the enactment of measures affecting homeland security during times of crisis, and (C) enhancing the ability of each chamber to cooperate effectively with the other body on major and consequential issues related to homeland security.

(2) No recommendation shall be made by the joint committee except upon the majority vote of the members from each House, respectively.

(3) Notwithstanding any other provision of this resolution, any recommendation with respect to the rules and procedures of one House that only affects matters related solely to that House may only be made and voted on by members of the joint committee from that House and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the joint committee.

(4) The joint committee shall submit to the Speaker of the House of Representatives and to the Majority Leader of the Senate an interim report not later than January 31, 2004, and a final report not later than May 31, 2004, of the results of such study and review.

(c) The joint committee shall cease to exist no later than May 31, 2004.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the order of the House of Wednesday, June 4, 2003, the gentleman from California (Mr. DREIER) and the gentleman from Texas (Mr. FROST) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by expressing my appreciation to Speaker HASTERT for his leadership on this very important issue of the continuity of the Congress.

H. Con. Res. 190 creates a joint committee of the House and Senate for systematic review of what congressional procedures, coordination, devices and leadership are necessary to handle a time of national crisis. Today, Mr. Speaker, we act to assure the American people that there will be continuing representation and congressional operations in the face of any catastrophe.

For a number of months, I have been considering the continuity of Congress, homeland security, and what measures we need to have in place to make sure that this institution functions in a time of crisis. I am pleased today to bring before the House a measure which has been sponsored by all 13 members of the Committee on Rules, Democrats and Republicans.

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Mr. Speaker, only on a few occasions in the past have we acted to establish bicameral, bipartisan panels to review the structure and the functioning of this institution. The last time we did so was a decade ago, back in 1993, and I was privileged to be a cochairman of what was called the 1993 Joint Committee on the Organization of Congress.

Now, since the terrorist attacks of September 11, 2001, our perception of national priorities clearly has gone through dramatic changes. Congress's initial response to the act of terrorism included establishing the Department of Homeland Security, our Select Committee on Homeland Security; H. Con. Res. 1, which established the opportunity for the Speaker to have an alternative place and designation for us to meet; the task force that was put into place, led by the ranking minority member of the Committee on Rules, the gentleman from Texas (Mr. FROST), and my colleague, the gentleman from California (Mr. COX); and, obviously, within the Committee on Appropriations, the Subcommittee on Homeland Security.

Let me take a moment, Mr. Speaker, to praise the work of my friends, the gentleman from California (Mr. COX), the gentleman from Texas (Mr. FROST), and the other Members who contributed to the thinking that went into the continuity of Congress issue as well as the security of this institution. I also want to extend my congratulations to the Continuity of Government Commission on their work. But I do believe, Mr. Speaker, that more needs to be done, and we need to take a close look at all of those things that have been proposed from a wide range of different sources.

The Presidency has been transferred in critical situations on numerous occasions: war, assassination, and impeachment. But only two or three times in our Nation's history have emergencies tested the ability of the United States Congress to conduct its business under extreme circumstances.

Accordingly, Mr. Speaker, Congress should undertake a thorough review of House and Senate rules, joint rules, and other related matters to ensure the functioning of Congress in the event of any catastrophe.

Mr. Speaker, the two Chambers, of course, do have formal and informal devices to bring Representatives and Senators together. We, of course, have conference committees, we have bicameral leadership meetings, but these mechanisms for bicameral organization are typically on an ad hoc basis and they address the legislative and political dynamics of questions that are out there. We have no formal structure in place to jointly address how we would deal with things in the case of an emergency.

Passage of H. Con. Res. 190 would inaugurate a special joint committee study of the ways we can ensure that the structures, procedures and lines of communication between the two Chambers are effectively organized and coordinated so that the legislative branch can fulfill its very important constitutional duties during times of crisis. Specifically, the concurrent resolution establishes a committee of 20 Members, equally divided by Chamber and party. The Speaker and the Senate majority leader would appoint the cochairman of the joint committee as well as the other Members after consultation with the respective minority leaders. The joint committee is to issue an interim report by January 31 of 2004 and a final report by May 31 of 2004, roughly a year from now.

Among the specific topics the joint committee could consider are continuity of Congress and joint processes and procedures for consideration of homeland security legislation during times of national crisis. Now, Mr. Speaker, I am not wedded to any particular issue. If I am selected to serve on the joint committee, I want to hear from other chairmen and Members about their ideas, including what are we going to be legislating on during a crisis, what do we need to have in place procedurally to deal with this, do we have the proper funding mechanisms in place, and how can we address special elections in order to assure a quorum.

I would like to take a moment, Mr. Speaker, to address the proposals of a constitutional amendment that are out there. I want to say that we had an interesting exchange yesterday in the Subcommittee on Technology and the House of the Committee on Rules, chaired by the gentleman from Georgia (Mr. LINDER), in which we discussed this. I know there are some people who have come out strongly in favor of amending the Constitution. I am one who is very hesitant to move in the direction of an amendment to the Constitution. I will say that while I keep an open mind, I have yet to be convinced that that is the right thing to do. But I will listen and, clearly, be open to arguments that are there. I do think it is only fair for me to let it be known that I do have strong feelings about that issue myself.

Mr. Speaker, I do believe that it is time for us to step forward and take this action. It has been nearly 2 years since September 11 of 2001. We have had a lot of input and a lot of recommendations. We just had yesterday the report come forward from this commission. We obviously will expend time and energy looking at that. So I think that this, as the greatest deliberative body known to man, is now poised to deliberate over these very, very serious, important questions that are over our heads regarding the question of our governance during times of crisis.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Con. Res. 190 creates a bipartisan and bicameral committee to study what new rules, laws, regulations, or constitutional remedies might be needed to assure the continuity of the Congress in the event of a catastrophic event. This resolution moves forward the discussions that began in the wake of the September 11, 2001, terrorist attacks on this country. On that day, what had been unthinkable happened. On that day, amidst the carnage in New York, at the Pentagon, and in a field in Pennsylvania, the whole notion that this country is immune from terrorist attacks was destroyed in a matter of minutes.

One of the potential targets of the terrorists that day was this building, the seat of our government and the greatest symbol of our democracy. Had those enemies of democracy succeeded, our representative democracy might have been thrown into chaos if a large number of Members of the House of Representatives had been killed, injured, or otherwise incapacitated. The simple fact is that the framers provided only for direct election of House Members, and there is nothing in law that would facilitate speedy replacement of Members of the House in the eventuality of a catastrophic event.

September 11 provided a rude awakening in so many ways, but it is the duty of this body to find a remedy for the aftermath of a potential attack on this institution. This is a weighty matter, one that goes to the heart of representative democracy in this country. On the one hand, we want to ensure the stability of the legislative branch in the wake of such an attack. On the other hand, we should all understand the importance of preserving the unique character of membership in the House of Representatives, foundations that have not changed since the adoption of the Constitution over 214 years ago.

In the last Congress, I cochaired, with the gentleman from California (Mr. COX), a bipartisan working group which began serious discussions on what remedies might be available to the House in the event that a large number of Members were missing, killed, injured, or incapacitated following an attack on this building or any other location where a group of Members might be gathered. We had serious and thoughtful discussions that resulted in three simple rules changes that would aid the Speaker in convening this body in the event of a catastrophic event. Those rules changes were made part of the rules of the House last January.

But it is very important that every Member understand that we cannot embark on these further discussions without an open mind on the issue of whether or not a constitutional amendment is necessary in order to allow this body to continue to function in the event that many, most, or all of us are killed or missing or incapacitated. The Continuity of Government Commission, cochaired by Lloyd Cutler and former Senator Alan Simpson, yesterday released their report and in it recommended the adoption of a constitutional amendment that would allow the Congress to provide for these eventualities by statute or other means.

We have to understand the simple fact that the framers intended for this body to be the arm of the Federal Government closest to the people. For that reason, this body is the only body that requires direct election of all of its Members. As we all know, it takes a number of months to conduct elections; and if this body has lost large numbers of Members, I believe it is essential that the American public have confidence that every part of its government is up to the task of responding to a national emergency.

Let me state this in the strongest possible terms. It would be a colossal waste of the time of the Congress if Members of this new joint committee go into this process with a closed mind on the issue of a constitutional amendment authorizing appointment or replacement of Members in time of crisis. We must have every option on the table; and we have to be willing, both on the joint committee and in this body, to explore the issues, pose the questions, and find the answers. For the sake of the country and for the sake of the stability of the people's House, we must all be willing to undertake this task. Our work last year was a positive first step; but we have a solemn responsibility to make sure that every option is considered, and it is important that the House work with the Senate to ensure that the entire Congress have a plan to respond to a national emergency.

I want to commend Chairman COX for his work on this issue in the 107th Congress and thank my friend, the gentleman from California (Mr. DREIER), for bringing the issue to the fore this year. This is a matter of such importance and such gravity that we must all devote considerable energies to it. We must be open, we must be nonpartisan, and we must always have in mind that this democracy is resilient, responsible, and ready to meet every challenge. So must we be.

I want to read from the resolution one section which underscores the bipartisan nature of this undertaking. This is section (b)(2), appearing on page 3: "No recommendation shall be made by the joint committee except upon the majority vote of the members from each House, respectively."

Now, Mr. Speaker, what does that mean? Well, there are five Republicans from the House and five Democrats from the House on this joint committee; five Republicans from the Senate and five Democrats from the Senate. So that the five Republicans, acting on their own, cannot make any recommendations in the House; and the five Democrats, acting on their own, cannot make any recommendations. Each party has a veto. And, quite frankly, that is exactly the way it should be, that only upon agreement of a majority of the 10 Members from the House and a majority of the 10 Members from the Senate will we be able to recommend anything back to this body.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and I would just like to say that again we looked at this modeling it after the Joint Committee on the Organization of Congress from 1993; and I want to congratulate the now minority, then majority, for in fact putting into place a structure whereby we would in fact ensure that in moving ahead it must be done in a bipartisan way.

These issues that we are going to be addressing, Mr. Speaker, are of such gravity that it is important that just as we are here to get total agreement today with the establishment of this joint committee, that as we come forward with our recommendations that we in the same way have the kind of bipartisan agreement that will be necessary.

Mr. FROST. Reclaiming my time, Mr. Speaker, this is different from the way we normally operate in the House of Representatives. Normally, a simple majority, which can be constituted entirely on the majority's side, on the Republican side, could prevail on any issue. We are choosing to adopt a different set of rules for this proceeding, and that is exactly the way we should be handling this matter to guarantee that one party will not be able to dictate the outcome on matters of this magnitude.

I want to thank the majority party for agreeing to that and for moving forward with this very important resolution. This is a matter that I personally have spent a lot of my time on over the last year, but it would not be possible to move forward at this point had the majority party not been willing to do so. And I thank them on behalf of the minority, and I thank them on behalf of the country for their willingness to do this.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to express my appreciation to my friend, the gentleman from Texas (Mr. FROST), for his very kind and supportive words on this important issue as we proceed with this very weighty matter. As I mentioned in my opening remarks, we yesterday held a hearing of the Subcommittee on Technology and the House, chaired very ably by our friend, the gentleman from Atlanta, Georgia (Mr. LINDER).

Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Georgia (Mr. LINDER).

□ 1315

Mr. LINDER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 190 to establish a joint committee to review House and Senate rules, joint rules, and any additional issues of importance pertaining to the continuity and security of congressional operations. The Rules Subcommittee held a hearing yesterday to hear testimony from the chairman of the Committee on Rules and our ranking minority member, the sponsors of this proposed joint committee. It is a serious proposal. It is timely, and the gentleman from California (Mr. DREIER) and the gentleman from Texas (Mr. FROST) deserve great credit for their leadership on this issue.

We are considering this kind of procedural proposal here today because any review of our parliamentary rules and procedures must now be evaluated in a post-September 11 atmosphere that incorporated once implausible circumstances into how the legislative branch will operate. Following the horrendous acts of terrorism perpetrated on the American people on September 11, our Nation realized it had entered into a new era in which liberty and freedom would be under attack from a new kind of enemy. Those of us representing the American people in this Chamber also rededicated ourselves to meet our obligation to act for the protection of our citizens and the institutions that govern them.

As a result, it is imperative that the Federal Government be in the most effective position to protect the American public, and the most visible sign of our Nation meeting this obligation has revealed itself in our efforts to find and eliminate enemies at home and abroad. It is also our obligation to ensure that the continuity of our representational government continues.

The House took action on the opening day of this Congress to implement some appropriate institutional mechanisms in case of an emergency. In light of the critical nature of the considerable responsibilities of the United States Congress, the time is right to continue to reevaluate our procedural requirements that affect the manner in which our legislative duties will be conducted in the House and Senate in an emergency.

Mr. Speaker, the mission of this joint committee will be to undertake a comprehensive review of House and Senate procedures, one, to ensure the continuity and authority of Congress during times of crisis; two, to improve congressional procedures necessary for the enactment of measures affecting homeland security during times of crisis; and, three, to enhance the ability of each Chamber to cooperative effectively with the other body on major and consequential issues related to homeland security.

By passing this concurrent resolution today, we put the wheels in motion for an internal assessment to help ensure the continuity and security of congressional operations. This represents a serious step in the right direction for modernizing congressional procedures, elevating parliamentary preparedness, and having the House and Senate think about what needs to be done to ensure the legislative's branch continued viability in the face of any emergency situation.

I thank the House leadership for recognizing the importance of these security and continuity of operations matters and for swiftly advancing this proposal to the House floor. I urge unanimous support for this bipartisan proposal.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, people viewing this may be curious as to why it is necessary that we consider this matter, other than the obvious that the gentleman from California (Mr. DREIER) and I have stated.

Under the current precedents and under the current judicial interpretation of the precedents of the House, a quorum is a majority of those sworn and living. If we only have five Members survive, three Members would be a quorum, and business could be conducted. The difficulty of that would be whether the country would have any confidence in legislation enacted by only five Members.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank the gentleman from Texas for his leadership on this issue and also the leadership of the gentleman from California

(Mr. DREIER), the chairman of the Committee on Rules.

What we are about here is about as serious as it gets. We are contemplating the possibility that everyone in this building and most of the Federal Government officials in this city would be killed. It is not pleasant to contemplate, but I view it as a sign of the strength of this great democratic Republic that we are able to contemplate it because what we are saying is this: We are proud to have been elected and serve in this great body, but there is something bigger than us as individuals. There is an institution that we love and hold dear called the House of Representatives that assures the people of our States and our districts that they will have a voice in the Federal Government as it deliberates the most weighty matters that come before this Nation.

Should we all be killed and not have a mechanism to replace this institution, we would leave this great Nation, indeed the world, without the system that has served us so well, the system of checks and balances to ensure that a self-appointed executive would not emerge with no checks and balances, to ensure that an unelected Cabinet member could not exercise extra constitutional powers without the checks of a representative body. That is what we are about.

The gentleman from California (Mr. COX) has done an outstanding job, along with the gentleman from Texas (Mr. FROST) on the working group. Norm Ornstein is certainly to be credited, as is Tom Mann for the gift they gave this body yesterday with the Commission on Continuity. But we have important work to do. It is now almost 2 years since September 11 happened. We just lack a few months from that tragic date. In this time, we have the opportunity to ensure the continuity of this great body. I hope we will act on that.

The entire Constitution was written over the course of a few months by very wise individuals who got together and, as this select committee will do, set aside partisan differences. There were no parties at the time. They simply said: What is good for this country? What will help preserve our liberties? How can we establish a system that will learn from the mistakes of the past and persevere through the challenges of the future?

We have met new challenges, and we understand now we must adapt the ways we do business. This committee will help us learn to do that and will establish the procedures we need to move forward. I commend the two leaders for setting this up.

Mr. DREIER. Mr. Speaker, I yield 4½ minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I rise to express a few concerns that I have regarding both the commission and the trend toward a constitutional amendment that might solve some of the problems that people anticipate.

I certainly agree with the gentleman from Washington (Mr. BAIRD) that this is a very serious issue; and this is to me not just a casual appointment of a commission, but we are dealing with something that is, in a constitutional sense, rather profound because we are talking about amendments that are suggesting that our governors will appoint Members of Congress for the first time in our history. That should be done with a great deal of caution and clear understanding of what we are doing.

My concern, of course, with the commission is that we are moving rather rapidly in that direction. Hopefully, that is not the case. We had the commission report of the Continuity of Government Commission yesterday, and that was released, and then we had a unanimous consent agreement to bring this up, like we need to do this in a hurry.

Ordinarily, if we deal with constitutional amendments, quite frequently we will have a constitutional amendment proposed, and then we will hold hearings on that particular amendment. I think we could handle it that way.

But I have another concern about the urgent need and the assumption that the world ends if we are not here for a few days. There are times when we are not here like in August and a few months we take off at Christmas. Of course, we can be recalled, but the world does not end because we're not here. In a way this need for a constitutional amendment to appoint congressmen is assuming that life cannot go on without us writing laws.

I would suggest that maybe the urgency is not quite as much as one thinks. I want to quote Michael Barone who was trying to justify a constitutional amendment that allows governors to appoint moc in a time of crisis. He said, "think of all the emergency legislation that Congress passed in the weeks and months after September 11 authorizing expanded police powers. None of this could have happened". But now as we look back at those emergency conditions, a lot of questions are being asked about the PATRIOT Act and the attack on our fourth amendment and civil liberties. I suggest there could be a slower approach no harm will come of it.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding.

I appreciate the concerns that the gentleman has raised. Let me first say that I was very pleased, and my colleagues on the Committee on Rules will recall this, as we proceeded with implementation of the PATRIOT Act I insisted that we have a sunset clause so that this institution would be required to take another look at the ramifications of the PATRIOT Act, and I know that there are wide-ranging concerns that have been raised.

Second, on the issue of the constitutional amendment, I have stated that I am very concerned about the prospect of moving ahead with a constitutional amendment which would take this institution from being the body of the people to becoming, as the other body was designed in the Constitution, to be the body of the States, and make this the body of the States again which I believe would make it the case if we were to have governors appoint Members of the House of Representatives.

I think this joint committee is designed to look at these concerns, look at the issues out there. We have all talked about the gravity of it. We know it is a very, very serious matter. I will assure my friend there is no way this committee, if it were to come forward with a proposed constitutional amendment, would act without going through the process of having the Committee on the Judiciary look at the prospect of amending the Constitution, and we in the Committee on Rules would address it again, and of course it would have to go through the confirmation process.

Mr. PAUL. Mr. Speaker, I would like to say I am pleased to hear what the gentleman has said, because there are some who see this just from the outside, seeing what we are doing here today as nothing more than a continuity of what was done yesterday. The gentleman from California (Mr. DREIER) suggests he does not see it that way, and that gives me some reassurance, and I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to make it clear to people who may be watching or listening to this again why we are discussing this. There is a historical aberration in our Constitution that provides that Senators, when they die or are killed, may be appointed, replacement Senators, but there is no comparable provision for replacement of House Members. That historical aberration arises from the fact that when our Constitution was first passed all Senators were appointed. They were appointed by their State legislatures. It was only much later in our history that we went to the direct election of Senators.

When we did that, we retained the appointment power for the governors of States to replace Senators who die or are killed while in office. No such power was ever in the Constitution originally for the House of Representatives, so we have a different situation currently as it applies to the Senate and as it applies to the House.

Those of us who advocate a change in our Constitution are taking the position that, since the Senate is already covered, since there already is a way to replace Senators in our Constitution, there should be a comparable provision for being able to replace House Members in the event of a mass tragedy.

Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I would just like to echo the concerns of the gentleman from Texas (Mr. FROST) and his desire and his belief that we need to have an alternative mechanism for appointing Members to the House in the event of a major catastrophe.

I would also like to thank and commend the gentleman from California (Mr. COX) and the gentleman from Texas (Mr. FROST) for their outstanding leadership on this issue. It is a very difficult and in many ways unpleasant subject to be dealing with but one that is very necessary and could mean the survivability of this Republic in the event of a catastrophe.

Mr. Speaker, as a member of the Cox-Frost working group in the 107th Congress, I urged my colleagues to support H. Con. Res. 190 so Congress may continue to operate in the aftermath of a catastrophe that kills or incapacitates a large number of its Members. I also thank the gentleman from California (Mr. DREIER) and the gentleman from Texas (Mr. FROST) and the gentleman from Washington (Mr. BAIRD) for their leadership on this very important issue.

The Constitution declares that Members of the House must be popularly elected. However, the specter of terrorism, notably reports that the Capitol was an intended target on September 11, as well as the subsequent anthrax attacks, remind us that mass casualties in Washington or elsewhere are a real possibility and could have a detrimental effect on the House's ability to fulfill its duties.

□ 1330

While the Cox-Frost group made some significant progress in resolving these complicated problems in the last Congress, many questions still remain. For example, I have been working with the gentleman from Ohio (Mr. NEY), the gentleman from Maryland (Mr. HOYER), and the gentleman from Connecticut (Mr. LARSON) to address the communications needs of Members in emergency conditions. Yesterday, the Continuity of Government Commission issued its first report with recommendations for preserving Congress' ability to function in the wake of a terrorist attack. It is Congress' responsibility to consider those recommendations and develop a strategy to ensure that the people's business will not be interrupted. Today's resolution will help us reach that goal. I urge my colleagues to support it.

Mr. DREIER. Mr. Speaker, I am very pleased to yield 6 minutes to the gentleman from California (Mr. COX), who very ably led, along with the gentleman from Texas (Mr. FROST), the effort to deal with the continuity of Congress in the 107th Congress.

Mr. COX. I want to thank the Speaker, thank the chairman, and thank the gentleman from Texas (Mr. FROST).

Mr. Speaker, when in May 2002 the Speaker asked us, the gentleman from Texas (Mr. FROST) and me, to cochair this working group, there was not a Department of Homeland Security, there was not a House committee to oversee the Department of Homeland Security; but now that I have assumed that responsibility, I can say that I feel there is no issue more integral to homeland security than the preservation and proper functioning of our democratic institutions in time of national emergency. I am very pleased that the next step that this body, and indeed the other body, is taking this process is to institutionalize through a bicameral group that will be chaired on this side by the leaders of our Committee on Rules to take a further look at these seemingly, in some cases, intractable problems and to solve them.

We have in our working group accomplished a great deal and with the leadership of the Committee on Rules placed before this House at the beginning of this Congress three changes to our rules that address continuity issues that were solved in the working group. In addition, the gentleman from Texas and I yesterday introduced legislation to deal with the problems in the Presidential succession law created by these catastrophic circumstances that we are now forced to imagine.

When we go back to those horrible images of September 11 which are hard to purge from our memory, those video images we have all seen countless times of the World Trade Center and the Pentagon, imagine this Capitol if the same images were seen here. Imagine what would be the result, what would be the effect. Not only would Members have been killed if Flight 93, which we now believe was headed for the Capitol, had succeeded in its mission but Members would have been maimed and disabled. The problems that arise under our rules and our laws are not just those of how do you fill a vacancy after someone dies, but what happens when that person has not died but is incapable of coming to this Chamber and being part of a quorum? What happens when that occurs 100 times over? These are the kinds of problems that lack any immediate solution and that therefore must be handed off to this more permanent body that we are establishing by this resolution.

I want quickly to commend the other members of the working group for their yearlong effort. They include, of course, cochairman MARTIN FROST; chairman of the House Committee on Rules, DAVID DREIER, who is leading us on the floor today and will lead this effort henceforth; chairman of the House Subcommittee on the Constitution, STEVE CHABOT; ranking member on the House Subcommittee on the Constitution, JERROLD NADLER; chairman of the Committee on House Administration, BOB NEY; House Democratic Whip, STENY HOYER; chairman of the House Republican Policy Subcommittee on Redesigning Government, DAVID VITTER; Representative BRIAN BAIRD from whom we have just heard; Representative SHEILA JACKSON-LEE; Representative JAMES LANGEVIN, who is also with us here today on the floor.

Ex officio members of the working group who were enormously important to our efforts included the House Parliamentarian, Charles Johnson; the Deputy House Parliamentarian, John Sullivan; former Clerk of the House, Donn Anderson; House legislative counsel Pope Barrow; House general counsel Michael Stern; and Congressional Research Service senior specialist Walter Oleszek. From May to October of 2002, the working group held eight very long meetings, hearing testimony from law professors, constitutional scholars, members of the academic community, think tank scholars and other experts. The working group considered, in order, changes to the House rules, because they are the least intrusive, most efficient means of solving these problems; next, statutory solutions; and only lastly constitutional amendments.

I want to say with respect to this question of a constitutional amendment because already during this debate we have heard concerns raised about willy-nilly amending the Constitution or about overstating the problems when Congress is, for example, out of town during the August recess with regularity, it was unfortunately necessary for us in this working group to imagine some circumstances that we hope never arise when not only the whole House but the President and the Vice President also were lost. In that circumstance, there are significant questions of legitimacy of both the institutions of the executive and the legislative, but also even more trenchant concerns about the withdrawal of the checks and balances that undergird our system and protect our civil liberties.

If we imagine what America would be like after such a horrible attack that killed the President, killed the Vice President, killed the Speaker of the House, killed hundreds of Members of this Congress, first we would have as President, this much would be certain, someone who was unelected, someone who perhaps no one had ever heard of before, and someone who might or might not be fit for the job. That person would be vested with the immediate responsibility of presumably determining whether to declare war, responsibility under article 1 of this body which would not be able to function. That person also would be asked to seek emergency appropriations to deal with this problem. Yet there would be no Congress. And that person might want to suspend habeas corpus and other civil liberties because of the emergency, and there might be no legislative check against it. These are the counterweight to the arguments that we should not rush into amending the Constitution. These are the problems that the gentleman from California (Mr. DREIER) is properly taking up with the other body, and I hope they are soon solved.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I commend the authors of this resolution because they recognize how important it is to protect our constitutional government, even from the possibility that perhaps hundreds of Members of this Congress might be killed by a terrorist act. We should, however, also take a look at the possibility that the death of one, two, or three individuals in line to serve as President could also undermine our constitutional government. We must protect both branches of government from unfortunate acts or terrorist aggression. That is why I strongly support this resolution and wish to bring to the attention of my colleagues a letter that I sent out last week urging them to become cosponsors of the Presidential Succession Act of 2003.

The line of Presidential succession determines who becomes President if both the President and Vice President have died or are unable to fulfill their duties. That line should be as solid as the concrete barriers that protect our Capitol grounds. Unfortunately, that line is not. However, with a mere change in statute, not a constitutional amendment, Congress can ensure the certainty in the line of succession as well as the continuity of the Federal policies of the executive branch.

Article 2, section 1 of the Constitution allows Congress to determine the line of succession to the Presidency following the Vice President. Congress last seriously addressed this issue when it passed the Presidential Succession Act of 1947. Unfortunately, the 1947 act is ambiguous and we cannot afford ambiguity as to the identity or the legitimacy of the President of the United States, particularly at a time of crisis. The 1947 act is further flawed because it allows the Presidency to be shifted from one political party to the other during a 4-year term. This means that if the Vice Presidency is vacant, our stock markets and our foreign enemies will wonder whether some unfortunate event will cause a radical shift of our policies. A terrorist might see an opportunity to radically shift our policies by killing just one individual. And a partially or temporarily impaired President would be highly unlikely to either take a leave of absence under the 25th amendment or to resign permanently if that action would vest control of the executive branch in the opposite political party.

Current law provides that if the office of Vice President is vacant, the next in line is the Speaker of the House, followed by the President pro tempore of the Senate. In the recent season finale of the "West Wing," the President was under extreme personal stress. There was no Vice President serving. That President invoked the 25th amendment and temporarily transferred control of the executive branch to the Speaker of the House who happened to be of the opposite political party. Would that happen in real life? I would hope so, because I would hope that a President under extreme stress would take a leave of absence as provided in the 25th amendment. But in real life, a President arguably suffering from temporary impairment would hang on to the Presidency with the same tenacity that my friend Strom Thurmond held on to his Senate seat when he knew that if he resigned from the Senate he would be replaced by the appointee of a Democratic Governor.

Speaking of my friend Strom Thurmond, we should remember that just a few years ago, while Strom was in his late 90s, he was third in line to succeed to the Presidency. Does this make sense in an era of suicide assassins? In a document that I will append in the RECORD to my remarks here, I will point out that under some scenarios, we could have five individuals, each with a legitimate claim to be President. I will summarize it by simply saying that if we did not have a Speaker of the House, someone could claim to become President because they were serving as temporary Speaker under House rule I, clause 8, subprovision (3)(A). Someone who became Speaker of the House could then try to displace someone who had been temporary Speaker, and then we could have a President pro tem of the Senate all claiming. We could have even more scenarios.

Some will say that Presidential succession has never gotten past a Vice President, but that happened because Gerald Ford was confirmed promptly, before Richard Nixon resigned. Furthermore, in April 1865, John Wilkes Booth headed a partially successful conspiracy to assassinate President Lincoln and those who were first, second and third in line to succeed him. Are we sure that al Qaeda can do no worse?

That is why I will put forward the Presidential Succession Act of 2003, which is similar to legislation I proposed in March 2001. Under it, the President would file a document with the Clerk of this House indicating whether third to succeed to the Presidency should be either the Speaker of the House or the minority leader and whether the fourth should be the Senate majority leader or the Senate minority leader. And, of course, these could be changed if control of the House or the Senate changed. More importantly, the bill would state that once someone becomes President, they serve for the rest of the 4-year term and cannot be pushed aside by someone who later becomes, say, Speaker of the House and is higher in the list. Once they begin to serve a Presidential term, they continue.

Today we will act to ensure the continuity of Congress. Later this year we should act to ensure the continuity of the executive branch. Our friends and enemies around the world and the investment community should know that similar policies will continue throughout a 4-year term and that the Presidency cannot be shifted to another party by a tragic event. More importantly, it should be absolutely clear as to who is legitimate President of the United States. We need to act this year.

[From the Roll Call, May 21, 2003]

### ACT NOW TO ENSURE SMOOTH SUCCESSION TO PRESIDENCY

(By Rep. Brad Sherman)

In the post-Sept. 11, 2001, reality, we have seen military guards with M–16s patrol the Capitol and anti-aircraft artillery stationed around national monuments. It is no mystery that terrorists actively seek to interrupt our constitutional democracy.

The line of presidential succession, which determines who becomes president if both the president and vice president have died or are otherwise unable to carry out their duties, should be as solid as the concrete barriers lining the Capitol grounds. It is not. However, with a change in statute—not a constitutional amendment—Congress can ensure certainty in the line of successors, as well as continuity of federal policies.

Article II, Section 1 of the Constitution allows Congress to determine the line of succession to the presidency following the vice president. Congress last visited this issue seriously when it passed the Presidential Succession Act of 1947. Unfortunately, the 1947 act us ambiguous and we cannot afford ambiguity as to the identity and legitimacy of the president, particularly at a time of crisis.

The 1974 act is further flawed because it allows the presidency to be shifted to an opposing political party. This means if the vice presidency is vacant, our stock markets and foreign enemies will wonder whether an unfortunate event will result in a radical shift in policies; a terrorist might see an "opportunity" to radically shift our policies; and a partially or temporarily impaired president would think twice about taking a leave of absence under the 25th Amendment, or resigning, if either action would out the other party in control of all executive departments. Finally, third in the current line of successions is the President Pro Tem, a ceremonial position normally held by the longest-serving member of the Senate majority.

Current law provides that if the office of the vice president is vacant, the next in line is the Speaker, followed by the President Pro Tem. The recent "West Wing" season final demonstrated how a president, under extreme duress could, at a time when there was no vice president, invoke the 25th Amendment and temporarily transfer control of the White House to a Speaker of the opposite political party. In real life, it is more likely that a president arguably suffering from temporary impairment would hang on to the presidency with the same tenacity that former Sen. Strom Thurmond (R-S.C.) held on to his seat at a time when his resignation would have handed his seat to an appointee of a Democratic governor.

Speaking of Thurmond, we should remember that just a few years ago, while in his late 90s, he was third in line for the presidency. Does this make sense in an era of suicide-assassins?

Here is a hypothetical designed to illustrate all the ambiguities of the 1947 act. The office of vice president, Speaker and President Pro Tem are all vacant. The president has nominated Ms. Smith to the new vice president, and he awaits her confirmation hearings under the 25th Amendment. The House and the Senate have adjourned for the year, though Mr. Jones is serving as "temporary House Speaker" pursuant to House rule 1, clause 8 (3)(A). Now, imagine that the president dies.

Does Mr. Jones, the temporary Speaker, become president? Probably not, but we're not sure. In all probability, the secretary of State becomes acting president. But assume the House then reconvenes and elects a Speaker. Does that new Speaker then push aside the secretary of State and become the new president? What if the Senate elects a new President Pro Tem before the House elects a new Speaker? And what if Ms. Smith makes it through her vice presidential confirmation hearings—does she push aside whoever is then serving as president? Under this scenario, and under the ambiguity of the 1947 act, all five of the following could claim the presidency: Ms. Smith, Mr. Jones, the President Pro Tem, the newly elected Speaker and the secretary of State. Other, less contrived scenarios could create three or four claimants to the presidency. Even two plausible claimants to the White House is one too many.

Some will say that presidential succession has never gotten past a vice president, in part because Gerald Ford was confirmed promptly, before Richard Nixon resigned. But Sept. 11 shows that what is unlikely to occur naturally may well occur. In April 1865, John Wilkes Booth headed a partially successful conspiracy to assassinate President Abraham Lincoln and those who stood first, second and third in line to succeed him. Are we sure that al Qaeda can do no worse?

Next month, I will introduce the Presidential Succession Act of 2003, which is similar to legislation I introduced in March 2001. Under this legislation, the president will file an official document with the Clerk of the House designating, after the vice president, the next person in line of succession as either the Speaker or the House Minority Leader. Similarly, the president would file instructions with the Secretary of the Senate, designating the third in line as either the Senate Majority Leader or Minority Leader. (These designations can be revised if the majority becomes the minority.) The bill will further ensure certainty in presidential succession by clearly providing that if someone succeeds to the presidency, that person shall continue to serve until the end of the presidential term.

Our friends and enemies around the world, as well as the investment community, should know that similar policies will continue throughout a four-year term, and that the presidency will not be shifted to the other party by a tragic event. More importantly, the law should be absolutely clear so that whoever serves as president, particularly at a time of crisis, has unquestioned legitimacy. By acting now we can accomplish these ends. Or, we can just put this off until a problem arises.

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Metairie, Louisiana (Mr. VITTER), who worked very hard on the commission and was very actively involved in it.

Mr. VITTER. Mr. Speaker, I thank the gentleman from California (Mr. DREIER), the gentleman from California (Mr. COX), and the gentleman from Texas (Mr. FROST) for all of their work on this issue; and that work, of course, must continue.

I rise in strong support of this resolution. I was honored and privileged to work on the working group with the gentleman from California (Mr. COX) and the gentleman from Texas (Mr. FROST) and so many others.

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I think that working group did some very valuable work, laid an important foundation, and in fact suggested and helped make very real and important and fundamental changes in both our rules and some statutes. We are continuing that work I believe today, and in the very near future the gentleman from California (Mr. COX) will put into the hopper another bill aimed at changing statutes to again fine tune some of these issues with regard to presidential succession and related matters. I am happy to coauthor that bill, and that is further progress.

But just as clearly as we have met and gained consensus on some issues and made important progress, big questions remain: and clearly the biggest question which I believe must be tackled more adequately is the possibility of mass deaths among House Members and how our democratic institution of the House, our most democratic institution, would continue to function under that circumstance of national emergency. So that is why I think this resolution and the new joint work between the House and the Senate led by the gentleman from California (Chairman DREIER) and others is so very important.

I also want to join in the concerns that the gentleman from Texas (Mr. PAUL) raised. They are very legitimate concerns that I and many other people hold, but clearly there are ways to address those concerns. Clearly, this new group is not headed in any specific direction that the rules addressing those concerns adequately deal with.

Mr. Speaker, I look forward to continuing to work on this issue with others.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to one of the issues raised on the other side, and that is the question of the adequacy of replacing Members of the House through special elections.

Special elections, of course, are determined by State law; and the laws vary from State to State. Some State laws have special elections held rather promptly. Other States have special elections that extend over a long period of time.

For example, in my home State of Texas, our former colleague, Mr. Combest, shortly after the convening of this Congress, announced that he was resigning, was leaving, and his successor, who was chosen in a special election under Texas law which included a runoff, was sworn in today, 6 months into the Congress. So there is a difficulty in citing the remedy of special elections as a way of replacing Members in a prompt way.

I am very sympathetic to the historical precedent that Members of the House up until this point can only serve by election, but there are extraordinary circumstances. We hope the extraordinary circumstances never occur, but we do need to be ready, should anything like that ever happen.

Mr. Speaker, in closing, this resolution is a very significant development. Again, I want to thank the majority for the way this is structured, for having the sides evenly divided, for requiring a majority vote in each House of the members on this joint committee, and I would urge that the Congress, that the House, promptly pass this resolution. I would hope that the Senate, the other body, would do the same thing, so the work of this joint committee could begin as soon as possible.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think that we have seen from today's debate that this is an extraordinarily serious matter. This coming September 11 will mark the second anniversary of one of the most tragic days in our Nation's history. We all know of the terrible loss of life and we know of the threat that existed on that date to this institution, this building, which, as we all know, is a symbol not only to Americans but around the world of freedom and democracy.

For that reason, after this nearly 2-year window of time when we have taken a lot of action in response to September 11, it is important for us to now step back and, in a deliberative manner, to very thoughtfully look at the ways in which we can assure that we proceed with fair and balanced representation to maintain a continuity of our Nation's governance. I believe that we have in this resolution which will establish this joint committee an opportunity to, in a bicameral way, look at this very important question.

As I said earlier, exactly 10 years ago, in 1993, I was privileged to be a cochairman of the Joint Committee on the Organization of Congress, which looked at a lot of the institutional questions that both bodies face. Now we will, in the wake of this very, very serious challenge that we face, have the opportunity to look at those questions which continue.

Obviously, it is important for us to recognize the disparity that exists between the two bodies. The other body is one which has different constituencies than ours, obviously different terms of office and, as the gentleman from Texas (Mr. FROST) has pointed out, different ways for succession.

This institution is known as the People's House. We are the only federally elected officials who must be elected to have the opportunity to serve in our positions. I feel it is very important for us to maintain that status, as James Madison envisaged it over two centuries ago; and I believe that, at the same time, we can, in working with our colleagues in the other body, proceed with a very fair, bipartisan process, which will allow us to address this.

It is obvious, Mr. Speaker, from having listened to the debate which will simply put into place this joint committee, that there is disagreement. But I believe that as we take the input that has been provided by a wide range of individuals, academics, former colleagues, people who spent a lot of time thinking about this, who will be providing us with recommendations, I am convinced that the work of this joint committee will be among the most important things that this 108th Congress will be able to address.

Mr. Speaker, with that, I urge adoption of this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the order of the House of Wednesday, June 4, 2003, the concurrent resolution is considered read for amendment and the previous question is ordered.

The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF S. 222, ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT AND S. 273, GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 258 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 258

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) 40 minutes of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Resources; and (2) one motion to recommit.

SEC. 2. Upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) 40 minutes of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Resources; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 258 is a closed rule providing for the consideration of two measures, S. 222, the Zuni Indian Tribe Water Rights Settlement Act, and S. 273, the Grand Teton National Park Land Exchange Act.

The rule provides that S. 222 shall be debatable in the House for 40 minutes, equally divided between the chairman and ranking member of the Committee on Resources. The rule also waives all points of order against consideration of the bill and provides one motion to recommit, with or without instruction.

The rule further provides that S. 273 shall be debatable in the House for 40 minutes, equally divided between the chairman and ranking member of the Committee on Resources.

Finally, the rule waives all points of order against consideration of the bill and provides one motion to recommit, with or without instructions.

Mr. Speaker, both of the bills covered by this rule were considered by the House under suspension of the rules on June 3. Neither bill was adopted, having failed to receive the required two-thirds of the votes cast, but each bill was supported by a clear majority in the House.

The Zuni Indian Tribe Water Rights Settlement Act approves a settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona. The bill resolves all of the claims of the Zuni Tribe to water rights in the Little Colorado River basin and elsewhere in Arizona. The bill also provides resources to restore riparian wetlands to the Zuni Heaven Reservation that are of great religious and cultural significance to the tribe and its members.

The Grand Teton National Park Land Exchange Act provides for the acquisition of land owned by the State of Wyoming within the boundaries of the Grand Teton National Park. These lands, rich in wildlife habitat, will be exchanged for other Federal lands or assets of equal value. In turn, the State will be able to acquire lands that have greater potential to generate revenue for public schools, ensuring that the State of Wyoming meets its constitutional mandate to maximize revenues from its school trust lands.

Mr. Speaker, it is unfortunate that we are forced to take up the valuable time of the House to consider for a second time this week two measures that have been previously approved by a solid majority in this House. The measures have been fully debated.

Accordingly, Mr. Speaker, I urge my colleagues to support this rule and pass the underlying bills without further delay.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself 6 minutes. I thank the gentleman from Washington for yielding me the time.

Mr. Speaker, this morning during the debate on the Check 21 open rule, I warned this body that open rules are a rarity, an endangered species, if you will. Well, here we are about to consider not an open rule but a closed rule on two noncontroversial bills. But what do you expect? This is the norm. This is business as usual in this House.

I also want this Chamber and the American people to remember this moment, because it is historic. This also is a rarity here. We finally have seen a tax cut that the Republicans do not like. In the dead of night, faced with the decision of either providing tax relief for 12 million working families or giving a tax cut to Donald Trump, the Republicans chose Donald Trump and left the children out in the cold.

And who exactly is left behind by this glaring omission? Nearly one in five children of our active duty military. These families are only making around $27,000 a year. They did not have the good fortune to be born with the last name of "Gates" or "Buffett" or "Cheney." But they are trying to make a living, and they are doing so by serving their country. These are children of people who are fighting in Afghanistan and Iraq, but the Republicans, in their greed and zeal for tax cuts for their rich friends, decided these families do not need any tax relief.

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Now, of course, Republicans claim that they provide tax relief only for people who pay income tax, but we all know people pay more than just income tax. There is a payroll tax. There is property tax. There is a sales tax. But the Republicans in their warped thought process consider payroll tax relief and child tax credit a new form of welfare. We heard this argument earlier this morning, and it is outrageous; and quite frankly, it is insulting to these hardworking Americans.

As we all know, this could not be farther from the truth. It is the Republicans who encourage welfare in the Tax Code by giving tax breaks to corporations that flee this country for tax havens in other countries. Their disingenuous argument does not fly with the American people.

Mr. Speaker, the legislative process in this body is broken. There is no excuse for the majority's actions. We are here today to reconsider two bills that should have been passed under suspension of the rules. The bills are not controversial, but the majority's actions are.

As we all know, on Tuesday three bills were defeated under suspension of the rules. House Democrats using one of the few procedural tools at our disposal, voted against these bills, not on their merits but to express our frustration that the House leadership refuses to allow for consideration of a bill that would give our working families the tax relief that they deserve.

So today is also payback day. I think it is shameful and spiteful; and it is, unfortunately, very typical around here. They will not say it on the other side of the aisle, so I am going to say it right here now.

What is the payback? Among other things, showing disrespect for one of the finest individuals ever to grace the halls of Congress. The one bill that was defeated on Tuesday that is not on today's schedule is the bill to name a Federal building in Indianapolis for former Senator Birch Bayh. We should be naming multiple courthouses in this country for Birch Bayh.

Their tactics will not work. We are not going to be intimidated. We are going to keep talking about the issues that matter to working Americans, and issues like tax fairness are high among them. If the Republicans were serious about tax relief and if they were serious about their support for working families, they would schedule a vote to reinstate this provision. That is what we are fighting for. That is what we are asking for. But they will not, because they are not serious about this. They are merely providing lip service, telling Americans what they want to hear while padding the pockets of their wealthy friends.

Mr. Speaker, at the end of this debate on the rule I will ask my colleagues to vote "no" on the previous question. If the previous question is defeated, I will offer an amendment to provide for the consideration of the Rangel-Davis-DeLauro bill to help the people the Republicans would rather leave behind.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I am happy to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the two bills that are being considered here today were great suspension bills that were on the Journal a couple of days ago. However, Democrats, in an effort to voice our concern about leaving behind millions of Americans who are low-income families, voted against those suspension bills.

In fact, Mr. Speaker, to borrow a recent popular phrase, I am shocked and awed by the consummate arrogance, fiscal irresponsibility, and candid lack of compassion of the Republican lawmakers of this body.

I have been on the floor many times in the past several months expressing my outrage at the unfairness and untimeliness of the various GOP tax plans, and once again I find myself at the podium in a state of disbelief about the efforts of the self-proclaimed "compassionate conservative party" to exclude some of the neediest families in our Nation from tax relief in the tax bill that was signed into law last week.

In an administration that has claimed to want to leave no child behind, we are now realizing that, indeed, 12 million of them were left behind, and 521,000 in my State.

In a time where special attention is being given to our brave men and women of our Armed Forces who served so well in Iraq, I think it is inappropriate to see how these last-minute shenanigans have actually left many of them out. The majority of our military members are in the pay grades of E5 and below. These are the sergeants, petty officers, lance corporals, specialists, and airmen, whose round-the-clock efforts made the military victory in Iraq swift and decisive. But an E5 with 6 years in service makes just $24,000. His family is left behind.

Mr. Speaker, to borrow a recent popular phrase, I am shocked and awed by the consummate arrogance, fiscal irresponsibility, and candid lack of compassion of the Republican lawmakers of this body. I have been on this floor many times in the past several months expressing my outrage at the unfairness and untimeliness of the various GOP tax plans, and I again find myself at the podium in a state of disbelief about the self-proclaimed "compassionate conservative' party's efforts to exclude some of the neediest families in our Nation from tax relief in the tax bill that was signed into law last week.

In an administration that has claimed to want to "Leave no Child Behind," we are to realizing that there will indeed be children left behind—12 million of them in fact; 527,000 in my State of Ohio.

In a time where special attention is being given to our brave men and women of the Armed Forces who served so well in Iraq, I think it is appropriate to note how the last minute shenanigans of Republican lawmakers to strip out a provision of their tax bill that would have ensured that families making between $10,500 to $26,000 would get the full child tax credit other taxpayers get, will affect our military personnel.

The majority of our military members are in the pay grades of E–5 and below. These are the sergeants, the petty officers, the lance corporals, specialists, and airmen whose round the clock efforts made the military victory in Iraq swift and decisive. But an E–5 with 6 years in the service makes just $24,000 in base pay per year. An E–2 just new to the military makes just $15,840 in base pay. And these are just some of the millions of family members who will suffer, and their children will suffer, their spouses will suffer, because of the back door wrangling by Republicans to give even more money to the wealthiest of American taxpayers.

Mr. RANGEL has introduced a fair and responsible alternative to address this injustice, but I am afraid it will be to little avail. Rather than focus on the important issues facing our Nation, the Republican leadership seems intent to focus on solutions in search of problems—such as this week's constitutional amendment to flag desecration. I haven't been made aware that flag desecration is a problem in this country—but every week when I return to my congressional district, I am made keenly aware that the economic health of our country is a problem. Unfortunately, ti seems to be a problem some Members of this body choose to ignore.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I rise to oppose a rule that does not allow the House to consider providing working families with the child care credit. The current situation imposes the injury of denying these working families $400 that they need and then adds the insult of telling these families that they are not taxpayers, so they do not deserve any tax relief. Of course, looking at their paycheck stubs, they see the taxes they are paying.

Allowing corporations to avoid American taxes just by renting a hotel in the Bahamas, $8 billion; allowing millionaires to pay virtually nothing on their dividend income, $80 billion; eliminating the estate tax even on the largest estates, $138 billion; telling working families that they do not deserve relief and that they are not taxpayers, that is priceless.

There are some things campaign contributions just will not buy. For everything else, there is RepubliCard, accepted at the finest country clubs in the Bahamas. Members will want to get the Deficit Express card, now that the Republican Congress has increased the credit limit to $12 trillion. The Deficit Express card? Do not leave the House without it.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the distinguished ranking member on the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I rise to oppose the motion for the previous question so that we might have the opportunity to amend a rule and to bring to the House legislation that would bring some equity to the recently passed tax bill.

I do not think many Members of the House knew that those that were making the decision would deliberately exclude the benefit of the child tax credit for people making less than $26,000. I refuse to believe that people can be so callous that they would deliberately try to make adjustments to a tax bill that was geared to, as the leadership would say, those who pay the taxes, and exclude the privilege and the opportunity for people to get credit that are in low income merely because they do not pay "the taxes."

We have 6.5 million working families that do pay taxes, albeit those taxes may be perceived by the majority not to be important. But they do pay taxes, and they have lost the benefits of receiving tax credits for their children.

But Mr. Speaker, even worse than that, yesterday we passed the resolution paying honor to those brave men and women that were placed in harm's way as a result of the so-called "victory" in Iraq. As I said yesterday, parades are important, saluting the flag is important, having a bumper sticker is important; but how we treat these veterans is even far more important.

I know that Republicans do not know, and Democrats are learning, that as a result of so-called tax benefits given to these people that were in combat, that over 200,000 that served in Iraq will be denied the tax credit for their children. Why? Because the language of the tax law is that they have to have taxable income. Out of the benevolence of our hearts we have said that if they served in combat, they do not have to pay taxes.

I hope Members will consider to speedily bring up my bill so that we can remedy this error that has been made. Nobody thought that by removing tax liability we would be actually taking away the benefit of the child tax credits.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include for the RECORD an article that appeared in USA Today on this day that says, "Military Kids Get Slighted on Tax Credit."

The article referred to is as follows:

[From USA Today, June 5, 2003]

STUDY: MILITARY KIDS SLIGHTED ON TAX CREDIT

(By William M. Welch)

WASHINGTON.—Nearly one in five children of active-duty U.S. military families won't benefit from the increased tax credit signed last week by President Bush because their parents earn too little to qualify, a study being released today concludes.

The finding by the Children's Defense Fund, a liberal advocacy group, comes as Bush and Republican congressional leaders are under increasing fire for agreeing to omit working poor families from the increased child credit included in the $350 billion, 10-year tax cut plan and aid for states.

Those military families would have received a check of up to $400 per child under a provision that the Senate added to the bill. But that "refundable" credit to families who pay little or no federal income tax, but do pay payroll taxers, was deleted in final negotiations between Bush and Republican leader of Congress.

Families who have children and earn more than about $27,000 a year are due to receive checks next month of up to $400 per child, as an advance on an increase in the credit from $600 to $1,000.

The group said 250,000 of the 1.4 million children in active-duty military families will not qualify for the benefit because of the omission.

An additional 750,000 children denied the benefit have parents who are military veterans, the fund concluded. It based its findings on latest U.S. Census data.

Democrats, liberal groups and some moderate Republicans in Congress are trying to build pressure on Bush and GOP leaders to pass legislation quickly extending the credit, to those families that were left out.

Democrats immediately invoked U.S. troops still in Iraq as a political justification for another bill expanding the credit.

"Thousands of military personnel, people who put their lives on the line for our country, won't receive the child credit unless we correct the child credit unless we correct the bill," Sen. Max Baucus, D-Mont., said.

The $3.5 billion cost would be paid for by cracking down on business tax avoidance schemes under the Democrats' proposal. They said fast action was needed to assure 12 million low-income families are able to receive a check when the government begins mailing them to more affluent families starting July 1.

Senate Majority Leader Bill Frist, R-Tenn., and Minority Leader Tom Daschle, D-S.D., were negotiating a possible agreement that would permit the Senate to vote, perhaps this week, on competing proposals aimed at providing just such a remedy to the working poor.

Republican leaders of the House of Representatives are resisting the move. They say Bush didn't propose giving the added credit to the working poor as part of his original economic stimulus plan, and that sending tax refunds to people who pay no federal income tax may be bad policy.

"This is something that has been blown out of proportion," said Rep. Rob Portman, R-Ohio, who is on the tax-writing Ways and Means Committee. "It was not part of the original bill, nor was it part of the bill in the House. . . . We never debated it. . . . It is a new idea, and it is one we ought to think about."

In another effort to build pressure, a coalition of liberal groups today begins airing TV ads in Washington blasting Bush for leaving the working poor out of the child credit benefit increase.

The Center for Community Change is buying a relatively modest amount of airtime, but it is encouraging hundreds of like-minded groups to air the same ad in other cites.

The ad shows two children: one too poor to qualify for the increased credit and another, whose parents make more money, who receives it. "President Bush chose the most fortunate to get the most," an announcer says."

Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to this rule because working families should be our priority today, families like Cori's. Cori came to a local Head Start in my district at a low point in her life. She was a single parent without any support system and very little money and very little self-esteem. She had just completed a recovery program and was seeking to put her life back together.

Cori went on to volunteer for Head Start, completed an AA degree in early childhood development, and now Cori is a Head Start employee for the past 3 years and wants to get her bachelor's degree. Mr. Speaker, Cori and her two daughters will be denied the child tax credit, while those making more than $1 million a year receive overall tax cuts totalling $93,500.

Our priority today should be, must be, the Rangel-Davis-DeLauro bill, which will expand the child tax credit and marriage penalty relief for lower-income working families. Passing it can be the first step to reversing the wrong done to these hard workers.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, we have heard a lot of heated debate about this issue all morning, but I think there is a basic undisputed fact that frankly should rise above the fray: there was no effort to limit this tax break until the end game of the conference report process, when the administration and those who were shaping the tax cut needed to find $3 billion.

When they needed to do that, they did not search the high end of the bracket; they did not search the offshore loopholes. They went into the pockets of people who need tax relief more than anyone else. That was a choice of priorities. It was a statement that the people who do the hardest work in this country are, frankly, the ones who would be asked to sacrifice first.

I wonder what the people of this country will think, what our constituents will think, when they hear that under the rules of this House they do not even deserve a vote. I wonder what the people who work every single day will think when they hear that a child tax break for them will be welfare. I wonder what these individuals who bear the brunt of payroll taxes will think when they hear that they do not need a tax credit because they really are not taxpayers. I wonder what the parents in my district, who begin paying taxes in the State of Alabama at $4,000, will think when they hear that they do not need tax relief.

This plan, as we knew from the beginning, strikes the wrong priorities. It leaves out people who are most in need of help, Mr. Speaker. I think that it is incumbent on us as a matter of conscience that we correct this imbalance.

This is the work that we ought to do for the people, that of correcting imbalances where they exist and that of correcting inequities where they exist, and not looking into the pockets of our weakest people to balance our budget.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, tomorrow morning the new unemployment numbers come out, and we are probably close to nearly 3 million people that will have lost their jobs in the last 2 years. We have added $3 trillion to the Nation's debt. That has been the end result of this economic plan.

Now, what we are looking for here is 12 million children of working parents to get a tax cut and be treated like the rest of America's children. These are children of working people. Some, as the Children's Defense Fund report shows, are the children of our Armed Forces. They are also children of the law enforcement community, firefighters, first-year teachers, people who work in security in our office buildings across this country, people who work day in and day out putting their hours in and trying to teach their children right from wrong.

What has gone on here is what is wrong with this House today. We came here not just to be votes but to give voice to our values. I know there are good people with good values on the other side of the aisle. There is nothing just in the notion of denying 12 million children, 6½ million families who work full-time, denying those children who are also America's children a tax cut. We can depreciate the machinery of our corporations, depreciate the value of their machinery; but we cannot appreciate America's children.

I was part of an administration that created and extended the $500-per-child tax credit and gave health insurance to 10 million uninsured children whose parents worked full time.

□ 1415

We balanced the budget. We also provided tax cuts in capital gains, but we balanced the budget. It was in balance with our values. These are not the values we espoused on Memorial Day when we welcomed home our veterans and remembered them for what they had done for this country. This vote should also be remembered.

We can do right. We can correct the wrong, hold our heads up high, not wear this in shame for what it does.

These are 12 million of America's children. Let us do right. Let us remember them as we do every day, trying to do right by our values.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I thank my colleague from Massachusetts for yielding me time.

Mr. Speaker, I just want to point out for my friends on the other side of the aisle that I was prepared, as were my colleagues earlier this week, to vote in favor of this bill and suspension that would protect lands around the Grand Tetons, Wyoming. In fact, my in-laws are homesteaded around the Grand Tetons in Wyoming and I know they were very much in favor of seeing this land preserved for ages to come, including my children and their grandchildren.

We voted to strike it down to make a point, that there are 12 million children who would not be served by the recent tax cut that you imposed upon this country. In fact, in USA Today today, there is an article that says one out of five of those 12 million children who will not be getting a benefit, the families that will get a benefit of the child tax credit, are serving in our military today. Their parents are serving in the military, the same military that brought us the victory and did so much to preserve what this country stands for in the conflict in Iraq.

I have news for my colleagues on the other side of the aisle. Working people, believe it or not, working people have children. Working people have children. Working people make and made this country what it is today. Do not forget the working people of this country.

Do not forget the working people of this country. They deserve and need a child tax credit just as much as the wealthiest people in this country. They are the men and women who, day in and day out, provide for this country, for the backbone of this country.

It is interesting that there was a move on earlier this week as well and a bill that was supposed to come before us today that would have eliminated comp time as well. This week has been an attack upon the working families of our Nation, and the Republican party should be ashamed of themselves.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise to discuss the very real concerns of the Zuni tribe and its children.

This bill would provide critical access to the Little Colorado River Basin to allow the Zuni Indian Tribe acquisition of surface water rights and development of groundwater. The acquisition of water rights and associated lands are vital to the Zuni Indian Tribe's future economic development; and, along those same lines, the child tax credit is critical in helping low-income families, including Zunis, achieve some level of economic security.

This bill secures tribal rights to assured water supplies for present and future generations, while at the same time providing for the sound management of an increasingly scarce resource. Because of the importance and sacredness all forms and sources of water, all prayers and songs of the three major components of the Zuni religion contain language asking for rain and snow to ensure that all crops have enough water to finish their life paths to provide sustenance for their Zuni children. Likewise, enduring access to the child tax credit will help Zuni families provide economic sustenance to their children.

By now, the whole Nation knows what happened 2 weeks ago. They know that a tax credit which would have helped nearly 12 million children from 6.5 million low-income families, including Zuni families, was secretly eliminated by the administration and the gentleman from Texas' (Mr. DELAY) Republican majority.

These families, these Zuni families earn between $10,500 and $26,625 per year, families who really need this tax cut and, yes, they do pay taxes and they are important.

The gentleman from Texas (Mr. DELAY) said we have more important matters. These Zuni children are important. In Arizona, 138,000 families with children, 21 percent of the families in the State, are not helped by the child tax credit increase because of the Republicans' last-minute actions. 403,000 Arizona children would be eligible if the child tax credit were made fully refundable, with an additional $259,000 million in credit going to families in the State.

This House ought to be about the working families in this country, those who are Zunis and those who are not. We promised them a child tax credit, and this majority removed it to provide the opportunity for $93,000 in tax cuts to the richest 184,000 millionaires in the country.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I have a question for my Republican colleagues in this House. Why would you, in a fit of anger because you were not able to get the size of the tax cut you wanted, hold poor little children hostage in order to extract a larger tax cut for those who were already wealthy?

It is a fair question.

In the middle of the night, over one-half million Ohio children were excluded from this benefit. Those are children who have moms and dads who are working but their incomes are so low that they may not be required to pay income taxes. But let me tell you, they pay property taxes. They pay Social Security/payroll taxes. They pay all kinds of other taxes. Oh, it is very clever of you to say they do not pay income tax.

I am absolutely disgusted with what has happened in this House. CNN reported that the conservative leader of your party, the gentleman from Texas (Mr. DeLay), brushed aside criticism that the tax bill did not expand the child tax credit and make it available to millions of poor families. But, he said, House Republicans might support doing so if it prodded senators to vote for a broader tax package. In other words, you may be willing to help the poor kids if it means you can get more money for your rich friends. It is as simple as that, as simple as that.

These are just not the rantings of a Democrat. Let me tell you what Senator John McCain said about it. Senator McCain said, My God, what kind of message are we sending when we leave out low-income families, exactly those who are in that category of the enlisted men and women who are fighting for us in Iraq today? It is beyond belief.

And it is beyond belief, but you have got time to redeem yourself. You have got time to change this policy and take care of the kids, 500,000 in Ohio, who need your help.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). Members should refrain from quoting members of the other body.

The gentleman from Massachusetts (Mr. McGovern) has 9 minutes remaining.

Mr. McGOVERN. Mr. Speaker, how much time remains on the other side?

The SPEAKER pro tempore. The gentleman from Washington (Mr. Hastings) has 27 minutes remaining.

Mr. McGOVERN. Mr. Speaker, how many speakers does the gentleman from Washington (Mr. Hastings) have to discuss this issue?

Mr. HASTINGS of Washington. The issue, of course, we are discussing is the rule for the two suspension bills that we, unfortunately, had majority vote earlier this week but, unfortunately, did not have the two-thirds. But we may have, counting myself, two speakers between now and the time we close.

Mr. McGOVERN. Mr. Speaker, does the gentleman want to use some of his time now?

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, we have used up several speakers. I think for balance, if one of the gentleman's speakers is here, they could go.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Who yields time?

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. Kingston).

(Mr. KINGSTON asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me time.

I wanted to say to my colleagues in the House, I certainly intend to stay on the subject matter of this rule equally as much as all the Democrats who have been speaking at least.

I want to talk to my colleagues on the other side of the aisle about this child tax refundable credit which they are so indignant about. Because I want to remind them, you all had nothing to do with putting it on the books, nothing. We were glad that you like it because it was a Republican idea, but every single one of you, every single one of your speakers has voted against it.

Mr. Speaker, I want to help you a little bit out here and just kind of remind you so far we have heard from the gentleman from New York (Mr. Crowley), the gentlewoman from Connecticut (Ms. DeLauro), the gentlewoman from Ohio (Mrs. Jones), the gentleman from California (Mr. Sherman), the gentleman from New York (Mr. Rangel), the gentleman from Ohio (Mr. Strickland), the gentlewoman from California (Ms. Woolsey), and the gentleman from Massachusetts (Mr. McGovern), all good folks. However, they have all voted against this refundable tax credit, May 16, 2001, when the Republicans put it on the books. I do not know what you were thinking.

This thing that you were pretending to champion, you voted against. It was a Republican idea. Where were you when the battle was being fought? I am going to review a little bit of history, and let me say to this, you all are looking around stunned which I understand.

Mr. McGOVERN. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. Mr. Speaker, if it was such a good idea, number one, why did you remove it? Number two, I do not recall us ever having voted on this in the House. It was inserted in the Senate. Let us be accurate.

Mr. KINGSTON. Reclaiming my time, let me jog the gentleman's memory. Here is what the situation was, and the gentleman is a distinguished member of the Committee on Rules and has lots of bills that pass through his desk, so I will not hold you responsible for knowing everything.

Prior to 2001, the child tax credit was $500 per child. It was passed under a Republican bill and, as the gentleman from Illinois (Mr. Emanuel) pointed out, it was signed by President Clinton. So you can claim a little bipartisanship there, even though that was passed by Republican votes when it was in the House, but prior to 2001 the child tax credit was $500. The credit was not refundable for most families. However, for a family with three kids or more, the credit was refundable; and it was not offset by the earned income tax credit. That was prior to 2001.

Now enter President Bush and the 2001 tax cut. Under that, the proposal was to increase the child tax credit from $500 to $1,000. The credit was $600 for the year 2003, and it was scheduled to reach $1,000 per child in 2010. That law made the child tax credit partially refundable for all families with children, not just those who had three kids or more.

Now, we had the vote on that May 16, 2001, and I have got the Roll Call from that, and at that time every one of you all voted against it. As a matter of fact, 197 Democrats voted against this.

So, Mr. Speaker, when the Democrats come out here looking for some rhetoric, and the big rhetoric of the Democratic party this year really that has been led by the gentlewoman from California (Ms. Pelosi) is, we could have torn that statue down a lot cheaper.

I know a lot of folks are against the war. And then it was, well, the plan is not working when we were going up the Euphrates. And then as soon as they tore down the statue, I know a lot of folks on the left, and I want to say not all the members of the Democrat party but a lot of folks on the left were disturbed that a 23-year-old Marine corporal who was in theater had the audacity of hanging an American flag on a Saddam Hussein statue. Of course, he was denounced in the liberal, left-wing community for doing that.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Speaker, that is a little unfair. I do not think anyone objected to flags being flown and so forth. You make a good point on some of the other things, but that is a little unfair on the flag.

Mr. KINGSTON. Let me say to my friend from Tennessee, that is why I said not all the Democrats but a lot of folks on the left denounced the fact that that flag was hung.

Mr. FORD. That is unfair.

Mr. KINGSTON. I would also point out that you were not one of them.

Mr. McGOVERN. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. That is outrageous.

Mr. KINGSTON. Reclaiming my time, I will yield further to you in just one second.

I am very pleased that you all are listening. Let me do this, because I am being generous here, but my ranking member of the Committee on Rules says that maybe we should do this a little bit more on your time.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Let me say for the record what I am outraged at what is in the paper today, that nearly one in five children of U.S. military families will not benefit from the increased tax credit signed by President Bush.

Mr. KINGSTON. I am glad that not only does the gentleman listen to fine speeches like mine, but he also reads the paper, which is very good.

□ 1430

I suspect it is probably the New York Times or the Washington Post.

Let me just say this, does that article point out that my colleagues voted against phasing in the tax cut, the refundability, in 2001? That is all I want to say.

What I would love to hear from our Democrat colleagues, Mr. Speaker, who are saying I voted against this tax cut and a tax cut which was a jobs bill, took 3 million working families off the tax roll, 3 million, and I understand they wanted them on. We thought it would be helpful for the working families of America to get off the tax roll. The reality is they voted against it. They wanted to keep them on. I understand that. I just wish they would acknowledge in the year 2001 that they voted against the child tax refundability clause, and I have the vote in my hand; and I can submit it for the RECORD, Mr. Speaker, and do that.

If my colleagues want to be helpful, what they ought to do on some of these tax bills that are aimed at creating jobs is say, hey, we want to amend the bill and we will do this. We will do this in a spirit of a democratic, small D, democratic House and process. We are going to vote for the bill if we put in some of their ideas, because this is the way it really should work, the best of their party and the best of our party combined together to put out just the best thoughts and do what is right for working families.

Let me point out that a family of four making $11,000 a year pays no income tax, pays about $842 in payroll taxes and receives $4,140 under the earned income tax credit. We think that is good. We think it also would be helpful, though, if my colleagues could join us in making these child tax credits permanent because their idea that they are concerned about now might have some merits. Why do they not join us in saying we are going to make these child tax credits permanent? We are not going to do a bait and switch, when in the year 2011 they are gone.

While we are at it, because we all know that a family of mom and dad have great potential for stability, why do we not end the marriage tax penalty together? Again, I throw out an olive branch to my colleagues, could they join us in making the marriage tax penalty permanent? That would be very helpful for the working poor. There are so many things that we could do together.

Another idea is the 10 percent tax bracket, the 10 percent rate. Could my colleagues join us in making that permanent? These are all things that could help the working poor.

We are not going to say we have the franchise on helping the working poor just because we voted to take 3 million off the payrolls and my colleagues voted against it. We are saying maybe they can join us on the next job creation package and come up with something that is in the best interest of all of us.

I would love to yield to the gentleman from Tennessee, but we are getting to the point we have got a lot of Members who want to go ahead and have a vote, and I am a little concerned about that.

Mr. FORD. Mr. Speaker, will the gentleman yield for a quick question?

Mr. KINGSTON. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Speaker, what is the problem then if my colleagues believe in removing all these taxes, which I think there is a lot of merit to, I am a big tax cutter like the gentleman is? I support those ideas. How is that consistent with the taking 3 million, or I should say up to 12 million, children or removing them from the target of a tax cut which my colleagues did, they voted for it?

Mr. KINGSTON. Mr. Speaker, reclaiming my time, let me say this. Our objective is to get people working, and that was the real goal of this to get folks working.

Let me say this to my friend from Tennessee: if the gentleman wants to join us in making the child tax credit permanent; the marriage tax penalty, eliminate it permanently; the 10 percent tax credit, make that permanent, he and I need to get together because I think we can move the ball down the road, and that is all we want to do.

I am just saying that the planned, orchestrated campaign of the Democrat Party to denounce something that they all voted against in the year 2002, I just wish the speakers would say I voted against this in 2001, but it is a great idea and now I am mad that the Republicans are not doing it this way; I want it done even though I did not share any of the burden by being responsible and voting for it.

I want to end with this. There are a lot of differences between the Democrat and the Republican parties. They seem to be the group of frivolous lawsuits and starving trial lawyers. We are the party of tort reform, ending frivolous medical liabilities, making health care affordable and accessible. They seem to like unemployment checks and government handouts. We like paychecks, jobs and opportunities.

They like welfare and low expectations. We like welfare reform, jobs.

Mr. FORD. . . .

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Tennessee is definitely out of order, has not been recognized, and the Chair would appreciate it if the gentleman would not speak when the other gentleman has the time.

Mr. FORD. . . .

The SPEAKER pro tempore. The gentleman from Tennessee is not recognized. The Chair would ask the gentleman to take his seat. The Chair would ask the gentleman to take a seat. The gentleman from Georgia may continue.

Mr. FORD. . . .

Mr. KINGSTON. Mr. Speaker, here is the situation with welfare reform, Mr. Speaker. We passed welfare reform at a time when there were 14 million people on welfare. At that time, we were called all kinds of names, and they were saying it was heartless and we were mean-spirited and everything else and that these folks were unable to help themselves. What is interesting is in 1996 when we passed welfare reform, we had 14 million people on welfare. Today, that number is down to 5 million people, too high; but we need to continue working on that. The 9 million people are now tax paying, working, enjoying the opportunity, sharing in the American Dream. They are glad that we passed welfare reform.

There is a component in this that the Democrats are proposing which is simply welfare, and I think there may be some merit in that. I have no trouble at all in a healthy discussion on tinkering with welfare reform. This is good for everybody, but what our tax package was about was creating jobs, and we are going to continue to be the party of welfare reform, jobs and opportunity.

COMMITTEE ON WAYS AND MEANS

CHILD CREDIT REFUNDABILITY FACT SHEET

What was the child credit prior to 2001?

Prior to 2001, the child credit was $500 per eligible child. The credit was not refundable for most families. However, for families with 3 or more eligible children, the credit was refundable to the extent the family had payroll tax liability that was not offset by the Earned Income Credit (EIC).

How was the child credit expanded in 2001?

The Economic Growth and Tax Relief Reconciliation Act of 2001 significantly expanded the child credit in two important ways.

(1) The law gradually increased the credit from $500 to $1,000. The credit was $600 for 2003 and was scheduled to reach $1,000 in 2010.

(2) The law made the child credit partially refundable for all families with children—not just those with 3 or more children. The credit is now refundable by an amount equal to 10 percent of the family's earned income in excess of $10,000. The $10,000 threshold is indexed annually for inflation (it is $10,500 for 2003), and the 10 percent refundability rate will increase to 15 percent in 2005.

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Mr. MCGOVERN. Mr. Speaker, I would say to the gentleman from Georgia his tax package is about welfare for the rich. I yield 2½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, what incredible nonsense we have heard here on the floor of the House this afternoon, this attempt to raise the flag and besmirch Members of this House over their stance on the American flag practically on the eve of Flag Day.

Let me tell the gentleman (Mr. KINGSTON), there are two kinds of people today that have the American flag wrapped around them. Some of them are young men and women who come back in coffins with the flag draped around it, who gave their all in the ultimate sacrifice for this country; and all of us honor them, whatever our views about the President's policy. But the other kind of people we do not honor, and it is those who choose to wrap their own bad policies that they cannot defend by stretching the flag around themselves.

What are the merits of the argument about the child tax credit? Who came up with it in the first place? I think the names are Al Gore and Tom Downey, who both served in this body who long ago presented a child tax credit proposal. How did it become law? It eventually became law with the signature of a Democratic President in 1997 when we passed the Balanced Budget Act with the support of a large number of Members on both sides of this aisle, balancing the budget, not busting it as this Republican tax bill would do.

The child tax credit has had strong Democratic support within our caucus and within the Committee on Ways and Means on which I serve, and the only reason any Democrat has voted against that child tax credit on this floor was when it was used, much as the flag has been misused this afternoon, as the reason for voting for a bill that gave most all of the help to the people at the top and none of the people at the bottom.

I am glad that my colleague from Texas (Mr. DELAY) has joined us this afternoon. He has announced to the American people that there are more important things to do than to ensure that the child tax credit is available to people that earn a mere $20,000, $25,000 a year. Who are those people? They are the people that empty the bed pans at the nursing homes. They are the cafeteria workers in our public schools. They are the people that we check out with at the gas station when we go in to pay for our gas. They are people that are sweeping the floors today at the hospitals around America.

Why do those young women and men not have an opportunity to get the same type of child tax credit available to those at the top? They are working. Some of them are working two and three jobs to have a chance to advance out of poverty and share in the American Dream. They respect the flag just as much as the gentleman from Georgia does, but they would also like to share in a little of the American Dream.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, my, my, my, what a heated debate we are having today. I came to the well to talk about what this debate is all about. A lot has been left out by those Members on the other side of the aisle because they are afraid for the truth to surface, so I wanted to bring the real facts about what is going on here.

The child tax credit provision in this new tax law is refundable, and it is refundable to the extent 10 percent of earned income in excess of $10,500, people that make $10,500 get a refundable tax rebate. In 2005, the 10 percent rate goes up to 15 percent.

What this fight is over is there was a provision in the Senate that basically said they wanted to accelerate that 2 years, and we may want to do that in the proper way under regular order; but what the Democrats are angry about is that we did not accelerate that spending increase; and thanks to the tax relief passed by Republican Congresses over the last 8 years, 13 million American families have had their entire income tax liability eliminated, eliminated.

The gentleman from Texas brings up who are these people. I would like to show my colleagues one. Here is a married couple earning $30,000 with three children. Before the 2001 law, that they voted against, this married couple would be paying a marginal rate of 15 percent, which means their income tax liability is over $1,000 and their payroll tax liability is $2,160. Before the 2001 law, they would get a $1,500 credit, and they would get an earned income tax credit of $782, which means that their income tax liability was zero. They still had a payroll tax liability; but because of EITC, the payment from the government was zero.

So after 2001, this same family would have an income tax liability of $688, $2,160 from their payroll tax liability; but they get $1,800 in a child tax credit, and they get a $992 earned income tax credit, which means that their income tax liability is still zero, but their payroll tax liability goes down to $48.

After this law that the President passed that they voted against, that the President signed a week ago, this same family is going to have an income tax liability of $525, payroll tax liability of $2,160, but they get a child tax credit of $2,475, and they get an earned income tax credit of $992, which actually helps them pay not only for their payroll taxes; it reimburses them for their payroll taxes. They pay no income taxes. They actually get a check for $782.

□ 1445

A check from the American taxpayers. No tax liability, but they get to put $782 in their pocket.

Now, let us take a single mother that makes $20,000 and has two children. They are going through the same thing. What has happened to her is she gets a check of over $1,000. Over $1,000. She pays no payroll taxes, she pays no income taxes, and she gets a check for $1,000. They voted against that. They voted against that.

Now they want to come and tell the American people they are all tax relievers. Now all of a sudden they are tax relievers, and they want to give more tax relief to the taxpaying public and to people that do not have a tax liability.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. DELAY. They fail to——

Ms. DELAURO. Mr. Speaker, will the gentleman yield for a question?

Mr. DELAY. Mr. Speaker, may I have order?

Ms. DELAURO. I just want to ask the gentleman if he will yield for a quick question.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas has the time.

Ms. DELAURO. I understand.

The SPEAKER pro tempore. The gentleman is not yielding to the gentlewoman. The gentleman may proceed.

Ms. DELAURO. . . .

The SPEAKER pro tempore. The gentleman is not yielding. The gentleman may proceed.

Mr. DELAY. Mr. Speaker, what has happened here is they also do not want to mention that in the bill signed by the President last week we raised by 10 percent and added more people to the rolls that do not pay income taxes. So this notion that we are not taking care of the poor working families of this country are completely false; and, most importantly, they voted against it. We passed it without their votes, moved forward, gave tax relief to poor working families in this country; and we will continue to do so.

When the Senate does something, we always take it into consideration and we will move forward. I would just remind the Members of this House that we have now almost a trillion dollars left in the budget to do more tax relief for the American people, and we are coming back. We are going to have at least two if not three more tax relief packages for the American people. Because we feel very strongly that we need jobs in this country, we need economic growth in this country, and American families need to keep more of their hard-earned money

Mr. RANGEL. Mr. Speaker, will the gentleman yield? Will the gentleman yield on the tax question?

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I would hope that the distinguished majority leader would extend the courtesy to his Members and not leave the floor. It is so important when Members have something to say to correct their position that they stay on the floor, not for Democrats but for Republicans as well.

This is a very edifying thing that he said in the well of the House. He is trying to rebut the allegations that we have made that in the last tax bill that the working people in the lower incomes were deliberately left out of the bill. Now, my colleague can go back to last year, the year before last, 10 years from now, but the accusation was made and still stands. The accusation is that the Republican leadership cared more about accelerating tax relief for the wealthiest people than they did for working people.

So let us not come here and mislead and make these statements and walk off the floor. There is a tendency for all of us to be out of order when we see the arrogance, the indifference, and the lack of respect that certain Members, especially those in the leadership, have for those that have to work here each and every day.

Mr. MCGOVERN. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MCGOVERN) has 5½ minutes remaining and the gentleman from Washington (Mr. HASTINGS) has 13 minutes remaining.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

As I pointed out earlier, this is a rule on two suspensions that were unfortunately defeated earlier this week that deal with serious matters in the southwestern part of the United States, at least one of them does.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI) to speak on one of these matters.

Mr. RENZI. Mr. Speaker, I just want to point out to my colleagues that what we are here to debate is the rule as it affects the Zuni tribe of New Mexico and Arizona as it affects the sacred lands and those lands right now that have no water.

We were able to provide them with enough land in 1984 to establish Zuni Heaven in Arizona, a reservation, and yet without Senator KYL's intervention we would not have been able to achieve the kind of water that we see the communities in rural Arizona supplying now.

This summer, while we debate separate issues, the Zuni people are hoping to engage in their 4-year migration and trek to their holy lands, to their holy site. So the delay that we imposed 2 days ago, the delay we impose today affects their ability to plan and celebrate this agreement. And there is all kinds of agreement, I think even from both sides, if my colleagues will allow us to get to it. We need to be able to restore the tribe's ability to perform not only the religious duties but the farming and subsistence that they need in order to care for their children.

So when we talk about children today, the Zuni people themselves are waiting to plant their crops and feed their children. They are waiting to take their children to their sacred lands, their wetlands, to teach their children their sacred rights. There will be no more delay if we can get this to a vote. Each day, each hour, each minute we allow to pass, the Zuni people feel there are inequities and that the agreement cannot be reached.

For the record, I want the Zuni people to know that what they see here today does not reflect upon them as a people. There are hours and times, Special Orders available in this House for this issue to be debated. Instead, my colleagues have taken their issue and turned this into a side show.

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentleman for yielding me this time. And since I could not get the gentleman from Texas to answer a simple question for me, maybe I can pose a question to his colleagues and see if we can get an answer.

It appears in fact that the Senate has come to some agreement; that the Senate has said on a bipartisan basis that we need to address the fact that 12 million children were left out of the equation; that they were supposed to be able to have the benefit of a $400 tax credit, these 6.5 million families. The Senate has come to an agreement with about a $10 billion package.

I want to get an answer from the Republican side of the aisle as to whether or not they will bring up the Senate package for us to be able to deliberate and help those 12 million children and those 6.5 million households. The Senate has done it; we ought to be able to do it here and to address that issue.

If we can, we would like to get an answer to that question.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume to see if anyone on the other side wants to respond. We are waiting.

Mr. Speaker, I guess we are not going to get an answer to that question.

Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I want you to know I mean no disrespect to you personally or to the institution, but the notion that somehow welfare has any role in this debate is asinine. My colleagues know and we know, as do those watching know, certainly our colleagues in the Senate know, that everyone we are discussing today with regard to this child tax credit are working people.

The welfare reform package that passed this Congress passed before I got here, so it is easy for me to say I would have voted for it, since I was not here. But I can assure my colleagues that my votes since that time are consistent with that.

Now, I appreciate the gentleman from Texas (Mr. DELAY) coming down here, but what he did, I think, was to lay out pretty clearly for those on our side and the other side just the difference in priorities. Our priorities differ in great ways from the Republicans. Many of us like tax cuts; my Republican colleagues like tax cuts. We think tax cuts should benefit more people, the Republicans think they should benefit a lesser group of people. No disrespect to you. Do not mean to ridicule my colleagues personally, but there are complete differences in priorities and realities.

The reality is what we are discussing today. People earning $25,000 a year or less make up a good portion of America. Frankly, those of us on this floor, that is a fraction of what we earn year in and year out. And how dare we, as we pass a tax cut bill, how dare we say that we have done enough for people that make $11,000, $12,000, $13,000, $14,000 and $15,000 a year. How dare we say that to their children, when the facts betray everything that you believe and I believe.

Frankly, if these children whom we are denying this tax credit to could vote, they would vote all of us out of office. As many times as we have lied to them about building new schools and putting more teachers in the classrooms, they would fire the President, might have even fired the former President.

So let us be honest. We deny 12 million children a tax credit. No funny math, no Enron accounting, no Arthur Andersen accounting can refute that. We should do better and we can.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time. A question was posed and unanswered. We can wait for an answer, if my colleagues have one.

Is there no answer to the question?

Apparently, there is no answer. I tell the gentlewoman from Connecticut, to the question she posed. Let me tell her and my colleagues why.

Mr. Speaker, yesterday syndicated columnist Arianna Huffington, no Democrat and no liberal, and very wealthy, said this in the Los Angeles Times, and I quote: "A magnetic compass always points north; a moral compass should always point out that heaping billions on the rich while ensuring that one out of six American children do not get a penny is dead wrong."

Dead wrong. Arianna Huffington. Not the gentleman from Maryland (Mr. HOYER), not the Democrats, not those fuzzy-headed liberals my Republican colleagues like to talk about, but Arianna Huffington. She continued: "But that's exactly what congressional Republicans did in pushing through tax cut legislation last month, and that's what President Bush signed off on." Arianna Huffington.

Mr. Speaker, America now knows that the GOP's moral compass lies shattered on the conference room floor where the final deals on the Republican tax bill were cut 2 weeks ago.

Why did the majority leader leave the floor? The majority leader left the floor because he used an example just above the $28,000, where he would have been wrong. My colleagues, the moral compass is absent.

There was a report that showed that the policies in 2001 and 2003 are leading to a $44.4 trillion deficit. Who did that? Two people in the Bush administration asked to do that report and OMB. And guess what? They stonewalled the report. Why? Because they did not want the magnitude of the debt tax that we are imposing on every American family known while at the same time, when they had no lobbyist in that hall, those 12 million children, who did not have somebody highly paid to sit in that hallway and say do not cut us, found themselves cut out of the bill that in the still and dark of the night, with no Democrats present, was brought out to this floor, pages and pages of bill, with minutes to review it.

Arianna Huffington is correct. Shame, shame, shame.

Mr. MCGOVERN. Mr. Speaker, I yield myself the remaining 30 seconds. I urge my colleagues to vote "no" on the previous question so that we can help millions of children and working families. We have heard the other side defend the indefensible.

☐ 1500

Mr. Speaker, if they do not want to help millions of working families, they should at least have the guts to go on record as voting no instead of hiding behind procedures. So let this House work its will. Let us have a little democracy in this Chamber. Vote on the previous question so we can bring up the Rangel bill and literally help millions of children in this country.

### WORKING FAMILIES TAX CREDIT ACT OF 2003—SUMMARY OF H.R. 2286, JUNE 4, 2003

Republicans have left moderate-income families behind in their zeal to cut taxes on millionaires, contrary to their "leave no child behind" rhetoric.

H.R. 2286 helps moderate-income working families and is revenue neutral.

#### PROVISIONS

Provides Child Credit to More Working Families: Lowers to $7,500 (from $10,500) the amount of the wages a family must have before refundability of the child credit begins. This is identical to a provision that was included in the House Democratic alternative on the economic stimulus legislation: The credit would be allowed for approximately 19 million additional children by reason of this change.

Increases Benefit for Working Families: Increases partial refundability from 10 percent of wages to 15 percent of wages. Again, this is identical to a provision that was included in the Democratic alternative. This would result in an average credit increase of over $300 per child.

Helps Families of Soldiers in Combat: Allows refundability for families of soldiers in combat zones even though combat wages are not taxed.

Speeds up Marriage Penalty Relief for Lower Income Working Couples: Makes effective immediately the marriage penalty relief in the Earned Income Tax Credit that was provided in the 2001 tax cut. This is the only marriage penalty relief not accelerated in the recently enacted tax bill.

Does Not Increase the Deficit: Closes corporate loopholes: prohibits tax shelters, and taxes corporations that move headquarters offshore (expatriates).

Mr. Speaker, I ask unanimous consent that the text of the amendment and description of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as I mentioned earlier, this is a rule on two suspension bills that were, unfortunately, not passed earlier this week. They are very important bills to those areas that are affected.

Mr. Speaker, I include for the RECORD the chart that the distinguished majority leader discussed earlier today.

EXAMPLES: REFUNDABILITY OF CHILD CREDIT FOR 2003

| | Pre-2001 law | 2001 law | 2003 law |
|---|---|---|---|
| Example 1: Married couple earning $30,000 with 3 children | | | |
| Tax liability before credits: | | | |
| Earnings | 30,000 | 30,000 | 30,000 |
| Standard deduction | (7,950) | (7,950) | (9,500) |
| Personal exemptions | (15,250) | (15,250) | (15,250) |
| Taxable income | 6,800 | 6,800 | 5,250 |
| Marginal tax rate | 15% | 10% | 10% |
| Income tax liability | 1,020 | 680 | 525 |
| Payroll tax liability | 2,160 | 2,160 | 2,160 |
| Child credit | 1,500 | 1,800 | 2,475 |
| Earned income credit | 782 | 992 | 992 |
| Tax liability after EIC and child credit: | | | |
| Income tax liability | 0 | 0 | 0 |
| Payroll tax liability | 898 | 48 | 0 |
| Payroll from government | 0 | 0 | 782 |
| Example 2: Single mother earning $20,000 with 2 children | | | |
| Tax liability before credits: | | | |
| Earnings | 20,000 | 20,000 | 20,000 |
| Standard deduction | (7,000) | (7,000) | (7,000) |
| Personal exemptions | (9,150) | (9,150) | (9,150) |
| Taxable income | 3,850 | 3,850 | 3,850 |
| Marginal tax rate | 15% | 10% | 10% |
| Income tax liability | 578 | 385 | 385 |
| Payroll tax liability | 1,440 | 1,440 | 1,440 |
| Child credit | 578 | 1,200 | 1,335 |
| Earned income credit | 2,888 | 2,888 | 2,888 |
| Tax liability after EIC and child credit: | | | |
| Income tax liability | 0 | 0 | 0 |
| Payroll tax liability | 0 | 0 | 0 |
| Payment from government | 1,748 | 2,263 | 2,398 |

The material previously referred to by Mr. MCGOVERN is as follows:

### PREVIOUS QUESTION FOR H. RES.—RULE ON S. 222 & S. 273

At the end of the resolution add the following new section:

"SEC. 3. Upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2286) the Working Families Tax Credit Act of 2003. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) 40 minutes of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit."

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on adoption of the resolution, which will be followed by a 5-minute vote on the question of passage of H.R. 1474 which was postponed earlier today.

The vote was taken by electronic device, and there were—yeas 220, nays 194, not voting 20, as follows:

[Roll No. 244]

### YEAS—220

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NAYS—194

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOT VOTING—20

Ballenger
Brady (TX)
Burton (IN)
Carson (OK)
Delahunt
Dicks
Eshoo
Gephardt
Hastings (FL)
Larson (CT)
Lewis (KY)
Lofgren
McInnis
Ortiz
Reyes
Ryan (WI)
Smith (MI)
Smith (WA)
Toomey
Watt

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that there are 2 minutes remaining to vote.

☐ 1521

Ms. EDDIE BERNICE JOHNSON of Texas and Mr. MEEKS of New York changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 229, noes 175, not voting 30, as follows:

[Roll No. 245]

### AYES—229

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutierrez
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hobson
Hoekstra
Holden
Honda
Hostettler

Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOES—175

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOT VOTING—30

Ballenger
Brady (TX)
Brown (OH)
Burton (IN)
Carson (OK)
Cubin
DeFazio
Delahunt
Dicks
Eshoo
Frank (MA)
Gephardt
Hastings (FL)
Herger
Jenkins
Larson (CT)
Lewis (GA)
Lewis (KY)
Lofgren
McDermott
McInnis
Meeks (NY)
Ortiz
Reyes
Rogers (MI)
Ryan (WI)
Smith (MI)
Smith (WA)
Toomey
Watt

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining to vote.

□ 1527

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CHECK CLEARING FOR THE 21ST CENTURY ACT

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 1474, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 405, nays 0, not voting 29, as follows:

[Roll No. 246]

### YEAS—405

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky

Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—29

Ballenger
Brady (TX)
Brown (OH)
Burton (IN)
Carson (OK)
Coble
DeFazio
Delahunt
Dicks
Eshoo
Gephardt
Hastings (FL)
Jenkins
Larson (CT)
Lewis (KY)
Lofgren
McDermott
McInnis
Miller, George
Ortiz
Peterson (PA)
Pickering
Reyes
Ryan (WI)
Smith (MI)
Smith (WA)
Spratt
Toomey
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised two minutes remain to vote.

☐ 1533

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PICKERING. Mr. Speaker, on rollcall No. 246, I was unavoidably detained. Had I been present, I would have voted "yea."

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## ANNOUNCEMENT REGARDING CHANGE OF MEETING PLACE FOR MEMBERS-ONLY BRIEFING ON IRAQ

(Mr. HUNTER asked and was given permission to address the House for 1 minute.)

Mr. HUNTER. Mr. Speaker, the briefing by Secretary Rumsfeld that was to take place on the floor at 4 p.m. will take place at 4 p.m. in Rayburn 2118.

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## GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 222 and S. 273.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

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## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

Mr. RENZI. Mr. Speaker, pursuant to House Resolution 258, I call up the Senate bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 222 is as follows:

S. 222

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Zuni Indian Tribe Water Rights Settlement Act of 2003".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417, In re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian communities in the Little Colorado River basin, the parties have entered into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this Act.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) EASTERN LCR BASIN.—The term "Eastern LCR basin" means the portion of the Little Colorado River basin in Arizona upstream of the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) FUND.—The term "Fund" means the Zuni Indian Tribe Water Rights Development Fund established by section 6(a).

(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and the State of Arizona described in article 6 of the Settlement Agreement.

(4) PUMPING PROTECTION AGREEMENT.—The term "Pumping Protection Agreement" means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) RESERVATION; ZUNI HEAVEN RESERVATION.—The term "Reservation" or "Zuni Heaven Reservation", also referred to as "Kolhu:wala:wa", means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the Round Valley Water Users' Association, the Salt River Project Agricultural Improvement and Power District, the

Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

(8) SRP.—The term "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(9) TEP.—The term "TEP" means Tucson Electric Power Company.

(10) Tribe, Zuni Tribe, or Zuni Indian Tribe.—The terms "Tribe", "Zuni Tribe", or "Zuni Indian Tribe" means the body politic and federally recognized Indian nation, and its members.

(11) Zuni Lands.—The term "Zuni Lands" means all the following lands, in the State of Arizona, that, on the effective date described in section 9(a), are—

(A) within the Zuni Heaven Reservation;

(B) held in trust by the United States for the benefit of the Tribe or its members; or

(C) held in fee within the Little Colorado River basin by or for the Tribe.

### SEC. 4. AUTHORIZATION, RATIFICATIONS, AND CONFIRMATIONS.

(a) Settlement Agreement.—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act. The Secretary is further authorized to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 6(a), $19,250,000, to be allocated by the Secretary as follows:

(1) $3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 9(b).

(2) $15,750,000, of which $5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this Act.

(c) Other Agreements.—Except as provided in section 9, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

### SEC. 5. TRUST LANDS.

(a) New Trust Lands.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 9(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4, S 1/2 NE 1/4 SE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;

(B) Section 23: N 1/2, N 1/2 SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SW 1/4 SE 1/4;

(C) Section 24: NW 1/4, SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4; and

(D) Section 25: N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 19: W 1/2 E 1/2 NW 1/4, W 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4, S 1/2 SW 1/4;

(B) Section 29: SW 1/4 SW 1/4 NW 1/4, NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW 1/4 SE 1/4;

(C) Section 30: W 1/2 , SE 1/4; and

(D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4.

(b) Future Trust Lands.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 14: SE 1/4 SW 1/4, SE 1/4;

(B) Section 16: S 1/2 SW 1/4 SE 1/4;

(C) Section 19: S 1/2 SE 1/4 SE 1/4;

(D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;

(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;

(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;

(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;

(H) Section 29: N 1/2 N 1/2;

(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4: and

(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) New Reservation Lands.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) Limitation on Secretarial Discretion.—The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) Lands Remaining in Fee Status.—The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) Final Agency Action.—Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) No Federal Water Rights.—Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) State Water Rights.—The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) Forfeiture and Abandonment.—Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) Ad Valorem Taxes.—With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) Authority of Tribe.—For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) Federal Acknowledgement of Intergovernmental Agreements.—

(1) In general.—The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) No abrogation.—The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent with subparagraph 6.2.A of the Settlement Agreement and this Act.

(3) Removal.—

(A) In general.—Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) Exception.—The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 8(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) Rule of Construction.—Nothing in this Act shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) Disclaimer.—Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes" approved August 28, 1984 (Public Law 98–408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101–486; 104 Stat. 1174)).

**SEC. 6. DEVELOPMENT FUND.**

(a) Establishment of the Fund.—

(1) In general.—There is established in the Treasury of the United States a fund to be known as the "Zuni Indian Tribe Water Rights Development Fund", to be managed and invested by the Secretary, consisting of—

(A) the amounts authorized to be appropriated in section 4(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) Additional deposits.—The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) Management of the Fund.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) Investment of the Fund.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) Availability of Amounts From the Fund.—The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 9(a) have been met.

(e) Expenditures and Withdrawal.—

(1) Tribal management plan.—

(A) In general.—The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) Requirements.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 4(b).

(2) Enforcement.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this Act.

(3) Liability.—If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) Expenditure plan.—

(A) In general.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) Description.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) Approval.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) Annual report.—The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) Funds for Acquisition of Water Rights.—

(1) Water rights acquisitions.—Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 4(b)(1)—

(A) shall be available upon appropriation for use in accordance with section 4(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) Right to set off.—In the event the requirements of section 9(a) have not been met and the Settlement Agreement has become null and void under section 9(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 4(b)(1), together with any interest accrued, against any claims asserted by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) Water rights.—Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) No Per Capita Distributions.—No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

**SEC. 7. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.**

(a) Full Satisfaction of Members' Claims.—

(1) In general.—The benefits realized by the Tribe and its members under this Act, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for—

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a).

(2) No recognition or establishment of individual water right.—Nothing in this Act recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) Tribe and United States Authorization and Water Quantity Waivers.—The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) Tribal Waivers Against the United States.—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 9(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the effective date described in section 9(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from

time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 9(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(d) Tribal Waiver of Water Quality Claims and Interference With Trust Claims.—

(1) Claims against the state and others.—

(A) Interference with trust responsibility.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) Injury or threat of injury to water quality.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 9(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(VI) any combination of the causes described in subclauses (I) through (V).

(2) Claims of the united states.—The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring—

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 9(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(3) Limitations.—Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), as described in subparagraph 11.4(D)(3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 9(a).

(e) Waiver of United States Water Quality Claims Related to Settlement Land and Water.—

(1) Past and present claims.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 9(a) arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) Future claims.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 9(a) caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) Effect.—Subject to subsections (b) and (e), nothing in this Act or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

### SEC. 8. MISCELLANEOUS PROVISIONS.

(a) Waiver of Sovereign Immunity.—If any party to the Settlement Agreement or a Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this Act, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 4(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of Article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under Article 5 of the Settlement Agreement, naming the United States or the Tribe as a party—

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

(b) Tribal Use of Water.—

(1) In general.—With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation—

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 9(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 5 that is reasonably equivalent to State water law (including statutes relating to dam safety and groundwater management); and

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

(2) Limitation.—

(A) In general.—Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on the Zuni Heaven Reservation to any other place.

(B) Exception.—Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) Rights-of-Way.—

(1) New and future trust land.—The land taken into trust under subsections (a) and (b) of section 5 shall be subject to existing easements and rights-of-way.

(2) Additional rights-of-way.—

(A) In general.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) Alternatives.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) Certain Claims Prohibited.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) Vested Rights.—Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this Act and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this Act, the Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph (1), (2), or (3) of section 4(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.

(f) Other Claims.—Nothing in the Settlement Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.

(g) No Major Federal Action.—

(1) In general.—Execution of the Settlement Agreement by the Secretary as provided for in section 4(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(2) Settlement agreement.—In implementing the Settlement Agreement, the Secretary shall comply with all aspects of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

### SEC. 9. EFFECTIVE DATE FOR WAIVER AND RELEASE AUTHORIZATIONS.

(a) In General.—The waiver and release authorizations contained in subsections (b) and (c) of section 7 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This Act has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 4(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this Act and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) DEADLINE FOR EFFECTIVE DATE.—If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 4 and 5, and any agreements entered into pursuant to sections 4 and 5 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 4(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to paragraph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

The SPEAKER pro tempore. Pursuant to House Resolution 258, the gentleman from Arizona (Mr. RENZI) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in order for my colleagues to get home and be a little more efficient, we have had discussions on this bill. I think that both sides are now ready to vote on it in agreement. I urge adoption.

S. 222, authored by Senator JON KYL and identical to legislation introduced by me and Congressman J.D. HAYWORTH of Arizona, would resolve water rights claims and litigation in the Little Colorado River basin. I would like to commend the commitment and persistence of Senator KYL on this important settlement. I would also like to recognize the patience and perseverance of the Zuni Tribe.

The Zuni Indian Tribe Water Rights Settlement Act of 2003 would codify the settlement of the Zuni Indian Tribe's water rights for its religious lands in northeastern Arizona. Congress first recognized the importance of these lands in 1984 when it created the Zuni Heaven Reservation. While land issues were addressed in 1984, water rights remained in question until Sen. KYL's intervention.

Uncertainty existed in several of the rural towns upstream from the newly-created Zuni Heaven. These small communities upstream from this Reservation have now been fully-appropriated. A resolution was reached that avoided costly litigation. Parties included the Zuni Tribe, the United States on behalf of the Zuni Tribe, the State of Arizona, including the Arizona Game and Fish Commission, the Arizona State Land Department, and the Arizona State Parks Board, as well as the major water users in this area; negotiations were conducted for many years to produce an acceptable agreement for all parties.

This legislation would provide the Zuni Tribe with the resources and protections necessary to acquire water rights from willing sellers. In addition, this legislation will restore and protect the wetland environment that previously existed on Zuni Heaven.

In return, the Zuni Tribe will grandfather existing water uses and waive claims against many future water uses in the Little Colorado River Basin. This legislation exemplifies that the Zuni Tribe can achieve its needs for the Zuni Heaven Reservation and avoid a disruption to local water users and industry. The United States will also avoid costly litigation and satisfy its trust responsibilities to the Zuni Tribe.

This legislation provides much needed assurances to all settlement participants and is the result of four years of good faith negotiations.

I would like to identify and commend the work of the parties to the Zuni Settlement. The parties consist of rural communities in the First District of Arizona, including the City of St. Johns, the Town of Eagar and the Town of Springerville. In addition, the State of Arizona, specifically, the Arizona Game and Fish Department, the State Land Department and the Arizona State Parks Board, Salt River Project, Tucson Electric Power Company, St. Johns Irrigation and Ditch Company, the Lyman Water Company and the Round Valley Water Users' Association.

It is now up to this body to take the final step in making this settlement a reality. I ask my colleagues to pass this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 222, the Zuni Indian Tribe Water Rights Settlement Act of 2003. This is a unique water rights settlement, carefully designed to protect the Zuni's most sacred site while at the same time preserving access to water supplies for upstream users.

The Zunis are counting on this legislation, as my colleague from Arizona knows, to finally settle critical water questions. I urge my colleagues to support Senate S. 222. I would congratulate the gentleman from Arizona (Mr. RENZI) on his leadership.

This is a unique water rights settlement, carefully designed to protect the Zuni's most sacred site while at the same time preserving access to water supplies for upstream water users.

Recently, a delegation of Zuni tribal leaders and members visited my office here in Washington. They told me Zuni Heaven, a riparian area along the Little Colorado River, is central to the Zuni religious and cultural traditions and is the place where Zuni deities and ancestors have resided from time immemorial.

This sacred riparian area is the home of the Kachina, one of the highest religious orders in Zuni culture, and was in historical times, a very lust riparian area with willow, cottonwood, cattails, turtles, and waterfowl.

Ever since the 1877 Presidential order reduced the Zuni cultural homelands and established the current Zuni Reservation in New Mexico, the Zuni people have maintained the practice of making a pilgrimage to Zuni Heaven.

Every 4 years, Zunis from western New Mexico trek over 50 miles to Zuni Heaven, located in northeast Arizona, to perform religious ceremonies during the summer solstice. This pilgrimage is very important because it helps sustain and rejuvenate Zuni cultural and religious traditions.

The Zuni Water Rights Settlements will help the Zuni people restore their sacred Zuni Heaven to the way it was as described in ancient historical accounts. Furthermore, it will help them develop wetlands for water plants, birds and other animals so important and necessary in carrying on the Zuni Kachina religion.

I extend my compliments to the Zuni people, the State of Arizona, and the non-Indian organizations who participated in the negotiations that resulted in this historic water settlement.

It is unfortunate that we were not able to pass this bill when it first came before the House earlier this week. The Zuni are counting on this legislation to finally settle critical questions about their water rights. We are now able to pass this bill and send it to the President for his signature, and I urge my colleagues to support S. 222.

Mr. Speaker, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I thank the gentleman from New Mexico, and I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 258, the Senate bill is considered read for amendment and the previous question is ordered.

The question is on third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. UDALL of New Mexico. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

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## GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Mrs. CUBIN. Mr. Speaker, pursuant to House Resolution 258, I call up the Senate bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 273 is as follows:

S. 273

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Grand Teton National Park Land Exchange Act".

### SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Federal lands" means public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(2) The term "Governor" means the Governor of the State of Wyoming.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "State lands" means lands and interest in lands owned by the State of Wyoming within the boundaries of Grand Teton National Park as identified on a map titled "Private, State & County Inholdings Grand Teton National Park", dated March 2001, and numbered GTNP/0001.

**SEC. 3. ACQUISITION OF STATE LANDS.**

(a) The Secretary is authorized to acquire approximately 1,406 acres of State lands within the exterior boundaries of Grand Teton National Park, as generally depicted on the map referenced in section 2(4), by any one or a combination of the following—

(1) donation;

(2) purchase with donated or appropriated funds; or

(3) exchange of Federal lands in the State of Wyoming that are identified for disposal under approved land use plans in effect on the date of enactment of this Act under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) that are of equal value to the State lands acquired in the exchange.

(b) In the event that the Secretary or the Governor determines that the Federal lands eligible for exchange under subsection (a)(3) are not sufficient or acceptable for the acquisition of all the State lands identified in section 2(4), the Secretary shall identify other Federal lands or interests therein in the State of Wyoming for possible exchange and shall identify such lands or interests together with their estimated value in a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives. Such lands or interests shall not be available for exchange unless authorized by an Act of Congress enacted after the date of submission of the report.

**SEC. 4. VALUATION OF STATE AND FEDERAL INTERESTS.**

(a) AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the value of any Federal lands eligible for exchange under section 3(a)(3) or State lands, then the Secretary and the Governor may select a qualified appraiser to conduct an appraisal of those lands. The purchase or exchange under section 3(a) shall be conducted based on the values determined by the appraisal.

(b) NO AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the selection of a qualified appraiser under subsection (a), then the Secretary and the Governor shall each designate a qualified appraiser. The two designated appraisers shall select a qualified third appraiser to conduct the appraisal with the advice and assistance of the two designated appraisers. The purchase or exchange under section 3(a) shall be conducted based on the values determined by the appraisal.

(c) APPRAISAL COSTS.—The Secretary and the State of Wyoming shall each pay one-half of the appraisal costs under subsections (a) and (b).

**SEC. 5. ADMINISTRATION OF STATE LANDS ACQUIRED BY THE UNITED STATES.**

The State lands conveyed to the United States under section 3(a) shall become part of Grand Teton National Park. The Secretary shall manage such lands under the Act of August 25, 1916 (commonly know as the "National Park Service Organic Act"), and other laws, rules, and regulations applicable to Grand Teton National Park.

**SEC. 6. AUTHORIZATION FOR APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 258, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, having already debated this bill, I urge its adoption.

I rise in support of S. 273, and ask that this body support its passage.

The Grand Teton National Park Land Exchange Act was introduced by Senator THOMAS, co-sponsored by Senator ENZI, and is supported by all five elected Wyoming state officials, the National Park Service and the local communities.

The measure passed the Senate on April 3, 2003, under unanimous consent.

This bill presents a very unique opportunity with regards to federal land management in our National Parks that will greatly benefit the American public as well as Wymoning school children.

The Jackson Valley has a history as colorful and amazing as the Grand Tetons that rise nearly 14,000 feet above the glacial lakes at their base.

The first visitors to the Grand Tetons and the Jackson Valley were the Shoshone, Crow, Blackfoot, and Gros Ventre Indian tribes who treated the area as a summer hunting ground and sacred area.

Later, in the 1800's, many fur trappers visited this consecrated ground, and were stunned by its raw beauty and diverse ecosystem. In 1807 even John Colter, who had separated from the Lewis and Clark expedition, explored the area and returned with far fetched tales of geysers, hot springs, and mountains that touched the sky.

It was years before his supposed hallucinations were indeed found to be true. From 1824–1840 the Grand Tetons were the central rendezvous site for mountain men all across the west, swapping tall tales and pelts. The Green River Rendezvous continues to this very day.

After the area was settled at the turn of the century, the town of Jackson elected a Town Mayor and City Council entirely comprised of women, showing just how intelligent the people of Wyoming were, and are, to this very day. This was the first All-Female town government in our Nation's history. This, of course, occurred in my home state of Wyoming, the Equality State.

Grand Teton National Park was later established by Congress on February 29, 1929, to protect the natural resources of the Teton range and the Jackson area's unique beauty.

On March 15, 1943, President Franklin Delano Roosevelt established the Jackson Hole National Monument adjacent to the Park.

Grand Teton National Park was expanded to its present size by Congress on September 14, 1950, to include a portion of the land from the Jackson Hole National Monument.

The Park currently encompasses approximately 310,000 acres of wilderness and some of the most amazing scenery to be found in any corner of the world.

However, when Wyoming received its statehood in 1890, sections of land were set aside for school revenue purposes. All income from these lands—rents, grazing fees, sales or other sources—is placed in a special trust fund for the benefit of students in the state.

The establishment of these school sections pre-dates the creation of most national parks or monuments within our state boundaries, creating several state in-holdings within federal land masses, such as in Grand Teton National Park.

Currently over 1406 acres of state surface and mineral acres are held by the state of Wyoming in isolated plots within Grand Teton National Park.

This legislation would allow the State of Wyoming to trade or sell these precious state lands locked up inside the Park to the federal government in exchange for other federal lands, minerals or appropriated dollars, or a combination of all three, to address Wyoming's public school funding needs.

Further, the American public can consolidate under National Park Service management the lands within Grand Teton National Park's borders and protect them from future development pressures placed upon the state for the benefit of our schoolchildren.

It is a win-win scenario for everyone involved.

Within 90 days after this bill is signed into law, the land would be valued through agreement by the Wyoming Governor and the Secretary of the Interior. If there is no agreement, an appraisal process will be set up to determine the value of the lands or minerals in question to ensure fairness to all parties.

There will also be an appeals process to further ensure fairness to both the Federal Government and the state of Wyoming.

Within 180 days after the state land value is determined, the Interior Secretary, in consultation with the Governor, shall determine an exchange of federal assets of equal value for the state lands.

This body has an incredible opportunity to allow the consolidation of lands within Grand Teton National Park borders, and to allow the state of Wyoming to capture fair value for their property to benefit all Wyoming school children.

I respectfully request that the members of this body support the Grand Teton National Park Land Exchange Act.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill. I support the Senate bill.

Mr. Speaker, I yield back the balance of my time.

Mrs. CUBIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 258, the Senate bill is considered read for amendment and the previous question is ordered.

The question is on third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. UDALL of New Mexico. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of the passage of the Senate bill, S. 222, on which further proceedings were postponed earlier today.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the passage of the Senate bill on which the yeas and nays are ordered.

The SPEAKER pro tempore. This will be a 15-minute vote, followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 389, nays 3, not voting 42, as follows:

[Roll No. 247]

YEAS—389

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Coble
Duncan
Paul

NOT VOTING—42

Ackerman
Ballenger
Blunt
Brady (TX)
Brown (OH)
Burton (IN)
Carson (OK)
Conyers
Costello
Deal (GA)
DeFazio
Delahunt
Dicks
English
Eshoo
Everett
Feeney
Gephardt
Goode
Hastings (FL)
Hooley (OR)
Hulshof
Jenkins
Kolbe
Larson (CT)
Lewis (KY)
Lofgren
Lowey
McDermott
McInnis
Miller, George
Ortiz
Pascrell
Quinn
Reyes
Ryan (WI)
Serrano
Smith (MI)
Smith (WA)
Thompson (CA)
Toomey
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood) (during the vote). There are 2 minutes remaining to vote.

☐ 1557

Mr. PAUL changed his vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to an unavoidable conflict in my schedule, I was unable to be present during rollcall votes 236–247. Had I voted, I would have voted "yea" in rollcall votes 236–239, "no" on rollcall votes 240–241, and "yea" on rollcall votes 242–247.

## GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

The SPEAKER pro tempore (Mr. LaHood). The pending business is the question of passage of the Senate bill, S. 273, on which further proceedings were postponed.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the passage of the Senate bill on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 375, nays 4, not voting 55, as follows:

[Roll No. 248]

YEAS—375

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Cole
Collins

Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Emanuel
Emerson
Engel
English
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—4

Coble
Miller (FL)
Musgrave
Paul

### NOT VOTING—55

Ackerman
Ballenger
Berman
Brady (TX)
Brown (OH)
Brown (SC)
Burton (IN)
Carson (OK)
Clyburn
Conyers
Costello
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
Dicks
Edwards
Ehlers
Eshoo
Everett
Feeney
Fletcher
Gephardt
Goode
Hastings (FL)
Hooley (OR)
Hulshof
Hunter
Jenkins
Larson (CT)
Lewis (KY)
Lofgren
Lowey
McDermott
McInnis
Meehan
Miller, George
Ortiz
Pascrell
Putnam
Quinn
Reyes
Ryan (WI)
Serrano
Smith (MI)
Smith (WA)
Sweeney
Tancredo
Thompson (CA)
Thompson (MS)
Tierney
Toomey
Walsh
Watt

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in the vote.

□ 1603

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DAVIS of Tennessee. Mr. Speaker, on rollcall No. 248, had I been present, I would have voted "yea."

Mr. WALSH. Mr. Speaker, on rollcall No. 248 I was unavoidably detained. Had I been present, I would have voted "yea."

## ANNOUNCEMENT REGARDING PROCEDURES FOR FILING OF AMENDMENTS ON H.R. 2115, FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of June 9 to grant a rule which could limit the amendment process for floor consideration of H.R. 2115, Flight 100—Century of Aviation Reauthorization Act. The Committee on Transportation and Infrastructure ordered the bill reported on May 21, 2003, and is expected to file its report with the House tomorrow, June 6, 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol by 10 a.m. on Tuesday, June 10th.

Members should draft their amendments to the text of the bill as reported by the Committee on Transportation and Infrastructure which will be available tomorrow for their review on the websites of both the Committee on Transportation and Infrastructure and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## ANNOUNCEMENT REGARDING PROCEDURES FOR FILING OF AMENDMENTS ON H.R. 1115, CLASS ACTION FAIRNESS ACT OF 2003

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of June 9 to grant a rule which could limit the amendment process for floor consideration of H.R. 1115, the Class Action Fairness Act of 2003. The Committee on the Judiciary ordered the bill reported May 21, 2003, and is expected to file its report in the House on June 9, 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol by 10 a.m. on Wednesday, June 11.

Members should draft their amendments to the text of the bill, as reported by the Committee on the Judiciary which will be available early next week for their review on the websites of both the Committee on the Judiciary and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to my friend, and I am glad to see him on the floor, the gentleman from Texas (Mr. DELAY), the leader, for the purpose of inquiring about the schedule for next week.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) for yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour debates and 2 p.m. for legislative business. We will consider several measures under suspension of rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on those measures will be rolled until 6:30 p.m.

On Tuesday and Wednesday we expect to consider additional bills under suspension of the rules. We also plan to consider several bills under a rule: H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act, to reauthorize programs for the Federal Aviation Administration; H.R. 1115, the Class Action Fairness Act; and H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

In addition to these bills, we may also consider H.R. 1528, the Taxpayer Protection and IRS Accountability Act.

And, finally, I would like to note for all Members that we are making a change in the schedule that was sent to offices at the beginning of the year. We do not plan to have votes next Friday, June 13.

Mr. HOYER. I thank the leader for his informing us of the schedule that is contemplated for next week.

Mr. Leader, I do not see Child Tax Credit legislation listed on next week's schedule. I did not hear you talk about that.

We have a bill, as I think you probably know, the Rangel/DeLauro/Davis bill, that will make sure working families and our service members left out of the recently enacted tax bill get the child tax credit they should have. We have sought unanimous consent to bring this bill up, but we have been denied and not successful. There is apparently agreement in the Senate, as we understand it, to take this matter up perhaps today.

When do you expect that we might be able to consider child tax credit legislation on the floor, Mr. Leader?

Mr. DELAY. The gentleman knows that we think we have already done child tax credit in a very meaningful way. Whatever the Senate does, certainly we will take it under consideration, but our schedule and our agenda that has been announced from the first of the year is that we will have several tax relief bills. Of those bills, maybe this provision that the gentleman is talking about could be included. I do not know, but the Committee on Ways and Means would certainly take it under advisement.

We have scheduled certainly an international tax bill for this summer. We have already announced that we would like to see the total repeal of death tax made permanent. There will probably be another tax relief bill, so there is plenty of opportunity for the gentleman to talk about that provision that the Senate may have left out of the bill signed by the President a week ago.

Mr. HOYER. I thank the gentleman. He and I may disagree as to the fact that the Senate left it out. It was left out. We agree on that. The Senate, of course, had it in its bill. We did not.

Am I correct then that there are no plans next week to have on the floor of the House as far as you know a child tax credit bill?

Mr. DELAY. I cannot say no plans. As the gentleman knows, in this business you never say never.

I am under the impression that the other body has some sort of package that they have put together. If they pass that package today or tomorrow, the Committee on Ways and Means can certainly take it under advisement and make recommendations to the leadership, and that may happen next week. I just cannot tell the gentleman.

Mr. HOYER. I thank the gentleman for his observation. I take it then that if the Senate does not pass something over here, that we would have no thought that that would be on the schedule for next week?

Mr. DELAY. If the minority on the Committee on Ways and Means wants to participate in the process, certainly in those tax provisions that are being worked on as we speak by the Committee on Ways and Means, they could certainly participate in that process, try to get their provision in, gather the votes to pass it, and bring it out here, and hopefully they would support a tax relief bill.

Mr. HOYER. Reclaiming my time, without taking this further, than perhaps we need to go in a colloquy of this type on the schedule, Mr. Leader. In a serious vein, the minority on the Committee on Ways and Means would love to participate in the process. I would tell the leader, with all due respect and very sincerely, the minority in the Committee on Ways and Means does not believe it is included in the process; and that is of concern to us.

If perhaps you could talk with the chairman, with your persuasive powers, perhaps, in fact, we could participate in the process and perhaps we would be able to offer such an amendment; and, clearly, if that would happen, we would offer such an amendment, I assure the leader. So if he could help us with the chairman of the committee, that would be greatly appreciated.

Medicare prescription drugs, Mr. Leader, what can you tell us about when we can expect to see Medicare prescription drug legislation considered in the committees of jurisdiction and then on the floor?

Mr. DELAY. As previously announced, we had tried to get Medicare modernization onto the floor before the Memorial Day break. Obviously, there was a tremendous amount of work that needed to be done, and we had to postpone that goal. We have set a new goal, and we hope that we can have Medicare modernization to the floor before the July 4 break. The Committee on Ways and Means and the Committee on Energy and Commerce are working hard to develop a proposal that would modernize and preserve the Medicare program and provide needy citizens with life-saving drugs. But while the complexity of this issue means that our staffs and committees need to be working and they are working very hard, we still hope to have a bill for the House to consider before the end of the month.

Mr. HOYER. I thank the gentleman for that information.

Lastly, I would ask the gentleman, I have served on the Committee on Appropriations for many years. We have not marked up yet, as the gentleman knows, any bills in subcommittee nor, obviously, in full committee at this point in time. In fact, we have not been given 302(b) allocation, as the leader knows. Would the leader be able to tell us what schedule he now foresees for appropriations bills and when we might do the 302(b) allocations?

Mr. DELAY. The gentleman is absolutely correct. We are way behind in our appropriations process. I am very concerned about that. We had hoped that this year that the House and the Senate could work out an agreement of allocation so that we could work together more smoothly than we have in the past as two bodies. We are still hopeful that we can get that kind of an agreement. But I anticipate the markups in the subcommittee to begin, and I am very hopeful they can start beginning next week. But it is still probably a little too early to tell.

Mr. HOYER. I thank the gentleman for his comments.

Reclaiming my time, obviously, last year the discussion was the failure to pass a budget undermined the appropriations process. Of course, we have passed a budget. I would say somewhat facetiously. That probably undermines the appropriations process as well, but, nevertheless, we are behind, as the gentleman indicates. We are concerned that we get so far behind that we are unable to pass appropriations bills by the end of the fiscal year, and I am pleased to hear that perhaps we are moving ahead to start giving the allocation for the subcommittees and having mark-ups perhaps as soon as next week. I thank the gentleman for the information.

## PERMISSION FOR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 6, 2003 TO FILE REPORT ON H.R. 2115, FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. MICA. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure have until midnight, Friday, June 6, 2003 to file a report to accompany the bill H.R. 2115, to reauthorize funds for the Federal Aviation Administration, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## ADJOURNMENT TO MONDAY, JUNE 9, 2003

Mr. MICA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## HOUR OF MEETING ON TUESDAY, JUNE, 10, 2003

Mr. MICA. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, June 9, 2003, it adjourn to meet at 10:30 a.m. on Tuesday, June 10, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MICA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1615

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 669

Mr. DAVIS of Alabama. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 669.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Alabama?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests.

## MAJORITY DID NOT DO ITS JOB

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would argue that after today's work it is imperative that we put on the floor of the House a relief to many of the children of America, millions in fact.

We did not do our job. This House, the majority, did not do its job. The Senate, the majority, did not do its job by eliminating a tax credit benefit from 6.5 million families, 12 million children. We need to restore the $400 tax credit that will be given to those families.

Right now we have a study that says military kids are slighted on tax credits. That means the young men and women, the young families in the United States military, their income does not allow them to get a tax credit for the children that they have. Blessed are the poor, they do not get tax cuts.

They do pay taxes. They pay sales tax, payroll taxes. They pay property taxes. It is imperative to pass H.R. 2286, and Mr. Speaker, as an original cosponsor I would ask that the Rangel-DeLauro bill be put on the floor of the House next week to match the Senate bill so we can restore the $400 to these families 6.5 million, 12 million children, what a shame.

We do not need to wait for months for tax bills to come. We need to fix our error now and help the working families of America.

## VETERANS HEALTHCARE ACCESS STANDARDS ACT OF 2003

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, today I am introducing the Veterans Health Care Access Standards Act of 2003. This bill would establish standards of access to care for veterans who utilize the VA health care system. If enacted the bill would codify the Department's current standard of access to care and would actually require the VA to use alternative community health care resources if the VA is unable to meet their own standard.

In my home State of Florida, there is a backlog of more than 24,000 veterans seeking VA medical care. In my District alone, there are 2,727 veterans waiting for an appointment and another 2,000 who have an appointment but the schedule time is more than 6 months away.

The Department's established access standard for outpatient care is to provide veterans seeking primary care with appointments within 30 days of making the request for such an appointment. However, it is clear to any Member of Congress that has toured VA outpatient clinics recently in their District that these goals have not been met.

My bill will actually codify the veterans self-imposed standard. I think that it is important because if a VA medical center is unable to see a patient then that patient should be able to seek care elsewhere in the community.

I urge my fellow Members to join me with this bill.

## SENIOR CITIZENS NEED OUR HELP

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I rise today to urge support for two bills to provide financial relief to our Nation's senior citizens. Both men and women will receive assistance with this legislation, but because older women are often with less financial resources, they will particularly benefit.

My first bill, H.R. 1922, the Fair Taxes for Seniors Act, allows the fact that the current capital gains tax exemption on the sale of a home is not working for seniors who live in areas with higher housing prices. The bill provides a one-time increase in the capital gains exemption for sales of homes for citizens who are 50 years and older.

My second bill, the Social Security Survivors Fairness Act, provides Social Security widows benefits for women under the age of 60. Mr. Speaker, I have stories about various seniors in my District talking about the need for this exemption for the capital gains of the sale of their home and also for the lowering of the age for which they can become eligible for Social Security.

I will include my full statement at this point.

Mr. Speaker, I rise today to urge support for two bills to provide financial relief to our Nation's senior citizens. Both men and women will receive assistance with this legislation, but because older women are often with less financial resources, they will particularly benefit.

My first bill is H.R. 1922, the Fair Taxes for Seniors Act. The current capital gains tax exemption on the sale of a home is not working for seniors who live in areas with higher housing prices. My bill provides a one-time increase in the capital gains tax exemption on the sale of a home for citizens who are 50 or older.

Eleanor, a 78-year-old citizen, lives in Glen Ellyn, Illinois and bought her home 45 years ago with her husband, who has passed away. The combined Federal and State taxes on her home after the current capital gains exemption are $68,000. She needs this money from the sale of her house in order to move into a nursing home. Eleanor wants to stay in the Chicago area because her friends are there, but the price of nursing care there is high. Should a 78-year-old woman have to move from the city she has lived all her life because, as a widow, she is considered single and has to pay higher taxes?

Marilyn is a single, professional woman who lives in Mission Hills, California—near my congressional district. She chose to become involved in her community and has stayed in the same house throughout her lifetime. Marilyn is now 60 years old and wants to sell her home and move to a smaller condo in the same area. Her combined Federal and State taxes are $169,940 after the current exemption. Should singles who remain in one house for many years be taxed for their stability—and essentially for being single?

Sally, a divorced, single mother in Seattle, Washington is 57 years old. She chose to stay in one home for 37 years so her children could stay in the same school system and she could live near her work and her church. One of her adult children has developed severe health problems and has to pay medical bills not covered by insurance. Sally is selling her home to pay some of the doctor's bills. Her combined Federal and State taxes are $64,000. This tax money is money that Sally should be able to use to pay off medical bills as well as to get ready for her own retirement.

My bill would provide a one-time increase of $500,000 for a single person and $1 million for a couple in the amount excludable from the sale of a principal residence for taxpayers who have reached the age of 50. Let us help our citizens over age 50 who have lived in one home for many years. Let them keep the proceeds from the sale of their homes for retirement and health care costs. An added benefit is that family members and perhaps the government will be relieved of the burden of caring for these individuals as they grow older.

My second bill is H.R. 1923, the Social Security Survivors Fairness Act, to provide Social Security widows' benefits for women under the age of 60. Maria is a 58-year-old widow who lives in San Ysidro, California in my congressional district. Throughout her lifetime, she worked in the home, raising her children and supporting her husband. Now her husband, who received Social Security benefits, has passed away. There currently is a provision for Maria to receive Social Security widows' benefits, but to qualify she must be 60 years old.

Social Security is telling Maria that she must find a way to support herself for 2 years. It will be difficult for her to find a job at her age, when she has never worked outside of her home. Women in their late 50s who are dependent on their husband's Social Security are left with no means of support if their spouse dies. My bill would amend the Social Security Act to reduce from 60 to 55 the age at which an individual who is otherwise eligible may be paid widows' or widowers' insurance benefits.

I encourage my colleagues to support H.R. 1922 and H.R. 1923 to provide financial assistance to our country's most vulnerable citizens.

## GREATEST BOOTLEG IN HISTORY

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, we witnessed one of the greatest bootlegs in the history of the tax code. We were told that every single person would be able to get something back in this tax code, but there are people making less than $27,000 a year who will not be getting a $400 check, but worse than that, these are families that have worked.

This is not welfare. This is not a give away. These are people who put in 40 hours a week and have children and deserve the $400 back.

In Youngstown, Ohio, where we have a reserve base, there will be one in five military workers who will not be able to qualify for this, putting their lives on the line, active duty members of the military that will not qualify.

All we have to do is raise the top tax bracket. It has been lowered from 38 percent to 35 percent. From 35 percent, raise it to 35.3 percent, and we would have enough money generated to take care of working parents, mostly single parent homes, many military homes that will not be able to utilize this tax credit.

The greatest bootleg in the history of the Congress.

## HONORING THE PAGE CLASS OF 2003

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute.)

Mr. SHIMKUS. Mr. Speaker, if I could ask the page class of 2003 to come down and take seats here in the first and second row, maybe spread it out to both sides.

Here we are, about to end a year, and this is a tradition. Unfortunately, a lot of us have to go back to our district and will not be here for graduation. I know the class is having the gentleman from Virginia (Mr. TOM DAVIS) speak. He will represent us well as a former page himself, but this gives us a chance as a collective body to say thank you for all your work and support and friendship and things that you have done over the years.

Obviously, we remember just a short time ago welcoming you and I do not know if you remember some of the comments, but I know what I have said to other classes is that you get an opportunity to observe and work with elected Members of Congress and you will see history in the making. We did not know what that would be, but it has happened every year. Something occurs that you all are a part of, and you all know what those were.

I also asked and you all made a pledge as a class to do well in your duties, do well in your school work, do well in the dorm activities, and for the most part, I think you can say you accomplished your mission well, and I am very thankful as the Chairman of the page board that I did not have to see very many of you very often. So thank you for not only doing your work but upholding the great tradition of the page program because that helps us continue to move the page program forward.

I am going to be able to intersperse comments as I have a lot of colleagues that want to make sure they say a special farewell to you, and so I am going to pause right now. I am going to ask the gentleman from Arizona (Mr. KOLBE), my colleague, to come up and say his farewell as a Member of Congress.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from Illinois for yielding to me, and I want to say to all of you it is great to be here with you on this day. This is something of a bittersweet day, I know, for you as you leave an experience that is going to be an experience of a lifetime. I can tell you that from having been through it myself many years ago as a page, but it is also you are going to be returning home to your friends and your families, and that is always good, and you are not going to have to be rousted out of bed in the morning for early duty over here and you are not going to have late nights on the floor of the House for a while. So you can sit back at home and watch it on television for a little bit and enjoy it that way instead of having to participate in it every day.

Over the years, you will come to understand just how important an experience this is for you, or at least I hope you will, and I think all of you will do that.

First, I just want to say the job that you do for us is very important. I liken it to being the grease that helps to make the House of Representatives run every day from having squeaky wheels. It is the oil that makes the machine work correctly. You really do in a very quiet and silent way, kind of behind the scenes, you perform very important functions for us, and we are very grateful for that. Sometimes perhaps we do not say it often enough or we do not say it in the right way. So I just want to say thank you for the outstanding job that you do.

It would not be possible to do the job of pages with other people handling those tasks. There is a very special reason that we have kept this program constituted the way it is, with young people coming from all walks of life, all parts of the United States, all kinds of communities, all backgrounds, all ethnic groups, that come here to get a sense of what the House of Representatives, what the Congress, what the United States Government is all about because in a very real sense, you go back to your communities, to your schools, to your families, to your fellow students as ambassadors, as ambassadors from the House of Representatives, as ambassadors from the United States Congress to tell them something about the institution that you have had an opportunity for a year not just to study but to live, to actually be a part of.

So for this last year, you have really come to understand in ways perhaps that you do not even recognize right now because it is just absorbed to you but over the years you will understand things that you know now about the House of Representatives that other people do not understand and do not know about.

The most important thing that I hope you will take away from this is that the people who serve here are good. The people who work in this place are good. The staff that work behind this desk, the staff that work in all of the buildings, that work in all of the offices, the staff that help you to go through this year, the Members who serve in the House of Representatives and the Members who serve in the United States Senate, sure there are bad eggs. There are always bad eggs someplace, but they are by and large good people.

The most important thing is not that. It is the institution itself. The institution is much larger than the people who serve in this body. This morning we swore in a new Member. I think I heard the figure, the 9,883rd person in the history of the United States to serve in the House of Representatives. It is a great privilege for me to serve in the House, and I can guarantee that as I look out to faces here there are one or two, maybe more, of you who will someday be back here as Members of the House of Representatives.

It is not the people that serve here. It is the institution itself that makes this country different from other countries. It is the concept of the rule of law. It is the concept of the history. It is the concept of the institution that makes our government work.

In my capacity as chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs I have a responsibility and an opportunity to travel to a lot of countries around the world, and sometimes I see countries that have great wealth, great natural resources, have everything going for them except they do not have the institutions. They do not have the rule of law. That is what makes the United States different.

We should never just assume it is always there. It is something that has to be protected. It is something that has to be worked for every day. That is why I think this that you now have a responsibility as a former page to go back to your communities, to become active citizens in your communities, to help to participate in your community, to participate in the political process.

□ 1630

You will do it in different ways. Most of you will never run for any office; but you will get involved, perhaps in a school community, in the school board. You will do one of these different things; and someday, yes, one of you will be in Congress. Maybe one of you will be President of the United States. I can look out here and see many that I think might fill that role.

The important thing is that you stay involved in your community. The important thing is that you make a contribution to this great country so that your children and your grandchildren can someday sit on this floor and have the same experience. It does not just happen. It happens because Americans care enough to make it happen. You have cared enough to come here and to be a part of this, and we thank you for the job that you have done. We thank you for the commitment that you have made year long to this responsibility, to this work. And we thank you now as you go back to your communities.

I wish you all the very best, and I hope I see the faces of many of you around here in the future. Thank you. Godspeed.

Mr. SHIMKUS. Mr. Speaker, I thank the gentleman for his comments. I want to make sure I hand in the list of the departing pages, the class of 2003, over here. As you know, you will want to make sure you grab your official transcript of the day's proceedings and activities and you will be able to see your name in the CONGRESSIONAL RECORD, and that is why we do that.

Perhaps one of you will become Speaker of the House, maybe you will be the President; but the really good job is to be the chairman of the Page Board, so that is what you ought to shoot for. Anybody can be President, not very many people can be chairman of the Page Board or a member of the Page Board; and that is what you should be shooting for.

I am pleased today to recognize a true friend of the page program. You are in the 20th anniversary class, the reconstituted page program. This year, my colleague who is on the Page Board, the gentleman from Michigan (Mr. KILDEE), is celebrating 20 years of service to this program. I have only been doing it 5 years, and look at all the gray hair I have; but he has been doing it 20 years.

Mr. KILDEE has touched the lives of literally thousands of pages just like you throughout his 20 years. In his early days on the board, he oversaw the creation of the page school and the residence hall. Most recently, he was instrumental in the planning and construction phases of the brand new residence hall. And as I like to say, you all are living in tall cotton compared to the location the other pages resided in. They had to really weather some severe hardships. But the gentleman from Michigan was very instrumental in that planning, and I think you are all pleased with the residence hall. I know I am. And I know you are all grateful to him for that.

Under the leadership of the gentleman from Michigan, the program has grown and flourished to be an outstanding opportunity for bright young people. Today, the program encompasses aspects of academic work and a social life that has made it truly a comprehensive experience. We thank him for his tireless dedication to the Page Board and we congratulate him for 20 years of service.

I am going to ask Mr. KILDEE to come up, but what he does not know, and I will go over here now, is that we have a little surprise for him. We are going to present to him this plaque: "The United States House of Representatives Page Program, Presented to the Honorable Dale Kildee, In Honor of 20 Years of Service to the Page Program, 1983 to 2003."

Mr. Speaker, I yield to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I thank the gentleman very much. Mr. Speaker, this has been a great year. It has been a great 20 years. Indeed, Mr. Speaker, I have served now 20 years on the Page Board, having been appointed by Speaker Tip O'Neill. I would like to express my personal gratitude to all the pages who have served so diligently in this House during the 108th Congress. It is the 14th Congress that I have served in, and I love every day of it.

We Members of Congress, we all recognize the important role that you pages have in making this House really work, work efficiently, and work with some inspiration from you because we all get inspired by those who are younger than us, have those ideals and remind us of those ideals. I have had some meals with some of you, enjoyed that very much, and had a chance to talk to you on the floor. This has been a very, very good group.

This group of young people, you come from all across our Nation, and you represent what is so good in our country. You give us so much hope for our future. Indeed, I think all of us can say, those of us especially who are so close to the page program, that we are better people for having had contact with you because you give us such inspiration and so much hope.

To become a page you have proven yourself first of all to be academically qualified. It is not easy to become a page. You have ventured away from the security of your homes and families to spend time in, for most all of you, a very, very unfamiliar city. And through this experience as a page you have witnessed a new culture, made new friends; and some of you will, I will guarantee, I have been here 27 years in the Congress, 20 years on the Page Board, some of you, 27 and more years from now, will still be friends and you will be staying in contact. Because I know some of those pages I first met when I became a member of the Page Board still remain in contact.

We all know that this body has experienced so many things and you have witnessed history like no other group. There is a great group in this country called Close Up, which is a very good group; but no one, no one has seen the Congress as close up as you. No one. You have seen this body address the awesome question of war itself. You have become really part of history.

Your job is not an easy one. First of all, you have to possess the maturity to balance the very competing demands for your time and your energy. I always say there are three different arenas down here: you have the floor and the buildings around the Capitol, where you have assignments; you have the school and the demands in the school; and you have the dorm. There are three different arenas. And let me tell you, you have done a very, very good job in every one of those arenas, and I am personally very, very proud of you.

And you have to work long hours, really long hours, and interact with people at every level. We have some people who are humble in this body and some maybe not as humble, but you interact with all of them and you do it well. You face a challenge in the school itself. It is a very tough school. Former Congressman William Whitehurst, Republican, who went on the Page Board with me, he and I worked together to get that school accredited. And, Bill, if you are listening, thanks a lot. He lives in Virginia, and he was just a great Member; and we were determined to get the school accredited. And it is a tough school.

You are away, and you have to go back for your senior year to another school. That alone presents a challenge to you. But you will meet that challenge because you are special people. I am sure that you will consider the time spent here in Washington, D.C. to be one of the most valuable experiences of your life and that will lead you on to very successful and productive lives.

My two sons were pages in this body, and they went on to serve their country as captains in the Army. One is leaving, my youngest one, leaving for Pakistan very shortly. He has been in Afghanistan, Uzbekistan. But there are so many ways of serving one's country; and you have grown in your love for this country, you have grown in respect for this country, and you have seen the Congress at its best and sometimes at its worst. We are human beings, but this is the best system in the world.

We are going to miss all of you very, very much; and may God bestow his richest blessings upon you. Thank you very much.

Mr. SHIMKUS. Mr. Speaker, I thank my colleague from Michigan for all the work he has done, and I also want to recognize and thank some other folks for their long-time service and who are very special to the program, and you know many of them. Donn Anderson, former Clerk of the House and former page himself, serves on the Page Board as a member emeritus. Of course, he has a 20-year record. Donn, thank you. Barbara Bowen, who has ushered countless students through the confusing worlds of algebra and pre-calculus as the House page math teacher. And Ron Weitzel has instructed bright-eyed pages in the rich and complex history of America as the House page school history teacher. Thank you, Donn, Barbara, and Ron for your dedication and commitment to the page program.

Mr. Speaker, I yield to my friend and colleague, the gentleman from the great State of California (Mr. LEWIS), to say a few words, Mr. Chairman.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Ladies and gentlemen, this is a totally unexpected circumstance, for it has not been my privilege to serve on the Page Board. My name is JERRY LEWIS, from California. I have the privilege of chairing the subcommittee that deals with national defense. Our Secretary of Defense and General Meyers are briefing the Members, as you may know, over in the Rayburn Building; and we have had those discussions many a time. But I came here to the floor for other reasons and found this going on and thought it might be an opportunity to express my appreciation and say a few words to this class as you are leaving, for a time at any rate, the Nation's capital.

I wanted to share a couple of thoughts with you. When I was young, not really thinking about public affairs, I grew up in a household where my mother was a Democrat and my father was a Republican. So I grew up pretty confused, and over those early years spent a lot of time trying to figure out what are the Democrats all about and what are the Republicans all about, and is there really a lot of difference between these huge gray donkeys and elephants.

I came to Washington for the first time in 1955 as a student at UCLA, along with 11 other students, on our way to India in a program that existed before the Peace Corps, called Project India. Our job was to travel to Southeast Asia, go from community to community in India and try to communicate with our friends, Indian college students. On the way, we stopped in the Nation's capital. I had not been far out of San Bernardino before that. We spent a couple of days talking to USIA and the State Department people, and then we took a half day off to look at the monuments of this wonderful place. That is the story I kind of want to begin to share with you.

On that trip together we walked up the steps of the Lincoln Memorial for the first time, saw that wonderful statue seated in that temple. It is a magnificent first experience, chills up your spine. We had an appointment shortly thereafter on the edge of the Potomac, and in those days you could take a chain of boats and ride in a chain of boats along the Potomac and look at the Capitol and monuments from a different perspective.

We found ourselves waiting for a half hour, 45 minutes, and finally an hour went by only to learn that the reason for our wait was because two of our students were being told they would have to ride in a boat to be attached to the back because they happened to be black. The summer of 1955, 12 young idealistic kids from UCLA going to India to talk about freedom and hope and opportunity, and that scene at the Lincoln Memorial, and then that experience on the Potomac is something you just cannot wipe out of your memory.

But the point was not at all that our country had not made significant progress between the days of Lincoln and that summer of 1955. Clearly we had made much progress in our country. Clearly, also, we have made a lot of progress since then and today. But the real point is, as I visit Lincoln, the real point is that this is our government, your government. If we are not happy with pieces of it, clearly we have a responsibility to try to impact it, to push it, to shove it down a pathway that makes a lot more sense from our perspective.

□ 1645

Mr. Speaker, I went to India that summer thinking that maybe I might actually go into politics some time. I thought then I would probably run for office as a Democrat. I came back from India convinced, as I went through the summer trying to figure out the differences between the two great parties, that for me, Jerry Lewis, I probably absolutely would run for public office one day, but if I did so, I had made the decision that the place where I could have the biggest impact was on the Republican side of the aisle instead.

I draw the painting regarding the Potomac for one reason, and the quest for the difference between one or the other, I would love to hear from some of you in the months and years ahead, hear from you about what you decide to do in terms of your pathway in life, and what you decided to do if you involved yourself in partisan politics. Because it is people like you who make the two great parties great. But, more importantly, you can continue to make sure that our country is by far the best and the most important force for freedom in the world.

Thank you for what you have done, and it is a pleasure to have been with you.

Mr. SHIMKUS. Mr. Speaker, I want to thank, obviously, the chairman for sharing some time with us. I have a few last things to mention that are more serious, and then we will have a few lighthearted comments.

I would challenge you to find out what motivates yourself. What you have learned as a page going through this program is what is going to serve you well. You have learned a good work ethnic and how to work hard. That is going to be important throughout the rest of your life. You have learned the importance of a good education. That will tide you over as you continue to pursue that.

You have learned how to respect one another. I think what our world needs more of is people learning how to respect one another, and I think the program does a great job in doing that.

Also, do not give up. Whatever happens, do not give up. At West Point, my alma mater, we say much of the history we teach was made by the individuals we taught; and I think that is true, what can be said of the page program and the page school, because much of the history that we know now today has been made by former pages.

You have in essence now a great tradition to follow, and I want to encourage you to make us proud. And you already have made us proud. You all in this group have completed more than 1,400 hours of community service. We need to tell that story. You know it, but this helps us get the message out. That breaks down to an average of 21 hours per page.

Some examples of the things that you have done are Horton's Kids Tutoring Program. That was covered in one of the local papers. The Multiple Sclerosis Walk, Calvary Women's Shelter, Martha's Table, Ronald McDonald House and work at the Congressional Cemetery.

As a class, you have also proven to have the most terrible luck with weather. From the misty Sunday morning you moved in until the misty night of your prom, you have slogged through countless seminars and residence hall trips in the rain. In fact, the sun just came up today after many, many days of overcast skies. You did not even get a reprieve on the day that you were led through the Shenandoahs in the rain. You braved the elements recently on a trip to Six Flags and when you rode the roller coasters despite the rain.

You have proven that rain cannot dampen your enthusiasm and good humor, and it looks like you may be in luck: No rain forecasted for tomorrow's departure ceremony, but, given your track record, I would not count on it. I am going to echo Mrs. Miranda's advice, bring rain gear.

Also, we have discovered that the future President of the United States, Bryce Chitwood, who was in charge of the page auction which raised a record-breaking amount of money for the page prom, $9,000, it looks like his fund-raising skills are well organized for future goals and aspirations.

Our future Major League baseball player, Ben Hanna, who, it has been said, has great baseball player's hair. I have no idea what that means. All I know is what I am reading here.

One future NASCAR driver, Katie Murray, just has to learn to keep all four wheels on the track.

We have one future tycoon, John Malcovitch, who was born to wear a tuxedo and will be in the same league as Bill Gates, who was also a page. And I have also been told that at least three of our pages are going directly to college, skipping their senior year, and congratulations, I think. They are Sam Rykaczewski, Lauren Conn, and Michael Tanner. This is just one example of all the great successes.

But also as exciting is Democratic pages last week participated in the annual "How many pages can you fit into a cloakroom phone booth?" That is not a tradition on the other side, and I hesitate to mention it because it might become one. The answer is 11, and congratulations. I do not know if that is a record or not. I will have to talk to your folks and see where the record might be. I cannot imagine getting 11 in one of those phone booths.

You also have discovered the nook between the page desk and the storage cabinet. You all call it the reading corner. Mrs. Ivester calls it the sleeping corner, and Democratic pages rush to work each day in hopes that they will find the secret candy drawer filled. When the drawer is empty, they can always count on the Democratic cloakroom managers feeding them bags of Georgia peanuts throughout the day. Democratic pages often say they work for peanuts.

I know that Helen and Pat back in the Republican cloakroom want to make sure that we have a special thanks for Matt Buckham for all his work carrying groceries for them.

We have talked through the aspect of this point in time in history and you all being involved in that. I think Members have been able to relay our thanks to you for your commitment to the institution. As chairman of the page board, I can speak for my colleague from Michigan and the gentlewoman from New Mexico (Mrs. WILSON) to say we thank you for upholding the honor and the integrity of the program. It makes it a lot easier for us.

Not only that, but the good work that you have done in volunteering, I think you have set a new standard for future page classes. We are definitely going to miss you, but life goes on. You have great challenges ahead. Always remember this important time in your life will not only be in your memory, but it will be in ours. We look forward to seeing you when you come back to visit.

God bless you all, and may God bless the United States of America.

DEPARTING PAGES, 2002–2003

Yvonne Aguilar, Claire Anderson, Candice Armstrong, Harry Bond, Trisha Belle, Robert Brown, Matthew Buckham, Donald Burke, Samuel Burke, Simona Burke, Thomas Carroll, Chris Cantrell, Stephanie Chesnov, Bryce Chitwood, Daniel Clayson, Kevin Clout, Lauren Conn, Christopher Denton, Ben Fendler, Susan Forrester, Doug Gill, David Gorgani, Laura Greenwood, Emily Hagan, Benjamin Hannan, Margaret Hartley, Jane Heaton, Alicia Hines, Margaret Hobbs, Chris Kataros, James Kotecki, Jeffrey Lakin, Erica Lally, Julie Leonard, Rong Li, Alejandra Lopez, John Malcovich, Tania Martinez, Emily McCarthy, Emily MacMillan-Ladd, Jennifer McDervitt, Laura Meixel, Greta Meyers, Michael Mullee, Kiera Murphy, Kaitlin Murray, Kristine Nagle, Amber Nixon, Lauren Noyes, Garrett Payne, Lisandro Rivera, Alex Rochester, Rene Rosales, Sam Rykazewski, Matthew Schmitz, Allie Smoot, Neva St. Morris, Sarah Stafford, Elizabeth Sterling, Annabell Talamoa, Michael Tanner, Michael Tedori, Emily Toner, Emily White, Rebecca Williams, Leandra Wilson.

## APPOINTMENT OF MEMBERS TO THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. PORTER). Pursuant to 22 U.S.C. 276h and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States Interparliamentary Group, in addition to Mr. KOLBE of Arizona, Chairman, appointed on March 13, 2003:

Mr. BALLENGER of North Carolina, Vice Chairman,
Mr. DREIER of California,
Mr. BARTON of Texas,
Mr. MANZULLO of Illinois,
Mr. WELLER of Illinois,
Ms. HARRIS of Florida,
Mr. STENHOLM of Texas,
Mr. FALEOMAVAEGA of American Samoa,
Mr. PASTOR of Arizona,
Mr. FILNER of California, and
Mr. REYES of Texas.

## CELEBRATING NATIONAL TRAILS DAY

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, this Saturday, June 7, marks the 11th National Trails Day. This important event, held the first Saturday of every June, is coordinated nationally by the American Hiking Society and locally by trail clubs, parks, agencies and businesses.

National Trails Day provides an outstanding opportunity to enjoy trails and thank the countless volunteers who build, maintain and protect them.

As cochairman of the House Trails Caucus, this Member encourages his colleagues to show their support for trails on June 7 and throughout the year.

The theme for National Trails Day 2003 is "Healthy Trails, Healthy People." It will emphasize the many health benefits associated with trail use.

The existing network of trails throughout the U.S. would not be possible without the assistance provided by grassroots trails groups and individuals who are determined to make a positive difference in their communities. The tireless efforts on behalf of trails by countless volunteers across the nation help to ensure that future generations will be able to discover the wonders of our country's rich diversity and history.

In closing, Mr. Speaker, trails play an important role in communities throughout the country and this Member urges his colleagues to join in the celebration of National Trails Day on Saturday, June 7th.

This effort fits well with President Bush's "Healthier U.S. Initiative" to encourage physical activity. In addition to promoting healthier and more active lifestyles, trails provide outstanding, family-oriented recreational opportunities to all Americans. They also offer important economic development benefits to nearby communities.

## IN RECOGNITION OF ELAINE PATTERSON

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, today I rise to acknowledge the contributions to the academic excellence of St. Anthony's Catholic School in Fort Lauderdale, Florida, through the efforts of its principal, Elaine Patterson, who is retiring. St. Anthony's School is the oldest Catholic school in Broward County, Florida, and Elaine has guided thousands of students throughout her 22-year tenure.

Elaine has served as St. Anthony's principal from 1986 to 2003. In that time, she introduced the school's pre-kindergarten program, forwarded technology by way of computers, and promoted innovative programs which helped in the total development of the children in her care.

Mr. Speaker, through the years, Elaine has earned the respect of fellow principals in the Archdiocese of Miami, as well as many of the teachers who have worked with her.

As a grandfather whose grandchildren have benefited from Elaine's professionalism, I can say that her retirement will be a loss to the school and the families she has guided during her career.

Mr. Speaker, congratulations to Elaine Patterson on a distinguished career educating South Florida's youth; and on behalf of the entire Shaw family, I wish to thank Elaine for her great service.

Mr. Speaker, I rise today to acknowledge the contributions made to the academic excellence of St. Anthony's Catholic School in Fort Lauderdale, Florida through the efforts of its principal, Elaine Patterson, who is retiring. St. Anthony's School is the oldest Catholic school in Broward County, Florida, and Elaine has guided thousands of students throughout her 22-year tenure.

Elaine received a Bachelor of Science Degree at Southern Connecticut State University and a Master's Degree in Guidance at Florida Atlantic University. Her experience includes elementary classroom teaching, guidance counseling, and serving as a vice-principal before becoming a principal.

Elaine has served as St. Anthony's principal from 1986 to 2003. In that time, she introduced the school's pre-kindergarten program, forwarded technology by way of computers, and promoted innovative programs which helped in the total development of the children in her care. She worked very closely with St. Anthony's Pastor, Father Timothy Hannon, in achieving these goals and was very active in fund raising activities which made attaining them possible.

In addition to her administrative activities, Elaine has served with distinction on numerous committees for the Archdiocese of Miami and has headed two very successful Self Study Committees. She served as a member of the St. Anthony's Advisory Board, the Parish Council, St. Anthony's Foundation for Education, the Home and School Association and the Victoria Park Civic Association of Homeowners.

Mr. Speaker, through the years Elaine has earned the respect of fellow principals in the Archdiocese of Miami, as well as, the many teachers who have worked with her. Elaine's leadership and example have made her a mentor to many. She believes in an open-door policy for everyone and will be remembered as a kind and compassionate administrator. As a grandfather whose grandchildren have benefited from Elaine's professionalism, I can say that her retirement will be a loss to the school and the families she has guided during her career.

Mr. Speaker, congratulations to Elaine Patterson on a distinguished career educating South Florida's youth, and on behalf of the Shaw family, I thank Elaine for her service. God bless Elaine Patterson and the entire St. Anthony's family.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## TRIBUTE TO GENERAL ERIC K. SHINSEKI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Speaker, I have before me an outline of information regarding General Eric Shinseki, Chief of the United States Army, who is on the verge of his retirement. The material before me involves much more than the 5 minutes that is available to us at this moment, but the gentleman from Pennsylvania (Mr. MURTHA) and I want to make sure that all of this is in the RECORD.

Mr. Speaker, I rise today to pay tribute to a genuine American hero, our retiring Chief of Staff of the United States Army, Eric K. Shinseki. After leading the Army during successful campaigns against terrorism in Afghanistan and Iraq and putting the Army on an irreversible track towards transformation, General Shinseki is stepping down as Chief of Staff of the Army next week.

Mr. Speaker, there is many a thing that I would say, but most of us in the House have come to know and be spellbound by the story of General Shinseki's life. Indeed, Hollywood could not have written a better story that would reflect an Horatio Alger kind of hero during our very age.

Mr. Speaker, when I first met General Shinseki, I was a newly elected chairman of the Subcommittee on National Security of the Committee on Appropriations. Shortly after assuming that responsibility, I was asked to go to the swearing-in of the new Army Chief, meeting a general whom I had really not known at all for the first time, the beginning of a very deep and growing friendship.

Eric Shinseki, upon being sworn in, was introduced; and in that introduction I learned for the first time when he was born, Rick Shinseki was born a foreign alien, for he was of Japanese dissent, born in Hawaii, and World War II was raging. So a foreign alien. Think of that and think of the reflection and what that says about our country that some years later that same individual rises to be the Chief of the United States Army. It is a fantastic reflection of this country's strength and what it means in terms of service and opportunity for those who will but serve.

Another piece of that introduction and the Chief's speech says an awful lot about this guy Rick Shinseki. I will never forget his words. Turning to the audience, he said, I want all of you who are here present to know I would not be here today if it were not for the Shinseki women, and he pointed out some two dozen of those women who were in the audience, his grandmother, his mother, wife, daughters, et cetera. With that, he went on to outline his vision for the future of the Army relatively near term, and for the first time I heard in a meaningful way an outline by a military leader that involved the term transformation. He was about transforming the American Army and making sure we found ourselves on a pathway that would allow the Army to lead this free country as the only remaining superpower for the decades ahead.

As he discussed the fact that the Army needed to be lighter and quicker and stronger, I heard a fellow just behind me who also had stars on his shoulders, I heard him gasp, what does this guy think the Marine Corps is for, although the terms he used in expressing that sentiment were a little stronger than I have used here. But, nonetheless, a clear illustration that there continues to be competition between our branches, which is good, but there also continues to be a great need for transformation throughout the Department of Defense. And the first guy out on the point regarding that transformation is this great Chief who is now retiring, Eric Shinseki.

The gentleman from Pennsylvania (Mr. MURTHA) and I have had a chance to work very closely with the Chief. We have had a chance to play a role in developing ideas of his such as the future combat system, to talk out loud about what that future battlefield might look like and to talk about the fact that we are responsible for by far the largest budget in the Congress, those moneys that flow on behalf of our national defense and allowing America to be the voice for freedom. Indeed, in those conversations time and time again, the General and I come back to this thought:

□ 1700

That is the thought that the reason we spend these moneys is not because we are about to wage war but because America is the force for peace and we appropriate these dollars and work with the Army and the rest of our forces on behalf of peace in the world. So as General Eric K. Shinseki goes on to a new part of his life, we thank him for his great and wonderful service, and we all are in his debt.

Mr. Speaker, I rise today to pay tribute to a genuine American hero—our retiring Chief of Staff of the United States Army, General Eric K. Shinseki. After leading the Army during successful campaigns against terrorism in Afghanistan and Iraq and putting the Army on an irreversible track towards transformation, General Shinseki is stepping down as chief of staff next week.

Many of us in the Congress have come to know, and be spellbound by, the story of General Shinseki's life. Indeed, Hollywood couldn't have written a better Horatio Alger story. General Shinseki, as we've all come to know, was born during World War II to Japanese-American parents at a time when the fears of war created a regrettable episode in our history—the internment of American citizens and loyal immigrants. Between then and now, much has changed in the world and in this country. General Shinseki has been a positive force for some of that change, even as his incredible professional accomplishments are a symbol of that change.

Indeed, I remember so well the first time I heard the Shinseki story. It was during the introduction at his swearing-in ceremony as the Army's Chief of Staff. That story moved me, but I was also struck by General Shinseki's own remarks that followed. He spoke eloquently and forcefully on a broad range of topics—it was during these remarks that I first heard the term "transformation." General Shinseki shared with us his powerful vision for change and I was intrigued at how clear his transformational ideas were, and how resolute and determined he seemed in bringing this about. I also remember what he said about his family—just how important they were to him. He singled out, as he called them, the dozen or so "Shinseki women," in the audience—his grandmother, mother, sisters, wife, and daughters—saying he wouldn't be where he was today without them. His sincere humility and gratitude on this his big day, was inspiring. It was a moving set of remarks on a propitious and portentous day, an event that remains fresh in my memory even now.

With the guiding hand of loving parents, Ric Shinseki matured into an extraordinary young American with rock-solid values and with a calling to serve—"Duty, Honor, Country." This West Point graduate is a decorated combat veteran and an accomplished peacemaker. He is a fierce warrior-leader with a Master's degree in Literature—a true Renaissance man. His story is an inspiration for us all. He has lived the "American Dream" rising to become the 34th Army Chief of Staff.

As a young junior officer, Ric Shinseki served valiantly and selflessly in Vietnam, where he was wounded twice—once so severely his troops were convinced he would not survive. His valor and courage under fire won him three Bronze Star Medals for valor and two Purple Hearts.

A "soldier's soldier" who has commanded at every level, General Shinseki is also a reflective and intellectually gifted leader. In addition to West Point, General Shinseki has attended the National War College and Duke University. Those of us in the Congress involved extensively with defense issues have come to know him as an insightful thinker and inspirational speaker and writer. He is someone we all trust and respect.

Nearing the pinnacle of his Army career, General Shinseki spent 15 months as the commander of the NATO Stabilization Force in Bosnia in 1997. He led this force with remarkable skill, helping that land begin to heal the wounds of years of war. His abilities as a warrior-diplomat subsequently helped the Army prepare for and execute its peacekeeping responsibilities in Kosovo.

General Eric Shinseki became Army Chief of Staff in June 1999—just six months after I took the job as chairman of the House Defense Appropriations Subcommittee. Over the past four years, we have spent a lot of the time together, professionally and socially, and I have always come away from those meetings inspired and thoughtful about the general's visionary ideas.

In many ways his early performance in Vietnam revealed the true measure and character of this man. This is a tough man who sticks to what he believes is right, even when it is unpopular, controversial, and sometimes even when it is against his own interests. True courage. And we have seen more of this during his tour as Army Chief of Staff.

After only a few months into his tenure as Army Chief, General Shinseki unveiled his comprehensive plan for transformation, the vision for which, as I mentioned earlier, he introduced at his swearing-in ceremony. This town is indebted to him for bringing our collective attention to this important mandate. Transformation is now a very popular phrase in defense circles, with many proclaimed authors, but in this Body in these chambers, we know where this all started and gained traction—with the humble and understated Ric Shinseki.

Think about how difficult it was for this career Armor officer, a Tanker himself, to lead the Army in a direction away from 70-ton tanks towards a lighter, more strategically responsive force. Indeed, General Shinseki faced considerable skepticism within the naturally conservative institution that is the U.S. Army. An Army, after all, that had been tremendously successful over the past decade during major combat operations in Panama, the Persian Gulf, and in several other lesser contingencies and peacekeeping operations around the globe. Yet, General Shinseki knew that more than incremental changes were needed to get the Army ready for future requirements—it wasn't enough to look backwards as validation of work well done.

After 9–11, and after devastating attacks only yards away from his office, General Shinseki quickly moved the Army onto a "wartime footing." Like all Americans, I watched with pride and wonderment as our armed forces quickly accomplished their objectives time and again in Afghanistan and most recently now in Iraq. This is the legacy that General Shinseki leaves behind—a fabulously well trained and disciplined force that is helping win the Global War on Terror, while at the same time it is transforming itself to meet the threats of the 21st Century.

Throughout our time together, I have greatly valued this man's opinion and judgment that is always carefully arrived at and based upon over three and a half decades of experience and committed service to the nation. We haven't always agreed, in fact, we've had some major differences over the years, but there is not one in this town I respect more than our outgoing Army Chief of Staff. We will miss him sorely. And we will miss his lovely wife Patty, too. She has steadfastly and selflessly stood by her husband and the Army for over 38 years and today on behalf of my colleagues of the United States Congress, we say "thank you" for a job well done, and may God bless you with health and happiness in all future endeavors. Although we now end our time together as Chairman and Chief, we will always remain friends.

Mr. Speaker, I greatly appreciate this very special opportunity to honor my friend, General Eric Shinseki—a model citizen and soldier.

## MEDICARE REFORM

The SPEAKER pro tempore (Mr. PORTER). Under a previous order of the House, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized for 5 minutes.

Mr. ACEVEDO-VILÁ. Mr. Speaker, the Commonwealth of Puerto Rico like the majority of States is confronting a number of challenges as it strives to provide quality health care to its 4 million citizens. Our local government is committed to strengthening the health care system. In fact, the Commonwealth finances approximately 85 percent of the costs of Medicaid in Puerto Rico, a burden no other jurisdiction has and one that is becoming unbearable. For us to move forward, it is essential that the Federal Government be an active and strong partner in this endeavor. As Congress considers creating a prescription drug benefit as well as enacting fundamental Medicare reform, I urge my colleagues to ensure that any Medicare legislation approved by Congress addresses the needs of the U.S. citizens living in Puerto Rico.

Since its inception, Medicare has provided health care for seniors living in Puerto Rico. Mr. Speaker, we must not exclude now our 525,000 seniors from any new basic health care coverage. Therefore, it is essential that beneficiaries living in the island have access to the same level of prescription drug coverage under the same terms and conditions as is offered to all others throughout the country. In addition, any Medicare prescription drug program must provide appropriate subsidies for low-income beneficiaries in Puerto Rico as in other all jurisdictions.

Puerto Rico's workers and employers pay their full share of Social Security and Medicare payroll taxes to the Federal Government. Beneficiaries who live in the island are as much a part of Medicare as those living in Florida, California, or Nebraska. Limitations on the benefits of subsidies that have no foundation in health care policy but based on geographic location would undermine the social insurance nature of this vital programs and would fail the fundamental goal of providing uniform Medicare benefits to all.

The second issue that I expect Congress to address in the Medicare reform bill is the payment to hospitals in Puerto Rico. While all U.S. hospitals receive 100 percent Federal reimbursement, hospitals in Puerto Rico only receive 50 percent through a special formula. No other jurisdiction receives this type of treatment under the Medicare system. As a result of this disparity, our hospitals operate under extreme financial constraints and some have even decided to withdraw from the program.

Again, U.S. citizens in Puerto Rico pay the same Federal payroll taxes as any other jurisdiction. They deserve equity. Therefore, Medicare reimbursement to Puerto Rico hospitals should be equitable with all other U.S. jurisdictions' hospitals.

Finally, I urge Congress to enact legislation to correct the great disparity that currently assists in Medicare payments to physicians in Puerto Rico. This is the same disparity that rural physicians across the country experience today. In fact, our physicians currently have the lowest geographic cost-of-practice index value in the entire United States despite the fact that the city of San Juan has the eighth highest cost of living in the United States. As a result, not only are our rural areas suffering; physicians in metropolitan areas such as San Juan are carrying a great burden when they treat Medicare patients.

Mr. Speaker, doctors in Puerto Rico provide the same time and skill to patients, and they must be paid appropriately for their great, noble work.

I would like to finish by thanking my colleagues in the House and Senate who have continuously supported us on resolving these critical issues to ensure that Medicare beneficiaries in Puerto Rico are afforded quality health care. They all realize that fairness is essential to quality health care, and that is as true in Puerto Rico as it is elsewhere in the United States.

## THE HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise again to speak to the House today about the cost of prescription drugs here in the United States, particularly relative to the rest of the world. Mark Twain once was talking about facts, and he said you can ignore the facts, you can deny the facts, you can even distort the facts, but in the end there they are.

I would like to talk today about the facts because there are people in this town who are attempting to both deny and distort the facts, but I think the facts more and more are indisputable. For example, we have been doing much of our own research. We purchased a number of the top-selling drugs in Munich, Germany, about a month ago. For example, we bought this package of Glucophage. Glucophage is a marvelous drug, particularly for those suffering from diabetes. We bought this drug in Munich, Germany, at a pharmacy for $5. This same package of Glucophage sells here in the United States for $29.95. We bought another drug, a very commonly prescribed drug that is a blood thinner. In fact, my father takes this drug. It's called Coumadin. Coumadin here in the United States, this package of Coumadin sells for roughly $84. We bought this drug in Germany for $21. But I think the one that bothers me the most, and I have talked about this before and I still do not have a good answer and frankly some of the people in the FDA ought to help us get the answer, this is a drug called,Tamoxifen, perhaps the real miracle drug as it relates to treating women's breast cancer. Tamoxifen. We bought this drug in Munich, Germany, for $59.05 American. It sells here in the United States, the same box, same milligrams, it sells for $360; $60 in Germany, $360 here.

The question we have to ask is why? Why the big disparities? And some people say it is price controls, but that is not exactly true in Germany. The Germans do not have what some people say they do in terms of price controls. What they do allow is for their pharmacists to be able to shop around to get the best price. Unfortunately, Americans are held hostage. If one goes to Tokyo, Japan, and buys a steak, that steak will cost over $100. One can buy that same steak here in Washington even at inflated Washington, D.C. prices, for probably $25. Back in my home district one can buy the best steak in town in many of the towns I represent for $10 or $15. But the difference is the Japanese are held captive. They do not allow American beef into their markets; so those captive Japanese are forced to pay those higher prices.

What we are saying in the legislation which I hope to introduce next week is let our people go. Allow the markets to work, open up markets. And that is why I have sponsored the Pharmaceutical Market Access bill. Facts are stubborn things, as John Adams said. I would invite Members and those who may be watching to get a copy of this book: The title is "The Big Fix, How the Pharmaceutical Industry Rips American Consumers Off." It is by Katharine Greider. I do not know that much about Katharine Greider, but she has got some very interesting things to say about what has been happening in the pharmaceutical industry.

Finally, let me say the big argument is safety, safety, safety, we cannot guarantee that if people buy their drugs from Munich, Germany, or Geneva, Switzerland, that those drugs will be safe. But I would invite the Members to look at some of the counterfeit-proof technology that is available today. There are companies that make this technology so that we can guarantee that this is in fact Coumadin and not something else. We can do this safely. Americans deserve world-class drugs at world market prices. Americans are willing to subsidize sub-Saharan Africa. We are unwilling to continue to subsidize the starving Swiss. I hope Members will get the facts. I hope Members will look at this bill. I hope Members will cosponsor it with me. And I hope finally we will do something to stop these huge disparities between what Americans pay and what consumers around the rest of the industrialized world pay for the same drugs.

## EXPANSION OF THE CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I join my colleagues today to support the expansion of the child tax credit, a goal that was unfortunately not met as part of the $350 billion tax cut that we passed just last month. While some have argued that there was simply no room in that bill for a more comprehensive child tax credit, I still believe that our commitment to meeting the basic needs of our children should never be compromised. One out of every six children under the age of 17 lives with parents who will never see the benefit of the child tax credit that passed as part of last month's tax package.

And, Mr. Speaker, who are the parents of these children? They are hardworking Americans. They pay Federal taxes, and they do the very best they can to provide for their families. Yet we have chosen to ignore them to accommodate tax breaks for those who are far less likely to reinvest them back into our stalled economy or to rely upon that money to carry them into their next paycheck.

To address this glaring inequity, I cosponsored legislation to extend the tax credit to the families of 19 million children left out of the last tax bill. This bill, which was sponsored by the gentleman from New York (Mr. RANGEL), would also expand these tax privileges to many of the families, many of the families of the courageous military personnel serving in Iraq and other combat zones. These patriotic men and women have sacrificed precious time with their own families to protect ours, and I believe that this is the very least that we can do to show them our respect and our appreciation.

We have spoken virtuously of their selfless actions overseas; yet when we have an opportunity to match those actions with anything more than words, we are AWOL. We are AWOL.

Clearly, we recognize how critical it is to provide families with the resources they need to ensure the well-being of their children. Yet we have failed to follow through on our good intentions by leaving out those who need this help the very most.

Interestingly enough, today marks National Hunger Awareness Day, and in this country there are nearly 16 million children who ate free or reduced-priced lunches through the School Lunch Program last year. Many of these children, however, cannot rely on such consistent or well-balanced meals during the summertime when school has adjourned.

I would encourage us all to keep this in mind with summer just weeks away and schools already beginning to close their doors because, Mr. Speaker, there could not be a more appropriate time to expand the child tax credit to the families of these children.

☐ 1715

As a parent and a grandparent; I personally feel, and I believe that all of my colleagues feel, that all children are important; that no matter how much their parents make, that they are important. That is why I ask my colleagues to join me in supporting legislation that treats them this way.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Ms. PELOSI) for today after 3:00 p.m. on account of official business.

Ms. LOFGREN (at the request of Ms. PELOSI) for June 4 after 7:00 p.m. and the balance of the week on account of family school graduation.

Mr. ORTIZ (at the request of Ms. PELOSI) for today after 2:30 p.m. on account of official business.

Mr. HERGER (at the request of Mr. DELAY) for June 2 and 3 on account of attending his daughter's high school graduation.

Mr. RYAN of Wisconsin (at the request of Mr. DELAY) for today on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ACEVEDO-VILÁ) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. ACEVEDO-VILÁ, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Mr. DAVIS of Alabama, for 5 minutes, today.

Mr. BELL, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. CULBERSON, for 5 minutes, June 10, 11, and 12.

Mr. BURTON of Indiana, for 5 minutes, June 12.

## ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 192. An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

## ADJOURNMENT

Mrs. DAVIS of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 15 minutes p.m.) under its previous order, the House adjourned until Monday, June 9, 2003, at 12:30 p.m., for morning hour debates.

## OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATE

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 108th Congress, pursuant to the provisions of 2 U.S.C. 25:

RANDY NEUGEBAUER, Texas 19.

## OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information: Neil Abercrombie, Aníbal Acevedo-Vilá, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Rodney Alexander, Thomas H. Allen, Robert E. Andrews, Joe Baca, Spencer Bachus, Brian Baird, Richard H. Baker, Tammy Baldwin, Frank W. Ballance, Jr., Cass Ballenger, J. Gresham Barrett, Roscoe G. Bartlett, Joe Barton, Charles F. Bass, Bob Beauprez, Xavier Becerra, Chris Bell, Doug Bereuter, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Michael Bilirakis, Rob Bishop, Sanford D. Bishop, Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, Sherwood Boehlert, John A. Boehner, Henry Bonilla, Jo Bonner, Mary Bono, John Boozman, Madeleine Z. Bordallo, Leonard L. Boswell, Rick Boucher, Allen Boyd, Jeb Bradley, Kevin Brady, Robert A. Brady, Corrine Brown, Henry E. Brown, Jr., Sherrod Brown, Ginny Brown-Waite, Michael C. Burgess, Max Burns, Richard Burr, Dan Burton, Steve Buyer, Ken Calvert, Dave Camp, Chris Cannon, Eric Cantor, Shelley Moore Capito, Lois Capps, Michael E. Capuano, Benjamin L. Cardin, Dennis A. Cardoza, Brad Carson, Julia Carson, John R. Carter, Ed Case, Michael N. Castle, Steve Chabot, Chris Chocola, Donna M. Christensen, Wm. Lacy Clay, James E. Clyburn, Howard Coble, Tom Cole, Mac Collins, Larry Combest, John Conyers, Jr., Jim Cooper, Jerry F. Costello, Christopher Cox, Robert E. (Bud) Cramer, Jr., Philip M. Crane, Ander Crenshaw, Joseph Crowley, Barbara Cubin, John Abney Culberson, Elijah E. Cummings, Randy "Duke" Cunningham, Artur Davis, Danny K. Davis, Jim Davis, Jo Ann Davis, Lincoln Davis, Susan A. Davis, Tom Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Tom DeLay, Jim DeMint, Peter Deutsch, Lincoln Diaz-Balart, Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Calvin M. Dooley, John T. Doolittle, Michael F. Doyle, David Dreier, John J. Duncan, Jr., Jennifer Dunn, Chet Edwards, Vernon J. Ehlers, Rahm Emanuel, Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Lane Evans, Terry Everett, Sam Farr, Chaka Fattah, Tom Feeney, Mike Ferguson, Bob Filner, Jeff Flake, Ernie Fletcher, Mark Foley, J. Randy Forbes, Harold E. Ford, Jr., Vito Fossella, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Martin Frost, Elton Gallegly, Scott Garrett, Richard A. Gephardt, Jim Gerlach, Jim Gibbons, Wayne T. Gilchrest, Paul E. Gillmor, Phil Gingrey, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Porter J. Goss, Kay Granger, Sam Graves, Gene Green, Mark Green, James C. Greenwood, Raúl M. Grijalva, Luis V. Gutierrez, Gil Gutknecht, Ralph M. Hall, Jane Harman, Katherine Harris, Melissa A. Hart, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robin Hayes, J. D. Hayworth, Joel Hefley, Jeb Hensarling, Wally Herger, Baron P. Hill, Maurice D. Hinchey, Rubén Hinojosa, David L. Hobson, Joseph M. Hoeffel, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, John N. Hostettler, Amo Houghton, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Henry J. Hyde, Jay Inslee, Johnny Isakson, Steve Israel, Darrell E. Issa, Ernest J. Istook, Jr., Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Janklow, William J. Jefferson, William L. Jenkins, Christopher John, Eddie Bernice Johnson, Nancy L. Johnson, Sam Johnson, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Sue W. Kelly, Mark R. Kennedy, Patrick J. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Peter T. King, Steve King, Jack Kingston, Mark Steven Kirk, Gerald D. Kleczka, John Kline, Joe Knollenberg, Jim Kolbe, Ray LaHood, Nick Lampson, James R. Langevin, Tom Lantos, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, James A. Leach, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, William O. Lipinski, Frank A. LoBiondo, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Ken Lucas, Stephen F. Lynch, Denise L. Majette, Carolyn B. Maloney, Donald A. Manzullo, Edward J. Markey, Jim Marshall, Jim Matheson, Robert T. Matsui, Carolyn McCarthy, Karen McCarthy, Betty McCollum, Thaddeus G. McCotter, Jim McCrery, James P. McGovern, John M. McHugh, Scott McInnis, Mike McIntyre, Howard P. "Buck" McKeon, Michael R. McNulty, Martin T. Meehan, Kendrick B. Meek, Gregory W. Meeks, Robert Menendez, John L. Mica, Michael H. Michaud, Juanita Millender-McDonald, Brad Miller, Candice S. Miller, Gary G. Miller, Jeff Miller, Alan B. Mollohan, Dennis Moore, James P. Moran, Jerry Moran, Tim Murphy, John P. Murtha, Marilyn N. Musgrave, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, George R. Nethercutt, Jr., Randy Neugebauer, Robert W. Ney, Anne M. Northup, Eleanor Holmes Norton, Charlie Norwood, Devin Nunes, Jim Nussle, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Tom Osborne, Doug Ose, C. L. "Butch" Otter, Major R. Owens, Michael G. Oxley, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Stevan Pearce, Nancy Pelosi, Mike Pence, Collin C. Peterson, John E. Peterson, Thomas E. Petri, Charles W. "Chip" Pickering, Joseph R. Pitts, Todd Russell Platts, Richard W. Pombo, Earl Pomeroy, Jon C. Porter, Rob Portman, David E. Price, Deborah Pryce, Adam H. Putnam, Jack Quinn, George Radanovich, Nick J. Rahall II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, Rick Renzi, Silvestre Reyes, Thomas M. Reynolds, Ciro D. Rodriguez, Harold Rogers, Mike Rogers (AL), Mike Rogers (MI), Dana Rohrabacher, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C. A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Timothy J. Ryan, Jim Ryun, Martin Olav Sabo, Linda T. Sánchez, Loretta Sanchez, Bernard Sanders, Max Sandlin, Jim Saxton, Janice D. Schakowsky, Adam B. Schiff, Edward L. Schrock, David Scott, Robert C. Scott, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, John B. Shadegg, E. Clay Shaw, Jr., Christopher Shays, Brad Sherman, Don Sherwood, John Shimkus, Bill Shuster, Rob Simmons, Michael K. Simpson, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Christopher H. Smith, Lamar S. Smith, Nick Smith, Vic Snyder, Hilda L. Solis, Mark E. Souder, John M. Spratt, Jr., Cliff Stearns, Charles W. Stenholm, Ted Strickland, Bart Stupak, John Sullivan, John E. Sweeney, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, W. J. (Billy) Tauzin, Charles H. Taylor, Gene Taylor, Lee Terry, William M. Thomas, Bennie G. Thompson, Mike Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Patrick J. Toomey, Edolphus Towns, Jim Turner, Michael R. Turner, Mark Udall, Tom Udall, Fred Upton, Chris Van Hollen, Nydia M. Velázquez, Peter J. Visclosky, David Vitter, Greg Walden, James T. Walsh, Zach Wamp, Maxine Waters, Diane E. Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Curt Weldon, Dave Weldon, Jerry Weller, Robert Wexler, Ed Whitfield, Roger F. Wicker, Heather Wilson, Joe Wilson, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, C. W. Bill Young, Don Young.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2531. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Exotic Newcastle Disease; Additions to Quarantined Area (Docket No. 02-117-7] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2532. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Asian Longhorned Beetle; Quarantined Areas and Regulated Articles [Docket No. 03-018-1] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2533. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Movement and Importation of Fruits and Vegetables [Docket No. 00-059-2] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2534. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Hot Water Dip Treatment for Mangoes [Docket No. 02-026-5] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2535. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Additional Declaration for Imported Articles of Pelargonium spp. and Solanum spp. To Prevent Introduction of Potato Brown Rot [Docket No. 03-019-1] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2536. A letter from the Assistant Secretary of the Navy, Department of Defense, transmitting notification of the Department's decision to study certain functions performed by military and civilian personnel in the Department of the Navy for possible performance by private contractors, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

2537. A letter from the Deputy Chief of Naval Operations, Department of Defense, transmitting notification of the decision to convert to contractor performance; to the Committee on Armed Services.

2538. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report entitled, "Merger Decisions 2002"; to the Committee on Financial Services.

2539. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2540. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–94, "Inspector General Qualifications Amendment Act of 2003" received June 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

2541. A letter from the Chairman, U.S. Parole Commission, Department of Justice, transmitting a report in compliance with the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

2542. A letter from the Chair, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period October 1, 2002, through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(d); to the Committee on Government Reform.

2543. A letter from the Assistant Secretary for FWP, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Three Plant Species from the Island of Lanai, Hawaii (RIN: 1018–AH10) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2544. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Admospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; 2003 Specifications for the Atlantic Bluefish Fishery [Docket No. 021223329–3112–02; I.D. 121302A] (RIN: 0648–AQ26) received May 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2545. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 37 to the Northeast Multispecies Fishery Management Plan [Docket No. 030210027–3097–02; I.D. 012103E] (RIN: 0648–AQ35) received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2546. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Chiniak Gully Research Area Opening for the Groundfish Trawl Fisheries of the Gulf of Alaska [Docket No. 020718172–2303–02; I.D. 043003A] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2547. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report entitled, "21st Century Department of Justice Appropriations Authorization Act"; to the Committee on the Judiciary.

2548. A letter from the President, Foundation of the Federal Bar Association, transmitting a copy of the Association's audit report for the fiscal year ending September 30, 2002, pursuant to 36 U.S.C. 1101(22) and 1103; to the Committee on the Judiciary.

2549. A letter from the Program Analyst, FAA, Department of Agriculture, transmitting the Department's final rule—Modification of Class E Airspace; Hampton, IA [Docket No. FAA–2003–14597; Airspace Docket No. 03–ACE–20] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2550. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area; Des Plains River, Joliet, Illinois [CGD09–03–214] (RIN: 1625–AA11) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2551. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Patuxent River, Solomons, Maryland [CGD05–03–048] (RIN: 1625–AA08) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2552. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2003-32] received May 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2553. A letter from the Chair, Federal Election Commission, transmitting 7 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); jointly to the Committees on House Administration, Government Reform, and Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Texas (for himself and Mr. Berman):

H.R. 2344. A bill to restore Federal remedies for infringements of intellectual property by States, and for other purposes; to the Committee on the Judiciary.

By Mr. MANZULLO (for himself, Mr. Ose, Mr. Pence, and Mr. Terry):

H.R. 2345. A bill to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of Arizona:

H.R. 2346. A bill to amend the Internal Revenue Code of 1986 to repeal the inclusion in gross income of Social Security benefits and tier 1 railroad retirement benefits; to the Committee on Ways and Means.

By Mr. FRANKS of Arizona (for himself, Mr. Boehner, Mrs. Musgrave, Mr. Doolittle, Mr. King of Iowa, Mr. Cantor, Mr. Feeney, Mr. Akin, Mr. Tancredo, Mr. Jones of North Carolina, Mr. Tiberi, Mr. Gutknecht, Mr. Vitter, Mr. Hoekstra, Mr. DeMint, Mr. Souder, Mr. Garrett of New Jersey, Mr. Barrett of South Carolina, Mr. Bartlett of Maryland, Mr. Beauprez, Mr. Paul, Mr. Pitts, Mr. Renzi, Mr. Hayworth, and Mrs. Myrick):

H.R. 2347. A bill to amend the Internal Revenue Code of 1986 to provide for a credit which is dependent on enactment of State qualified scholarship tax credits and which is allowed against the Federal income tax for charitable contributions to education investment organizations that provide assistance for elementary and secondary education; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 2348. A bill to amend the Elementary and Secondary Education Act of 1965 regarding the rigorous standard of quality applicable to paraprofessionals hired before the date of enactment of the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Education and the Workforce.

By Mr. EVANS (for himself, Mr. Simmons, Mr. Gutierrez, Mr. Filner, Ms. Berkley, and Mrs. Davis of California):

H.R. 2349. A bill to authorize certain major medical facility projects for the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. HERGER:

H.R. 2350. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through fiscal year 2003, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself, Mr. Lipinski, Mrs. Johnson of Connecticut, Mr. Sam Johnson of Texas, Mr. Hayworth, Mr. Lewis of Kentucky, Mr. Brady of Texas, Mr. English, Mr. Sessions, Mr. Ose, Mr. Fossella, Mr. Paul, Mr. Smith of New Jersey, Mr. Weldon of Florida, Mr. Ryun of Kansas, Mr. DeLay, Mr. Toomey, Mr. Barton of Texas, Mr. Walsh, Mr. Ballenger, Mr. Camp, Mr. Collins, Mr. Ryan of Wisconsin, Mr. Keller, Mr. Herger, Mr. Doolittle, Mr. DeMint, and Mr. Norwood):

H.R. 2351. A bill to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts and to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mr. Filner, Mr. Rodriguez, Mr. Evans, Mr. Cunningham, Mr. Abercrombie, Mr. Rohrabacher, Mrs. Davis of California, Mr. Issa, and Mr. Smith of New Jersey):

H.R. 2352. A bill to amend title 38, United States Code, to provide eligibility for Department of Veterans Affairs health care for certain Filipino World War II veterans residing in the United States; to the Committee on Veterans' Affairs.

By Ms. SCHAKOWSKY (for herself, Ms. Slaughter, Ms. Lee, Ms. Woolsey, Mr. Farr, and Ms. Kilpatrick):

H.R. 2353. A bill to require all newly constructed, federally assisted, single-family houses and town houses to meet minimum standards of visitability for persons with disabilities; to the Committee on Financial Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASE (for himself, Mr. Abercrombie, and Mr. Gibbons):

H.R. 2354. A bill to amend title 38, United States Code, to increase the allowance for burial expenses of certain veterans; to the Committee on Veterans' Affairs.

By Mr. ABERCROMBIE (for himself and Mr. Case):

H.R. 2355. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study; to the Committee on Resources.

By Mr. ALLEN (for himself, Mrs. Emerson, Mr. Berry, Mr. Bereuter, Mr. Waxman, Mr. Burton of Indiana, Mr. Davis of Florida, Mr. Gutknecht, Mr. Snyder, Mrs. Bono, Mr. Cooper, and Mr. Wamp):

H.R. 2356. A bill to require the National Institutes of Health to conduct research, and the Agency for Healthcare Research and Quality to conduct studies, on the comparative effectiveness and cost-effectiveness of prescription drugs that account for high levels of expenditures or use by individuals in federally funded health programs, and for other purposes; to the Committee on Energy and Commerce.

By Ms. GINNY BROWN-WAITE of Florida (for herself, Mr. Smith of New Jersey, and Mr. Miller of Florida):

H.R. 2357. A bill to amend title 38, United States Code, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CALVERT (for himself, Mr. Ortiz, Mr. Sensenbrenner, Mr. Cunningham, Mr. Sandlin, Mr. Bartlett of Maryland, Mrs. Capps, Mr. Weldon of Florida, Mr. Paul, Mr. Foley, Mr. Hinojosa, Mr. Lucas of Oklahoma, Mr. Barton of Texas, Mr. Doolittle, and Mr. Burgess):

H.R. 2358. A bill to amend the Internal Revenue Code of 1986 to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes; to the Committee on Ways and Means.

By Mr. CALVERT (for himself, Mr. Osborne, and Mr. Latham):

H.R. 2359. A bill to extend the basic pilot program for employment eligibility verification, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS (for herself, Mr. Thompson of California, Mr. Blumenauer, Mr. Wu, Mr. Farr, Mr. George Miller of California, and Mr. DeFazio):

H.R. 2360. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARDIN (for himself, Ms. Dunn, Mr. Foley, Mr. McNulty, Mr. Andrews, Mr. Smith of New Jersey, Mr. Frost, Mr. Sandlin, Mr. Gillmor, Mrs. Capito, Mr. Frank of Massachusetts, Mr. Edwards, Mr. Holden, Mr. Paul, Mr. Kanjorski, Ms. Lofgren, Mr. Moran of Virginia, and Mr. Goode):

H.R. 2361. A bill to amend title XVIII of the Social Security Act to waive the part B late enrollment penalty for military retirees who enroll by December 31, 2004, and to provide a special part B enrollment period for such retirees; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASE (for himself, Mr. Abercrombie, and Mr. Young of Alaska):

H.R. 2362. A bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes; to the Committee on Education and the Workforce.

By Ms. DELAURO (for herself, Mr. Cummings, Mrs. Jones of Ohio, Ms. Woolsey, Mr. McNulty, Mr. Owens, Mr. Sanders, Ms. Solis, Ms. Kaptur, Mr. Pallone, Mr. Serrano, Mr. Waxman, Ms. Jackson-Lee of Texas, Mr. Rodriguez, Mr. Frost, Ms. Lofgren, Mr. Conyers, Mr. Allen, and Mr. Brown of Ohio):

H.R. 2363. A bill to improve early learning opportunities and promote preparedness by increasing the availability of Head Start programs, to increase the availability and affordability of quality child care, to reduce child hunger and encourage healthy eating habits, to facilitate parental involvement, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, Ways and Means, House Administration, Government Reform, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 2364. A bill to amend the Immigration and Nationality Act in regard to Caribbean-born immigrants; to the Committee on the Judiciary.

By Mr. ENGLISH (for himself, Mr. Levin, and Mr. Houghton):

H.R. 2365. A bill to amend United States trade laws to address more effectively import crises, and for other purposes; to the Committee on Ways and Means.

By Mr. ETHERIDGE:

H.R. 2366. A bill to suspend certain amendments made by the No Child Left Behind Act of 2001 if the Federal Government fails to fully fund such amendments; to the Committee on Education and the Workforce.

By Mr. GIBBONS:

H.R. 2367. A bill to provide for the conveyance of certain public lands in and around historic mining townsites in Nevada, and for other purposes; to the Committee on Resources.

By Mr. GREEN of Texas (for himself, Mr. Reyes, Mr. Edwards, Mr. Gonzalez, Mr. Rodriguez, Mr. Stenholm, Mr. Ortiz, Mr. Sandlin, Ms. Eddie Bernice Johnson of Texas, Mr. Lampson, Mr. Turner of Texas, Mr. Frost, Mr. Bell, Ms. Jackson-Lee of Texas, Mr. Hinojosa, Mr. Doggett, and Mr. Hall):

H.R. 2368. A bill to amend the Internal Revenue Code of 1986 to tax the campaign committees of candidates for State and local public office in the same manner as campaign committees of candidates for Congress; to the Committee on Ways and Means.

By Mr. INSLEE (for himself, Mr. Rothman, Mr. Matsui, Mr. Kennedy of Rhode Island, Mr. Lewis of Georgia, Ms. Lofgren, Mr. Farr, Mr. Kirk, Mr. Reyes, Mr. Lynch, Mr. Jackson of Illinois, Mr. Andrews, Ms. Majette, Mr. Scott of Georgia, Mr. Meeks of New York, Mr. Smith of New Jersey, Ms. Kaptur, Mr. Ramstad, Mr. Meehan, Mr. Menendez, Mr. Lampson, Mr. Filner, Mr. Larsen of Washington, Mr. Jefferson, Mr. Davis of Illinois, Mr. Ferguson, Ms. Waters, Mr. Michaud, Ms. Hooley of Oregon, Ms. DeGette, Ms. Loretta Sanchez of California, Mr. Gonzalez, Mr. Johnson of Illinois, Mr. Boehlert, Mr. Greenwood, Mr. Shays, Mr. Leach, Mrs. Johnson of Connecticut, Mr. George Miller of California, Mr. Hinchey, Mr. Wu, Mr. Rahall, Mr. Doyle, Mr. Weiner, Mr. Hoeffel, Mr. Frank of Massachusetts, Mr. Kildee, Mrs. Jones of Ohio, Mrs. Tauscher, Ms. Baldwin, Mr. Waxman, Ms. Roybal-Allard, Mr. Holt, Mr. Doggett, Mr. Becerra, Mr. Israel, Mr. McDermott, Mr. Smith of Washington, Mr. Neal of Massachusetts, Mr. Moran of Virginia, Mr. DeFazio, Mr. Brown of Ohio, Mrs. Maloney, Ms. Lee, Mr. Kleczka, Mr. Stark, Mr. Honda, Ms. Corrine Brown of Florida, Ms. Carson of Indiana, Mr. Delahunt, Mrs. Napolitano, Mr. Pastor, Mr. Langevin, Mr. Ford, Mr. Payne, Mr. Markey, Ms. Woolsey, Ms. Jackson-Lee of Texas, Mr. Pascrell, Mr. Blumenauer, Ms. DeLauro, Mr. Levin, Mr. Cummings, Mr. Wynn, Mr. Van Hollen, Mr. Kind, Mr. Deutsch, Mr. Serrano, Mr. Engel, Mr. Udall of Colorado, Mr. McNulty, Mr. Owens, Mr. Berman, Mr. Ackerman, Mr. Boucher, Mr. Hill, Mr. Sabo, Mr. Olver, Mr. Wexler, Mr. Rangel, Mr. Acevedo-Vilá, Ms. Harman, Ms. Solis, Ms. Eddie Bernice Johnson of Texas, Mr. Moore, Ms. Kilpatrick, Mrs. McCarthy of New York, Mr. Watt, Mr. Gilchrest, Ms. Schakowsky, Mrs. Davis of California, Mrs. Capps, Mr. Clay, Ms. McCollum, Mr. Gutierrez, Mr. Fattah, Mr. Dingell, Mr. Crowley, Ms. Norton, Mr. Rush, Mr. Towns, Mr. Evans, Mr. Pallone, Mr. McGovern, Mr. Schiff, Ms. Slaughter, Ms. McCarthy of Missouri, Mr. Sherman, Ms. Linda T. Sánchez of California, Mr. Grijalva, Mr. Nadler, Mr. Green of Texas, Mrs. Lowey, Ms. Eshoo, Mr. Allen, Mr. Cooper, Mr. Ryan of Ohio, Mr. Conyers, Mr. Clyburn, Mr. Price of North Carolina, Mr. Kucinich, Mr. Capuano, Mr. Case, Mr. Cardin, Mr. Sanders, Mr. Miller of North Carolina, Mr. Costello, Mr. Lantos, Ms. Berkley, Mr. Hastings of Florida, Mr.

Tierney, Ms. Millender-McDonald, and Mr. Larson of Connecticut):

H.R. 2369. A bill to protect inventoried roadless areas in the National Forest System, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island:

H.R. 2370. A bill to improve homeland security by providing for national resilience in preparation for, and in the event of, a terrorist attack, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LEE (for herself, Mr. McDermott, Mr. Berman, Mr. Conyers, Mr. McGovern, Mr. Filner, Ms. Eshoo, Mr. Case, Ms. Eddie Bernice Johnson of Texas, Ms. McCollum, Mr. Davis of Illinois, Mr. Ballance, Mr. Jefferson, Ms. Carson of Indiana, Mr. Wynn, Mr. Owens, Mr. Davis of Alabama, Ms. Jackson-Lee of Texas, Mr. Moran of Virginia, Mr. Clay, Mr. Rangel, Ms. Corrine Brown of Florida, Mr. Rush, Mr. Lewis of Georgia, Mr. Fattah, Ms. Waters, Ms. Millender-McDonald, Mr. Kennedy of Rhode Island, Mr. Farr, and Mrs. Jones of Ohio):

H.R. 2371. A bill to provide for the issuance of a semipostal to benefit the Peace Corps; to the Committee on Government Reform, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Georgia (for himself, Mr. Rangel, Ms. Carson of Indiana, Mr. Owens, Ms. Jackson-Lee of Texas, Mr. Towns, Mr. Kleczka, Mr. Scott of Georgia, Mr. Paul, Mr. Frost, Mr. Payne, and Mr. Kildee):

H.R. 2372. A bill to amend the Internal Revenue Code of 1986 to provide an increased low-income housing credit for property located immediately adjacent to qualified census tracts; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. Blumenauer, Ms. DeLauro, Mr. Lewis of Georgia, and Mrs. Christensen):

H.R. 2373. A bill to authorize the Secretary of Housing and Urban Development to make grants to nonprofit community organizations for the development of open space on municipally owned vacant lots in urban areas; to the Committee on Financial Services.

By Ms. MILLENDER-McDONALD:

H.R. 2374. A bill to amend the Small Business Act to allow more joint ventures, leader-follow arrangements, and teaming arrangements under the section 8(a) minority business development program; to the Committee on Small Business.

By Ms. MILLENDER-McDONALD:

H.R. 2375. A bill to amend the Internal Revenue Code of 1986 to increase the contribution limits applicable to simple retirement accounts; to the Committee on Ways and Means.

By Ms. MILLENDER-McDONALD:

H.R. 2376. A bill to prevent and respond to terrorism and crime at or through ports; to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. Platts, Mr. Kennedy of Rhode Island, Mr. Andrews, Mr. Serrano, Ms. DeLauro, Mr. Davis of Illinois, Ms. Solis, Mrs. Davis of California, Mr. Hinojosa, Mrs. McCarthy of New York, Mr. Kildee, and Mr. Sanders):

H.R. 2377. A bill to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR (for himself, Ms. Corrine Brown of Florida, and Mr. Filner):

H.R. 2378. A bill to reform the safety practices of the railroad industry, to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OSBORNE:

H.R. 2379. A bill to amend title 38, United States Code, to improve access to health care for rural veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PETERSON of Minnesota:

H.R. 2380. A bill to amend title 38, United States Code, to authorize additional compensation to be paid to certain veterans in receipt of compensation for a service-connected disability rated totally disabling for whom a family member dependent on the veteran for support provides care; to the Committee on Veterans' Affairs.

By Mr. RAHALL (for himself, Mr. Mollohan, and Mr. Strickland):

H.R. 2381. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. RAHALL (for himself, Mr. Holt, Mr. Frost, Mr. George Miller of California, Mr. Stark, Ms. McCollum, Mr. Markey, Ms. Jackson-Lee of Texas, and Ms. Bordallo):

H.R. 2382. A bill to amend title 49, United States Code, relating to improving transportation in the national parks; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD:

H.R. 2383. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of smoking cessation costs; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mrs. Johnson of Connecticut, Mr. Shays, Ms. DeLauro, and Mr. Larson of Connecticut):

H.R. 2384. A bill to amend title 23, United States Code, to provide an exemption from Interstate System weight limitations for milk hauling vehicles in the State of Connecticut; to the Committee on Transportation and Infrastructure.

By Mr. SIMPSON (for himself and Mr. Abercrombie):

H.R. 2385. A bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living; to the Committee on Education and the Workforce.

By Mr. SIMPSON (for himself, Mr. Otter, Mr. Herger, Mr. Duncan, Mr. Walden of Oregon, Mr. Goss, Mr. Peterson of Pennsylvania, Mr. Hunter, Mr. Cannon, Mr. Doolittle, Mr. Thornberry, Mr. Radanovich, Mr. Pearce, Mr. Gibbons, and Mr. Souder):

H.R. 2386. A bill to amend the Antiquities Act regarding the establishment by the President of certain national monuments and to provide for public participation in the proclamation of national monuments; to the Committee on Resources.

By Mr. STRICKLAND:

H.R. 2387. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

By Mr. THOMPSON of California:

H.R. 2388. A bill to authorize leases for terms not to exceed 99 years on lands held in trust for the Yurok Tribe and the Hopland Band of Pomo Indians; to the Committee on Resources.

By Mr. VISCLOSKY:

H.R. 2389. A bill to assure that the services of a nonemergency department physician are available to hospital patients 24-hours-a-day, seven days a week in all non-Federal hospitals with at least 100 licensed beds; to the Committee on Energy and Commerce.

By Mr. WU:

H.R. 2390. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to enter into agreements with private for-profit organizations for the provision of work-study employment; to the Committee on Education and the Workforce.

By Mr. CUMMINGS:

H. Con. Res. 208. Concurrent resolution supporting National Men's Health Week; to the Committee on Government Reform.

By Mr. ENGEL (for himself, Mr. Bereuter, Mr. Wexler, Mr. Kirk, Mrs. Kelly, Mr. Faleomavaega, Mrs. Napolitano, and Mr. Shimkus):

H. Con. Res. 209. Concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia; to the Committee on International Relations.

By Mr. RANGEL (for himself, Mr. Bishop of Georgia, Mr. Ballance, Ms. Corrine Brown of Florida, Ms. Carson of Indiana, Mrs. Christensen, Mr. Clyburn, Mr. Conyers, Mr. Cummings, Mr. Davis of Alabama, Mr. Davis of Illinois, Mr. Fattah, Mr. Ford, Mr. Hastings of Florida, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mrs. Jones of Ohio, Ms. Kilpatrick, Ms. Lee, Mr. Lewis of Georgia, Ms. Majette, Mr. Meek of Florida, Mr. Meeks of New York, Ms. Millender-McDonald, Ms. Norton, Mr. Owens, Mr. Payne, Mr. Rush, Mr.

SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Ms. WATSON, Mr. WATT, Mr. WYNN, and Mr. CLAY):

H. Con. Res. 210. Concurrent resolution honoring Army Specialist Shoshana Nyree Johnson, former prisoner of war in Iraq; to the Committee on Armed Services.

By Ms. ROS-LEHTINEN (for herself, Mr. ACKERMAN, Mr. PENCE, Mr. BURTON of Indiana, and Mr. TANCREDO):

H. Con. Res. 211. Concurrent resolution expressing the sense of Congress and appreciation for the support and cooperation from Kuwait, Bahrain, and Qatar in Operation Iraqi Freedom; to the Committee on International Relations.

By Mr. KUCINICH (for himself, Ms. LEE, Ms. WOOLSEY, Ms. SCHAKOWSKY, Ms. WATSON, Mr. HINCHEY, Mr. SERRANO, Mr. GRIJALVA, Mr. FARR, Mr. CONYERS, Mr. JACKSON of Illinois, Ms. CARSON of Indiana, Mr. OWENS, Mr. VAN HOLLEN, Mrs. MALONEY, Ms. JACKSON-LEE of Texas, Mr. GEORGE MILLER of California, Ms. KAPTUR, Mr. SCOTT of Virginia, Mr. NADLER, Mr. STARK, Mr. FRANK of Massachusetts, Ms. WATERS, Mr. RAHALL, Mr. MCDERMOTT, Mr. BROWN of Ohio, Mr. CUMMINGS, Mr. LEWIS of Georgia, Mrs. JONES of Ohio, Mr. HONDA, Ms. SOLIS, Mr. TOWNS, and Mr. PAYNE):

H. Res. 260. A resolution requesting the President to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents or other materials in the President's possession relating to Iraq's weapons of mass destruction; to the Committee on International Relations.

By Mr. WOLF (for himself, Mr. MCGOVERN, Ms. KAPTUR, Mr. WALSH, Mr. WAXMAN, Mrs. EMERSON, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Mr. CONYERS, Mr. GIBBONS, Mr. MCNULTY, Ms. LEE, Mr. RANGEL, Mr. LANTOS, and Mr. WAMP):

H. Res. 261. A resolution expressing the support of the House of Representatives for the efforts of organizations such as Second Harvest to provide emergency food assistance to hungry people in the United States, and encouraging all Americans to provide volunteer services and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters; to the Committee on Agriculture.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

71. The SPEAKER presented a memorial of the Legislature of the State of Alabama, relative to House Resolution No. 412 memorializing the United States Congress to recognize that the F/A-22 Raptor is critical to the Alabama economy and that the members of this body implore the Congress to fully fund and advance the F/A-22 Raptor program, thus providing our military heroes with the vital resources they need while invigorating our economy; to the Committee on Armed Services.

72. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 128 memorializing the United States Congress that all individuals and organizations involved with telecommunications and call centers are respectfully urged to initiate customer right-to-know procedures regarding all inbound and outbound communications; to the Committee on Energy and Commerce.

73. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 17 memorializing the United States Congress that the Governor is requested to take all necessary actions to establish a state province of Ilocos Norte in the Republic of the Philippines; to the Committee on International Relations.

74. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 77 memorializing the United States Congress to support the passage of S. 68 to improve benefits for certain Filipino veterans of World War II; to the Committee on Veterans' Affairs.

75. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 76 memorializing the United States Congress to support the passage of H.R. 664, to improve benefits for Filipino veterans of World War II and the surviving spouses of those veterans; to the Committee on Veterans' Affairs.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. GREEN of Texas, Mr. WAMP, Mr. NETHERCUTT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. STEARNS, Mr. HAYWORTH, Mr. TIAHRT, Mr. PENCE, Ms. CORRINE BROWN of Florida, Mr. LARSEN of Washington, Mr. WICKER, Mr. ROYCE, Mr. BRADY of Texas, Mr. BAKER, Mr. SCHROCK, and Mr. BEREUTER.

H.R. 57: Mr. CARDOZA, Mr. MCCOTTER, Mrs. MILLER of Michigan, Mr. BISHOP of Georgia, and Mrs. KELLY.

H.R. 63: Mrs. CAPITO.

H.R. 111: Mr. ALEXANDER.

H.R. 125: Ms. WATERS.

H.R. 173: Ms. JACKSON-LEE of Texas, Mr. RYAN of Ohio, Mr. LARSON of Connecticut, Mr. GUTIERREZ, and Mr. MILLER of North Carolina.

H.R. 235: Mr. HENSARLING, Mrs. MUSGRAVE, Mr. CRANE, Mr. COLLINS, Mr. MCCRERY, Mr. SHAW, and Mr. RAMSTAD.

H.R. 303: Mr. HOEFFEL, Mr. SCOTT of Virginia, Mr. BACA, Mr. TURNER of Ohio, Mr. CALVERT, and Ms. ESHOO.

H.R. 328: Mr. BAIRD, Mr. ROSS, Mr. ORTIZ, Ms. ROYBAL-ALLARD, Ms. Linda T. SÁNCHEZ of California, Mr. LAMPSON, and Ms. CARSON of Indiana.

H.R. 348: Ms. WATSON.

H.R. 434: Mr. TERRY, Mr. WEXLER, and Mr. STEARNS.

H.R. 476: Mr. OWENS and Mr. HOLT.

H.R. 489: Mr. SULLIVAN.

H.R. 502: Mrs. MYRICK.

H.R. 548: Mr. ENGEL, Mr. MURPHY, Mrs. NAPOLITANO, Mr. REHBERG, Mr. BARTLETT of Maryland, Mr. HOYER, Mr. WAXMAN, Mr. JANKLOW, Mr. SPRATT, Mr. CALVERT, and Mr. LOBIONDO.

H.R. 583: Mr. WOLF and Mr. LAHOOD.

H.R. 589: Mr. OSBORNE, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. KIRK, Ms. ESHOO, Mr. WICKER, Mr. SHUSTER, Mr. JONES of North Carolina., Ms. GRANGER, Mr. MICHAUD, Mr. PORTER, Mrs. BONO, Mr. BURGESS, Mr. ALLEN, and Mr. SAXTON.

H.R. 594: Mr. JOHN, Mr. BRADLEY of New Hampshire, and Mr. BROWN of South Carolina.

H.R. 669: Mr. NUNES.

H.R. 687: Mrs. MYRICK.

H.R. 713: Mr. HAYWORTH.

H.R. 714: Mr. MILLER of Florida.

H.R. 742: Mr. ROGERS of Alabama, Mr. STENHOLM, Mr. GIBBONS, Mr. MICHAUD, Mr. WILSON of South Carolina, Mr. WOLF, and Mr. CALVERT.

H.R. 767: Mr. BURGESS.

H.R. 816: Mr. MENENDEZ.

H.R. 817: Mr. WELDON of Florida and Mr. WU.

H.R. 834: Mr. MATSUI.

H.R. 839: Mr. CALVERT, Mr. MICHAUD, Mrs. EMERSON, Ms. ESHOO, Mr. SHIMKUS, Mr. MILLER of North Carolina, Ms. MCCOLLUM, Mr. WAMP, Mr. COSTELLO, Mr. PUTNAM, Ms. LINDA T. SÁNCHEZ of California, Mr. SCHIFF, Mr. THORNBERRY, Mr. FLETCHER, Ms. GINNY BROWN-WAITE of Florida, Ms. HOOLEY of Oregon, Mr. PETERSON of Minnesota, Mrs. MUSGRAVE, Mrs. JOHNSON of Connecticut, Ms. LOFGREN, Mr. MANZULLO, and Ms. LORETTA SANCHEZ of California.

H.R. 852: Mr. SERRANO, Mr. PAYNE, Mr. GRIJALVA, Mr. ACEVEDO-VILÁ, Ms. LEE, Mr. LANTOS, Ms. WOOLSEY, Mr. CROWLEY, and Mrs. CAPPS.

H.R. 871: Mrs. EMERSON.

H.R. 882: Mr. BROWN of South Carolina, Mr. HOLT, and Mr. REHBERG.

H.R. 890: Mr. RANGEL and Mr. GREEN of Wisconsin.

H.R. 898: Mr. RENZI, Mr. FARR, Mr. FLETCHER, Mrs. MALONEY, and Mr. ETHERIDGE.

H.R. 906: Mr. COBLE, Mr. GERLACH, Mr. ROGERS of Kentucky, and Mr. BURNS.

H.R. 919: Mr. BOOZMAN.

H.R. 935: Mr. MARKEY and Mr. DELAHUNT.

H.R. 953: Mr. KING of New York.

H.R. 962: Mr. RYAN of Ohio, Mr. WAXMAN, Ms. DEGETTE, Mr. HOLT, Mr. MATSUI, Mr. ROTHMAN, and Mr. ACEVEDO-VILÁ.

H.R. 966: Mr. KILDEE.

H.R. 967: Mr. LARSON of Connecticut and Mr. FILNER.

H.R. 1048: Mr. KILDEE.

H.R. 1118: Mr. WU, Mr. LUCAS of Oklahoma, Mr. COSTELLO, and Mr. LAMPSON.

H.R. 1125: Mr. RYAN of Ohio, Ms. HARRIS, Mr. STUPAK, and Mr. GUTIERREZ.

H.R. 1137: Mr. SOUDER.

H.R. 1160: Mr. SCOTT of Georgia, Mr. BEREUTER, Mr. PRICE of North Carolina, Mr. WILSON of South Carolina, Mr. BOEHLERT, Mr. RAHALL, and Mr. ROSS.

H.R. 1173: Mr. REHBERG.

H.R. 1185: Mr. MCINNIS.

H.R. 1199: Mr. GUTIERREZ.

H.R. 1209: Mr. PASCRELL, Mr. LANTOS, Mr. SCHIFF, Ms. SOLIS, and Ms. DELAURO.

H.R. 1233: Mr. OSE and Mr. HOSTETTLER.

H.R. 1267: Mr. MENENDEZ, Mr. UDALL of Colorado, and Ms. ESHOO.

H.R. 1268: Ms. MCCOLLUM and Mr. GUTIERREZ.

H.R. 1276: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1285: Mrs. CAPPS, Mr. FROST, and Ms. LORETTA SANCHEZ of California.

H.R. 1301: Mr. LATHAM, Mr. FORD, and Mr. GOODLATTE.

H.R. 1310: Mr. BERRY.

H.R. 1348: Mr. CLAY and Mr. GREEN of Texas.

H.R. 1372: Mr. WILSON of South Carolina, Mr. SANDLIN, and Mr. LATHAM.

H.R. 1400: Ms. WATERS, Ms. BALDWIN, Mr. ROSS, Ms. SLAUGHTER, Mr. OWENS, AND MR. TIERNEY.

H.R. 1422: Mr. PASCRELL.

H.R. 1443: Mr. BOEHLERT and Mr. HASTINGS of Florida.

H.R. 1451: Mr. DAVIS of Florida.

H.R. 1464: Mr. OWENS.

H.R. 1472: Mr. MCKEON.

H.R. 1478: Mr. HAYWORTH.

H.R. 1480: Ms. NORTON.

H.R. 1510: Mr. RYAN of Ohio.

H.R. 1511: Mrs. NAPOLITANO, Mr. WU, Mr. ROTHMAN, Mr. ACKERMAN, Ms. BERKLEY, Mr. SHERMAN, Mr. HINOJOSA, Mr. LANTOS, Mr. ENGEL, Mr. TURNER of Texas, Mr. HOEFFEL, Mr. RUPPERSBERGER, Mr. DAVIS of Florida, Mr. WYNN, Mr. RAMSTAD, Mr. MCGOVERN, Ms. BORDALLO, Mr. DOOLEY of California, and Mr. FORD.

H.R. 1534: Ms. MILLENDER-MCDONALD.

H.R. 1536: Mr. POMEROY and Mr. BRADY of Texas.

H.R. 1565: Mr. GUTIERREZ, Mr. FILNER, and Mr. GRIJALVA.

H.R. 1572: Mr. BOYD, Mr. PUTNAM, Mr. DEUTSCH, Ms. HARRIS, Mr. FOLEY, Mr. WEXLER, Mr. HASTINGS of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. FEENEY, Mr. WELDON of Florida, Mr. KELLER, Mr. BILIRAKIS, Mr. DAVIS of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. YOUNG of Florida, Ms. ROS-LEHTINEN, Mr. MEEK of Florida, Mr. CRENSHAW, Ms. GINNY BROWN-WAITE of Florida, Mr. GOSS, Mr. STEARNS, Mr. SHAW, Ms. CORRINE BROWN of Florida, and Mr. MICA.

H.R. 1582: Mr. OBERSTAR and Mr. PAUL.

H.R. 1611: Mr. MCDERMOTT.

H.R. 1617: Mr. BALLANCE.

H.R. 1622: Mr. COOPER, Ms. BERKLEY, Mr. BALLANCE, Mr. KILDEE, Mr. HINCHEY, Mr. MATSUI, Mr. ACKERMAN, Mr. JENKINS, Ms. LINDA T. SÁNCHEZ of California, Mr. ROTHMAN, Mr. PRICE of North Carolina, and Mr. GRIJALVA.

H.R. 1638: Mr. CARSON of Oklahoma, Mr. LEWIS of Kentucky, and Ms. CORRINE BROWN of Florida.

H.R. 1653: Mr. JONES of North Carolina and Mr. SMITH of Washington.

H.R. 1660: Mr. BRADLEY of New Hampshire, Mrs. MUSGRAVE, Mr. GARY G. MILLER of California, and Mrs. NORTHUP.

H.R. 1696: Mr. CARSON of Oklahoma.

H.R. 1723: Mr. BALLANCE.

H.R. 1726: Mr. HOLT and Mr. RYAN of Ohio.

H.R. 1742: Mr. WALDEN of Oregon and Mr. CULBERSON.

H.R. 1754: Mrs. MUSGRAVE.

H.R. 1761: Mr. RYUN of Kansas, Mr. MORAN of Kansas, and Mr. MOORE.

H.R. 1767: Mr. ISSA.

H.R. 1776: Mr. RYUN of Kansas, Mr. BARRETT of South Carolina, and Mr. COLE.

H.R. 1779: Mr. BURGESS, Mr. MILLER of Florida, and Mr. DAVIS of Tennessee.

H.R. 1796: Mr. REYES.

H.R. 1812: Mr. WYNN, Mr. MORAN of Virginia, Mr. SHAYS, Mr. UDALL of Colorado, Mr. LARSEN of Washington, Ms. VELÁZQUEZ, Ms. CORRINE BROWN of Florida, Mr. NADLER, Mr. SIMMONS, and Mr. GONZALEZ.

H.R. 1859: Mr. SHIMKUS.

H.R. 1860: Mr. WYNN, Mr. WAXMAN, Mr. MATSUI, Mr. HINCHEY, Mr. OWENS, Mr. WEXLER, Mr. HINOJOSA, and Mr. LANTOS.

H.R. 1865: Mr. SHAYS.

H.R. 1873: Mr. GRIJALVA.

H.R. 1881: Mr. GOODE.

H.R. 1894: Mr. GRIJALVA.

H.R. 1930: Mr. MCDERMOTT and Mr. SMITH of New Jersey.

H.R. 1935: Ms. CARSON of Indiana, Mr. CROWLEY, and Mr. KIND.

H.R. 1936: Mr. SCHIFF.

H.R. 1940: Mr. BOUCHER, Mr. SANDERS, and Mr. CASE.

H.R. 1943: Mr. GERLACH, Mr. DUNCAN, and Mr. SOUDER.

H.R. 1951: Mr. SMITH of Washington and Mr. GRIJALVA.

H.R. 1997: Ms. GINNY BROWN-WAITE of Florida, Mr. PLATTS, and Mr. ISSA.

H.R. 2000: Ms. CARSON of Indiana.

H.R. 2009: Mr. FRANK of Massachusetts.

H.R. 2011: Mr. HILL, Mr. EVANS, and Mr. TIERNEY.

H.R. 2028: Mr. HASTINGS of Washington, Mr. BILIRAKIS, Mr. BRADLEY of New Hampshire, Mr. PORTMAN, and Mrs. KELLY.

H.R. 2045: Mr. NORWOOD and Mr. LAHOOD.

H.R. 2052: Mr. WHITFIELD, Mr. MICHAUD, Mr. BEREUTER, Mr. OSBORNE, Ms. WOOLSEY, Mr. CUMMINGS, Mr. CROWLEY, and Ms. BALDWIN.

H.R. 2075: Mr. DEUTSCH, Mr. KELLER, Mr. DAVIS of Florida, and Mr. BOYD.

H.R. 2092: Mr. SOUDER.

H.R. 2125: Mr. RANGEL.

H.R. 2130: Mr. ROTHMAN.

H.R. 2161: Mrs. EMERSON.

H.R. 2164: Ms. MILLENDER-MCDONALD and Mr. SOUDER.

H.R. 2193: Mr. PUTNAM.

H.R. 2203: Mr. KIND and Mr. KILDEE.

H.R. 2205: Mr. RUSH, Mr. KILDEE, Mr. FILNER, Mr. ROSS, Mr. BALLANCE, Mr. FRANK of Massachusetts, Mr. BISHOP of Georgia, Mr. PAYNE, Mr. ANDREWS, Mr. MARSHALL, Mr. UPTON, and Mr. KLECZKA.

H.R. 2207: Mr. FROST, Mr. ETHERIDGE, Mr. DAVIS of Illionis, and Mr. GRIJALVA.

H.R. 2241: Mr. RANGEL.

H.R. 2246: Mr. BEREUTER.

H.R. 2255: Mr. PAUL.

H.R. 2262: Mr. JEFFERSON, Mr. WU, Mr. ENGEL, and Mr. RANGEL.

H.R. 2286: Ms. WATSON, Mr. CASE, Mr. PAYNE, Ms. JACKSON-LEE of Texas, Mr. OBEY, Mr. LARSEN of Washington, Mr. KILDEE, Mr. CUMMINGS, Ms. KILPATRICK, and Mr. MCDERMOTT.

H.R. 2318: Mr. CROWLEY, Ms. BORDALLO, and Mr. KIND.

H. J. Res. 38: Mr. FRANK of Massachusetts.

H. J. Res. 52: Ms. JACKSON-LEE of Texas.

H. Con. Res. 37: Mr. PALLONE, Mr. ACEVEDO-VILÁ, and Mr. STRICKLAND.

H. Con. Res. 98: Ms. ROS-LEHTINEN, Mr. GARRETT of New Jersey, Mr. MOORE, and Mr. HONDA.

H. Con. Res. 126: Mr. PUTNAM.

H. Con. Res. 127: Mr. KINGSTON, Mr. EVANS, and Mr. REHBERG.

H. Res. 59: Mr. HONDA.

H. Res. 137: Mr. LARSEN of Washington, Mr. ROTHMAN, Mrs. LOWEY, Mr. HONDA, and Mr. ENGEL.

H. Res. 167: Ms. MCCOLLUM, Ms. LEE, Mr. PALLONE, and Mr. BALLANCE.

H. Res. 177: Mr. HOUGHTON, Mr. PAYNE, Mr. TANCREDO, Ms. LEE, Mr. LEACH, Mr. ROYCE, Mr. FLAKE, Mr. MEEKS of New York, and Mrs. JO ANN DAVIS of Virginia.

H. Res. 194: Mr. ROYCE.

H. Res. 214: Ms. CARSON of Indiana and Mr. CROWLEY.

H. Res. 235: Mr. WEINER and Mr. VAN HOLLEN.

H. Res. 242: Mr. FALEOMAVAEGA, Mr. PUTNAM, Mr. RAMSTAD, Mr. TAYLOR of North Carolina, Mr. FLAKE, Mr. BERMAN, and Mr. BEREUTER.

H. Res. 259: Mr. SHAYS, Mr. SIMMONS, Mr. PUTNAM, and Mr. BERMAN.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 669: Mr. DAVIS of Alabama.

H.R. 1329: Mr. STUPAK.

# SENATE—*Thursday, June 5, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. This morning, we will be led in prayer by our guest Chaplain, Dr. K. Randel Everett, president of the John Leland Center for Theological Studies.

## PRAYER

The guest Chaplain offered the following prayer:

Let us bow together in prayer.

Dear Father, we thank You for surrounding these Senators with such a great cloud of witnesses who have served in the seats of honor before them. We thank You for those who stood with courage during difficult days. We thank You for those whose wisdom guided our Nation through times of darkness. We thank You for the times when the Senate stood in unity in pursuit of justice when the world was threatened by the forces of evil.

Dear Lord, we pray that You will give these Senators freedom from the encumbrances of business, of pettiness, and worry. Loosen them from any of the sins of prejudice or bitterness or anger that might entangle them. Give them the discipline to run with endurance the race You have set before them. Fix their eyes on You, the author and perfecter of sight. And fill them with Your spirit so that they will not grow weary or lose heart.

Endow them with Your gifts of faith, hope, and love: Faith that You are the sovereign God, hope that righteousness will prevail, and love for You, for Your creation, and for each individual as a person of worth and value.

In Thy name we pray. Amen.

The PRESIDENT pro tempore. I ask the Democratic assistant leader if he will lead us in the Pledge of Allegiance to the flag.

## PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Chair recognizes the assistant Republican leader.

## SCHEDULE

Mr. McCONNELL. Mr. President, for the information of all Senators, this morning Senator DOLE will give her maiden speech in the Senate.

When the Senate resumes consideration of the Energy bill, Senator BOXER will offer the first of her two amendments. The votes in relation to those amendments, as well as the pending Schumer amendment, will be stacked to occur later in the day. There are a number of scheduling conflicts, and we will be looking for the most appropriate time this afternoon for those votes to occur.

In addition to the ethanol amendments, a LIHEAP amendment is pending. Members may want to speak on that issue as well. Therefore, the vote on first- and second-degree LIHEAP amendments may be stacked to occur later today as well.

It is hoped that Senators who have additional amendments will make themselves available to offer those amendments so that further progress can be made on this important legislation.

I also add that it is possible we could reach an agreement for the filing deadline for all first-degree amendments.

Having said that, votes will occur on amendments throughout the day on the Energy bill, with the goal of making substantial progress towards its completion.

## RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada.

## SENATOR DOLE'S MAIDEN SPEECH

Mr. REID. Mr. President, I am aware that the distinguished Senator from North Carolina is going to make her maiden speech today. I haven't had the opportunity to say to her privately what I will say publicly, and that is my fault. But I simply say that we have this big horserace coming up this Saturday—the Belmont Stakes—and we talked about the pedigree of the horses that are going to be running that race. Rarely in the history of the Senate has there been anyone come with a pedigree of the Senator from North Carolina. She not only has a distinguished husband with whom we all served here in the Senate who was so direct and so full of humor and so full of wisdom, and a person we still miss today, but being a Senator in her own right, she has a pedigree that is basically unsurpassed: A person who served as a Cabinet officer on at least two separate occasions, who served in other capacities in the White House, and who was so good in her capacity as head of the International Red Cross, doing work all over the world that is still being done as a result of her leadership.

The Senate is certainly favored with her presence, and I look forward, as does all of the Senate, to hearing her maiden speech today.

Mr. McCONNELL. Mr. President, let me also say that had Senator DOLE not recruited my wife to come into government, I never would have met her. So in addition to all of her substantial accomplishments, she also has made extraordinarily good hiring decisions over the years and brought outstanding people to Washington, and particularly outstanding women.

We are here today to listen to her maiden speech. She enters the Senate with an extraordinary record, as the Senator from Nevada has pointed out, that goes far beyond what most of us did when we came here. She has already made an important contribution to this body.

I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is served.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business not to extend beyond the hour of 10 a.m., with the time under the control of Senator DOLE.

The Chair recognizes the Senator from North Carolina.

## NATIONAL HUNGER AWARENESS DAY

Mrs. DOLE. Mr. President, I first thank the majority whip, Senator McCONNELL, and the Democrat whip, Senator REID, for their very kind comments this morning. Then I thank you, Mr. President, and other members of the leadership, for your unwavering support of this freshman class.

I also recognize Senator FRIST for the traditional courtesies of a maiden speech to be extended to the new Senator and express my appreciation for his commitment to the rich history of this great tradition.

Tradition is held that, by waiting a respectful length of time, senior colleagues would appreciate the humility

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

shown by a new Member of the Senate who would use the occasion to address an issue of concern.

I come in that sense today to share my thoughts on a matter that weighs heavily on my mind. Hunger is the silent enemy lurking within too many American homes. It is a tragedy I have seen firsthand and far too many times throughout my life in public service. This is not a new issue.

In 1969, while I was serving as Deputy Assistant to the President for Consumer Affairs, I was privileged to assist in planning the White House Conference on Food, Nutrition, and Health. In opening the conference, President Nixon said:

> Malnutrition is a national concern because we are a nation that cares about its people, how they feel, how they live. We care whether they are well and whether they are happy.

This still rings true today.

On National Hunger Awareness Day, I want to highlight what has become a serious problem for too many families, particularly in North Carolina.

My home State is going through a painful economic transition. Once thriving textile mills have been shuttered. Family farms are going out of business. Tens of thousands of workers have been laid off from their jobs. Entire areas of textile and furniture manufacturing are slowly phasing out as high-tech manufacturing and service companies become the dominant industry of the State. Many of these traditional manufacturing jobs have been in rural areas where there are fewer jobs and residents who are already struggling to make ends meet.

In 1999, North Carolina had the 12th lowest unemployment rate in the United States. By December 2001, the State had fallen to 46—from 12 to 46. That same year, according to the Rural Center, North Carolina companies announced 63,222 layoffs. Our State lost more manufacturing jobs between 1997 and the year 2000 than any State except New York.

Entire communities have been uprooted by this crisis. In the town of Spruce Pine in Mitchell County, 30 percent—30 percent—of the town's residents lost their jobs in the year 2001. Ninety percent of those layoffs were in textile and furniture manufacturing. These are real numbers and real lives from a State that is hurting.

Our families are struggling to find jobs, to pay their bills, and, as we hear more and more often, to even put food on the table. In fact, the unemployment trend that started in 1999 resulted in 11.1 percent of North Carolina families not always having enough food to meet their basic needs. That is according to the U.S. Department of Agriculture. And North Carolina's rate is higher than the national average. This means that among North Carolina's 8.2 million residents, nearly 900,000 are dealing with hunger. Some are hungry, others are on the verge.

My office was blessed recently to meet a young veteran, Michael Williams, and his family. Michael served his country for 8 years in the U.S. Army before leaving to work in private industry and use the computer skills he had gained while serving in the military. He was earning a good living, but after September 11 and the terrorist attacks, he and his wife Gloria felt it was time to move their two children closer to family back home in North Carolina. As he said, "It was time to bring the grandbabies home."

But Michael has found a shortage of jobs since his return. He worked with a temp agency but that job ended. It has been so hard to make ends meet that the family goes to a food bank near their Clayton, NC, home twice a month because with rent, utilities, and other bills, there is little left to buy food.

Their story is not unlike so many others. Hard-working families are worrying each day about how to feed their children. As if this were not enough, our food banks are having a hard time finding food to feed these families. In some instances, financial donations have dropped off or corporations have scaled back on food donations. In other cases, there are just too many people and not enough food.

At the Food Bank of the Albemarle in northeast North Carolina, executive director Gus Smith says more people are visiting this food bank even as donations are off by 25 percent. Thus Gus says, "We just can't help everybody at this point in time." To try to cope, they recently moved to a 4-day workweek, meaning the entire staff had to take a 20-percent pay cut just to keep the doors open.

America's Second Harvest, a network of 216 food banks across the country, reports it saw the number of people seeking emergency hunger relief rise by 9 percent in the year 2001 to 23.3 million people. In any given week, it is estimated that 7 million people are served at emergency feeding sites around the country.

These numbers are troubling indeed. No family—in North Carolina or anywhere in America—should have to worry about where they will find food to eat. No parent should have to tell their child there is no money left for groceries. This is simply unacceptable.

I spent most of the congressional Easter recess going to different sites in North Carolina: homeless and hunger shelters, food distribution sites, soup kitchens, farms, even an office where I went through the process of applying for Government assistance through the WIC Program, the Women, Infants, and Children Program.

I was also able to meet, on several occasions, with a group known as the Society of Saint Andrew. This organization, like some others across the country, is doing impressive work in the area of gleaning. That is when excess crops, that would otherwise be thrown out, are taken from farms, packing houses, and warehouses, and distributed to the needy.

Gleaning immediately brings to my mind the Book of Ruth in the Old Testament. She gleaned in the fields so that her family could eat. You see, Mr. President, in Biblical times farmers were encouraged to leave crops in their fields for the poor and the travelers. Even as far back as in Leviticus, Chapter 19, in the Old Testament, we read the words:

> And thou shalt not glean thy vineyard, neither shalt thou gather every grape of thy vineyard; thou shall leave them for the poor and the stranger.

So gleaning was long a custom in Biblical days, a command by God to help those in need. It is a practice we should utilize much more extensively today. It is astounding that the most recent figures available indicate that approximately 96 billion pounds of good, nutritious food, including that at the farm and retail levels, is left over or thrown away in this country.

It is estimated that only 6 percent of crops are actually gleaned in North Carolina. A tomato farmer in North Carolina sends 20,000 pounds of tomatoes to landfills each day during harvest season.

Mr. President, I ask unanimous consent to present an example of produce on the Senate floor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. DOLE. Sometimes the produce cannot be sold. Sometimes it is underweight or not a perfect shape, like this sweet potato I show you in my hand. This would be rejected because it is not the exact specification. Other times it is simply surplus food, more than the grocery stores can handle, but it is still perfectly good to eat.

Imagine the expense to that farmer in dumping 20,000 pounds of tomatoes each day during his harvest season. And this cannot be good for the environment. In fact, food is the single largest component of our solid waste stream—more than yard trimmings or even newspapers. Some of it does decompose, but it often takes several years. Other food just sits in landfills, literally mummified. Putting this food to good use, through gleaning, will reduce the amount of waste going to our already overburdened landfills.

I am so appreciative of my friends at the Environmental Defense Fund for working closely with me on this issue. Gleaning also helps the farmer because he does not have to haul off and plow under crops that do not meet exact specifications of grocery chains, and it certainly helps the hungry, by giving them not just any food but food that is both nutritious and fresh.

The Society of Saint Andrew is the only comprehensive program in North Carolina that gleans available produce and then sorts, packages, processes, transports, and delivers excess food to feed the hungry.

In the year 2001, the organization gleaned 9.7 million pounds—almost 10 million pounds—or 29.1 million servings of food. It only costs a penny—1 penny—a serving to glean and deliver this food to those in need. Even more amazing, the Society of Saint Andrew does all this with a tiny staff and an amazing 9,200 volunteers.

These are the types of innovative ideas we should be exploring. I have been told by the Society of Saint Andrew that $100,000 would provide at least 10 million servings of food for hungry North Carolinians.

I set out to raise that money for the Society in the last few weeks, and thanks to the compassion of a number of caring individuals, companies, and organizations, we were able to surpass our goal and raise $180,000—enough for over 18 million servings of food. More than ever, I believe this is a worthy effort that can be used as a model nationwide.

I am passionate about leading an effort to increase gleaning in North Carolina and across America. The gleaning system works because of the cooperative efforts of so many groups, from the Society of Saint Andrew and its volunteers who gather and deliver the food, to the dozens of churches and humanitarian organizations that help distribute this food to the hungry. Indeed, gleaning is, at its best, a public-private partnership.

Private organizations are doing a great job with limited resources. But we must make some changes on the public side to help them leverage their scarce dollars to feed the hungry. I have heard repeatedly that the single biggest concern for gleaners is transportation. The food is there. The issue is how to transport it in larger volume.

I want to change the Tax Code to give transportation companies that volunteer trucks for gleaned food a tax incentive. And there are other needed tax changes. Currently, only large publicly traded corporations can take tax credits for giving food to these gleaning programs. But it is not just large corporations that provide this food; it is the family farmers and the small businesses. Why should a farmer who gives up his perfectly good produce or the small restaurant owner who gives food to the hungry not receive the same tax benefits? The Senate has already passed legislation as part of the CARE Act that would fix this inequity. Now the House of Representatives needs to complete work on this bill.

However, but the answer to the hunger problem does not stop with gleaning. That is just part of the overall effort. There are other ways we can help, too.

This year, we will be renewing the National School Lunch Program and other important child nutrition programs, and there are some areas I am interested in reviewing.

Under School Lunch, children from families with incomes at or below 130 percent of poverty are eligible for free meals. Children from families with incomes between 130 percent and 185 percent of poverty can be charged no more than 40 cents. This may seem to be a nominal amount, but for a struggling family with several children the costs add up. School administrators in North Carolina tell me that they hear from parents in tears because they don't know how to pay for their child's school meals.

The Federal Government now considers incomes up to 185 percent of poverty when deciding if a family is eligible for benefits under the WIC program. Should we not use the same standard for School Lunch? Standardizing the guidelines would even allow us to immediately certify children from WIC families for the School Lunch Program. It is time to clarify this bureaucratic situation and harmonize our Federal income assistance guidelines so we can help those most in need.

The School Lunch Program is the final component of our commitment to child nutrition, and we must do everything to maintain and strengthen its integrity so that it works for those who need it and isn't viewed as a Government giveaway.

There are a lot of interesting ideas being discussed such as adjusting area eligibility guidelines in the Summer Food Program. But these need to be looked at carefully, and we need to ask important questions such as how many people would be affected and what is the cost. I have discussed many of these ideas with groups such as America's Second Harvest, Bread for the World, the Food Research and Action Center, and the American School Food Service Association. I look forward to the opportunity of exploring them further during reauthorization of these important programs in the Agriculture Committee, on which I am honored to serve.

Our work cannot stop within our own borders. The Food and Agriculture Organization of the United Nations says hunger affects millions worldwide. During my 8 years as president of the American Red Cross, I visited Somalia during the heart-wrenching famine. In Mojada, I came across a little boy under a sack. I thought he was dead. His brother pulled back that sack and sat him up and he was severely malnourished. He couldn't eat the rice and beans in the bowl beside him; he was too malnourished. I asked for camel's milk to feed him.

As I put my arm around his back and lifted that cup to his mouth, it was almost as if little bones were piercing through his flesh. I will never forget that. That is when the horror of starvation becomes real, when you can touch it.

There are many things that will haunt me the rest of my life. When I visited Goma, Zaire, which is now Congo, this was a place where millions of Rwandans had fled the bloodshed in their own country but they stopped at the worst possible place, on volcanic rock. You couldn't drill for latrines so cholera and dysentery were rampant. You couldn't dig for graves, so I was literally stepping over dead bodies as I tried to help those refugees. Those bodies were carried to the roadside twice a day. They were hauled off to mass graves.

Former Senators Bob Dole and George McGovern are the architects of the Global Food Program, which has a goal of ensuring that 300 million schoolchildren overseas get at least one nutritious meal a day. The Department of Agriculture estimates that 120 million schoolage children around the world are not enrolled in school in part because of hunger or malnutrition. The majority of these children are girls. The Global Food for Education Program is now operating in 38 countries and feeding 9 million schoolchildren.

I want to see this program expanded. I plan to work on Appropriations to advance that goal. Just helping a child get a good meal can make such a difference in developing countries. Feeding children entices them to come to school which allows them to learn, to have some hope, some future. And improved literacy certainly helps the productivity, thereby boosting the economy.

This problem deserves national discussion. Hunger affects so many aspects of our society. In the spirit of that landmark conference held by the White House in 1969, I am asking President Bush to convene a second White House conference so that the best and brightest minds can review these problems together.

I am honored to work with leaders of the battle to eradicate hunger: Former Congressman Tony Hall, now the United States Ambassador to the U.N. food and agricultural programs, and former Congresswoman Eva Clayton from my own State of North Carolina, now an assistant director general for the U.N. Food and Agriculture Organization in Rome. Both were champions on hunger while in Congress. And there are many others. Former Agriculture Secretary Dan Glickman, a leader on gleaning; Catherine Bertini, Under Secretary General of the United Nations who was praised for her leadership to get food aid to those in need throughout the world; Congresswoman JO ANN EMERSON, cochair of the Congressional Hunger Center who carries on the legacy of her late husband Bill who was a dear friend and leader on this issue.

Here in this body, my chairman on the Agriculture Committee, THAD

COCHRAN, and ranking member TOM HARKIN, DICK LUGAR, PATRICK LEAHY, PAT ROBERTS, and GORDON SMITH are leaders in addressing hunger issues.

Partisan politics has no role in this fight. Hunger does not differentiate between Democrats and Republicans. Just as it stretches across so many ethnicities, so many areas, so must we.

As Washington Post columnist David Broder wrote yesterday: America has some problems that defy solution. This one does not. It just needs caring people and a caring government working together.

I get inspiration from the Bible and John, chapter 21, when Jesus asked Peter: Do you love me? Peter, astounded that Jesus was asking him this question again, says: Lord, you know everything. You know that I love you. And Jesus replies: Then feed my sheep.

One of North Carolina's heroes, the Reverend Billy Graham, has often said that we are not cisterns made for hoarding; we are vessels made for sharing. I look forward to working with Billy Graham in this effort. Indeed every religion, not just Christianity, calls on us to feed the hungry. Jewish tradition promises that feeding the hungry will not go unrewarded. Fasting is one of the pillars of faith of Islam and is a way to share the conditions of the hungry poor while purifying the spirit and humbling the flesh. Compassion or karuna is one of the key virtues of Buddhism. This issue cuts across religious lines, too.

I speak today on behalf of the millions of families who are vulnerable, who have no voice, for this little Sudanese girl in this picture, stumbling toward a feeding station and so many like her. I saw this picture some years ago in a newspaper. It broke my heart. I went back to find that picture today because, as I recall the story, she had been walking for a long, long way and she had not yet reached that feeding station. That has been emblazoned on my mind since that time.

Anthropologist Margaret Meade said: Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.

One of my heroes is William Wilberforce, a true man of God. An old friend John Newton persuaded him that his political life could be used in the service of God. He worked with a dedicated group. They were committed people of faith. His life and career were centered on two goals: abolishing slavery in England and improving moral values. He knew that his commitment might cost him friends and influence but he was determined to stand for what he believed was right. It took 21 years and Wilberforce sacrificed his opportunity to serve as Prime Minister. But he was the moving force in abolishing slavery and changing the moral values of England.

In my lifetime, I have seen Americans split the atom, abolish Jim Crow, eliminate the scourge of polio, win the cold war, plant our flag on the surface of the Moon, map the human genetic code, and belatedly recognize the talents of women, minorities, the disabled, and others once relegated to the shadows. Already a large group of citizens has joined what I believe will become an army of volunteers and advocates.

Today I invite all of my colleagues to join me in this endeavor. Let us recommit ourselves to the goal of eradicating hunger. Committed individuals can make a world of difference, even, I might say, a different world.

Mr. President, I ask unanimous consent that my letter to President Bush be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, June 4, 2003.*

President GEORGE W. BUSH,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: The White House Conference on Food, Nutrition and Health, convened by President Richard Nixon on December 2, 1969, may well have been one of the country's most productive and far-reaching White House conferences. At the time, President Nixon said that the conference was "intended to focus national attention and resources on our country's remaining—and changing—nutrition problems." In hindsight, it achieved that and more.

So much has been accomplished since that historic White House conference. With bipartisan support in Congress, the food stamp program has been reformed and expanded, school nutrition programs have been improved and now reach over 27 million children each school day, WIC was created, and nutrition labels now appear on most food items.

At the same time, however, the mission is not complete. There are children who qualify for reduced price meals in North Carolina, and throughout the country, but their families cannot afford even this nominal fee. And while 16 million children participate in the free and reduced school lunch program, in the summer many children go without. America's Second Harvest, an extraordinary organization, reports that demand often exceeds the supply of food in local communities. Further, the country is challenged by the paradox of hunger and obesity.

Mr. President, it is time, I believe, for another White House conference to assess the progress we have made in the fight against hunger and to recommit the country to the remaining challenges. I was pleased to work with President Nixon on the 1969 conference; I would be honored to work with you on a second historic conference.

There is a very special tradition in America when it comes to fighting hunger. Perhaps it is a function of our agricultural bounty, the famines in Europe that led to early migration, or the teachings of all major religions, but Americans are intolerant of hunger in our land of plenty.

Mr. President, I hope you will convene a second White House conference with the business, civic and charitable organizations, educators and advocates who continue to work tirelessly to address hunger in America and around the world. Hunger is not a partisan issue and I know that we can work together, with our colleagues on both sides of the political aisle, to address the problems and needs that still exist. Thank you very much for your consideration.

Sincerely,

ELIZABETH DOLE.

Mrs. DOLE. Mr. President, I yield the floor.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRAISING SENATOR ELIZABETH DOLE

Mr. ALEXANDER. Mr. President, I want to join in the praise for the Senator from North Carolina. She reminds us today of what an advantage it is to have someone of such experience serving in our so-called freshman class. She has been a pioneer during her whole career, whether at Harvard Law School, the Nixon White House, or in the Cabinet of two Presidents. I have had the privilege of working with her all during that time on a parallel track.

On two occasions, I competed in a Presidential race with another person named Dole. I am not embarrassed to say I did relatively better against her husband than I did against her. They are both here and I have enormous admiration for both her and her husband, and all of us are enriched by her membership in our class in the Senate.

## THE CHILD TAX CREDIT

Mr. ALEXANDER. Mr. President, today, the President visited with troops overseas to thank them. I want those troops to know we are paying attention to their families at home.

Last week, as chairman of the Subcommittee on Children and Families, I held a hearing at Fort Campbell in Tennessee and Kentucky to look at the issues faced by military parents raising children. Senator CHAMBLISS did the same in Georgia, and Senators DODD and BEN NELSON will do the same in their respective home States of Connecticut and Nebraska.

Later this month, we will have a joint hearing in Washington of the Subcommittee on Children and Families, which I chair, and the Subcommittee on Personnel of the Armed Services Committee, which Senator CHAMBLISS chairs. Senators DODD and NELSON are the ranking Democrats. That joint hearing is to focus on military families raising children.

Our military has dropped from 3 million to 1.4 million, so we have fewer people in the Armed Services, but we have more missions; we have fewer soldiers; we have more women as a part of the military; we have more military spouses working; we have longer deployments; we have more military children. As a result, we need to be thinking about the families at home as we think about the warriors overseas. I wanted the full Senate to know that four Senators and two subcommittees are addressing these issues.

I think that makes it even more important that the leadership on the Republican and Democratic sides find a way to fix the problem that occurred with the child tax credit in the recently enacted Tax Bill.

President Bush had recommended that we increase from $600 to $1,000 the child tax credit to help parents raising children, including families that make $10,500 to $26,625. Refundability for these lower income families is to be increased from 10 to 15 percent in 2005 under the 2001 Tax Bill. The full Senate voted for that to be accelerated to 2003 and 2004 when it passed its version of the Tax Bill. In the final version of the Tax Bill, those between $10,500 and $26,625 were left out. Some of those families left out of the Tax Bill are serving in our military.

It was not the intention of the Senate to do that, I don't believe. I doubt if most Members of the House want that result. That is why on Tuesday I cosponsored Senator GRASSLEY's bill to fix the problem, and I am prepared to vote for any reasonable proposal in the Senate that the leadership can negotiate in the next few days to make it clear that our Senate and our Congress put a priority on parents raising children.

I thank the Chair.

## CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, morning business is now closed.

## ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Domenici/Bingaman Amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program (LIHEAP), weatherization assistance, and State energy programs.

Domenici (for Gregg) Amendment No. 841 (to Amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981.

Domenici (for Frist) Amendment No. 850, to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence.

Schumer/Clinton Amendment No. 853 (to Amendment No. 850), to exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Under the previous order, the Senator from California, Mrs. BOXER, is recognized.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 854

Mrs. BOXER. Mr. President, I send an amendment to the desk on behalf of myself, Senator LUGAR, and Senator CANTWELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 854.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To promote the use of cellulosic biomass ethanol derived from agricultural residue)

On page 8, strike lines 16 through 19 and insert the following:

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol—

"(A) shall be considered to be the equivalent of 1.5 gallons of renewable fuel; or

"(B) if the cellulosic biomass is derived from agricultural residue, shall be considered to be the equivalent of 2.5 gallons of renewable fuel."

Mrs. BOXER. Mr. President, I am very delighted to offer this amendment on behalf of myself, Senator LUGAR, and Senator CANTWELL. I think it is quite a pro-ethanol amendment because what we are trying to do here is encourage the development of ethanol that is produced from agricultural residues.

This amendment will, in fact, promote the production of agricultural residue ethanol. I want to tell my colleagues why this is important. I believe that biomass ethanol derived from agricultural residue could be a significant source of ethanol in California and also throughout the United States. Every State has agricultural waste, including those producing corn.

I hope my colleagues who have the production of corn, wheat, sugarcane, rice, barley, beets, or oats in their States will realize this amendment is very important to them. I also believe the use of agricultural residue ethanol will make it easier for many of our States—certainly for California—to meet an ethanol mandate without price spikes and gasoline shortages as it increases the flexibility that the country has to meet this mandate.

What is agricultural residue ethanol? I am sure if people are watching, they are thinking: This cannot be interesting. To me, it is very interesting because it is fuel made from the fibrous portion of plants, as is ethanol, but it differs from conventional ethanol in the following significant ways.

First, the manufacturing process does not consume fossil fuels but rather uses plant byproducts and waste to create the energy to run the process. So, in a time in our history when we are trying to lessen our dependence on fossil fuel, I think this amendment is quite an important statement for us to make. I am very proud that Senator LUGAR agrees because he is someone with much experience in this area.

Second, the raw material does not compete as a food source for humans and is available today based on existing farm practices.

Third, it uses existing waste products, thus decreasing disposal needs.

Ethanol made from agricultural residue, such as rice, wheat straw, and sugarcane waste, can be locally produced and does not require that corn and other commodities be grown just to make ethanol.

What we are talking about is using the residue, not growing food just to produce ethanol at a time when we are throwing food away because we have an overabundance in many of these areas. And, then we have been very energy inefficient by using the fossil fuel to develop the ethanol. What we are saying is the waste of agricultural materials is going to be put to good use.

Is this a pie-in-the-sky idea? No, it is not. In 1999, Sacramento Valley produced enough rice straw waste—500,000 tons of which is burned in the field—to produce 100 million gallons of agricultural residue ethanol.

By putting these agricultural wastes to good use, converting them into energy resources, agricultural ethanol residue production reduces landfill disposal and open-air burning. We are using the waste we otherwise would dispose of either by burning, which dirties the air, or throwing it into a landfill. This will improve air quality and water quality.

Further, agricultural residue ethanol reduces greenhouse gases by more than

90 percent compared to gasoline. I reiterate, agricultural residue ethanol reduces greenhouse gases by more than 90 percent compared to gasoline. And it also creates markets for unused agricultural products that are generally expensive to dispose of. Agricultural residue ethanol can give our farmers and our rural communities enhanced economic security.

We clearly know that as a new technology, agricultural residue ethanol faces an uphill struggle to break into the ethanol market.

Right now we know, when we look at the marketplace, that there is much room to grow here if we look at the numbers. We only have a very small number of gallons that are being derived from anything other than corn. So we have a chance. This, again, is not a pie-in-the-sky idea.

Currently, the only commercial facility is the Iogen facility in Canada which converts wheat straw into fermentable sugar and the sugar into bioethanol. Iogen Corporation's goal is to produce 180,000 gallons of ethanol annually. I believe we should promote these types of facilities in the United States of America. Our amendment, I believe, will ensure this.

We provide in our amendment more incentives for this type of agricultural residue ethanol production in the United States of America. As this mandate hits my State of California, and other States, where they have to spend a lot of money to bring that ethanol into the State, it is going to be very cost competitive to import this type of ethanol from Canada. Why do we want to do that when we have the ability, if we have wheat, corn, beets, oats, barley, or rice, to name a few? We can do this in our country, and we can have a whole new industry. We can make ethanol more affordable to those of us who live in States far away from the Midwest.

In the underlying bill, there is a 1.5-gallon credit for numerous types of biomass ethanol. This means that a gallon of biomass ethanol counts as 1.5 gallons in meeting the bill's mandate. So there is a little incentive to use biomass ethanol, and I am very proud of that because we worked hard on that issue in our committee.

What we want to do, it seems to me, is increase that credit to 2.5 gallons if the ethanol is made from agricultural residues. The fact is that agricultural residues provide us with an amazing opportunity and a promising opportunity to produce ethanol that has the potential of providing many economic and environmental benefits.

We are very pleased to offer this amendment. Right now, up to this point, we have seen amendments that people have viewed as anti-ethanol. This is an amendment that should bring us together. It should unite us because there are so many other crops that could be used—and, by the way, are going to be used—but we want to incentivize those agricultural crops.

That is what our amendment does. Senator LUGAR, Senator CANTWELL, and I are very pleased to offer this amendment. We are very hopeful it will be adopted. We are very hopeful we will not have opposition.

Mr. President, I retain the remainder of my time and yield the floor. I also suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Nevada does not control the time.

Mr. REID. Mr. President, I ask unanimous consent that the quorum call I will call for shortly be charged equally to both sides.

The PRESIDING OFFICER. Without objection, the quorum call will be charged equally to both sides.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I note the presence of the Senator from California who has just offered an amendment which expands the substances that can be used for ethanol conversion. I am willing to accept the amendment. I favor the amendment. I understand the distinguished minority manager would like to speak on the subject at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I congratulate the Senator from California on this amendment. It substantially improves this portion of the bill and does provide additional opportunity for developing ethanol from these other sources. It is good environmental policy. It is good energy policy. I very much support the amendment.

As I understand it, most of those people who looked at this agreed to it. I agree with my colleague from New Mexico that this is an amendment we should agree to unanimously in the Senate and we should maintain it in conference, insisting on it in our discussions with the House.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I cannot thank enough both of my colleagues, my friends, from New Mexico, Senator DOMENICI and Senator BINGAMAN.

I want to make sure Senators understand exactly what we do. We increase the credit to 2.5 gallons if the ethanol is made from agricultural residue. It is giving an incentive to our farmers who produce rice, wheat, barley, oats, sugar beets, and others, an incentive to use the waste.

I was going to have a rollcall vote on this, but given the assurances of Senators DOMENICI and BINGAMAN, who have stated very clearly and have told me they will not drop this amendment in conference—can I rely on that commitment? I ask both my friends one more time.

Mr. DOMENICI. Yes, I say to the Senator, I will do my very best. I indicated that to you and I will do my very best. I make that commitment to you.

Mrs. BOXER. You will do your very best?

Mr. DOMENICI. Yes.

Mrs. BOXER. Meaning you will not drop it in conference, which is what you told me?

Mr. DOMENICI. That is correct.

Mrs. BOXER. And my other friend, my ranking member, has made the same pledge?

Mr. BINGAMAN. Let me respond, to the extent I am persuasive in the conference, I will commit to keeping this provision in the law.

Mrs. BOXER. I see the Democratic leader is on the Senate floor. It would be a wonderful thing if he could speak out on this amendment as well. We have both Senators from New Mexico, and Senator LUGAR. I am trying not to put the Senate through a rollcall vote. If I have these strong commitments, it will make me feel a lot better about it. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, first let me thank the Senator from California for her efforts to improve upon this legislation. I have indicated to her privately that I support the amendment. I would support it if there were a rollcall vote.

The fact that DICK LUGAR, the initial cosponsor of this legislation when we introduced it several years ago, is a proud sponsor of this amendment is some indication of the degree to which the ethanol community and those of us who support this proposal would be supporting her amendment.

As my colleagues from New Mexico, both the chairman and the ranking member, have noted, there is no reason, when we get into conference, this should not remain intact as part of the Energy bill.

It is a good amendment. It provides even more opportunities to meet the targets set out in this legislation.

So I would do all I could as Democratic leader to ensure that at the end of the day, when this legislation comes back in the form of a conference report, we will continue to see the Boxer amendment integrally a part of the bill itself and a part of this amendment.

Again, let me congratulate her, thank her, and indicate I will be very supportive.

Mrs. BOXER. Mr. President, I thank Senator DASCHLE. I know he is working endless hours to get this amendment finished. I think this enhances the amendment, I really do. I am very grateful.

Before I ask for a voice vote, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. How much time remains?

The PRESIDING OFFICER. There are 8 minutes remaining to the Senator from California.

Mrs. BOXER. I yield 6 minutes to my colleague from Washington, Senator CANTWELL.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank my colleague from California for her hard work on this amendment. I am glad to join Senator LUGAR and Senator BOXER as a cosponsor of this amendment. Senator BOXER has spent an invaluable amount of time on the whole ethanol debate, but I think the amendment she offers this morning goes a long way in adding diversity and efficiency to our ethanol plan. It seems my colleagues are enthusiastic about supporting this in the overall energy package.

I rise to support the Boxer-Lugar-Cantwell amendment. As we have heard, this amendment would increase from 1.5 gallons to 2.5 gallons the credit available to refiners who choose to use ethanol derived from certain types of biomass to meet the requirement of our renewable fuels standard. Senator BOXER did an excellent job, giving us all a lesson in biomass 101 as it relates to ethanol and the products that could be used as part of this biomass requirement.

This amendment ensures that as we strive to reduce our reliance on foreign oil, displacing it with home-grown products that provide both environmental benefits and economic stimulus to our nation's rural communities, we also develop the renewable fuels diversity that is the hallmark of what I think is a good energy policy.

My colleagues may have been told this, or they may learn it now for the first time, but it was in 1925 that Henry Ford told the New York Times that ethanol was "the fuel of the future." But while 90 percent of the ethanol produced in this Nation today was derived from corn, Henry Ford's vision was much broader. He said:

> The fuel of the future is going to come from apples, weeds and sawdust—almost anything. There is fuel in every bit of vegetable matter that can be fermented.

That is what he told the Times back in that period.

This amendment attempts to move forward on that vision. I believe it is logical, and I believe Senator BOXER and Senator LUGAR are right on target in providing leadership on this issue.

While today the ethanol that is derived from corn more or less dominates the renewable fuels market, this is not the circumstance for every State in our country. The State of Washington, for example, is much more a producer of wheat, which would hold significant promise as a potential source for the biomass ethanol.

Despite the promise of these alternatives, the technology for producing ethanol from these sources such as wheat and straw and other agricultural products has lagged behind for a number of reasons. Yet by providing appropriate incentives today with this amendment, and promoting research and development, we can move this forward on a cost-competitive basis.

The Boxer-Lugar-Cantwell amendment would increase the renewable fuels standard credit for one specific type of material, the agricultural residues such as wheat or rice or straw, from that 1.5 to 2.5, reflecting what is really a recent DOE analysis on what we should achieve.

So moving forward on these incentives for development of ethanol production is simply a matter of good public policy. I say this for four or five reasons.

We get the environmental benefits from this, we get the potential energy gains, we get the long-term cost impacts of having fuel diversity, and, of course, we get the spread of economic benefits to all of our Nation's agricultural communities.

In our State of Washington, there is much going on in this area. There are many farmers who have come together in a variety of ways to join in thinking about ethanol production. With the construction of one 40-million-gallon plant, the State of Washington could become entirely ethanol self-sufficient. According to a study conducted by our State university, such a plan would have a significant economic impact, particularly in our rural communities in the eastern part of Washington.

A single 40-million-gallon production plant could create 104 direct jobs and about 300 indirect jobs. Local communities could see an economic benefit, according to the study, of about $19 million per year with a statewide benefit of somewhere between $20 million and $30 million per year. With the construction of these various plants, Washington State could reach self-sufficiency and could, under the fuels standard proposal here today, become a supplier to other Western States.

The State of Washington and agricultural communities want to help meet the renewable fuels standard. They want to join with Senators FRIST and DASCHLE in their proposal. But we don't have the corn or the abundance to make that happen. So we want to see this diversity. In fact, a recent Washington State University extension program concluded that we could produce 200 million gallons per year in ethanol if we had improvement in technologies and diversification of resources.

In conclusion, to help this become reality, a broad coalition of Washington agricultural and environmentalist interests have banded together. They helped pass this package in our State legislature with a variety of tax incentives and broad production of biofuels. These bills were signed by our Governor last month and they have our State moving forward on this agenda.

The Boxer-Lugar-Cantwell amendment adds a Federal dimension to these efforts. This provision reflects good public policy from the Federal Government and good energy policy, and helps those States that are further away from ethanol diversity to participate in our national energy goal.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from California.

Mrs. BOXER. Mr. President, I have a couple of minutes remaining. I know we are going to set our amendment aside.

I wanted to close this debate again by thanking Senator LUGAR for his leadership, Senator CANTWELL for her leadership, and both Senators from New Mexico as well as Senator DASCHLE for their help.

I think any Senator who has corn in their State, wheat in their State, sugarcane in their State, rice, barley, beets, oats, apples, or any fructose-rich product is going to be very happy with this amendment.

In order to use the agricultural residue and make it into ethanol, it is going to require a little incentive. Although the underlying bill has a slight incentive, experts tell us it is not enough to really move forward on this very good way to make ethanol. I think it will really help those States that are far away from the Midwest.

By the way, it does not hurt any State because corn will still be used.

I yield the floor. I thank my colleagues very much.

I ask unanimous consent that the amendment be set aside.

Mr. DOMENICI. We have no objection to setting it aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

### AMENDMENT NO. 856 TO AMENDMENT NO. 850

Mrs. BOXER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from California [Mrs. BOXER], for herself, Mr. LEAHY, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LAUTENBERG, proposes an amendment numbered 856 to amendment No. 850.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)
>
> Beginning on page 18, strike line 16 and all that follows through page 19, line 17, and insert the following:
>
> "(p) RENEWABLE FUELS SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.".

Mrs. BOXER. Mr. President, I think for anyone in this Chamber who cares about the health and safety of people—I know that is every one of us—this amendment is very important.

A waiver of liability is in this underlying bill for renewable fuels. My amendment to the renewable fuels portion of this Energy bill will ensure that all motor vehicle fuels and fuel additives are held to the same liability standards by striking the safe harbor and adding the following language. This is the language of my amendment:

Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.

Is this not a fair idea? As we go into this whole new production of ethanol, be it derived from corn or be it derived from agricultural residues or municipal waste or wherever we wind up getting it, renewable fuel should be subject to the same liability standards as any other motor vehicle fuel.

We have expenses in this area—where we have added MTBE, for example, to fuel. We found out later it was very dangerous. It hurt a lot of our communities. I will get into that later.

The safe harbor language in this underlying bill waives all product liability design defect claims, including the failure to warn the people. Any claim that has not been filed by the date of enactment of this section will be forever barred.

We should not be doing this. We don't know all the impacts of what we are doing today. Why would we give a safe harbor to ethanol or various refiners of ethanol?

I have to say to those who will oppose me—and there will be many, and I know that, and I accept that—if ethanol is so safe—I pray it is; maybe it is, by the way—if it is so safe, why have the companies involved in its production transferred this liability provision in the bill? I think anytime someone says my product is 100 percent safe, but give me a waiver from liability, protect me from a lawsuit if something happens—you have to say who wins and who loses in this situation. Requests for this kind of special interest free pass require a very close look. And I hope we will take a look.

The interests behind this bill have gotten a loophole that eliminates a big chunk of the liability they would have under the law if they damaged the public health or the environment. The exemption language in the bill raises a red flag right away. It begins:

> Notwithstanding any other provision of Federal or state law. . . .

Mr. President, you and I have been around here long enough to know that when we start off with "notwithstanding any other provision of Federal law," the public is going to be losing rights.

The bill goes on to say that "Renewable fuel—ethanol cannot be found to be defectively designed or manufactured."

Imagine, the bill says "Renewable fuels cannot be found to be defectively designed or manufactured."

Compliance with laws and regulations is not necessary for getting the liability waiver. There is only a limited compliance requirement under the Clean Air Act.

Again, we all pray and hope that there will be no danger from widespread use of ethanol. The liability exemption, however, is dangerous because there are many unanswered questions about ethanol. We know there are real benefits to it, such as fewer carbon monoxide and toxic air emissions, but there are questions about adverse effects.

According to EPA's "1999 Blue Ribbon Panel Report on Oxygenates in Gasoline," ethanol is extremely soluble in water and would spread into the environment. It may further spread plumes of benzene, toluene, ethyl benzene, and xylene because ethanol may inhibit the breakdown of these toxic materials.

This isn't Senator BOXER talking. This isn't the people who want this amendment talking. This isn't environmental groups talking. This isn't the American Lung Association talking or anybody else. This is EPA's 1999 Blue Ribbon Panel Report on Oxygenates in Gasoline.

Studies demonstrate that ethanol increases the size and migration of benzene plumes. Researchers say more ground water wells will experience contamination from MTBE and benzene, a known carcinogen, if ethanol leaks into water supplies. There are also questions about the impact of ethanol on sensitive populations, such as children. We already know we have seen in our children more and more problems lately, more and more problems because they are so much more sensitive to pollutants in the environment.

Questions surrounding ethanol's effect on public health and the environment should be answered before Congress grants a broad waiver from liability for its harmful effects. We should err on the side of caution and we should err on the side of protecting the taxpayers.

Supporters of this liability exemption argue that immunity from product liability design defect claims is not so broad. They are going to tell you we keep every other claim in place but we only will limit product liability design defect claims. But this ignores the fact that product defect claims are the clearest way to hold accountable manufacturers whose products cause injury to public health or the environment. Litigation in California involving drinking water contaminated by MTBE rests on claims that MTBE was defective in design. In a landmark case, decided in April 2000, a San Francisco jury found that, based on the theory that MTBE is a defective product, several major oil companies are legally responsible for the environmental harm to Lake Tahoe's ground water. The jury found that many of these same oil companies acted with malice because they were aware of the dangers but withheld information.

So here you go, Mr. President. You can see it, a jury of our peers—not Senators, not people behind a microphone—found out that the product MTBE, which is an additive to gasoline, as is ethanol, was defective in design. The verdict came forward based on the product liability issue.

In that case, the oil companies knew the risks of MTBE. They did not warn anyone and—guess what—Lake Tahoe could have gotten stuck with a $45 million cleanup bill. If it was not able to sue under the defective product claim, that $45 million would have to come from the taxpayers who live in Lake Tahoe. Let's see what the MTBE cleanup cost would be. According to recent estimates, it would cost $29 billion to clean up MTBE. MTBE, an additive to gasoline—when it was added, everyone stood up and said: Oh, it is safe. It is wonderful. It will clean up the air. It did. But it polluted the water. People can't drink the water.

If you ever smelled water that is contaminated by MTBE, you would know no one could drink it. It has a foul odor and it is yellow in color. This is what it is going to cost. If we waive the liability for the companies that make MTBE, guess who gets stuck with the $29 billion bill. The taxpayers, instead of the people who made that product. That is not right.

By the way, in the House version of this bill, they not only give a safe harbor to ethanol, they give it to MTBE, which is a total, complete outrage. I hope everyone understands that. It is in the House bill. I am happy it isn't in the Senate bill. I hope we can get rid of it in the conference.

Companies' are responsible for this, not the taxpayers.

Now, this is the issue. Again, people will stand up and say: Oh, we are only waiving this very small area in liability law. They say: Product liability design defect is all we are waiving.

Well, let's look at what the judge said in the MTBE case. He threw out the negligence claim. He said that did not apply. He threw out the nuisance claim. He said that did not apply. The only thing that applied was defective product liability—and that is what my colleagues are going to waive for the makers of renewable fuels.

My colleagues, please listen to me. I know you want to have an ethanol bill. Bless your heart. Go for it. But do not waive liability for the manufacturers of ethanol because someday it could come back to haunt you.

If ethanol is so safe, you do not need to do this. It makes no sense.

You talk to my colleagues: Ethanol is safe. It has been out there since the 1970s. It is safe, it is safe, it is safe. I guess maybe they have not read the 1999 special EPA Blue Ribbon Report, which says: Danger, maybe there is a problem. But for them to waive defective product liability and to say that is the only thing they are waiving, when it is the only thing the courts have said is an opportunity, makes no sense at all.

I had one of my colleagues come up to me yesterday and say: Well, Senator BOXER, you voted for a safe harbor in the Y2K bill when the computer companies had to do a very quick fix on computers. I say to my friends, I did that. That only happens once in 1,000 years, and there is no direct impact on health and safety. So let's not confuse one safe harbor and another safe harbor.

So, clearly, we know this is kind of a shuck and a jive situation: Oh, we are only going to throw out one little part of liability law. But guess what. It is the only one that works. We do not want communities to be left holding the bag if there is a problem in the future because that is a pretty heavy bag for the local community and the local taxpayers to pick up—its cleanup costs, its possible health problems and its water pollution and possible air pollution.

I am going to get to the issue that the supporters will raise: That this is a mandate and, therefore, the suppliers deserve this liability exemption.

Congress regularly mandates that manufacturers meet a variety of guidelines and requirements, but we do not exempt all manufacturers from State and Federal product liability design defect laws.

When gasoline leaks today, there is no loophole. The polluter pays, despite the fact that Congress regulates gasoline. Congress mandated the installation of airbags in automobiles, made them mandatory. Congress said: You must have airbags. You remember that battle. The automobile companies said: We don't want them. (Of course, now they are saying they are happy to have them.) But, in any case, we mandated them. But if there is a problem with airbags, we did not give a liability waiver to the automobile companies. If that product is defective, the product is defective and people have to be held accountable and responsible.

I thought that was what we stood for in the Senate. We talk about accountability. We talk about responsibility. We talk about people taking responsibility for their actions, and yet we are going to give some of the biggest companies in the world a waiver from liability. Shame on us if we do this. It is not as if we did not have experience before, doing it with MTBE. It is not as if we do not know that the cost to clean up MTBE is in the tens of billions of dollars. If the companies were off the hook, it would be the local taxpayers who have to pay.

Again, supporters of this liability loophole claim ethanol is safe so no one needs to worry about this liability exemption. So, again, I ask a question—a rhetorical question—if you are not worried about any ill-effects from ethanol, why are you fighting me so hard on this? Why not join hands with me and say we are going to treat ethanol like we treat every other product?

I, again, want to read the language I have added in this amendment which I hope will be adopted:

Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuels, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.

That is all I am saying. I am not holding ethanol to a different standard. I just spoke in support of ethanol made from agricultural residues. I think those folks have to meet safety standards, and one way to make sure they do is to not take away their liability. Ethanol should be subject to liability standards as strong as any other fuel additive. No more, no less. We are not making it any harsher. We are not making it any easier on them. We should not shift the burden of cleaning up problems caused by ethanol to our local communities, our mayors, our city council people, our Governors, and the rest.

No public policy is served by immunizing the refiners and chemical companies from responsibility in the future if it turns out that this was a problem and they knew it, and they didn't tell anyone about it.

How much time remains on my side, Mr. President?

The PRESIDING OFFICER. The Senator has 13 minutes 23 seconds.

Mrs. BOXER. I will take another couple minutes. Then I will reserve the remainder and allow my colleagues to argue this case.

Let me tell you who is on my side. Who is on the side of making sure that we don't give the safe harbor liability waiver for renewable fuels? Many local and State governments, water utilities support my amendment, public health, consumer and environmental organizations. These include the Association of Metropolitan Water Agencies; the American Water Works Association, which together represent water systems serving 180 million Americans across the country. Do you know why they are with me on this? They may be stuck cleaning up the water supply. They can't afford it. This is almost like putting an unfunded mandate on local people if, in fact, there are problems with ethanol. And that is why the American Water Works Association is for my amendment.

Continuing the list of those who oppose the liability waiver: Association of California Water Agencies; National Association of Water Companies; South Tahoe Public Utility District. Do you know why they are for it? Because they know if they didn't have the chance to sue on this, they would have to bear the cleanup responsibility from MTBE contamination. The City of Santa Monica and Orange County Water District likewise know the effect that ground water contamination can have. They are with me.

How about these groups? American Lung Association is for the amendment; American Public Health Association; California Clean Water Action; Citizens for a Future New Hampshire, Cahaba River Society; Citizen's Environmental Coalition; Clean Water Action; the Consumer Federation of America; Environmental Defense; Ecology Center; Environmental Working Group; Friends of the Earth; League of Conservation Voters; Mono Lake Committee; National Sludge Alliance; the Natural Resources Defense Council; the New Jersey Coalition Against Tonics; the New Jersey Environmental Federation; Physicians for Social Responsibility; the Sierra Club; Rivers Unlimited; Spring Lake Park Groundwater Guardians; and U.S. Public Interest Research Group.

That is just a partial list of the folks out there who are saying to Senators: Please, if you are going to move ahead with a new product like this—it is not a new product, but it is certainly going to be a product that is going to now be ubiquitous across the country—if you are going to do this, then make sure you take every caution and every protection not to waive the protections the American people now have from a defective product.

And, once more, just let's be clear on this. There are no other ways for communities to recover costs if this turns out to be a mistake. Negligence, out the window; nuisance, out the window. It is defective product liability the courts have said is the only way people can go.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has about 10 minutes 4 seconds remaining. Who seeks recognition?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, to respond to the question asked by the distinguished Senator from California, why are we fighting it? One of the biggest problems is, you get in this quagmire of lawsuits and nothing ever gets done in terms of cleanup. This is something we have been fighting for a long time.

This is going to be a more brief statement than it was going to be before because right now we have a very significant piece of legislation before the committee I chair on the clear skies legislation, which is the most far-reaching reduction in powerplant pollutions in the history of clean air. So it is very significant, and I do have to get back.

I have stated on many occasions my concern about the fact that this country does not have a comprehensive energy policy. I have also criticized Republicans and Democrats alike. We didn't get a comprehensive energy policy in the Reagan administration or the first Bush administration or the Clinton administration. We are going to get one with this. That is why this is so significant.

As Deputy Defense Secretary Paul Wolfowitz said, it is a serious strategic issue. This is a national security issue.

The amendment we are talking about, the underlying bill, the Frist-Daschle-Inhofe amendment, represents a compromise on a lot of contentious issues. As with all compromises, there are provisions I like and I don't like. I am afraid there is a lot of misinformation being circulated about the safe harbor provision. Time and time again, we hear if the safe harbor provision is enacted into law, first, citizens cannot take refiners to court under our tort system; and, second, any responsible ethanol contamination that happens in the future would not get cleaned up. Nothing could be further from the truth.

First, let me address the statement that any tort claim that has not been filed by the date of enactment of this section will be forever barred. Even with the enactment of the safe harbor provision, if a plaintiff makes a case, here are just a few tort theories that can be used in environmental cases: Trespass, trespass is not affected by safe harbor; nuisance, not affected by safe harbor; negligence, not affected; breach of implied warranty, not affected by safe harbor; a breach of express warranty, not affected by safe harbor. Safe harbor does not affect any of these tort theories.

In fact, ethanol has been approved by the EPA as a fuel additive. Now Congress is mandating the use of ethanol. So the Federal Government has given ethanol its stamp of approval and now Congress is mandating it. How can we now say that refiners and blenders are open to suits for claims that the "product has design or manufacturing defects"? Design defect claims actually hamper cleanups by interfering with regulatory agencies. Regulatory agency oversight—Federal, State, and local—is frustrated by the product liability claims because these agencies lose control of the remedy process. These agencies are supposed to be in control of the remedy process. That answers the question asked, Why are we concerned about this? We want to get these things cleaned up.

When product liability claims are permitted, the plaintiff's motive becomes recovery of a large money judgment rather than a judgment mandating a remedy to be performed by the party who released the gasoline. Very often, the only thing getting cleaned up are the trial lawyers' mansions purchased with the spoils of these settlements. In fact, a recent report from the Council of Economic Advisors found that using the tort system in this way "is extremely inefficient, returning only 20 cents of the tort cost dollar for that purpose."

Now, I would like to address the rumors that sites will not get cleaned up or that polluters will not pay. The Safe Harbor provisions—in no way—affects liability, and therefore, cleanups under any Federal or State environmental law. Any statement to the contrary is false. Enforcement of these laws is by the authorized Federal agency and States. If there were a spill, here are some examples of environmental laws that offer cleanup and liability provisions:

1. Resource Conservation and Recovery Act (RCRA); 2. Clean Water Act; 3. Oil Pollution Act (OPA); 4. Superfund. Generally speaking, Congress intended that oil spills be cleaned up by the Oil Pollution Act. However, the Inhofe Amendment to last Congress' Brownfields bill signed into law by the President is taking hug strides in cleaning up nearly 250,000 petroleum contaminated sites, such as abandon gas stations.

No. 5, Natural Resource Damages (NRD), under the Oil Pollution Act, Superfund, and the Clean Water Act.

So as you can see, there are enormous protections through the tort system as well as through environmental laws. Again, I ask my colleagues to oppose the Boxer amendment and support the motion to table.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DORGAN. Will the Senator yield to me for about 1 minute?

Mr. BOND. I am happy to accommodate my colleague.

Mr. DORGAN. Mr. President, I know the Senator is prepared to speak against the Boxer amendment, as his colleague just did. I, too, have come to the floor to speak against the Boxer amendment.

The underlying Frist-Daschle amendment creates a narrow prospective safe harbor from liability for defect in design or manufacture of a renewable fuel. There is no liability protection for MTBE in the underlying amendment. I oppose the Boxer amendment. Many colleagues in the Senate feel strongly in opposition, I believe, and we will be able to defeat this amendment.

And, to qualify for the limited protection that is in the underlying amendment, a renewable fuel must be evaluated by EPA for toxicity, carcinogenicity, air quality impacts, and water quality impacts, and must be used in compliance with any restrictions imposed by EPA.

Further, the burden of cleanup for environmental contamination would not be shifted.

That is, the safe harbor provision that is in the RFS amendment would not affect liability under Federal and state environmental laws, and therefore would not affect response, remediation and clean-up.

Let me make this point clear: the underlying provision would not affect in any way a company's legal responsibility to clean up the contamination of any groundwater by gasoline, regardless of whether it contained oxygenates or additives of any kind.

In addition, the safe harbor provision for renewable fuels does not affect liability under other tort law provisions, including negligence, trespass, and nuisance, and it does not prevent the award of compensatory or punitive damages.

Importantly, defective product liability cases only make up 0.002 percent of all civil cases filed each year according to the National Center for State Courts.

Finally, an amendment to change or strike the safe harbor provision would destroy this long-standing renewable fuels agreement, and result in the status quo and no national phaseout of

MTBE, which has contaminated some groundwater supplies.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my colleague for his fine statement. Really, the fact that we are here today in a bipartisan effort reflects the good work that has gone on. After intense negotiations between the ethanol and oil industries, agriculture, the environmental community, consumer groups, and the States, we have a historic agreement that is embodied in the Frist-Daschle bill which will provide for significant growth in the renewable fuels industries, including ethanol and biodiesel.

Industry has been working for months to implement these recommendations that are protective of the environment, provide refiners with increased flexibility, and provide agriculture with certain growth in market opportunities for ethanol and biodiesel. Certainly, the occupant of the chair, who is from Missouri, knows how great the growth of the ethanol and biodiesel industry is in our State, as farmers are coming together in cooperatives to build facilities to meet the need for this clean, renewable fuel. These are tremendous opportunities for improving our environment, reducing our dependence upon foreign oil, and providing a strong economic base for rural America.

The key provisions of the bipartisan agreement, I think most people know, are:

A Renewable Fuels Standard (RFS) in which part of our nation's fuel supply, growing to 5 billion gallons by 2012, is provided by renewable, domestic fuels; eliminating the Federal reformulated gasoline, RFG, 2.0 wt. percent oxygen requirement; phasing down the use of MTBE in the U.S. gasoline market over 4 years; and protecting the air quality gains of the reformulated gasoline program.

These provisions will increase U.S. fuels supplies, promote more U.S.-sourced energy, protect the environment, and stimulate rural economic development through increased production and use of domestic, renewable fuels such as ethanol and biodiesel.

The historic fuels agreement contained in the Reliable Fuels Act, S. 791, provides for a gradual phase-in of the use of renewable fuels, beginning with 2.6 billion gallons in 2005 and growing to 5 billion gallons in 2012. Some have expressed concerns regarding the bill's renewable fuels "safe harbor provision," arguing it provides "sweeping liability exemptions for damage to public health or the environment resulting from renewable fuels or their use in conventional gasoline." This is a clear misrepresentation of the provision.

The safe harbor provision is intended to offer some protection to refiners that are required to use renewable fuels under this bill. It is aimed at as yet unknown and undeveloped renewable fuels, not ethanol. Ethanol has been used in the U.S. safely and effectively for more than 20 years. But without some limited safe harbor, refiners may be reluctant to commercialize new fuels that may otherwise qualify for this program.

Ethanol has received a clean bill of health. According to a report on ethanol's health and environmental fate completed by Cambridge Environmental, Inc., no health threat is expected from increased ethanol use. The report concludes exposure to ethanol vapors coming from ethanol-blended gasoline is very unlikely to have adverse health consequences. Importantly, after an exhaustive study of ethanol's impact on health, air quality and water resources, the California Environmental Policy Council awarded ethanol a clean bill of health.

Ethanol is rapidly biodegraded in surface water, groundwater and soil. Ethanol is a safe biodegradable and renewable fuel that does not harm drinking water resources. A recent study by Surbec Environmental concluded that ethanol poses no threat to surface water and ground water According to the report, ethanol is a naturally occurring substance produced during the fermentation of organic matter and can be expected to biodegrade rapidly in essentially all environments.

The safe harbor provision is very limited. It applies only to claims that a renewable fuel is defective in design or manufacture. These requirements include both compliance with requests for information about a fuel's public health and environmental effects and compliance with any regulations adopted by the EPA. If these requirements are not met, the safe harbor protection does not apply and liability will be determined under otherwise applicable law. This provision does not affect claims based on the wrongful release of a renewable fuel into the environment. Anyone harmed by a release of that kind would retain all the rights he has under current law.

Safeguards are provided for in the bill. The legislation requires EPA to conduct studies of the long-term health and environmental effects of renewable fuels. Under this bill, the Administrator has the authority to control or even prohibit the sale of renewable fuels that may adversely affect air or water quality or the public health. There is no safe harbor if the Administrator's rules are violated.

A vote for the amendment may disrupt the historic agreement. The bipartisan compromise on fuels issues in S. 791 represents a carefully crafted agreement among the oil industry, ethanol producers, agriculture groups, and environmental and public health interests, including the American Lung Association, the Union of Concerned Scientists and Northeast States for Coordinated Air Use Management, NESCAUM, among others. An amendment to change or strike the safe harbor provision would effectively dissolve the agreement, resulting in the status quo and continued MTBE use.

MTBE use is a problem. MTBE has been shown to be harmful, and MTBE must be phased out and replaced by the other renewable, benign oxygenate—ethanol.

I will just say generally, on all of these amendments designed to attack ethanol, there are tremendous economic benefits of this renewable fuel standard.

Tripling the use of renewable fuels will have a significant positive impact on both the farm and overall economy, while significantly reducing our foreign imports.

According to an economic analysis of the legislation completed by AUS consultants, over the next decade RFS would reduce the Nation's trade deficit by more than $34 billion in 1996 dollars, increase U.S. gross domestic product by $156 billion by 2012, create more than 214,000 new jobs throughout the entire economy, expand household income by an additional $51.7 billion, increase net farm income by nearly $6 billion per year, create $5.3 billion of new investment in renewable fuel production capacity, and displace more than 1.6 billion barrels of imported oil.

One other canard that is often raised against ethanol is that it is not a positive energy balance. Energy balance refers to the energy contact of ethanol minus the fossil energy used to produce it. In 2002, the U.S. Department of Agriculture and Argonne National Laboratories concluded that ethanol contains 34 percent more energy than is used in the production process, including the energy used to grow and harvest the grain, process the grain into ethanol, and to transport the ethanol to gasoline terminals for distribution.

According to the U.S. Department of Energy, ethanol produced from biomass generates 6.8 Btu for every Btu of fossil energy consumed. The production of reformulated gasoline without ethanol generates only .79 Btu for every Btu of fossil energy consumed. Therefore, producing ethanol produces roughly eight times more Btu than using energy-produced reformulated gasoline. And it achieves a net gain in a more desirable form of energy. It provides clean environmental benefits.

With the war we face on terrorism, we have to be more concerned about U.S. energy. We need to reduce imported oil. We can develop and supply that oil from our rich farmlands. It will increase the availability of U.S. fuel supplies while easing an overburdened refining industry. No new oil refineries have been built in the U.S. since 1976, but 68 ethanol production facilities have been built during that time.

As ethanol and biodiesel are blended with gasoline and diesel after the refining process, they directly increase domestic fuel capacity. Blending 10-percent ethanol in a gallon of gas provides an additional 10-percent volume to the transportation fuel market, easing the oil refinery sector that is operating at capacity.

The environmental benefits have already been discussed. It can reduce global warming. In 2002, ethanol use in the U.S. reduced greenhouse gas emissions by 4.3 million tons, the equivalent of removing more than 636,000 vehicles from the road.

There is a long list of organizations that are supporting the fuels agreement. Rather than take the time of my colleagues to read those, I ask unanimous consent that this list of organizations supporting the fuel agreement before us today be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

American Farm Bureau Federation, American Petroleum Institute, Renewable Fuels Association, National Corn Growers Association, National Farmers Union, Northeast States for Coordinated Air Use Management, U.S. Chamber of Commerce, National Biodiesel Board, American Bioenergy Association, American Coalition for Ethanol, American Corn Growers Association, American Lung Association, American Soybean Association, Bluewater Network, California Farmers Union, California Renewable Fuels Partnership, Citizens Committee to Complete the Refuge, Clean Energy Now (Greenpeace), Clean Fuels Development Coalition, Climate Solutions, Cook Inlet Keeper, County of Ventura Public Works Department, Earth Island Journal, Environmental and Energy Study Institute, Ethanol Producers and Consumers, General Biomass Company, Governors' Ethanol Coalition, Illinois Student Environmental Network, Institute for Agriculture & Trade Policy, Institute for Local Self-Reliance, International Marine Mammal Project, Kettle Range Conservation Group, Kinergy Resources, Mangrove Action Project, Masada Resource Group, National Grain Sorghum Producers, New River Foundation, New Uses Council, Northwoods Conservation Association, Oceanic Resource Foundation, Oregon Environmental Council, Pacific Biodiversity Institute, Plumas Corporation, Renewable Energy Action Project, Save Our Shores, Soybean Producers of America, The Brower Fund, The Minnesota Project, Tides Foundation, Union of Concerned Scientists, Waste Action Project, Waterkeeper Alliance, West Coast People's Energy Co-op, and Women Involved in Farm Economics.

Mr. BOND. Mr. President, I urge my colleagues to oppose this amendment and, just for good measure, I urge them to oppose all of the other amendments which seem to be targeted at ethanol. The manager of the bill, Senator DOMENICI, has pointed out that we see many attacks coming on ethanol. I ask my colleagues to continue to support ethanol and reject this and the other amendments.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mrs. BOXER. Mr. President, I am going to yield a couple of minutes to my friend from New Mexico. Before I do, I wish to point out that I consider this an ethanol-friendly amendment because I believe there will be much more confidence in ethanol as an additive to our gasoline if people know there are no special waivers of liability, that this fuel will have to be subjected to the same rigorous standards in a court of law should something go wrong.

I do not envision this as an unfriendly amendment, although I know some of my colleagues feel otherwise.

It is my pleasure to yield 2 minutes to the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from California for offering the amendment. I do support the amendment.

The general rule which has served us well in this country is that if you design or manufacture a product that proves to be defective and that product then injures someone, you can be held liable. That has allowed us to protect the health and safety of the American people. It is a substantial protection for all of us.

This safe harbor provision that the Senator from California wants to strike says:

> No renewable fuel shall be deemed to be defective in design or in manufacture or no motor vehicle fuel that contains renewable fuel shall be deemed to be defective in design and manufacture.

To my mind, it is unwise public policy for us to be writing into law this kind of exception to the general tort laws that we operate under in the country. We do not know enough, frankly. We do not know what the scientific and health experts are going to find when they fully investigate the impact of tripling the use of ethanol on the air that we breathe and the water we drink.

I certainly hope they will find there is no harmful health effect from it, but to say we are going to prohibit anyone from recovering if they are damaged from the design or manufacture of any of these renewable fuels I think is a big mistake.

I compliment the Senator from California. I support her amendment. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment by my colleague from California to strke the so-called "safe harbor provision" in the amendment offered by the majority leader that would shield ethanol producers and refiners from any liability if the fuel additive harms the environment or public health.

Candidly, I find this "safe harbor provision" astounding.

I believe it is egregious public policy to mandate ethanol into our fuel supply in the first place—and even worse to provide complete liability protection to the fuel additive before scientific and health experts can fully investigate the impact of tripling ethanol on the air we breathe and the water we drink.

This is exactly the mistake we made with MTBE. Over the past several years, we have learned that MTBE has contaminated our water and may be a human carcinogen.

As exemplified by our Nation's experience with MTBE, there can be severe environmental and health repercussions when we mandate the use of any one fuel additive.

Last fall a California jury found there was "clear and convincing evidence" that three major oil companies acted "with malice" by polluting ground water at Lake Tahoe with MTBE because the gasoline they sold was "defective in design" and there was failure to warn of its pollution hazard. After a 5-month trial, Shell Oil and Lyondell Chemical Company were found guilty of withholding information on the dangers of MTBE. The firms settled with the South Lake Tahoe Water District for $69 million.

This case demonstrates why we cannot surrender the rights of citizens to hold polluters accountable for harm they inflict.

How can the Senate favor exempting the ethanol industry from this kind of wrongdoing? I urge my colleagues to take a look at the so-called "safe harbor" provision that will give the ethanol industry unprecedented protection against consumers and communities that may seek legal redress against the harm ethanol may cause.

Our amendment would strike this ridiculous exemption.

If we do not strike this provision, polluters will receive unprecedented protection from damage to public health or the environment.

If we do not strike this provision, what incentive will there be for ethanol manufacturers and refiners to make their products as safe as possible and thoroughly test their long-term effects?

If we do not strike this provision, how else can we hold manufacturers accountable when fuel additives cause harm?

Mandating ethanol into our fuel supply raises serious health and environmental concerns. What effect will an ethanol mandate have on our environment? What are the health risks?

Although the scientific opinion is not unanimous, evidence suggests that; one, reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it; and, two, ethanol enables the toxic chemicals in gasoline to break apart and seep further into groundwater even faster than conventional gasoline.

Ethanol is often made out to be an ideal "renewable fuel" giving off fewer emissions. Yet, on balance, ethanol can be a cause of more air pollution because it produces smog in the summer months. Smog is a powerful respiratory irritant that affects large segments of the population. It has an especially pernicious effect on the elderly, children, and individuals with existing respiratory problems such as asthma.

Just last week the American Lung Association named California the smoggiest state by listing nine counties and six metropolitan areas in California as having the worst conditions.

A 1999 report from the National Academy of Sciences found, "the use of commonly available oxygenates [like ethanol] in [Reformulated Gasoline] has little impact on improving ozone air quality and has some disadvantages. Moreover, some data suggest that oxygenates can lead to higher Nitrogen Oxide ($NO_x$) emissions." Nitrogen Oxides are known to cause smog.

The American Lung Association report also noted that half of Americans are living in counties with unhealthy smog levels. Why would we want to take the chance of increasing these unhealthy smog levels by mandating billions of unnecessary gallons of ethanol into our fuel supply?

Thus, ethanol can be both good and bad for air quality. To me it would make sense to maximize the advantages of ethanol, while minimizing the disadvantages. This is exactly why States should have flexibility to decide what goes into their gasoline in order to meet clean air standards, and ethanol should not be mandated—certainly not at this level. And if we are mandating it, why exempt manufacturers and refiners from their legal responsibility to provide a safe product?

Evidence also suggests that ethanol accelerates the ability of toxins found in gasoline to seep into our groundwater supplies. The EPA Blue Ribbon Panel on Oxygenates found ethanol "may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks."

And according to a report by the State of California entitled "Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate," there are valid questions about the impact of ethanol on ground and surface water. An analysis in the report found there will be a 20 percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used. Benzene is a known human carcinogen.

At a hearing held on the House side last year, Professor Gordon Rausser of UC Berkeley commented on the potential harm of ethanol on groundwater. Professor Rausser testified:

> when gasoline that contains ethanol is released into groundwater, the resulting benzene plumes can be longer and more persistent than plumes resulting from releases of conventional gasoline. Research suggests that the presence of ethanol in gasoline will delay the degradation of benzene and will lengthen the benzene plumes by between 25 percent and 100 percent.

This evidence on the potential harm of ethanol is extraordinarily troubling.

I am at a loss to understand why the Senate would support sweeping liability protection for fuel producers. Taking away the ability of families and communities to seek redress for the harm caused by fuel additives is NOT something I believe this Senate should be doing.

Let me read part of a letter sent by California Attorney General Bill Lockyer opposing the ethanol safe harbor provision. Lockyer writes:

> Congress should not enact the current safeharbor provisions, which could be construed as granting oil companies a very broad immunity. As exemplified by MTBE, there can be dire consequences from the use of defective fuel additives.

Lockyer continues:

> If there is a defect with a particular fuel, the oil companies should be held accountable under the common law principles for using such a fuel. In addition, by including fuels and not just renewable fuels, this section has a extraordinarily broad reach. There is no reason to add immunity for a fuel just because one drop of renewable fuel is added to that fuel. For as long as automobiles have been used, oil companies have been subject to common law product liability rules. There is no need to change these fundamental principles.

We need to protect the basic rights American families enjoy remain in place to keep our air and water safe.

I urge my colleagues to support this amendment to protect our communities from harm caused by fuel additives.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this debate is winding down and my colleagues are here to offer other amendments. I am going to finish shortly.

At this point in the debate, we ought to get real about what this is. There are certain matters that are right in society and there are certain matters that are wrong. It is not right to give special protection to one particular manufacturing group in this country that no one else gets. In a way, it is a subsidy given to those people because if there is a problem in the future with ethanol, guess who is going to pick up the tab? Guess who is going to pay the bill? Not the people who caused the problem but the taxpayers. That is wrong.

If we had a wonderful history, if we did not have communities in trouble because of MTBE and other additives we thought would be great, it would be different.

I see my friend, the Senator from New Hampshire, is in the Chamber for another amendment. The Citizens for a Future New Hampshire support the Boxer amendment because they do not want to be left holding the bag if something happens.

There is right and there is wrong. This issue, to me, is very clear: It is right to protect the people; it is wrong to give a special interest waiver to a particular manufacturer.

There is private special interest and there is public interest—taxpayers versus those who would pollute.

Finally, when my colleagues say they are only banning one type of option for citizens who are injured, namely effective product liability, that is all they are doing. People can still use the nuisance claim and the negligence claim and all of these other claims.

I hope they know they are forgetting recent history where there was a court case on MTBE, also an additive to gasoline, and what did the court say? The nuisance claim, denied; the negligence claim, denied. The only claim that could hold up, the only claim that could save the taxpayers of Lake Tahoe, who had a mess with MTBE, was defective product liability.

My colleagues stand up and say that is the only thing we are doing. They called it a narrow safe harbor. Well, it is an enormous safe harbor because it is the only place people can go to get recompense if ethanol turns out to be a problem.

My colleague from Missouri says there is a study in this underlying bill. Well, I am glad there is a study, but he is ignoring the fact that there has already been a study in 1999 by EPA's blue ribbon panel, and this is what they said: Ethanol is extremely soluble in water and would spread if leaked into the environment. It may further spread plumes of benzene, toluene, ethylbenzene, xylene, and ethanol may inhibit the breakdown of these toxic materials.

It says it may inhibit. That means it may be a problem. If my colleagues, in their zeal to have ethanol in every single State in this country—and, by the way, it will be—and if they are so sure it is safe, then why on Earth are they saying ethanol should get special treatment, and why do they close down the door on the only area where people have found they have a chance to get cleanup money from the polluters? The answer is, they do not know if it is safe.

We hope it is safe. We hoped MTBE would be safe, and it has poisoned hundreds of wells in this country. Hundreds of water systems have shut down because of MTBE. And if it was not for the product liability claim being open to citizens, who would have to clean up the mess? Not the companies that caused it but the taxpayers in those areas.

So it seems to me, if I might use the word "disingenuous," to say that ethanol is 100 percent safe, but we want a safe harbor so no one can sue if something goes wrong.

I was not born yesterday. That is obvious. I know when somebody says they have the safest product in the world but give me special protection so that no one can ever sue me, my antenna goes up, just as a person with common sense, and I say that is not right.

Researchers say that more ground water wells will experience contamination from MTBE and benzene, which is a carcinogen, if ethanol leaks into water supply, and there are the questions about the impact of ethanol on sensitive populations, our children.

Now, there is not one Senator who does not want to protect kids. Come on. We know that. Most of us are parents. A lot of us are grandparents. We are aunts, we are uncles. We want to protect our children and we want to protect the Nation's children. How can we close our eyes, then, to what we are about to do if we do not agree to this Boxer amendment? What we are doing is saying that the makers of this product do not have to worry about a thing in terms of harming our kids.

Our kids, because of the developmental stage they are in—they are growing, they are changing, their hormones are starting—they are very sensitive to contaminants. We know that. That is why I wrote the Children's Environmental Protection Act, and parts of it have been passed by the Senate. I am so proud of it. Is it not better to say up front to a manufacturer—any manufacturer—if they harm children, we can take them to court and they are going to have to clean up the mess and clean up their product?

Oh, no, not if they are making ethanol. They are going to have special exemption. It breaks my heart to see us do this. I figure I will lose this amendment only because we tried it once before and we did lose it.

The PRESIDING OFFICER. The Chair informs the Senator from California her time has expired.

Mrs. BOXER. I ask unanimous consent for one additional minute, to close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. So there are unanswered questions surrounding ethanol. There are unanswered questions according to the EPA special panel in 1999, and all the Senator from California is saying to her colleagues is this: Just make sure this product, which is going to be a new product in several States, that it does not have special advantages so that if something happens, the makers of the product do not get off scott-free. That is not right. It is un-American. It is not fair. It is an unfunded mandate on our communities.

I was happy to hear Senator BOND say he does not support a waiver for MTBE—good for him—because we need to strip that out of the House bill. But this is a new day. This is a new additive, and we should hold it to the same responsibility as we hold all other additives, all other products. Because if MTBE had this waiver, communities all over this country would be in trouble.

I thank my colleagues very much for listening to me. I feel very strongly about this. I hope we will have a good "aye" vote.

I ask for the yeas and nays, and also ask the amendment be set aside for a vote at a later time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Parliamentary inquiry, Mr. President: May I ask the managers of the bill approximately what time they expect to be voting on the Boxer amendment?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. At this point it looks as if we are not going to vote on anything until about 3, and the Boxer amendment would be second or third in line.

Mrs. BOXER. That is fine. I say to my friend, could I have 1 minute at that point, and a minute on the other side, to explain the amendment?

Mr. DOMENICI. Unless the Senator wants to seek that consent at this point, there is no such arrangement.

Mrs. BOXER. I ask unanimous consent at this point.

The PRESIDING OFFICER. The Chair informs the Senator that 2 minutes has already been provided in the unanimous consent agreement, so the Senator will have that 1 minute.

Mrs. BOXER. I yield the floor.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, with the consent of the minority, I make the following unanimous consent request. I ask unanimous consent that—I withhold until the minority whip is present, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, now I ask unanimous consent that at 3:30 today the Senate proceed to a vote in relation to the Schumer amendment No. 853, to be followed immediately by a vote in relation to the Boxer amendment No. 856, to be followed by a vote in relation to the Boxer amendment No. 854; provided further that following those votes the Senate proceed immediately to a vote on the adoption of amendment No. 850, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, also for the information of Senators, I have spoken to the two managers of the bill. There are a number of people who are ready to offer amendments. The Republican manager of the bill has an amendment waiting to go. We also have a very important amendment on which there has been an agreement on the time for that amendment. We would want that set up for early next week. It is one of the most important amendments in this whole bill.

But we are not going to be able to move forward until 3:30 on anything, until the two leaders announce to the floor managers that there has been something worked out on the amendment originally offered by the Senator from Arkansas, Mrs. LINCOLN.

It is my understanding that there has been work done to arrive at a point where that matter can be disposed of, but until that is done, we are not going to move forward on anything other than these.

As I indicated, the two leaders may even be talking as we speak. Until we hear from them, we will be happy to fill in this time, until 3:30, with the amendment of the Senator from New Mexico, or whatever the two managers think is appropriate. But until then, we are not going to agree to set it aside to move to anything else.

So we have no problem talking about the bill or amendments that may be offered. But until the matter involving the child tax credit is worked out with the two leaders, we are not going to move forward on this bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. For the information of the Senate, I might indicate that the second of the Boxer amendments, which had been listed in the unanimous consent, is probably not going to require a rollcall vote but will be adopted by voice. Immediately after that, the underlying ethanol amendment will be voted on, and a rollcall vote is being required on that.

The Senator from New Mexico, the manager of the bill, intends when appropriate, when matters have been agreed on between the leadership, that we can proceed to offer an Indian amendment, which I think then would be followed by a second-degree amendment by the Senator from New Mexico, the minority manager of the bill.

We are also pursuing with a degree of vigor an effort to see if we cannot get Senator GREGG and Senator KENNEDY to agree to work out the LIHEAP portion of this bill. There are two amendments there. If they are able to work that out, that will put us in a position where we will dispose of that entire matter sometime this afternoon, hopefully. It seems they are very close to working that out, if the Senator is.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in response, let me indicate my best information is they are still insisting that we not deal with LIHEAP in this legislation, which is of course not my position. I think we should deal with it.

Accordingly, I would not agree to just a sense of the Senate on that subject, which is their preference, as I understand it.

I hope we can persuade them otherwise. If not, then we will have to have a vote.

Mr. DOMENICI. In any event, I am pursuing them so that there will be a vote. Sooner or later we would like to dispose of it. If they insist, they can have a vote on the first part of theirs. If they win or lose, that leaves you in a position of whether you have the amendment on this bill or not, depending upon the disposition of the first, the amendment that precedes it, both of which have been set aside by consent and are pending action by the Senate.

I see my friend Senator WYDEN on the floor. I know we had been talking about a proposed agreement with reference to a matter on nuclear power. Let me suggest to the Senator, we are in accord as to that. We will enter into it but not at this point. We are examining the language carefully. But you have our assurance that at an appropriate time today that agreement will be entered into and then we will be ready to have a very important vote sometime on the day of Tuesday with reference to nuclear power, with you being a proponent of a motion to strike.

Mr. WYDEN. Mr. President, if I could just respond, Senator SUNUNU and I will be in the Chamber talking in a bit more detail. I always appreciate the graciousness of the chairman of the committee in working with me. I think we are going to get an agreement. There are probably a lot more Senators who will want to speak on this than first estimated.

So the Senate knows, originally Senator SUNUNU and I were prepared to offer an amendment to strike the $16 billion for nuclear subsidies. The amendment is supported strongly by the Taxpayers Union, but at the request of the chairman of the committee, that vote will be put over until next week.

I am very hopeful that we will be able to get a consent agreement before long to have this debate. This is a significant exposure for taxpayers. It is not a question of whether someone is pro-nuclear or anti-nuclear. The Congressional Budget Office has said that there is at least a 50-percent risk of failure with respect to these facilities. The Congressional Research Service has indicated the taxpayers will be on the hook for in the vicinity of $16 billion.

What I worry about is what happened in our part of the country. Four out of five facilities were never built. In this case, if the Congressional Budget Office is right and you have over a 50-percent risk of failure at these facilities, this will be a huge exposure for taxpayers.

I tell Senators there is no other source of energy in this legislation which gets a direct subsidy for building a facility.

I am going to try to find a way to reach a procedural accommodation with the chairman of the committee. I am a personal friend, and I want to accommodate him. I hope we will be able do that.

This is a very significant taxpayer issue for the Senate. It is not a question of whether someone is pro-nuclear or anti-nuclear. In my own inimitable way, I have managed to make both sides mad over my career in public service. But it is a taxpayer issue of enormous importance.

I hope Senators will read what the Congressional Budget Office and the Congressional Research Service have had to say about this. The Congressional Budget Office reports that there is more than a 50-percent risk of failure with respect to these facilities, if subsidized. The Congressional Research Service has talked about a $16 billion subsidy.

I would point out that this is even too rich for the blood of the other body. The other body has not talked about anything like this.

We will work with the chairman of the committee. Senator SUNUNU and I will be coming to the floor before long as well so that we can begin to lay out the bipartisan support we have with Senator BINGAMAN, the ranking minority member, Senator ENSIGN, and others.

I would just tell the chairman of the committee that I think there are probably more Senators who want to discuss this than we thought. We already have some indication that 90 minutes equally divided with an up-or-down vote may not be enough. It is my intention to work with the chairman of the committee, the ranking minority member, and others to try to work out this unanimous consent so we can have that done expeditiously.

I point out that this Senator and the Senator from New Hampshire were asked to come today to have our amendment brought up. We felt pretty good about it. We know there is going to be an awful lot of back and forth with Senators between now and the time we vote Tuesday.

I ask that Senators look at the Congressional Budget Office report and the Congressional Research Service report over the next few days as the discussions go on and off the floor.

I look forward to working this out in terms of procedure with the chairman of the committee probably over the next hour or so.

I yield the floor.

Mr. DOMENICI. Mr. President, we will have a great deal of time to discuss what I believe is the most important issue for America's future; that is, are we going to have an alternate source of energy for electricity, aside and apart from coal and natural gas?

I believe the time has come. We ought to set in motion the authorization—not the approval, not the appropriations, but the authorization—to start down the path that says the United States may be ready to build a nuclear powerplant. The arguments that have just been made in anticipation of the agreement are not exactly as such. This bill says America should have an opportunity to have a variety of energy sources. We have provided subsidies for coal so that coal can be made clean and delivered to our people as clean as possible. That is subsidized. We have an enormous tax subsidy for wind and energy. In fact, it is so big and so current that there will be windmills built all over this country, and the amount is a direct tax credit. It is not something that may happen. Every time one of those windmills is built, the tax credit will apply and money will be used in large quantities.

In addition, we are talking about whether nuclear powerplants are being built today. For instance, General Electric nuclear powerplants are being designed and built in Taiwan right now at a cost—believe it or not, and which we will show here to the Senate—that belies all of the information that is submitted by the Congressional Budget Office, which we believe is speculative. It will be shown that they are constructing these nuclear powerplants at $1,250 a kilowatt. That means they are perilously close today to producing nuclear powerplants that will be competitive with natural gas in the United States.

We are not asking the Senate for any of this to happen. We are saying that, as a matter of policy, we should put in the Energy bill the opportunity for this to happen. We will go into great detail as to the conditions, how it will happen, how it won't happen, and who has to approve and who has to disapprove.

We think before we are finished, we will have convinced a majority of Senators that the time has come to give a rebirth to this alternative source so that if, as a matter of fact, in the next decade or so the need arises, we will be ready, willing, and able to move ahead.

Having said that, I have just indicated nothing else is going to happen in the Senate until sometime around 3 o'clock or 3:30. We will try to get our unanimous consent agreement sometime this afternoon.

I yield the floor.

Mr. WYDEN. Mr. President, I want to be very brief. In fact, we are going to get an agreement with the Senator from New Mexico to work out the process for considering nuclear subsidies.

I just want to make sure Senators are clear with respect to what the subsidy is all about. The Senator from New Mexico, the distinguished chairman of the committee, said wind is going to get vast amounts of subsidies. I wanted to point out to the chairman that if wind farms produce power, they get a tax credit for the energy they produce. But wind farms do not get any subsidy to build a facility.

What is unique about the $16 billion exposure for taxpayers is only one energy source, under this legislation, gets a subsidy to build a facility. That has troubled the National Taxpayers Union. That is why they have been a strong supporter of the Wyden-Sununu amendment. This is not going to be about whether you are pro-nuclear or anti-nuclear. This is about whether Senators want to put at risk the taxpayers of the country for the prospect that the Congressional Budget Office has said has a 50-percent or higher failure with respect to constructing these facilities.

We will have more to say about the bipartisan Wyden-Sununu amendment before long, but I wrap up this part of the discussion by simply saying, again, I hope Senators will look at what the Congressional Budget Office and the Congressional Research Service have had to say about that. Those are reports that lay out, in a frank and objective way, what the risk is for taxpayers. I hope Senators will review it carefully.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. AKAKA pertaining to the submission of the resolution are printed in today's RECORD under "Statements on Submitted Resolutions.")

Mr. AKAKA. Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is currently debating S. 14.

Mr. BYRD. What is the pending question before the Senate, Mr. President?

The PRESIDING OFFICER. The pending question is the Frist-Daschle amendment No. 850.

Mr. BYRD. I thank the Chair.

Mr. President, is the Senate operating under any time control at the moment?

The PRESIDING OFFICER. There is no time control. There is no time agreement.

Mr. BYRD. Mr. President, I have one final question. Has the Pastore rule expired?

The PRESIDING OFFICER. The Pastore rule expired 5 seconds ago.

Mr. BYRD. Mr. President, I thank the Chair.

### IRAQ'S WMD INTELLIGENCE: WHERE IS THE OUTRAGE?

Mr. BYRD. Mr. President, with each passing day, the questions concerning and surrounding Iraq's missing weapons of mass destruction take on added urgency. Where are the massive stockpiles of VX, mustard, and other nerve agents that we were told Iraq was hoarding? Where are the thousands of liters of botulinim toxin? Wasn't it the looming threat to America posed by these weapons that propelled the United States into war with Iraq? Isn't this the reason American military personnel were called upon to risk their lives in mortal combat?

On March 17, in his final speech to the American people before ordering the invasion of Iraq, President Bush took one last opportunity to bolster his case for war. The centerpiece of his argument was the same message he brought to the United Nations months before, and the same message he hammered home at every opportunity in the intervening months, namely that Saddam Hussein had failed to destroy Iraq's weapons of mass destruction and thus presented an imminent danger to the American people. "Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised," the President said.

Now, nearly 2 months after the fall of Baghdad, the United States has yet to find any physical evidence of those lethal weapons. Could they be buried underground or are they somehow camouflaged in plain sight? Have they been shipped outside of the country? Do they actually exist? The questions are mounting. What started weeks ago as a restless murmur throughout Iraq has intensified into a worldwide cacophony of confusion.

The fundamental question that is nagging at many is this: How reliable were the claims of this President and key members of his administration that Iraq's weapons of mass destruction posed a clear and imminent threat to the United States, such a grave threat that immediate war was the only recourse?

Lawmakers, who were assured before the war that weapons of mass destruction would be found in Iraq, and many of whom voted—now get this—to give this administration a sweeping grant of authority to wage war based upon those assurances, have now been placed in the uncomfortable position of wondering if they were misled. The media is ratcheting up the demand for answers: Could it be that the intelligence was wrong, or could it be that the facts were manipulated a little here, a little there? These are very serious and grave questions, and they require immediate answers. We cannot—and must not—brush such questions aside. We owe the people of this country an answer. Those people who are listening, who are watching this Chamber, and every Member of this body ought to be demanding answers.

I am encouraged that the Senate Armed Services and Intelligence Committees are planning to investigate the credibility of the intelligence that was used to build the case for war against Iraq. We need a thorough, open, gloves-off investigation of this matter, and we need it quickly. The credibility of the President and his administration hangs in the balance. We must not trifle with the people's trust by foot-dragging.

What amazes me is that the President himself is not clamoring for an investigation. It is his integrity, President Bush's integrity, that is on the line. It is his truthfulness that is being questioned. It is his leadership that has come under scrutiny. And yet he has raised no question that I have heard. He has expressed no curiosity about the strange turn of events in Iraq. He has expressed no anger at the possibility that he might have been misled by people in his own administration. How is it that the President, who was so adamant about the dangers of WMD, has expressed no concern over the whereabouts of weapons of mass destruction in Iraq?

Indeed, instead of leading the charge to uncover the discrepancy between what we were told before the war and what we have found—or failed to find—since the war, the White House is circling the wagons and scoffing at the notion that anyone in the administration exaggerated the threat from Iraq.

In an interview with Polish television last week, President Bush noted that two trailers were found in Iraq that U.S. intelligence officials believe are mobile biological weapons production labs, although no trace of chemical or biological material was found in the trailers. "We found the weapons of mass destruction," the President was quoted as saying. But certainly he cannot be satisfied with such meager evidence.

At the CIA, Director George Tenet released a terse statement the other day defending the intelligence his agency provided on Iraq. "The integrity of our process was maintained throughout and any suggestion to the contrary is simply wrong," he said. How can he be so absolutely sure?

At the Pentagon, Doug Feith, the Undersecretary of Defense for policy, held a rare press conference this week to deny reports that a high-level intelligence cell in the Defense Department doctored data and pressured the CIA to strengthen the case for war. "I know of no pressure. I can't rule out what other people may have perceived. Who knows what people perceive," he said. Is this administration not at all concerned about the perception of deception? The perception is there.

And Secretary of State Powell, who presented the U.S. case against Iraq to the United Nations last February, strenuously defended his presentation in an interview this week and denied any erosion in the administration's credibility. "Everybody knows that Iraq had weapons of mass destruction," he said. Should he not be more concerned than that about U.S. claims before the United Nations?

And yet . . . and yet . . . the questions continue to grow, and the doubts are beginning to drown out the assurances. For every insistence from Washington that the weapons of mass destruction case against Iraq is sound comes a counterpoint from the field—another dry hole, another dead end.

As the top Marine general in Iraq was recently quoted as saying, "It was a surprise to me then, it remains a surprise to me now, that we have not uncovered weapons, as you say, in some of the forward dispersal sites. Again, believe me, it's not for lack of trying. We've been to virtually every ammunition supply point between the Kuwaiti border and Baghdad, but they're simply not there."

Who are the American people to believe? What are we to think? Even though I opposed the war against Iraq because I believe that the doctrine of preemption is a flawed and dangerous instrument of foreign policy, I did believe that Saddam Hussein possessed some chemical and biological weapons capability. But I did not believe that he presented an imminent threat to the United States as indeed he did not.

Such weapons may eventually turn up. I said so weeks ago; they may eventually turn up. But my greater fear is that the belligerent stance of the United States may have convinced Saddam Hussein to sell or disperse his weapons to dark forces outside of Iraq. Shouldn't this administration be equally alarmed if they really believed that Saddam had such dangerous capabilities?

The administration took steps to protect the oil facilities in Iraq from being damaged and set on fire. The administration took extraordinary steps to do that. Why did it not take equally extraordinary steps to protect chemical, biological, radiological, nuclear weapons, possibly, from being looted, from being stolen, from being taken away by those who would sell them, possibly, to terrorists?

Saddam Hussein is missing. Osama bin Laden is missing. Iraq's weapons of mass destruction are missing. And the President's mild claims that we are "on the look" do not comfort me. There ought to be an army of UN inspectors combing the countryside in Iraq or searching for evidence of disbursement of these weapons right now. Why are we waiting? Is there fear of the unknown or fear of the truth?

This nation—and, indeed, the world—was led into war with Iraq on the grounds that Iraq possessed weapons of mass destruction and posed an imminent threat to the United States and to the global community. As the President said in his March 17 address to the Nation, "The danger is clear: using chemical, biological or, one day, nuclear weapons, obtained with the help of Iraq, the terrorists could fulfill their stated ambitions and kill thousands or hundreds of thousands of innocent people in our country, or any other."

That fear may still be valid, but I wonder how the war with Iraq has really mitigated the threat from terrorists. As the recent attack in Saudi Arabia proved, terrorism is alive and well and unaffected by the situation in Iraq.

Meanwhile, the President seems oblivious to the controversy swirling about the justification for the invasion of Iraq. Our Nation's credibility before the world is at stake. While his administration digs in to defend the status quo, Members of Congress are questioning the credibility of the intelligence and the public case made by this administration on which the war with Iraq was based. Members of the media, Members of the fourth estate, are openly challenging whether America's intelligence agencies were simply wrong or were callously manipulated. Vice President CHENEY's numerous visits to the CIA are being portrayed by some intelligence professionals as "pressure." And the American people are wondering, once again, what is going on in the dark shadows of Washington.

It is time that we had some answers. It is time that the American people were given some answers. It is time that the administration stepped up its acts to reassure the American people that the horrific weapons that the administration told us threatened the world's safety have not fallen into terrorist hands. It is time that the President leveled with the American people. It is time that the President of the United States demanded that we get to the bottom of this matter and to follow every lead, regardless of where that lead goes.

We have waged a costly war against Iraq. American fighting men and women are still dying in Iraq. We have prevailed. But we are still losing, as I said, still losing American lives in that nation. And the troubled situation there is far from settled. American troops will likely be needed there for months, many months—even years. Billions of American tax dollars will continue to be needed to rebuild that country. I only hope that we have not won the war only to lose the peace. Until we have determined the fate of Iraq's weapons of mass destruction, or determined that they, in fact, did not exist, we cannot rest, we cannot claim victory.

Iraq's weapons of mass destruction remain a mystery, an enigma, a conundrum. What are they, where are they, how dangerous are they? Or were they a manufactured excuse by an administration eager to seize a country? It is time these questions were answered. It is time—past time—for the administration to level with the American people, and it is time for the President of the United States to demand an accounting from his own administration as to exactly how our Nation was led down such a twisted path to war. His credibility and the credibility of this Nation is at stake.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I understand we are on energy.

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS. We need to talk a little bit about energy. I think that is what we are on. That is what we are doing this week. I must confess, I am a little disappointed that we seem to get off on other things that are unrelated when it seems to me that doing something with an energy policy to try and look ahead in this country as to where we need to be on energy is among the most important things that we could possibly do.

I understand there are different views about how you do that, and that it is legitimate to talk about those, but I do feel badly when we move off on something that isn't related when we are trying to get this done. I think it is important that we do it. We are obviously ready to move on to health care and Medicare and pharmaceuticals the week after next. But we have been over this now. Last year we worked very hard trying to do something with energy. We passed it here. I think the process that was used was not conducive to a successful finish and, indeed, we didn't have one. But this year we went through the committee. We have already discussed all these issues. We have argued back and forth.

Obviously, not everyone agrees, but I think it is hard not to agree that energy is one of the things that affects most of us more than almost anything else that we can do here. It affects whether we have lights. It affects whether we have heat. It affects whether we have an opportunity to use our automobile. And, more importantly, it has a great deal to do with security for this country. So I really feel strongly that we should get on with it. We should come up with an energy policy out of the Senate. We should go into conference committee with the House.

Remember, one of the first things that the President and the Vice President did when they came into office was to outline an energy policy recognizing how important that is. Since that time, we have, of course, had more and more unrest and more and more war and terrorism in the Middle East. We have allowed ourselves to get into a position where 60 percent of our oil comes in on imports. We are that dependent, which is very risky. We have seen it move up and down and have different effects over the country when different things happen with regard to energy. Yet we seem kind of lackadaisical about trying to deal with it in terms of policy.

Let me emphasize that is what we are talking about here is a policy. In my view, a policy normally indicates that you are trying to look ahead at what you think the situation ought to be in the future with regard to that issue, what it means to your family and to your community and to the country, to try and get a vision of where we want to be in 10 or 15 years with respect to energy. And having established a policy of that kind, obviously, then it becomes much easier and more effective and more useful to measure the things we do in the interim as to how they affect the accomplishment and the realization of that vision and policy that we have seen.

I must confess that I am a little concerned from time to time that vision is not always something that has a very high priority in the Senate, and that really ought to be our major concern—seeing what we can do here to accommodate reaching certain goals in the future.

So we are talking here about an energy policy that has been drafted, a rather general, wide energy policy that I think is very important. We are talking in this policy about conservation, about ways to save on the amount of energy we have and the needs we have. We are talking about finding alternatives so that we can have access to different kinds of energy than we have had in the past. We are talking about research so that we can do things such as have more clean coal, so we have better air quality with respect to generating electricity. We are talking about the possibility of converting some of our fossil fuels to things such as hydrogen so that we are able to move them about easier, able to have a cleaner environment. And we are able to do all of these things.

Of course, very important among all of these is to increase domestic production. We have great opportunities for production in this country. Much of it lies in the West. I happen to be from the West. Our State is 50 percent owned by the Federal Government. Many of these resources are on those Federal lands. Now, we have to do that carefully so that we have a balance between protecting the environment, on the one hand, and using the resources for energy, or whatever, on the other hand. We can do that. It is our responsibility to be particularly careful. We have the largest resource of fossil fuel for this country in the future, which is coal. We have an opportunity to do a great deal with coal. We met this morning in the Environment Committee on finding new ways to set standards for $SO_2$, and for other air quality standards, including mercury. We can do those things.

That is what part of this bill is about—moving us forward in being able to produce energy and, at the same time, protect the environment, which all of us want to do. But we need to move forward to be able to do that. We need to have easier access to public lands and multiple-use lands, and have all the other uses as well for energy extraction. Certainly, we won't want to use some lands for that. We will set them aside as wilderness and special use. We have more wilderness in Wyoming than in any other State in the country—except perhaps Alaska.

In any event, these are the kinds of issues with which we are faced. They are not insurmountable. As a matter of fact, they are problems to which we have the solution, but we seem hesitant to move forward and get this job behind us. So I hope we will.

We have to modernize our infrastructure. Many things have changed. It is not as if energy production remains the same over the years. In years past, in the matter of electricity, you had a distribution area where an electric company generated the electricity for everybody. Now we are finding more and more that we generate electricity one place and the market is somewhere else. So you have to have transmission. We can find more efficient ways for transmission with the kind of research that we do and take the same transmission line and make some changes in it, and it has much more capacity. But you have to move to do that.

We find that almost all the generation plants built in the last several years are oil fueled. The fact is, if you really want to look at the future, there are many more uses for oil than for coal. We ought to be using coal for the generation of electricity and oil and gas for other kinds of functions. That makes a lot of sense. But we fail to set the incentives to cause ourselves to be able to do that.

After all of our needs for electricity, we find that absent hydro, which makes it about 7 percent, the renewables represent only 3 percent of our electric supply. People keep talking about renewables. The fact is that until we do some more research, making them more efficient, they are not going to be able to have a significant impact. But there is a possibility of doing that. That is what this policy is all about. That is what we need to be doing, is moving forward to find some ways for transmission and to do those kinds of things.

We really have a lot of opportunities to move forward, and I think we can do that. As I said, I come from a place where we have probably the richest source of coal. We provide about 14 percent of the coal now of the United States. We are seventh in oil production and fifth in gas production. Those are challenges. And there is really kind of an exciting opportunity to do some more with hydrogen. Take coal and manufacturing hydrogen, which can be used for cars and homes and for many things—probably the cleanest energy we have talked about.

There are some opportunities to do a better job with nuclear power. We have States in which about 30 percent of the energy is produced by nuclear power. We have to be able to do more work and research, particularly on waste—probably the cleanest resource for the production of electricity.

I am simply trying to say that I understand there are different views about how some of these things are done. Obviously, that is legitimate and we ought to talk about that. But we ought to move forward and get the idea that this matter of energy policy is one of the most important things we can do. We have done something on taxes, and we are going to do something on health care. If we can do something on energy as well, we will have one of the most productive periods we have had for a long time. We have a great opportunity to do that.

So I certainly urge that we take a long look at what we are doing and find a way to move forward. Everyone should be given the opportunity to put in their amendments. That is fine. But you cannot keep waiting for days and days to get all the amendments in. We have been talking about this for several weeks, yet we keep hearing, "We have not drafted our amendment yet." If you are serious about an amendment, get it drafted and get it out there. Let's deal with it and move forward in accomplishing the goal we have before us, which is a great opportunity to move forward in this country economically, to create jobs, and to do more for security and make our life better over a period of time, which is something we all seek to do.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SUNUNU. Mr. President, I wish to take a few moments in this debate on the Energy bill to talk about an amendment that my colleague from Oregon, Senator WYDEN and I will offer next week. He is the lead sponsor on the amendment. I certainly hope we can win strong bipartisan support for what will be an effort to make this Energy bill better, to improve it, and improve it in a way that does justice for the taxpayers by eliminating what I think is an inappropriate and unnecessary subsidy for the energy industry in general, and for the nuclear power industry in particular.

Our amendment will strike one small section of the bill. It is a section that provides federally backed loan guarantees for new nuclear powerplant construction.

I strongly believe we should have a diversified energy supply in this country. We should have competitive energy markets, and nuclear power is a very important part of that mix. Nuclear power has proven itself time and again. It has been cost effective and environmentally sound. We have worked through tough, but important, legislation to deal with the nuclear waste issue in the last session of Congress. In my own State of New Hampshire, we have a powerplant at Seabrook that has had an outstanding record, an excellent record for both efficiency and safety, and it continues to generate a very substantial portion of the electricity used not just in New Hampshire but throughout New England.

At the same time, nuclear power, like coal-fired electricity or gas-fired power, wind, solar, or hydroelectric power ought to be competing in the marketplace on a level playing field. However, there is a provision in this Energy bill that provides Federal loan guarantees to pay for up to half the cost of as many as six new nuclear powerplants. That is a pretty significant financial commitment, and a level of support will have to be made by the taxpayers of the United States.

If we look at the estimated cost of six plants—perhaps $3 billion per plant, maybe a little bit less, maybe a little bit more—and take a look at half the cost of the plant in the Federal guarantee, we could conceivably be looking at a long-term cost of $10 billion or $15 billion. That is a cost that American taxpayers should not be asked to bear. That is one of the reasons Senator WYDEN and I are offering our amendment.

A second concern is the simple precedent this would set: providing Federal loan guarantees for any private powerplant construction. Again, my concern is not directed at the fact that the loan guarantees are for nuclear powerplants, or for large powerplants. It is about private plant production. If it were gas-fired plants, coal-fired plants, or new hydroelectric plants for which we were giving Federal guarantees, I would have the same concerns. We are setting a bad precedent in public policy when we offer this kind of tax subsidy.

We have to ask time and again, Are we being fair to the taxpayers? Are we being fair to the marketplace? I do not believe we are. I think this kind of a program, this kind of a tax subsidy would distort our energy markets and would distort the performance of our capital markets where private companies go out to borrow week after week, month after month, and year after year.

We need an energy policy in this country that promotes a strong diverse supply of energy and promotes competition. Sometimes that means making sure the Federal Government treads very lightly in the marketplace. This provision in the bill does not do that by any stretch.

The amendment we will offer is a commonsense amendment, and in the long run, our energy markets and even our nuclear power industry will be better served by striking this unnecessary subsidy. If we are going to have a healthy and strong nuclear power industry, what that really means is we have to have commonsense regulations. We need to work hard to streamline and to extend some of the relicensing capabilities so those plants that have performed well can continue to operate for an extended period of time. And, of course, we need to deal with the issue of nuclear waste, which we have begun to do through our efforts last year, and which I support.

The amendment that will be offered by Senator WYDEN and me is an amendment that has support from the National Taxpayers Union, from Citizens Against Government Waste, and a number of groups that have quite a reputation for looking out for taxpayer interest.

It also has support from a number of environmental groups, including the League of Conservation Voters and USPIRG, groups that have tried to look out for environmental interests that raise concerns for them as well.

It is a broad coalition of groups coming at this from different perspectives, but all recognize this section of the bill is not good public policy, this is not the right kind of approach if we want to have competitive energy markets, and it certainly is not the right kind of approach for taxpayers.

I thank Senator WYDEN for working with me on this amendment. We are working on an agreement that will allow us to bring this amendment forward on Tuesday with at least 2 hours of debate and an up-or-down vote on the amendment.

I thank Chairman DOMENICI for working with us on that agreement and allowing us to get this important amendment to the floor, give us a vote, and see if we can save the taxpayers a lot of money and help improve this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank the Chair. Mr. President, the Senator from New Hampshire has said it very well. I will offer just a couple of additional remarks. It is clear there is going to be an effort, as this is discussed in the Senate, to simply make this an "Are you for nuclear power or are you against nuclear power?" issue. I think that would be very unfortunate.

I said earlier when we began to discuss this, I have inimitable abilities that over the years have managed to make both sides of the nuclear power debate unhappy with me. In a sense, I hope we can do as Senator SUNUNU has done, which is to keep the focus on the taxpayer question. I urge Senators, in particular, as they make up their minds on this issue to look at two important reports. The Congressional Budget Office report and the report done by the Congressional Research Service are particularly illuminating in that the Congressional Budget Office report talks about how, in their judgment, there is a more than 50-percent probability that these plants will not be successful, that they will fail. And the Congressional Research Service, in their analysis, indicates if that is the case, taxpayers would be on the hook for in the vicinity of $16 billion.

In my part of the world, this is not exactly an abstract issue. In fact, with the WPPSS debacle, which was the largest municipal bond failure in the country's history, four out of the five facilities were not, in fact, even built, and the people in my region and many investors, of course, were on the hook.

If the scenario of the Congressional Budget Office were to come to pass, all of our constituents—all of them—would, in effect, be exposed to these very significant costs.

That is why Senator SUNUNU and I are going to try our best, between now and the Tuesday vote, to make sure that for us this is first and foremost a taxpayers' issue.

To try to drive that point home, we had a discussion about how this affects other aspects of energy development. If this provision stays in the bill, in other words the amendment that the Senator from New Hampshire and I are offering is unsuccessful, nuclear energy would be the only part of this field that would get a direct subsidy for constructing a facility.

For example, the distinguished chairman of the committee, who has been very gracious to the two of us in terms of working on process and all of the issues towards getting this offered, talked at some length about wind and talked about subsidies for wind. Well, in fact, when wind is produced, there are various credits and incentives, which I guess are very appropriate, but there is no subsidy for constructing any other facility under this legislation other than in the nuclear area.

In fact, right now there is nothing preventing any utility from going forward with a nuclear project simply by going to the Nuclear Regulatory Commission and getting a license to build the plant.

Let me repeat that. Anybody who wants to build a nuclear powerplant in this country simply has to go to the Nuclear Regulatory Commission and get the license. They can do that if they satisfy the safety standards.

The issue, as propounded by Senator SUNUNU and myself, is whether or not there should be these very large subsidies; whether or not the taxpayer should be exposed, in the vicinity of $16 billion, with respect to building these plants.

I do not think this is an issue about whether one is for or against nuclear power, and that is why the National Taxpayers Union and a host of other organizations that have been watchdogs for taxpayers have made this a priority item. In their letter to me, they took the position that they are neither for nor against nuclear power. They say that explicitly in the letter. What they and a number of other taxpayer watchdogs are concerned about is the $16 billion exposure for taxpayers that is contained in this provision.

So I am very pleased that before long we will be able to enter into a consent agreement for an up-or-down vote on Tuesday on the Wyden-Sununu legislation. I think the chairman of the Energy Committee will be leading us in that discussion with respect to a UC before too long.

The Senator from New Hampshire is still in the Chamber, and I thank him for all of his involvement in this. He has a long record of being a taxpayer watchdog, and that was, in fact, the special reason why I thought it was so important for the two of us to try to do this together.

I am sure between now and Tuesday, as this is discussed, to some extent some will try to make this into a referendum on whether one is for or against nuclear power. I will be doing my best to try to make sure that it is a taxpayers' issue. That is central and critical to me, and I look forward to the discussion that we will have on Tuesday. We should have a UC ready to go before long. I thank Chairman DOMENICI for his willingness to work out the procedure on it, and I am particularly grateful to my cosponsor, Senator SUNUNU.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am quite sure that before we are finished—if we finish, and I hope we will—the Senate and those who are interested in energy policy will hear a lot about the various kinds of energy that are provided, as a matter of policy, in this Energy bill.

I am having a lot of difficulty understanding the Senate these days. I regret to say that almost every amendment we talk about some Senator is unable to be present. It is either they had to leave early or they had a previous engagement or there is something else they had to do. So it seems as if we cannot get the amendments done. But the Democrats are going to help us try to convince Senators that they ought to start to list their amendments soon so we will have some idea, sooner rather than later, the extent of amendments we are going to have on this bill.

On the issue of nuclear power, before we are finished with this debate, we will lay before the Senate what the Energy Committee, in its markup of this bill, did so as to make sure the United States had an array of energy sources during the next 10, 20, and 30 years.

We have tax credits for solar energy. We have tax credits for wind energy. The Senator argues that is different. Well, maybe we ought to change and have just plain tax credits for nuclear power. Maybe there would be no objection to it. Perhaps we could convert what we thought was a better way to do this to some kind of a tax credit, which would mean that if they produced, and only if they produced, would they get any credit.

What we did in the instance of nuclear power was to say if the Secretary of Energy, at some time, finds that the United States needs a nuclear powerplant because it needs a diversity of energy or it needs it because there is some clean air problem, then to a creditworthy applicant, a creditworthy builder, of a nuclear powerplant, they may subsidize half the cost with a guaranteed loan.

Now, one can talk about that in terms of how much that is going to cost. The Senator from New Mexico assumes we look at all of these from the standpoint of the benefits, what are the benefits to America?

Twelve years ago, this Senator started looking at nuclear power. With the passage of each year, as I studied it and wrote about it and thought about it, I became more embarrassed and more ashamed of what the United States of America had done with this superb technology that we had invented, that was being used in the world and that we had set on the shelf because a few people frightened us to death.

Do people know that today two nuclear powerplants are being built in Taiwan? They are building a modern, General Electric design. Guess what they tell us the cost is going to be. In fact, I believe we will introduce a letter next week during the argument. The costs will be very close to the equivalent costs of what we are now paying to build natural gas burned, natural gas fed, powerplants. Who would have thought it?

What has happened is, since natural gas is the singular source of energy, the cost is skyrocketing because there is no competition. We intend there to be competition, not only from nuclear but we have ample money in this bill for great research in coal, too. We have over $2 billion in research for clean coal. It does not produce any coal. It just says do the research to try to make technology work.

What we have done overall for the first time in the last 20 years is to say, let us develop a nuclear policy for the greatest nation on Earth and let us show the world that we have not abandoned the safest way to produce energy, electricity for people in the world. Let us show that we are not abandoning that. Let us show that we are going to lead again. And so there is a three-pronged policy. The Price-Anderson Act, which makes it possible for the private sector to be involved, is made permanent.

This bill says, let's build a demonstration project in the State of Idaho, a brand new concept, so we will build a nuclear powerplant that will be passive. By passive, we mean we will prove it cannot burn. There are people who speculate a nuclear powerplant can burn. They have spoken of its burning its way through the earth. This new powerplant will be physically made so it is passive. It will produce high enough temperatures so you can produce hydrogen for the new hydrogen economy we are looking at.

America is close to being able to build a nuclear powerplant again, like they are being built in Taiwan, like they have been built year after year in France. France produces 80 percent of its electricity from nuclear power. They do not run around frightened to death of technology like the United States. If anyone wants to see France's nuclear waste, they will take you to a gymnasium. You can walk into the gymnasium, like walking into a school, and walk on a glass floor. One might ask, where is the waste? You are walking on it. It is encapsulated for 50 years at least, and nothing can happen to it while they figure out what to do with it.

What does the greatest nation on Earth do? We sit paralyzed, waiting around for something to happen in Nevada. I am sure we will hear that argument before we finish the debate next Tuesday. We know that is an engineering issue that will be solved.

What we do not know: Will the United States continue to remain dependent upon natural gas almost exclusively or will we say it may be time for American companies to build one or two nuclear powerplants? We understand they are very close. They have experienced litigation and other impediments. It is hard to get over the hurdle, over the hump. We have asked, what would it take to start a couple of them? What a day, when America starts a couple new nuclear powerplants. We would be entering an era of cheap electricity, available to everyone, poor countries and rich countries. Guess what. There will be no pollution problem. The ambient air will be affected zero.

We knew it was worth the effort to get America going again regarding its strength and power as the inventor of the safest energy ever produced by mankind to this point. We could have put in tax credits: If you produce something, we will give you a tax credit. Then our friends would not be making the argument; you are giving them something before they produce. We chose what we thought was most simple and least expensive to the Federal Government, saying, if necessary, you can give them half the costs in a loan guarantee, to get us going again.

That is the whole issue. Should we do that or should we not do that? Before we are finished, the Senate will understand, in spite of it having difficulty with this Energy bill—we cannot seem to get people to focus on the Energy bill—but they will understand the significance of this issue. They will understand that the fear regarding nuclear power and nuclear fuel rods is about nothing but a red herring. They are nothing that engineering competence cannot handle.

I close this opening argument on nuclear power and whether or not it is safe by saying to everyone listening or worrying about nuclear power versus the other power in America, there are over 100 American Navy vessels on the high seas of the world with engines that are nuclear powerplants. Nuclear powerplants run battleships, run aircraft carriers. They have fuel rods in them. They carry them everywhere on the seas. They are at every port in the free world, save one in New Zealand because New Zealand has an agreement against it. They are so safe, there are boats and ships all around the world that have nuclear powerplants on board, with nuclear waste sitting right there in the hulls of the ships.

When you add all that, it is the safest way to produce energy for the world in the future. Our package includes the research facility we will build in the State of my good friend who is sitting on my right. We say to our executive branch, in the event you think it is necessary, you can issue a loan agreement for half the cost of a nuclear powerplant to get it going.

I understand there are those who will just add up costs under the worst of circumstances. I would rather add up all the pluses and take a risk that is worthwhile. If ever there was a risk that was worthwhile, it is a plain and simple risk to revive nuclear power in America for America and for the world. That is what is at issue in this bill.

Those who argue not to gamble any money on this will not raise a pinky on spending $1.6 billion to research hydrogen, for a new hydrogen economy. It may not work. It may be thrown away. But it is in this bill to start the idea of engines that are going to use the new fuel. We are spending that money. We are not guaranteeing it. We are spending it. We are not guaranteeing General Motors. We are saying, enter into a partnership. We will spend some money. We hope it works.

This is an issue of risk. When you look at the other kinds of fuels, all of which we promote, none of which we shortchange, will we say America is a coal country, spend money to make the coal clean so that the ambient air of America is, indeed, clean? And spend plenty of it. We say, build windmills and give huge credits for them to such an extent that there may be too many of them built in the next decade; we have to pass a national ordinance so they will not build them too close to some of our cities because there will be so many of them when this bill is passed with the subsidy included, the tax subsidy that will be attached. Geothermal—there are plenty of subsidies. Every kind of energy you can imagine, we have said: Help it move along. At the same time, we have put into a package that rare opportunity for the United States to face up to the fact that, although we invented nuclear power, we hid from it. Others didn't. It is time we come back and revisit it. It is time that, as a package, coupled with all the other policies, we take a little risk in terms of its future, for the future of the world.

Mr. President, I have a series of remarks that I delivered on the nuclear subject on October 31, 1977, at Harvard University, which summarizes my views to that point. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### A New Nuclear Paradigm

(By Senator Pete V. Domenici)

Earlier this week, I spent substantial time on the subjects of nuclear non-proliferation, the proposed Comprehensive Test Ban Treaty, nuclear waste policies, and nuclear weapons design issues. The forums for these discussions were open and closed hearings of two major sub-committees of the United States Senate, a breakfast where two Cabinet secretaries joined 10 United States Senators, and private discussions with specialists in these fields.

During the week before, I spent time on the question of whether or not a 1,200 foot road should be built in a National Monument, a monument whose enabling legislation I authored almost a decade ago.

Without demeaning any person's sense of perspective, I have to not to you today that for every person who attended the nuclear hearings, 50 attended the road hearings. And, for every inch of newspaper coverage the nuclear matters attracted, the road attracted 50 inches.

Strategic national issues just don't command a large audience. In no area has this been more evident during these last 25 years than in the critical and interrelated public policy questions involving energy, growth, and the role of nuclear technologies. As we leave the 20th Century, arguably the American Century, and head for a new millennium, we truly need to confront these strategic issues with careful logic and sound science.

We live in the dominant economic, military, and cultural entity in the world. Our principles of government and economics are increasingly becoming the principles of the world.

There are no secrets to our success, and there is no guarantee that, in the coming century, we will be the principal beneficiary of the seeds we have sown. There is competition in the world and serious strategic issues facing the United States cannot be overlooked.

The United States—like the rest of the industrialized world—is aging rapidly as our birth rates decline. Between 1995 and the year 2030, the number of people in the United States over age 65 will double from 34 million to 68 million. Just to maintain our standard of living, we need dramatic increases in productivity as a larger fraction of our population drops out of the workforce.

By 2030, 30 percent of the population of the industrialized nations will be over 60. The rest of the world—the countries that today are "unindustrialized"—will have only 16 percent of their population over age 60 and will be ready to boom.

As those nations build economies modeled after ours, there will be intense competition for the resources that underpin modern economies.

When it comes to energy, we have a serious, strategic problem. The United States currently consumes 25 percent of the world's energy production. However, developing countries are on track to increase their energy consumption by 48 percent between 1992 and 2010.

The United States currently produces and imports raw energy resources worth over $150 billion per year. Approximately $50 billion of that is imported oil or natural gas. We then process that material into energy feedstocks such as gasoline. Those feedstocks, the energy we consume in our cars, factories, and electric plants, are worth $505 billion per year.

So, while we debate defense policy every year, we don't debate energy policy, even though it already costs us twice as much as our defense, other countries' consumption is growing dramatically, and energy shortages are likely to be a prime driver of future military challenges.

When I came to the Senate a quarter of a century ago, we debated our dependence on foreign sources of energy. We discussed energy independence, but we largely decided not to talk about nuclear policy options in public.

At the same time, the anti-nuclear movement conducted their campaign in a way that was tremendously appealing to mass media. Scientists, used to the peer-reviewed ways of scientific discourse, were unprepared to counter. They lost the debate.

Serious discussion about the role of nuclear energy in world stability, energy independence, and national security retreated into academia or classified sessions.

Today, it is extraordinarily difficult to conduct a debate on nuclear issues. Usually, the only thing produced is nasty political fallout.

I am going to bring back to the market place of ideas a more forthright discussion of nuclear policy.

My objective tonight is not to talk about talking about a policy. I am going to make some policy proposals. Tomorrow there are sessions on energy policy and nuclear proliferation. I'll give them something to talk about.

I am going to tell you that we made some bad decisions in the past that we have to change. Then I will tell you about some decisions we need to make now.

First, we need to recognize that the premises underpinning some of our nuclear policy decisions are wrong. In 1977, President Carter halted all U.S. efforts to reprocess spent nuclear fuel and develop mixed-oxide fuel (MOX) for our civilian reactors on the grounds that the plutonium could be diverted and eventually transformed into bombs. He argued that the United States should halt its reprocessing program as an example to other countries in the hope that they would follow suit.

The premise of the decision was wrong. Other countries do not follow the example of the United States if we make a decision that other countries view as economically or technically unsound. France, Great Britain, Japan, and Russia all now have MOX fuel programs.

This failure to address an incorrect premise has harmed our efforts to deal with spent nuclear fuel and the disposition of excess weapons material, as well as our ability to influence international reactor issues.

I'll cite another example. We regulate exposure to low levels of radiation using a so-called "linear no-threshold" model, the premise of which is that there is no "safe" level of exposure.

Our model forces us to regulate radiation to levels approaching 1 percent of natural background despite the fact that natural background can vary by 50 percent within the United States.

On the other hand, many scientists think that living cells, after millions of years of exposure to naturally occurring radiation, have adapted such that low levels of radiation cause very little if any harm. In fact, there are some studies that suggest exactly the opposite is true—that low doses of radiation may even improve health.

The truth is important. We spend over $5 billion each year to clean contaminated DOE sites to levels below 5 percent of background.

In this year's Energy and Water Appropriations Act, we initiated a ten year program to understands how radiation affects genomes and cells so that we can really understand how radiation affects living organisms. For the first time, we will develop radiation protection standards that are based on actual risk.

Let me cite another bad decision. You may recall that earlier this year, Hudson Foods recalled 25 million pounds of beef, some of which was contaminated by E. Coli. The Administration proposed tougher penalties and mandatory recalls that cost millions.

What you may not know is that the E. Coli bacteria can be killed by irradiating beef products. The irradiation has no effect on the beef. The FDA does not allow the process to be used on beef, even though it is allowed for poultry, pork, fruit and vegetables, largely because of opposition from some consumer groups that question its safety.

But there is no scientific evidence of danger. In fact, when the decision is left up to scientists, they opt for irradiation—the food that goes into space with our astronauts is irradiated.

I've talked about bad past decisions that haunt us today. Now I want to talk about decisions we need to make today.

The President has outlined a program to stabilize the U.S. production of carbon dioxide and other greenhouse gases at 1990 levels by some time between 2008 and 2012. Unfortunately, the President's goals are not achievable without seriously impacting our economy.

Our national laboratories have studied the issue. Their report indicates that to get to the President's goals we would have to impose a $50/ton carbon tax. That would result in an increase of 12.5 cents/gallon for gas and 1.5 cents/kilowatt-hour for electricity—almost a doubling of the current cost of coal or natural gas-generated electricity.

What the President should have said is that *we need nuclear energy to meet his goal*. After all, in 1996, nuclear power plants prevented the emission of 147 million metric tons of carbon, 2.5 million tons of nitrogen oxides, and 5 million tons of sulfur dioxide. Our electric utilities' emissions of those greenhouse gases were 25 percent lower than they would have been if fossil fuels had been used instead of nuclear energy.

Ironically, the technology we are relying on to achieve these results is over twenty years old. We have developed the next generation of nuclear power plants—which have been certified by the NRC and are now being sold overseas. They are even safer than our current models. Better yet, we have technologies under development like passively safe reactors, lead-bismuth reactors, and advanced liquid metal reactors that generate less waste and are proliferation resistant.

An excellent report by Dr. John Holdren for the President's Committee of Advisors on Science and Technology, calls for a sharply enhanced national effort. It urges a "properly focused R&D effort to see if the problems plaguing fission energy can be overcome—economics, safety, waste, and proliferation." I have long urged the conclusion of this report—that we dramatically increase spending in these areas for reasons ranging from reactor safety to non-proliferation.

I have not overlooked that nuclear waste issues loom as a roadblock to increased nuclear utilization. I will return to that subject.

For now, let me turn from nuclear power to nuclear weapons issues.

Our current stockpile is set by bilateral agreements with Russia. Bilateral agreements make sense if we are certain who our future nuclear adversary will be and are useful to force a transparent build-down within Russia. But I will warn you that our next nuclear adversary may not be Russia—we do not want to find ourselves limited by a treaty with Russia in a conflict with another entity.

We need to decide what stockpile levels we really need for our own best interests to deal with any future adversary.

For that reason, I suggest that, within the limits imposed by START II, the United States move away from further treaty imposed limitations and move to what I call a "threat-based stockpile."

Based upon the threat I perceive right now, I think our stockpile could be reduced. We need to challenge our military planners to identify the minimum necessary stockpile size.

At the same time, as our stockpile is reduced and we are precluded from testing, we have to increase our confidence in the integrity of the remaining stockpile and our ability to reconstitute if the threat changes. Programs like science-based stockpile stewardship must be nurtured and supported carefully.

As we seriously review stockpile size, we should also consider stepping back from the nuclear cliff by de-alerting and carefully reexamining the necessity of the ground-based log of the nuclear triad.

Costs certainly aren't the primary driver for our stockpile size, but if some of the actions I've discussed were taken, I'b bet that as a bonus we'd see major budget savings. Now we spend about $30 billion each year supporting the triad.

Earlier I discussed the need to revisit some incorrect premises that caused us to make bad decisions in the past. I said that one of them, regarding reprocessing and MOX fuel, is ham-stringing our efforts to permanently dismantle nuclear weapons.

The dismantlement of tens of thousands of nuclear weapons in Russia and the United States has left both countries with large inventories of perfectly machined classified components that could allow each country to rapidly rebuild its nuclear arsenals.

Both countries should set a goal of converting those excess inventories into nonweapon shapes as quickly as possible. The more permanent those transformations and the more verification that can accompany the conversion of that material, the better.

Technical solutions exist. Pits can be transformed into non-weapons shapes and weapon material can be burned in reactors as MOX fuel, which by the way is what the National Academy of Sciences has recommended. However, the proposal to dispose of weapons plutonium as MOX runs into that old premise that MOX is bad despite its widespread use by our allies.

MOX *is* the best technical solution. I challenge you to develop a proposal that brings the economics of the MOX fuel cycle together with the need to dispose of weapons grade plutonium. Ideally, incentives can be developed to speed Russians materials conversion while reducing the cost of the U.S. effort. The idea for the U.S. Russian HEU Agreement originated at MIT, and I know that Harvard does not like to be upstaged.

I said earlier that I would not advocate increased use of nuclear and ignore the nuclear waste problem. The path we've been following on Yucca Mountain sure isn't leading anywhere very fast. I'm about ready to reexamine the whole premise for Yucca Mountain.

We're on a course to bury all our spent nuclear fuel, despite the fact that a spent nuclear fuel rod still has 60–75% of its energy content—and despite the fact that Nevadeans need to be convinced that the material will not create a hazard for over 100,000 years.

Our decision to ban reprocessing forced us to a repository solution. Meanwhile, many other nations think it is dumb to just bury the energy-rich spent fuel and are reprocessing.

I propose we go somewhere between reprocessing and permanent disposal by using interim storage to keep our options open. Incidentally, 65 Senators agreed with the importan of interim storage, but the Administration has only threatened to veto any such progress and has shown no willingness to discuss alternatives.

Let me highlight one attractive option. A group from several of our largest companies, using technologies developed at three of our national laboratories and from Russian institutes and their nuclear navy, discussed with me an approach to use that waste for electrical generation. They use an accelerator, not a reactor, so there is never any critical assembly. There is minimal processing, but carefully done so that weapons-grade materials are never separated out and so that international verification can be used. And when they get done, only a little material goes into a repository—but now the half lives are changed so that it's a hazard for perhaps 300 years a far cry from 100,000 years. It sure would be easier to get acceptance of a 300 year, rather than a 100,000 year, hazard, especially when the 300 year case is also providing a source of clean electricity. This approach, called Accelerator Transmutation of Waste, is an area I want to see investigated aggressively.

I still haven't touched on all the issues imbedded in maximizing our nation's benefit from nuclear technologies, and I can't do that without a much longer speech.

For example, I haven't discussed the increasingly desperate need in the country for low level waste facilities like Ward Valley in California. In California, important medical and research procedures are at risk because the Administration continues to block the State government from fulfilling their responsibilities to care for low level waste.

And I haven't touched on the tremendous window of opportunity that we now have in the Former Soviet Union to expand programs that protect fissile material from moving onto the black market or to shift the activities of former Soviet weapons scientists onto commercial projects. Along with Senators Nunn and Lugar, I've led the charge for these programs. Those are programs a foreign aid, I believe they are sadly mistaken.

We are realizing some of the benefits of nuclear technologies today, but only a fraction of what we could realize—

Nuclear weapons, for all their horror, brought to an end 50 years of world-wide wars in which 60 million people died.

Nuclear power is providing about 20% of our electricity needs now and many of our citizens enjoy healthier longer lives through improved medical procedures that depend on nuclear process.

But we aren't tapping the full potential of the nucleus for additional benefits. In the process, we are short-changing our citizens.

I hope in these remarks that I have succeeded in raising your awareness of the opportunities that our nation should be seizing to secure a better future for our citizens through careful reevaluation of many ill-conceived fears, policies and decisions that have seriously constrained our use of nuclear technologies.

Today I announce my intention to lead a new dialogue with serious discussion about the full range of nuclear technologies. I intend to provide national leadership to overcome barriers.

While some may continue to lament that the nuclear genie is out of his proverbial bottle, I'm ready to focus on harnessing that genie as effectively and fully as possible, for the largest set of benefits for our citizens.

I challenge all of you to join me in this dialogue to help secure these benefits.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the two managers and the two sponsors of the amendment, the Wyden-Sununu amendment, agreed that I ask for this unanimous consent, and I will do so: That on Tuesday, when the Senate considers the Wyden-Sununu amendment relating to commercial nuclear plants, there be 120 minutes equally divided in the usual form; provided further that no amendments to the amendment or the language proposed to be stricken be in order prior to the vote in relation to the amendment; and if the amendment is not disposed of, the amendment remain debatable and amendable.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. We are also very close to working something out on the matter that has been holding up the Energy bill today, and that is the child tax credit. We are within minutes of being able to enter into an agreement on that.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have arrived at a time and a defined period for debate on the Wyden amendment to subtitle B of this act. I think it is critical that we bring this issue to the forefront and make a decision on it.

The Senator from New Mexico, the chairman of the Energy Committee, has done an excellent job in the last 20 minutes outlining the dynamics of this major piece of legislation for our country and the kinds of issues embodied in it that are so critical to all of us as we debate the general issue of energy and this particular subtitle that relates to the development of new technology but, more importantly, the deployment of the concept of new reactor design into actual producing reactors in the United States. The Senator from New Mexico is so accurate in his overall review of where we are as a nation with energy or the absence thereof.

My colleague from Oregon and I live in the Pacific Northwest, where hydro is dominant as a part of our energy-producing capability. Even that marvelous, clean resource today is under attack. Why? Because it impounds rivers to produce hydro, and by impounding rivers, it changes the character of those rivers. Certain interest groups want those rivers, in large part, by some estimation, to be freed. So they wanted to reshape hydro. In all instances, it has reduced the overall productive capability of hydro facilities.

We have frustration in a variety of other areas. The Senator from New Mexico outlined our problem with burning coal under the Clean Air Act, and the ambient air as a result of that, and the cost now being driven against retrofitting and new coal-burning designs to produce energy.

That is in part—not in total but in part—what has developed a willingness on the part of our country, I believe, to renew our nuclear option and possibly to renew it under a new design concept, under a passive reactor design concept that the Senator from New Mexico has talked about.

Passive reactor design means, simply, one that reacts on its own when certain conditions arise. The human factor doesn't necessarily have to be there to start throwing switches and making adjustments because those kinds of things happen automatically. We believe our engineering talent in this country is now capable of that kind of design development. In doing that design, we would couple with it an electrolysis process that would make the reactor itself so much more efficient that it would run at peak load at all times, as reactors should in performing best.

But power demand isn't always constant. When you can switch that load to development of hydrogen fuels, through the electrolysis process, and then convert it back to use within a power grid, you make for phenomenal efficiencies and the cost of production goes down dramatically.

In doing that, in bringing back to this country an abundant source of electrical energy and a reliable supply to our grid system—a system we are working to improve today through the development of regional transmission authorities and a variety of other things that tie us together—we found out a few years ago in the Pacific Northwest that it has certain liabilities. If the energy in the system itself in other parts of the grid isn't abundant, and it starts pulling power from us and forcing our power rates up, it can be a problem. Where it is produced with an abundance in the system and the system is fully interrelated and interconnected all can generally benefit.

As a result of bringing some of these new concepts on line, where we are actively subsidizing other areas of production, we thought it was reasonable to bring to the floor of the Senate a similar concept, to take some of the risk out of new design development for the commercial side, and to do so in a way that our country has always done—to use public resources to advance certain technological causes and, out of those causes and their development, to generate phenomenal consumer benefits.

There is no greater consumer benefit in this country today than reliable, high-quality electrical energy at reasonable prices. Our world runs on it. Our world's wealth depends on it. This country's workforce depends on it.

What we have brought to the floor in this Energy bill is not a hunt and a pick. It is not a political decision versus another political decision. That is not the case. It is not green versus nongreen. That is not the case.

What the chairman of the Energy Committee has said in this bill, and what the committee itself has said, is that all energy is good energy as long as it meets certain standards, and as long as it fits within our environmental context, we ought to promote it and we ought to advance it.

That is exactly what this bill does. As the Senator from New Mexico characterized it a few moments ago, we have enough credit in this bill to put windmills about anywhere they want to go, or are allowed to go, to produce energy.

Some would say that is great, we don't need anything else.

Oh, yes, we do. The reason we do is you can put a windmill everywhere you can in the air sheds that can produce wind energy, and you can only get up to about 2 percent of total demand. That is about it.

But we ought to do it because it is clean and it is renewable and it is the right thing to do. But what we are already finding out in my State of Idaho that has a couple of wind sheds that fit, if this bill passes, interest groups are stepping up and saying: Oh, I don't think we want that windmill there; that is a spike-tail grouse habitat; there are some Indian artifacts there and we certainly don't want them damaged. And we don't.

What I am suggesting is in these most desirable of wind sheds for windmills, there is going to be somebody stepping up and saying "not here." And they are right. They probably won't go there.

That is public land, by the way, not private land. On some private land, the same argument will occur. Simply, they don't want in their backyard a machine that goes whomp, whomp, whomp and produces electricity. Something about the sound disturbs their sleep. As a result, my guess is some city ordinance will soon suggest, "not in my backyard."

But there are some backyards where we can put wind machines and we will and we already have and we ought to promote it and we ought not to be selective, and we are subsidizing them by a tax credit. You bet we are.

We are going to pass that provision. That is the right and the appropriate thing to do.

We have subsidized in most instances, in one form or another, through a tax credit or through an easing of regulation or through the ability to site on Federal lands, energy projects, historically, because our country, our Government, this Senate for well over 100 years has said: The best thing we can do for this country to make it grow, to make it prosper, and to make it abundant to the working men and women of America is a reasonable and available energy supply in whatever form the marketplace takes.

We also know we can shape the market a bit by a subsidy, by a tax credit, and we also do that.

We are going to do some wind. We are going to do some solar in here. We hope we do clean coal technology. Certainly the coal-producing States of our country want to keep producing coal, and they should. We should use it, and we will.

There is a provision in here on which Senator BINGAMAN and I disagree a little; that is, on the relicensing of hydro. We think it ought to be relicensed and environmentally positive. When we can retrofit it and shape it, we ought to do so as we relicense it into the next century. But hydro produces a nice chunk of power in this country today. We are going to relicense over 200 facilities in the next decade. That represents about 15 million American homes and 30 million megawatts of power. Any reduction in that productive capability means we have to produce that power somewhere else.

Some of those old plants, when relicensed and retrofitted, may lose some of their productive capability in the licensing process. We ought to have new supplies coming on line.

Several years ago, this Senate became involved in a very serious debate over an issue that we call climate change. We became involved as a nation internationally in this debate because we thought it was the right thing to do. We knew our global environment was heating, or appeared to be heating, faster than it had in the past, and we didn't know why. Some argued it was the emission of greenhouse gases which created a greenhouse effect around our globe which was largely a product of the burning of hydrocarbons and that we ought to do something about it.

Many of us were very concerned that if we didn't have the right modeling and the right measurement and the right facts to make those decisions, we would shape public policy and head it in a direction that was not appropriate and would allocate billions of dollars of new resources that might put tens of thousands of people out of work if we did it wrong. At the same time, there has been and there remains a nagging concern as to the reality of this particular situation globally, environmentally. Or is it simply the natural characteristic of the changing world and evolving changing world?

We have known down through geologic time that this world has heated and cooled and heated and cooled. Is it the natural cycle? We didn't know that. But out of all of it, we generally grew to believe that the less emission into the atmosphere the better off we would be.

This bill embodies that general philosophy—that clean energy and clean fuels are better, that we ought to advance them, that we ought to subsidize them where necessary, and that we ought to plot them through the public policy which we debate here on the floor today. Out of all of that, we knew one thing: Energy generated by nuclear-fueled generating systems was clean with no emissions. It is the cleanest source in the country other than hydro with no emissions.

As a result of that, there was no question that the popularity of that consensus began to grow. Other nations around the world were using it. The senior Senator from New Mexico spoke of France and their use of it. Japan, a nation once very fearful of the atom, now builds almost a reactor a year coming on line to produce—what? Power for its citizens, power for its economy, and power for its workforce. We once led the world in that technology. But we fell dramatically behind over the last three decades because there was a public perception fueled by some and feared by some that the nuclear-generating facilities of our country were not safe. Yet they have this phenomenal history of safe operation.

Through the course of all of this, and as the facilities aged, as they were relicensed and retrofitted, guess what happened over the course of the last few years. As we spiked in our power demands at the peak of the economy in the late 1990s and as electrical prices went through the roof, the cost of operating reactors was stable; it was constant. They became the least cost producers of electricity of any generating capacity in the country other than existing hydro. The world began to react in a favorable way to that.

All of that became a part of the production of the legislation before us now—to once again get this great country back into the business of the research and development of new reactor systems that not only are in every way perceived to be safer and cleaner in the sense of waste production at end of the game, but would do something else for our country in a way that we think is the right direction; that is, the development of hydrogen to fuel the next generation of surface transportation and to start growing our economy into an age of hydrogen-fueled systems, fuel cells, generating electricity, turning the wheels of automobiles, trucks, and other forms of transportation; and, on a case-by-case basis, the potential of a fuel cell to light a home, to fuel and light a given industry by having one of those on location. We believe all of those things are possible.

What I hope is that the Senate will agree with us that it is now time to lead in all aspects of energy production in this country instead of nibbling around the edges selectively and politically determining what ought to be and what ought not to be because one individual thinks this way is better than another.

I have dealt with the energy issue all of my political life. While at one time I will honestly admit I was selective, I am no longer that. I support it all. I am voting for wind. I am voting for clean coal. I want to develop a responsible relicensing system for hydro. I am supporting nuclear development and nuclear growth. I am supporting oil production. Why? I don't want future generations of this country to be fuel-starved and victim to the politics of a region of the world which is unstable because this Senate didn't have the wisdom to produce when it could have and create incentives and maximum energy production for our country.

That is what this bill is about. The Senator from Oregon chooses to be selective for a moment in time. I wish he wouldn't be. I understand why he is. I think he is wrong.

Mr. WYDEN. Mr. President, will the Senator yield for a question?

Mr. CRAIG. I would be happy to yield in just a moment.

I think the Senator from Oregon is wrong on this issue. I think it is a form of selectivity as it relates to our willingness as a country to use public resources in the advancement of all forms of energy resources as the kind that is offered by the committee to, once a new reactor design is developed, allow for loan guarantees to guarantee up to about 8,400 megawatts of electrical development through nuclear reactor construction.

I would be happy to yield to my colleague from Oregon.

Mr. WYDEN. I thank my good friend for yielding. I listened patiently to him and to the chairman of the committee raising the concern that in some way the opponents of the subsidies are engaging in scare tactics, red herrings, and the like. This is not a red herring. This is a dollar and cents issue.

I was curious whether the distinguished senior Senator from Idaho was aware that the Congressional Budget Office "considers the risk of default on such a loan guarantee to be very high, well over 50 percent."

Is the distinguished senior Senator from Idaho aware of that? I would be curious about his reaction because to me—and as the Senator from New Mexico said—this is about risk. The Congressional Budget Office has given us an objective, nonpartisan assessment of risk here. They consider "the risk of default on such a loan guarantee to be very high, well over 50 percent"—coupled with the Congressional Research Service memo indicating the exposure is $16 billion. Is the distinguished Senator from Idaho aware of that? I would be curious what the distinguished Senator's reaction to that is.

Mr. CRAIG. Mr. President, I thank my colleague for bringing up that issue. There are red herrings. Maybe some of them are blue and some of them are green, as we debate these issues. I don't know what a red herring really is here.

I do know that when you sit a group of economists or accountants down and say, project backwards over the last 20 years or 30 years as it relates to the cost of developing nuclear reactors, and/or their failure—and out in the Pacific Northwest we had some that were funded and then brought down because the economy and the politics would not accept them—if you do that, you might get to a 50-percent risk factor.

If you project forward to a new concept design that is under a new Nuclear Regulatory Commission licensing process that meets the demand of the electrical systems, that is a cleaner process, that drives down the cost—and my colleague, the senior Senator from New Mexico talked about the new concepts in Taiwan; one of them may well be built here—my guess is they did not factor that in. Because those are all things you and I, as Senators, will insist upon and do over the next decade, and that when we do that, the risk factors come down dramatically.

But this is what the Senator from Oregon and I need to look at. You came to the Congress how many years ago?

Mr. WYDEN. We were both young; in 1980.

Mr. CRAIG. In 1980. In 1980, the United States was about 35-percent dependent on foreign hydrocarbons, foreign oil. Now, there were some folks out there saying: Boy, if we don't get busy here, we could someday be 40-percent dependent.

Well, they were right. We did not get busy. In fact, we increasingly restricted the ability to refine and the ability to discover and the ability to produce, and by 1984 or 1985, we were at 45 percent. And that kept going on.

What is the risk factor there? We know what the risk factor is. The risk factor is, we did not do anything and we are now over 50-percent dependent, and in some instances as high as 65 percent, give or take, dependent on foreign oil sources.

You see what has happened at the pump. I don't know what you or I were paying for gas in 1980 but it was well under $1 a gallon. Now we are paying $1.55, $1.60 a gallon for regular fuel. The average household is spending a great deal more on energy today than it did in 1980. We did not develop a policy. We did quite the opposite. We began to restrict the ability to produce, whether or not it was hydrocarbons.

We have not brought on line a nuclear reactor, fire-generating system for the purpose of electrical production in the last 10 or 12 years. One got started under construction, and, of course, as we know in the Pacific Northwest, we actually stopped construction on some.

Are there risks? You bet. There is no zero-sum game here. There isn't anything you or I could possibly legislate. But there is a reality; the reality is that energy prices in Oregon shot through the roof in the last 3 years and the energy prices in Idaho went up dramatically. The cost of living in the State of Oregon and the economy of the State of Oregon reeled under the hit, as is true of the State of Idaho. I am not, anymore, going to stand here and be selective on the production of and the future opportunity to produce energy for this country because I want to get your State's economy moving and my State's economy moving.

(Mr. CRAPO assumed the Chair.)

Mr. WYDEN. Will the Senator yield for yet another question?

Mr. CRAIG. I am happy to yield.

Mr. WYDEN. I thank my colleague.

Again, the Senator from Idaho has been critical of the Congressional Budget Office report, saying that perhaps they did not look forward; they just looked backward. I would urge my colleagues to look at the report because the report does, in fact, look to 2011 and the future, and that is what the Congressional Budget Office did make their judgment on, where they said there was a risk of default that was well over 50 percent.

But my question to my colleague is whether my colleague thinks it is relevant about who assumes risk with respect to energy production. Because he is absolutely right, there are no foolproof guarantees in life. There is no question there is risk. Here, however, I see the taxpayer being at risk. The taxpayer is on the hook for $16 billion.

I thought it was interesting that the distinguished chairman of the committee talked about the credits for production.

Well, the fact is, when you get a credit for production, the producer is largely at risk because in order to get the break, you have to produce something. There is no tax credit, I say to my colleagues, for failing to produce a successful wind venture. You get the credit if your wind venture is successful.

My understanding is that here, with the subsidy, the person who assumes the risk is the taxpayer, not the producer. I was wondering if the distinguished Senator from Idaho thinks it is relevant with respect to who takes the risk. This Senator does because the taxpayer is on the hook rather than those who produce. I am curious of the reaction of the distinguished Senator from Idaho.

Mr. CRAIG. I am pleased the Senator brought this issue forward because you and I live in an environment in the Pacific Northwest that was substantially subsidized by American taxpayers to produce a massive electrical system known as the Bonneville Power Administration—direct appropriations of hundreds of millions of dollars to build a hydro system in the Snake and Columbia watersheds and in other places. These were not loan guarantees. They were just outright expenditures to be paid back. They have been paid back over a long period of time, and we are continuing to pay them back.

So the American taxpayer, to our benefit, has always been on the hook in the Pacific Northwest for the production of energy. In fact, you and I worked to just get some borrowing capability for Bonneville to expand its transmission system—a big chunk of money. We fought for that, and we should have. Why? Because it will generally benefit the Pacific Northwest. It is not a loan guarantee. It is an outright appropriation to be paid back.

Mr. DOMENICI. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. DOMENICI. I would like to comment on what the distinguished Senator, Mr. WYDEN, just raised, and say to my good friend, the Congressional Budget Office is wrong almost every way it turns.

First, it uses forecast figures on plant costs of $2,300 per kilowatt. The right number is $1,250 per kilowatt. How do I know? There are two being built in Taiwan right now that General Electric designed—brand spanking new. They came to our office. I don't know if they had time to come and see you, I say to the Senator, but they brought with them their experts and told us those plants will cost not $2,300 per kilowatt but, rather, $1,250 per kilowatt. That is about half, as this Senator sees it.

Mr. CRAIG. Yes.

Mr. DOMENICI. So they are half wrong right up front in terms of their assessment.

Furthermore, the bill itself says that if this section that is being debated is ever used, the Secretary will evaluate the creditworthiness of any new project under this program. So they are already wrong by half on the cost.

Then I would ask, Does the Congressional Budget Office really believe the Secretary will approve a significant risk? If he approves a significant risk, he would be in violation—direct conflict—of the law that we are discussing that he would be acting on that the CBO assumes will cost this extraordinary amount and impose this extraordinary risk.

I thank the Senator for his comments and his responses. I am quite sure the Congressional Budget Office, as this Senator knows—I have only worked with it for the sum total of 26 years on all kinds of issues—I believe there is no subject they are more wrong on than their estimates of the cost of matters nuclear. First of all, they assume that everything that has gone wrong in the past is going to go wrong again, while the world is out there proving that such is not the case, while we are saying only under very limited circumstances would you ever use these sections to begin with, which would eliminate part of their reasoning, which would just leave the scene and would not even be applicable as they attempt to make the risk estimate.

I thank the Senator.

Mr. CRAIG. Mr. President, I thank the chairman of the full Energy Committee and the primary author of this legislation for making what are extremely important clarifying points in relation to the Wyden amendment that would strike this provision of subtitle (b) as it relates to the deployment of new nuclear plants.

In another life, I once studied real estate and had a real estate license. I know when you try to assess the value of a piece of property, you do what is called a comparable appraisal. You find other properties that are comparable in size, productive capability, if it is a house in square footage, in age, in all of those features. You say that in the marketplace, this house is worth about so much because the comparables, one that has recently sold that is like it or near like it, cost about this much.

When it comes to our ability to project the cost of a nuclear powerplant in construction in 2011, there are no U.S. comparables. We are talking about all kinds of new things. We are talking about a new design, a GEN-IV passive reactor design. What size are we talking about, 600-, 800-, 1,000-megawatt plant? Under what kind of regulatory authority? Has the license been developed and what are the peculiarities, the particulars, the specifications within the license? We don't know that. You cannot effectively project.

What you can do is exactly what this subtitle does. It gives the Secretary of Energy authority to examine, to make a determination based on fixed criteria that we have placed in the law to protect the public resource. We are going to make the assumption in 2011 that the Secretary of Energy and his or her staff are bright, talented, clear-thinking people who will have to operate under the law. The reason they will have to operate under the law? Because if this is a loan guarantee, it becomes a part of their budget, it becomes scored, and the Congress of the United States has to appropriate the money or at least offset it because it is a guarantee in the market.

That is how it works. I am not going to be here then, more than likely, and others of my colleagues will not. But we will have written into law the right kind of public policy to protect the citizens' resource, his or her tax money. So the ultimate question is, Does this portion of the title as it relates to nuclear energy fit for the future? Is it the way we get this industry started again, obviously dealing with the provision in the law that creates a liability shield as it relates to Price Anderson, as a new design concept that we think is the right design, the safer design, the cleaner design, the more efficient design, and the reality of a future energy source? And have we created the right incentive to move us into the production of electricity from nuclear-fueled powerplants of the future?

That is what this subtitle is all about. That is why it is important. I don't know that the detail of it has been written, or I should say read or understood specifically. It is very clear. It is very short. The requirements are particularly important. Let me read them:

Subsection (b), Requirements:

> Approved criteria for financial assistance shall include the creditworthiness of the project—

that is, the responsibility of the Secretary and his or her team to make those determinations—

> the extent to which financial assistance would encourage public-private partnerships and attract private sector investment, the likelihood that financial assistance would hasten commencement of the project, and any other criteria the Secretary deems necessary or appropriate.

That is a totally open-ended clause that says the Secretary can, in fact, develop more findings if necessary to protect the safety and the security of this kind of loan guarantee.

> The Secretary, under the confidentiality provision, shall protect the confidentiality of any information that is certified by the project developer to be commercially sensitive. The full faith and credit of all financial assistance provided by the Secretary under this subtitle shall be a guaranteed obligation of the United States backed by its full faith and credit.

That is fairly boilerplate language. What that says is very clear. If the Secretary makes that determination, that becomes a part of a decision that the Appropriations Committee and the Budget Committee in the Senate then deal with. This is not locking in the money. This is simply authorizing the ability of the Secretary in the future to move in a direction that the Congress can make a decision on. That is what this provision is all about.

I believe, we believe, and that is why the Energy Committee in a bipartisan way brought this to the floor for the whole Senate's consideration, because we think it is the right thing to do. It is the right thing to look forward, not just a year from now or 2 but 30 and 40 and 50 years from now and say that we have developed a public policy that will produce the kind of energy that a growing, expanding U.S. economy needs, that it is of high quality, and that it fuels our factories, lights our homes, cools our homes, and in the new age of technology it keeps the Internet humming, by then probably such a wireless communication system that it keeps, if you will, cyberspace vibrating.

A couple of years ago I had the opportunity to visit China, a huge nation, a nation that is expanding by leaps and bounds, a nation that is pushing all sides of development and technology. My wife and I had the opportunity to stay in a beautiful hotel in Shanghai, a state-of-the-art hotel. In this city of Washington, DC, it would probably be called at least a four-star hotel, absolutely a marvelous facility. When we got to our room, the finest of facilities, there were all kinds of places to plug in your computer. It was wired for the state of the art. But it had a problem. The power kept going out. The lights kept blinking. The air-conditioning kept shutting off and turning on.

The problem that beautiful, new, state-of-the-art hotel had that made it nearly impossible to plug your computer in and go online and, with your e-mail, talk to the United States is that China doesn't have a power grid.

China doesn't have adequate electrical power. China has developed its electrical resources on a city-by-city, county-by-county basis. They are now striving ahead at a phenomenal cost to create a national power grid to tie themselves together because they know that to compete with us, to put their people to work, and to hopefully some day generate a lifestyle comparable to ours, and an economy comparable to ours, they have to have a power system that is reliable, stable, productive, and that is connected.

No matter how beautiful the building, no matter how high-tech the facility, if it is not turned on, if it is not wired in, if it is not lit up, it doesn't work. Boy, have we learned that in this country. California has learned that in the last couple of years.

If all goes well, I am going to be in the heart of the Silicon Valley on Saturday. I will tell you what the conversation is going to be about with some of the high-tech producers down there: Is the Energy bill going to pass? Are you going to get us back into the business of producing energy? We are large consumers of it and we need a high-quality, stable supply of energy that doesn't blink, shut off, or put our production at risk. If you are building chips in a high-tech factory today, known as a FAB, and the power blinks, you lose the whole production. You may lose millions of dollars in a blink of the power connection. So high-quality, stable power is extremely valuable, and if it is not priced right, if it is not competitive, and somewhere else in the world they can provide that high-quality power that is priced differently and in the competitive market, the great tragedy of our economy today in a world environment is that the chips will go elsewhere.

That is one of many examples that can be used. That is why, finally, when President George W. Bush was elected and came to town, his first priority, among so many, was to assign the Vice President to assemble as many bright thinkers in the energy field as he could and to produce for us, the Congress, a challenge—a national energy policy and a list of criteria that we ought to develop in the form of public policy for this country. There were well over a hundred points in that proposal. Two-thirds of them have already been implemented by rule and regulation by the Secretary of Energy and other agencies of our Government to get this country back on line and producing energy. But about 30 percent of them, or 30-plus, are not. They have to be legislated. It requires new public policy to fully implement what our President envisions as a national priority, what America envisions as a national priority, and what I trust the Senate of the United States clearly understands to be a national priority.

We tried mightily in the last year or so. The politics, for a variety of reasons, would not allow us to get there. There are factors not in this bill today that were in the bill of a year ago that are highly controversial. There are some changes in this bill. But it was crafted in the committee of authorization. It was voted on piece by piece. It does have a new bipartisan base of support, and we believe it is the kind of energy policy on which we can work out our differences with the House and put on the President's desk and two decades from now look back and say we did the right thing for our country, the right thing for young people today who will be in that labor force 10, 15 years from now, who will demand and require an abundant supply of high-quality energy that is environmentally sound and at a reasonable price for their homes, for their recreation, but, most importantly, for their work site, for the job they are going to seek. That is why this legislation is so important.

We may differ and we are going to have more amendments to come, but I hope our leader and the minority leader recognize the high priority we have here and give us the time to debate this thoroughly and responsibly and deal with all of the amendments that are necessary to get us to that point where we can vote up or down and let the American people clearly understand that the Senate of the United States does support a national energy policy, and that the one we have, in the form of S. 14, is a quantum leap forward into America's future of an abundant energy and a robust economy.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### VOTE ON AMENDMENT NO. 853

The PRESIDING OFFICER. Under the previous unanimous consent order, the hour of 3:30 p.m. having arrived, the question is on agreeing to the Schumer amendment No. 853.

Mr. CRAIG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 853. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote "yea".

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 69, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—26

Akaka
Allen
Bennett
Bingaman
Boxer
Clinton
Collins
Corzine
Enzi
Feinstein
Gregg
Hollings
Kennedy
Kyl
Lautenberg
Leahy
McCain
Murray
Reed
Santorum
Schumer
Specter
Sununu
Thomas
Warner
Wyden

NAYS—69

Alexander
Allard
Baucus
Bayh
Biden
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin

Edwards
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kerry
Kohl
Landrieu
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Sarbanes
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Voinovich

NOT VOTING—5

Ensign
Graham (FL)
Inouye
Lieberman
Murkowski

The amendment (No. 853) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 856

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I have cleared this with the Republican manager of the bill. I ask unanimous consent that the Senator from California have 90 seconds to speak on the next amendment and the opposition have 90 seconds, an extra 30 seconds on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senator from California.

Mrs. BOXER. Mr. President, the Senate is still not in order. It is a complicated amendment. I would like to be able to explain it.

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from California.

Mrs. BOXER. Mr. President, in 90 seconds I want to tell you why this amendment is so important. I offer it on behalf of myself and Senator DURBIN, a strong supporter of ethanol, Senators LEAHY, FEINSTEIN, CLINTON, JEFFORDS, and LAUTENBERG.

My amendment simply removes the safe harbor provision in the bill, which treats ethanol like no other fuel, giving consumers and communities no legal recourse if it turns out that the water is polluted or the air is polluted or people get sick from this increased amount of ethanol. Believe me, I hope ethanol is totally safe. But no one is sure. Just read the 1999 blue ribbon EPA panel. They raise some serious questions. Of course, the ethanol manufacturers say ethanol is 100 percent completely safe. Then I ask why they demand this safe harbor provision. Look at what happened to the last gasoline additive we promoted, MTBE. This is the cost to our people because of MTBE pollution: $29 billion. My friends, if we had had the same safe harbor for MTBE as some of us are seeking for ethanol, this would not have fallen completely on your taxpayers and your communities. I call this an unfunded mandate.

People who oppose this say they only are putting forward a very narrow safe harbor. They say everyone will have a lot of ways to go. But the truth is that defective product liability is the only remedy. The courts have said no to negligence and no to nuisance. The only claim they have is defective product liability.

All we do is say treat ethanol as we do any other additive.

I urge an aye vote.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, what we are doing here is not giving our stamp of approval on ethanol. We are not mandating. The vast majority of Members here feel more strongly about this than I do.

I know the Senator from California would not deliberately mislead you. What she is saying is just flat wrong.

I keep hearing it over and over again: If a safe harbor provision is enacted into law, No. 1, citizens will not be able to take refiners to court under our court system; and, No. 2, any possible ethanol contamination that happens in the future wouldn't get cleaned up.

It just isn't true. Even with the enactment of the safe harbor provisions, if a plaintiff makes his case—that is a very significant part of this—there are just a few court theories that could be used in environmental cases: Trespass, not affected by safe harbor; nuisance, not affected by safe harbor; negligence, not affected by safe harbor; breach of implied warrant, not affected by safe harbor; breach of express warranty, not affected by safe harbor.

As far as cleanups are concerned, if there were a spill, here are some examples of environmental laws that are on the books right now that would take care of the problem and are not affected by safe harbor: No. 1, Resource Conservation Recovery; No. 2, Clean Water Act; No. 3, Oil Pollution Act; No. 4, Superfund; and it goes on and on.

Neither of these assertions is true. They would be able to have their day in court, and at the same time we have adequate laws in the court system and environmental laws to accommodate any cleanup that would take place.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment. The yeas and nays were previously ordered on the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote "Yea".

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—38

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Corzine
Dayton
Dodd
Durbin
Feingold
Feinstein
Gregg
Hollings
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
Mikulski
Murray
Nelson (FL)
Reed
Reid
Sarbanes
Schumer
Smith
Snowe
Specter
Sununu
Warner
Wyden

NAYS—57

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
DeWine
Dole
Domenici
Dorgan
Edwards
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Johnson
Kohl
Kyl
Landrieu
Lincoln
Lott
Lugar
McConnell
Miller
Nelson (NE)
Nickles
Pryor
Roberts
Rockefeller
Santorum
Sessions
Shelby
Stabenow
Stevens
Talent
Thomas
Voinovich

NOT VOTING—5

Ensign
Graham (FL)
Inouye
Lieberman
Murkowski

The amendment (No. 856) was rejected.

Mr. DOMENICI. Mr. President, how long did that last vote take?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. DOMENICI. I thank the Chair.

### AMENDMENT NO. 854

The PRESIDING OFFICER. There are now 2 minutes evenly divided before a vote on the second Boxer amendment.

The Senator from California.

Mrs. BOXER. Mr. President, I am pleased to say that the Boxer-Lugar-Cantwell amendment, which encourages production of agricultural residue ethanol, is going to be accepted by a voice vote with a promise to fight for it in conference.

Our amendment says that if you produce ethanol from the residue of agricultural crops, you get a special incentive. So if your State grows corn, rice, sugar, apples, wheat, oats, barley, and other crops high in fructose, this amendment would help your farmers, your rural communities, and your States meet the ethanol mandate. Again, it simply gives an incentive to produce ethanol from agricultural residue.

I am grateful to my colleagues on both sides of the aisle for accepting the amendment. I am happy to take it by voice vote.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 854) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, I rise to support the amendment offered by the majority and minority leaders, Mr. FRIST and Mr. DASCHLE, on renewable motor fuels. Others may support this amendment for different reasons, but I support the amendment because of its potential to increase motor fuels supply, especially in the Federal reformulated fuels, or RFG, program. This amendment includes provisions that I, and my Wisconsin House colleagues, Congressman Paul Ryan and Mark Green, have long advocated to address supply shortages that the Midwest has experienced in recent years.

This amendment makes significant changes to the Clean Air Act motor fuels programs that will increase the supply of cleaner fuels nationwide. It bans methyl tertiary butyl ether, or MTBE, which is no longer used in my home State of Wisconsin. MTBE, as others will likely discuss in detail, is a reformulated gasoline additive that has contaminated drinking water supplies nationwide.

The amendment also contains a mandate to increase the supply of ethanol to 5 billion barrels by 2012 both to replace MTBE as an oxygenate in reformulated gasoline and to reduce our dependence upon foreign oil. It also would allow Governors the ability to increase reformulated gasoline supply by opting their entire State into the reformulated fuels program, and increasing the market demand for RFG in their State.

The amendment also has a provision to increase the amount of reformulated gasoline by reducing the number of boutique fuel blends. The bill reduces the number of Federal reformulated fuel blends by creating a single set of standards. This would broaden the supply from which Wisconsin could draw in times of tight supply.

If enacted, this amendment would improve fungibility of RFG nationwide, by standardizing volatile organic compound, VOC, reduction requirements. In practice, when combined with the renewable fuels mandate, this would enable States like Wisconsin that use Federal RFG to draw on supplies of Federal RFG from other areas, such as St. Louis and Detroit, if necessary. The ability to rely on other sources of RFG is especially important when sudden supply shortages arise due to unexpected events such as refinery fires or breakdowns which the Midwest has also experienced in recent years.

This amendment is important because, at present, southeastern Wisconsin cannot draw on RFG from other areas because the Chicago/Wisconsin RFG formula is not used elsewhere in the country. This amendment would help address this boutique fuel problem by bringing other areas that use Federal RFG in line and standardizing VOC reduction requirements and requirements for the production of renewable fuels such as ethanol—the Chicago/Wisconsin area is the only part of the country that uses solely ethanol in its blend of RFG.

As the use of ethanol blended RFG becomes more widespread, supply problems will become easier to address. This benefits Wisconsin drivers because easing supply shortages will help put an end to severe price spikes, and drivers nationwide by continuing to supply them with RFG that meets Federal Clean Air Act standards in light of State bans on MTBE.

So far, Mr. President, in light of military conflict in the Middle East, we have been lucky that we have avoided significant increases in gas prices so far this year. But, for folks in Wisconsin, the thought of another approaching summer unfortunately dredges up memories of the high gas prices that have plagued our families in recent years. The Senate must take preventative action today to make sure gas prices stay under control, and our this amendment will help do that. By scrapping the multiple Federal fuel blend requirements and replacing them with a more simplified, streamlined system, this measure will work to make gas supplies more stable and keep prices at the pump within reason. This is a good amendment, and it deserves the support of the Senate.

Mrs. CLINTON. Mr. President, I would like to take a few minutes to address the Frist-Daschle amendment and the Energy bill in general.

Now, do I think there is a way to soundly and responsibly increase our use of alternative fuels? Sure. Do I think that we should increase our use of alternative fuels? You bet. I am just not convinced that the provision we are considering today is the best way to make that happen. And I am not convinced that it is the best way to make that happen for a State such as New York.

I think that an Energy bill has the potential to be a win for us not just on energy and the environment but also on economic development and job creation. An Energy bill could truly be an engine for developing new technologies, manufacturing new products, building new facilities, and with all of that—creating new jobs, while at the same time increasing our energy security and improving the quality of our environment.

I commend my colleagues Senators DOMENICI and BINGAMAN, for their efforts in bringing this bill to the floor. They have worked arduously to tackle many complicated and controversial issues.

But with all due respect to my colleagues, in many cases, I am afraid that this bill unfortunately still falls far short—in terms of energy policy, environmental policy, and economic policy. We need a comprehensive and balanced energy policy that strengthens our energy security, safeguards consumers, protects the environment, spurs economic development, and create jobs.

Yet this bill does not truly harness our potential for greater energy efficiency and for newer, cleaner sources of energy. It too often looks to the past to try to solve the energy challenges of the present and turns a blind eye to all that our energy future could be.

For example, it looks to possible oil and gas resources on the Outer Continental Shelf—areas of the ocean that have been under drilling moratoria for years in an effort to preserve precious ocean and coastal resources and the coastal tourism economies of a number of our States.

It also apparently requires an inventory of oil and gas resources on Federal lands, as well as an inventory of restrictions or impediments to development of those resources. Now my colleagues in New York and I have been fighting for years to protect the Finger Lakes National Forest from drilling, and so I have a difficult time with provisions like this.

The bill permanently extends the authority of the Nuclear Regulatory Commission to indemnify nuclear powerplants against liability for nuclear accidents under the Price-Anderson Act, and provides other substantial subsidies to the nuclear power industry. Yet the bill does not do enough to increase the diversity of our energy supply, which would also create new business and economic growth opportunities.

I am pleased that the bill contains provisions related to the increased use of fuel cells and hydrogen fuel because this is a key example of how we can be working to increase our energy security, while also improving the environment and creating jobs. And it is places like Upstate New York, where we have many companies and universities doing exciting work in this area, which will emerge as world leaders in his technology. That is why I have joined with Senator DORGAN, Senator LIEBERMAN, and others in supporting legislation that would go even further than the bill we are currently debating in supporting fuel cells. And that is in part why, when we debated the renewable fuel provisions in the Senate Environmental and Public Works Committee, Senator BOXER and I fought to include provisions that would provide Federal support for the construction of waste-to-ethanol plants and other cellulosic biomass ethanol production facilities.

Because these projects would help States such as ours produce more renewable fuel—produce fuel from waste products, which would therefore also help the environment—and at the same time produce more jobs as well.

We are grateful for the committee's support for our amendments, and we are pleased that these provisions remain in the amendment that is before us today.

But many of my colleagues and I still have reservations with respect to this amendment. That is why some have pushed to have their States exempted entirely from the renewable fuels requirements in this amendment, while many others have voted to require States to proactively opt-in to the renewable fuels program.

Despite the many outstanding questions regarding the renewable fuels requirements in this amendment—whether it is transportation or storage or other infrastructure issues, market concentration concerns, impacts on gasoline prices for consumers at the pump, air quality impacts, you name it—there is a seeming unwillingness to consider even the slightest changes to the provisions before us—at least for some States.

While certain States are exempted all together, other States that have special considerations, such as my State of New York which has a State ban of MTBE that goes into effect in just a few months, which has certain air quality issues, and very little existing ability to produce significant quantities of renewable fuel—our special needs go unmet.

With all of the concerns I have regarding the amendment before us, I have even more concerns about the provisions passed by the House, which I believe in many respects are greatly inferior to the provisions we are considering here today. So that gives me even further pause in taking up this issue.

For example, whereas the amendment before us contains a welcome and long-awaited Federal phase-out of the use of MTBE over the next 4 years, the House bill does not phase out MTBE at all. Even more disturbing, it includes a liability safe harbor for MTBE.

Now, there is no question that the time has come to take action at the Federal level on MTBE. New York is on the front lines of this battle. We have banned MTBE use in the State as of January 1, 2004.

There are a number of other States that have taken action to phase out or limit the use of MTBE as well, including: California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Washington. Now, those are the States that have actually passed State laws. But here are a number of other States that have tried to pass laws and are still trying to pass laws to phase out or ban MTBE.

In the absence of any Federal action, States have been forced to take action on their own to limit MTBE use in motor vehicle fuel because it has wreaked havoc on the environment—in particular, on drinking water sources. Unfortunately, those State actions are now being challenged in court.

Yet the States are acting for good reason. New York has experienced first-hand the impact of MTBE contamination on our drinking water—particularly on Long Island.

According to testimony before the Senate Environment and Public Works Committee offered recently by Mr. Paul Granger, superintendent of the Plainview Water District on Long Island, "New York has identified some 1970 MTBE spill sites with 430 of them on Long Island alone."

That is why New York, once again out in front on the issue of MTBE, has probably the toughest standard in the Nation for the amount of MTBE allowed in surface and ground water—10 parts per billion.

But according to Mr. Granger's testimony, "At least 21 states have reported well closures due to MTBE groundwater contamination." It is estimated that more than 500 public drinking water wells and 45,000 private wells throughout the country are contaminated by MTBE.

According to testimony recently offered by the American Lung Association before the Environment and Public Works Committee, millions of Americans are being served by drinking water sources contaminated by MTBE.

As we are far too familiar now, the cost of cleaning up this MTBE contamination are significant. According to the testimony of Mr. Craig Perkins, director of Environment and Public Works for the city of Santa Monica, CA, "Current estimates for the total cost of nationwide MTBE clean-up are $30 billion and counting." That is why we have lawsuits pending in New York regarding MTBE contamination of ground water, because these communities, these water suppliers, and ultimately their customers, cannot meet the financial burden of these cleanups.

So while having clean air to breathe is important, so is having clean water to drink. We should not have to trade one for the other.

Phasing out the use of MTBE as a fuel additive is the right thing to do from a drinking water perspective, from an overall environmental and public health perspective, and from a fuels perspective. That is why such a phase-out of MTBE was recommended over 3 years ago by the EPA Blue Ribbon Panel on Oxygenates in Gasoline.

The State-by-State approach to MTBE that we are currently operating under does not work. It does not work for the markets, the refiners, or the distributors to have this patchwork of States that do or do not allow the addition of MTBE to gasoline.

I am very pleased that the Frist-Daschle amendment includes such a phase-out but I am concerned about other provisions of this amendment pertaining to renewable fuels, including the safe harbor provisions. I am deeply concerned that the House bill does not include a phase-out of MTBE but does provide a liability safe harbor for MTBE.

The reality is that we can phase out MTBE and repeal the existing 2 percent oxygenate requirement under the Clean Air Act while still ensuring that we meet current clean air standards. And I support legislation that will do these three things.

After banning MTBE and removing the oxygenate requirement, there would still be an increase in the use of ethanol in this country—with or without the mandate we are contemplating here today.

Mr. VOINOVICH. Mr. President, I rise today in support of Senate amendment 850, an amendment to add a renewable fuels package to the energy bill.

This language establishes a nationwide renewable fuels standard of 5 billion gallons by 2012, repeals the Clean Air Act's oxygenate requirement for reformulated gasoline and phases down the use of MTBE over 4 years.

This language has strong bipartisan support and is the result of long negotiations between the Renewable Fuels Association, the National Corn Growers Association, the Farm Bureau Federation, the American Petroleum Institute, the Northeast states for Coordinated Air Use Management, NESCAUM, and the American Lung Association.

Passage of this ethanol language will protect our national security, economy, and environment.

The amendment that the majority leader has introduced—a compromise that will triple the amount of domestically-produced ethanol used in America—is one essential tool in reducing our dependence on imported oil.

President Bush has stated repeatedly that energy security is a cornerstone for national security. I agree. It is crucial that we become less dependent on foreign sources of oil and look more to domestic sources to meet our energy needs. Ethanol is an excellent domestic source—it is a clean burning, home-grown renewable fuel that we can rely on for generations to come.

Ethanol is also good for our Nation's economy. Tripling the use of renewable fuels over the next decade will:

Reduce our National Trade Deficit by more than $34 billion;

Increase U.S. GDP by $156 billion by 2012;

Create more than 214,000 new jobs;

Expand household income by an additional $51.7 billion;

Save taxpayers $3 billion annually in reduced government subsidies due to the creation of new markets for corn.

The benefits for the farm economy are even more pronounced. Ohio is 6th in the Nation in terms of corn production and is among the highest in the nation in putting ethanol into gas tanks, over 40 percent of all gasoline sold in Ohio contains ethanol. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State:

Currently, ethanol production provides 192,000 jobs and $4.5 billion to net farm income nationwide;

Passage of this amendment will increase net farm income by nearly $6 billion annually;

Passage of this amendment will create $5.3 billion of new investment in renewable fuel production capacity.

Phasing out MTBE on a national basis will be good for our fuel supply. Because refiners are under tremendous strain from having to make several different gasoline blends to meet various State clean air requirements—and no new refineries have been built in the last 25 years—the effects of various State responses to the threat of MTBE contamination—including bans and phase-outs on different schedules—will add a significant burden to existing refineries. The MTBE phase-out provisions in this package will ensure that refiners will have less stress on their system and that gasoline will be more fungible nationwide.

Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health.

Use of ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent;

Ethanol also reduces emissions of particulates by 40 percent;

Use of ethanol RFG helped move Chicago into attainment of the federal ozone standard, the only RFG area to see such improvement;

In 2002, ethanol use in the United States reduced greenhouse gas emissions by 4.3 million tons—the equivalent of removing more than 630,000 vehicles from the road.

Our farmers can meet the ethanol standard. For 2003, the ethanol industry is on pace to produce more than 2.7 billion gallons. The amount of ethanol required under the FRS begins at 2.6 billion gallons in 2005. Adequate ethanol supply is simply not an issue.

Currently, 73 ethanol plants nationwide have the capacity to produce over 2.9 billion gallons annually. Further, there are ten ethanol plants under construction, which when completed will bring the total capacity to more than 3.3 billion gallons.

California has been cited as a major problem area; however, all but two small refiners have already transitioned from MTBE into ethanol. California will use close to 700 million gallons of ethanol in 2003 after consuming roughly 100 million gallons last year. The California Energy Commission has concluded the transition to ethanol "is progressing without any major problems." The U.S. Energy Information Administration found the transition went "remarkably well."

Individual States are banning the use of MTBE, but they cannot change the federal RFG oxygen content requirement. The collision of these two elements under current law will likely lead to higher costs.

Under current law, California's required ethanol use in 2005 would be 895 million gallons. Under this amendment, fuel providers supplying California will be required to use far less ethanol in 2005—291 million gallons. And more importantly, they will benefit from the bill's credit banking and trading provisions.

With the State MTBE ban set for January 2004, New York faces a similar situation. Under the status quo, fuel providers will be required to use 197 million gallons of ethanol in New York in 2005. However, if this amendment is enacted, refiners, blenders and importers would be required to use or purchase credits for even less—111 million gallons of ethanol in 2005.

A study conducted by Mathpro, a prominent economic analysis firm, found that, compared to a situation where States are banning MTBE and the federal RFG oxygen content requirement is left in place, this amendment will lower the average gasoline production cost: by about two-tenths of a cent per gallon.

In addition, this language provide safeguards. In the event that the RFS would severely harm the economy or the environment or would lead to potential supply and distribution problems, the RFS requirement could be reduced or eliminated.

Ethanol is already blended from Alaska to Florida and from California to New York. Ethanol is already transported via barge, railcar, and ocean-going vessel to markets throughout the country. The U.S. Department of Energy studied the feasibility of a 5 billion gallon per year national ethanol market and found that "no major infrastructure barriers exist" and that needed investments on an amortized, per-gallon basis are "modest" and "present no major obstacle."

Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment of the ethanol program on the overall health to the nation's economy. Recently, the USDA stated the ethanol program would decrease farm program payments by $3 billion per year. In its analysis of this amendment, CBO stated the provision would reduce direct spending by $2 billion during 2005–2013.

The RFS agreement includes strong anti-backsliding provisions that prohibit refiners from producing gasoline that increases emissions once the oxygenate requirement is removed. A Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in any area of the state.

The fuels agreement would benefit the environment in a number of ways:

reduces tailpipe emissions of carbon monoxide, VOCs, and fine particulates,

phases down MTBE over 4 years to address groundwater contamination, and since ethanol biodegrades quickly, it will not have the same problem,

provides for one grade of summertime Federal RFG, which is more stringent,

increases the benefits from the Federal RFG program on air toxic reductions,

provides states in the Ozone Transport Region and enhanced opportunity to participate in the RFG program because of unique air quality problems,

includes provisions that require EPA to conduct a study on the effects on public health, air quality, and water resources of increased use of potential MTBE substitutes, including ethanol.

The use of ethanol-blended fuels also reduces so-called greenhouse gas emissions by 12–19 percent compared with conventional gasoline, according to Argonne National Laboratory. In fact, Argonne states ethanol use last year in the U.S. reduced the so-called greenhouse gas emissions by approximately 4.3 million tons, equivalent to removing the annual emissions of more than 636,000 cars.

I also want to point out that the California Environmental Policy Council recently gave ethanol a clean bill of health and approved its use as a replacement for MTBE in California gasoline.

A similar provision has already passed the House of Representatives this year. Virtually the same agreement passed the Senate in April 2002 with 69 votes.

The fuels agreement is supported by the American Petroleum Institute; the Renewable Fuels Association; the Northeast States for Coordinated Air Use Management (NESCAUM); U.S. Chamber of Commerce; US Action; the Union of Concerned Scientists; the Environmental and Energy Studies Institute; the Governor's Ethanol Coalition; General Motors; the Governors of California and New York; and all of the major agricultural organizations in the United States.

It is time to pass an ethanol bill, and I urge my colleagues to vote yes for

America's farmers and this amendment.

Mr. INHOFE. Mr. President, it is important that Congress make available all possible options for refiners to ensure compliance with the renewable fuels standard and decrease chances for gasoline price and supply volatility. One such option for meeting the renewable fuels standard that has shown promise is ethyl tertiary butyl ether ETBE.

ETBE is a High-octane, low-vapor pressure, gasoline-blending component produced from a combination of ethanol and butane. Because both of these raw materials are produced in abundance domestically, ETBE will help expand US gasoline supplies, moderating possible gasoline price volatility.

ETBE is fully fungible with gasoline. This allows ETBE to be blended into gasoline at any point in the gasoline logistical chain and transported in gasoline pipelines to regions of the country where it is more costly to transport and blend ethanol into gasoline. Moreover, ETBE does not have a negative impact on gasoline vapor pressure, making it easier and more cost-effective to blend ETBE into gasoline—especially during the summertime ozone control season when gasoline vapor pressure is restricted.

ETBE reduces more gasoline evaporative and tailpipe emissions, lowers air toxics and carbon monoxide, and provides 20-percent more carbon dioxide emission reduction than other gasoline-blending components.

ETBE is 75 percent less water soluble than MTBE. This means use of ETBE substantially reduces the risks to ground water resources should gasoline leak from an underground storage tank. ETBE also has other physical properties which make it migrate slower and shorter distances—and easier to remediate—should a gasoline spill or leak occur.

I support the development of ETBE because of the benefits it provides for cleaner air, enhanced gasoline supply, and the ability to transport the fuel in the current infrastructure. Congress, in enacting a RFS, should not do anything to preclude its use. The marketplace should be allowed to determine how it will meet the requirements of the RFS.

### VOTE ON AMENDMENT NO. 850

The PRESIDING OFFICER. The question is on agreeing to amendment No. 850 as amended. There are to be 2 minutes evenly divided on the amendment.

Mr. REID. Mr. President, we yield back our time.

Mr. DOMENICI. Yes.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote "no".

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Hawaii (Mr.INOUYE) are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—68

Akaka
Alexander
Baucus
Bayh
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Feingold
Fitzgerald
Frist
Grassley
Hagel
Harkin
Hatch
Inhofe
Jeffords
Johnson
Kerry
Kohl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Sarbanes
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Voinovich

NAYS—28

Allard
Allen
Bennett
Boxer
Clinton
Cornyn
Corzine
Enzi
Feinstein
Graham (SC)
Gregg
Hollings
Hutchison
Kennedy
Kyl
Lautenberg
Leahy
McCain
Nickles
Reed
Santorum
Schumer
Sessions
Specter
Sununu
Thomas
Warner
Wyden

NOT VOTING—4

Ensign
Graham (FL)
Inouye
Murkowski

The amendment (No. 850) was agreed to.

The PRESIDING OFFICER. The Senator from Georgia.

### CHANGE OF VOTE

Mr. CHAMBLISS. Mr. President, on rollcall vote No. 209, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

(The foregoing tally has been changed to reflect the above order.)

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### UNANIMOUS CONSENT AGREEMENT—H.R. 1308

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 52, H.R. 1308; that immediately upon the reporting of the bill, Senator GRASSLEY be recognized to offer a substitute amendment on behalf of himself, Senators LINCOLN, SNOWE, BAUCUS, and VOINOVICH; provided further that there be 30 minutes for debate equally divided between Senators GRASSLEY and BAUCUS or their designees prior to a vote in relation to the amendment, and that no other amendments be in order; provided further that if the amendment is agreed to, the bill be read a third time, and the Senate proceed to a vote on final passage of the bill as amended.

Further, I ask that if the amendment is not agreed to, then H.R. 1308 be placed back on the calendar and that no points of order be waived by this agreement. I further ask consent that following that vote, the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 3 to 2.

Finally, I ask unanimous consent that following passage of the bill, the amendment to the title be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Mr. President, for the benefit of my colleagues, we will have further announcements later in this evening. We would expect to have a final rollcall vote for the week approximately 30 or 40 minutes from now. Although we will have no more rollcall votes after that, we will stay and be available to debate amendments tonight, and we will be in session tomorrow. We expect not to have rollcall votes tomorrow. We will have further announcements later tonight with regard to the schedule tomorrow, as well as Monday.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, first let me compliment the distinguished majority leader for the effort he has made to bring us to this point. Were it not for his effort, we would not have accomplished what we have with this unanimous consent agreement. I appreciate his efforts.

Let me also single out in particular the distinguished Senator from Arkansas. Without her persistence and her effort, now weeks long, we would not be here. She has spoken out with courage and conviction and empathy on behalf of 12 million children, 8 million families who otherwise would be left out of tax relief. The argument that she has made from the beginning has been without this legislation those millions of children and those working families would get no tax relief on July 1. The passage of this legislation today will accommodate that concern, that need.

This will give us an opportunity to send the recommendation to the House.

It will send a clear message to working families that we are serious about providing the kind of tax relief that is so necessary for these families if we are going to provide it to others; that it will be available. The refundable child credit assistance can be made available in time for tax relief provided to others as well.

I commend the Senator. I commend the majority leader. I thank my colleagues for this agreement.

I yield the floor.

Mr. DOMENICI. I ask the majority leader, would it be appropriate to dispose of the pending LIHEAP amendment to clear the record for the evening in spite of the unanimous consent request?

Mr. DASCHLE. Mr. President, I assume it has been cleared by the distinguished leader. I have no objection.

Mr. FRIST. We will proceed with that. It makes the most efficient use of everyone's time.

Mr. DOMENICI. We have a Senator who still wants to speak on the pending bill. I assume after the time just provided has expired, we will be back for the distinguished Senator from Colorado to speak to an amendment; is that correct?

Mr. FRIST. Yes.

### AMENDMENT NO. 841 WITHDRAWN

Mr. DOMENICI. For the record, under the bill, I withdraw amendment No. 841.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 841) was withdrawn.

### AMENDMENT NO. 860 TO AMENDMENT NO. 840

Mr. DOMENICI. I send a new second-degree amendment to the desk on behalf of Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BINGAMAN, proposes an amendment numbered 860 to amendment No. 840.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reauthorize LIHEAP, Weatherization assistance, and State Energy Programs)

In lieu of the matter proposed to be inserted, insert the following:

### TITLE XII—STATE ENERGY PROGRAMS

**SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.**

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "each of fiscal years 2002 through 2004" and inserting "fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006".

**SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.**

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking "125" and inserting "150", and

(1) in paragraph (7)(C), by striking "125" and inserting "150".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting ", $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006.".

**SEC. 1203. STATE ENERGY PLANS.**

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

### STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and inserting ", $100,000,000 for each of fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006.".

### LIHEAP

Ms. CANTWELL. Mr. President, I rise to enter into a colloquy with the distinguished Chairman and Ranking Member of the Health, Education, Labor and Pensions Committee. I am pleased, colleagues, that we have been able to reach consensus on the need to include in this bill an increase in the authorization level for the Low-Income Home Energy Assistance (LIHEAP) program from $2 billion to $3.4 billion. With power costs on the rise around this nation, it is imperative that the Senate act now to respond to the needs of the 85 percent of eligible families that today do not receive the help they so desperately need, due to the perennially under-funded nature of the LIHEAP program.

There is another issue relevant to the LIHEAP program, however, that I hope the Senate will soon consider. I believe that we must address the manner in which the Department of Health and Human Services—and, of course, the Office of Management and Budget—have traditionally administered the "contingency" portion of the LIHEAP program. While the bulk of LIHEAP dollars are distributed to states via block grants and in accordance with a statutory formula, Congress has also authorized—and appropriated funds to—a contingency fund, designed to "meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency." This money is not released according to formula—but solely at the discretion of the HHS Secretary.

Unfortunately, recent history suggests that there are problems with the way the "contingency" portion of LIHEAP is administered. In essence, there seem to be widely varying eligibility rules applied to the release of these contingency funds—leading to instances in which HHS has overlooked very real energy emergencies, including the recent power crisis in my home state of Washington.

I believe that clear rules for the release of these dollars will ensure that, in the unfortunate event of an energy emergency, low-income families will receive much-needed assistance in keeping the lights and the heat turned on—which is precisely what Congress intends when it appropriates money to the LIHEAP contingency fund. During mark-up on this bill in the Energy and Natural Resources Committee, Sen. SMITH and I added language—adopted unanimously-seeking to put guidelines around the release of these emergency LIHEAP funds.

However, I understand that the distinguished Chairman, Senator GREGG, and Ranking Member, Senator KENNEDY, intend to reauthorize the LIHEAP program in their Committee this year and examine very closely the administration of these contingency funds. I believe the language that Senator SMITH and I authored would go a long way toward adding clarity to the process, and I would be exceptionally pleased to work with the Chairman on this and other proposals to reform the LIHEAP emergency program to ensure it is as responsive as possible to the very real needs of low-income Americans.

Mr. GREGG. I thank the Senator from Washington for her comments. I agree that the manner in which LIHEAP contingency funds are distributed should be examined. I would be happy to work with the Senator on this important matter as the H.E.L.P. Committee works towards reauthorization of this program in the coming months.

Mr. KENNEDY. I also believe the Senator from Washington makes a very good point about the administration of LIHEAP emergency funds. I too would be happy to work with the Senator on including language to address her concerns when the Committee debates LIHEAP reauthorization later this year.

Mr. DOMENICI. I ask unanimous consent that the second-degree amendment be adopted and the underlying first-degree amendment No. 840, as amended, be agreed to.

Mr. REID. Mr. President, I ask consent following the disposition of the unanimous consent agreement dealing with the child tax credit, the Senator from Louisiana, Ms. LANDRIEU, be recognized to speak on LIHEAP. She wanted to speak before the vote but this would be fine.

Mr. DOMENICI. Five minutes?

Mr. REID. Probably 10 minutes. I am sure she can complete a statement in 10 minutes.

Mr. DOMENICI. Senator CAMPBELL has been waiting for a long time. He has an amendment on the underlying bill.

Mr. REID. She can speak after he offers his amendment. He will not speak that long.

Mr. CAMPBELL. That is all right.

Mr. REID. How long will you speak?

Mr. CAMPBELL. I am going to speak for 15 or 18 minutes.

Mr. REID. She has waited around here all day to speak on LIHEAP. Why not limit her time to 5 minutes; that should be adequate.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 860) was agreed to.

The amendment (No. 841), as amended, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 1308.

The legislative clerk read as follows:

A bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

### AMENDMENT NO. 862

(Purpose: In the nature of a substitute)

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GRASSLEY], for himself, Mrs. LINCOLN, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. WARNER, Mr. STEVENS, and Ms. LANDRIEU, proposes an amendment numbered 862.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. GRASSLEY. I am pleased to join my distinguished ranking member, Senator BAUCUS, in the agreement we have reached on the child tax credit. I wish to take a minute to fill in my colleagues on how we are at this place at this time on another tax bill.

In the Finance Committee in the year 2001, Senator SNOWE and Senator LINCOLN added a refundable formula to enhance the child tax credit. This provision lasted through conference. The formula was increased to 15 percent in 2005. President Bush proposed to accelerate the $1,000 tax credit amount but did not accelerate the refundability formula.

In the Finance Committee, we accelerated the refundability formula. Unfortunately, that provision was dropped in conference. At that disappointing moment and at times since, I have indicated that I would like to revive that formula. I was joined by several Finance Committee members and both leaders in attempting to resolve this problem.

I am pleased to say this agreement moves the ball on the marriage penalty and the child tax credit. The relief is small but a start in addressing yet another marriage penalty.

I applaud Senator KAY BAILEY HUTCHISON for her steadfast interest in resolving this other marriage penalty provision.

Finally, our agreement is offset with an extension of customs fees, user fees. I urge the House to respond on our action today.

I would like to get the bill to the President. This will ensure that low-income families get the checks we expect to get out in the next few months that are related to the tax bill that the President signed last week. Without this additional provision we are working on now, we would have families who get an increase in the child credit of $400 per child get a check this summer, but we would not get checks to people who are entitled to the usual refundability because it was not extended.

I would like to do a lot more on the child tax credit. Families should be able to rely on permanent tax relief. That is what the bill I introduced did—not this compromise before the Senate. That is close to what the Senate growth bill did. That is what we should do in the upcoming process on this legislation.

I hope we resolve the refundability formula. We address the marriage penalty and the child tax credit and we make progress on the longer term child tax credit. We simplify the definition of a child. This last measure is the principal recommended simplification of the Tax Code for individuals. This recommendation comes from the Joint Committee on Taxation and the Treasury Department and is something that should have been done a long time ago.

Today we make some major progress on simplifying the Tax Code. Of course, we need to do a lot more. This is what we do as we try to move forward on various pieces of legislation from the Finance Committee.

In this bill we are also going to help those serving in the Armed Forces overseas. Because some of their remuneration is not considered income, they would not benefit from the child tax refund the same way as other people who are not in a war zone. We ought to change that and do change it so everybody is treated fairly.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, is it correct that the order provides for 30 minutes equally divided?

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. I yield 10 minutes to the Senator from Arkansas. I might add, she is the prime mover of this bill. She is the one who made that happen. We are deeply indebted to her.

Mrs. LINCOLN. Mr. President, I give special thanks to my colleague from Montana. There are many people to thank today for moving forward in the right direction, recognizing the working families of this country. I thank Chairman GRASSLEY, who worked tirelessly with us, as well as the ranking member, Senator BAUCUS; certainly the leadership on both sides, Senator FRIST and Senator DASCHLE, who have both been willing to work with all of us to come together on this agreement.

I would also like to say a very special thanks to my colleague, Senator OLYMPIA SNOWE from Maine, who has been a wonderful colleague and certainly someone who has worked equally as hard as I have on this issue. I am very pleased to have worked with her, both now as well as in the past.

If people can go back as far as 2001, they will remember in that 2001 tax bill Senator SNOWE and I worked hard to bring about the refundability of the child tax credit, recognizing and understanding working Americans all across this country, trying to raise their families, were in need of the kind of assistance that refundable child tax credit would bring to them. I am very pleased and honored to have worked with her in the great work she has done in this effort.

I am certainly pleased that we have reached this agreement to restore the advanced refundability for the child credit, for the hard work Senator GRASSLEY has done in bringing about the uniform definition of a "child" in the Tax Code. To bring about those kinds of reforms are not easy steps. I think it is one of our first monumental moves in the right direction in which Senator GRASSLEY will lead us in other reforms in the Tax Code.

Certainly this agreement is the culmination of years of effort. I would like to recognize, however, and emphasize particularly the fact that we are helping working parents and working families. I know there are some critics out there who have referred to these provisions as welfare. I just find that description so disheartening, since we are talking about 200,000 military families, hundreds of firefighters, and teachers, and other hard-working Americans. I don't think of them, or view them, as welfare recipients. I don't think they think of themselves that way.

These are taxpayers. They are hard-working families who pay sales tax, both State and local. They have payroll taxes that come out of their checks. They pay excise tax, and in many of our rural States that is an awful lot when they travel for miles to get from their homes to their jobs.

It is so important for all of us to recognize that these taxes these individuals are paying are in equal proportion, many times, to many of the other people in different income and tax brackets, but these are taxes that never see cuts. Rarely do we see a cut in a sales tax or in the payroll tax, certainly, or in the State and local sales tax. In the excise taxes? We don't see cuts in these areas.

Therefore, it is so important that we provide the kind of assistance we can for these working families, to make sure they are going to be able to help stimulate this economy and certainly to help strengthen our country.

The news reports that followed the passage of the tax bill noted that families do receive a check of $400 in July. But they did neglect to mention those 12 million children who would not get those checks. I am so pleased that today we are recognizing it is not only an important issue to deal with, providing these 12 million children the kind of resources they need in their families to grow strong, to learn the values we want them to learn, to become good citizens and leaders and workers in this great Nation, but we are also recognizing the fairness of this issue in a timely way.

I encourage my colleagues in the House in that they have that same opportunity to recognize this is a timely issue. If we want these working families to have that same benefit, to be able to receive that tax credit, that child benefit credit in the same timely way that other individuals will receive that tax relief, then we have to do it immediately. We do have to move forward quickly.

I encourage my colleagues in the House to really take to heart the immediacy of this issue and help us move it forward quickly. The passage of this provision today is the first step in ensuring those 12 million children will also get that $400 check, or whatever check they are entitled to—and it might be more—in July, at the same time others do. Time is definitely of the essence. I call on the Members of the other body to act quickly on this bill and ensure that all of our working families will benefit.

The uniform definition of the child, as I mentioned, through Chairman GRASSLEY's efforts and certainly those of many others, Senator HATCH and Senator BAUCUS, is a great inclusion in this measure.

In short, this is a targeted tax provision to help working families. It is what I have argued since we began this round of tax discussions in January, and I hope we can continue in that vein.

People ask, why is it so important? For me, that question is a very easy one to answer. Nearly half of the taxpayers in Arkansas have adjusted gross incomes of less than $20,000. Arkansas families were among some of the hardest hit when the refundable portion of the child credit was stripped from the bill. That is why it is important to me. It was important enough to bring up this issue and certainly to readdress something that did not happen in that original tax bill.

Mr. President, 76,000 Arkansas families, 132,000 Arkansas children, were left behind in that final tax bill when it was signed. If that is not reason enough for me to cause a ruckus or to be persistent, I don't know what is. I appreciate the accolades from my colleagues, but really what is more important—I think it is essential that we recognize, when we take actions such as the recent tax bill, there is a lot of importance in the details. We have to recognize that when we do not pay attention to the details, there are many individuals who get left behind, who are not going to receive those benefits. This is one of those cases.

I say to my colleagues, this is not about trying to create more debt for these children who will also inherit that debt later on; this is about taking something we could have done and we didn't, taking something we could do better, acknowledging it, and moving forward with the actions that will create that better circumstance for working families.

That is why I have been working so hard these past few weeks—and for the last 3 years—recognizing what it means to the families in Arkansas.

It is also important for all of us in the Senate, and in the Congress, as we move forward on very important legislation, such as the tax bill that was just signed into law, to put ourselves in the shoes of these families. We talk about raising our families. We talk about raising our children. We talk about what it takes to create a family atmosphere that is focused on values, that is focused on good manners, is focused on compassion and being part of a community, reaching out to one another. It means, too, that each of us has to recognize all of our families are faced with different circumstances, whether it is military personnel stationed in Iraq and leaving a wife and two children at home; whether it is a schoolteacher or a firefighter; whether it is a police officer, many of whom fall into this category that was left out—these who make $10,500 to $26,625. That doesn't seem to be a category that would include that many, but it does. These are essential people in our communities, those who are protecting us from fire and from criminal activity, those who are teaching our children, those who are stationed abroad and protecting our very freedoms. So it is so critical we put ourselves in their shoes and better understand what it is they are doing for their families.

I have to say I have a good opportunity because when I take care of my family, I try to stop and think: Are there other mothers out there doing the same thing I am? Is it any different for a mother who is in the Senate than it is for a mother who is making $20,000, when you go to the store and you have to spend that week's paycheck on blue jeans and tennis shoes, a set of tires to make your automobile safe to get your children to and from school or yourself to and from work? There is not a lot of difference, regardless of who you are. Giving these individuals the ability to take care of those family needs is critical.

We have not even talked about the aspect of how this can be a stimulative partner in what this overall tax bill was meant to do. It was meant to stimulate the economy. Why do we want to stimulate the economy anyway? We want to stimulate the economy because we want to strengthen our country, because we believe in this country and we believe in what makes up this country. There is no better place to look, in order to do that, than the American family.

So I praise my colleagues today for recognizing that there are a world of families out there we can help today—mothers and fathers, working hard, playing by the rules at their jobs. They are not eligible for these credits unless they are working, unless they are bringing home earnings, and unless they have children.

There is a whole group of individuals we could help here by giving them the opportunity to give something back to their country in strengthening this economy. Who else is going to be there to purchase the majority of items that will spur our economy and spur those companies that need to be driven?

In conclusion, I applaud all of my colleagues. This has been a unified effort among many people to try to do the right thing. I think, after all, that is what we are here in the Senate to do—the right thing on behalf of the working families of this great Nation.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield the Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I am going to vote against this amendment.

I want to state a few things. I would like to correct the RECORD and state a few facts. I have heard some people say this provision was stripped out of a provision in the tax bill and it therefore left low-income people without any benefits from President Bush's tax cut. That is factually inaccurate. The fact is that in the year 2001 we passed a tax bill, and many of the people who complained mostly about this provision voted against the 2001 bill and the 2003 bill. Now they come back and say: You didn't do enough in this one category.

We did a lot for low-income people. We reduced the tax rate from 15 percent to 10 percent. And we did it retroactively, well after we passed the bill. We reduced that rate by a third—15 percent to 10 percent—and did it retroactively. We reduced every other rate on the books by 1 percentage point. I just mention that. We did a lot.

We increased the standard deduction by 20 percent. We increased the child tax credit from $500 to $1,000. It was $600. In the 2003 bill which the President just signed, we made it $1,000. That benefits families. It disproportionally benefits low-income people. We took millions of people off the tax rolls. They didn't have to pay taxes as a result of the fact that we reduced rates. And we passed tax credits. After we passed tax credits, millions of people who were taxpayers were no longer taxpayers.

Then we get into the issue of refundability. We already have an unearned income tax credit, which is one of the most plagued, inaccurate programs we have in the Federal Government. It is about a $30 billion-a-year program. Its error rate is in the 20-some-odd percent range. About a fourth of it is in error. There is a lot of fraud. There are a lot of inaccuracies. People claim children they don't have so they can get a bigger refund. Maybe some of it was inaccurate and maybe some if it was on purpose.

Some people say the Bush tax cut didn't benefit low-income families. That is factually incorrect. Let me give you an example. Before the Bush tax cut, if you had a low-income couple and both made minimum wage with a combined income of $21,000, they had personal exemptions—talking about, let us say, a family of four—$12,200; a standard deduction of $7,900; their taxable income is $850 at 15 percent tax; their income tax was $128; and for their earned income credit, we would write a check for $2,888. They received a net income tax refund of $2,761. Somebody said they pay payroll taxes. Yes, they could. That is a total of $1,607. So they received $1,154 after they paid income taxes and payroll taxes.

That was before President Bush's 2001 or 2003 tax bill passed. After the bills we just passed, they will receive a net refund in excess of income taxes and Social Security taxes of $2,332. That is a 102-percent increase. That is what the Government is writing them a check for. That is the amount left over after they paid income taxes and payroll taxes.

The question we are now really debating is, Do we want to have the Federal Government write bigger checks, and have bigger negative income taxes? Do we want to try to make the Income Tax Code more progressive? Usually when they say that, they mean lower income people pay a greater percentage.

Under present law, the upper 5 percent of the income tax bracket pay 50 percent of the tax; the lower 50 percent of the income tax bracket pay 5 percent of the tax. Yet some people say that is not progressive enough; that we need to have Uncle Sam write bigger checks to people even in multiples of their payroll taxes and income taxes combined—not equal to, not balancing out payroll taxes, but we want to write them in multiples.

Part of this amendment says let us increase the refundability far in excess of payroll and income taxes. I don't support that theory. That was in fact in the 2001 bill. Part of the tax bill we agreed to said we would have a percentage. The child tax credit would be refundable—10 percent. And, oh yes, in the year 2005, we would make that 15 percent.

The amendment on which we are going to vote would accelerate that reduction to 15 percent immediately. That would probably happen. It could have happened. It actually passed the Finance Committee and passed the floor of the Senate. Had we had greater support for the bill, it could have been in the conference report.

I hope before final passage, we can make the child credit permanent. I hope when the bill comes back from conference, we will make permanent a $1,000 tax credit for all individuals. Then we can make this change in addition.

I ask unanimous consent that the information titled "Family of Four With Two Minimum Wage Workers" be printed in the RECORD, along with the "Child Credit/EIC Effect on Tax Burden" information.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAMILY OF FOUR WITH TWO MINIMUM WAGE WORKERS

| | |
|---|---|
| PRE-2001 BUSH TAX CUT | |
| Wages | $21,000 |
| Personal exemptions | (12,200) |
| Standard deduction | (7,950) |
| Taxable Income | 850 |
| Tax rate | [1]15 |
| Income Tax Before Credits | (128) |
| Earned income credit | 2,888 |
| Refundable child tax credit | |
| Net Income Tax | 2,761 |
| Payroll taxes | (1,607) |
| Net Refund in Excess of All Taxes | 1,154 |
| UNDER 2001 BUSH TAX CUT | |
| Wages | $21,000 |
| Personal exemptions | (12,200) |
| Standard deduction | (9,500) |
| Taxable Income | |
| Tax rate | [1]10 |
| Income Tax Before Credits | |
| Earned income credit | 2,888 |
| Refundable child tax credit | 1,050 |
| Net Income Tax | 3,938 |
| Payroll taxes | (1,607) |
| Net Refund in Excess of All Taxes | 2,332 |
| Increase | [1]102 |

[1] Percent.

Staff estimates based on 2003 tax parameters, June 4, 2003.

CHILD CREDIT/EIC EFFECT ON TAX BURDEN

| Wage income | Tax before credits | EIC | Child credit | Net income tax | Payroll tax | Net taxes |
|---|---|---|---|---|---|---|
| HEAD OF HOUSEHOLD—TWO KIDS | | | | | | |
| 2,000 | | (800) | | (800) | 153 | (647) |
| 4,000 | | (1,600) | | (1,600) | 306 | (1,294) |
| 6,000 | | (2,400) | | (2,400) | 459 | (1,941) |
| 8,000 | | (3,200) | | (3,200) | 612 | (2,588) |
| 10,000 | | (4,000) | | (4,000) | 765 | (3,235) |
| 12,000 | | (4,204) | (150) | (4,354) | 918 | (3,436) |
| 14,000 | | (4,204) | (350) | (4,554) | 1,071 | (3,483) |
| 16,000 | | (3,942) | (550) | (4,492) | 1,224 | (3,268) |
| 18,000 | 185 | (3,522) | (750) | (4,087) | 1,377 | (2,710) |
| 20,000 | 385 | (3,102) | (950) | (3,667) | 1,530 | (2,137) |
| 22,000 | 585 | (2,682) | (1,150) | (3,247) | 1,683 | (1,564) |
| 24,000 | 785 | (2,262) | (1,350) | (2,827) | 1,836 | (991) |
| 26,000 | 985 | (1,842) | (1,550) | (2,407) | 1,989 | (418) |
| 28,000 | 1,278 | (1,422) | (1,750) | (1,894) | 2,142 | 248 |
| 30,000 | 1,578 | (1,002) | (1,950) | (1,374) | 2,295 | 921 |
| 32,000 | 1,878 | (582) | (2,000) | (704) | 2,448 | 1,744 |
| 34,000 | 2,178 | (162) | (2,000) | 16 | 2,601 | 2,617 |
| 36,000 | 2,478 | | (2,000) | 478 | 2,754 | 3,232 |
| 38,000 | 2,778 | | (2,000) | 778 | 2,907 | 3,685 |

CHILD CREDIT/EIC EFFECT ON TAX BURDEN—Continued

| Wage income | Tax before credits | EIC | Child credit | Net income tax | Payroll tax | Net taxes |
|---|---|---|---|---|---|---|
| 40,000 | 3,078 | | (2,000) | 1,078 | 3,060 | 4,138 |
| 42,000 | 3,378 | | (2,000) | 1,378 | 3,213 | 4,591 |
| 44,000 | 3,678 | | (2,000) | 1,678 | 3,366 | 5,044 |
| 46,000 | 3,978 | | (2,000) | 1,978 | 3,519 | 5,497 |
| 48,000 | 4,278 | | (2,000) | 2,278 | 3,672 | 5,950 |
| 50,000 | 4,578 | | (2,000) | 2,578 | 3,825 | 6,403 |
| MARRIED—TWO KIDS | | | | | | |
| 2,000 | | (800) | | (800) | 153 | (647) |
| 4,000 | | (1,600) | | (1,600) | 306 | (1,294) |
| 6,000 | | (2,400) | | (2,400) | 459 | (1,941) |
| 8,000 | | (3,200) | | (3,200) | 612 | (2,588) |
| 10,000 | | (4,000) | | (4,000) | 765 | (3,235) |
| 12,000 | | (4,204) | (150) | (4,354) | 918 | (3,436) |
| 14,000 | | (4,204) | (350) | (4,554) | 1,071 | (3,483) |
| 16,000 | | (3,942) | (550) | (4,492) | 1,224 | (3,268) |
| 18,000 | | (3,522) | (750) | (4,272) | 1,377 | (2,895) |
| 20,000 | | (3,102) | (950) | (4,052) | 1,530 | (2,522) |
| 22,000 | 30 | (2,682) | (1,150) | (3,802) | 1,683 | (2,119) |
| 24,000 | 230 | (2,262) | (1,350) | (3,382) | 1,836 | (1,546) |
| 26,000 | 430 | (1,842) | (1,550) | (2,962) | 1,989 | (973) |
| 28,000 | 630 | (1,422) | (1,750) | (2,542) | 2,142 | (400) |
| 30,000 | 830 | (1,002) | (1,950) | (2,122) | 2,295 | 174 |
| 32,000 | 1,030 | (582) | (2,000) | (1,552) | 2,448 | 897 |
| 34,000 | 1,230 | (162) | (2,000) | (932) | 2,601 | 1,670 |
| 36,000 | 1,445 | | (2,000) | (555) | 2,754 | 2,199 |
| 38,000 | 1,745 | | (2,000) | (255) | 2,907 | 2,652 |
| 40,000 | 2,045 | | (2,000) | 45 | 3,060 | 3,105 |
| 42,000 | 2,345 | | (2,000) | 345 | 3,213 | 3,558 |
| 44,000 | 2,645 | | (2,000) | 645 | 3,366 | 4,011 |
| 46,000 | 2,945 | | (2,000) | 945 | 3,519 | 4,464 |
| 48,000 | 3,245 | | (2,000) | 1,245 | 3,672 | 4,917 |
| 50,000 | 3,545 | | (2,000) | 1,545 | 3,825 | 5,370 |

Staff estimates based on 2003 tax parameters, provided by Senator Don Nickles, June 4, 2003.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield the Senator from Texas 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am certainly going to support this bill and this vehicle. But I did hold it up for a few hours because I am concerned that we are not able to put marriage penalty relief in a permanent position on this bill. However, I have an agreement with the majority leader that he will bring it up this year. Working with the distinguished chairman of the committee, and hopefully with the ranking member, we must fix the marriage penalty.

What we have today is a situation in which we relieve the marriage penalty for 2 years, then for 4 years it comes back, then 2 years later it goes away, and then it comes back for good. This is outrageous. Our married couples do not need a rubber band; they need a Band-Aid. They need to be able to know that when they get married, it is not going to cost them $1,200 a year.

Two Navy lieutenants will lose more than $1,500 a year if the marriage penalty goes away in 2 years; two Army warrant officers will lose $852 a year. This is not right. I have the commitment from leadership that we will take up a bill this year that fixes this inequity, and I hope there will be a bipartisan effort. We cannot let people be unsure about their marriage penalty relief.

I thank the distinguished chairman of the Finance Committee and ask him if he will work with me to ensure that we take this up this year so we can get on and fix the child tax credit. Next on the agenda I hope will be marriage penalty relief.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I was a party to the conversation with the majority leader and the Senator from Texas. She has accurately stated what was discussed at that meeting. I will try my darnedest to fulfill it.

Mrs. HUTCHISON. Thank you, Mr. President. I appreciate it very much. We will have marriage penalty relief permanent this year. And we will have child tax credit relief permanent, I hope, in the very near future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield the Senator from Maine 2 minutes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I thank Chairman GRASSLEY for all of his efforts and endeavors to move quickly to address this omission in the growth package that passed the U.S. Congress recently. I appreciate the fact that he has worked hard to assist us in reaching an agreement on this vital issue.

I also express my appreciation to the Senator from Montana, Mr. BAUCUS, in making the difference in bridging all of the efforts to reach this decision today in passing this legislation.

I especially thank my colleague, Senator LINCOLN, who has been a champion in this fight, both in the Senate Finance Committee on this issue and also on the refundability issue back in the 2001 tax cut, in which we included a refundable provision for the child tax credit. She certainly has been a strong ally and supporter, and I appreciate all of the efforts she has been involved in to make sure this accelerated refundability is a reality.

I am pleased to have worked with all of my colleagues on this issue. I know it was not easy. There are differences on both sides with respect to some of these issues. But I think in the final analysis we are addressing an inequity that existed in the tax package that we passed in the Congress a few weeks ago. I think this agreement ultimately closes the fairness gap in economic relief for working American families. It ensures that 6.5 million families who were left out of the jobs and growth package enacted this year will now benefit from the child tax credit. And by acting so quickly, it will also ensure that these families will share in the rebate checks that qualifying families will receive in August under the growth package as well.

This means 12 million children in low-income families will have the benefit of tax relief under the growth package. I think this is vitally important in redressing this wrong, in making sure we provide the kind of tax relief they deserve.

Now, I heard here that working families don't shoulder the burden in the Federal Tax Code, but that isn't true. They do pay taxes. They pay payroll taxes. In fact, payroll taxes have become an inordinate burden on working families.

The agreement ensures that 6.5 million low-income families who would have been left out of the jobs and growth packages enacted this month will now benefit from the child tax credit. And by acting quickly, it ensures these families will also share in the rebate checks qualifying families will receive in August under the growth package.

This agreement would not have been possible without the tenacious leadership of Senate Majority Leader FRIST.

and Minority Leader DASCHLE, who kept negotiations on track so the Senate could complete work this week. So I deeply appreciate their efforts.

I thank my colleague, Senator LINCOLN, who has been a tireless champion in this fight. From the time I first offered the refundable child tax credit to the 2001 tax bill, Sentor LINCOLN has been a strong ally and supporter, and we worked together again this year to include refundability in the Finance Committee-passed growth package. Over the past week I have been proud to work with her once again to ensure families omitted from the child credit would receive the refundable credit they deserve.

I thank Finance Chairman GRASSLEY, who quickly stepped forward last week to address this omission from the jobs and growth package, and has worked so graciously with Senator LINCOLN and me to achieve this agreement. He and Ranking Member BAUCUS have made the difference in bridging differences over this legislation, and we appreciate their sincere efforts.

Today we join to finish the job that Senator LINCOLN and I started in 2001. At the signing of the Economic Growth and Tax Relief Reconciliation Act of 2001, which included the newly created partially refundable child tax credit, I wholeheartedly agreed with the President when he remarked that:

> Tax relief is a great achievement for the American people . . . tax relief is an achievement for families struggling to enter the middle class . . . (and) tax relief is compassionate and it is now on the way.

Those are the same reasons we introduced a bill along with Senators JOHN WARNER, JACK REED, JIM JEFFORDS, and others to ensure that we are as compassionate today about our tax relief as we were then. This bill is responsible because it is fully offset, and it makes sense because it brings relief to working families while helping our economy.

The Lincoln-Snowe bill incorporated in this package makes the child tax credit refundable for families earing between $10,500 and $26,625, helping 12 million children—6.5 million families—and almost 73,000 children in my home State of Maine from nearly 44,000 families, who would not have received the full benefit under the original bill.

But that is not all—in addition to helping working families we are also talking about military families, and this legislation will treat members of the military and their families more fairly as well. I know that as chair of the Senate Armed Services Committee, Senator WARNER was deeply concerned about omitting the one million children living in active duty military and military veteran families. With this legislation, those families—including 900 in Maine—will now benefit from refundability. The bottom line is, these men and women have sacrificed for us, they deserve the credit—the child tax credit.

Our legislation would accelerate the refundable portion of the child tax credit under law from 10 to 15 percent retroactive beginning January 1 of this year. This would ensure the hardworking mothers and fathers of America, including members of the Armed Forces who earn less than $26,000 per year, will be able to benefit from the increase in the child tax credit that has just become law. It will also ensure the provision of the 2001 law that directly benefits them will also be accelerated as the law enacted last week accelerates all of the other child tax credit provisions.

I know some have said, this is tax relief for people who don't pay taxes. To that argument, I would point out two factors. First, the Federal income tax—while a large share of the tax burden facing Americans, are not the only taxes people pay. In fact, a larger tax burden on low-income workers is the payroll tax. The extent of this burden is exacerbated when one realizes that fully 33 percent of all jobs in my home State, for example, do not pay a livable wage.

Secondly, while I believe that all families could use a helping hand when it comes to paying for the rising costs of raising a family, once again, the children who would benefit from the enactment of this bill are children in working families—families that do pay taxes and, just like everyone else in these trying economic times, these people are struggling to get by.

Consider that, in order to be eligible for the partially refundable credit, a parent needs to surpass an income threshold that is currently at $10,500 per year. That means that a parent needs to work more than just a full-time minimum wage job. However, this provision benefits more than just minimum wage workers. This provision assists some of our younger families. For instance, the base pay for a first-year soldier is $16,000 and it affects workers in our health care and social service sectors, where, for instance, in Maine paramedics in 2001 were only making an average of $22,000, or where our home health aides were making only an average of $18,500 per year. These people are a critical part of our infrastructure and they deserve tax relief too.

That is why I was disappointed the conferees chose to remove this provision from the jobs and growth package—a provision which was included in the bill both as it passed the Finance Committee, and when it was passed by the Senate. Today, we have the opportunity to take a step to correct this inequity.

This bill also addresses provisions included in Chairman GRASSLEY's proposal addressing the definition of a child in the Tax Code, and in addressing a marriage penalty under the original bill. The "uniform definition of a child" consolidates five separate definitions of a child in the Federal Tax Code, simplifying and clarifying the law. As a result, more families will more easily qualify for the benefits they need and deserve.

Finally, the agreement will provide relief for married couples with children by addressing a marriage penalty under the existing child credit. Our agreement increases the threshold of the child tax credit for couples with children to $150,000.

Importantly—and in keeping with the principles that have guided me throughout the budget and tax process this year—our bill pays for this tax relief by extending customs user fees that will expire this year and would need to be extended anyway. And in doing so we are not growing our already ballooning national deficit. This is critical in ensuring we do not add the debt burden on the very children that will benefit from this bill.

Mr. President, Senate action today sends the message that relief for hardworking families won't take a back seat in America's tax code. It represents sound policy that Congress has already considered and adopted. It has the support of the White House, and I hope our colleagues in the House of Representatives will take up and pass this agreement promptly so it can be signed into law.

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the Lincoln-Snowe amendment to H.R. 1308 to reinstate the child tax credit for low-income working Americans.

The House and the Senate went to conference on the reconciliation bill. For the public at large, when we talk about a reconciliation bill, it is kind of arcane. The House and the Senate confer to get a bill together, with each side presenting the views of its Members. I am not sure I am making it more clear, but I want to make sure this is understood. When those conferees got together, they stripped out this tax credit for low-income working people. I thought that was a most outrageous act.

The Bush tax cut bill was already a handout to wealthy elites. It threw token benefits to some others and virtually nothing to working people. Taking out the tax credit for families earning between $10,500 a year and $26,625 a year added outrage to an insult.

When the President was forced, as a result of the agreements in the Congress, to reduce the tax cut to $350 billion, he and the House Republicans had to search for about $30 billion in "fat" to cut out of the bill to meet that target. Why didn't they slow down the reduction in the top rate? It is a pretty easy thing to do. What did they do instead? They went after low-income working families.

These are people who are working at or just above minimum wage. These are Americans who are feeding their families by laboring in cafeterias, cleaning offices, working late at night, working in the factories packing food or making clothing, working in retail chains and small stores across the country—jobs that are traditionally at the low end of the pay scale. These people work hard and are a significant part of our labor force.

I know there are those in the administration who do not have any idea what it is like to work for low wages and try to raise a family on them. I learned what it was like from my parents, who were brought here as child immigrants. They knew what it was like and I knew what it was like because my parents were poor. They worked hard and tried to give their children an example of respect for hard work, and to hold out ideals, even though there was little money.

The Lincoln-Snowe amendment is about restoring the American dream. It is about knowing that this country is a fair and honest place, where someone willing to work can still make a living. It is about knowing that this Government and this Congress respect hard work and loyalty to families. The Bush tax bill telegraphed a terrible shift in the message our Government is sending to the country. Despite the once revered view that hard work pays off and breeds respect, President Bush and the House Republicans failed to support that contention to millions of hard-working Americans.

Why did they do it? Why did they drop a tax benefit that would have helped almost 12 million children who have low-income working parents? Why? The tax credit for hard-working minimum wage families was thrown overboard to make room for even more tax cuts for the highest income earners in our country. The cost of the tax credit to low-income families was $3.5 billion—not an insignificant sum by any means. But we could have found more than that by nicking the reduction to the top income tax rate by just a little bit.

This is the rate the people at the top of the income scale will pay. We are talking about people who make over $1 million a year. We are talking about the top 1 percent of the country, households with average incomes over $350,000 or so. These are the people who are going to profit most from the President's tax cut. We are going to reduce the rate, the income tax rate that they will have to pay.

If we only reduced that top rate to 35.3 percent instead of a flat 35 percent for the years 2003 through 2005, we would have saved $3.9 billion, and the cost of the tax credit for low-income families is $3.5 billion. That is a lot of money. But not in the context of a $350 billion tax cut package; it is only 1 percent. There would have been more than enough to save the child tax credit.

White House spokesmen repeatedly claimed that President Bush's tax bill would provide a tax cut for every American taxpayer. But that was not true. The final bill left out 8 million working Americans and almost 12 million children. The wealthy certainly got their tax cut. It was approximately $90 billion in tax cuts over 10 years that will go to 200,000 households nationwide with annual incomes of $1 million or more. That is about $450,000 per household.

President Kennedy said, "To govern is to choose." To give massive tax cuts to people who are already well off, and then tell hard-working, low-income families, "Sorry, there is nothing left for you," is awful. That is not a choice I want America to make.

Fortunately, after some gentle pressure from the media and outraged constituents, the Republican majority has seen how egregious that plan was and they now support the Lincoln-Snowe amendment. It is about time we did something to help families who are struggling, and not just the fortunate few who are coasting. We have the opportunity to repair some of the harm caused by the President's unfair tax plan with this amendment. I urge its adoption.

Mr. President, I yield the floor.

Ms. COLLINS. Mr. President, I am pleased to be a cosponsor of this amendment offered today by Chairman GRASSLEY, and to add my voice to those of my colleagues who have risen today in support of it. I have long been a supporter of the refundable child credit. I was a leading proponent of the increase in the child tax credit for low-income families that was enacted as part of the 2001 tax bill, and I strongly supported this provision when it was added to the Senate version of the Tax Act passed last month.

The economic growth package the President signed into law last week gives tax relief to all working Americans, including low-income families, many of whom will see a substantial reduction in their taxes. But some low-income families could not receive the benefit of the increased child tax credit that the package provides because the 10 percent earned-income threshold was not accelerated to 15 percent as the Senate version of the package provided. This amendment restores the acceleration of that threshold as this Chamber originally provided.

More than 119,000 Mainers will benefit from the increase in the child tax credit that we approved as part of economic growth package. The action we take today expands the reach of this assistance to thousands more hard-working Maine families. As a member of the Senate Armed Services Committee, I was keenly aware that nearly 200,000 enlisted men and women could claim this credit for their children if we expanded the guidelines. Doing so sends exactly the right message of appreciation as many of them return home from fighting for the cause of freedom in Iraq.

Mr. ROCKEFELLER. Mr. President, I am very pleased to support Senator LINCOLN's legislation to make the recent increase in the child tax credit available to more families. I thank the Senator from Arkansas for her tenacious fight on behalf of America's working families. I was disappointed that the tax cuts passed by this Congress last month left out eight million children whose parents are working everyday and struggling to make ends meet. Today we will begin to correct that injustice.

In West Virginia, there are about 57,000 children whose parents earn between $10,500 and $26,625. While these parents currently receive some benefit from the child tax credit, they do not stand to get any additional benefit based on last month's tax cut. For average families, who don't make money from dividends or capital gains, the child tax credit was the most valuable provision included in the recent tax cut package. The families of 57,000 West Virginia children should not be left out. Let's be clear that these families pay taxes. Payroll tax, sales tax, excise tax, property tax—these families are struggling to make ends meet, and they are paying their fair share in tax.

It seems to me that families who are working hard but earning low wages are just the sort of families we ought to be seeking to help. These parents play by the rules, but struggle to provide the same things that all parents want to provide: enough food, a good home, schoolbooks, new shoes, perhaps a soccer uniform. In addition, we know that providing additional tax relief to these families will stimulate the economy, because these families are likely to immediately spend any additional cash.

During the recent tax cut debate, the Senate was right to increase the amount of the child tax credit that low-income working families could receive. But during partisan negotiations to finalize that tax bill, these families were abandoned in order to provide more tax cuts to wealthy investors. One of the reasons that I opposed the recent tax cut package was that I could not condone a deal that provided $150 billion in tax cuts to wealthy investors but dropped a provision to help our neediest working families that would cost just $3.5 billion. There are a lot of pieces of that deal that I wish we would undo. I realize that we won't. But at least today, by passing Senator LINCOLN's legislation, we will take one important step toward making those tax cuts more fair for America's working families.

The legislation before us today has a number of other important provisions.

It will ensure that two single parents would not lose their child tax credit if they got married. The bill also simplifies the tax code, something we should seek to do with every new tax law. I am especially pleased that the bill includes a provision to offset the cost of these new tax cuts. I have serious concerns about the record deficits we face, especially in light of the enormous tax cuts recently enacted. This bill will not add a penny to our national debt.

In short, this is a balanced, responsible, and fair piece of legislation. While this bill does not do everything that I would like to do to improve the child tax credit and truly make it available to all low-income working families, it is still a major improvement on the tax cuts enacted last month. I hope that all of my colleagues will support this bill and send the message to hard working families that are struggling to make ends meet that we are on their side. And I ask all of my colleagues to encourage the House of Representatives to act quickly on this bill so that the President can sign it into law as soon as possible. Refund checks for the child tax credit increase are scheduled to be mailed this summer. If we act quickly we can ensure that an additional 8 million families will receive checks.

Mr. WARNER. Mr. President, I am pleased to join Senator BLANCHE LINCOLN and Senator OLYMPIA SNOWE in proposing important bipartisan legislation to accelerate the refundable portion of the child tax credit to low-income families. As chairman of the Senate Armed Services Committee, I have a special obligation to look after the welfare of the young men and women of the U.S. Armed Forces, up to 200,000 of whom could be eligible for and deserve this tax credit.

Over the past few weeks, we in Congress, have worked hard to pass the economic stimulus package to promote long-term economic stability, and to stimulate investment and new job creation. While these provisions will provide substantial relief to America's families, our work is not yet complete.

Included in the tax package were provisions to immediately increase the Child Tax Credit from $600 to $1,000 an important tax reform that we all support. However, the new law did not make the necessary technical changes in the refundability component which is necessary for certain low-income individuals to take advantage of the increase. I believe in providing fair and equitable tax relief to all Americans, especially to those raising children, our Nation's future.

Providing tax relief is an important bipartisan achievement. Now we must build on this accomplishment by correcting this oversight and ensure that these hard working families are not ineligible for this needed benefit. The legislation I am cosponsoring will correct the inequity and provide low-income families, those who need it the most, the full tax credit.

The bill accelerates the refundable part of the new $1,000 child tax credit provision from 10 to 15 percent, so American families in the $10,500 to $26,625 income bracket, who were not included in the new tax law, would receive the same benefits as those families with children in other brackets.

The costs attributed to accelerating the child tax credit would be offset by closing corporate tax shelters. However, the important task before the Senate is to correct this oversight and provide these low-income families with fairness and the ability to take advantage of the increase in the child tax credit.

I am also cosponsoring related legislation introduced in the Senate by Finance Chairman GRASSLEY to correct this issue and also to make the child tax credit and the refundable portion of the tax credit permanent law.

It is my hope that we can pass either of these legislative proposals, or any other similar approach, to correct this inequity. We have a responsibility to American families trying to care for their children, using their resources as best they can, to provide fair and equal treatment under the Tax Code.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. Three minutes 42 seconds credited to the Senator from Montana; 28 seconds to the Senator from Iowa.

Mr. BAUCUS. Mr. President, I rise to support the bill offered by my good friend, the senior Senator from Arkansas, Mrs. LINCOLN, and my good friend from Maine, Senator SNOWE. Their legislation ensures that our military and low- and middle-income parents will receive a check from the child tax credit.

The legislation repairs the damage done by the majority in the tax bill conference. Senator LINCOLN was successful in getting this provision included in the $350 billion tax bill that passed the Finance Committee and the Senate. But the provision was specifically stripped out before passage of the final version of the $350 billion tax bill.

Let me give you some examples of who does not benefit from the tax bill that was signed into law by President Bush last week.

First, a 24-year-old single mom with one child. She works hard every day to put food on the table, buy clothes for her daughter, and ensure adequate childcare for her daughter while she is at work.

She makes $15,000 a year. She pays $1,150 per year in payroll taxes. She pays $1,150 in Federal taxes yet gets zero benefit from the recently enacted tax bill. She will not see any check this summer.

Taxes are taxes. I would like to see someone tell her that her payroll taxes are less of a burden to her than an equal amount of income taxes paid by Bill gates.

Senators LINCOLN and SNOWE fixed that problem. The fix means $225 in her pocket this summer.

She sees a big chunk of her paycheck every week getting paid to the Government. She also pays a lot of other taxes—including sales taxes, excise taxes, and property taxes. She deserves equal treatment.

My second example illustrates the impact for military families. The Department of Defense has estimated that there are approximately 192,000 military families who earn between $10,000 and $25,000. And most of those 192,000 military families will not receive any tax relief from the $350 billion tax bill.

To make matters worse, the families of military personnel who are stationed in combat zones are really left out of the big tax cut.

In my second example, a Marine gunnery sergeant with 8 years service is stationed in Afghanistan for the last 6 months of 2002, and in Iraq from January through March of 2003. She has two children.

She receives an annual salary of $32,015 and hazardous duty pay of $150 per month. Because the income earned by our military while they are stationed in a combat zone is not included in taxable income, only $24,000 of her income is subject to tax. Under the bill that was passed last week, the check she gets this summer will only be $150.

I am pleased that at least she will see something. But if the Lincoln child tax credit had been preserved in the $350 billion tax bill, this Marine gunnery sergeant and her family would receive a check for $800 this summer just like the President has promised to other middle-income families. Unless we fix the problem, she will not see a dime of this.

The Lincoln/Snowe legislation ensures that we count a soldier's combat zone compensation for purposes of the child tax credit, even though that income is excluded for purposes of the income tax.

These examples illustrate just how unfair the tax bill was.

The big tax bill was not fair to working Americans or our military personnel. Clearly, the benefits were skewed heavily to the elites of this country.

One of the beauties of America is that we work to treat people equally. But the $350 billion tax bill did not come close to treating all Americans equally. Simply put, it was not fair.

Instead, the choice was made to lower the tax for dividend and capital gain income, rather than extend the child tax credit to hard-working, low-income taxpayers.

The bill that returned from conference—the one that was signed into law—also stripped out other provisions to provide tax relief to those serving our country in the armed services—those serving in Iraq, in Afghanistan, and all across the globe.

It is disturbing that we can pass this tax bill with all these benefits for the elite of our country. But the conferees specifically stripped out a provision that would exempt $6,000 of death benefit payments from income for our military families.

And, they specifically stripped out the child tax credit provision that put money into the hands of our military and lower and middle-income families.

There is no way around it. The big tax bill was simply unfair.

Senators LINCOLN and SNOWE are giving us the chance to right one of the wrongs—without increasing the deficit. Enactment of their legislation ensures that 12 million children are helped.

Without their legislation, the families of 8 million children will see absolutely no benefit from the increased child credit that was signed into law last week. These families will not receive any check this summer.

And, millions more families will see a check much smaller than the $400 promised.

In Montana, 54,000 kids—fully one-quarter of the children in Montana—will not benefit from the $350 billion tax bill. But the Lincoln/Snowe legislation would get a check out—this summer—to the working parents of thousands of Montana children.

Their legislation gets the child tax credit to millions of parents—without saddling their children with huge Government deficits—and without robbing the Social Security trust fund. They fix a $3.5 billion problem, and pay for it.

Unfortunately, some in the Republican leadership considered using this as an opportunity to spend another $130 billion in tax cuts. That was their idea of a "fix."

Moreover, they did not intend to pay for these extra tax cuts. Instead they wanted our children and grandchildren and our Nation's seniors to shoulder more of the burden.

In the past couple of days, we have been able to reach an agreement to correct the wrong created with the passage of the recent tax bill. I strongly support the Lincoln/Snowe child tax credit legislation. I urge my colleagues to stand united to get this legislation enacted into law this week. These families should not be asked to wait any longer.

They deserve to get their check this summer—just like all of the parents who were taken care of under the $350 billion tax bill.

This is the right thing to do. This is the fair thing to do. This is the moral thing to do.

Again, I thank the Senator from Arkansas, Mrs. LINCOLN. She has done a terrific job highlighting this issue and the need for this child tax credit provision.

Second, Senator SNOWE, as I have mentioned several times, has been tremendous in championing this cause. And I might say, with regard to the 2001 tax bill, she deserves the lion's share of the credit for the child tax credit provisions that are in that bill.

The chairman of the committee, Senator GRASSLEY, has been, as usual, just his terrific self in working with the various Senators to try to find an accommodation that makes sense.

I also thank Senator WARNER who focused on the impact of this bill on military families. In that respect, the bill will permit thousands of military families, especially those serving in combat zones, to benefit from the child credit. Without this provision in this pending measure, those military families would not get the benefit of the credit.

Finally—I know time is of the essence here—it is imperative that the House act on this matter within 2 weeks so that the checks can get to the millions of families covered by this bill. Otherwise, two sets of checks would have to be sent out, and I think that would be the height of inefficiency and a waste on the part of Uncle Sam. That would be the consequence of the failure of the other body to act within 2 weeks. So I call on the House to act.

I see the Senator from Virginia, the chairman of the Armed Services Committee. I yield the rest of any time I have to him.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the distinguished Senator.

Mr. President, I am not here to in any way suggest what went right, what went wrong. My understanding is there is a reconciliation of viewpoints now. We have before us the opportunity to provide for this child tax credit for a category of individuals who, for reasons that I am certain the record explains, were preempted from the legislation.

Upon learning this, as others did—largely through press accounts—I immediately called my distinguished chairman, Mr. GRASSLEY; I called my distinguished friend from Oklahoma, Senator NICKLES; I called Mrs. LINCOLN and could not get a phone through to Montana, but I made an effort to try to reach you.

Mr. BAUCUS. I beg your pardon.

Mr. WARNER. Rural electrification.

But anyway, Mr. President, I feel very strongly that the men and women of the Armed Forces—some 200,000-plus families—very much need this benefit. They are the ones who have fought in Iraq and Afghanistan and who are all throughout the world taking risks, basically, the enlisted ranks.

I feel strongly that this great institution—the Senate—wants to be on record that one of the reasons to go forward, hopefully, and adopt the measure now pending before us is on behalf of the men and women of the Armed Forces of the United States.

I thank the Chair and I yield back such time as I might have.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Iowa yield back his remaining time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield back the remaining amount of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 862.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) would vote "yea."

The PRESIDING OFFICER (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer

Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—2

Inhofe
Nickles

NOT VOTING—4

Ensign
Graham (FL)
Inouye
Murkowski

The amendment (No. 862) was agreed to.

Mrs. LINCOLN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, as amended, having been read the third time, the question is, Shall it pass?

The bill (H.R. 1308), as amended, was passed, as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 1308) entitled "An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.", do pass with the following amendments:

Strike out all after the enacting clause and insert:

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Relief for Working Families Tax Act of 2003".*

## *TITLE I—CHILD TAX CREDIT*

### *SEC. 101. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.*

*(a) Acceleration of Refundability.—*

*(1) In general.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".*

*(2) Advance payment.—Subsection (b) of section 6429 of such Code (relating to advance payment of portion of increased child credit for 2003) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:*

*"(4) section 24(d)(1)(B)(i) applied without regard to the first parenthetical therein.".*

*(3) Earned income includes combat pay.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".*

*(b) Effective Dates.—*

*(1) Subsections (a)(1) and (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.*

*(2) Subsection (a)(2).—The amendments made by subsection (a)(2) shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.*

### *SEC. 102. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.*

*(a) In General.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—*

*(1) by inserting "($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)" after "$110,000", and*

*(2) by striking "$55,000" in subparagraph (C) and inserting "½ of the amount in effect under subparagraph (A)".*

*(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.*

### *SEC. 103. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.*

*Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.*

## *TITLE II—UNIFORM DEFINITION OF CHILD*

### *SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.*

*Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:*

### *"SEC. 152. DEPENDENT DEFINED.*

*"(a) In General.—For purposes of this subtitle, the term 'dependent' means—*

*"(1) a qualifying child, or*

*"(2) a qualifying relative.*

*"(b) Exceptions.—For purposes of this section—*

*"(1) Dependents ineligible.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.*

*"(2) Married dependents.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.*

*"(3) Citizens or nationals of other countries.—*

*"(A) In general.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.*

*"(B) Exception for adopted child.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—*

*"(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and*

*"(ii) the taxpayer is a citizen or national of the United States.*

*"(c) Qualifying Child.—For purposes of this section—*

*"(1) In general.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—*

*"(A) who bears a relationship to the taxpayer described in paragraph (2),*

*"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,*

*"(C) who meets the age requirements of paragraph (3), and*

*"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.*

*"(2) Relationship test.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—*

*"(A) a child of the taxpayer or a descendant of such a child, or*

*"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.*

*"(3) Age requirements.—*

*"(A) In general.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—*

*"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or*

*"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.*

*"(B) Special rule for disabled.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.*

*"(4) Special rule relating to 2 or more claiming qualifying child.—*

*"(A) In general.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—*

*"(i) a parent of the individual, or*

*"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.*

*"(B) More than 1 parent claiming qualifying child.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—*

*"(i) the parent with whom the child resided for the longest period of time during the taxable year, or*

*"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.*

*"(d) Qualifying Relative.—For purposes of this section—*

*"(1) In general.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—*

*"(A) who bears a relationship to the taxpayer described in paragraph (2),*

*"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),*

*"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and*

*"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.*

*"(2) Relationship.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:*

*"(A) A child or a descendant of a child.*

*"(B) A brother, sister, stepbrother, or stepsister.*

*"(C) The father or mother, or an ancestor of either.*

*"(D) A stepfather or stepmother.*

*"(E) A son or daughter of a brother or sister of the taxpayer.*

*"(F) A brother or sister of the father or mother of the taxpayer.*

*"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.*

*"(H) An individual (other than an individual who at any time during the taxable year was*

*the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.*

*"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—*

*"(A) no one person contributed over one-half of such support,*

*"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,*

*"(C) the taxpayer contributed over 10 percent of such support, and*

*"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.*

*"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—*

*"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—*

*"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and*

*"(ii) the income arises solely from activities at such workshop which are incident to such medical care.*

*"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—*

*"(i) which provides special instruction or training designed to alleviate the disability of the individual, and*

*"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.*

*"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—*

*"(A) a child of the taxpayer, and*

*"(B) a student,*

*amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.*

*"(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—*

*"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,*

*"(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and*

*"(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.*

*"(e) SPECIAL RULE FOR DIVORCED PARENTS.—*

*"(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—*

*"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—*

*"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,*

*"(ii) who are separated under a written separation agreement, or*

*"(iii) who live apart at all times during the last 6 months of the calendar year, and*

*"(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,*

*such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.*

*"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—*

*"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—*

*"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or*

*"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and*

*"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.*

*"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—*

*"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.*

*"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.*

*"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).*

*"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—*

*"(1) CHILD DEFINED.—*

*"(A) IN GENERAL.—The term 'child' means an individual who is—*

*"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or*

*"(ii) an eligible foster child of the taxpayer.*

*"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.*

*"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.*

*"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—*

*"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or*

*"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.*

*"(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.*

*"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.*

*"(5) TREATMENT OF MISSING CHILDREN.—*

*"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—*

*"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and*

*"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,*

*shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.*

*"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—*

*"(i) the deduction under section 151(c),*

*"(ii) the credit under section 24 (relating to child tax credit),*

*"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and*

*"(iv) the earned income credit under section 32.*

*"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—*

*"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and*

*"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,*

*shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.*

*"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).*

*"(6) CROSS REFERENCES.—*

***"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".***

### SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

*(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—*

*"(I) is married at the close of the taxpayer's taxable year, and*

*"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.*

*(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:*

*"(i) subparagraph (H) of section 152(d)(2), or*

*"(ii) paragraph (3) of section 152(d).".*

### *SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.*

*(a) In General.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".*

*(b) Qualifying Individual.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(1) Qualifying individual.—The term 'qualifying individual' means—*

*"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,*

*"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or*

*"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".*

*(c) Conforming Amendment.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(1) Place of abode.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".*

### *SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.*

*(a) In General.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(1) In general.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".*

*(b) Conforming Amendment.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".*

### *SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.*

*(a) Qualifying Child.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(3) Qualifying child.—*

*"(A) In general.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).*

*"(B) Married individual.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).*

*"(C) Place of abode.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.*

*"(D) Identification requirements.—*

*"(i) In general.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.*

*"(ii) Other methods.—The Secretary may prescribe other methods for providing the information described in clause (i).".*

*(b) Conforming Amendments.—*

*(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.*

*(2) Section 32(c)(4) of such Code is amended by striking "(3)(E)" and inserting "(3)(C)".*

*(3) Section 32(m) of such Code is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".*

### *SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.*

*Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(c) Additional Exemption for Dependents.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".*

### *SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.*

*(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting ", determined without regard. to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—*

*(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and*

*(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".*

*(3) Section 21(e)(6)(B) of such Code is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".*

*(4) Section 25B(c)(2)(B) of such Code is amended by striking "151(c)(4)" and inserting "152(f)(2)".*

*(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking "paragraphs (1) through (8) of section 152(a)"' both places it appears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".*

*(B) Section 51(i)(1)(C) of such Code is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".*

*(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".*

*(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(10) Section 120(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".*

*(11) Section 125(e)(1)(D) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(12) Section 129(c)(2) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".*

*(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".*

*(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.*

*(15) Section 170(g)(1) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".*

*(16) Section 170(g)(3) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".*

*(17) Section 213(a) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(18) The second sentence of section 213(d)(11) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".*

*(19) Section 220(d)(2)(A) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(20) Section 221(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".*

*(21) Section 529(e)(2)(B) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".*

*(22) Section 2032A(c)(7)(D) of such Code is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".*

*(23) Section 2057(d)(2)(B) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".*

*(24) Section 7701(a)(17) of such Code is amended by striking "152(b)(4), 682," and inserting "682".*

*(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".*

*(26) Section 7703(b)(1) of such Code is amended—*

*(A) by striking "151(c)(3)" and inserting "152(f)(1)", and*

*(B) by striking "paragraph (2) or (4) of".*

### *SEC. 208. EFFECTIVE DATE.*

*The amendments made by this title shall apply to taxable years beginning after December 31, 2003.*

## *TITLE III—CUSTOMS USER FEES*

### *SEC. 301. EXTENSION OF CUSTOMS USER FEES.*

*Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2010".*

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.".

The PRESIDING OFFICER. Under the previous order, the amendment to the title is agreed to.

The title was amended so as to read:

A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER (Mr. Chambliss). The Senator from Colorado.

AMENDMENT NO. 864

(Purpose: To replace "tribal consortia" with "tribal energy resource development organizations," and for other purposes)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for himself and Mr. DOMENICI, proposes an amendment numbered 864.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CAMPBELL. Mr. President, it is an indisputable fact that Indian country contains some of the richest energy resources in the America.

Indian lands comprise approximately 5 percent of the land area of the United States, but contains an estimated 10 percent of all energy reserves in the United States, including: 30 percent of known coal deposits located in the western portion of the United States; 5 percent of known onshore oil deposits of the United States; and 10 percent of known onshore natural gas deposits of the United States.

Coal, oil, natural gas, and other energy minerals produced from Indian land represent more than 10 percent of total nationwide onshore production of energy minerals.

Even though in one year alone over 9.3 million barrels of oil, 299 billion cubic feet of natural gas, and 21 million tons of coal were produced from Indian land, representing $700 million in Indian energy revenue, the Department of the Interior estimates that only 25 percent of the oil and less than 20 percent of all natural gas reserves on Indian land have been fully developed.

It is ironic that many Indian people were forced on to the most arid, barren, and least productive lands in the 1800s and now they find themselves resource rich.

Despite what we may read in the Washington Post or the New York Times about the so-called rich Indians and Indian gambling, it is also indisputable that Indians are the most economically deprived ethnic group in the United States. Unemployment levels are far above the national average, in some cases as high as 70 percent. Per capita incomes are well below the national average. They have substandard housing, poor health, alcohol and drug abuse, diabetes, amputations, and a general malaise and hopelessness, even suicide among Indian youngsters.

In fact, in some reservations it is not uncommon to find one out of every two teenage girls and one out of every three boys who attempt suicide driven by despair and a dead end future. In that context, this amendment I am offering today tries to give them some help.

Given the extent of the economic deprivation in Indian country and the vast potential wealth residing in energy resources which could ameliorate this deprivation, it has long been a puzzle why these resources have not been more fully developed.

The answer lies partly in the fact that energy resource development is by its very nature capital intensive. Most tribes do not have the financial resources to fund extensive energy projects on their own and so must partner with private industry, or other outside entities, by leasing out their energy resources for development in return for royalty payments.

The unique legal and political relationship between the United States and Indian tribes sometimes makes this leasing process cumbersome.

As with most Indian law and policy, history plays an important part. Towards the end of the 19th Century, Indian tribes were forcibly removed to isolated areas and reservations where it was believed they would not hinder the westward expansion of a new and growing country.

The natural resources contained on these lands were taken into trust by the Federal Government to be administered for the benefit of Indian tribes. The ostensible reason for the trust was the belief that Indians were incapable and incompetent of administering such resources, and would be susceptible to land and resource predators.

By the way, that belief was prevalent with a lot of people in American Government and led the Surgeon General at the time to issue a request to the U.S. Army that Indian skulls be sent to DC to study and find out if Indians had the intelligence to own their own land. That, in turn, gave rise to the saying among modern Indian people that there are more dead Indians in Washington, DC, than live ones, because until the last couple of years there were over 16,000 remains, primarily skulls and upper body bones, warehoused in the Smithsonian. Just a few years ago, we passed a Museum of the American Indian bill, and one provision of that required that the Smithsonian and other Federal agencies start returning those bones.

A legal and bureaucratic apparatus was formed to administer this trust, and over a century later this apparatus remains in place in the Interior Department.

In her capacity as trustee of Indian resources, the Secretary of the Interior is required to examine all leases of Indian trust resources, to ensure that the terms of the lease benefit the tribe, and to ensure that the trust asset is not wasted.

The Committee on Indian Affairs has been informed over the year that the Secretarial approval process is often so lengthy that outside parties, who otherwise would like to partner with Indian tribes to develop their energy resources, are reluctant to become entangled in the bureaucratic red tape that inevitably accompanies the leasing of Tribal resources.

Hence, the framework that was originally designed to protect tribes has become an obstacle to development of Tribal resources, in that the bureaucratic impediments of trust administration are now a disincentive to outside investors.

To help remedy these problems, earlier this year I, along with Senator DOMENICI, introduced the Indian Tribal Energy Development and Self Determination Act of 2003 to provide assistance and encouragement to Indian tribes to develop their energy resources.

This was based really on last year's amendment to the Energy conference report, much of the same language. That report, of course, did not emerge from the conference committee and died with the end of the last Congress.

This assistance included:

The establishment of an Indian Energy Office; grants, loans, and technical assistance; capacity building; and regulatory changes to the rules governing the leasing of Indian lands for energy purposes.

At the same time, the Senator from New Mexico, Mr. BINGAMAN, introduced his own Indian energy bill that somewhat mirrored ours.

After the hearing and much debate the best of these two bills were melded together into a composite bill that made up title III of the bill before us now.

The amendment I am offering today contains refinements but not major changes of title III and I would like to walk through these provisions for the benefit of the Members who will be reviewing the RECORD tomorrow.

Section 2601 contains definitions. Its standard definitions section provides definitions for a number of terms including the following:

Director of the Office of Indian Energy Policy; Indian Tribe; and Vertical Integration.

Section 2602, the Indian Tribal Energy Resource Development, authorizes the Interior Secretary to provide assistance to Indian tribes in the form of development grants and grants for obtaining or developing managerial capacity needed for energy purposes.

It provides low-interest loans to Indian tribes and tribal energy development organizations to promote Indian energy development.

Section 2602 also provides assistance to Indian Tribes for purposes of energy efficiency and energy conservation; as well as planning, construction, operation, maintenance of electrical generation facilities on tribal lands.

Section 2603, the Indian Tribal Energy Resource Regulation authorizes the Secretary of Interior to make grants to Indian tribes and tribal energy development organizations to use, develop, administer, and enforce tribal laws governing the development and management of energy resources on their own lands.

This section helps tribes build the capacity, if they do not already have it, to develop their resources in an effective and safe way.

For instance, a tribe could use these funds to develop a tribal energy resource inventory; to carry out feasibility studies necessary to the development of energy resources; to develop and implement tribal laws and technical infrastructure to protect the environment; to train employees engaged in energy development and environmental protection; and other functions related to scientific and technical data development and collection.

Section 2604 establishes a voluntary process for those tribes that choose it to help develop their energy resources.

Under the process, an Indian tribe must first demonstrate to the Secretary of Interior that it has the technical and financial capacity to develop and manage its own resources.

Once it meets this burden, the tribe can negotiate energy resource development leases, agreements and rights-of-way with third parties without first obtaining the Secretary's approval. This will provide streamlining to the leasing process that is now burdened by an extensive Federal regulation I mentioned earlier.

Whether a tribe decides to avail itself of the new procedure in the section or continue under the current system will be entirely at the option and discretion of each tribe. None is required to do so. It is totally voluntary, tribe by tribe.

Under current law, in order to be valid, all leases, business agreements, and rights-of-way involving restricted land must be submitted to and approved by the Secretary of the Interior. Section 2604 of the Campbell amendment provides tribes with the obligation of submitting to the Secretary a proposed government-to-government agreement, a tribal energy resources agreement, sometimes called a TERA—and I will continue using that word for simplicity—that will set forth mandatory provisions for future leases, business agreements, and rights-of-way involving energy development on tribal lands.

Along with the proposed TERA, the tribe will have to make a demonstration to the Secretary that it has the experience and managerial and financial capacity to regulate and develop its own energy resources. If the Secretary approves the TERA, that TERA will govern future development of the tribe's energy resources. The TERA, by virtue of this section, will require tribal leases and agreements to have certain terms, require compliance with all applicable environmental laws, notice to the public, and consultation with the States as to potential off-reservation impacts. The TERA will provide for an environmental review process that will identify all significant impacts, inform the public, and allow the public to comment on the potential environmental impacts before any lease agreement or right-of-way is approved.

The Secretary will be required to review any direct effects of an approval of the TERA itself under NEPA. The subsequent tribal approval of leases, business agreements, and rights-of-way under TERA will not be subject to another review under NEPA. In other words, tribes will not be exempt from NEPA. It will be front-loaded so that the requirements are at the secretarial level, but if that agreement goes through, they will not have to go through the NEPA process two times.

The TERA will also require the Secretary to do an annual trust asset evaluation to modernize the tribe's energy development activities and allow her to reassume the responsibility over those activities if she finds an imminent jeopardy of trust assets. This section gives third parties who have or may sustain a significant adverse environmental impact as a result of the tribe's failure to comply with its TERA the standing to petition the Secretary to review the tribe's activities. This process both protects the tribe's status and certainly does not allow them to circumvent NEPA. If she finds the tribe in violation of TERA, she may suspend the leases or rights-of-way or suspend TERA altogether.

Section 2604 also discusses the Secretary's trust responsibility. It expressly states that the section does not absolve the United States from that responsibility and expressly states that the Secretary will continue to have a trust obligation to protect a tribe when another party to a lease agreement or right-of-way is in breach. It does not affect trust responsibility at all.

Section 2604 provides that the United States will not be liable to any party, including a tribe, for losses resulting in the terms of any lease agreements or right-of-way executed by the tribe pursuant to the approved TERA, which makes sense; Liability follows responsibility. If a tribe makes the leasing decisions, it should certainly be held responsible. If the United States continues to make the leasing decisions, it will continue to be held responsible. If Indian self-determination means anything, it means the right of tribes to make their own decisions and their responsibility to the tribes to live with those decisions.

Section 2605 deals with the Federal Power Marketing Administration. This section authorizes the Bonneville Power Administration and the Western Area Power Administration to encourage Indian energy development through a variety of means. It authorizes the power administrations to purchase power from Indian tribal generators to meet their own needs or energy needs on Indian lands, and it requires that any such power purchase must not cost more than the prevailing market price.

This section also authorizes the Energy Secretary to undertake a power allocation study with a report due within 2 years of the enactment of the title.

Section 2606 deals with Indian mineral development review. This section authorizes the Interior Secretary to undertake a review of all activities conducted under the Indian Mineral Development Act of 1982 and to report the results of that review to Congress. Included in the study would be recommendations for overcoming the barriers to greater mineral development on Indian lands, such as legal barriers, physical barriers, market barriers, and others.

Section 2607 authorizes the Energy Secretary, in tandem with the Interior Secretary and the Army Corps of Engineers, to undertake a feasibility study of developing a demonstration project that uses wind energy generated by tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply area to the Western Area Power Administration. A report of this study is due within 1 year of enactment.

That is the substance of this amendment. It is very important that the choice of the tribes is upheld, and it certainly is whether you want to participate or not.

For the record, I ask unanimous consent to have letters of support printed in the RECORD, including from the National Congress of American Indians which has over 300 tribal members, and the Council of Energy Resource Tribes with over 50 Members, and several letters from individual tribes, including the Chickasaw and the Cherokee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONGRESS OF
AMERICAN INDIANS,
*Washington, DC, June 2, 2003.*

Senator BEN NIGHTHORSE CAMPBELL,
*Chairman, U.S. Senate, Committee on Indian Affairs, Hart Office Building, Washington, DC.*

DEAR SENATOR CAMPBELL: This letter is to offer general support for the Indian Tribal Energy Development and Self-Determination Act of 2003 (Title III). Since the release of your mark in April, NCAI has been working feverishly to offer a solution to the concerns expressed by tribal representatives. NCAI engaged in this effort so that we could provide general support for this significant piece of legislation once these concerns were addressed. Through this collaborative process, we believe this legislation has the potential to enhance economic development initiatives and will be of great benefit to economic development in Indian country.

As you may be aware, concerns were raised by a number of tribes and tribal advocates regarding some provisions of the Chairman's mark for this measure. We shared in their concern regarding provisions that significantly limit the United State's liability and release the Secretary of Interior from any accountability to Indian tribes for actions that she is required to undertake pursuant to the legislation. Additionally, we were concerned about the definition of "tribal consortium" which differed greatly from the definition that is traditionally employed in legislation affecting Indian tribes and offers federal money to non-tribal entities that should be going to Indian tribes. In addition to these two central concerns, we were not satisfied with provisions pertaining to environmental review and we had some general drafting-related issues.

Given these concerns, NCAI has convened several conference calls with tribal representatives including the Navajo Nation, Council of Energy Resources Tribes, and the International Council on Utility Policy, and developed a series of tribal recommendations for modifying Title III. We also convened with your staff and Senate Energy and Natural Resources Committee staff to discuss the tribal recommendations. Thereafter, your staff held a conference call for those same representatives and staffers from the Senate Energy and Natural Resource Committee. Although we are pleased that we were able to craft better language for the trust responsibility provisions, we are still concerned with some of the limitations.

Nonetheless, we realize that in this political climate, the language as currently revised is likely the best compromise that can be reached. We appreciate the effort of your staff and other committee staffers to negotiate language that attempts to address the tribal concerns in light of the current political environment. Again, I want to underscore that the tribal support comes from working with a group of tribal representatives and organizations from diverse perspectives, but not all perspectives. Because of this, our revised version of your mark may not reflect the needs and desires of all tribes who wish to utilize this legislation to develop their energy resources.

We would like to thank you and your staff for all of their hard work on this very important issue. I cannot stress enough how grateful we are to your commitment to developing legislative solutions to age-old problems in Indian country. Title III is just one more example of how Indian tribes benefit from your championship.

Sincerely,

JACQUELINE JOHNSON,
*Executive Director.*

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COUNCIL OF ENERGY RESOURCE TRIBES,
*Denver, CO, June 3, 2003.*

Hon. PETE V. DOMENICI,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DOMENICI: On behalf of the 53 CERT member Tribes, I am writing to express CERT's support for the Title III Indian Energy provisions of S. 14.

As you know, there are some provisions in section 2604 of the Title III of the bill as reported that has caused concern among CERT member Tribes. Fortunately, we believe those concerns have largely been addressed by language agreed to between Committee staff and representatives of CERT and several member Tribes. At this time, we believe we have reached agreement that addresses the concerns of CERT and the Southern Ute Indian Tribe, the Navajo Nation and the Jicarilla Apache Nation. We expect you will hear from each of those tribes as well.

CERT has agreed to language that insures that the Tribal Energy Resource Agreements (TERA) process is a voluntary, opt-in program for development of Tribal energy resources. We have also agreed to language to be certain that the public comment opportunities go to the environmental and other impacts of the development and not to the terms of the business agreements themselves. CERT accepts the revised language that better describes the Secretary's trust duties under this section. Finally, the scope of the Secretary's NEPA review of the TERA is settled.

While drafting final language for this section has been somewhat difficult, we compliment the staff of both the Senate Energy Comittee and the Senate Indian Affairs Committee for their dedication to resolving the remaining differences between us on language relating to trust protections and enviroinmental issues.

Again, we are pleased to support Title III with these changes to section 2604 and appreciate your steadfast support of the right of Indian Tribes to gain a better measure of control over the development of energy resources on their own lands.

Sincerely,

A. DAVID LESTER,
*Executive Director.*

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SOUTHERN UTE INDIAN TRIBAL COUNCIL,
*Ignacio, CO, May 27, 2003.*

Re: Indian Tribal Energy Development and Self-Determination Act of 2003; S. 14, Title III

Chairman PETE V. DOMENICI,
*Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN DOMENICI: Approximately one month ago, the Southern Ute Indian Tribe submitted a statement of conceptual, but qualified, support for the Indian Tribal Energy Development and Self-Determination Act of 2003. Our Tribe's activities have shown that tribal energy development can provide tremendous economic development opportunities for tribes while simultaneously assisting the Nation in meeting its energy demands. For tribes that have demonstrated the capability to represent themselves effectively in energy development activities, we have long-advocated legislation that would provide the option of bypassing the stifling effects of the Bureau of Indian Affairs approval requirements applicable to tribal leases, business agreements and rights-of-way. The referenced legislation addresses this very matter; however, as Section 2604 of Title III emerged from the Senate Committee of Indian Affairs and the Senate Committee on Energy and Natural Resources, it contained a number of provisions that were objectionable to the Indian community.

Over the last month, committee staff members and representatives of tribes and Indian organizations have engaged in an intense dialogue about the problems in the draft legislation, and, as a result of their tireless efforts, proposed amendments have been developed that would eliminate the problems previously identified. A list of those proposed amendments is attached for references purposes. Among the different matters resolved to our satisfaction have been the following: (i) confirmation that Section 2604 is a voluntary program available to Tribes on an opt-in/opt-out basis; (ii) inclusion of pre-approval public notice and comment opportunities regarding the environmental impacts of a proposed tribal mineral lease, business agreement or right-of-way, but preservation of the confidentiality of the business terms of such documents; (iii) acceptable balancing of the limitations on and ongoing responsibility of the Secretary to perform trust duties associated with a participating tribe's activities undertaken pursuant to this legislation; and (iv) confirmation of the appropriate scope of NEPA review that would be associated with the Secretary's decision to approve a Tribal Energy Resource Agreement ("TERA"), which is the enabling document permitting a tribe to proceed with independent development of mineral leases, business agreements, or rights-of-way. Again, we helped develop and wholly support these amendments.

During the course of debate on this legislation, some have suggested that Section 2604 will eliminate effective environmental protection on affected tribal lands. We want to assure the members of the Senate that this is not the case. Energy resource development by a tribe generally carries with it a deep commitment to preserving one's backyard. Tribal leaders are directly accountable to their members for preserving environmental resources. In the Four Corners Region, it is not unusual for private landowners or BLM lessees to comment enviously on the environmental diligence employed by our Tribe in the development of our energy resources. We renew our invitation to members of the Senate to visit our Reservation and see first-hand our energy resource projects.

In conclusion, with the referenced amendments, we strongly support S. 14, Title III. We urge other members of the Senate to also support this legislation, and we commend those who have worked toward its development and passage.

Sincerely,

HOWARD D. RICHARDS, Sr.,
*Chairman.*

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NATIVE AMERICAN ENERGY GROUP, LLC,
*Ft. Washakie, WY, May 7, 2003.*

Senator PETE V. DOMENICI,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DOMENICI: Native American Energy Group (NAEG) is an Indian owned company working with tribes and allottees throughout the country to determine how best to develop oil and gas reserves and help provide for the energy security of this country while also protecting the interests of mineral owners. The recent Indian provisions of the Energy Bill are a big step in the right direction to accomplish positive results for the Indian people of this country.

One of the areas of contention is the environmental area with many people stating that these provisions will gut the NEPA process. While this is a legitimate concern, nowhere have I read or heard that this is the intent of these provisions. In fact recent language in the Bill clearly denotes compliance with all applicable tribal and federal environmental laws. Even without this new language though my understanding was always that the intent was not to gut environmental laws. Tribal governments with energy resources are pro-development but by the same token they are also pro-environment. This may seem a dichotomy of sorts but my read on this bill is that the language will strengthen tribal sovereignty, develop tribal capacities and make tribal and allotted oil and gas operations more accountable with less impacts. In addition, the federal trust oversight will not be diminished which is always a concern of tribal governments.

NAEG appreciates the work and coordination that goes into an effort of this magnitude and you and your staff are to be commended for the recent provisions as presented in the bill. The history and discussions surrounding this bill recognize the importance of bringing tribes into the mainstream of the energy picture of this country and providing the mechanisms for the technical, administrative and legislative efforts to occur.

The research your staff has undertaken in support of this bill very well explains the amounts of energy resources situated on tribal and allotted lands. This largely untapped resource can be a boost for this country as we seek to provide jobs and diversify our economy, while helping America meet its energy needs. Please share with the rest of the Senate Indian Committee our support for these endeavors and if there is any information we can provide to assist you in your work please do not hesitate to call me.

Sincerely,

WES MARTEL,
*President.*

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CHEROKEE NATION,
*Tahlequah, OK, June 2, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,
*Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

Hon. DANIEL K. INOUYE,
*Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN AND MR. VICE CHAIRMAN: It has come to my attention that several changes have been made to Title III of the Senate Energy bill. I understand that these changes will reduce any risk to Tribes, and wish to offer the Cherokee Nation's continued support of S. 14, the Energy Policy Act of 2003.

I thank the Committee for its hard work on this issue and for incorporating tribal recommendations into the bill. Your leadership is greatly appreciated.

Please feel free to contact my office if you have any questions or comments. I may be reached at (918) 456-0671.

Sincerely,

CHAD SMITH,
*Principal Chief.*

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OFFICE OF THE GOVERNOR,
THE CHICKASAW NATION,
*Ada, OK, June 5, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,
*Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: We support the inclusion of Title III, as it is, in Senate Bill 14. Thoughtful development of our tribal natural resources serves all Americans.

We are grateful for the opportunities and support Title III provide to the Chickasaw Nation, and for all of Indian Country, as we explore and develop our natural resources. The language allows us to exercise our own progressive style in development and regulation; yet, it provides for those tribes which prefer the more traditional approach.

Having a voice in the U.S. Department of Energy will highlight and expedite tribal energy issues. This is an opportunity for every tribe to enter into the nation's economic mainstream with the support of the federal government.

Your help, and that of Senators Bingaman and Domenici, is appreciated.

Sincerely,

BILL ANOATUBBY,
*Governor.*

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THE MOHEGAN TRIBE,
*Uncasville, CT, June 5, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,
*U.S. Senate, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Mohegan Tribe supports the inclusion of Title III in S. 14, the Energy Policy Act of 2003. Offering flexibility and support in developing natural resources throughout Indian Country, Title III creates opportunities in which all Indian nations can benefit. We also appreciate the hard work of Senators Domenici and Bingaman in this matter.

Sincerely,

MARK F. BROWN,
*Chairman.*

Mr. CAMPBELL. I say to my colleagues, in supporting the amendment, you are not only assisting Indian tribes and the development of energy resources but helping the United States become less dependent on foreign energy which I think is the goal of all.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## WEAPONS OF MASS DESTRUCTION IN IRAQ

Mr. BENNETT. Mr. President, I am going to take two literary allusions and put them together as the background for the points I wish to make. The first one is a novel that has become a worldwide classic called "1984," written by George Orwell. You may recall that in this particular novel, George Orwell describes a terrifying future. And the principal character in his novel, Winston Smith, works at the Ministry of Truth.

His job at the Ministry of Truth is to go back over old newspapers and clip out things that contradict the current party line and send those down the memory hole; in other words, destroy them, so that if someone comes along and tries to determine whether there is any past support for the present position, the past has been scrubbed to the point where everything there agrees with the present position. Anything that was said previously that disagrees with the present position of Big Brother, the figure that controls the world in the novel, has been sent down the memory hole. It has been destroyed.

Keep that in mind as I take another literary allusion. This is an exact quote from Ben Bradlee, formerly editor of the Washington Post and one of the great journalists of our time who said:

> Journalism is the first rough draft of history.

I cite those two because I want to put them together in the debate that has occurred on the floor and even more so that is going on out in the world of the media—the debate about whether we had proper justification for going into Iraq. We are being told over and over again that the world was lied to, the American people were lied to, the Congress was lied to because we were told that Saddam Hussein had weapons of mass destruction. And since we haven't found any, that means we were deceived at the very beginning when the justification was given to us by the Bush administration to move ahead with respect to the operation in Iraq.

I submit to you, those who make that argument have tried to reconstruct their own memory holes. They have tried to take past information and scrub it from the record and pretend it was never there. In other words, to go back to Ben Bradlee's comment that "journalism is the first rough draft of history," they are prepared, even this quickly after the journalists have reported what was said, to try to change the first draft of history and create, virtually overnight, a new history that never existed.

Well, my memory hole has not been used. I have not scrubbed from my memory a series of statements and comments that have been made prior to Iraq. And I intend to go through those comments here tonight to make it clear that those who claim that the President misled the Congress, the people, and the rest of the world with respect to his reasons for going into Iraq are, in fact, trying to rewrite history.

The record is very clear. It is very firm. And unless Winston Smith is suddenly somehow materialized to change history, the record stands in firm denunciation of those who are now attacking the President on this issue.

Let's go back to the question of weapons of mass destruction. I remember going to S-407 in this building, the room on the fourth floor where we go to receive confidential, highly classified briefings from administration officials. I remember sitting there and listening to Madeleine Albright, Secretary of State, outline for us in detail the reasons we had to attack Iraq. President Clinton, who appointed her Secretary of State, was even more pointed in his public statements of the fact that Iraq possessed weapons of mass destruction. In the President's phrase, "Saddam Hussein will surely use them." We needed, according to the President and the Secretary of State, to move ahead militarily in Iraq.

I remember walking out of that meeting in S-407 convinced that the bombs would start falling within days. As it turned out, the administration changed its mind and moved away from that particular decision. They backed off. But they never backed off their statement that weapons of mass destruction were there, that weapons of mass destruction would be used, and that Saddam Hussein could not be trusted long term with weapons of mass destruction.

Vice President Gore—however much he has attacked this administration and its positions—has nonetheless stated on the record his firm belief that there were weapons of mass destruction in Iraq. I think it is clear that if President Bush were involved in some kind of sleight of hand to pretend that weapons were there when they were not, and create some sort of conspiracy among the members of his administration to peddle this false notion, former Vice President Gore would not be part of that conspiracy. As Vice President, he saw the intelligence briefings. He was in a position to evaluate how accurate they were, and Vice President Gore has said publicly on the record, speaking of Saddam Hussein on September 23:

> We know that he has stored secret supplies of biological and chemical weapons throughout his country.

One of the men in Iraq who worked with Saddam Hussein in creating those weapons had a piece in the Wall Street Journal where he made this statement: "Inspectors will never find them." Also, he pointed out that the artillery shells that had been found by the inspectors that were hollow were, in fact, a demonstration of the fact that there were weapons of mass destruction—that is, chemical and biological weapons—because when the inspectors said, oh, there is no problem here, the warheads are hollow and there is nothing there, this man who worked in Iraq to create these weapons said, of course, they are hollow; the weapons are not put into the artillery shells until just before they are to be used. The artillery shells are prepared for weapons of mass destruction—for chemical or biological weapons—and then stored hollow.

So instead of saying that the discovery of these weapons proves they don't have chemical or biological capability, in fact, the reverse is actually true. We do not have a storehouse in the American military of hollow artillery shells because we don't use chemical weapons. The Iraqis have hollow shells because they expect to put chemical agents in those shells. All of this is part of the record and was available prior to the current debate of those who just want to look back and find it.

Senator BOB GRAHAM, who used to be chairman of the Intelligence Committee when all of this intelligence was being developed, and is still the ranking member of that committee, had this to say when Colin Powell went before the United Nations and laid out the case:

> I applaud Secretary Powell for finally making available to the world the information on which this administration will base its actions in Iraq. . . . In my judgment, the most significant information was the confirmation of a linkage between the shadowy networks of international terrorists and Saddam Hussein, the true coalition of evil.

All of this information was available to all these individuals prior to the time we went into Iraq, and all of them were satisfied that it was sound information. All of them were satisfied that it was real. And now the press is pretending that nobody—nobody—believed there were weapons of mass destruction in Iraq except the Bush administration, and that everybody simply took the Bush administration at its word and now is being betrayed by the facts because we have not found enough of it to satisfy them; we have only found hollow artillery shells; we have only found chemicals that could be used for pesticides.

I wonder if anyone has done an analysis of just how many pesticides Iraqi agriculture requires. Looking at the stores of chemicals they have found, chemicals that have dual use—yes, they could be pesticides or they could be a component part of a chemical weapon. Look at the quantities we have found and ask yourself: Do the Iraqis really need this much for pesticides? Or do they have another purpose?

We have not yet found Saddam Hussein. As KIT BOND said today at lunch, if we don't ever find Saddam Hussein, is that proof of the fact that he doesn't exist? If we don't find him, will that be evidence that the Bush administration made him up? If we don't find him, is that proof that he never was in Iraq? That same kind of reasoning is being applied here. We have not found all of the weapons of mass destruction that all of the critics would like to have as proof of their position, so our failure to have done that so far is, in their logic, proof that these weapons never existed or proof that they were never in Iraq.

I think Senator BOND's question is a legitimate one. If we don't find Saddam Hussein, does that mean he never existed or he was never in Iraq? Of course not. It means something happened. Either we killed him the first night with that first strike and his remains have been removed by the SSO—his central group of key supporters—so that his body will never be found or he has left the country or he was killed somewhere else. But we know he was there. Everybody knew he was there, and our failure to find him now does not mean he was not there when the attack began. Quite the contrary. Everybody is satisfied he was there.

The same thing applies to the weapons of mass destruction. As I have demonstrated, starting with President Clinton, we have known they were there, we have known they had them. If we cannot find them all, that means either they were destroyed by us or by the Iraqis or they have been moved somewhere. It doesn't mean they never existed. The evidence that they existed cannot go down the memory hole just to make the present arguments sound more convincing.

I read a commentator who quoted Deputy Secretary Wolfowitz, in what the commentator thought was a damning admission on this story, when he said:

> Yes, we had other reasons for going into Iraq, but we stressed weapons of mass destruction because that was the one everybody was focused on.

According to the commentator, that is a damning admission on the part of the Secretary that we had other motives, and that is part of the attack that is being mounted on the floor, that the Bush administration was duplicitous: They told us they were going after weapons of mass destruction, but they had other motives. And here, Secretary Wolfowitz has admitted it; a smoking gun.

Back to my memory. I remember very clearly that the Bush administration openly and directly said they had other motives. Let me go down them as I remember them.

Weapons of mass destruction—there are many countries that have weapons of mass destruction. If we were to go after the country in the world, other than ourselves, that has the highest stock of weapons of mass destruction, we would go after Russia. Why don't we? Because weapons of mass destruction alone are by no means justification for attacking another nation. They must be tied to other motives. This is what I am sure Deputy Secretary Wolfowitz was talking about.

Right now President Putin and President Bush have a good relationship. Russia and the United States have a trusting relationship. Why should we attack Russia just because it has weapons of mass destruction when that relationship exists?

Iraq was ruled by a tyrant, and not just your everyday tyrant but a brutal, bloody tyrant who had demonstrated that he not only possessed weapons of mass destruction, he was willing to use weapons of mass destruction and has done so—the only person in the world whose government has employed weapons of mass destruction against anyone else—in this case it was his own people—in the last half century. So, yes, there are other motives besides possessing weapons of mass destruction. They are the man's personality and his history.

We are not just interested in nations that have WMD. We are interested in brutal tyrants who will use weapons of mass destruction.

Next, Iraq was clearly a crossroads of terrorist activity. That is what Senator GRAHAM referred to, not just al-Qaida. Iraq was one of the principal financial supporters of the terrorist suicide bombings in Palestine. They offered a $100,000 reward to anyone who would kill himself as long as he took a few Jews with him. How many tyrants around the world are willing to harbor terrorists and support terrorists? The list gets a little smaller.

North Korea has weapons of mass destruction. North Korea is ruled by a brutal tyrant. But North Korea has not invaded any of its neighbors for half a century, and North Korea is not a haven for al-Qaida, Hamas, Hezbollah, and the other terrorist organizations. We are closing down here on the other motives.

Attacking your neighbors. Saddam Hussein has attacked his neighbors twice in the last dozen years, set off two major wars, and is responsible for killing more Muslims than any other person on the planet.

The other motives that the Bush administration had in dealing with Iraq were the totality of the situation. Yes, they wanted to deal with WMD. Yes, they wanted to deal with a tyrant who was brutalizing his own people. Yes, they wanted to deal with terrorism. And, yes, they wanted to deal with somebody who was threatening his neighbors. If you take that criteria and apply it to all the countries in the world, you come up with only one that qualifies on every count.

It was not the single issue that current commentators and candidates, pundits and pollsters are talking about that prompted President Bush to give the order to go ahead in Iraq. It is a distortion of history to hammer again and again on the fraud that says only weapons of mass destruction drove us to go into Iraq, and it is our failure to find weapons of mass destruction in this time period in Iraq that demonstrates we were wrong.

Nobody has gone to the last part of that sentence. Nobody has said yet that we were wrong to have taken out Saddam Hussein. They come close to that in their attack on the President. They say he lied. They say he manipulated. They say he distorted. But they cannot quite bring themselves to say we were wrong to have done it, and no one will say the world would have been a better place if we had not. Why? Because we have discovered some other things we did not know.

If you are going to talk about intelligence failures, our intelligence community did not know until we got into Iraq about the mass graves. We did not know about the prisons holding children who were put in there as young as 4 and 5 years of age and have been there for 5 years or more.

We did not know the details of the brutality of this man. We did not know that he treated his own population, those who were hostile to him or, indeed, simply suspect in his eyes, as brutally as Adolf Hitler treated the Jews in World War II in Germany. We did not know that. We have discovered that now. So no one will quite go to the point of saying we made a mistake, that Bush did the wrong thing.

One commentator closed his attack on the Bush administration with this interesting quibble, in my view. He said: It was the right war but it was fought for the wrong reason. I find it very difficult to reconcile those two. If it was the right war and has achieved the right result, it was the right thing to have done, and it was the right thing to have done for all of the reasons that people who hate this administration are now conveniently forgetting all of the historical buildup to this that has gone down the memory hole that people are now conveniently saying never happened.

This is a historic Chamber, and it has seen all kinds of debates, high and low. It has seen all standards of rhetoric, good and bad, and, yes, if I may, true and false. There has been a call for the rafters here to be ringing in a discussion of the Iraqi war and America's activity. I wanted to answer that call and do what I can to see that the rafters are ringing with the truth; that the rafters are ringing with real history, not invented history; that the rafters are ringing with a recognition that what the Bush administration has done in Iraq was the right thing to have done; it was based on sound and careful analysis that ran over two administrations; that was vetted thoroughly with our allies abroad, bringing Great Britain, Australia, Poland, and others, into the fight, and the result has demonstrated that the world is a safer place.

The Iraqi people live in a safer society, and the prospects for the future are better than would have been the case if we had gone to the brink, as President Clinton did, and then changed our minds. President Clinton thought the evidence was overwhelming but decided not to act. President Bush thought the evidence was overwhelming and did act, and the rafters should ring with at least one speech that applauds that decision and that level of leadership.

I say to my colleagues, I say to the country, I say to my constituents, I believe the history is there that justifies the decision, and I believe the evidence is there after the fact that more than justifies the decision.

In this case, America and her President can stand proud before the world as having done the right thing for the right reason.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. BENNETT. I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONGRATULATING ROBERT AND ERMA BYRD ON THEIR 66TH WEDDING ANNIVERSARY

Mr. DASCHLE. Mr. President, last Thursday marked an important—and extraordinary—milestone in the lives of two very special members of our Senate family.

On May 29, 1937—66 years and one week ago today—ROBERT CARLYLE BYRD and Erma Ora James were married.

The Senate was not in session on their actual anniversary, so I come to the floor today—one week later—to congratulate Senator and Mrs. Byrd on their remarkable achievement.

ROBERT and Erma Byrd both grew up in the hardscrabble coal country of West Virginia. They were high school sweethearts.

Of all of Senator BYRD's tremendous achievements—and there are many—I suspect the two that mean the most to him are convincing Erma James to marry him in the first place—and staying married to her all these years.

I have heard Senator BYRD say often that he could not do this job were it not for his wife's love and support. In his words: "She is not only my wife, but also my best counselor. She has been a strong pillar of support in all my endeavors."

The Byrds' marriage has brought them two wonderful daughters: Mona Byrd Fatemi and Marjorie Byrd Moore.

They have also been blessed with six grandchildren and three great-granddaughters.

After Mrs. Byrd and their family, the Senate and the Constitution, one of the things that Senator BYRD loves best—as we all know—is history—especially ancient history. So I think he may appreciate this thought from Homer:

> There is nothing more admirable than two people who see eye-to-eye keeping house as man and wife, confounding their enemies, and delighting their friends.

For 66 years, ROBERT and Erma Byrd have done for more than delight their friends.

Together, they have created a full and rich life. They have raised a family. And they have served the people of West Virginia, and America, well. We wish them many more years of happiness together.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the

Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on March 21, 2003. In Burbank, IL, an explosion caused by a powerful fireworks-type device damaged the 1989 Ford Econoline van of a Palestinian Muslim family and shook doors and windows of neighboring homes. The blast shattered the vehicle's windows and blew open the vehicle's door. The man who committed the crime is being held on bond and is being charged with arson, criminal property damage, and committing a hate crime.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## NATIONAL HUNGER AWARENESS DAY

Mr. KENNEDY. Mr. President, the only problem I have with National Hunger Awareness Day is that it should be every day. Across the Nation, 33 million of our fellow citizens are living in poverty and they deserve our help.

In recent weeks, Congress has been focused on giving hundreds of billions of dollars in new tax breaks for the wealthiest Americans, yet we leave the cupboard bare for millions of parents and low-income families. This week, as we debate the energy bill, we are listening carefully to the concerns of big corporations like Halliburton, Exxon, and Entergy, but not nearly carefully enough to the concerns of all those who need our help the most.

It is a national scandal and disgrace that for so many millions of Americans, hunger is an issue today and every day. Since the year 2000, poverty and unemployment have been on the rise, while wages and income continue to fall. Hardworking parents have been forced to make impossible choices between feeding their children and paying the rent and medical expenses. These are choices no parent should have to make.

No child should go hungry. But every night, 13 million children go to sleep not knowing where or when they will get their next meal. As hunger and malnutrition continue, children are more likely to be absent from school to have behavioral problems, and to have trouble learning to read or do math. They are less likely to be friends with other children or learn from their surroundings, and more likely to miss school because of illness.

Clearly, we have to move to end child hunger. This year, Congress will reauthorize the Child Nutrition Act. The Act includes important initiatives, such as school breakfasts and school lunches, and food programs for summer school, after school, and childcare.

Studies demonstrate that at-risk, school-age children depend on school-based breakfasts and lunches for more than half of their daily meals. In the reauthorization, we must work to see that every child eligible for subsidized programs actually receives these important meals. Schools must be reimbursed for the actual costs of providing nutritionally balanced meals. We also need these programs to provide additional resources, encourage nutrition education, and to pay school employees a living wage.

We have a choice. Congress can continue to lavish more and more tax breaks on the wealthiest individuals and companies in the Nation, or we can invest in food for hungry children. The answer should be obvious to us all. We can and must ensure that no child is allowed to go hungry.

## OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few months we've seen the fall of Saddam Hussein's brutal regime coupled with the dawning of a new day for the Iraqi people.

With major military combat operations in Iraq over and the security of our homeland bolstered, America and her allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it's wonderful. I'm proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women surely face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own will seek to cause problems, stir up trouble and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But the journey towards a democratic Iraq has now been embarked upon. Like so many nations before it, Iraq now endures the growing pains common to a fledgling democracy. The uncertainty of today's Iraq, I am hopeful, will soon give way to the promise of a better future for the Iraqi people. And as we move closer to this goal, we must remember those who sacrificed for this noble cause.

Today, I rise to honor a man who made the ultimate sacrifice one can make for his country and the cause of freedom.

Specialist Jose A. Perez III was killed last week when his convoy was ambushed near Baghdad. Perez's convoy received fire from a rocket-propelled grenade while on a main supply route.

This San Diego, TX, native was stationed in Fort Sill. He came from a family with a proud military tradition who knows all to well the pain of losing a loved one. His uncle, Baldemar "Billy" Benavides, Jr. died in the Persian Gulf in 1992.

My heart breaks for this family that has given so much to our great Nation. Of his older brother, 9-year-old Joshua said, "He was a very good hero, and he died for our freedom. I will never forget him."

A good hero indeed.

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Specialist Perez did not die in vain. He died so that many others could live in security and freedom. And for that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

I yield the floor.

## FBI BACKGROUND CHECK SYSTEM

Mr. LEVIN. Mr. President, earlier this week, the Federal Bureau of Investigation released a report on the efficiency and effectiveness of the National Instant Criminal Background Check System, also known as NICS. According to the report, the FBI has improved its ability to respond quickly to gun dealer requests for criminal background checks, with only nine percent of the transactions delayed. These improvements have increased the immediate response rate from an average of 71 percent in early 2001 to 91 percent in 2002.

According to the report, in 2001 the NICS system processed 8.9 million background checks, with approximately 125,000 denials of permission to purchase a gun. While, in 2002, the system performed over 8.4 million checks and denied approximately 121,000 of these purchases. I commend the FBI for its hard work and commitment to improving this important law enforcement tool.

Despite the success of the NICS System and the FBI's hard work, many guns are still being purchased without any background checks being performed. Under current Federal law, criminal background checks on gun purchasers are only required for sales by licensed firearm dealers. Consequently, criminals, fugitives, and terrorists are able to purchase firearms without any background check. They do this by purchasing guns at gun shows. I believe we should require a background check on every gun sale and close the loopholes in Federal law that criminals manipulate to buy and sell guns.

During the last Congress, I cosponsored the Gun Show Background Check Act introduced by Senator JACK REED. I believe this legislation would be a vital tool in preventing guns from getting into the hands of criminals and other ineligible buyers. This bill would simply apply existing law governing background checks to individuals buying firearms at gun shows. This bill is commonsense gun safety legislation that is supported by a number of major law enforcement organizations including the International Association of Chiefs of Police, the National Troopers Coalition, the International Brotherhood of Police Officers, the Police Executive Research Forum, the Major Cities Chiefs, the National Association of School Resource Officers, the National Black Police Association, the National Organization of Black Law Enforcement Executives, and the Hispanic American Police Command Officers Association.

I believe closing the gun show loophole is an important tool in reducing gun violence and preventing guns from getting into the hands of criminals and foreign terrorists. Since its inception, the National Instant Criminal Background Check System has prevented over 563,000 ineligible buyers from gaining access to guns, but many continue to slip through the gun show loophole. I urge my colleagues to join me in supporting this important piece of gun safety legislation.

## FUNDING THE GLOBAL AIR TRAFFIC MANAGEMENT SYSTEM

Mr. INHOFE. Mr. President, I would like to take a moment and recognize the brave men and women who flew and supported the mission of the B-2 bomber. The B-2 is a critical asset of our U.S. military and must be supported in the future. The B-2 can carry up to 40,000 pounds of munitions and can strike up to 16 targets in a single pass. The first night of the bombing in Baghdad, 6 B-2s destroyed 92 targets on the first night. B-2s flew nonstop, 36-hour missions from Whiteman AFB in Missouri to Iraq, unscathed. The B-2s targeted everything from airfields to surface-to-air missiles, sometimes changing targets while airborne enroute to Iraq. No other military has this capability with such accuracy and survivability. It is essential we fund the Global Air Traffic Management, GATM, system, the Secure Nuclear Communications and Broadband Connectivity capabililty, and the repair of the Aft Deck Durability issue for the B-2. We must ensure the B-2 is maintained and modified to keep its lethal edge.

## INDICTMENT OF CHARLES TAYLOR

Mr. LEAHY. Mr. President, yesterday I wanted to give a statement on the indictment of Charles Taylor by the Special Court in Sierra Leone, but due to the rapidly changing events in West Africa and the lack of floor time because of extensive debates on the Defense Authorization and Energy bills, I did not get an opportunity. What follows is the statement that I sent to the State Department, Special Court, and United Nations officials, yesterday, expressing my views on this serious issue.

> I rise today to voice my strong support for the decision of the Special Court for Sierra Leone to indict Charles Taylor for "bearing the greatest responsibility for war crimes, crimes against humanity, and serious violations of international humanitarian law in Sierra Leone." I commend the Court's prosecutor, David Crane, for taking this decisive action.
>
> Since its inception, the Special Court has moved swiftly to indict key figures allegedly involved in some of the worst atrocities that occurred during the brutal civil war in Sierra Leone during the late 1990s. The Court has also made it a priority to emphasize outreach programs to further the reconciliation process and promote the rule of law throughout the country.
>
> Despite important progress, we all know that the Court's work would be grossly deficient if those most responsible for these crimes were not brought to justice because they were too hard to catch, were high officials of a foreign government, or no longer resided inside of Sierra Leone. It would be like the United States deciding against pursuing the perpetrator of an act of terrorism on American soil, that killed or maimed thousands of individuals, because he left the country or was a high-ranking official in a foreign government. That would be unacceptable.
>
> That is precisely why Congress expressed its clear intent that the Special Court for Sierra Leone should pursue those most responsible, irrespective of where they currently reside.
>
> In the report that accompanied the Senate version of the Fiscal Year 2002 Foreign Operations bill, Report 107-58, Congress stated in unambiguous terms: "To build a lasting peace, the Committee believes that it is imperative for the international community to support a tribunal in order to bring to justice those responsible for war crimes and other atrocities in Sierra Leone, irrespective of where they currently reside."

This statement was later endorsed by the Conference Report to the Fiscal Year 2002 Foreign Operations bill, Report 107-345, which put the House of Representatives on record on this issue as well.

Even before these reports were issued, Senators FEINGOLD, FRIST, MCCONNELL and I wrote a letter to Secretary Powell, dated June 20, 2001, which stated: "Because some of the individuals most responsible for the atrocities in Sierra Leone are no longer in the country, we believe it is imperative that the tribunal has the authority to prosecute culpable individuals—including senior Liberian officials—regardless of where they reside. This will prevent such persons from escaping justice simply by leaving the country."

I can safely say that we had one individual especially in mind when we drafted that text: Charles Taylor. I was the principal author of the letter and two Congressional reports referenced above.

The involvement of Charles Taylor in the conflict in Sierra Leone is well documented and I will not go into great detail here. I will simply say that there is no doubt in my mind that he deserves to be brought to justice before the Special Court.

To its credit, the State Department took the advice of Congress. The State Department successfully negotiated an agreement that established the Special Court for Sierra Leone and which did not contain geographic restrictions on the Prosecutor, allowing him to go after Charles Taylor.

Perhaps the Prosecutor for the Court, David Crane, best described the Special Court's mandate: "My office was given an international mandate by the United Nations and the Republic of Sierra Leone to follow the evidence impartially wherever it leads."

Today, acting on information that Charles Taylor was traveling to Ghana, the Special Court unsealed an indictment for Charles Taylor, originally approved March 7, 2003, and served the outstanding warrant for his arrest on Ghanaian authorities and transmitted the arrest warrant to INTERPOL.

Again, I commend the prosecutor for taking this step. While I understand there are some, including in the Administration, who are concerned about the impact that this may have on the peace process now underway in West Africa, I agree with Mr. Crane's comments on this sensitive issue:

> To ensure the legitimacy of these negotiations, it is imperative that the attendees know they are dealing with an indicted war criminal. These negotiations can still move forward, but they must do so without the involvement of this indictee. The evidence upon which this indictment was approved raises serious questions about Taylor's suitability to be a guarantor of any deal, let alone a peace agreement.

The Ghanaian Government needs to act immediately. It needs to uphold the basic tenants of international law, apprehend Charles Taylor and hold him until arrangements can be made to transfer him to the Court. In addition, the State Department needs to send an unequivocal message to Accra that action on this issue is urgently needed.

This may be the only chance that we get for years to bring Charles Taylor to justice. It is imperative that, in its most important moment thus far, the United States and Ghana do everything in their power to apprehend Charles Taylor. If this does not occur, the world will have missed a golden opportunity to bring to justice one of the world's most heinous war criminals and advance the cause of international justice.

In closing, I would like to read into the RECORD Mr. Crane's statement issued today that describes the situation concerning Charles Taylor:

> Today, on behalf of the people of Sierra Leone and the international community, I announce the indictment of Charles Ghankay Taylor, also known as Charles Ghankay Macarthur Dapkpana Taylor.
>
> The indictment accuses Taylor of "bearing the greatest responsibility" for war crimes, crimes against humanity, and serious violations of international humanitarian law within the territory of Sierra Leone since 30 November 1996. The indictment was judicially approved on March 7th and until today, was sealed on my request to the Court.
>
> My office was given an international mandate by the United Nations and the Republic of Sierra Leone to follow the evidence impartially wherever it leads. It has led us unequivocally to Taylor.
>
> Upon learning that Taylor was travelling to Ghana, the Registrar of the Special Court served the outstanding warrant for his arrest on Ghanaian authorities and transmitted the arrest warrant to INTERPOL. This is the first time that his presence outside of Liberia has been publicly confirmed. The Registrar was doing his duty by carrying out the order of the Court.
>
> Furthermore, the timing of this announcement was carefully considered in light of the important peace process begun this week. To ensure the legitimacy of these negotiations, it is imperative that the attendees know they are dealing with an indicted war criminal. These negotiations can still move forward, but they must do so without the involvement of this indictee. The evidence upon which this indictment was approved raises serious questions about Taylor's suitability to be a guarantor of any deal, let alone a peace agreement.
>
> I am aware that many members of the international community have invested a great deal of energy in the current peace talks. I want to make it clear that in reaching my decision to make the indictment public, I have not consulted with any state. I am acting as an independent prosecutor and this decision was based solely on the law.
>
> I also want to send a clear message to all factions fighting in Liberia that they must respect international humanitarian law. Commanders are under international legal obligation to prevent their members from violating the laws of war and committing crimes against humanity.
>
> In accordance with Security Council resolutions 1315, 1470, and 1478, now is the time for all nations to reinforce their commitments to international peace and security. West Africa will not know true peace until those behind the violence answer for their actions. This office now calls upon the international community to take decisive action to ensure that Taylor is brought to justice.

Mr. FEINGOLD. Mr. President, yesterday the Special Court for Sierra Leone unsealed an indictment of President Charles Taylor of Liberia. Taylor is accused of crimes against humanity, war crimes, and serious violations of international humanitarian law. I commend the Court for taking its mandate seriously and for following the evidence where it led—directly to a sitting head of state.

I have long been a strong supporter of accountability mechanisms in Sierra Leone—both the Special Court and the Truth and Reconciliation that will address the horrible crimes committed by the foot soldiers in the field—soldiers who were, all too often, children. I have worked to ensure that the United States provides appropriate financial support to these mechanisms, and I have raised the importance of our political support at the highest levels. West Africa must break the cycle of violence and impunity, and all of us in the international community have a role to play in that effort.

The Special Court is charged with prosecuting those who bear the greatest responsibility for serious violations of international humanitarian law committed in Sierra Leone since November 1996. For over a decade, Sierra Leone was one of the most insecure places on Earth. Civilians not only suffered from deprivation and displacement, they also had to contend with the forced recruitment of child soldiers, widespread and brutal sexual violence, and horrifying murders and mutilations. Those responsible for these crimes abandoned all human decency in their simple quest for power and wealth.

The indictment announced yesterday had been sealed for months, but for years there has been no secret about one basic fact—Charles Taylor is a war criminal. I said so years ago, and it remains true today. He should be brought before the Court and held accountable for his actions.

I also strongly support continued American efforts to isolate and pressure the Taylor regime. But at the same time, the situation of the Liberian people cannot be overlooked. Pressuring and condemning Taylor is not a complete policy toward this troubled and volatile country. The armed rebel groups currently fighting for dominance in Liberia have proven all to willing to prey on Liberian civilians in their own lust for power. We must ask ourselves, what will Liberia look like in 10 years, and what will that mean for the Liberian people, for the West African region, and for international criminal networks? What steps can be taken today to influence that outcome? And then we must muster the will and the means to act before the trend most recently exemplified by crisis in Cote d'Ivoire dominates the region.

## OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few months, we've seen the fall of Saddam Hussein's brutal regime coupled with the dawning of a new day for the Iraqi people.

With major military combat operations in Iraq over and the security of our homeland bolstered, America and her allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it's wonderful. I'm proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women surely face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own will seek to cause problems, stir up trouble and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But the journey towards a domestic Iraq has now been embarked upon. Like so many nations before it, Iraq now endures the growing pains common to a fledgling democracy. The uncertainty of today's Iraq, I am hopeful, will soon give way to the promise of a better future for the Iraqi people. And as we move closer to this goal, we must remember those who sacrificed for this noble cause.

Today, I rise to honor a man who made the ultimate sacrifice one can make for his country and the cause of freedom.

Staff Sergeant Aaron Dean White, 27, died May 19 when the CH-46 transport helicopter he was in crashed into a canal in central Iraq.

White was an Oklahoma native. He grew up in Seminole County where he attended school until his junior year in high school. He then graduated from Shawnee High School in 1994 and immediately began his military career.

If you ask his mother, she will tell you that he had a "calling to serve people." That call to service was put to good use in our Armed Forces.

White was trained in helicopter maintenance, but he could not get enough of flying. His pastor, Reverend Wesley Martin, explained his passion for flight: "After he got his pilot's license, all he did was fly. He couldn't get enough of it. He loved to fly and he loved life."

As a result, he volunteered for the gunner position on the helicopter that crashed. "What a flight that must have been," said Martin. "No equipment necessary—as he flew immediately into the heavens."

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Staff Sergeant White did not die in vain. He died so that many others could live in security and freedom. And for that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

I yield the floor.

## THE NATIONAL SECURITY ASPECTS OF THE GLOBAL MIGRATION OF THE U.S. SEMICONDUCTOR INDUSTRY

Mr. LIEBERMAN. Mr. President, I rise today to express my concern about the loss to the U.S. economy of most of our high-end semiconductor chip manufacturing sector, the threat of the subsequent loss of the semiconductor research and design sectors, and the resulting serious national security implications.

The composition of the global semiconductor industry has changed dramatically in recent years. East Asian countries are leveraging these changing market forces through their national trade and industrial policies to drive a migration of semiconductor manufacturing to that region, particularly China, through a large array of direct and indirect subsidies to their domestic semiconductor industry. If this accelerating shift in manufacturing overseas continues, the U.S. will lose the ability over time to reliably obtain high-end semiconductor integrated circuits from trusted sources, at a time when these advanced processing components are becoming a crucial defense technology advantage to the U.S. Experts in the military and intelligence sectors have made clear that relying on semiconductor integrated circuits fabricated outside the U.S., e.g. in China, Taiwan and Singapore, is not an acceptable national security option. The economic impact in the U.S. of the loss of manufacturing, research and design has equally serious implications.

I would like to direct my colleagues' attention to a White Paper, that I am asking to be included in the Congressional Record, which outlines the fact that this off-shore migration of high-end semiconductor chip manufacturing is a result of concerted foreign government action, through an effective combination of government trade and industrial policies which have taken advantage of opportunities resulting from market forces and changes in the semiconductor industry. This White Paper lists a number of possible actions the defense and intelligence communities should consider to prevent this serious loss of U.S. semiconductor manufacturing and design capability. I have also requested that the Department of Defense, the National Security Agency, and the National Reconnaissance Office submit reports and plans of action to respond to this impending national security threat. I have asked that these reports provide an analysis of the semiconductor manufacturing issues that relate to defense and national security, as well as an analysis of the potential solutions that are discussed in the White Paper. I hope these reports will detail the steps that will be taken to counteract this loss of critical components for U.S. defense needs, as well as a timetable for the implementation of such steps. I note that the Armed Services Committee report on the bill we passed yesterday requests similar information.

I hope we can act promptly to avoid a potential national security crisis in terms of reliable access to cutting-edge technology necessary to the critical defense needs of our country. The loss goes beyond economics and security. What is at stake here is our ability to be preeminent in the world of ideas on which the semiconductor industry is based. A prompt, concerted effort by the defense and intelligence community in cooperation with industry can reverse this trend of off-shore migration of manufacturing, research and design that is now under way and that will become essentially irreversible if no action is taken in the next few months.

I ask consent that my "White Paper on National Security Aspects of the Global Migration of the U.S. Semiconductor Industry" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### White Paper: National Security Aspects of the Global Migration of the U.S. Semiconductor Industry

The U.S. is facing an imminent threat to national security as a result of foreign government actions that have capitalized on the changing composition of the semiconductor industry. Our concern is the loss to the U.S. economy of the high-end semiconductor manufacturing sector, the potential subsequent loss of the semiconductor research and design sectors, and the grave national security implications that this would entail. East Asian countries are leveraging market forces through their national trade and industrial policies to drive a migration of semiconductor manufacturing to that region, particularly China. If this accelerating shift in manufacturing overseas continues, the U.S. will lose the ability to reliably obtain high-end semiconductor integrated circuits from trusted sources. This will pose serious national security concerns to our defense and intelligence communities. Historically, shifts in manufacturing result over time in the migration of research and design capabilities. This is especially true of leading-edge industries such as advanced semiconductor manufacturing, which requires a tight linkage and geographic proximity for research, development, engineering and manufacturing activities. The economic impact in the U.S. of the loss of manufacturing, research and design has equally serious implications.

The Pentagon's Advisory Group on Electron Devices (AGED) has warned that the Department of Defense (DoD) faces shrinking advantages across all technology areas due to the rapid decline of the U.S. semiconductor industry, and that the off-shore movement of intellectual capital and industrial capability, particularly in microelectronics, has impacted the ability of the U.S. to research and produce the best technologies and products for the nation and the war-fighter. This global migration has also been discussed in a recently released National Research Council/National Academy of Sciences report on the U.S. semiconductor industry, which details the significant growth in foreign programs that support national and regional semiconductor industries. This support is fueling the structural changes in the global industry, and encouraging a shift of U.S. industry abroad.

#### CRITICAL NATIONAL SECURITY APPLICATIONS

Studies have shown that numerous advanced defense applications now under consideration will require high-end components with performance levels beyond that which is currently available. These cutting-edge devices will be required for critical defense capabilities in areas such as synthetic aperture radar, electronic warfare, and image compression and processing. Defense needs in the near future will also be focused on very high performance for missile guidance ("fire and forget"), signal processing, and radiation-hardened chips to withstand the extreme environments of space-based communications and tactical environments. There are profound needs for much more advanced onboard processing capabilities for unmanned aerial vehicles undertaking both reconnaissance and attack missions, for cruise missiles and ballistic missile defense, and for the infrastructure that connects these systems. As the military transforms to a "network-centric" force in the future, the DoD's Global Information Grid will demand extremely high-performance computation to overcome the technical barriers to a seamless communication network between terrestrial 24 and 48 color optical fiber and satellite platforms transmitting in 100+Mbps wireless. Such performance will also be necessary for "last-mile" extremely high-speed connectivity to platforms and to the soldier in the field, as well as for the high-speed encryption requirements for a secure communication system. Intelligence agencies will increasingly need the most advanced chips for very high-speed signal processing and data analysis, for real-time data evaluation, for sensor input and analysis, and for encryption and decryption.

As studies for DARPA have indicated, the next several generations of integrated circuits, which emerge at roughly eighteen-month intervals as predicted by Moore's Law, offer the potential for exponential gains in defense war-fighting capability. It is erroneous to believe that future U.S. war-fighting capability will be derived from chips one or two generations behind current state-of-the-art technology. Many of the integrated circuits and processing platforms that are coming in to use, and which are at the heart of DoD defense strategies, are clearly at the cutting edge in their capabilities.

With the dramatic new capabilities enabled by rapidly evolving chip technologies, DoD and the intelligence agencies will need to be first adopters of the most advanced integrated circuits, and will be increasingly dependent on such chips for a defense and intelligence edge. If the ongoing migration of the chip manufacturing sector continues to East Asia, DoD and our intelligence services will lose both first access and assured access to secure advanced chip-making capability, at the same time that these components are becoming a crucial defense technology advantage. Informed elements of the intelligence community therefore have made clear that relying on integrated circuits fabricated outside the U.S. (e.g. in China, Taiwan and Singapore) is not an acceptable national security option.

### ECONOMIC IMPORTANCE AND CHANGES IN THE SEMICONDUCTOR INDUSTRY

The influence of the semiconductor industry to the U.S. economy in the last decade is difficult to overstate. The U.S. semiconductor sector currently employs 240,000 people in high-wage manufacturing jobs, and had sales totaling $102 billion in the global market in 2000 (50 percent of total worldwide sales). In 1999, this sector was the largest value-added industry in manufacturing in the U.S.—larger than the iron, steel and motor vehicle industries combined. The productivity growth in the U.S. in the 1990s was due in significant part to the computer production and advances in information technology that depended on the semiconductor industry. The economic implications of the potential migration of high-end semiconductor chip research, design and manufacturing to off-shore facilities has the potential to cause (and, it could be argued, is already causing) long-term damage to the economic growth of this country, with corresponding national security ramifications.

A fundamental change in the semiconductor industry has been, in very simplified form, that the price to performance curve has reduced revenue in the industry dramatically over the last decade. During the early 1960's, and continuing until about 1994, the compound annual growth rate in revenue of the industry was 16 percent. From 1994 to the present, the growth rate has been approximately 8 percent. This situation is combined with the very large costs associated with the development of new 300 mm fabrication facilities ("fabs"), as well as the increasing complexity and cost of research and design as the industry must develop methods other than the traditional scaling methods (making all aspects of the chips smaller and smaller) in order to increase performance. These factors, and the current recession, are driving the industry to consolidations. As those consolidations take place, new business models, such as fabless companies and consortia, come into play.

### A PROCESS DRIVEN BY GOVERNMENT POLICY IN REACTION TO MARKET FORCES

The principal reason that China is becoming a center of semiconductor manufacturing is the effective combination of government trade and industrial policies which have taken advantage of opportunities resulting from market forces and changes in the semiconductor industry. In a sector characterized by rapidly increasing capital costs and the need to have access to large, rapidly growing markets, such as China's, Chinese government policies and subsidies can decisively change the terms of international competition. The impact of these incentives is accentuated as a result of the multi-year recession, which has sharply reduced revenue and increased the competition for markets to absorb the industry's characteristic high fixed costs. Government policies in Taiwan were already drawing new manufacturing capability, as well as tool and equipment makers, to its science and technology park complex. However, in the last two years, Chinese policy has resulted in a sharp upsurge in construction of fabrication facilities in that country, with plans for a great many more.

The U.S. high-tech industry has been in a recession the last two years, with sharply reduced sales and severe losses. The number of state-of-the-art U.S. chip manufacturing facilities is expected to sharply decrease in the next 3–5 years to as few as 1–2 firms that now have the revenue base to own a 300 mm wafer production fab, and likely less than a handful of firms. Although the U.S. currently leads the world semiconductor industry with a 50 percent world market share, the Semiconductor Industry Association estimates that the U.S. share of 300 mm wafer production capacity will be only approximately 20 percent in 2005, while Asian share will reach 65 percent (only 10 percent of this from Japan). The remaining state-of-the-art U.S. chip-making firms face great difficulty in attaining the huge amounts of capital required to construct next-generation fabs. This situation stands in contrast to that in China. To ensure that they develop the ability to build the next-generation fabrication facilities, the Chinese central government, in cooperation with regional and local authorities, has undertaken a large array of direct and indirect subsidies to support their domestic semiconductor industry. They have also developed a number of partnerships with U.S. and European companies that are cost-advantageous to the companies in the short-term. The Chinese government is successfully using tax subsidies (see below) to attract foreign capital from semiconductor firms seeking access to what is expected to be one of the world's largest markets. This strategy, which is similar to that employed by the European Union in early 1990s, is a means of inducing substantial inflows of direct investment by private firms. Indeed, much of the funding is Taiwanese, driven by the tax incentives and their need for market access, especially for commodity products such as DRAMs. The strategy does not rely on cheaper labor, as that is a small element in semiconductor production.

The Chinese are, however, able to increasingly draw on substantially larger pools of technically trained labor as compared to the U.S., from the large cohorts of domestic engineering graduates. Importantly, the output of Chinese universities is supplemented by large numbers of engineers trained at U.S. universities and mid-career professionals who are offered substantial incentives to return to work in China. These incentives for scientists and engineers, which include substantial tax benefits, world-class living facilities, extensive stock options taxed at par value, and other amenities, are proving effective in attracting expatriate labor. They also represent an important new dimension in an accelerating global competition for highly skilled IT labor.

The immediate and most powerful incentives for a highly leveraged industry are the direct and indirect subsidies, including infrastructure needed for state-of-the-art fabs, offered by the government. For example, the Chinese central government has undertaken indirect subsidies in the form of a substantial rebate on the value-added tax (VAT) charged on Chinese-made chips. While many believe this is an illegal subsidy under GATT trade rules, the impact of the subsidy on the growth of the industry may well be irreversible before—and if—any trade action is taken. There are a variety of other documented measures adopted by the Chinese government. The development of special government funded industrial parks, the low costs of building construction in China as compared to the U.S., and their apparent disinterest in the expensive pollution controls required of fabrication facilities in the U.S. all represent further hidden subsidies. The aggregate effect of these individual "subsidies" may be only a few tens of percentage points of decrease (literally, only 20–30 percent in the manufacturing costs of the chips, but in such a cost-driven industry, this difference appears to play an important role in driving the entire offshore migration process for these critical components. Essentially, these actions reflect a strategic decision and represent a concerted effort by the Chinese government to capture the benefits of this enabling, high-tech industry, and thereby threatening to be a monopoly supplier and thus in control of pricing and supply.

It is therefore important to understand that the current shift in manufacturing capacity to China is not entirely the result of market forces. It is equally important to recognize that even if some residual U.S. manufacturing capacity remains after this large-scale migration takes place, the shift of the bulk of semiconductor manufacturing will severely constrain the ability of the U.S. to maintain high-end research and development capabilities. Such directed government support has proven itself to be a severe threat to U.S. industry. For a variety of reasons, the U.S. government has never been able to provide such coordinated support. The results of this deficit have been devastating. The idea that national governments cannot contribute to the health and direction of such a "consumer based" industry is unfounded, particularly given the national security implications.

### A PLAN OF ACTION

The stakes are real. The time for the country to react effectively is limited. There are things that can be done. If these steps are taken in a timely fashion, the collective impact of the measures will be more powerful in maintaining reliable first access to high-end semiconductor chip design and manufacturing in the U.S. These could include:

Active Enforcement of GATT trade rules. Currently the Chinese government is providing a 14 percent rebate on VAT to customers who buy Chinese-made semiconductor chips, essentially providing a large subsidy of their domestic industry in clear violation of GATT rules. Thus, U.S.-made chips would pay a 17 percent VAT, and Chinese-made chips would pay a 3 percent VAT. Given the tight price competition of chips and the growing importance of the Chinese chip market, this is a very significant step towards ending U.S. production. It is important to ensure that GATT rules are properly enforced in this instance, and not allow government imposed advantages for foreign competitors to damage U.S. manufacturers. DoD should insist that the U.S. Trade Representative undertake prompt bilateral negotiations to remove these measures.

Joint production agreements. With the current downturn in the high-tech sector, it is probable that many chip manufacturing companies will be unable to acquire the necessary capital to invest in the $3+ billion required for new 12-inch water advanced chip fabrication facilities, which are radically increasing in cost. Title 15 of the U.S. code (sections 4301 through 4305) gives private technology companies facing global competition the ability to enter into joint production ventures with a waiver of certain antitrust laws. Under this provision, a group of companies could consolidate assets into a small number of chip fabrication plants, which could be jointly run by a cooperative of two to five companies. This cooperative investment in a fab could sharply reduce the risk and cost to each participating firm, and their agreements to purchase chips from the new fab could be the basis to obtain financing. The Department could encourage this kind of venture and offer contracting opportunities to meet DoD's own chip-making needs, thus being an additional guarantor of demand.

Business models. A variety of creative business models exist which can help the Department and intelligence agencies obtain improved access to advanced manufacturing lines. The Department and intelligence agencies can enter into agreements with a number of U.S.-based chip manufacturers within the context of one of these models to the mutual benefit of all parties. DoD should contract with selected U.S. fabs for long-term access, using any one or more types of contractual vehicles (such as "take or pay"). DoD should also direct its aerospace end-users to employ the services of these domestic fabs. While DoD, NSA and NRO are only a very small piece of the semiconductor market, they can still use their residual contracting power to encourage retention of U.S. advanced chip manufacturing in a coordinated way. DoD and the intelligence agencies must pursue this avenue of creative government-industry cooperation, and must do so soon, as time is not on the side of the U.S. industrial base or the U.S. Government. It is important to note, however, that even a much stronger and better coordinated effort in this area alone will not resolve DoD's problems because over time without a strong domestic commercial semiconductor industrial base it will become very difficult for DoD to retain access to state of the art chips. DoD requires an industry with technology leadership, not just its own short term supply fix.

Encourage tax incentives for U.S. investment. As the next generation of chip fabrication facilities can cost at least $3 billion per plant, the manufacturing sector will require assistance in acquiring the investment capital necessary to develop the manufacturing capabilities for cutting edge semiconductor chips. DoD and the intelligence agencies should work with industry and propose targeted tax incentives, possibly in coordination with state and local government financing, to assist in meeting these investment costs. As noted above, these efforts cannot be delayed into the out-years, as time is of the essence.

Increase Science and Engineering Graduates. The unprecedented technical challenges faced by the industry will require technically trained talent to provide solutions to these problems. In order to effectively compete against the concerted effort by the Chinese to capture the semiconductor industry, it will be necessary to counter the growing disparity of trained talent in both physical sciences and engineering between East Asia and the U.S. Incentives need to be created for increasing university student training in these fields, in particular, of students who are U.S. citizens. The training over the past two decades of East Asian students in American universities, who increasingly return to their country of origin, is a partial cause of the present situation. Additionally, efforts need to be undertaken to encourage their retention in the U.S. Overall, DoD should focus on programs that increase the number of science and engineering graduates at the B.S. and M.S. level needed to provide the technical capabilities for the semiconductor industry.

Increases in Federal Funds for Research and Development (R&D). Levels of federal funding in the U.S. for research on microelectronics have been steadily decreasing, while at the same time, competitors in Asia and Europe have dramatically expanded public support for semiconductor R&D. This decline in U.S. research support is of particular concern because the industry is increasingly addressing extremely complex technical challenges for which no solution is readily apparent. The following points highlight this need for restoration of funding and describe possible steps that could be taken:

a. DARPA's annual funding of microelectronics research and development—the principle channel of direct federal financial support in this area—has declined since 1999, and is projected to decline further. DoD should consider restoring this funding.

b. SEMATECH, the private industry partnership with government which was created to help revive the weakened U.S. industry in 1987 through collaborative research and pooled manufacturing knowledge, was provided with government funds of $100 million per year, fully matched by industry funds. Since 1996, SEMATECH has no longer received any government fundings. Originally an entirely U.S. endeavor, SEMATECH has now had to become "international" to remain in operation, thereby destroying its original U.S.-centric focus. DoD should consider alternative mechanisms for cooperative R&D efforts with industry in critical research areas.

c. In the current harsh financial climate of the U.S. high-tech industry, the private sector will not be able to continue an adequate investment in research and development—there have in fact been widespread anecdotal report of major decreases in R&D efforts in the U.S. commercial electronics industry. The need is developing for processors based on the next generation of silicon chip technology (referred to as the "90 nanometer" generation), and the U.S. could find itself without a domestic manufacturing base, as the research for that technology generation should be under way now. The area of non-silicon semiconductors, which offer a level of speed performance exceeding that of silicon components, is clearly under-funded. For example, research is needed on nano-electronics, such as alternatives to silicon CMOS through nanotubes and nanowires. This technology will be important for next-generation military communications and radar systems (operating in consort with advanced silicon processor chips). Here too, the DoD must find ways to assist the U.S. non-silicon semiconductor manufacturing based by further encouraging R&D appropriate to DoD requirements.

d. I urge the Department and intelligence agencies to support increased government funding for R&D of advanced chip technologies and also to support the development of new DoD-specfic chip designs within the aerospace industry, which, like the fabs, are losing their capabilities as the chip designs themselves are increasingly conducted overseas. DoD's decades-long role in the support of such research has diminished in recent years. Rejuvenation of this long-standing DoD role in advanced R&D would help to assure that U.S. industry, to the extent that it can be retained, will lead the future shifts to the most advanced chip technology which DoD will need.

Cooperative Research Programs. Programs such as the Focus Research Center Program (FRCP) under the Microelectronics Advanced Research Corporation (MARCO) seek to overcome the growing challenges companies face in advancing microelectronics technologies through government-industry partnerships that focus on cutting-edge research deemed critical to the continued growth of the industry. The government's share of funding (25 percent) of this cooperative program has been supported through the Government-Industry Co-sponsoring of University Research (GICUR) program within the Office of Secretary of Defense. The funding targets for this program as outlined in the original ramp-up plan have not been met. In fact, this program has been zeroed out of the administration's FY 2004 budget. DoD should ensure that funding levels for this vital area of government-industry collaborative research be properly supported, and that when U.S. universities are the recipients of such funding, the training of U.S. citizens (in contrast to foreign students) is strongly emphasized.

Survey of Trade Practices. DoD should survey all possible technologies that the Chinese government may be targeting for subsidies that would assist in the transfer of U.S. chip-making and related fields to China, and then develop a list of those subsidies that are in violation of GATT trade rules and seek USTR action For those that are not in violation but nonetheless create a competitive "edge" for China, the Department and the intelligence agencies will need to develop counter strategies. The focus should aid to strengthen the entire electronics and IT "food chain"—from semiconductor manufacturing equipment to semiconductors to computers and systems. This will require broad interagency coordination and cooperation. It would probably be necessary to form such a "tiger team" immediately, and to provide that team with the authority and resources to act to stem the deterioration of our defense-critical on-shore infrastructure.

The Semiconductor Equipment and Materials Industry. Over the last decade a fair fraction of U.S. semiconductor tooling and equipments capability has migrated off shore. This has been particularly true of the "high technology" end of the business—advanced lithography. The migration has had a significant impact on our ability to guide and direct development in the chip economy as a whole. For example, when ASML (a Dutch firm) tool over SVG–L (our last cutting edge lithography stepper supplier) the personnel base at the former SVG–L site, in part because of the recession, was reduced, and some advanced product development shifted to Europe. Along with the sale of SVG–L, Tinsley, an SVG–L subsidiary, which is the world's premier supplier of aspheric optical components widely used in defense surveillance systems, was also conveyed to ASML. Lithography patent battles that could affect sales and services to U.S. chip makers using equipment from either of these companies are continuing. As another example, it is generally accepted throughout the industry that the photomask is a key gating element in semiconductor development today, and that mask development is one of the largest challenges currently facing the industry. The cost of photomask infrastructure development is currently outstripping available R&D resources by a factor of 4 to 5. A recent SEMATECH study indicated the shortfall at approximately $750 million. Outside the U.S., this shortfall is being met with Government sponsored development activities in hopes of taking over the market. A small number of U.S. merchant mask companies are currently spearheading an effort to establish a pre-competitive R&D activity focused on U.S. mask infrastructure development. The need, supported by SEMATECH, includes advanced tool evaluation and development, along with materials, metrology, and standards activities to improve future photomask manufacturing capability. The goal is to accelerate leading edge photomask infrastructure capability on-shore by building on prior and current mask industry investments. DoD should give full consideration to supporting this effort for a U.S. mask consortium. Overall, the "tiger team" should survey and make recommendations on what can be done to stimulate and grow what is left of the on-shore semiconductor equipment industry, including masks and lithography.

### NECESSITY OF COMPREHENSIVE ACTION

If DoD and the intelligence agencies lose commercial advanced chip production capability, off of which they have sharply leveraged over the past two decades to greatly reduce their costs and to improve war-fighting capability, the ability to benefit from such cost-saving relationships will be permanently lost. DoD can attempt to achieve temporary solutions, such as building its own next generation government-owned chip fabrication facility, but this is likely to be both expensive and ineffective. If the best research and design capability shifts to China along with manufacturing, this approach will not work past the next generation or two of semiconductor chip production. In addition, such temporary solutions are not only unworkable over time if the U.S. wishes to retain the best capability that is required for defense and intelligence needs, but will be far more expensive than the solutions proposed above. This is because the opportunity to leverage off the commercial sector (an approach which the DoD and intelligence community rely upon at present) for new advances and cost savings will be lost. The U.S. policy goal should not be to seek to prevent China from obtaining significant chip-making capability in the very near future. That will happen. The issue is whether the U.S. can improve its competitive position and remove unfair distortions in order to retain significant on-shore manufacturing capacity.

### CONCLUSIONS AND FURTHER ACTION

A prompt, concerted effort by the defense and intelligence community can reverse this trend of off-shore migration of manufacturing, research and design that is now underway and that will become essentially irreversible if no action is taken in the next few months. I am requesting a report and plan of action from DoD and the intelligence community, based on the steps enumerated above, on how they will act to prevent the national security damage that the loss of the U.S. semiconductor industry will entail.

The loss goes beyond economics and security. What is at stake here is our ability to be preeminent in the world of ideas on which the semiconductor industry is based. Much of applied physical science—optics, materials, science, computer science, to name a few—will be practiced at foreign centers of excellence. This stunning loss of intellectual capability will impede our efforts in all areas of our society.

I hope that by bringing attention to this matter, we can avoid a potential national security crisis in terms of reliable access to cutting edge technology necessary to the critical defense needs of our country. We are being confronted by one of the greatest transfers of critical defense technologies ever organized by another government and the time for action is overdue.

## AUNG SAN SUU KYI: RELEASE HER UNHARMED

Mr. KENNEDY. Mr. President, Burma's brutal and illegitimate military government committed yet another vicious atrocity last week when Aung San Suu Kyi and many members of her democracy movement were suddenly assaulted by a paramilitary group. Some of her supporters were killed and many others were wounded. She herself was taken into so-called "protective custody" by the regime but little more is known of her whereabouts, her health, or the safety of the 20 or so people arrested with her.

The violent repression of these democracy activists is another sad and infuriating example of the continuing efforts by the Burmese government to block any genuine political reform in the country.

Only a year ago Suu Kyi was released from one of her numerous occasions of house arrest in Burma, this one lasting 19 months. Her release last spring came with the promise to release political prisoners and begin a new discussion with her party. That party, the National League of Democracy, legitimately won power in a 1990 election, but was denied the opportunity to take office in the government crackdown that followed.

This cruel attack is another example of a corrupt government that continues to commit flagrant human rights violations against its citizens, uses rape as a weapon of intimidation and torture against women, and forcibly enslaves child soldiers to fight their own people.

This new atrocity has outraged the world, and many governments have denounced it. Stronger action by the international community is long overdue, and we must act as well. Under S. 1182, the Burmese Freedom and Democracy Act, we call on the Burmese government to release Suu Kyi and her supporters immediately and with no additional harm. Our legislation will impose a total ban on import from Burma. It will freeze the Burmese government's assets in the United States. It will tighten the visa ban on their government officials. It will oppose any new international loans to its government.

I am very encouraged by the swift decision of President Bush and Secretary Powell to express their outrage and concern. Congress must do all it can to support the courageous struggle for democracy led by the heroic Aung San Suu Kyi. We pray that she will be released unharmed. She won the Nobel Prize for Peace in 1991 for her courageous leadership, and again and again she continues to show us why.

## THE HOLOCAUST VICTIMS' ASSETS, RESTITUTION POLICY, AND REMEMBRANCE ACT

Mrs. CLINTON. Mr. President, today I join my colleagues in support of the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act.

We are motivated by a desire to achieve justice for Holocaust victims and their families, and we recognize that if such justice is to be attained, the United States must continue to lead the world by example.

The United States has provided leadership in this area ever since American troops liberated the death camps. Most recently, the United States has been the driving force behind international settlements with foreign governments, the Swiss banks, the European insurance companies, and German corporations that benefited from slave labor. This legislation recognizes that the struggle for justice requires continued American leadership and that the foundation is the appropriate mechanism for that leadership.

Justice is timeless, and it is time for us to take the necessary steps and help Holocaust survivors reunite with their assets and belongings. For many survivors and family members, a painting, a piece of furniture, or a family heirloom is the only remaining connection between them and their loved ones who died in the Holocaust. This legislation is long overdue. I hope that it reunites many victims and families with those items that have been missing for too many years, and a reunion like that would be a bittersweet kind of justice.

The purpose of this act is to create a public/private foundation to integrate research that has been conducted by 23 international commissions in the area of Holocaust-era assets, to complete the research agenda that arises from that synthesis, and stimulate the transition to a contemporary restitution policy.

The foundation will be the single most effective facilitator of the identification and return of Holocaust-era asserts to their rightful owners and heirs ever supported by the U.S. Government.

If the nations of the world are to be convinced of our lasting commitment to justice for Holocaust victims and if continued work on Holocaust assets issues is to be truly effective, the foundation must have the stamp of the Federal Government. But the Federal Government cannot, and should not, perform these tasks by itself.

It will coordinate the efforts of the Federal Government, State governments, the private sector, and individuals here, and abroad, to help people locate and identify assets who would otherwise have no ability to do so. It will encourage policymakers to deal with contemporary restitution issues, including how best to treat unclaimed assets.

The foundation is authorized for 10 years, after which it will sunset and "spin off" its research results and materials to other appropriate public and private entities. It is able to accept private funds as well as public dollars.

The commission identified a number of policy initiatives that require U.S. leadership. These initiatives included, but are not limited to the need to: compile a report that integrates, synthesizes, and supplements the research on Holocaust-era assets that has been conducted around the world; review the degree to which other nations have implemented the principles adopted at various international conferences; work with organizations to provide for the coordinated and centralized dissemination of information about restitution programs; encourage the creation and expansion of mechanisms, including Alternative Dispute Resolution options, to assist claimants in obtaining the speedy resolution of their claims; and, support the establishment and maintenance of a computerized and searchable database of Holocaust victims' claims for the restitution of personal property.

The foundation will also encourage, and support, the efforts of State governments to facilitate the cross match of unclaimed property records with lists of Holocaust victims. It will work with the museum community to further stimulate provenance research into European paintings and Judaica. It will promote and monitor the implementation by major banking institutions of the agreement developed in conjunction with the New York Bankers Association. Finally, it will work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

The impetus for the foundation comes from the work of the Presidential Advisory Commission on Holocaust Assets in the United States chaired by Edgar M. Bronfman, Sr. The commission report, "Plunder and Restitution: The U.S. and Holocaust Victims' Assets," was the most comprehensive examination ever conducted into how the Federal Government handled the assets of Holocaust victims that came into its possession or control.

The Congress has dealt with Holocaust issues on a nonpartisan basis, and I am confident it will consider this bill in the same spirit. I urge my colleagues to cosponsor it and look forward to its prompt adoption.

## ADDITIONAL STATEMENTS

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### IN CELEBRATION OF THE 25TH ANNIVERSARY OF MARIN SERVICES FOR WOMEN

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 25th anniversary of Marin Services for Women.

Since 1978, Marin Services for Woman MSW, has helped women recover from drug and alcohol abuse. It is the only agency in Marin County that provides alcohol and drug treatment programs designed to meet the specific needs of women and their families.

MSW works tirelessly to ensure the physical and emotional health of Bay Area women by working one-on-one with individuals and providing them with specialized treatment. MSW's treatment philosophy is a comprehensive, gender-specific, culturally responsible approach to alcohol and drug recovery. MSW respects and encourages each client's strengths and provides social, economic and political empowerment.

Throughout its 25 years of service, MSW has successfully provided a safe haven for women seeking recovery by providing female staff role models who reflect the diversity of the client population; residential and outpatient services that address the addiction patterns of women; and intensive case management to assist with employment status, access to housing, and use of outside health and social services. MSW's success in advancing community recovery by providing specialized treatment tailored to each individual woman has set a standard for care in the Bay Area.

For 25 years, Marin Services for Women has served as a beacon for women who have nowhere else to turn. Their dedication to the community is inspiring and impressive. I congratulate Marin Services for Women on their 25th anniversary and wish them another 25 years of success.•

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### IN RECOGNITION OF OFFICER MICHAEL SIEBERT, RECIPIENT OF THE CALIFORNIA AMERICAN LEGION LAW ENFORCEMENT OFFICER OF THE YEAR AWARD.

• Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Officer Michael Siebert of the San Francisco Police Department.

The American Legion, Department of California has chosen Officer Michael Siebert as its Law Enforcement Officer of the Year. Officer Siebert is receiving this award for his dedication to the betterment of his community and to law enforcement.

Officer Michael Siebert has dedicated himself to raising funds for children with catastrophic childhood diseases. In 1998, Officer Siebert volunteered to travel to Sydney, Australia, to take part in its "Crop-A-Cop" fundraising event. This event featured officers who raise charity funds earmarked for children with cancer. As part of the event, officers would shave their heads to demonstrate to children going through the horrors of chemotherapy that it was okay to have no hair. Not only did Officer Siebert shave his head, but he also returned to "Crop-A-Cop" in Australia the following year.

Through his efforts, in 1999, this event debuted in the United States. Not only did he succeed in having the San Francisco Police Department and the Sheriff's Department participate, but Officer Siebert enlisted agencies all over the State of California to take part. This year marked the fourth year of Officer Siebert's "Buzz the Fuzz" fundraiser.

Officer Siebert is an inspiration to all. Californians are extremely proud of Officer Siebert's dedication to his police work, the community, and to children who bravely face the devastation of cancer. He is most deserving of this award and the outpouring of admiration he receives from colleagues and friends. I am honored to pay tribute to him, and I encourage my colleagues to join me in wishing Officer Michael Siebert much continued success in his law enforcement career.•

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### COMMEMORATING JOE CENOZ ON 50 YEARS OF SERVICE TO THE AMERICAN LEGION CALIFORNIA BOYS STATE

• Mrs. BOXER. Mr. President, I would like to take a few minutes to recognize a constituent, Joe Cenoz, who will, at the end of the month, mark his 50th year of exemplary service to the American Legion California Boys State program.

Since 1935, the Boys State program has brought together high school boys from across their States to immerse them in a week of education about, and simulation of, their State government. The California program began in 1938, and Mr. Cenoz is the first counselor in the history of the California Boys State program to reach 50 years of service. His work has touched the lives of nearly 50,000 young Californians and 3,000 staff members who have served with and under his guidance.

Mr. Cenoz began his 50 years of service with the California Boys State program in 1951 as a city counselor. In 1955, he also assumed the role of political party counselor, helping to guide the Boys State delegates through the process of partisan politics. In 1961, Mr. Cenoz was elevated to the role of county counselor. In this role, he worked with the delegates of the three cities that made up the county, while continuing his role as political party counselor.

In 1974, Mr. Cenoz moved to the role of assistant chief counselor, guiding the California Boys State counseling staff and delegates through the week-long program. He became the chief counselor in 1981, assuming overall responsibility for the activities that make up the California Boys State program. The 2003 California Boys State session will be Mr. Cenoz's 23rd serving as chief counselor.

In 1980, Mr. Cenoz was invited to join the staff of Boys Nation. Boys Nation is an extension of the Boys State program. Annually, two boys from each Boys State program around the country are selected to represent their home States at the 10-day Boys Nation program in Washington, DC.

Mr. Cenoz has been a leader outside of the California Boys State program as well, serving in the U.S. Navy and the Navy Reserve as a submariner from 1941 to 1953. He served in both World War II and the Korean war. Additionally, Mr. Cenoz served as a police officer with the city of Pomona, beginning in 1951, and retiring at the rank of lieutenant in 1980.

Mr. Cenoz's actions demonstrate his dedication to serving his country and the State of California, and I offer my hearty congratulations to him for his 50 years of service to the California Boys State program.•

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## RECOGNIZING OFFICER CLAYTON HARMSTON, RECIPIENT OF THE CALIFORNIA AMERICAN LEGION LAW ENFORCEMENT OFFICER OF THE YEAR FOR VALOR AWARD

• Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Officer Clayton Harmston of the San Francisco Police Department.

The American Legion, Department of California has chosen Officer Clayton Harmston as its Law Enforcement Officer of the Year for Valor. Officer Harmston is receiving this award for the extraordinary heroism he displayed in the line of duty on July 7, 2002.

On that day, Officer Harmston and his partner stopped a vehicle that was operating in a suspicious manner. During the vehicle stop, Officer Harmston approached the passenger, who was just paroled from State prison. The passenger refused to submit to a search and immediately attacked Officer Harmston. A struggle ensued. Officer Harmston was knocked to the ground face-first, and then the parolee drew his loaded weapon on Officer Harmston. Although injured and dazed, Officer Harmston demonstrated great presence of mind and warned his partner of the gun. When Harmston's partner distracted the parolee, Officer Harmston displayed remarkable courage by attempting to pull the gun away from the parolee. During the struggle, the parolee shot Officer Harmston who was able to roll away to cover, where a gun battle began. The gunman was struck and fell to the ground, refusing to release his weapon until it was taken from his grip.

Officer Clayton Harmston, despite his injuries, used all his abilities and resources to protect his partner and ultimately end this dangerous situation. Officer Harmston is an inspiration to all. It is because of the courage and valor of police officers such as Clayton Harmston that our streets are safer.

Californians are extremely proud of Officer Harmston. He is most deserving of the American Legion, Department of California's Law Enforcement Officer of the Year for Valor award and of the admiration that he receives from colleagues and friends. I am honored to pay tribute to him, and I encourage my colleagues to join me in wishing Officer Harmston much continued success in his law enforcement career.•

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## TRIBUTE TO CAPTAIN CHARLES A. BUSH

• Mr. WARNER. Mr. President, I rise today to recognize and pay tribute to an outstanding officer, CAPT Charles A. Bush, on the occasion of his retirement from the Department of the Navy. It is a great honor for me to take this opportunity to thank Captain Bush and his family for his 27 years of distinguished and dedicated service to our Nation. Over the last quarter of a century, he has proudly and selflessly served his Nation in defense of freedom.

Few of us can appreciate the true awe of the U.S. aircraft carrier as well as Captain Bush can. During his career he served the aircraft carrier community in many facets: naval aviator, engineer officer, maintenance coordinator, and most recently as program manager for in-service aircraft carriers.

During his tenure as program manager, Captain Bush oversaw the construction of the USS *Harry S Truman*, CVN 75, and *Ronald Reagan*, CVN 76, the complete refueling and complex overhaul of the first Nimitz-class carrier, USS *Nimitz*, CVN 68, the commencement of the second Nimitz-class carrier to undergo a refueling and overhaul—the USS *Dwight D. Eisenhower*, CVN 69, as well as the maintenance planning for the in-service carrier force at the highest possible level of readiness.

His innovative concepts, motivational leadership, and personal energy have produced exactly what was required to support these national assets—dramatic streamlining of processes and organizations, reduced maintenance cost and cycle time, and a government and commercial workforce trained for and ready to take these concepts forward. The culmination of his efforts can be no better illustrated than by the successful surge of carriers in support of both Operation Enduring Freedom and Operation Iraqi Freedom. Captain Bush's son, Nicholas, now has the distinct honor to continue the family's great service to our Nation onboard the USS *Nimitz*. Nicholas is a naval flight officer assigned to VAQ–135, NAS Whidbey Island, WA, and was recently deployed in support of Operation Iraqi Freedom.

It is my honor to recognize Captain Bush for his distinguished service to our Nation. As a veteran of World War II and Korea, I have the highest respect for those who serve in uniform, and I appreciate and honor all the men and women who have served, and continue to serve, in defense of freedom. Recalling our national anthem, to our veterans and Armed Forces, I say, we would not be "the land of the free" were we not also the "home of the brave." My colleagues and I wish Captain Bush and his family continued success and the traditional naval wish of "Fair winds and Following seas" as he closes out his military career.•

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## TRIBUTE TO COMPANY C, 5TH BATTALION, 112TH ARMOR

• Mr. PRYOR. Mr. President, I stand before you today in tribute of the Company C, 5th Battalion, 112th Armor currently stationed at the Pine Bluff Arsenal. Along with the people of my State as well as those across the Nation, I would like to offer my sincere appreciation and farewell to this group of 238 personnel that will be relieved of their duty at the Arsenal in a transfer of authority on June 11, 2003.

This exceptional group of young men and women hailing from Arkansas and Texas came together in an unusual display of diversity in September of 2002 in order to provide extensive base security as a Chemical Site Defense Force. Under the creed, "One flag, One Team, One Fight," this company is a combination of 169 men and women from five Army companies in northeast Texas, as well as 69 personnel from my home State of Arkansas. For those not schooled in the procedures of the National Guard, this interstate combination is rare. On top of this is the fact that within "Tank Fantillery," which is the adopted nickname of the company, there is also an unusual mixture of tankers, infantrymen and an artillery battery. Under the direction of CDR Robert Eason, "Tank Fantillery" has shown their dedication, unity, and diversity as they have joined in the fight against terrorism by successfully fulfilling their protective duties at the Pine Bluff Arsenal Chemical Munitions facility. Now, coming to the end of their term of duty, I feel that it is appropriate for us to offer them our gratitude and congratulations on the completion of their objective.

Later this month the transfer of authority will take place, and this group of personnel will be relieved of the protective duties that they have held for the last 10½ months. Such an occasion offers the chance to honor these men and women that display a level of dedication to their country that too few of us share. All of the world should be so lucky as to have such dedicated and honorable soldiers committed to their protection. It is with a warm heart that I salute these men and women and wish them luck in all of their future endeavors.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 361. An act to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

H.R. 1954. An act to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 177. Concurrent resolution recognizing and commending the members of the United States Armed Forces and their leaders, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations.

The message further announced that the House insists upon its amendment to the bill (S.3) to prohibit the procedure commonly known as partial-birth abortion, an asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members to be the managers of the conference on the part of the House: From the Committee on the Judiciary for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. HYDE, and Mr. NADLER.

## ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 192. An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1474. An act to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 190. Concurrent resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people.

The message further announced that the House has passed the following bills, without amendment:

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. 273. An act to provide for expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 361. An act to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

H.R. 1474. An act to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 177. Concurrent resolution recognizing and commending the members of the United States Armed Forces and their leader, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations; to the Committee on Armed Services.

H. Con. Res. 190. Concurrent resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people; to the Committee on Rules and Administration.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2547. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of Transportation, case number 02–08, in the amount of $5,380,764, received on May 20, 2003; to the Committee on Appropriations.

EC–2548. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of the Air Force, case number 01–03, in the amount of $1,919,682, received on May 27, 2003; to the Committee on Appropriations.

EC–2549. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of the Navy, case number 00–02, in the amount of $1,321,000, received on May 27, 2003; to the Committee on Appropriations.

EC–2550. A communication from the Assistant Secretary, Indian Affairs, Division of Transportation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Distribution of Fiscal Year 2003 Indian Reservation Roads Funds (RIN 1076–AE34)" received on June 1, 2003; to the Committee on Indian Affairs.

EC–2551. A communication from the Chair, Federal Election Commission, transmitting, pursuant to law, the submission of 7 recommendations for legislative action, received on June 1, 2003; to the Committee on Rules and Administration.

EC–2552. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Second Report of the Dwight D. Eisenhower Memorial Commission; to the Committee on Rules and Administration.

EC–2553. A communication from the Director, Regulations Management, Veterans Benefit Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Schedule for Rating Disabilities Evaluation of Tinnitus (2900–

AK86)" received on May 27, 2003; to the Committee on Veterans' Affairs.

EC–2554. A communication from the Associate Deputy Administrator, Government Contracting and Business Development, Small Business Administrator, transmitting, pursuant to law, the report relative to Minority Small Business and Capitol Ownership Development, received on June 1, 2003; to the Committee on Small Business and Entrepreneurship.

EC–2555. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards: Job Corps Centers (3245–AF02)" received on May 20, 2003; to the Committee on Small Business and Entrepreneurship.

EC–2556. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Claimant Identification Pilot Projects (0960–AF79)" received on May 27, 2003; to the Committee on Finance.

EC–2557. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guideline: Leasing Promotions—Lease Stripping Transactions (UIL 9300.03–00)" received on May 27, 2003; to the Committee on Finance.

EC–2558. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report entitled "Collateral Valuation Improvement Act of 2003" received on May 27, 2003; to the Committee on Finance.

EC–2559. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of the Designation of an acting officer for the position of Chief Financial Officer for the Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2560. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a confirmation for the position of Member, IRS Oversight Board, Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2561. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Public Affairs for the Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2562. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Management for the Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2563. A communication from the Under Secretary, Food, Nutrition and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Food Stamp Program: Anticipating Income and Reporting Changes (0584–AB57)" received on May 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2564. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clothianidin; Pesticide Tolerance (FRL 7306–8)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2565. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoxyfenozide; Pesticide Tolerance (FRL 7308–6)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2566. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Imported Fire Ant; Additions to Quarantined Areas (Doc. 02–114–2)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2567. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sapote Fruit Fly (Doc. No. 03–032–1)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2568. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Canada Because of BSE (Doc. No. 03–058–1)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2569. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Beef from Uruguay (Doc. No. 02–109–3)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2570. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Tobacco Payment Program (RIN 0560–AG96)" received on May 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2571. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Cottonseed Payment Program (RIN 0560–AG97)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2572. A communication from the Administrator, Cotton Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on imports (2003 Amendments) (Doc. No. CN–03–002)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2573. A communication from the Administrator, Cotton Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Revision of User Fees for 2003 Crop Cotton Classification Services to Growers (CN–02–006) (RIN 0581–AC71)" received on June 1, 2003; to the Special Committee on Aging.

EC–2574. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Raisins Produced from Grapes Grown in California; Modification to the Raisins Diversion Program (Doc. No. FV03–989–FIR)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2575. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Spearmint Oil Produced in the Far West; Increased Assessment Rate (Doc. No. FV03–985–2 FR)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2576. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 2002–2003 Marketing Year (Doc. No. FV03–982–1 FIR)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2577. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2003–2004 Marketing Year" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2578. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Raisins Produced from Grapes in California; Reduction in Production Cap for 2003 Diversion Program (Doc. No. FV03–989–3FIR)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2579. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Requirements for the USDA "Produced From" Grademark for Shell Eggs (Doc. No. PY–02–007) (RIN 0581–AC24)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2580. A communication from the Administrator, Tobacco Programs, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Flue-Cured Tobacco Advisory Committee, Amendment to Regulations (Doc. No. TB–02–14)" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2581. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems" received on May 21, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2582. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report rule entitled "Fees for Official Inspection and Official Weighing Services" received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2583. A communication from the Director, Office of Management and Budget (OMB), Executive Office of the President, transmitting, pursuant to law, the OMB's second annual report relative to the agency's Information Technology security, received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2584. A communication from the Deputy Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report entitled "Fiscal Year 2004

Annual Performance Plan" received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2585. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–92 "Fiscal Year 2003 Budget Support Temporary Act of 2003" received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2586. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–90 "Operations Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2003" received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2587. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–91 "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2003" received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2588. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–81 "Central Detention Facility Monitoring Temporary Amendment Act of 2003" received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2589. A communication from the Chief Operating Officer, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, the annual report on the inventory of activities of the Board, received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2590. A communication from the Director, Employment Service, Office of Personal Management, transmitting, pursuant to law, the report on "Excepted Service—Temporary Organizations (3206–AJ70)" received on June 1, 2003; to the Committee on Governmental Affairs.

EC–2591. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Semiannual Report to Congress prepared by the Board's Inspector General (IG), received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2592. A communication from the Office of the Executive Director, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report relative to the Commission's compliance to the Sunshine Act, received on May 20, 2003; to the Committee on Governmental Affairs.

EC–2593. A communication from the Director, Legislative Affairs, Railroad Retirement Board, transmitting, pursuant to law, the report on the agency's 2002 Government in the Sunshine Act, received on May 21, 2003; to the Committee on Governmental Affairs.

EC–2594. A communication from the Acting Director, Director of Selective Service, transmitting, pursuant to law, the report on the Selective Service System's (SSS) Performance Measurement Plan for FY 2004, received on May 20, 2003; to the Committee on Governmental Affairs.

EC–2595. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Inspector General's Semiannual Report to Congress and the Management Response of the Securities and Exchange Commission, received on June 1, 2003; to the Committee on Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 116. A resolution commemorating the life, achievements, and contributions of Al Lerner.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By the HATCH for the Committee on the Judiciary.

R. Hewitt Pate, by Virginia, to be an Assistant Attorney General.

David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2004.

Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit.

J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Mark R. Kravitz, of Connecticut, to be United States District Judge for the District of Connecticut.

John A. Woodcock, Jr., of Maine, to be United States District Judge for the District of Maine.

Harlon Eugene Costner, of North Carolina, to be United States Marshal for the Middle District of North Carolina for the term of 4 years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY:

S. 1188. A bill to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary, to allow for substitution of parties in the case of a claim for benefits provided by the Secretary when the applicant for such benefits dies while the claim is pending, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DURBIN:

S. 1189. A bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mrs. Hutchison):

S. 1190. A bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 1191. A bill to restore Federal remedies for infringements of intellectual property by States, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Ms. Stabenow):

S. 1192. A bill to establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself, Mr. Smith, and Mrs. Murray):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

By Mr. DeWINE (for himself, Mr. Leahy, Mr. Grassley, Ms. Cantwell, and Mr. Domenici):

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. Bingaman, Mr. Rockefeller, Mr. McCain, Mr. Frist, Mr. Alexander, Mrs. Lincoln, Mr. Bunning, Mr. Smith, Mr. Graham of Florida, Mr. Santorum, Mr. Kerry, Mr. Kennedy, and Mr. Hatch):

S. 1195. A bill to amend title XIX of the Social Security Act to clarify that inpatient drug prices charged to certain public hospitals are included in the best price exemptions for the Medicaid drug rebate program; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Cochran, Mr. Fitzgerald, and Mr. Hagel):

S. 1196. A bill to eliminate the marriage penalty permanently in 2003; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. Kennedy, Mr. Daschle, Mr. Lautenberg, and Mr. Dorgan):

S. 1197. A bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 1198. A bill to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD (for himself, Mrs. Lincoln, and Mr. McCain):

S. 1199. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. CANTWELL (for herself, Mr. Warner, Mr. Bingaman, Mr. Chafee, Mrs. Clinton, Mr. Harkin, and Mr. Hollings):

S. 1200. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of South Carolina (for himself, Mr. Dorgan, Mr. Bunning, Mr. Durbin, Mr. Roberts, Mrs. Murray, Mr. Smith, Ms. Landrieu, Mr. DeWine, Mr. Corzine, Mr. Daschle, and Mrs. Lincoln):

S. 1201. A bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 1202. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to improve the safety of meat and poultry products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ENZI (for himself, Mr. BINGAMAN, and Mr. CAMPBELL):

S. 1203. A bill to amend the Higher Education Act of 1965 regarding distance education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1204. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 1205. A bill to provide discounted housing for teachers and other staff in rural areas of States with a population less than 1,000,000 and with a high population of Native Americans or Alaska Natives; to the Committee on Indian Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA:

S. Res. 160. A resolution to express the sense of the Senate that the federal Government should actively pursue a unified approach to strengthen and promote the national policy on aquaculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM of South Carolina (for himself and Mr. HOLLINGS):

S. Res. 161. A resolution commending the Clemson University Tigers men's golf team for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 50

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

### S. 68

At the request of Mr. INOUYE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

### S. 269

At the request of Mr. JEFFORDS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

### S. 296

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 296, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

### S. 373

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 373, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

### S. 384

At the request of Mr. REID, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 384, a bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes.

### S. 491

At the request of Mr. REID, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

### S. 518

At the request of Ms. COLLINS, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

### S. 569

At the request of Mr. ENSIGN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

### S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

### S. 623

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

### S. 652

At the request of Mr. CHAFEE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

### S. 736

At the request of Mr. ENSIGN, the names of the Senator from California (Mrs. BOXER) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

### S. 794

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 794, a bill to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency, and for other purposes.

### S. 811

At the request of Mr. ALLARD, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 811, a bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes.

### S. 877

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

### S. 908

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 908, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes.

### S. 970

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 970, a bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States.

### S. 973

At the request of Mr. NICKLES, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

### S. 982

At the request of Mrs. BOXER, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

### S. 1008

At the request of Mr. CAMPBELL, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1008, a bill to provide for the establishment of summer health career introductory programs for middle and high school students.

### S. 1022

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

### S. 1046

At the request of Mr. HOLLINGS, the names of the Senator from Delaware (Mr. CARPER), the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

### S. 1053

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1053, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

### S. 1076

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

### S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

### S. 1110

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

### S. 1157

At the request of Mr. BROWNBACK, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Virginia (Mr. WARNER) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

### S. 1162

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

### S. 1170

At the request of Mr. WYDEN, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1170, a bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

### S. 1182

At the request of Mr. MCCONNELL, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

### S. 1182

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1182, supra.

### S. 1184

At the request of Mr. SMITH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1184, a bill to establish a National Foundation for the Study of Holocaust Assets.

### S. RES. 153

At the request of Mrs. MURRAY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

### S. RES. 159

At the request of Mr. PRYOR, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 159, a resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

### AMENDMENT NO. 853

At the request of Mr. SCHUMER, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 853 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1190. A bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN: Mr. President, I rise today with my colleague from Texas, Senator KAY BAILEY HUTCHISON, to introduce the Next Generation Hispanic-Serving Institution Act. This bill will strengthen provisions in Title V of the Higher Education Act, HEA, by providing our Hispanic-Serving Institutions with both graduate opportunities and reductions in regulatory barriers.

According to the 2000 census Hispanics make up 12.5 percent of the American population. Currently Hispanics constitute 10 percent of the college enrollment. By 2050 the Hispanic population will grow to 25 percent. It is in our national interest to ensure that this population is well educated so that they will be ready to take their place as professionals, scientists, inventors, and well-informed citizens.

Hispanic-Serving Institutions, HSIs, serve students of all backgrounds and ethnicities in 13 States. Colleges and universities become eligible for HSI status if at least 50 percent of their student population receives need-based financial assistance, 25 percent is Hispanic, and 50 percent of their Hispanic population is low-income. It is at these HSIs that the largest growth in advanced degrees awarded to Hispanics is occurring. Between 1991 and 2000 the number of Hispanic students earning master's degrees at HSIs grew 136 percent and the number of receiving doctoral degrees grew by 85 percent. Currently over 25 percent of the Hispanics who obtained these degrees did so at HSIs. As a nation, we need to expand the capacity of Hispanic-Serving Institutions, support their undergraduate programs, and encourage them to offer quality graduate and professional degree programs.

The Next Generation Hispanic-Serving Institution Act will strengthen our Hispanic-Serving Institutions by: Establishing a competitive grant program for HSIs to support their masters and doctoral degree programs. Eliminating the current requirement for HSIs to show that 50 percent of their Hispanic population is low-income. This requirement is difficult for the institutions to meet because they cannot collect the necessary student data. Eliminating the 2-year wait-out period between HSI grants allowing continuous funding of existing programs. Adding, as an authorized activity, programs that support student transfers from 2-year to 4-year institutions. Raising the funding for the Title V HSI grant program to $175,000,000. Allocating $125,000,000 for a new grant program to support HSI masters and doctoral programs.

The State of New Mexico houses 19 HSIs within its border. The New Mexico HSIs serve the entire State and their student populations are very diverse. Over the years these 19 institutions have worked diligently to educate and support all students. They have graduated outstanding teachers, scientists, and other professionals. The Next Generation Hispanic-Serving Institution Act supports the valuable work that these and all other HSIs are currently doing and gives them new resources they need to expand their offerings.

I urge my colleagues to support this bill and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1190

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Next Generation Hispanic Serving Institutions Act".

## TITLE I—GRADUATE OPPORTUNITIES AT HISPANIC-SERVING INSTITUTIONS

### SEC. 101. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.

(a) ESTABLISHMENT OF PROGRAM.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 the following:

### "PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

### "SEC. 511. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds the following:

"(1) According to the United States Census, by the year 2050, 1 in 4 Americans will be of Hispanic origin.

"(2) Despite the dramatic increase in the Hispanic population in the United States, the National Center for Education Statistics reported that in 1999, Hispanics accounted for only 4 percent of the master's degrees, 3 percent of the doctor's degrees, and 5 percent of first-professional degrees awarded in the United States.

"(3) Although Hispanics constitute 10 percent of the college enrollment in the United States, they comprise only 3 percent of instructional faculty in college and universities.

"(4) The future capacity for research and advanced study in the United States will require increasing the number of Hispanics pursuing postbaccalaureate studies.

"(5) Hispanic-serving institutions are leading the Nation in increasing the number of Hispanics attaining graduate and professional degrees.

"(6) Among Hispanics who received master's degrees in 1999–2000, 25 percent earned them at Hispanic-serving institutions.

"(7) Between 1991 and 2000, the number of Hispanic students earning master's degrees at Hispanic-serving institutions grew 136 percent, the number receiving doctor's degrees grew by 85 percent, and the number earning first-professional degrees grew by 47 percent.

"(8) It is in the National interest to expand the capacity of Hispanic-serving institutions to offer graduate and professional degree programs.

"(9) Research is a key element in graduate education and undergraduate preparation, particularly in science and technology, and Congress desires to strengthen the role of research at Hispanic serving-institutions. University research, whether performed directly or through a university's nonprofit research institute or foundation, is considered an integral part of the institution and mission of the university.

"(b) PURPOSES.—The purposes of this part are—

"(1) to expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and

"(2) to expand and enhance the postbaccalaureate academic offerings of high quality that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and low-income individuals complete postsecondary degrees.

### "SEC. 512. PROGRAM AUTHORITY AND ELIGIBILITY.

"(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award competitive grants to eligible institutions.

"(b) ELIGIBILITY.—For the purposes of this part, an 'eligible institution' means an institution of higher education that—

"(1) is a Hispanic-serving institution (as defined under section 502); and

"(2) offers a postbaccalaureate certificate or degree granting program.

### "SEC. 513. AUTHORIZED ACTIVITIES.

"Grants awarded under this part shall be used for 1 or more of the following activities:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

"(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

"(4) Support for needy postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

"(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

"(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

"(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

"(8) Other activities proposed in the application submitted pursuant to section 514 that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.

### "SEC. 514. APPLICATION AND DURATION.

"(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as determined by the Secretary. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to such students' greater financial independence.

"(b) DURATION.—Grants under this part shall be awarded for a period not to exceed 5 years.

"(c) LIMITATION.—The Secretary shall not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution.".

(b) COOPERATIVE ARRANGEMENTS.—Section 524 of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended by inserting "and section 513" after "section 503".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 528(a) of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended to read as follows:

"(a) AUTHORIZATIONS.—

"(1) PART A.—There are authorized to be appropriated to carry out part A of this title $175,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) PART B.—There are authorized to be appropriated to carry out part B of this title $125,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(d) CONFORMING AMENDMENTS.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) in section 502—

(A) in subsection (a)(2)(A)(ii), by striking "section 512(b)" and inserting "section 522(b)"; and

(B) in subsection (b)(2), by striking "section 512(a)" and inserting "section 522(a)";

(2) in section 521(c)(6) (as redesignated by subsection (a)(2)), by striking "section 516" and inserting "section 526"; and

(3) in section 526 (as redesignated by subsection (a)(2)), by striking "section 518" and inserting "section 528".

### TITLE II—REDUCING REGULATORY BARRIERS FOR HISPANIC-SERVING INSTITUTIONS

**SEC. 201. DEFINITIONS.**

Section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by inserting "and" after the semicolon;

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C); and

(2) by striking paragraph (7).

**SEC. 202. AUTHORIZED ACTIVITIES.**

Section 503(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1101b(b)(7)) is amended to read as follows:

"(7) Articulation agreements and student support programs designed to facilitate the transfer from 2-year to 4-year institutions.".

**SEC. 203. ELIMINATION OF WAIT-OUT PERIOD.**

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended to read as follows:

"(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.".

**SEC. 204. APPLICATION PRIORITY.**

Section 521(d) of the Higher Education Act of 1965 (as redesignated by section 101(a)(2)) is amended by striking "(from funds other than funds provided under this title)".

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By Mr. LEAHY:

S. 1191. A bill to restore Federal remedies for infringements of intellectual property by States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in June 1999, the United States Supreme Court issued a pair of decisions that altered the legal landscape with respect to intellectual property. I am referring to Florida Prepaid v. College Savings Bank and its companion case, College Savings Bank v. Florida Prepaid. The Court ruled in these cases that States and their institutions cannot be held liable for damages for patent infringement and other violations of the Federal intellectual property laws, even though they can and do enjoy the full protection of those laws for themselves.

Both Florida Prepaid and College Savings Bank were decided by the same five-to-four majority of the justices. This slim majority of the Court threw out three Federal statutes that Congress passed, unanimously, in the early 1990s, to reaffirm that the Federal patent, copyright, and trademark laws apply to everyone, including the States.

I believe that there is an urgent need for Congress to respond to the Florida Prepaid decisions, for two reasons.

First, the decisions opened up a huge loophole in our Federal intellectual property laws. If we truly believe in fairness, we cannot tolerate a situation in which some participants in the intellectual property system get legal protection but need not adhere to the law themselves. If we truly believe in the free market, we cannot tolerate a situation where one class of market participants have to play by the rules and others do not. As Senator SPECTER said in August 1999, in a floor statement that was highly critical of the Florida Prepaid decisions, they "leave us with an absurd and untenable state of affairs," where "States will enjoy an enormous advantage over their private sector competitors."

The second reason why Congress should respond to the Florida Prepaid decisions is that they raise broader concerns about the roles of Congress and the Court. Over the past decade, in a series of five-to-four decisions that might be called examples of "judicial activism," the current Supreme Court majority has overturned Federal legislation with a frequency unprecedented in American constitutional history. In doing so, the Court has more often than not relied on notions of State sovereign immunity that have little if anything to do with the text of the Constitution.

Some of us have liked some of the results; others have liked others; but that is not the point. This activist Court has been whittling away at the legitimate constitutional authority of the federal government. At the risk of sounding alarmist, this is the fact of the matter: We are faced with a choice. We can respond—in a careful and measured way—by reinstating our democratic policy choices in legislation that is crafted to meet the Court's stated objections. Or we can run away, abdicate our democratic policy-making duties to the unelected Court, and go down in history as the incredible shrinking Congress.

About four months after the Florida Prepaid decisions issued, I introduced a bill that responded to those decisions. The Intellectual Property Protection Restoration Act of 1999 was designed to restore Federal remedies for violations of intellectual property rights by states. I have continued to refine this legislation over the years, and in February 2002, as Chairman of the Judiciary Committee, I held the Committee's first hearing on the issue of sovereign immunity and the protection of intellectual property.

Today, I am pleased to be introducing the Intellectual Property Protection Restoration Act of 2003, which builds on my earlier proposals and on the helpful comments I have received on those proposals from legal experts across the country. I am proud to have the House leaders on intellectual property issues, Representatives Smith and Berman, as the principal sponsors of the House companion bill.

This bill has the same common-sense goal as the three statutes that the Supreme Court's decisions invalidated: To protect intellectual property rights fully and fairly. But the legislation has been re-engineered, after extensive consultation with constitutional and intellectual property experts, to ensure full compliance with the Court's new jurisprudential requirements. As a result, the bill has earned the strong support of the U.S. Copyright Office and the endorsements of a broad range of organizations including the American Bar Association, the American Intellectual Property Law Association, the Business Software Alliance, the Intellectual Property Owners Association, the International Trademark Association, the Motion Picture Association of America, the Professional Photographers of America Association, and the Chamber of Commerce.

In essence, our bill presents States with a choice. It creates reasonable incentives for States to waive their immunity in intellectual property cases, but it does not oblige them to do so. States that choose not to waive their immunity within two years after enactment of the bill would continue to enjoy many of the benefits of the Federal intellectual property system; however, like private parties that sue States for infringement, States that sue private parties for infringement could not recover any money damages unless they had waived their immunity from liability in intellectual property cases.

This arrangement is clearly constitutional. Congress may attach conditions to a State's receipt of Federal intellectual property protection under its Article I intellectual property power just as Congress may attach conditions on a State's receipt of federal funds under its Article I spending power. Either way, the power to attach conditions to the federal benefit is part of the greater power to deny the benefit altogether. And no condition could be more reasonable or proportionate than the condition that in order to obtain full protection for your federal intellectual property rights, you must respect those of others.

I am encouraged by the Supreme Court's recent decision in Nevada Department of Human Resources v. Hibbs, which, although very narrow, suggests that certain Justices may be starting to realize that the Court has gone too far in sacrificing ordinary people's rights at the altar of sovereign immunity. By upholding the Family and Medical Leave Act as applied to the States, the Hibbs case also suggests that a very carefully crafted law, which simply does what is necessary to protect important rights, will be upheld.

I hope we can all agree on the need to protect the rights of intellectual property owners. A recent GAO study confirmed that, as the law now stands, owners of intellectual property have few or no alternatives or remedies available against State infringers—just a series of dead ends.

We need to assure American inventors and investors, and our foreign trading partners, that as State involvement in intellectual property becomes ever greater in the new information economy, U.S. intellectual property rights are backed by legal remedies. I want to emphasize the international ramifications here. American trading interests have been well served by our strong and consistent advocacy of effective intellectual property protections in treaty negotiations and other international fora. Those efforts could be jeopardized by the loophole in U.S. intellectual property enforcement that the Supreme Court has created.

Senator BROWNBACK made this point at a Judiciary Committee hearing on February 27, 2002. He said, "When states assert sovereign immunity for the purpose of infringing upon intellectual property rights, it damages the credibility of the United States internationally, and could possibly even lead to violations of our treaty obligations. Any decrease in the level of enforcement of intellectual property rights around the world is likely to harm American businesses, because of our position as international leaders in industries like pharmaceuticals, information technology, and biotechnology."

The Intellectual Property Protection Restoration Act restores protection for violations of intellectual property rights that may, under current law, go unremedied. We unanimously passed more sweeping legislation in the early 1990s, but were thwarted by the Supreme Court's shifting jurisprudence. We should enact this legislation without further delay.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1191

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES.**

(a) SHORT TITLE.—This Act may be cited as the "Intellectual Property Protection Restoration Act of 2003".

(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

**SEC. 2. PURPOSES.**

The purposes of this Act are to—

(1) help eliminate the unfair commercial advantage that States and their instrumentalities now hold in the Federal intellectual property system because of their ability to obtain protection under the United States patent, copyright, and trademark laws while remaining exempt from liability for infringing the rights of others;

(2) promote technological innovation and artistic creation in furtherance of the policies underlying Federal laws and international treaties relating to intellectual property;

(3) reaffirm the availability of prospective relief against State officials who are violating or who threaten to violate Federal intellectual property laws; and

(4) abrogate State sovereign immunity in cases where States or their instrumentalities, officers, or employees violate the United States Constitution by infringing Federal intellectual property.

**SEC. 3. INTELLECTUAL PROPERTY REMEDIES EQUALIZATION.**

(a) AMENDMENT TO PATENT LAW.—Section 287 of title 35, United States Code, is amended by adding at the end the following:

"(d)(1) No remedies under section 284 or 289 shall be awarded in any civil action brought under this title for infringement of a patent issued on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such patent, except upon proof that—

"(A) on or before the date the infringement commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

"(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

"(2) The limitation on remedies under paragraph (1) shall not apply with respect to a patent if—

"(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

"(B) the party seeking remedies was a bona fide purchaser for value of the patent, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the patent.

"(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).".

(b) AMENDMENT TO COPYRIGHT LAW.—Section 504 of title 17, United States Code, is amended by adding at the end the following:

"(e) LIMITATION ON REMEDIES IN CERTAIN CASES.—

"(1) No remedies under this section shall be awarded in any civil action brought under this title for infringement of an exclusive right in a work created on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such right, except upon proof that—

"(A) on or before the date the infringement commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

"(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

"(2) The limitation on remedies under paragraph (1) shall not apply with respect to an exclusive right if—

"(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

"(B) the party seeking remedies was a bona fide purchaser for value of the exclusive right, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the right.

"(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).".

(c) AMENDMENT TO TRADEMARK LAW.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

"(e) LIMITATION ON REMEDIES IN CERTAIN CASES.—

"(1) No remedies under this section shall be awarded in any civil action arising under this Act for a violation of any right of the registrant of a mark registered in the Patent and Trademark Office on or after January 1, 2004, or any right of the owner of a mark first used in commerce on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such right, except upon proof that—

"(A) on or before the date the violation commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

"(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

"(2) The limitation on remedies under paragraph (1) shall not apply with respect to a right of the registrant or owner of a mark if—

"(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

"(B) the party seeking remedies was a bona fide purchaser for value of the right, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the right.

"(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO PATENT LAW.—Section 296 of title 35, United States Code, and the item relating to section 296 in the table of sections for chapter 29 of such title, are repealed.

(2) AMENDMENTS TO COPYRIGHT LAW.—Section 511 of title 17, United States Code, and the item relating to section 511 in the table of sections for chapter 5 of such title, are repealed.

(3) AMENDMENTS TO TRADEMARK LAW.—Section 40 of the Trademark Act of 1946 (15 U.S.C. 1122) is amended—

(A) by striking subsection (b);

(B) in subsection (c), by striking "or (b)" after "subsection (a)"; and

(C) by redesignating subsection (c) as subsection (b).

**SEC. 4. CLARIFICATION OF REMEDIES AVAILABLE FOR STATUTORY VIOLATIONS BY STATE OFFICERS AND EMPLOYEES.**

In any action against an officer or employee of a State or State instrumentality for any violation of any of the provisions of title 17 or 35, United States Code, the Trademark Act of 1946, or the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), remedies shall be available against the officer or employee in the same manner and to the same extent as such remedies are available in an action against a private individual under like circumstances. Such remedies may include monetary damages assessed against the officer or employee, declaratory and injunctive relief, costs, attorney fees, and destruction of infringing articles, as provided under the applicable Federal statute.

**SEC. 5. LIABILITY OF STATES FOR CONSTITUTIONAL VIOLATIONS INVOLVING INTELLECTUAL PROPERTY.**

(a) DUE PROCESS VIOLATIONS.—Any State or State instrumentality that violates any of the exclusive rights of a patent owner under title 35, United States Code, of a copyright owner, author, or owner of a mask work or original design under title 17, United States Code, of an owner or registrant of a mark used in commerce or registered in the Patent and Trademark Office under the Trademark Act of 1946, or of an owner of a protected plant variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), in a manner that deprives any person of property in violation of the fourteenth amendment of the United States Constitution, shall be liable to the party injured in a civil action in Federal court for compensation for the harm caused by such violation.

(b) TAKING VIOLATIONS.—

(1) IN GENERAL.—Any State or State instrumentality that violates any of the exclusive rights of a patent owner under title 35, United States Code, of a copyright owner, author, or owner of a mask work or original design under title 17, United States Code, of an owner or registrant of a mark used in commerce or registered in the Patent and Trademark Office under the Trademark Act of 1946, or of an owner of a protected plant variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), in a manner that takes property in violation of the fifth and fourteenth amendments of the United States Constitution, shall be liable to the party injured in a civil action in Federal court for compensation for the harm caused by such violation.

(2) EFFECT ON OTHER RELIEF.—Nothing in this subsection shall prevent or affect the ability of a party to obtain declaratory or injunctive relief under section 4 of this Act or otherwise.

(c) COMPENSATION.—Compensation under subsection (a) or (b)—

(1) may include actual damages, profits, statutory damages, interest, costs, expert witness fees, and attorney fees, as set forth in the appropriate provisions of title 17 or 35, United States Code, the Trademark Act of 1946, and the Plant Variety Protection Act; and

(2) may not include an award of treble or enhanced damages under section 284 of title 35, United States Code, section 504(d) of title 17, United States Code, section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117(b)), or section 124(b) of the Plant Variety Protection Act (7 U.S.C. 2564(b)).

(d) BURDEN OF PROOF.—In any action under subsection (a) or (b)—

(1) with respect to any matter that would have to be proved if the action were an action for infringement brought under the applicable Federal statute, the burden of proof shall be the same as if the action were brought under such statute; and

(2) with respect to all other matters, including whether the State provides an adequate remedy for any deprivation of property proved by the injured party under subsection (a), the burden of proof shall be upon the State or State instrumentality.

(e) EFFECTIVE DATE.—This section shall apply to violations that occur on or after the date of enactment of this Act.

**SEC. 6. RULES OF CONSTRUCTION.**

(a) JURISDICTION.—The district courts shall have original jurisdiction of any action arising under this Act under section 1338 of title 28, United States Code.

(b) BROAD CONSTRUCTION.—This Act shall be construed in favor of a broad protection of intellectual property, to the maximum extent permitted by the United States Constitution.

(c) SEVERABILITY.—If any provision of this Act or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected.

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By Mr. DURBIN (for himself and Ms. STABENOW):

S. 1192. A bill to establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, today I am introducing the Consumer and Small Business Energy Commission Act. I am pleased to have the support of the Senator from Michigan, Senator STABENOW, in introducing this legislation. This legislation will allow us to better understand the causes of energy price spikes from the consumer and small business perspectives, and better address this pressing issue.

The Consumer and Small Business Energy Commission Act would establish a Consumer and Small Business Energy Commission. The members would be appointed on a bipartisan basis by the Speaker and Minority Leader of the House and the Majority and Minority Leaders of the Senate, as well as the President. The Commission would be comprised of representatives of consumer groups, the energy industry, small businesses, and the Administration. The Commission will study the causes of energy price spikes and issue recommendations on how to avert price spikes in the future.

Sine 1990, residential heating oil, residential natural gas, commercial natural gas, industrial natural gas, and gasoline have all had significantly fluctuating prices. Gasoline price spikes have become commonplace in the Midwest. Escalating home heating and cooling bills have crippled family budgets in the Midwest and Northeast. Farmers and industries dependent on natural gas for the production of fertilizer and other chemical products have also suffered economically. Most recently, natural gas prices have skyrocketed and gasoline prices have shown little sign of falling from the historic highs of the past few months.

We need a comprehensive study of these problems. Some past studies have assessed the long-range supply and demand for energy product. The Federal Trade Commission studied gasoline price spikes in the Midwest, and Senator LEVIN has embarked on a series of hearings exploring gasoline pricing issues. Other studies have investigated narrow or specific abuses of market power in the energy industry, such as in California. The Consumer and Small Business Energy Commission will look at the entire picture, focusing on price fluctuations of all consumer energy products. The list of potential causes that need to be studied includes: insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, possible regulation problems, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient investment in research and development of alternative sources, opportunistic behavior by energy companies, and abuse of market power.

We need to give consumers and small businesses a voice. When consumers go to pay their grocery bills, or their tuition bills, or even their residential electricity bills in most states, and when small businesses go to pay for raw materials, prices are fairly predictable. But when they go to pay for their heating and cooling, natural gas, or gasoline, families and businesses face the frustrating reality of wild price swings.

We need to bring consumers and small businesses to the table together with representatives of the energy industry and government. We need these groups to work collectively, and to consider the range of possible causes of energy price spikes.

A measure very similar to this bill enjoyed strong, bipartisan support last year, and passed as an amendment to the Senate energy bill by a vote of 69–30. The minor changes to this bill include adding direct representation of small businesses to the Commission, expanding the participation of Administration representatives in the study phase, and establishing an Executive Committee to expedite the issuance of the final report, which will include recommendations.

By enacting the Consumer and Small Business Energy Commission Act, we will be able to better understand the causes of energy price spikes and hopefully avert them in the future. I urge my colleagues to join me as a cosponsor of this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1192

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Consumer and Small Business Energy Commission Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics;

(B) electricity price spikes during the California energy crisis of 2001; and

(C) the Midwest gasoline price spikes in spring 2001;

(3) shifts in energy regulation, including the allowance of greater flexibility in competition and trading, have affected price stability and consumers in ways that are not fully understood;

(4) price spikes undermine the ability of low-income families, the elderly, and small businesses (including farmers and other agricultural producers) to afford essential energy services and products;

(5) energy price spikes can exacerbate a weak economy by creating uncertainties that discourage investment, growth, and other activities that contribute to a strong economy;

(6) the Department of Energy has determined that the economy would be likely to perform better with stable or predictable energy prices;

(7) price spikes can be caused by many factors, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(8) consumers and small businesses have few options other than to pay higher energy costs when prices spike, resulting in reduced investment and slower economic growth and job creation;

(9) the effect of price spikes, and possible responses to price spikes, on consumers and small businesses should be examined; and

(10) studies have examined price spikes of specific energy products in specific contexts or for specific reasons, but no study has examined price spikes comprehensively with a focus on the impacts on consumers and small businesses.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term "Commission" means the Consumer and Small Business Energy Commission established by section 4(a).

(2) CONSUMER ENERGY PRODUCT.—The term "consumer energy product" means—

(A) electricity;

(B) gasoline;

(C) home heating oil;

(D) natural gas; and

(E) propane.

(3) CONSUMER GROUP FOCUSING ON ENERGY ISSUES.—The term "consumer group focusing on energy issues" means—

(A) an organization that is a member of the National Association of State Utility Consumer Advocates;

(B) a nongovernmental organization representing the interests of residential energy consumers; and

(C) a nongovernmental organization that—

(i) receives not more than ¼ of its funding from energy industries; and

(ii) represent the interests of energy consumers.

(4) ENERGY CONSUMER.—The term "energy consumer" means an individual or small business that purchases 1 or more consumer energy products.

(5) ENERGY INDUSTRY.—The term "energy industry" means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(6) EXECUTIVE COMMITTEE.—The term "Executive Committee" means the executive committee of the Commission.

(7) SMALL BUSINESS.—The term "small business" has the meaning given the term "small business concern" in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

**SEC. 4. CONSUMER ENERGY COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the "Consumer and Small Business Energy Commission".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 20 members.

(2) APPOINTMENTS BY THE SENATE AND HOUSE OF REPRESENTATIVES.—The majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 4 members, of whom—

(A) 2 shall represent consumer groups focusing on energy issues;

(B) 1 shall represent small businesses; and

(C) 1 shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 1 member from each of—

(A) the Energy Information Administration of the Department of Energy;

(B) the Federal Energy Regulatory Commission;

(C) the Federal Trade Commission; and

(D) the Commodities Future Trading Commission.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERM.—A member shall be appointed for the life of the Commission.

(d) INITIAL MEETING.—The Commission shall hold the initial meeting of the Commission not later than the earlier of—

(1) the date that is 30 days after the date on which all members of the Commission have been appointed; or

(2) the date that is 90 days after the date of enactment of this Act, regardless of whether all members have been appointed.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission, excluding the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(f) EXECUTIVE COMMITTEE.—The Commission shall have an executive committee comprised of all members of the Commission except the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(g) INFORMATION AND ADMINISTRATIVE EXPENSES.—The Federal agencies specified in subsection (b)(3) shall provide the Commission such information and pay such administrative expenses as the Commission requires to carry out this section, consistent with the requirements and guidelines of the Federal Advisory Commission Act (5 U.S.C. App.).

(h) DUTIES.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a nationwide study of significant price spikes in major United States consumer energy products since 1990.

(B) MATTERS TO BE STUDIED BY THE COMMISSION.—In conducting the study, the Commission shall—

(i) focus on the causes of the price spikes, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, any over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(ii) examine the effects of price spikes on consumers and small businesses;

(iii) investigate market concentration, opportunities for misuse of market power, and any other relevant market failures; and

(iv) consider—

(I) proposals for administrative actions to mitigate price spikes affecting consumers and small businesses;

(II) proposals for legislative action; and

(III) proposals for voluntary actions by energy consumers and the energy industry.

(2) REPORT.—Not later than 270 days after the date of enactment of this Act, the Executive Committee shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) recommendations for legislation, administrative actions, and voluntary actions by energy consumers and the energy industry to protect consumers from future price spikes in consumer energy products, including a recommendation on whether energy consumers need an advocate on energy issues within the Federal Government.

(i) TERMINATION.—

(1) DEFINITION OF LEGISLATIVE DAY.—In this subsection, the term "legislative day" means a day on which both Houses of Congress are in session.

(2) DATE OF TERMINATION.—The Commission shall terminate on the date that is 30 legislative days after the date of submission of the report under subsection (h)(2).

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By Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Qualified Withdrawal Act of 2003. My friends and colleagues, Senator SMITH and Senator

MURRAY, join me in introducing this important bill.

In January of 2000, a fishery disaster was declared by the Secretary of Commerce for the West Coast groundfish fishery. Due to major declines in fish population, the Pacific Fisheries Management Council decreased groundfish catch quotas by 90 percent. Today, the groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of this disaster. Fishery income has dropped 55 percent and over a thousand fishers face bankruptcy. The Pacific Fishery Management Council has called for a 50 percent reduction in fishing capacity as part of their strategic plan for the recovery of the fishery. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the groundfish fishers' transition away from fishing.

The Capital Construction Fund, CCF, Merchant Marine Act of 1936, amended 1969, 46 U.S.C. 1177, has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. It was conceived at a time when the federal government wanted to help capitalize and expand American fishing fleets. The program was a success: it led to a larger U.S. fishing fleet. However, fish populations declined and the U.S. commercial fishing fleet is now over-capitalized. The CCF's usefulness has not kept up with the times, and now it exacerbates problems facing U.S. fisheries, including the West Coast groundfish fishery.

Now is the time to help fishers, who wish to do so, to leave the fleet.

In Oregon, the amounts in CCF accounts range from $10,000 to over $200,000. This legislation changes current law to allow fishers to remove money from their CCF for purposes other than buying new vessels or upgrading current vessels, without losing up to 70 percent of their CCF funds in taxes and penalties. This legislation changes the CCF so fishers who want to opt out of fishing are not penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders. This bill will also encourage innovation and conservation by allowing fishers to use funds deposited in a CCF to develop or purchase new gear that reduces bycatch.

I look forward to working with my colleagues to pass this legislation.

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By Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Ms. CANTWELL, and Mr. DOMENICI):

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators DOMENICI, LEAHY, GRASSLEY, and CANTWELL, to introduce the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." This bipartisan measure would, among other things, create a program of planning and implementation grants for communities so they may offer more treatment and other services to mentally ill offenders. Under this bill, programs receiving grant funds would be operated collaboratively by both a criminal justice agency and a mental health agency.

The mentally ill population poses a particularly difficult challenge for our criminal justice system. People afflicted with mental illness are incarcerated at significantly higher rates than the general population. According to the Bureau of Justice Statistics, while only about five percent of the American population has a mental illness, about 16 percent of the State prison population has such an illness. The Los Angeles County Jail, for example, typically has more mentally ill inmates than any hospital in the country.

Unfortunately, however, the reality of our criminal justice system is that jails and prisons do not provide a therapeutic environment for the mentally ill and are unlikely to do so any time soon. Indeed, the mentally ill inmate often is preyed upon by other inmates or becomes even sicker in jail. Once released from jail or prison, many mentally ill people end up on the streets. With limited personal resources and little or no ability to handle their illness alone, they often commit further offenses resulting in their re-arrest and re-incarceration. This "revolving door" is costly and disruptive for all involved.

Although these problems tend to manifest themselves primarily within the prison system, the root cause of our current situation is found in the mental health system and its failure to provide sufficient community-based treatment solutions. Accordingly, the solution will necessarily involve collaboration between the mental health system and criminal justice system. In fact, it also will require greater collaboration between the substance abuse treatment and mental health treatment communities, because many mentally ill offenders have a drug or alcohol problem in addition to their mental illness.

The purpose of the "Mentally Ill Offender Treatment and Crime Reduction Act" is to foster exactly this type of collaboration at the Federal, State, and local levels. The bill provides incentives for the criminal justice, juvenile justice, mental health, and substance abuse treatment systems to work together at each level of government to establish a network of services for offenders with mental illness. The bill's approach is unique, in that it not only would promote public safety by helping curb the incidence of repeat offenders, but it also would promote public health, by ensuring that those with a serious mental illness are treated as soon as possible and as efficiently and effectively as possible.

Among its major provisions, this legislation calls for the establishment of a new competitive grant program, which would be housed at the U.S. Department of Justice, but administered by the Attorney General with the active involvement of the Secretary of Health and Human Services. To ensure that collaboration occurs at the local level, the bill would require that two entities jointly submit a single grant application on behalf of a community.

Applications demonstrating the greatest commitment to collaboration would receive priority for grant funds. If applicants can show that grant funds would be used to promote public health, as well as public safety, and if the program they propose would have the active participation of each joint applicant, and if their grant application has the support of both the Attorney General and the Secretary of Health and Human Services, then it would receive priority for funding.

Additionally, the bill would permit grant funds to be used for a variety of purposes, each of which embodies the goal of collaboration. First, grant funds may be used to provide courts with more options, such as specialized dockets, for dealing with the non-violent offender who has a serious mental illness or a co-occurring mental illness and drug or alcohol problem. Second, grant funds could be used to enhance training of mental health and criminal justice system personnel, who must know how to deal appropriately with the mentally ill offender. Third, grant funds could be devoted to programs that divert the criminal justice system into treatment those non-violent offenders with severe and persistent mental illness. Finally, correctional facilities may use grant funds to promote the treatment of inmates and ease their transition back into the community upon release from jail or prison.

In specifically authorizing grant funds to be used to promote more options for courts to deal with mentally ill offenders, this bill builds on legislation that I introduced two years ago with my colleague from Ohio, Congressman TED STRICKLAND. That measure, which became law, authorized $10 million per year for the establishment of more mental health courts. I have long supported mental health courts, which enable the criminal justice system to provide an individualized treatment solution for a mentally ill offender, while also requiring accountability of the offender. The legislation we are introducing today would make possible the creation or expansion of more mental health courts, and it also would promote the funding of treatment services that support such courts.

In addition to making planning and implementation grants available to communities, the “Mentally Ill Offender Treatment and Crime Reduction Act” also calls for an Interagency Task Force to be established at the federal level. This Task Force would include the Attorney General and the Secretary of Health and Human Services, as well as the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Commissioner of Social Security. The Task Force would be charged with identifying new ways that federal departments can work together to reduce recidivism among mentally ill adults and juveniles.

Finally, the bill would direct the Attorney General and Secretary of Health and Human Services to develop a list of “best practices” for criminal justice personnel to use when diverting mentally ill offenders from the criminal justice system.

Ultimately, this is a good bill and one that is long overdue. I encourage my colleagues to support this important legislative measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 1194

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Mentally Ill Offender Treatment and Crime Reduction Act of 2003”.

### SEC. 2. FINDINGS.

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness; and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

### SEC. 3. PURPOSE.

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) reduce rearrests among adult and juvenile offenders with mental illness, or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through diversion in appropriate cases involving non-violent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health treatment personnel about criminal offenders with mental illness and the appropriate response to such offenders in the criminal justice system;

(6) promote communication between criminal justice or juvenile justice personnel, mental health treatment personnel, nonviolent offenders with mental illness, and other support services such as housing, job placement, community, and faith-based organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.

### SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

### “PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

### “SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.

“(a) Definitions.—In this section, the following definitions shall apply:

“(1) Applicant.—The term ‘applicant’ means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

“(2) Collaboration program.—The term ‘collaboration program’ means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

“(A) a criminal justice agency, a juvenile justice agency, or a mental health court; and

“(B) a mental health agency.

“(3) Criminal or juvenile justice agency.—The term ‘criminal or juvenile justice agency’ means an agency of a State or local government that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

“(4) Diversion and alternative prosecution and sentencing.—

“(A) In general.—The terms ‘diversion’ and ‘alternative prosecution and sentencing’ mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

“(B) Appropriate use.—In this paragraph, the term ‘appropriate use’ includes the discretion of the judge or supervising authority and the leveraging of justice sanctions to encourage compliance with treatment.

“(5) Mental health agency.—The term ‘mental health agency’ means an agency of a State or local government that is responsible for mental health services.

“(6) Mental health court.—The term ‘mental health court’ means a judicial program that meets the requirements of part V of this title.

“(7) Mental illness.—The term ‘mental illness’ means a diagnosable mental, behavioral, or emotional disorder—

“(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

“(B) that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities.

“(8) Preliminarily qualified offender.—The term ‘preliminarily qualified offender’ means an adult or juvenile who—

“(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

“(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

“(B) has faced or is facing criminal charges and is deemed eligible by a designated pretrial screening and diversion process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.

“(9) Secretary.—The term ‘Secretary’ means the Secretary of the Department of Health and Human Services.

“(10) Unit of local government.—The term ‘unit of local government’ means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

“(b) Planning and Implementation Grants.—

“(1) In general.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders in order to promote public safety and public health.

"(2) Purposes.—Grants awarded under this section shall be used to create or expand—

"(A) mental health courts or other court-based programs for preliminarily qualified offenders;

"(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel in procedures for identifying the symptoms of mental illness and co-occurring mental illness and substance abuse disorders in order to respond appropriately to individuals with such illnesses;

"(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

"(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

"(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

"(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

"(3) Applications.—

"(A) In general.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

"(B) Combined planning and implementation grant application.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"(4) Planning grants.—

"(A) Application.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

"(B) Contents.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

"(C) Period of grant.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

"(D) Amount.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

"(E) Collaboration set aside.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2003.

"(5) Implementation grants.—

"(A) Application.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

"(B) Collaboration.—To receive an implementation grant, the joint applicants shall—

"(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

"(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to jointly ensure that the provision of mental health treatment services is integrated with the provision of substance abuse treatment services, where appropriate;

"(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

"(iv) involve, to the extent practicable, in developing the grant application—

"(I) individuals with mental illness or co-occurring mental illness and substance abuse disorders; or

"(II) the families and advocates of such individuals under subclause (I).

"(C) Content.—To be eligible for an implementation grant, joint applicants shall comply with the following:

"(i) Definition of target population.—Applicants for an implementation grant shall—

"(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

"(II) develop guidelines that can be used by personnel of a criminal or juvenile justice agency to identify individuals with mental illness or co-occurring mental illness and substance abuse disorders.

"(ii) Services.—Applicants for an implementation grant shall—

"(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

"(II) specify plans for making mental health treatment services available and accessible to mentally ill offenders at the time of their release from the criminal justice system, including outside of normal business hours;

"(III) ensure that preliminarily qualified offenders served by the collaboration program will have access to effective and appropriate community-based mental health services, or, where appropriate, integrated substance abuse and mental health treatment services;

"(IV) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

"(V) include strategies to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

"(D) Housing and job placement.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

"(E) Policies and procedures.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

"(F) Financial.—Applicants for an implementation grant shall—

"(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;

"(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as medicaid, medicare, and the State Children's Insurance Program); and

"(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

"(G) Outcomes.—Applicants for an implementation grant shall—

"(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

"(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

"(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

"(H) State plans.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

"(I) Use of funds.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

"(i) Mental health courts and diversion/alternative prosecution and sentencing programs.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

"(ii) Training.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

"(I) criminal justice system personnel to identify and respond appropriately to the unique needs of an adult or juvenile with mental illness or co-occurring mental illness and substance abuse disorders; or

"(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

"(iii) Service delivery.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

"(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.

"(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

"(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

"(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

"(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program; and

"(3) have the support of both the Attorney General and the Secretary.

"(d) MATCHING REQUIREMENTS.—

"(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

"(A) 80 percent of the total cost of the program during the first 2 years of the grant;

"(B) 60 percent of the total cost of the program in year 3; and

"(C) 25 percent of the total cost of the program in years 4 and 5.

"(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

"(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

"(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

"(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

"(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

"(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

"(5) develop a uniform program evaluation process; and

"(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

"(f) INTERAGENCY TASK FORCE.—

"(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

"(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

"(A) identify policies within their departments which hinder or facilitate local collaborative initiatives for adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders; and

"(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to adults and juveniles with mental illness or co-occurring mental illness and substance abuse disorders.

"(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

"(1) $100,000,000 for each of fiscal years 2004 and 2005; and

"(2) such sums as may be necessary for fiscal years 2006 through 2008.".

(b) LIST OF "BEST PRACTICES".—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of "best practices" for appropriate diversion from incarceration of adult and juvenile offenders.

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

"Sec. 2991. Adult and juvenile collaboration programs.".

Mr. LEAHY. Mr. President, I have joined today with Senators DEWINE, GRASSLEY, CANTWELL, and DOMENICI to introduce legislation that will help State and local governments reduce crime by providing more effective treatment for the mentally ill. All too often, people with mental illness rotate repeatedly between the criminal justice system and the streets of our communities, committing a series of minor offenses. Law enforcement officers' ever scarcer time is being occupied by these offenders, who divert them from their more urgent responsibilities. Meanwhile, offenders find themselves in prisons or jails, where little or no appropriate medical care is available for them. This bill give State and local governments the tools to break this cycle, for the good of law enforcement, corrections officers, the public's safety, and mentally ill offenders.

I held a Judiciary Committee hearing last June on the criminal justice system and mentally ill offenders. At that hearing, we heard from State mental health officials, law enforcement officers, corrections officials, and the representative of counties around our Nation. All agreed that people with untreated mental illness are more likely to commit crimes, and that our State mental health systems, prisons and jails do not have the resources they need to treat the mentally ill, and prevent crime and recidivism. As this legislation's findings detail, more than 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, about 20 percent of youth in the juvenile justice system have serious mental health problems, and up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives. This is a serious problem that I hear about often when I talk with law enforcement officials and others in Vermont.

Under this bill, State and local governments can apply for funding to a. create or expand mental health courts or other court-based programs, which can divert qualified offenders from prison to receive treatment; b. create or expand programs to provide specialized training for criminal justice and mental health system personnel; c. create or expand local treatment programs that serve individuals with mental illness or co-occurring mental illness and substance abuse disorders; and d. promote and provide mental health treatment for those incarcerated in or released from a penal or correctional institution.

This legislation brings together law enforcement, corrections, and mental health professionals—indeed, officials from each of these fields in Vermont have offered their advice and support in drafting this bill. They know that the States have been dealing with the unique problems created by mentally ill offenders for many years, and that a Federal response is overdue. I look forward to working with them, and with Senator DEWINE, Representative TED STRICKLAND, and other Members, to see this bill enacted this Congress.

Mr. GRASSLEY. Mr. President, I am pleased today to be once again introducing with Senator DEWINE the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. This bipartisan bill authorizes the Attorney General to administer a grant program to assist communities in planning and implementing services for mentally ill offenders. These grants will increase public safety by fostering collaborative efforts by criminal justice, mental health, and substance abuse agencies. I have seen these types of collaborative programs work in Iowa and I know that they can work elsewhere.

We have an obligation to ensure that the public is protected from these offenders who suffer from mental illness. The Bureau of Justice Statistics has reported that over 16 percent of adults incarcerated in U.S. jails and prison have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention has reported that over 20 percent of youth in the juvenile justice system have serious mental health problems. This grant program will help increase public safety, as well as reduce the number of mentally ill adults and juveniles incarcerated in correctional facilities.

These grant dollars may be used by States and localities to establish mental health courts or other diversion programs, create or expand community-based treatment programs, provide in-jail treatment and transitional services, and for training of criminal justice and mental health system employees. The state of Iowa and a number of its counties are already leading the way in finding creative and collaborative programs to address the problems presented by these mentally ill criminals. Working together, the criminal justice, mental health, and substance abuse professionals can make a difference in the lives of this special class of offenders and also increase the safety of the public.

I want to thank Senator DEWINE for his leadership on this important issue. He has drafted a bill that reflects a common sense approach to a serious public safety issue. I also want to encourage my colleagues to support this important piece of legislation.

Ms. CANTWELL. Mr. President, I am proud to join with Senator DEWINE and Senator PATRICK LEAHY along with Senators GRASSLEY and DOMENICI in cosponsoring this important legislation. This bill will take steps to reduce the prevalence of the mentally ill in the criminal justice system by providing more effective treatment. Forty percent of the mentally ill in this country come in contact with the criminal justice system, many for minor but repeated offenses. This wastes tremendous law enforcement resources that can be better focused on more urgent responsibilities and results in many of the mentally ill sitting in jail cells where little treatment is available to them. My State has already taken some forward looking action in this area, and this legislation is an important next step.

The Mentally Ill Crime Reduction Act of 2003 funds new grants that will give States the tools they need to work collaboratively to break the cycle of mentally ill people repeatedly moving through the corrections system. This legislation will allow more jurisdictions to follow Seattle's lead in creating mental health courts that monitor individuals to keep them in treatment and out of jail. It will provide much needed funding to mental health and substance abuse programs, and it will provide critical dollars for treatment of those incarcerated in or released from prisons. The legislation has the support of Washington State Corrections Director Joe Lehman and the Washington Department of Social and Health Services as well as the National Alliance for the Mentally Ill and the Council of State Governments. I'd like to especially thank the Bazelon Center for its work in this area.

Last year, the Council on State Governments Criminal Justice/Mental Health Consensus Project issued a report that detailed the imbalance of the mentally ill in the criminal justice system. The Project found that, while those suffering from serious mental illness represent approximately five percent of the population of this country, they represent over 16 percent of the prison population. Of that 16 percent, nearly three-quarters also have a substance abuse problem, and nearly half were incarcerated for committing a nonviolent crime. In some jurisdictions recidivism rates for mentally ill inmates can reach over 70 percent. Police, judges and prosecutors are usually without options of what to do with mentally ill patients, given the lack of health services, and thus many end up in jail for minor crimes. The Los Angeles County Jail alone holds as many as 3,300 individuals with mental illness, more than any state hospital or mental health institution in the United States.

Each time a mentally ill individual is incarcerated, his or her mental condition will likely worsen. Once incarcerated, people with mental illness are particularly susceptible to harming themselves or others. This environment exacerbates their mental illness, yet access to effective counseling or medication is severely limited. This in turn brings on depression or delusions that immobilize them; many have spent years trying to mask torments or hallucinations with alcohol or drugs and on average spend more time in prisons.

This problem is particularly acute in the area of juvenile offenders. The Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of children in the juvenile justice system, over 155,000, have serious mental health problems. This bill creates specialized training programs for juvenile and criminal justice agency personnel in identifying symptoms of mentally ill individuals that will help identify and treat juveniles at an earlier stage.

The prevalence of people with mentally illness in the criminal justice system comes at a high price to taxpayers. In King County, WA, officials identified 20 people who had been repeatedly hospitalized, jailed or admitted to detoxification centers. These emergency services cost the county approximately $1.1 million in a single year. In contrast, an Illinois Cooperative Program which brought criminal justice and mental health service personnel together to provide services to those mentally ill patients released from jail calculated that the 30 individuals in the study spend approximately 2,200 days less in jail, and 2,100 fewer days, in hospitals than they had the previous year, for a savings of $1.2 million dollars.

In 1997, Seattle Fire Department Captain Stanley Stevenson was murdered by an individual who had been found incompetent by the local municipal court but was released because of the lack of alternative options. This murder was the impetus for the creation of a Task Force that led directly to the formation of the King County Mental Health Court in 1999. The primary reason why this Court has been growing more effective in dealing with mentally ill offenders is that it has increased cooperation between the mental health and criminal justice systems, institutions that have traditionally not worked closely together. Building on the model of the drug court, the mental health court closely monitors compliance with treatment regimens by assembling a team proficient in dealing with the mentally ill and at using the stick of the criminal justice system to make that treatment work. The vast majority of these mentally ill individuals are responsive to treatment.

This program has progressed well and is becoming an effective means of helping mentally ill offenders, assuring public safety, and running a more cost efficient system. Yet to allow this system to continue to expand in Seattle and other communities in Washington State, as well as to allow other States to begin using these types of programs, federal grant funding is critical. That is what this bill provides.

Collaboration between mental health, substance abuse, law enforcement, judicial, and other criminal justice personnel is also critical to the success of our mental health court program in Seattle. It is only through full coordination between the criminal justice and the mental health treatment community at the Federal and the local level that these efforts will be successful.

Similarly, only through full coordination at the Federal and local level will this bill be able to make a critical difference. I believe that some additional improvements can be made to strengthen that critical coordination and I look forward to working with Senator DEWINE and Senator LEAHY to accomplish that goal. I welcome the introduction of this legislation and look forward to working with my cosponsors to make this bill law in the next Congress.

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By Mr. KYL (for himself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. FRIST, Mr. ALEXANDER, Mrs. LINCOLN, Mr. BUNNING, Mr. SMITH, Mr. GRAHAM of Florida, Mr. SANTORUM, Mr. KERRY, Mr. KENNEDY, and Mr. HATCH):

S. 1195. A bill to amend title XIX of the Social Security Act to clarify that inpatient drug prices charged to certain public hospitals are included in the best price exemptions for the medicaid drug rebate program; to the Committee on Finance.

Mr. KYL. Mr. President, I rise today with Senators BINGAMAN, ROCKEFELLER, MCCAIN, FRIST, ALEXANDER, LINCOLN, BUNNING, SMITH, BOB GRAHAM, SANTORUM, KERRY, KENNEDY and HATCH to introduce a modest but important piece of legislation, the Safety Net Hospital Pharmacy Access Act. This legislation would correct a small error in current law that prohibits safety-net hospitals from being able to negotiate with pharmaceutical companies for the lowest prices they can get.

Let me provide some background on this problem. In 1990, Congress established the Medicaid drug-rebate program to ensure that the Medicaid program pays no more than a pharmaceutical manufacturer's "best price" for a covered outpatient drug. So whatever was the lowest price the manufacturer offered to anyone, this becomes the price Medicaid pays under this "best price" rule.

Unfortunately, this rule provides an incentive for pharmaceutical manufacturers not to offer deep discounts to anyone, given that these prices may become the new price that Medicaid pays. Given this, in 1992 Congress exempted some organizations from the Medicaid best price calculations so that pharmaceutical manufacturers would offer them lower drug prices. These organizations include the VA, the Department of Defense, and section 340B covered entities. These 340B hospitals are so called because they fall under section 340B of the Public Health Services Act, which defines 12 categories of publicly funded safety net providers. There are approximately 160 hospitals in the country that fall under the 340B program. These hospitals often bear the burden of providing a substantial amount of uncompensated care in dealing with the indigent or the uninsured.

Unfortunately, the Center for Medicare and Medicaid Services interpreted the 1992 law as only applying to outpatient drugs purchased by these entities. Therefore, drugs purchased for inpatient use at the 340B hospitals are covered by the Medicaid best price rule. This means these hospitals actually pay more for these drugs than for drugs that they can negotiate their own prices for in the outpatient setting. The legislation I am introducing today corrects this problem by allowing the 340B hospitals to also negotiate for lower drug prices in the inpatient setting.

This is an important correction since these hospitals are often providing free care to the indigent and the uninsured. And let me be clear that this legislation would not require pharmaceutical companies to provide discounts to these hospitals. All this legislation would do is allow the hospitals to negotiate for lower prices. However, in my discussion with representatives of hospitals that would be affected by this law, they believe they would be able to save money.

For instance, the Maricopa County hospital, which is the public hospital for the city of Phoenix, believes that it could save up to $1 million a year. Since this hospital constantly runs in the red because of the massive amount of uncompensated care it is required under federal law to provide, such savings would be very helpful.

I want to thank the bill's cosponsors. I also want to urge my colleagues to take a close look at this important legislation. I am going to work to see that it is passed this year.

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By Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. FITZGERALD, and Mr. HAGEL):

S. 1196. A bill to eliminate the marriage penalty permanently in 2003; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to provide permanent tax relief from one of the most egregious, anti-family aspects of the tax code—the marriage penalty. Relieving American taxpayers of this burden has been one of my highest priorities as a U.S. Senator.

Last week President Bush signed into law a $350 billion jobs and economic growth package to put Americans back to work and stimulate the economy. The bill provides immediate marriage penalty relief by enlarging the standard deduction and the 15 percent tax bracket for married couples filing jointly to twice that as for single filers. This provision will save 34 million married couples an average of $589 this year alone.

Enacting marriage penalty relief is a giant step for tax fairness, but it may be fleeting. The Jobs and Growth Act was just signed, but even as the ink dries a tax increase on married couples looms in the near future. Since the bill was restricted by artificial limitations to $350 billion, the marriage penalty provisions will only be in effect for two years. In 2005, marriage will again be a taxable event for millions of Americans. Similar restrictions were placed on the 2001 tax cut, so, while relief will be phased in by 2009, it will disappear for good in 2011 unless we act decisively.

Millions of couples across America will be penalized once more by our tax code simply because they are married. Without marriage penalty relief, 48 percent of married couples will again pay the government an average $1,400 more in taxes.

Given the state of the economy and the difficulty many families face in making ends meet, we must make sure we do not backtrack on this important reform.

Without marriage penalty relief, the tax code provides a significant disincentive for people to walk down the aisle, and the benefits of marriage are well established. Marriage is a fundamental institution in our society and should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or to suffer from child abuse. Research indicates they are less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

The bill I am offering would make the marriage penalty relief in the Jobs and Growth Act permanent. It also will accelerate changes to the earned income tax credit that were passed in the 2001 tax reform bill. This will reduce the marriage penalty on lower income couples.

We cannot be satisfied until couples never again must decide between love and money. Marriage should not be a taxable event.

I call on the Senate to finish the job we started and say "I do" to providing permanent marriage penalty relief today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1196

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Permanent Marriage Penalty Relief Act of 2003".

**SEC. 2. ACCELERATION OF MARRIAGE PENALTY RELIEF PROVISIONS.**

(a) ELIMINATION OF MARRIAGE PENALTY IN STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 63(c) of the Internal Revenue Code of 1986 (relating to standard deduction) is amended—

(A) by striking "the applicable percentage of the dollar amount in effect under subparagraph (D)" in subparagraph (A) and inserting "200 percent of the dollar amount in effect under subparagraph (C)";

(B) by adding "or" at the end of subparagraph (B);

(C) by striking subparagraph (C);

(D) by redesignating subparagraph (D) as subparagraph (C); and

(E) by striking the last sentence.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 63(c) of such Code is amended by striking "(2)(D)" each place it appears and inserting "(2)(C)".

(B) Paragraph (7) of section 63(c) of such Code is repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

(1) IN GENERAL.—Paragraph (8) of Section 1(f) of the Internal Revenue Code of 1986 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended to read as follows:

"(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

"(A) IN GENERAL.—With respect to taxable years beginning after December 31, 2002, in prescribing the tables under paragraph (1)—

"(i) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

"(ii) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under clause (i).

"(B) ROUNDING.—If any amount determined under subparagraph (A)(i) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(2) CONFORMING AMENDMENT.—The heading for subsection (f) of section 1 of such Code is amended by striking "PHASEOUT" and inserting "ELIMINATION".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(c) MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.—

(1) INCREASED PHASEOUT AMOUNT.—

(A) IN GENERAL.—Section 32(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amounts) is amended by striking "'increased by—" and all that follows and inserting "increased by $3,000.".

(B) INFLATION ADJUSTMENT.—Paragraph (1)(B)(ii) of section 32(j) of such Code (relating to inflation adjustments) is amended to read as follows:

"(ii) in the case of the $3,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) of such section 1.".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 2002.

(2) EXPANSION OF MATHEMATICAL ERROR AUTHORITY.—

(A) IN GENERAL.—Paragraph (2) of section 6213(g) of such Code is amended by striking "and" at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting ", and", and by inserting after subparagraph (L) the following new subparagraph:

"(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child.".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on January 1, 2003.

(d) CONFORMING AMENDMENTS.—

(1) REPEAL OF AMENDMENT.—Sections 303(g) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) REPEAL OF SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 301, 302, and 303 (other than subsection (g) of such section 303) of such Act (relating to marriage penalty relief).

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By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DASCHLE, Mr. LAUTENBERG, and Mr. DORGAN):

S. 1197. A bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, imagine for a moment you have gone to the doctor to have a medical condition evaluated. Uncertain as to what your injury may be, your doctor sends you to a specialist for a medical imaging examination to determine the extent of your injury and the proper course of treatment for it.

Or, imagine, having heard the dreaded diagnosis of cancer, going to the same facility for radiation therapy.

In either case, our sense of concern and anxiety about our medical condition will serve to focus our attention on ourselves, and not on the caregivers providing us with the treatment we need to recover, or in the case of cancer, to survive.

But, what would you say if you knew that the individual helping to direct your diagnosis or the one providing your course of treatment is someone who has done nothing more to earn his credentials than spend a few weeks getting some on the job training.

Imagine how you would feel and the level of trust you would have in a system that allowed such a thing to happen.

Unfortunately, that's an all too common occurrence with the present state of our health care system.

But, it is a problem that we can solve with the passage of legislation I am introducing today.

The Consumer Assurance of Radiological Excellence, RadCARE, Act will ensure that there are coherent standards in place for those who plan and deliver radiation therapy treatments. I am pleased to be joined by my distinguished colleague from Massachusetts, Senator KENNEDY, as well as Senators DASCHLE, LAUTENBERG, and DORGAN, in this effort, which will bring peace of mind and restore the confidence of the health consumer in the treatment they receive from those who perform radiologic procedures. It will also increase awareness of the skills of these health care professionals and raise the level of visibility their profession enjoys in the public eye.

It is important that we establish standards for personnel who perform radiologic procedures because physicians depend upon medical imaging examinations to diagnose disease and identify and treat injuries of all kinds. The quality of a radiologic procedure hinges upon the expertise of the professionals who assist in administering them.

Currently, 15 States as well as the District of Columbia do not regulate or register radiologic personnel.

To address that lack of attention, the RadCARE Act will strengthen the Consumer-Patient Radiation Health and Safety Act of 1981. The current law calls for States to establish voluntarily a set of educational and credentialing standards for radiologic and medical imaging personnel. Yet many States still do not have licensing laws in place that meet the standards recommended by the Federal Government. The RadCARE Act will require that radiologic and medical imaging personnel meet a minimum credentialing standard.

The RadCARE Act will not affect states that have a suitable licensing system or those that have mandated higher standards than required by Federal law. If a state has no meaningful regulations or licensing system, however, then the Federal standards will apply. The RadCARE Act also has a provision to ensure access to quality healthcare in rural regions where a one-size-fits all approach may not be applicable. Enforcement of the RadCARE Act would be achieved by restricting Medicare and Medicaid reimbursement to facilities that employ personnel who meet the minimal federal standards.

The RedCARE Act will improve the safety of radiological procedures by reducing the risk of harmful overexposure to radiation. Healthcare costs will also be lowered by decreasing the number of repeated procedures due to personnel error. Additionally, the RadCARE Act will enable radiologists and other healthcare professionals to have access to quality information so that patients receive the best health care possible.

This legislation is supported by a variety of organizations concerned with the quality of these procedures, including the American Society of Radiologic Technologists, the Society of Nuclear Medicine Technologist Section, the American Association of Medical Dosimetrists, the Nuclear Medicine Technology Certification Board, the Association of Vascular and Interventional Radiographers, and the other members of the Alliance for Quality Medical Imaging and Radiation Therapy, which represents the more than 275,000 medical imaging and radiation therapy professionals in the United States.

When it comes right down to it, it's a big enough battle to fight the cancers or the injuries to our bodies that require such invasive treatments or diagnosis. We shouldn't have to worry about the level of competence of those who are providing us with the services we so desperately require for the maintenance of our health.

I urge my colleagues to join me in supporting and passing this much needed legislation. It respects the power of the states who have addressed this problem as it provides minimum standards for those who have not.

More importantly, its enactment into law will do a great deal to increase the level of confidence of the American health consumer in our healthcare system.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1197

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Consumer Assurance of Radiologic Excellence Act of 2003".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) More than 300,000,000 medical imaging examinations and radiation therapy treatments are administered annually in the United States.

(2) Seven out of every 10 Americans undergo a medical imaging examination or radiation therapy treatment every year in the United States.

(3) The administration of medical imaging examinations and radiation therapy treatments and the effect on individuals of such procedures have a substantial and direct effect upon public health and safety and upon interstate commerce.

(4) It is in the interest of public health and safety to minimize unnecessary or inappropriate exposure to radiation due to the performance of medical imaging and radiation therapy procedures by personnel lacking appropriate education and credentials.

(5) It is in the interest of public health and safety to have a continuing supply of adequately educated persons and appropriate accreditation and certification programs administered by State governments.

(6) Persons who perform or plan medical imaging or radiation therapy, including those employed at Federal facilities or reimbursed by Federal health programs, should be required to demonstrate competence by reason of education, training, and experience.

(7) The protection of public health and safety from unnecessary or inappropriate medical imaging and radiation therapy procedures and the assurance of efficacious procedures are the responsibilities of both the State and the Federal Governments.

(8) Facilities that conduct medical imaging or radiation therapy engage in and affect interstate commerce. Patients travel regularly across State lines to receive medical imaging services or radiation therapy. Facilities that conduct medical imaging or radiation therapy engage technicians, physicians, and other staff in an interstate market, and purchase medical and other supplies in an interstate market.

(9) In 1981, Congress enacted the Consumer-Patient Radiation Health and Safety Act of 1981 (Public Law 97-35) which established minimum Federal standards for the accreditation of education programs for persons who perform or plan medical imaging examinations and radiation therapy treatments and for the certification of such persons. The Act also provided the States with a model State law for the licensing of such persons.

(10) Twenty-two years after the enactment of the Consumer-Patient Radiation Health and Safety Act of 1981—

(A) 13 States do not require licensure of any kind for persons who perform or plan medical imaging examinations and radiation therapy treatments;

(B) 37 States license, regulate, or register radiographers;

(C) 28 States license radiation therapists;

(D) 22 States license nuclear medicine technologists;

(E) 8 States license or require board certification of medical physicists; and

(F) no States regulate or license medical dosimetrists.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the accreditation of education programs for, and the licensure or certification of, persons who perform, plan, evaluate, or verify patient dose for medical imaging examinations and radiation therapy treatments; and

(2) to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

**SEC. 3. QUALITY OF MEDICAL IMAGING AND RADIATION THERAPY.**

Part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following:

"Subpart 4—Medical Imaging and Radiation Therapy

**"SEC. 355. QUALITY OF MEDICAL IMAGING AND RADIATION THERAPY.**

"(a) IN GENERAL.—The Secretary shall establish standards to assure the safety and accuracy of medical imaging or radiation therapy. Such standards shall include licensure or certification, accreditation, and other requirements determined by the Secretary to be appropriate.

"(b) EXEMPTIONS.—The standards established under subsection (a) shall not apply to physicians (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))), nurse practitioners and physician assistants (as defined in section 1861(aa)(5) of the Social Security Act (42 U.S.C. 1395x(aa)(5))).

"(c) REQUIREMENTS.—Under the standards established under subsection (a), the Secretary shall ensure that individuals prior to performing or planning such imaging or therapy—

"(1) have successfully completed a national examination approved by the Secretary under subsection (d) for individuals who perform or plan medical imaging or radiation therapy; and

"(2) meet such other requirements relating to medical imaging or radiation therapy as the Secretary may prescribe.

"(d) APPROVED BODIES.—

"(1) IN GENERAL.—The Secretary shall certify private nonprofit organizations or State agencies as approved bodies with respect to the accreditation of educational programs or the administration of examinations to individuals for purposes of subsection (c)(1) if such organizations or agencies meet the standards established by the Secretary under paragraph (2) and provide the assurances required under paragraph (3).

"(2) STANDARDS.—The Secretary shall establish minimum standards for the certification of approved bodies under paragraph (1) (including standards for recordkeeping, the approval of curricula and instructors, the charging of reasonable fees for accreditation or for undertaking examinations), and other additional standards as the Secretary may require.

"(3) ASSURANCES.—To be certified as an approved body under paragraph (1), an organization or agency shall provide the Secretary satisfactory assurances that the body will—

"(A) comply with the standards described in paragraph (2);

"(B) notify the Secretary in a timely manner before the approved body changes the standards of the body; and

"(C) provide such other information as the Secretary may require.

"(4) WITHDRAWAL OF APPROVAL.—

"(A) IN GENERAL.—The Secretary may withdraw the certification of an approved body if the Secretary determines the body does not meet the standards under paragraph (2).

"(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the certification of an approved body under subparagraph (A), the accreditation of an individual or the completion of an examination administered by such body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such individual to obtain another accreditation or to complete another examination.

"(e) EXISTING STATE STANDARDS.—Standards for the licensure or certification of personnel, accreditation of educational programs, or administration of examinations, established by a State prior to the effective date of the standards promulgated under this section, shall be deemed to be in compliance with the requirements of this section unless the Secretary determines that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this section.

"(f) EVALUATION AND REPORT.—The Secretary shall periodically evaluate the performance of each approved body under subsection (d) at an interval determined appropriate by the Secretary. The results of such evaluations shall be included as part of the report submitted to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives in accordance with 354(e)(6)(B).

"(g) DELIVERY OF AND PAYMENT FOR SERVICES.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations to ensure that all programs that involve the performance of or payment for medical imaging or radiation therapy, that are under the authority of the Secretary, are performed in accordance with the standards established under this section.

"(h) ALTERNATIVE STANDARDS FOR RURAL AREAS.—The Secretary shall determine whether the standards developed under subsection (a) must be met in their entirety with respect to payment for medical imaging or radiation therapy that is performed in a geographic area that is determined by the Medicare Geographic Classification Review Board to be a "rural area". If the Secretary determines that alternative standards for such rural areas are appropriate to assure access to quality medical imaging, the Secretary is authorized to develop such alternative standards. Alternative standards developed under this subsection shall apply in rural areas to the same extent and in the same manner as standards developed under subsection (a) apply in other areas.

"(i) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate such regulations as may be necessary to implement this section.

"(j) DEFINITIONS.—In this section:

"(1) APPROVED BODY.—The term 'approved body' means a nonprofit organization or State agency that has been certified by the Secretary under subsection (d)(1) to accredit or administer examinations to individuals who perform or plan medical imaging or radiation therapy.

"(2) MEDICAL IMAGING.—The term 'medical imaging' means any procedure or article, excluding medical ultrasound procedures, intended for use in the diagnosis or treatment of disease or other medical or chiropractic conditions in humans, including diagnostic X-rays, nuclear medicine, and magnetic resonance procedures.

"(3) PERFORM.—The term 'perform', with respect to medical imaging or radiation therapy, means—

"(A) the act of directly exposing a patient to radiation via ionizing or radio frequency radiation or to a magnetic field for purposes of medical imaging or for purposes of radiation therapy; and

"(B) the act of positioning a patient to receive such an exposure.

"(4) PLAN.—The term 'plan' with respect to medical imaging or radiation therapy, means the act of preparing for the performance of such a procedure to a patient by evaluating site-specific information, based on measurement and verification of radiation dose distribution, computer analysis, or direct measurement of dose, in order to customize the procedure for the patient.

"(5) RADIATION THERAPY.—The term 'radiation therapy', means any procedure or article intended for use in the cure, mitigation, treatment, or prevention of disease in humans that achieves its intended purpose through the emission of radiation.".

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By Mr. DODD:

S. 1198. A bill to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Focus on Committed and Underpaid Staff for Children's Sake Act. I am pleased that Senators KENNEDY, MURRAY, and BINGAMAN are joining me as original cosponsors and that companion legislation is being introduced in the House today by Representatives GEORGE MILLER and PATRICK KENNEDY.

The need for child care has become a daily fact of life for millions of parents nationwide. Sixty-five percent of mothers with children under age six and 78 percent of mothers with children ages 6 to 13 are in the labor force. Each day, 13 million preschool children, including 6 million infants and toddlers, spend some part of their day in child care.

The quality of that care has a tremendous impact on the critical early years of children's development. And, the most powerful determinant of the quality of child care is the training, education, and pay of those who spend 8–10 hours a day caring for our children.

Yet, what we know about the child care field is alarming. Despite the fact that continuity of care is critical for the emotional development of children, staff turnover at child care centers averages 30 percent per year—four times greater than the turnover rate for elementary school teachers.

We as a society say there is no more important task than helping to raise a child. Yet, according to the Bureau of Labor Statistics, we pay the average child care worker about $16,500 a year—barely above the poverty level for a family of three. Few child care providers have basic benefits like health coverage or paid leave. Only a small fraction of child care workers have graduated from college.

We pay people millions of dollars a year to throw baseballs, to shoot basketballs and to swing golf clubs. What does that say about our priorities when at the same time we pay those who care for our most precious resource—our children—poverty-level wages?

A report by the University of California, Berkeley and the Center for Child Care Workforce on child care providers' pay, training and education highlighted the current crisis in the child care field. In a survey of child care centers in three California communities, the study found that three-quarters of all child care staff employed in 1996 were no longer on the job in 2000. Some centers reported 100 percent turnover. Additionally, nearly half of the child care providers who had left had a Bachelor's degree, compared to only one-third of the new teachers. Some 49 percent, nearly half, of those who had left their job, left the child care field entirely.

It's clear that if we want to attract quality teachers to the child care field, the pay has to better reflect the value we place on their work. We can't attract them and we can't keep them if we don't pay them a living wage.

The legislation I am introducing today will provide states with funds to increase child care worker pay based on the level of education—the greater the level of education, the greater the increase in pay. In addition, the legislation will provide scholarships of up to $1,500 for child care workers who want to further their early childhood education training by getting a college degree, an Associate's degree, or a child development associate credential.

The legislation also includes a separate allotment to states to address access to health care coverage by child care workers. States would be free to develop their own creative methods to improve access to health care, but the intent is to ensure that an industry that works with children—who as many parents know, often come down with a variety of illnesses, particularly preschool age children—would have greater access to comprehensive and affordable health care coverage.

We will never make significant strides in improving the quality of child care in this Nation if we fail to address one of the leading problems—attracting and retaining a quality child care workforce. It is time to invest in our children by investing in those who dedicate their lives to caring for our children.

I ask unanimous consent to print a short summary of the bill following my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE FOCUS ACT: FOCUS ON COMMITTED AND UNDERPAID STAFF OR CHILDREN'S SAKE ACT

Background: According to the Department of Labor, the average wage for a child care provider is $8.16 an hour—$16,980 per year. Despite the important role child care providers play in early childhood development and learning, child care providers earn less than bus drivers ($29,430), barbers ($21,190), and janitors ($19,800). The turnover rate in the child care field is high—30 percent. But, to offer compensation to attract and retain high quality staff, child care programs would be required to charge fees that many parents would not be able to afford. Current law reimbursement rates, which are woefully inadequate for center-based and family day care homes already shut out too many parents from the child care market.

The FOCUS Act: The purpose of the FOCUS Act is to establish a Child care Provider Retention and development Grant Program, a Child Care Provider Scholarship Program, and to improve access to health coverage by child care workers and their dependents in order to reward and promote retention of committee, quality child care providers.

Child Care Provider Retention and Development Grant Program: The FOCUS Act provides grants to states to supplement the wages of full-time child care workers who have a child development associate (CDA) credential by at least $1,000. A child care worker who has a Bachelors Degree in child development or early child education shall receive a grant of at least twice as much as grants made to providers who have an Associates degree in the area of child development or early child education. Grants to providers with an AA degree shall be at least 150 percent of grants made to those with a CDA. States shall provide grants in progressively larger dollar amounts to child care providers to reflect the number of years worked as a child care provider.

Child Care Provider Scholarships: The FOCUS Act provides grants to states for child care providers who have been employed for at least a year in the child care field—maximum grant is $1,500, to further staff education and training. FOCUS Act scholarships are not counted against other federal education aid.

Health Care Coverage for Child Care Providers: The FOCUS Act provides grants to states to provide better access to health coverage for child care workers. States retain a great deal of flexibility in determining how they will improve access to health care and health coverage by child care providers.

Funding: For FY 2004, the FOCUS Act authorizes $500 million for wage and scholarship initiatives and $200 million for health care initiatives. Such sums are authorized for fiscal years 2005–2008.

.Of the $500 million for wage and scholarship initiatives, 67.5 percent is for grants to attract and retain a quality child care workforce and 22.5 percent is for scholarships to promote a child care workforce better educated on childhood development.

Set-aside: 3 percent for Indian Tribes and tribal organizations.

Funding formula: based on the number of children under age 5 and the percentage of children receiving free or reduced price lunches. 90/10 funding 1st year; 85/15 funding 2nd year; 80/20 funding 3rd year; 75/25 funding fourth and subsequent years.

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By Mr. FEINGOLD (for himself, Mrs. LINCOLN, and Mr. MCCAIN):

S. 1199. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing legislation that will help to ensure that all of our veterans know about Federal benefits to which they may be entitled by improving outreach programs conducted by the Department of Veterans Affairs.

I am please to be joined in this effort by the Senator from Arkansas, Mrs. LINCOLN, and the Senator from Arizona, Mr. MCCAIN.

Three years ago, the Wisconsin Department of Veterans Affairs, WDVA, launched a statewide program called "I Owe You." Under the direction of Secretary Ray Boland, the program encourages veterans to apply, or to reapply, for benefits that they earned from their service in the United States military.

As part of this program, WDVA has sponsored six events around Wisconsin called "Supermarkets of Veterans Benefits" at which veterans can begin the process of learning whether they qualify for Federal benefits from the Department of Veterans Affairs, VA. These events, which are based on a similar program in Georgia, supplement the work of Wisconsin's County Veterans Service Officers and veterans service organizations by helping our veterans to reconnect with the VA and to learn more about services and benefits for which they may be eligible. More than 11,000 veterans and their families have attended the supermarkets, which include information booths with representatives from WDVA, VA, and veterans service organizations, as well as a variety of Federal, State, and local agencies. I was proud to have members of my staff speak with veterans and their families at a number of these events. These events have helped veterans and their families to learn about numerous topics, including health care, how to file a disability claim, and pre-registration for internment in veterans cemeteries.

The Institute for Government Innovation at Harvard University's Kennedy School of Government recognized the "I Owe You" program by naming it a semi-finalist for the 2002 Innovations in American Government Award. The program was also featured in the March/April 2003 issue of Disabled American Veterans Magazine.

The State of Wisconsin is performing a service that is clearly the obligation of the VA. These are Federal benefits that we owe to our veterans and it is the Federal Government's responsibility to make sure that they receive them. The VA has a statutory obligation to perform outreach, and current budget pressures should not be used as an excuse to halt or reduce these efforts.

The legislation that I am introducing today was spurred by the overwhelming response to the WDVA's "I Owe You" program and the supermarkets of veterans benefits. If more than 11,000 Wisconsin veterans are unaware of benefits that may be owed to them, it is troubling to think how many veterans around our country are also unaware of them. We can and should do better for our veterans, who selflessly served our country and protected the freedoms that we all cherish. And it is important to address gaps in the VA's outreach program as we welcome home and prepare to enroll into the VA system the tens of thousands of dedicated military personnel who are serving in Afghanistan, Iraq, and other places around the globe.

In order to help to facilitate consistent implementation of VA's outreach responsibilities around the country, my bill would create a statutory definition of the term "outreach."

My bill also would help to improve outreach activities performed by the VA in three ways. First, it would create separate funding line items for outreach activities within the budgets of the VA and its agencies, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration. Currently funding for outreach is taken from the general operating expenses for these agencies. These important programs should have a dedicated funding source instead of being forced to compete for scarce funding with other crucial VA programs.

I have long supported efforts adequately fund VA programs. We can and should do more to provide the funding necessary to ensure that our brave veterans are getting the health care and other benefits that they have earned in a timely manner and without having to travel long distances or wait more than a year to see a doctor or to have a claim processed.

Secondly, the bill would create an intra-agency structure to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. By working more closely together, the VA components would be able to consolidate their efforts, share proven outreach mechanisms, and avoid duplication of effort that could waste scarce funding.

Finally, the bill would ensure that the VA can enter into cooperative agreements with State Departments of Veterans Affairs regarding outreach activities and would give the VA grant-making authority to award funds to State Departments of Veterans Affairs for outreach activities such as the WDVA's "I Owe You Program." Grants that are awarded to State departments under this program could be used to enhance outreach activities and to improve activities relating to veterans claims processing, which is a key component of the VA benefits process. State departments that receive grants under this program may choose to award portions of their grants to local governments, other public entities, or private or non-profit organizations that engage in veterans outreach activities.

I am pleased that this bill has the support of a number of national and Wisconsin organizations that are committed to improving the lives of our Nation's veterans, including: Disabled American Veterans; Paralyzed Veterans of America; Vietnam Veterans of America; the National Association of County Veterans Service Officers; the National Association of State Directors of Veterans Affairs; the Wisconsin Department of Veterans Affairs; the Wisconsin Association of County Veterans Service Officers; the Wisconsin Department of Disabled American Veterans; the Wisconsin Department of Veterans of Foreign Wars; the Wisconsin Paralyzed Veterans Association; and the Wisconsin State Council, Vietnam Veterans of America.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1199

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Outreach Improvement Act of 2003".

### SEC. 2. DEFINITION OF OUTREACH.

Section 101 of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(34) The term 'outreach' means the act or process of reaching out in a systematic manner to proactively provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws.".

### SEC. 3. AUTHORITIES AND REQUIREMENTS FOR ENHANCEMENT OF OUTREACH OF ACTIVITIES DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 5 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—OUTREACH

**"§ 561. Outreach activities: funding**

"(a) The Secretary shall establish a separate account for the funding of the outreach activities of the Department, and shall establish within such account a separate subaccount for the funding of the outreach activities of each element of the Department specified in subsection (c).

"(b) In the budget justification materials submitted to Congress in support of the Department budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary shall include a separate statement of the amount requested for such fiscal year for activities as follows:

"(1) For outreach activities of the Department in aggregate.

"(2) For outreach activities of each element of the Department specified in subsection (c).

"(c) The elements of the Department specified in this subsection are as follows:

"(1) The Veterans Health Administration.

"(2) The Veterans Benefits Administration.

"(3) The National Cemetery Administration.

**"§ 562. Outreach activities: coordination of activities within Department**

"(a) The Secretary shall establish and maintain procedures for ensuring the effective coordination of the outreach activities of the Department between and among the following:

"(1) The Office of the Secretary.

"(2) The Office of Public Affairs.

"(3) The Veterans Health Administration.

"(4) The Veterans Benefits Administration.

"(5) The National Cemetery Administration.

"(b) The Secretary shall—

"(1) periodically review the procedures maintained under subsection (a) for the purpose of ensuring that such procedures meet the requirement in that subsection; and

"(2) make such modifications to such procedures as the Secretary considers appropriate in light of such review in order to better achieve that purpose.

**"§ 563. Outreach activities: cooperative activities with States; grants to States for improvement of outreach**

"(a) It is the purpose of this section to assist States in carrying out programs that offer a high probability of improving outreach and assistance to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive veterans' or veterans'-related benefits, to ensure that such individuals are fully informed about, and assisted in applying for, any veterans' and veterans'-related benefits and programs (including under State veterans' programs).

"(b) The Secretary shall ensure that outreach and assistance is provided under programs referred to in subsection (a) in locations proximate to populations of veterans and other individuals referred to in that subsection, as determined utilizing criteria for determining the proximity of such populations to veterans health care services.

"(c) The Secretary may enter into cooperative agreements and arrangements with veterans agencies of the States in order to carry out, coordinate, improve, or otherwise enhance outreach by the Department and the States (including outreach with respect to State veterans' programs).

"(d)(1) The Secretary may award grants to veterans agencies of States in order to achieve purposes as follows:

"(A) To carry out, coordinate, improve, or otherwise enhance outreach, including activities pursuant to cooperative agreements and arrangements under subsection (c).

"(B) To carry out, coordinate, improve, or otherwise enhance activities to assist in the development and submittal of claims for veterans' and veterans'-related benefits, including activities pursuant to cooperative agreements and arrangements under subsection (c).

"(2) A veterans agency of a State receiving a grant under this subsection may use the grant amount for purposes described in paragraph (1) or award all or any portion of such grant amount to local governments in such State, other public entities in such State, or private non-profit organizations in such State for such purposes.

"(e) Amounts available for the Department for outreach in the account under section 561 of this title shall be available for activities under this section, including grants under subsection (d).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new items

"SUBCHAPTER IV—OUTREACH

"561. Outreach activities: funding.
"562. Outreach activities: coordination of activities within Department.
"563. Outreach activities: cooperative activities with States; grants to States for improvement of outreach.".

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By Mr. GRAHAM of South Carolina (for himself, Mr. DORGAN, Mr. BUNNING, Mr. DURBIN, Mr. ROBERTS, Mrs. MURRAY, Mr. SMITH, Ms. LANDRIEU, Mr. DEWINE, Mr. CORZINE, Mr. DASCHLE, and Mrs. LINCOLN):

S. 1201. A bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, today I am happy to be joining my colleague Senator LINDSEY GRAHAM in introducing the YMCA Healthy Teen Act. Senator GRAHAM and I are introducing this bill along with Senators BUNNING, CORZINE, DASCHLE, DEWINE, DURBIN, LANDRIEU, LINCOLN, MURRAY, ROBERTS, and SMITH. This bipartisan legislation will address a critical issue for our Nation's future: the health of our children.

Unfortunately, there has been an alarming trend in recent years towards increased obesity in our Nation's youth. On average, America's young people spend 4 hours a day watching television, 1 and ½ hours a day listening to music, 30 minutes watching videos, and 20 minutes playing video games. Only 13 percent of students walk or bike to school. Only one State, Illinois, requires daily physical education in schools. The Surgeon General has reported that 13 percent of children and adolescents are overweight, more than double the number who were overweight in 1970.

We are rapidly becoming a country of the unfit, the inactive, and the unhealthy—and our young people are suffering the consequences of a sedentary lifestyle. If ignored, obesity in children leads to obesity in adulthood—and the numerous health problems that come with it including diabetes, heart disease, stroke, chronic obstructive pulmonary disease, and cancer. These five diseases alone account for more than two-thirds of all deaths in the United States, and caring for them comes at a tremendous cost to society—close to $117 billion annually.

On top of the need for increased physical activity and healthier lifestyles, the evidence is all around us that our young people today also need some extra care and support. Kids today face challenges and obstacles that I never dreamed about when I was growing up in Regent. Although recent promising evidence show that rates of smoking, drinking and the use of illegal drugs among 8th, 10th, and 12th graders fell simultaneously in 2002, still half of all high school seniors have reported using illicit drugs at least once in their lifetime.

These challenges arise in part from the temptations kids face when they have too much idle time on their own. Every day, millions of American teens are left unsupervised after school. Studies have shown that teens left unsupervised during those hours are more likely to smoke, drink alcohol, engage in sexual activity, and become involved in delinquent behavior than teens who participate in structured, supervised afterschool activities. Also, nearly 80 percent of teens who are involved in afterschool activities are A or B students, while only half of those who are not involved earn those grades.

To address these crucial issues facing America's youth, I propose we turn to an exemplary organization dedicated to improving kids' lives, the YMCA. Nearly 2.4 million teenagers—1 out of every 10—are involved in a program offered by their local YMCA. In 2001, total membership rolls reached their highest level in history, with 18.3 million men, women, and children—half of them under 18—receiving a vast range of services from their local YMCAs.

In the past year and a half, I visited three of the six YMCAs that serve North Dakota teens. Through programs focused on education, healthy lifestyles, physical activity, leadership, and service learning, these North Dakota YMCAs helped 12,500 teens in my State develop character, build confidence, and become healthier within the last year alone.

I have seen firsthand what a difference a safe, structured, and healthy afterschool environment can make for our youth. In those communities in North Dakota and across the country, the YMCA is a place to learn, a place to play sports, a place to meet friends, and a place to simply shed the problems that youths face every day in school and at home and just have some fun. North Dakota teens embrace the countless opportunities presented to them at their YMCAs with enthusiasm, and I have no doubt they are not alone.

While the YMCA is national in scope, they are local in control and every program is designed and evaluated to meet the communities' unique needs. I am confident that this bill will help the YMCA to reach more teens and continue to provide successful solutions for our Nation's teens and families.

To serve more teens in need of healthier lifestyles and safe and structured afterschool programs, the YMCA has set the goal of doubling the number of teens served to one in five teens by 2005. This ambitious campaign is called the Teen Action Agenda.

The bill that Senator GRAHAM and I offer today provides funding to help the YMCA reach teens who need safe and structured activities that will promote physical activity and healthy lifestyles. This piece of legislation authorizes Federal appropriations of $20 million per year for fiscal years 2004 through 2008 for the YMCA to implement its Teen Action Agenda. This funding would in turn be distributed to local YMCAs that are located in all 50 States and the District of Columbia. Similar legislation was passed in the 105th Congress for the Boys and Girls Club and in the 106th Congress for the Police Athletic League to aid in their efforts to reach out to youth.

Each program funded through this initiative would include physical activity and nutritional education components, and could also focus on other health risks faced by teenage youths, such as tobacco, drugs, and risky behaviors that lead to injury and violence.

This bill will encourage public-private partnerships and leverage additional funding for teen programs. It contains a matching component that will be met by the YMCA through local and private support. The YMCA in 2001 raised $777 million in public contributions, double the annual contribution levels of a decade ago, and continues to grow and gain support from communities for its work. The matching component, along with the support the YMCA programs receive from national corporate sponsors, will turn $20 million in Federal funds into $50 million that will be invested in proven programs that serve teens who are most in need.

Adolescence is an opportune time to instill in children positive eating habits and exercise routines that will carry over into adulthood. The YMCA is an established and proven organization that is in the position to reach out and influence thousands of teenagers. This legislation is an opportunity for us to do something for the health of our Nation's teenagers, when they now face greater risks and challenges than ever before. Again, for the sake of our children's future, I urge my Senate colleagues to join Senator GRAHAM and me in cosponsoring this piece of legislation.

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By Mr. ENZI (for himself, Mr. BINGAMAN and Mr. CAMPBELL):

S. 1203. A bill to amend the Higher Education Act of 1965 regarding distance education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, one of the great benefits of the revolution in information technology has been its effect on education. With the information superhighway and the number of online research and information sources it has made available, modern technology and higher education have become inseparable.

The notion of distance learning and the access it provides to students—especially those in rural areas—could use a little more support, however, so that is why I am introducing the Distance Learning and Online Education Act of 2003.

This legislation builds on principles already found in the Higher Education Act to help reach populations that have traditionally been excluded from attending institutions of higher education.

Wyoming is a very rural State. There is only one four year school in the entire State, and there are only seven community colleges. If you include the University of Wyoming's satellite campuses, that adds up to nine institutions of higher education in an area of nearly one hundred thousand square miles. By contrast, there are one hundred twenty nine institutions of higher education in the State of Massachusetts, which makes up an area roughly one tenth the size of Wyoming. In fact, the only State that has fewer institutions of higher education is Alaska.

Expanding access to higher education for our rural communities has been a challenge for many years. Now, the Internet has made it possible for prospective students in rural communities, far removed from the university campus, to attend college online. They may now spend their time studying, rather than commuting back and forth between school.

At present, the most significant barriers that distance learners and online education programs must face are those that were created by the Higher Education Act. Under current law, students attending institutions that enroll more than half of their students in distance programs are ineligible for Federal student financial assistance. As a result, many of the communities that this assistance is designed to reach have been excluded from sharing in its benefits, including students from rural communities, single mothers, working professionals, and a range of others who are interested in attending college but who cannot afford to do so.

The legislation that I introduce today corrects this problem by creating an avenue for online and distance educators to reach out to rural communities and non-traditional students by making them eligible for federal student assistance. It creates an eligibility standard for these institutions that helps to ensure they will provide high quality education programs, while it also protects Federal funding from fraud and abuse.

The Distance Learning and Online Education Act ensures students will receive a high quality education by requiring online educators to become accredited by an agency that has an appropriate focus on distance education. As provided under current law, the accrediting body must also be recognized by the Secretary of Education as an agency that can determine the institution's eligibility under Title IV of the Higher Education Act. This is a slightly higher standard than is expected of the brick and mortar institutions that have been entrusted with Title IV funding since the Higher Education Act was originally passed.

My bill will also protect against any fraud and abuse of Title VI funds by requiring distance educators to demonstrate their financial responsibility. In addition to meeting the default rates already established in current law, institutions interested in becoming eligible must also have a record free from audit findings or program review findings resulting in significant penalties for a period of at least two years. Distance learning institutions must also show that they have not had their participation in Title IV limited, suspended or terminated during the previous five years, and they must create a system of assurances that the student participating in the program is the individual completing the work.

It is clear that the shape of higher education in this country is changing and it will never be the same again. We have an opportunity, through technology, to reach student populations that have been excluded from participation in higher education because they cannot afford to attend or travel to classrooms or campuses located many miles from their homes. We can change part of the equation by changing the way we view those programs that hold the greatest promise for non-traditional students. Making them eligible for federal student assistance will go a long way toward making a higher education available to everyone with the interest in learning and the determination to get the job done. The Distance Learning and Online Education Act of 2003 will provide a hand up—not a hand out—to those whose interest in a higher education is limited only by their resources. By offering them a helping hand we can eliminate that obstacle and help a new generation achieve their goals and live their dreams.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1203

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Distance Education and Online Learning Act of 2003".

**SEC. 2. STUDENT ELIGIBILITY.**

Section 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "in whole or in part" and inserting "predominantly";

(B) by striking "of 1 year or longer"; and

(C) by striking "unless" and all that follows through "all courses at the institution"; and

(2) by amending subparagraph (B) to read as follows:

"(B) REQUIREMENT.—An institution of higher education referred to in subparagraph (A) is an institution of higher education that is not an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.".

**SEC. 3. DEFINITION OF ELIGIBLE PROGRAM.**

Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended by adding at the end the following:

"(3)(A) A program that is offered predominantly through distance education methods and processes (other than correspondence courses) is an eligible program for purposes of this title if—

"(i) the program was reviewed and approved by an accrediting agency or association that—

"(I) is recognized by the Secretary under subpart 2 of part H; and

"(II) has evaluation of distance education programs within the scope of its recognition; and

"(ii) the institution offering the program—

"(I) has not had its participation in programs under this title limited, suspended, or terminated within the preceding 5 years;

"(II) has not had or failed to resolve an audit finding or program review finding under this Act during the preceding 2 years that resulted in the institution being required to repay an amount that is greater than 10 percent of the total funds the institution received under the programs authorized by this title for any award year covered by the audit or program review;

"(III) has not been found by the Secretary during the preceding 5 years to be in material noncompliance with the provisions of this Act related to the submission of acceptable and timely audit reports required under this title; and

"(IV) is determined to be financially responsible under regulations promulgated by the Secretary pursuant to section 498(c).

"(B) If the accreditation agency or association withdraws approval of the program described in subparagraph (A)(i) or the institution fails to meet any of the requirements described in subparagraph (A)(ii), then the program shall cease to be an eligible program at the end of the award year in which such withdrawal of approval or failure to meet such requirements occurs. The program shall not be an eligible program until the provisions of subparagraph (A) (i) and (ii) are met again.

"(4) The Secretary shall promulgate regulations for determining whether a program that offers a degree or certificate on the basis of a competency assessment, that examines the content of the course work provided by the institution of higher education, is an eligible program for purposes of this title.".

**SEC. 4. RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.**

Section 496 of the Higher Education Act of 1965 (20 U.S.C. 1099b) is amended—

(1) in subsection (n)(3), by striking the last sentence and inserting the following: "If the agency or association requests that the evaluation of institutions offering distance education programs be included within its scope of recognition, and demonstrates that the agency or association meets the requirements of subsection (p), then the Secretary shall include the accreditation of institutions offering distance education programs within the agency's or association's scope of recognition."; and

(2) by adding at the end the following:

"(p) DISTANCE EDUCATION PROGRAMS.—An agency or association that seeks to evaluate the quality of institutions offering distance education programs within its scope of recognition shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that the agency or association assesses—

"(1) measures of student achievement of students enrolled in distance education programs;

"(2) the preparation of faculty and students to participate in distance education programs;

"(3) the quality of interaction between faculty and students in distance education programs;

"(4) the availability of learning resources and support services for students in distance education programs; and

"(5) measures to ensure the integrity of student participation in distance education programs.".

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By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1204. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land; to the Committee on Energy and Natural Resources.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Hunting Heritage Protection Act. With the introduction of this important legislation, we are able to acknowledge our Nation's rich heritage of hunting. The purpose of this bill is to pass that legacy on to future generations by protecting and preserving the rights of our Nation's sportsmen and women.

In 2001 over 13 million Americans contributed over $20.6 billion to the U.S. economy while hunting—a true recreational activity. Many believe that in order to hunt you must own land, but that is not true. I believe that hunting should be available as a recreational activity for everyone.

I have been an avid outdoor sportsman since my early adulthood. I am also an avid conservationist, like most other hunters. Mr. President, recreational hunting provides many opportunities to spend valuable time with children, just as I do with my son. He has been hunting since he was a young boy where he discovered and learned to appreciate one of the Earth's greatest treasures, nature.

Over the years, hunters have contributed billions of dollars to wildlife conservation, by purchasing licenses, permits, and stamps, as well as paying excise taxes on goods used by hunters. Since the time of President Teddy Roosevelt, father of the conservation movement, sportsmen and women have been and will continue to be some of the greatest supporters of sound wildlife management and conservation practices in the U.S.

Hunters need to be recognized for the vital role they play in conservation in this country. The Hunting Heritage Protection Act will do just that. This bill formalizes a policy by which the Federal Government will support, promote, and enhance recreational hunting opportunities, as permitted under State and Federal law. Further, the bill mandates that Federal public land and water are to be open to access and use for recreational hunting where and when appropriate. I should clarify and stress that this bill does not suggest that we open all national parks to hunting. As I mentioned, the goal is simple—I want recreational hunting on our public land to be available to the citizens of this country where and when appropriate.

It is crucial that the tradition of hunting is protected and that the valuable contributions that hunters have made to conservation in this country are recognized. And, we want to ensure that Federal land management decisions and their actions result in a "no net loss of hunting opportunities" on our public lands. This bill allows Congress to address this issue and to honor our Nation's sportsmen and women.

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By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 1205. A bill to provide discounted housing for teachers and other staff in rural areas of States with a population less than 1,000,000 and with a high population of Native Americans or Alaska Natives; to the Committee on Indian Affairs.

Mr. STEVENS. Mr. President, on behalf of Senator MURKOWSKI, I rise to introduce the Rural Teacher Housing Act of 2003.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will have a profound effect on the retention of good teachers, administrators, and other school staff in remote and rural areas of Alaska and in the rest of our Nation.

In rural areas of Alaska, school districts face the challenge of recruiting and retaining teachers, administrators and other school staff due to the lack of affordable housing. In one school district, they hire one teacher for every six who decide not to accept job offers. Half of the applicants not accepting a teaching position in that district indicated that their decision was related to the lack of housing options.

Recently, I traveled throughout rural Alaska with Education Secretary Rod Paige. I wanted him to see the challenges of educating children in such a remote and rural environment. At one rural school, the principal must sleep in his office due to the lack of housing in that village. In the same village, there is not enough housing for each teacher to have their own separate home—several teachers must share a single home. Therefore, there is not enough room for the teachers' spouses.

Rural Alaskan school districts also experience a high annual rate of teacher turnover due to the dearth of affordable housing. Apparently, up to 30 percent of teachers leave rural school districts due to housing issues. How can we expect our children to thrive and to meet the mandates of the No Child Left Behind Act in such an educational environment? Clearly, the lack of affordable teacher housing in rural Alaska is an issue that needs to be addressed in order to ensure that children in rural Alaska receive an educational experience that is second to none and is also respectful of cultural differences.

My bill authorizes the Department of Housing and Urban Development to provide funds to States to address the shortage of teacher housing in rural areas in Alaska and in the rest of our Nation. Specifically, my bill provides funds to States that have a population of 1 million or fewer people and include qualifying municipalities, which have populations of 6,500 or fewer people and also do not have direct access to either a State or interstate highway system. The appropriate state housing authority will accept such funds and will then transfer the funds to an eligible school district in a qualifying municipality. An eligible school district must be within the boundaries of an Indian reservation, one or more Alaska Native villages or land owned by one or more Alaska Native village corporations. This legislation will allow the eligible school districts to address the housing shortage in the following ways: construct housing units, purchase and rehabilitate existing housing units, or rehabilitate housing units that are already owned by a school district. Once this phase is complete, eligible school districts shall provide the housing to teachers or other school staff under terms agreed upon by the school district and the teacher or other staff.

It is imperative that we address this important issue immediately and allow the flexibility for the disbursement of funds to be handled at the local level. The quality of education of our rural children is at stake.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1205

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

The Act may be cited as the "Rural Teacher Housing Act of 2003".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ELEMENTARY SCHOOL.—The term "elementary school" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE SCHOOL DISTRICT.—The term "eligible school district" means a school district located within a qualified municipality within an eligible State and is within the boundaries of—

(A) Indian lands;

(B) 1 or more Native villages; or

(C) land owned by 1 or more Village Corporations.

(3) ELIGIBLE STATE.—The term "eligible State" means any State having a population of fewer than 1,000,000 people, based upon the most recent Government census.

(4) INDIAN LANDS.—The term "Indian lands" has the meaning given that term in section 2103 of the Revised Statutes (25 U.S.C. 81).

(5) NATIVE VILLAGE.—The term "Native village" has the meaning given that term in section 3 of the Alaska Claims Settlement Act (43 U.S.C 1602).

(6) OTHER STAFF.—The term "other staff" means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(7) QUALIFIED MUNICIPALITY.—The term "qualified municipality" means a municipality or unorganized borough within an eligible State—

(A) that has a total population of 6,500 or fewer people, based upon the most recent Government census; and

(B) does not have direct access to either a State or interstate highway system.

(8) SECONDARY SCHOOL.—The term "secondary school" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(10) TEACHER.—The term "teacher" means an individual who is employed as a teacher in a public elementary or secondary school, and meets the certification or licensure requirements of the eligible State.

(11) VILLAGE CORPORATION.—The term "Village Corporation" has the meaning given that term in section 3 of the Alaska Claims Settlement Act (43 U.S.C. 1602).

**SEC. 3. RURAL TEACHER HOUSING PROGRAM.**

(a) GRANTS AUTHORIZED.—The Secretary shall provide funds to eligible States, in accordance with such procedures as the Secretary determines are appropriate, to be used as provided in subsection (b).

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds received pursuant to subsection (a) shall be used by the eligible State to make grants to eligible school districts to be used as provided in paragraph (2).

(2) USE OF FUNDS BY ELIGIBLE SCHOOL DISTRICTS.—Grants received by an eligible school district pursuant to paragraph (1) shall be used for—

(A) the construction of new housing units within a qualified municipality;

(B) the purchase and rehabilitation of existing housing units within a qualified municipality; or

(C) the rehabilitation of housing units within a qualified municipality that are owned by an eligible school district.

(c) OWNERSHIP OF HOUSING.—All housing units constructed or purchased with grant funds awarded under this Act shall be owned by the relevant eligible school district.

(d) OCCUPANCY OF HOUSING UNITS.—Each housing unit constructed, purchased, or rehabilitated with grant funds under this Act shall be provided to teachers or other staff who are employed by the public school district in which the housing unit is located, under terms agreed upon by the eligible school district and the teacher or other staff.

(e) COMPLIANCE WITH BUILDING CODES.—Each eligible school district receiving a grant under this Act shall ensure that all housing units leased pursuant to subsection (d) meet all applicable State and local building codes.

(f) MATCHING REQUIREMENT.—Each State that receives Federal funds under this Act shall provide matching funds from non-Federal sources in an amount equal to 20 percent of such Federal funds.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department of Housing and Urban Development $50,000,000 for each of the fiscal years 2004 through 2013 to carry out this Act.

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## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 160—TO EXPRESS THE SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD ACTIVELY PURSUE A UNIFIED APPROACH TO STRENGTHEN AND PROMOTE THE NATIONAL POLICY ON AQUACULTURE

Mr. AKAKA submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 160

Whereas the Food and Agriculture Organization of the United Nations determined that aquaculture is the fastest growing food sector that provides animal protein for citizens of the world;

Whereas global aquacultural production (including the production of aquatic plants) has increased at an average rate of 9.2 percent per year since 1970, compared with only 1.4 percent for capture fisheries and 2.8 percent for terrestrial-farmed meat production systems;

Whereas freshwater aquacultural production increased from 15,900,000 metric tons in 1996 to 22,600,000 metric tons in 2001, marine aquacultural production increased from 10,800,000 metric tons in 1996 to 15,200,000 metric tons in 2001, and total aquacultural production increased from 26,700,000 metric tons in 1996 to 37,800,000 metric tons in 2001;

Whereas economic modeling predicts that global annual consumption of fish and shellfish per person will increase over time, from about 16 kilograms today to between 19 and 21 kilograms in 2030, due to increased health consciousness and the stronger demand for seafood products;

Whereas the United States imports more than 60 percent of its seafood products, resulting in an annual seafood trade deficit in excess of $7,000,000,000; and

Whereas section 7109 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 436) reauthorized the National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) until 2007, but did not adequately address emerging national issues such as offshore aquaculture development, water quality concerns, invasive species impacts, and a coordinated siting, permitting, and licensing process: Now, therefore, be it

*Resolved*, That the Senate calls on the Federal Government to actively pursue a unified approach to strengthen and promote the national policy on aquaculture, including as priorities—

(1) ensuring the sustainable development of production where aquaculture is economically viable, environmentally feasible, and culturally acceptable;

(2) analyzing the supply and demand for domestic and exported aquacultural products to enable the United States to compete in the global marketplace;

(3) increasing the availability of new technical and scientific information that supports aquaculture development;

(4) with regard to marine aquaculture, providing encouragement and identification of marine zones favorable to aquaculture that take into consideration desired environmental conditions and potential use conflicts; and

(5) establishing a goal of a 5-fold increase in United States aquacultural production by 2025.

Mr. AKAKA. Mr. President, I rise today to submit a resolution which calls upon the Federal Government to actively pursue a unified approach to strengthen our national policy on aquaculture. The United States has allowed its seafood trade deficit to reach $7 billion by importing over 60 percent of its seafood products from foreign countries, a distressing statistic. My resolution calls for immediate action by local, State, and Federal agencies to cooperatively reduce this seafood trade deficit. The United States must step forward to meet the growing consumer demand for seafood products that are sustainable, economically viable, environmentally feasible, and culturally acceptable. In order to adequately address the seafood trade deficit, we must promote aquaculture by committing to a five fold increase in U.S. aquaculture production by the year 2025.

As early as 1878, Congress supported the managed production of fish in the wake of a decrease in marine fisheries off the Atlantic Coast. Almost 100 years later, our Nation made important strides to encourage U.S. aquaculture by enacting the National Aquaculture Act of 1980 to coordinate all appropriate Federal programs and policies involving aquaculture. Even though the National Aquaculture Act was reauthorized by P.L. 107–171 until the year 2007, the legislation still falls short of its goal to ensure coordination and promote a strong aquaculture industry. Producers need improved guidance to clarify and simplify regulations pertaining to siting and environmental issues, particularly for the timely development of aquaculture in offshore waters. The level of funding for research and development has been very, very low and tangible incentives for marine aquaculture have been lacking compared to those of the agriculture and fishing industries. Therefore, a new, unified Federal policy promoting aquaculture is vitally needed to transform U.S. aquaculture into a major industry.

The current trends in aquaculture both worldwide and in the United States necessitate prompt action by the Federal Government. The contribution of aquaculture to global supplies of fish, crustaceans, and mollusks is growing by 9.21 percent annually. But aquaculture industries in china, India, Japan, Thailand, and Indonesia have greatly surpassed the United States due in part to less expensive labor, lower property values, and weaker environmental regulations. In fact, the total value of aquaculture production is approximately $61 billion worldwide; of this, the $0.5 billion U.S. aquaculture industry is far outpaced by nations that have a 1 to 28 billion dollar value. Although U.S. aquaculture has been considered a minor industry over the years, it is rapidly becoming one of the fastest-growing industries and has vast, vast potential. The U.S. has two choices. We can either stand by and watch our seafood trade deficit grow larger than $7 billion or we can seize this opportunity to promote a strong U.S. aquaculture industry to produce healthier foods and economic benefits for our citizens.

U.S. aquaculture development can meet the growing consumer demand for quality seafood products and, at the same time, relieve the pressure on overfished stocks. More than one billion people currently derive at least 20 percent of their animal protein from fish, and studies have predicted that this demand for seafood will only increase over time. Meanwhile, half of the world's main fish stocks are fully exploited or producing catches that have reached their maximum sustainable limits. A strong U.S. aquaculture industry will result in a net contribution to worldwide food availability, economic growth, and improved living standards.

In Hawaii, we are at the forefront of U.S. aquaculture through supportive research and production efforts for marine aquaculture. Hawaii first harvested offshore aquaculture products from sea cages in 1999 and the State awarded its first commercial lease for offshore aquaculture in State waters in the year 2001. The aquaculture technologies developed in Hawaii with high environmental standards can help lead the world in economically and environmentally sound aquaculture practices.

The U.S. needs to invest in our aquaculture industry today. This resolution recognizes the importance of aquaculture and calls for a coherent national approach to provide appropriate guidance for a sustainable aquaculture industry in different regions of the United States. This coherent, comprehensive strategy will contribute to worldwide food availability while providing much-needed economic growth within the United States. I urge my colleagues to support this measure.

## SENATE RESOLUTION 161—COMMENDING THE CLEMSON UNIVERSITY TIGERS MEN'S GOLF TEAM FOR WINNING THE 2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S GOLF CHAMPIONSHIP

Mr. GRAHAM of South Carolina (for himself and Mr. HOLLINGS) submitted the following resolution; which was considered and agreed to:

S. RES. 161

Whereas on Friday, May 30, 2003, the Clemson University Tigers men's golf team won the 2003 NCAA Division I Men's Golf Championship, the first National Championship for the Clemson men's golf team;

Whereas the Tigers finished the Championship with a four-round total of 1191 strokes, for 39 shots over par, beating the second place Oklahoma State University Cowboys by two strokes;

Whereas the Tigers won the National Championship on the home course of Oklahoma State University, one of the most decorated golf schools in the Nation;

Whereas the Clemson golf team was the first in NCAA history to win its conference championship, a NCAA regional title, and the National Championship in the same year;

Whereas the Tigers started the year and ended the year as the number-one ranked team in the Nation;

Whereas the Tigers finished the season with a 128-8-3 record against opponents ranked in the top 25 teams in the country, which amounts to an incredible winning percentage of 93 percent, by far the best in the Nation and the best in Clemson history;

Whereas all of the Tigers players who participated in the NCAA Championship are native-born South Carolinians;

Whereas players D.J. Trahan, Jack Ferguson, and Matt Hendrix were honored as All-Americans for the 2002-03 season;

Whereas Head Coach Larry Penley won the Golf Coaches Association of America's Dave Williams Award as the National Coach of the Year;

Whereas the Clemson University men's golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the season in achieving collegiate golf's highest honor; and

Whereas the Tigers have brought pride and honor to the State of South Carolina: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Clemson University Tigers for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship;

(2) recognizes the achievements of all the team's players, coaches, and staff and invites them to the United States Capitol Building to be honored in an appropriate manner; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Clemson University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I Men's Golf Championship team from Clemson University.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 854. Mrs. BOXER (for herself, Mr. LUGAR, and Ms. CANTWELL) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, Mr. Baucus, Mr. Bunning, and Mr. Bond)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 855. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 856. Mrs. BOXER (for herself, Mr. Leahy, Mr. Durbin, Mrs. Feinstein, Mrs. Clinton, Mr. Jeffords, and Mr. Lautenberg) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, Mr. Baucus, Mr. Bunning, and Mr. Bond)) to the bill S. 14, supra.

SA 857. Mr. KOHL (for himself and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 858. Mr. KOHL (for himself and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 859. Mr. KOHL (for himself and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 860. Mr. DOMENICI (for Mr. Bingaman) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. Bingaman) to the bill S. 14, supra.

SA 861. Mr. KYL (for himself and Mr. McCain) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 862. Mr. GRASSLEY (for himself, Mrs. Lincoln, Ms. Snowe, Mr. Baucus, Mr. Voinovich, Ms. Murkowski, Mr. Warner, Mr. Stevens, Ms. Landrieu, Mr. Byrd, Ms. Collins, and Mr. Nelson of Florida) proposed an amendment to the bill H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

SA 863. Mr. GRASSLEY (for himself and Mrs. Lincoln) submitted an amendment intended to be proposed by him to the bill H.R. 1308, supra; which was ordered to lie on the table.

SA 864. Mr. CAMPBELL proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

## TEXT OF AMENDMENTS

**SA 854.** Mrs. BOXER (for herself, Mr. Lugar, and Ms. Cantwell) proposed an amendment to amendment SA 850 proposed by Mr. Domenici (for Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, Mr. Baucus, Mr. Bunning, and Mr. Bond)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 8, strike lines 16 through 19 and insert the following:

"(4) Cellulosic biomass ethanol.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol—

"(A) shall be considered to be the equivalent of 1.5 gallons of renewable fuel; or

"(B) if the cellulosic biomass is derived from agricultural residue, shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

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**SA 855.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 454, strike lines 5 through 9.

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**SA 856.** Mrs. BOXER (for herself, Mr. Leahy, Mr. Durbin, Mrs. Feinstein, Mrs. Clinton, Mr. Jeffords, and Mr. Lautenberg) proposed an amendment to amendment SA 850 proposed by Mr. Domenici (for Mr. Frist (for himself, Mr. Daschle, Mr. Inhofe, Mr. Dorgan, Mr. Lugar, Mr. Johnson, Mr. Grassley, Mr. Harkin, Mr. Hagel, Mr. Durbin, Mr. Voinovich, Mr. Nelson of Nebraska, Mr. Talent, Mr. Dayton, Mr. Coleman, Mr. Edwards, Mr. Crapo, Mr. Conrad, Mr. DeWine, Mr. Baucus, Mr. Bunning, and Mr. Bond)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Beginning on page 18, strike line 16 and all that follows through page 19, line 17, and insert the following:

"(p) Renewable Fuels Safe Harbor.—Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.".

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**SA 857.** Mr. KOHL (for himself and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, line 4, strike lines 4-11 and insert the following and renumber accordingly:

**SEC. 442. DECOMMISSIONING PILOT PROGRAM**

(a) Pilot Program.—The Secretary shall establish a decommissioning pilot program:

(1) to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor; and

(2) to develop and demonstrate advanced state-of-the art nuclear fuel management, storage, transportation, and eventual advanced nuclear technology disposition alternatives through a cooperative research and development agreement utilizing the demonstration reactor remaining from the Cooperative Power Reactive Demonstration Program (Pub. L. No. 87-315, Sec. 109, 75 Stat. 679), the Dairyland Power Cooperative La Crosse Boiling Water Reactor.

(A) The project shall include planning, research and development, design, construction and demonstration of advanced and alternative approaches to handling loading and transportation of both canned and uncannistered stainless steel and zircalloy clad nuclear fuel, and

(B) The project shall explore technical and economic feasibility of alternative approaches to nuclear fuel management and storage, transportation, and eventual advanced nuclear technology disposition alternatives.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section:

(1) for the pilot program described in subsection (a)(1) above, $16,000,000; and

(2) for the pilot program described in subsection (a)(2) above, $5,000,000 per year until such time as all of the nuclear fuel is removed by the Department of Energy from La Crosse Boiling Water Reactor site, but not to exceed a total of $25,000,000.

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**SA 858.** Mr. KOHL (for himself and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; and follows:

On page 150, line 4, insert the following new section and renumber accordingly:

**"SECTION. REACTOR DEMONSTRATION PROGRAM.**

(a) Definitions.—For purposes of this section—

"(1) the term "contract holder" means a party to a contract with the Secretary of Energy for the disposal of spent nuclear fuel or high-level radioactive waste entered into pursuant to section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)); and

"(2) the terms "Administrator", "civilian nuclear power reactor", "Commission", "Department", "disposal", "high-level radioactive waste", "Indian tribe", "repository", "reservation", "Secretary", "spent nuclear fuel", "State", "storage", "Waste Fund", and "Yucca Mountain site" shall have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) Reactor Demonstration Program Settlement Authority.—Not later than 120 days after the date of enactment of this Act, and notwithstanding Section 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(5)), the Secretary is authorized to take title to the spent nuclear fuel withdrawn from the demonstration reactor remaining from the Cooperative Power Reactor Demonstration Program (Pub. L. No. 87-315, Sec. 109, 75 State. 679), the Dairyland Power Cooperative La Crosse Boiling Water Reactor. Immediately upon the Secretary's taking title to the Dairyland Power Cooperative La Crosse Boiling Water Reactor spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage, from the date of taking title until the Secretary removes the spent nuclear fuel from the La Crosse Boiling Water Reactor site. The Secretary's obligation to take title or compensate the holder of the La Crosse Boiling Water Reactor spent nuclear fuel under this subsection shall include all of such fuel, regardless of the delivery commitment schedule for such fuel under the Secretary's contract with the Dairyland Power Cooperative as the contract holder under Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) or the acceptance schedule for such fuel. The settlement agreement may also include terms to—

(1) relieve any harm caused by the Secretary's failure to meet the Department's commitment, or

(2) settle any legal claims against the United States arising out of such failure.

(c) Waiver of Claims.—As a condition to the Secretary's taking of title to the La Crosse Boiling Water Reactor spent nuclear fuel, the contract holder for such fuel shall enter into a settlement agreement containing a waiver of claims against the United States as provided in this section. Nothing in this section shall be read to require a contract holder to waive any future claim against the United States arising out of the Secretary's failure to meet any new obligations assumed under a settlement agreement or backup storage agreement, including the acceptance of spent fuel and high-level waste in accordance with the acceptance schedule currently established or as may be established in the future.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred by the Secretary pursuant to a settlement agreement negotiated pursuant to this section that are not otherwise eligible for payment from the Nuclear Waste Fund.

(e) Savings Clause.—(1) Nothing in this section shall limit the Secretary's existing authority to enter into settlement agreements or address shutdown reactors and any associated public health and safety or environmental concerns that may arise.

(2) Nothing in this section diminishes obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91-0054-S-EJL). To the extent this Act imposes obligations on the Federal Government that are greater than those imposed by the court order, the provisions of this Act shall prevail."

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**SA 859.** Mr. KOHL (for himself and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 12, insert the following and renumber accordingly:

**SEC. 606. FEDERAL ENERGY BANK.**

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

**SEC. 553. FEDERAL ENERGY BANK.**

"(a) Definitions.—In this section:

"(1) Bank.—The term 'Bank' means the Federal Energy Bank established by subsection (b).

"(2) Energy or water efficiency project.—The term 'energy or water efficiency project' means a project that assists a Federal agency in meeting or exceeding the energy water efficiency requirements of—

"(A) this part;

"(B) title VIII;

"(C) subtitle F of title I of the Energy Policy Act of 1992 (42 U.S.C. 8262 et seq.); or

"(D) any applicable Executive order, including Executive Order No. 13123.

"(3) Federal agency.—The term 'Federal agency' means—

"(A) an Executive agency (as defined in section 105 of title 5, United States Code);

"(B) the United States Postal Service;

"(C) Congress and any other entity in the legislative branch; and

"(D) a Federal court and any other entity in the judicial branch.

"(b) Establishment of Bank.—

"(1) In general.—There is established in the Treasury of the United States a fund to be known as the 'Federal Energy Bank', consisting of—

"(A) such amounts as are deposited in the Bank under paragraph (2);

"(B) such amounts as are repaid to the Bank under subsection (c)(2)(D); and

"(C) any interest earned on investment of amounts in the Bank under paragraph (3).

"(2) Deposits in bank.—

"(A) In General.—Subject to the availability of appropriations and to subparagraph (B), the Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2004 and in each fiscal year thereafter.

"(B) Maximum amount in bank.—Deposits under subparagraph (a) shall cease beginning with the fiscal year following the fiscal year in which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.

"(3) Investment of amounts.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

"(c) Loans From the Bank.—

"(1) In general.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

"(2) Loan program.—

"(A) Establishment.—

"(i) In general.—In accordance with subsection (d), the Secretary, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Management and Budget, shall establish a program to make loans of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).

"(ii) Commencement of operations.—The Secretary may begin—

"(I) accepting applications for loans from the Bank in fiscal year 2003; and

"(II) making loans from the Bank in fiscal year 2004.

"(B) Energy savings performance contracting funding.—To the extent practicable, an agency shall not submit a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.

"(C) Purposes of loan.—

"(i) In general.—A loan from the Bank may be used to pay—

"(I) the costs of an energy or water efficiency project, or a renewable or alternative energy project, for a new or existing Federal building (including selection and design of the project);

"(II) the costs of energy metering plan and metering equipment installed pursuant to section 543(e) or for the purpose of verification of the energy savings under an energy savings performance contract under title VIII; or

"(III) at the time of contracting, the costs of cofunding of an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of energy savings performance contract.

"(ii) Limitation.—A Federal agency may use not more than 10 percent of the amount of a loan under subclause (I) or (II) of clause (i) to pay the costs of administration and proposal development (including data collection and energy surveys).

"(iii) Renewable and alternative energy projects.—Not more than 25 percent of the amount on loan from the Bank at any time may be loaned for renewable energy and alternative energy projects (as defined by the Secretary in accordance with applicable law (including Executive Orders)).

"(D) Repayments.—

"(i) In general.—Subject to clauses (ii) through (v), a Federal agency shall repay to the Bank the principal amount of a loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

"(ii) Waiver or reduction of interest.—The Secretary may waive or reduce the rate of interest required to be paid under clause (i) if the Secretary determines that payment of interest by a Federal agency at the rate determined under that clause is not required to fund the operations of the Bank.

"(iii) Determination of interest rate.—The interest rate determined under clause (i) shall be at a rate that is sufficient to ensure that, beginning not later than October 1, 2007, interest payments will be sufficient to fully fund the operations of the Bank.

"(iv) Insufficiency of appropriations.—

"(I) Request for appropriations.—As part of the budget request of the Federal agency for each fiscal year, the head of each Federal agency shall submit to the President a request for such amounts as are necessary to make such repayments as are expected to become due in the fiscal year under this subparagraph.

"(II) Suspension of repayment requirement.—If, for any fiscal year, sufficient appropriations are not made available to a Federal agency to make repayments under this subparagraph, the Bank shall suspend the requirement of repayment under this subparagraph until such appropriations are made available.

"(E) Federal agency energy budgets.—Until a loan is repaid a Federal agency budget submitted by the President to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of any energy conservation measure implemented using amounts from the Bank.

"(F) No rescission or reprogramming.— A Federal agency shall not rescind or reprogram loan amounts made available from the Bank except as permitted under guidelines and issued under subparagraph (G).

"(G) Guidelines.—The Secretary shall issue guidelines for implementation of the loan program under this paragraph, including selection criteria, maximum loan amounts, and loan repayment terms.

"(d) Selection Criteria.—

"(1) In general.—The Secretary shall establish criteria for the selection of projects to be awarded loans in accordance with paragraph (2).

"(2) Selection criteria.—

"(A) In general.—The Secretary may make loans from the Bank only for a project that—

"(i) is technically feasible;

"(ii) is determined to be cost-effective using life cycle cost methods established by the Secretary;

"(iii) includes a measurement and management component, based on the measurement and verification protocols of the Department of Energy, to—

"(I) commission energy savings for new and existing Federal facilities;

"(II) monitor and improve energy efficiency management at existing Federal facilities; and

"(III) verify the energy savings under an energy savings performance contract under title VIII; and

(iv)(I) in the case of a renewable energy or alternative energy project, has a simple payback period of not more than 15 years; and

"(II) in the case of any other project, has a simple payback period of not more than 10 years.

"(B) PRIORITY.—In selecting projects, the Secretary shall give priority to projects that—

"(i) are a component of a comprehensive energy management project for a Federal facility; and

"(ii) are designed to significantly reduce the energy use of the Federal facility.

"(e) REPORTS AND AUDITS.—

"(1) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $1,000,000, and annually thereafter, a Federal agency shall submit to the Secretary a report that—

"(A) states whether the project meets or fails to meet the energy savings projections for the project; and

"(B) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

"(2) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank to audit, any project financed with amounts from the Bank to assess the performance of the project.

"(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

"(A) the total receipts by the Bank;

"(B) the total amount of loans from the Bank to each Federal agency; and

"(C) the estimated cost and energy savings resulting from projects funded with loans from the Bank.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

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**SA 860.** Mr. DOMENICI (for Mr. BINGAMAN) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. BINGAMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

## TITLE XII—STATE ENERGY PROGRAMS

### SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "each of fiscal years 2002 through 2004" and inserting "fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006.".

### SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking "125" and inserting "150", and

(2) in paragraph (7)(C), by striking "125" and inserting "150".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting ", $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006.".

### SEC. 1203. STATE ENERGY PLANS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and inserting ", $100,000,000 for each of fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006.".

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**SA 861.** Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, between lines 14 and 15, insert the following:

### SEC. 4 . PREVENTION OF MISUSE OF NUCLEAR MATERIAL AND TECHNOLOGY.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

### "SEC. 170C. PREVENTION OF MISUSE OF NUCLEAR MATERIAL AND TECHNOLOGY.

"(a) POLICY.—To successfully promote the development of nuclear energy as a safe and reliable source of electric energy, it is the policy of the United States to prevent any nuclear material, technology, component, substance, or technical information, or any related goods or services, from being misused or diverted from peaceful nuclear energy purposes.

"(b) PROHIBITION OF ISSUANCE OF CERTAIN EXPORT LICENSES.—Notwithstanding any other provision of law, no Federal agency shall issue any license, approval, or authorization for the export or reexport, or the transfer or retransfer, directly or indirectly, to any country the government of which is identified by the Secretary of State as engaged in state sponsorship of terrorist activities (including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism) of—

"(1) any special nuclear material or byproduct material;

"(2) any nuclear production facility or utilization facility; or

"(3) except as provided in subsection (c)(2), any nuclear component, technology, substance, or technical information, or any related goods or services, that could be used in a nuclear production facility or utilization facility.

"(c) NONAPPLICABILITY AND WAIVER.—

"(1) NONAPPLICABILITY.—Subsection (b) shall not apply to the country of Iraq.

"(2) WAIVER.—The President may waive the application of subsection (b)(3) to a country if the President determines and certifies to Congress that the waiver of that subsection—

"(A) is in the vial national security interests of the United States;

"(B) is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety; and

"(C) will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons or any materials or components of nuclear weapons.

"(d) REVOCATION.—Any license, approval, or authorization described in subsection (b) issued before the date of enactment of this section is revoked.".

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act (42 U.S.C. prec. 2011) is amended by adding at the end the items relating to chapter 14 the following:

"Sec. 170C. Prevention of misuse of nuclear material and technology.".

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**SA 862.** Mr. GRASSLEY (for himself, Mrs. LINCOLN, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. WARNER, Mr. STEVENS, Ms. LANDRIEU, Mr. BYRD, Ms. COLLINS, and Mr. NELSON of Florida) proposed an amendment to the bill H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Relief for Working Families Tax Act of 2003".

## TITLE I—CHILD TAX CREDIT

### SEC. 101. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) ACCELERATION OF REFUNDABILITY.—

(1) IN GENERAL.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(2) ADVANCE PAYMENT.—Subsection (b) of section 6429 of such Code (relating to advance payment of portion of increased child credit for 2003) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) section 24(d)(1)(B)(i) applied without regard to the first parenthetical therein.".

(3) EARNED INCOME INCLUDES COMBAT PAY.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a)(1) AND (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (a)(2).—The amendments made by subsection (a)(2) shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

### SEC. 102. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—

(1) by inserting "($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)" after "$110,000", and

(2) by striking "$55,000" in subparagraph (C) and inserting "½ of the amount in effect under subparagraph (A)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 103. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

## TITLE II—UNIFORM DEFINITION OF CHILD

### SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:

### "SEC. 152. DEPENDENT DEFINED.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) EXCEPTIONS.—For purposes of this section—

"(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

"(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP TEST.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

"(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

"(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

"(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(6) CROSS REFERENCES.—

**"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".**

### SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

### SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

### SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

### SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) of such Code is amended by striking "(3)(E)" and inserting "(3)(C)".

(3) Section 32(m) of such Code is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".

### SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".

### SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—

(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and

(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".

(3) Section 21(e)(6)(B) of such Code is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".

(4) Section 25B(c)(2)(B) of such Code is amended by striking "151(c)(4)" and inserting "152(f)(2)".

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking "paragraphs (1) through (8) of section 152(a)" both places it appears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(B) Section 51(i)(1)(C) of such Code is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".

(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) of such Code is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(21) Section 529(e)(2)(B) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(22) Section 2032A(c)(7)(D) of such Code is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".

(23) Section 2057(d)(2)(B) of such Code is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(24) Section 7701(a)(17) of such Code is amended by striking "152(b)(4), 682," and inserting "682".

(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(26) Section 7703(b)(1) of such Code is amended—

(A) by striking "151(c)(3)" and inserting "152(f)(1)", and

(B) by striking "paragraph (2) or (4) of".

### SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2003.

## TITLE III—CUSTOMS USER FEES

### SEC. 301. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2010".

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**SA 863.** Mr. GRASSLEY (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; which was ordered to lie on the table; as follows:

Amend the title as to read: A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

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**SA 864.** Mr. CAMPBELL proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 101, line 1, strike "electrify Indian tribal land" and all that follows through page 128, line 24, and insert:

"(4) electrify Indian tribal land and the homes of tribal members."

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "Section" and inserting "Sec."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration.
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
"Sec. 215. Office of Counterintelligence.
"Sec. 216. Office of Intelligence.
"Sec. 217. Office of Indian Energy Policy and Programs

(2) Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Indian Energy Policy and Programs, Department of Energy." after "Inspector General, Department of Energy.".

### SEC. 303. INDIAN ENERGY.

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

### "TITLE XXVI—INDIAN ENERGY

### "SEC. 2601. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

"(2) The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe;

(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

"(iii) by a dependent Indian community; and

"(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(3) The term 'Indian reservation' includes—

"(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment;

"(C) a former reservation in the State of Oklahoma;

"(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—.

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any particular State.

"(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

"(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

"(8) The term 'Secretary' means the Secretary of the Interior.

"(9) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other guarantee authorized by sections 2602 or 2603 of this title.

"(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

"(11) The term 'vertical integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land:

### "SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

"(a) Department of the Interior Program.—

"(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

"(2) In carrying out the Program, the Secretary shall—

"(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land; and to properly account for resulting energy production and revenues;

"(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land, and

"(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

"(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2014.

"(b) Indian Energy Education Planning and Management Assistance.—

"(1) The Director shall establish programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

"(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

"(A) energy, energy efficiency, and energy conservation programs;

"(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

"(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

"(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

"(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

"(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

"(4) The Secretary of Energy may promulgate such regulations as necessary to carry out this subsection.

"(5) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2004 through 2011.

"(c) Loan Guarantee Program.—

"(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

"(2) A loan guaranteed under this subsection shall be made by—

"(A) a financial institution subject to examination by the Secretary of Energy; or

"(B) an Indian tribe, from funds of the Indian tribe.

"(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

"(4) The Secretary may promulgate such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

"(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

"(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

"(d) Indian Energy Preference.—

"(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

"(2) In carrying out this subsection, a Federal agency or department shall not—

"(A) pay more than the prevailing market price for an energy product or byproduct; and

"(B) obtain less than prevailing market terms and conditions.".

### "SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

"(a) Grants.—The Secretary may provide to Indian tribes and tribal energy resource development organizations, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

"(b) Use of Funds.—Funds from a grant provided under this section may be used by an Indian tribe or tribal energy resource development organization for—

"(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

"(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

"(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

"(4) the training of employees that—

"(A) are engaged in the development of energy resources on Indian land; or

"(B) are responsible for protecting the environment.

"(c) Other Assistance.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal energy resource development organizations scientific and technical data for use in the development and management of energy resources on Indian land.

### "SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

"(a) Leases and Agreements.—Subject to the provisions of this section—

"(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

"(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

"(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

"(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(B) the term of the lease or business agreement does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

"(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

"(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

"(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

"(1) On promulgation of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

"(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address consideration for the lease, business agreement, or right-of-way;

"(V) address technical or other relevant requirements;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way; and

"(XI) describe the remedies for breach of the lease, agreement, or right-of-way.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

"(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

"(ii) the identification of proposed mitigation;

"(iii) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of the proposed action before tribal approval of the lease, business agreement, or right-of-way; and

"(iv) sufficient administrative support and technical capability to carry out the environmental review process.

"(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

"(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

"(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1). The Secretary's review of a tribal energy resource agreement under the National Environmental Policy Act (42 U.S.C. 4321 et seq) shall be limited to the direct effects of that approval.

"(4) If the Secretary disapproves a tribal enemy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement, or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(8), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and.

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

"(6)(A) Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship or from any treaties, Executive Orders, or agreements between the United States and any Indian tribe.

"(B) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement or right-of-way under this section by any other party to any such lease, business agreement or right-of-way.

"(C) Notwithstanding subparagraph (A), the United States shall not be liable to any party (including any Indian tribe) for any of the terms of, or any losses resulting from the terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved under subsection (e)(2).

"(7)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

"(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

"(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

"(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsections (a) and (b).

"(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

"(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

"(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(E)(i) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

"(ii) The decision of the Secretary with respect to an appeal described in clause (i), after any agency appeal provided for by regulation, shall constitute a final agency action.

"(8) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

"(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

"(B) a process and requirements in accordance with which an Indian tribe may—

"(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

"(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

"(f) No Effect on Other Law.—Nothing in this section affects the application of—

"(1) any Federal environmental law;

"(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) and the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

### "SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) Definitions.—In this section:

"(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

"(2) The term 'power marketing administration' means—

"(A) the Bonneville Power Administration;

"(B) the Western Area Power Administration; and

"(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

"(b) Encouragement of Indian Tribal Energy Development.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

"(c) Action by the Administrator.—In carrying out this section, and in accordance with existing law—

"(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes.

"(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

"(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

"(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

"(d) Assistance for Transmission System Use.—

"(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

"(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

"(e) Power Allocation Study.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

"(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

"(2) identifies—

"(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

"(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

"(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

### "SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

"(a) In General.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

"(b) Report.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

"(1) the results of the review;

"(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

"(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

### "SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

"(a) Study.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

"(b) Scope of Study.—The study shall—

"(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

"(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

"(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

"(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

"(5) include an independent tribal engineer as a study team member.

"(c) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

"(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

"(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

"(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal energy resource development organization to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

"(4) an identification of—

"(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

"(B) the manner in which such a partnership could contribute to the energy security of the United States.

"(d) Funding.—

"(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

"(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.".

(b) Conformiing Amendments.—The table of contents for the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended by striking items relating to Title XXVI, and inserting:

"Sec. 2601. Definitions.

"Sec. 2602. Indian tribal energy resource development.
"Sec. 2603. Indian tribal energy resource regulation.
"Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
"Sec. 2605. Federal Power Marketing Administrations.
"Sec. 2606. Indian mineral development review.
"Sec. 2607. Wind and hydropower feasibility study.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 5, 2003, at 10 a.m. to conduct an oversight hearing on "Reauthorization of the Defense Production Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Title XI, on Thursday, June 5, 2003, at 2:30 p.m., in Room SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Thursday, June 5, 2003, TBA, to mark up a revenue title to S. 824, the Aviation Investment and Revitalization Vision Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 5, 2003 at 1:30 p.m. to hold a hearing on Life Inside North Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 5, 2003, at 10:30 a.m. for a nomination hearing to consider the nominations of C. Stewart Verdery, Jr., to be Assistant Secretary for Policy and Planning, Border and Transportation Security Directorate, Department of Homeland Security; Michael J. Garcia to be Assistant Secretary for the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and Joe D. Whitly to be General Counsel, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 5, 2003, at 9:30 a.m. in Dirksen Room 226.

I. NOMINATIONS

R. Hewitt Pate to be Assistant Attorney General, Antitrust Division, U.S. Department of Justice; David B. Rivkin to the Foreign Claims Settlement Commission; Richard C. Wesley to be United States Circuit Judge for the Second Circuit; J. Ronnie Greer to be United States District Judge for the Eastern District of Tennessee; Thomas M. Hardiman to be United States District Judge for the Western District of Pennsylvania; Mark R. Kravitz to be United States District Judge for the District of Connecticut; John A. Woodcock to be United States District Judge for the District of Maine.

II. BILLS

S. Res. 116, A resolution commemorating the life, achievements and contributions of Al Lerner.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 5, 2003, at 2:00 p.m., to conduct a hearing on Senate Rule XXII and proposals to amend this rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, June 5 at 9:30 a.m. to conduct a hearing regarding S. 485, the Clear Skies bill, to examine emissions-control technologies and utility-sector investment issues.

The hearing will take place in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on Thursday, June 5, 2003, on Intercity Passenger Rail Finance at 10 a.m. in Room SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Jerry Perez, a legislative fellow in the office of Senator LEAHY, be given the privilege of the floor during the remainder of the debate on S. 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent that John Gaginis be granted floor privilege today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that Barbara Peichel, my legislative fellow, be allowed floor privileges during the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF MICHAEL CHERTOFF

Mr. BENNETT. As in executive session, I ask unanimous consent that at 5:15 on Monday, June 9, the Senate proceed to executive session for the consideration of Calendar No. 201, the nomination of Michael Chertoff to be U.S. circuit judge for the Third Circuit; provided further that there then be 30 minutes for debate equally divided in the usual form prior to a vote on the confirmation of the nomination, with no intervening action or debate. I further ask consent that following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, Mr. President, this will be the 128th judge that this Senate has approved during the term of this President. This will be the 25th circuit judge that has been approved. I want the record to make sure everyone understands that, 128 to 2. Two have been held up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I would make a comment before I proceed to the next consent request. With respect to Mr. Chertoff, I became well acquainted with Mr. Chertoff when he served as counsel to the special committee created by Senate resolution to investigate the Whitewater matter. I found him competent, direct, thorough, well prepared, and a delightful human being. I probably will not get into the debate, the amount of time being limited, but I want the record to show how highly I esteem him and how enthusiastically I will vote to confirm him for the circuit court position to which he has been nominated.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar, Calendar No. 203. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

### DEPARTMENT OF JUSTICE

Peter D. Keisler, of Maryland, to be an Assistant Attorney General.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## COMMEMORATING LIFE, ACHIEVEMENTS, AND CONTRIBUTIONS OF AL LERNER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 122, S. Res. 116.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 116) commemorating the life, achievements, and contributions of Al Lerner.

There being no objection, the Senate proceeded to consider the resolution.

Mr. VOINOVICH. Mr. President, I rise today to honor Alfred Lerner. Al, as he was called by those who knew him best, was a man of great success and wealth but also great compassion and charity.

Al was born in New York City, graduated from Columbia College and proudly served in the Marine Corps as an officer and pilot from 1955 through 1957. The son of Russian immigrants, Al Lerner had an amazing sense of patriotism and was so proud to accept the Ellis Island Medal in honor of his immigrant heritage and individual achievements in 2002.

My personal relationship with Al developed because of the fondness we shared for the city of Cleveland, and Cleveland is a better place because of Al Lerner. His generosity was seen in well known ways such as his contributions to Rainbow Babies and Children's Hospital, where the Lerner Research Institute was founded, and to the Cleveland Clinic. In fact, Al Lerner's $100,000,000 contribution to the Cleveland Clinic was one of the largest donations to academic medicine in the history of the United States. Al gave so much of himself to these institutions, serving as president and trustee of the Cleveland Clinic Foundation and establishing the Lerner Research Institute at the Clinic to conduct research of new treatments for cancer, coronary artery disease and AIDS.

Al Lerner also understood how important professional football is to the city of Cleveland, and due in large part to his business savvy, Lerner and his partner, Carmen Policy, were able to reestablish a football team in Cleveland. He was subsequently appointed chairman of the National Football League Finance Committee, and I am confident that the Cleveland Browns' 2002 playoff appearance, just 4 years after returning to the league, had a great deal to do with Al's leadership and guidance. I am not sure Cleveland would have its Browns today without Al Lerner's dedication and determination.

Despite his amazing success as the founder, chairman, and chief executive of MBNA Corporation, Al Lerner remained grounded. He helped raise funds through the company and the Cleveland Browns, for the "Cleveland Brown Hero Fund" to aid families from the New York City Fire and Police Departments who suffered the loss of a parent in the tragic September 11, 2001, terrorist attacks. Al also answered President Bush's call in the aftermath of September 11, and was a member of the President's Foreign Advisory Board.

Throughout his lifetime, many of Al's other achievements could also be observed in quieter ways that were never heralded. His dedication to his family was remarkable. He married his high school sweetheart and best friend, Norma. They shared 47 glorious years together and raised two children, Randy and Nancy. My wife Janet and I talked often about how Al and Norma seemed to love each other and genuinely enjoyed each other's company. Perhaps the greatest contribution that the two of them made was the strong example of a good marriage for their children, seven grandchildren, and anyone who know Al and Norma Lerner.

I am honored to have known and worked with Al Lerner and am confident that his legacy will remain an example of hard work, philanthropy, and genuine kindness for generations to come.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 116) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 116), with its preamble, reads as follows:

### S. RES. 116

Whereas Alfred Lerner ("Al" to those who knew him best) was a successful, humble, compassionate, and well respected member of his family and community whose life was devoted to civic involvement and efforts to improve the quality of education and health care available to his fellow citizens;

Whereas Al Lerner was born in Brooklyn, New York in 1933, graduated from Brooklyn Technical High School in 1951, and received a B.A. from Columbia College in 1955;

Whereas Al Lerner was a Marine Corps officer and pilot from 1955 through 1957, displaying his love of country by wearing his Marine Corps cap long after finishing his tour of duty, and later was a director of the Marine Corps Law Enforcement Foundation;

Whereas Al Lerner was the son of Russian immigrants, and in 2002 received the Ellis Island Medal of Honor, which celebrates immigrant heritage and individual achievements;

Whereas Al Lerner and his high school sweetheart, best friend, and partner in life, Norma Lerner, shared 47 years of marriage and were deeply committed to their 2 children, Randy and Nancy;

Whereas Al and Norma Lerner made extremely generous contributions to local and national charities, including a contribution of $10,000,000 in 1993 to Rainbow Babies and Children's Hospital in Cleveland, a donation of $16,000,000 to support construction of the Lerner Research Institute, and a donation of $100,000,000 to the Cleveland Clinic—one of the largest donations to academic medicine in the history of the United States;

Whereas Al Lerner served as president and trustee of the Cleveland Clinic Foundation where the Lerner Research Institute was established to conduct research of new treatments for cancer, coronary artery disease, and AIDS;

Whereas Al Lerner, along with his business partner Carmen Policy, reestablished a National Football League team in Northern Ohio when he purchased the expansion Cleveland Browns football organization in 1998, worked hard to make the people of Cleveland and Northern Ohio proud of their football team, and was subsequently appointed chairman of the National Football League Finance Committee;

Whereas the Cleveland Browns, on the strength of Al Lerner's leadership, reached the National Football League playoffs following the 2002 season, only 4 years after returning to the league;

Whereas Al Lerner served as founder, chairman, and chief executive of MBNA Corporation, which employs thousands of people in Ohio and is the Nation's largest issuer of independent credit cards;

Whereas Al Lerner served as vice chairman, trustee, and benefactor of Columbia College, which is now known as Columbia University, and also served as a trustee for Case Western Reserve University and New York Presbyterian Hospital;

Whereas Al Lerner helped raise funds, through his affiliation with MBNA and the Cleveland Browns, for the "Cleveland Browns Hero Fund" to aid families from the New York City Fire and Police Departments who suffered the loss of a parent in the tragic September 11, 2001, terrorist attacks;

Whereas Al Lerner was appointed in 2001 by President Bush as 1 of 15 members of the President's Foreign Intelligence Advisory

Board, which advises the President concerning the quality and adequacy of intelligence collection, intelligence analysis and estimates, counter-intelligence, and other intelligence activities;

Whereas Al Lerner is survived by his wife, partner, and best friend, Norma, their son Randy, their daughter Nancy, and 7 grandchildren; and

Whereas Al Lerner passed away on October 23, 2002, and the contributions he made to his family, his community, and his Nation will not be forgotten: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the life, achievements, and contributions of Alfred Lerner; and

(2) extends its deepest sympathies to the family of Alfred Lerner for the loss of a great and generous man.

## COMMENDING CLEMSON UNIVERSITY TIGERS MEN'S GOLF TEAM

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 161, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 161) commending the Clemson University Tigers men's golf team for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 161

Whereas on Friday, May 30, 2003, the Clemson University Tigers men's golf team won the 2003 NCAA Division I Men's Golf Championship, the first National Championship for the Clemson men's golf team;

Whereas the Tigers finished the Championship with a four-round total of 1191 strokes, for 39 shots over par, beating the second place Oklahoma State University Cowboys by two strokes;

Whereas the Tigers won the National Championship on the home course of Oklahoma State University, one of the most decorated golf schools in the Nation;

Whereas the Clemson golf team was the first in NCAA history to win its conference championship, a NCAA regional title, and the National Championship in the same year;

Whereas the Tigers started the year and ended the year as the number-one ranked team in the Nation;

Whereas the Tigers finished the season with a 128-8-3 record against opponents ranked in the top 25 teams in the country, which amounts to an incredible winning percentage of 93 percent, by far the best in the Nation and the best in Clemson history;

Whereas all of the Tigers players who participated in the NCAA Championship are native-born South Carolinians;

Whereas players D.J. Trahan, Jack Ferguson, and Matt Hendrix were honored as All-Americans for the 2002-03 season;

Whereas Head Coach Larry Penley won the Golf Coaches Association of America's Dave Williams Award as the National Coach of the Year;

Whereas the Clemson University men's golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the season in achieving collegiate golf's highest honor; and

Whereas the Tigers have brought pride and honor to the State of South Carolina: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Clemson University Tigers for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship;

(2) recognizes the achievements of all the team's players, coaches, and staff and invites them to the United States Capitol Building to be honored in an appropriate manner; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Clemson University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I Men's Golf Championship team from Clemson University.

## ORDERS FOR MONDAY, JUNE 9, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Monday, June 9; I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until the hour of 1 p.m. with the time equally divided between the two leaders or their designees; provided that at 1 p.m. the Senate resume consideration of S. 14, the Energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will reconvene on Monday. On Monday, the Senate will resume consideration of S. 14, the Energy bill. The chairman and ranking member will be here and are encouraging Members to come forward with their amendments. In addition, we will continue to try to reach an agreement to limit amendments to the Energy bill. Next week, we will have a busy session as the Senate continues to make progress on this important legislation.

As a reminder to all Senators, on behalf of the leader, I announce that the next rollcall vote will occur at 5:45 on Monday in relation to the confirmation of Michael Chertoff to be a United States circuit court judge.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT OF CONFEREES—H.R. 1308

The PRESIDING OFFICER. Under the previous order, the Chair appoints the following conferees on the tax bill on the part of the Senate: Mr. GRASSLEY, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, and Mrs. LINCOLN.

## ADJOURNMENT UNTIL MONDAY, JUNE 9, 2003

Mr. BENNETT. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:47 p.m., adjourned until Monday, June 9, 2003, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate June 5, 2003:

### DEPARTMENT OF JUSTICE

KARIN J. IMMERGUT, OF OREGON, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF OREGON FOR THE TERM OF FOUR YEARS, VICE MICHAEL W. MOSMAN.

LANCE ROBERT OLSON, OF IOWA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS, VICE JOHN EDWARD QUINN.

### IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

*To be lieutenant*

MARY ANN C. GOSLING, 7976

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. RAYMOND K. ALEXANDER, 2501

### IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

JAMES R. BURKHART, 0053

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

CHARLES M. BELISLE, 0870
GREGORY J. BIERNACKI, 8169
JOHN R. MULVEY, 5805
WILLIAM S. RIGGINS JR., 9968
DANIEL M. SKOTTE, 8860
BRETT A. WYRICK, 5677

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE

GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

GLENN D. ADDISON, 8905
ALAN J. BARBER, 2141
JAMES E. BECK JR., 2005
CRAIG W. BLANKENSTEIN, 6674
KEVIN W. BRADLEY, 0300
JOSEPH J. BRANDEMUEHL, 1092
GARY L. BRINNER, 5904
DONALD E. CARMEANS, 6625
KENT S. COKER, 6753
JOHN J. CONOLEY III, 0534
WILLIAM J. CRISLER JR., 6622
MICHAEL L. CUNNIFF, 4997
CHARLES R. DAUGHERTY JR., 7188
JOHN M. DELTORO, 5382
JAMES O. EIFERT, 8953
ROGER E. ENGELBERTSON, 6365
JON F. FAGO, 3355
KELVIN G. FINDLAY, 4801
ANTHONY P. GERMAN, 9721
MARGARET A. GIDEON, 9480
PATRICK D. GINAVAN, 5925
RONALD E. GIONTA, 9475
STEVEN D. GREGG, 6201
ROBERT A. HAMRICK, 7111
DAVID C. HARMON, 7002
KENNETH M. HATCHER, 8419
SAMUEL C. HEADY, 2267
DANIEL E. HENDERSON, 8765
MICHAEL D. HEPNER, 8945
DONALD L. HOLLIS, 4039
RODNEY L. HORN, 9864
DALE M. HOWARD, 7809
JOHN P. HRONEK II, 4484
EDWARD W. JOHNSON, 1276
NORMAN B. JOHNSON, 8434
DONALD E. JONES, 9721
TARO K. JONES, 8213
EARL K. JUSKOWIAK, 1003
SCOTT L. KELLY, 1116
WILLIAM T. KETTERER, 7752
WOODWARD D. LAMAR JR., 3536
FRANK D. LANDES, 1272
MICHAEL J. LOPINTO, 0392
KAREN E. LOVE, 7927
TIMOTHY M. LYNCH, 5524
CRAIG D. MCCORD, 0761
THOMAS C. MCGINLEY, 2452
DONALD K. MCKINION, 3768
CHARLES S. MCMILLAN JR., 5087
DAVID M. MCMINN, 3168
MICHAEL A. MEYER, 4974
FREDERICK R. MICLON JR., 5127
RICHARD A. MITCHELL, 1179
WILLIAM T. MITCHELL, 8651
HARRY D. MONTGOMERY JR., 2713
KATHLEEN M. PATTERSON, 3897
HOWARD X. PLOUFFE, 0559
DEAN A. PLOWMAN, 2495
BRUCE W. PRUNK, 8384
JOHN W. PUTTRE, 9228
KENNETH C. RAMAGE, 4799
LEON S. RICE, 1235
HARRY M. ROBERTS, 2753
CLARK T. ROGERS, 6883
RUSSELL A. RUSHE, 5131
ANDREW E. SALAS, 2510
ANTHONY E. SCHIAVI, 5251
JAMES W. SCHROEDER, 5356
CHARLES L. SMITH, 2933
DAVID J. SMOKER, 3606
JOHN H. SPENCER JR., 6639
SCOTT K. STACY, 6504
GARY STOPA, 7515
JAMES R. SUMMERS, 1861
WARREN E. THOMAS, 2149
THOMAS F. TRALONGO, 3624
JEFFREY R. TUCKER, 2524
DANIEL C. VANWYK, 9324
ERIC W. VOLLMECKE, 2843
BRIAN L. WEBSTER, 6962
RICHARD D. WILLIAMS, 4057
MICHAEL D. WILSON, 1600
JAMES C. WITHAM, 0100
WAYNE A. WRIGHT, 3125
DANIEL J. ZACHMAN, 9283

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

THOMAS K. HUNTER JR., 4592

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

JEFFREY J. KING, 4872

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

JAMES A. DECAMP, 5584

THE FOLLOWING NAMED OFFICER TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

TIMOTHY H. SUGHRUE, 1423

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LESLIE J. MITKOS JR., 9877
BERRIS D. SAMPLES, 1832

THE FOLLOWING NAMED OFFICER TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

PATRICIA J. MCDANIEL, 0629
NICHOLAS K. STRAVELAKIS, 2666

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

SCOTT D. KOTHENBEUTEL, 8929

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

GLENN T. BESSINGER, 4953

## CONFIRMATION

## EXECUTIVE NOMINATION CONFIRMED BY THE SENATE JUNE 5, 2003:

DEPARTMENT OF JUSTICE

PETER D. KEISLER, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

# EXTENSIONS OF REMARKS

## MR. WALKER'S ESSAY

### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mrs. BLACKBURN. Mr. Speaker, I applaud Mr. Walker for this wondrous achievement. His essay is an example of the exceptional scholarship from the young men and women of our great nation.

[2002–2003 VFW Voice of Democracy Scholarship Contest: Tennessee Winner]

FREEDOM'S OBLIGATION

(By Logan Walker)

On a cold, breezy day, a cool wind whips through the air unfurling the flag in the midday sun. The breeze heightens to a gust and in the furious waves, the flag lets out a crack like a whip. The crack resounds through the air reminding all who hear it of the flag's presence. But what does that flag mean? It means one thing: freedom. In America we pride ourselves on our institutions of checks and balances, all created with the purpose of maintaining freedom. But with freedom comes responsibility and obligations, but what is freedom's obligation?

This complex question is answered rather simply. Freedom's obligation is to protect principle over property, to guard ideas over oil, to defend the helpless, not the helpful. This is freedom's obligation.

For thousands of years people have been fighting over the lines on maps or the resources in a region, but America is more than that. Freedom demands of us to overlook our petty, selfish needs to satisfy the calling of a higher government: The government of humanity. Freedom is not about money, capitalism, oil, or land. It is about ideas, people, happiness, and liberty.

In the past twenty years a massive amount of criticism has risen against the United States for the wars it has participated in. Many claim our participation has been based solely on money rather than morals. Other critics claim that we simply make up moral justifications for fighting wars that we are really only interested in for monetary or political gain. Take for example the Kosovo War and the Gulf War. Both Yugoslavia and Kuwait were strategic oil suppliers. On the other hand, the United States gave detailed moral justifications for its involvement. Perhaps it is time that critics examine the fact that if you fight for any moral cause, you will most likely help your own, and the world economy, because any economy operates better and more effectively when it is not under the iron hand of a repressive regime.

But freedom's obligation is not just to one country, our own United States, but to all forms of democracy around the world. Many critics suggest that the United States is too much of a policeman in the world, but how could one assume so? What is America about? It is about freedom for all of mankind and justice for everyone. When someone is ten feet outside of our borders, do they become any less human? No. Then do they deserve any less protection than we would give another human life within our borders? Freedom's obligation is not merely to protect any specific people's freedom, but to help people to understand that any group's cry for freedom is paramount to a regime's sovereignty.

A sad example, Taiwan is in a constant state of protest over democratization, but China, a repressive Communist relic, refuses to let them break away. Should the people of the United States simply sit back and take the money of the Chinese Government while ignoring the wails for freedom sounded by the people of Taiwan?

Freedom is not about Gross Domestic Product, the Stockmarket, or Armies. It is about people, principles, and morality. Freedom gives great benefits, but it also demands great sacrifice. The crack of the flag is not just there to remind us that we are Americans. It is there to remind us that we are a free people! A regime demands no sacrifice because it does what it wants at the expense of the helpless. Freedom, however, demands that we give up something of ourselves so that others, anywhere in the world, can share at least a fraction of what we have here. That is what brave American forces have been fighting for.

The Bible, the Quran, the Torah, and the Book of Buddhist Principles all suggest that you give something of yourself, whether it be your time or your money, to help someone else. They all stress the personal and moral rewards of sacrifice. But there is another document that preaches the benefits of sacrifice: the Constitution, because wherever freedom resides, sacrifice must follow, because freedom is love and love is sacrifice.

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## TRIBUTE TO MR. TED RAVELO OF NORTH MIAMI

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. MEEK. Mr. Speaker, I rise to pay tribute to a wonderful human being and a magnificent activist symbolized by North Miami community leader Ted Ravelo, a Filipino-American. On Saturday, June 7, 2003, at the Design Center of the Americas (DCOTA) in Broward County, he will be honored by the Philippine American Federation of South Florida, Inc. at a gala event celebrating the 105th Philippine Independence Day festivities.

Mr. Ravelo came to the North Miami community some 15 years ago. He was the Director of the Southern Apparel Exhibitors at the Miami Merchandise Mart, after which he directed the Southeastern Apparel Exhibitors in Atlanta, Georgia. The citation for this gala event defines ". . . his loyal service to the community of North Miami and the Filipino-American community he has helped with utmost care and concern." Above all, however, this pioneering leader is more saliently characterized by his deep faith in the God he serves through countless Filipino immigrants in search of a warm friendship and timely advice. Being a dutiful husband to his wife, Ma. Teresa Padua-Ravelo, and a loving father to his two teenaged children, Jamie and Jo Anne, he has taken upon himself the awesome responsibility of providing the same brand of love and affection to many more Filipino-American families who search for guidance and direction in the ways and processes of how government and its various agencies function.

Indeed, Mr. Ravelo represents the best and the noblest of our community in his unceasing involvement with the socio-cultural well-being of his fellow immigrants in a manner that uplifted their own self-esteem and dignity. He continues to demonstrate a remarkable wisdom and warm friendship in serving his North Miami community, and still manages to enlighten his fellow citizens on the agenda of conscientious public service and good governance impacting our duties and responsibilities toward the less fortunate.

I am indeed a beneficiary of the brand of genuine advocacy he demonstrates both by way of word and example. I have learned from him the many struggles that immigrants throughout my district have had to confront on a daily basis, conscious of the fact that the will to succeed and be aware of the many nuances of public service undergird the civic responsibilities of a community leader and must characterize his advocacy role toward those who could least fend for themselves.

Continuing his mission to represent his fellow citizens and immigrants, Mr. Ted Ravelo was named to the North Miami Community Relations Board from 1997 thru 1998 and served as President of the Filipino Community Association of South Florida, Inc. Indeed, his quest for making a little bit of difference in the lives of people has always been his genuine way of changing the kind of world to which he was given to serve.

Named as the Activist of the Year by the North Miami Mayor's Economic Task Force in 1997, he has held the presidency of the Central North Miami Homeowners Association and vice-presidency of the North Miami Mayor's Economic Task Force, and has likewise held memberships on the Miami-Dade County Asian-American Advisory Board, Greater North Miami Chamber of Commerce and Asian-American Federation of Florida.

His involvement with the above organizations motivated his desire to run for the Mayor's seat of North Miami during the 1999 mayoral elections. Though he eventually lost his race, he ran a strong and credible campaign by focusing on the crucial issues impacting the well-being and equality of opportunity for his fellow citizens. His candidacy for public office has truly maximized his role as the consummate community activist who lives by the dictum that those who have less in life, through no fault of their own, should have more from those fortunate enough to have received the greater blessings from God. The collective testimonies he has received from the parents, community leaders and residents of North Miami and beyond represent an unequivocal testimony of the utmost respect and gratitude he now enjoys.

With the gala tribute to him on the historic celebration of the 105th Philippine Independence Day, the Filipino-American community in my District will honor him for his undaunted leadership and utmost perseverance. I am truly privileged to represent Mr. Ravelo and his family in the Congress, and I am grateful that he continues to teach us to live by the noble ethic of loving God by serving our fellowmen. Above all, his caring and compassion for other immigrants in Florida's 17th Congressional District appeal to the noblest character of our common humanity. My pride in sharing his friendship is only exceeded by my deep gratitude for all that he has done to uplift the honor and dignity of Filipino-Americans and other immigrants in North Miami and beyond.

This is the remarkable legacy with which we will always honor and respect the wonderful leadership and magnificent advocacy of Mr. Ted Ravelo.

## DIABETES

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BACA. Mr. Speaker, I rise today to voice my concerns about the effect that Diabetes is having on the Latino Community.

Right now, 16 million people in the United States are suffering with Type 2 Diabetes. About 3 million of them are Latinos. Due to diet and genetics, Latinos are twice as likely as the rest of the population to contract Type 2 Diabetes. I am horrified by the statistic that one in ten Latinos will contract Diabetes at some point in life, but I am even more horrified by the fact that most often the disease is preventable.

Both of my parents died from complications related to Diabetes. As the parents of 15 children, I believe that they didn't have the time or the resources to adequately care for themselves. With all of those mouths to feed, I believe that they were too busy trying to simply put food on the table to worry about proper nutrition. While that is undoubtedly noble, stories like this must change. My parents, because they did not have the proper care, suffered loss of vision, amputations, and eventually death.

We must make sure that Latino families are educated about prevention and have the resources to combat the disease. Prevention is key to fighting this disease but we cannot ignore the fact that eleven million Latinos still lack health insurance. How can a person get tested for Diabetes when they are uninsured? How can a person seek out a doctor when they can't even pay for the visit? This is something Congress must fight to change.

If we want to combat Diabetes, we must focus on prevention, education, and cultural changes. No one is saying that as a culture we can't enjoy our frijoles and tortillas. We simply must learn and teach our children, that moderation is the best approach.

We must educate our communities. We must spread the word about prevention. And we must help the uninsured. If we do not make these necessary changes, we won't have to worry about one in ten Latinos having Diabetes, we will have to worry about one in five.

## A TRIBUTE TO ELVIS HERNANDEZ

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Elvis Hernandez in recognition of his outstanding accomplishment in this year's 75th Precinct Council Spelling Bee competition.

Elvis is currently in the fifth grade at Blessed Sacrament in Brooklyn, New York. He finished in first place in the spelling bee.

Mr. Speaker, Elvis Hernandez has demonstrated that he is committed to his academic studies and is an excellent speller. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring him and his accomplishment.

## A PROCLAMATION HONORING MR. DANIEL D. SCHNEIDER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. NEY. Mr. Speaker, I hereby offer my heartfelt condolences to the family and friends of Daniel D. Schneider.

Whereas, Daniel Schneider served his community faithfully, dedicating three decades of his career to public service; and

Whereas, Daniel Schneider demonstrated a firm commitment to improving welfare services in the state of Ohio; and

Whereas, Daniel Schneider helped the lives of children by co-founding the Big Brothers Association and through his work at the Public Children Services Association of Ohio; and

Therefore, I join with the residents of the entire 18th Congressional District in mourning the loss of our friend, Daniel D. Schneider.

## PERSONAL EXPLANATION

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. WILSON of South Carolina. Mr. Speaker, on rollcall numbers 229, 228, and 227, on June 2, 2003, and on numbers 232, 231, and 230 on June 3, 2003, I was unable to cast my vote because I was part of a Congressional Delegation to North Korea.

Had I been present, I would have voted the following:

Rollcall number 232—S. 763—Birch Bayh Federal Building, I would have voted nay.

Rollcall number 231—S. 273—Grand Teton National Park Land Exchange Act, I would have voted yea.

Rollcall number 230—S. 222—Zuni Indian Tribe Water Rights Settlement Act, I would have voted yea.

Rollcall number 229—H.R. 1465—General Charles Gabriel Post Office, I would have voted yea.

Rollcall number 228—H. Res. 195—Congratulating Sammy Sosa, I would have voted yea.

Rollcall number 227—H. Res. 159—Expressing Profound Sorrow on the Occasion of the death of Irma Rangel, I would have voted yea.

## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of S. 222, The Zuni Indian Tribe Water Rights Settlement Act of 2003. This legislation puts to rest longstanding water rights disputes between water users in the Little Colorado River basin in Arizona. More importantly, this legislation would also provide the Zuni tribe with the financial resources to acquire water rights in the Little Colorado River basin and to restore the riparian environment that existed previously at Zuni Heaven Reservation.

Recently, a delegation of Zuni tribal leaders and members visited my office here in Washington. They told me that Zuni Heaven, a riparian area along the Little Colorado River, is central to the Zuni religious and cultural traditions and is the place where Zuni deities and ancestors have resided from time immemorial. This sacred riparian area is the home of the Kachina, one of the highest religious orders in Zuni culture, and was in historical times, a very lush riparian area with willow, cottonwood, cattails, turtles, and waterfowl.

Ever since the 1877 Presidential order diminished the Zuni cultural homelands and established the current Zuni Reservation in New Mexico, the Zuni people have maintained the practice of making a pilgrimage to Zuni Heaven. Every four years, Zunis from western New Mexico trek over 50 miles to Zuni Heaven, located in northeast Arizona, to perform religious ceremonies during the summer solstice period. This pilgrimage is very important because it helps sustain and rejuvenate Zunis' cultural and religious traditions.

The Zuni Water Rights Settlement will help the Zuni people restore their sacred Zuni Heaven to the way it was as described in ancient traditional historical accounts. Furthermore, it will help them develop wetlands for water plants, birds and other animals so important and necessary in carrying on the Zuni Kachina religion.

Considering the above, I strongly encourage my colleagues to join me today and support this very important legislation.

## TRIBUTE TO THE MOTHER BETHEL FOUNDATION

### HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor the Mother Bethel Foundation as it begins its $20,000,000 campaign to preserve and celebrate the Mother Bethel African Methodist Episcopal Church. Situated in my District, Mother Bethel is the first home of the African Methodist Episcopal Church. The land on which it sits has been owned by African-Americans longer than any property in the United States. Founded in 1794, Mother Bethel Church is the oldest incorporated African-American church in the country.

The foundation has launched an ambitious effort to construct a new facility that will house an expanded Richard Allen museum, an interactive learning center, and archives focused on the story of Richard Allen. The ultimate goal of the Mother Bethel Foundation is to celebrate and affirm what the Church and its founder have meant to generations of Americans.

In honoring the established Foundation, one must not forget to honor Mother Bethel's distinguished founder, Richard Allen, for whom the Richard and Sarah Allen Center is named. Richard Allen was a man who overcame tremendous obstacles to foster change for the betterment of African-American people. Born into slavery, Mr. Allen purchased his freedom through an agreement with his master.

Rev. Allen eventually responded to a call to preach and became a regular preacher at St. George's Methodist Episcopal Church. Due to segregationist practices at St. George's Church, Rev. Allen founded Mother Bethel Church.

While Rev. Allen is best known for founding Mother Bethel Church, he provided more to the African-American community. He was a critical member in the formation of the Free African Society, an organization to offer security and the benefits of association to Philadelphia's free blacks. He also joined with Absalom Jones to organize the Black Legion, a group of 2,500 men who defended Philadelphia against the British during the War of 1812.

Mr. Speaker, Philadelphia is America's most historic city. But, Mother Bethel stands out as one of our most cherished sites. It is a privilege to recognize an organization with such an admirable goal. I ask you and my other distinguished colleagues to join me in commending the Mother Bethel Foundation as it begins its campaign this Juneteenth.

## LET'S KEEP ALL REPRESENTATIVES ELECTED

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. PAUL. Mr. Speaker, the privately funded and privately constituted "Continuity of Government Commission" has recently proposed that, for the first time in our Nation's history, we should allow the appointment of members of the U.S. House of Representatives. Not only does this proposal fail to comport with the intention of the founders of this nation, but, even worse, it advocates a solution that has been repeatedly rejected by this body.

The report of this so-called "Commission" makes clear that while the Senate has, from time to time, voted to pass constitutional amendments allowing for the appointment of House members, this body has always jealously guarded its status as "the people's House" by failing to pass such amendments. A brief history review may be in order at this point. First, our Nation has been under attack from foreign powers in the past, such as in its nascent years when the British were constantly "coming." In our own century, we faced an attack on Pearl Harbor as well as the very real threat of nuclear annihilation. Now, because we have learned that our Capitol was a potential target in a terror plot, there is an outcry from some corners regarding our vulnerability. Our government leaders are no more vulnerable today to mass extinction than they were 20 years ago. Our top-flight military makes us, in many ways, less vulnerable to attack and the assassination of our leaders than we were 200 years ago.

Even if we were to sustain such a devastating attack, the nightmare scenario painted in the first report of the "commission" is not only far-fetched, but also admits of a plethora of potential solutions already existent in our current constitutional structure. Though the report endeavors to cast doubt on the legitimacy of those structures, it is unsuccessful. Moreover, what could be more offensive to our republican form of government and of more questionable legitimacy, than to have a slew of un-elected "representatives" outvote elected people on the floor of our U.S. House?

Let's face it: we can scare people and doom-say anytime we wish, but it would only be in the case of a nearly complete annihilation that our government would fail to function. In such an instance there is no "system" that will preserve our government. On the other hand, if we surrender the right to elect people to the U.S. House of Representatives, under any circumstances, we will get on a slippery slope away from the few remaining vestiges and most precious principles of the government left to us by our founders.

In the event that this "proposal" gets more serious and is given long-term attention, I will place in the record more detailed statements defending the notion of an all-elected House of Representatives, and explaining the fallacies and illogic found in this report. For now Mr. Speaker, I simply wish to go on record as among those who would fight to the last to preserve the principle of a House of Representatives consisting entirely of members elected by the people.

## HONORING DOUGLAS PERRY

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor the life of Douglas Perry and to recognize his lifelong contributions to his community. He was born on February 8, 1920 in Somerville, Massachusetts and passed away earlier this week, on June 2, 2003.

Doug was much more to me than a resident of my Congressional District, he was my friend. I first met Doug and worked with him when I served on the San Diego City Council. I immediately noticed his enthusiasm and his seemingly unlimited energy on behalf of the San Ysidro community where he lived. Because of his work, he was known as the unofficial "Mayor of San Ysidro".

He moved to California in 1936 and served in the U.S. Navy, in North Africa and the Philippines, from 1942 to 1946. He met and married Jean Alexis Wadleigh in 1949, and they lived in the Inland Empire until their move to San Ysidro in 1974.

He was involved in many roles in the activities and organizations of San Ysidro. He served as President, Executive Director, and Information Center Manager of the San Ysidro Chamber of Commerce and was instrumental in keeping the Chamber growing in membership. He organized and managed a Chamber Visitor's Information Center for several years, giving tourist information to thousands of visitors every month. It was through his efforts that the San Ysidro Chamber was designated the official Certificate of Origin supplier for the importation of goods by Mexican businesses—a vital part of the Chamber today. He took the lead in obtaining the first-ever fireworks in San Ysidro by developing plans for the Chamber to sponsor the first two years of exciting 4th of July displays and continuing to organize these yearly festivities.

Doug was Chair of the San Ysidro Redevelopment Project Area Committee, Vice President of the San Ysidro Senior Center, Chair and Vice Chair of the Southern Area Committee, Board Member of the South Bay YMCA, and Vice President of the San Ysidro Senior Center. He made possible communication cable at the Senior Center, soliciting a free donation from Cox Cable.

He was Treasurer of the San Ysidro Little League and was a member of Senior San Ysidrans. At the Sister of Nazareth, San Diego Mission, he was House Father for nine years.

As a member of the Park and Recreation Council, Doug represented the San Ysidro Recreation Council, supported their Annual Christmas events, acquired a big screen TV by soliciting donations, and raised funds for the La Mirada School Joint Use Turf Project. He played a significant role in opening the building at Larsen Sports Field, Cesar Chavez Community Center. He worked in obtaining Beyer Undeveloped Park.

He further obtained funding for the Coral Gate Neighborhood Park and the Larsen Field Parking Lot expansion, security lights and ball field renovation. All in all, he raised tens of thousands of dollars for projects and special events in San Ysidro. He worked to get donations for the Annual Food Drive. As you can see, Doug's commitment was to the community as a whole.

Doug was joined in all of his endeavors by his wife of 52 years. Together, they had four children: Philip Perry of Escondido, California, Kim McCormick of Rancho Cucamonga, California, Brooke Barbee of Alta Loma, California, and Craig Perry of Upland, California. His six grandchildren are Steven Barbee, Paige Flick, Brandy Barbee, Michael Perry, Christopher McCormick, and Scott Perry—and his two great-grandchildren are Tessa and Jacob Weir.

My condolences go to Doug's fine family. He will be missed, but his memory will live on in his beloved community of San Ysidro.

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## A TRIBUTE TO ALAJANDRA PENA

### HON. EDLOPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Alajandra Pena in recognition of her outstanding accomplishment in this year's 75th Precinct Council Spelling Bee competition.

Alajandra is currently in the fifth grade at P.S. 72 in Brooklyn, New York. She received a second place award in the spelling bee.

Mr. Speaker, Alajandra Pena has demonstrated that she is committed to her academic studies and is an excellent speller. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring her and her accomplishment.

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## A PROCLAMATION RECOGNIZING LEANNA MOON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. NEY. Mr. Speaker, Whereas, LeAnna Moon has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, LeAnna Moon has shared her time and talent with the community in which she resides; and

Whereas, LeAnna Moon has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, LeAnna Moon must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Glenford and the entire 18th Congressional District in congratulating LeAnna Moon as she receives the Girl Scout Gold Award.

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## HONORING THE CITY OF ST. PETERSBURG, RUSSIA ON THE OCCASION OF HER 300TH ANNIVERSARY

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to pay tribute to the people of St. Petersburg, Russia, on the 300th Anniversary of the founding of their grand city.

St. Petersburg was founded by Peter the Great on May 27, 1703, and boasts an illustrious history, impressive architectural achievements, and a rich culture. Under the leadership of Catherine the Great, St. Petersburg became one of the cultural capitals of Europe.

The people of St. Petersburg suffered greatly under the brutal regimes led by Lenin and Stalin. Following the death of Vladimir Lenin and under the iron fist of communism, the city was renamed Leningrad. The city suffered further when during World War II the German Army led the Siege of Leningrad on September 8, 1941. During this 900-day siege, over 600,000 Russian citizens died, but Hitler never prevailed to take over the city due to the valiant defense by its residents.

Indeed, despite the devastation of war and the cruelty of communism, the spirit of the St. Petersburg people persevered. With the crumbling of communism, in 1991 the city reclaimed the name of St. Petersburg.

In 1995 I saw firsthand the beautiful city reflecting the extraordinary culture of the "Venice of the North." I was hosted by the parents of Maxim Kidalov, who in 1993 as a student at the University of South Carolina was the first Russian page to serve in the Senate of South Carolina. He is now a respected attorney in Washington, DC. Dr. Vladimir Nikolayevick Kidalov and Mrs. Lyudmila Mikhailovna Kidalova were gracious hosts, and they brought to life warm Russian hospitality.

It is fitting now for all Americans to salute the achievements of the people of St. Petersburg and wish Godspeed for its bright future as a valued participant in the democratic family of nations.

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## TRIBUTE TO JOANNE CARLIN

### HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. BROWN of Ohio. Mr. Speaker, it is my privilege to pay tribute to the life of Joanne Carlin, a lifelong resident of the Cleveland area, who died on May 14 after a courageous battle against cancer.

Joanne's giving spirit was shaped by her experiences growing up in Cleveland's Tremont area. A product of St. Augustine Catholic School, she eventually moved to Garfield Heights, where she graduated from high school.

Joanne owned and operated a beauty salon on Cleveland's west side. Her former customers praised her as a loyal and generous person.

She later sold her business and moved to Medina County to become a full-time homemaker. An excellent cook, Joanne enriched the lives of her family and friends as the consummate hostess during family gatherings and holidays.

Our hearts go out to her husband and best friend, James; her four stepchildren and three stepgrandchildren; and legions of family and friends who recall the memories of these gatherings and the tremendous influence Joanne had in their lives.

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## TRIBUTE TO DR. MATORY

### HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to speak of an outstanding doctor, educator, and mentor who is on the eve of his retirement as Director of Continuing Medical Education and Professor of Surgery at Howard University.

Mr. Speaker, Dr. Matory has had a distinguished career as a surgeon and a researcher and is well known in the Washington, D.C. metro area for his contributions to trauma and burn care.

His hospital activities included the directorship of the Emergency Care Area at both the Freedmen's Hospital and Howard University Hospital from 1960 to 1982, at a time when those facilities were the leading hospital emergency systems in Washington, D.C.

During his tenure, Dr. Matory reorganized the ambulatory care system at Howard to ease emergency care follow-up and to facilitate continuity of patient care. He introduced vascular access as a service in 1970 in preparation for the Howard University Hospital chronic dialysis and renal transplantation programs.

Dr. Matory received the Distinguished Surgeon Award from the Southeastern Surgical Congress in 1998. He has been a Member of the National Academy of Science, and the Robert Wood Johnson Committee which encouraged the establishment of the "911" emergency response system throughout the country.

Mr. Speaker, Dr. Matory also developed the Howard University Family Practice Program, and served as its first chairman from 1970 to 1979; a program in which I had the honor of being a student, and the privilege of being taught and mentored by Dr. Matory, an experience which has shaped my medical and overall career. He was also co-founder of the Physician Assistant Training Program at Howard in 1972.

As an educator, he has been a leader in the continuing medical education of physicians from all over the world, who attend Howard to keep abreast of the ever changing medical landscape. He is a founder of the CME program at Howard, the first in the Washington, D.C. area to be certified by the American Medical Association, the Liaison Council on Continuing Medical Education and currently the Accreditation Council for Continuing Medical Education.

During his illustrious career, he has also served as Assistant Dean for Clinical Affairs at the College of Medicine, Assistant Medical Director for Postgraduate Affairs at Howard University Hospital and Chairman of the Washington, D.C. Board of Medicine.

He has been a member of several medical societies to include the Medico-Chirurgical Society of the District of Columbia, the Medical Society of the District of Columbia, the American College of Surgeons, the National Medical Association and the American Medical Association.

Mr. Speaker, aside from his medical accomplishments, Dr. Matory served as a captain in the U.S. Air Force in Japan from 1955 to 1957. He has also authored 16 publications and produced 130 surgical and general medical videotapes in continuing medical education.

Mr. Speaker, I would like to say a resounding thank you to Dr. William Earle Matory for his tireless dedication to his community and his inspiration to us all.

## CONDEMNING THE ATTACK ON NOBEL PEACE PRIZE LAUREATE AND DEMOCRACY ACTIVIST AUNG SAN SUU KYI AND HER COLLEAGUES IN BURMA

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to condemn in the strongest possible terms this weekend's violent crackdown on Daw Aung San Suu Kyi and the National League for Democracy (NLD). The Nobel Peace Prize winner was concluding a month long speaking tour in Burma. The NLD won Burma's last democratic election in 1990, however, Burma's military regime has refused to honor the election results. I'm outraged to learn that Ms. Suu Kyi may have been seriously injured and many of her supporters killed.

I want to express my solidarity with the peoples of Burma and their struggle for democracy. As Ronald Reagan once said, "Regimes planted by bayonets do not take root". Now is the time for the United States to express our support for freedom in Burma.

Mr. Speaker, we should immediately move to increase pressure against this despicable regime.

## A TRIBUTE TO DENNIS COOPER

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Dennis Cooper in recognition of his outstanding accomplishment in this year's 75th Precinct Council Spelling Bee competition.

Dennis is currently in the fifth grade at P.S. 306 in Brooklyn, New York. He received a third place award in the spelling bee.

Mr. Speaker, Dennis Cooper has demonstrated that he is committed to his academic studies and is an excellent speller. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring him and his accomplishment.

## A PROCLAMATION RECOGNIZING MELANIE NEWLAND

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. NEY. Mr. Speaker, Whereas, Melanie Newland has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Melanie Newland has shared her time and talent with the community in which she resides; and

Whereas, Melanie Newland has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Melanie Newland must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Kingston and the entire 18th Congressional District in congratulating Melanie Newland as she receives the Girl Scout Gold Award.

## COMMENDING BULGARIA

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. WILSON of South Carolina. Mr. Speaker, I rise in support of House Concurrent Resolution 177 commending the men and women of our Armed Forces, our leaders and our allies for the courage and dedication displayed during Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq. Since that fateful day in September 2001 we have been a Nation at war. In one of the few instances in our history when our homeland was directly attacked, our President responded decisively by declaring a global war on terrorism.

That September night while the world watch in horror, the President directed the full power and might of the United States to bring the terrorists to justice and asked for our friends and allies to join us in the war against terrorists. Over 70 nations responded to his call to arms and one, the Republic of Bulgaria, has stood with us since that fateful day, sharing in the dangers and the determination to fight the global war on terrorism.

Since September 11, 2001 the Republic of Bulgaria has acted firmly and convincingly as a friend and a de facto ally of the United States. In the world councils, Bulgaria has supported the NATO decisions to help patrol our skies after the September 11, 2001, and backed the European Union's Plan of Action in support of the United States. As an important non-permanent member of the United Nations Security Council, the Republic of Bulgaria has contributed constructively to all of the resolutions to bring the terrorist networks to justice. With Bulgaria's help, UN Resolutions 1386 and 1390 to bring pressure on the Al Qaeda and Taliban networks were quickly passed, thereby cutting off any material aid to the Taliban regime that was providing safe haven for Osama Bin Laden's terrorists and their training camps.

But the Republic of Bulgaria has done more than just support us in international councils. It has come to our assistance both at home and in the theaters of war. Within days of our warning to the Taliban regime in Afghanistan, Bulgaria granted our air forces blanket overflight rights for any United States aircraft participating in Operation Enduring Freedom. As the tempo of air operations increased, Bulgaria expanded its support to provide a base for our aircraft at Sarafovo. To assist other NATO nations which were providing troops to Operations in Afghanistan, Bulgaria volunteered a security company to the peacekeeping missions in Bosnia and Kosovo. And Bulgaria came to our direct assistance in Operation Enduring Freedom by providing a Decontamination Company to the International Security and Assistance Force (ISAF) in Afghanistan. That force has been in place constructively working with U.S. and other allied forces since January 2002.

When the issue of Iraqi arose Bulgaria again stood with us both at the United Nations and at the battle front. Bulgaria took an active part in the passage of United Nations Resolution 1441 and has remained committed to the disarming of Iraq. When it became clear that Iraq had no intention of abiding by the United Nations Constraints, Bulgaria acted quickly to once again provide unfettered overflight, temporary basing and transit rights over its territory. Once again U.S. air forces soon found themselves a friendly base at Sarafovo. When the moment of decision arrived, Bulgaria stood steadfast with our determined President and sent a Nuclear, Biological and Chemical Protection Company to join our forces in Operation Iraqi Freedom and help protect them against Iraqi weapons of mass destruction.

I wish to point out that the Republic of Bulgaria has conducted itself as a staunch and committed ally to the United States and its support should not go unnoticed by this great deliberative body. So I ask my colleagues to join me in recognizing that the Republic of Bulgaria is one of the handful of nations that we are here today commending for having stood shoulder-to-shoulder with us in these two campaigns in the global war on terrorists.

## TRIBUTE TO MARK WETZEL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. MCINNIS. Mr. Speaker, I have the distinct privilege today to pay tribute to an extraordinary individual who is a regular visitor to my district. Mark Wetzel, a hitting coach from

Omaha, Nebraska, travels to Western Colorado several times a year to work with the baseball team at Delta High School. He has done so for the past four years, and the results have been impressive. The Delta Panthers have raised the team batting average to .424, ranking in the top five in Colorado. Five players are hitting above .500, and confidence is high across the lineup.

Although Mark has played an important role in the team's success, he hasn't played the game since the age of 14. Disease forced him to quit playing, and for years Mark thought he didn't have anything to offer. When his son started playing the game, Mark eventually tried to impact his son's performance, and the results were readily apparent. That led to Mark helping the rest of the team, and before long word got out around Omaha about this hitting coach who could help improve performance when other coaches could not. Players he had never met, including some minor leaguers, began seeking out Mark for advice. Soon he was trading hitting philosophies with baseball legend Tony Gwynn and hitting coaches from the San Diego Padres.

What is so unique about Mark as a coach? Players and coaches say he has the ability to see things other coaches miss. One coach says that while he will concentrate on a problem and not find the cause, Mark will look at the end result and identify what is wrong.

Mark's ability to see things other coaches cannot is not the most unique thing about him, however. Mark is almost completely blind. The disease that caused him to quit playing baseball as a teenager also took away his vision. Yet he will tell you that losing his sight is the best thing that ever happened to him, because it taught him how to outwork others, stay positive, and be tenacious. It also has made him an inspiration to others, including the baseball team at Delta High School.

Mr. Speaker, it is my pleasure to honor Mark Wetzel today by telling his amazing story to this Congress. He is a true asset to the Panthers baseball team, and I congratulate him on his success, commend him for his inspiring example, and thank him for his contribution to the youth of Delta, Colorado.

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## HONORING THE 75TH ANNIVERSARY OF GOUGLERSVILLE FIRE COMPANY

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GERLACH. Mr. Speaker, I rise today to honor the Gouglersville Fire Company of Gouglersville, PA during its 75th anniversary celebration.

Without a fire company of its own, the people of Gouglersville, PA had to rely on companies located in neighboring communities. On March 8, 1928, citizens of Gouglersville attended a town meeting to discuss the formation of their own company. Over the next few months, the Gouglersville Fire Company was created. Members were recruited, officers were elected and the company constitution and by-laws were adopted. Finally, on September 4, 1928, the Berks County Court of Common Pleas granted a charter to the Company.

Over the next few years, the Company purchased a firehouse and its first apparatus. As time went on, the Company outgrew its original building and purchased a larger space to accommodate its increased membership and growing number of vehicles. The charter and by-laws of the Company were amended on August 3, 1950 to permit women to join. A Junior Brigade was started in 1972. As time has passed and the Company has changed, one thing that has not altered is the dedication of the firefighters to their duties.

For the past 75 years, the citizens of Gouglersville have been able to depend on the courageous men and women of Gouglersville Fire Company. I encourage my colleagues to join me in saluting Gouglersville Fire Company on reaching this milestone.

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## TRIBUTE TO MR. JOHNNY ALBINO

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. SERRANO. Mr. Speaker, I am pleased to pay tribute to Mr. Johnny Albino, who will be honored this weekend as Yaucano del Año 2003. Mr. Albino is a renowned singer and songwriter who has recorded more than 300 records. He has traveled around the world sharing the gift of his music, in Latin America, the Caribbean, and Europe, as well as places as far away as Japan, Hong Kong, Singapore, Egypt and Israel, among others.

Mr. Albino was born in Yauco, Puerto Rico, on December 19, 1919. He was one of seven children. He went to school in Guayama, Puerto Rico, and planned to pursue law studies at the University of Puerto Rico, but in 1940 he enlisted in the United States Armed Forces. He served in the Corps of Engineers and studied to become a telegraph operator. During his tenure in the military, he also found a way to pursue his interest in music by forming a quartet and singing in U.S.O. sponsored events for servicemen. He served in the military for seven years, retiring as a Lieutenant.

When he returned to Yauco, he formed El Trio San Juan with Chago Alvarado and Ola Martinez. They used to rehearse at a house on Tendal Street, on the way to Barrios Quebrada and Sierra Alta.

During his musical career as part of the famous Trio Los Panchos, with Alfredo Gil and Chucho Navarro, Albino traveled around the world seven times and had the opportunity to perform with luminaries such as Frank Sinatra, Sammy Davis Jr., Nat King Cole and Eydie Gorme. He also shared the stage with world-renowned figures like Xavier Cugat and Johnny Carson. He has been one of Puerto Rico's most talented musical ambassadors. He has been married for 43 years to Mrs. Maria Albino, who is also his manager.

Mr. Speaker, I ask my colleagues to join me in congratulating Johnny Albino, an accomplished musician, for his achievements and for giving to the Hispanic community and to the world the gift of beautiful music.

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## CELEBRATING A LIFETIME OF ACHIEVEMENT AND THE LONGEVITY OF A LEWISTON LANDMARK

### HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. MICHAUD. Mr. Speaker, I rise today to share with you the wonderful story of Toni Orestis and her lifetime of achievement. Marois Restaurant, a Lewiston landmark since 1919, is closing on May 31, 2003. Started by Antoinette Marois Orestis' grandfather, carried on by her father Leon, and now run by Toni for more than 35 years, Marois is a first class restaurant that has anchored the downtown area of Lewiston for almost 85 years.

Marois started as a lunch counter business and expanded over the decades into the full service restaurant that it is today. During the Second World War, the restaurant was open 24 hours a day, 7 days a week, feeding the shipbuilders and other workers involved in supporting the war effort from home. When Lewiston and Maine had a need, Marois was always there to meet it.

Toni started working in the restaurant at the age of thirteen. She and her three sisters worked for their grandfather and father all through the years. In fact, no one knows the restaurant business better than Toni. Throughout the past 65 years she has performed every role, from starting as a helper, to becoming a server, then cook, and now owner and executive. Toni and Marois are an example of downtown Lewiston at its finest.

Along with her remarkable work ethic and business acumen, Toni has also been there for so many people in the community. From baptisms to bar mitzvahs, from weddings to anniversaries, from office and retirement parties to Christmas parties, and yes for funerals too, Toni is always there with wonderful food and hospitality. So many people remember fondly the food, the dessert cart, the French and Greek menus, the formal and correct table service, but most of all, the genuine and generous personality that is Toni Marois Orestis. No one ever went away hungry and everyone went away with a smile.

Now Toni, at 78 years young, is finally retiring. When asked if she wanted to keep working, she said "Yes, but part time, maybe 35 or 40 hours a week". That is the true mark of dedication; a life lived purposefully and well. Mr. Speaker, please join me and the residents of Lewiston in congratulating Toni Orestis on her retirement and thanking her for all she has done for her community.

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## TRIBUTE TO RYAN BECKER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a firefighter who has gone out of his way to serve his country. Ryan Becker, a firefighter from

Vail, Colorado, left the comforts of home recently to assist in the search for wreckage of the space shuttle *Columbia.*

Ryan's experience and training fighting wildland fires gave him exactly the kind of expertise NASA needed. So Ryan volunteered to help, and NASA supplied him and other members of his 18-person team with a map and put them to work in East Texas. The work wasn't always easy and at times was downright dangerous. Ryan walked through briar batches that tore his clothes and scratched his body, waded through muddy swamps and creeks, and dodged poisonous water moccasins and copperhead snakes; all in an effort to find a clue that might help investigators understand this tragic accident.

Yet despite the difficulties, Ryan and his teammates worked shifts up to 12 hours long, walked about eight miles a day, and covered many acres of territory. Their findings included debris that ranged in size from a four feet by six feet piece of the bulkhead to tiny chunks of about a quarter inch.

Mr. Speaker, I am proud of Ryan's contributions to our Space Shuttle program. This outstanding individual sacrificed in order to ensure that a calamity like the *Columbia* disaster will never happen again. I am honored to tell Ryan's story before this body of Congress today, and I wish him all the best in his future endeavors.

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## TRIBUTE TO MRS. REBECCA SUE SPEARS

### HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. COLLINS. Mr. Speaker, I would like to recognize a remarkable woman on the occasion of a very special anniversary. In 1993, Mrs. Rebecca Sue Spears, of Fayetteville, Georgia, was diagnosed with breast cancer. This year marks the tenth anniversary of Mrs. Spears being "cancer free."

Today, a woman is diagnosed with breast cancer approximately every 2 minutes. Thanks to the efforts of people like Mrs. Spears, we are making great strides to eradicate this devastating disease. As a breast cancer survivor, Mrs. Spears continues to raise money and awareness to fight breast cancer and is a true servant leader.

In 2002, at the age of 59, Mrs. Spears participated in the Avon 3-Day Breast Cancer Walk in Atlanta, Georgia. During this inspiring event, Mrs. Spears walked twenty-miles per day for 3 days and represented women everywhere that are battling this terrible disease. Recently, in Atlanta, she walked in the Susan G. Kormen Race For the Cure; an event that is celebrating its 20th Anniversary and is now the largest series of 5K races in the world. Thanks to dedicated volunteers like Mrs. Spears, the Susan G. Kormen Breast Cancer Foundation has raised over $250 million for education, research, screening and treatment. On June 7, 2003, Mrs. Spears will walk again in her quest to fight cancer, here in our Nation's Capital, in the National Race For the Cure.

I am honored to recognize Mrs. Rebecca Sue Spears on this momentous occasion. She is an inspiration to her husband, James E. Spears, her two daughters, Kathryn and Karen, her two sons Jimmy and Steven, her six grandchildren, and countless others who are battling this disease. In her own words she describes her relentless determination by saying, "I walk and will continue to walk until a cure is found with hopes and prayers that my daughters, grandchildren, other family members and friends, as well as millions of others, will never have to be told—'you have cancer.' "

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## INTRODUCING DISTRICT OF COLUMBIA DISTRICT ATTORNEY ESTABLISHMENT ACT OF 2003

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Ms. NORTON. Mr. Speaker, today I introduce the District of Columbia District Attorney Establishment Act of 2003 continuing a series of bills that I will introduce this session to ensure a continuation of the process of transition to full democracy and self-government for the residents of the District of Columbia.

This bill will establish an Office of District Attorney for the District of Columbia, to be headed by a District Attorney elected by D.C. residents. Accordingly, this bill would move the city a quantum leap toward full home rule for the District of Columbia and equality with other Americans. This bill effectuates a November 2002 referendum where D.C. voters overwhelmingly (82%) approved a locally elected D.A.

This important legislation is designed to put the District of Columbia on par with every other local jurisdiction in the country by allowing D.C. residents to elect an independent District Attorney to prosecute local criminal and civil matters now handled by the U.S. Attorney, a federal official. Instead the new District Attorney would become the city's chief legal officer.

There is no issue of greater importance to our citizens and no issue on which residents have less say here than the prosecution of local crimes. A U.S. Attorney has no business in the local criminal affairs of local jurisdictions. No other citizens in the United States are treated so unfairly on an issue of such major importance. This bill would simply make the D.A. accountable to the people who elect him or her as elsewhere in the country.

In addition to issues of democracy and self government, such as congressional voting rights and legislative and budget autonomy that we are entitled to as American citizens, district residents are determined to make every effort to achieve each and every other element of home rule. Amending the Home Rule Act with a local D.A. provision would be a dramatic development toward our goal of achieving true self-government. I urge my colleagues to support this important measure.

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## CONGRATULATING MISS UNIVERSE AMELIA VEGA

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. RANGEL. Mr. Speaker, I rise to congratulate Ms. Amelia Vega of the Dominican Republic on being crowned Miss Universe in ceremonies held in Panama City, Panama on June 3, 2003. She was selected for this honor in a competition that featured more than 70 of the most beautiful young women in the world.

It was also a good night for the women of the Caribbean, who earned the pageant's other honors. Miss Dominican Republic, in addition to winning the big prize, was voted as the best dressed contestant while Miss Puerto Rico, Carla Tricoli, was awarded the title of Miss Photogenic and Miss Antigua and Barbuda, Kai Davis, was honored as Miss Congeniality.

Miss Vega, who is the first Dominican to win the beauty pageant, won the crowd and the judges over with a humble confidence that extended beyond her 18 years of age. She intends to spend the next year pursuing her dreams of an entertainment career and leading fundraising efforts on behalf of AIDS research and awareness.

The Miss Universe title opens doors for both its winner and her country of origin. As the native country of the current Miss Universe, Panama was able to host this year's pageant, helping to generate what government officials say could be as much as $60,000,000 in revenues. Perhaps as important, it is also a source of national pride and inspiration for all those associated with the Dominican community, abroad and in the United States. As a representative of a district that contains the largest concentration of Dominicans outside of Quisqueya, I join the people of Washington Heights as they bask in the joy of seeing one of their own succeed on such a competitive world stage.

Miss Vega understands that alongside the numerous "once in a lifetime opportunities," her fame will allow her to affect the image that the world has of the Dominican people and its culture. Although potentially daunting, it is a responsibility that she is excited to accept. As she told the crowd last night, "I didn't come here just for the crown, but also to make my country proud."

Undoubtedly, she is on her way.

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## TRIBUTE TO SUZANNE NEWLIN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. MCINNIS. Mr. Speaker, it gives me great pleasure to stand and pay tribute to an outstanding educator from my district. Suzanne Newlin, a teacher at Montrose High School in Montrose, Colorado, is the recipient of this year's high school teacher of the year award from the National Association for Sport and Physical Education. Suzanne is an innovative teacher with an uncanny ability to motivate her students, and I am honored to recognize her commitment and dedication to education today.

Suzanne has made it her life's work to get her students hooked on physical activities that they can enjoy throughout their lives. Most kids won't take part in team sports as adults, so she introduces them to other activities such as bicycling, rock climbing and power walking. Suzanne not only participates with her students, but she teaches them how to get the most out of their workouts and individualize the sessions by including heart-rate monitors. Suzanne does teach traditional team sports as well, though she does so by personally demonstrating skills and techniques to make the experience more meaningful.

Mr. Speaker, Suzanne's positive spirit, creativity and innovation make her a true asset to the students of Montrose High School, and it is my pleasure to recognize her efforts here today. She not only touches the lives of her students, but she gives them the tools to succeed later in life. That is a precious gift, and it is a great honor to speak of her inspirational accomplishments before this body.

## HONORING MARÍA ELENA DURAZO

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Ms. SOLIS. Mr. Speaker, I rise today to pay tribute to Ms. María Elena Durazo who is receiving the 2003 Paul Wellstone Citizen Leadership Award for her outstanding service to the Hotel Employees and Restaurant Employees Union of Los Angeles.

As President of the Hotel Employees and Restaurant Employees Union (H.E.R.E.) Ms. Durazo has helped the union emerge as a vital force in the life of Los Angeles residents, representing over 250,000 workers in the hospitality industry in the U.S. In 1996, she also became the first Latina to be elected to the national leadership of the H.E.R.E. International Union and has long served as a role model for other Latina leaders.

Ms. Durazo has worked tirelessly to obtain justice for the mostly immigrant-based union in Los Angeles, adopting a policy of bilingualism for its union meetings and newspaper. Furthermore, she has empowered countless bilingual employees to acquire positions and benefits they deserve. Under her leadership, the union has been widely recognized as one of the most active rank and file unions in southern California, striving to build valuable coalitions among community, church, academic, ethnic, and political organizations throughout the local area.

María Elena has further advanced the Hotel Employees and Restaurant Employees Union by securing and improving citywide hotel contracts, increasing wages and benefits for thousands of hotel workers in downtown Beverly Hills and the Westside. María Elena now serves as National Director of the Immigrant Workers' Freedom Ride, campaigning to improve immigration laws in the United States.

With these accomplishments, it is fitting that she will receive the Paul Wellstone Citizen Leadership Award. I urge my colleagues to join me in honoring Ms. Maria Elena Durazo for her diligent work in improving labor conditions for the workers of southern California.

## HONORING TESS CARMICHAEL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress today to recognize a dedicated educator from my district. Tess Carmichael recently retired from Mesa State College in Grand Junction after teaching mass communications for over 30 years. We should all be inspired by the many years of enthusiastic service Tess has given to her students and it is my pleasure to highlight a few of her outstanding accomplishments here today.

Tess began her education at Western State College, receiving four Bachelor's Degrees. She went from there to the University of Colorado where she earned her Master's degree in Journalism and Mass Communications. Tess found her way to Mesa State in 1973, and through the years her passion and dedication to her students has remained steadfast. Her impact at Mesa State spans the entire campus, as she has taught courses in business, theater, speech, English, and mass communications. Just think of the countless number of lives Tess has touched. She not only has lent her talents but also passion to her work and, by so doing, she has given her students an awesome gift—the opportunity to succeed.

Mr. Speaker, I am proud to stand before this Congress today to express my gratitude and reverence for Tess Carmichael's many years of service. This is a chance to remind us all of the importance teachers play in guiding our youth and of the admiration and respect they deserve. Teaching is truly a noble calling and Tess Carmichael has answered that call. Thank you, Tess, for your many years of dedicated and selfless public service.

## IN SPECIAL RECOGNITION OF CORY M. SINNING ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Cory M. Sinning of Van Wert, Ohio, has been offered an appointment to attend the United States Military Academy.

Mr. Speaker, Cory's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2007. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Cory brings a special mix of leadership, service, and dedication to the incoming class of West Point cadets. While attending Van Wert High School, Van Wert, Ohio, Cory has attained a grade point average of 3.81, which places him twenty of one hundred sixty-nine students. During his time at Van Wert High School, Cory has received several commendations for his superior scholastic efforts. Cory's accomplishments include being a four year Renaissance Card Holder and a member of the National Honor Society.

Outside the classroom, Cory has distinguished himself as an excellent athlete. On the fields of friendly strife, Cory participated in Basketball where he earned his Varsity Letter and served as a team captain for three years. In addition to his athletic accomplishments, Cory proved himself a dedicated citizen of Van Wert through dedicating time to volunteer for Elementary Basketball Camps, Junior High Basketball Camps, YMCA, and Served as a Mentor for At-Risk Students.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Cory M. Sinning. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Cory will do very well during his career at United States Military Academy and I wish him the very best in all of his future endeavors.

## TRIBUTE TO MR. AND MRS. ANTHONY ROSE, SR.

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise today to congratulate an exceptional couple, Mr. and Mrs. Anthony Rose, Sr. as they celebrate their 50th Wedding Anniversary on Friday, June 6, 2003.

Mr. Anthony Rose and his wife, Mrs. Francis Rose, are the proud parents of nine children, one of which lives in my Congressional District.

Their children are outstanding members of the communities in which they reside. Several are business owners and one son is a professional basketball player. They have nineteen grandchildren and one great-grandchild who are truly the "apples of their eyes".

The Roses have made invaluable contributions to our society and are commended for their achievements and commitments.

Mr. Rose is a decorated Veteran. He served with distinction in the United States Army, which included fighting in the Korean War. Mrs. Rose was employed for 18 years with Eastman Kodak where she worked in a lab until her retirement.

Today, the Roses are active members of Memorial A.M.E. Zion Church in Rochester, NY where they have worshipped for the last

52 years. They are also weekly volunteers at the local Soup Kitchen and the YMCA.

I ask my colleagues to join me in congratulating Mr. and Mrs. Anthony Rose on 50 years of a loving relationship. They are truly examples of what all married couples strive for—a life-long partnership.

I wish them continued success and more happy years.

## THE F.C.C. DECISION

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. VAN HOLLEN. The health of our democracy depends on a full and open airing of ideas and opinions. Monday's action by the Federal Communications Commission will limit the range of voices and opinions Americans will hear in the marketplace of ideas. With marginal media coverage and little solicited public participation, the FCC's vote to relax media ownership rules has made possible the further concentration of the print and broadcast media in the hands of only a small number of powerful corporations.

The FCC's action will only deepen existing concerns about an industry plagued by accusations of homogeneity and fears that the news and views Americans hear is dominated and controlled by a few powerful voices. Years ago, Congress debated the rules that regulate the cable industry. One of the strongest arguments in support of cable at that time was that the medium would increase the opportunity for a diversity of voices in an arena where only a few corporations controlled America's access to information. Yesterday, the FCC said its decision to allow greater media concentration was motivated largely by the dearth of choices offered by the cable industry today. They argue that the current rules are outdated and discourage competition. But they ignore the fact that the lofty aspirations set years ago for the cable industry have fallen short of the mark. Today an alarmingly small number of corporations like General Electric, AOL Time Warner, Viacom and Disney control not only the conduits through which information flows to the public, but increasingly, the program content as well. The FCC's decision will only continue this trend.

This is a dangerous road we are on. As media concentration has grown over the years, we have watched as more and more voices have been pushed from the public stage. Not only minority voices and alternative viewpoints, but increasingly even local community voices are silenced as corporate executives adjust program schedules to maximize their bottom lines.

Despite the best efforts of the FCC and those in the media who stand to gain the most financially, the public has been able to make its opposition to this change known. Members of Congress have received thousands of calls from angry constituents who, already concerned about the lack of choice, fear that the FCC's decision will mean a further erosion of choice. The day before the FCC was to deliver its decision, they had to shut down their public email box because it overflowed with hundreds of thousands of complaints from ordinary citizens who recognized the gathering threat. Ted Turner and Barry Diller wrote editorials opposing the FCC's plan and groups across the political spectrum, from the NRA to now joined the chorus of voices condemning the decision.

It now falls to the Congress to serve the public interest and work to reverse this effort to dumb down the American media. The public interest is not served by a cookie-cutter approach to important policy issues. At stake is a loss of competition, local community perspectives and diversity. I look forward to working with my colleagues on both sides of the aisle to reverse the most troubling aspects of the FCC decision.

## HONORING RENEE MULLIKEN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. McINNIS. Mr. Speaker, it is my pleasure to rise today to pay tribute to a young woman from my district who exemplifies the positive attitude it takes to succeed in life. Renee Mulliken of Palisade, Colorado has known for some time that she wanted to be a gymnast. In fact, she began gymnastic classes at the age of three and has been competing in meets since she was 10. Her drive and determination escalated her up the gymnastic ranks, leading her to level nine, one step below the national level.

While warming up on a trampoline for a high school meet, Renee under-rotated on a flip and fractured her neck. The injury led to weeks in traction and several more in a stabilizing brace called a halo. The doctors told Renee that she would recover, but most thought her career as a gymnast was over. Renee set out to prove them wrong, and five days after she got the halo off, Renee was back competing.

It took some time and hard work for Renee to achieve her previous ability, but I am glad to say she has recently competed in the level eight state gymnastics meet. Renee's favorite event is the floor routine, where she can express herself through her movements and choice of music. Renee has made it clear to everyone who doubted her that she will continue her gymnastics career despite the injury she suffered.

Mr. Speaker, I am honored to stand before this Congress to recognize the accomplishments of Renee Mulliken. The hard work and determination Renee displayed should be an inspiration to us all. I wish Renee good luck in her gymnastics career and wish her the best in all of her future endeavors.

## TRIBUTE TO JOHN N. ARGER ON THE OCCASION OF HIS RETIREMENT FROM TEACHING

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. STUPAK. Mr. Speaker, I rise today to recognize the work and achievements of John Arger, a dear, close friend of mine who has challenged the thinking of literally thousands of students in his Marinette High School government and social studies classes since 1974.

John retired June 2, after 29 years of inspired teaching at Marinette High, which is just a stone's throw across the Menominee River in Wisconsin from my 1st Congressional District of Michigan. We don't use passports to cross the river, and John has made many important contributions to the two communities of Marinette, WI, and Menominee, MI, over his many years of teaching and involvement in local politics.

I have seen John in action when I visited his classes at Marinette High, and can testify from experience that he made the subjects of government and social studies come alive for his students. A favorite tradition for his students was a surreptitious after-midnight visit to the Arger yard at election time. The Argers would wake up to find one of every single candidate's yard signs displayed on their front lawn—testimony to how well the students learned the value of becoming informed about local, State and national issues.

One of John's special pleasures as a teacher was being able to re-connect with students he taught as freshmen when they came back to him in senior government classes. He loved seeing how they had grown intellectually and become adult in their concepts of community and the world. Returning students who have graduated and left their hometown often seek him out on return visits from the "bigger world" that he has helped them to understand, and he cherishes these one-on-one exchanges.

John grew up in Marquette, MI, where his mother Rose still lives. He attended Marquette High School and graduated from Northern Michigan University, NMU, in Marquette in 1970. He then earned his teaching certificate at NMU. In later years, he went on to earn two master's degrees, one in political science and a second in guidance and counseling.

In 1994, John was honored as an outstanding alumnus when NMU presented him its Alumni Service Award. The award recognized his work in support of higher education, his service on the NMU Alumni Board and his tireless efforts as a regional NMU alumni coordinator.

I have heard rumors that when John was in high school and college, he was a Goldwater Republican. John started to adjust this misguided but most likely well-intentioned position as soon as he began teaching. One morning—I imagine the sun was shining and bluebirds were singing—he woke up to the realization that the Republican party was not the party of the average American. He has been an unabashed liberal ever since.

However, in his early years as a teacher, he also prided himself on the fact that none of his students could tell what his political preferences were, even after a year spent discussing government and how it works.

John has contributed countless hours to the life of his community, through public service and in political campaigns at several levels. He and his wife Janice have lived in Menominee since their marriage in 1984, when he finally coaxed Jan away from her teaching career in West Bend to Menominee after years of dating.

Jan herself is a great asset not just to their happy and long-lived marriage, but to the Menominee community. She has been a special-education teacher with the Menominee Intermediate School System since joining John in Menominee. She received her master's degree from the University of Wisconsin-River Falls and specializes in speech pathology.

On Saturday, June 7, along with many other friends and colleagues of John's, I will be in Menominee to celebrate John's achievements and wish him well. Although his dad Nick passed away when John was still a young man, I know that Nick will be there in spirit, alongside Rose, Jan and a roomful of friends, to lift a glass of retsina with us as we say "Opa" to John in his retirement.

Mr. Speaker, John Arger is the kind of American who inspires our work here in this House. I ask you and my House colleagues to join me in giving him our heartiest congratulations and best wishes for a full and happy retirement.

## IN SPECIAL RECOGNITION OF GEOFFREY J. WIGHTMAN ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Geoffrey J. Wightman of Amherst, Ohio, has been offered an appointment to attend the United States Military Academy.

Mr. Speaker, Geoffrey's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2007. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Geoffrey brings a special mix of leadership, service, and dedication to the incoming class of West Point cadets. While attending Firelands High School, Oberlin-Henrietta Township, Ohio, Geoffrey has attained a grade point average of 3.6, which places him eighteenth in his class of one hundred fifty-four students. During his time at Firelands High School, Geoffrey has received several commendations for his superior scholastic efforts. Nathan's accomplishments include being on the honor role, being inducted into the National Honor Society, serving as the Historian in the National Honor Society, and First Place in the Science Fair in the field of Engineering.

Outside the classroom, Geoffrey has distinguished himself as an excellent musician, athlete and dedicated citizen of Amherst. On the fields of friendly strife, Geoffrey participated in Football, Wrestling in which he is a three year letter winner, cross country, and Track where he was again a three year letter winner. In addition to his athletic accomplishments, Geoffrey is an active member in his community participating in the Boy Scouts of America where he became an Eagle Scout, he has remained active in his Church, and an active member of North Coast Pipe Band, Buckeye Boys State, and a member of the Firelands High School class council.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Geoffrey J. Wightman. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Geoffrey will do very well during his career at United States Military Academy and I wish him the very best in all of his future endeavors.

## HONORING BRAD KOHRMANN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. McINNIS. Mr. Speaker, I stand before this body of Congress today to praise a man who has volunteered his time to help solve the mystery behind the unfortunate explosion of the space shuttle *Columbia*. This event was a tragic moment in our nation's history, but I am proud to know that our country and its citizens are making every effort to ensure the future safety of our brave astronauts. Brad Kohrmann, a volunteer fire fighter from Eagle, Colorado, searched the state of Texas for debris from the shuttle in hopes of obtaining clues into this mysterious catastrophe.

Brad became part of an 18-person team designed and put together by the Forest Service to recover shuttle debris. Brad selflessly left his home and family to help since he understood that a firefighter's training would be of use to NASA in their search. Brad has worked to hone his attention to detail, which made him an ideal candidate for the search party.

Brad's team found many pieces from the shuttle; the biggest was a chunk of the bulkhead, which was four feet long and over six feet wide. The smallest piece they found was no bigger than a quarter inch. When a piece was discovered, the recovery team would mark the area, and transmit the coordinates to a Global Positioning Satellite. Brad estimated that his team walked about eight miles a day, covering farm country, creeks, and some swampland.

Mr. Speaker, I am honored to speak before this Congress to highlight the contributions of Brad Kohrmann. He has sacrificed to assure the future safety of our astronauts as we lead the world in exploring the heavens. His actions exemplify the character and pride great Americans show in times of need by putting their country first. Thank you, Brad, for your work. You have done your country a tremendous service.

## IN SPECIAL RECOGNITION OF ALISA L. FELLHAUER ON HER APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Alisa L. Fellhauer of Port Clinton, Ohio, has been offered an appointment to attend the United States Air Force Academy.

Mr. Speaker, Alisa's offer of appointment poises her to attend the United States Air Force Academy this fall with the incoming cadet class of 2007. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Alisa brings a special mix of leadership, service, and dedication to the incoming class of Air Force Academy cadets. While attending the Port Clinton High School, Port Clinton, Ohio, Alisa has attained a grade point average of 3.88, which places her 13th in her class of 161 students. During her time at Port Clinton High School, Alisa has received several commendations for her superior scholastic efforts. During her first year, she received the Kiwanis Scholar Athlete Award. Her second year was marked by her being again awarded the Kiwanis Scholar Athlete Award as well as being inducted into the National Honor Society. Alisa went on in her senior year to maintain her role in the National Honor Society as well as being selected for participation in a highly selective biology program.

Outside the classroom, Alisa has distinguished herself as an excellent student-athlete and dedicated citizen of Port Clinton. On the fields of friendly strife, Alisa has participated in Varsity Cross Country, Varsity Basketball, and Varsity Softball. She is a three times Cross Country letter winner and served as the Team Captain her senior year. In addition to her athletic accomplishments, Alisa is an active member in her community participating in Key Club, Future Professionals in Medicine, National Honor Society, Relay for Life, and the Buckeye Girl's State.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Alisa L. Fellhauer. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Alisa will do very well during her career at Air Force and I wish her the very best in all of her future endeavors.

## IN SPECIAL RECOGNITION OF JENNIFER L. LEWIS ON HER APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Jennifer L. Lewis of Sandusky, Ohio, has been offered an appointment to attend the United States Military Academy.

Mr. Speaker, Jennifer's offer of appointment poises her to attend the United States Military Academy this fall with the incoming cadet class of 2007. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertaking of their lives.

Jennifer brings a special mix of leadership, service, and dedication to the incoming class of West Point cadets. While attending Perkins High School, Sandusky, Ohio, Jennifer has attained a grade point average of 4.248, which places her first in her class of 152 students. During her time at Perkins High School, Jennifer has received several commendations for her superior scholastic efforts. Jennifer's accomplishments include being on the honor roll for all four years, placing third of fifty-four in the Greater Toledo Council of Teachers of Mathematics Integrated Math I exam and eighteenth of two hundred and four in the Greater Toledo Council of Teachers of Mathematics Geometry Exam.

Outside the classroom, Jennifer has distinguished herself as an excellent musician, athlete and dedicated citizen of Sandusky. On the fields of friendly strife, Jennifer participated in Track and Karate. In addition to her athletic accomplishments, Jennifer is an active member in her community participating in Huron Township Conservation Club.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Jennifer L. Lewis. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Jennifer will do very well during her career at the United States Military Academy and I wish her the very best in all of her future endeavors.

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## IN SPECIAL RECOGNITION OF AARON M. WURST ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Aaron M. Wurst of Ottoville, Ohio, has been offered an appointment to attend the United States Military Academy.

Mr. Speaker, Aaron's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2007. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Aaron brings a special mix of leadership, service, and dedication to the incoming class of West Point cadets. While attending Ottoville High School, Ottoville, Ohio, Aaron has attained a grade point average of 4.0. During his time at Ottoville High School, Aaron has received several commendations for his superior scholastic efforts. Aaron's accomplishments include Academic Letters, being awarded the Voice of Democracy School winner, was selected to participate in several highly selective mathematics competitions, as well as being inducted into the National Honor Society.

Outside the classroom, Aaron has distinguished himself as an excellent athlete. On the fields of friendly strife, Aaron participated in Cross Country where he earned his Varsity Letter, Basketball, and Track. In addition to his athletic accomplishments, Aaron is an active member in the student council where he served as his Class President and the drama club.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Aaron M. Wurst. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Aaron will do very well during his career at the United States Military Academy and I wish him the very best in all of his future endeavors.

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## SMOKELESS TOBACCO

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. WAXMAN. Mr. Speaker, the United States Tobacco Company has requested that it be allowed to market certain dangerous and addictive products as less harmful than cigarettes. UST would like to market these products immediately without regulation by a health agency.

I recently obtained UST documents that speak to the clear need for effective and comprehensive regulation prior to any health claims for smokeless tobacco. Because it is in the public's interest to review the content of these documents, I am inserting them into the public record, along with a "dear colleague" letter I recently circulated, the UST response, and a letter I sent yesterday to House Committee on Energy and Commerce Chairman BILLY TAUZIN on this matter.

APRIL 28, 2003.

SHOULD SMOKELESS TOBACCO BE MARKETED AS "REDUCED RISK"?

DEAR COLLEAGUE: In recent weeks, the United States Smokeless Tobacco Company, Incorporated (UST), the country's largest manufacturer of smokeless tobacco products, has begun to lobby Congress for permission to tell potential customers that using smokeless tobacco is safer than smoking cigarettes. The request follows a prior petition to the Federal Trade Commission (FTC), which UST has now withdrawn, in which UST proposed telling consumers: "Many researchers in the public health community have expressed the opinion that the use of smokeless tobacco involves significantly less risk of adverse health effects than smoking cigarettes."

It would be a serious mistake for Congress to endorse "reduced risk" claims proposed by UST outside of effective regulation of tobacco products. Attached are two documents from the Campaign for Tobacco Free Kids on (1) smokeless tobacco and (2) UST's request to Congress. I would draw your attention to several key points:

"Reduced risk" claims need to be scrutinized carefully. If new claims that smokeless tobacco is safer than cigarettes cause fewer smokers to quit tobacco altogether, or if these claims encourage non-tobacco users—especially young people—to begin using smokeless tobacco products, any theoretical benefit to those switching from cigarettes to smokeless tobacco products may be undermined. That's why the Institute of Medicine and other experts who favor risk reduction strategies, including several tobacco control advocates cited by UST, actually believe that such claims should be made only with regulatory oversight. A regulatory system would allow close monitoring of health claims and assessment of the true impact on death and disease rates.

The Swedish model does necessarily not apply to the United States. UST points to Sweden as a country with relatively high levels of smokeless tobacco use and relatively low levels of cigarette smoking. Yet Sweden's situation is considerably different. First, Swedish smokeless tobacco is a different product from the one that UST makes. Second, Sweden also has tight restrictions on tobacco products, including high taxes and a marketing ban. Third, Sweden does not allow health claims to be made for smokeless tobacco products.

UST does not have a responsible track record. The U.S. Surgeon General, the National Cancer Institute, and other major scientific and public health agencies have concluded that smokeless tobacco poses significant health risks, causes oral cancer and other noncancerous oral conditions, and can lead to nicotine addiction. UST, however, has recently asserted that "smokeless tobacco has not been shown to be a cause of any human disease." The company also has a long history of marketing to children, including flouting restrictions on marketing to minors and the addition of cherry, mint, and other flavorings that increase their products' appeal to youth. This record indicates the need for close regulatory oversight of any health claims made by the company.

With cigarette smoking responsible for more than 400,000 deaths in the United States each year, there is reason to consider nonconventional strategies to save lives. However, these strategies should be based upon science and carefully monitored in a regulatory scheme to assure that they do not cause more harm than good.

If you would like more information, please do not hestitate to contact Josh Sharfstein on the minority staff of the Government Reform Committee (202) 225-5420.

Sincerely,

HENRY A. WAXMAN,
*Ranking Minority Member.*

### Smokeless ("Spit") Tobacco in the United States: An Overview of the Health Risks and Industry Marketing Aimed at Children

What do the experts say about smokeless tobacco?

Smokeless tobacco in the United States causes cancer.

Smokeless tobacco in the United States is not a safe alternative to cigarettes.

Smokeless tobacco in the United States is not regulated and any health claims about the product have not been verified by an independent, objective government authority.

Smokeless tobacco manufacturers in the United States have systematically marketed their products to children and adolescents.

Smokeless tobacco, and the manner in which it is manufactured, marketed and sold, in the United States is substantially different from what is occurring in Sweden.

*U.S. Surgeon General:*

"After a careful examination of the relevant epidemiologic, experimental, and clinical data, the committee concludes that the oral use of smokeless tobacco represents a significant health risk. It is not a safe substitute for smoking cigarettes. It can cause cancer and a number of non-cancerous oral conditions and can lead to nicotine addiction and dependence."

"The scientific evidence is strong that the use of snuff can cause cancer in humans. The evidence for causality is strongest for cancer of the oral cavity, wherein cancer may occur several times more frequently in snuff dippers compared to non-tobacco users. The excess risk of cancer of the cheek and gum may reach nearly fifty-fold among long-term snuff users."

*U.S. National Cancer Institute:*

"The bioassay data strongly support the epidemiological observation that ST is carcinogenic to humans. Twenty-eight carcinogens have been identified in chewing tobacco and snuff. The high concentrations of N-nitrosamines in ST, and especially the high levels of TSNA, are of great concern."

"The evidence that NNK and NNN play a role in human oral cancer induced by snuff is strong. Both compounds are present in significant amounts in snuff and in the saliva of snuff dippers. They are metabolically activated in snuff dippers to intermediates that bind to hemoglobin. They cause oral tumors in rats and are metabolically activated by rat and human oral tissue. Although there are many questions about the mechanisms by which snuff causes oral tumors in rats and humans, there is no doubt that the presence of NNK and NNN in snuff is an unacceptable risk to people who choose to use these products."

*U.S. National Toxicology Program:*

"The oral use of smokeless tobacco is known to be a human carcinogen based on sufficient evidence of carcinogenicity from studies in humans which indicate a causal relationship between exposure to smokeless tobacco and human cancer."

"Smokeless tobacco has been determined to cause cancers of the oral cavity. Cancers of the oral cavity have been associated with the use of chewing tobacco as well as snuff which are the two main forms of smokeless tobacco used in the United States."

*World Health Organization:*

"There is conclusive evidence that certain smokeless tobacco products increase risk of oral cancer, specifically . . . smokeless tobacco in the United States."

### MARKETING SMOKELESS ("SPIT") TOBACCO TO KIDS

The smokeless tobacco companies have a long history of creating new products that appeal to kids and marketing them aggressively to children. Their efforts have created a whole new market for spit tobacco—in kids.

### A SHIFT FROM OLDER TO YOUNGER SMOKELESS TOBACCO USERS

Since 1970, smokeless tobacco has gone from a product used primarily by older men to one used predominantly by young men and boys. In 1970, males 65 and older were almost six times, as likely as those ages 18–24 to use smokeless tobacco regularly (12.7 percent vs. 2.2 percent. By 1991, however, young males were 50 percent more likely than the oldest ones to be regular users. (8.4 percent vs. 5.6 percent. This pattern holds especially true for moist snuff, the most popular type of smokeless tobacco. From 1970 to 1991 the regular use of moist snuff by 18–24 year old males increased almost ten-fold, from less than one percent to 6.2 percent. Conversely, use among males 65 and older decreased by almost half, from 4 to 2.2 percent. Among all high school seniors who have ever used smokeless tobacco, almost three-fourths began by the ninth grades.

Despite some recent declines in youth smokeless tobacco use, 14.8 percent of all boys in U.S. high schools—and 1.9 percent of high-school girls—currently use smokeless tobacco products. In some states, smokeless tobacco use among high school males is particularly high, including Montana (25.2 percent), Wyoming (28.6 percent), West Virginia (33.0 percent), and Arkansas (24.9 percent).

UST (the parent company of the U.S. Smokeless Tobacco Company) is the biggest smokeless tobacco company in the Untied States. It controls about 40 percent of the total U.S. smokeless tobacco market, including 75 percent of the moist snuff tobacco market, which is both the largest segment of the smokeless tobacco market and the only segment that has recently grown.

### STRATEGIES TO HOOK KIDS

According to internal company documents, UST developed a strategy some time ago for hooking new smokeless tobacco users, which means kids. As one document states: "New users of smokeless tobacco—attracted to the product for a variety of reasons—are most likely to begin with products that are milder tasting, more flavored, and/or easier to control in the mouth. After a period of time there is a natural progression of product switching to brands that are more full-bodied, less flavored, have more concentrated 'tobacco taste' than the entry brand."

Following this strategy, in 1983–84, UST introduced Skoal Bandits and Skoal Long Cut, designed to "graduate" new users from beginner strength, to stronger, more potent products. A 1985 internal UST newsletter indicates the company's desire to appeal to youth: "Skoal Bandits is the introductory product, and then we look towards establishing' a normal graduation process." In 1993, cherry flavoring was added to UST's Skoal Long Cut, another starter product. A former UST sales representative revealed that "Cherry Skoal is for somebody who likes the taste of candy, if you know what I'm saying."

Smokeless tobacco products have been marketed to youth through a number of channels, including sports events like auto racing and rodeos that are widely attended by kids. Although the state tobacco settlement agreements have limited UST's ability to continue to do brand-name sponsorships of events and teams, UST continues to be a promotional sponsor of both professional motorsports and rodeo and bull riding. In motorsports, UST sponsors are Skoal Racing funny car team on the National Hot Rod Association circuit. In rodeo and bull riding, UST supports the Rodeo Cowboys Association, the Professional Bull Riders, Inc., and the National Intercollegiate Rodeo Association. As the general manager of the College Finals said, "U.S. Tobacco is the oldest and best friend college rodeo ever had."

Continuing its efforts to lure and maintain young users, in February 1999, UST ran a full-color advertising insert for its Rooster brand smokeless tobacco in the Daily Aztec, the college paper at San Diego State University. The ad offered a sweepstakes for an all expenses paid trip to the Playboy mansion and, in direct violation of California law, included a $1.00 coupon. State enforcement efforts related to the ad forced UST to pay a fine of $150,000 and also pay for a parallel ad insert opposing smokeless tobacco use.

From 1985 to 1999 (the most recent year with available data), the total marketing expenditures of the top-five smokeless tobacco companies in the United States (Conwood Company, National Tobacco Company, Swedish Match North America, Inc., Swisher International, and United States Tobacco Company) have more than doubled, as have their sales revenues. In 1999, these smokeless tobacco companies spent more than $170 million to advertise and market their deadly products. Some of these funds pay for smokeless tobacco ads in magazines with high youth readership, such as Sports Illustrated and Rolling Stone. In fact, despite the restrictions placed on youth advertising by the Smokeless Tobacco Master Settlement Agreement (STMSA), UST has continued to heavily advertise in youth-oriented magazines. For the period 1997–2001, UST's expenditures in youth magazines increased from $3.6 million to $9.4 million, a 161% increase.

In August 2001, UST announced plans to market a brand new smokeless tobacco product called Revel. UST is marketing the new product as a way to consume tobacco in places or situations when smoking is not allowed or is not socially acceptable. Public health organizations and others are concerned that this new product may lure even more kids into smokeless tobacco use and addiction—both because of its novelty and the misconception that it is a safe form of tobacco use, and because it can be consumed much less conspicuously than either cigarettes or existing smokeless tobacco products at home, in school, and in other locations. There is also a concern that some current cigarette smokers who might ultimately quit because of the social stigma associated with smoking, the inconvenience caused by smoking restrictions at work and elsewhere, or a desire to protect their family and friends from secondhand smoke will switch to Revel or other smokeless products, instead.

These public health risks are significant, especially since the Star tobacco company has also begun selling a smokeless product, known as Ariva, and has sold Brown & Williamson (the third largest U.S. cigarette company) the right to market Star's new product under B&W's own brand name.

### HEALTH RISKS ASSOCIATED WITH SMOKELESS TOBACCO USE

Smokeless tobacco use can lead to oral cancer, gum disease, and nicotine addiction; and it increases the risk of cardiovascular disease, including heart attack. More specifically:

Smokeless tobacco causes leukoplakia, a disease of the mouth characterized by white patches and oral lesions on the cheeks, gums, and/or tongue. Leukoplakia, which can lead to oral cancer, occurs in more than half of all users in the first three years of use. Studies have found that 60 to 78 percent of smokeless tobacco users have oral lesions.

Constant exposure to tobacco juice causes cancer of the esophagus, pharynx, larynx, stomach and pancreas. Smokeless tobacco users are up to 50 times more likely to get oral cancer than non-users. These cancers can form within five years of regular use.

Smokeless tobacco contains nitrosamines, proven carcinogens, as well as 30 metals and a radioactive compound called polonium-210. A study by the American Health Foundation for the State of Massachusetts found that the level of cancer causing tobacco specific nitrosamines (TSNAs) in U.S. oral snuff brands were significantly higher than comparable Swedish Match brands. These data suggest that it is possible for smokeless tobacco companies to produce oral snuff with significantly lower TSNA levels.

This same study found that the two leading U.S. snuff brands, Copenhagen and Skoal, had large increases in TSNA levels when placed on a shelf at room temperature over a six-month time period. The TSNA levels increased 20 percent in Skoal and by 137 percent in Copenhagen, while no significant changes were observed in Swedish match brands.

Chewing tobacco has been linked to dental caries. A study by the National Institutes of Health and the Centers for Disease Control and Prevention found chewing tobacco users were four times more likely than non-users to have decayed dental root surfaces. Smokeless tobacco also causes gum disease (gingivitis), which can lead to bone and tooth loss.

A number of researchers and at least one U.S. smokeless tobacco company (UST) who point to the experience of Sweden and their use of a smokeless product called "snus", as a prime example of why smokeless tobacco is not harmful and should be promoted as a harm reduction and/or smoking cessation aid. However, upon closer examination the snus experience in Sweden is completely irrelevant in the context of the United States for a number of reasons. First, snus is a different product from American smokeless products (even the products sold by the North American division of Swedish Match) in that Swedish snus is highly regulated and manufactured according to strict standards. The makers of Swedish snus (Swedish Match) are not allowed to make health claims, and they are forbidden from even marketing the product at all. In the United States, we have a situation where all tobacco products (including smokeless products) are exempt from product regulation and that have been marketed irresponsibly to kids for decades. In addition, there is also disagreement among the researchers as to whether snus has, in fact, played a role in reducing smoking in Sweden.

### INDUSTRY DENIALS OF HARMS OF SMOKELESS TOBACCO

Despite all the evidence of the harms of smokeless tobacco, in April 1999, a spokesperson for UST, quoted in the Providence Journal, claimed that it has not been "scientifically established" that smokeless tobacco is "a cause of oral cancer." The Rhode Island Attorney General subsequently filed a legal action against U.S. Tobacco for violating the multistate settlement agreement's provisions prohibiting false statements about the health effects of tobacco products. As a result, UST was required to formally acknowledge that the Surgeon General and other public health authorities have concluded that smokeless tobacco is addictive and can cause oral cancer and to pay $15,000 to the Attorney General's office for efforts to prevent Rhode Island youths from using tobacco.

On February 5, 2002, in a letter to the U.S. Federal Trade Commission seeking an advisory opinion to make statements in its advertising that smokeless tobacco products are safe alternatives to cigarettes, UST concluded that, ". . . it is USSTC's position that smokeless tobacco has not been shown to be a cause of any human disease [emphasis added]."

### SMOKELESS TOBACCO A "GATEWAY" TO OTHER DRUGS?

High school students who use smokeless tobacco 20 to 30 days per month are nearly four times more likely to currently use marijuana than nonusers, almost three times more likely to ever use cocaine, and nearly three times more likely to ever use inhalants to get high. In addition, heavy users of smokeless tobacco are almost 16 times more likely than nonusers are to currently consume alcohol, as well.

A recent study in the American Journal of Preventive Medicine found that "snuff use may be a gateway form of nicotine dosing among males in the United States that may lead to subsequent cigarette smoking." Further, the study found that "the prevalence of smoking was substantially higher among men who had quit using snuff than among those who had never used snuff, suggesting that more than 40 percent of men who had been snuff users continued or initiated smoking.

### TYPES OF SPIT TOBACCO

Oral (moist) snuff is a finely cut, processed tobacco, which the user places between the check and gum, that releases nicotine which, in turn, is absorbed by the membranes of the mouth.

Looseleaf chewing tobacco is stripped and processed cigar-type tobacco leaves that are loosely packed to form small strips. It is often sold in a foil-lined pouch and usually treated with sugar or licorice.

Plug chewing tobacco consists of small, oblong blocks of semi-soft chewing tobacco that often contain sweeteners and other flavoring agents.

Nasal snuff is a fine tobacco powder that is sniffed into the nostrils. Flavorings may be added during fermentation, and perfumes may be added after grinding.

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### USSTC Spit Tobacco Products

*Spit Tobacco Is Harmful:* The Surgeon General, the National Cancer Institute and numerous other scientific bodies have determined that there is conclusive evidence that the use of the spit tobacco products sold in the United States, also known as smokeless tobacco, increases the risk of serious disease, including oral cancer. This conclusion is as true today as when Congress mandated health warnings on all spit tobacco products in 1986. This is not surprising because 28 cancer-causing chemicals have been found in these products. Spit tobacco is not a safe alternative to smoking. Despite this and a 1999 agreement with the Rhode Island Attorney General by U.S. Tobacco Company (the parent company of U.S. Smokeless Tobacco Company or USSTC) not to make statements "to any news media . . . to the effect that any of its tobacco products do not cause or have not been proven to cause adverse health consequences . . ." USSTC claimed in a 2002 letter to the Federal Trade Commission (FTC) "smokeless tobacco has not been shown to be a cause of any human disease."

*Spit Tobacco and Its Marketing Should Be Regulated by a Science-Based, Health Agency:* USSTC wants government approval for it to market its products as less hazardous than cigarettes without any additional control over its marketing or its products. Unless the U.S. Food and Drug Administration (FDA) is first given meaningful authority over spit tobacco products, including the authority to oversee the content, manufacture, sale, and marketing of spit tobacco, this request will only increase the harm caused by tobacco. Why is this so? Absent such regulation, marketing by USSTC of its products as less hazardous is likely to result in the following:

It will attract new young users to use spit tobacco by communicating that it does not pose a serious risk. This is precisely what happened twenty years ago when USSTC used similar messages as part of a marketing campaign that led to an explosive growth in youth spit tobacco use; and

It may discourage some smokers from quitting by misleading them to believe that smokeless tobacco products offer a safe alternative to quitting.

In addition, in the absence of FDA regulation there are no manufacturing standards governing these products or their relative safety. This is especially important because tests have shown extremely wide variations in levels of toxins in spit tobacco products across brands in the United States as well as across the same brands over their shelf life.

*USSTC Markets Its Products To Youth:* USSTC has a long history of marketing its products to youth through the development of starter products (pouches, long cut, etc.), the addition of flavorings (cherry, mint), and the strategy of graduating users from entry products to stronger ones. In fact, it is the company most responsible for turning spit tobacco from a product used primarily by old men and women to one used by young people. Despite the restrictions placed on youth advertising by the Smokeless Tobacco Master Settlement Agreement, the U.S. Tobacco Company (UST) has continued to heavily advertise in youth-oriented magazines. For the period 1997–2001, UST's expenditures in youth magazines increased from $3.6 million to $9.4 million, a 161% increase. Without regulation of the way its harm reduction claims are marketed, there is absolutely no reason to believe that their marketing will lead to anything other than an overall greater use of tobacco products, with the attendant harm on public health.

*Comparing USSTC Products to Swedish Snus Is Like comparing Apples To Ants:* USSTC likes to compare its efforts to those of Snus in Sweden and to claim that its products can be an effective harm reduction strategy. The differences in the Swedish and U.S. products and the differences in the Swedish and U.S. regulatory environments render this comparison ludicrous. Any gains that might have been achieved by Snus in Sweden have been accomplished with a product that is many times lower in cancer-causing nitrosamines and other toxic substances than the USSTC products sold in the U.S. Sweden also carefully regulates spit tobacco products and their marketing. To prevent marketing claims from making these products more attractive to non-users, Sweden prohibits ANY advertising of the product and prohibits the kinds of claims USSTC wants to make here. There is every reason to believe that operating in an unregulated environment, a company such as USSTC, with its long history of employing every possible marketing avenue to attract youth, would only use health claims to further expand its market, especially among youth.

*USSTC Should Support FDA Regulation of Tobacco As The Solution:* If USSTC is serious about reducing the harm caused by tobacco, and about assuring that the marketing of its products as less hazardous contributes to improvement in public health, it would support the effective regulation of tobacco products by the FDA as outlined by the major public health groups. Less hazardous, nicotine-replacement therapies are regulated by the FDA. Why should the manufacturers of spit tobacco products, attempting to make similar health claims, be treated any differently? Only regulation of spit tobacco products by a qualified, science-based agency like the FDA can assure that health claims for spit tobacco are accurate, appropriate and protect public health.

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US. SMOKELESS TOBACCO CO.,
*Greenwich, CT, May 23, 2003.*

Hon. HENRY A. WAXMAN,
*Ranking Minority Member, Committee on Government Reform, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CONGRESSMAN WAXMAN: I read with interest your "Dear Colleague" letter dated April 28, 2003, regarding smokeless tobacco in the context of tobacco harm reduction and the attached documents from the Campaign for Tobacco-Free Kids, portions of which are referenced in your letter. There appears to be widespread agreement in the public health community regarding your observation that "with cigarette smoking responsible for more than 400,000 deaths in the United States each year, there is reason to consider nonconventional strategies to save lives." As you are aware, one such "nonconventional strategy" increasingly discussed in the public health community is that cigarette smokers who do not quit and do not use medicinal nicotine products should switch completely to smokeless tobacco products.

The debate regarding tobacco harm reduction and the role of smokeless tobacco products as part of that effort is at a crossroads. U.S. Smokeless Tobacco Company ("USSTC") has been actively and constructively engaged in discussing the merits of that issue. Unfortunately, the Campaign of Tobacco-Free Kids does not seem interested in discussing the merits of communicating to adult cigarette smokers that smokeless tobacco is a significantly reduced risk alternative to cigarette smoking. Rather, the Campaign for Tobacco-Free Kids disseminates documents of the type attached to your letter that have little relevance to the issue at hand, but contain numerous statements that are inaccurate or misleading. Several of those statements relating directly to USSTC require a response.

The Campaign for Tobacco-Free Kids' central allegation is that USSTC has engaged in "strategies to hook kids" on smokeless tobacco products. In particular, the Campaign for Tobacco-Free Kids alleges that USSTC (i) employed a "graduation strategy" for hooking new smokeless tobacco users, which means kids," (ii) added cherry flavoring to Skoal Long Cut in 1993 in order to appeal to underage youth (iii) "marketed to youth through a number of channels including sports events like auto racing and rodeos that are widely attended by kids," and (iv) places "smokeless tobacco ads in magazines with high youth readership, such as Sports Illustrated and Rolling Stone.

The allegation that USSTC engages in "strategies to hook kids" could not be further from the truth. USSTC has made clear its commitment to market its smokeless tobacco products only to adults. For example, USSTC is the only smokeless tobacco company to enter into the Smokeless Tobacco Master Settlement Agreement ("STMSA") with the Attorneys General of 45 states and various territories. As a result, USSTC is supporting programs to reduce youth usage of tobacco, and has agreed to limitations on its advertising and marketing efforts that might be attractive, in the view of the Attorneys General, to underage potential consumers of smokeless tobacco, even though USSTC's competitors have agreed to no such restrictions.

*"Graduation Strategy" Allegations:* USSTC does not employ any marketing strategy based upon a theory that consumers can be enticed to begin using "beginner strength" smokeless tobacco products, and subsequently be caused to "graduate" to smokeless tobacco products that are "stronger" or "more potent." Any suggestion that USSTC's line of products is developed based upon "graduating" levels of "strength" or "potency" is not true. Smokeless tobacco consumers remain loyal to a single brand or switch among a variety of brands according to their preference for flavor, cut of tobacco, form and packaging. Moreover, there is no set pattern of brand switching among smokeless tobacco consumers. They do not conform to any so-called "graduation strategy."

Company documents from the early 1980s reflect that there were discussions among some at the Company about a "graduation process," "hypothesis" or "theory." While the term "graduation process" apparently meant different things to different people, the theory seems to have been an attempt by some to provide a shorthand explanation for consumer behavior in switching between brands of smokeless tobacco, including between the Company's own brands. The term "graduation process" as used in the early 1980s: (i) did not relate to marketing to youth, (ii) did not drive the Company's marketing strategies, and (iii) is contradicted by consumer behavior in the marketplace.

*Cherry Flavoring:* The suggestion that cherry flavored Skoal Long Cut was designed to appeal to underage youth is baseless. Cherry flavored tobacco products have been on the market since 1910. Since then, there have been dozens of brands of cigars, chewing tobacco, pipe and other smoking tobacco products with cherry flavor marketed to adults. The use of cherry flavor tobacco products is not surprising. Many products marketed for adults, such as Maalox, Alka-Seltzer and Tums, are available in cherry flavor because of its appeal to those adults.

*Sponsorship of Professional Motorsports and Rodeos:* As noted above, an underlying purpose of the STMSA contains a comprehensive array of restrictions that substantially limit the Company's activities with respect to marketing its smokeless tobacco products. Among other restrictions USSTC has agreed that it will not engage in brand name sponsorships of concerts, events in which youth comprise a significant portion of the audience, events in which youth are paid participants or contestants, football, soccer, basketball and hockey. USSTC's sponsorship of professional motorsports and rodeos is part of the Company's efforts to promote its products to adult consumers and is wholly appropriate under the terms of the STMSA.

*Magazine Ads:* As the Campaign for Tobacco-Free Kids is fully aware, USSTC does not currently advertise in Sports Illustrated or Rolling Stone. On June 7, 2002, USSTC announced that in order to leave no doubt that its marketing program is oriented to adults and adults only, it would suspend advertising in a small number of magazines while it reviewed concerns regarding possible youth readership, even though the overwhelming majority of readers of those magazines were adults. The magazines involved were Sports Illustrated, Hot Rod, Motor Trend and Sporting News. USSTC stopped advertising in Rolling Stone in 2001.

USSTC appreciates your interest in this important public health issue, and looks forward to continuing its participation in the debate regarding tobacco harm reduction and the potential role of smokeless tobacco.

Sincerely,

RICHARD H. VERHEIJ.

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
*Washington, DC, June 3, 2003.*

Hon. W.J. (BILLY) TAUZIN,
*Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: You may have recently received a copy of a May 23, 2003, letter from U.S. Smokeless Tobacco Company (UST) in connection with today's hearings on "reduced risk" tobacco products. As you consider this letter, you should know that it is deceptive on important issues.

The UST letter was written in response to a "Dear Colleague" letter that I wrote on April 28, 2003. My Dear Colleague made two major points: (1) that public health authorities have concluded that "reduced risk" claims for tobacco products should be made only in the context of strict regulatory oversight and (2) that the need for regulatory oversight of such claims is underscored by UST's history of untrustworthy marketing. The Dear Colleague attached two fact sheets from the Campaign for Tobacco Free Kids. The fact sheets detailed UST's use of a "graduation strategy" to hook young users on low-nicotine products and then "graduate" them to higher-nicotine products. They also described the company's strategy of appealing to children through the use of cherry flavoring in its "starter" products.

In its May 23 response, UST dismisses the allegation that the company "has engaged in strategies to hook kids" as "inaccurate or misleading." UST claims that it does not and has never used a "graduation strategy," certainly not one related to marketing to youth. UST also rejects as "baseless" the suggestion that its cherry-flavored products were designed to appeal to children.

Since receiving UST's May 23 letter, I have obtained copies of internal company documents that validate the points made in my Dear Colleague and conflict with the assertions in UST's letter. These documents show that the company planned a "graduation strategy" starting with "young" consumers, that the company has long known that flavoring in smokeless tobacco products appeals to young smokeless tobacco users, and that UST deliberately adds flavoring to "starter products." The documents also indicate that UST marketed its products to children as young as 13 or 14. Copies of these previously undisclosed documents are enclosed with this letter.

These documents and UST's response are relevant to the Committee's consideration of UST's request for permission to market smokeless tobacco as safer than cigarettes. While UST may say that it would never abuse authority to make "reduced risk" claims, the company's past practices—and its recent correspondence denying these practices—call the company's veracity seriously into question.

### UST'S GRADUATION STRATEGY

UST states that it never employed a "graduation strategy" in marketing its tobacco products and that any documents from officials at the company discussing the strategy merely reflected a "hypothesis," "did not relate to marketing to youth," and "did not drive the Company's marketing strategies."

This claim is difficult to believe in light of the documents that I have obtained. The documents show definitively that a graduation strategy aimed at youth was in fact the company's goal and that implementing this strategy was the objective of the highest-ranking officials in the company. In particular, a 1980 memo from the Senior Vice President for Marketing and Sales to the Chairman of the Board and President of UST sets forth two of the company's marketing "objectives" as follows:

Introduce an easy-to-use, "starter" product; and

Provide new users with an easy graduation process.

That this graduation process is aimed at young customers is expressly stated later in the document. A chart labeled "Marketing Action Staging," which includes specific dates for implementation of each action as early as two months from the date of the memo, reads as follows:

| Brand/segment | Objective |
|---|---|
| Ball'n Chew Wintergreen Plastic Can | Introduce easy to use, "starter" product to increase consumer base, especially among the young. |
| Skoal Straight Plastic Can | Introduce line extension to support "natural vertical" graduation process |

This document also contains a chart, entitled "Product Development and Positioning," that depicts "young, newer" "light" users at the bottom of a continuum that ends in "older, confirmed" "heavy" users. Marching up this continuum are the company's smokeless products, with the lightest products at the bottom and the strongest products at the top.

### USE OF FLAVORED PRODUCTS TO APPEAL TO YOUTH

UST claims that cherry flavoring is common in adult products like Maalox and Tums and therefore that there is no basis to believe that the company used sweet flavors to appeal to children. But the company had clear understanding that favors appeal to young users and not to adults. In the document quoted above, the Senior Vice President for Marketing and Sales states the following "assumptions":

*ASSUMPTIONS:*

Younger and lighter users prefer a favor, not a natural.

Older and heavier users prefer real tobacco taste and strength.

Happy Days [a lighter product] can be a better brand and better "graduator" with a change in favor.

### UST'S MARKETING TO CHILDREN

Another document indicates that the UST's sales force marketed to children as young as 13 or 14. A memo from a regional sales manager to UST's National Sales Manager describes the effect of a competing product on sales of UST products. The memo states that retailers report that Hawken, a product from a UST competitor: "is being used by young kids and young adults. The age of the kids is from 9 years old and up. I believe this to be true because outlets located close to schools (all grades) are definitely the heavier Hawken outlets we visited. . . . Also, the people who knew about mouth tobaccos felt the sweet taste was a definite factor with the kids."

This memo goes on to say that Hawken "has reached kids four or five years earlier than we have contacted them in the past." Because the memo is describing a product being used by 9-year-olds, the clear indication is that UST was marketing to kids of 13 or 14 years.

### CONCLUSION

As we consider UST's desire to market its products as safer than cigarettes, we must keep in mind both the company's marketing history and its continuing deceptions. Essentially, UST is asking Congress to trust that the company will make responsible claims about its products. But it is hard to see how such trust is warranted given the company's track record. Certainly, the company should not be permitted to make "reduced risk" claims about its products without strict regulatory oversight.

Sincerely,

HENRY A. WAXMAN,
*Ranking Minority Member.*

Enclosures (2).

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### U.S. TOBACCO INTRA-COMPANY CORRESPONDENCE

JANUARY 4, 1980.

From: Barry J. Nova, Sr., Vice President Marketing and Sales.

To: Louis P. Bantle, Chairman of the Board and President.

Subject: "Moist" Development.

U.S. Tobacco has "made" the market in moist smokeless tobacco; a segment that remains in the early stages of growth on a product life cycle graph. We must continue to "lead" the category in order to:

Enlarge our consumer base;

Preempt probable competition; and

Maintain corporate growth and profit.

A recent document from Peter directed itself to "product leadership"; to the methods of ascertaining the right products in the right positions to meet potential user needs. While some of the choices and recommendations might be questioned, it is not the intent of the writer to mark down a good beginning. Rather, in conjunction with those carboned above it is the purpose of this memorandum to further define marketing action needed to meet the following objectives:

Introduce an easy-to-use, "starter" product;

Provide new users with an easy graduation process;

Develop better packaging; and

Maintain a simplicity in the product line.

#### *Easy graduation process*

There are two "leaders" extant in today's marketplace: Skoal, with a wintergreen flavor; and Copenhagen, with a more natural tobacco taste. While Skoal is the biggest seller, reasonable percentage growth is still apparent in the Copenhagen brand; and both continue to outpace Happy Days (mint)—where about 20% of current poundage is samples—on a poundage growth basis.

In addition, two other "natural" brands continue to show strength with very limited promotional support—W B Cut and Key.

Simply, then, we should concentrate on the two proven areas of acceptability—Wintergreen and Natural; and build vertically in these two flavors, permitting the consumer to "move-up" or strengthen his pleasure in a taste that he is used to and comfortable with. Even our new loose leaf chew would fit comfortably in the pattern.

And while we do feel that mint/spearmint is an acceptable American flavoring in food and gums, it has not yet been completely proven as a tobacco additive; and a triple flavor track rather than a vertical duality would be too complex now.

#### *Simplified product line*

We cannot, and should not, attempt to be "all things to all people" now. After all, it must be remembered that we are just beginning to tap the market's potential, and that the brands we sell, in most cases, seem to meet a need or a want. To proliferate many new products/line extensions might very well cause:

Confusion among potential new users as to where to begin and with what.

Confusion among current users regarding what to move to; possibly creating no new business, just a transfer of business intraline.

Problems in media promotion: difficulty in creating strong, separate positioning statements; lack of frequency to explain all various elements.

Trade dismay and lack of support. Moist has been "welcomed" by the trade, but for the next four to five years we will not be at the point where we can demand two to three times the warehouse or retail shelf space that we now enjoy. To try to put out a myriad of products is to run the severe risk of alienating a carefully built trade rapport based on good sales from consumer demand, as well as inviting an ever-increasing damaged goods problem.

#### *"Easy-to-use" starter product development and intro*

This must be our priority niche at present, for obvious reasons:

Expansion demands a continually enlarging new user base.

"Floating" and saliva build-up are still negatives to the "beginner".

Most readily available entry segment for competition on both a product development basis and ratio of pay-back to investment. (And who is to say that a so-called "starter" product cannot carve-out, in part, its own on-going user base.)

Happy Days, because of some difficulty in use and apparent ill-defined flavor, may not be the best effort we can make for "starters". It can be improved, and then perhaps, could be positioned as part of the "regular" line.

Good Luck, a technological advance in packaging rather than a break through in taste, is selling reasonably well in most test areas; but requires better flavor and a final, true evaluation before capital is expended on additional machinery.

Our new, shag cut, "balling" smokeless brand (whether it is truly "balled" or just flattened between the fingers) is the one that "gut" feelings tell us can be the most successful entry. It is easy to use. Saliva build-up is minimal. It takes flavoring well. Raw materials are available. Production methods have been proven. A machine to pack both it and W B Cut could be ready by the fourth quarter of '80. However, only thorough testing of the concept will prove its validity.

#### *Better packaging*

The general view is that the plastic can would be a positive packaging step:

Lower manufacturing costs;

Decreases freight costs;

Easier to open;

Stands-up better in the wearing;

Adaptable to holding lesser amounts of tobacco; and

May keep product fresher, longer.

A small amount of research done in our overseas market, coupled with some results from Hawken testing in Jonesboro indicate good consumer acceptance for the plastic container. And it is understood that both Happy Days and Skoal can be packed this way now, without any loss in product quality.

However, we can visualize the possibility of some problems that might occur:

Consumer perception that change in package means a change in formula and flavor. Panel testing can prove or disprove this.

Keeping the product fresher, longer could negate the "built-in obsolescence" in the present container, thereby lessening poundage. Still, good users might just use more because it is fresher. The answer might be gotten through focus groups.

Finally, one important facet of plastic packaging—its adaptability—needs further commentary regarding how important it could become in creating new users and meeting competitive pressure.

*Supposition and strategy*

New users "pinch" less often and will use less tobacco per "dip": Build up bottom of plastic can—without changing height and circumference—in order to pack a "full" lower weight in a "starter" product; i.e. .6 ounces.

Pricing can be a determinant to trial; and may well be used as a competitive advantage: Lower price on "starter" brands to increase trial, lower sampling costs, and preempt competitive, "low ball" pricing, for example:

Present can price: UST, 42¢; Jobber, 52¢; Retail, 65¢ (packing half as much tobacco may save 20% or more while maintaining margins).

"Reduced" can price: UST, 33¢; Jobber, 41¢; Retail, 50¢.

Possible result: More new users, happy with a "fair' entry price, unconcerned with lesser amounts of product, who can be graduated to one of our "regular" products at a "regular" price (and may want to "move" there faster since 1.2 ounces at 65¢ is a better "deal") . . . and competitors who probably will have to cut their own margins to find a price point entry meaningfully below ours.

The foregoing discussions point the way to the recommendations included on the Product Development and Positioning Chart that follows; after which a Marketing Action Staging form indicates the R&D, research and market testing required to prove their viability.

*Product development and positioning vertical duality*

*Assumptions:*

Younger and lighter users prefer a flavor, not a "natural".

Older and heavier users prefer real tobacco taste and strength.

Skoal is our largest selling and fastest growing product (and best known); all "starter" products should acquaint people with its taste.

Copehagen is our second largest selling product and its growth could improve with a lead-in from a "natural" line extension, whose name and blend have proven themselves.

Happy Days can be a better brand and a better "graduator" with a change in flavor.

The "top of the line"—W B—may yet be our fastest growing product and deserves a place in both "verticals".

MARKETING ACTION

[Staging]

| Brand/Segment | Objective | Manufacture/develop period | Research period | Test market/period | Roll-out/period |
|---|---|---|---|---|---|
| Ball'n Chew Wintergreen/Plastic Can | Introduce easy-to-use, "starter" product, to increase consumer base especially among the young. | Blend and flavor—2/80; Hand pack for research—3/80; Hand pack for test markets—8–12/80; Develop machine packing by 1/81; Name and label development—3/80. | Taste test with new Happy Days user panel, vs. Good Luck and Hawken. In addition, test in potential user focus groups vs. Good Luck, Hawken and Happy Days 4/80 thru 8/80. | 4 Markets: 2 control w/media; 2 reduced price and weight w/media 9/80 thru 12/80. | By region, with promotional support, during 1981. |
| Good Luck Wintermint/Plastic Can | Change to a new taste. Evaluate "bag" concept in terms of future sales potential and machine needs. | Blend and flavor—3/80. Full production—6/80. Prototype machinery—9/80. | Taste test with user panel—new vs present product, also gather user profile and concept acceptance data—3/80–6/80. Audit selected outlets in current areas to determine future national volume. | Current areas utilizing present production capacity fully. | By region as machinery becomes available. |
| Skoal Straight Plastic Can | Introduce line extension to support "natural vertical" graduation process. | Utilize existing Key blend, and change label—3/80. | Audit in test markets at retail and wholesale to ascertain new sales growth vs. "pull down" from existing brands. 4/80 thru 9/80. | 4 Markets: 2 Copenhagen areas, one with local adv.; 2 Skoal Areas, one with local adv. 4/80 thru 9/80. | National, supported by ". . . Skoal, and new Skoal Straight" network TV spot. |
| Happy Days Wintermint/Plastic Can | Change to a new taste and evaluate with current users. | Blend and flavor—3/80. Full production—7/80. | Taste test—existing vs. new—with large Happy Days user panel. 5/80–7/80. | None | National distribution—8/80. |
| W B Cut Wintergreen/Pouch | Introduce line extension to create a "top-of-the line" duality. | Blend and flavor—5/80. Packing machinery developed and full production by 1/81. | Taste test in panel of W B Cut users. 6/80–10/80. | None | Region by region distribution only after further acceptance of natural brand is accomplished. 1/81 thru 12/81. |
| Plastic Packaging | Evaluate consumer acceptance of plastic can concept. | Label development—4/80. Possible new can colorations—4/80. | Full, large panel test for Happy Days with Happy Days users—5/80–9/80. Full, large panel test for Skoal with Skoal users—5/80–9/80. Results should be at least 95 percent positive. | None | National distribution beginning—1/81. |
| Stetson Natural/Wintergreen Pouch | Introduce a loose leaf chewing entry point toward capture of 10 percent of market in three years. | Per T. Cornell: Blend and flavor—2/80. Samples production—3/80. Production for test markets—7/80–1/81. Full production 2/81. | Full, loose leaf user panel tests—Stetson vs. Levi Garrett, Red Man, Beechnut 4/80–7/80: Name and package design perception testing in 2 focus groups. 4/80–7/80; Audit at wholesale and retail to determine movement and growth vs. competition. | 8 test markets conducted in strong loose leaf areas: 2 Stetson natural—lower media; 2 Stetson natural—higher media; 2 Stetson wintergreen—lower media; 2 Stetson wintergreen—higher media 8/20–2/81. | National distribution 3/81–6/81: supported by national—media effort. |

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U.S. TOBACCO INTRA-COMPANY CORRESPONDENCE

JANUARY 21, 1980.

FROM: A. E. Cameron, Regional Sales Manager.

TO: Mr. R. R. Marconi, National Sales Manager.

Re: Hawken review.

Tuesday and Wednesday was spent in the tri-city area (Briston, Tennessee; Bristol, Virginia; and Johnson City, Tennessee) in an attempt to further evaluate Conwood's new item "Hawken". I spent this time working with Mr. C. E. Jordan, division manager. *Factual* information was hard to come by in some of the areas; however, I will attempt to cover what we found from consumers, retailers, and distributors.

*Consumers*

We were only able to actually discuss Hawken with two consumers who have used the brand for any length of time. One of these was a convenience store manager (male about 55 years old). This man was supplied with samples on a regular basis for at least four to five weeks. By this time he had developed a taste for Hawken and now believes the flavor and taste last longer than SKOAL, the brand he used before Hawken. The second consumer was a 12 year old male and his mother. He stated, and it was confirmed by his mother, that all other brands of mouth tobacco he had tried to use would make him sick. This included SKOAL, HAPPY DAYS MINT, and several brands of scrap. He felt the cause with SKOAL and HAPPY DAYS MINT was the brands were too hard to use, he could never keep them together. Scrap produced too much juice and he swallowed too much. He also felt Hawken's flavor lasted longer. A very interesting observation—his mother was delighted he had finally found a mouth tobacco he could use. During my questioning of this lady, it was clearly evident that she believes mouth tobacco is the least harmful of many habits her son could develop; therefore, she openly encourages him to chew. The price made no difference to these two consumers.

*Retailers*

While contacting most of the retailers we have had on the "Tracking Program", we could only find two who definitely believe Hawken is still increasing in sales. All others state the brand has peaked and most report a decline in sales. Every retailer stated that SKOAL definitely was hurt the worst;

however, they all state that SKOAL is coming back and is either at, or close to its previous sales level. They all report consumers of all ages are buying Hawken. Also, all type of consumers are using Hawken. These retailers all agree that the majority of Hawken is being used by young kids and young adults. The age of the kids is from 9 years old and up. I believe this to be true because outlets located close to schools (all grades) are definitely the heavier Hawken outlets we visited. Several retailers indicated that price was a factor with the young kids. Also, the people who knew about mouth tobaccos felt the sweet tests was a definite factor with the kids. No retailer expressed any problem with the lower price of Hawken. They all state their mark-up is the same percentage as on SKOAL and other tobaccos.

*Distributors*

Distributors all state that they did no more on Hawken than any other new item. They all report that the brand has peaked and they are seeing declines. No distributor indicated any promotional activity was planned for Hawken.

As you can see, all levels are pointing the same way on Hawken. I believe the brand has hurt SKOAL and HAPPY DAYS MINT as much as it is going to. Figures prove Hawken killed our increase on SKOAL (30 percent); and at this point, we are showing about 9 percent decrease in sales where Hawken is available. At one point, our loss was well over 20 percent. This has turned around and I believe SKOAL will be back to a breakeven point within the next few weeks. I feel by the end of the next three-month tracking period, our increase will be back to normal. I am not at all sure our increase won't be greater than ever. It definitely is a fact that Hawken has brought a lot of new consumers into the mouth tobacco market. I think this brand has reached kids four or five years earlier than we have contacted them in the past. Indications are that some of these new users are moving up to a stronger brand. Also, indications are that some older consumers are moving from Hawken back to the brands they were using before, and some consumers have begun mixing Hawken with SKOAL and Levi Scrap. If these trends continue, Hawken may prove to be a very good starter product for SKOAL.

I am convinced we must continue our tracking of Hawken for at least another three months before our questions can be answered. However, all figures indicate Hawken, when introduced in a new market, will kill our increase on SKOAL and, in fact, cause a 10 to 20 percent loss for the first three months.

Our field personnel will continue to supply all information possible on Hawken.

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## IN SPECIAL RECOGNITION OF ALEXANDER M. HUBER ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MERCHANT MARINE ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Alexander M. Huber of Milan, Ohio, has been offered an appointment to attend the United States Merchant Marine Academy.

Mr. Speaker, Alexander's offer of appointment poises him to attend the United States Merchant Marine Academy this fall with the incoming cadet class of 2007. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Alexander brings a special mix of leadership, service, dedication to the incoming class of Merchant Marine Academy cadets. While attending Edison High School, Milan, Ohio, Alexander has attained a grade point average of 3.942 which places him 7th in his class of 129 students. During his time at Edison High School, Alexander has received several commendations for his superior scholastic efforts. Alexander's accomplishments include being on the honor roll for all four years, being awarded the Student of the Quarter for Business, recipient of the Mathematics Award, student of the quarter award for Science, and recipient of the Scholarship Pin. Aside from his accomplishments Alexander also participated in the National Honor Society, the Math Club, and the Spanish Club.

Outside the classroom, Alexander has distinguished himself as an excellent student-athlete and dedicated citizen of Milan. On the fields of friendly strife, Alexander has participated in Soccer, Tennis, and Weight Lifting. In addition to his athletic accomplishments, Alexander is an active member in his community participating in National Youth Leadership Conference and Boys State.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Alexander M. Huber. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Alexander will do very well during his career at United States Merchant Marine Academy and I wish him the very best in all of his future endeavors.

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## IN SPECIAL RECOGNITION OF NATHAN A. STEIN ON HIS APPOINTMENT TO ATTEND THE UNITED STATES NAVAL ACADEMY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Nathan A. Stein of Sandusky, Ohio has been offered an appointment to attend the United States Naval Academy.

Mr. Speaker, Nathan's offer an appointment poises him to attend the United States Naval Academy this fall with the incoming cadet class of 2007. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Nathan brings a special mix of leadership, service, and dedication to the incoming class of Navy midshipmen. While attending Perkins High School, Sandusky, Ohio, Nathan has attained a grade point average of 4.0, which places him eleventh in his class of 58 students. During his time at Sandusky St. Mary Central Catholic High School, Nathan has received several commendations for his superior scholastic efforts. Nathan's accomplishments include being in the honor roll, two year academic letterman, and two years of being named Who's Who in American High School Students.

Outside the classroom, Nathan has distinguished himself as an excellent musician, athlete and dedicated citizen of Sandusky. On the fields of friendly strife, Nathan participated in Football becoming a team captain his senior year and Basketball. In addition to his athletic accomplishments, Nathan is an active member in his community participating in the Environment Club, volunteering for service in his local Library, and participating in community musicals.

Mr. Speaker, I would ask my colleagues to stand and join me in paying special tribute to Nathan A. Stein. Our service academies offer the finest education and military training available anywhere in the world. I am sure that Nathan will do very well during his career at United States Naval Academy and I wish him the very best in all of his future endeavors.

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## RECOGNITION OF MICHELLE BAILEY AND KATE EVANS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise to pay tribute today to Michelle Bailey of Harrisburg, Illinois, and Kate Evans of Galatia, Illinois, in honor of their achievements.

Michelle Bailey is a student at Benton Middle School who was recognized as a United States National Honor Roll Award Winner. Her picture will be published in the United States Achievement Academy Official Yearbook in order to showcase her accomplishment. Today I would like to recognize Michelle for her commitment to scholarship and academic excellence and also to encourage her to continue along the path to success.

Kate Evans was the top heifer exhibitioner for the 2002 IBA Junior Points Program. She competed against other juniors in 2002 and received prizes for placing in the top 20. I would like to congratulate Kate on her win and wish her good. luck in her future exhibitions.

In closing, I would like to congratulate both Michelle and Kate on their successes. They are excellent examples of the promising youth of today and should serve as role models for their peers and those around them. Our thanks go to the families and teachers for the foundation they have given these young women. God bless.

## TRIBUTE TO DR. HERB SADLER

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. MILLER of Florida. Mr. Speaker, I rise today to honor one of our Nation's most distinguished and dedicated pastors, Dr. Herb Sadler. After 28 years of faithful service to the Northwest Florida community as pastor of the Gulf Breeze United Methodist Church, Dr. Sadler will leave Gulf Breeze to become the District Superintendent of the Dothan District in Dothan, AL, of the Alabama-West Florida Conference of The United Methodist Church. We are grateful for the time that Dr. Sadler has spent with us in Northwest Florida and we wish him the best in his future position.

Born on February 7, 1942 in Montgomery, AL and raised in Thomasville, AL, Herb holds an undergraduate degree from Livingston University and both the Master of Divinity and Doctor of Ministry degrees from Emory University. Proudly married to his wife Barbara and the father of four wonderful children, Bert, Tracy, Stuart, and Scott, he has been blessed with three grandchildren, Brady, Breanna, and Jacob.

Since 1975 Herb has been at the service of the Gulf Breeze United Methodist congregation, he has overseen the growth of the parish, from 500 members to over 4,000 members, and has personally had a direct influence on the tremendous increase in worship attendance, from 100 people to nearly 2,000 people.

In addition to his duties at Gulf Breeze United Methodist, Herb has served his Annual Conference, Alabama-West Florida, as Chairperson of The Board of Ordained Ministry and as President of the Council on Finance and Administration. He has been a delegate to the 1988, 1992, 1996, and 2000 Jurisdictional Conferences and the 1992, 1996, and 2000 General Conferences. He has served as a member of the Board of Trustees of Birmingham-Southern College and from 1992 to 2000 he was a member of the General Board of Discipleship of The United Methodist Church. Currently, he serves as Chair of the Committee on Plan of Organization and Rules of Order of the Southeastern Jurisdictional Conference.

The author of two books, "We Can All Be Winners" and "Today is the Only Day", Herb has previously been President of the Gulf Breeze Rotary Club and was a charter member of the Board of Gulf Breeze Hospital, a role he continues to serve in today.

Mr. Speaker, I would like to offer my sincere and heartfelt congratulations to my good friend Dr. Herb Sadler on his new position with the Alabama-West Florida Conference of The United Methodist Church. Herb was recently named one of the top 11 leaders in Northwest Florida by Climate Magazine and I can think of no person that is more deserving of such an honor. We will be sad to see his him leave, but wish him all the best in his new journey. Mr. Speaker, on this such occasion, we honor one of America's greatest citizens.

## HONORING CREATIVE ARTS THERAPIES WEEK

### HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ROTHMAN. Mr. Speaker, I rise today to commemorate Creative Arts Therapies Week, which began on June 1 and continues through June 7.

Creative Arts Therapies are an increasingly important tool for healing both physical and mental health needs. There are currently more than 15,000 Creative Arts Therapists practicing in the United States and around the world—all working to address major societal issues including school violence, substance abuse, breast cancer, Alzheimer's disease, and domestic violence.

Since its first application over 50 years ago, Creative Arts Therapists have provided individual and group art experiences for people in need of care and treatment to address and overcome great personal challenges. Using art, dance, movement, drama, music, and poetry, therapists are able to achieve remarkable results.

I commend Creative Arts therapists and the National Coalition of Creative Arts Therapies for their tireless work to improve health, communication, and expression, to enhance self-awareness, and to facilitate positive change in human experience and behavior.

## HONORING LYNN DYER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, it is with tremendous pride that I stand before this body of Congress to recognize one of Colorado's outstanding citizens. Lynn Dyer resides in Cortez and has been working there as the director of tourism for Mesa Verde Country. Lynn has recently been chosen as Citizen of the Year by the City of Cortez and is currently the President of the Southwest Colorado Travel Region.

Lynn recently planned the Mesa Verde Country Indian Arts and Western Culture Festival, which was recognized as one of the top 100 events in North America in 2003 by the American Bus Association. The organization and planning of this festival also earned Lynn the Governor's Award for Outstanding Community Tourism Initiative. This award, presented by Colorado's Governor Bill Owens, is given to a community that helps to promote tourism in Colorado.

As most of you know, the Mesa Verde area has been challenged by a number of severe wildfires in recent years, making many think tourism would sharply decrease. The efforts of Lynn and her team have helped to keep tourism steady, so people across the nation can see the wonders of the Mesa Verde area.

Mr. Speaker, I am honored to stand and express my gratitude for the hard work of Lynn Dyer. Lynn is the kind of individual who makes my district proud. I wish Lynn the best as she continues her work promoting tourism in Colorado and it is my hope that Americans will continue to discover the beauty of this region.

## 100TH ANNIVERSARY OF THE VILLAGE OF LYNDONVILLE, NEW YORK

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Ms. SLAUGHTER. Mr. Speaker, I rise today to commemorate the 100th anniversary of the Village of Lyndonville, New York. This congressional recognition will be presented later this month when village officials and citizens gather together to celebrate this historic event.

The Village of Lyndonville is a small town that has evolved with the times, but whose residents have never lost touch with their roots. Its history resembles that of many of the small towns on which our nation was built. In the 1820s, the area began to grow after the construction of a corduroy road, which was built of logs laid side by side transversely. This road is now Route 63—Lyndonville's Main Street. The locale began to prosper after several merchants built businesses on Main Street in 1836. Settlers also found the area attractive due to the possibilities offered by Johnson's Creek, which runs through the village. Named for the British Indian agent, Sir William Johnson, Johnson's Creek was harnessed by early settlers as a power source. Early settlers built the first flouring mills using the creek, including S. W. Mudgett, Samuel Tappan, and Richard Barry, among others.

The village was originally called Lyndon—in honor of Lyndon, Vermont, the home of many of its original settlers. Lyndon's name was eventually changed to Lyndonville in order to distinguish the village from nearby Linden, New York. One hundred years ago, the Village of Lyndonville was officially incorporated in Orleans County, on the shore of Lake Ontario.

The village sits on one square mile of beautiful, fertile Western New York land. The surrounding area is home to many of New York's famous apple orchards, as well as the lush, rolling vistas created by the retreating glaciers ages ago. Nestled against Lake Ontario, Lyndonville is blessed with the rich soil and pastoral serenity that Americans consider the ideal of our countryside, evocative of Mayberry and Grover's Corners.

With a population of 950, Lyndonville is a close-knit community where everyone is a neighbor. Most people know each other, and even if you are not well acquainted, faces smile with recognition and greetings are exchanged with warmth. Friendly inquiries are made when there has been an experience with pain—or joy. Anytime a neighbor is suffering from ill health or some loss, the community is there to help, to lighten the burden, and to express its loving concern. Beyond the village's long and distinguished history, Lyndonville is simply a place residents are proud to raise a family.

Mr. Speaker, on the occasion of the Village of Lyndonville's 100th birthday, I unite with its residents to celebrate their accomplishments and contributions to Orleans County, our state, and our nation.

## TRIBUTE TO ALFREDO MONTES

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. STARK. Mr. Speaker, I rise today to share with you the well-articulated environmental message of a fourth grader, Alfredo Montes, winner of the Friends of San Leandro Creek's 11th annual poetry contest. This contest was held in conjunction with the annual Watershed Festival Event, held in my district and cosponsored by the city of San Leandro, the Friends of San Leandro Creek (FSLC), and the Alameda Countywide Clean Water Protection program.

Organized in 1991 and officially incorporated as a nonprofit organization in 1995, the FSLC is a wonderful organization that brings the Bay Area community together around the San Leandro Creek in order to raise awareness of environmental issues. In addition to the Watershed Festival, the FSLC frequently organizes educational programs such as field trips and conservation projects for students in kindergarten through 12th grade; and regular cleanup and revegetation projects. I also regularly participate with other legislators in the FSLC's annual environmental forum. The FSLC's latest project—hopefully to be completed within the next two years—is building a new environmental education center at a new site.

Alfredo is a student at Monarch Academy, an Aspire Public School in Oakland, CA. His teacher, Andrea Main, thanked the FSLC for substantially helping to "complement my curriculum" with activities like field trips and water quality testing that "totally inspired my kids."

Ms. Main described Alfredo as a "diligent, hardworking" student who hopes to become an elected official when he grows up. His work was selected from about 20 poetry entries, by a panel of judges from the FSLC's board of directors and active members. FSLC Watershed Awareness Coordinator Susan Criswell added, "I am in awe of the energy, talent and determination of this young man. It gives me hope for the future of our environment to see such dedication."

Alfredo attended an FSLC-organized field trip with his class and said, "I always go to places like the creek that have shallow water, because they have pollution in them, and that's what inspired me to write this poem."

THE CREEK

(By Alfredo Montes)

The creek grows weak,
the frog no longer speaks,
the water almost falls asleep,
the trees continue to seek,
the creek feels like it has a leak,
like every time growing weak,
it gets lower and shallower as we speak,
so I will have to speak no more and hit the poem's core,
we have to clean up the pollution so we keep on the revolution.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2003

SPEECH OF

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of H.R. 760, the Partial-Birth Abortion Ban Act of 2003.

Partial-birth abortion is an inhumane procedure which is never necessary to preserve the health of the mother. Indeed, this procedure poses serious health risks to the mother, and it is unnecessarily brutal to the baby. I have heard from numerous physicians that there are other safe methods for terminating a pregnancy when the life of the mother is in danger, and the American Medical Association has stated that partial-birth abortion is not an accepted medical practice.

H.R. 760 addresses the constitutional issues raised by the Supreme Court decision in Stenberg v. Carhart. It does so by using a more precise definition of the gruesome partial-birth procedure, clearly distinguishing between this and other forms of abortion. Furthermore, H.R. 760 provides extensive congressional findings which show that a partial-birth abortion is never medically necessary to preserve the health of a woman.

The House has passed this legislation in previous Congresses, yet a final vote did not take place in the Senate or in conference. The Senate recently passed the Partial-Birth Abortion Ban Act. We now have a historic opportunity to pass this legislation and send it to the White House for the President's approval. I strongly support enactment of a ban on partial-birth abortion, and I urge my colleagues to vote in support of H.R. 760.

## TRIBUTE TO NORA ANZIK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. MCINNIS. Mr. Speaker, I am honored to stand before this Congress and this nation to pay tribute to an outstanding volunteer and community member from my district. Nora Anzik is the recipient of this year's Volunteer of the Year Award given by TREC, the Therapeutic Riding and Education Center of Pueblo, Colorado. Nora's hard work helps children with disabilities experience the joy of riding horses, something they could not accomplish without her.

Nora's enthusiasm, patience, and effectiveness became obvious in her first week at TREC. She began her work with a young autistic boy named Steven. Steven was not comfortable with some of the aspects of riding, and it was Susan's persuasive, positive attitude that helped him to adjust. Her work with Steven is just one example of the compassion she has for those in need. Nora continues to work with Steven and numerous other children, becoming a role model in many of their lives. She is a wonderful teacher, who knows how to get through to children with special needs.

Mr. Speaker, great Americans like Nora, who volunteer their time, have helped to make our country great. I am proud of her accomplishments and it gives me great joy to inform this body of Congress and this nation of her outstanding community service. Thank you, Nora, for your hard work and dedication. Your commitment and involvement in the Pueblo community will not be forgotten.

## POLITICAL TENSIONS IN BURMA

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. CROWLEY. Mr. Speaker, I risk today to express my deepest concerns about the ongoing political problems in Burma and the recent arrest of opposition leader Aung Sang Suu Kyi. I am deeply troubled by the military regime's stifling of political life. This equals a brutal, unacceptable situation lacking democratic essentials. Obviously, the military junta tries to block and prevent democratic change for which nobel peace prize laureate Suu Kyi's life and work stand for.

With the detention of Suu Kyi and nineteen members of her National League for Democracy party last Friday, the political tensions are on the rise again. The NLD headquarters and universities were also closed. It is common practice for the junta to crash NLD meetings by sending bullies to intimidate pro-democracy advocates. Only last year Suu Kyi was released from custody while at the same time the junta arrested many NLD party members. The military regime allowed her to travel freely throughout the country and organize her party but during her last two trips she met harassment and obstruction. This clearly indicates that hope for democratic reform, which was stirred by Suu Kyi's release, has suffered a major setback. The illegitimate government further promised to engage in a dialogue with the NLD, supervised by the United Nations. Sadly, the talks failed to make significant progress.

Deficits are not only visible in the political arena but also in the social and economic field. Long-term economic mismanagement under authoritarian rule created severe economic and social ills. Due to the government's human rights' abuses and the unfriendly business environment, international companies have left the country. Inflation is rampant, probably as high as fifty percent. The social sector is in dire straits with every third child suffering from malnutrition. Yet 40 percent of the budget is spent for defense.

The problems in Burma are grave and wide-reaching. There's a democratic movement that deserves and needs our support, there's a military regime that needs to realize that its only way out of Burma's crisis is to fully respect democracy and human rights. This regime must accept the results of the 1990 election which were won by Aung Sang Suu Syi. To achieve these goals, I have cosponsored the "Burmese Freedom and Democracy Act of 2003," which—amongst other provisions—prohibits imports from Burma in order to press the regime to adapt full-fledged democratic reforms and supports democracy activists within Burma.

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## A BILL TO RESTORE EQUITY IN THE TAXATION OF POLITICAL CAMPAIGN COMMITTEES

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. GREEN of Texas. Mr. Speaker, I rise today to introduce a bill that will restore equity in the taxation of political campaign committees.

Currently, the tax code treats income in federal political campaign committees the same as corporate income. This allows candidates for congressional office to pay campaign taxes on a graduated rate scale, offering us significant tax benefits.

Specifically, we pay a 15 percent tax rate on the first $50,000 of income in our campaign accounts. Income in our accounts between $50,001 and $75,000 is taxed at 25 percent, and income between $75,001 and $10 million is taxed at 34 percent. Only when our campaign accounts boast over $10 million are we subjected to a 35 percent tax rate.

Mr. Speaker, each of us in this chamber can attest to the ridiculously high amount of money that we must raise in order to run a formidable campaign for Congress. However, I doubt that many of us actually reach that $10 million threshold and pay a 35 percent tax rate on the money in our campaign accounts.

Unfortunately, our colleagues in state legislatures across the country aren't as fortunate. As Texas State Senator Jon Lindsay pointed out to us in the Texas Delegation, every dollar in his campaign account is taxed at a flat 35 percent rate. In fact, only candidates for Congress are able to enjoy this graduated tax schedule.

To correct this inequity in our tax code, I am introducing legislation today to amend the Internal Revenue Code and mandate that state political campaign committees are taxed in the same manner as our federal campaign committees.

Joining me in this effort to ensure that the tax code treats our state legislators fairly is the entire Democratic wing of the Texas delegation: Representative Chris Bell, Representative Lloyd Doggett, Representative Chet Edwards, Representative Martin Frost, Representative Charles Gonzalez, Representative Ralph Hall, Representative Ruben Hinojosa, Representative Sheila Jackson-Lee, Representative Eddie Bernice Johnson, Representative Nick Lampson, Representative Solomon P. Ortiz, Representative Silvestre Reyes, Representative Ciro Rodriguez, Representative Max Sandlin, Representative Charles Stenholm, and Representative Jim Turner.

My thanks goes out to each of them for their support, as well as to Senator Lindsay for bringing this matter to our attention. I urge my fellow colleagues to co-sponsor this bill and show their support for the state legislators who work hard representing them back home.

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## RECOGNITION OF BRADEN CHRISTIAN

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to Braden Christian of Harrisburg, Illinois in honor of his participation in the 76th annual Scripps Howard National Spelling Bee.

Braden was the winner of the Tri-State Spelling Bee held at Bosse High School in Evansville, Illinois on March 15 earlier this year. His win secured him an invitation to the National Spelling Bee.

Today, I would like to congratulate Braden on his victory and wish him luck in the National Competition.

The Scripps Howard National Spelling Bee is held annually and features 251 students from grades five through eight from all over the country. Students are quizzed on a large selection of words from the Merriam-Webster's Third New International Dictionary. I would like to commend Braden for his hard work and dedication to pursuing his goal of winning the National Title.

In closing, I would like to praise Braden for all of his achievements and also thank his parents and teachers who have nurtured and inspired Braden's desire for excellence and love of knowledge. He is a truly wonderful young man and I look forward to hearing of his future accomplishments. God Bless.

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## TRIBUTE TO LYNN WELDON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize a longtime servant of Alamosa, Colorado, Lynn Weldon. Lynn has served the Alamosa City Council diligently for almost twenty years. In recognition of his service, I would like to recognize his dedication and a few of his accomplishments before this body of Congress and this nation.

People in Alamosa have long felt deep respect for Lynn's patience, his integrity, and his dedication. People have referred to Lynn, who served as a chaplain's assistant during the Korean War, as a source of tranquility in the face of battle. Lynn has proved this countless times during many years of public service, where he has calmly listened to others, and stood his ground resolutely on issues of principle, no matter how heated the debates before him.

Mr. Speaker, it is my honor to recognize Lynn's long service to Alamosa before this body of Congress and this nation. I would like to join the rest of Alamosa in expressing my gratitude to Lynn for his dedication to his community. Lynn, our thoughts and our prayers are with you.

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## IN TRIBUTE TO MICHELE MILLER

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ENGEL. Mr. Speaker, I rise today to honor a woman who believes that public education is the foundation of a prosperous and democratic society. Michele Miller always wanted to be a teacher. As a student at Spring Valley Senior High School, Michele was a member of Future Teachers of America. Graduating from the State University of New York at Albany, she attended Hunter College for a masters degree in education with a concentration in social studies.

A lifelong New Yorker, Michele has spent her entire career teaching the students of Pearl River, New York. She has spent 33 years teaching social studies at the Pearl River School District's Middle School and High School. Michele began as a student teacher in Pearl River when Lyndon Johnson was the President of the United States in the fall of 1968. She will end her career this month, eight Presidents later and after providing thousands of her students with the knowledge and appreciation of the democratic values that underpin our great country.

Michele is the epitome of a great teacher. Although she's known throughout Pearl River as one of the toughest teachers around, she's also known for being caring, compassionate, and funny. She thrives on being in the classroom, the students have always kept her youthful in both appearance and in personality. Moreover, she constantly learns from her students and hopes that they leave the classroom every day knowing a bit more about the world.

I hope that new teachers are inspired by Michele's dedication to teaching. She will be sorely missed by the Pearl River School District.

I would like to join the Pearl River community, her family and friends in thanking Michele for her years of service and wishing her congratulations on the occasion of her retirement.

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## HONORING BOB SCHROEDER

### HON. JEB BRADLEY

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to pay tribute to Bob Schroeder upon being named the Town of Hooksett's Citizen of the Year.

Bob was instrumental in the restoration and revitalization of a truly historic local, state and national landmark. Robie's Country Store in Hooksett has a lengthy history of acting as the town's gathering spot, a place to argue politics, play checkers and buy groceries and homemade baked goods. Robie's was also a required stop for local politicians and presidential candidates visiting the first-in-the-nation primary state for over 30 years. The store closed in 1997 after the store's owners, Lloyd and Dorothy Robie, retired. After five years of dormancy and a lack of funds and dedicated owners, Robie's Country Store reopened, continuing its 30-year political tradition and its 110-year presence in the town.

Bob saw an imperative need to preserve this cultural and political landmark and formed the Robie's Country Store Historic Preservation Association to spearhead the renovation effort. The Association has worked diligently to bring the store to life again, and on May 24, 2003, Robie's Country Store reopened to an eager and proud community. Bob and the Preservation Association were careful to maintain Robie's historical accuracy by keeping the 97-year old building's original flooring, ceiling and picture wall of political memorabilia. Always humble, Bob refuses to take the credit for the grand reopening of the store, instead pointing the spotlight on the efforts of the entire community. Under Bob's leadership, people of all ages worked together to restore Robie's through fundraising and renovation efforts. The community's hard work will undoubtedly ensure that the rich heritage and traditions of the store will remain in tact for future generations to enjoy.

Bob's tireless commitment to preserving this landmark and energizing the whole community to get involved is a wonderful example of his perseverance and dedication to improving the community and state in which he lives. I can think of no better person than Bob to receive the Hooksett Citizen of the Year Award. I am honored to represent concerned and conscientious citizens like Bob in the U.S. House of Representatives.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2003

SPEECH OF

### HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mrs. CUBIN. Mr. Speaker, I rise today in support of H.R. 760 and for our voiceless unborn children, who were merely inches away from their first breath, when their life was brutally ended. For them, partial-birth abortion is not an option—it is a death sentence.

It is truly shameful that we cannot protect the most innocent and vulnerable in our society from this gruesome medical procedure. Delivering a child up to its head and then using a syringe to suck out the child's brain and discard this miracle of life is revolting.

Do not call that child a fetus. Do not elevate any personal freedom above that child's right to life. That fetus is a human baby—call it what it is.

I hope the mental image this conjures disturbs everyone—and that I once again receive calls from those shaken by the mere description of this barbaric act. Be thankful you're not on the business end of that syringe.

We have the responsibility to do everything in our power to put an end to this practice which has no place in a civilized society. We cannot remain silent while a procedure such as partial-birth remains an acceptable part of our society—after all, if done a short time later and a few inches further, it would be considered murder.

## TRIBUTE TO THE VAIL HOTEL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a longtime landmark of Pubelo, Colorado, the Vail Hotel. Opened in 1911, the Vail Hotel was once known as the most luxurious hotel west of Chicago. Its many custom windows, doorknobs, and its tasteful use of wood and stone, truly make the Vail Hotel an architectural wonder. Over the years, the hotel's beauty attracted President Woodrow Wilson, Clark Gable, Tallulah Bankhead, Jack Benny and generations of Puebloans to its gracious halls.

However, without the love of the people of Pueblo, even this great treasure would not be as marvelous as it is today. I am impressed by the numerous craftsmen who labored to restore this magnificent building, from Kathleen Sheard-Hodges, who painstakingly restored many of the jeweled windows and recreated missing ones, to Bill Agnes, who salvaged tiles to restore and extend the lobby's gorgeous mosaic floor. Also among those deserving of praise is Gary Trujillo, the lead architect for the renovation, who restored the building with painstaking attention to its historic past and for its remarkable beauty.

Mr. Speaker, it is fitting to mention one of this country's magnificent historic landmarks. The Vail Hotel serves as an example of the pride and hard work that the citizens of Pueblo have dedicated in making their home a more beautiful place. Built by Puebloans, restored by Puebloans, and beloved by all, it gives me great pride to recognize today this historic building, as well as the efforts made to restore it. Its beauty and history enrich the Pueblo community and will be cherished for generations to come.

## CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

SPEECH OF

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. MILLER of Florida. Mr. Speaker, House Joint Resolution 4 does not outlaw flag desecration; rather, this proposal merely sets the boundaries by which Congress can enact subsequent legislation, if it so chooses, to prohibit such conduct. H.J. Res. 4 simply returns to Congress the authority that it possessed for over 200 years to prohibit the physical desecration of the flag of the United States.

This past week, I visited North Korea, where freedom is nowhere and democratic thought is oppressed. Our American flag is the most revered and beloved symbol of our Nation, representing all that is American and reminding the world of our love of our freedom and democracy. The flag is a bedrock of our principles and values as a country, leading our men and women into conflicts around the globe and draping the caskets of those same individuals when they return home after giving the ultimate sacrifice in defense of such values. It is the flag to which we pledge allegiance, here on the floor of the House of Representatives, in civic organizations in every town in America, and in schools throughout our country. It is this object and all that it represents that Americans hold so dear.

House Joint Resolution 4 will nullify two erroneous Supreme Court decisions, restoring the original interpretation to the First Amendment that had persisted for over two centuries since the birth of our country. When considering the powers of our respective branches of government in effecting the will of the American people, we should be reminded of the words of Abraham Lincoln in his first inaugural address in 1861, "If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the people will have ceased to be their own rulers."

I commend my colleagues for recognizing the wishes of the American people and restoring the original interpretation and understanding of the First Amendment and the Bill of Rights to the Constitution by supporting this resolution.

## COLONEL TIMOTHY WRIGHTON

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual and patriot whose dedication and contributions to his country and the military community of March Air Reserve Base, March ARB, in Riverside, CA, are exceptional. March ARB has been fortunate to have dynamic and dedicated leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Colonel Timothy Wrighton is one of these individuals. On June 6, 2003, he will be honored at a farewell celebration and dinner.

After completing his education at the U.S. Air Force Academy in Colorado Springs, CO, and receiving a degree in engineering Tim completed his undergraduate pilot training in 1976 and in 1977 he became a First Lieutenant. Tim served as a C–141 pilot for the 53rd Military Airlift Squadron out of Norton Air Force Base in California from 1976 to 1982 during which time he was promoted to Captain. In 1984, he was assigned as the chief pilot for the 728th Military Airlift Squadron. Three years later he was promoted to Major and was assigned as the chief of wing standardization/evaluation for the 445th Airlift Wing at Norton and would later become assistant deputy commander for operations. Over the next 13 years he would be promoted to Lieutenant Colonel and then Colonel. Since 2002 he has been the Commander of the 452nd Air Mobility Wing at March Air Reserve Base. Col. Wrighton has logged over 7,800 flight hours in a variety of aircraft including the C–141 A/B, KC–10, and KC–135R.

Col. Wrighton has received numerous awards throughout his distinguished career including: Legion of Merit; Meritorious Service Medal with three oak leaf clusters; Air Medal; Aerial Achievement Medal; Air Force Commendation Medal; Air Force Achievement Medal; Air Force Outstanding Unit Award with oak leaf clusters; National Defense Service Medal; Armed Forces Expeditionary Medal; Southwest Asia Service Medal with two oak leaf clusters; Armed Forces Reserve Medal; Small Arms Expert Marksmanship Ribbon; Air Force Training Ribbon; and the Kuwait Liberation Medal from the Saudi Arabian Government.

Col. Wrighton is also a life member and Chapter President of the Reserve Officers' Association, a Life Member of the Airlift/Tanker Association, Life Member of the AFA, a Life Member of the VFW and a Member of Daedalians.

Col. Wrighton's tireless commitment to service has contributed immensely to the betterment of the country and the community of Riverside, CA. I am proud to call him a fellow community member, American and friend. I know that many community members are grateful for his patriotic service and salute him.

## HONORING MELVIN E. OLSSON

### HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. SIMMONS. Mr. Speaker, I rise today to honor Mr. Melvin E. Olsson of Mystic, CT, for his dedicated service to the community throughout his 43-year career at Electric Boat in Groton, CT.

Yesterday, for the first time in 13 years, Mel Olsson's name did not appear on the ballot for the Marine Draftsmen's Association, MDA, union elections at Electric Boat. Olsson is retiring from his post as president of the local 571 at Electric Boat and will return to his trade as piping designer.

Mel began as an apprentice in the shipyard in 1962 and moved to the design force just 2 years later. Elected vice president of the local in 1975, Olsson has dedicated much of his career to serving the MDA.

I commend Mel Olsson for his dedicated service to the working men and women of Electric Boat who design the best submarines in the world. He has worked to establish a relationship with the company that is better than it has ever been. Mel is a true leader in his community and a role model for the future leaders of the MDA.

Mr. Speaker, I encourage the Members of the House of Representatives to join me in honoring Melvin Olsson for his 13 years of service as head of the MDA. I wish him all the best.

## TRIBUTE TO POLICE CHIEF LONNIE WESTPHAL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. MCINNIS. Mr. Speaker, it gives me great pleasure to stand before this body of Congress today to pay tribute to an individual who has dedicated his life to protecting the American public. Lonnie Westphal of Lakespur, Colorado first donned the badge of a Colorado State Patrolman 29 years ago. This week he will retire from the force after an impressive career in which he rose in the ranks from a state trooper to the head of the Colorado State Patrol.

Chief Westphal is one of those special people in our society who willingly put themselves in harm's way to protect the public. He knew he would never get rich in his chosen profession, but he also knew that some things, such as keeping our families out of harm's way, come with rewards not measured by monetary means. Thus, it is not surprising that Chief Westphal distinguished himself so honorably by serving on numerous boards such as the National Commission Against Drunk Driving, the International Association of Chiefs of Police, the State Patrol Protective Association, and many more.

Mr. Speaker, our nation owes a great debt to Chief Westphal and all brave heroes like him who keep the peace at home. Because of his service, the state of Colorado is a better and safer place to live. I thank Chief Westphal for his service to his community, the State of Colorado, and this nation. All the best to you, Lonnie; enjoy your retirement!

## TRIBUTE TO MR. AND MRS. DONALD WALLACE OF FLORENCE

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. CRAMER. Mr. Speaker, I rise today to recognize Mr. and Mrs. Donald Wallace of Florence, AL. For 23 years, they have provided outstanding service to the American Legion—Mr. Wallace as adjutant and Mrs. Wallace as his assistant.

Mr. Wallace began serving the American Legion as an assistant to the former adjutant and will be retiring later this month. As adjutant, Mr. Wallace was charged with maintaining both the records and activities of the group of over 1,000; however, he did not limit himself to those tasks. Mr. Wallace helped rebuild the American Legion's reputation as both a veteran's advocacy and community service organization. Under Wallace's leadership, the post received state and national attention as a leader in supporting the Boys State Program, a program which teaches lessons of patriotism and civics to high school juniors. He also worked with the American Legion Baseball program and oratorical contests that offered scholarships to local participants.

Although Mr. Wallace does not like taking credit for the success of the group, many veterans and families in the Shoals will tell you that without him the Legion would not be what it is today. Wallace simply believes that his work at the American Legion is just the continuation of work begun by an earlier generation, the original Legionnaires who established the post in 1919 and the World War I veterans who built their current hall in 1939. As adjutant, Wallace helped maintain this building that has been their home for 64 years.

Mr. Speaker, I also want to pay tribute to Mr. Wallace's wife of 60 years, Mrs. Ellen Wallace. As his assistant at the Legion, Mrs. Wallace filed paperwork and served with the Ladies Auxiliary during the chicken stews and other activities. Mr. Wallace credits her with making him the man he is today.

Despite the irregular hours, low pay, and lack of prestige, both Mr. and Mrs. Wallace enjoyed helping many people during their time of service with the American Legion. They have dedicated themselves to their community, and on behalf of the people of north Alabama I thank them for their service and congratulate them on a job well done.

## INTRODUCTION OF A BILL TO AUTHORIZE CERTAIN MAJOR MEDICAL FACILITY PROJECTS FOR THE DEPARTMENT OF VETERANS AFFAIRS

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. EVANS. Mr. Speaker, today, I am introducing a bill with my friend, the chairman of the Veterans Affairs Health Subcommittee, ROB SIMMONS. This bill will authorize several desperately needed major medical construction projects in Chicago, IL; San Diego, CA; Las Vegas, NV; and West Haven, CT. I urge all of my colleagues to support this bill to jump start the stalled major medical construction endeavor in the Department of Veterans Affairs.

My bill would honor the commitment the Department of Veterans Affairs made to build a new bed tower at the West Side division of VA Chicago. While Secretary Anthony Principi has decided to move forward with the closure of inpatient services at the Lakeside division, he has not asked for an appropriation for the new construction project at West Side. Instead, the funding for this project—$98.5 million—is supposed to come from an enhanced use lease agreement whose value some experts claim has been greatly overestimated. I am not willing to make such a gamble on veterans' access to a functional medical center in the Chicago area.

The West Side facility is a 50–year old facility ill-suited to respond to the demands of a modern health care delivery system, even without the additional workload anticipated from the integration with Lakeside scheduled for early August. VA Chicago is working to accommodate its inpatients in a facility that has inadequate intensive care units, inpatient units, and surgical suites. Once the new facility is operational, the existing facility will also have to undergo significant renovations to improve the emergency department, laboratory and radiological services, and food and nutritional areas.

Because of the importance and the urgency of this project, my legislation would prohibit VA Chicago from disposing, in any manner, of the Lakeside division without first entering into a contract for the construction of the new bed tower promised to Chicago area veterans.

The bill would also fund a project to replace the existing ambulatory care center in Las Vegas, NV. As my good friend, Shelley Berkley often reminds the Committee, Las Vegas has the fastest growing population in the country and its veteran enrollees are not expected to peak until 2012. Veterans' use of services is expected to remain higher than it is currently throughout the 20–year timeframe studied for VA's Capital Assets Realignment for Enhanced Services project.

Unfortunately, in constructing a new ambulatory care clinic there in 1997, VA seems to have fallen prey to a contractor whose work was seriously substandard. An independent assessment by John A. Martin and Associates yielded an opinion that the clinic was "unsafe for continued occupancy." Because of the contractor's repeated failure to address serious structural deficiencies in the building, VA is now forced to abandon it. As an interim measure, VA is sending its patients to 10 different ambulatory care clinics around the city. This inefficient delivery system is forcing VA to add 80 full-time employees with significant new operational costs. My bill would request $97.3 million to build a new centralized facility that would also include space for a new regional office for the Veterans Benefits Administration.

In FY 2002, VA listed seismic corrections at the San Diego VA Medical Center as one of its highest construction priorities. Later, I am told, cost considerations—not any change in the assessment of need—yielded a lower priority for the project. I am still convinced that there is a great risk to VA patients and staff at the site and my bill would authorize $48.6 million to address the needs at the facility.

West Haven VA Medical Center is in serious need of major renovations to its inpatient wards and research facilities. For many years, the inpatient ward renovations have been a high priority for VA construction, but resources have not allowed the project to move forward. I am requesting $50 million for this project and to renovate the research facilities.

Finally, Charlotte, NC, is home to one of the largest populations in the country without a significant VA health care system presence. The project requested in this bill would allow VA to greatly expand its current workload in a clinic in the downtown area and enroll veterans who are now unable to receive care. I have included $3 million for the cost of the lease.

All of these projects merit our immediate attention and approval by all Members. I urge your favorable consideration.

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## HONORING COLE REVIS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, it is with a profound sense of pride that I stand before this Congress to speak about the actions of Cole Revis. Cole, a second grader in Grand Junction, Colorado, has shown more kindness and maturity in the face of adversity than most people have three times his age. Cole's father, a veteran of the first Gulf War, passed away this spring from skin cancer. Cole understood the sacrifices his father made in the service of our country and he is trying his best to follow his father's courageous example.

Mark Revis, Cole's father, was a Staff Sergeant in the 143rd Signal Company of the Colorado National Guard for six years, having previously served for 14 years in the Army. Mark was forced to retire from the National Guard when he was diagnosed with Multiple Sclerosis. He was later diagnosed with lung cancer and then skin cancer. Mark fought each disease and that same fighting spirit is evident in his son. He passed away in February, at the age of 44.

After receiving a death benefit check from the government, Cole felt strongly that this inheritance should go to his father's fellow soldiers. While most eight year olds would have bought candy, Cole wanted to use his money in a way that would help others. So Cole decided his money would be spent buying care packages for United States troops serving in Operation Iraqi Freedom.

Mr. Speaker, I am honored to speak today about Cole Revis. His passion, kindness, maturity and heart are an inspiration to us all. Cole's optimism and understanding of the role and duty that his father fulfilled have allowed him to understand that while his father is gone, his actions will never be forgotten. I know that if he were here today, Mark Revis would be extremely proud of his son. Thank you, Cole. Your actions are a testament to the will and unyielding strength that America's youth represents.

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## RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

SPEECH OF

### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. SAXTON. Mr. Speaker, with yesterday's passage of H. Con. Res. 177, we formally recognized and commended our Armed Forces for their participation and success in Operation Enduring Freedom and Operation Iraqi Freedom. Our magnificent men and women in uniform serve as the greatest ambassadors of what is good and right in our world. They are the bearers of the tremendous might, the indomitable spirit, and the boundless compassion of our nation and freedom loving people everywhere.

Our forces are, as they always have been throughout our history, Americans first, citizen soldiers, and great patriots. They have come from ordinary walks of life rising to do extraordinary things that shape our world and leave us forever awestruck. I again want to extend our collective and sincere thanks to all our members who serve, and I also want to recognize a particular group of truly unsung yet most deserving heroes—our U.S. Merchant Mariners.

Once again, our country has turned to its mariners to take the fight to the enemy, to project our force half a world away, to secure the precious freedom that now spreads to an Iraqi people free to choose their own destiny, to raise their families as they choose, and to renew the glories of one of the world's greatest civilizations. Our liberating force was decisive and it moved on the brawn, ingenuity, and dedication of our merchant marine. Not in 12 years have we moved such a force by sea, and we have done it better, against greater challenge than ever before.

We recently saw a line of ships spread from our east coast through the Straights of Gibraltar, through the Suez Canal and the Red Sea, and into the Gulf of Oman—a "steel bridge" of resolve. A bridge as strong as those mariners who crew our enormous ships and who go on in harms way to deliver our force anyplace, anytime they are called.

Since the beginning of the War on Terrorism, over 6,800 U.S. merchant mariners and civil servant mariners have served and provided support to our global military operations. Currently serving on 211 vessels, our U.S. mariners face many of the same hazards confronting our uniformed military as they regularly transit and operate within potential targeted areas of chemical and biological weapons, waterborne mines, and terrorist activities. Truly, our country's merchant mariners have answered the call selflessly and brilliantly.

Our mariners activated and crewed 40 vessels of our ready reserve force, essential to the early movement of ammunition, tanks, aircraft, and military vehicles. These U.S. mariners crewed our vital prepositioned ships and our fast response surge sealift vessels, providing time-critical warfighting equipment and supplies to the battlefield. Over 4,000 civil servant mariners manned and supported the continuous worldwide operations of our ships supporting U.S. naval and coalition forces at sea. Around the clock, every day, across the globe, our mariners make it happen.

At this crucial time in history, our U.S. mariners stepped forward with skill, bravery, and an unrivaled legacy of service. They made all the difference. Our nation continues to rely on these warriors, and their impact is profound. Long after the fighting stops, our mariners will still be on the watch, returning the troops, sustaining the force, and providing for the needy as we renew a proud but shattered land.

Mr. Speaker, on behalf of our Congress and a grateful Nation, it is my humble honor to say thank you to all our U.S. Merchant Mariners. We wish them God Speed and a safe return. They are indeed a national treasure—long may they serve.

## OMAR BRADLEY DAY

### HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. HULSHOF. Mr. Speaker, earlier this month, Moberly, Missouri celebrated its annual Omar Bradley Day. This day is an opportunity for area residents to remember a great hero and reflect on General Bradley's role in preserving the freedoms we hold dear.

As such, I wish to enter the following article, "Who Is Omar Bradley and Why Should I Care?" into the CONGRESSIONAL RECORD. Written by Moberly resident Sam Richardson, this item appeared in the Sunday, May 11, 2003 edition of the Moberly Monitor-Index. I believe the points it makes are a fitting tribute to General Bradley.

WHO IS OMAR BRADLEY AND WHY SHOULD I CARE?

Here's a good topic to toss around over your dinner tonight:

"Who is Omar Bradley and why should I care?"

It's a fair question around these parts, what with the annual General Omar Nelson Bradley Luncheon, Lecture and Symposium coming up Monday, May 12, at the Municipal Auditorium in Moberly.

"What did old Omar Bradley do to cause a whole lot of people to come to his hometown 22 years after he died?"

Another more than fair question.

The stock answer is that he is Missouri's most famous military figure, a member of the Missouri Hall of Fame, a guy with a 34-cent stamp with his picture on it, the fellow captured in bronze in the soaring statue in Rothwell Park, the "Bradley" who is the namesake for the Bradley Fighting Vehicle so prominent in last month's Operation Iraqi Freedom.

Moberly public schools, St. Pius X School, Moberly Area Community College, the University of Missouri, Truman State University and other educational institutions in Bradley's home state may teach young Missourians why Omar Bradley is important to them. And, indeed, he is important to them.

Of course, young and old alike should know Bradley went from Moberly High School to the U.S. Military Academy at West Point and eventually commanded the largest American fighting force ever assembled, was our nation's last five-star general officer and first Chairman of our Joint Chiefs of Staff.

At the 2002 Bradley Symposium, LTC Jay Carafano, then editor at the National Defense University at Fort McNair in Washington, D.C., told the audience one of the key reasons Bradley was not high on the public awareness screen was because of his low profile on the silver screen. Hollywood's big films about World War II didn't have much of a role for Bradley. LTC Carafano noted Bradley was on screen in "Patton," "The Longest Day" and "Saving Private Ryan" only briefly, hardly a leading character.

At this year's Bradley Symposium, two of the Truman Presidential Library's leading historians will make the point that Bradley was a pillar of leadership in his time.

Tom Heuertz, associate education coordinator, and Ray Geselbracht, education and academic outreach coordinator, at the great Independence museum will try to explain how highly Bradley was esteemed by President Harry S. Truman. "Truman saw him as one of the world's greatest generals ever, in the same class with Hannibal and Napoleon," Heuertz said yesterday.

Because of the positions he held, Bradley clearly was a favorite of at least three Presidents: Franklin Roosevelt, Truman and Dwight Eisenhower.

On a recent edition of "The Newshour with Jim Lehrer," Lucian Truscott IV, a noted military history author, reflecting on American generals' leadership in Operation Iraqi Freedom, suggested the U.S. Central Command's Gen. Tommy Franks and others were nowhere near the class of "great generals like Patton, Bradley and Eisenhower."

Monday, Colonel Jon H. Moilanen, dean of students and administration at the U.S. Army's Command and General Staff College in Leavenworth, Kansas, will describe how Bradley's military expertise still molds the careers of young officers who serve throughout the world today.

This is pretty heady stuff for a chap from our town. In a story about Bradley Day in The Washington Times recently, Moberly was referred to as "quaint" and "picturesque."

For his part, Bradley was, indeed, quiet, modest and unselfish, along with very smart, a natural leader and an exceptional athlete. The kind of man you'd expect to come from a quaint and picturesque town like ours.

In the 1915 West Point class yearbook, it is reported Bradley was a sergeant, first sergeant and lieutenant; he was a sharpshooter; he was a member of the football team and track squad; and, perhaps most importantly to him at the time, he was the star of the Army baseball team all four years he was there.

The yearbook says, "His greatest passion is baseball, football and F Company. In baseball, many an opposing player has trifled once with Brad's throwing arm, but never twice. And a batting average of .383 is never to be sneezed at."

"His most prominent characteristic is 'getting there,' and if he keeps up the clip he's started, some of us will some day be bragging to our grandchildren that, 'sure, General Bradley was a classmate of mine,'" the yearbook says of our favorite son.

And, in the style of the day, the yearbook assigned each cadet a motto. Bradley's: "True merit is like a river, the deeper it is, the less noise it makes," attributed to Anonymous.

How true that turned out.

Although his classmate Eisenhower became Supreme Allied Commander in World War II, and then President, Bradley was the first in his class to become a brigadier general.

One reporter wrote in May 1944, "Endowed with the mind of a mathematician and the body of an athlete, General Bradley is essentially American in ancestry, training and experience; he is slow spoken but sharp witted; he is polite and at times even diffident, but immensely certain of his own skill—the type of soldier who for 168 years has sustained the republic."

And finally, this former captain of the Moberly High School baseball team, a boy worthy of his own shotgun at age 13, a young man who graduated 44th in a class of 164 at West Point, would tell a reporter about dinner at his humble home in Randolph County:

"We'd sit down at the supper table, my mother, my dad and I, and we'd talk things over. That's where I learned a lot about love of country and right from wrong."

From a dinner table in Randolph County to the greatness of the world, that was the man who will be remembered Monday at the 2003 General Omar Bradley Luncheon, Lecture and Symposium.

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## TRIBUTE TO BILL CORDOVA

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Bill Cordova of Grand Junction, Colorado, who has been a profound inspiration to all who have known him. Bill worked tirelessly on behalf of those in need for decades, and it is my honor to recognize his service here, before this body of Congress and this nation.

In his life, Bill has served his fellow neighbor in a number of capacities. Early on, Bill worked to provide adequate housing for migrant workers, which led to his working some years later for Colorado Housing Incorporated in order to provide homes for low-income families. Bill was instrumental in developing a community center in Montrose, and he has also had an enduring influence in the lives of local prisoners to whom he has ministered. Currently, Bill works six days a week at the Catholic Outreach Soup Kitchen, and serves on the board of Catholic Outreach as well.

Mr. Speaker, in his lifetime, Bill has touched the lives of many. His numerous good works are an example of the benevolence and perseverance that have contributed to the strength of this nation. I commend Bill for his dedication and commitment to the less fortunate, and it is an honor to pay tribute to his selfless work today.

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## REINTRODUCTION OF THE REVITALIZING CITIES THROUGH PARKS ENHANCEMENT ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mrs. MALONEY. Mr. Speaker, today, I introduce legislation, the "Revitalizing Cities Through Parks Enhancement Act," that would establish a $10 million grant program for qualified, non-profit, community groups, allowing them to lease municipally-owned vacant lots and transform these areas into parks.

These vacant lots often are areas of heavy drug-trafficking. Parks and gardens created with the grants will not only provide safe places to gather, but will increase property values as well. The grants will be available from the Secretary of Housing and Urban Development to groups who have met standards of financial security, and who have histories of serving their communities. To further ensure that these grants are used to make lasting positive changes, land improved and made into open community space under this legislation must be available for use as open space from the local government for at least seven years.

## WE CAN END HUNGER IN AMERICA

### HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McGOVERN. Mr. Speaker, we live in the most prosperous nation in the history of the world.

We have refrigeration systems to prevent food from spoiling.

We have pasteurization to prevent bacteria from poisoning our food.

And we have ways to fortify our foods with vitamins and nutrients to make the food we eat healthier.

Yet, with all these advances, people still go hungry in America.

The fact is, Mr. Speaker, hunger is a political problem. But I believe it's a problem we can solve.

Thirty-seven years ago, Senator Bobby Kennedy traveled throughout America, and saw first-hand the hunger ravaging the most vulnerable in our Nation. As a result, we made a national commitment to do something about it.

Congress, under the leadership of Senators George McGovern and Bob Dole, and with the support of President Nixon, created the school breakfast program, WIC, the elderly nutrition program, and the food stamp program.

Since then, we have made great strides. But we have a lot of work left to do. Indeed, many Americans don't realize that hunger still exists in their communities.

There are 33 million hungry people in the United States—11 million of them are children. In my district in Massachusetts, I talk to food bank directors who have noticed a sharp increase in the number of families who need help.

The food bank that serves my home town, the Worcester County Food Bank, helped feed over 80,000 people in 2001. Of the 3.7 million pounds of food, almost 38 percent went to kids under the age of 18. The food bank, run by Jean McMurray, donates food to more than 260 local shelters, food pantries, senior centers, and after school programs.

The Worcester County Food Bank is doing great work, and the people who work there do their best to provide for every single person who needs help. Unfortunately, it's not enough.

That is why I am proud to stand with my colleague Congressman FRANK WOLF in introducing a resolution to recognize June 5 as a National Hunger Awareness Day. This resolution encourages Americans to recognize the issue of hunger, and to work toward ending hunger—in their own home towns and across the nation.

I'm also honored to join Congressman WOLF in sponsoring the Congressional Food Drive. I hope that we have wide participation in this drive from the Capitol Hill community. The Members and staff who work here are very blessed. It's important that we try to share those blessings with others. There are drop-off bins all across the Hill, and I hope people will fill them with non-perishable food items.

But this is just a start. Clearly, more must be done.

With that sentiment in mind, I call on President Bush to convene a White House summit on hunger. Too long has the scourge of hunger plagued the people of this nation. There is no reason why we should not focus our efforts on ending hunger in America, once and for all time.

President Nixon convened such a summit, and the result was landmark legislation to feed the hungry people in America.

A 21st Century Summit would bring fresh ideas to this problem, and help us to focus on the challenges that face the hungry in the 21st century.

Simply, Mr. Speaker, it's the right thing to do, and I urge my colleagues to join me in supporting this effort.

We have the foot soldiers we need in this war against hunger. The people at America's Second Harvest and Bread for the World are already working around the country to fight hunger. The Food Research and Action Center and the Congressional Hunger Center are tireless advocates on behalf of the hungry. And the dedicated people who run the food banks in this country see first-hand the need for a reinvigorated effort to end hunger.

Mr. Speaker, we live in the most prosperous nation in the history of the world. We have the resources to put an end to hunger once and for all. What we need—all we need—is the political will to do it.

## HONORING LOUIS MARTINEZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress today to recognize a man who exemplifies the heart, determination, and enthusiastic spirit that makes up the backbone of this great nation. Louis Martinez, a 57-year-old man from Grand Junction, Colorado, is an elementary school counselor who takes pride in helping to motivate and encourage his young students.

The lessons in Louis's life started right away, as his parents showed him the determination it takes to succeed. Louis's father worked for the railroad laying track and his mother worked in a canning factory. They worked hard to provide for their children and instilled a similar work ethic in their son. Louis was responsible for duties all over the house, including cooking and cleaning. This work ethic led Louis down a path that he never dreamed he would take. Louis left high school his senior year and joined the Navy. He served three tours in Vietnam, traveling all over the Western Pacific. Louis returned to Grand Junction and a job at City Market in the bakery department.

In the spirit of contributing to his community, Louis set his sights on becoming a police officer. His hard work paid off and he became the first Hispanic officer on the force. While on the police force, Louis decided to go back to school, enrolling at the University of Northern Colorado. It was at this time that Louis was injured in a car accident and once again was presented with the opportunity to overcome adversity. Louis was paralyzed in the accident, forcing him to work even harder to receive his degree. He continued through school with the support of his family, and received his diploma.

With his degree in hand, Louis set off to help as many young people as possible. He ended up at Tope and Wingate Elementary Schools, where he became a school counselor. He has worked for the schools for eleven years and hopes to work there for many more. Everyday on the job Louis provides the children with a positive influence, giving them a mentor they can respect and admire.

Mr. Speaker, I am proud to pay tribute to Louis Martinez before this body of Congress and this nation. His determination and optimism are models for today's youth. I am pleased that Louis has chosen a career where he can extend his positive influence to our children. Thank you, Louis, for the outstanding example of hard work, determination, and optimism that you have given our children.

## RECOGNITION OF RALPH CLEMINGS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Mr. Ralph Clemings of Troy VFW Post 976, Illinois. Ralph recently presented two protective vests for the dogs of the Illinois State Police K–9 unit from District 11 in Collinsville, Illinois.

Ralph came up with the idea after watching the K–9 units work in the aftermath of 9–11. He thought that since these dogs are now being sent in to risk their lives in dangerous situations, they should have the same type of protective vests that the policemen have. He then contacted the Illinois State Police and found out that the state didn't have enough funding in the budget to purchase any vests for the dogs. After hearing this Ralph set out to raise the needed funds to purchase the vests. It took him nearly 7 months, but he raised the money without ever asking anyone else for help.

On April 27, 2003, Ralph presented two dog vests to Sergeant Fred Scholl and his K–9 partner "DAX" and also to Trooper Rampert and his K–9 partner "Rogune." Ralph also noted that K–9 units have been used to save thousands of lives in the Korean War, the Vietnam War, and most recently in Iraq.

I would like to congratulate and thank Ralph for his hard work on this cause. This selfless act is a prime example of someone giving back to the community and the dedication that makes this country so great.

## TRIBUTE TO DAVID A. LEBOW

### HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mrs. NAPOLITANO. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. David A. Lebow on the occasion of his retirement as the President of the Montebello

Teachers Association. I also want to thank him for 39 years of distinguished and dedicated service to the Montebello Unified School District.

David Lebow first joined the Montebello Unified School District in 1964, as a teacher at Eastmont Junior High School. In 1971 he began enriching the minds of students at Schurr High School in the disciplines of Music, Theater Arts, Advanced Placement American History, and Advanced Placement American Government. Over the last 33 years his service to the education community has been demonstrated through numerous positions including Fine Arts and Social Studies Department Chair, High Risk Academic Cluster Coordinator, Key Club Sponsor, National Honor Society Sponsor, Principal's Advisory Committee Chair, and Class Sponsor in 1974 and 1979.

In 1981 David Lebow began dedicating his time and skills to the Montebello Teachers Association (M.T.A.), serving as High School Representative from 1981 through 1984, Vice President from 1984 through 1985 and again in 1998 through 2000. He served as Treasurer from 1991 through 1993. In 2001, the membership elected Mr. Lebow President, where he has served as the voice of over 1,600 teachers for the past two years.

Mr. Lebow has also served as the M.T.A. Lifetime Health Benefits Trust Chairperson since 1987. Additionally, David Lebow's advocacy on behalf of teachers extends to the state level, where he has served on the California Teachers' Association (C.T.A.) Board of Directors from 1990 through 2001. He has served as member and Chairperson of the Alliance of Urban Teachers from 1985 through 1989 as well as Liaison Coordinator to the C.T.A. Board of Directors.

Mr. Lebow has lead with integrity and has enjoyed the respect of many in the field of education. So it is not surprising that his skills and devotion have earned him many awards and recognitions. He has been the recipient of the P.T.A. Founders Award, the Los Angeles County Bravo Award, the C.T.A. Local and State "Who" Award for outstanding work on behalf of members, and the C.T.A. Human Rights Award for work in fostering the advancement of women and minorities in leadership positions.

Mr. Speaker, in closing I wish the very best to David Lebow as he is recognized for his years of service to the Montebello Unified School District. His strong leadership skills and devotion to the teaching profession and to children will be greatly missed. During the last 39 years of service, he certainly has earned recognition, and I call upon all my colleagues to join me in applauding his tenure in education and wishing him all the best for his retirement.

## HONORING RUTH ZEMLOCK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. McINNIS. Mr. Speaker, I am pleased to stand before this body of Congress today to express my thanks and admiration for Ruth Zemlock, the winner of the May 2003 "9 Who Care Award". Channel Nine News in Denver, Colorado awards this honor to someone who strives to give back to his or her community through volunteering, something Ruth has succeeded in doing for over 14 years.

Valley View Hospital in Glenwood Springs, Colorado is lucky to have such a determined and hard working volunteer; a woman who has done so much for the hospital that she has garnered the nickname "Dr. Ruth." Her fellow co-workers explain that Ruth knows "anything and everything" about the hospital, because at one time or another she has worked in every department. Today, Ruth is working at the information desk and in outpatient surgery and is a member of the hospital's Board of Directors. To date, she has amazingly given over 11,000 hours of her time, about 458 days, to the care of others.

Mr. Speaker, Ruth's hard work and determination have provided Valley View Hospital with an exemplary model of heart and kindness. Volunteers are an integral part of America's workforce. Each day, they make an impact on everyone around them. At the age of 85, Ruth's endless energy and enthusiastic spirit amaze all who know her. Thank you, Ruth, for your years of distinguished, honorable service. Valley View Hospital and Glenwood Springs, Colorado will forever be in your debt.

## LEGISLATION TO AUTHORIZE CERTAIN BUREAU OF RECLAMATION ACTIVITIES

### HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ABERCROMBIE. Mr. Speaker, today, Representative ED CASE and I are introducing legislation to authorize certain Bureau of Reclamation activities that will have profound impacts on the future of Hawaii's economy.

The legislation is a companion bill to one introduced in the Senate by Senator DANIEL AKAKA and Senator DAN INOUYE. It will expand the scope of the Bureau of Reclamation water resources study authorized by the 105th Congress as well as authorize three specific projects needed to address Hawaii water needs. This law, the Hawaii Water Resources Act of 2000, included Hawaii in the Bureau's wastewater reclamation program and expanded its drought relief programs to include Hawaii.

Although one of Hawaii's greatest assets is its tropical climate, there are vast areas where little rainfall occurs and conditions are very similar to that of the high arid regions of the mainland U.S. In addition, similar to current conditions in these U.S. areas, drought conditions have been occurring in most recent years.

The most recent projection of the Honolulu Board of Water Supply indicates that the island of Oahu will exhaust the fresh water supplies of the island by the year 2018. Seventy-two percent of Hawaii's population lives on Oahu, so it is easy to imagine the cataclysmic consequences of ignoring the dire warnings that are being sounded. There are numerous efforts underway at both the State and local levels to begin addressing problems, such as substituting recycled water for potable water when appropriate, improving storage to preserve surface water, and implementing conservation technologies.

Enactment of the legislation will help lead us to long-term solutions. There are, however, several projects ready for implementation that would begin to mitigate current and future conditions. Three of them would be authorized under the bill. Briefly, a desalinization facility would be built on Oahu, capable of producing 5 million gallons of potable water a day. Secondly, on the leeward side of the Big Island of Hawaii, a facility is to be built creating subsurface wetlands and an open surface wetland to treat effluent and generate useable water. The third project, in Lahaina, Maui, is to expand the existing recycled water distribution system so that numerous commercial users can substitute readily available recycled water appropriately where currently potable water is used.

I look forward to working with my colleagues to help find solutions to water development, conservation, reuse and recycling in Hawaii.

## HONORING JESSE M. HARRISON

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to one of my constituents, Jesse M. Harrison of Rocky Hill, Connecticut. Mr. Harrison is a veteran of the Second World War, and I recently had the privilege of presenting him with the Distinguished Flying Cross, which he earned nearly 60 years ago during his service as an Air Force pilot, but never received.

Mr. Harrison, now 82, served in the Air Force from March 20, 1943 to January 8, 1946. He piloted an aircraft on D–Day, June 6, 1944 at about 1:00 am carrying 17 paratroopers from the allied base in England to their "drop zone" behind German lines in Ste. Mare Eglise, France, only miles from the Normandy beaches. Two of the three planes in Mr. Harrison's group went down in flames under heavy German fire, however First Lieutenant Harrison, then 24, dropped his aircraft down to tree top level and took complicated evasive actions to avoid German fire. After overshooting the drop zone because of the German fire, he returned to the drop zone and the paratroopers dropped and hit their mark. When he returned to base in England, his aircraft had 67 holes in it from German gunfire.

On September 19, 1944, Mr. Harrison was again the pilot of a plane flying over the Netherlands towing a glider with 10 American soldiers and a jeep on board to their drop zone near German lines. His plane came under heavy enemy fire and his crew bailed out after the plane caught fire and began losing altitude. Were Harrison to bail out as well, the troops on the glider he was towing would likely have had to let go early, resulting in their death or capture. Mr. Harrison alone continued to guide the glider with his burning aircraft to their drop zone. After dropping the glider at their mark, Mr. Harrison had to walk through a wall of flame to reach his exit door—with the plane only 300 feet from the ground and falling—to jump. He was assisted by two Dutch priests who found him. Mr. Harrison suffered 2nd and 3rd degree burns from his waist to his face and spent 15 months recovering, receiving numerous skin grafts.

It was a privilege for me to be able to present him with his well-deserved medal on behalf of an eternally grateful Nation with all his family and friends present at Rocky Hill Town Hall on Wednesday, May 28, 2003. Mr. Harrison is one of the thousands of real life heroes whose story must be told again and again so that each new generation of Americans will know that heroes do indeed walk among us, and that we must never forget the service and sacrifice our veterans gave for this Nation.

Mr. Speaker, I ask that my colleagues join me today in thanking and honoring Jesse Harrison for his service to the Nation.

## SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

SPEECH OF

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 2003*

Mr. STUPAK. Mr. Speaker, today the House of Representatives took up H. Res. 231, a resolution supporting Peace Officers Memorial Day, which took place on May 15, and honoring law enforcement officers who were killed or disabled in the line of duty. I want to thank my colleague Mr. HEFLEY for sponsoring this important legislation again this year, and wholeheartedly back this important resolution.

Supporting law enforcement is very important to me. Before coming to Congress in 1993, I served for over 12 years as a Michigan state police officer for the Escanaba City Police Department. I was the founder and have continuously served as co-chair of the House Law Enforcement Caucus for the past 11 years.

Since September 11, 2001, many in this nation and this Congress have come to realize the importance of the sacrifices made by our law enforcement officers. Every day law enforcement men and women protect and serve, often putting their own lives at risk. In Michigan alone, over 40 officers have given their lives in the line of duty over the past 15 years.

Peace Officers Memorial Day brings us together in honoring the extreme sacrifice our nation's law enforcement and public safety officers make to our communities and our nation every day.

I think it is important as we discuss this important resolution, to resolve to focus in Congress on providing the necessary funding and support to law enforcement in the growing challenges they face.

I am hopeful that my colleagues will follow up on their support of this resolution, and continue our commitment to law enforcement by supporting these important funding needs. It is the least we can do for those who put their lives on the line every day.

## PERSONAL EXPLANATION

### HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. HERGER. Mr. Speaker, I was unavoidably absent on Monday, June 2 and Tuesday, June 3. Had I been present, I would have voted as follows on the following rollcall votes: Roll No. 227—"yea"; Roll No. 228—"yea"; Roll No. 229—"yea"; Roll No. 230—"yea"; Roll No. 231—"yea"; Roll No. 232—"yea"; Roll No. 233—"nay"; Roll No. 234—"yea"; and Roll. No. 235—"yea".

## IN HONOR OF FRANK G. JACKSON

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Frank G. Jackson, President of Cleveland City Council, as he was honored by the Cuyahoga County Democratic Party on May 18, 2003.

Mr. Jackson is a United States veteran, having served our country in Vietnam. After being honorably discharged, he returned to his East 38th Street neighborhood and began attending classes at Cuyahoga Community College. In 1975, he graduated with a Bachelor's degree from Cleveland State University. In 1977, Mr. Jackson was awarded a Master's degree in Urban Studies from CSU. In 1983, after working his way through law school as a night clerk at Cleveland Municipal Clerk's Office, Mr. Jackson was awarded a law degree from the Cleveland-Marshall College of Law, and worked as an assistant county prosecutor until his 1990 election to Cleveland City Council, representing Ward 5.

For the past 13 years, Mr. Jackson has focused his efforts on revitalizing the housing and commercial aspects of the Ward 5 community, and has done so by working closely with neighborhood leaders and development organizations, and by setting a tone of integrity, diligence, commitment and cooperation among City Council members and City administrators.

Mr. Speaker and Colleagues, please join me in honor of Mr. Frank G. Jackson, President of Cleveland City Council, as we recognize his outstanding contribution to our community. Mr. Jackson's work, expertise and dedication have served to improve and strengthen our urban neighborhoods, bringing light and hope to the citizens of Ward 5, and to our entire community.

## TRANSPORTATION CRUNCH TIME IN OUR NATIONAL PARKS

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. RAHALL. Mr. Speaker, with nearly 300 million visitors to our National Park System each year, there are times when the roads in America's Crown Jewels look little different than the scene on I–395 into the District of Columbia during morning rush hour. The level of traffic congestion being experienced in many of our National Parks not only diminishes the visitor experience, but is adversely impacting the resource values these parks were established to protect in the first place.

While the automobile will continue to reign supreme, our National Parks and the people who visit them are suffering from a lack of alternative transportation opportunities. To address this situation, today I am introducing the Transit in Parks Act (TRIP).

Recognizing the growing problems many of America's 'crown jewels' are experiencing as a result of high visitation levels, Congress in the last major federal highway and transit reauthorization law known as TEA 21 required the Secretaries of Transportation and Interior to undertake a study of alternative transportation needs in National Parks. The study found a pressing need to increase transit opportunities in order to relieve traffic congestion, enhance visitor accessibility, preserve sensitive resources and reduce pollution. However, it identified a number of barriers to implementing successful transit systems in National Parks, including the lack of a dedicated funding source.

The TRIP bill carries out the study findings by establishing a Transit in Parks Program to be administered by the Secretary of Transportation (Federal Transit Administration) and the Secretary of the Interior (National Park Service). The program would generally follow existing law requirements for mass transportation as it relates to the planning and development of transit facilities and would create a transit counterpart to the Federal Highway Administration's Parkways and Park Roads program. The legislation proposes a $90 million annual allocation for the Transit in Parks Program from the Mass Transit Account of the Highway Trust Fund.

It should be noted that the National Park Service is currently using on average $11 million of its $165 million annual Parkways and Park Roads allocation for alternative transportation. This amount is insufficient to meet the alternative transportation needs for units of the National Park System identified by the TEA 21 study of approximately $90 million a year. Moreover, as the study noted, this shift in funding increases the gap between available funding and the amount needed to maintain the rapidly deteriorating and already underfunded park roadway system.

Currently, we are squandering some of our most unique natural resource heritage contained in units of the National Park System as a result of a relatively small investment in alternative transportation facilities. It is my hope that the funding in this bill will be additive to the extensively documented but unmet rural and urban transit funding needs which must be addressed in the TEA 21 reauthorization.

## THE MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION ACT OF 2003

### HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. STRICKLAND. Mr. Speaker, today I am introducing the Mentally Ill Offender Treatment and Crime Reduction Act, the companion to a bill introduced in the Senate today by Senator DeWine.

According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of youth in the juvenile justice system have serious mental health problems, and many more have co-occurring mental health and substance abuse disorders.

These statistics, however, cannot adequately describe how devastating the combination of untreated mental illness and the criminal justice system can be for both an individual and the system. Today I had the pleasure to meet Tom Lane. Tom, a 43-year-old man who lives in Fort Lauderdale, Florida, now works for the National Alliance of the Mentally Ill (NAMI) as the Director of the Office of Consumer Affairs. However, just a few years ago in July 1997, Tom was suffering from severe depression. He was a cabinetmaker who had sustained a head injury from a construction accident that caused him to have seizures and prevented him from working. When he called a suicide hotline, police were dispatched. The officers put him in jail, where he did not receive treatment for depression and was not allowed to take his anti-seizure medication. When he started suffering two seizures a day, he was hospitalized. Upon his release from the hospital he still did not receive any treatment or recommendation of treatment for his mental illness and for days he slept in the bushes outside the hospital. Fortunately, Tom was eventually able to contact his family from a pay phone and they came to his rescue. Once he began receiving treatment, Tom was able to get back on his feet. Today he is a highly functioning, highly effective professional advocate for people with mental illness.

Tom's story illustrates how easy it is for a person with mentally illness to become entangled with the criminal justice system. Untreated mental illness often leads to behaviors that attract the attention of police officers. If a person with mental illness does not receive treatment, his or her condition almost definitely will worsen when they are in custody. Generally, the criminal justice system is not equipped to identify and ensure people with mental illness find appropriate treatment programs, either through diversion into community treatment or within a jail or prison. The bill I am introducing seeks to make sure people like Tom Lane don't fall through the cracks. It encourages collaboration between the mental health treatment and the criminal justice systems. This collaboration is essential for ensuring mentally ill offenders are given the treatment they need.

The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 is phase two of an effort that started in the 106th Congress, when Senator DeWine and I successfully passed America's Law Enforcement and Mental Health Project (P.L. 106–515). This bill created a Department of Justice grant program assisting State and local governments with the establishment of mental health courts. Mental health courts—which are modeled on drug courts—provide specialized dockets in non-adversarial settings to bring mental health professionals, social workers, public defenders and prosecutors together to divert mentally ill offenders into a treatment plan. The goals of a mental health court are to expand access to mental health treatment, improve the community's response to mentally ill offenders, and reduce recidivism among the mentally ill population. I am pleased that this program has been incredibly popular.

The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 will build on America's Law Enforcement and Mental Health Project by providing additional resources for communities that wish to create mental health courts. The new bill represents a significant commitment to addressing the needs of both the criminal justice system and the mentally ill offender population. The bill will create a grants program for communities that will provide resources for diversion programs across the spectrum of the criminal justice community, including prebooking diversion programs like those that have been so successful in Los Angeles, California and Memphis, Tennessee. Communities will be able to design programs that provide mental health treatment in jails and in prisons. And finally, grants will be available for transitional or aftercare programs that seek to ensure offenders are provided appropriate treatment and care when they transition from jail or prison back into the community when they have completed their sentences.

The bill is intended to give communities much flexibility to design and operate the programs they identify as most appropriate for meeting their needs, and grant funds will be able to be used for planning, establishing a structure, and funding treatment. All successful grant applicants will be required to demonstrate collaboration between the criminal justice and mental health treatment agencies in a community. Too often, mentally ill offenders fall through the cracks because the relevant systems in a community do not work together. This lack of collaboration is detrimental to both the mentally ill offender as well as the stability of the criminal justice system. Therefore, criminal justice and mental health treatment agencies will be required to apply together for the grants established by the bill, compelling the collaboration that is needed to get those who are mentally ill and coming in contact with the criminal justice system the mental health and substance abuse treatment they need. In addition, the bill requires that grant applicants ensure mentally ill offenders are connected to education, job training and placement, and housing programs.

In addition, the bill calls for an Interagency Task Force to be established at the Federal level. Task Force members will include: the Attorney General; the Secretaries of Health and Human Services, Labor, Education, Veterans Affairs, and Housing and Urban Development; and the Commissioner of Social Security. The Task Force will be charged with identifying ways that Federal departments can respond collaboratively to the needs of mentally ill adults and juveniles.

I strongly believe that encouraging collaboration at the Federal, State, and local levels of government is essential to ensuring that people with mental illness are able to access the mental health treatment and other support programs they need.

I look forward to working with my colleagues to pass this bill and make our communities safer for all.

## APPLAUDING THE RECENT ACTIONS TAKEN BY THE ILLINOIS STATE LEGISLATURE REGARDING THE EQUAL RIGHTS AMENDMENT

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ANDREWS. Mr. Speaker, I rise before you today in strong support of the recent actions taken by the Illinois state legislature regarding the Equal Rights Amendment (ERA), a proposed amendment to the Constitution which would unequivocally guarantee equal gender rights under the law. As many of my colleagues are certainly aware, the Illinois State Assembly recently voted on and passed the ERA, clearing the way for their counterparts in the Senate to consider this crucial legislation at the conclusion of their current recess. If Illinois' State Senate agrees to ratify the ERA, then only two more state ratifications will be necessary for this long overdue amendment to be added to our Constitution.

Some people have argued that the addition of an ERA amendment to the Constitution would simply be a change in semantics and nothing more. I strongly disagree. Presently, on average, women receive only 76 percent of the pay that men receive for comparable full time positions. Inequities such as these are inexcusable; they are disastrously damaging not just to women, but also to their families. Through the ratification of an Equal Rights Amendment, women would have an expanded legal basis to call for equal compensation for equal work.

Although the Equal Rights Amendment may have faded from the public spotlight at times, the movement to include women in the Constitution never died, and it is growing vigorously once again. Women had to wait until 1920 to be granted the right to vote under the Constitution. While this was certainly a monumental development, it has not produced full gender equality. The 14th Amendment, granting "equal protection of the laws," did not, and still does not, fully protect women from damaging gender discrimination. Only an Equal Rights Amendment would ensure the Constitutionally guaranteed full equality that women deserve.

The ERA was originally passed by Congress in 1972, along with a seven-year time limit for ratification. In 1979, Congress extended the time limit for three more years, leaving the deadline at 1982. Within a decade of the initial 1972 passage, the amendment had been ratified by 35 states, three short of the necessary 38. For many years after that, the ERA was, for technical reasons, generally considered "dead." However, legal analyses indicate that with just three more state ratifications, the ERA may in fact meet the requirements to be added to the Constitution. As has been verified by several legal experts, the fact that the time limit appears in the proposing clause rather than the text of the legislation leaves this deadline open to adjustment. When Congress chose to extend the deadline in 1979, a precedent was set; subsequent sessions of Congress may adjust time limits placed in proposing clauses by their predecessors. These adjustments may include extensions of time, reductions, or elimination of the deadline altogether.

It is therefore possible for current or future sessions of Congress to eliminate the deadline originally placed on ratification of the ERA, thus allowing the amendment to be added to the Constitution once it is ratified by three more states. This "three state strategy" is a very real possibility, and I have introduced legislation into the House of Representatives, H. Res. 38, to ensure that action will be immediately considered by Congress once three more state legislatures ratify the ERA.

Put simply, it is time for the Constitution to be amended to include an amendment which ensures gender equality for all Americans. Today, unlike some times in the past, the American people are decidedly ready for Constitutionally-guaranteed equal rights for men and women. A July 2001 nationwide survey by Opinion Research Corporation showed that 96 percent of American adults believe that male and female citizens of the U.S. should have equal rights, and 88 percent believe that our Constitution should explicitly guarantee those rights. Having the ERA in the Constitution will simply recognize what the American people already want—equal justice under the law.

Many leaders both here in Congress and in state legislatures are advocating for the "three state strategy," as well as a renewal of the ERA by Congress through a second passage of the amendment. I feel that anyone who is serious about guaranteeing equal rights to women should be supportive of both of these approaches. It does not matter how the ERA is eventually made part of the Constitution, as long as guaranteed gender equality rights are the end result.

As the Equal Rights Amendment reads, "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." The ERA is unfinished business for the Constitution. It will be achieved, and present and future generations of women—and men—will thank us for it, and wonder why it took so long. It is simple justice, it is long overdue, and it is time.

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## INTRODUCTION OF FOCUS ON COMMITTED AND UNDERPAID STAFF FOR CHILDREN'S SAKE ACT

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to join my colleagues Mr. PLATTS, Mr. KENNEDY of Rhode Island, Mr. ANDREWS, Mr. SERRANO, Ms. DELAURO, Mr. DAVIS of Illinois, Ms. SOLIS, Mrs. DAVIS of California, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. KILDEE, and Mr. SANDERS in introducing the FOCUS Act. This legislation would be an important step in increasing child care quality for all children.

High-quality child care can play an important role in healthy child development and school-readiness. Just as it is the parents who matters at home, it is the teachers who matter in child care. One of the most critical components of quality child care is a stable and qualified teaching staff. Children learning from more highly educated teachers perform better on tests of verbal and match achievement. Yet, child care staff—who have the responsibility of helping guide children's development—are among the lowest paid workers in America. In 2000, the average hourly wage for a child care provider was $8.16, which is approximately $16,980 annually. Moreover, most providers do not receive health insurance or paid leave and the annual turnover rate is about 30 percent. Academic and government studies conclude that low pay is one of the leading causes of poor quality child care. Low wages keeps qualified providers from remaining in the field and deters new providers from entering the field. A 2001 report by the Center for Child Care Workforce and the University of California Berkeley found that centers are losing qualified staff because of low wages and are forced to hire less qualified replacements. The study also found that not only are wages extremely low, but they are not keeping pace with cost of living increases. States report centers are closing or turning away children because they cannot properly staff their programs.

FOCUS directly addresses the problems low pay creates by providing stipends to qualified child care staff based on the level of education. This legislation would be a mechanism to assist States increase the pay of child care workers and to improve the overall quality of child care. The bill would supplement wages by a minimum of $1000 per year for providers with child development associate credentials and a minimum of $3000 per year for providers with B.A.'s in the area of child development. These stipends will help attract new qualified workers to the field and increase the retention and skill level of current workers. FOCUS also would provide funds for scholarships so that we can continue to increase the qualifications of the child care workforce.

Research on early childhood and brain development clearly demonstrates that the experiences children have early in life have a decisive, long-lasting impact on their later development and learning. We cannot expect children to transition to kindergarten and succeed in school if we do not take the necessary steps to provide quality care in the years prior to school entry. The average quality of child care is far poorer than what it should be in a country as wealthy and committed to our children's future as is ours. It is time we work to make quality child care for all children a national priority. Mr. Speaker, I urge Members of the House to join me and co-sponsor the Focus Act.

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## THE NATIVE AMERICAN LANGUAGES ACT OF 2003

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. CASE. Mr. Speaker, I am most pleased to introduce the Native American Languages Act Amendments of 2003, with Representatives NEIL ABERCROMBIE and DON YOUNG as original cosponsors.

This vital legislation will authorize the Secretary of Education to provide grants to or enter into contracts with Native American language educational organizations, Native American language colleges, Indian tribal governments, organizations that demonstrate the potential to become Native American language educational organizations, or consortia of such entities, to establish Native American language "nests" for students under the age of 7 and their families. It will also authorize grants for these entities to operate, expand, and increase the number of Native American language survival schools throughout the country for Native American children and Native American language-speaking children. Finally, the bill will authorize the establishment of three demonstration projects that will provide assistance to Native American language survival schools and Native American language nests.

Today's measure is a companion to S. 575, which was introduced by the senior member of Hawaii's delegation, Senator DANIEL INOUYE, and is cosponsored by Senators DANIEL AKAKA, BEN NIGHTHORSE CAMPBELL, and TOM DASCHLE. A hearing was held by the Senate Indian Affairs Committee on May 15, 2003, at which there was broad-based support from native language speakers, educators, and supporters from across the country, including Hawaii, Alaska, California, New Mexico, Montana, Oklahoma, Minnesota, and Virginia.

This proposal forwards current federal self-determination policies toward native peoples, which support the promotion of economic and social self-sufficiency, as well as the preservation and revitalization of native culture, languages, art, history, religion, and values. Since language is a significant factor in the perpetuation of native cultures, the federal government enacted the Native American Languages Act of 1990 urging federal support for Native American languages, and the Native American Languages Act Amendments of 1992 establishing a grant program at the Administration for Native Americans to fund the preservation of Native American languages. My bill continues this commitment by our federal government to ensure the survival of these unique cultures and languages.

In my home state, I am proud that the people of Hawaii and the State of Hawaii have strongly supported the revitalization of Hawaiian culture, art, and language. In 1978, for example, the State of Hawaii wrote into its constitution a specific declaration that Hawaiian is one of our two official languages, along with English.

There is also support for Hawaiian language programs in both our public and private schools. At the forefront of these efforts have been supporters of Aha Punana Leo, a Hawaiian language immersion program which has endeavored to include both students and parents in an exciting and innovative way to revitalize Hawaiian language and culture. Ms. Namaka Rawlins, Director of Aha Punana Leo, and her husband, Dr. William (Pila) Wilson, have been pivotal in these efforts. The lessons of family and community involvement in the preservation of the Hawaiian language that they and other have proven are and can be used by other native communities and cultures across the country.

While the Aha Punana Leo program initially started with pre-school students, Hawaiian language survival schools were also established to allow for students to graduate from high school. Over 2,000 students are currently enrolled in Hawaiian language nests and survival schools. A Hawaiian language center—Hale Kuamoo—was eventually established at the University of Hawaii at Hilo with the collaboration of Aha Punana Leo as well as a Native College—Ka Haka Ula O Keelikolani College. Both programs have been crucial in providing training to teachers in Hawaiian language, college courses in Hawaiian, and graduate education in Hawaiian language and culture.

The revitalization of the Hawaiian language in my state has been instrumental in the preservation of Hawaiian culture, which is important to all of us who call Hawaii home. Today's legislation will take this lesson nationwide in continuing the commitment made by the federal government in 1990 and the progress that has been made since that time to preserve Native American languages, including the Hawaiian language.

## TRIBUTE TO COACH LOU GIANI

## HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ISRAEL. Mr. Speaker, I rise today to commend Coach Lou Giani of Huntington High School on his induction into the U.S. National Wrestling Hall of Fame.

Coach Giani is among the most successful wrestling coaches in New York State history, having compiled 388 victories in 34 seasons. This past season Coach Giani and his Huntington High School team won the New York State team title—a remarkable eighth title for Coach Giani. In addition to the team accolades, Huntington High School also had three individual wrestlers win State Championships, increasing the career total of Coach Giani to a record 22 individual state champions. In recognition of these accomplishments, the National Wrestling Coaches Association bestowed on him the honor of "Coach of the Year".

In addition to his service to Huntington High School and New York State, Coach Giani has served as an international ambassador for wrestling. Having organized cultural exchange programs in both the Soviet Union and Poland, he has provided disadvantaged youth with the opportunity to learn wrestling from one of the sport's best coaches.

Beyond his service as a coach and international teacher, Mr. Giani had an equally impressive career as a wrestler. Having not begun to wrestle until his junior year of high school, Mr. Giani went on to win ten New York Athletic Club titles, a gold medal at the 1959 Pan American Games and was given the honor of representing the United States on the 1960 Olympic Freestyle team.

I commend Coach Lou Giani for his dedication to the sport as well as his service to the students of Huntington High School and I congratulate him on his induction into the U.S. National Wrestling Hall of Fame.

## HEALTH DISPARITIES AMONG MINORITIES

SPEECH OF

## HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. CUMMINGS. Mr. Speaker, I rise this evening to discuss the state of Health Care in America. Mr. Speaker, we have a health care crisis in America and in particular, we have a crisis in the African-American community with regard to disparities in treatment and access to care.

Mr. Speaker, the Congressional Black Caucus has made Universal Health Care the centerpiece of our agenda. The Congressional Black Caucus believes that everyone in America should have some basic level of health care coverage.

Mr. Speaker, today, as in the past, being Black in America is a medically dangerous condition. Being Black and poor can be deadly. That is a national tragedy that the Congressional Black Caucus is determined to end.

In 1998, President Clinton committed this Nation to eliminating racially based health disparities by the year 2010. As a result of this initiative, in the report entitled "Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care" issued March 2002, the IOM research team concludes that: Americans of color tend to receive lower-quality health care than do Caucasians and that African-Americans receive inferior medical care—compared to the majority population—even when the patients' incomes and insurance plans are the same. These disparities contribute to higher death rates from heart disease, cancer, diabetes, HIV/AIDS and other life-endangering conditions.

The Report found that African-American Medicare patients were almost 4 times less likely than their Caucasian counterparts to receive needed coronary bypass surgery.

Black seniors were nearly 2 times less likely to receive treatment for prostate cancer.

Older Black Americans were 3.6 times more likely to have lower limbs amputated as a result of diabetes.

Mr. Speaker, access to health care is becoming a critical issue for Black and Hispanic-Americans.

Overall, more than 40 percent of nonelderly African-Americans (12.5 million) and more than 50 percent of nonelderly Hispanic-Americans (18.5 million) had no health insurance in 2001–2002.

Minority children face obstacles in getting the health care they need. In 2001, there were 9.2 million uninsured children, the majority of them were minorities: 36 percent were Hispanic and 18 percent were Black.

Four-and-a-half million Black children now receive their health coverage through Medicaid or SCHIP (the Federal health program for children), and 4.7 million Hispanic children get healthcare through Medicaid or SCHIP.

That is why Medicaid, which provides health care coverage to low-income Americans, is critical to minorities.

The most recent data show that 9.8 million Blacks and 6.4 million Hispanics need Medicaid to get access to health care.

Mr. Speaker, despite these disparities the Bush budget continues to shortchange healthcare. To pay for the tax cuts for the wealthiest 5 percent, the Republican leadership under-funds numerous health programs including the Ryan White program, eliminates the Community Access Program, cuts the Veterans Health programs and the SCHIP program.

Despite these disparities the Republicans cut funding for Medicaid coverage for children, low-income seniors, people in nursing homes, and the disabled. And the Bush administration wants to block grant Medicaid—cut the funding by $3.2 billion over 10 years and give the money to the States to let the States spend it on other competing priorities.

This will basically dismantle Medicaid's guarantee of access to healthcare for low-income individuals.

Mr. Speaker, this sort of policymaking does not make sense in the "land of plenty." I can only quote my good friend Jocelyn Elders who stated, "We, in our society believe that every criminal has a right to a lawyer. But yet we are one of only two countries, the United States and South Africa, who does not believe that every sick person should have a right to a doctor."

Mr. Speaker, every American is entitled to access to quality healthcare. That's why I cosponsored Congressman John Conyers' bill to provide health insurance to every resident of the United States.

Our bill, the United States National Health Insurance Act, H.R. 676, would provide all individuals residing within the United States with insurance covering primary care, and preventative health services, prescription drug coverage, emergency care, and mental health services.

In essence, it would expand Medicare to cover all Americans.

Mr. Speaker, I realize that this is going to be a long hard fight. But I am convinced that the time for a "single-payer" system has come.

If we can spend hundreds of billions of dollars in an effort to protect the American people from foreign attack, we can raise and spend the money that it will take to protect the American people from dying before their time from accident or disease on our soil. If we can give universal health coverage to those on foreign soil, we can also do it for our own citizens.

It's time to make health care a civil right for all Americans, my friends. That is the hard lesson that Americans of color learned from our experience with this Nation's health care system.

And that is the same hard lesson that many, many other Americans are learning today. We speak truth to power, when we declare that discrimination and racial disparities continue to plague our system of health care.

Increasing the number of qualified minority physicians and other health care professionals—and assuring that they are adequately compensated for their work—are core prerequisites to transforming that equation.

That is the truth—but it is not the whole truth. It also is true that: Most poor children in America are not Black; Most sick children in America are not Black; And most Americans who cannot afford health insurance are not Black.

Mr. Speaker, these American children are our children, whatever may be the color of their skin. We must never allow the virus of racial division to infect our vision of what it means to be human beings.

Lastly Mr. Speaker, I implore my Republican colleagues to correct the injustice in the recently passed tax bill that denies millions of poor families, those making between $10,000 and $26,000 the Child Tax credit of $400 they so desperately need.

We should not shift the tax burdens from the wealthy to the working poor. These families need our help—we should give it to them. Restore fairness to the tax bill—tax cuts to the wealthy should not out millions of families.

Lastly, I thank my friend Danny Davis for leading this floor effort.

## THE CHILD TAX CREDIT: SUPPORTING FAMILIES IN NEED

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to voice my support of legislation to expand the child tax credit to working families left out of the tax bill that the President recently signed.

Last week, the President signed a $350 billion tax cut plan, a package of large tax cuts that are weighted heavily toward America's wealthiest families, and that will do little to spur economic growth or reduce the Nation's jobless rates. These additional cuts are likely to further burden the economy's future with growing budget deficits and debt—spending the Social Security Trust Fund surplus and threatening essential programs such as Medicare.

The most disturbing aspect of this legislative effort was the Majority's last-minute exclusion of a provision that would help nearly 12 million children and their families to get the child tax credit. In their persistent efforts to cut taxes for the wealthiest Americans, the Majority stripped this important provision from the final bill in order to make room for a dividend tax cut and other measures benefiting only those wealthiest taxpayers.

For some time now, the Administration has maintained that all Americans deserve a tax break. However, this new law did not honor that promise, and the President should not have signed legislation that denies a promised child tax credit to the millions of families that need it the most and are the most likely to spend it.

These families with children, earning between $10,500 and $26,625, are already working hard to make ends meet. Our immediate priority in Congress should now be to pass legislation that will correct this last-minute injustice and provide these moderate-income families with the relief they deserve. Therefore, I support the legislation introduced by House Democratic leaders to accomplish this goal and benefit almost 3 million children in my home State of California. I urge my colleagues on the other side of the aisle to join us in helping those Americans in most need.

## TRIBUTE TO GENERAL ERIC SHINSEKI

### HON. JERRY LEWIS

OF CALIFORNIA

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. LEWIS of California. Mr. Speaker, Mr. Murtha and I rise today to pay tribute to General Eric Shinseki, an outstanding soldier and American who is retiring as the 34th Chief of Staff of the Army after more than 38 years of distinguished service to his country. He is an exceptional leader with a clear sense of purpose, conviction, and conscience of service to his nation.

General Shinseki has served as Chief of Staff in one of the most dynamic and challenging periods in the storied 228-year history of the United States Army. Under his leadership, the Army began a "transformation" from a force focused on a defined threat that won the Cold War to a more flexible force that is capable of meeting the new and varied threats of the 21st century. At the same time General Shinseki was managing this historic level of change, he ensured the Army maintained the highest levels of combat readiness that were demonstrated so successfully during operations in Afghanistan and Iraq.

General Shinseki received his commission from the United States Military Academy in 1965. He served two combat tours in the Republic of Vietnam with the 9th and 25th Infantry Divisions, first as an artillery forward observer and later as Commander of Troop A, 3rd Squadron, 5th Cavalry. During both he was seriously wounded.

Since Vietnam, General Shinseki has served in a variety of command and staff assignments in the Continental United States and overseas. He served in Hawaii at Schofield Barracks with Headquarters, United States Army Hawaii, and at Ft. Shafter with Headquarters, United States Army Pacific. He also taught at the United States Military Academy's Department of English. During duty with the 3rd Armored Cavalry Regiment at Ft. Bliss, Texas, he served as Regimental Adjutant and Executive Officer with the 1st Squadron.

Ric spent over ten years in Europe, which included assignments as Commander, 3rd Squadron, 7th Cavalry; Commander, 2nd Brigade; Assistant Chief of Staff G3; and Assistant Division Commander, all with the 3rd Infantry Division (Mechanized).

From 1994 to July 1995, he commanded the 1st Cavalry Division at Ft. Hood, Texas and in July 1996, he was promoted to Lieutenant General and became the Deputy Chief of Staff for Operations and Plans at the Department of the Army.

He was selected for the rank of General in June 1997 and assumed duties as Commanding General, United States Army Europe and Commander, NATO Stabilization Force in Bosnia-Herzegovina. In November 1998 he assumed duties as Vice Chief of Staff of the Army.

In addition to receiving a Bachelor of Science Degree from the United States Military Academy, he also holds a Master of Arts Degree in English Literature from Duke University. General Shinseki's military education includes the Armor Officer Advanced Course, the United States Army Command and General Staff College, and the National War College.

His awards include the Defense Distinguished Service Medal, the Distinguished Service Medal, the Legion of Merit (with Oak Leaf Clusters), the Bronze Star Medal with "V" device (with 2 Oak Leaf Clusters), as well the Purple Heart (with Oak Leaf Cluster). He has also been awarded the Parachutist Badge, the Ranger Tab, the Office of the Secretary of Defense Identification Badge, Joint Chief of Staff Identification Badge, and Army Staff Identification Badge.

History will look very favorably on the accomplishments of General Shinseki. It is easy to talk about concepts such as "transformation", but it takes a visionary leader to implement them. There are countless decisions that he has had to make that might very well mean the difference between success and failure on current and future battlefields. General Shinseki successfully met every challenge during his tenure as Chief of Staff with professionalism, commitment, and perseverance.

To Ric and his wife Patti, God speed and enjoy a well-deserved retirement.

The United States Army will miss you and so will we.

## HEALTH CARE BENEFITS FOR FILIPINO VETERANS

### HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. SIMMONS. Mr. Speaker, today I am introducing a bill that would provide the Filipino veterans of World War II who now live in the United States health care benefits on the same basis as if they were veterans of the U.S. armed services.

This legislation would require the Secretary of Veteran Affairs, within the limits of the Department's facilities, to provide hospital, nursing home and medical care services to certain Filipino World War II veterans of the Philippines Commonwealth Army and former Philippines New Scouts who legally reside in the United States, in the same manner as their American veteran peers.

The substance of this bill was included in the Veterans Health Care and Procurement Improvement Act of 2002 that passed the House last year, but failed to clear the other Body. I thank the President for his leadership and acknowledgement of the importance of addressing the health care issues of the Filipino veterans by recently requesting the introduction and prompt consideration of similar legislation this Congress. I also acknowledge the advocacy of my colleague from California, Mr. FILNER, who for years has kept this issue before the House as a matter of equity and recognition for an important allied force during a time of great peril for this Nation.

Currently, Commonwealth Army veterans residing in the U.S. are only eligible for VA health care services for treatment of service-connected disabilities and for non service-connected disabilities if they are in receipt of certain compensation. My bill would remove these barriers to treatment of veterans of World War II who are of Filipino descent by eliminating the receipt-of-compensation requirement for Commonwealth Army veterans and extending to new Philippine Scouts the same eligibility for medical care and services as Commonwealth Army veterans. Commonwealth Army veterans and new Philippine Scouts would be subject to the same eligibility and means test requirements as their American counterparts.

The military forces of the Commonwealth of the Philippines were called into the United States Armed Forces during World War II by President Roosevelt's Executive Order. Under the Command of General MacArthur, the Filipino soldiers served side-by-side with forces from the United States and exhibited great courage at the battles of Battan and Corregidor. The participation of the Filipino forces delayed and disrupted the initial Japanese effort to control the Western Pacific and was vital to giving the U.S. time to prepare the forces necessary to defeat Japan.

When the United States granted independence to the Philippines, Congress passed the Rescission Act of 1946, reducing or eliminating many of the veterans' benefits for which Filipino veterans had been eligible, based on service in the Commonwealth Army. The reclassification of their service to the United States during World War II by the Rescissions Act unfortunately left many Filipino veterans residing in the United States without eligibility for VA health care.

It is due time that these Filipino veterans are given the health care benefits they have been waiting more than 50 years to receive. I urge all my colleagues to join me in cosponsoring this bill, one that recognizes our Nation's moral obligation to extend VA health care services to the approximately 14,000 Filipino veterans who are in their senior years here in the United States.

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## THE BINGE ISN'T OVER FOR DILLER

## HON. EDOLPHUS TOWNS

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Thursday, June 5, 2003*

Mr. TOWNS. Mr. Speaker, I submit the following article for the RECORD.

[From the Washington Post, June 5, 2003]

### THE BINGE ISN'T OVER FOR DILLER

(By Leslie Walker)

Barry Diller may prove Woody Allen was right when he said 80 percent of success is showing up.

The onetime Hollywood mogul first got into electronic commerce more than a decade ago, never left and may end up being one of its biggest successes. It was 1993, soon after he entered the television home-shopping business, that he started extolling the convenience of "buying underwear in your underwear."

When the real electronic commerce wave arrived on personal computers instead of television, Diller regrouped and started buying Internet ventures. Yet except for his failed $18 billion bid to buy the Lycos Web portal in 1999, Diller has remained largely known as an entertainment and media executive, and his online escapades have attracted little attention.

Until now. The digerati are finally taking notice of Diller's online empire since his conglomerate, USA Interactive (USAI), announced a recent string of takeovers that are transforming it into one of the Internet's superpowers. Diller's moves are part of a consolidation wave gaining speed in the high-tech sector, where start-ups are still struggling to overcome depressed stock prices and an oversupply of goods and services.

"We want to be the largest and most profitable e-commerce company utilizing multiple brands," Diller, chief executive of USAI, declared in an interview this week. (Diller is a director of The Washington Post Co.)

Diller's recent acquisitions appear to reflect a shift toward more direct forms of commerce online, where new commercial matchmakers that could bypass traditional forms of advertising are catching on.

First, a look at Diller's march across the Web: Since early last year, USA Interactive has announced it will acquire LendingTree Inc., which pairs home buyers with lenders and real estate agents online; travel agent Expedia Inc., which lets consumers make travel reservations online; British UDate.com, an online personals site; the outstanding shares of Hotels.com, an online provider of discount lodging bookings; and the remaining shares of Ticketmaster, the electronic ticketing agency in which USAI first took a 50 percent stake back in 1997.

Also in the past year, Diller's company snapped up a string of offline travel-related companies, including the Entertainment discount-coupon book, the vacation exchange network Interval International and Britain's TV Travel Group. USAI already owned various "back office" services, thanks to acquisitions made a few years ago. In 1999, for example, it bought one of the world's biggest customer call-center operations, Precision Response Corp., which also conducts e-mail marketing campaigns and database services. And, of course, USAI still owns the Home Shopping Network.

As a result of its takeovers, USA Interactive appears poised to take in more than $6 billion in revenue this year—more than Amazon.com, eBay, Yahoo or any other Internet firm except America Online.

Diller said that his Internet binge is not over. He intends to buy more Net gems and hinted that LendingTree points in the direction he is headed. (Think financial services.) Some analysts worry that the LendingTree deal, a stock swap valued at roughly $700 million, may be inflated because the home refinancing wave caused a temporary spurt in its business. But Diller discounts such talk. "We couldn't care less what happens in the very, very, very near term," he told analysts when he announced the deal last month. "What we care about is that we've bought the right business in the right category."

Still, his company seems to garner more dollars than respect, perhaps because it resembles a giant Internet puzzle with the pieces not yet snapped into place. That may explain why Diller said this week he is flirting with changing the name of his company again. USAI has gone by at least five names in the past, none too memorable. The latest moniker makeover came last year when it sold off its cable TV channels and replaced "Networks" in "USA Networks" with "Interactive" to focus more on electronic commerce.

Diller said the company's current mission is to act as a "middleman" between supply and demand in interactive commerce, making it more like eBay than retailer Amazon.com. Like eBay, USAI's companies typically take commissions for matching buyers and sellers. They hold little or no inventory, which lowers their costs and potentially boosts profit margins.

EBay mostly auctions used goods but is aggressively courting sellers of new merchandise as part of its avowed bid to become "the world's marketplace." While analysts think this could make it a head-to-head competitor with USAI, Diller doesn't see it that way. He said he doubts eBay will succeed in becoming the world's marketplace: "They are not going to make the transition in every category to a fixed-price model," he predicted, "and will be predominantly based in peer-to-peer auctions."

Time will tell how much advantage can be gained from lumping together different Internet entities or "multiple brands" online. But for starters, there should be savings from no longer having to run five separate public accounting operations for LendingTree, Expedia, Hotels.com, Ticketmaster and USA Interactive, all of which have been trading under separate stock symbols. After buying a controlling stake in Expedia from Microsoft Corp. last summer, USAI declared its intention to buy the outstanding shares of its key subsidiaries. Expedia and Hotels.com resisted briefly but yielded this spring.

Soon USAI will introduce loyalty incentive programs for people using its various e-commerce services. Diller said the first incarnation, perhaps points-based rewards, will debut later this year or early next. He added that he has no plans to create an overarching Internet network with a "single sign-on" for users of USAI sites, such as AOL attempted with its Web properties and Time Warner did with its original magazine sites at the ill-fated Pathfinder.com.

"We do not believe in unnatural synergies, and we don't have one totalitarian brand," Diller said. "We only want to make relationships where natural law dictates they make sense."

AOL and Time Warner, of course, hyped "synergies" among their many brands when the two companies merged three years ago. Diller said the big lesson he learned from watching that merger flop was not to short-change his Internet products but to keep improving them. "They took care of everything but the product itself and paid a terrible price for it," Diller said of AOL.

But USAI will exploit natural connections, he added, such as cross-linking among its Web sites and pursuing other cross-marketing opportunities. For instance, Evite.com, a free invitation service owned by USAI, already rotates banner ads on its online personals site, Match.com, and the Entertainment book. You can imagine its Citysearch's online city guides linking prominently to LendingTree's real estate service, or Hotels.com offering local event tickets from Ticketmaster when people book rooms.

Whatever Diller winds up calling his many-headed Internet beast, it's a good bet it will grow up to be one of the surviving giants of the dot-com jungle.

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## PERSONAL EXPLANATION

### HON. HENRY E. BROWN JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. BROWN of South Carolina. Mr. Speaker, I was unable to participate in the following votes because of a death in the family. If I had been present, I would have voted as follows:

June 4, 2003: Roll call vote 236, on agreeing to H. Res. 257, I would have voted "yea"; Roll call vote 237, on motion to suspend the rules and agreeing to H. Con. Res. 177, I would have voted "yea"; Roll call vote 238, on motion to suspend the rules and agreeing to H. Res. 201, I would have voted "yea"; and also on June 4, 2003—Roll call vote 239, on motion to suspend the rules and pass H.R. 1954, I would have voted "yea."

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## HONORING SHILOH BAPTIST CHURCH

### HON. BARBARA LEE

OF CALIFORNIA

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Ms. LEE. Mr. Speaker, Mr. STARK and I rise today to honor Shiloh Baptist Church of Hayward, California and its pastor, Reverend Jesse L. Davis, Sr. on the 35th Anniversary of its founding.

On September 5, 1968, a small group of Christians met at the home of Emmett & Bernice Mason to organize a church. The Reverend Jesse L. Davis accepted the charge and was installed as Pastor of Shiloh Baptist Church by Adolph Kelly, Pastor of Macedonian Baptist Church in Milpitas, California.

Shiloh Baptist's first facility was shared with Indian Baptist Church on Arthur Street in Oakland. In its second year, Shiloh Baptist bought that building as well as the one adjacent. Additionally, an Assistant Pastor was ordained and appointed, the Reverend Porter Clewis. The old building was demolished in 1976 and a new one was dedicated in June of 1978, along with the Jesse L. Davis Educational building. The congregation outgrew its facility once more, and moved to its present location in Hayward in October, 1992.

Shiloh Baptist has been honored by the Southern Baptist Convention of California. Also, the Mass Choir has received the "Church Choir of the Year Award" at the 24th Annual Gospel Academy Awards. Sister Doria Cummins-Lewis was awarded "Director of the Year."

Among the ministries Shiloh Baptist has organized are Angel Tree (part of Prison Ministry), Street Witnessing, Feeding Program, Tutorial Program, Singles Ministry, Sisters of Excellence Women's Ministry, Alpha & Omega Drama and Dance Troupe. Together they have changed the lives of many people for the better.

Since its inception, Shiloh Baptist's rise has mirrored that of its leader, Reverend Jesse L. Davis, Sr. Reverend Davis was born in Louisiana in 1937 and will celebrate his 66th birthday on June 11. He attained an Associate of Arts Degree at Merritt College before graduating the Bay Cities Bible Institute, both in Oakland. He later attended the Golden Gate Baptist Theological Seminary in Mill Valley and had an honorary Doctor of Divinity Degree conferred upon him by the University of Biblical Studies at Burbank, California.

In addition to his guidance of Shiloh Baptist for the past 35 years, Jesse has been a Lay Evangelism School Teacher with the Southern Baptist General Convention of California, Vice-President and past President of the Baptist Pastor's and Minister's Conference of Oakland, Director of Christian Education for the Mt. Zion District Association, and Treasurer for the California Baptist State Convention.

Finally as we honor Shiloh Baptist Church and the esteemed Reverend Dr. Jesse L. Davis, Sr., we want to thank them on behalf of the entire 9th and 13th Congressional District for serving the greater Bay Area for 35 years. Reverend Davis and his wife, Sister Alma Davis, have shared their wisdom and been great community leaders. Due to their positive influence, their sons, Rev. Jesse L. Davis, II and Rev. Andrew Paul Davis have followed in their father's footsteps. Most of all, we thank them for their friendship and for their prayers.

I take great pride in joining friends, family, and the congregation to salute Shiloh Baptist Church and its leader, the extraordinary Pastor Jesse L. Davis, Sr.

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## HONORING SMALLWOOD DRIVE SCHOOL ON THE 50TH ANNIVERSARY OF ITS PRESENT LOCATION

### HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. REYNOLDS. Mr. Speaker it is with great pleasure that I rise to pay tribute to the Smallwood Drive School for its excellence in pursuing its mission of "Learning, Growing, and Changing" in educating the children in its community. This year marks the fiftieth anniversary since the school's relocation to its current site on Smallwood Drive in Snyder, New York.

Smallwood Drive School was founded in 1813. On January 5th, 1952, a groundbreaking ceremony was held for the creation of a new campus. On June 21st, 1952, the cornerstone was laid of what is the current Smallwood Drive School. And in February of 1953, the first principal, George Brighton, opened the classroom wings.

Beyond providing students with an outstanding education, Smallwood Drive School has been looked upon as an innovative school—a pioneer on many educational fronts—such as learning style approaches and an inclusion program to serve children with special needs. The school has brought in authors, writers, and scientists, and planned special days centered on communication and science. The school has worked with numerous outside groups over the years including the Young Audience, the University of Buffalo, and the World University Games.

Smallwood Drive School has also developed a number of unique and fun traditions that greatly benefit the children, such as bicycle safety rodeos, annual concerts, gym shows, class plays, annual craft shows, ice-cream socials, and a 5th grade operetta.

On the whole, Smallwood Drive School provides an outstanding education and social environment in which children may learn, grow, and change—all for the better.

Mr. Speaker, I ask that this Congress join me in saluting the Smallwood Drive School as it marks its 50th Anniversary at its current location. For the past 50 years, Smallwood Drive School has excelled in educating our youth and made its surrounding community a better place.

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## MEMORIAL DAY BRAT FEST OF MADISON

### HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Ms. BALDWIN. Mr. Speaker, I rise today to recognize the annual Memorial Day Brat Fest of Madison.

This event, run by locally owned Metcalfe's Sentry Foods, started in 1983 as a modest customer appreciation luncheon and grew into the huge city wide charity event that it is today. Over this past Memorial Day weekend, an impressive $26,252 was raised for charity. Since the founding in 1983, the Brat Fest has raised over $220,000 for the local charities whose members volunteer at the stands each Memorial Day.

This year, Brat Fest reached two amazing milestones. The first was a new record high of 123,520 brats sold, setting a new world record. One of these brats was the millionth brat sold for charity since the birth of the festival.

Not only is the event to be recognized for its contributions to local charities, but also for its promotion of community spirit and vitality. This event brings people from all backgrounds in the community together in support of local organizations. Wisconsinites are given the chance to interact with "celebrity" cashiers. Every year as a cashier I truly enjoy gathering with my constituents at Brat Fest, serving up brats, and making sure no one leaves hungry.

This form of positive community building is commendable and deserves recognition. I look forward to future Memorial Day Brat Fests and the service that they provide for the community.

## TRIBUTE TO THE HONORABLE PETER RODINO ON HIS BIRTHDAY

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. PAYNE. Mr. Speaker, it gives me great pleasure to honor my predecessor and one of the most outstanding members ever to serve in this body, the Honorable Peter Rodino, as he celebrates his 94th birthday on June 7th.

As Chairman of the House Judiciary Committee from the 93rd through the 100th Congress, former Representative Rodino set a standard for excellence which earned him a national reputation. While he is best known for presiding over the Watergate hearings with fairness, decorum, and a respect for history, he also had many other legislative accomplishments during his 40 years of service in the U.S. House of Representatives. He managed the historic 1966 Civil Rights Bill on the floor of the House. He was the author of the 1982 Voting Rights Act Extension and a leader in the successful effort to make Dr. Martin Luther King's birthday a national holiday.

Chairman Rodino has been honored with numerous international, national and local awards, including Pope John Paul II's Pro Ecclesia et Pontifice Award; the Democratic Council on Ethnic Americans' Democratic Ethnic Heritage Award for Leadership, and the Rutgers University Award. He has received honorary degrees from more than 15 colleges and universities, including Seton Hall, Princeton, Rutgers and Fairleigh Dickinson. He joined the Seton Hall Law School faculty in 1988.

Along with many others, as a youngster growing up and as a college student, I was inspired by Peter Rodino to enter public service. Many of us followed his work in Congress with great pride and admiration for his integrity and willingness to stand up for what was right. I was proud that he served as Chairman of a reception held in my honor during my reelection campaign for county office in 1976 at my alma mater, Seton Hall University.

It has been a privilege for me to serve in the Congressional seat once held by Representative Rodino. I am always aware that I have big shoes to fill in replacing such a legendary public servant.

I know that my colleagues here in the U.S. House of Representatives join me in sending best wishes for continued health and happiness to Chairman Rodino on his birthday.

## TRIBUTE TO JOANNE CARLIN

### HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. BROWN of Ohio. Mr. Speaker, it is my privilege to pay tribute to the life of Joanne Carlin, a lifelong resident of the Cleveland area, who died on May 14 after a courageous battle against cancer.

Joanne's giving spirit was shaped by her experiences growing up in Cleveland's Tremont area. A product of St. Augustine Catholic School, she eventually moved to Garfield Heights, where she graduated from high school.

Joanne owned and operated a beauty salon on Cleveland's west side. Her former customers praised her as a loyal and generous person.

She later sold her business and moved to Medina County to become a full-time homemaker. An excellent cook, Joanne enriched the lives of her family and friends as the consummate hostess during family gatherings and holidays.

Our hearts go out to her husband and best friend, James; her four stepchildren and three stepgrandchildren; and legions of family and friends who recall the memories of these gatherings and the tremendous influence Joanne had in their lives.

## HONORING THE GREECE LITTLE LEAGUE ON ITS 50TH ANNIVERSARY

### HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise to pay tribute to the Greece Little League of Greece, New York, on the occasion of its 50th Anniversary.

Baseball has been America's pastime for over a century: a source of recreation and enjoyment for young and old alike.

Fifty years ago, the Greece Little League was created to serve young boys and girls in the Greece community. Today, the League serves 1,200 children and 1,000 families, and has extended its services to include softball and the Challenger Program, which allows physically and mentally challenged children to compete. The league provides a positive environment and a tremendous recreational opportunity for children of all ages and abilities.

Over the last half-century, America's pastime has been shared and enjoyed by many in the Town of Greece, thanks to the Greece Little League.

Mr. Speaker, I ask that this Congress join me in saluting the Greece Little League as it marks its 50th Anniversary.

## TRIBUTE TO ERIE MAE BENDROSS: THE PEOPLE'S ADVOCATE

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. MEEK of Florida. Mr. Speaker, I want to bring to the attention of my colleagues the passing of Ms. Erie Mae Bendross, a compassionate, caring and tireless community activist who passed away last Saturday, May 31st.

Ms. Bendross was a native of Miami and long-time resident of the Liberty City and Wynwood neighborhoods. She attended Tuskegee University in Alabama and worked as a dietician in many area hospitals. She was also a devoted choir member at St. Luke's Missionary Baptist Church. But it was in community action where her talents truly shown.

Erie Mae Bendross leaves behind a legacy of achievement and inspiration, for she is an example of what caring and commitment can accomplish. Only three years ago, Ms. Bendross joined the community-based organization LIFFT, Low Income Families Fighting Together, a grassroots organization of public housing residents, low-wage workers and welfare recipients. She quickly became a leader of the organization.

As a resident of the Liberty Square public housing development, she first became active in the fight to ensure affordable and decent housing opportunities for all people, regardless of their incomes.

Ms. Bendross firmly believed in the power of organization. In 2001, Bendross played a key role in saving Liberty Square Homes, or the Pork and Beans, from demolition and the displacement of hundreds of families. Her organization also exposed the county's public housing vacancies crisis as well as improved the living conditions of elderly public housing developments. Most importantly, she played a key role in developing other leaders in the community to build the organization and continue the struggle against racism and poverty.

Ms. Bendross dedicated herself to the fight against poverty and discrimination locally, nationally and internationally. Through her work in LIFFT and in association with several other organizations, including the Community Coalition to Fix HOPE VI, including the ACLU of Miami, NAACP, African American Council of Christian Clergy, Miami-Dade Black Affairs Advisory Board and other civil rights organizations. As a LIFFT leader, she supported the work of the Haitian Women of Miami, Miami for Peace Coalition, Coalition of Immokalee Farmworkers, Brothers of the Same Mind, and countless other social justice movements in the county.

Nationally, Ms. Bendross worked with other low-income, community-based grassroots organizations and leaders in California and

Washington, DC on issues of fair trade, jobs and income supports for low-wage workers, opposing the war, fighting budget cuts, and the unethical treatment of workers. Her work on low income housing was widely recognized. Internationally, in January, Ms. Bendross represented LIFFT as part of the United States delegation to World Social Forum in Porto Alegre, Brazil.

Our community is better for the efforts of Erie Mae Bendross. She is survived by her mother, Martha Bendross, her brother, Willie Bendross, and her son and daughter-in-law Eric and Angela Bendross. They have our deepest sympathy, and our hearts go out to them for their loss.

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## CONGRATULATIONS TO DR. VICTOR J. CONNORS

### HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Ms. BALDWIN. Mr. Speaker, I rise today to extend congratulations to Dr. Victor J. Connors from Middleton, WI. On June 21, 2003, in San Diego, CA, optometrists from around the Nation will elect my constituent, Dr. Connors, as the 82nd president of the American Optometric Association. Dr. Connors' enthusiasm and contributions to his profession have earned him this prominent recognition.

Dr. Connors has an impressive record in his profession at the local, State and national level demonstrating his leadership in the field of optometry. He served as president of the Wisconsin Optometric Association in 1987 and was recognized as our State's Optometrist of the Year in 1990. Dr. Connors has also served as the president of the North Central States Optometric Council and was elected to the American Optometric Association's board of trustees in 1997.

In addition to his extraordinary leadership in his profession, Dr. Connors has been an energetic leader in many civic organizations. He has served as president of the Middleton Optimist Club, chairman of the Middleton Park, Recreation and Forestry Commission, chairman of the Middleton Police Commission, president of the Middleton Area Development Corporation, president of the Middleton Chamber of Commerce, president of the Middleton Good Neighbor Festival and president of the church council at St. Andrew Lutheran Church in Middleton.

Dr. Victor J. Connors' vast achievements and commitment to public service have led him to develop a distinguished record of leadership in his profession and his community. It is evident that his dedication and motivation will allow him to have a successful term as president of the American Optometric Association. I join his many friends, colleagues and his wife, Becky, and children, Sara, Colleen and Colin in congratulating him and wishing well as the new president of the American Optometric Association.

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## IN SUPPORT OF H.R. 2286, THE WORKING FAMILIES TAX CREDIT ACT OF 2003

### HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. BELL. Mr. Speaker, my colleagues on the other side of the aisle tout "No Child Left Behind" when in actuality they deliberately choose to leave millions of children behind. Last week, President Bush signed a new law that would provide tax cuts of $93,500 to the 200,000 taxpayers making over $1 million. Fifty three percent of all taxpayers would get less than $100 under the GOP law. Here is another example of the Administration choosing the wealthiest over America's working families.

What is even more egregious is that the Administration chose not to provide or increase the child tax credit to working families making between $10,500 to $26,625 per year. Mr. Speaker, Republicans in the Senate dropped a provision, added by Senator LINCOLN, that would have helped nearly 12 million children and their families get a tax credit. Out of that 12 million, a staggering 8 million receive no child tax credit under the GOP law.

Mr. Speaker, their plan in no way, shape or form protects the children that need it the most. Instead, their plan deliberately excludes these children. In actuality, the Republican plan should be called the "Plan to Leave Children Behind."

This is why I urge my colleagues to support H.R. 2286, the Rangel-Davis-DeLauro bill. I am proud to be a co-sponsor of this bill. This is a great start to repairing the damage inflicted by the Administration's reckless and negligent tax package. H.R. 2286 would restore the child tax credit to families making minimum wage by providing greater tax relief to working families. Nineteen million children and their families will benefit from this bill. In fact, over 2 million children in my home state of Texas would benefit under the Rangel plan.

In addition to the child tax credit, H.R. 2286 would create more jobs. The provisions in this bill are key elements of the House Jobs and Economic Growth package and will create more than 1 million jobs without adding one penny to the deficit. Lastly, this bill has key elements that would ensure our brave men and women in uniform are not denied tax relief just because they are on active duty.

Mr. Speaker, I urge my colleagues to support H.R. 2286—this tax plan is fair—it helps: America's economy, America's men and women in uniform and America's working families. Most importantly, this child tax credit helps America's children by leaving no child behind.

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## THE INCLUSIVE HOME DESIGN ACT

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, I am pleased to announce that today I am reintroducing the Inclusive Home Design Act. I want to thank my colleagues BARBARA LEE and LOUISE SLAUGHTER for joining me today as original cosponsors of this legislation. I hope that all of my colleagues on both sides of the aisle will join us. I also want to thank my friend Marca Bristow of Access Living for her dedication and outstanding leadership. Finally, I want to offer my gratitude to all of the architects and community leaders who worked with me to craft this legislation. The Inclusive Home Design Act will greatly increase the number of homes that are accessible to people with disabilities. It is supported by the Paralyzed Veterans of America and countless other national and local disabilities rights organizations.

The Inclusive Home Design Act requires all newly-built single family homes receiving federal funds to meet three specific standards: an accessible route, or "zero step," into the home, 32″ clearance doorways on the main level, and one wheel chair accessible bathroom. These nationally mandated standards for homes built with federal dollars will close a major loophole in our current housing laws.

Under current law, 95 percent of federally supported homes do not have to meet any accessibility standard. This creates unnecessary barriers for disabled veterans and other people with mobility impairments. It defies logic to build new homes that block people out when it's so easy and cheap to build new homes that let people in. Many states and localities have already incorporated visitability standards. This list includes Naperville, Bollingbrook, and Champagne, Illinois, Atlanta, Vermont, Texas, Kansas, Arizona and others. Also the United Kingdom passed a law in March 1998 mandating that every new home become accessible. A federal law will build on the momentum that has already been created here and abroad.

The proposed legislation is based on the concept of Visitability, an affordable, sustainable and inclusive design approach for integrating basic accessibility features into all newly built homes and housing. Architects and builders will have latitude in how they comply with the act. For example, the zero step entrance can be placed at the front, side, or back of the home. The accessible route can even go through an attached garage.

When homes are accessible, it benefits not only today's disability community, but also all of us who are friends and family members of people with disabilities. Often, the prohibitive cost of making an existing home accessible deprives seniors of their independence and pushes them into nursing homes. It generally costs thousands of dollars for a homeowner to retrofit their home. However, on average experts estimate that it only costs $300 to $400 to add visitability features into a new home. In addition, the zero step entrance requirements can be waived if the terrain makes compliance impractical.

By making new homes accessible, we guarantee that many seniors can age at home instead of moving into expensive assisted living facilities. This will save taxpayer money and it will help improve the quality of life of our senior citizens. As the population becomes older, this will become more important. Fifty-eight percent of people over eighty years old suffer from physical impairments. In 2000, there were 30.5 million people between 65–84 years old. This number will grow to 47 million by 2020. Today, over 4.3 million individuals are over 85. By 2020, this number is projected to grow to 6.8 million. There is no question that the Inclusive Home Design Act will enable many of our seniors to remain at home.

Homes that meet visitability standards are essential for people with disabilities and sensible because 3 out of 10 people will face a disability before they are 67, practical, and cost effective. I am looking forward to working with my colleagues to pass this legislation, the Inclusive Home Design Act, into law.

## TRIBUTE TO CONNIE ANN VEILLETTE

### HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. REGULA. Mr. Speaker, I rise today to recognize Connie Veillette for her 20 years of dedicated public service in my Washington, D.C. office and to the people of Ohio's 16th Congressional district.

Connie began her career in my office just after completion of her college degree from Ohio University in 1982. Over the next 20 years, she became a vital member of my office staff, handling policy issues as diverse as foreign affairs and transportation. Connie also served as a key staff person handling Appropriations Subcommittee work in my office. Over the past 10 years, Connie has served as my Chief of Staff. In this role she managed the Washington office and oversaw the District offices, she acted as my principal policy advisor and continued to advise me on foreign policy matters, she served as my press secretary and coordinated all Ohio Delegation matters. During her tenure in my office I have valued her excellent management skills and relied on her good judgment with regard to policy and political matters.

During her tenure in my office, Connie also served as the Congressional manager of the Congress-Bundestag exchange, a 20 year program that promotes greater understanding of the U.S. legislative process and the German parliamentary system. This vital exchange program has allowed hundreds of Congressional staffers to visit Germany and hundreds of German Parliamentary staff to visit the U.S. The program has allowed participants to gain insights into our different political systems and to develop personal and professional relationships that benefit both nations.

Throughout her service in my office, Connie pursued her higher education goals, completing both a Master's Degree and most recently completing course work toward her Ph.D. in Political Science from the George Washington University. We were very proud when she completed her doctoral exams with distinction. These experiences have enabled Connie to develop an expertise in Latin American affairs which she will use in her new position as Analyst for Latin America with the Congressional Research Service.

We are glad that she has not traveled far and that we will still be able to call on her excellent research and analytical skills as will all Members and staff in Congress. We wish her much success in her new endeavors.

## CONGRATULATIONS TO DR. RALPH NURNBERGER, RECIPIENT OF GEORGETOWN UNIVERSITY'S EXCELLENCE IN TEACHING FACULTY AWARD

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. PAYNE. Mr. Speaker, I would like to ask that my colleagues here in the U.S. House of Representatives join me in congratulating a highly respected and accomplished professor, Dr. Ralph Nurnberger, on being selected as the recipient of the Excellence in Teaching Faculty Award at Georgetown University. Dr. Nurnberger received this outstanding honor at the University's 2003 commencement ceremonies.

For over 2 decades, Dr. Nurnberger has taught courses in the Liberal Studies Degree Program focusing on an array of issues including American foreign policy, congressional relations, and international affairs. Most recently, he has been teaching a course on the aftermath of September 11, considering the domestic and international ramifications for the United States. His teaching has been marked with extensive experience in domestic and international affairs. Dr. Nurnberger has held positions with former Senator James Pearson, the Senate Foreign Relations Committee, the American Israel Public Affairs Committee, the Center for Strategic and International Studies and the U.S. Department of Commerce. He currently holds the position of Counsel with the law firm Preston Gates Ellis and Rouvelas Meeds.

Following the signing of the Oslo Accords, Dr. Nurnberger was appointed to the position of Executive Director of the organization "Builders for Peace" to assist the Arab-Israeli peace process. Also an accomplished writer, his articles have appeared in The Washington Post, The Washington Times, Christian Science Monitor, Baltimore Sun and numerous journals.

Dr. Nurnberger is popular with students because of his reputation as an insightful educator who promotes lively and thought-provoking discussions encouraging the expression of all points of view.

Mr. Speaker, I ask that we here in the U.S. House of Representatives join Georgetown University in commending Dr. Ralph Nurnberger for his excellence in teaching and congratulate him on receiving such a prestigious award.

## TRIBUTE TO CHARLIE PARKER

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to honor the career of my friend and eastern Kentucky native Charlie Parker, president and CEO of Buckhorn Children's Foundation. Charlie is retiring after 21 years of service to the children and families of Kentucky. It is only fitting to take this opportunity to recognize all that he has accomplished.

Buckhorn Children's Foundation's mission is to alleviate the suffering of children and families and bring hope to otherwise hopeless lives in Appalachia. Through a variety of programs, Buckhorn has helped thousands learn about themselves, feel pride in who they are, and become successes in life. Although they actively seek out the most troubled of our youth, Buckhorn can boast of an over 70 percent success rate, which is far above the national average.

Coming on board in 1982, Charlie took over Buckhorn's one residential campus with a budget of $650,000. Under his vision and leadership, that one residential campus has grown to three with a budget of $18 million. Its reach has extended beyond the hills of Eastern Kentucky into more urban areas. Without question, this would never have been accomplished were it not for the tireless efforts of Charlie.

While we have taken much time recently to recognize our heroes that have defended our freedom abroad, we must also recognize our heroes at home. I know that the many young people that Charlie has positively affected consider him a hero, as do I. Thank you, Charlie, for giving young people one of the greatest gifts of all—a future.

## PERSONAL EXPLANATION

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Thursday, June 5, 2003, to vote on Roll Call Vote Numbers 243, 244, 245, 246, 247, and 248 due to a family medical emergency.

Had I been present, I would have voted:

NO on Roll Call Vote Number 243 on Ordering the Previous Question on H. Res. 256, Providing for consideration of the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes;

NO on Roll Call Vote Number 244 on Ordering the Previous Question on H. Res. 258, providing for consideration of the bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes, and for consideration of the bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes;

NO on Roll Call Vote Number 245 on H. Res. 258, providing for consideration of the bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in

Apache County, Arizona, and for other purposes, and for consideration of the bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes;

AYE on Roll Call Vote Number 246 on H.R. 1474, Check Clearing for the 21st Century Act;

AYE on Roll Call Vote Number 247 on S. 222, Zuni Indian Tribe Water Rights Settlement Act of 2003; and

AYE on Roll Call Vote Number 248 on S. 273—Grand Teton National Park Land Exchange Act.

## TRIBUTE TO IMMANUEL UNITED METHODIST CHURCH

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. LEVIN. Mr. Speaker, I rise today to recognize the designation of Immanuel United Methodist Church in Roseville, Michigan as a Michigan Historical Site. The site will be dedicated on Sunday, June 8, 2003, when the Michigan Historical Marker is officially unveiled at the church.

The criteria for becoming a Michigan Historical Site are strict. A site must possess integrity of location, design, materials, and workmanship. Additionally, a property's historical significance must reflect the distinctive characteristics of a type, period, or method of construction.

The Immanuel United Methodist congregation has continuously ministered to this community for over 153 years. The congregation was established in November 1849 and moved to its present location in 1933. This Neo-Gothic sandstone church was designed by Merritt and Cole of Detroit and was dedicated on November 5, 1933.

Many changes and improvement have been made to the church over the years. A thirteen room educational unit was added in 1956, and the existing rooms were refurbished to create a beautiful new church parlor. The church was also renovated in 1997 to include facilities for the physically handicapped. The new structure addition was named Peace Memorial Lobby in honor of the merger of Peace United Methodist Church with Immanuel in 1996.

Mr. Speaker, I ask my colleagues to join me in congratulating the leadership and the entire congregation at Immanuel United Methodist Church, as they celebrate this important designation as a Michigan Historical Site.

## CONDEMNING THE ATTACKS AGAINST AUNG SAN SUU

### HON. SHERROD BROWN .

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. BROWN of Ohio. Mr. Speaker, I condemn the attacks by Burma's brutal military regime against 1991 Nobel Peace Prize recipient Aung San Suu Kyi (Chee) and her party, the National League for Democracy.

The NLD and its members are the rightfully elected leaders of Burma. For 13 years the military rulers of Burma have suppressed their people and ignored the results of the 1990 elections.

Burma's military regime must not be permitted to attack, murder, imprison, and torture its people with impunity.

Now is the time for the United States to increase pressure against this regime. Now is the time for Congress and the administration to ban imports from Burma and freeze their assets.

I am disappointed in the silence of the Asia Bureau at the U.S. State Department over the past month.

While human rights groups have sought to bring to their attention the need to increase pressure on this regime, the Bureau has done nothing.

Now Miss Kyi (Chee) is once again being illegally detained against her will, "for her own protection," as the military has termed it. The Asia Bureau sticks to its indefensible position of doing nothing.

Now is the time for Congress to act.

## RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

SPEECH OF

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. SOUDER. Mr. Speaker, yesterday, with the passage of H. Con. Res. 177, the House paid tribute to the unwavering dedication of the men and women who serve America as members of the armed forces. In addition to the professional soldiers, sailors and Marines who are risking their lives throughout the world, thousands of reservists have interrupted their lives to answer their nation's call. In my district alone, nearly 650 members of the 1st Battalion 293rd Infantry Division of the Indiana National Guard are currently serving in Iraq.

Whether active or reserve, at home or abroad, members of America's Armed Forces accept their difficult mission and carry out their duty with unparalleled skill, courage and dedication. We owe them our gratitude.

In the aftermath of September 11, 2001, American forces displayed their incomparable skills and adaptability across the rugged terrain of Afghanistan, where they confronted and defeated forces that had threatened the security of the free world. More recently, when called to free the Iraqi people from the rule of an evil despot, the United States Armed Forces performed among the most daring, well-executed military missions in the history of warfare. In both instances, when detractors claimed that the United States would become mired in untenable situations, our military devised strategies to obtain the stated objectives with minimal casualties or collateral damage and then proceeded to unleash the focused force of America's soldiers to carry out decisively the task of victory.

Tragically, as the war on terrorism carries American forces throughout the world to continue the battle for liberty, many of our young men and women will not return. Among them, Lance Corporal David K. Fribley of the United States Marine Corps, originally from Atwood, Indiana, in my district, was killed in the opening days of Operation Iraqi Freedom in an ambush near An Nasiriyah, Iraq. At that time, I rose in the House to pay tribute to this courageous young man, and I would like to express once again the nation's eternal thanks to those like Lance Corporal Fribley who make the greatest of sacrifices for our nation and our freedom.

## FULLY FUND THE NO CHILD LEFT BEHIND ACT

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. ETHERIDGE. Mr. Speaker, I rise today to introduce legislation to right a terrible wrong that has been perpetrated on our schools and our children in this country.

Last Congress, we passed and the President signed into law, the No Child Left Behind Act (NCLB). I voted for that bill because the Administration promised historic new investments to facilitate education reforms and dramatically improve educational performance in this country.

Unfortunately, that promise has been broken. The Administration has refused to fund its own program and is cutting billions from NCLB. In this year's budget request alone, the Administration is proposing to shortchange NCLB by $9.7 billion. Over the first three years of the new law, the Administration cuts $20 billion from the funds that are needed to make NCLB work.

Without the promised federal funds, states and mostly localities will be forced to bear the brunt of these tough new requirements. In North Carolina and across the country, the state budget and those in our counties, towns and cities are in fiscal crisis. The administration's education cuts to NCLB will cruelly punish our children by withholding funds needed to achieve these tough new requirements. And without the promised funding NCLB will become a massive unfunded mandate on our local governments that could lead to higher property taxes, cuts in vital services like police, fire and rescue and roads. Or both.

Mr. Speaker, a promise is a promise and a deal is a deal. Because the Administration has demonstrated its unwillingness to live up to its side of the bargain and provide necessary funding, Congress should rescind its authority to implement the reforms until those funds are forthcoming.

Today, I am introducing legislation that I have been working on for several months to accomplish just that. My bill, the Fully Fund the Leave No Child Behind Act requires the federal government to fully fund NCLB or the requirements in the statute are suspended for the year in which full funds are not provided. My bill specifies Title I and Title II of NCLB, which deal with school assessments and teacher training requirements respectively. My bill does not apply to sections of NCLB on Limited English Proficient Education, 21st Century Schools, public school choice, Impact Aid and other important provisions.

Let me state that I continue to support the goals of NCLB. As the former Superintendent of North Carolina's public schools, I have led the fight for standards based education reform in the state that is widely recognized as the national leader in that effort. I want to make sure NCLB works so that every school in this country is a quality learning environment for our children. This legislation is an effort to hold the Administration's feet to the fire to make sure that its record matches its rhetoric.

Mr. Speaker, Congress must ensure that the federal government honor its commitments to our nation's children. I urge my colleagues to join me in support of this vital legislation.

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## CONGRATULATIONS DR. GARY E. JONES

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and honor that I congratulate Assistant Superintendent Dr. Gary E. Jones of the School City of Hammond on his retirement. Dr. Jones has made many distinguished contributions to the City of Hammond and all of Northwest Indiana during his 41 years of dedicated service.

Dr. Jones earned his bachelor's degree in education at Youngstown State University, and then went on to earn his master's degree and Doctorate in education from Indiana University, Bloomington. He began his career in education in 1962 as the Administrative Assistant to the Superintendent of Schools in the Geneva Area School System in Ohio. He has been involved as a principal in the Hammond School System from 1976 through 1986. He was the first person to ever be awarded the Outstanding Principal award for his notable achievements. He has served as the Assistant Superintendent for Hammond Schools since 1986. His history of service to the education of our youth is apparent in all facets of his prestigious career.

Of the many outstanding accomplishments made by Dr. Jones, one of his proudest contributions has been the amazing vision of a robotics program that brought about the design of Team Hammond. Team Hammond has competed competitively at the US FIRST National Competition for the past several years. US FIRST is an organization dedicated to motivating America's youth about science, technology, and engineering through hands-on methods. The program involves a unique blend of problem solving and competition that prepares students for real world situations. Through his sincere and honorable service to the students of Hammond, Dr. Jones has been a guiding light to the Northwest Indiana community.

Dr. Jones has not only served his community through his educational accomplishments, but he has also positively contributed in other ways by being a dedicated member of various community service organizations such as the Woodmar Kiwanis Club, the Hammond Board of Health, the Public Improvements Task Force, and Lake Area United Way to name just a few. He is also a ten-year member of the PTA Executive Committee and has received the PTA National Life Membership Award, which was presented to him by the Hammond Council of PTA's. He has received many awards that exemplify his dedication and leadership to the Hammond community. He is a member of the Indiana Congress of Parents and Teachers, as well as a recipient of the Outstanding Volunteer Service Award.

Mr. Speaker, Dr. Jones has contributed graciously to not only the youth of Hammond, but also to the entire Northwest Indiana community. His dedication and devotion to the youth of our nation is a goal we should all strive to achieve. I respectively ask that you and my other distinguished colleagues join me in congratulating Dr. Jones on his retirement. His valiant effort to educate the youth of Northwest Indiana is most commendable, and will be truly remembered.

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## IN MEMORY OF MICHAEL J. HANDY

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. FOSSELLA. Mr. Speaker, earlier this week New York City suffered a blow with the untimely death of Mike Handy. He leaves behind his wife, Edna Wells-Handy, and four daughters. He was 55.

Mike served as Director of Veterans Affairs for New York City, a position he held under Mayors Ed Koch, David Dinkins, Rudy Giuliani and Mike Bloomberg. Professionally he had earned a great deal of respect, but it was his personal dealings with veterans, colleagues and friends that had earned him so much love. He will be very much missed.

A veteran of Vietnam, he served as a "Quick Reaction Team" leader (with a rank of E–5) and was a .50 Caliber Machine Gun Instructor at Phu Cat.

He was active in veterans affairs for nearly 30 years, acquiring more than 50 honors and awards from city, State and Federal levels. He was a member of the American Legion, the Catholic War Veterans, the Navy League, an honorary member of the New York Society of Military & Naval Officers, and a member of the Veteran Corps of Artillery.

Mike led New York City's fight to save the Times Square Recruiting Station and then chaired a City/Army Corps of Engineers Task Force to facilitate its renovation.

In 1991, he was appointed to the Operation Welcome Home Commission, which organized what was at the time the largest Ticker Tape Parade in the city's history. In 1995, he was the Mayor's representative for the "Nation's Parade" NYC tribute to the 50th anniversary of World War II. He was the Mayor's representative for seven of thirteen "Fleet Week" celebrations in New York City.

Without fanfare, Mike helped thousands of veterans. He did this not for credit but to help his comrades-in-arms who were in need. His is a loss not only for New York, but for the Nation as well. He will be missed.

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## ALL AMERICAN CITY AWARD

### HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 5, 2003*

Mr. WELDON of Florida. Mr. Speaker, I rise today to congratulate the residents of Palm Bay, Florida Since 1949 the National Civic League has recognized great American cities from across the Nation. Palm Bay is among the 30 finalists that will compete for the title of "All American City."

An All American City is a city that has addressed community issues through the strong collaborative efforts of its citizens. It is no surprise to me that Palm Bay, my hometown for many years, has been selected as a finalist for this honor.

During the 1980s, Palm Bay's population more than tripled from just 18,560 to 62,540. Then in the early '90s the General Development Corporation declared bankruptcy. Although this could have had a stagnating effect on city development, Palm Bay's grassroots rose to the occasion. Deteriorating infrastructure and poorly groomed public areas have been replaced by better roads, new parks and recreation areas, a community pool, the renewal of the U.S. 1 corridor and the continued efforts of "Keep Brevard Beautiful" and the Marine Resources Council.

The All American City competition specifically seeks cities in which key civic projects are community and citizen driven. Palm Bay certainly has an abundance of community driven projects and organizations. These include the Volunteer Citizen Observer Program started in 1995 and the more than 100 Palm Bay Citizens who dedicate their time who assist the Palm Bay police force as volunteers.

Next week nearly 100 residents of Florida's 15th district will travel here to Washington, DC to compete for the 54th Annual "All American City" Award. City employees, elected officials, activists, pastors, school children and other Palm Bay citizens will have an opportunity to share just a small piece of Palm Bay with the National Civic League. I commend the city and its citizens for all of the hard work that has made Palm Bay the wonderful place that it is today. I wish these delegates the best as they represent all of the great Floridians living in Palm Bay.

# SENATE—*Monday, June 9, 2003*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Daniel P. Coughlin, Chaplain, U.S. House of Representatives.

## PRAYER

The guest Chaplain offered the following prayer:

Lord, shed upon any darkness in our souls the bright light of Your wisdom; that this body may be enlightened and serve You with purity of intention.

Monday marks the beginning of another week of work. Bless the work of this Senate, all its Members and all who assist them in their noble endeavor to serve this Nation.

May the very desire to serve You, in the Spirit of truth and justice, be so pleasing in Your sight that You accomplish great deeds in and through Your people.

Let our greatness be measured by You and You alone. Help us to never settle for less or live by any other standard than what You expect of us.

With You as our source of inspiration, our work will be sanctified and our interaction with others laudable.

With You as our judge, all hesitancy will be set aside and every accomplishment will give You glory now and forever.

Amen.

## PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning there will be an hour of morning business for Senators to give statements and introduce legislation. At 1 p.m. today, the Senate will resume consideration of S. 14, the Energy bill. Chairman DOMENICI will be here and available for Members to come to the floor today and to offer their amendments.

Last week, in addition to finishing action on the child tax credit and the Defense authorization bill, we were able to make progress on the Energy bill. The Senate worked its will on a number of amendments relating to ethanol. We conducted six rollcall votes on that issue last week, and I thank all Members in the energy debate last week and look forward to their continued participation over the course of this week. We will continue to move forward on this important legislation to produce a national energy policy which our Nation so badly needs.

To this end, we will continue to have discussions with the other side of the aisle in an effort to reach an agreement on the remaining amendments to the Energy bill. We would like to finish consideration of the bill this week, so it is my hope that we will have a filing deadline for amendments to allow the chairman and the ranking member to work through an amendment list. Again, we are working with the chairman and ranking member and our colleagues to produce such a list.

As a reminder, there will be a rollcall vote today beginning at 5:45. That vote will be on the confirmation of the nomination of Michael Chertoff to be a United States Circuit Judge for the Third Circuit.

For the remainder of the week, Chairman DOMENICI will continue to process amendments on the Energy bill. In addition, we are working on an agreement for the FAA reauthorization bill. This week, we will be looking for the appropriate window to consider that reauthorization of the Federal Aviation Administration.

Also, we will continue to work toward consent agreements on the State Department authorization bill as well as the bioshield bill so that they can be placed on the Senate's schedule as well.

This week, we will likely—almost certainly—consider a bill on which Senator MCCONNELL has been working related to Burma and proposed sanctions.

Finally with respect to the schedule, I would remind my colleagues that on Monday of next week—that is, 7 days from today—the Senate will begin consideration of a Medicare improvement and prescription drug bill. Members should expect busy sessions during both this week and the 2 following weeks; that is, the total of the coming 3 weeks prior to the next scheduled adjournment.

We have had a very productive session thus far. I do want to thank all Members for their hard work and cooperation.

Mr. REID. Mr. President, if I may, briefly, our leader announced to the assembled Democrats last Thursday that we were not going to ask for a filing deadline on amendments but we would request from our folks a finite list of amendments so that we could get a list of the amendments people wished to offer. We were confident the Democrats were going to offer amendments that would be relevant to the bill. I am not sure what that term means—but anyway, in keeping with the Energy bill. So we can work, then, with those who have offered amendments.

I have spoken to both managers of the bill. Toward the end of last week, we had a little problem in that our side had an amendment to offer and some of our Senators were not here; Senator DOMENICI wanted to offer an amendment and some of his Senators were not here. I hope this week we can just move forward with the amendments. Senator DOMENICI has an amendment dealing with Indians he wants to offer right away. We hope that can be done. He knows there is going to be a second-degree amendment offered to that. That will take several hours.

I think we are moving down the road on this most important energy legislation. Once we get the amendments, we can better advise the majority leader and Senator DASCHLE as to how long we estimate it will take. We have acknowledged, in our assembled meetings of Democrats, that we appreciate your allowing the Senate to work its will, and not, as has been done in the past on more occasions than we would like to acknowledge, just filing cloture. You have indicated you are not going to do that until you believe it is necessary, and I don't think it is necessary, at this stage.

Mr. FRIST. Mr. President, I appreciate the comments of the assistant Democratic leader. We are in discussions. The real objective is to have a list of amendments so we can have the definition to both gather support on both sides of the aisle and to really give a focus so we can establish a roadmap by which we can adequately debate, adequately amend this bill appropriately so. That is the purpose. Again, we are working on both sides of the aisle, with the two managers of the bill to that end.

Mr. President, I want to very briefly comment on the last 2 weeks. As we start each week—at least as I start each week, I can't help but come in early Monday morning and look at where we have been and project where we are going. As I laid out the schedule, where we are going is pretty clear, in terms of how we will spend the next 3 weeks on the floor of the Senate. I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

hope the clarity and the specific plan that I lay out—recognizing it can be modified at any time and should be modified according to circumstances that arise over the course of the day, but I hope that outlook, that vision of where we are going, that agenda setting, does facilitate the overall action, debate, and amendment process of this body.

It also gives me the opportunity to look back over the last 2 weeks. Indeed, as I look back over the last 2 weeks, we made huge progress, I believe, especially for America's taxpayers. That 2003 jobs and growth bill passed by Republicans in the Senate, signed by President Bush, will provide an average of $1,786 in tax relief for over 45 million married couples. Forty million families with children will see their taxes lowered by over $1,549.

Six million single mothers will receive an average tax cut of over $550. Twelve million elderly taxpayers will receive an average tax cut of $1,401. Meanwhile, 3 million individuals and families will be taken off the tax rolls completely.

Indeed, that is progress. That is action. That is delivery for the American people. Republicans in the House and Senate worked hard to provide this substantial tax relief for America's working families. Indeed, we have delivered.

Democrats spent a lot of time talking about tax relief for minimum-wage families. But it was the Republicans who took action and got tax relief done. Thanks to Republicans, the Senate now has provided tax relief for families at all income levels, including middle-class families in which both parents work. Working families will now have extra money in their budgets to pay the bills, to purchase clothes, to put food on the table, and maybe even take a family road trip.

Last week, we passed a second tax bill that provides additional tax relief for families with children. This bill included some important tax reforms as well. This second family tax relief bill in 2 weeks creates a uniform definition of a child. Instead of five confusing and even seemingly conflicting and separate definitions, the Tax Code has been simplified to make it easier for folks to fill out the forms and get the tax relief to which they are entitled.

Tax simplification has been a longstanding goal of Republicans. Expect more efforts on the part of Republicans to make the Tax Code more understandable and less burdensome for America's tax filers.

That family tax relief bill will also accelerate the currently scheduled increase in the refundability of the child tax credit, and it will phase in the elimination of a marriage penalty that is built into that current formulation of the credit. These fixes will allow the child tax credit to benefit more middle-income families.

Together, just in the last 2 weeks, the 2003 jobs and growth package coupled with the family tax relief bill provide the third largest tax relief in the history of the United States. These actions have helped lift consumer confidence.

Interest rates and inflation remain low. Credit conditions have improved as long-term interest rates have fallen to their lowest levels since the 1950s. Families are rebalancing their debt from short-term consumer credit to longer term credit such as mortgages—a wise and prudent move. We are seeing declines in energy prices.

We have a lot of reasons to be optimistic. Economic growth increased 1.6 percent in the first quarter of this year, up slightly from 1.4 percent in the last quarter of this year. Many economists expect continued growth in the current quarter. Consensus forecasts expect growth to approach 3.7 percent by the final quarter of this year.

I say this in a very optimistic vein as we look to the future. Yet there are some clouds. We heard last week the unemployment rate has risen to levels last seen in the economic upturn of 1994. This suggests the growth in the economy over the last few years has been in large part due to rapid productivity gains.

In addition, since 1999, the rising cost of health benefits has exceeded the growth in wages and salaries. As a result, health care costs are driving up the cost of hiring and employing workers. In other words, good jobs are becoming more expensive—another important reason we need to strengthen Medicare, to save and preserve and strengthen and indeed modernize Medicare and add prescription drug coverage the right way, not just giving new benefits without consideration that we have an obligation to make sure whatever we promise can be sustained, not just in the short term and in the midterm but in the long term.

We need to look at all the ways we can expand the economy, and in turn increase the supply of good jobs for America's workers.

If we look to the last 2 weeks and project over the next 3 weeks as we have addressed tax relief and tax reform, a sound sustainable energy policy as well as strengthening and improving Medicare and adding a prescription drug benefit, I think the American people and our colleagues will agree we are moving America forward by doing business in a sound and productive way.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business not to extend beyond the hour of 1 p.m., with the time equally divided between the two leaders or their designees.

The Senator from Maine.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 1208 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator is recognized.

Mr. THOMAS. Mr. President, I understand we are in morning business.

The PRESIDENT pro tempore. That is correct.

## THE ENERGY BILL

Mr. THOMAS. Mr. President, I will talk a little bit about the pending business that will be before us at 1 o'clock. That, of course, is the Energy Bill.

I am pleased we are now in our second week of consideration of the Energy Bill. I must say we are also in our second year of consideration of an energy bill. We did this last year. We talked about it for a couple of weeks on the floor and finally came up with a bill. We went to conference committee and were actually unable to put something together.

I continue to believe one of the most important things for this country at this time is to have a policy on energy, a policy that begins to describe a little more completely where we think we need to be in terms of the future, what we have to do to achieve that vision of where we need to be, and I think to remind ourselves that we are so involved with energy. Whether it is in your business, whether it is in your family, whether it is in defense, whether it is in the economy, energy has something to do with everything we do.

We have let ourselves get into a position where we are 60 percent dependent on foreign oil, much of which comes from that part of the world that is certainly in turmoil much of the time. So that is a real security problem for us, and an economic problem as well.

Right now, we find people talking about a shortage of natural gas, to be used largely for air-conditioning when it warms up in the summer. That is among the kinds of things that really do have an impact on our lives which we could do something about.

Again, one of the aspects of energy, which I think is true of most any part of our lives, is that things change, and they change substantially. This is particularly true in energy, and we have to make changes to accommodate the differences that occur.

With regard to natural gas, for example, we are using much more natural gas domestically than we did in the past. For one thing, where we had traditionally used coal in the generation of electricity, 97 percent of the generators, in the last several years, have been gas fired. Well, maybe that is all right, but we are not properly prepared to do that.

Right now our biggest source of natural gas is in the West, the area I come from, in the mountain region, and Wyoming particularly. That is our largest source of natural gas for the future. But our problem is we did not expect that, and we have not had the proper delivery system to move that gas from where it is available to the marketplace. Now we do not have the capacity to move the amount of gas we have available, so if there is a shortage, it is not going to be a shortage of the resource; it is going to be a shortage of our ability to have an infrastructure to move the gas where it needs to go.

There are other types of energy in the very same position. I mentioned electricity. There was a time when electric utilities generated and distributed their resource in the same area. If you were served by a particular company, that company generated the electricity and distributed it to your business or to your home, and those two things went right together. Now we have come to a situation where much of the generation is done by what is called a market generator who does not do distributing but sells it wholesale to the distributor.

So what does that require? Obviously, it requires the transmission capacity to move that energy to where the markets are. And we have not been prepared to do that. So we find ourselves in an unusual situation.

In the area of electricity, we also find ourselves at a time when we need to have a little different structure to be able to regulate this energy.

Again, as I said before, when the distribution and generation was in one place, the State public utility commissions could handle all of those things. Now it moves quite often across State lines, so that the States have less involvement in the movement of the electricity. So we need to develop what are called RTOs, regional transportation organizations, which include a number of States. There would be one in the West, for example, that probably would include 10 or 11 States, so there are joint efforts to be able to control the movement of the energy as it goes among the States and not each State competing with one another to cross State lines. There is a change in the way we do things. But we have not kept up with that change in terms of the way we regulate or prepare for that movement.

There is a great controversy within the Federal Energy Regulatory Commission, where FERC has moved in to do more of that regulation. States do not like that particularly. They would like to do it closer to home. I agree with that, but we have to have the structure to do that.

Obviously, there are other things that are equally as important, such as the idea that we find alternative sources of energy and are able to put them into a situation where they are competitive economically with the old sources we have always had. It takes a lot of investment, incentive, and research to be able to put those things together. Therefore, we need to have a policy that moves us in the direction of wind energy, or whatever it may be.

One of the real opportunities the President has talked about and we ought to be doing something about is converting coal, for example, to hydrogen so that it can be much cleaner for its use, so that it can be more easily moved about for its use, and it could even be used in automobiles, if we could find a way to do that. It takes research and incentive and money to do that. So alternatives are also important.

Along with that, of course, there is a provision for research, so that we can find new ways to do things, so we can find a way to have more conservation and be able to use energy with more of a thought toward conservation. We can do that, but we have not really set those goals for ourselves.

Then, of course, finally, one of the things that is most important is the idea of having increased domestic production. We have a great deal of fossil fuel resources in this country. Coal is the largest one. Coal is available to us, but the production of coal is in two or three areas of the country generally, so we have to find a way to produce that coal, move it to the market, and then have it in a way that is protective of the environment. We can do that as well. It takes more research. We have to do something with cleaner air. We know we can do those things, but we have not done them as well as we might.

So there is a great deal we can do in terms of increasing production. Fifty percent of my State, for example, is owned by the Federal Government. Under much of that land are energy resources—coal, gas, and oil—and we need to continue to find better ways to produce those resources and, at the same time, protect the environment. We can do that. I am not suggesting we produce on every bit of land. Some should be set aside for single uses, such as wilderness. But these are all problems with which we need to deal.

I guess I will continue to emphasize that this bill is not just something that is dealing with today's issues but, rather, an effort to have a vision in the future of where we need to be, to be able to fill our needs and help our economy, create jobs, and have the living conditions we all desire. That means, of course, the availability of substantial amounts of energy.

So I hope we can move forward. I know there are different ideas about how you do it and different notions, depending upon where you live in different parts of the country—whether you are in a city or in a rural area and those kinds of things. But we need to come up with the kind of policy that is good for the country. We really pretty much have done this.

We worked hard in committee, and we came up with a committee plan. The House has a plan. There are some differences, of course, between the two, but that is what our committees are for, to bring together the House and the Senate versions on various issues and come together with the one that will be acceptable to the Congress and, in this case, also acceptable to the administration.

The President and the Vice President, of course, have been very supportive of an energy policy, and they continue to be. They have had some ideas that have all been put into the plan or talked about in the plan.

So we are off on it again this afternoon. We will be doing some things on nuclear power. It is interesting, again, to talk about what nuclear could be in the future. Right now, most people don't realize how much nuclear power is being generated. In some States, 30 percent of the power is nuclear. It is probably the cleanest way to produce electricity, although there are some problems. One is the waste that comes from nuclear use. We can resolve some of those issues.

Mr. President, I hope we can move in that direction. I want to continue to work at it.

I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Chair recognizes the Senator from Ohio.

Mr. DEWINE. I thank the Chair.

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## TRIBUTE TO ALFRED LERNER

Mr. DEWINE. Mr. President, I rise today to pay tribute to and recognize the accomplishments of a great man and a great leader—Alfred "Al" Learner. Mr. Learner passed away on October

23, 2002, at the age of 69, following a courageous battle against cancer. He left behind a lasting legacy of hard work and remarkable generosity. Al gave so much of himself. He never hesitated to share his good fortune with his fellow citizens, particularly those who were most in need.

Al Learner was a man who not only believed strongly in the American dream, he also lived it. He was born the son of Russian immigrants in Brooklyn, NY, in 1933. He graduated from Brooklyn Technical High School in 1951 and received a B.A. from Columbia College in 1955. After college, in the early 1960s, he took a job with the Broyhill Furniture Company as a salesman. His work for Broyhill took him from New York to Baltimore and ultimately to his home in Cleveland.

With him on this journey—with him, always by his side—was his best friend, his partner, his wife, Norma. Al and Norma were high school sweethearts, and they were inseparable. Together they shared 43 years of marriage, and together they raised their two children, Randy and Nancy. Al and Norma's commitment to each other and their children was a strong one. They were both well known for attending every school function and every afterschool game their children were involved in, setting their professional lives aside to spend time with their family.

When Al was not spending time with his family, he was working tirelessly in his beloved community. Al's numerous professional accomplishments included his service as chairman and chief executive officer of MBNA Corporation, chairman and owner of the Cleveland Browns, and trustee of Columbia University, Case Western Reserve University, and New York Presbyterian Hospital.

I was particularly struck by something Al once noted about his success. This is what he said:

> This is the only country in the world [where] that would be possible. The only country in the world for a guy like me with nothing—no background, no sport, no connections, nothing to help me, and no talent. It wasn't that I was a great violin player or a great something. Where a guy like me could just sort of figure it out every day and at some point wake up and say: "You did pretty good."

Indeed, Al Lerner did pretty well. His accomplishments, both in terms of his personal success as well as his ability to lend a helping hand to his fellow citizens and community members, are clear indications of his success and his compassion and, yes, his humanity.

Al Lerner led by example. He served his country as a Marine Corps officer and a pilot from 1955 through 1957 and later continued his service by becoming a director of the Marine Corps Law Enforcement Foundation.

His service to our country did not end with his departure from the Armed Forces. Al was known in particular for his extremely generous contributions to local and national charities, including a contribution of $10 million in 1993 to Rainbow Babies and Children's Hospital in Cleveland, OH, a donation of $16 million to support construction of the Lerner Research Institute, and a donation of $100 million to the Cleveland Clinic, one of the largest donations to academic medicine in the history of our Nation.

His humility and his dedication to fellow citizens is nowhere better evidenced than in the quiet contributions he worked to provide for families of victims of the tragic September 11, 2001, terrorist attacks.

He helped raise funds, through his affiliation with the MBNA Corporation and the Cleveland Browns, for the Cleveland Browns Hero Fund to aid families from the New York City Fire and Police Departments who suffered the loss of a parent.

Al continued his service to the country following the September 11 attacks by serving as one of 15 members of the President's Foreign Intelligence Advisory Board, advising President Bush on the quality and adequacy of intelligence collection to improve the security of our homeland.

Al Lerner was an American patriot, a patriot with a purpose and one who succeeded remarkably in achieving what he set out to accomplish. By embracing the American dream and dedicating himself to sharing with his fellow citizens the good fortune that resulted from his pursuit of it, Al truly distinguished himself as an outstanding American, and certainly one worthy of the respect of the Senate.

As I think about Al's life, I am reminded of the strong bond he shared with his wife Norma. They were such good friends and were really partners in life, working side-by-side, together, to raise their family and to help their community. I was quite touched at Al's funeral when Norma, a very strong and courageous woman, spoke about her life with Al. I remember her saying:

> [Al] took us from where we were to beyond where we even would have dreamed we are now. . . . He had an unwavering commitment to helping others and he was the most generous man I've ever known. There was always someone he wanted to help, whether they were sick, financially troubled or just needed a good friend.

That was Al Lerner.

I extend my thoughts and prayers to the entire Lerner family—especially Norma, Randy and Nancy—and to the families, friends, and community members who worked with Al and the organizations he supported. As Sir Winston Churchill once said:

> We make a living by what we get, we make a life by what we give.

Few men have adhered more closely to this wise adage than Alfred Lerner.

I am very pleased that last week the Senate passed a resolution that my friend and colleague from Ohio, Senator GEORGE VOINOVICH, and I introduced that recognizes Al Lerner's life, achievements, and contributions. This commemorative resolution is the least we can do in the Senate, on behalf of the entire Nation, to honor a man who dedicated his life to honoring his fellow Americans. I thank Al for all his contributions to our State and Nation.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDENT pro tempore. In my capacity as a Senator from Alaska, I ask unanimous consent the quorum call be rescinded.

Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

## NEW PAGES

The PRESIDENT pro tempore. I ask unanimous consent the names of the new pages serving the Senate during the summer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE PAGE PROGRAM—2003 SUMMER
SESSION 1: JUNE 9–JUNE 27

Chris Amon, Yankton, South Dakota; Sonia Anand, Potomac, Maryland; Alicia Bell, Fullerton, California; J. David Burton, Owensboro, Kentucky; Angela Cacace, Kensington, Maryland; Gavin Chanin, Studio City, California; Sarah Catherine Crutcher, Madison, Mississippi; Laura Cunningham, Washington, DC; John Curran, Las Vegas, Nevada; Nicholas D'Addario, Trumbull, Connecticut; Jacqueline Devereaux, Pembroke, Virginia; Elizabeth Drumheller, Shelburne, Vermont; Nicole Durbin, West Lafayette, Indiana; Mitch Erdel, Columbia, Missouri; and Chase Erkins, Bliss, Idaho.

Bethany Gaikowski, Webster, South Dakota; W. Daniel George, Anchorage, Alaska; Trey Grover, West Tallahassee, Florida; Seth Halpern, New Haven, Connecticut; Christopher Hart, Ashton, Maryland; David Heidrich, Jr., Oxford, Maine; Barron Hewetson; Bedford, Indiana; Leah Hirsch, Springdale, Arkansas; Emily Hollings, Charleston, South Carolina; Matthew Johnson, Wilmington, Delaware; Adam Kasold, Alexandria, Virginia; Blair Kauffman, Mystic, Connecticut; Stephanie Kelman, Phoenix, Arizona; and David Marquardt, Salt Lake City, Utah.

Carissa Marquis, Weatherford, Oklahoma; Taylor Mitchell, Alexandria, Virginia; Margot Murphy, Hunting Valley, Ohio; Matthew Nemer, Nashville, Tennessee, H. Ross Perot, III, Dallas, Texas; Sumner Powell, Alexandria, Virginia; Brock Synder, Bowie, Maryland; David Straszheim, Chevy Chase, Maryland; Logan Swogger, Miles City, Montana; Fulton Taylor, Alexandria, Virginia; Claire Wasserman, Washington, DC; Hayley Wilson, Jamestown, North Dakota; and Michael Zerihun, Oxon Hill, Maryland.

## ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell/Domenici Amendment No. 864, to replace "tribal consortia" with "tribal energy resource development organizations".

The PRESIDING OFFICER (Mr. ALEXANDER). The Chair, in his capacity as the Senator from Tennessee, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I note the presence of Senator DORGAN. I understand he will shortly, at his disposal, offer some amendments with reference to hydrogen; is that correct?

Mr. DORGAN. Yes.

Mr. DOMENICI. And the occupant of the Chair will be finished at 2 o'clock and will manage the bill for a while for us during the time he is discussing his, and we will perhaps speak in opposition. In any event, the Senator from New Mexico will also do that. I may be gone for just a while. I have a statement with reference to some of the support that has been forthcoming over the weekend that I want to read into the record so Senators are aware of where the various groups in our country are with reference to the amendment to strike the loan guarantees that are pending under the bill, S. 14. I will do that and then I will yield the floor. It won't take me very long.

I am grateful that so broad a coalition of interest groups has been willing to send letters supporting the nuclear loan guarantee provisions in the Energy bill. I do not intend today to go into detail analyzing the relevance and significance of these loan guarantees and what I see as the fallacious nature of the arguments against them but merely to state the broad support at this point for the proposal.

No one is surprised that provisions in this bill are strongly supported by the utilities and groups such as the Nuclear Energy Institute, but today on my desk I found letters from unions, academics, and broad groups from industry. To some extent, that was a surprise. I greatly appreciate their support and want to spend a few moments going over their reasons for supporting this measure, which I consider to be so important for our country. One is a letter from John Deutch.

I don't think I have to explain to the Senate who John Deutch is. In terms of physics, energy, and nuclear energy matters, he is a ranking expert. He is perhaps the James Schlesinger of the Democratic Party. His letter is accompanied by a Ph.D. from Massachusetts Institute of Technology, well known in academic circles, named Ernie Munis. For those who are not familiar, he served as the head of the nuclear part of the Department of Energy during the Democratic administrations preceding the Republicans during the last 12 years.

Munis joins Dr. Deutch and they concurrently chair an MIT-sponsored study on the future of nuclear power.

I note the presence of the junior Senator from New Mexico and minority manager. All I have done so far is talk about some support, and the letter I am alluding to he is aware of.

I met with Drs. Deutch and Munis last week and asked for their views on the nuclear loan guarantee provisions in the bill. Their letter reads:

> We believe such assistance is important and justified, and that action taken now will influence future investment decisions on nuclear power generation.

In fact, they propose what some would consider to be an even more direct subsidy for new nuclear powerplants. Their letter explains:

> The mechanism [they] propose for this assistance is a production tax credit of 1.7 cents per kilowatt hour up to a total of $200 million per 1000 megawatt plant.

We did not do that in the bill. We had contemplated it at various times during the evolution of the legislation and thought for different reasons that the loan guarantee might be preferable. We now have a letter that says either of the two would be good, and for the first time two very powerful people say both would be good for our country.

I received letters today from the AFL–CIO, and I am most grateful for their support because I know it is not always easy for groups to support matters that pertain to nuclear power. I believe, as we have been saying for a number of days, nuclear power has arrived. The question is, How will it come on the scene so that America and the world can find out, once again, what it is all about.

I do know without a doubt that if a bill is going to be good for the American economy by creating jobs at home, the AFL–CIO will back it. I am grateful they are doing so today.

One of the letters from the Building and Construction Trades Department of the AFL–CIO says:

> The fifteen unions comprising the Building and Construction Department consider nuclear power an integral, emission-free component in a broad array of national energy choices. And, not unlike the current state of Federal transportation and water systems, our domestic energy infrastructure is in need of a serious upgrade and American workers are in dire need of the jobs created.
>
> The construction of these new plants will create significant employment opportunities for our highly skilled members. The construction of just one new nuclear power plant would stimulate the economy by creating between 2,000 and 3,000 family wage construction jobs. And, maintaining and operating that plant would create an additional 1,000–1,500 permanent, full-time, high paying jobs.

The other letter I received was from the Metal Trades Department. It reads in part:

> On behalf of the AFL–CIO Metal Trade Department, I urge you to support provisions in the pending energy policy legislation that would enable the construction of new nuclear power plants in the U.S.
>
> America's power demands are growing exponentially. A rational and effective energy policy depends upon a diverse mix of fuels and technologies, including nuclear fuel. The health of the nation's economy will require the construction of new nuclear facilities to ensure adequate power resources.
>
> Loan guarantees for new nuclear power plants are a critical element of the energy legislation. We urge you to support them.

Letters will be forthcoming and will be circulated to Senators. I could not have said it better myself had I been preparing a speech. Rather than the numerous ad lib comments I made heretofore, I could not have said better what has been said by those who write in behalf of the working men and women who need good jobs and who have great skills that can put together these needed facilities. The Chamber of Commerce sent one of its key vote alerts about the Wyden-Sununu amendment. The Chamber is straightforward:

> Our Nation's economic vitality and energy security rely upon the ability to utilize a diverse array of fuels and technology to generate electricity. Nuclear energy plays a vital role in assuring this diversity, producing some twenty percent of the country's electricity. Resources for research and development of energy sources ranging from clean coal and geothermal to wind and even fusion are provided by S. 14. To eliminate support for any of these sources would be near-sighted and risk energy stability in the years to come, perhaps leading to devastating economic effects.
>
> The U.S. Chamber of Commerce urges you to vote against the Wyden-Sununu amendment to S. 14.

Mr. President, the National Electro-Industry Manufacturing Association issued a press release today that certainly sums up my position and, hopefully, the position of many in the Senate. In the press release they say:

> The reliability and security of our nation's energy supply requires us to have a diverse energy portfolio, including nuclear power. Votes against incentives, particularly loan guarantees, are a vote against reliable, low-cost, stable, and environmentally friendly energy supplies. It is also a vote against jobs and a stronger economy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent that we set the pending amendment aside so that I might be able to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 865

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN], for himself, Ms. CANTWELL, Mr. LIEBERMAN, Mr. AKAKA, Mrs. CLINTON, Mr. KERRY, Mr. NELSON of Florida, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. REID, Mr. LAUTENBERG, and Mr. KENNEDY, proposes an amendment numbered 865.

Mr. DORGAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To require that the hydrogen commercialization plan of the Department of Energy include a description of activities to support certain hydrogen technology deployment goals)
>
> On page 296, line 21, before "Not" insert "(a) IN GENERAL.—".
>
> On page 297, between lines 2 and 3, insert the following:
>
> (b) CONTENTS.—The plan shall describe the activities of the Department of Energy, including a research, development, demonstration, and commercial application program for developing technologies, to support—
>
> (1) the production and deployment of—
>
> (A) 100,000 hydrogen-fueled fuel cell vehicles in the United States by 2010; and
>
> (B) 2,500,000 hydrogen-fueled fuel cell vehicles in the United States by 2020 and annually thereafter; and
>
> (2) the integration of hydrogen activities with associated technical targets and timetables for the development of technologies to provide for the sale of hydrogen at a sufficient number of fueling stations in the United States by 2010 and 2020.
>
> (c) PROGRESS REVIEW.—The Secretary shall include in each annual budget submission a review of the progress toward meeting the targets under subsection (b).

Mr. DORGAN. Mr. President, I offered this amendment on behalf of myself and Senators CANTWELL, LIEBERMAN, AKAKA, CLINTON, KERRY, NELSON of Florida, SCHUMER, HARKIN, DODD, REID, LAUTENBERG, and KENNEDY.

I am offering a piece of legislation the Senate has previously passed and endorsed in the consideration of the Energy Bill last year. Let me spend a few moments talking about the amendment specifically.

Very simply, this amendment is one that tries to establish some targets and timetables with respect to moving toward a hydrogen economy, which is something the President talked about doing. Targets and timetables, what I mean by that is we cannot enforce targets and timetables that are absolute, but we can as a Senate think big and decide to see if we can establish some targets and goals for the movement toward a hydrogen economy with fuel cells for our economics.

I will describe why I think we ought to do this and why this is an important amendment. I will harken back to the Apollo program. On May 25, 1961, President John F. Kennedy announced our Nation was establishing a goal of sending a man to the Moon and having a safe return from the Moon. He said we will have a man walk on the Moon by the end of the decade. That was 1961. In 1969, Neil Armstrong and then Buzz Aldrin stepped on the Moon.

The Apollo project was an enormous undertaking. The NASA annual budget increased from $500 million in 1960 to $5.2 billion in 1965. It represented 5.3 percent of the Federal budget in 1965. Think about that. In today's terms, that would be $115 billion. NASA engaged private industry, university research, and academia in a massive way. Contractor employees increased by a factor of 10, to 376,000 people, in 1965. When President Kennedy said in 1961 it was his vision to have a man walk on the Moon by the end of the decade, there was no technological capability to do so at that moment, no guarantee it could be done. The Soviets had an advantage in space flight. They had put up a satellite called Sputnik. We were eager to see if we could not overcome that advantage. During the height of the cold war, that Soviet advantage was of great concern to us. The technological barriers were very significant. The expense was daunting. Yet, on July 20, 1969, Neil Armstrong stepped down off of that lunar lander and stood on the surface of the Moon; Buzz Aldrin followed him. I recall they actually pantomimed a golf game and jumped around on the surface of the Moon. In a decade, the President said let's set a goal and reach that goal.

I will talk about another goal, another big idea, one that we ought to establish now for this country and for its future. That is the goal of deciding, as President Bush has suggested, that we move toward a hydrogen economy and fuel cells for our vehicles. I will describe why I think that is important.

This chart says what the President is telling us:

> America's energy security is threatened by our dependence on foreign oil. America imports 55 percent of the oil it consumes. That is expected to grow to 68 percent by 2025.

Again quoting the President:

> Nearly all of our cars and trucks run on gasoline, and they are the main reason America imports so much oil. Two-thirds of the 20 million barrels of oil Americans use each day is used for transportation; fuel cell vehicles offer the best hope of dramatically reducing our dependence on foreign oil.

That is from President Bush, and I fully agree with that statement.

This graph shows what is happening with respect to consumption and domestic supply of oil. We are importing 55 percent of our oil at the moment, much of it from very troubled parts of the world, and that is expected to grow to 68 percent. The American economy is and will be held hostage by our ability to find oil and import it from outside of our country's borders. Should that be difficult for this country? Should it cause all of us great concern? The clear answer to that is yes. That is a very serious problem.

Here is another chart. This is a list of the countries that are supplying our oil. Our top supplier is Saudi Arabia. Almost one-third of our oil, incidentally, comes from the Middle East. Iraq has been our fifth largest; it is the sixth largest supplier on this chart. Also listed are Mexico, Nigeria, Venezuela, and Angola. And when you look at the amount of energy we are importing from that part of the world, it is a very serious problem.

Some want this energy debate to be a debate about two issues. If it is only those two issues, we lose. They are: Should we drill in ANWR? How about doing something on CAFE standards? Well, if this is only about ANWR and CAFE standards, then we lose. We need to pole-vault over those issues. Yes, we can address them, but it seems to me if we don't pole-vault over to new ground and deal with these issues in a much different way, every 25 years we will come back and debate energy and we will be debating exactly the same issues: Where next do we drill? How much more efficient can we make a carburetor, through which we run gasoline, much of it imported from overseas?

If our strategy for energy for this country's future is simply digging and drilling, then it is a strategy I call "yesterday forever." It doesn't really change very much. Every 25 years, we can redebate the issue of how dependent we are and how dangerous it is for us to be that dependent on foreign sources of energy. I would like to see a different debate, one that says let's break out of this cycle. When I say digging and drilling is yesterday forever, I don't think we should not dig and drill. We will, we can, and we should. We will always use fossil fuels. Using our coal resources in an environmentally acceptable way with clean coal technology makes great sense to me. Using our domestic sources of energy and natural gas—especially oil and natural gas—makes sense to me. We will dig and drill.

But if that is our energy strategy, we really have not moved the ball forward at all. So the question is, what more can we do? The President suggested in his State of the Union Address that we ought to chart a different course.

I introduced legislation prior to the President's State of the Union Address saying let's move to a different kind of technology, a different kind of energy economy; let's move to a hydrogen economy using fuel cells.

First of all, using fuel cells and hydrogen is twice as efficient in getting power to a wheel as using the internal combustion engine. Second, when we use hydrogen fuel cells in automobiles or vehicles, we are sending water vapor out the tailpipe. What a wonderful thing for our economy. We double the efficiency of the energy source, and then we eliminate the pollution out the tailpipe. We double the efficiency using hydrogen, which is a ubiquitous source of energy—it is everywhere—and then we decrease air pollution by putting water vapor out the tailpipe of a vehicle. That makes great sense to me.

I introduced legislation. It is called the Hydrogen Fuel Cell Act of 2003. I compliment President Bush for proposing in his State of the Union Address that we move in this direction. I have said it is not small or insignificant for a Republican President to say let's do this. It was a rather small thing in terms of his proposal to fund it. It was not a bold approach. It was a rather timid approach. But that should not detract from the fact that this administration put itself on the line to say: Let's move in this direction.

The President proposed $1.2 billion in 5 years. Only slightly more than half was new money. It appeared to me some of it came at the expense of other important areas of conservation and renewable energy.

Having said all that, in the Energy Committee we came very close to tripling that amount of money. We bring to the floor of the Senate legislation that substantially improves the initiative dealing with hydrogen fuel cells. I think that is a significant step forward, one that I appreciate.

What is missing is, in addition to the legislation I introduced, which actually calls for $6.5 billion in 10 years—so more money—and also pilot projects, Federal purchase programs, tax credits, and so on—what is missing is targets and timetables. If we are going to do this program, let's set out targets and timetables. I am not suggesting they can be ironclad. They cannot.

If we are going to make this a big proposal, a bold proposal in the spirit of an Apollo project saying let's do this, let's make a difference, let's do this, let's decide that 25 years from now we will not have a debate about how much gasoline we are running through the carburetors of America's vehicles because we found a way to take hydrogen from water, use it as an energy supply, and through fuel cells use it to power America's vehicle fleet, we can do that.

Many of my colleagues, Republicans and Democrats, on the Energy Committee have been supportive of this proposal. There is nothing partisan about this at all. As I said, it was in President Bush's State of the Union Address. It comes in legislation I have introduced. It comes in initiatives my colleagues have talked about and introduced as well. The question is, how do we make progress by establishing some big and bold goals?

This legislation I have introduced, taking one piece of the Hydrogen Fuel Cell Act of 2003, tries to establish some way points. When I learned to fly airplanes many years ago, they taught me, with modern instrumentation, that I can create way points for my airplane. When you get up in the air, you program into the computers on the plane the way points to which you want to fly. It is a fictitious point 300 or 400 miles away, but once you establish that way point with your instruments, you fly to the way point. When you reach that way point, then you take a new course to the next way point.

My point is, we need way points—targets, and timetables—to transfer to some new hydrogen fuel cell economy. If we do not, we will not get there. If we do not, as President Kennedy said, put a man on the Moon by the end of the decade, if we do not today make the equivalent of that commitment in deciding how and where we are going to head with this hydrogen fuel cell economy, we are not going to get there. We just will not.

Let me show some examples of what is happening in hydrogen fuel cells. General Motors' Hy-wire fuel cell concept car unveiled in August 2002. Some say there are no such things as fuel cells. Of course there are. I have driven a fuel cell car that drove from California to the east coast, across this country.

Are they commercially available now? No, they are not. Are they horribly expensive? Yes. But we are in the design stage and the research and development stage to make hydrogen fuel cell vehicles affordable.

This is the Nissan Xterra fueled by compressed hydrogen, tested on California public roads in 2001.

This is the Ford Focus fuel cell vehicle. Production is ready for prototype, autumn 2002.

This is a hydrogen fueling station by Powertech Labs.

This is a picture of a DaimlerChrysler fuel cell bus introduced in Germany in 1997. I have actually ridden in a fuel cell bus running on the streets of this country.

The point is, we can do this. Is this easy to do? No, it is not, not at all. What do you have to do to convert to a hydrogen fuel cell economy for our vehicle fleet? Notice, I am not talking about stationary power centers. That also exists as the capability with respect to hydrogen and fuel cells, stationary engines, and so on.

I am talking about the vehicle fleet because a substantial increase in the demand for oil comes from our vehicles. I do not have a chart to show that. It is quite clear that unless we do something, especially about our vehicle fleet, we will, 25, 50, and 100 years from now, still be debating on the floor of the Senate how much additional gasoline we run through America's carburetors.

What do you have to do to switch? A bold plan means we are going to change our entire infrastructure. We have production. How are we going to produce hydrogen? There are a lot of ways to produce hydrogen. We can use electrolysis to separate oxygen and hydrogen in water and store the hydrogen and use it in fuel cells.

Let me give another example. We can put up a wind charger, the new highly efficient wind turbine, a 1-megawatt wind turbine, and take the energy from the air. We can use that energy for electrolysis to separate the oxygen and hydrogen in water and store the hydrogen for use in fuel cells.

There are so many ways and different approaches to use hydrogen. We have production issues: How do we produce hydrogen? From what source? But it is ubiquitous; it is all over. That is not an insurmountable problem. How do you produce hydrogen? How do you transport it? How do you store it? How do you make it available at the infrastructure, at service stations across the country for a vehicle fleet?

Those are issues we ought to be dealing with and will deal with and the administration will deal with at the Department of Energy.

What I say very simply in this amendment—and it has taken me a long time to get to the point, but I wanted to make a presentation on why I think this is very important for our country—I say let's establish, as President Kennedy did, a goal. Let's have 100,000 hydrogen fuel cell vehicles on our roads by 2010, 7 years from now. Let's have 2.5 million hydrogen fuel cell vehicles on our roads by 2020. Let's set some goals. Let's set some way points and say: Here is what we strive to do; here is what we aspire to do as a country.

If we do not set goals, I guarantee we will never reach the potential that exists for us to convert our vehicle fleet to hydrogen fuel cell fleets and to relieve ourselves of the danger that exists having so much of our energy coming from outside our borders.

If we wake up tomorrow morning, God forbid, and terrorists have interrupted the supply of oil to this country—and, yes, that could happen—this country's economy will be flat on its back. It will be flat on its back because we rely, to the tune of 55 percent, on oil from sources outside this country and much of it from very troubled parts of the world. That is going to go to 68 percent, and we ought not let it.

If in this Chamber we spend weeks and wrestle and debate energy policy and come out with an energy policy that says what we need to do is just produce more and somehow we will end up just fine, we have done nothing for America's future.

We have done nothing for America's future. An Energy bill that makes sense to me has four parts. One is, yes, let's produce more. Let's incent more production of fossil fuels, absolutely. I do not support, for example, drilling of the ANWR region, one of our most pristine and delicate areas. I do not think we need to do that. But let's produce more. There are thoughtful ways to produce more. I happen to believe we ought to be able to produce much more in the Gulf of Mexico in an environmentally sensitive way. Let's conserve more. We waste a huge amount of energy. Production and conservation, that is two parts.

The third is efficiency. Everything we use almost every day, in every way, with all of our appliances could, should, and will be more efficient if we pay attention to and provide incentives for efficiencies.

Finally, and importantly, is the area of a renewable and limitless source of energy, and that includes ethanol, biodiesel, and many others, but most importantly it includes this proposal: Hydrogen and fuel cells can be our future. It can make this country more secure. It can remove from this country's neck the yoke of having over half of its oil coming from troubled parts of the world. In a very substantial way it can do what President Kennedy did in establishing new goals in space travel for our country. It can inspire our country to be able to control our own destiny with respect to energy.

I close as I began by saying that President Bush was absolutely correct in the State of the Union Address, and it is not a small thing for this President to say let's move in this direction. I am putting my administration in support of this direction, this movement. That is not a small thing. It is a big deal.

I have said his proposal is more timid than I thought it should be. I do not mean substantial criticism by that. What I mean by that is I think to do this it has to be big and bold. Especially it has to set timetables and targets.

The Senate committee has nearly tripled the amount of money the President has proposed. That is a significant start, in my judgment. We could even do more in the authorization bill with the type that I have suggested. This amendment I have offered today is not that authorization bill. It is simple. It says while we have made significant strides in the Energy Committee on this subject, and now that we have a Republican President, many Democrats and Republicans in Congress believe we ought to move in this direction, so let us be bold enough to set some timetables and targets.

As I indicated, the Senate has already passed this legislation last year, and I hope the Senate would embrace it once again and pass these targets and timetables.

One final point: These targets and timetables simply say the Department of Energy shall report to us on how they establish the strategies to reach these targets. We cannot impose our will in the sense that we cannot tell an Energy Department they must reach these targets. We do not have the capability of doing that. The technology does not exist to get from here to there. But we can ask the Department of Energy to provide for us the strategies by which they could meet these targets, and that is what our amendment asks. My hope is this will be unanimously supported by the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. Gregg). The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I begin by complimenting the Senator from South Dakota on the work he has done on fuel cell hydrogen over the years, and also compliment others on the other side of the aisle—I see the ranking member of the committee, Senator BINGAMAN from New Mexico. For at least a dozen years, this Congress, and particularly this Senate, has been interested in the hydrogen fuel cell technology. The Senator from North Dakota and the Senator from New Mexico are the ones who have pushed that the hardest.

What we have now is some consensus, at least in our committee, and I hope in the Senate at large, on the importance of this bold proposal. I will take a moment to put in perspective what the committee has done.

Mr. DORGAN. Will the Senator yield for just a moment?

Mr. ALEXANDER. I would be happy to.

Mr. DORGAN. I intended to complete my comments by complimenting Senator ALEXANDER and others on the committee who have taken a position I think provides some leadership in this area. I did not mention those in the committee who, when we marked up these issues, played a significant role in the hydrogen title. I intended to do that at the end of my remarks. So I thank the Senator for allowing me to do that.

Mr. ALEXANDER. I thank the Senator for his comments, but the bottom line is the process by which this committee worked on the hydrogen fuel cell proposal, which is title 8 of the Energy bill, which was a good process for those who would like to see how two parties in an evenly divided Senate can take an issue and come to some consensus and narrow the differences. It was a pretty good process. What is remaining are the two issues of which the Senator from North Dakota spoke.

One is more money and two is more mandates, which he now has suggested are targets, if I understand correctly, rather than mandates. Am I correct in that?

Mr. DORGAN. Mr. President, if the Senator would yield further?

Mr. ALEXANDER. Yes.

Mr. DORGAN. There is nothing in here that would be a mandate. These are establishment of targets by asking the Department of Energy to provide Congress with their strategies on how to reach them. I have specifically not imposed mandates. I am simply asking them to develop strategies and to report those strategies to the Congress.

Mr. ALEXANDER. I thank the Senator. So that narrows the differences considerably.

Having acknowledged the good work done on the other side, I will also acknowledge the good work the President did. Only a President of whatever party can put something on the agenda the way a President can, and so it was exciting to all of us who cared about this issue and about the goals, which are to reduce our dependence on foreign oil and to clean the air, which is what this does, to see President Bush, in his State of the Union Address, make a bold proposal to direct the Secretary of Energy to explore the possibility of a hydrogen economy and to develop the next generation of technology that would include hydrogen.

What we are really talking about, as the Senator from North Dakota explained, is a completely new way of thinking and living our lives. I noticed the other day in our local newspaper in Tennessee there was a picture of a filling station in Iceland that opened. Iceland has a hydrogen filling station. The buses that operate in Iceland back up to that hydrogen filling station and instead of putting gasoline in their tanks, they put in hydrogen. They drive around on the hydrogen, and instead of emitting some carbon-based pollutant into the air, they emit only water, which is the product of that process.

It takes a little while for someone who has not thought about this much, as I was at one time, to get one's mind around this, but we are basically taking the internal combustion engine and putting it to the side and putting in a new process that reduces electricity, runs the car and, as the Senator said, the only emission is water. So there is an enormous advantage on two matters that concern us greatly: One is reduce our dependence on Middle Eastern oil, and we are in the middle of a process right now where we have been reminded about what a challenge that is to our national security. Some estimates are that by the year 2035 or 2040 we would have 11 million barrels per day less of reliance on our need for oil if we had a hydrogen economy. No one can know for certain what those numbers are, but all of us know it is a big change and a big number.

Of course, the second aspect is clean air. This week, and for the next few weeks, we will be talking about ways to clean the air. The most interesting, and difficult sometimes, arguments we have that come before our committee and the country are those that intersect with energy and the environment. Here is a nice intersection between energy and the environment because if we are emitting only water, then the parts of our economy, and especially the transportation parts that use hydrogen-based cars instead of the internal combustion engine, will make a remarkable difference in not just our clean air but our standard of living because our lack of clean air and our difficulty with finding ways to clean the air is a limit on our ability to grow our economy. So this is a very important topic and all of us recognize it as such.

Now let me start with the President's proposal, to put this in perspective, including the Senator's amendment. The President's proposal authorizes the Department of Energy, including our National Laboratories, to spend about $1.3 billion over the next 5 years in research and development in the following areas: research on hydrogen-powered engines, and research on the production of hydrogen.

We have to make the stuff. It can come from many places. It can come from fossil fuels. It can come from renewable resources, a major part of the discussion in the Energy bill last week. It can come from nuclear energy, which is a major part of the discussion in the Energy bill this week. At a nuclear power plant one might be able to produce some of the hydrogen that would clean the air. And it can come from natural gas, which is the easiest way, arguably, to get it today. But with the recent spikes in the price of natural gas, we can see the difficulty relying on one form of energy too greatly.

The President's proposal would fund additional research on transportation and delivery of hydrogen via pipelines and fueling stations. Iceland has a hydrogen fueling station. We do not have any in the United States. We have a few hundred miles of hydrogen pipeline. Imagine a different America where, instead of backing your car or truck up every block—sometimes more often than one block—to a station where you get gasoline, you back it up or drive into a place where you fill up with hydrogen. That is a big change in our infrastructure. This research would help figure out how better to do that.

Also, we need additional fuel cell research. The Senator mentioned some of the obstacles that exist to this wonderful vision. One of the difficulties is we need to find new ways to produce hydrogen, which I mentioned. Another is we need to find a little cheaper way of building a hydrogen car. The Senator and I drove the same one, I believe a Ford, around the block. I believe that car costs a couple million per unit to make right now. In other words, the early models are extremely expensive.

We need to find safe ways to store hydrogen. We need to meet the challenge of this infrastructure.

We have great obstacles to overcome. But in this United States of America, if anything defines our national ethic, it is that anything is possible. We are ready to leap ahead and go after this. The President recommended we put $1.3 billion behind it, and that was step 1 in this session. Then the committee sat down and began to recognize the suggestions made by those who had gone before. Instead of the $1.3 billion recommendation the President made, we took those recommendations, reduced some of them to what we thought were a manageable number, and still more than doubled the amount of money we recommend to the full Senate that we authorize—nearly $3 billion total. As the Senator from North Dakota said, nearly triple the amount of money. So in addition to the President's $1.3 billion proposal, we have about $1.6 billion more for other ideas brought into the bill by people other than the President, from the Senate and the other side.

We have a hydrogen vehicle demonstration program for the Government and nonprofit agencies; a stationery fuel cell demonstration program for use in residential and commercial buildings; a hydrogen car and fuel cell demonstration program in three national parks. That is a terrific idea. I would like to see one in the Great Smoky Mountains, our most polluted national park today. Many people think of Yellowstone as receiving the most visitors; but only 3 million people visit Yellowstone while 10 million go to the Great Smoky Mountains. The Great Smokies is polluted, particularly because of the cars and coal plants.

An idea for which I commend the Senator is providing for the establishment of a university education degree curriculum designed to help our workforce move into a hydrogen economy, with centers of excellence in our great research universities to help realize this shared vision. In the United States, we have the world's only great research universities. They are our secret weapon. We need to fund them and the research and technology better. That is a sure way to move toward this goal.

This bill before the Senate today is a combination of ideas from both parties, from the President and from the Legislature. The amounts we included, taking ideas from the other side to the bill, actually cost more than the proposal from the President—nearly $3 billion.

That brings us to the point of the amendment. Is it enough money? Do we need targets? I will respond to that in this way. The President mentioned the Apollo. That is vivid in our minds. I remember as Education Secretary I tried to think, using that Apollo objective, which sticks in our minds to say, can we have in 10 or 20 years the best schools in the world? Nothing is quite like that Apollo mission. It is always hard to make an analogy, but the President has the same dream that we have here. The dream is that we have an America less dependent on foreign oil, an America that has cleaner air, something that increases our national security and our health and well-being.

However, there are other parts to that dream than just the hydrogen car. There is, if we are talking about energy, the need to revive our nuclear energy. Japan was decimated by an atomic bomb, and they are relying primarily on nuclear energy. And France is relying primarily on nuclear energy. It has been since the 1970s that we started a new nuclear power reactor in this country. So this bill, in addition to hydrogen, is to help stimulate our nuclear energy.

We need not just stimulate nuclear and hydrogen; we need to find a way to burn coal in a cleaner way. We make half our electricity from coal, but it pollutes the air more than we can tolerate. So we need coal gasification, as an example. This bill encourages that. The Senator from North Dakota mentioned wind turbines in North Dakota. They are part of the dream as well. Natural gas is part of the dream. Its price went up, so we need to explore more and we need pipelines to get that gas to the places it needs to go. This bill encourages that. We need more new oil that is not dependent on some other country. We have tried—although we do not always agree in this body on where to drill—to do that.

So the dream of clean air and less dependence on foreign oil has many parts, including the hydrogen vision the President outlined in his address, so that a child born today can have a choice in this generation of driving a car fueled by a fuel cell hydrogen engine.

The Apollo dream is not exactly the same. We have a dream, but this is only a part of the dream.

As far as the amount of money is concerned, I suppose one could always argue about the amount of money. We considered that very carefully in the committee. We nearly tripled the amount of money the President requested. We took into account virtually all of the suggestions by the Senator and others on the other side, which is why this bill came to the floor from the committee, because we had such a consensus. For a new technology which, while bold, is still unproven, we believe this is a generous amount of support in a bill that is balanced across a broad number of sources of new and improved energy.

That brings me to the targets and the timetables. I appreciate the Senator moving from mandates to targets and timetables. That is a step forward. However, I prefer we not make, if I may say with respect, wild guesses about how this unproven technology might work, but that we join as we have in this bill to find a variety of ways to stimulate and not fool ourselves into thinking we are going to get to this point or that point in any particular year.

President Kennedy said let's go to the Moon, and he said by when he hoped to go, but he didn't say fly this kind of airplane, or use this kind of rocket, or get a third of the way there by 1963. He said, Let us go there.

So let us go toward a day when we have cleaner air and when we have less dependence on foreign oil because of a variety of steps, one of the most impressive of which is the vision of a hydrogen fuel cell car. But let us not try to make a wild guess just about when that will come, in what year. I believe one of the greatest underutilized powers of this body is the oversight power. Really, the Senate, the Congress, has two great functions: One is to spend money, and one is to oversee how that money is spent. There is nothing to keep us from that. In fact, as chairman of the Energy Subcommittee, I would want to make it part of my responsibility to regularly ask the Secretary of Energy to come forward with his plan, about what progress he is making, and suggest to him faster progress, and to ask him what timetables seem reasonable.

There is another aspect to this, too. The Government is not going to invent the hydrogen car. No one has suggested the Government will. We are just providing some free commercial researching. But we should leave it to the market to make the greatest progress in determining what timetables will work, what targets make sense, what research will finally work, and what the customers will buy.

I had an opportunity within the last couple of weeks to talk with the chief executive of Nissan, Mr. Ghosn, who has had a remarkable record. In 1999, Nissan had a $19 billion debt and was headed down. Today, it has no debt. It is headed up. I asked him about the hydrogen car because some of my scientist friends had been throwing a little cold water on the idea, saying some of us in the Senate were coming up with a pipedream that might never work. Here is what the head of Nissan said, and he said this publicly: Nissan is spending $800 million in the next 7 years on research just on fuel cell hydrogen cars. He wants to be, and has publicly stated that Nissan intends to be, not just a leader but the leader in that area. In other words, they are putting money there, real dollars. They are making that kind of investment of prestige and dollars.

Toyota and Honda, industry sources tell me, are spending at least that much of their own money. And the General Motors president has said to me he takes this seriously as well.

So the President's focus on the hydrogen car has done one good thing. It has taken the work that has been done in this body in the last 10 or 12 years on hydrogen and put it in this bill in the form of $1.6 billion. It has taken the President's own proposals of research—that is another $1.3 billion. But the real value is the President's proposal, and our agreement on this, if we do agree, will put this up front, create a national commitment, the kind of commitment we had when we went to the Moon. That is right. It is that kind of national commitment. But let us realize that when we went to the Moon, we went in reasonable steps and this plan for cleaner air and for less dependence on foreign oil has many parts, including other forms of energies, and the timetables and the targets are best left to the marketplace.

So I rise to say this represents great progress by the committee. I commend, again, the Senator for his leadership. I urge that we not support an amendment creating wild guesses and artificial targets and timetables, but move forward and let the marketplace help us make sensible judgments about that, using our oversight role as Senators to make sure the program stays on course.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise to speak briefly in favor of the amendment by the Senator from North Dakota and give the reasons I believe this is a meritorious amendment that would strengthen the bill.

First, I think everyone needs to understand the amendment is an amendment that just sets targets. It really says that the plan—this is the plan the administration is going to come up with to spend this $1.3 billion, I believe it is—

> shall describe the activities of the Department of Energy, including a research, development, demonstration, and commercial application program for developing technologies to support—

and then it goes on to set these targets to support:

> the production and deployment of . . . 100,000 hydrogen-fueled fuel cell vehicles by 2010; and . . . 2.5 million hydrogen-fueled fuel cell vehicles by 2020 . . .

As I say, this is an amendment that sets some targets. They are not mandates; they are targets. I think they add greatly to the bill. Unfortunately, the Senator from Tennessee, as chair of the Energy Subcommittee in the Energy and Natural Resources Committee, does have the primary responsibility for the oversight of a lot of this activity. I would see this amendment, frankly, by the Senator from North Dakota as a way to give him more ability to perform that oversight.

Frankly, the only oversight target in the bill right now is you could call in the various officials from the Department of Energy and ask them whether in fact they are spending the money we have authorized to be spent. That is not a very effective kind of oversight. I am sure they would tell us they are spending the money.

The real question is, Are they achieving something with the expenditure of those funds? I believe this amendment tries to put in place some targets for what we would like to see them achieve. Clearly those are not hard-and-fast targets and they will change over time, but they do give us some benchmarks against which we can measure progress. I think that is very useful.

The Senator from Tennessee made the point that, in his view, his preference would be to leave it to the market as to how quickly these technologies develop. Clearly the private sector is going to determine to a very great extent how quickly these technologies become commercialized and how well they develop. But this legislation is authorizing the expenditure of Federal funds. It is entirely appropriate that we specify what we want to see as results coming out of the expenditure of those funds. To me it is not incumbent upon us to leave that kind of decision to the market. The market will have a major role, major voice, major determination as to what actually comes to market and what actually is commercialized and how quickly. But in the expenditure of taxpayer dollars it is our job to set out there what we would like to see achieved. If we determine after a few years that those targets are not realistic, we can always change them. Congress is in session every year. But this gives us something to shoot at. I think it is a major step in the right direction.

The Department, under the legislation we are considering, would invest $171 million in the current fiscal year, $272 million next fiscal year, $1.7 billion over the next 5 years—I said earlier $1.3 billion. I gather it is $1.7 billion. In my view, it is entirely appropriate that we look at trying to achieve some particular targets so we can then go back to our constituents and say this is what this money is going for and this is how we are making progress.

I do want to say, just before I yield the floor here, that this has been a very good, bipartisan effort. The Senator from North Dakota has been a long-time leader in trying to get more attention to the use of hydrogen in meeting our future energy needs. The Senator from Tennessee is certainly a strong proponent of this and has demonstrated that in our debates this year.

I know there are others on our committee who have taken a very major role: Senator AKAKA, as well, of course, and others before him. So I think this is a very good part of the bill. I think this amendment by Senator DORGAN will strengthen it even more.

I hope very much we can see it adopted.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, because the Senate in the last Congress passed an Energy bill which included targets and timetables, I think it would be considered a retreat if for some reason or another we this year objected to targets and timetables that were included in this Energy bill. In the past Congress, with the President supporting fuel cells and a hydrogen economy, I don't think we ought to be retreating on these kinds of issues.

The Senator from Tennessee said there are two parts. There are many parts of the bill. He is right about that. There is the part of the legislation that deals with that which we have always done. We have always been concerned about production of fossil fuels. So we have, of course, portions of the bill to deal with that. We have conservation issues and renewable energy issues. Those have always been in the bill.

But this piece is a different part—a part that is different and unusual. This part deals with something that is new, big and bold. It is why the President put it in his State of the Union Address. That is why he had a special rollout of his proposal down at the Building Museum with hundreds of people present. Virtually every industry leader with respect to hydrogen and fuel cells in the country came to town. Why did the President emphasize that? Because this is a different part. This is not some unusual part of the energy debate. It is the big, new, and bold part of that debate.

I have used the term "Apollo project." That perhaps could have used or I could have used "the Manhattan project," or something that would denote a project by which a country aspires to achieve something. A country aspires to establish goals, and it reaches those goals. A strategy that says, let us spend this money and, by the way, let us know if anything comes of it, is, in my judgment, not much of a strategy.

I am a big believer in understanding that things happen that you make happen—not that you let happen. If you have a problem and resources, you have two choices: Let us move this money out and see what we let happen with it, as opposed to deciding what we are going to make happen. There is a very big difference.

My colleague from Tennessee used the term "wild guesses" several times. Let me just tell you that Nissan, Toyota, Honda, DaimlerChrysler, Ford, and General Motors are not engaged in wild guesses. None of them is engaged in wild guesses. They are making substantial investments in fuel cell vehicles believing that we are moving toward a hydrogen fuel cell economy—not wild guesses at all.

Incidentally, I think my colleagues would, if they checked with most of these organizations I have mentioned and others in the industry, find that they very much support us being bold and establishing these targets and timetables. Why? Because they know that a country that establishes targets and timetables in pursuit of a policy is a country that is going to be fostering new development through research, and opportunities through research in the private sector as well. I just think it is really important for us to do this.

All of us come from different kinds of hometowns. I come from a small one with about 300 people. I am guessing, probably like every hometown, we had two or three people who every day went down to the bar and played Pinochle all day long. That was their social life. They just stayed there all day long and played Pinochle. They most likely in their conversations opposed almost everything new that was going on in the community: "It won't work, can't work; shouldn't do it." They just played Pinochle and criticized anyone who was making things happen in the community.

The President has said we ought to do this. There are going to be doubters outside of this Chamber and doubters in the country who don't want us to move in this direction who say it can't work, it won't happen, or this is not our future. But they are wrong. President Bush is right. They are wrong.

This country will best serve its future, in my judgment, if we decide that we are going to do this with the President and with the Congress; we are going to do this and make it happen. Should we just say, well, except that there are other alternatives and no such picking and choosing?

If President Kennedy had said, let us not pick a goal to go to the Moon, maybe it ought to be Mars, but if we decided the Moon, let us not decide it had to be in this decade because the technology doesn't exist, let us say we are going to one planet and the Moon maybe someday, we probably would have never gotten past Cape Canaveral. We probably would have never gotten off the launch pad.

He established for this country a very bold vision. The Manhattan project was a very different project. It was the same thing: We are going to do this. We are going to marshal all of the resources and try to make this happen.

My amendment is much more timid than that. I do not suggest we can strap a mandate on this country and a burden on the Department of Energy, or the private sector for that matter, that says we have to meet these goals, timetables, and targets. That is not what I am saying. I am saying, in the pursuit of this money, that we are going to spend several billions of dollars, let us ask the Energy Department in their plan to describe their activities in pursuit of this goal which says we aspire to have 100,000 hydrogen fuel cell vehicles in the United States by 2001 and 2.5 million by 2010. Maybe it can't be reached; I don't know. It is certainly not a wild guess; it is just deciding that we ought to as a country establish some goals.

Once again, I think there is a big difference between letting things happen and making things happen. We have the capability, it seems to me, with this President and this Congress—and with the private sector very engaged with an aggressive aim, which my colleague from Tennessee described a while ago—to do some really remarkable things in this area. I think they will be enhanced by establishing these targets and timetables.

I really see no downside at all. I sometimes can see in legislation or amendments that are introduced that there is an upside and a downside. What if it succeeds or fails? For the life of me, I cannot see the downside of Congress establishing in this legislation some targets and timetables that put us on a path to a new, bold, and aggressive energy policy that will do all of the things my colleague from Tennessee described and all the things I described which are good for this country—substantially limiting our dependence on foreign oil, which provides much greater economic and energy security for this country, and dramatically improving air quality in America. Instead of putting pollutants out of the tailpipe, you are putting water vapor out of the tailpipe.

There are so many things that make sense with respect to this proposal. Much of the proposal that is in the Energy bill makes great sense. I support it. I wish it were a bit bolder than it is. Nonetheless, it is substantially better than what was sent to us in the President's budget. I compliment my colleague from Tennessee and my colleague from New Mexico and others on that score. But I still believe we will do this country a favor and improve this legislation as it leaves the Senate by including timetables and targets which were in the legislation in the last Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the Senator from North Dakota and I agree on so much about this subject that I am not going to extend this discussion very much further for fear of dredging up something that we might disagree on because we don't have many differences here.

If I may briefly comment, I was listening to the Senator's discussion of that bar in North Dakota. When I was growing up in the mountains of Tennessee, Blount County was a dry county, we didn't have bars, but we had Byrne Drugstore, which is where all that same kind of discussion must have occurred.

I was just thinking. Talking about the suggested timetables, the Senator suggested that, for example, we have in here a timetable of 100,000 hydrogen fuel cell vehicles in the United States by 2010. I was wondering what they would say in Byrne Drugstore if I went back to it and said I just became a Senator, and I drove a new hydrogen fuel cell car around the block which emits water out the tailpipe and doesn't burn any gasoline. The car costs $2 million a car to make. I got so excited about it I went over to the Senate and I voted to say we ought to have 100,000 of those in the United States by 2010 and 2½ million of them by 2020.

I think they would say to me: Well, LAMAR, I think you got carried away a little bit. At 2 million times 100,000, how do you know what the cost of that car is going to be in 2010? I might say: Well, I may not have really meant that. We meet every year, and we can change that next year if we want to.

They might say to me: Why did you put it in there in the first place if you didn't know that much about what you were talking about? The idea sounds exciting, but why would you guess how you would take a $2 million car and make sure it made any sense at all to target that we have 100,000 of them in the United States by 2010? What ability does the U.S. Government have to wave a magic wand and make sure that happens?

I was then thinking, too, about all the automobile companies both the Senator and I talked about. Now, they are hot on this. I mentioned Mr. Ghosn at Nissan. He wanted to make sure I knew he intended not just to be a player in the fuel cell hydrogen car, he intends to be "the" player, and he is going to spend $800 million of his company's dollars on research in this far out idea that probably will not be commercially viable—none of us believe—for 15, 20, or 25 years.

That is a big step. But I really doubt Mr. Ghosn went to his board or the chairman of General Motors went to his board or the chairman of Ford went to his board and said: I want you to authorize that we require that our company make a certain number of these cars by a certain year. I think they would say: You are not being entirely realistic. You have gotten a little carried away.

So I want to show great respect for the Senator's goals, his hard work, and his energy. We agree on 95 percent of this. But I think to adopt those kinds of targets and timetables—to use a gentler word—might be misleading at the very least because I don't think that is the way to go about it.

Let's encourage it in any way we can—and we tried to do that here—and then let's have oversight on a regular basis. Then, if the technology is proven enough that it makes sense for us to be a little more specific, well, maybe we can take it up then. But if I went into the Byrne Drugstore in Blount County, and said, "I have just driven a $2 million car around the block and then went over and voted we ought to have 100,000 of them by a particular year," I think they would think I had gotten a little carried away with my good idea.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I shall not carry this much further either because there is much we agree on. But let me just say to the folks at the Byrne Drugstore, a drugstore I have not had the pleasure of visiting, my guess is, at Byrne Drugstore, if you told the folks sitting around the cracker barrel there—if they have a cracker barrel—in talking about life that we are going to give $2 billion plus to the Department of Energy, and we would just like them to use it as best they can, we really have not told them what we aspire to have happen in terms of goals or timetables and, what do you think of that, my guess is they would say: They are going to send their great-grandchildren back to you to say, "We have not reached any conclusions yet."

My guess is, the folks at Byrne Drug, just as the folks playing pinochle in my hometown's little bar, would probably say: If you are going to give the folks over there in that big bureaucracy some money, you might ought to give them a plan in terms of what you might want to accomplish with that money because they will find a way to spend it if you don't give them some sort of plan. They will tell you the money is all gone, but they really don't have a product yet.

There are plenty of examples, of course, of that. But my own view is, if we are going to give the Department of Energy money—and we must because, as the Senator from Tennessee knows, we cannot convert to a hydrogen-based fuel cell economy without public policy support. You have to, after all, have a complete infrastructure change in this country, so that in the future, if we are driving mostly hydrogen fuel cell cars, you are not pulling up to a pump that pumps regular gasoline, you are pulling up to a pump that pumps hydrogen fuel.

The question is, as I indicated before, where do we produce the hydrogen? How do we transport the hydrogen? How do we store the hydrogen? What is the infrastructure for dispensing the hydrogen at fuel stations across the country? All of that is important. And all of that is a function of public policy. The private sector cannot by itself do that. That is why the public sector lays the groundwork for it. It is like building the roads. We don't have General Motors building roads in this country. We build roads, and they build cars which you drive on the roads.

We create the public policy by which we will move toward a hydrogen fuel cell policy. It is what the President believes we ought to do. It is what I believe we ought to do. The Senator from Tennessee and the Senator from New Mexico believe we ought to do that. So as we do that, the question is: In pursuit of public policy, when we provide the Department of Energy with $3 billion plus, should we say to them: "Here is $3 billion plus. You folks—you good men and women at the Department of Energy—use it as best you can, and try to give us some idea of what you might accomplish with it" or should we say to these people in the large, vast bureaucracy here: "Here is $3 billion plus, and what we want you to do is the following. Our goal, our aspiration, what we strive to achieve for the country is the following"? I think that is a much better approach because, I guarantee you, we will provide that $3.3 billion, and at the end that money will be spent.

I have not ever, I guess, seen a Federal agency that has failed to spend the money. They do pretty well at that. But when they spend the money, and it is gone, the question is, Will this country have moved beyond where we are today in energy policy? Will we have achieved the result we wanted? Will the President have advanced the issues he portrayed so well in his State of the Union Address? I guess my answer to that is, I do not think so.

I come back finally to this point—and I will have to leave the floor but make this my last word—I fail to see any downside at all to putting in these targets. Again, this is not some wild guess.

I go back to the Nissan example. The chairman of Nissan does not go to the board of directors aspiring to spend $800 million, and say, "By the way, I have a wild guess, and I want you to authorize my spending $800 million on it."

This is not a wild guess. The private sector does not believe it is. I do not believe it is. President Bush does not. I think most of us understand this is a new, big, bold direction. We can do this the old way, giving the bureaucracy some money and hoping it turns out or we can do this a different way, saying: Here is what we aspire to achieve as a country. Here are the targets. Here are the timetables. Let's get about the business of doing this.

If we, in fact, want our children and their children to be able to drive hydrogen fuel cell cars, then that is not going to happen because we let it happen; it is going to happen because in the private sector and in the public sector we are taking the steps that can make this happen.

Having said that, I have enjoyed our discussion. Again, I have great respect for the Senator from Tennessee. I think the work he has done in the bill is excellent. I hope in the intervening hours or days before we vote on this proposal that I will be able to garner his support for this very minor, very small adjustment to a piece of legislation that is not a mandate but that, in fact, is a commonsense approach in terms of how we ought to spend this money and what we ought to expect the taxpayers to get for this money.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator. I thank him for his amendment. I know he is leaving, and I will not take advantage of that by continuing the debate. I have had a chance to say almost all I want to say.

The president of Nissan is a good example, actually. He has gone before his board and said he wants to spend $800 million. I do not think he went before the board and said he wanted to have 100,000 Nissan cars and trucks on the road in 2010 whether they worked and no matter how much they cost. That is the difference here.

I respectfully suggest there is a blueprint in this legislation, much of it provided by the Senator from North Dakota himself. The President's blueprint includes research on hydrogen-powered engines. That is what the $1.3 billion in research is for—research on the production of hydrogen fuel cells, et cetera, research on the transportation and delivery of hydrogen via pipelines and fueling stations, research on how to store hydrogen better and safer, on additional research on the fuel cell engine.

Because of the Senator from North Dakota and others, there is a blueprint for various demonstration programs, which I mentioned earlier—the vehicle demonstration program for Government and nonprofit agencies, the stationary fuel cell demonstration program, hydrogen car and fuel cell demonstration programs in national parks, the Centers of Excellence at the university. Those are very specific proposals.

So I respectfully suggest we have a good bill. We have a broad bipartisan consensus that we have a bold vision, and yet with unproven technology it is not wise for us in the Government to try to guess just how many of those cars there might be but to encourage it and let those who make the cars do it as rapidly as possible and use their talents to persuade consumers to buy the cars.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I join with my colleague, the Senator from Tennessee, in the concerns he has expressed regarding this amendment. I am intrigued and as interested as any Member of the Senate, including the Senator from North Dakota, in this new technology, the potential to use hydrogen-based fuel cells for power storage, energy storage, and the impact that can have on our automotive industry.

There are, and ought to be, concerns with an amendment that attempts to set a specific target for using such a future technology by a specific date. I remember some 10 years ago being told that everyone in America would be watching a high-definition TV by 1995; 1996 at the absolute latest. That was a technology prediction regarding television, something with which I think every American is quite familiar. We couldn't even get that future scenario right. To suggest that we know the future of fuel cell technology or even the automotive industry 10—and I think as this amendment goes almost 20—years from today is an enormous mistake. It is a mistake for a couple of reasons.

First, as the Senator from Tennessee pointed out, the current cost of these vehicles is $2 million or so, wildly out of the reach of anyone in the country who would be using these vehicles on a day-to-day basis. The private sector is putting a lot of money into this area. That is another reason to try to strike some balance in the bill. But even more basically, despite the fact that the Senator from North Dakota points out that this is just a target, what it does is suggest that a target for this technology is somehow better or more important than a target for any other technology.

What about solar power? What about photovoltaics? What about hybrid combustion technology? The highest fuel efficiency cars out there today often use a combination of electricity and traditional gasoline combustion engines to try to get their fuel efficiency up to 60, 70, 80 miles per gallon. There is certainly tremendous potential there if it can be made cost effective for the average consumer to immediately begin saving energy for our country and for the world sooner rather than later.

We should not prejudge which technologies will win out in a competition of ideas, a competition of cost or a competition for consumer interest in the marketplace. This amendment does just that. It tries to predict where the future will take us rather than trying to create a level playing field where different ideas can compete. Certainly money will be put into a lot of leading edge technologies, fundamental technologies regarding energy, and the Senator from Tennessee listed a lot of those. I don't think we should try to predict which ones will make the greatest impact in the automotive industry or in any other industry.

While I am as interested as the Senator from North Dakota in this new technology—I believe it may well prove to be a very important source of energy storage in our future—I think it would be a mistake to try to prescribe exactly how it needs to be implemented on behalf of the automotive industry and the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I have one short reaction to the comment of the Senator from New Hampshire. I will have nothing further to say on the amendment.

The Senator from New Hampshire reminds me of an experience I had in 1980, discussing the idea of predicting a new technology. I hope my friend Fred Smith, chairman and chief executive of Federal Express, will not mind my using him as an example. All this is public information. In the early 1980s, although it is hard to recognize this today, no one knew what to do with the fax. They didn't know what would be the future of the fax machine. There were those who were saying it would revolutionize communications as much as the fuel cell might revolutionize the automobile.

Mr. Smith, since he was in the business of delivering overnight packages, had to think about what the fax machine might do to Federal Express. He thought about it, and he came to this conclusion: His conclusion was that probably by the end of the 1980s, all Americans would go down to the street corner and find a Fed Ex fax machine and they would use the Fed Ex fax machine on their street corner to send a fax to their friends wherever in the world they might want to do that. That was his vision of what might happen with that new technology.

Well, we have seen what has happened since then. People didn't go down to the street corner and send a fax to their friend. Everybody has a fax in his or her office. Many people have them in their homes. They became personal faxes. Mr. Smith was wrong about that. Fed Ex lost a few hundred millions dollars. Fortunately for Tennessee, he had other great ideas, and Fed Ex is our leading employer in Tennessee today because of his entrepreneurial spirit.

But what if the Congress had gotten excited and said: Fred Smith has a great idea. The fax is a great invention and has an unlimited future. Let's pass a law saying that the Senate, having heard about the fax, hereby decrees that by the year 1990, there shall be a fax on 100,000 street corners in America and by 1992, there will be 300,000 faxes on street corners. All those faxes would be in the wrong places because the Senate, with respect, would not have known enough about the future to know what it was talking about. It was right about its vision of the fax. It was wrong about how far that might work; Fed Ex was at that time.

The analogy is pretty good here as well. We have a broad consensus on our excitement about the hydrogen car fuel cell and what it might do, not just for the automobile but throughout our economy. It is part of a balanced approach to toward energy. It could make the air cleaner and reduce our dependence on foreign oil. We are recommending $3 billion to stimulate precommercial research on that. But let's not put ourselves, in the Congress, in the position of making the same kind of mistake we might have made 20 years ago if we had passed a law suggesting we have 100,000 fax machines on the street corners of America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. CRAIG. Mr. President, we are beginning this week again debating a national energy policy for our country, an issue whose time clearly has come, an issue that should have been resolved well over a year ago, but because of the difficulties and differences of approach, that was an impossible resolution.

I will never forget the day I met in our majority leader's office with the then-elect President George Bush. He had not yet taken the oath of office. He was not yet our President. While he talked about a lot of his campaign promises and the priorities he would bring with his leadership in the Presidency, he said at that time—and honored it immediately when he became President—first and foremost for this country was the desperate need for a national energy policy.

He, of course, upon becoming President, assigned Vice President DICK CHENEY to build a task force and make recommendations to Congress, proposals that should be contained within a national energy policy for our country.

Let's remember, it was not a decade ago. It was not 30 years ago. It was just a few years ago that our President was reacting to what had gone on in California with brownouts, blackouts, and a frustrated population, and a very concerned economy that no longer were we the masters of our own energy fate; that somehow we had become increasingly dependent on foreign countries for hydrocarbons, or oil, and even within our own structures of systems of delivery and interconnection of electricity and pipelines for gas we were no longer as independent, strong, and self-reliant as we had been; that some while over the course of the nineties, as our economy grew, we were not replacing or building new infrastructure to serve that economy, we were simply relying on the surplus and the old infrastructure that it delivered for that energy. And all of that was true.

The President made his proposals. We crafted a policy, and when the majority in the Senate changed, the Energy Committee was shut down and a new bill was crafted in the office of the then majority leader, TOM DASCHLE. The bill came to the floor. We had the debate. It ultimately got into conference, but we could not produce a final product for our President. The differences between our parties and our interests were too great.

This year the Energy Committee, under the leadership of PETE DOMENICI, in a bipartisan way, held the hearings, held the markups, and what we have before us today is that legislation, a bill that is bipartisan, that has a broad range of interests in it, and really serves what I call the market-basket approach to energy, not that we have decided one source of energy is going to be the future of our country. We have learned differently about all of that in the last decade or two.

There are multiple sources and there are different markets and different economies that demand different kinds of energy. Clearly, to advance electrical production in this country from a coal-fired base, we have clean coal technology built within this bill so that we can build future coal plants for electrical production that are less emitting and cleaner.

Within the bill, there is a hydro relicensing provision that will allow us to relicense the hundreds of hydro facilities that now serve impoundments on our river systems, and do so in a much more environmentally sound way that will become more fish friendly but will still allow us to maintain that very clean base of electrical energy known as hydro.

It is very important, where I come from and where the Presiding Officer comes from, that these facilities remain productive and, at the same time, as we relicense them, that they can be retrofitted to meet the demands of a new attitude, a new understanding of the management of our river systems.

In this bill also are the underpinnings of the hydrogen economy that could in the future fuel the transportation needs of our country. The Dorgan amendment that is before us today deals with those goals about which we talk. We have been investing as a country for some time in hydrogen fuel cell technology.

About 2½ or 3 years ago, I was at Dearborn, MI, at the Ford engineering facilities and test track. While I was there, I drove a new hydrogen fuel cell car. It was a car about the size of a Ford Taurus. It had a hydrogen fuel cell within it that powered electric motors on all four tires. It was a marvelous, quietly running car. I got in, sat down, turned on the key, and nothing happened except the dashboard lit up, and pretty soon the dashboard said: Go. I stepped down on the accelerator, and away I went. There was a small whirring sound as the hydrogen fuel cell generated fuel that produced electricity that sent it out to the electrical motors on each one of these four tires.

When I was out on the test track with the engineer, he said: Pick it up; speed it up a little bit. It had been raining, and as I went around one corner of the test track, I slipped a little bit, and he suggested rather sheepishly that we probably ought to slow down. I was willing to do that in his car, his baby. He pioneered and helped develop this car. He said there is another reason besides safety to slow this car down. This car is worth about $6.5 million, and they did not want to lose that very expensive automobile. I did not realize at that time I was driving probably one of the most expensive automobiles ever built. It was a prototype. It was obviously not an assembly-line vehicle.

What I drove that day convinced me that in the future, if we choose to pursue it, we clearly can have, in part, not in toto, a hydrogen-based transportation fuel system in our country.

Is, therefore, the Dorgan approach the right approach at this time? Should we start making it mandatory to set targets that are absolute or need to be met? I question that, and I do so most sincerely because I want to move us and our knowledge base and invest in a hydrogen base.

Where do we get the hydrogen and how does it get delivered? Do we forget that gas station on each corner of every community did not just happen, that it took years and billions of dollars' worth of investment to develop the delivery system we have today by a myriad of companies investing their stockholder money and their profits in a delivery system? That is exactly what it took. That did not happen by accident.

To automatically suggest we are now going to have a hydrogen-based transportation system and that all of these new hydrogen refueling stations will occur overnight is a phenomenal stretch. That is the delivery system, and that delivery system alone would cost billions of dollars and, clearly, as we transition, if we do, into a hydrogen-based transportation system, it will take time and cost a lot of money.

Where do we get the hydrogen? Today we tend to get hydrogen from a hydrogen-rich supply—natural gas. But natural gas today is increasingly in less supply and more demand because of the Clean Air Act and because we decided years ago that if we were going to put additional electrical production in line, it could be a gas-fired electric turbine. It met our clean air standards.

All of a sudden, we began to consume a fuel that was once in surplus and is now becoming scarce. Some 3 months ago, its price spiked to over 260 percent of the average price. Should we be directing ourselves toward that, and should we be setting targets without an alternative supply of hydrogen? In other words, that is why, if you are going to set targets and limitations and goals—and maybe there is a day when we do—it is my argument and my belief that the Dorgan amendment is substantially premature with regard to that point. Let me tell my colleagues why.

In the overall parent bill we are debating, the national energy policy itself, there is a title that in time will begin to produce for this country an ample hydrogen fuel base and not use natural gas as its source. It is to develop, along with the new, safe, what we call passive generation for a nuclear reactor, an electrolysis system where water can be effectively converted into hydrogen. It is a technology that we know is doable. What is most important is that it is doable at much less cost and no demand on our natural gas base.

Why would it be at less cost, especially if it is allowed to be facilitated and built within a nuclear reactor?

Nuclear reactors operate best if they are operated at a constant load, but electricity is not used in a constant pattern, whether it is morning and one is cooking breakfast or it is a hot day and one is using air-conditioning or a cold day and using heat. All of that is variable within a range and within a market. So there are up and down supplies. There is peak load and there is soft load, or less load. The beauty of tying to a nuclear reactor a hydrogen electrolysis system as we believe to be engineeringly and technically very possible today—it is why within this bill we authorized the development of a prototype—is the reactor can then be run at a constant load where it performs for the least amount of money, and when it is peaking for electrical demand purposes, the power is shifted over there. When those demand loads come down, the power is shifted over to hydrogen gas production, and it is alternated back and forth from electrolysis to online transmission, from electrolysis to online transmission, based on the demand load at the time, while the reactor is operating constantly.

What I would therefore say about goals and targets within an area of fuel cell technology today, and supply, is let's get the supply at least started in place and the technologies to develop that supply proven effectively before we begin to put targets on governmental fleets or other fleets as we begin to cause the transportation of our economy to shift toward hydrogen.

Having said all of that, the oil industry, oil per se, for the foreseeable future will continue to fuel a very large part of our transportation needs in this country. That is a reality. It is something that we probably ought not force to cause to be different, but we ought to create and put in place the technologies that allow the transfer, that allow the movement, and that ultimately allow the capitalization of a new form of energy that we believe is hydrogen, and we believe this works.

The chairman of the full authorizing committee, who is the author of this legislation, is in the Chamber, so I yield to the Senator from New Mexico, Mr. DOMENICI.

Mr. DOMENICI. I thank the Senator for yielding.

First, please excuse my voice. I have somewhat of a cold. I say to the occupant of the chair, it will be in good form tomorrow. Do not worry. Having said that, I compliment the Senator from Idaho on the wonderful explanation he has given today on the future of hydrogen in the American economy. I also thank Senator DORGAN. Not only this year but before, he has been a strong proponent of moving ahead as rapidly as we can with the hydrogen alternative, the fuel cell, and ultimately an automobile in our future.

Today, Senator DORGAN offered an amendment which will now line itself up with a couple of others and perhaps be the third amendment voted on tomorrow. For that, I thank him because he brought an amendment to the floor which means we are moving.

I ask the Senator a question: The hydrogen car which I rode around in, as did the Senator, does the Senator remember how much they told us it cost?

Mr. CRAIG. Six point five million dollars.

Mr. DOMENICI. I do not say that to in any way belittle anybody, but the point of it is, they wanted to show us what it would look like, what the storage capacity or needs on the rear of this vehicle might be, which meant somebody would have some idea how to refuel it later on, and to put all of that together they spent 6 million-plus dollars.

The point of it is, S. 14, which I am very proud of, is an effort to produce a myriad of energies for America so that there will be a choice. It also says when it comes to hydrogen, let's pursue it with vigor. Let's get on with the research. Let's get the fuel cells moving ahead as rapidly as possible. And, yes, for the first time we had a President say go ahead and authorize a lot of money, $1.6 billion, to enter into partnership arrangements with the automobile manufacturers to see if our science and their technology could get married up with their money and taxpayers' money to pursue this with some degree of vigor.

I do not think I am trying to make a mountain out of a molehill in terms of the issue, but to now say, in the midst of all of this, to prove we are serious about this let's go ahead and mandate a purchase of these automobiles by a date certain it seems to me to be a bit premature. I do not think we need it to prove our worth, to prove our valor, to prove that we really want to move ahead with vigor. Quite to the contrary, I think it might indicate that we really are a little bit ahead of ourselves.

So when the time comes tomorrow, after discussing it with Senators such as Senator CRAIG, the Senator from New Mexico will decide whether we will have just a straight yes or no vote or whether we should ask the Senate to table what we consider to be a rather inappropriate amendment because it is too early.

As far as I know, there is no other business today. We are waiting around for the Dorgan amendment to get itself lined up with two amendments that are scheduled for tomorrow. There is still some significant debate on the motion to strike that concerns itself with nuclear power and on the so-called authority to the Indian tribes for the development of their energy. There are two amendments. One is Senator CAMPBELL's amendment, and one is Senator BINGAMAN's amendment. One is a first degree, and a second degree. Those will be debated, and then sometime tomorrow, hopefully, we can prove to the Senate that we are moving ahead with three votes.

Mr. CRAIG. Good.

Mr. DOMENICI. I am going to say now to other Senators who may have amendments, whatever they may be, the majority leader has been pretty fair with us. I am not so sure we have been quite that fair with him in that we have not produced enough amendments, although we are getting there now. We are starting to get a few of the hot button items, and maybe after tomorrow we might be at a point where others will come forth. I am asking now that Senators and their staffs, who consider themselves to have amendment potential on this bill, they should start to get ready. I am aware there are Senators who have amendments. We know the title of their amendments, but the amendments are not ready yet. That is 2 weeks now, not solid but more or less we have had 2 weeks.

So we ask now that Senators reconsider getting on with this so they can be helpful as we move ahead, and then with the minority soon we will begin to ask for some times. Maybe by tomorrow we can start asking for a time certain for the production of relevant amendments. That would be my hope. I say to my friend Senator CRAIG and the occupant of the chair, the distinguished Senator, Mr. SUNUNU.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank the senior Senator from New Mexico for what really has become a very thoughtful and methodical approach toward resolving a national energy debate, and bringing us legislation that not all parties agree on but clearly is that abundant market basket full of ideas and concepts and realities, we believe, that bring this country once again toward energy self-sufficiency, and our ability to stand on our feet and be proud that we are what we are as a country.

Our great strength has always been in our abundance of relatively inexpensive energy. It has driven our economy. It powers us up as a great country. Without doubt, it is what lights up the computer screens of our country and has made us the leading high-tech manufacturer in the world.

I was in San Jose, CA, this weekend speaking to a group. There were about 50 CEOs from high-tech companies from the valley, the heart of the Silicon Valley. We call it Silicon Valley West because right here at the beltway in northern Virginia is what I call Silicon Valley East, the heart and home of the Internet systems and internet companies. While I was talking about technology, they wanted to know about energy. In that valley they demand a high quality of electrical generation, constant power loads to feed their manufacturing facilities. They are very frustrated because of the problems California has had, which has been in part a policy issue and in part a transmission problem.

All of those problems are embodied in our legislation. That is why it is important we resolve and get to our President's desk a bill so we can help the energy segment of our economy get on its feet and get moving again for the sake of all.

I have said several times, and I think most agree, this legislation, S. 14, has more new jobs to be created in the next 4 to 5 years than the stimulus package. While the stimulus package was critically important, and I voted for it and it already appears to be turning on the economy across this country, the long-term infrastructure investment for the energy industries of our country that will fuel our homes and light up our computer screens in the future is embodied in this bill. That is why it becomes so important for everyone.

Let me step back to hydrogen for a moment. I have no difficulty with the Senator from North Dakota proposing legislation that said agencies ought to submit annual plans and reports that look at transition and talk about and build a system or a mechanism for transition to a hydrogen economy as these technologies develop, as these new production capabilities come on line. That would be a right and appropriate thing to do in light of where the technology of this industry is.

I have visited with hydrogen fuel cell engineers, scientists who study this area. They are telling me it would be very hard to measure. They are suggesting we need to prove the worth of this technology to the American consumer—"worth" meaning a sense of safety. A lot of folks are wondering, Is a hydrogen car going to be safe? They fail to recognize that a gas-powered car that they assume is safe sometimes is not as safe as we think it is. There have been fires and explosions. Is a hydrogen car safe? We believe they can be manufactured to be every bit as safe as a gas-powered car, if not safer.

But how do you prove it? One of the ways is to get hydrogen used in the economy before it is transitioned to transportation. How does that happen? The development of hydrogen fuel cells that actually fuel homes, manufacturing plants, other facilities that are perhaps less adjacent to or isolated from transmission capability. To have a hydrogen fuel cell that can actually produce enough power for a factory is not unreasonable to assume, or a single home in a rural setting.

Once that consumerism begins to develop in this country and there is a general understanding that hydrogen is a part of our energy economy, the reality of transition to a transportation base is probably even greater. Maybe they go equally together. But I know the scientists and the engineers are thinking one or the other or both; one before the other. Part of it all comes together at some point. I believe it can.

I, along with Senator DOMENICI and others who study energy sources for our country as members of the Energy and Natural Resources Committee, have spent a long time looking at this as a concept to be explored. As the Senator from New Mexico mentioned, we are committing a lot of public resources to this. We ought to. It is clean. What happens to the exhaust system of a hydrogen-powered fuel cell? No emission, except a drop of water. So there is no emission of greenhouse gases into the atmosphere.

Interestingly enough, when you use natural gas to create hydrogen, the process creates an emissions problem. When you use electrolysis of water to create hydrogen, you do not. So there is another reason to examine and build on the technology of electrolysis. We think the natural blend, the hand in glove, if you will, the synergy that can be created by new passive nuclear reactors that are safe, cool in operation, automatic shutdowns, but can do the constant load, that can create the economies of optimum operation and therefore at great cost saving to the consumer, is a technology that ought to be developed and is embodied within S. 14.

I will now, therefore, have to oppose the Dorgan amendment for all of those reasons. It is not time to require the acquisition in the market. It is time to push the technology. It is time to ask for the reports. It is time for this Senate to be able to understand progress and growth and development in this area and the likelihood of a time down the road when more and more of our economy will actually be using hydrogen as an energy base.

It is with that I come to the floor to debate this amendment. I hope as we get to it tomorrow and a vote in the Senate, as the chairman has spoken to, that Senators will consider the reality that this is not the time for targets. This is not the time for hard goals. This is a time for pushing the technology, building on it, encouraging the private sector to marry up with the public sector, to advance the technology, and it may well be time for the Department of Energy to be required to report and analyze on an annual basis for our sake, for those who make public policy, the reality of these technologies.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

### AMENDMENT NO. 867

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 867.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure continued availability of natural gas)

On page 278, after line 8, insert the following:

"(h) TRIENNIAL REPORT ON EFFECT ON NATURAL GAS DEMAND.—Not later than 3 years after the date of enactment of this Act, and every three years thereafter, the Secretary shall submit to Congress an assessment of the effect of increased use of hydrogen, as a result of the programs in subsections (a) and (b), on demand for natural gas.".

On page 291, strike line 22 and all that follows through page 292, line 8 and insert the following:

"(b) CONTENTS.—At a minimum, each plan shall contain—

"(1) a description of programs under the agency's control in which the use of hydrogen or fuel cells could benefit the operation of the agency, assist in the implementation of the agency's regulatory functions, or enhance the agency's mission;

"(2) a description of any agency management practices, procurement policies, regulations, policies, or guidelines that may inhibit the agency's transitions to the use of fuel cells and hydrogen as an energy source; and

"(3) an assessment of the effect of increased use of hydrogen by the agency, including increased use through programs under section 303(b) of the Energy Policy Act of 1992, as amended by this Act, or section 824 of this Act, on demand for natural gas.".

Mr. BINGAMAN. Mr. President, this amendment addresses the fact that most hydrogen today is manufactured from natural gas. As far as we can tell, this is likely to remain the case as we make any transition to a hydrogen-based economy. This dependence on natural gas may prove to be a real Achilles' heel for the future development of these promising technologies we have been discussing on the Senate floor today related to hydrogen.

The lead story in today's Financial Times has a headline entitled "U.S. Faces Natural Gas Shortage." I believe Chairman Greenspan has also been testifying about this very important issue today in the House of Representatives. This is not a new story. There are a number of us who have been sounding the alarm for a long time on this issue and the need for effective action to address it. It is a serious situation. It has been in the making for several years, and it will not be easy for us to reverse this situation.

As an example of this concern, on May 27 there were 29 other Senators who joined me in a letter to Secretary Abraham. In that letter we expressed concern about the current and continued high natural gas prices and their effects on consumers and industries that rely on natural gas. We strongly urged the Secretary of Energy to look to conservation, energy efficiency, and fuel switching as important near-term steps that can be taken to alleviate what is shaping up as a critical problem, perhaps this coming winter.

This past Friday, Secretary Abraham wrote back, agreeing with the analysis of the problem and agreeing that—this is a quote from his letter—"the natural gas industry has been strongly supportive of this conservation message. . . ."

Mr. President, I ask unanimous consent that the letter sent by 30 Senators to the Secretary of Energy and the Secretary of Energy's response be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, it would be ironic if, in the name of increasing the diffusion of hydrogen-based energy technologies into the U.S. economy, we wound up exacerbating the long-term problem we have with the natural gas supply. To make sure we maintain the awareness of this linkage, and the potential downside that could arise because of it, this amendment I have sent to the desk would make two changes in the underlying hydrogen title of the bill.

First, the amendment would require a triennial report from the Secretary of Energy with an assessment of how the various programs in the bill to increase the number of hydrogen vehicles and the use of hydrogen as a fuel were affecting our long-term demands for natural gas. If other sources for the manufacture of hydrogen were coming to the fore, such as renewable sources of electricity, and the increased dependence on natural gas was not looming as a big problem, then fine. But we would be looking at this natural gas issue on a periodic basis at least each 3 years as hydrogen technologies move forward.

The second change the amendment would make would be to add a similar analysis to a report from Federal agencies that is already required in the bill on their own future use of hydrogen. It would require Federal agencies to assess how their own increased use of hydrogen would affect natural gas demand.

Obviously, all of us want hydrogen to be better developed as a technological option. We all, I believe, also want to make sure we do not have unwanted consequences or unwanted impacts on our strained natural gas picture going forward. This amendment will help ensure that we keep our eyes open and we keep focused on this important potential problem as we move toward a hydrogen-based economy.

Mr. President, I think this amendment would strengthen the bill, and I hope it is acceptable and can be agreed to.

I yield the floor.

EXHIBIT 1

UNITED STATES SENATE,
*Washington, DC, May 27, 2003.*

Hon. SPENCER ABRAHAM,
*Secretary, Department of Energy, Washington, DC.*

DEAR SECRETARY ABRAHAM: We are writing to express our concern about continued high natural gas prices, the impact on industries that rely on natural gas for manufacturing, and the possibility of severe price spikes recurring later this year. In your recent address to the National Petroleum Council, you correctly pointed out that the amount of natural gas in storage is unusually low and that injection rates must increase dramatically in order to fill storage to levels sufficient to meet anticipated demand this year. With natural gas prices twice as high as they were last year and the increased demand for electricity expected this summer, market fundamentals are not encouraging for robust storage refill rates.

We commend you for focusing on the near term challenges we face with respect to natural gas and for calling an emergency meeting of the National Petroleum Council next month to identify actions that can be taken immediately to ease short-term supply constraints. The expertise of the NPC's members in the production, transmission and distribution of natural gas should be very helpful. Increased natural gas supplies are needed of course and, in fact, drilling is up thirty percent this year. But significant new gas supplies are not likely to come on line in the near term.

Energy efficiency and conservation, as well as fuel switching, are more likely to make a difference in natural gas markets this summer and next winter. Analysis of the successful efforts of California to reduce electricity consumption in 2001 demonstrated that efficiency and conservation were the fastest and least costly solutions available. We urge you to cast a wider net for recommendations on natural gas including meeting with Governors, state and federal regulators, industrial and commercial gas consumers, electric utilities and independent generators, and experts in efficiency and conservation.

We look forward to working with you to address this critical issue.

Sincerely,

Tom Daschle, Tim Johnson, Jay Rockefeller, Russell D. Feingold, Harry Reid, Joseph Lieberman, Jeff Bingaman, Tom Carper, Frank R. Lautenberg, Ron Wyden, Debbie Stabenow, Maria Cantwell, Mary L. Landrieu, Jon S. Corzine, Jack Reed, Charles Schumer, Evan Bayh, Daniel K. Inouye, Dianne Feinstein, Barbara Boxer, Dick Durbin, Hillary Rodham Clinton, Patrick Leahy, John F. Kerry, Paul Sarbanes, Barbara A. Mikulski, Ted Kennedy, Carl Levin, Daniel K. Akaka, Patty Murray.

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THE SECRETARY OF ENERGY,
*Washington, DC, June 6, 2003.*

Hon. JEFF BINGAMAN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR BINGAMAN: Thank you for your May 27, 2003, letter expressing concern about continued high natural gas prices and their impact on consumers and industries that rely on natural gas.

The Administration shares your concern—and it is for this reason that I called for a Natural Gas Summit on June 26, 2003, which your letter referenced. In addition to including members of our National Petroleum Council, the Summit will also bring together State and Federal regulators; industrial, residential, and commercial gas consumers; electric utilities and independent generators; along with experts in energy efficiency and conservation to discuss and develop recommendations relating to the future of the natural gas markets.

Based on the Department's analysis, we concur with the conclusion advanced in your letter that over the next 12 to 18 months there are only limited opportunities to increase supply; and that, therefore, the emphasis must be on conservation, energy efficiency, and fuel switching. That is why the speakers and attendees at the Summit will be substantially consumer focused. I would note, however, that the feedback we have been getting from the natural gas industry has been strongly supportive of this conservation message as they are concerned about the long-term effect on the market of these high short-term prices.

In addition to sharing the same opinion regarding the role of conservation, I am pleased that we also are in agreement concerning the need to increase natural gas supplies. Last year, I commissioned a National Petroleum Council study focused on long-term issues that will more directly address supply. This study, to be released in the fall, will include a comprehensive evaluation of future natural gas supply and demand issues. We will, of course, share the results of that study upon its completion.

I appreciate your interest in the Natural Gas Summit and look forward to working with you to address these important issues.

If you have any questions please feel free to contact me or Ms. Kelly S. Lugar, Deputy Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

SPENCER ABRAHAM.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, we have reviewed the amendment. We have no objection to the studies provided for in the amendment. We think they will be worthwhile and helpful, so we have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 867) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask Senator BINGAMAN, have you finished with that issue?

Mr. BINGAMAN. Yes, I have.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent to be permitted to proceed as in morning business for no longer than 7 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business starting in 5 minutes and not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield the floor.

Now, Mr. President, I ask unanimous consent that the 5 minutes I asked to transpire before the time started be waived and that I be able to proceed with my 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized as in morning business.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1211 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. MCCAIN are printed in today's RECORD under "Morning Business.")

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand, from my parliamentary inquiry, that at 5:15 the Senate resumes executive calendar debate.

The PRESIDING OFFICER (Mr. ENSIGN). In executive session, that is correct.

## MORNING BUSINESS

Mr. DOMENICI. I ask unanimous consent that we be in morning business until we go into executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

### NOMINATION OF MICHAEL CHERTOFF, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 5:15 having arrived, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Michael Chertoff, of New Jersey, to be United States Circuit Judge for the Third Circuit.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today in support of the nomination of Michael Chertoff to the U.S. Court of Appeals for the Third Circuit. I happen to be admitted to the bar of the Third Circuit. I can't imagine a better person we can put on that circuit than Michael Chertoff.

This is not the first time this body has had the opportunity to consider Mr. Chertoff's qualifications. In May 2001, my colleagues and I voted to confirm his nomination to the post of Assistant Attorney General for the Criminal Division of the United States Department of Justice. He has worked tirelessly in that position on behalf of our country prosecuting those whose specific goal is to harm America, and we are grateful for his service.

The same credentials and experience that paved the way for Mr. Chertoff's confirmation as Assistant Attorney General demonstrate that he will make an exceptional Federal appellate judge. He graduated magna cum laude from Harvard College in 1975 and magna cum laude from Harvard Law School in 1978. After his graduation, he served as a law clerk to United States Supreme Court Justice William J. Brennan, Jr.

Following his clerkship, he embarked on a long and distinguished professional career dedicated to fighting crime and corruption that began in the United States Attorney's Office for the Southern District of New York in 1983, where he served as a line prosecutor. In 1987, he was promoted to First Assistant U.S. Attorney for the District of New Jersey. In 1990, former President Bush appointed him to be the United States Attorney for the District of New Jersey.

During his time as a Federal prosecutor, Mr. Chertoff gained extensive experience in all phases of criminal investigations and prosecutions. He handled major organized crime, fraud, and corruption prosecutions. Here are a few examples:

Mr. Chertoff successfully prosecuted a RICO murder case involving the third ranking member of the Genovese La Cosa Nostra family and others. The principal defendants were convicted of conspiring to murder John Gotti and murdering a mob associate. They each received 75-to-80 year prison terms.

Mr. Chertoff successfully prosecuted the Mafia commission case, which charged the bosses of all five New York La Cosa Nostra families with operating a national commission through a pattern of racketeering acts such as extortion, loan sharking, and the murders of a mafia boss and two associates.

Mr. Chertoff successfully prosecuted the mail fraud, bank fraud, and tax evasion trial of the mayor of Jersey City, NJ. The case arose out of an investment fraud perpetrated by the mayor while he was in office. The defendant was convicted of 14 felonies, sentenced to jail, and removed from office.

Mr. Chertoff also successfully prosecuted Arthur and Irene Seale for the 1992 kidnapping and murder of Exxon executive Sidney Reso, a tragic case which garnered substantial media attention.

This record alone demonstrates that Michael Chertoff has the experience and qualifications to serve as a judge on the Third Circuit. However, his public service is not limited to holding high level government positions. For example:

Mr. Chertoff served as special counsel to the New Jersey Senate Judiciary Committee in its investigation of racial profiling. Under his counsel, the

Committee held nine hearings examining racial profiling allegations, concluding that the former attorney general had misled the Committee and had attempted to cover up the extent of racial profiling in New Jersey from the U.S. Department of Justice.

After a convicted rapist was mistakenly released from prison, Mr. Chertoff again served as Special Counsel for the New Jersey Senate Judiciary Committee during its hearings into the application of Megan's Law, which requires State correction officials to notify prosecutors 90 days prior to the release of a sex offender, and the reasons why it was not being systematically employed by the State.

Mr. Chertoff also represented three indigent defendants on death row in Arkansas through a program operated by the NAACP legal defense fund. The death sentences of all three defendants were overturned on the appeal that he handled.

Mr. Chertoff has received numerous awards and honors, including an honorary law degree from Seton Hall University in 2002; the Anti-Defamation League Distinguished Public Service Award in 1992; and in 1987 the U.S. Department of Justice John Marshall Award for Outstanding Achievement in Trial.

These are but a few examples of public service that reinforce the true nature of Michael Chertoff's character. Recognizing this level of excellence, the American Bar Association has given Mr. Chertoff a unanimous well-qualified rating, the highest possible designation.

Plenty of others share the ABA's view of Mr. Chertoff. In a joint press release, New Jersey's two Democratic Senators, JON CORZINE and FRANK LAUTENBERG, expressed their strong support for Mr. Chertoff, stating, "We are pleased that the President has selected a distinguished New Jerseyan for this important seat on the U.S. Court of Appeals for the Third Circuit. Michael Chertoff is a highly intelligent and competent lawyer with a long and impressive record of public service."

In a March 11, 2003 editorial, the Bergen Record endorsed Mr. Chertoff's nomination, calling it "a refreshing change." The newspaper continued, "Mr. Chertoff is exactly the type of nominee the nation needs for federal judgeships," and concluded, "Mr. Chertoff is the type of smart, non-ideological high achiever whom Presidents of both parties should consider for the bench."

Mr. President, I have touched on only some of the attributes and accomplishments that demonstrate Michael Chertoff's overwhelming qualifications for the Third Circuit. He will be an outstanding Federal appellate judge, and I urge my colleagues to vote in favor of his nomination.

Mr. President, I notice the distinguished Senator from Pennsylvania is here. Both he and I are admitted to the bar of the Third Circuit Court of Appeals. I am also admitted to the bar of the Tenth Circuit Court of Appeals.

I yield the floor so the distinguished Senator from Pennsylvania can make his statement.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is especially appropriate for members of the Court of Appeals for the Third Circuit to have a little special understanding of the needs of that court, and the Court of Appeals for the Third Circuit is very badly overworked at the present time and very much in need of judicial replacements. The court has served under the superb leadership of Chief Justice Edward R. Becker, and I know personally from my discussions with him and the new Chief Judge, Anthony Scirica, the tremendous backlog and tremendous pressures the court of appeals has for the very busy States of Pennsylvania, New Jersey, and Delaware. I am pleased to see that Michael Chertoff is now coming up for a vote before the Senate. He has an extraordinary record—Harvard undergraduate, Bachelor's degree, magna cum laude, 1975; Harvard Law School, again magna cum laude, in 1978. He has been engaged in the private practice of law. He has served as assistant U.S. attorney for the Southern District of New York, which is one of the toughest, most complicated jurisdictions. They handle very difficult cases. Then he became an assistant U.S. attorney for the District of New Jersey, moved up the ranks to be first assistant, and then later U.S. attorney for the District of New Jersey. Again, that is a jurisdiction which has very complicated cases.

He has served as minority counsel for the Banking Committee. He has been the Assistant Attorney General in charge of the Criminal Division. He has had very wide experience in both civil and criminal law, and I think he comes to the position for the Court of Appeals for the Third Circuit with extraordinary qualifications.

It is my hope the vote which we are having today on Michael Chertoff might be an indication the so-called logjam on filibusters will be broken. The Rules Committee last week held a hearing on a variety of ways to deal with the filibuster. It had been my hope during the 107th Congress, before the filibuster was tried, that we might find a protocol, which would work regardless of who controlled the White House, and regardless of who controlled the Senate.

When President Clinton was in the White House and Republicans controlled the Senate, it was my view, stated on the floor at the time, that we should have handled President Clinton's nominations differently. We should have processed them in a more expeditious manner. Finally, we did handle quite a number of the judges who moved through after some judicial delays—Judge Berzon, and others.

When the Democrats controlled the Senate in 107th Congress and President Bush was in the White House, the situation was reversed. It was my hope at that time we might find some protocol which I had proposed, one specifically which would establish a timetable: Sixty days after the nomination was submitted to the Senate there would be a hearing by the Judiciary Committee; Sixty days later there would be action by the Judiciary Committee voting up or down; Sixty days later there would be floor action in the Senate.

Those timetables were not written in stone. They could have varied. They would be subject to a modification if cause was shown by the chairman of the committee upon notice to the ranking member or by the majority leader listing it for the full Senate action upon notice to the leader of the minority party.

It was my view at that time that we had so many votes which were party line that if it was a party-line vote the matter would then go to the full Senate for resolution. That was before advent of the filibuster. The filibuster cut new ground. It was unprecedented in the Senate for a filibuster to be lodged against a Court of Appeals judge. Once before in the history of the Senate was there a filibuster, and that was when Associate Justice Abe Fortas was considered for Chief Justice of the United States. That was a bipartisan filibuster. There were integrity issues there which were very different from the filibusters which have been mounted during the 108th Congress where, as I say, this unprecedented action has been taken. That caused a good deal of consternation on this side of the aisle, and I think a good deal of consternation in the country.

A number of options were considered where the rule might be changed. One proposal has been to have the first vote require 60 votes and on subsequent votes down to 51. My frank view is that is unlikely to be accepted because it isn't very difficult to have a series of cloture motions filed.

For those who may be wondering and for anyone watching C–SPAN II, a cloture motion is a motion filed to cut off debate. The current rule requires 60 votes to cut off debate.

When the logjam continues, there has been the suggestion of what we refer to colloquially as the "nuclear option" where there might be a ruling of the Chair that requires 60 votes, and that ruling could be challenged. On a 51-vote majority, that ruling could be overturned as a matter of Senate precedent. That has been done on occasion in the past. But it is an alternative which I think would be unwise and undesirable if any other alternative can be found. But if we were faced with the unprecedented cloture proceeding, the Senate may be driven to that alternative.

What is really under consideration in many minds is whether the filibuster on the two circuit nominees pending is really a preliminary for a Supreme Court nominee. I think if that were to be the case it would be really most unfortunate for the judicial selection process and very unfortunate for the Senate, which really turns on collegiality for us to do our job—traditional collegiality which has been sorely tempted in the recent several years.

If there had been an occasion for a filibuster on a Supreme Court nominee, I think that would have occurred with the nomination of Justice Clarence Thomas. And it was not attempted. I think it should not have been attempted. But that was the most hotly contested Supreme Court nomination during my tenure here, and I think perhaps the most hotly contested nomination short of the Fortas nomination in the history of the Court with the arguments which were raised during the hearings, with the arguments which were raised on the Senate floor, the delay, the second round of hearings, and the entire difficulties which surrounded that nomination. Had there been an occasion for a filibuster, I think that would have been the ultimate test. I repeat that I don't think a filibuster should have been attempted. None was. Justice Thomas was confirmed 52–48, which I think was a very firm imprimatur of regular procedure for the Senate not to filibuster but to vote on a majority vote.

It is my hope that what we are doing here with Michael Chertoff will be a bellwether of a change of landscape and a sea change in the Senate, so that this confirmation is, I think, pretty much assured. I hope it will set the stage for affirmative votes in the Senate.

I see other colleagues who have come to the floor with only 15 minutes before the scheduled vote. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thought we were going to be discussing the candidate for office. I am sorry we kind of got off into another discussion. We are not filibustering this appointment. We are happy about this appointment. I want the chance to say that, and take what has happened as an indication of what can happen.

I rise today to support the confirmation of Michael Chertoff, whom I know well, to the Third Circuit Court of Appeals.

I am pleased that President Bush has selected this distinguished New Jerseyan for this important seat on the court of appeals. I hope that tells us where, in fact, we might be going with future appointments.

Mr. Chertoff is a highly intelligent and competent lawyer who has compiled a long and impressive record of accomplishment in both the public and private sectors.

Mr. President, I ask the Chair, if I could, to remind me if I run past, let's say, 8 minutes so that my colleague, JON CORZINE, has a chance to speak.

The PRESIDING OFFICER. The Chair will do so.

Mr. LAUTENBERG. Mr. President, Mr. Chertoff was born in Elizabeth, NJ, and distinguished himself academically as an undergraduate and law student at Harvard University. After law school, he served as a law clerk to Judge Murray Gurfein on the U.S. Court of Appeals for the Second Circuit.

After he clerked on the Second Circuit, Michael Chertoff served as a clerk to a legendary jurist from the great State of New Jersey—U.S. Supreme Court Justice William J. Brennan.

Justice Brennan was appointed to the Supreme Court in 1956 by President Dwight D. Eisenhower, and he spent 34 years on the Court. He is universally regarded as one of the most influential Justices of the second half of the 20th century.

If Mr. Chertoff follows the legacy of his mentor, the Third Circuit is going to be in great hands.

In 1990, Mr. Chertoff became the U.S. attorney for the District of New Jersey. He remained there until 1994. During his able tenure, he aggressively tackled organized crime, public corruption, health care, and bank fraud.

He also played a critical role in helping the New Jersey State Legislature to investigate racial profiling. "Driving while Black," as they say, should not be a crime in any State in the Nation, and I know Mr. Chertoff agrees. That is why I introduced the first bill in the Senate to ban racial profiling. And I am grateful to Mr. Chertoff for the interest he took in this matter at the State level.

As a result of Michael Chertoff's contribution, I am proud to report that just a couple of months ago New Jersey enacted the strongest antiracial profiling law in the Nation. The Third Circuit Court of Appeals is one of the most impressive courts in the country. Based on his past performance, I am confident Mr. Chertoff will fit right in.

As you know, I have strongly opposed some of the President's judicial nominees. I believe some of them are not appropriate for the Federal bench, not simply because they may not have compiled the kind of record that speaks to fairness and balance on the bench but because of a refusal, let's say, to even discuss the views they hold and what their background might be. I think it is inappropriate.

Again, I did not want to discuss the process. I want to discuss the individual. And that is where I think we ought to go. But in this case, we have a candidate, and I stand here, as an American, as a Democrat as well, to fully support the appointment of Michael Chertoff because he has the talent and ability to render justice fairly.

I believe some of the nominees who came up were on a mission to curtail fundamental civil rights laws and protections. Others, as I said, have simply refused to answer important questions that would permit Senators to execute their constitutional duty for advice and consent.

The fact is, there are many highly qualified candidates that the President could nominate to the circuit courts, the appeals courts, who would enjoy broad support in the Senate from both Democrats and Republicans. Mr. Chertoff is one such candidate.

So I enthusiastically support his nomination to the Third Circuit. I urge my fellow Senators to support this consensus nominee who will serve the people of New Jersey and the Third Circuit ably and competently.

I thank you, Mr. President, and yield my remaining time to my colleague from New Jersey.

The PRESIDING OFFICER. The junior Senator from New Jersey.

Mr. CORZINE. Mr. President, it is my pleasure to also speak today in support of Michael Chertoff, a nominee for the U.S. Circuit Court of Appeals for the Third Circuit. The Third Circuit Court of Appeals is one that includes my home State of New Jersey. It is a very distinguished court and handles a diverse range of issues reflecting, frankly, the diversity of the people, the economy, the society of that circuit. It deserves a highly qualified candidate.

I believe the White House, in cooperation and dialog with the Senators from those areas that are attendant to the Third Circuit, has been fortunate, in working in that cooperative manner, to have a nominee as superb as Michael Chertoff.

He has ably served the citizens of New Jersey in a number of capacities, as my colleague from New Jersey, Senator LAUTENBERG, mentioned. Indeed, he has served the Nation and the Department of Justice, where he is No. 3 today in the criminal justice system. We will all be privileged to have his sound judgment and legal skills serving in this critical judicial position.

Mr. Chertoff has impeccable credentials. That is why we support him. And they are fully disclosed, fully responsive to the kinds of questions one would raise. You have heard he attended Harvard College, then Harvard Law School where he was editor of the Law Review. He then served as a Supreme Court law clerk to Justice Brennan.

He has had a remarkable private practice. In private practice and public service he has served, in every case, with excellence. He has developed a reputation of being brilliant. He has an equal reputation for being tough and fair. And he is a world class litigator and has earned the respect of his peers and adversaries in court, regardless of their political background.

While I will acknowledge that I might not always agree with Mr. Chertoff on every issue—I may have philosophical differences—I find that no excuse for a loss of support when he is prepared to speak to the issues about how he will deal with the judgments he will make and how he will go about forming those judgments in the context of legal study and the context of constitutional and legal precedent.

While there have been even serious concerns that a number of us have expressed regarding the prosecution of the war on terrorism, as at least implemented by the Justice Department—and I share some of those concerns—I do not believe that impacts a judge when they are willing to address how they will deal with constitutional precedent. And Michael Chertoff clearly has done so. I think he is truly a qualified candidate.

Once again, I mention he was a U.S. attorney, a tough one. He combated organized crime, public corruption, health care fraud, and bank fraud. Unlike many of his predecessors—and people who now fill the position of U.S. attorney—as a U.S. attorney he continued to try cases himself. He went to court; he took on the highest profile cases himself. He is actually one of those people who did the work to go into the courtroom and carry the case.

So I think we have a terrific candidate whom we all can support. I think there is a precedent here to which all of us can look. Frankly, this nomination process worked the way it is supposed to work. There was dialog and consultation with the White House. And when there were differences of view, there was discussion with those who were involved. I compliment the White House for how they have worked with the Senators involved in the process. We have gotten to a positive conclusion because there has been the kind of dialog and mutual seeking of support that we look for.

I urge my colleagues to support this nomination. I urge all of us to look for a more cooperative manner in how we approach the selection of judges, particularly in the circuit courts, as we go forward.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. How much time do I have remaining?

The PRESIDING OFFICER. Four minutes 45 seconds.

Mr. LEAHY. Mr. President, today, we vote to confirm Michael Chertoff to serve on the United States Court of Appeals for the Third Circuit. With this confirmation, the Senate will have confirmed 128 judges, including 25 circuit court judges, nominated by President Bush.

One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 28 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 128 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997 the first 3 full years of his last term. In those three years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 15 percent and the circuit court total by almost 40 percent with 6 months remaining to us this year.

Today's confirmation makes the eighth Court of Appeals nominee confirmed by the Senate just this year. That means that in the first half of this year, we have exceeded the average for an entire year achieved by Republican leadership from 1995 through the early part of 2001. The Senate has now achieved more in fewer than 6 full months for President Bush than Republicans used to allow the Senate to achieve in a full year with President Clinton. We are moving two to three times faster for this President's nominees, despite the fact that the current appellate court nominees are more controversial, divisive and less widely-supported than President Clinton's appellate court nominees were.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995-97. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. Indeed, we have reduced vacancies to their lowest level in the last 13 years. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as we did for President Clinton's.

I hope that the Republican leadership will see fit to schedule Richard Wesley's nomination to the Second Circuit for a vote this week. When he is confirmed, he will be the 26th circuit court nominee of this President to be confirmed by the Senate. I expect that we will also proceed this week on the nominations of J. Ronnie Greer to be a Federal trial judge in Tennessee, Mark Kravitz to be a Federal trial judge in Connecticut and John Woodcock to be a Federal trial judge in Maine. When they are all confirmed, as I expect they will be, the Senate will have confirmed more than 130 judges in less than 2 years.

As a followup to what the distinguished Senators from New Jersey have said, this is a case where on paper this could be a controversial judge, surely for Democrats, as someone who was actively involved in the Clinton impeachment matters and others. But I have worked with Mr. Chertoff. I have found him to be fair. I found him to be honest with me. I also am aware of the fact that the White House took the time—something they normally don't do, or do not often do, I should say—to actually consult with the Senators from his home State. That makes a big difference because we have had problems, of course, where that hasn't been done or where there has not been consultation or where a nominee has been sent up to divide us, not unite us.

Mr. REID. Will the Senator yield for a question?

Mr. LEAHY. I will vote without any reservation for Mr. Chertoff.

Of course, I yield.

Mr. REID. Would the distinguished Senator from Vermont confirm that this is the 128th judge approved during this Bush administration? Is that a fair statement?

Mr. LEAHY. That is true. That includes 25 circuit judges.

Mr. REID. And the vacancy rate, as I understand it, is extremely low now on the Federal court system generally; is that a fair statement?

Mr. LEAHY. It is extremely low. Actually the vacancy rate is lower than the unemployment rate in the country. It probably wouldn't be any, had it not been for the fact that 60 of President Clinton's nominees were blocked because 1 or more Republican Senators opposed them—1 or more. So they never got a vote. And had they gotten a vote, there would be no vacancy at all.

Mr. REID. It is also true that all this furor created with changing the rules and all this involves two judges whom the Democrats have prevented from coming to a vote; namely, Miguel Estrada and Priscilla Owen. So the count is 128 to 2. Is that a fair statement?

Mr. LEAHY. That is right. We have stopped 2 so far; we have confirmed 128. I would note that friends on the other side of the aisle, when President Clinton was here, stopped 60, not by votes but by just simply having 1 or 2 Republicans object so they were never even allowed to have a vote. In fact, when the Republicans were in charge in 1995 and 1996 and 1997, when President Clinton was here, Republicans allowed 111 judicial nominees to be confirmed and only 18 circuit court judges. In 2½ years, we have done 128 judges for President Bush and 25 circuit court judges. So crocodile tears have been shed. Unfortunately, it is embarrassing when you tell the other side the numbers.

Is there any time remaining on both sides?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute 15 seconds. The Senator from Utah has 30 seconds.

Mr. LEAHY. I withhold my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, all I will say, in yielding back the remainder of my seconds, is that I have been around here 17 years. I don't know that I have ever seen a better nominee for any circuit court in the country. This is one very great lawyer, great human being, good family man, person with a record that all of us should emulate if we could. I hope all of our colleagues will vote for Michael Chertoff. He deserves our vote.

No raw number of confirmations means anything, in and of itself, while there are not one but two filibusters of exemplary nominees going on now, potentially more to come, and emergency vacancies continue to exist. Are we supposed to be grateful that only a few of President Bush's nominees are being filibustered? Is there an acceptable filibuster percentage that the Democratic leadership has in mind? The mere fact that we have to ask these questions makes it crystal clear that we have a broken process. Even one filibuster of a judicial nominee is one too many.

As for the allegation that two nominees have been defeated, well, I for one would not be as quick as some of my Democratic colleagues to declare that the nominations of Miguel Estrada and Priscilla Owen have been defeated. We will continue to fight for the confirmation of these nominees and continue to file for closure on their nominations. They are exemplary nominees who deserve to be confirmed.

And as for the implication that it is somehow acceptable to filibuster two judicial nominees in light of the others that have been confirmed, I must ask my Democratic colleagues who are leading these filibusters: Would you ever argue that it is permissible to break two criminal laws just as long as all the rest are being followed? Of course not. Nobody would make that argument any more than they would argue that it is permissible to disregard two of the constitutional amendments that comprise our Bill of Rights simply because there are eight others. The confirmation of other Bush judicial nominees in no way excuses or justifies the shabby treatment inflicted on Miguel Estrada and Priscilla Owen.

Mr. KENNEDY. Mr. President, I will vote for the nomination of Michael Chertoff to be a judge on the United States Court of Appeals for the Third Circuit. Mr. Chertoff has a fine reputation as a prosecutor, special counsel, and defense attorney. Fellow members of the bar in New Jersey and the District of Columbia have described him as intelligent, fair-minded, and hardworking. Furthermore, in his role as the head of the Justice Department's Criminal Division, certain aspects of his performance have impressed me. For example, his testimony before our committee in November 2001, expressing confidence in the ability of our Federal courts to deal with terrorist suspects, has been important to the debate over the need for military tribunals.

However, other policies and decisions involving criminal justice matters during Mr. Chertoff's tenure as Assistant Attorney General have raised serious concerns. At his hearing, I asked Mr. Chertoff extensive questions about the Justice Department's advocacy on behalf of the Freeney amendment to the AMBER Alert bill. This Amendment has nothing to do with protecting children, and everything to do with handcuffing judges and eliminating fairness in our Federal sentencing system. Its provisions effectively strip Federal judges of discretion to impose individualized sentences, and transform the longstanding sentencing guidelines system into a mandatory minimum sentencing system. As Chief Justice Rehnquist has said, they "do serious harm to the basic structure of the sentencing guideline system and . . . seriously impair the ability of courts to impose just and responsible sentences."

On April 4, 2003, the Justice Department sent a five-page letter to Senator HATCH expressing its "strong support for Congressman FEENEY's amendment to the House version of S. 151." This letter was sent only a few days before the House-Senate conference on the bill and was influential in persuading the conferees to accept the Feeney amendment. At his hearing, Mr. Chertoff declined to say how involved he was in developing the Department's position on the Feeney amendment or whether he supported it. In his subsequent answers to my written questions, Mr. Chertoff stated that he "personally had no part in drafting" the Department's April 4 letter and did not "review it before it was sent."

While I appreciate the more forthcoming nature of Mr. Chertoff's written answers, I find it remarkable that the head of the Justice Department's Criminal Division Division did not participate in the drafting or review of the Department's letter. The Feeney amendment was very important legislation which substantially altered sentencing policy for the Federal criminal justice system. It was vigorously opposed by the Judicial Conference of the United States, the American Bar Association, the U.S. Sentencing Commission, and many prosecutors, defense attorneys, law professors, civil rights organizations, and business groups. As a Federal appellate judge, Mr. Chertoff will soon be responsible for applying its provisions. He will need to explain to his new colleagues why he did not do more at the Justice Department to stop this ill-advised legislation—or at least support Chief Justice Rehnquist's call for a "thorough and dispassionate inquiry into the consequences" of the Feeney amendment before its enactment.

I was similarly surprised to learn, as Mr. Chertoff acknowledged in his most recent set of written answers, that neither he nor anyone else in the criminal division was involved in the decision to deny the Federal Bureau of Investigation the authority to investigate the recent gun purchases of suspected terrorists after September 11. This decision was made in spite of the legal opinion issued by the Office of Legal Counsel on October 11, 2001, stating that there is "nothing in the NICS regulations that prohibits the F.B.I. from deriving additional benefits from checking audit log records." The F.B.I. had previously conducted such investigations for years. Furthermore, the Justice Department was at the time aggressively expanding its investigative and prosecutory powers in response to the 9/11 attacks. Mr. Chertoff could have, and should have, done more to help the F.B.I. agents investigating those vicious attacks. As with the Feeney amendment, this was an example of ideology trumping smart and effective law enforcement at the Department of Justice.

Finally, I am concerned about inconsistencies in the responses Mr. Chertoff provided with respect to the debate over the legality of the interrogation of John Walker Lindh. According to reports in Newsweek and the New Yorker, John DePue, an attorney in the Terrorism and Violent Crime Section of the Criminal Division, which Mr. Chertoff heads now and headed then, called the Professional Responsibility Advisory Office in December 2001 and requested its opinion on the propriety of having the F.B.I. interview Lindh. At his hearing, Mr. Chertoff testified:

> [I have to say, Senator, I think the Professional Responsibility [Advisory] Office was not asked for advice in this matter. I am familiar with the matter. I was involved in it.]

In response to my first set of written questions, Mr. Chertoff stated:

> [T]hose at the Department responsible for the Lindh matter before and during the time of Lindh's interrogation did not to my knowledge seek PRAO's advice.]

Then, in response to my second set of written questions, Mr. Chertoff acknowledged that the e-mails published in Newsweek "indicate that Mr. DePue initiated contact with PRAO about whether the FBI should question Walker Lindh and that Ms. Radack responded to that inquiry"—and that he first learned about theses e-mails in early 2002. I understand that Mr. Chertoff does not believe that Mr. DePue played a major role in the Lindh investigation and prosecution, and does not understand why DePue asked PRAO for its opinion on this matter. Nevertheless, Mr. Chertoff should have fully shared his knowledge regarding this situation from the outset, rather than deny that PRAO was asked for its opinion.

According to the New Yorker article published on March 10, 2003, 2 weeks after the Justice Department filed charges against Lindh, Ms. Radack, a highly qualified employee who received a merit bonus the previous year, received a "blistering" performance evaluation which severely questioned her legal judgment, and she was advised to get a new job. Mr. Chertoff has told me that has no knowledge of the facts surrounding Ms. Radack's employment, performance, or departure from the Department, and I take him at his word. Nevertheless, I remain very concerned about Ms. Radack's situation. According to press reprots—and the Department has never issued any statement disputing them—Ms. Radack was in effect fired for providing legal advice on a matter involving ethical duties and civil liberties that high-level officials at the Department disagreed with. Furthermore, after Ms. Radack notified Justice Department officials that they had failed to turn over several e-mails requested by the Federal court, Department officials notified the managing partners at Ms. Radack's new law firm that she was the target of a criminal investigation. I submitted questions to Attorney General Ashcroft regarding this matter in March, and I await his response.

Notwithstanding my concerns about Mr. Chertoff's performance as head of the criminal division—as well as initial failure, later corrected, to provide serious, consistent, and responsive answers to the questions asked by members of the Judiciary Committee—I am supporting his nomination to the Third Circuit. I am doing so based on his fine reputation as a lawyer, his achievements as a prosecutor and special counsel to the New Jersey legislature, and his assurances that as a judge he will apply the law with independence, integrity, and a commitment to due process and the core constitutional values embedded in the fabric of our democracy. My support for Mr. Chertoff's nomination today, however, should not be interpreted as an endorsement or approval for any other position.

Mr. LEAHY. Mr. President, I know Mr. Chertoff is waiting, biting his nails, wondering if he will get through this. I would mention for those of my colleagues who might actually be watching this, I will vote for him. I will support him. I urge them to do the same.

I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is, Will the Senate advise and consent to the nomination of Michael Chertoff, of New Jersey, to be a United States Circuit Judge for the Third Circuit? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Oregon (Mr. SMITH), the Senator from Alaska (Mr. STEVENS), and the Senator from Missouri (Mr. TALENT) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 211 Ex.]

YEAS—88

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Snowe
Specter
Stabenow
Sununu
Thomas
Voinovich
Warner
Wyden

NAYS—1

Clinton

NOT VOTING—11

Biden
Campbell
Edwards
Inouye
Kerry
Landrieu
Lieberman
Murkowski
Smith
Stevens
Talent

The nomination was confirmed.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

Mr. McCONNELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. McCONNELL. Madam President, I ask unanimous consent that there be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Madam President, where is Aung San Suu Kyi? Burma's political crisis grows, and much of the world is outraged. Burma's democratically elected leader, winner of the Nobel Peace Prize and world-renowned icon of freedom, remains imprisoned. Burma's ruling generals so far have prevented both the U.N. special envoy, who has been in Rangoon for 3 days, and the International Committee for the Red Cross, to visit her. The generals seem unmoved by the world's condemnation, and their peoples' suffering. It is time for all respectable members of the international community to put weight behind their words and take active measures to secure the freedom of Aung San Suu Kyi and the Burmese people.

Most of the world sees the Burma crisis in staggeringly different terms than do its military rulers. Despite the regime's denials, the May 30 assault on Aung San Suu Kyi and her supporters was a well-organized, premeditated attack by members of the Union Solidarity Development Association, a militia of the ruling, and misnamed, State Peace and Development Council. Given Aung San Suu Kyi's stature within Burma and around the globe, we know Burma's top generals, led by General Than Shwe, would have had to personally approve a physical attack on her and her delegation. We know that Than Shwe would never let his conscience interfere with any calculation of what is in the best interests of the junta's continued ability to repress the democratic aspirations of its people.

Aung San Suu Kyi's associates, including several who witnessed the May 30 attacks, say that at least 70 and perhaps 100 members of her National for Democracy were slaughtered by the regime's militia in the most violent crackdown since the junta crushed the August 1988 popular uprising against the regime—and we know the junta's claim that only four people died on May 30 in what they call a spontaneous clash with the opposition is false. We know that Suu Kyi is not in "protective custody," as the junta insists, but that she is being held because her national popularity and clear democratic mandate ultimately make rule by generals impossible to sustain. We know the generals are holding her incommunicado because, if she were free to speak, she would speak the truth about their brutality, and about the ruin they have brought to their country. What's so dangerous about these obvious sentiments is that the generals themselves know they are true, and that it is they who are to blame for this devastation, exposed as they are before their people and the world.

The irony is that by crushing the democratic opposition, the generals have once again demonstrated to their people and the world the fragility of their rule, which no amount of repression will legitimize. That one woman, unarmed and leading only an army of citizens who believe in her, can so rattle a group of uniformed officers who control every instrument of national power is testimony to what Vaclav Havel called the power of the powerlessness. As Havel and many other brave dissidents behind the Iron Curtain knew, no amount of repression can provide a regime the democratic legitimacy that is the only basis for regime survival. No leader or leaders can systematically repress their people and loot their country and get away with it forever. The Burmese military has been doing it for 40 years, and their time is running out.

Another sad truth the current crisis has exposed is how little the leaders of Burma's neighbors, including the democracies, seem to care for the most basic rights of the Burmese people. The Prime Minister of Thailand arrives in Washington today: I hope he is prepared for a barrage of questioning—and criticism—of Thailand's warm embrace of the dictatorship next door since he assumed office in 2001. Under Prime Minister Thaksin, Thailand has moved aggressively to deepen Thai business ties with Burma, provide substantial economic assistance to the junta, collaborate with the Burmese military against Burmese ethnic groups who oppose rule by the generals, arrest and repatriate exiled Burmese democrats across the Thai-Burma border, and pursue a policy of cooperation and conciliation with a regime that is opposed by the vast majority of its people and known to much of the world as an outlaw.

Bangkok's coddling of Rangoon has gone well beyond passive acceptance of the regime next door to something approaching active sponsorship of the junta. Thailand has made no effort to reach out to the Burmese opposition, which is especially unfortunate since some of its most fearless leaders reside in the Thai-Burma border region. Under Prime Minister Thaksin, Thailand has supported and sustained its historic enemy, at the very time when it could use its influence to help bring about the negotiated transition to democracy in Burma.

India's government also appears to have made a strategic decision to "constructively engage" Rangoon out of fear of growing Chinese influence in Burma. India has legitimate concerns about China's interest in using Burma as an outlet for Chinese commerce and military forces in the Andaman Sea. But given China's pervasive influence in Burma, India cannot hope to compete with Beijing for the junta's affection. A more effective strategy would be to support the Burmese opposition's campaign for a free Burma. I don't know what policies a Burma led by Aung San Suu Kyi would pursue towards China, but I'm quite confident she wouldn't choose to pursue a strategic partnership with an Asian dictatorship. Democratic India would be a natural ally of a free Burma, and I believe Delhi would be wise to help move Burma in that direction, rather than curry favor with the generals.

China's unreconstructed policy towards Burma following the attack of May 30 was best expressed by China's ambassador to Rangoon, who told U.N. envoy Razali Ismail that China considers the crisis to be Burma's "internal political affair." Interestingly, China has been helpful in dealing with the North Korean nuclear crisis, I hope because Beijing understands the costs of tying itself too closely to a regime that is actively alienating the rest of the world. Perhaps it is wishful thinking to hope that China's rulers will reach a similar conclusion about their support for the Burmese junta: that in their increasing repression and devastation of their country, the generals are fighting a battle they can't win, and that undermines the stability and prosperity China seeks in Southeast Asia. Perhaps Beijing would take a more resolution line with the generals if Southeast Asia were united in condemnation of their assault on the Burmese people.

The Association of Southeast Asian Nations will hold its annual ministerial summit and security meetings next week in Phnom Penh. Secretary of State Powell is scheduled to attend the meetings of the ASEAN Regional Forum and the ASEAN Post-Ministerial Conferences from June 18–20. I urge Secretary Powell to reconsider his plans to travel to Southeast Asia unless the ASEAN nations, excluding Burma, agree to address the crisis in Burma as their central agenda item; agree to forcefully condemn the crackdown on democracy in Burma; agree to require the release of Burma's detained democracy leaders in order for Burma to participate in the ASEAN ministerial meetings; and agree to issue a concrete action plan to move Burma towards a negotiated settlement with Aung San Suu Kyi that grants her a leading and irreversible political role culminating in free and fair national elections.

I understand the importance of Secretary Powell's visit to Southeast Asia. I agree that the region is too important for the United States to neglect. But as long as Burma's neighbors neglect the political crisis in their backyard, it is hard to imagine what coherent role ASEAN can play in the region and the world. All Southeast Asian leaders have a vested interest in building ASEAN into a strong regional bloc that can help expand prosperity and improve security in Southeast Asia. As long as Burma, an ASEAN member since 1997, is held captive by the generals, destabilizing the region and attracting precisely the kind of international sanction Southeast Asian leaders would like to avoid—and as long as those leaders do little or nothing about it—Southeast Asia will remain little more than the sum of its parts, and ASEAN will have little enduring relevance. Secretary Powell should condition his visit to Phnom Penh on an ASEAN agenda that addresses the rot at the heart of the organization—the decaying dictatorship in Rangoon—and that helps move ASEAN towards a more constructive role in Southeast Asia than that of "constructively engaging", and abetting, tyranny in Burma.

The United States has moved to restrict visas for officials of Burma's Union Solidarity Development Association and freeze Burmese leaders' assets. Tomorrow, the Senate will take up a measure banning imports from Burma. Europe is moving to tighten existing sanctions against the junta. These efforts to bring to bear pressure for democratization will have additional force if Burma's neighbors end business as usual and take concrete steps to help liberate the Burmese people.

It is hard to believe that Americans and Europeans care more about the rights of the Burmese people than do people in Bangkok, Beijing, Delhi, Manila, Jakarta, and other Asian capitals. These nations will always have Burma as a neighbor. Burma will not always be ruled by the generals. When they are gone, free Burma's leaders will speak the truth about ASEAN and its support for Asian autocrats, unless that organization and its member states make a strategic decision to stand with the Burmese people in their struggle for freedom today.

## HONORING OUR ARMED FORCES

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to a young man from Iowa who lost his life in service to his country. On Monday, May 26, 2003, Private Kenneth Nalley was killed in a tragic accident on a road in Iraq.

Kenny was only 19 years old. As the town of Hamburg, Iowa mourns the loss of one of its sons, I know I join many of my fellow Iowans in extending my prayers and sympathy to Kenny's family. Private Nalley is the third soldier from Iowa to be killed since the start of Operation Iraqi Freedom. His death reminds us that a great many American men and women are still putting themselves in harm's way every day in answer to their country's call. Kenny joined the Army right out of high school in order to gain experience and further his prospects for a career in law enforcement. Like all who serve in our armed forces, he knew that meant he might be asked to risk his life to defend American interests. I salute Kenny Nalley's sense of public service, and I honor his sacrifice today. The announcement I received from the Army regarding his death said it best. It reads "Pvt. Nalley epitomizes the best of our country—a brave soldier— who exhibited courage, selfless service, and honor in abundance. His ultimate sacrifice has contributed immeasurably to the freedom and security of both Iraq and the world." I ask that all my colleagues in the Senate remember Kenny Nalley today, and all those who have given their lives in the service of our great Nation.

## A TEAM OF CHAMPIONS

Mr. DASCHLE. Madam President, in recent weeks, thousands of students have received their diplomas and commenced a new phase of life. For the Class of 2003 at my alma mater, one of the enduring memories will be the national championship won by our women's basketball team, and I would like to take this opportunity to recognize that outstanding accomplishment.

South Dakota is a sparsely populated State known for its vast open spaces and cold winter nights. Yet on most Fridays and Saturdays, thousands of people make the trip to Frost Arena—named not after the winter temperatures in Brookings, but after longtime coach and professor Reuben "Jack" Frost. Inside Frost Arena, they have come to expect some of the best basketball played in Division II of the National Collegiate Athletic Association.

This championship team came to South Dakota State University from communities—large and small, urban and rural—that dot the Upper Midwest. They arrived on campus, like so many of us, holding the highest aspirations for themselves.

In 2002, the SDSU Jackrabbits reached the Division II national semifinals. On March 29, 2003, Coach Aaron Johnston and his players won the Division II national championship with a 65-50 win over Northern Kentucky University, capping an incredible 32-3 season.

For years to come, SDSU players, fans, and students will recall the excitement of that night. Whether you recall the moment as a player on the court, a follower in the stands—or a fan who watched the game on ESPN2—the excitement of that night will long be remembered as a highlight in SDSU's history of athletic successes. Our memories of that night will forever remind us why we are proud to call ourselves Jackrabbits.

South Dakota State University, buoyed by its alumni's successes over its 122-year history, proudly boasts: "You can go anywhere from here." On a basketball court in St. Joseph, MO, in front of a nationally televised audience, these individuals offered further proof that there are no limits and no boundaries to what a person can accomplish at South Dakota State.

Madam President, I ask my colleagues to join me in saluting these young women and their coaches on this remarkable achievement. I am proud to request that the 2002-2003 South Dakota State University women's basketball team's roster be recorded in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

10: Stacie Cizek, G/F, 5-10, Jr., Omaha, Nebraska; 12: Stephanie Bolden, G, 5-6, So., Marshall, Minnesota; 14: Brenda Davis, G/F, 5-11, Jr., Colton, South Dakota; 20: Heather Sieler, G, 5-6, Fr., Huron, South Dakota; 24: Megan Otte, G, 5-7, So., Grand Island, Nebraska; 30: Brooke Dickmeyer, G/F, 5-9, So., Sioux Falls, South Dakota.

34: Melissa Pater, F, 5-11, Sr., Holland, Minnesota; 40: Dianna Pavek, G/F, 5-8, So., Ivanhoe, Minnesota; 42: Shannon Schlagel, F/C, 6-0, So., Raymond, South Dakota; 50: Karly Hegge, C, 6-1, Sr., Baltic, South Dakota; 52: Sarita DeBoer, C, 6-2, So., Huron, South Dakota; 54: Christina Gilbert, C, 6-2, Fr., Stillwater, Minnesota.

Head Coach: Aaron Johnston, Assistant Coach: Laurie Melum, Graduate Assistant: Sheila Roux, Senior Women's Administrator: Nancy Neiber, Student Assistant: Jamie Nelson, Student Assistant: Chris Marquardt.

## DR. DONALD FREDERICKSON

Mr. KENNEDY. Madam President, I welcome this opportunity to pay tribute to the memory of one of the best medical leaders and researchers of our time. One year ago, Dr. Donald Frederickson passed away at his home in Bethesda. Of his many achievements, he is best known to the Nation as Director of the National Institutes of Health but his contributions to medicine, especially in the field of cardiology, began much earlier.

Dr. Frederickson first joined the NIH in 1953, and he held several important research and administrative positions in the National Heart Institute, now known as the National Heart, Lung and Blood Institute, before becoming Director of NIH. At the National Heart Institute, he led the research team that discovered the connection between cholesterol and heart disease. He founded the National Heart Institute's Section on Molecular Disease, and discovered two new diseases. As Director, one of Dr. Frederickson's most notable achievements was in the field of DNA research. He skillfully mediated the early days of the dispute that still concerns us today—the dispute between those concerned with the social and ethical implications of DNA research and those who could see the potentially great benefits of these discoveries. As a result of mediation, NIH was able to develop guidelines for DNA research that met the needs of both groups.

After leaving the NIH in 1981, Dr. Frederickson served on numerous boards and panels, in addition to serving as President of the Institute of Medicine of the National Academy of Sciences and Scholar-in-Residence at the National Library of Medicine.

Throughout his career, Dr. Frederickson was highly respected in both medicine and government. The current NIH Director, Dr. Elias Zerhouni, called him "a true statesman of science" and "a towering influence in the scientific community."

Donald Frederickson's brilliant contributions to modern medicine will live forever. He was a giant of medical research with an extraordinary ability to see a better and brighter future, and lay the groundwork to make it happen, and we will never forget him.

## IN HONOR OF DR. JUDITH A. RYAN

Mr. DASCHLE. Madam President, on July 2, 2003, after many years of service, Dr. Judith A. Ryan of Sioux Falls, SD, will retire from her position as President and Chief Executive Officer of the Evangelical Lutheran Good Samaritan Society. Today I want to congratulate Dr. Ryan on her upcoming retirement and thank her for her many years of service.

The Evangelical Lutheran Good Samaritan Society began partnering with church leaders in small, rural communities in the early 1920s, responding to the call to care for vulnerable populations—those who had no other options for care and no one to care for them. Today, the Good Samaritan Society, headquartered in Sioux Falls, owns or manages facilities in 25 States, employs 24,000 staff members, and serves more than 28,000 residents.

I thank Dr. Ryan for her sterling management of this wonderful organization. Her long career as a health executive is distinguished by her commitment to excellence and her untiring efforts on behalf of America's senior population. South Dakota has been fortunate to have such an advocate and leader.

Dr. Ryan's career is impressive. Prior to assuming her position as CEO of the Nation's largest not-for-profit long-term care and retirement system, she served as Chief Executive Officer of the

American Nurses Association; Senior Vice President of Lutheran General Health System in Park Ridge, IL; Associate Director of the University of Iowa Hospitals and Clinics; and Associate Dean for the University of Iowa College of Nursing.

Recognized for her work in the field of long-term health care, Dr. Ryan earned international recognition and was invited by the Danish Nurses Association to learn about emerging models of care in rural communities. Upon her return, she shared her insights at the National Rural Health Association's Annual Conference. Her presentation at that conference was entitled, "A Call for Renaissance: The Small Town as Continuous Care Retirement Community."

Dr. Ryan has served on numerous public policy and professional boards and recently participated as a member of the Health and Human Services Advisory Committee on Regulatory Reform. The committee made recommendations to the Secretary regarding potential regulatory changes that would reduce costs associated with departmental regulations and at the same time, maintain or enhance effectiveness, efficiency, impact, and accessibility.

Dr. Ryan's past achievements and continuing interests provide evidence of her commitment to excellence and her advocacy on issues facing the elderly and their caregivers. I join her many friends and professional colleagues in extending thanks for her previous work and best wishes for her next endeavor.

## A FREE ZIMBABWE

Mr. FEINGOLD. Madam President, today I draw my colleagues' attention to the situation in Zimbabwe, where courageous citizens continue to protest the political repression and economic collapse that have plunged their country into crisis.

Since 2000, President Mugabe has made a series of decisions intended to tighten his grip on power regardless of the cost to the country, trampling on the independence of the judiciary, harassing the independent media, manipulating the political process, intimidating opposition supporters, destroying the economy, and exacerbating a food crisis. A very real and legitimate issue—the need for meaningful land reform—was for a time employed as a fig leaf for the regime. But it has long been clear that this government is not interested in justice, only in power.

Last week's general strike has been the latest manifestation of public dissatisfaction. Reports from the region indicate that security forces are violently suppressing efforts to demonstrate in the streets, using rubber clubs, rifle butts, water cannons, tear gas, and live ammunition to disperse crowds, according to the Associated Press. Some 300 people have been arrested, including opposition parliamentarians. At this difficult time, it is important that the people of Zimbabwe know that the world is watching, and that like the Zimbabweans demanding change, the international community has not lost hope for the country.

I was proud to work with the distinguished majority leader, Senator FRIST, on the Zimbabwe Democracy and Economic Recovery Act, a bill which was passed into law in the last Congress. This legislation makes it clear that when the rule of law is restored in Zimbabwe, and when the civil and political rights of citizens are respected, the United States will come forward to help the country recover, rebuild. We will continue to fight the AIDS pandemic that is taking such a terrible toll on Zimbabwean society. I look forward to the day when we can follow through on that commitment, Mr. President, and help Zimbabwe to realize its tremendous potential as an engine of growth and model of participatory democracy in the region. Time after time, news reports confirm that Zimbabwe is full of patriots—citizens who refuse to allow their country to be hijacked by a self-serving cabal, independent journalists who risk torture when they seek to report the truth rather than the ruling party line, parents who want their children to grow up in a Zimbabwe free from repression and corruption. These people deserve our support and our admiration.

## NATIONAL SMALL CITIES DAY

Mr. DASCHLE. Madam President, the National League of Cities, led by Mayor Brenda Barger of Watertown, SD, has designated June 20, 2003, as the third annual National Small Cities Day to call attention to the role of small cities and towns in American life.

The vast majority of cities throughout our Nation have populations of fewer than 50,000 people. These communities play an essential role in nurturing families, cultivating values, building a strong sense of commitment and connection, and ensuring safety and security.

Millions of Americans live better lives because small cities and towns provide services and programs that meet the needs of their citizens. Particularly during these difficult times in our Nation's history, these Americans have looked to the leaders of their small communities to ensure their safety and security. Partnering with other levels of government, small cities work hard to provide helpful and reliable information about national issues affecting hometown America, and to maintain confidence in our American way of life. Often, they carry out their vital responsibilities with limited staff and tight budgets but with enormous goodwill and close connections to the citizens they serve every day. The leaders of the Nation's small cities and towns are indeed on the front lines in addressing many of our Nation's most pressing problems.

Businesses, civic organizations, and citizens across the Nation are partners in strengthening hometown America, and must be encouraged to continue to support efforts that make these cities and towns such great places to live. The Federal Government, too, must continue to be a good partner by funding important Federal programs that support small cities and towns such as the Community Development Block Grant Program, the Community Oriented Policing Services Program, and local and regional homeland security planning and preparedness.

We must continue to work together and look for ways to further strengthen our small cities and towns through creativity, innovation, and, above all, collaboration. I join the National League of Cities and the Small Cities Council in encouraging President Bush, my congressional colleagues, State governments, community organizations, businesses, and citizens to honor the efforts of "small town America" and renew our commitment to work together on this day and in the future to strengthen our small cities and towns, and to recognize their essential role in our intergovernmental partnership.

## CONFLICT IN THE CONGO

Mr. FEINGOLD. Madam President, I rise today to call my colleagues' attention to the situation in the Democratic Republic of the Congo's Ituri Province. Recently, international attention has been focused on the alarming ethic violence in the region, where thousands have been killed in the past year. Credible reports suggest that over 50,000 people have died in Ituri since 1999, and a half million more have been displaced. For years, this horror was lost in the larger tragedy of Congo's conflict, in which over 4 million people are estimated to have lost their lives.

Clashes between Hema and Lendu militia forces in Ituri escalated recently as external actors fuel the fire with increasingly sophisticated arms and support, essentially waging proxy wars at the expense of Congolese civilians. The reports from the region are truly appalling, featuring horrific murders, mutilation, cannibalism, rape, and the use of child soldiers. The U.N. peacekeeping mission in Congo, which has no mandate or capacity to enforce peace, has been reduced to struggling to protect the civilians who have fled in desperation to U.N. sites in Bunia, but their capabilities are severely limited, and most civilians frantically searching for help and security are left with no help at all.

Congo's suffering is more than a humanitarian crisis. It is a massively destabilizing force in Africa. The war has drawn in other states and provided lucrative opportunities for international criminals. We cannot forget that our security is at risk when these shadowy forces are making gains.

The pattern of massive human rights abuses and constant destabilization has to stop. I recently offered an amendment to the foreign assistance authorization bill in the Foreign Relations Committee designed to bolster U.S. support for activities in central Africa aimed at pursuing justice and accountability, deterring abuses, and holding those responsible for such abuses accountable for their actions. That is one small step toward a constructive policy in the region over the longterm. But with regard to Ituri, the U.S. must take action urgently today.

On May 30, the U.N. Security Council passed a resolution authorizing the Secretary-General to reinforce the U.N. peacekeeping mission in the northeastern town of Bunia. France has agreed to lead the multinational force, and while our relationship with France has certainly not been an easy one lately, their leadership on this issue is admirable. The United States should provide all appropriate assistance to this mission, and I am grateful to be joined by Senator ALEXANDER, Senator BIDEN, and Senator LUGAR in making that point clear in communications to the administration.

We have spent a great deal on MONUC to date, but if we do not take action to defuse this explosive situation, if we stand by and let militia forces rip apart the province in a struggle for power and mineral wealth, then I am at a loss as to how to explain this investment. The U.S. must also work closely with other international actors to move forward on a process of disarmament and a meaningful political solution to the conflict, so that the respite that may be offered by this new force is not short-lived. Perhaps most importantly, the U.S. must take concrete steps to insist that the government in Kinshasa and the governments of Rwanda and Uganda stop use their influence with the parties to stop the violence. We cannot simply stand by, reading reports of grotesque violence and massive suffering, and claim that there is nothing we can do. There is actually a great deal of work to be done. We should start today.

## ADDITIONAL STATEMENTS

### TRIBUTE TO RUTH EVANS

• Mr. BUNNING. Madam President, I wish to pay tribute to Ruth Evans of Henderson, KY, for her selfless devotion to Kentucky's youth. Ruth received the Excellence in Service award from the Kentucky Cabinet for Families and Children for her relentless service as a foster parent.

Representing the Green River Region, Ruth Evans along with her late husband, George, began providing a safe home to children in need 22 years ago and have done so without any prejudice towards the foster child's background, personality or disability. To date she is credited with raising 250 foster children in addition to the eight children of her own. Her love of children and her dedication to ensuring that every child receives the best opportunity to succeed has been the backbone of her service as a foster parent.

While receiving the Excellence in Service award is a wonderful honor for Ruth, she says her greatest reward for her efforts are the occasional visits she receives from former foster children who return as adults with children of their own to share their lives with her. Some foster children come to Ruth neglected and abused but all have had the opportunity to learn and grow in a safe environment.

Ruth's faith in God has been a guiding force during her years spent as a foster parent. As the father of nine children and the grandfather of many more, including some adopted children, I am inspired by Ruth's example. Her efforts have made all the difference in the lives of so many and she has helped make Kentucky a better place to live. Parents and foster parents alike throughout Kentucky and across America should emulate her example. I thank the Senate for allowing me to recognize Ruth and voice her praises. She is Kentucky at its finest.•

### CONGRATULATING FOSTERS DAILY DEMOCRAT ON 130 YEARS OF SERVICE TO NEW HAMPSHIRE'S SEACOAST

• Mr. GREGG. Madam President, I rise today to pay tribute to a proud New Hampshire institution celebrating an important milestone this year. For 130 years, Fosters Daily Democrat, a now daily newspaper serving the people of the city of Dover and New Hampshire's seacoast region, has provided exceptional coverage of local and State news. Since its founding by Joshua L. Foster, the paper has remained under the ownership and direction of the Foster family and is the only daily newspaper in our Nation displaying a family name in its banner.

In order to understand the significance of the milestone Fosters is celebrating this month, it is important to recognize just how much news the publishers, editors and reporters have witnessed and brought to the Dover area since June of 1863. The 1860 census lists a little over 8,500 Dover residents. Today the city is proud to have nearly 27,000 residents. During its first decade, Fosters witnessed a time of tremendous production and growth in the Cocheco Print Works and Pacific Mills, two the most important employers in town. The Mills, which harnessed the power of the Cocheco River, produced some of the finest cotton products in the nation and employed 1,200 workers. The Print Works was churning out in excess of 65 million yards of printed cottons a year to an increasingly global market.

In addition to reporting on the area's growth and prosperity, Fosters also brought one of the worst disasters in the history of the city to its readers—the great flood of March 1896. As any New Hampshire resident knows, tremendous amounts of rain in the early spring aided by melting snow from the previous winter, causes flooding. This was certainly true on March 1 and 2 that year when the city lost three bridges, numerous businesses, and incurred tens of thousands of dollars in economic hardship to a deluge that caused raging currents and swept large chunks of ice into the middle of town. Fosters was on hand to cover it all.

When President Theodore Roosevelt visited Dover in 1902, Fosters was there. When 545 residents of Dover served in World War I, Fosters brought their stories to New Hampshire, and again in World War II when 2230 Dover residents fought to defend our Nation. And in 1973, when Dover, the oldest continuous settlement in New Hampshire, and seventh oldest city in the United States, marked its 350th birthday, Fosters Daily Democrat marked 100 years of publishing. Since the middle of the 20th century it has followed countless Presidential candidates trudging through our State in the cold and snow. Fosters Daily Democrat has been there every step of the way to make sure its readers stay informed and in touch with issues that concern them.

In addition to its coverage of events in and around the Dover area, the paper also brings its readers coverage of national and world events, including the war on terror. In a recent editorial, March 29, Fosters cautioned its readers to be wary of folks "who seek mightily to undermine the American way of life and their intent to perpetrate atrocities against innocent people either directly or by aiding and abetting those who would carry out such deeds." Today, the paper holds true to the words of its original editor, Joshua Foster, who in the first editorial published in June 1873 pledged that, "Whatever may tend to benefit this people and enhance their prosperity, will receive our warm and enthusiastic support."

For 130 years, five generations of the Foster family, currently led by Bob and Terri Foster, have brought news from Dover City Hall, the New Hampshire Statehouse and locations around the globe to the front porches of New Hampshire's seacoast. On this special anniversary I sincerely congratulate them on the tremendous job they continue to do, thank them for the important public service they perform, and wish them the best of luck in the future.•

## LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Mesquite, TX. On October 4, 2001, Vasudev Patel, a 49-year-old Indian gas station owner, was shot to death during an armed robbery. His killer told police that he was motivated by vengeance for the terrorist attacks as he allegedly had lost a relative in the World Trade Center. A security camera recorded the armed man walking into the station, ordering the owner to give him all of the money before shooting him. Unable to open the cash register, however, the man fled without taking any of the money.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

## TRIBUTE TO OPERATION BLESSING

• Mr. BUNNING. Madam President, I rise today to honor and pay tribute to all involved in organizing Operation Blessing. Operation Blessing was an event hosted by seven churches for the families of the 159th Aviation Brigade at Fort Campbell, KY which took place on May 3, 2003. It was a work of charity and compassion for which all those involved are certainly deserving of thanks and respect.

David Mudd of God's Outreach, Inc. in Owensboro, KY, led the organization of the event working closely with other community and church leaders, including Mrs. Allison Bird of Fort Campbell; Pastor Troy Oakley of World Destiny Church in Hopkinsville; Pastor Roy Ellis of Christian Assembly Church in Madisonville; Pastor Cleddie Keith of Heritage Assembly of God in Florence; Pastor Louis Embry of Christ Community Church in Hopkinsville; Pastor Tim and Linda Rigdon of New Covenant Church in Providence; Pastor Garswa Matally of Wing Avenue Baptist Church in Owensboro; Pastor Sammy Wilson of Word and Spirit Church in Owensboro; Don Boyd of Bethel Church in McDaniels; Steve Kukul of the Lipton Corporation in Owensboro; and Pastor David Pry of River Outreach Ministries in Evansville, IN.

These men and women raised a lot of needed items and services for the families of the 159th Aviation Brigade, ranging from washing machines and furniture to live music and good company and fellowship. There was a raffle to distribute bicycles and helmets for children of the 159th and 17,000 pounds of food was distributed to the military families. Many of the members of the pastors' congregations came from all around the Commonwealth for fellowship with the families of deployed soldiers and to volunteer their time and services. The most important gift Operation Blessing gave was the reassurance that the sacrifices soldiers and their families make do not go unnoticed or unappreciated.

Operation Blessing was a shining example of love of country and of compassion for our fellow soldiers. These women and men demonstrated that America treats her soldiers and their families with much deserved respect and due honor. They are to be highly commended for their acts of charity and their example should be noted and followed by all.

I thank the Senate for allowing me to recognize Operation Blessing and the sacrifices of the 159th Aviation Brigade and their families. Those who made this charitable event successful and those military families who stand by and support our soldiers in harm's way fighting for our freedom are truly humble and patriotic Americans.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1215. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2596. A communication from the Assistant General Counsel, Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Tenant Participation in State-Financed, HUD-Assisted Housing Developments (RIN 2502-AH55) (FR-4611-F-02)" received on May 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2597. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Opiod Drugs in Maintenance and Detoxification Treatment of Oxicate Addictions: Addition of Buprenoxyphine and Buprenorphine Combination to list of Approved Opioip Treatment Medications (0910-AA52)" received on May 21, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2598. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans, Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on May 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2599. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report relative to the future supply of long-term care workers, received on May 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2600. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report relative to constitutional concerns about the "Museum and Library Services Act of 2003" received on June 1, 2003; to the Committee on Health , Education, Labor, and Pensions.

EC-2601. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Fiscal Year 2003-2008 Strategic Plan of the Department of Housing and Urban Development, received on May 20, 2003; to the Committee on Health , Education, Labor, and Pensions.

EC-2602. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Assistant Secretary for Budget, Technology and Finance, received on May 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2603. A communication from the Office of the White House Liaison, Department of Education transmitting, pursuant to law, the report of a Vacancy for the position Assistant Secretary for the Office of Elementary and Secondary Education, received on May 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2604. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the national emergency declared by Executive Order 13222 of August 17 , 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, received on June 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2605. A communication from the President of the United States, transmitting, pursuant to law, the report relative to terminating the national emergencies declared in Executive Order 12808 of May 30, 1992 and Executive Order 13088 of June 9, 1998, with respect to the former Socialist Federal Republic of Yugoslavia and revokes those and all related orders, received on June 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2606. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to South Africa, received on May 20, 2003; to the Committee on Foreign Relations.

EC–2608. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of 50 ,000,000 or more to United Arab Emirates; to the Committee on Foreign Relations.

EC–2609. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Japan, received on June 1, 2003; to the Committee on Foreign Relations.

EC–2610. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Norway, received on May 20, 2003; to the Committee on Foreign Relations.

EC–2611. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of major defense equipment and defense articles in the amount of $14,000,000 or more to the Republic of Korea, received on May 27, 2003; to the Committee on Foreign Relations.

EC–2612. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to Mexico, received on May 27, 2003; to the Committee on Foreign Relations.

EC–2613. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to United Arab Emirates and Canada, received on May 27, 2003; to the Committee on Foreign Relations.

EC–2614. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacturing of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Italy, received on May 20, 2003; to the Committee on Foreign Relations.

EC–2615. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Foreign Relations Authorization Act, the report concerning efforts made by the United Nations and UN Specialized Agencies to employ an adequate number of Americans during 2002, received on May 27, 2003; to the Committee on Foreign Relations.

EC–2616. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Small Business Regulatory Enforcement Fairness ACT of 1996, the report concerning an amendment to Title 22 of the Code of Federal Regulations, received on June 1, 2003; to the Committee on Foreign Relations.

EC–2617. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report relative to international agreements other than treaties entered into by the United States under the Case-Zablocki Act with Ethiopia, Russia and Japan, received on June 1, 2003; to the Committee on Foreign Relations.

EC–2618. A communication from the Acting Chief Counsel, Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Part 575—Authorization of Non-Commercial Funds Transfers and Related Transactions, Activities by the U.S. Government and its Contractors or Grantees, Privately Financed Humanitarian Transactions, and Certain Exports and Reexports to Iraq" received on May 21, 2003; to the Committee on Foreign Relations.

EC–2619. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report entitled "Development Assistance and Child Survival and Health Programs Fund Program Allocations—FY 2003" received on May 20, 2003; to the Committee on Foreign Relations.

EC–2620. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report relative to the temporary suspensions of operations of the Peace Corps in Morocco and China, received on May 27, 2003; to the Committee on Foreign Relations.

EC–2621. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of Defense articles or defense services in the amount of $100,000,000 or more to Poland, received on May 27, 2003; to the Committee on Foreign Relations.

EC–2622. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the 2003 Annual Report of the National Oceanographic Partnership Program (NOPP), received on May 21, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2623. A communication from the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Metal-Cored Candlewicks Containing Lead and Candles With Such Wicks (FR Doc. 03-9255, 68 FR 19142)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2624. A communication from the General Counsel, Department of Commerce, transmitting, pursuant to law, the report of a draft bill to amend the Communications Act of 1934 to provide the Federal Communications Commission with permanents authority to auction spectrum licenses and new authority to charge fees for unauctioned spectrum licenses and construction permits, received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2625. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Notification of Arrival in U.S. Ports (USCG–2002–11865)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2626. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; (Including 3 Regulations) [CGD01–03–042] [CGD08–03–022] [CGD08–03–023] (RIN 1625–AA09) (2003–0014)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2627. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Fort Vancouver Fireworks Display; Columbia River, Vancouver, Washington (CGD13–03–001) (1625–AA00) (2003–0020)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2628. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulations; SLR; Patuxent River, Solomons, Maryland (CGD05–03–048) (1625–AA08) (2003–0004)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2629. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Colorado River, Between Davis Dam and Laughlin Bridge (This section of the Colorado River Divides Arizona and Nevada) [COTP San Diego 03–019]" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2630. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area: Des Plaines River, Joliet, Illinois (CGD09–03–214) (1625–AA11) (2003–0006)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2631. A communication from the Assistant Chief Counsel, Regulations, Office of the Chief Counsel, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Temporary Suspension of the September 11th Security Fee and the Aviation Security Infrastructure Fee

(RIN 1652–AA29)" received on May 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2632. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2003 Management Measures (0648–AQ17) (I.D. 042503A)" received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2633. A communication from the President of the United States, transmitting, pursuant to law, a document relative to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Trade Act of 1974 to Vietnam, received on June 1, 2003; to the Committee on Finance.

EC–2634. A communication from the President of the United States, transmitting, pursuant to law, a document relative to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Trade Act of 1974 to Belarus, received on June 1, 2003; to the Committee on Finance.

EC–2635. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "Determinants of Increases in Medicare Expenditure for Physicians' Services"; to the Committee on Finance.

EC–2636. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report relative to the evaluation of the Community Nursing Organization (CNO) demonstration; to the Committee on Finance.

EC–2637. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "Determinations of Increases in Medicare Expenditure for Physicians Services"; to the Committee on Finance.

EC–2638. A communication from the Director, Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary for Nuclear Security, Department of Energy; to the Committee on Armed Services.

EC–2639. A communication from the Acting Secretary of Navy, transmitting, pursuant to law, the report to notify of plans to donate the submarine ex-CAVALLA (AGSS 244) and the Destroyer escort ex-STEWART (DE 238) to the Park Board of the City of Galveston, TX, and the Cavalla Historical Foundation, received on May 27, 2003; to the Committee on Armed Services.

EC–2640. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the report entitled "Capabilities of the Test and Evaluation Workforce of the Department of Defense" received on May 21, 2003; to the Committee on Armed Services.

EC–2641. A communication from the Under Secretary of Defense, Personal and Readiness, transmitting, pursuant to law, the report relative to the implementation plan for the "National Call to Service" program, received on May 20, 2003; to the Committee on Armed Services.

EC–2642. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, the final report on the development and implementation of regulations to improve privacy protections of medical records held by the Department of Defense; to the Committee on Armed Services.

EC–2643. A communication from the Under Secretary of Defense, Personal and Readiness, transmitting, pursuant to law, the annual report on entitlement transfers to basic educational assistance to eligible dependants under the Montgomery GI Bill (MGIB); to the Committee on Armed Services.

EC–2644. A communication from the Under Secretary of Defense, Personal and Readiness, transmitting, pursuant to law, the report of a retirement, received on May 27, 2003; to the Committee on Armed Services.

EC–2645. A communication from the Under Secretary of Defense, Personal and Readiness, transmitting, pursuant to law, the report of a retirement, received on May 27, 2003; to the Committee on Armed Services.

EC–2646. A communication from the Under Secretary of Defense, Personal and Readiness, transmitting, pursuant to law, the report of a retirement, received on May 27, 2003; to the Committee on Armed Services.

EC–2647. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense (Special Operations/Low Intensity Conflict), Department of Defense, received on June 1, 2003; to the Committee on Armed Services.

EC–2648. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Secretary of the Navy, received on May 20, 2003; to the Committee on Armed Services.

EC–2649. A communication from the Secretary of Defense, transmitting, pursuant to law, the report relative to the Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States and the Government of Slovakia claimed costs, received June 1, 2003; to the Committee on Armed Services.

EC–2650. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the quarterly report entitled "Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account" received on June 1, 2003; to the Committee on Armed Services.

EC–2651. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the report entitled "Report on Activities and Programs for Countering Proliferation and NBC Terrorism" received on May 27, 2003; to the Committee on Armed Services.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 239. A bill to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes (Rept. No. 108–59).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 246. A bill to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico (Rept. No. 108–60).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 500. A bill to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era (Rept. No. 108–61).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 520. A bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho (Rept. No. 108–62).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 625. A bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes (Rept. No. 108–63).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 635. A bill to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes (Rept. No. 108–64).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 519. A bill to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes (Rept. No. 108–65).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 733. A bill to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, and for other purposes (Rept. No. 108–66).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 788. A bill to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona (Rept. No. 108–67).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 1206. A bill to amend title XVIII of the Social Security Act to provide for special treatment for certain drugs and biologicals under the prospective payment system for hospital outpatient department services under the medicare program; to the Committee on Finance.

By Mr. TALENT:

S. 1207. A bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building"; to the Committee on Governmental Affairs.

By Ms. COLLINS (for herself and Mr. REED):

S. 1208. A bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENNETT:

S. 1209. A bill to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself and Mr. VOINOVICH):

S. 1210. A bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries; to the Committee on Environment and Public Works.

By Mr. DOMENICI:

S. 1211. A bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON (for herself, Mr. SPECTER, and Mr. JOHNSON):

S. 1212. A bill to identify certain sites as key resources for protection by the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, and for other purposes; to the Select Committee on Intelligence.

By Mr. SPECTER (by request):

S. 1213. A bill to amend title 38, United States Code, to enhance the ability of the Department of Veterans Affairs to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. MIKULSKI (for herself, Mrs. CLINTON, Mr. CORZINE, Mr. SARBANES, Mr. JOHNSON, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. DAYTON, and Mr. HARKIN):

S. 1214. A bill to provide a partially refundable tax credit for caregiving related expenses; to the Committee on Finance.

By Mr. McCONNELL:

S. 1215. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; read the first time.

By Mr. SCHUMER (for himself and Mrs. BOXER):

S. 1216. A bill to improve wireless telephone service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENZI (for himself and Ms. MIKULSKI):

S. 1217. A bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. CLINTON (for herself, Ms. COLLINS, Mrs. MURRAY, Mr. KENNEDY, and Ms. CANTWELL):

S. Res. 162. A resolution honoring tradeswomen; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TALENT:

S. Con. Res. 50. A concurrent resolution expressing the sense of Congress that there should be established a National Truck Safety Month to raise public awareness about the contributions, responsibilities, and needs of truck drivers to make the Nation's highways safer; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. Con. Res. 51. A concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 202

At the request of Mr. DEWINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 310

At the request of Mr. THOMAS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 374

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 374, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 387

At the request of Mrs. LINCOLN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 387, a bill to amend title XVIII of the Social Security Act to extend the eligibility periods for geriatric graduate medical education, to permit the expansion of medical residency training programs in geriatric medicine, to provide for reimbursement of care coordination and assessment services provided under the medicare program, and for other purposes.

S. 392

At the request of Mr. REID, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 501

At the request of Mr. ALEXANDER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 545

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 545, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 564

At the request of Ms. LANDRIEU, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 564, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 583

At the request of Mrs. HUTCHISON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 583, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 589

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 589, a bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

S. 623

At the request of Mr. WARNER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 636

At the request of Ms. COLLINS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 636, a bill to amend title XVIII of the Social Security Act to provide for a permanent increase in medicare payments for home health services that are furnished in rural areas.

S. 648

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 648, a bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 695

At the request of Ms. COLLINS, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 695, a bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

S. 729

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 729, a bill to amend the Internal Revenue Code of 1986 to establish a pilot program to encourage the use of medical savings accounts by public employees of the State of Minnesota and political jurisdictions thereof.

S. 852

At the request of Mr. LEAHY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 888

At the request of Mr. GREGG, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Georgia (Mr. MILLER) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 888, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 890

At the request of Mrs. MURRAY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 890, a bill to amend the Individuals with Disabilities Education Act to provide grants to State educational agencies to establish high cost funds from which local educational agencies are paid a percentage of the costs of providing a free appropriate public education to high need children and other high costs associated with educating children with disabilities, and for other purposes.

S. 899

At the request of Mrs. HUTCHISON, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from New Jersey (Mr. CORZINE), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 899, a bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes.

S. 915

At the request of Mr. ALEXANDER, the names of the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 915, a bill to authorize appropriations for fiscal years 2004, 2005, 2006, 2007, and 2008 for the Department of Energy Office of Science, to ensure that the United States is the world leader in key scientific fields by restoring a healthy balance of science funding, to ensure maximum use of the national user facilities, and to secure the Nation's supply of scientists for the 21st century, and for other purposes.

S. 926

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 926, a bill to amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies.

S. 937

At the request of Mr. VOINOVICH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 937, a bill to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 971

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 971, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 979

At the request of Mr. ENSIGN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 979, a bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock option plans, and for other purposes.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 988

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 988, a bill to amend the Workforce Investment Act of 1998 to provide for a job training grant pilot program.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1060

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1060, a bill to designate the visitors' center at Organ Piper Cactus National Monument, Arizona, as the "Kris Eggle Visitors' Center."

S. 1076

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1108

At the request of Mrs. CLINTON, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1108, a bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes.

S. 1120

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1120, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1121

At the request of Mr. BAUCUS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1121, a bill to extend certain trade benefits to countries of the greater Middle East.

S. 1127

At the request of Ms. STABENOW, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1127, a bill to establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes.

S. 1182

At the request of Mr. MCCONNELL, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Maine (Ms. COLLINS), the Senator from Nebraska (Mr. HAGEL), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1182

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1182, supra.

S. 1182

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Delaware (Mr. BIDEN), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1182, supra.

S. 1185

At the request of Mr. THOMAS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Idaho (Mr. CRAPO), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1185, a bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for medicare beneficiaries who reside in rural areas, and for other purposes.

S. CON. RES. 48

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging funding for epilepsy research and service programs.

S. RES. 159

At the request of Mr. PRYOR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 159, a resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1206. A bill to amend title XVIII of the Social Security Act to provide for special treatment for certain drugs and biologicals under the prospective payment system for hospital outpatient department services under the medicare program; to the Committee on Finance.

Mr. BOND. Mr. President, today I rise to introduce a bill that will ensure that cancer patients continue to have access to the treatment and care they desperately need in their communities.

In Missouri alone, the number of new cancer patients is estimated to reach almost 30,000 this year. For the Nation, we're talking well over 1.3 million. And the numbers continue to climb every year. These numbers are in addition to patients currently living with cancer. Many of them are surviving—and thriving—because of new tests, new treatments, and care they receive in community cancer centers across the country.

Many of these patients will turn to hospitals in their communities for lifesaving treatment. Hospital outpatient departments are a critical part of the cancer care delivery system that provide a significant portion of the cancer care across the country.

However, this vital care is in jeopardy because this year, the Centers for Medicare and Medicaid Services, CMS, has implemented drastic reductions in reimbursements for cancer services, including chemotherapy. These cuts are forcing cancer centers across the country to reconsider how they are providing care or accept reimbursement that fails to cover their costs.

I was recently contacted by Wes Thompson, Director of Radiology at Ray County Memorial Hospital in Richmond, MO. For those of you unfamiliar with Missouri, Richmond is a small town with a population of about 6,100 approximately 50 miles east of Kansas City. Ray County Memorial Hospital is the sole referral center for chemotherapy treatment for the rural residents outside of Kansas City.

In 1999, Wes' wife died of cancer at the age of 26. She happened to be a patient of the pharmacist, Robert Courtney, who has been convicted of diluting thousands of chemotherapy treatments for profit over the last several years. Wes will be receiving a monetary settlement from the legal proceeding involving Robert Courtney and he would like to donate it to the Ray County's oncology program in his wife's name. Unfortunately, cuts in reimbursements by Medicare for chemotherapy treatment will force Ray County Memorial Hospital to discontinue outpatient cancer treatment on January 1, 2004. And, that is devastating news to the community.

This is a department that treats over 250 patients a year across three counties. 60–70 percent of their patients are Medicare beneficiaries and about 40 percent of their patients are indigent. Many of these cancer patients would receive no care at all if Ray County Memorial closed the doors of the cancer program. And yet, that's exactly what they are considering. Their cancer program can't stay afloat when every chemotherapy treatment they give is reimbursed by Medicare at less than their costs. There are a lot of expensive drugs involved in the treatment of cancer. The heavy dependence on drugs has a lot to do with why the cuts are devastating to cancer care in particular.

At Ray County Memorial, the first round of cuts last year meant that hospital overall took a loss of over $150,000. This year's cuts will result in the loss of approximately $200,000–$300,000 for oncology services alone.

As of January 1 of next year 250 patients in rural Missouri will be forced to drive to Kansas City to receive cancer treatment. Oncologists at Ray County Memorial Hospital estimate that 40 percent of the patients they treat will be unable to make the trip to Kansan City area facilities to receive their treatment—either because they lack the transportation or the help to get there and back, or they are too sick or too weak to endure that trip. As a result of this cancer center closing, 80–100 people will die from cancer with no treatment and no hope. Of course Ray Memorial Hospital will continue to give these people loving care and try to make them as comfortable as possible, but they will be unable to treat their cancer anymore.

This is not a problem unique to Ray County Memorial Hospital. Due to cuts in Medicare reimbursement for cancer treatments hospitals across Missouri and across the county that provide outpatient cancer care—large or small, rural or urban—are struggling to continue to provide this care. These cancer centers work every day to ensure that the thousands of Americans diagnosed with cancer are receiving the best care possible.

I also have the privilege of representing Truman Medical Center, distinguished in its own way—for providing free care to so many. While Truman Medical Center sees only about 300–350 newly diagnosed cancer patients each year, about 70–75 percent of them are indigent. For these patients, they provide some 1,500–2,000 treatments of chemotherapy each year . . . and starting in January of this year, Medicare is reimbursing for many of these at levels dramatically below Truman's costs. And there are so many others.

In rural areas, where it is often hard to recruit physicians, it is the community cancer centers that provide all the chemotherapy and other services that help ensure that cancer patients don't have to travel long distances for the care they need. This is particularly important in cancer treatment, where life saving treatments often result in difficult side effects in the short term.

These cancer centers are also often the early adopters of some of the newest and most complicated drug regimens that cancer patients need today. And not only are they a "safety net" for rural patients, they are often the safety net for Medicaid and uninsured patients.

And yet, these are the very institutions that have been suffering under what is essentially an experiment underway by the Centers for Medicare and Medicaid Services, CMS. I know that this isn't anyone's favorite agency, but I expect more under a Republican Administration.

For a number of years now, CMS has been trying to bring a new payment system to these hospitals. Each year this experiment brings a new set of rules and payments—for the hospitals to sort through and try to implement.

But this isn't just an administrative burden that takes our caregivers away from their payments. In the last two years, this payment system has resulted in significant payment reductions for a setting of care that can now barely meet its costs.

My own Missouri institutions tell me they're considering closing their indigent care programs or worse, closing their doors altogether.

My office is hearing stories from around the country, about hospital administration arming their doctors with lists of the most expensive drugs and what CMS is now reimbursing them. Why do this if you aren't trying to influence a doctor's decision about what to prescribe? Pharmacists are under pressure to review dosing regimens to see where they can cut corners. Some drugs are just not being given in these community centers. Others that used to be given free of charge until their Medicare codes were assigned now aren't given at all.

In some cases, hospitals are sending patients to the nearest physician's office, where inexplicably, Medicare is paying more for the same drugs. But sometimes theses offices aren't nearby. Other times, hospitals are getting patients returned to them with complications that have arisen—and now have to be admitted for overnight stays and close monitoring.

How scary for a cancer patient? Sometimes with only months to live, to be told that it could take nine months before the next breakthrough drug can be given because it's just too expensive. To be told that the hospital where you've gotten to know your doctors and nurses after weeks of chemotherapy is now closing its doors. To be told that you now have to drive miles for care, away from friends and family who have helped care for you when you return feeling nauseous and weak from treatments.

These stories are accumulating—all because of a failed CMS experiment. So should we terminate the experiment and start over with a payment system that actually reflects that cost of providing this care? Yes, of course.

But that would take time—and while the time honored tradition here in Washington of debate and compromise for long term reform is a worthy one—these community cancer centers around the country continue to rack up the stories of compromised care and reduced access for patients, and time is one luxury many cancer patients simply do not have.

And this brings me to my legislation, which is measured, timely, and focused on the most immediate of needs. And, written so as to recognize the budgetary constraints facing us.

This legislation would set a payment floor for some of the most costly drugs given in the outpatient community centers today. This bill isn't limited to cancer drugs. But cancer is one of those diseases that relies so heavily on new drugs for treatment that tend to be costly drugs, so the impact of this experiment has been felt here more. The bill provides this relief immediately—so that in January 2004, these hospitals can start receiving increased payments that at least cover more of their costs.

This payment floor, by the way, was set not on the basis of these centers' true costs. Instead, recognizing the little time they have and the immediacy of their need, they have settled for payment rates advocated by various members of Congress over the last year—as it began to be clear how devastating an impact this experiment could have.

This bill, for example, wouldn't help them cover the costs of the pharmacy services they provide, so critical to ensuring safe and effective care in the hospitals. Again, these costs are especially significant for cancer patients, where mixing highly toxic chemotherapeutic agents using special equipment and wearing protective gear, reviewing protocols and checking for patient risks and side effects are all more intensive efforts. It recognizes these services by asking for a study of these costs, so that they may be recognized in longer term solutions that we develop over the next year or so.

The legislation I introduce today will provide hospitals like Ray County Memorial Hospital and Truman Medical Center, and so many around Missouri and across the country the immediate relief they need to be able to treat their patients.

I look forward to working with my Finance Committee colleagues to ensure that the provisions of this legislation and the immediate relief that it provides are incorporated in anything we do on Medicare.

We have learned our lessons the hard way in home health. This crisis in community cancer centers promises to reach similar proportions if we don't act now.

By Mr. TALENT:

S. 1207. A bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building"; to the Committee on Governmental Affairs.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1207

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WALT DISNEY POST OFFICE BUILDING.**

(a) REDESIGNATION.—The facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, and known as the Marceline Main Office, shall be known and designated as the "Walt Disney Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Walt Disney Post Office Building.

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By Ms. COLLINS (for herself and Mr. REED):

S. 1208. A bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. COLLINS. Mr. President, the people of Maine have always been faithful stewards of their forest lands because we understand and appreciate its tremendous value to our economy and to our way of life.

From the vast tracts of undeveloped land in the north, to the small woodlots in the south, forest land has helped to shape the character and the heritage of my State.

While our commitment to stewardship has preserved the forests for generations, there is a new and troubling thereat to Maine's forest lands that requires a fresh approach. This threat is suburban sprawl. It has already consumed tens of thousands of acres of forest land in the southern part of my State. Sprawl occurs because the economic value of forests or crop land cannot compete with the value of developed land.

This problem is particularly acute in southern Maine where there has been more than a 100-percent increase in urbanized sprawl over the past two decades. This has resulted in the labeling of the greater Portland area as the "sprawl capital of the Northeast."

I am alarmed by the amount of working forest land and open space in southern and coastal Maine that has given way to strip malls and cul-de-sacs. Our State is working to respond to this challenge because once that land is paved over, it is gone forever. Those forest lands and those small woodlots are lost forever once that land is developed.

The people of Maine in response to this concern have approved a $50 million bond issue to preserve land through the Land for Maine's Future Board. They have also worked hard supporting local efforts to preserve open space. And they have contributed their time, their energy, and their money to the work done by our State's 88 land trusts.

The people of my State are dedicated to preserving our working forests and protecting our communities from sprawl. It is now time for the Federal Government to lend a helping hand in support of those efforts.

Today, I am introducing the Suburban Community Forestry and Open Space Act. This legislation, which was drafted with the advice of landowners, conservation groups, and the Maine State Forester, establishes a $50 million grant program within the U.S. Forest Service to support locally driven projects that will preserve our working forests. Local governments and nonprofit organizations would compete for funds to purchase land outright or to buy conservation easements to keep the forest land threatened by development in their traditional use.

Projects funded under this legislation must be targeted at lands located in parts of the country that are threatened by sprawl. The legislation requires that Federal funds be matched dollar for dollar by State, local, or private resources so that it is a true partnership to preserve this open space and working forests.

This grant program would help to promote sustainable forestry as well as public access to our forest lands. My legislation protects the rights of property owners with the inclusion of a "willing seller" provision, which requires the consent of a landowner if a parcel of land is eligible to participate in the program.

The grant program would also allow nonprofits and municipalities, but not the Federal Government, to hold title to the land or the easements purchased under this program. The $50 million is a modest amount but it would help to achieve a number of stewardship objectives.

First, my legislation would help prevent forest fragmentation and preserve our working forests, helping to maintain the supply of timber that fuels Maine most significant industry.

Second, the resources made available by my legislation would be a valuable tool for communities that are struggling to manage growth and prevent sprawl. Currently, if a community trying to cope with the effects of sprawl turns to the Federal Government for help, they would find that no assistance is available.

The Forest Legacy Program, which has been critical in preserving undeveloped forest land in my State and many others, is really not suitable for the kinds of projects my bill envisions. My bill would change that by making the Federal Government an active partner in preserving forest lands and managing sprawl, while leaving the decisionmaking at the State and local level where it belongs.

Last year, this legislation was included in the forestry title of the Senate-approved version of the farm bill which passed this Senate by a vote of 58-40. Unfortunately, the forestry title was stripped out of the farm bill conference report, despite bipartisan support for provisions such as my legislation.

There is a great deal that needs to be done to protect our working forests for the next generation. I believe the legislation I am reintroducing today will help advance that goal. I am grateful for the support of many of the people and organizations that are leading the effort to support this legislation. By enacting the Suburban and Community Forestry and Open Space Act, Congress can provide a real boost to local conservation initiatives, help prevent sprawl, and help sustain the vitality of natural resource-based industries.

Mr. President, I would like to submit for the Record several letters of support for my legislation. They are from the National Association of State Foresters, the New England Forestry Foundation, The Trust for Public Land, and the Pacific Forest Trust. I ask unanimous consent that those letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF STATE FORESTERS,
*Washington, DC, June 5, 2003.*

Hon. SUSAN M. COLLINS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the National Association of State Foresters, I would like to thank you for your efforts to reduce the impacts of urban and suburban sprawl on private and tribal forestlands in the U.S. Your bill to protect Suburban and Community Forestry and Open Space demonstrates your commitment to minimizing conversion of suburban forestlands to nonforest uses. Maintaining working forests in suburban environments is consistent with the goals of NASF, and we appreciate your efforts to develop a program that can be implemented by the States.

As the USDA Forest Service's Southern Forest Resource Assessment clearly demonstrates, one of the major threats to forestland is urban sprawl. The provisions in Section 1 of your bill will enable private landowners to keep their land in trees and sustain the public benefits that their forests provide. Your bill provides another tool to address this critical concern.

Thank you for your commitment to sustainable forest management and to reducing suburban sprawl. We look forward to continuing our work with you on the details of the entire bill.

Sincerely,

JAMES L. SLEDGE, Jr.,
*President.*

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NEW ENGLAND
FORESTRY FOUNDATION,
*June 3, 2003.*

Senator SUSAN M. COLLINS,
*Russell Senate Office Building, Washington, DC.*

DEAR SENATOR COLLINS: The New England Forestry Foundation applauds Senator Collins' leadership and initiative in sponsoring the Suburban and Community Forestry and Open Space Program, designed to help towns and communities across America's suburban landscape combat sprawl, and preserve open space. This legislative package is exactly what is needed to provide an incentive for local governments and land trusts across the country to unite and partner to address an issue of national importance.

Congratulations!

Sincerely,

AMOS ENO,
*Executive Director.*

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THE TRUST FOR PUBLIC LAND,
*Boston, MA, June 4, 2003.*

Hon. SUSAN M. COLLINS,
*U.S. Senate, Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the Trust for Public Land, I am pleased to express our support for the Suburban and Community Forestry and Open Space Act. This legislation will provide a much-needed focus on working forests that provide important resources in and around Maine's towns and cities that are facing significant development pressures. We applaud your foresight in addressing this issue.

As the Trust for Public Land pursues its mission of protecting land for people in Maine, we are acutely aware of the difficult choices many landowners face as land values rise and development pressures intensify. The forest lands that lie in the path of development are incredibly important to local residents for a variety of resources, including recreation, wildlife habitat, water quality and open space. The Suburban and Community Forestry and Open Space Act will allow these critical lands to remain intact as community assets by focusing federal assistance to landowners in areas affected by suburban sprawl. This is a much-needed addition to the resource conservation efforts that states, localities and non-governmental partners are already undertaking and will provide the extra funding leverage needed to successfully meet the challenges of the future.

Our work with willing sellers across the state leads us to believe that your legislation will provide new resource protection opportunities for many Maine communities that will leave them in good shape for future generations. Maine's forest resources are absolutely critical to ensuring a decent quality of life for residents and visitors alike, and proposals like yours will ensure that we address the conservation of those resources wisely.

Thank you for your leadership on this and many other issues affecting Maine. We look forward to working with you on this legislation and for the long-term protection of Maine's outstanding natural resources.

Sincerely,

WHITNEY HATCH,
*Regional Director.*

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JUNE 3, 2003.

Hon. SUSAN COLLINS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR COLLINS: The Pacific Forest Trust (PFT) strongly supports your proposed legislation, which will encourage and facilitate the preservation of our nation's privately owned forestlands. Your amendment to the Forest Legacy Program will increase the flexibility of states in the administration of the Program, which will, in turn, lead to greater preservation of private forestland.

For over ten years, PFT, a non-profit organization, has worked to preserve, restore and enhance the privately owned productive forestlands in the United States. We currently hold roughly 35,000 acres under easement and have been instrumental in ensuring the preservation of private land valued at over $115,000,000. We have provided oral and written testimony to Congress regarding proposed policies to protect and enhance our private forestlands and have written extensively on this issue.

The legislation is critical to the preservation of private forestlands throughout the United States. Between 1982 and 1997, the United States lost over 20 million acres of private forestlands to other uses. States as diverse as California and Georgia have lost over 60,000 acres annually to development alone. Similar statistics are reflected among privately owned forestland in other areas of the United States, especially in the most productive timber areas.

The amendment to the Forest Legacy Program will provide states with the option to permit qualified non-profit organizations, such as land trusts, to hold easements that are purchased, in part or in whole, with Forest Legacy funds. Currently, land trusts may only hold easements through Forest Legacy if such easements are donated. Thus, this amendment will give states the opportunity and flexibility to expand their pool of landowners participating in the Program and as a result, protect more private forestlands.

While many landowners acknowledge the need to preserve their forestlands, they are not comfortable having a governmental agency own a partial interest in their property, which is the current requirement of the Program where the easements are purchased. This amendment enables landowners to work with a private, voluntary qualified land trust organization at the option of the state. At the same time, states retain full decision-making control over the selection of Forest Legacy projects.

Furthermore, this legislation will provide essential flexibility for states to work with partner organizations that can often leverage additional funding into Forest Legacy projects. It will open the door so that many more landowners can participate in the Program nationwide and therefore, will expand the opportunity to reverse the trend of forestland loss.

Thank you for your continued leadership in private forestland conservation. This is necessary and timely legislation.

Sincerely,

LAURIE A. WAYBURN,
*President, The Pacific Forest Trust.*

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By Mr. BENNETT:

S. 1209. A bill to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, today I am introducing a bill which will bring to a close the Federal acquisition of an important piece of privately held land, located within the federally designated desert tortoise reserve in Washington County, UT.

As some of my colleagues are aware, this is not the first time legislation has been introduced in an attempt to resolve this issue. In July of 2000, I introduced S. 2873, which was referred to and reported favorably by the Senate committee on Energy and Natural Resources. In addition, similar legislation was twice approved by the other body, both in the 106th and 107th Congresses. Nevertheless, we have been unable to bring this issue to resolution in the full Senate. For nearly a decade, the private property addressed by this bill has been under Federal control during which time the Federal Government has been enjoying the benefits of the private property without compensating the landowner. It is my hope that the time has come to finally resolve this issue.

In March of 1991, the desert tortoise was listed as an endangered species under the Endangered Species Act. Government and environmental researchers determined that the land immediately north of St. George, UT, was prime desert tortoise habitat. Consequently, in February 1996, nearly five years after the listing, the United States Fish and Wildlife Service, USFWS, issued Washington County a section 10 permit under the Endangered Species Act which paved the way for the adoption of a habitat conservation plan, HCP, and an implementation agreement. Under the plan and agreement, the Bureau of Land Management, BLM, committed to acquire all private lands in the designated habitat area for the formation of the Red Cliffs Reserve for the protection of the desert tortoise.

One of the private land owners within the reserve is Environmental Land Technology, Limited, ELT, which had begun acquiring lands from the State of Utah in 1981 for purposes of residential and recreational development several years prior to the listing of the species. Moreover, in the years preceding the listing of the desert tortoise and the adoption of the habitat conservation plan, ELT completed appraisals, cost estimates, engineering studies, site plans, surveys, utility layouts, and right-of-way negotiations. They staked out golf courses, and obtained water rights for the development of this land. Prior to the adoption of the HCP, it was not clear which lands the Federal and local governments would set aside for the desert tortoise, although it was assumed that there were sufficient surrounding Federal lands to provide adequate habitat. However, when the HCP was adopted in 1996, the decision was made to include ELT's lands within the boundaries of the reserve primarily because of the high concentrations of tortoises. The tortoises on ELT land also appeared to be one of, if not the only population without an upper respiratory disease that afflicted all of the other populations. As a consequence of the inclusion of the ELT lands, the development efforts were halted.

With assurances from the Federal Government that the acquisition of the ELT development lands was a high priority, the owner negotiated with, and entered into, an assembled land exchange agreement with the BLM in anticipation of intrastate land exchanges. The private land owner then began a costly process of identifying comparable federal lands within the state that would be suitable for an exchange for his lands in Washington County. Over the last seven years, BLM and the private land owners, including ELT, have completed several exchanges, and the Federal Government has acquired, through those exchanges or direct purchases, nearly all of the private property located within the reserve, except for approximately 1,516 acres of the ELT development land. However, with the creation of the Grand Staircase-Escalante National Monument in September 1996, and the subsequent land exchanges between the state of Utah and the Federal Government to consolidate federal lands within that monument, there are no longer sufficient comparable federal lands within Utah to complete the originally contemplated intrastate exchanges for the remainder of the ELT land.

Faced with this problem, and in light of the high priority the Department of the Interior has placed on acquiring these lands, BLM officials recommended that the ELT lands be acquired by direct purchase: During the FY 2000 budget process, BLM proposed that $30 million be set aside to begin acquiring the remaining lands in Washington County. Unfortunately, because this project involves endangered species habitat and the USFWS is responsible for administering activities under the Endangered Species Act, the Office of Management and Budget shifted the $30 million from the BLM budget request to the USFWS's Cooperative Endangered Species Conservation Fund budget request. Ultimately, however, none of those funds were made available for BLM acquisitions within the Federal section of the reserve. Instead, the funds in that account were made available on a matching basis for the use of individual states to acquire wildlife habitat. The result of this bureaucratic fumbling has resulted in extreme financial hardship for ELT.

The lands within the Red Cliffs Reserve are ELT's main asset. The establishment of the Washington County HCP has effectively taken this property and prevented ELT from developing or otherwise disposing of the property. ELT has been brought to the brink of financial ruin as it has exhausted its resources in an effort to hold the property while awaiting the compensation to which it is entitled. ELT has had to sell its remaining assets, and the private land owner has also had to sell assets, including his home, to simply hold the property. This has become a financial crisis for the landowner. It is simply wrong for the Federal Government to expect the landowner to continue to bear the cost of the government's efforts to provide habitat for an endangered species. That is the responsibility of the Federal Government. Moreover, while the landowner is bearing these costs, he continues to pay taxes on the property. This situation is made more egregious by the failure of the Department of the Interior to request any acquisition funding for FY 2004, even though this acquisition has been designated a high priority by the agency. Over the past several years, ELT has pursued all possible avenues to complete the acquisition of these lands. The private land owner has spent millions of dollars pursuing both intrastate and interstate land exchanges and has worked cooperatively with the Department of the Interior. Unfortunately, all of these efforts have thus far been fruitless.

The bill that I am introducing today will finally bring this acquisition to a close. In my view, a legislative taking should be an action of last resort. But, if ever a case warranted legislative condemnation, this is it. This bill will transfer all right, title, and interest in the ELT development property within the Red Cliffs Reserve, including an additional 34 acres of landlocked real property owned by ELT adjacent to the land within the reserve, to the federal government. It provides an initial payment to ELT to pay off existing debts accrued in holding the property, and provides 90 days during which ELT and the Department of the Interior can attempt to reach a negotiated settlement on the remaining value of the property. I am aware that one of the difficulties in solving this issue is the high value of the lands to be acquired. Due to the absence of comparable lands within the state for exchange, the legislation also authorizes an interstate land exchange as a means of acquiring the property. In the absence of a negotiated amount, the Secretary of the Interior will be required to bring an action in the Federal District Court for the District of Utah to determine a value for the land. Payment for the land, whether negotiated or determined by the court, will be made from the permanent judgment appropriation or any other appropriate account, or, at the option of the land owner, the Secretary of the Interior will credit a surplus property account, established and maintained by the General Services Administration, which the land owner can then use to bid on surplus government property.

Unfortunately, when this bill has been introduced in the past, there has been occasional misunderstanding regarding the inclusion of the bill's reference to section 309(f) of Public Law 104-333, which requires all Federal appraisals and acquisitions of land within Washington County to be conducted "without regard" to the presence of an endangered species. This references does not create a new appraisal standard but rather restates the existing standard for all Federal land acquisition in Washington County, UT. Since its enactment, and without exception, the Department of the Interior has applied this standard to all its acquisitions in the county. This language was originally adopted to allay concerns that local landowners would not receive fair compensation for their property which was being acquired for government purposes. Some have supposed the inclusion of this language would constitute preferential treatment. To the contrary, the absence of this language would unfairly treat this landowner differently than every other landowner in the reserve whose land has thus far been acquired by the Federal Government. Moreover, its omission at this point would likely lead the Justice Department to argue that Congress did not intend for this statutory standard to apply.

The bill includes language to allow, as part of the legislative taking, for the landowner to recover reasonable costs, interest, and damages. It is important to understand that while Federal acquisitions should be completed on the basis of fair market value, when the Federal Government makes the commitment to acquire private land, the landowner should not have to be driven into financial ruin while waiting upon the federal government to discharge its obligation. While the Federal Government has never disputed its obligation to acquire the property, it has had the benefit of the private land for all these years without having to pay for it. The private landowner should not have to bear the costs of this Federal foot-dragging.

This legislation is consistent with the high priority the Department of the Interior has repeatedly placed on this land acquisition, and is a necessary final step towards an equitable resolution. The time for pursuing other options has long since expired and it is unfortunate that it requires legislation action. Without commenting on the Endangered Species Act itself, it would seem that if it is the government's objective to provide habitat for the benefit of an endangered species, then the government ought to bear the costs, rather than forcing them upon the landowner. It is also time to address this issue so that the Federal agencies may be single minded in their efforts to recover the desert tortoise which remains the aim of the creation of the reserve. It is time to right this wrong and get on with the efforts to recover the species and I encourage my colleagues to support the timely enactment of this important legislation.

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By Mr. JEFFORDS (for himself and Mr. VOINOVICH):

S. 1210. A bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Madam President, I rise today to introduce the "Marine Turtle Conservation Act of 2003".

Marine turtles were once abundant, but now they are in serious trouble. Six of the seven recognized species are listed as threatened or endangered under the Endangered Species Act, and all seven species have been included in Appendix I of the Convention on International Trade in Endangered Species of Wild Flora and Fauna, CITES. Because marine turtles are long-lived, late-maturing, and highly migratory, they are particularly vulnerable to the impacts of human exploitation and habitat loss. In addition, for some species, illegal trade seriously threatens wild populations. Because of the immense challenges facing marine turtles, the resources available to date have not been sufficient to cope with the continued loss of nesting habitat due to human activities and the resulting diminution of marine turtle populations.

The Marine Turtle Conservation Act of 2003 is modeled after the successful Asian Elephant Conservation Act, the African Elephant Conservation Act, and the Rhinoceros and Tiger Conservation Act. These acts have established programs within the Department of the Interior to assist in the conservation and preservation of these species around the world. More than 300 projects have been funded and generated millions of dollars in private matching funds from sponsors representing a diverse group of conservation organizations. The projects range from purchasing anti-poaching equipment for wildlife rangers to implementing elephant conservation plans to aerial monitoring of the Northern white rhinoceros.

The Marine Turtle Conservation Act of 2003 will assist in the recovery and protection of marine turtles by supporting and providing financial resources for projects to conserve nesting habitats of marine turtles in foreign countries and marine turtles while they are found in such habitats, to prevent illegal trade in marine turtle parts and products, and to address other threats to the survival of marine turtles. The bill authorizes $5 million annually to implement the program.

This legislation will help to preserve this ancient and distinctive part of the world's biological diversity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1210

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Turtle Conservation Act of 2003".

### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp's ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy populations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) PURPOSE.—The purpose of this Act is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

### SEC. 3. DEFINITIONS.

In this Act:

(1) CITES.—The term "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) CONSERVATION.—The term "conservation" means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—

(i) protect and manage nesting populations and nesting habitats; and

(ii) prevent illegal trade of marine turtles;

(E) training of local law enforcement officials in the interdiction and prevention of—

(i) the illegal killing of marine turtles on nesting habitat; and

(ii) illegal trade in marine turtles;

(F) initiatives to resolve conflicts between humans and marine turtles over habitat used by marine turtles for nesting;

(G) community outreach and education; and

(H) strengthening of the ability of local communities to implement nesting population and nesting habitat conservation programs.

(3) FUND.—The term "Fund" means the Marine Turtle Conservation Fund established by section 5.

(4) MARINE TURTLE.—

(A) IN GENERAL.—The term "marine turtle" means any member of the family Cheloniidae or Dermochelyidae.

(B) INCLUSIONS.—The term "marine turtle" includes—

(i) any part, product, egg, or offspring of a turtle described in subparagraph (A); and

(ii) a carcass of such a turtle.

(5) MULTINATIONAL SPECIES CONSERVATION FUND.—The term "Multinational Species Conservation Fund" means the fund established under the heading "MULTINATIONAL SPECIES CONSERVATION FUND" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246).

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

### SEC. 4. MARINE TURTLE CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by—

(A) any wildlife management authority of a foreign country that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

(2) REQUIRED ELEMENTS.—A project proposal shall include—

(A) a statement of the purposes of the project;

(B) the name of the individual with overall responsibility for the project;

(C) a description of the qualifications of the individuals that will conduct the project;

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other Federal officials, as appropriate; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other Federal officials, as appropriate, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the project proposal; and

(C) provide written notification of the approval or disapproval to the person that submitted the project proposal, other Federal officials, and each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the project will help recover and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries to implement marine turtle conservation programs.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of marine turtles and their nesting habitats.

(f) MATCHING FUNDS.—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this Act, shall be made available to the public.

**SEC. 5. MARINE TURTLE CONSERVATION FUND.**

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund a separate account to be known as the "Marine Turtle Conservation Fund", consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 6; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 4.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(c) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to provide assistance under section 4. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

**SEC. 6. ADVISORY GROUP.**

(a) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of marine turtles.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2005 through 2009.

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By Mr. DOMENICI:

S. 1211. A bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Madam President, in the United States, especially when you live in the eastern United States, you take water and the availability of water for granted. Probably the only thing that is ever thought about is: Do we have a big enough reservoir? Or are those aqueducts getting too old that feed New York and northeastern America?

But I am here to suggest there are parts of these great United States where there is a huge shortage of the kind of water we need day by day for our daily activities: to drink, to use for our families, and for the everyday use of our people.

First, I show you a little chart with blue and white areas on it. All of the blue areas on this chart of the United States, believe it or not, are areas in these United States where saline—that is, salty—aquifers exist; that is, salty water either in large ponds or underground in large pools.

So while we are running out of water, at the same time we have been blessed in that we have plenty of water available if we do something about it. And I propose that we do something about it. I have a bill that I hope will do something about it.

This second chart shows what would be a proposed Tularosa Basin desalination facility. I show it because this is not a new concept. As a matter of fact, this Tularosa Basin is a huge underground water basin in New Mexico. Much of it is very salty, large quantities are not so salty, and then large quantities are of minor salt content.

The legislation I am introducing is to try to make a leap of technology for it directs the Secretary of the Interior to undertake at this program, for lack of a better way to do it, what we call a demonstration program, but it would be one that would be easily adopted anywhere. We ask that it have a capability of 100,000 gallons so that the research would not be carried out at an academic level but really usable.

The Secretary is supposed to work with the greatest laboratories in the Nation that have access in this regard to develop new desalination technology and a plan. The facility should be completed within 3 years. The water from this facility will be disposed of to communities in and around this basin and in and around the county of Otero. We authorize the money necessary for it. I have a detailed statement indicating why we are doing this along with the bill and an extra bill which goes to the desk, one for reference and one for retention.

I am quite confident that a new method of desalination beyond that one that we all hear about is going to be forthcoming. I believe one of the laboratories—probably Sandia National Laboratory in Albuquerque, but not certain, but probably—will make the breakthrough so that we will not be using the old system that we might have been trying for as long now as the occupant of the chair is of age. I even remember that system being used when I first came to the Senate. We were experimenting with it in the city of Roswell under a Government program, and we stopped the program because it was too farfetched.

We have come a long way. Just as we have serious problems cleaning water of other pollutants, and we have old-fashioned ways of doing it, very modern technology is being applied. As an example, we all know there is a big problem in some parts of America where arsenic which is found in the normal topography, normal ground of the surrounding area and has been consumed by whoever lived there for years with no harm—we are going to have to remove it now to some very minuscule content per thousand gallons. In order to do that the old-fashioned way, the costs are enormous. But believe it or not, because of science, we might be able to do that job—albeit some of it should not have to be done at all—for a tenth of the cost.

We are hopeful that same new breed of technology will apply to taking salt out of inland water or ocean water.

Mr. President, as I say, I rise today to introduce a bill that has the potential to supply vast quantities of water to a thirsty New Mexico and a number of Western States. New Mexico and the West face a critical lack of water, but through the program contained in my bill, the faucets could be ready to flow.

Most Western States already have large quantities of water. However, the water contains such high levels of salt that it is simply unusable. My bill proposes to turn untapped resource into potable water that cities, towns, farmers, industry, and nature can use to meet their needs. This bill provides the opportunity for use to utilize brand new technology that may save the West.

This piece of legislation directs the Secretary of the Interior to undertake a desalination demonstration program in the Tularosa Basin located in southern New Mexico. Additionally, it requires collaboration between the Bureau of Reclamation, an established leader in desalination research and development, and the Department of Energy. Our national laboratories are at the forefront of science in many areas including water technology. The collaboration between these two departments would bring together the best minds and the most experienced technicians. This bill would further task the Bureau of Reclamation and the Department of Energy with evaluating current technology, advising on how to proceed with additional research, developing a research plan and confirming project and operation costs in a real-world application. Finally, the bill authorizes the building of a facility where advances in technology could be tested.

The bill authorizes appropriations of $1.5 million for development of a desalination technology plan which will utilize the experiences of present facilities and programs to build the facility and guide its research. It further authorizes $30 million to construct the desalination facility, $6 million for each of fiscal years 2004 through 2010 for research programs at Sandia National Lab associated with the facility, and $10 million for each of the fiscal years 2004 through 2010 for research and development of desalination technologies.

Only 3 percent of the world's water is fresh and much of that is stored in the ice that caps the Earth's poles. We must develop the technology to economically utilize the rest of that water. Today, most of the world's desalination plants are applied to sea water. As I states before, much of the west and, indeed, the Nation, sits on saline aquifers. The facility I propose will develop and test the technologies to best access and utilize this inland water.

Currently, Sandia National Lab and the Department of the Interior are looking for optimum sites to locate the facility and are developing a feasibility study for the program. The sites are all in or around the city of Alamogordo, NM. The designers envision a 13,000 square foot facility that can process up to 100,000 gallons of water per day. It will draw researchers from around the country and play an essential role in alleviating the pressures on our water resources.

Mr. President, let me also say that I have a broader vision for what can be accomplished with desalination. This is only the first step. This is a serious issue, not only for New Mexico, but the world. More than half the world's population will face severe water shortages in the next 50 years. We must get started on this problem.

I have no doubt that this legislation will help to push forward the state of the art to ensure that we have access to the most precious of resources. Let's take the first step.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1211

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Sec. 1. (a) Tularosa Basin Facility.—In furtherance of the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4600, 4663; 43 U.S.C. 390h), the Secretary of the Interior ("Secretary") shall construct, manage, and maintain a test and evaluation facility ("facility") at the Tularosa Basin, located in Otero County in the State of New Mexico capable of processing at least 100,000 gallons of water per day.

(b) Objectives of Facility.—The facility shall be used to carry out research on, and to test, demonstrate, and evaluate new desalination technologies to produce potable water from saline or other unsuitable water, including analysis of effects on energy consumption, byproduct disposal, and operations and maintenance costs to determine the most technologically-efficient and cost-effective means to produce potable water from saline or other unsuitable water using desalination technologies.

(c) Technology Plan Development.—The Secretary shall contract with Sandia National Laboratory ("Sandia") to develop a desalination technology plan ("plan") within one year from the date when funds are made available for the purposes of this Act. The plan shall—

(1) be developed in consultation with the Secretary and the Secretary of Energy;

(2) consider the experience of similar facilities and research programs operated by the Federal government and by other research institutions; and

(3) include recommendations for the siting and configuration of the facility and the research and development program to be undertaken at the facility.

(d) Review of Plan.—The Secretary shall review the plan and may modify or change any recommendation after consultation with the Secretary of Energy.

(e) Construction of Facility.—Within three years from the date of completion of the plan, the Secretary shall construct the facility in accordance with the recommendations contained in the plan, including any modifications or changes. The Secretary may contract with other Federal agencies, State agencies, educational institutions, and private entities for construction of the facility.

(f) Memorandum of Agreement for Operation.—The Secretary and the Secretary of Energy shall enter into a Memorandum of Agreement for the operation of the facility and the conduct of research under this Act. Research may be conducted at the facility and may also be carried out at any laboratory facility determined to be suitable by Sandia. The Secretary and the Secretary of

Energy shall establish a technical advisory panel drawn from Federal or State agencies, academic institutions, and private or public entities to provide program guidance and technical assistance in the operation of the facility and conduct of research.

(g) Provision of Water.—The Secretary shall dispose of all water produced by the facility under contract with one or more communities located in Otero County, New Mexico where the water would be supplementary to water provided by public water systems or wells in the communities and only after Sandia notifies the Secretary that the water is of a consistent, reliable quality. The water shall be provided at no cost to the local community except for the costs of conveyance and delivery.

Sec. 2. Research and Development Program.—The Secretary and the Secretary of Energy may undertake research and development of desalination technologies in addition to the program carried out at the facility directly or by contract, interagency agreement, cooperative agreement, or grant. Any agreement or grant may be made only on the basis of a competitive, merit-reviewed process. The Secretary and the Secretary of Energy may carry out the program at a location outside the United States after consultation with and approval by the Secretary of State.

Sec. 3. Authorization of Appropriations.—Appropriations may be made to the Secretary and to the Secretary of Energy. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed—

(1) $1,500,000 for development of the plan under section 1(c);

(2) $30,000,000 (January 2003 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the construction of the facility;

(3) $6,000,000 for each of fiscal years 2004 through 2010 for transfer to Sandia to carry out research programs associated with the facility; and

(4) $10,000,000 for each of fiscal years 2004 through 2010 for research and development activities under section 2 of which not more than $1,500,000 in any fiscal year may be for research undertaken directly by the Secretary and not more than $1,000,000 in any fiscal year may be for grants to institutions of higher education (including United States-Mexico binational research foundations and interuniversity research programs established by the 2 countries).

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By Mrs. CLINTON (for herself, Mr. Specter, and Mr. Johnson):

S. 1212. A bill to identify certain sites as key resources for protection by the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, and for other purposes; to the Select Committee on Intelligence.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the text of the bill, to identify certain sites as key resources for protection by the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, and for other purposes, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1212

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. IDENTIFICATION OF KEY RESOURCES.

Section 201 of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following:

"(i) Definition.—In this section, the term 'key resources' includes National Park Service sites identified by the Secretary of the Interior as being so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including—

"(1) the Statue of Liberty National Monument in New York Harbor;

"(2) Independence Hall and the Liberty Bell in Philadelphia, Pennsylvania;

"(3) the Gateway Arch in St. Louis, Missouri;

"(4) Mount Rushmore National Memorial in Keystone, South Dakota; and

"(5) memorials and monuments in the District of Columbia.".

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By Mr. SPECTER (by request):

S. 1213. A bill to amend title 38, United States Code, to enhance the ability of the Department of Veterans Affairs to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 1213, a proposed bill to improve the benefits for Filipino veterans of World War II and survivors of such veterans and for other purposes. The Secretary of Veterans Affairs has submitted this proposed legislation to the President of the Senate by letter dated May 12, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

I ask unanimous consent that the text of the bill be printed in the Record, together with the transmittal letter and a section-by-section analysis which accompanied it.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1213

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) Short Title.—This Act may be cited as the "Filipino Veterans' Benefits Act of 2003".

(b) References.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

### SEC. 2. ELIGIBILITY OF FILIPINO VETERANS FOR HEALTH CARE IN THE UNITED STATES.

Health Care.—Section 1734 is amended as follows:

"(a) The Secretary, within the limits of Department facilities, shall furnish hospital and nursing home care and medical services to an individual identified in subsection (b) in the same manner as provided for under section 1710 of this title.

"(b) An individual covered under subsection (a) of this section includes:

"(1) a Commonwealth Army veteran; and

"(2) a new Philippine Scout.

"who is residing in the United States and is a citizen of, or an alien lawfully admitted for permanent residence in, the United States."

### SEC. 3. RATE OF PAYMENT OF BENEFITS FOR CERTAIN FILIPINO VETERANS AND THEIR SURVIVORS RESIDING IN THE UNITED STATES.

(a) Rate of Payment.—Section 107 is amended—

(1) in the second sentence of subsection (b), by striking "Payments" and inserting "Except as provided in subsection (c), payments"; and

(2) in subsection (c)—

(A) by inserting "and subchapter II of chapter 13 (except section 1312(a)) of this title" after chapter 11 of this title";

(B) by striking "in subsection (a)" and inserting "in subsection (a) or (b)"; and

(C) by striking "of subsection (a)" and inserting "of the applicable subsection".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to benefits paid for months beginning after that date.

### SEC. 4. EXTENSION OF AUTHORITY TO OPERATE REGIONAL OFFICE IN THE PHILIPPINES.

Subsection (b) of section 315 is amended by striking "2003" and inserting "2008".

### SEC. 5. BURIAL BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES.

(a) Benefit Eligibility.—Section 107 is amended—

(1) in subsection (b)(2)—

(A) by striking "and" and inserting a comma; and

(B) by inserting ", 23, and 24 (to the extent provided for in section 2402(8))" after "(except section 1312(a))";

(2) in the second sentence of subsection (b), as amended by section 3 of this Act, by inserting "or (d)" after "subsection (c)";

(3) in subsection (d)(1), by inserting "or (b), as otherwise applicable," after "subsection (a)"; and

(4) in section (d)(2), by inserting "or whose service is described in subsection (b) and who dies after the date of the enactment of the Filipino Veterans Benefits Act of 2003," after "November 1, 2000,".

(b) National Cemetery Interment.—Section 2402(8) is amended by inserting "or (b)" after "section 107(a)".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply with respect to deaths occurring after the date of the enactment of this Act.

The Secretary of Veterans Affairs,
*Washington, DC, May 12, 2003.*
Hon. Richard B. Cheney,
*President of the Senate,*
*Washington, DC.*

Dear Mr. President: We are transmitting a draft bill, "To amend title 38, United States Code, to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The draft bill would extend health care benefits to certain Filipino veterans residing legally in the United States. It would also eliminate an inequity in statutory payment rates between Filipino veterans and their survivors who legally reside in the United States and other veterans and their survivors living in the United States.

More specifically, section 2 of the draft bill would amend 38 U.S.C. §1734 to require the Secretary, within the limits of Department facilities, to provide hospitals and nursing home care and medical services to Commonwealth Army veterans and to new Philippine Scouts in the same manner as provided under section 1710, if such individuals reside legally in the United States. Currently, both Commonwealth Army veterans and new Philippine Scouts are eligible for treatment of service-connected disabilities within the limit of Department facilities. However, Commonwealth Army veterans are also eligible for treatment of non service-connected disabilities in the same manner as a veteran, if they are in receipt of certain compensation and reside legally in the United States. The proposal would extend to new Philippine Scouts who reside legally in the United States the same eligibility for medical care and services of non service-connected disabilities that currently exists for Commonwealth Army veterans, while eliminating the receipt-of-compensation requirement for these veterans and scouts. It would also apply the facilities-resources limitation to all care furnished under this section. The Department estimates that costs associated with enactment of this proposal would be $16,228,000 for Fiscal Year 2004. The projected costs would be $73,678,000 over a five-year period, and $130,265,000 over a ten-year period. The Department will offset the discretionary costs of this proposal with available de-obligations of prior year Medical Care Collection Fund balances.

Section 3 of the draft bill would, in the case of compensation and dependency and indemnity compensation ("DIC") paid by reason of service in the new Philippine Scouts, and in the case of DIC paid by reason of service in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerilla units, remove the current $0.50 on-the-dollar limitation if the individual to whom the benefits are payable resides in the United States and is either a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. The amendments made by section 3 would take effect on the date of enactment of the Act and apply to benefits paid for months beginning after that date.

Section 107(a) of title 38, United States Code, generally provides that service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerilla units, may in some circumstances be a basis for entitlement to disability compensation, DIC, monetary burial benefits, and certain other benefits under title 38, United States Code, but that payment of such benefits will be at the rate of $0.50 for each collar authorized. Similarly, 38 U.S.C. §107(b) generally provides that service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, i.e., service in the new Philippine Scouts, may be a basis for entitlement to disability compensation, DIC, and certain other benefits under title 38, United States Code, but that payment of such benefits will be at the rate of $0.50 for each dollar authorized.

These limitations on benefit payments to certain Filipino beneficiaries were intended to reflect the differing economic conditions in the Philippines and the United States. These limitations were not made contingent, in any respect, on the place of residence of the beneficiary, although, when the limitations were established, the great majority of affected individuals resided in the Philippines. Through the years, numerous Filipino veterans and their dependents and survivors have immigrated to this country, and many have become permanent residents or citizens. It became evident that the policy considerations underlying the restrictions on payment of compensation and DIC to the affected individuals are no longer relevant in the case of those who reside in the United States. VA realized that Filipino beneficiaries residing in the United States face living expenses comparable to United States veterans and that limiting the payment of these subsistence benefits to these individuals based on policy considerations applicable to Philippine residents is not only inequitable, but may result in undue hardships to these beneficiaries.

Section 501(a) of Public Law 106–377, enacted in October 2000, added subsection (c) to section 107, providing that, in the case of disability compensation paid by reason of service in the organized military forces of the Government of the commonwealth of the Philippines, including organized guerilla forces, the $0.50 on-the-dollar limitation would not apply if the individual to whom the benefits are payable resides in the United States and is either a citizen of the United States or an alien lawfully admitted for permanent residence. However, the statute left unchanged the $0.50 on-the-dollar limitation on the payment of DIC for all Filipino veterans and compensation for new Philippine Scouts regardless of the recipient's place of residence.

In the case of those Filipino veterans and their dependents and survivors who reside in the United States and therefore face living expenses comparable to United States veterans and their dependents and survivors, limiting the payment of subsistence benefits based on policy considerations applicable to Philippine residents is inequitable and may result in undue hardships to those beneficiaries. A change in law such as that provided in Public Law 106–377 is justified in the case of compensation and DIC payable to United States residents based on service in the new Philippine Scouts and DIC payable to United States residents based on service in the Philippine Commonwealth Army, including organized guerilla units. Thus, we propose that the $0.50-on-the-dollar limitation contained in section 107 be eliminated in the case of disability compensation and DIC payments to all Filipino veterans and their survivors who legally reside in the United States.

We estimate that section 3, if enacted, would increase benefit costs by $2.9 million in the first year and $45.6 million cumulatively for ten years. VA has determined that general-operating-expense costs for this proposal would be insignificant. This provision was included in the FY 2004 Budget.

Section 4 of the draft bill would extend until December 31, 2008, the authority of the Secretary of Veterans Affairs under 38 U.S.C. §315(b) to operate a regional office in the Republic of the Philippines. Under current law, that authority will expire on December 31, 2003. Congress has periodically extended this authority, most recently in Public Law 106–117.

Were VA to close the Manila regional office, veterans' assistance activities would still be needed in the Philippines. A Federal Benefits Unit would have to be attached to the Department of State. Under such an arrangement, VA's control of costs and quality of service would be limited. Because a Federal Benefits Unit would assume responsibility only for disseminating information and assistance, but not processing benefits, there could be no assurance that the extensive fraud-preventive activities currently performed by the Manila regional office would continue. This provision was included in the FY 2004 Budget.

Section 5 of the draft bill would extend eligibility for national cemetery burial to new Philippine Scouts who lawfully reside in the United States. This section would also extend eligibility for other in-kind burial benefits and monetary burial benefits to new Philippine Scouts lawfully residing in the United states on the same basis as such benefits are provided under current law to persons who served in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerrilla units (Commonwealth Army veterans).

Under current 38 U.S.C. §107, Commonwealth Army veterans who lawfully reside in the United States are eligible for national cemetery burial and are eligible for monetary burial benefits at the full-dollar rate if at the time of death they are receiving VA disability compensation or would have been receiving VA pension but for their lack of qualifying service. Section 5 would extend these benefits to new Philippine Scouts who live in the United States. We believe provision of these same benefits to new Philippine Scouts who reside in the United States is equitable because the service of new Philippine Scouts is also worthy of recognition and new Philippine Scouts living in the Unites States face the same cost of living as other Filipino veterans who live in the United States. Enactment of this provision is consistent with VA's goal of achieving parity in the provision of veterans' benefits among similarly situated Filipino beneficiaries.

We estimate the cost associated with national-cemetery-burial eligibility for new Philippine Scouts would be $3,600 for one year, $16,700 for five years, and $35,300 for ten years. We estimate the costs of providing full-rate monetary burial benefits to new Philippine Scouts lawfully residing in the United States on the same basis as these benefits are provided to Commonwealth Army veterans would be $4,000 for one year, $16,000 for five years, and $32,000 for ten years.

The Office of Management and Budget advises that there is no objection to the transmission of this bill and that its enactment would be in accord with the Administration's program.

Sincerely yours,

Anthony J. Principi,

### SECTION-BY-SECTION ANALYSIS

#### SECTION 1

Section 1(a) of the draft bill would provide that the short title of this Act be the "Filipino Veterans' Benefits Act of 2003".

Section 1(b) would provide that amendments or repeals in this Act be considered references to a section or other provision of title 38, United States Code.

#### SECTION 2

Section 2 would amend 38 U.S.C. §1734 to require the Secretary, within the limits of Department facilities, to provide hospital and nursing home care and medical services to Commonwealth Army veterans and to new Philippine Scouts in the same manner as provided under section 1710, if such individuals reside legally in the United States. Currently, both Commonwealth Army veterans and new Philippine Scouts are eligible for treatment of service-connected disabilities within the limits of Department facilities. However, Commonwealth Army veterans are also eligible for treatment of non service-connected disabilities in the same manner as a veteran if they are in receipt of certain compensation and reside legally in the United States. The proposal would extend to new Philippine Scouts who reside legally in the United States the same eligibility for medical care and services that currently exists for Commonwealth Army veterans, while eliminating the receipt of compensation requirements for the veterans and scouts. It would also apply the facilities-resources limitation to all care furnished under this section. The Department estimates that costs associated with enactment of this proposal would be $16,228,000 for Fiscal Year 2004. The projected costs would be $73,678,000 over a five-year period, and $130,265,000 over a ten-year period.

#### SECTION 3

Section 3 would, in the case of compensation and dependency and indemnity compensation ("DIC") paid by reason of service in the new Philippine Scouts, and in the case of DIC paid by reason of service in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerrilla units, remove the current $0.50 on-the-dollar limitation if the individual to whom the benefits are payable resides in the United States and is either a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. These amendments would take effect on the date of enactment of the Act and apply to benefits paid for months beginning after that date. This provision was included in the FY 2004 Budget.

#### SECTION 4

Section 4 would extend until December 31, 2008, the authority of the Secretary of Veterans Affairs under 38 U.S.C. §315(b) to operate a regional office in the Republic of the Philippines. This provision was included in the FY 2004 Budget.

#### SECTION 5

Section 5(a) would amend 38 U.S.C. §107 to extend eligibility for national cemetery burial to new Philippine Scouts who lawfully reside in the United States and to extend eligibility for other in-kind burial benefits and monetary burial benefits to new Philippine Scouts who lawfully reside in the United States on the same basis as such benefits are provided under current law to Commonwealth Army veterans. Section 5(b) makes a conforming amendment to section 38 U.S.C. §2402(8), which authorizes national cemetery burial for certain Filipino veterans. Section 5(c) provides that the amendments made by this section shall apply with respect to deaths occurring after the date of the enactment of this Act.

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By Ms. MIKULSKI (for herself, Mrs. CLINTON, Mr. CORZINE, Mr. SARBANES, Mr. JOHNSON, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. DAYTON, and Mr. HARKIN):

S. 1214. A bill to provide a partially refundable tax credit for caregiving related expenses; to the Committee on Finance.

Ms. MIKULSKI. Madam President, I rise to introduce the Family Caregiver Relief Act of 2003—my legislation to help those who face the crushing consequences of caring for a chronically ill family member. While we stand up for America, we must also stand up for what America stands for. That means strengthening the safety net for those who need it most. That means standing up for American families.

Families are hurting. The economy is weak. Many are holding down two jobs to make ends meet, going into debt to put kids through college, or finding and paying for health insurance.

Some families are facing extraordinary challenges. They are caring for a loved one with special needs which could be a child with autism, or cerebral palsy, a parent with alzheimer's, or a spouse with multiple sclerosis. These families struggle every day to take care of their loved ones.

I want to give help to those who practice self-help. My bill would provide a tax credit of up to $5,000 for family caregivers. This tax credit would help people pay for prescription drugs, home health care, specialized day care, respite care, transportation to chronic care or medical facilities, specialized therapy, including occupational, physical, or rehabilitational therapy, and other specialized services for children, including day care for children with special needs.

Family caregivers face so many stresses—emotional, physical, and financial stresses of caregiving. They face long days, supporting a family—while caring for a loved one with a chronic condition. A dad might have to work two jobs to meet the costs of care which places strains on marriage and relationships with other family members.

Caregivers also face high costs for medications, home health care, adult day care, physical therapy, durable medical equipment like a wheelchair, day care for children with special needs, and medical bills from care with specialists.

People who care for chronically ill family must patch together whatever care they can afford. Too often they go into debt, use their college accounts or their retirement savings or go without the care their loved ones need.

I have heard from families from around Maryland who are facing these strains, who are trying to make ends meet, and who are caring for a loved one who is chronically ill or needs assistance with activities of daily living.

The Hart family from Baltimore has a 2 year old son named Jackson who was born with severe brain abnormalities. He has the motor skill development of a 4 month old. He has daily seizures, so he needs total, round the clock care. The emotional cost of caring for a severely disabled child are incalculable and the financial costs are crushing. For the Harts, the costs include: $650 a month for day care for medically fragile children; $1,400 for a wheel chair; and, $700 for a special shower chair—since Jackson can't sit up in the bath. My proposal would help them meet these costs by providing them with a tax credit of $2,750.

I know of a couple in Baltimore where the wife is in the final stages of Alzheimers. She was a school teacher and once spoke 5 languages. Now, she can only say a few words. She needs 24 hours-a-day care which costs almost three thousand dollars a month. Their retirement savings are gone though this couple is only in their early sixties. My bill would only provide a tax credit of five thousand to this couple. I know that this would help this couple as they face the challenges of her final days.

My last example is a woman in Potomac, MD who is caring for her husband who has multiple sclerosis. He can no longer talk, walk, stand or feed himself. She works full time to support them and cobbles together whatever home care she can afford. She is not able to afford respite care to run errands, or take herself to the doctor. This couple made a commitment in sickness or in health.

These are just a few examples of the stresses facing thousands of American families. One in five Americans has multiple chronic conditions. About 26 million people in this country care for a family member who is chronically ill or disabled.

My legislation is supported by groups who see everyday the human cost of family caregiving, including: Autism Society of America; Cystic Fibrosis Foundation; National Organization for Rare Disorders; Easter Seals; United Cerebral Palsy Associations; Arc of the United States; National Health Council; National Council on the Aging; Paralyzed Veterans of America; Family Voices; National Respite Coalition; National Family Caregivers Association; and National Alliance for Caregiving.

One of my first milestones in the Senate was the enactment of the Spousal Anti-Impoverishment Act to change the cruel rules of Medicaid so that families would not have to go bankrupt before Medicaid would pay for nursing home care for a spouse. Under this law, the spouse living in the community could keep the family home, keep a car, and keep some income each month to live on. This law helped one million people. But this was only a down payment.

Not much has been done since then except the National Family Caregiver Support Program and long-term care insurance for Federal employees. I was proud to sponsor and work on both of these bills on a bipartisan basis to get them signed into law.

Now it is time to help family caregivers. They are the backbone of the long term care system in this country. They must be a priority in the Federal law books and the tax code.

I thank Senators CLINTON, CORZINE, SARBANES, JOHNSON, LAUTENBERG, MURRAY, KENNEDY, LANDRIEU, DAYTON, and HARKIN for cosponsoring the Family Caregiver Relief Act.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 1214

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Family Caregiver Relief Act of 2003".

**SEC. 2. LONG-TERM CARE TAX CREDIT.**

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 24(a) of the Internal Revenue Code of 1986 (relating to allowance of child tax credit) is amended to read as follows:

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(A) the per child amount multiplied by the number of qualifying children of the taxpayer, plus

"(B) the sum of the eligible expenses of the taxpayer, not compensated by insurance or otherwise, for each applicable individual with respect to whom the taxpayer is an eligible caregiver for the taxable year.".

(2) LIMITATION.—Section 24(b) of such Code is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) (as redesignated by this paragraph) the following new paragraph:

"(1) IN GENERAL.—The credit allowed under subsection (a)(1)(B) shall not exceed $5,000 for any taxable year.".

(3) CONFORMING AMENDMENTS.—

(A) Section 24(d)(1) of such Code is amended by striking "subsection (b)(3)" each place it appears and inserting "subsection (b)(4)".

(B) The heading for section 24 of such Code is amended to read as follows:

**"SEC. 24. FAMILY CARE CREDIT.".**

(C) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 24 and inserting the following new item:

"Sec. 24. Family care credit.".

(b) ELIGIBLE EXPENSES.—

(1) IN GENERAL.—Section 24 of the Internal Revenue Code of 1986 is amended by redesignating subsections (b) through (f) as subsections (c) through (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b) ELIGIBLE EXPENSES.—For the purposes of this section—

"(1) IN GENERAL.—The term 'eligible expenses' means expenses incurred by the taxpayer for—

"(A) medical care (as defined in section 213(d)(1) without regard to subparagraph (D) thereof),

"(B) lodging away from home in accordance with section 213(d)(2),

"(C) adult day care,

"(D) custodial care,

"(E) respite care, and

"(F) other specialized services for children, including day care for children with special needs.

"(2) ADULT DAY CARE.—The term 'adult day care' means care provided for adults with functional or cognitive impairments through a structured, community-based group program which provides health, social, and other related support services on a less than 24-hour per day basis.

"(3) CUSTODIAL CARE.—The term 'custodial care' means reasonable personal care services provided to assist with daily living and which do not require the skills of qualified technical or professional personnel.

"(4) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to an applicable individual in order to provide temporary relief to an eligible caregiver.".

(2) CONFORMING AMENDMENTS.—

(A) Section 24(e)(1) of such Code (relating to portion of credit refundable), as redesignated by paragraph (1) and as amended by subsection (a)(3)(A), is amended by striking "subsection (b)(4)" each place it appears and inserting "subsection (c)(4)".

(B) Section 501(c)(26) of such Code is amended by striking "section 24(c)" and inserting "section 24(d)".

(C) Section 6211(b)(4)(A) of such Code is amended by striking "section 24(d)" and inserting "section 24(e)".

(D) Section 6213(g)(2)(I) of such Code is amended by striking "section 24(e)" and inserting "section 24(f)".

(c) DEFINITIONS.—Subsection (d) of section 24 of the Internal Revenue Code of 1986, as redesignated by subsection (b)(1), is amended to read as follows:

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means any individual if—

"(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(ii) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(2) APPLICABLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

"(i) which is at least 180 consecutive days, and

"(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

"(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

"(i) The individual is at least 18 years of age and—

"(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

"(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

"(ii) The individual is at least 6 but not 18 years of age and—

"(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity,

"(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

"(III) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

"(IV) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

"(iii) The individual is at least 2 but not 6 years of age and—

"(I) is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility,

"(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

"(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

"(iv) The individual is under 2 years of age and—

"(I) requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent,

"(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

"(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

"(v) The individual has 5 or more chronic conditions (as defined in subparagraph (C)) and is unable to perform (without substantial assistance from another individual) at least 1 activity of daily living (as so defined) due to a loss of functional capacity.

"(C) CHRONIC CONDITION.—For purposes of this paragraph, the term 'chronic condition' means a condition that lasts for at least 6 consecutive months and requires ongoing medical care.

"(3) ELIGIBLE CAREGIVER.—

"(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

"(i) The taxpayer.

"(ii) The taxpayer's spouse.

"(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151 for the taxable year.

"(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

"(v) An individual who would be described in clause (iii) for the taxable year if—

"(I) the requirements of clause (iv) are met with respect to the individual, and

"(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

"(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as such individual's principal place of abode the home of the taxpayer and—

"(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

"(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

"(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

"(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

"(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

"(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).".

(d) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(f) of the Internal Revenue Code of 1986 (relating to identification requirement), as redesignated by subsection(b)(1), is amended by adding at the end the following new sentence: "No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.".

(2) ASSESSMENT.—Section 6213(g)(2)(I) of such Code is amended—

(A) by inserting "or physician identification" after "correct TIN", and

(B) by striking "child tax" and inserting "family care".

(e) DENIAL OF DOUBLE BENEFIT.—

(1) IN GENERAL.—Section 213(e) of the Internal Revenue Code of 1986 (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting "or section 24" after "section 21".

(2) CONFORMING AMENDMENT.—The heading of section 213(e) of such Code is amended by inserting "LONG-TERM CARE OR" after "FOR".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the later of December 31, 2003, or the date of the enactment of this Act.

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By Mr. ENZI (for himself and Ms. MIKULSKI):

S. 1217. A bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, walking—climbing the stairs—reaching for an object or a needed item on a shelf. They're all things we do and take for granted every day. But for many of our Nation's elderly, they are a constant source of anxiety and apprehension.

Anyone who has an elderly parent, relative or friend who lives alone knows the concern that is often raised when a phone call placed to them goes unanswered. Our first and immediate reaction is often worry because we know that for many of our Nation's elderly, a fall can produce a very serious injury. As the phone continues to ring we wonder if Mom is upstairs and can't hear the phone, or Dad is in his workshop, or our friend has just stepped outside to catch a breath of fresh air.

We hang up, wait a few minutes and place our call again, often with a greater sense of urgency.

This time, our concern becomes worry as we picture our loved one suffering from the effects of a fall, alone, with no one to help them.

Then, when the phone is answered, a huge rush of relief overcomes us as we realize our fears were misplaced.

Would that every story like that have such a happy ending. For too many of our Nation's elderly, however, it sometimes ends tragically as brittle bones and a reduction in our sense of balance becomes a formula for serious injury and a dramatic reduction in one's quality of life.

Although the physical healing process after a fall can be long and traumatic, it often pales in comparison to the psychological effects of a loss of confidence—and therefore activity—of an elderly individual who no longer takes for granted his or her ability to walk and safely navigate their world without assistance or support.

Fortunately, there are things that can be done to both reduce the number of these tragic falls and restore the confidence of our loved ones in their ability to once again lead a normal life.

In an effort to address this issue I am introducing legislation, together with my distinguished colleague from Maryland, Senator MIKULSKI, that would take a multi-faceted approach to solving this problem. The Elder Fall Prevention Act of 2003 will look at every aspect of this matter, from educating the elderly about how to "fall-proof" their home, to researching the causes of most falls and trying to find ways both to avoid them and to provide better treatment to those who are recovering from them.

In today's world, when so many of us are living longer, it is quite commonplace to hear of elderly friends and relatives who have fallen and faced the challenge of recovering from a broken bone. Almost all of us have had that experience, either with family or friends.

What is less well known is that 25 percent of the elderly who sustain a hip fracture die within one year. On an annual basis, 40,000 people over age 65 visit emergency departments with traumatic brain injuries suffered as a result of a fall; 16,000 of those people are hospitalized, and 4,000 die. By the year 2030, as the baby boomer generation is added to the ranks of the elderly, the number of people over age 65 will double, potentially doubling the current elder fall injury statistics.

There are also significant costs associated with such a large volume of fall-related injuries among our Nation's senior citizens. Direct costs to the Medicaid and Medicare programs alone will exceed an estimated $32 billion in the year 2020.

The Elder Fall Prevention Act of 2003 takes a three-pronged approach to this problem. It will direct the Department of Health and Human Services to develop public education on fall prevention for the elderly, family members, caregivers, and others involved with the elderly. It further calls for an expansion of research on effective approaches to fall prevention and treatment. Finally, the Elder Fall Prevention Act requires an evaluation of the effect of falls on the costs of Medicare and Medicaid, as well as the potential for reducing those costs through education, prevention and early intervention.

A wide variety of groups support this legislation, including the National Safety Council, the Emergency Nurses

Association, the Assisted Living Federation of America, the American Geriatrics Society, the Brain Injury Association, the American Health Care Association, and many more. All of these groups should and will be partners in this comprehensive effort to address one of the leading causes of death and disability in the elderly.

The largest generation in our Nation's history is rapidly approaching retirement. Passing this bill into law will mean a better quality of life for them and for all our Nation's elderly. It will also help us reduce the cost of the Medicaid and Medicare programs for all Americans.

I am looking forward to working on this bill in Committee and sending it on to the Senate floor for a vote. The sooner we act the sooner we can begin to work to prevent falls and help our Nation's elderly live safely and in better health.

Ms. MIKULSKI. Mr. President, I am pleased to join Senator ENZI in introducing the Elder Fall Prevention Act of 2003. Falls are a serious public health problem that affect millions of seniors each year. This bill expands research and education on elder falls to help keep seniors safe and in their own homes longer.

The facts are staggering. One out of every three Americans over age 65 falls every year. In 2000, over 10,200 seniors died and approximately 1.6 million seniors visited an emergency department as a result of a fall. Falls are the leading cause of injury deaths among seniors, accounting for 64,000 traumatic brain injuries and 340,000 hip fractures each year. Falls can be financially disastrous for families, and falls place a serious financial strain on our health care system. By 2020, senior falls are estimated to cost the health care system more than $32 billion.

These facts do not begin to tell the story of what falls can mean for seniors and their loved ones. Falls don't discriminate. Kay Graham was the victim of a fall. Many of us have friends or relatives who have fallen. A fall can have a devastating impact on a person's physical, emotional, and mental health. If an older woman loses her footing on her front porch steps, falls, and suffers a hip fracture, she would likely spend about two weeks in the hospital, and there is a 50 percent chance that she would not return home or live independently as a result of her injuries.

Last year, I chaired a hearing of the Subcommittee on Aging on the problem of elder falls. The Subcommittee heard testimony from Lillie Marie Struchen, a 91-year-old woman who had recently fallen in her bathroom when she slipped on the tile. Lillie Marie could not reach the panic button in her apartment, and it took her some time before she could get to her feet and call for help. Lillie Marie was lucky. She recovered from her fall and returned to her normal routines. She shared with the Subcommittee some steps that she and her family had taken to prevent future falls, knowing that she may not be so lucky next time.

These falls, like the ones that Lillie Marie and thousands of others suffer from each year, can be prevented. With some help, there are simple ways that seniors can improve the safety of their homes and make a fall far less likely. Home modifications like hand rails in the bathroom, rubber mats on slippery tile floors, and cordless telephones that seniors can keep nearby can make a big difference. Well-trained pharmacists can review medications to make sure that two drugs do not interact to cause dizziness and throw a senior off balance.

That's what this legislation is about—getting behind our Nation's seniors and giving help to those who practice self-help. This bill creates public education campaigns for seniors, their families, and health care providers about how to prevent falls. It expands research on elder falls to develop better ways to prevent falls and to improve the treatment and rehabilitation of elder falls victims. This legislation also requires an evaluation of the effect of falls on Medicare and Medicaid, to look at potentially reducing costs by expanding coverage to include fall-related services.

Reducing the number of falls will help seniors live longer, healthier, more independent lives. This bill has the strong support of the National Safety Council and has been supported in the past by over 30 national and local aging and safety organizations. I look forward to working with Senator ENZI and my colleagues on the Health, Education, Labor, and Pensions Committee to get this bill signed into law.

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## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 162—HONORING TRADESWOMEN

Mrs. CLINTON (for herself, Mr. COLLINS, Mrs. MURRAY, Mr. KENNEDY, and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 162

Whereas women worked side by side with men for long shifts under dangerous conditions to rescue individuals, remove debris, and prepare the sites for future use at Ground Zero, the Pentagon, and in the Shanksville, Pennsylvania field after the September 11th terrorist attacks;

Whereas the number of tradeswomen has risen dramatically over the last 30 years, but remains startlingly low;

Whereas while the number of women carpenters has tripled since 1972, they still only represent 1.7 percent of workers in the occupation;

Whereas the number of electricians who are female has quadrupled over that same time period, yet women make up only 2.7 percent of electricians;

Whereas the number of women who are firefighters has increased by 6 fold, yet women account for only 3 percent of all firefighters;

Whereas the skilled trades industry is experiencing a significant labor shortage, which will be exacerbated over the next 2 decades as many skilled workers retire;

Whereas the United States Department of Labor projects job growth in the skilled trades industry at 12.3 percent through the year 2010;

Whereas the National Association of Manufacturers reports a projected need for 10,000,000 new skilled workers by 2020, and the Associated General Contractors predicts a shortage of 250,000 skilled workers per year;

Whereas the average age of a construction worker is 47;

Whereas many women are employed in jobs that pay only a minimum wage and do not provide benefits, such as health insurance;

Whereas 59 percent of women earn $8 per hour, and while women constitute 47 percent of the workforce, they make up 60 percent of the working poor;

Whereas 44 percent of women are reported to be the sole supporter of themselves or their families;

Whereas the majority of women are segregated into 20 out of 440 occupations;

Whereas women could increase their earnings significantly by obtaining skills that allow them to become tradeswomen, for example a journey level electrician will make over $1,000,000 more than a typical cashier in a 30-year career;

Whereas women make up 77 percent of all wait staff who earn $6.55 an hour, on average, and only 5 percent of truck drivers who make an average of $17.50 an hour; and

Whereas women need greater access to training and opportunities to participate in skilled trades occupations: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) there should be more attention paid to breaking down the barriers that women face in entering the skilled trades; and

(2) policymakers, labor unions, and industry leaders should look at different labor pools to address existing and future skills shortages.

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### SENATE CONCURRENT RESOLUTION 50—EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD BE ESTABLISHED A NATIONAL TRUCK SAFETY MONTH TO RAISE PUBLIC AWARENESS ABOUT THE CONTRIBUTIONS, RESPONSIBILITIES, AND NEEDS OF TRUCK DRIVERS TO MAKE THE NATION'S HIGHWAYS SAFER

Mr. TALENT submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 50

Whereas over 2,000,000 long-haul trucks and 138,000,000 automobiles share the Nation's highways each day;

Whereas the loss of more than 5,000 lives each year in accidents involving large trucks raises important safety issues;

Whereas truck drivers, who experience more workplace fatalities than any other single occupation, are acutely aware of their responsibility to contribute to highway safety;

Whereas long-haul truckers serve vital business just-in-time delivery schedules at great personal sacrifice, including driving at all times of the day and under adverse weather, road, and delivery conditions;

Whereas the United States economy depends upon the Nation's long-haul truckers, who deliver 71 percent of the dollar value of freight hauled in the United States;

Whereas truck safety has become the highest priority of the Federal Motor Carrier Safety Administration, and the Federal Government invests nearly $200,000,000 in truck safety enforcement activities each year; and

Whereas truck drivers across the Nation have committed themselves to make June a model month for compliance with the truck safety rules: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That—

(1) it is the sense of Congress that there should be established a National Truck Safety Month to raise public awareness about the contributions, responsibilities, and needs of truck drivers to make the Nation's highways safer; and

(2) Congress requests that the President issue a proclamation commending all truckers for their extra efforts to comply with truck safety regulations, designating a month for highway safety, and calling on all highway users, shippers, receivers, motor carriers, and Federal and State regulatory and law enforcement officials to support the efforts of truck drivers to make the Nation's highways a safer place to travel and to work.

## SENATE CONCURRENT RESOLUTION 51—COMMENDING MEDGAR WILEY EVERS AND HIS WIDOW, MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS, DESIGNATING A MEDGAR EVERS NATIONAL WEEK OF REMEMBRANCE, AND FOR OTHER PURPOSES

Mr. COCHRAN (for himself and Mr. LOTT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 51

Whereas a pioneer in the fight for racial justice, Medgar Wiley Evers, was born July 2, 1925, in Decatur, Mississippi, to James and Jessie Evers;

Whereas, to faithfully serve his country, Medgar Evers left high school to join the Army when World War II began and, after coming home to Mississippi, he completed high school, enrolled in Alcorn Agricultural and Mechanical College, presently known as Alcorn State University, and majored in business administration;

Whereas, as a student at Alcorn Agricultural and Mechanical College, Evers was a member of the debate team, the college choir, and the football and track teams, was the editor of the campus newspaper and the yearbook, and held several student offices, which gained him recognition in Who's Who in American Colleges;

Whereas, while a junior at Alcorn Agricultural and Mechanical College, Evers met a freshman named Myrlie Beasley, whom he married on December 24, 1951, and with whom he spent the remainder of his life;

Whereas, after Medgar Evers received a bachelor of arts degree, he moved to historic Mound Bayou, Mississippi, became employed by Magnolia Mutual Life Insurance Company, and soon began establishing local chapters of the National Association for the Advancement of Colored People (referred to in this resolution as the "NAACP") throughout the Delta region;

Whereas, moved by the plight of African-Americans in Mississippi and a desire to change the conditions facing them, in 1954, after the United States Supreme Court ruled school segregation unconstitutional, Medgar Evers became the first known African-American person to apply for admission to the University of Mississippi Law School, but was denied that admission;

Whereas, as a result of that denial, Medgar Evers contacted the NAACP to take legal action;

Whereas in 1954, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP, and he accepted the position, making Myrlie Evers his secretary;

Whereas, with his wife by his side, Medgar Evers began a movement to register people to vote in Mississippi and, as a result of his activities, Medgar Evers received numerous threats;

Whereas, in spite of the threats, Medgar Evers persisted, with dedication and courage, to organize rallies, build the NAACP's membership, and travel around the country with Myrlie Evers to educate the public;

Whereas Medgar Evers' passion for quality education for all children led him to file suit against the Jackson, Mississippi public schools, which gained him national media coverage;

Whereas Medgar Evers organized students from Tougaloo and Campbell Colleges, coordinated and led protest marches, organized boycotts of Jackson businesses and sit-ins, and challenged segregated bus seating, and for these heroic efforts, he was arrested, beaten, and jailed;

Whereas the violence against Medgar Evers came to a climax on June 12, 1963, when he was shot and killed in front of his home;

Whereas, after the fingerprints of an outspoken segregationist were recovered from the scene of the shooting, and 2 juries deadlocked without a conviction in the shooting case, Myrlie Evers and her 3 children moved to Claremont, California, where she enrolled in Pomona College and earned her bachelor's degree in sociology in 1968;

Whereas, after Medgar Evers' death, Myrlie Evers began to create her own legacy and emerged as a national catalyst for justice and equality by becoming active in politics, becoming a founder of the National Women's Political Caucus, running for Congress in California's 24th congressional district, serving as Commissioner of Public Works for Los Angeles, using her writing skills to serve as a correspondent for Ladies Home Journal and to cover the Paris Peace Talks, and rising to prominence as Director of Consumer Affairs for the Atlantic Richfield Company;

Whereas Myrlie Evers became Myrlie Evers-Williams when she married Walter Williams in 1976;

Whereas, in the 1990's, Evers-Williams convinced Mississippi prosecutors to reopen Medgar Evers' murder case, and the reopening of the case led to the conviction and life imprisonment of Medgar Evers' killer;

Whereas Evers-Williams became the first female to chair the 64-member Board of Directors of the NAACP, to provide guidance to an organization that was dear to Medgar Evers' heart;

Whereas Evers-Williams has published her memoirs, entitled "Watch Me Fly: What I Learned on the Way to Becoming the Women I Was Meant to Be", to enlighten the world about the struggles that plagued her life as the wife of an activist and empowered her to become a community leader;

Whereas Evers-Williams is widely known as a motivational lecturer and continues to speak out against discrimination and injustice;

Whereas her latest endeavor has brought her home to Mississippi to make two remarkable contributions, through the establishment of the Evers Collection and the Medgar Evers Institute, which advance the knowledge and cause of social injustice and which encompass the many lessons in the life's work of Medgar Evers and Myrlie Evers-Williams;

Whereas Evers-Williams has presented the extraordinary papers in that Collection and Institute to the Mississippi Department of Archives and History, where the papers are being preserved and catalogued; and

Whereas it is the policy of Congress to recognize and pay tribute to the lives and accomplishments of extraordinary Mississippians such as Medgar Evers and Myrlie Evers-Williams, whose life sacrifices have contributed to the betterment of the lives of the citizens of Mississippi as well as the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That—

(1) Congress commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams, and expresses the greatest respect and gratitude of Congress, for their lives and accomplishments;

(2) the Senate—

(A) designates the period beginning on June 9, 2003, and ending on June 16, 2003, as the "Medgar Evers National Week of Remembrance"; and

(B) requests that the President issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities; and

(3) copies of this resolution shall be furnished to the family of Medgar Wiley Evers and Myrlie Evers-Williams and made available to representatives of the media.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 865. Mr. DORGAN (for himself, Ms. CANTWELL, Mr. LIEBERMAN, Mr. AKAKA, Mrs. CLINTON, Mr. KERRY, Mr. NELSON of Florida, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. REID, Mr. LAUTENBERG, and Mr. KENNEDY) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 866. Mr. LAUTENBERG (for himself, Ms. CANTWELL, Ms. MURKOWSKI, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 867. Mr. BINGAMAN proposed an amendment to the bill S. 14, supra.

SA 868. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table.

SA 869. Ms. COLLINS (for herself, Mrs. MURRAY, Mr. JEFFORDS, Ms. CANTWELL, and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 870. Mr. MCCONNELL (for Mr. ALLEN) proposed an amendment to the resolution S. Res. 158, commending the University of Virginia Cavaliers men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse Championship.

## TEXT OF AMENDMENTS

**SA 865.** Mr. DORGAN (for himself, Ms. CANTWELL, Mr. LIEBERMAN, Mr. AKAKA, Mrs. CLINTON, Mr. KERRY, Mr. NELSON of Florida, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. REID, Mr. LAUTENBERG, and Mr. KENNEDY) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 296, line 21, before "Not" insert "(a) IN GENERAL.—".

On page 297, between lines 2 and 3, insert the following:

(b) CONTENTS.—The plan shall describe the activities of the Department of Energy, including a research, development, demonstration, and commercial application program for developing technologies, to support—

(1) the production and deployment of—

(A) 100,000 hydrogen-fueled fuel cell vehicles in the United States by 2010; and

(B) 2,500,000 hydrogen-fueled fuel cell vehicles in the United States by 2020 and annually thereafter; and

(2) the integration of hydrogen activities with associated technical targets and timetables for the development of technologies to provide for the sale of hydrogen at a sufficient number of fueling stations in the United States by 2010 and 2020.

(c) PROGRESS REVIEW.—The Secretary shall include in each annual budget submission a review of the progress toward meeting the targets under subsection (b).

**SA 866.** Mr. LAUTENBERG (for himself, Ms. CANTWELL, Ms. MURKOWSKI, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table as follows:

On page 150, line 24, strike "(tidal and thermal)" and insert "(wave, tidal, and thermal)".

On page 156, line 4, strike "(tidal and thermal)" and insert "(wave, tidal, and thermal)".

**SA 867.** Mr. BINGAMAN proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 278, after line 8, insert the following:

"(h) TRIENNIAL REPORT ON EFFECT ON NATURAL GAS DEMAND.—Not later than 3 years after the date of enactment of this Act, and every three years thereafter, the Secretary shall submit to Congress an assessment of the effect of increased use of hydrogen, as a result of the programs in subsections (a) and (b), on demand for natural gas.".

On page 291, strike line 22 and all that follows through page 292, line 8 and insert the following:

"(b) CONTENTS.—At a minimum, each plan shall contain—

"(1) a description of programs under the agency's control in which the use of hydrogen or fuel cells could benefit the operation of the agency, assist in the implementation of the agency's regulatory functions, or enhance the agency's mission;

"(2) a description of any agency management practices, procurement policies, regulations, policies, or guidelines that may inhibit the agency's transitions to the use of fuel cells and hydrogen as an energy source; and

"(3) an assessment of the effect of increased use of hydrogen by the agency, including increased use through programs under section 303(b) of the Energy Policy Act of 1992, as amended by this Act, or section 824 of this Act, on demand for natural gas.".

**SA 868.** Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 824, to reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

**SECT. 217. SHARE OF AIRPORT PROJECT COSTS.**

(a) IN GENERAL.—Section 47109 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) GRANDFATHER RULE.—

"(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at an airport that has less than .25 percent of the total number of passenger boardings at all commercial service airports, and that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979, provided that this subsection shall apply only if—

"(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

"(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project

"(2) LIMITATION.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).".

(b) CONFORMING AMENDMENT.—Subsection (a) of Section 47109, title 49, United States Code, is amended by striking "Except as provided in subsection (b)", and inserting "Except as provided in subsection (b) or subsection (c)".

**SA 869.** Ms. COLLINS (for herself, Mrs. MURRAY, Mr. JEFFORDS, Ms. CANTWELL, and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 467, after line 16, add the following:

### TITLE XII—ABRUPT CLIMATE CHANGE RESEARCH

**SEC. 1201. SHORT TITLE.**

This title may be cited as the "Abrupt Climate Change Research Act of 2003".

**SEC. 1202. ABRUPT CLIMATE CHANGE RESEARCH PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Commerce shall establish within the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration, and shall carry out, a program of scientific research on abrupt climate change.

(b) PURPOSES OF PROGRAM.—The purposes of the program are as follows:

(1) To develop a global array of terrestrial and oceanographic indicators of paleoclimate in order to sufficiently identify and describe past instances of abrupt climate change.

(2) To improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change.

(3) To incorporate such mechanisms into advanced geophysical models of climate change.

(4) To test the output of such models against an improved global array of records of past abrupt climate changes.

(c) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term "abrupt climate change" means a change in the climate that occurs so rapidly or unexpectedly that human or natural systems have difficulty adapting to the climate as changed.

**SEC. 1203. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Department of Commerce $60,000,000, to remain available until expended, to carry out the research program required under section 1202.

**SA 870.** Mr. MCCONNELL (for Mr. ALLEN) proposed an amendment to the resolution S. Res. 158, commending the University of Virginia Cavaliers men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse Championship; as follows:

Strike all after the resolving clause and insert the following: "That the Senate—

"(1) congratulates the University of Virginia men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse National Championship;

"(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

"(3) directs the Secretary of the Senate to—

"(A) make available enrolled copies of this resolution to the University of Virginia for appropriate display; and

"(B) transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I men's lacrosse national championship team.".

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 11, 2003 at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the Nomination of Charles W. Grim, D.D.S., to be the Director of the Indian Health Service at the Department of Health and Human Services; to be followed immediately by another hearing on S. 1146, to implement the recommendations of the Garrison Unit Joint Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### SUBCOMMITTEE ON PUBLIC LANDS AND FOREST

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests.

The hearing will be held on Thursday, June 19 at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to gain an understanding of the grazing programs of the Bureau of Land Management and the Forest Service. The Subcommittee will receive testimony on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought and other grazing issues. This hearing will also provide the basis for other grazing hearings that we may want to undertake at the subcommittee level as the year goes on.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Meghan Beal at 202–224–7556 or Meghan_Beal@energy.senate.gov.

## PRIVILEGES OF THE FLOOR

Mr. DORGAN. Madam President, I ask unanimous consent that Bodar Tareen and Joe Krueger from my staff be allowed floor privileges during the consideration of S. 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Madam President, I ask unanimous consent that Tim Valentine, a fellow in my office, enjoy floor privileges during the Senate's consideration of the Energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, on behalf of Senator FEINSTEIN, I ask unanimous consent two fellows in her office, Craig Harper and Tom Schneider, be given floor privileges during the pendency of the Energy Bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE READ THE FIRST TIME—S. 1215

Mr. McCONNELL. Madam President, I understand that S. 1215 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by the title.

The assistant legislative clerk read as follows:

A bill (S. 1215) to sanction the ruling of the Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

Mr. McCONNELL. Madam President, I now ask for its second reading and object to further proceedings on the matter.

The PRESIDING OFFICER. Objection is heard.

Mr. McCONNELL. Madam President, let me just say that I have been working to get the so-called "Burma bill" cleared. I am still optimistic that may happen and plan to ask unanimous consent in the morning that we go to that bill.

For the information of our colleagues, if they have had a chance to see the front page of the Washington Post this morning, the problems in Burma should be at the top of the Nation's international agenda. Aung San Suu Kyi, who won the Nobel Peace Prize in 1991, was attacked 9 days ago. We hope and believe that she is alive. But she has been injured, according to all reports.

It is time for the United States to take a leadership position, and it is time for the Senate to pass this bill, which I will ask consent to bring up and pass tomorrow. I might say that it is cosponsored by both the Democratic and Republican leaders and by both the chairman and ranking member of the Foreign Relations Committee. It remains my hope that we will be able to get that cleared and vote on it tomorrow.

## NATIONAL OCEANS WEEK

Mr. McCONNELL. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Con. Res. 49, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 49) designating the week of June 9, 2003, as "National Oceans Week" and urging the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to; further, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Con. Res. 49) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. CON. RES. 49

Whereas 95 percent of the deep ocean is unexplored and unknown, and the ocean is truly the last frontier on Earth for science and civilization;

Whereas the ocean comprises nearly three quarters of the Earth's surface and sustains 80 percent of all life on Earth, including a large part of the Earth's biodiversity;

Whereas the oceans play a critical role in the global water cycle, carbon cycle, and in regulating climate; and over 90 percent of the oxygen in the Earth's atmosphere, essential to life on Earth, comes from the world's oceans and rivers;

Whereas the oceans are an important source of food, provide a wealth of other natural products, and the oceans and sea floor contain vast energy and mineral resources that are critical to the economy of the United States and the world;

Whereas the United States has more than 95,000 miles of coastline and more than 50 percent of the population of the United States lives within 50 miles of the ocean or the Great Lakes;

Whereas coastal areas are regions of remarkably high biological productivity; are of considerable importance for a variety of recreational and commercial activities; and provide a vital means of transportation;

Whereas ocean resources are limited and susceptible to change as a direct and indirect result of human activities, and such damages can impact the ability of the ocean to provide the benefits upon which the Nation depends;

Whereas the rich biodiversity of marine organisms provide society with an essential biomedical resource, a promising source of novel compounds with therapeutic potential, and a potentially important contribution to the national economy;

Whereas there exists significant promise for the development of new ocean technologies for stewardship of ocean resources that will contribute to the economy through business and manufacturing innovations and the creation of new jobs;

Whereas the President's Panel on Ocean Exploration recommended to the White House and to the Congress in its Year 2000 final report, "Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration," a 10-year program to launch the first national plan for ocean exploration;

Whereas the Oceans Act of 2000 passed by the United States Congress authorized the establishment of the U.S. Commission on Ocean Policy and directed it to conduct a comprehensive review of present and future ocean programs and activities and provide comprehensive ocean policy recommendations to the Congress and the President by 2003; and

Whereas our oceans are vital to our national security and our national economy, and with America's greatest era of ocean exploration and discovery still ahead: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that—

(1) the ocean is of paramount importance to the economic future, environmental quality, and national security of the United States;

(2) the United States has a responsibility to exercise and promote comprehensive stewardship and understanding of the ocean and the living marine resouces it constains; and

(3) the week of June 9, 2003, be designated as National Oceans Week and urges the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration.

## COMMENDING THE UNIVERSITY OF VIRGINIA, 2003 NCAA LACROSSE NATIONAL CHAMPIONS

Mr. MCCONNELL. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Res. 158, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 158) commending the University of Virginia Cavaliers men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the amendment be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to; further, that the motion to reconsider be laid upon the table and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 870) was agreed to, as follows:

(Purpose: To amend the resolving clause to eliminate the request the President invite the University of Virginia men's lacrosse team to the White House)

Strike all after the resolving clause and insert the following: "That the Senate—

"(1) congratulates the University of Virginia men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse National Championship;

"(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

"(3) directs the Secretary of the Senate to—

"(A) make available enrolled copies of this resolution to the University of Virginia for appropriate display; and

"(B) transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I men's lacrosse national championship team.".

The resolution (S. Res. 158), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 158

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in their National Champion men's lacrosse team;

Whereas in 2003, the University of Virginia claimed its second National Championship in 5 years, with an overall season of 15 and 2;

Whereas the Cavaliers won the NCAA first round 19 to 8 against Mount St. Mary's, beat Georgetown 12 to 7 in the Quarterfinals, and Maryland 14 to 4 in the Semifinals;

Whereas the University of Virginia Cavaliers won the championship game by defeating the Johns Hopkins Blue Jays 9 to 7;

Whereas the University of Virginia team was led by A.J. Shannon with 4 goals, John Christmas with 2 goals, and received outstanding effort and support from Chris Rotelli and Billy Glading, while goalie Tillman Johnson had 13 saves and was selected Most Outstanding Player of the championship game;

Whereas every player on the Cavalier team contributed to their success in this championship season and they are Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Charlie Glazer, Zach Heffner, Brett Hughes, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl;

Whereas Head Coach Dom Starsia has coached the University of Virginia men's lacrosse team for 11 years, and has led the University of Virginia men's lacrosse team to the NCAA Tournament for a university-record 11th consecutive time;

Whereas Coach Starsia has led the team to a school record 15 wins this season;

Whereas Coach Starsia is 1 of only 3 coaches in college lacrosse history to win 100 games at 2 different colleges: the University of Virginia and Brown University; and

Whereas Coach Starsia and his coaching staff, including Assistant Coaches David Curry, Marc Van Arsdale, and Hannon Wright deserve much credit for the outstanding determination and accomplishments of their young team: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of Virginia men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to—

(A) make available enrolled copies of this resolution to the University of Virginia for appropriate display; and

(B) transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I men's lacrosse national championship team.

## ORDERS FOR TUESDAY, JUNE 10, 2003

Mr. MCCONNELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Tuesday, June 10. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill; provided further that there then be 30 minutes equally divided for debate in relation to the Dorgan amendment No. 865, with no amendments in order to the amendment prior to the vote; further, that following the debate time, the amendment be set aside for a vote in relation to the amendment at a time determined by the majority leader after consultation with the Democratic leader.

I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party lunches.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, if the Senator will yield, as I indicated to the majority leader this morning, I have spoken to Senator DASCHLE, and he has tentatively agreed that on Wednesday we would agree to having a unanimous consent agreement that there would be a finite list of amendments that would be put before the Senate at that time. The only thing we have not determined is what time we would do that.

So we will continue to work with the majority in helping to move this bill. As we have indicated to the majority leader, once we get a finite list of amendments, Senator MCCONNELL and I and the two managers of the bill can try to work through them and eliminate some, reminding all Senators that a very similar bill was brought through the Senate last year and we disposed of about 125 amendments. We had votes on about 40 amendments—45. I knew it was around 40. So we hope to do a lot better than that this time; that is, have fewer amendments than we had last time. But it is something on which we are working. And as I have indicated now for the second time tonight, we will continue to work with the majority to try to move that legislation.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, I say to my friend from Nevada, it remains the hope of the majority leader to finish the Energy bill this week because it remains his intention to spend the last 2 weeks before the Fourth of July break on the Medicare prescription drug issue.

## PROGRAM

Mr. McCONNELL. For the information of all Senators, tomorrow morning the Senate will resume consideration of S. 14, the Energy bill. At 9:30 tomorrow morning, the Senate will debate the Dorgan amendment related to hydrogen. That vote will occur at some point Tuesday morning prior to the policy luncheons. It has also been my hope, and the hope of many Members, as I indicated earlier, that tomorrow morning the Senate could consider and pass a bill relating to sanctions against Burma. As I suggested earlier, I will be asking the Senate to do that in the morning, and hopefully we will have a chance to move forward on that important piece of legislation.

Tomorrow we will continue to work with our Democratic colleagues to clear the Energy bill. Additional amendments are expected throughout tomorrow's session; therefore, rollcall votes will occur during tomorrow's session. It is also the hope of the bill managers that we can lock in a final list of amendments. Senator REID referred to that earlier. We hope to be able to do that as soon as possible, and we encourage all Senators who wish to offer an amendment to contact the chairman and ranking member of the Energy Committee.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:49 p.m., adjourned until Tuesday, June 10, 2003, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 9, 2003:

### THE JUDICIARY

ROBERT CLIVE JONES, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE DAVID W. HAGEN, RETIRING.

PHILLIP S. FIGA, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE RICHARD P. MATSCH, RETIRING.

### DEPARTMENT OF JUSTICE

JACK LANDMAN GOLDSMITH III, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JAY S. BYBEE, RESIGNED.

CHRISTOPHER A. WRAY, OF GEORGIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE MICHAEL CHERTOFF.

## CONFIRMATION

Executive nomination confirmed by the Senate June 9, 2003:

### THE JUDICIARY

MICHAEL CHERTOFF, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT.

# HOUSE OF REPRESENTATIVES—*Monday, June 9, 2003*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. ISSA).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

**The SPEAKER** pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*June 9, 2003.*

I hereby appoint the Honorable DARRELL E. ISSA to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1308) "An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, and Mrs. LINCOLN, to be the conferees on the part of the Senate.

## MORNING HOUR DEBATES

**The SPEAKER** pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

## HONORING PRESIDENT CHEN OF TAIWAN

**Mr. STEARNS.** Mr. Speaker, I would like to take this opportunity to congratulate Chen Shui-bian, president of Taiwan, on his third anniversary in office. On March 18, 2000, Mr. Chen Shuibian and Ms. Annette Lu were elected as the 10th-term president and vice president of the Republic of China.

With their inauguration on May 20, 2000, the peaceful transfer of presidential power to another political party is a profound reminder to all of us that the democratic process is rapidly maturing in Taiwan. In fact, it is an outstanding example for developing democracies around the world, as well as in the Chinese mainland.

Mr. Chen's story is one that is often heard in America, but it is an extraordinary one considering the political climate in Taiwan at the time he was born. He was born in 1950, but because he was a sickly child and not expected to live, his family did not officially register his birth until 1951. He was born to a tenant farmer family in rural Taiwan; but despite serious poverty, his family encouraged their son to pursue a brighter future. So important was education to him and his family that the family borrowed money to help pay for his schooling. He excelled academically all through grade school and finally into law school where he first developed his deep passion for true democracy in Taiwan.

Now, in 1980, there was an incident. It was called the "Kaohsiung Incident," and what happened is it resulted in the arrests of many activists after a mass demonstration turned violent with hundreds injured. Now, the defendants were sent for trial under martial law. The arrests and trials clearly articulated a need for changes in the government and focused world attention on the political situation in Taiwan.

Mr. Chen used his legal skills to defend their right to protest an authoritarian government. For his service, he was imprisoned for 8 months.

President Chen has served as a Taipei city council member and, of course, as the mayor of Taipei and in the legislative Yuan. Now, all of these experiences helped him to govern Taiwan in a way in which I think will prioritize peace- and security without relinquishing democratic principles.

He has continuously expressed his good will to the Chinese mainland and opened the possibility of holding a dialogue and conducting cooperation, under the premise of maintaining Taiwan's sovereignty, its dignity and security.

Taiwan and the United States have enjoyed a close relationship with each other for almost 50 years. It is a politically, economically, and culturally rich association for both. In fact, despite its size, Taiwan is our eighth largest trading partner, and we are Taiwan's largest trading partner. For this and other reasons, the United States must unabashedly stand behind the Taiwan Relations Act, which will communicate our resolve for a peaceful resolution in Taiwan.

Taiwan also deserves our congratulations on the recent accession to the World Trade Organization, though that is only the first step. We must support Taiwan's movement to gain membership in the International Civil Aviation Organization and especially observer status in the World Health Organization. The recent outbreak of SARS is a good demonstration of what Secretary of State Colin Powell said recently: "Infectious disease knows no borders and requires an effective and coordinated response at local, national, and international levels."

Taiwan is a part of the world that has been impacted by SARS and needs to play its proper role in preventing the spread of the disease.

For this reason, Mr. Speaker, it is clear that Taiwan deserves active participation in the World Health Organization. We must lend Taiwan support of Taiwan's democracy at home in its campaign to join international organizations abroad.

Taiwan is a reliable ally of the United States. Taiwan stood with us shoulder to shoulder right after 9-11 and has given us support with our war in Iraq and promised humanitarian aid to support postwar Iraq.

Mr. Speaker, I had the privilege of meeting with President Chen and was impressed with his vision and commitment to the continual democratization of Taiwan. I want to congratulate him on his past accomplishments and wish him continued success.

## JOBS AND ECONOMIC GROWTH PACKAGE HELPS MARRIED COUPLES

**The SPEAKER** pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

**Mr. WELLER.** Mr. Speaker, I would really like today to take a few minutes to celebrate the enactment into law of the Jobs and Economic Growth Package legislation that was passed by a majority of this House and a majority

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of the Senate and signed into law just 2 weeks ago, legislation that will help every Federal income tax payer. It will help revitalize our economy. It takes the approach that if you put extra money in the pocketbooks of consumers, they will have more money to spend to meet their families' needs and also to give incentives to businesses to invest. It will create jobs.

One of the benefits of this package is it not only helps everybody who pays Federal income taxes, but also 3 million low-income families who 2 weeks ago paid income taxes will no longer be required to pay income taxes because we lowered the rate so they no longer have to pay Federal income taxes benefiting 3 million low-income taxpayers.

I would like to focus on one provision that was a key and central part of the Jobs and Economic Growth Package and is really a provision that not only put extra money in the pocketbooks of families, but it also brought fairness now, fairness this year to the Tax Code, and that is the provision which wipes out the marriage tax penalty this year for 42 million married working couples. As one of those who has raised this issue over the last several years, I congratulate President Bush for signing this legislation into law. It is really an issue of fairness. Is it right, is it fair that under our Tax Code 42 million married working couples on average paid $1,700 more in higher taxes just because they were married?

Think about that. Husband and wife, they are both in the workforce, they file their taxes jointly when they are married; and because of that, our Tax Code previously pushed them into a higher tax bracket and required them on average to pay $1,700 more. If you think about it, that is a lot of money.

Take Jose and Magdalena Castillo of Joliet, Illinois. A working family in Joliet. They work hard. They have two children, Eduardo and Carolina. They are construction workers. For this family, for Jose and Magdalena Castillo, their marriage tax penalty was about $1,450. Now here in Washington, for some that is chump change; and they would rather spend the Castillos' income here in Washington rather than allow the Castillo family to keep more of what they earn to meet their needs.

If you think about it, $1,450, that is a semester's worth of tuition at Joliet Junior College. It is several months of day care for Eduardo and Carolina while mom and dad are at work. It is several months' worth of car payments. It is a mortgage payment or two for the average family in Joliet, Illinois. So by eliminating the marriage tax penalty, we really help the Castillo family.

So I want to thank the President for signing into law the Jobs and Economic Growth Package because as a result of the President signing the Jobs and Economic Growth Package into law, 42 million married working couples like Jose and Magdalena Castillo of Joliet, Illinois, they no longer pay the marriage tax penalty this year.

We help married couples in two ways. There are two kind of taxpayers. Those who itemize and those who do not itemize. If you own a home, if you donate to your church or charity or synagogue, you probably itemize. And the way we benefit those who are married and are both in the workforce and who have suffered the marriage tax penalty before is we widen the 15 percent tax bracket so that a two-earner couple, a married couple, could earn twice as much as one single person. And by earning twice as much, they would still stay in that 15 percent tax bracket. So we essentially eliminate the marriage tax penalty for 42 million couples.

For those who do not itemize, we have doubled the standard deductions. If you do not itemize, you use the standard deduction; and we make the standard deduction twice that for joint filers, for married couples. Twice the size of a single filer's standard deduction.

The bottom line is, we eliminate the marriage tax penalty for 42 million married working couples. Whether they itemize their taxes or whether they do not itemize their taxes, we eliminate their marriage tax penalty. And for a married couple like Jose and Magdalena Castillo, who like 42 million other married couples across this country suffer the marriage tax penalty, they will have extra money that really, rightfully should be theirs. The Castillo family should not have to pay higher taxes just because they chose to get married. It is not right. It is not fair. And really it punishes society's most basic institution, to punish marriage.

I want to thank the President. I want to thank the majority of this Congress for passing the Jobs and Economic Growth Package. And we should be celebrating the fact that 42 million married working couples will see their marriage penalty tax eliminated this year.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 44 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. STEARNS) at 2 p.m.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

After Moses, Your servant, died, Lord, You spoke again to Joshua and You speak to Your people even today. "I will be with you, as I was with Moses. I will not leave you, nor forsake you."

Relying on Your Word, we seek Your companionship today. Lord, be present to us in the House of Representatives. Guide the Members in right judgment, that they may respond in the very best ways to the deepest needs of Your people. Make them bold in goodness and practical in service.

Because You have laid upon their shoulders the burden of power, just as You did to Joshua, sustain them also in virtue and fashion them as good leaders of the American people. Confirm within them a sense of direction that will bring this Nation to an exploration of the future which will bring You glory, now and forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TURNER) come forward and lead the House in the Pledge of Allegiance.

Mr. TURNER of Ohio led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## WALT DISNEY POST OFFICE BUILDING

Mr. TURNER of Ohio. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1610) to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building".

The Clerk read as follows:

H.R. 1610

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WALT DISNEY POST OFFICE BUILDING.**

(a) REDESIGNATION.—The facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, and known as the Marceline Main Office, shall be known and designated as the "Walt Disney Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Walt Disney Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TURNER) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TURNER).

### GENERAL LEAVE

Mr. TURNER of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1610.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TURNER of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1610, introduced by my distinguished colleague, the gentleman from Missouri (Mr. GRAVES), redesignates the facility of the United States Postal Service located at East Ritchie Avenue in Marceline, Missouri, as the Walt Disney Post Office Building. The entire delegation from the State of Missouri has cosponsored this legislation.

Mr. Speaker, this legislation honors the great pioneer of animation and entertainment, Walt Disney. From Mickey Mouse to Donald Duck, from Snow White and the Seven Dwarfs to "Finding Nemo," and from Disney World to Disneyland, and, yes, even Euro Disney, what other name is more synonymous with family entertainment than Disney?

Born in Chicago, Illinois, on December 5, 1901, Walter Elias Disney transformed the initially struggling motion picture industry into the producer of the preeminent modern American art form. The list of Disney's classic animated films reads like an all-time favorites list of kids everywhere: "Cinderella," "Pinocchio," "Bambi," "Alice in Wonderland," "Beauty and the Beast," "Dumbo," "101 Dalmations," "The Jungle Book," "Aladdin," and "The Lion King."

The corporation founded by Walt Disney also has succeeded in appealing to a new generation of animated movie lovers with recent hits such as "Toy Story," "Pocahontas," "The Hunchback of Notre Dame," "Mulan," "Monsters Inc.," "The Emperor's New Groove." And, finally, one cannot forget such timeless live-action films like "20,000 Leagues Under the Sea," "Swiss Family Robinson," "Treasure Island," "Honey, I Shrunk the Kids," and "The Santa Claus," to name a few.

Despite the American people's familiarity with him and his countless works, it may not be widely known that Walt Disney was a production pioneer as well. He invented the multiplane camera, which was a breakthrough in the movie production field. It created the illusion of depth that greatly improved the picture quality of his animated films. The three-dimensional effects offered by the multiplane camera were first seen in "Snow White and the Seven Dwarfs," which premiered December 23, 1937, as the first full-length cartoon in history.

Mr. Speaker, Walt Disney died in 1966 following a battle with lung cancer; but clearly his legacy has been firmly established for years in the minds of young people throughout the world, and those slightly more grown up who remain young at heart. I regret that debate is limited to only 20 minutes on our side for consideration of this bill, because in that period of time one can only give the briefest overview to all of the achievements and impact of Walt Disney's outstanding life.

I urge all Members to vote in favor of H.R. 1610. I thank my colleague, the gentleman from Missouri, for introducing this important measure that honors a man whose creative genius continues to entertain children and adults throughout the world.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

As a member of the House Committee on Government Reform, I am pleased to join my colleague, the gentleman from Ohio (Mr. TURNER), in the consideration of a measure which names a postal facility after Walt Disney. H.R. 1610, which was introduced by Representative SAM GRAVES on April 3, 2003, has met the committee policy and has been cosponsored by the entire Missouri congressional delegation.

Walt Disney was born on December 5, 1901. Shortly after his birth, his family moved to the peaceful town of Marceline, Missouri, where they lived in a small house on farmland owned by an uncle. It was during his boyhood years in Marceline that little Walt began to draw pictures. He continued to pursue his interests in art while attending McKinley High School in Chicago, Illinois. There he studied art, often selling his drawings to make extra money, and photography.

At the age of 16, Walt tried to enlist in the military. Unfortunately, he was too young, so he joined the Red Cross and spent time driving an ambulance. It was not until after the war that Walt began to use his artistic talent as an advertising cartoonist.

As a young man, Walt created his first animated cartoon and moved to Hollywood to create another first, an animated live-action film. From there, things continued to spiral up. Walt created three cartoons featuring a character he dreamed up, Mickey, as in Mickey Mouse. Walt Disney continued to make animated films, going on to create "Snow White and the Seven Dwarfs," "Pinocchio," "Fantasia," "Dumbo," and "Bambi." Walt Disney went on to create theme parks and is a pioneer in animated film production. A long-time smoker, Walt Disney died of lung cancer on December 15, 1966.

Mr. Speaker, I commend my colleagues for seeking to memorialize Walt Disney by naming a postal facility in his hometown of Marceline, Missouri. By all accounts, Walt cherished the time he spent in the little house on the farm.

I want to say as a representative of Southern California, which is a place that we feel is very much part of Walt Disney's life, we have Disneyland, we have Disney Studios, we are soon going to have Disney Hall. We feel that it is only fair that we allow a post office to be named after him in the town in which he was raised.

I urge my colleagues to pass this legislation. I think it is another of many tributes that this country can hope to pay, but never completely repay, Walt Disney for the enormous contribution he has made to America and to the world.

Mr. Speaker, I reserve the balance of my time.

Mr. TURNER of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I only want to add that I have my daughters with me, Jessica, 11, and Carolyn, who is 8. Jessica, who is 11, says that her favorite Walt Disney movie is "Pocahontas"; Carolyn says that hers is "Mulan." So certainly, looking at their favorites, it is in further support of this bill.

Mr. Speaker, I again want to thank the gentleman from Missouri for introducing this important legislation. I know he regrets that he was unable to be here today for the consideration of H.R. 1610. I urge all Members to support the adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the gentleman from Ohio (Mr. TURNER) has his children here with us today, especially in this tribute to Walt Disney, whose life and career meant so much to all children all over the world. It is a fitting tribute that we pay to him to name a postal facility after him in the town in which he was raised. I urge passage of the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. TURNER of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and pass the bill, H.R. 1610.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## HONORING DAYTON, OHIO, AND ITS MANY PARTNERS FOR HOSTING "INVENTING FLIGHT: THE CENTENNIAL CELEBRATION"

Mr. TURNER of Ohio. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 162) honoring the City of Dayton, Ohio, and its many partners, for hosting "Inventing Flight: The Centennial Celebration", a celebration of the centennial of Wilbur and Orville Wright's first flight.

The Clerk read as follows:

### H. CON. RES. 162

Whereas 2003 marks the centennial of Wilbur and Orville Wright's achievement of the first controlled, powered flight in history;

Whereas Wilbur and Orville Wright grew up and worked at a bicycle shop in Dayton, Ohio, where they developed, built, and refined the first successful, heavier-than-air, manned, powered aircraft;

Whereas the Wright brothers developed the world's first flying field, the world's first flying school, and the world's first airplane manufacturing company in the Dayton, Ohio area;

Whereas many legacies of the Wrights' inventiveness and creativity still exists in the region, including Wright-Patterson Air Force Base, the Dayton Aviation Heritage National Historical Park, the United States Air Force Museum, the National Aviation Hall of Fame, the Wright "B" Flyers, the Engineers Club of Dayton, among many others;

Whereas the city of Dayton, area communities, a number of civic groups, private businesses, government agencies, and military partners, are joining together to honor the Nation's aerospace achievements;

Whereas Dayton is considered the "Birthplace of Aviation" and the region will host "Inventing Flight: The Centennial Celebration", from July 3 through July 20, 2003, which will be the largest public centennial event in Ohio celebrating the first flight and one of only 4 events nationwide endorsed as a full partner by the United States Centennial of Flight Commission; and

Whereas the celebration will feature pavilions housing aviation displays, blimp and hot-air balloon races, dance and cultural performances, river shows, historical reenactments, an international air and space symposium, National Aviation Hall of Fame ceremonies, and a military and general aviation show at the Dayton International Airport: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress honors the city of Dayton, Ohio, and its many partners, for hosting "Inventing Flight: The Centennial Celebration", a celebration of the centennial of Wilbur and Orville Wright's first flight.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TURNER) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TURNER).

### GENERAL LEAVE

Mr. TURNER of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 162.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TURNER of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 162 honors the City of Dayton, Ohio, and its many partners for hosting Inventing Flight: The Centennial Celebration, a celebration of the centennial of Wilbur and Orville Wright's first flight.

Mr. Speaker, it is my pleasure to speak on behalf of Concurrent Resolution 162 as an original cosponsor, along with every member in the Ohio delegation, in honoring the City of Dayton, Ohio, as they begin to celebrate 2003, Inventing Flight: The Centennial Celebration.

On December 17, 1903, Wilbur and Orville Wright launched man's first-ever sustained and controlled flight in a heavier-than-air engine-powered aircraft at Kill Devil Hill, near Kitty Hawk, North Carolina. Although the first flight lasted only 12 seconds and covered approximately 120 feet, this achievement changed the world forever.

The Wright Brothers had been fascinated by flight from an early age. The vision they shared of sweeping across the sky without boundaries, limits or rules, led to countless hours of imagination, experiments, and pure hard work. Their lives centered around the possibility of flight.

Together they opened a bicycle shop in Dayton, Ohio, in 1892. Upon seeing the countless bicycle shops already in existence during the newly industrialized America, they began to believe in the ability of flight.

The lonely hours and late nights spent at drafting tables and workshops in Dayton fueled the brothers' obsession with making their dream a reality. With every failed trial came a new way of thinking. With every small success, they were a step closer to their vision.

In 1899, they began building kites and gliders to test the theories that had been so diligently part of their work. Eventually, they met with success and began building their own plane. They built their first plane in Dayton, Ohio, and took it to Kitty Hawk to fly it in the coastal winds of North Carolina.

□ 1415

Remarkably, a mere 11 years after the Wright Brothers opened their bicycle shop in Dayton, the first successful flight was completed.

After watching the brothers in flight, an Ohio merchant remarked, "Imagine a locomotive that has left its track and is climbing up in the air without any wheels, but with white wings instead, and you have something like what I saw."

In a telegram sent by the Wright Brothers from Kitty Hawk, North Carolina to their father, Reverend Milton Wright, on December 17, 1903, they said, "Success. Four flights Thursday morning. All against 21-mile wind. Started from level with engine power alone. Average speed through air, 31 miles. Longest, 59 seconds. Inform press. Home Christmas."

Success, their achievement, changed our world, making it smaller and bringing us all closer together. The super highways of the sky have united families, cultures, and encouraged the spread of ideas across the world. The achievement of flight, through the determination and innovation of the Wright Brothers, changed the world forever on a winter day in 1903.

Upon achieving their first flight, the Wright Brothers returned to Dayton, Ohio where they continued to study aerodynamics and perfected flight. The location where they learned to sustain flight and, most importantly, to turn the aircraft is today the location of Wright Patterson Air Force Base where the Air Force continues to perfect flight and advance our advantage in aerodynamics and composite structures for airplanes.

In his youth, Wilbur Wright was afflicted with the belief that flight is possible. Together the brothers were crazy enough to believe that they, two men from Ohio, the heartland of America, could change the world with the achievement of flight. It is our great good fortune in their youth their hearts were touched with fire.

Leonardo DaVinci envisioned a flying machine that would be carried upward and freely roam the skies in search of adventure, new places, and far-away cultures. The Wright Brothers applied their knowledge of mechanics and motion to achieve their collective dream. Today, flight remains as magical and awe-inspiring as it did when DaVinci dreamed of flying and the Wright Brothers first took to the skies.

In honor of the Wright Brothers' flight, Dayton, Ohio invites the Nation to a celebration of the first century of powered flight with the Inventing Flight Celebration, a 17-day event starting on July 3 and ending on July 20 with the Dayton Air Show. Some of the groups performing include the U.S. Navy's Blue Angels, the U.S. Air Force Thunderbirds, and the Canadian Forces Snow Birds. This once-in-a-lifetime show will be of Olympic proportions, complete with fireworks, blimp races, acrobatic air maneuvers, special guest speakers, children's centers, and orbit zones. Attendees can enjoy the Wright Brothers National Park, which includes the original and first airplane of the Wright Brothers that was capable of sustaining flight; the United States Air Force Museum, which hosts over 1 million visitors a year; and the National Aviation Hall of Fame, which chronicles the accomplishments of our aviation history.

In closing, let me thank the members of the Ohio congressional delegation for joining me in sponsoring this legislation. I also want to thank the people of Dayton, Wright Patterson Air Force Base, and the surrounding communities for their enthusiastic support of the Inventing Flight Centennial celebration. I would also invite all Members of Congress and their families and their staffs to come to Dayton, Ohio with us to celebrate one of the world's most remarkable achievements: flight. Mr. Speaker, I urge passage of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the gentleman from Ohio for introducing this resolution commemorating the work of Wilbur and Orville Wright, who manned the first successful, controlled, and sustained power flight, and to signal that at this time we are going to celebrate, with a Festival of Flight in Dayton, Ohio, their accomplishments. It is fitting on the day that we commemorate Walt Disney for his flight of fancy that we also have the Festival of Flight for the Wright Brothers as part of the agenda on the schedule for today, as our rhetoric soars as well and flies ever higher in salute of great Americans.

In October of 1998, this body passed a bill to establish the commemoration of the centennial of powered flight and the achievements of the Wright Brothers. The commemoration activities set forth in that bill will come to fruition this year with the Festival of Flight. The festival will consist of four events that will be held nationwide to celebrate the first flight of the Wright Brothers.

The Wright Brothers originally had a bicycle store in Dayton, Ohio. They later moved to Kitty Hawk, North Carolina for the hills, strong and steady winds, and the soft, sandy ground, all ingredients for successful flight. They went back to Dayton and built a 6-foot wind tunnel to conduct experiments with over 200 different wing models. They developed the first reliable tables on the effects of air pressure on curved surfaces, the principles that we use today and that we see on every airplane. In 1903, the Wright Brothers completed the construction of a larger plane, powered by their own lightweight gas-powered engine, and returned to Kitty Hawk on December 17, 1903. Four men and a boy witnessed the first flight, a flight which dramatically changed the course of transportation, commerce, communication, and warfare throughout the world.

I hope that the Festival of Flight will educate Americans to the achievement of the Wright Brothers and their contributions to the development of this Nation. I want to join my colleague in urging all of the Members to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. TURNER of Ohio. Mr. Speaker, I want to thank the distinguished ranking member of the Committee on Government Reform for being here for the consideration of this legislation, and I again invite everyone to come to the Wright Dunbar National Park, the United States Air Force Museum, and the National Aviation Hall of Fame as part of the celebration in Dayton.

I have no other speakers. Again, I urge all of the Members to support the adoption of House Concurrent Resolution 162.

Mr. HOBSON. Mr. Speaker, I rise in support of this resolution to honor the city of Dayton, Ohio, and its many partners, for hosting "Investing Flight: The Centennial Celebration," commemorating the 100th Anniversary of Wilbur and Orville Wright's first flight.

It is with great excitement that the U.S. House of Representatives is considering this resolution. It is rare that the United States, or the entire world for that matter, can come together in celebration of one truly historic and life changing event. This event occurred 100 years ago on December 17th, and lasted for an unprecedented 12 seconds. During those 12 seconds, Wilbur Wright sustained the first controlled, powered flight in history.

Events are already in full swing for the Centennial of Flight. The new Huffman Prairie Interpretive Center at Wright-Patterson Air Force Base is now open to visitors, the flying replica of the Wright Brothers original aircraft is making its first flights, and with the support of Congress, the Dayton Aviation Heritage National Historic Park is ready to receive thousands of enthusiastic visitors.

The year promises to hold many special events that will bring national attention and provide a fitting tribute to the aviation pioneers of Ohio. North Carolina can claim the location of the first flight by the Wright Brothers, but it is their hometown that saw the laborious construction and endless testing that are required to allow it to take to the sky.

Best of all will be the main event. I encourage all of you to mark your calendars for July 3 as we begin the festivities to celebrate this great achievement in human history. The entire event will last from July 3 to July 20, 2003, and will be the largest public centennial event in Ohio celebrating the first flight. Additionally, it will be one of only 4 events nationwide endorsed as a full partner by the United States Centennial of Flight Commission.

From the Wright Brothers to today's cutting edge aerospace research at Wright-Patterson Air Force Base, Dayton has a rich aviation tradition that will be evident to all of this year's activities and commemorative events. One cannot help but ponder what the next 100 years will hold for flight, but I am certain that Ohio will continue to play a major role in our ongoing quest to push the limits of air and space flight.

As an Ohioan, I am proud to reside in the same state as the two brothers whose invention changed the world.

Mr. Speaker, I join today with my colleagues, aviation enthusiasts, and people across the country in support of this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, in October 1998, this body passed a bill to establish a commemoration of the centennial of powered flight and the achievements of the Wright Brothers.

The commemoration activities set forth in that bill will come to fruition this year with the Festival of Flight. The Festival of Flight will consist of four events that will be held nationwide to celebrate Wilbur and Orville Wright's first flight.

Wilbur and Orville Wright manned the first successful controlled and sustained powered flight. The Wright Brothers, originally bicycle store owners from Dayton, Ohio, moved to Kitty Hawk, North Carolina for the hills, strong and steady winds, and the soft-sanded ground—ingredients for successful flight.

They went back to Dayton and built a six-foot wind tunnel to conduct experiments with over 200 different wing models. They developed the first reliable tables on the effects of air pressure on curved surfaces, the principles that we use today and that you see on every airplane.

In 1903, the Wright Brothers completed the construction of a larger plane powered by their own lightweight gas-powered engine and returned to Kitty Hawk. On December 17, 1903, four men and a boy witnessed the first flight—a flight which dramatically changed the course of transportation, commerce, communication, and warfare throughout the world.

I hope that the Festival of Flight will educate Americans to the achievements of the Wright Brothers and their contributions to the development of this nation.

I urge my colleagues to support this resolution.

Mr. BOEHNER. Mr. Speaker, I rise today in strong support of H. Con. Res. 162, honoring the City of Dayton, Ohio for its Inventing Flight celebration commemorating the 100th anniversary of powered flight.

In addition to commending Dayton's efforts this year, efforts which actually began back in 1989, we would be remiss if we neglected to pay tribute to the dedication Dayton, the Miami

Valley community, and the military and civilian personnel at Wright Patterson Air Force Base have shown in both preserving Wilbur and Orville Wright's legacy and advancing the dream of human flight.

One hundred years ago, the Wright Brothers made Ohio the "Birthplace of Aviation." It was in their bicycle shop in Dayton, now part of the Aviation Heritage National Historical Park, that the Wright Brothers researched and designed the first successful, heavier-than-air, manned, powered aircraft. It was there in Dayton, on the Huffman Flying Prairie, where the brothers learned to fly—where they learned to control and maneuver their aircraft.

Today, the tradition of the Wright Brothers lives on in the Dayton community. Engineers, scientists, and inventors continue to research, develop, and test the latest advances in airpower at the Wright Patterson Air Force laboratories. At the Air Force Institute of Technology, they learn the technical skills to build the aircraft of the future. At the United States Air Force Museum, three hangars attest to the commitment the community has to preserve the history of the Air Force and its contributions to the advancement of powered flight.

July 3, 2003 marks the beginning of the month-long Inventing Flight activities, transforming Dayton into an international hub of aviation entertainment. The Centennial Celebration, the largest public centennial event in Ohio celebrating the first powered flight, is one of only four nationwide events endorsed as a full partner by the United States Centennial of Flight Commission. The Centennial Celebration includes the Dayton Air Show at the Dayton International Airport. This year's show will include an unprecedented joint appearance by all three North American jet demonstration teams: the Air Force Thunderbirds, the Navy Blue Angels, and the Canadian Forces Snowbirds.

I am proud to represent communities working so tirelessly to preserve and promote powered fight, a community where the Wright Brothers lived, dreamed, invented, and perfected man's first powered aircraft. In Dayton, the legacy of aviation is celebrated for its critical contributions to the economy, to business and personal travel, and to our military. I salute Dayton' legacy and extend an invitation to everyone throughout our country to visit this city and all of the Southwest Ohio and to join the celebration where Imagination Takes Flight.

Mr. GILLMOR. Mr. Speaker, today, I rise in support of H. Con. Res. 162, a resolution honoring the City of Dayton, Ohio for its celebration of Wilbur and Orville Wright's first flight in 1902. This important resolution is supported by the entire Ohio delegation.

From military aircraft to NASA shuttles, these brothers are responsible for the foundation of the modern aviation industry and they deserve our gratitude. In their hometown of Dayton, the brothers worked in a bicycle shop, which would become their aviation laboratory. Although they were not the first to conceive a fixed-wing aircraft, their tinkering eventually led them to design the first craft that could be controlled. Aircraft, robots and even submarines rely upon the principles the brothers developed to control yaw, pitch and roll. Their innovations have allowed our world to become connected by rapid air travel.

Today, the City of Dayton, and the State of Ohio, remain an important aviation center, with Wright-Patterson Air Force Base and NASA facilities Glenn and Plum Brook Station near my district.

I want to thank my colleague for introducing this important resolution and the City of Dayton.

Mr. TURNER of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 162.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 763) to designate the Federal Building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

The Clerk read as follows:

S. 763

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE.**

The Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, shall be known and designated as the "Birch Bayh Federal Building and United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the Birch Bayh Federal Building and United States Courthouse.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from Indiana (Ms. CARSON) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 763, which is identical to H.R. 1082 introduced by the gentlewoman from Indiana (Ms. CARSON), designates the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana as the "Birch Bayh Federal Building and United States Courthouse." This bill has the bipartisan support of the entire Indiana delegation.

Senator Birch Bayh was born in Terre Haute, Indiana in 1928 to schoolteachers; and it is from them that he inherited an ethic of public service. Upon graduation from high school, Senator Bayh volunteered for and served in the United States Army from 1946 to 1948.

Upon his return, he attended and graduated from the Purdue University School of Agriculture at Lafayette in 1951. This education served him well, since throughout his long career, he always found time to work on and oversee the family farm, growing corn and soybeans for more than 4 decades.

Senator Bayh's political career began in 1954 when at the age of 26 he was elected to serve in the Indiana House of Representatives. While serving in that body, he served as Speaker in 1959 and as Democrat floor leader in 1957 and 1961. Despite these responsibilities, he also found time to attend and graduate from Indiana University School of Law in 1960 and was admitted to the bar in 1961.

In 1962, at the age of 34, Senator Bayh entered the United States Senate where he served three terms from 1963 to 1981. While in the Senate, he served as chairman of the Senate Select Committee on Intelligence, worked with the CIA, the National Security Agency, and the FBI. He also was a member of the Appropriations Subcommittee on Transportation, where he called for and funded efforts to build the District of Columbia's Metro subway system and to modernize the Amtrak rail system.

Senator Bayh is best known as chairman of the Constitution Subcommittee where he authored two amendments to the Constitution: the 25th amendment on Presidential and Vice Presidential succession, and the 26th amendment, which lowered the voting age from 21 to 18 years of age.

This is a fitting tribute to a dedicated public servant. I support this legislation and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. CARSON of Indiana. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from New Mexico.

Mr. Speaker, Senate bill 763 is a bill that designates the Federal Building and United States Courthouse in Indianapolis, Indiana as the Birch Bayh Federal Building and United States Courthouse. Our senior Senator from Indiana, Senator LUGAR, who heads the Foreign Relations Committee in the Senate, was so kind and gentle enough to usher Senate bill 763 through the

United States Senate. I had introduced the House version of this bill, H.R. 1082, which is cosponsored by the entire Indiana delegation.

Born to two schoolteachers in Shirkeyville, Indiana, but also called Terre Haute, Shirkeyville on January 22, 1928, he began his political career at the young age of 26 with his election to the Indiana House of Representatives in 1958. Having been a citizen of that State for many years, I grew to admire and respect the kind of leadership that the Senator displayed in the Indiana House of Representatives. Senator Bayh rose to become minority leader in 1957 and then went on to become Speaker of the House in 1959.

In 1962 he entered the United States Senate and distinguished himself on the Subcommittee on the Constitution of the Committee on the Judiciary. His expertise in constitutional law led him to author two amendments to the Constitution, the 25th amendment on Presidential and Vice Presidential successions which was ratified in 1967, and the 26th amendment lowering the voting age from 21 to 18 years of age, which was ratified in 1971. No lawmaker since the Founding Fathers has successfully authored two amendments to the United States Constitution.

In addition to his constitutional work, Senator Bayh wrote landmark legislation on behalf of women. He authored Title 9 of the Higher Education Act, which provided equal opportunities for women, students, and faculty. He also worked diligently on the Juvenile Justice Act and played an integral role in the passage of the landmark Civil Rights Act of 1964 and the Voting Rights Act of 1965.

At present, Senator Bayh is a partner in the Washington, D.C. law firm of Venable, Baetjer, Howard and Civiletti.

As a member of the Government Division's Legislative Group, he counsels corporate interests with business before all three branches of government, helping them to affect pending law, build coalitions, advance their causes, and to ensure that their voices and interests are considered in the public dialogue.

Senator Bayh also continues to work on behalf of his long-held passions of education, citizens' rights, and the fight against bias, bigotry, and racism in America. Senator Birch Bayh is respected and admired throughout the State of Indiana and the Nation as a man of dedication and unwavering principles.

□ 1430

This designation, Mr. Speaker, is a most fitting tribute to the outstanding career of a devoted and thoughtful and committed public servant.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of S. 763, a bill to designate the federal building located at 46 East Ohio St. in Indianapolis as the "Birch Bayh Federal Building and United States Courthouse." This bill has strong bipartisan support and each member of the Indiana delegation is a cosponsor. The bill was also introduced during the last Congress, but unfortunately, it stalled at the end of the last term. I urge the 108th Congress to enact this legislation so that we may properly honor Birch Bayh.

Birch Bayh was born on January 22, 1928, in Terre Haute, Indiana. He attended public schools in Indiana and joined the Army in 1946. In 1954, he was elected to the Indiana House of Representatives where he served for eight years, including terms as Minority Leader and later, as Speaker of the House. He is a graduate of both Purdue University and the Indiana University School of Law.

In 1962, when he was only 34 years old, Birch Bayh was elected to the first of three terms in the U.S. Senate. Senator Bayh quickly became a leader on issues of education, equal rights, and Constitutional law. As Chairman of the Constitutional Subcommittee of the Senate Judiciary Committee, Senator Bayh authored two amendments to the Constitution: the 25th Amendment, which sets forth the order of Presidential succession, and the 26th Amendment, which lowers the voting age from 21 to 18 years of age. It should go without saying that authorship of two constitutional amendments is a remarkable achievement. In addition, Senator Bayh was a strong supporter of two landmark pieces of legislation—the 1964 Civil Rights Act and the 1965 Voting Rights Act. He was also highly instrumental in enacting the Juvenile Justice Act, which mandates the separation of juvenile offenders from adult prison populations.

Throughout his career, Senator Bayh was a strong champion for the rights of women, children, and minorities. He authored Title IX to the Higher Education Act, which ensures equal opportunities for women students and faculty in our Nation's schools. One result of this legislation is that women's sports teams have been given unprecedented opportunities to excel. To give just one example, the University of Minnesota-Duluth women's hockey team has excelled in the sport and has won the past three consecutive NCAA championships. It is proper that, as we honor Senator Bayh today, we should remember his commitment to equal opportunity and ensure that the Title IX funding mandates remain strong, especially in light of recent proposals to undercut this important piece of legislation.

Since leaving the Senate in the 1980s, Senator Bayh has continued his commitment to public service. He serves as a member of the William Fulbright Foreign Scholarship Board, National Institute Against Prejudice and Violence, and the University of Virginia's Miller Center Commission on Presidential Disability and the 25th Amendment.

I urge my colleagues to support S. 763 and to honor the contributions of Senator Birch Bayh to his home state of Indiana and to our Nation.

Mr. VISCLOSKY. Mr. Speaker, I first came to know Senator Birch Bayh following his election to the United States Senate in 1962, through my father, John Visclosky, the former Mayor of Gary, IN. My father has always had a deep respect and strong feelings towards Senator Bayh. Later, as a Member of Congress, I have always considered Senator Birch Bayh a friend and a mentor. As a citizen, I am grateful that he chose a life of public service.

We will forever be served by Senator Bayh through the two changes he authored to, what I consider one of the greatest documents ever written, the Constitution. Senator Bayh amended the document first by authoring the Twenty-Fifth Amendment, which created an orderly transition of power in the case of the death or disability of the President and a method of selecting a Vice President when a vacancy occurs in that office. Later, Senator Bayh authored the Twenty-Sixth Amendment, which lowered the voting age from 21 to 18 years old. To think of Birch Bayh improving this document not once but twice is breathtaking, but expected from such a unique person. The structure of the Constitution had not been so impacted by a single lawmaker since its creation by the founding fathers.

Throughout his career, Senator Bayh always remembered that he was working for the people, especially those who were never given a fair chance in life. Senator Bayh fought hard for those who wanted an honest days work at a living wage in order to support their families. For instance, he fought hard and was successful in obtaining crucial funding for a railroad track rehabilitation program that put thousands of unemployed workers back on the job, and improved our nation's infrastructure.

Senator Bayh is a person who developed every talent that God gave him to serve others and is a person of deep compassion and caring. He is also a person who never lost his perspective on life, is fun to be with, and who can always make you laugh. My father would describe Senator Bayh as a "100 percent guy." I would too, and I congratulate him on this great honor.

Ms. CARSON of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the Senate bill, S. 763.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PEARCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 763.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 2 o'clock and 31 minutes p.m.), the House stood in recess until approximately 6:30 p.m. today.

□ 1830

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. OSE) at 6 o'clock and 30 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1610, by the yeas and nays;

H. Con. Res. 162, by the yeas and nays; and

S. 763, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

## WALT DISNEY POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1610.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and pass the bill, H.R. 1610, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 384, nays 0, not voting 50, as follows:

[Roll No. 249]

YEAS—384

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—50

Ackerman
Baird
Baker
Becerra
Berkley
Bishop (UT)
Brown (OH)
Brown, Corrine
Burr
Conyers
Cox
DeMint
Dingell
Eshoo
Fattah
Ford
Gallegly
Gephardt
Gilchrest
Greenwood
Grijalva
Gutierrez
Houghton
Istook
Janklow
Jenkins
Kennedy (RI)
Kilpatrick
Lantos
Larson (CT)
LaTourette
Lipinski
Mollohan
Nadler
Nethercutt
Pryce (OH)
Reyes
Rush
Sanders
Shimkus
Simpson
Smith (MI)
Smith (WA)
Stark
Sweeney
Taylor (NC)
Toomey
Towns
Weiner
Young (FL)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1851

Mr. OLVER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## HONORING DAYTON, OHIO, AND ITS MANY PARTNERS FOR HOSTING "INVENTING FLIGHT: THE CENTENNIAL CELEBRATION"

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 162.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 162, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 378, nays 3, not voting 53, as follows:

[Roll No. 250]

YEAS—378

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)

Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

### NAYS—3

Ballenger
Coble
Hayes

### NOT VOTING—53

Ackerman
Baird
Baker
Becerra
Berkley
Bishop (UT)
Brown (OH)
Brown, Corrine
Burns
Burr
Conyers
Cox
DeMint
Dingell
Eshoo
Fattah
Ford
Gallegly
Gephardt
Gilchrest
Greenwood
Grijalva
Gutierrez
Houghton
Istook
Janklow
Jenkins
Kennedy (RI)
Kilpatrick
Lantos
Larson (CT)
LaTourette
Lipinski
Mollohan
Nadler
Nethercutt
Pryce (OH)
Regula
Reyes
Rush
Sanders
Serrano
Shimkus
Simpson
Smith (MI)
Smith (WA)
Stark
Sweeney
Taylor (NC)
Toomey
Towns
Weiner
Young (FL)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1859

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 763.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the Senate bill, S. 763, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 0, not voting 51, as follows:

[Roll No. 251]

### YEAS—383

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering

Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

### NOT VOTING—51

Ackerman
Baird
Baker
Becerra
Berkley
Bishop (UT)
Brown (OH)
Brown, Corrine
Burr
Conyers
Cox
DeMint
Dingell
Eshoo
Fattah
Feeney
Ford
Gallegly
Gephardt
Gilchrest
Greenwood
Grijalva
Gutierrez
Herger
Houghton
Istook
Jenkins
Kennedy (RI)
Kilpatrick
Lantos
Larson (CT)
LaTourette
Lewis (GA)
Lipinski
Mollohan
Nadler
Nethercutt
Pryce (OH)
Reyes
Rush
Shimkus
Simpson
Smith (MI)
Smith (WA)
Stark
Sweeney
Taylor (NC)
Toomey
Towns
Weiner
Young (FL)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1915

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcalls 249, 250, and 251. Had I been present, I would have voted "yea" on each of those rollcalls.

## PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I regret that I could not be present today, Monday, June 9, 2003, to vote on rollcall vote Nos. 249, 250, and 251 due to a family medical emergency.

Had I been present, I would have voted: "yea" on rollcall vote No. 249 on H.R. 1610, to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, MO, as the "Walt Disney Post Office Building"; "yea" on rollcall vote No. 250 on H. Con. Res. 162, honoring the city of Dayton, OH, and its many partners, for hosting "Inventing Flight: The Centennial Celebration", a celebration of the centennial of Wilbur and Orville Wright's first flight; and "yea" on rollcall vote No. 251 on S. 763, to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, IN, as the "Birch Bayh Federal Building and United States Courthouse."

## PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, official business prevents me from being present for legislative business scheduled for today, Monday, June 9, 2003. Had I been present, I would have voted "yea" on the following rollcall votes: H.R. 1610, to redesignate the post office located in Marceline, MO as the "Walt Disney Post Office Building," rollcall No. 249; H. Con. Res. 162, honoring the City of Dayton, OH for hosting "Inventing Flight: The Centennial Celebration," rollcall No. 250; and S. 763, designating the "Birch Bayh Federal Building and United States Courthouse," rollcall No. 251.

□ 1915

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2143, UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–145) on the resolution (H. Res. 263) providing for consideration of the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## BRINGING AMERICAN PHARMACEUTICAL PRICES DOWN TO COMPETITIVE LEVELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, once again I rise tonight to talk about the high cost of prescription drugs here in the United States, and especially the high cost relative to what the rest of the industrialized world pays for the same drugs.

I have told this story to many of my colleagues repeatedly about how about a month ago we went to Munich, Germany, and bought a list of 10 of the most commonly prescribed drugs in America. The total price tag for all 10 of those drugs compared to the average price here in the United States is about triple. It is more than double what we pay in the United States.

I have used the example of this drug, and this is the actual drug, Tamoxifen, one of the most popular, most effective anti-breast cancer drugs ever developed. The interesting thing is that the National Institutes of Health, using taxpayers dollars, paid for most of the research. What makes us even more upset is not just that the American taxpayer paid to develop the drug, but the difference now between what American consumers have to pay for this drug compared to the rest of the world.

This drug, for example, we bought at the Munich airport pharmacy for $59.05 American. To put that in context, this drug sells at pharmacies here in Washington, D.C., for $360. In other words, to round off the numbers, $60 in Germany, $360 in the United States. Worse than that, the American taxpayers paid for the research.

Like Will Rogers, though, all I know is what I read in the newspaper, and this weekend in The Washington Post there is a very compelling story. What it essentially says is it is not just Tamoxifen any more. In fact, let me just read for you from essentially what is a GAO study.

The headline is, "U.S. Netted Little From Cancer Drug, GAO Reports."

"The U.S. Government spent hundreds of millions of dollars to help develop Taxol, the best-selling cancer drug ever, but failed to get much money back on its investment, according to a government report issued yesterday.

"Drug maker Bristol-Myers Squibb earned $9 billion from Taxol, which has been used to treat 1 million cancer patients, but the National Institutes of Health received only $35 million in royalties, the Government Accounting Office found."

Now, on top of that, Medicare has spent over $687 million on Taxol, so there are more taxpayer dollars going into Taxol.

Finally, the report says, and I am shortening it down to the bottom, but if you want a copy we will have this up on our Web site by sometime tomorrow afternoon, but the bottom line is the GAO, the investigative arm of Congress, said that the NIH spent $484 million in research on Taxol through 2002.

Mr. Speaker, we subsidize the pharmaceutical industry in three separate ways.

First of all, we subsidize it on all the money we spend on basic research. I am proud of the fact that here in Congress, the NIH, the National Science Foundation, even DOD, we will spend this year about 29 billion taxpayer dollars on various kinds of basic research.

Much of that research goes to benefit the pharmaceutical industry. So we subsidize them through the basic research we pay for them.

Secondly, we subsidize them through the Tax Code. They receive very generous tax benefits for the research we do.

Finally, and what disturbs us the most, is we subsidize them in the prices we pay. Americans pay far more than the rest of the industrialized world for prescription drugs.

I believe Americans should pay their fair share. I think we should be willing to subsidize Sub-Saharan Africa, but I do not think we ought to have to subsidize the starving Swiss.

Americans deserve world-class drugs at world market prices. I hope Members will support my bill, which I hope to introduce later this week, to open up American markets to foreign competition to bring prices down to reasonable levels so that all Americans can afford them.

## EXTENDING THE CHILD TAX CREDIT TO ALL CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, once again, I rise to urge the Republican leadership of this House to bring legislation to the floor which would create the expansion of the child tax credit for many, many more families in America. Last week, many of us spoke on this floor urging the Congress to act, to act for America's children, to act for America's working families. The Senate has acted; and now the main obstacle, indeed the only obstacle to those children having the benefit of the tax credit, is the Republican leadership in the House.

Today, Senator DASCHLE, the distinguished minority leader in the Senate, and I sent a letter to the President thanking him for expressing his support for expanding the child tax credit. Unfortunately, again the Republican leadership in the House is blocking consideration of this vital legislation.

The President's immediate intervention with House Republicans is required to ensure that 12 million working and military families are eligible for the child tax credit. These families need the money now, but this tax relief will not be made available to them apparently unless the President intervenes and urges the Republican House leadership to pass this extension immediately.

How can we pass a tax bill that gives nearly $100,000 in tax cuts to people making over $1 million a year, $100,000 tax cut to those making $1 million a year, and yet say to people in our country who make the minimum wage, your children are not worthy of a $400 expansion of the tax credit?

How do we say to our men and women in uniform, whose courage and patriotism we salute on a regular basis on this floor, how can we say to them we appreciate your courage, your patriotism and the sacrifice that you are willing to make for our country, but your children are unworthy of receiving the expansion of the tax credit because your military pay is not enough to qualify you for this tax cut?

Putting money into the hands of these working and military families will help increase demand in our economy, creating jobs and stimulating the economy. There is a very practical and economic reason to do this, in addition to just a sense of decency and doing what is right for America's children.

Because of the economic benefits and the fact that it is the right thing to do, the bill passed the Senate last week 94 to 2. But this week the bill is nowhere in sight.

We want this freestanding bill to come to the House of Representatives. We want the House Republicans to stop their opposition to this tax relief for America's children. We want them to stop refusing to bring it to the floor of the House.

Asking millions of working families who need the tax credit to help make ends meet in this stagnant economy, to sacrifice in order to pay for additional tax breaks for those who need it least is simply not right. Approximately 250,000 children of our men and women in uniform are being deprived of the expansion of this $400 tax credit in order to pay for a tax cut for millionaires in our country. I do not think it is an appropriate way to go.

Who is looking after the children in our country? Clearly it is the Democrats.

## LOWERING THE COST OF PHARMACEUTICAL DRUGS FOR AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I would like the gentleman from Minnesota (Mr. GUTKNECHT) to join me in this small 5-minute Special Order. He just read part of an article in The Washington Post about pharmaceutical products that are manufactured in part with taxpayers money, where the pharmaceutical industry is making billions and billions of dollars while the taxpayer is getting virtually nothing back in return. The American people are paying exorbitant prices for these pharmaceutical products as compared to the rest of the world.

When these products are imported by Americans when they go up to Canada and buy these products, either through the Internet or go to Canada, when they bring them home to use them because they cost one-tenth, one-fifth, or one-half of what they would cost in the United States, the Food and Drug Administration, our regulatory body, says there is a question of safety; and they actually try to block or stop the reimportation of these pharmaceutical products, where the research is paid for in large part by the taxpayers of this country.

So I would like to ask the gentleman from Minnesota (Mr. GUTKNECHT), maybe he can enlighten me on this subject. Why is it that the Food and Drug Administration is not investigating why the pharmaceutical industry is manufacturing these products with taxpayers' money, or conducting the research with taxpayers' money, making these exorbitant profits, and the money that is given back to the taxpayer in royalties in this country is very nominal, almost nothing, compared to the $9 billion the gentleman cited? Why is it the FDA is not investigating this, instead of stopping the American people from getting these pharmaceutical products at a reasonable price?

Mr. GUTKNECHT. Mr. Speaker, if the gentleman would yield, I cannot answer that question; but I think it is the question that we in Congress should try to get the answer to.

Why is it that the FDA is investigating little old ladies trying to save money on Tamoxifen? I spoke recently to the Pharmacists Association, and I asked them, how many of you have had this experience, where an elderly person comes into your pharmacy, hands you a prescription. You tell them how much this prescription is going to cost, and their head drops, and they go, oh, well, I will come back tomorrow. Because we know from research done by the Kaiser Foundation, 29 percent of seniors in America are saying that they have prescriptions that go unfilled because they cannot afford them.

□ 1930

And the answer is, the FDA is not investigating companies that make $9 billion off of Federal taxpayer research; no, they are not investigating them, they are investigating little old ladies, treating them as common criminals.

Mr. BURTON of Indiana. Yes. And the question that comes up is why they are not doing that. They are supposed to protect the American consumer and they are supposed to make sure the American consumer gets a fair deal, and it is simply not happening.

I would like to just read from what the gentleman read, real quickly. Squid made $9 billion from Taxol. Bristol-Myers Squibb, and it has been used to treat 1 million cancer patients, but the National Institutes of Health got only $35 million back in royalties. Squibb made $9 million and they only gave $35 million back. for the research money that was paid for by the taxpayer. And then down at the bottom it says the GAO, the investigative arm of Congress, said NIH spent another $484 million in research on Taxol through 2002. So the taxpayers paid for all of this research, but Squibb is making all the money and the taxpayer is getting nothing for it, except a shot in the jaw when they try to buy this product from another country where they can get it cheaper. It makes no sense to me.

Mr. GUTKNECHT. It makes no sense to me. It is really time for us as Members of Congress to do something about it.

Mr. BURTON of Indiana. Mr. Speaker, I want to join the gentleman and some of our other colleagues, a growing number of our colleagues, in demanding that the GAO do an entire study of this to find out why the American people are being ripped off by the pharmaceutical companies when, in large part, the taxpayer is paying for that research. It makes no sense to me. And why is the FDA, why is the FDA protecting the pharmaceutical industry? It is something that should not be tolerated.

Any other comments from my colleague?

Mr. GUTKNECHT. Well, the FDA is also responsible for all of the fruits and vegetables coming into the country. The issue they raise is safety, yet we import 318,000 tons of plantains that come into our borders, through our borders every year, and we do almost no investigation. We are much more likely to get sick from fruits and vegetables than we are from legal prescription drugs from FDA-approved facilities around the world.

Mr. BURTON of Indiana. In fact, we found zero on the importation from Canada, we found zero problems with the reimportation, and yet they say it is the safety they are concerned about. It does not make any sense.

I thank the gentleman for all of his hard work.

## HOUSE LEADERSHIP NEEDS TO GET THE MESSAGE

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, 3 weeks ago, when the Republicans in the House and the Senate were getting together to decide the final version of the tax bill, under the direction of Vice President CHENEY, they made a very bad decision. They made a decision that families with children who earn between $10,000 and $26,000, a year who currently get a portion of the child tax credit, would not get the increase that this bill provides for families with children, a $400 increase for many, many Americans per child that they will get checks this July. For whatever reasons, and we think we know why, because they used that money to provide additional tax cuts to the wealthiest people in this country; had they given this tax cut to these families between $10,000 and $26,000 a year, to those 12 million children, people like Mr. CHENEY, instead of getting $93,000, would have gotten $88,000. But they chose instead to take $93,000 and these children did not get the tax credit.

This tax credit is terribly important to these families. What the Republicans fail to understand is that many of these families are people who the Republicans accused of being on welfare, they have accused them of not participating, but these families get up and go to work every day and they work in difficult jobs, and they work in jobs that not a lot of people want to have. And at the end of the year, they end up basically poor. So one of the things this government did a number years ago was create the child tax credit. And a number of things we did in the last administration was to make it refundable so that we can make sure that those people would continue to have an incentive to stay in the work force.

Now, if the Republicans do not like the child tax credit, one of the things they could do is they could increase the minimum wage. They could make it easier for these families to earn more money. They would get less tax credit. But the Republicans do not want to increase the minimum wage. They do not want to provide those children health care. They do not want to provide them a tax credit, and yet, somehow, these people, they are not deserving of this effort.

It was a horrible decision they made. But now we see as that decision has come to light, as the bright light of public awareness is focused on that, last week we saw the Senate, when they realized how upset the country was, how unfair people felt this was, the sense of economic injustice that reigned in the country, that these people would not be taken care of in a tax bill that is going to spend $350 billion, they could not take care of these people for $3 billion. The Senate, on a bipartisan basis, voted overwhelmingly to correct this injustice. They passed a bill in the last days of last week to send over to the House to correct this and to give these individuals the tax credit that they should have for their children, for these families who are working very hard, and even to extend it to some individuals in higher incomes.

But yet, what do we see the reaction of the Republican leadership in the House of Representatives, is that they are not going to do this bill. They want to hold these children, they want to hold these families hostage for some other tax cut that they can give to people who may be far less deserving than these children and these families. But they want to hold it hostage so that they can unite it with something they were talking about last week in terms of a $100 billion bill or more.

These children and these families are entitled to get those checks in July just like every other family in America. It is important to our economy, it is important to the recovery of our economy, and it is important to the wherewithal of these families as they struggle to hold themselves together at low wages.

So the Republicans in the House and their leader, the gentleman from Texas (Mr. DELAY), the majority leader who has said he does not want to do this, that he was not going to take the bill, they must relent. They must relent for the benefit of these families and for the benefit of our economy.

Today, the President of the United States said he likes the Senate bill. He wants to work to see it passed. The President of the United States got the message. The Senate got the message. The Senate Republicans got the message, the Senate Democrats pushed for it, and were successful. And now what do we see? That it is the House Republicans that somehow cannot get the message that this is a matter of fairness, it is a matter of equity; that these people have played by the rules and they ought to be treated like every other American family with children. The time has come for the majority leader, the gentleman from Texas (Mr. DELAY), to step aside and let this bill be passed this week so these families can get their checks in July to help them with this economy.

## HOUSE REPUBLICANS SHOULD FOLLOW SENATE LEAD AND PASS CHILD TAX CREDIT LEGISLATION FOR WORKING FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I am coming to the House floor this evening to urge the Republican leadership to follow the Senate's lead and immediately approve the legislation that will provide a child tax credit to 12 million children, the children Republicans left out of their tax bill last month.

Included amongst these 12 million children are the children of U.S. military families. A report out last week showed nearly 1 in 5 children of active duty U.S. military families will not benefit from the increased tax credit because their parents earn too little to qualify.

Now, last week, Madam Speaker, Senate Republicans worked with Democrats to expand the child tax credit to the 12 million children they initially left out. And talk about a tale of two Chambers. While Senate Republicans were negotiating with Democrats to craft the bipartisan compromise, Republican leaders here in the House showed nothing but ambivalence towards the terribly unfair treatment of these working families. Madam Speaker, this House should follow the Senate's lead and immediately approve legislation extending the child tax credit to working families.

I hope that my Republican colleagues will follow the lead of their colleagues in the Senate and not their own leadership here in the House. Just last week, the House majority leader, the gentleman from Texas (Mr. DELAY), and many of us have mentioned it, said he would not bring up a legislative remedy to this injustice, and he justified this inaction by saying, "There are a lot of other things that are more important than that." Well, I do not agree with him, and I have to say I hope that Republicans in the gentleman from Texas (Mr. DELAY's) own party recognize the injustice.

Last week, conservative syndicated columnist Arianna Huffington said in the Los Angeles Times: "A magnetic compass always points north; a moral compass should always point out that heaping billions on the rich while ensuring that 1 out of 6 American children do not get a penny is dead wrong." Conservative Arianna Huffington continued: "But that's exactly what congressional Republicans did in pushing through tax cut legislation last month, and that's what President Bush signed off on."

When hearing about the provision being pulled from the bill and the impact it would have on 1 in every 5 active duty military families, Republican Senator JOHN MCCAIN said, "My God, what kind of message are we sending when we leave out low-income families, exactly those who are in that category of the enlisted men and women who are fighting for us today in Iraq? It is beyond belief."

It truly is.

White House Press Secretary Ari Fleischer probably explained it best when he said: "Does tax relief go to people who pay income taxes, or does it go above and beyond the forgiving of all income taxes, and you actually get a check from the government for more than you ever owed in income taxes?" That is what the House majority leader, the gentleman from Texas (Mr. DELAY) is saying. He basically is backing up Fleischer's claims and he says, "To me, it is a little difficult to give tax relief to people who do not pay income tax."

Well, it is simply not true. These people do pay taxes. What the President's secretary and the gentleman from Texas (Mr. DELAY) forget is that these workers pay Federal taxes. Madam Speaker, 7.65 percent of their earnings go to pay for Social Security and Medicare. These hardworking parents also pay State and local taxes as well.

But beyond the issue of whether they pay or not, and they do, it is just the issue of simple fairness. How can the Republicans say it is fair to give a millionaire a tax break of more than $90,000 while giving nothing to millions of working families? I do not understand how they even could conceive of such a thing.

Now, after realizing that the Republicans had left this provision out of their final tax bill, several of my Democratic colleagues introduced a bill early this week that would repair the damage from this irresponsible tax package. The gentleman from New York (Mr. RANGEL) has introduced legislation with many Democratic sponsors that would provide greater tax relief to the families of 19 million children, and the legislation is fully paid for, so it would not add to the record deficits created by the President and the Republicans in Congress.

Last week we Democrats in the House said we would not allow business to continue as usual around here until Republicans agreed to address the Rangel legislation. We did some procedural motions and we will continue to do that this week until the Republican House leadership stands up and says that they are going to pass this legislation.

I just do not understand where they are coming from. I do not understand how they can be so crass and so really unfeeling about these low-income working families. Obviously everybody else here agrees: The President now today, the Democrats, and the Republicans in the other House. The only thing that is holding us up here on this is the House Republican leadership. They have to stop this attack on low- and middle-class families. They have to stop this attack, bring it to an end, pass this legislation. Let us bring it up and pass it immediately.

## COMMEMORATING THE 100TH ANNIVERSARY OF THE VILLAGE OF LYNDON STATION, WISCONSIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

Mr. KIND. Madam Speaker, this July the village of Lyndon Station, Wisconsin, in the heart of my congressional district, will be marking its centennial celebration. This beautiful, tranquil village lies in eastern Wisconsin and is surrounded by some of America's richest farmland. The village of Lyndon Station is a jewel in the crown of Juneau County. This community has been a primary contributor to the region's settlement, development of the timber industry, expansion of agriculture, and a hub of community trade and commercial growth for over 100 years.

The first settlers were native Americans who used the banks of what is now called Lyndon Creek to camp and hunt the abundant wildlife in the mixed prairie-woodland of this region. The first European settlement of the present village site was in 1849. Three brothers and two sisters of the Havey family arrived in this area to start a new life, having immigrated from Kildare, Ireland during the worst years of the potato famine. They settled near the present village location and were the beginning of a wave to discover the fertile soils of central Wisconsin.

Other settlers soon followed and established land claims in and near the growing village which became known as Kildare. In 1857, the Chicago, Milwaukee and St. Paul Railroad spurred new life into the area when it built a railroad station as it pushed its lines of commerce further west.

□ 1945

By 1870, the name Kildare Village was changed to Lyndon Station Village since the name Kildare was already being used for the township. There has been much speculation as to the origin of the name Lyndon, and it still remains a mystery; but such a mystery only adds to the community's charm. In 1903, Lyndon Station was officially incorporated as a village in the State of Wisconsin, even though the name had been on maps for nearly half a century.

The Lyndon Station Village Centennial celebrates the best of rural America. There are thousands of small rural communities across this Nation that form the backbone of rural life. These communities are the incubators of local politics, of commerce and education, recreation, entertainment, and faith for our rural neighborhoods.

Collectively, the hardworking citizens of small-town America are the builders of our great Nation. I am proud to congratulate the citizens of Lyndon Station Village on their 100th anniversary. I believe that it is important to recognize their unique contribution to the development of central Wisconsin and wish them happiness and prosperity during the next 100 years.

## QUIBBLING ABOUT PAYMENTS TO IRAQIS IN NO-SHOW JOBS

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Madam Speaker, today the headline in The New York Times reads: "Iraqis are out of jobs, but payday still comes."

With the administration's and the President's blessings, 200,000 Iraqis, employees of the government ministries and government-owned companies, are being paid $20 a day for no-show jobs. They do not work. They are getting paid $20,000 a day by the American taxpayers. They do not work.

Let me read from the article. The story describes how "mechanics linger listlessly around machines that don't run; clerical employees wait for assignments that never come. Most don't even bother to show up at all, except on payday," to collect their $20. There are 200,000 Iraqi people being paid $20 a day for no-show jobs. Now, I come from Chicago, and I know a couple party bosses in Chicago that would be really envious about 200,000 getting paid $20 a day for no-show jobs. They do not have to do anything, and they do not have to show up except for payday.

What is interesting is if we do the math, these families in Iraq are getting about $1,000, equal to what we are asking for the children and their working parents here in America; for hardworking people who pay taxes to get as a child tax credit the same that this Iraqi citizen who has never worked, is not working, is getting, with the American taxpayers footing the bill for $1,000 for their no-show job.

I go on to read from the article. According to one American official, an American official working for the government, working for the taxpayers of this country, for the U.S.-led administration in Iraq, he says, "This is going to continue for a good while. Nobody is going to quibble about paying a few more dinars into this economy to get things moving."

Well, this person is going to quibble. I do not know where we come off paying $20 a day to somebody who does not do any work, does not show up. Yet we have hardworking Americans who are trying to raise their children, who are trying to do right by their children, trying to raise them with the right values, to know the difference between right from wrong; and they are going to deserve a tax credit just like every other child in America. They are America's children, too.

Now, if we can find the good will to pay these Iraqis $20 a day for no-show, coming to about $1,000, which is the same amount as we are asking for a child credit for 6½ million American families, they would get $1,000 per child, it would be the same amount as the Iraqi citizens.

If they do not have a quibble there, I do not have a quibble here. But I have a quibble if we are going to give these people $20 a day for no-show, $1,000 in the last 2 months, and we cannot find the wherewithal to give 6.5 million American families, 12 million American children, the same tax break other children are getting or other Iraqis are getting.

President Bush, who often says he likes to note that he is a man of his word, who says what he believes and believes what he says, and says what he does and does what he says, "My jobs and growth plan will reduce taxes for everyone," at the signing of the bill the President said, "We have taken aggressive action to strengthen the foundation of our economy so that every American who wants to work will be able to find a job."

Well, we have people who are working who deserve a tax cut. They are not getting a tax cut. We have got 9 million Americans who are unemployed, 6.1 percent. When this administration started, they had 4 percent unemployment. We have got 6.1 percent unemployment now. We have added $3 trillion to the Nation's debt, and 3 million Americans have lost their jobs. As we say back in Chicago, what a deal.

That is what has happened here. We have added $3 trillion to the Nation's debt and 3 million Americans are without jobs. Corporate interests and special interests are getting tax cuts, and the American people are paying with their jobs. Now we are footing the bill for $20 a day for people who do not show up for work, and yet we are denying 12 million American children their sense of economic justice.

If we do not take care of this problem today and take up what the Senate did, 94 Senators, Democrats and Republicans, if we do not take it up, these children's children, these families, Americans, hardworking families trying to do right for their children will be denied the same tax cut that will be provided for those children of other families here in America and have been denied that same $1,000 we are providing for the families in Iraq.

I think it is high time, after 3 million unemployed Americans, 5 million more Americans without health care since when the President took over, $1 trillion worth of corporate assets that have been closed down since this President's economic plan has been adopted, and 2 million Americans walked out of middle class to poverty, I think it is high time we take these 12 million children who are part of 6.5 million families and give those hardworking Americans a tax cut. They deserve the same chance at that dream.

We are going to build a dream for Iraq, a better future for Iraq, one with roads, one with 13 million Iraqis with health care, 4 million Iraqi children will get early childhood education. Yet we are cutting 58,000 Americans from Head Start.

If we are going to do this for Iraq, I call on the Speaker, I call on the President, and I call on the majority leader, who have denied these 12 million children the same economic equality and the same economic vision of a better future tomorrow that we have provided to these Iraqis who are getting $20 a day from the American taxpayer for no-show jobs.

## BILL DESIGNATING POST OFFICE AFTER FRANCISCO A. MARTINEZ FLORES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Madam Speaker, today I rise to introduce a bill designating a post office after Francisco Martinez Flores, a courageous and dedicated Marine from the city of Duarte in California in my congressional district.

Lance Corporal Francisco Martinez Flores demonstrated his courage and his love of our country when he lost his life serving in Operation Iraqi Freedom just 2 weeks before gaining his U.S. citizenship. I take this opportunity not only to pay tribute to Lance Corporal Martinez Flores as a brave and self-sacrificing Marine, but also to remember him as a loving son, brother, a friend to those living in California's 32nd Congressional District.

Known affectionately by his friends and family as "Panchito", Lance Corporal Martinez grew up in the city of Duarte, having emigrated with his family at the age of 3 from Mexico. He attended Duarte High School, where he displayed both his artistic and athletic talents by participating in the high school football team and jazz band.

After graduating from high school in June of 2000, Francisco enlisted in the Marines and was assigned to the First Marine Division Marine Corps Air Ground-Combat Center at Twenty-nine Palms in California. On January 23, 2003, Lance Corporal Martinez Flores was sent abroad to fight in Operation Iraqi Freedom. While only 2 weeks shy of gaining his U.S. citizenship, he was killed in the line of duty near Nasiriyah, Iraq, on March 25, 2003.

After his death, Lance Corporal Martinez Flores was granted posthumous U.S. citizenship on April 6, 2003. He was one of those thousands of lawful permanent residents who volunteered their service to protect the United States by joining the U.S. military.

Lance Corporal Martinez Flores was a strong, noble, valiant man who lost his life to ensure the loved ones he left behind could live in a safer and more secure world. His mother, Martha, stated, "He loved the United States so much. He was from Mexico, but he was fighting for America and its ideals."

My heart and my prayers go out to the family and friends of Lance Corporal Martinez Flores, as well as to all those who have lost their loved ones during these turbulent times. The mayor and city council of the city of Duarte have also expressed their support for naming the post office located at 1210 Highland Avenue in Duarte, California, after Francisco A. Martinez Flores.

I urge my colleagues to join me in recognizing the American ideals of hero Lance Corporal Francisco Martinez Flores, who fought for and defended the spirit that we embody here in this House.

I also want to provide attention to his family, because his family is a working-class family. They work very hard to put food on their table, and I could see where they are going to need a lot of comfort and help and support by this Federal Government. I hope, too, that by the end of the week we also can pay them with the child tax credit that they would need that they would not be eligible for at this time.

So I would ask Members to remember a soldier who gave his life, a soldier who represents a working-class family who dedicated himself to the freedoms that we have. Let us not forget our men and women who serve us and those that are giving their lives as we stand here tonight.

## OFFERING SUPPORT FOR OUR MILITARY AND CALLING FOR CONGRESSIONAL INVESTIGATION OF INFORMATION SUPPLIED TO CONGRESS AND THE ADMINISTRATION REGARDING WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, we have had a very long journey. I think it is important today to first of all again acknowledge the brave men and women who serve us in the United States military; and to add a recommitment to those who are returning home, one, to ensure that they have full health care, whether they remain in the service or they come out as veterans. In addition, I think it is important to add a $1,000 bonus to combat veterans on returning, as they move into either their new lives or remain in the United States military.

I can truly say, Madam Speaker, that whether or not we agreed with the policies of the war in Iraq, as Members of the United States Congress and as Americans there was not one divide relating to our support for the United States military.

Even today, as we begin to analyze the aftermath of Iraq, in my meetings with Arab nations just a month or so ago, leaders of Arab nations, many of them offering to work with the United States in the rebuilding of Iraq, just a few days ago I had submitted into the defense authorization bill an amendment to ensure that small and medium-sized minority- and women-owned businesses are engaged in the opportunity of rebuilding Iraq. We realize that we have a responsibility to that nation, as well as to the troops on the ground.

We can also see that the war is really not over inasmuch as we are seeing the loss of our troops on a daily basis. There is much work to do to rebuild hospitals, roads, bridges, and neighborhoods in Baghdad and other places. We believe it is important to do it together.

But I think we have another challenge, Madam Speaker, that is extremely important. Madam Speaker, I recall the debate on the floor of the House. I stand by my vote. I believe that war should have been the last option and the U.N. inspectors should have been allowed to do their job.

But I know my colleagues who voted for the effort to go into Iraq did it out of conviction and the belief that this Nation was under imminent attack. Again, I say that we did not vote in the constitutional way because this Congress did not vote under article 1 to declare war. I maintain that we still had that hurdle to overcome. But the basis of the vote, the overwhelming vote to go forward was on the intelligence that was given by the intelligence community, not only to this Congress but, I assume, to the administration.

I believe it is imperative, Madam Speaker, that we have a special investigation, a special prosecutor to investigate what the intelligence community and officials knew, what information they gave to Congress, what information they withheld. We need to know for sure what information they had, definitive information, about the weapons of mass destruction. The American people need to know, first of all; the United States military needs to know; the United States Congress needs to know; and certainly all of the families of the loved ones of those who we mourn who lost their lives need to know.

Madam Speaker, I am unsure of what the intelligence community knew. They stand now to say that they have documentation; but 2 months now have gone by, and we have found no weapons of mass destruction.

Many would say we as Members stand on the floor of the House and put ourselves in jeopardy because tomorrow we could find the weapons of mass destruction. I am not in an argument with my government. I hope my government is a government of truth, and whatever they find, it will be in conjunction with the work that they are doing on behalf of the American people.

But it was represented to us that because of the weapons of mass destruction that Saddam Hussein had, this Nation was under imminent threat.

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And so the President used his powers to go forward. Without the declaration of war of this Congress, Members of this Congress cried on the floor of the House because they were so conflicted with the idea that they must do what is right for the American people and go forward with war, because they believed in the information that was given.

In order for this Nation to be a true democracy, for the Constitution to prevail, for us to be a shining example of transparency in this Nation, it is important that we find out the truth. I do not believe we have the truth today. And I think it is imperative that even if Congress investigates this, because we have a one-party government, I think it is imperative that we have a special prosecutor to investigate and/or commission to investigate the tragedy of the war and as well the information that has been given to us.

Madam Speaker, I believe we can do no less to unveil the truth as our troops are fighting for us in Afghanistan and fighting for us in Iraq, as they are offering their lives for the ultimate principles of freedom and justice. It is imperative, again, must I say, that we have the truth. I hope that the administration listens, a special prosecutor, a special independent commission to investigate the existence of weapons of mass destruction and what the intelligence community knew.

## ERASED CHILD TAX CREDITS HURT MILITARY FAMILIES

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Madam Speaker, it is shameful enough that the Republican leadership in Congress has chosen to gamble our children's future on a risky and unsustainable tax scheme such as the one signed into law just a few weeks ago; but what is even more shameful is that Republicans sold out the very men and women who recently fought for our country in Iraq by cutting many of them out of the tax cut. That is right, only hours before Congress was set to vote on President Bush's big tax giveaway, Republicans cut out provisions to expand the child tax credit for working families in order to give the President's wealthy friends a bigger tax cut.

The child tax credit provisions Republicans erased would have benefited millions of working families, including many families of American soldiers, sailors, and airmen just as they returned from war.

Just this weekend we had POW Shoshana Johnson in the Los Angeles area. During the time she was a prisoner of war, her family who lives in my district held a vigil. They tied those beautiful pink ribbons around the trees in the neighborhood so no one would forget that Americans were held hostage and were captives in Iraq.

So it is outrageous, and my outrage grows when I hear members of the Republican leadership suggesting that we are formulating a new welfare program. I am talking about and referring to working families. I am referring to those who have served their country in a land so far away many cannot even find on a map, in a land that did not have any concrete connection to 9–11, in a land that was headed up by a dictator who was not friendly with Osama bin Laden and we supposedly were going to have terrorism. But still, our troops went over under the command of the Commander in Chief, and they did an exemplary job.

This is the reason why we have set up an institute in Los Angeles that will work with the school district and will work with the community and it is an institute named after Shoshana Johnson, called the Institute for Heroism, Endurance and Patriotism. She had a daughter. Should she have been killed, as was rumored, that daughter would be in the care of someone else or maybe a part of the welfare system. I do not know, but she has a strong family. So in the name of the POWs, in the name of our veterans, we must vote to restore the deleted provisions that have helped millions of Americans and their children and our people who are still in Iraq and they have families back home.

Believe me, their incomes currently make them eligible for Federal programs. We must be sure that they too can take advantage of the child tax credit because, indeed, they are working people. We owe it to them. They deserve it.

## AMERICA'S REPUTATION AS PEACEMAKER IS DOUBTED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Madam Speaker, to win the war on terrorism ultimately America must be able to make more friendships and reduce the number of enemies that face us. In places very far from home, friendship is a matter of the heart, and it is a matter of the mind. And thus it was with some dismay that I read a poll last week, the results of which I wish to place in the RECORD tonight, done by the Pew Research Center going and interviewing over 16,000 people across the globe, largely in the Muslim world, but also in Europe and other places, asking them whether they had a favorable opinion of the United States or not. And in the very places where we need to make friends, the numbers are not good.

Take Morocco, a country of 31 million people, where there have been, unfortunately, some terrorist attacks, 73 percent of the people have an unfavorable opinion of the United States. In Lebanon, so key to regional peace, 73 percent of the people have an unfavorable opinion of the United States. In Turkey, where the future remains uncertain, one of our staunchest allies from a military standpoint, but 85 percent of the people with an unfavorable opinion of the United States. That is a country of 67 million people. In Pakistan, where we know there are al Qaeda cells, where we know we have madrasas operating, spewing hate every day and instilling in young children that they should give their lives in the cause of terrorism; a country of 147 million people; 87 percent, 87 percent have an unfavorable opinion of the United States. In Jordan, right next door to Iraq, a country of 5 million people, over 5 million people, 99 percent of the people have an unfavorable view of this country. And in the Palestinian Authority, where we continue to see such great violence, there really is not any support for the United States. In fact, the number shows zero percent favorable rating for the United States.

I must ask the question, how does one make peace in these circumstances, lasting peace? In that regard, I wish to place in the RECORD a really beautiful article written by David Ignatius in The Washington Post last Friday. I will not quote all of it here, but I will just read it to you in part. It was written from the steps of the American University of Beirut, a place I have personally visited, the university in that region that has produced the leaders, the leaders that have tried to make ties to the West.

The writer says he found himself sitting on the steps talking to some of the students whose generation will have to transform our hope for peace into reality. And the most hopeful thing he could say after visiting with them was that they had an understanding of how powerful America is. But the question seems to be in his mind after speaking with the students that we have a long way to go to restore America's credible role as a peacemaker. The students, to put it bluntly, he says, do not believe that America is serious about its values. Suggest to them, for example, that America really wants to advance democracy and freedom in Iraq rather than grab the country's oil and you get smirks and guffaws from the students. For these students, America has come to stand for jobs and income, not human rights. It is a way to get paid, they say. That is why these kids are happy to be going to an American university because it is the best way to get on the global gravy train.

For them, America is a good market, one of the students he talked to said, rather than a place with admirable values. In fact, one of the students told him, might makes right in America, does it not?

We were talking under the main gate, he says, of the American University of Beirut, which is inscribed with the words of its founders: "That they may have life and have it more abundantly." But this is the generous spirit that educated generations of Arab leaders, and for decades the United States has been living off the good will that that helped to create, and it is beginning to wane.

He talks about how former presidents of the American University of Beirut have been killed, have been kidnapped and always live under threat. And yet, students are saying to him today, freedom in America has been abolished. One of the young girls said, Look at civil liberties. They do not exist any more in the United States. He says the degree of cynicism among these students is frightening.

Madam Speaker, as I close my remarks tonight, the writer encourages us to look at our basic values of human rights, of freedom and democracy, and give those precedence in all of our efforts towards peace, not just making money in the marketplace.

[From the Washington Post, June 6, 2003]

### AMERICA'S DOUBTERS IN BEIRUT

(By David Ignatius)

BEIRUT.—As President Bush was proclaiming America's role as a peacemaker between Arabs and Israelis this week, I found myself sitting on the steps of the American University of Beirut, talking to some of the students whose generation will have to transform this vision into reality.

The most hopeful thing I can say is that the students seem to understand how powerful America is. And while Bush is far from popular here, there seems to be growing respect for his orneriness—for that laconic manner that just possibly might be a match for the stubbornness of the Israelis and the Palestinians.

But judging by the students' comments, Bush has a long way to go in restoring America's status as a credible peacemaker. These students, to put it bluntly, don't believe that America is serious about its values. Suggest to them, for example, that America really wants to advance democracy and freedom in Iraq, rather than grab the country's oil, and you get smirks and guffaws.

For these Arab students, America stands for jobs and income, not human rights. It's a way to get paid. That's why these kids are happy to be going to an American university—because it's the best way to get on the global gravy train.

"We still feel proud to be here. We're getting the best degree in the best university in our region," says Maurice Haddad, a bright 24-year-old majoring in information systems. Like almost all the students I met, he wants to go to graduate school in the States. But for him, America "is a good market," rather than a place with admirable values. In America, "might makes right," said one student bluntly.

We were talking under the main gate of AUB, which is inscribed with the words its founders used in 1866 to describe its mission: "That they may have life and have it more abundantly." This generous spirit educated generations of Arab leaders, and for decades the United States has been living off the goodwill it helped create.

I am a shameless fan of AUB. I sat here more than 20 years ago with AUB President Malcolm Kerr shortly before he was assassinated; I talked with AUB President David Dodge before he was kidnapped; I began debating Arab bureaucracy with the current

AUB president, John Waterbury, in 1981. I deeply admire these men and the university they have bravely struggled to maintain.

But I had the sense this week that for the students, the tank is beginning to run dry. "Freedom in America has been abolished," said a 21-year-old medical student named Lamia. She offered a summary of court cases to buttress her argument that civil liberties in America have been compromised in Bush's jihad against terrorism.

The degree of cynicism among students is frightening. We began talking about the 9/11 terrorist attacks, for example, and nearly every student expressed doubt that Osama bin Laden's suicide bombers had really toppled the twin towers. "It was a play to make it look like the Arabs did it," said a young woman named Natalia.

When I asked the students how they could believe such conspiratorial nonsense even though they had seen the buildings collapse on television, they shouted our alternative theories. "The tape was altered," said one. "Technically those two buildings couldn't have collapsed unless there were bombs set at the bottom," insisted another. "How could someone in a cave in Afghanistan have done all that?" Asked a third.

"It's your fault!" argued one young woman in a ponytail. "Your movies have taught us that any image can be manipulated."

Students can be forgiven for saying crazy things. But I worry that their comments reflect a deeper problem. Sociologists distinguish between the "normative" and "instrumental" attributes of an institution or nation. For past AUB students, America appeared to stand for normative values. For this more cynical generation, America is instead an instrumental machine for getting jobs and making money.

Waterbury took a laudable step this week in trying to reconnect the Arab world with America and its values. Thanks to a $5.2 million gift from Saudi Prince Alwaleed bin Talal, AUB will soon found a new center for American studies. Maybe that will help.

AUB is an example of what people mean when they say "soft power." All the armor in America's awesome hard-power military will end up rusting in the sand if Arabs don't come to believe that those tanks represent a culture that promotes freedom and democracy—and that America lives by those values.

FAVORABLE OF USA

(Population in millions)

| Nation | Favorable rating (percent) | Population |
|---|---|---|
| Israel | 79 | 6.1 |
| Great Britain | 70 | 59.7 |
| Canada | 63 | 31.9 |
| Australia | 60 | 19.5 |
| Italy | 60 | 57.7 |
| S. Korea | 46 | 48.3 |
| Germany | 45 | 83.2 |
| France | 43 | 59.7 |
| Spain | 38 | 40.1 |
| Russia | 36 | 144.9 |
| Brazil | 34 | 176.0 |
| Kuwait | 63 | 2.1 |
| Nigeria | 61 | 129.9 |
| Morocco | 27 | 31.1 |
| Lebanon | 27 | 3.6 |
| Turkey | 15 | 67.3 |
| Indonesia | 15 | 231.3 |
| Pakistan | 13 | 147.6 |
| Jordan | 1 | 5.3 |
| Palestinian Authority | 0 | 2.1 |

## TAX PLAN EXCLUDES POOR FAMILIES FROM CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 5 minutes.

Mr. RODRIGUEZ. Madam Speaker, approximately 2 weeks ago the administration signed into law one of the largest tax cut breaks ever for the wealthiest Americans. He did so at a time when the unemployment is on the rise. Since President Bush took office, approximately 2 million jobs have been lost, and the Hispanic community is being hit hard; and the minorities throughout this country are being hit hard. Those hardworking Americans are now at 7.5 percent unemployment, a lot more in proportion than the rest of the population.

People want to work, but the jobs are simply not there. But instead of pursuing policies to stimulate the economy, instead of looking at creating jobs such as providing resources to improve our infrastructure in this country, when we have the decaying bridges, when we have decaying infrastructure, when most of our dams are 50 to 60 years old, instead of investing in our country and in the next generation, the administration has chosen to push through a plan that includes a tax cut that does nothing to address the financial problems and worries that are facing millions of Americans.

While making false promises that the tax cut will create jobs and stimulate our economy, these tax cuts are targeted primarily at the large corporations; and the wealthiest of Americans, such as those that earn $1 million a year, will see a tax cut of nearly $100,000. We understand that people who pay taxes deserve a break, but we have gone from record surpluses to skyrocketing deficits.

We get elected to come up here to respond to the problems that confront Americans, those problems that our senior citizens continue to have difficulty with, such as prescription drug coverage. Our seniors are still having difficulties in not being able to buy prescription drugs. Our seniors are still having difficulties not being able to have access to affordable health care. In a country that has the most, the best health care in the world, our seniors are having, and Americans throughout are having, difficulties having affordable and accessible health care.

We need to make sure that we address the problems that our seniors continue to confront in prescription drug coverage. We need to make sure that we continue those efforts on Social Security to ensure that the next generations will not be left without and left in poverty. We cannot meet our obligations to support critical health and education programs with a tax cut this size, as it does, because we all recognize how irresponsible it is.

Now, we find that in addition to favoring the wealthiest of this country, the administration's tax cut plan excludes those that need the assistance the most, the low- and moderate-income families. Families that make in between $10,500 to $26,625 a year are now, under law, excluded from collecting the $400 child tax credit.

☐ 2015

Those who could benefit the most from the tax credit have been left out and find themselves unable to qualify.

In my district the median income is approximately $23,000, and so more than half would fall under this category. The child tax credit has long been crucial for working families who deeply are affected by tax burden. They also are entitled to this child tax credit.

While more than 85 percent of Hispanic males are in the workforce, which is the largest percentage for any ethnic group or anyone, many Hispanics work in low-wage temporary and seasonal jobs. Latinos are out there working hard, making things happen; yet those are the ones that are being left out from being able to participate in a child tax credit. How can the administration argue that this plan helps working men and women when working families are the ones that are left out?

The hardworking Americans may not be one of the wealthiest, but they are the future of this country. They are the ones that make the economy go. They are the workforce of this country. Our communities deserve the gratitude and respect from the leaders that represent them, and they deserve a fair share of any proposed tax relief plan, not just the crumbs left over after the Nation's wealthiest few.

We need to make sure that the tax plans are plans that are appropriate. They need to be responsive. We also need to make sure that we address the issues that confront us, such as the need for health care and other things.

## MCI WORLDCOM

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from New York (Mr. MEEKS) is recognized for 5 minutes.

Mr. MEEKS of New York. Madam Speaker, MCI WorldCom represents the largest corporate fraud in United States history, costing shareholders more than $180 billion and still counting. So far, more than 22,000 jobs have been lost, and the company just received a tax refund from the Federal Government totaling $300 million for the so-called overpayments on the fraud MCI WorldCom committed.

Meanwhile, the impact in New York has been devastating. MCI WorldCom has laid off 30 percent of its workforce in New York, with most of the cuts coming in Long Island. New York State's pension fund, the second largest in the Nation, has lost about $306 million on MCI WorldCom, the worst single loss in the firm's history. Not to be excluded, New York City's five pension funds reported that they lost $160 million on WorldCom stock.

Why should we care? Because these pension funds represent a portion, possibly a significant portion, of New York State's public sector employees, policemen, firefighters, teachers, et cetera, who became victims of MCI WorldCom's fraud. Just the State pension fund alone represents more than 950,000 active and retired public employees and their beneficiaries.

There is so much more that can be said of this case; however, since time is brief, I will focus my remarks on what I believe are the most egregious items of this case.

First, the proposed settlement with the Securities and Exchange Commission. I am extremely disappointed with the SEC's decision to settle with MCI WorldCom for a mere $500 million, and I know that sounds like a lot, but the original $1.5 billion fine represented less than 1 percent of the losses amassed by shareholders because of the company's fraud. This eye-popping ruling brings the SEC's credibility into question. Such ostrich-like attitudes by the SEC will only increase cynicism from investors on the SEC's legitimacy.

As MCI begins to rebrand its corporate image and seeks to distance itself from its criminal stigma, it is incumbent upon the SEC to act in a decisive manner that adequately punishes MCI WorldCom for its massive crimes. Their clever attempts to return to corporate normalcy cannot be realized until MCI WorldCom makes complete restitution for its criminal acts. As the regulatory agency tasked with overseeing corporate behavior, the SEC should serve as a strong enforcer and not a willing accomplice that rewards criminal activity.

Last week, I filed a petition with the U.S. district court requesting that Judge Rakoff delay any decision in the MCI WorldCom-SEC settlement until adequate information is available publicly to enable the thorough evaluation of the company's fraud, the proposed settlement, and MCI WorldCom's current and future plans for compliance with applicable law. I also urged the court to hold a hearing on the findings set forth in the upcoming reports of the examiner in bankruptcy and the special investigative committee and evaluate the proposed settlement only when the SEC's investigation of the company is complete.

The second issue regarding this case is MCI WorldCom's attempt to use the Federal bankruptcy laws under Chapter 11 reorganization. As a member of the House Committee on Financial Services and a supporter of reforming our bankruptcy laws, I can tell my colleagues this is not the intent of Congress. Reorganization under the bankruptcy laws should not apply when the assets are the product of criminal activities. Bankruptcy should not be a vehicle for laundering stolen goods.

I am shocked and appalled that MCI WorldCom, or any other company for that matter, can manipulate our laws in this manner after admitting to criminal behavior. This is why I am working on a legislative remedy that will correct this and plan to introduce that legislation very soon. It is important to realize that if MCI WorldCom is allowed to reemerge from bankruptcy with 90 percent of its debt eliminated and retain the fruits of its crime, they will gain a significant artificial advantage over its competitors who played by the rules. If this happens, the message that regulators, policymakers, and other government officials would then send to the marketplace is crime does indeed pay; cook your books, defraud your investors, and you too can seek bankruptcy protection and become a more viable competitor.

The security laws are intended to protect innocent parties from fraud in the marketplace, while the Bankruptcy Code is intended to facilitate the reorganization of financially troubled companies who make unwise but honest business decisions; not companies who commit fraud.

The case with MCI Worldcom is clear. There actions were to defraud investors, their employees and the public. And they did so very successfully.

Before I conclude, I need to make two final points. MCI Worldcom executives have stated that they are owned tax refund on profits they "really didn't make." Also, according to Business Week, the company plans to carry forward its newly recognized losses—"at least $6.5 billion"—from prior years in order to shelter future earnings from taxes.

This loophole allows MCI Worldcom to abuse the tax code because under Internal Revenue Code Sec. 108(a), income from the cancellation of debt (COD) is excluded from a taxpayer's gross income if the cancellation occurs in a Title 11 bankruptcy proceeding or under other specified circumstances. Under the code, sec. 108(b), a taxpayer benefiting from this income exclusion must reduce its tax attributes, including net operating losses (NOLs).

MCI Worldcom is exploiting an obscurity in the law. Rather than treat its NOLs and other tax attributes on a consolidated basis, the company is interpreting the law in a manner that allows it to deal with the NOLs on a separate basis. This would allow MCI Worldcom to preserve its NOLs and other tax attributes, so an estimated $10 billion or more of income to the new MCI Worldcom will be tax free. This means that the company will not pay taxes into the foreseeable future.

Now, although I support targeted tax relief and I realized long ago that the Bush tax cuts benefitted those at the very top, this is ridiculous. Here again, I will introduce legislation to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers who file consolidated returns.

Finally, I need to address MCI Worldcom's best customer—you, me and everyone who pays federal taxes. Why? Because the federal government continues to be its biggest and best customer despite the company's criminal behavior. For a matter of fact, the company is getting no-bid contracts like the one to build a wireless network in Iraq, a line of business the company is not even in.

Curious? You bet. The federal government did not have this same policy with Enron and Arthur Andersen. Since committing the largest fraud in U.S. history MCI Worldcom has moved up to the eighth largest federal technology contractor according to a review by Washington Technology, with $772 million in sales. Why would the government award business to a criminal organization who is very unstable? You will have to get your answer from the Bush Administration.

To allow a corrupt, criminal enterprise like MCI Worldcom to perpetuate its violation of the securities laws and visit this injury on an already distraught sector would be an injustice to the millions of its victims nationwide. Whether it is the proposed settlement, its bankruptcy proceedings, its abuse of the tax code or the awarding of federal contracts, MCI Worldcom must pay for its crimes and make full restitution. Anything less will be the biggest fraud of all.

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## REPUBLICANS LOOK AFTER AMERICA'S CHILDREN, TOO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. McINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. McINNIS. Madam Speaker, first of all, I would like to address the preceding comments from the gentleman from New York in regards to WorldCom. His remarks are right on point. I would urge the gentleman to look even further at the WorldCom situation and take a look at the $27 million house that Scott Sullivan has off Florida, take a look at Bernie Ebbers and the money that guy has put into this. That is a clear case of not just corporate fraud but criminal fraud. Any one of us, any normal citizen in the United States, in my opinion, would have already been put into prison having committed the kind of fraud that cost tens of thousands of people their jobs at WorldCom and perhaps one of the biggest bookkeeping frauds in the history of corporate America.

So I think that the gentleman from the other side of the aisle, his comments are in order.

I want to address some of the other comments. For the last hour or so, only the Democrats have been speaking on the floor, and their remarks time after time have been very partisan, very political, and full of a lot of rhetoric. Although it is not the main topic of my discussion this evening, I think it is important that at least some rebuttal be put into the record so that the Democratic, which was led off by the minority leader over there, that these partisan remarks, which as I said earlier were full of rhetoric and, in my opinion, inaccuracies, that these remarks do not go into the RECORD without some type of clarification or at least hearing from the other side.

Let me begin with the minority leader, the gentlewoman from California (Ms. PELOSI), and her remarks. Her remarks are the Democrats look after the children in this country. As long as I have served in politics, as long as I have served in elected office, I have yet to find a Republican or a Democrat or an unaffiliated officeholder that does not care about children, and for the minority leader to stand up here and try and claim a monopoly, that only the Democrats care about children, is nothing but pure partisan politics. In fact, I think it is fundamentally unfair to play off this type of, in essence, using the children to forward a political point that the Democratic Party wants to make.

What this is, that only the Democrats care about children, what this effort by the minority leader is is simple spin, S-P-I-N. We can tell we are coming up on a Presidential election. All we have to do is listen to some of these 5-minute comments. All it is is spin, spin, spin, not debate or not discussion as to how to move this country in a positive forward manner, but clearly focused on how to defeat President George W. Bush in this upcoming election.

It is fundamentally unfair to stand at this podium and say that any of our colleagues, whether they are Democrat or Republican, any of our colleagues are against the children, or only one side of the aisle down here cares about the children.

I would say, and I think my comments are 100 percent accurate, that every woman, every man, Congressman, every Republican, and I think we may have one unaffiliated in these Chambers, every one of us cares about the children, and it is unfair in a debate to continue to try and put the children in front of them as kind of a screen to push another political point. And I wish the minority leader would get off that and come back here and debate and discuss the substance of the issue instead of standing up here in front of a microphone, in front of us, and saying only the Democrats care about the children, only the Democrats will help the children, and the remarks go on from there.

We have got the gentleman from Texas, from San Antonio, a very fine gentleman, a good guy, but he gets a little exaggerated when he says that the Republicans, they are not investing in the future generation; only the Democrats are worried about investing in the future generation.

Give me a break. There are Members on both sides of the aisle back here in the Nation's Capital who care very, very much about the future generation of this country. In fact, I would say that by far, if not unanimously, I would say by far the huge majority, whether they are Republican or whether they are Democrat, care about the future of this country. And for the Democrats to stand up simply because they know nobody is going to debate them, there is nobody to rebut their comments, they have been up here 1 hour nonstop, nonrebutted, that is why they think it is safe to stand up here and say it is only the Democrats who care about the future generation of this country, only the Democrats care about the children of this country. Even to go further, the gentleman makes the remarks, the working families are left out. So the Democrats stand up for the working families.

The working families are out of this tax cut. My gosh, the majority of working families in this country are the ones who are the primary beneficiaries of this tax cut. There are working families above $20,000 income. I think the gentleman believes that in his mind the only working families, or at least his comments seem to portray is that the only "working families" in this country are the families that make less than $20,000 or make less than $10,000 a year.

I want to tell the gentleman and tell him directly, I have got a lot of families where both the man and the wife, both of them are working, and they have happen to make $40,000 a year, and they would take deep offense by the fact that they work 50 hours a week, both of them, the one couple I am thinking of, and the gentleman would stand up here and say, well, that is not the working families. Apparently, the working families are those who make $20,000 and less a year.

There are a lot of people, regardless of income in this country, there are lots of people that are working families. In fact, the majority of families in this country are working families, and for the Democrats to stand up here, again only because they are not rebutted, only because there is nobody to say the other side of the story, they stand up here and make it sound like they are the only ones that stand for "working families" and the only working families in this country are those in the low-income bracket.

Whether it is low-income income or upper-low-income or lower-medium-income or medium-high-income or higher-medium-income, whatever classification, I know families, in fact almost all the families I know in any of those income brackets, are hardworking families.

□ 2030

It is not a sin in this country, and it is not disrespectful in this country, and it is not ignoring the future generations of this country for us to pass legislation that benefits people that make more than $20,000 a year. There are a lot making $40,000 a year; and in a family of say two or three kids, that is not a lot of money. That money is stretched very, very thin. Just because of the fact that you have kids and you and your wife both work and you only manage to bring down $40,000 a year does not mean you should be classified by the Democrats as the wealthy class in our economy.

The only reason I can figure out why these remarks were made is because they did not think that somebody on the other side of the aisle was going to be sitting in the Chamber, as I was listening, to these remarks, and they thought they were going to go into this CONGRESSIONAL RECORD completely unrebutted. We have kind of a doctrine of fairness around here. Let us talk about the facts.

They may be against the tax cut, so just say you are against the tax cut. Do not come out to the House floor and say the Republicans, because of the tax cut, do not care about working families. The Republicans, because of the tax cut, it means that only the Democrats care about the children of this country, as the minority leader, the gentlewoman from California (Ms. PELOSI), said at the beginning of her remarks.

There ought to be a sense of fairness here, and I want to talk for a few minutes about what we looked at on that tax cut, what is important about that tax cut; and I think when we discuss the reason for the tax cut, we have to take a look at where we are. We have an economy that is right on the edge. It is not an economy that is in a depression, but it is an economy where we are suffering from higher unemployment. By the way, although an administration alone does not have enough control, in my opinion, to take an economy out of a recession or put it into a recession, the fact is this economy, which goes up and down, this economy always cycles. There is the old theory, everything that goes up has to come down.

This economy began its downward cycle under the previous Democratic administration. That is not to say that administration drove it in because the economy was also going in an upswing during a Democratic administration. It does say, however, we have to face these cycles. If we look at economic history, especially with specific tax cuts, it has been proven very effective as a tool to take you out of the downturn of the economic cycle; tax cuts are a stimulus to put you in the upturn. However, the tax cuts have to be focused. We do not want to go out and create a welfare program. The reason that bill did not include income tax cuts for people that did not pay income taxes is because that is a welfare program. We are focusing on the people who pay taxes. If you do not pay taxes, you should not get an income tax rebate or refund or credit.

That does not mean that they should not get some kind of assistance. That is up to you to vote whether you want to provide that assistance or not; but what we are trying to do with this economy, and by the way, there are a lot of people on the Democratic side that want this economy to improve regardless of who gets credit for it. We want these people back to work. One of the ways to do it is to put in a very targeted tax cut.

This tax cut is a lot like jumping a car with a dead battery. Some Members would argue that to be fair to the car, you would take the jumper cables and attach them to the bumpers, attach the jumper cables to the door handles, make sure all of the car got a jump off the battery. The fact is you need to target a specific part of the car. You need to put the jolt, the shock, the charge on the battery. So you put the jumper cables on the battery. If you get the battery started, the whole car benefits and moves along.

It is the same thing here. This tax cut was designed, for example, through the capital gains reduction. Now in our country, it is not just the wealthiest people of this economy who benefit from a tax cut on capital gains. There are a lot of people out there, lots of people out there who benefit from capital gains reduction. But the biggest benefit from reducing the capital gains taxation is the economy as a whole, the society as a whole. If you take a look at economic history from an economic historical perspective, every time the government has reduced the capital gains taxation rate, you have seen an up-tick in the economy.

So it is true that only people who have capital assets and sell them with a capital long-term gain may directly benefit from that reduction. That benefit to that targeted area benefits the economic picture as a whole. That is very, very important here. If you take a look at the various elements of that tax cut, the dividends, for example, first of all, you should have a tax system. Your Tax Code should be fair. It is not fair to tax a person with double taxation. Dividend taxation is a double taxation. Not even the most liberal of the Democrats argue that it was not double taxation. However, the most liberal of the Members of Congress argue that is okay because mainly the people above $26,000 a year can afford to be double taxed. Remember, anytime you fund one of these liberal programs that some of these people want to fund, anytime you give money to somebody that is not working, it is a transfer. The government does not create wealth. The people that create wealth are the people that are working and exchanging their labor for some kind of a product, the creative aspect of it. All the government does is act as a transfer agent. For example, to give money to people that do not work, and there are a number of people that do not work that our society thinks have a legitimate case for not working and believes that the working people should support; and as you know, there are a lot of people that ought to be working and are not, by their choice they are not working, but the issue here is anytime you give money to people who are not working, you have to take it from people who are working.

It is the same thing with this tax credit. When you take the money from people or give money that are not paying taxes, give them a refund or some kind of credit rebate, you are taking it from people who do pay the taxes. My point in bringing this up is that is okay for a while, but you better be able to look right in the eye of the taxpayer or look in the eye of the person that is working and be able to explain to him legitimately why you are going to take money from those people, look right at them and say you are working, so I am going to take money from you and give it to this person over here who is not working.

Now when you do that, the average Joe or the average Jane over there that is working, and you say I am going to take some of your money that you have worked hard for and I am going to give it to person A over here who is not working, the first legitimate question that the working Joe or working Jane is going to say is, why are you giving them the money when they are not working? You might say, well, they are physically handicapped or mentally handicapped. They are not capable of working. You can expect the working Joe or working Jane is going to say that is a legitimate reason. Our society ought to help where we can with that kind of cause.

But when you go to working Jane and working Joe and say, look, we are going to take money from you because you are working, and we are going to give it to somebody over here who is not working, and they say why are they not working, and you say, well, because they have chosen not to work, then you begin to see problems. It does not work. That is why with this tax cut what we are trying to do is target it. It is a good plan. It alone will not turn the economy in that up-cycle; but I feel, I already feel confidence that the economy is beginning to recover. Our stock market is showing some strength.

The fact is that the people on the dividends, the capital gains, speeding up the tax brackets, the caps on the tax brackets which will help tens of millions of taxpayers in this country, by doing that you are getting the battery jumped and the car moves as a whole. That is the issue here. We want this economy to benefit as a whole. This tax cut will allow that to happen.

Now, let me tell you that a few of the people who have opposed this, for example the minority leader who continually stands up here and spins and bashes this tax cut and bashes the policies of the tax cut, what is their answer? You cannot just sit back and complain. You cannot just sit back and do nothing. I have always believed that at some point you have to quit talking and quit complaining; and at some point you have to get up and lead or get out of the way. I think that this shows good leadership. There was lots of negotiation that went on with this tax cut. There was lots of effort that went into this tax cut.

As I said, while I do not think this tax cut alone is going to lift this economy into that up-cycle, I think it is an important element of moving this economy towards that up-cycle. You combine that, and hopefully we can get our fuel costs under control, although right now we face a natural gas shortage, a pretty significant natural gas shortage around this country, but if we can keep oil supplies reasonable and a hand on unemployment, consumer confidence is very, very critical, if you can get consumer confidence to stay high so people go out and buy and if you can effectively, through leadership of the interest rate by the Feds, if you can keep the deflation threats from occurring, you are going to see this economy improve. But it is a fragile economy. We are trying to do something to help it. Because you stand up and are trying to help this economy recover does not mean that you care less about children. It does not mean that the only working families in this country, as expressed by some of the Democrats this evening, are those people that earn less than $26,000 a year. That is not what it means.

It means that we recognize that working families are spread all over America; that if you can benefit those working families all over the income brackets, those people who pay income taxes, those people who are out there, and mind you, we will hear the comment, and I heard it this evening, that they do pay these taxes, and you can vote one way or the other on that. You ought to be accurate about your facts. They do not pay Federal income taxes. The group that they are talking about getting a rebate for, they do not pay Federal income taxes. They do pay State income taxes, sales tax, gasoline tax and 7.5 percent or 7.6 percent on their Social Security; but they do not pay Federal income tax.

What the minority leader is saying and what some of the Democrats are spinning up here, they are making it sound as if these people do pay Federal income tax and for some reason just because they are poor, they are being cut out of the tax cut. That is not accurate. That is a blatant, inaccurate statement.

Now, whether you vote to give these people a rebate or not, the fact is that anybody that enters this debate ought to acknowledge up front that the issue is not whether or not they pay income taxes because they do not pay Federal income taxes in that income bracket. The issue is then do you give them money, even though they do not pay, do you give them a tax rebate, even though they do not pay taxes, or should you call that program some other type of welfare program and go ahead and transfer it under that type of description.

But to attack the entire tax cut, to stand up here and say that the only working families happen to be those families under $26,000 or $20,000 a year, to stand up here and attack the tax cut under the guise of protecting the children and that the Democrats are the only ones that protect the children is a misleading effort, and it is inaccurate. On this floor we ought to at least debate on a fair basis. If you take a look at this tax cut, it is not perfect; but so far nobody else has come up with a better solution.

It is interesting to hear these people talk about the Federal deficit. Let me say something about the U.S. Congress. I think it would be interesting for every Member that talks about how terrible the Federal deficit is, I think it would be interesting to look at their bills that they have introduced and see what their bills do to that deficit. Those people that stand up here and criticize, for example, as they have done this evening, criticize the Republicans on the deficit, whoever does that criticism, take a look and see what their votes look like, what programs they vote for and what those programs have done to the deficit.

□ 2045

It is funny how people vote one way and speak another way. When I first got elected to office, somebody said, "The best trick is to vote liberal in Washington and speak conservative in your home district." I do not believe we ought to be running our business that way. I think we ought to be as, what was it, McCain that had straight talk? Let's talk it straight.

This tax cut is targeted. This tax cut is targeted to benefit the entire economy. This tax cut is targeted to move all of us forward, so that our unemployment can go down, so that our stock market can go up, so that our consumer confidence can go up, so that the interest rate, the prime rate, can stay down. That is what we have in our radar. That is what we are trying to accomplish. It should not be attacked by a minority leader who stands up here and says, well, it's about the children and the Republicans don't care about the children, and only the Democrats care about the children. Or from the gentleman from Texas that says, only the Democrats care about the future generations of this country. Give me a break.

Let me summarize these remarks by saying obviously everybody in this room, even the ones I most ardently disagree with, I would never say they do not care about the children. I have never met a person in elective office, I have never met an elected officeholder that really does not care about children or would do something to hurt the children. I have never met them. I have never met one officeholder in my career that did not care about future generations. I do not care what their party affiliation is. And to stand up here and use those kind of statements, you talk about spin, you talk about political rhetoric, and that is the definition of it.

I want to address another subject that I am hearing a lot about recently on the news. First of all, let me give you a little background. I used to be a police officer. When I went to the police academy, we used to have a training exercise, I guess you would call it, where they would show a movie on a big screen, and we used wax bullets. We had wax bullets in our weapons, our service weapons. On the movie screen, the training episode was called "Shoot or Don't Shoot." They would have different instances. It was up to you to make a determination. The film would depict somebody, for example, coming out from a trash can with a weapon. It was up to you within 1 or 2 seconds to decide whether that person really was a threat and whether you needed to draw your service weapon and, even more serious, whether you should discharge your service weapon, and then you would fire your wax bullet and it would measure, of course, on this big screen whether or not you hit the suspect and saved somebody. It is tough to make that decision. There were a number of times where the person would aim a gun at you and it would be a toy gun but it looked like a real gun, it would be a squirt gun or something, and you had to make the decision as the police officer, do I draw and shoot? On a lot of different occasions, myself included, we shot and then we found out that the person on the film actually, like I said, had a water gun or a toy gun. What happened right after that, after you would do that, then more likely than not the next person would have what looked like a nonthreat, not a serious threat and something that looked obviously like a toy gun and it would be a real gun, so you would hesitate and the person on the film would go boom-boom, and all of a sudden you got docked points because they just shot you.

My point in talking about this training film is to move into this discussion of weapons of mass destruction. We have had incidents in the past where a police officer has shot a suspect and after they got control of the suspect and they grab the weapon, after they shoot the suspect, let us say in the example they kill the suspect, the police officer does, and the investigating team seizes the weapon from the suspect and they find out the weapon did not have any bullets in it. There are always people that with hindsight say, why did that police officer shoot old Joey over there? Sure, Joey pointed a gun at him, but he didn't have any bullets in it. Why did the cops have to shoot him? He didn't have any bullets in that gun. Somehow they think that the police officers had 20/20 vision or Superman's vision so that they could see right through the weapon and determine that there were no bullets in there.

That is the same thing on these weapons of mass destruction. All of a sudden we have weapons experts, kind of the Blame America First crowd. We are starting to see them. Oh, my gosh, the United States of America has not found these weapons of mass destruction, so they can't justify this war. How convenient it is that these very people continue to ignore what an evil man Saddam Hussein was. Just take a look at what he did to half his population. The women in Iraq, take a look; if we just had one incident like that in this country, understandably and justifiably, this country would be enraged that a woman was treated that way as an American citizen in the United States. But yet this crowd, the Blame America First crowd, ignores all of that. They are putting on blinders. They are putting on blinders about the mass graves. They are putting on blinders about the fact that Saddam Hussein on a number of occasions, of which I will show you here in just a moment, used weapons of mass destruction to kill his own citizens.

In this country at Kent State when our National Guardsmen shot, I think they shot and killed four students who were protesting back in the sixties or seventies, this country went ballistic. What do you mean our own military people killed our own citizens? That is four. Yet the Blame America First crowd out there is making Saddam Hussein look like somewhat of a Robin Hood, ignoring the fact that while maybe he did not have these weapons of mass destruction or at least that we have not found any yet, that we ought to focus entirely on the gun that did not have bullets in it, although it was pointed at us, and criticize us for that instead of taking a look at the history of that evil man.

This guy, Saddam Hussein, even if we do not find weapons of mass destruction, and, by the way, it is Saddam

Hussein, I am going to also show you a poster on that, the weapons of mass destruction that he himself admitted that he had. He admitted they had them. But for the sake of argument here, let us say that Saddam Hussein did not have weapons of mass destruction. Take a look at what the proof of the pudding is. Take a look at what he did to his own citizens. By the way, on this particular poster to my left, these murders were accomplished with weapons of mass destruction. In the history, we know, for example, going back to my police officer incident, that the guy that is pointing the gun at us on a number of occasions used that gun to kill people. So it is a natural and justifiable thought process to believe that when this guy points a gun at you, considering his history that he used a gun repeatedly, repeatedly, repeatedly, it is a logical thought process that that gun is loaded and he is going to use it on you.

Take a look at this. In 1983, mustard gas killed about 100 people. Mustard gas in 1983 killed 3,000. These are his own citizens, by the way. These are all confirmed. In 1984, 2,500, mustard gas. In 1985, mustard gas 3,000. I am skipping down here. Right down here, mustard gas 5,000. In 1987 mustard gas, 3,000. In 1988, mustard gas and nerve agents, hundreds of people, Iranians and Kurds. This is a country that used these type of weapons when they were at war with Iran. So sure, maybe we have not gotten our hands on these weapons yet, but the fact is there is a long history, a long history of the country of Iraq using these types of weapons. It is very clearly justified for you to expect, in fact I think you would be negligent not to suspect, that Saddam Hussein and his lieutenants had these type of weapons.

Some are saying, "Well, it's the Republicans. It's George W. Bush. He's a cowboy." Let me say to you, first of all, being a cowboy out in the West is kind of an honorable title. We do not think it is a degrading remark. We kind of look at it in a romantic fashion. But back here some people think being a cowboy is a negative term. They say, "It must be George W. Bush. He's just a cowboy. He's the one that has overstated the threat of Saddam Hussein. He's the one that took this Nation into war and it's an exaggerated threat."

Let me show you what the leader of the Democratic Party says about it. Again, the poster to my left. President Bill Clinton. President Clinton on Saddam's threat. He made these remarks, this is an exact quote, on February 18, 1998. This is what Bill Clinton says: What if Saddam Hussein fails to comply—this is with the inspection process—and we fail to act? What if Saddam Hussein fails to comply and we fail to act? Or we take some ambiguous third route which gives him, speaking of Saddam, yet more opportunities to develop his program of weapons of mass destruction and continue to ignore the solemn commitments that he made? Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastation and destruction.

Let me point out, on the next poster, these are the weapons of mass destruction that the country of Iraq admitted in documents that they submitted to the United Nations, or to the international community, these were weapons that they admitted that they had at some point in time. Mustard gas, 2,850 tons. All you need, by the way, of mustard gas is about a teaspoonful and you got real problems on your hands. This is about 3,000 tons of mustard gas. Not what George W. Bush or DICK CHENEY or Colin Powell or Condoleezza Rice or our commanders, our chief of staff over there, this is not what they said Iraq had, this is what Iraq says Iraq had. Sarin, nerve gas, 795 tons. All you need is a little whiff of that Sarin and you're a goner. VX, nerve gas, 3.9 tons. Tabun, nerve agent, 210 tons. Anthrax, 25,000 tons. We saw in this country what happened with just a few little crumbs, a few little particles of anthrax stuck in an envelope. We saw what happened in this country with that. Iraq, by their own admission again, not a statement made by our leadership in this country but an admission made by the country of Iraq, they had 25,000 tons of that stuff. Uranium, 400 tons; plutonium, 6 grams. Six grams does not sound like a lot but that is exactly what you need to create a heck of a nuclear weapon.

My point this evening with you is to say it is a cheap shot, for lack of a better word, it is a cheap shot, it is a comment made from that group of people, that Blame America First, the crowd that partially is driven for political self-interest, the crowd who believes that America can never do right, the crowd who constantly criticizes America, it is that Blame America First crowd whose voice has become louder and louder over the last 2 weeks about the fact that weapons of mass destruction have not been found.

My point tonight is not to address that crowd. You can talk until you are blue in the face and you will never convince the Blame America First crowd that America is anything but the devil itself. You are not going to get them. They will claim they are good Americans, they will claim that they have this patriotism and their patriotism is demonstrated by the fact that they have enough guts to stand up and cry about America's sins and apologize for this country around the world and talk about how horrible we are and this and that, but the fact is this: This country, the leadership of this Nation, the Republican President George W. Bush, the Democrat President Bill Clinton, all knew and had a history of weapons of mass destruction's usage in the country of Iraq.

Again coming back to my example, what has happened here so far, the investigation shows, we had a suspect. That suspect, and I am trying to draw a comparison here, that suspect had a gun pointed at us. The gun was pointed at us. That suspect had a history, like Iraq did, had a history of murder, had a history of using that gun. That suspect had a history of admitting that he had used that gun to kill people. That is a suspect that is looking at us with a gun. So before that suspect, Saddam Hussein, could use that gun against us, we fired first. In the investigation it may appear, and I say "may" because we have only been in Iraq 7 or 8 weeks under this kind of a look for a search for weapons of mass destruction, it may occur to us or may end up being a result, and certainly at this point, the gun appears not to have had bullets in it.

□ 2100

So, what happens? The Blame America First crowd cannot wait to get out on the street and say you should have never shot him. Despite the fact he pointed a gun at you, somehow you should have had superior information that that gun did not have bullets in it, despite the history of the person holding the gun.

This Nation has an absolute right to go out there and preempt a threat. We do not have a right for preemption; we actually have an obligation for preemption. Do you think we say to our police officers in any community in this country that you cannot discharge your service weapon until you are fired upon first, you have to be shot first before you are allowed to discharge that weapon?

No. What we say to our officers in law enforcement is we expect you to go out there; and if a threat exists, one, we want you to be as accurate as you can possibly be as to whether or not a threat exists; but if a threat does exist, it is your job, it is your obligation, and we expect you to carry out your duty to stop that threat.

That is exactly what Bill Clinton was talking about when he was President of the United States, and that is exactly what George W. Bush did now that he is President of the United States.

So I hope as colleagues begin to hear this rhetoric about we have not found any weapons of mass destruction, so blame the United States, forget the fact the United States has brought to the Iraqi people things they have never seen in their entire lives. Forget the fact that the women in Iraq are now going to have rights, are going to be treated as individuals over there. Forget the fact that the United States of America has stopped the mass murders.

Forget the fact that the United States of America, if there are weapons of mass destruction, will find those weapons of mass destruction and will destroy those weapons of mass destruction.

All of that is ignored by the people that I call Blame America First. What they are trying to do is hitch their horse to this one pole; and that pole is, ha, ha, ha, you have not found a weapon of mass destruction, so everything you have told us is a lie. This is exaggerated. We should have never done this.

They intentionally, not by accident, but they intentionally ignore the historical facts of the mass murders that that guy has done. They ignore the admissions by Saddam Hussein's country of the weapons of mass destruction that they did possess in the past. They ignore all that, because they do not want to listen to the facts. They do not want the facts to enter this picture.

What they want to do is use this as a spin, either in their continued all-out effort to blame America first, or in a spin for some type of political purpose or self-serving political motive, especially in light of the fact that we have a Presidential election coming up here in the next year or so.

What I am asking my colleagues to do is stand behind America. Stand strong with America. When that suspect pointed a gun at us, we had every right to discharge our weapon; and we had a right to discharge our weapon first. We knew the history of that individual. To the best of our knowledge, we believed that individual had bullets in his gun. We could not see in the gun, but the gun was pointed at us, and we do not feel and we should stand by this position that we do not think it is necessary we get shot at first, like we did on September 11.

Let me tell you, after September 11, of course, the Blame America First crowd came out and said, oh, America's intelligence failed. It is because America does not do enough for the poor in the world and America is pompous and America does not share its wealth and America enjoys too much of the good things and America has too much food. That is why September 11 came about. The Blame America crowd came in.

That is exactly what would have happened if Iraq, by the way, would have shot first, had they used a weapon of mass destruction against the free world. Blame America would have come out and said where was George W. Bush? Where was President Bill Clinton? When they should have known about this, why did they not know about it? So no matter what you do, you are going to have the Blame America First crowd out there criticizing you.

But the fact here is we should put them aside. What we need to make sure is that the average American out there understands that this country is a good country. This country did what it believed was in the best interests, not just of itself, but in the best interests of many, many innocent Iraqi citizens. This country did what we thought was in the best interests of many, many citizens who were murdered and so on in Afghanistan. We did what we thought was best for the world.

It is this country that has led the world in standing up when the going gets tough. It is the United States of America that is the first one out of the foxhole. And it is a little tough, when you are the first one out of the foxhole, you are standing on the battlefield taking the bullets, and somebody hiding in the foxhole behind you is saying, I told you so. You should not be out there. That is kind of how I feel about some of this criticism.

America has no need to apologize. The United States of America has done a lot of good for a lot of people for a lot of countries for a lot of history for its entire history. Oh, sure, we got a blooper here and there. But the fact is, you can stack America up. I will stack America up against any other country in the history of the world. Not just in the history of the United States, but I will stack America up against any other country in the history of the world; and defy you to show me a country that even comes close to doing the good that this Nation has done.

The United States of America does not have to apologize for anything that we have done. What we have done was for a just cause. What we have done, in my opinion, was the right thing. I think the majority of Americans believe in that.

## AMERICAN ECONOMY NOT RECOVERING

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

Mr. SPRATT. Mr. Speaker, on Friday of last week there was more bad news about the economy. The unemployment rate hit 6.1 percent, the highest rate in more than a dozen years. Since this recession started in March of 2001, we have lost 3.1 million jobs in the private sector. That is a loss of 2.8 percent of all the jobs in the private sector; and in percentage terms that makes this one of the worst recessions in the postwar period. That is one of the problems we have got; 6.1 percent does not sound alarmingly bad compared to prior recessions, but it does not begin to tell the story of what is happening in this economy.

First of all, this unemployment rate, 6.1 percent, does not indicate the persistence of this recession. Unemployment is not only up at 6.1 percent, but it has been stuck in this range for more than a year.

As you can see from this particular chart, this graph, this recession is not following the pattern of previous recessions. In previous recessions, the red curve, the U-shaped curve, plots the path that unemployment has taken. It reaches a peak, as it did in March of 2001, typically reaches a trough in about 12 to 18 months and then starts back up again. It takes awhile for recovery, it takes awhile for employment to get back on its feet, but eventually things come back to normal.

There may be a lot of people in this country and in this Congress who think, well, this is your regular postwar recession, it is not a depression, it will come back. But what we trouble about is it is not following the pattern of the postwar recessions of the past, because this black line plots the path the economy has taken. It has not headed back up.

Employment has not headed up, even though we have had signs of a recovery. It feels like a recovery. This is a jobless recovery. Worse still, the job situation is actually getting worse, as this line plots, because, if you follow that line, if you can see the bottom index, this means that jobs should have recovered 12 to 18 months ago, at the very least. We should have seen an uptick, an upturn in jobs; and it should have been at this level by now. Instead, we are still way down here below the trough of the recession. So this is not a recession like any we have had before, particularly when it comes to jobs. Twenty-five percent of all the people who are out of jobs have lost all of their unemployment benefits. They are "exhaustees," we call them.

Second, the unemployment rate we are looking at does not count the 2 million people who have dropped out of the job market. It may be more than that, but at least that number. They have given up the search for a job because they flat cannot find one.

If they were counted in the labor force, the unemployment rate would be in the range of 6.6 percent. But even this figure, 6.6 percent, would not reveal the number of workers who have lost their jobs and found another, typically with lower wages and lower benefits. I see that all the time in my district, anecdotally, and I suspect it is happening everywhere in America.

These folks do not show up in the employment statistics because they are working, but they are working at much less favorable terms than before this recession started. One indication of that is the loss of manufacturing jobs, 53,000 in the month of May alone. Every month for 12 months we have lost at least 50,000 of these jobs, which are the best jobs in industrial America. Manufacturing jobs are hemorrhaging right now.

These workers do not show up as unemployed. They are industrious workers. They have found a job somewhere else, but not at the same terms they once enjoyed. In truth, they are underemployed; but we do not have a number to reflect their status.

Third, this unemployment rate does not say anything about household income. But when you consider the fact of unemployment, which is prevalent, and underemployment, you have to believe a toll is being taken on household income. Rising unemployment has to mean declining household income.

In real terms, in fact, after inflation, the median household in America has seen its income fall by 2.2 percent, or $934. This is serious in itself for the individual household; but it is serious for the economy as a whole, because it means cutbacks in consumption, and it is consumer demand that drives two-thirds of the economy when it is at full employment. If you have weak household income, declining household income, you are not going to have the restoration of demand that is necessary to get this economy up and running.

Fourth is another indicator. Look at real wages of full-time workers on a weekly basis. Let us take the median worker, the person who makes more than half of the workforce and less than the other half of the workforce, the guy who is stuck right in the middle.

Over the last four quarters, the real wages of median workers has fallen every quarter. That is a fact. Now, that may not sound catastrophic. The rate of decline was just 1.4 percent, but it is catastrophic if it is your pocketbook, your household, your median wage. And these widespread weaknesses, moreover, are what are causing our economy to lag and drag and remain mired in a jobless recovery. We saw evidence of that in the numbers we saw last Friday; more evidence of it still, the latest data. We have been seeing this for weeks now, for months now.

Last December, when the Republicans left here and did not extend unemployment benefits and gave a very, very backhanded present to those who are out of a job over the Christmas holidays, we started looking hard at the circumstances and asking what can we do to ameliorate this economy.

On January 6, 6 months ago, we offered a solution. We offered a package of short-term stimulus and long-term balance. We proposed to give all American workers, working families, a tax rebate, $600 at least, based on their 2002 incomes. We proposed to speed up depreciation for all businesses, large and small, to encourage them to invest. We proposed to give the States $36 billion of fiscal assistance, going to Medicaid and highway construction and homeland security, all of this to get the economy up on its feet and running.

But we proposed these remedies for 2003 alone so that the budget would recover when the economy recovered. We did not want to be mired in debt, long-term debt, because we recognize that long-term deficits and deeper national debt would only mean higher interest rates and, therefore, less growth and fewer jobs.

It took our Republican colleagues almost 6 months to do anything. We were about to leave here for the Memorial Day holiday when they finally acknowledged our prodding and agreed to extend unemployment benefits, but not by nearly as much as we would have, not for as long and not for the same people, particularly those who exhausted their benefits already.

□ 2115

They have now come up with a package, mainly tax cuts, 62 percent of which go to the top 5 percent on the income scale; they provided some help for the States, and I think that is good, but I think they took that page from our book, not as much as we proposed, though. They proposed tax rebates, again, not as much as we proposed and not to those that we proposed to give the tax rebates to, because we think they should go primarily to the unemployed, to working families with children who need the money and who also will spend the money. We were told today and have been told before by Macroeconomic, by Economy.com, that it is their rule of thumb that for every dollar of unemployment benefit we extend, we generate about $1.73 in economic activity in the economy over the ensuing year.

Well, our Republican colleagues claim that the package that they proposed and passed now will create 1.4 million jobs over the next year. We had an important effort, which the gentleman from Virginia (Mr. SCOTT) saw this morning when Lawrence Michel testified before our small ad hoc committee of Senate and House Democrats and pointed out that the economy itself, if you believe the Council of Economic Advisors and what they are putting on their Web page and what they have been projecting and testifying to, the economy itself, if it recovers as they project over the next 12 months, will generate over the next 12 to 18 months 4 million jobs.

So Michel proposed a yardstick. He proposed we will be able to tell whether or not the President has succeeded, the Republicans' package has achieved its goal if it creates 5.5 million jobs over the next 16 months, between now and November of 2004. Mr. Speaker, 1.4 million for the package itself, and 4 million for the economic growth that the economy is supposed to generate in any event.

Now, is this fair? Is it fair to hold the administration to this kind of test? I say it is fair, because I think what we are going to see as a result of this test will be hard to meet, but it is fair in comparison to what the first Bush administration achieved and also what the Clinton administration achieved. It should be recalled that Mr. Clinton took office in a recession, too, and notwithstanding that, in the first 4 years of his administration, more than 10 million jobs were generated by this economy. Among other things, at that point in time, we raised taxes, but we also cut spending and we started working down the deficit so that every year for 8 straight years the bottom line of the budget got better, the Federal Government literally got out of the capital markets and started paying off debt; $400 billion in debt was retired, paid off between 1998 and 2000. And, in the year 2000, we were in balance without counting Social Security for the first time in 40 years, the first time since the year 1960.

So we believe it is fair to hold the Bush administration to this account, to release 5.5 million jobs. The President says that he wants every American who wants to work to be able to find a job. Well, there are 8 million unemployed Americans waiting for that promise to be fulfilled, for that goal to be attained. We are saying here, at least 5.5 million of those jobs ought to be generated if this package comes true over the next 16 months.

But there is another problem that is seldom talked about when the effects of this stimulus jobs and growth package, so-called, are discussed. And that is that unlike the package we proposed last January, what the Republicans have proposed and put in place right now will have such a huge tax revenue impact or cost, that going out into time, we will accumulate, it is our expectation, as much as $4 trillion in additional debt over the next 10 years. And every economic advisor who has looked at this projection and found it reasonable has said, if that happens, we cannot help but lose jobs and lose economic growth, because the additional credit demands of the Federal Government are bound to drive up interest rates; and when interest rates go up, the growth in the economy will go down, and jobs will go down with it.

So that is the dilemma we face here. That is the problem we face here. The President's package which was proposed and passed just a couple of weeks ago bore a price tag of $350 billion. The problem is, every tax concession in that package has a sunset date, an expiration date, and not a Member of this House, nor a Member of the other body, the Senate, believes that those sunset dates will ever stick. We all believe that when those dates are reached, sooner or later, they will be repealed. The expirations will be relieved, and, therefore, when we take out all of the sunset dates in the tax package that passed here as a stimulus package, the cost of it in revenues is not $350 billion, it is $1 trillion.

Furthermore, to make permanent the tax cuts that were passed in the year 2001 will cost another $600 billion. And, to deal with the problems of the alternative minimum tax, the AMT which the Treasury tells us will affect more and more taxpayers, rising from affecting 2 million taxpayers today to 30 million in 10 years, when we take care of that, try to limit the number of taxpayers whom we never intended for it to apply to., what will happen? It will cost at least $600 billion in revenues over the next 10 years.

So that is the tax cut agenda, and the built-in tax cuts that are bound to unfold here, and that is our concern: that even if the package the administration offered, given its size, does something for the economy, if you raise spending and cut taxes, you are bound to stimulate the economy to some extent. Number one, it is questionable about how much it will do, since 62 percent of it goes to the top 5 percent who probably will not change their behavior in response to it; but in addition, in the long run, it can have a real downward drag on the economy, because it is bound to increase interest rates and bound to slow down the growth of this economy, job creation, stifling growth and stifling job creation. That is our concern. We are not trying to be Cassandras, we are not trying to dump discredit on every proposal that comes forward that we do not happen to agree with 100 percent, but we have deep and real concerns about the long-term direction of the budget that is being given here by Mr. Bush.

I will wrap up my remarks and yield to my colleagues after noting this: The numbers that I have just described, $4 trillion in additional deficits and in additional national debt over the next 10 years are not fabricated or invented by us on the Democratic side, not by our own staff on the House Committee on the Budget. If we look at the budget resolution which our Republican colleagues brought to the floor, and look on page 93 of it in particular, we will see that on that page they summarize on one chart, one table, the effects of their budget and they show that gross Federal debt, all the debt of the United States, will grow from about $6.5 trillion today to over $12 trillion 10 years from now. If we go to CBO's analysis of the President's budget issued in March of this year, and look at it, look at the top line on table 1, the very top line, it shows that $4.4 trillion in additional deficits would be generated if those budget proposals were fully enacted. And, in fact, we are on that course right now, and that is our concern tonight.

Mr. Speaker, I yield to the gentleman from Tennessee.

Mr. COOPER. Mr. Speaker, if the gentleman would take a few questions I would certainly appreciate it, because I would like to have a dialogue with him on these issues.

My impression is that most Members of this Congress, most folks back home are probably finishing up their supper, tired after the long day at work; if they are tuned in to C-SPAN, all of them are wondering where is the straight talk about the U.S. economy, where is straight talk about their job and their future, or how long will their unemployment continue to last. People want real information, real facts. So many of the Federal budget numbers are so large that it is hard for the average citizen to comprehend. It is hard for the average Congressman or woman to understand.

I know the gentleman from South Carolina has played a long and constructive role in budget debates for many years now, helping, for example, in the Clinton years to build a surplus.

If the gentleman would turn to that chart, I think that is a period of real pride in American history. I think the gentleman just passed the chart right there, where we got out of a sea of red ink and actually built up toward a surplus and achieved a surplus in 8 short years, the first time that had been done in some 40 years in American history. So that was a truly significant accomplishment but, unfortunately, it has been largely voided by recent events.

I know that the gentleman is a positive and constructive force in this debate, and we try to seek out positive ways that our country can grow and advance. But it is important for us to first realize the predicament we are in.

Is my understanding correct that the job performance that we are witnessing right now is the worst in half a century?

Mr. SPRATT. Mr. Speaker, there have actually been job losses in the private sector, gains in the public sector, but the net job loss is somewhere around 2.2, 2.3 million people. The private sector job loss number is 3.1 million jobs since the peak of this recession, which was March 2001, shortly after the President took office.

Mr. COOPER. So since March 2001, our economy has lost 3.1 million jobs.

Mr. SPRATT. Private sector jobs. Private sector jobs.

Mr. COOPER. And that is the worst job creation performance of any President since 50 years ago and Harry Truman?

Mr. SPRATT. The Clinton administration, which inherited an economy just coming out of a recession and had to deal with the credit crunch and other problems that were dragging the economy then, nevertheless generated more than 10 million jobs during its first 4 years and more than 10 million jobs during its second 4 years. The first Bush administration was marred by a recession for the second half of it and had a poor performance. The Reagan administration had an adequate performance, but it did not come close to the performance of the Clinton administration.

And what happened in the Clinton administration? This chart shows it. The gentleman is absolutely right. When he came to office, the deficit was at a record high: $290 billion and headed up. The President left his economic report on the desk for Mr. Clinton to pick up on January 20 when he came to office. On page 69 of that report, they showed that they expected the deficit to hover in the range of $300 billion or $330 billion for the next 5 years.

The gentleman from Tennessee was here, I believe, and the gentleman recalls well what happened. The President sent down his budget on February 17. We passed it with one vote in the House and the Vice President's vote in the Senate, and for every year thereafter, the bottom line of the budget got better. It went from 290 to 255 in 1994, to 203 in 1995, on down to 164, and finally to the point where, in 1998, as I said, we had a surplus of $236 billion, more than any surplus in the postwar period. Without counting Social Security, it was the first time we were in surplus in 40 years. That happened at the same time, at the same time, as opposed to hindering growth, we saw the economy boom as we had never seen it since the 1960s.

Mr. COOPER. Mr. Speaker, it is hard to imagine a starker policy contrast than the one that you are exhibiting right there to show that we were drowning in red ink until 1991, and then we climb up to the surface and can breathe again, and now we are drowning one more time in another sea of red ink.

Mr. SPRATT. That is our concern. That is what we are talking about tonight, the future as it looms ahead of us. And each time we pass one of these mammoth tax bills, we take another step down this road and it becomes all the more irreversible for us, and that is our concern.

Mr. COOPER. The gentleman mentioned a Democratic stimulus package, and if he could elaborate on that, because it is my understanding that the Bush tax cut plan actually has very little stimulus in the short term for our economy, whereas the plan that the gentleman put forward actually had much more of a stimulant effect to help our economy today get out of the ditch. Could the gentleman elaborate?

Mr. SPRATT. Mr. Speaker, we said we wanted to go to everybody who filed a return in the year 2002 and who earned up to $6,000 in income and give them 10 percent of what they had earned, up to a ceiling of $600, and send them a check for it right away. That way we would have reached 17 million American families who did not get a rebate in the year 2002. We would have put money in the pockets of people who were most likely to spend it, $60 billion to $70 billion for that purpose alone.

We also said we want to go to the States and help the States because what they are doing is contractionary, and if we do not counteract that to some extent then they will undercut what we are doing and there will not be any effect on our economy. Medicaid, a shared State-Federal program, we said we wanted to give the States $15 billion to $20 billion to help them meet the extraordinary cost of the Medicaid program. We also said as to businesses, we wanted to give them an incentive to invest; for small businesses, we said $75,000. You buy that new equipment or new computer or new desk, you can write it off the year you buy it, the year you purchase it.

□ 2130

And as to large businesses, we said, we will give them a bonus if you go invest it in 2003.

Now, the Republicans have been into bonus depreciation before, but they wanted to stretch it over a 3-year period of time. We said to give the economy a real jolt, let us say to American industry, do it this year when we desperately need it and we will give you a reward, 50 percent write-off in the year of purchase. That was our package. The net cost of it was about $100 billion and $100 to $136 billion. Over time, some of that washed out.

The key thing was after 2003, 2004, there were no net effects on the economy. As the economy recovered, ours faded out and faded away and did not constitute a long-term drain on revenues.

Mr. COOPER. Let me make sure I heard this right. In the short run, the Democratic bill would have been twice as stimulative as the Republican bill, $130 billion versus $60 billion, and in the long run we would not have had any of the deficit hangover that the Republican bill has?

Mr. SPRATT. The gentleman is absolutely correct. The Council on Economic Advisors put on their Web page their estimate of what the President's proposal would do and the methodology they were using. They had a model developed by macroeconomic advisers who were retained by them to give them macroeconomic econometric advice. They gave the methodology of how they estimated their jobs.

We took the same methodology and applied it to our proposal and we got, for a fraction of the impact on revenues, twice the impact on jobs. Our program would have created 1½ million jobs. Theirs would create around 600,000 or 700,000.

Mr. COOPER. Mr. Speaker, the Democratic proposal would have stimulated consumer demand with the rebate program and business investment with the depreciation incentives.

Mr. SPRATT. Which is critically important, because this is a demand-deficient economy which we are living in today. Two-thirds of the demand that typically drives the economy at full employment is a consumer demand, and that is why we are trying to boost consumer demand.

Let me now yield to my friend, the gentleman from Virginia (Mr. SCOTT), also a member of the Committee on the Budget, who has a whole battery of charts he would like to talk about.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding to me.

As we have said, this chart tells the story. When people ask, what is the Democratic plan to get us out of the mess, the green is the Democratic plan. We ought to remember history on how that green was created, because as the gentleman has indicated, not a single Republican, 218 to 216 in the House, not a single Republican in the House, 50–50 in the Senate, not a single Republican in the Senate voted for the plan that started digging us out of this great deficit.

When the Republicans used those votes that created the green ink, they used those against us in the campaign and took over both the House and Senate. Now they want to take credit for some of the green. But remember, after the 1994 election, 1995, they passed these trillion-dollar tax cuts and President Clinton vetoed those tax cuts. In fact, they threatened to shut down the government, and he vetoed them again. In fact they shut down the government, and he vetoed them again.

We had gotten the budget deficit down from 290 down to less than 10 before they finally agreed to a budget that the President could sign. That is right up in here somewhere. All of this was without any Republican votes, so they finally jumped on the bandwagon right at the last minute.

When President Bush came in, the Republican Congress passed the trillion-dollar tax cut and President Bush signed those tax cuts. Here is what we have as a direct result.

Now, who got the tax cuts? This is by 20th percentile. The lowest 20 percentile got that little bit, here is the middle 20 percent, and here is the upper 20 percent. Right at about 50 percent is what the upper 1 percent of the income got out of that tax cut. So we ruin the budget by giving tax cuts to the rich, and we are told that would create jobs.

Here is the job chart that has been referenced. The first chart is what was created during the Truman administration. Each administration, all the way through. Then they had 2½ million jobs lost.

Mr. SPRATT. Mr. Speaker, will the gentleman suspend just a minute? That is the chart I was looking for just a minute ago. The gentleman had it. I am glad to see it.

The two tall bars right there beside the bar below the X axis are Clinton administration job gains. Is that correct?

Mr. SCOTT of Virginia. This is the first Clinton administration and this is the second Clinton administration.

Mr. SPRATT. What are the numbers there?

Mr. SCOTT of Virginia. Over 10 million jobs created each 4-year term.

Mr. SPRATT. What is the number below the line so far for the Bush——

Mr. SCOTT of Virginia. Minus 2½ million so far and dropping. We ought not refer to September 11, because this chart going back to the Truman administration includes the Korean War, the Vietnam War, the beginning and end of both of those wars, the Cold War, hostages in Iran, the first Persian Gulf war. All through that period of time, coming and going, through everything that has happened in the economy, jobs were created. Not after we passed this trillion-dollar tax cut.

I just want to point out, again, who benefited, because obviously people did not get jobs as a result. This is by income. We will see $10,000, $10,000 to $20,000, $20,000 to $30,000, and $30,000 to $40,000. We begin to see a little benefit here at $75,000 to $100,000, but those who are making over $1 million are off the chart.

Now, we should not be surprised that we did not create jobs. This is a study by the Joint Committee on Taxation, with a Republican majority, on how many jobs would be created if we passed this plan. We will see that there is a short-term spike in jobs, but right after that, at best we will end up where we started. Most of the models show we will end up with fewer jobs had we done nothing at all.

Mr. DAVIS of Florida. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Florida.

Mr. DAVIS of Florida. Mr. Speaker, the proponents of the tax cut have justified the remarkable difference in benefits by the job growth that is not predicted by the charts the gentleman just showed. So I think it is important to go back and talk about the disparity.

As I understand it, if the gentleman or I were to make $1 million, and certainly we, like every American, dream of achieving that level of wealth some day, we will receive an average tax cut of about $95,000 under this tax cut. So if the gentleman makes $1 million, he will get about a $95,000 tax cut.

Most regular Americans are, on the other hand, going to get an average of I think about $100 or less on the tax cut. I would ask the gentleman, is that correct?

Mr. SCOTT of Virginia. Mr. Speaker, this chart shows, and we can hardly see, compared to what the millionaires get, we can hardly see the benefit we get if we are in the $50,000 to $75,000 or less range. This chart shows what we would get.

Mr. DAVIS of Florida. The tax cut that the gentleman from South Carolina (Mr. SPRATT) referred to, for which there was a bipartisan consensus, was a tax cut that evenly spread the benefits out and provided a true stimulus. The tax cut that was passed on an extremely partisan basis, only 5 percent of it will take effect immediately as a stimulus, and the rest results in this exploding difference the gentleman is describing.

Mr. SCOTT of Virginia. The reason we are not creating many jobs is that by the time we have run up all the deficit and we are worse off than we started, it is because the tax cut was not targeted to those who will actually spend it. It was not targeted and the spending was not done in such a way that it would actually stimulate the economy. It would just help those in the upper-income brackets.

There were a number of other alternative ways of stimulating the economy. The gentleman from South Carolina (Mr. SPRATT) indicated if we continue the unemployment benefits, those people what are used to a paycheck, no longer having a paycheck, will spend that money before the check clears. As soon as they get the check, they will deposit it and the money will be spent. They have overdue bills and they have things they have to buy. It is the only income they have. They will spend that money.

If we give a few thousand to a millionaire, if they wanted a television they would have bought a television. If they wanted a car, they would have bought a car already. They are much less likely to spend the money and help stimulate the economy.

One study was done on the dividend tax decrease; that for every dollar we lose in tax revenue, the economy is stimulated by 7 cents. Every dollar we put into unemployment compensation, the economy is stimulated $1.73. So if our goal is to stimulate the economy so everyone can benefit, there are other things we can do other than reduce the taxes on dividends, capital gains, and for those in the upper income.

Mr. DAVIS of Florida. A lot of citizens and taxpayers from my home in Florida are confused about this tax cut. They have said to me, at a minimum, tell us the truth. It has been described as a $350 billion tax cut. On that basis, the proponents of the tax cut have said that we are taking a responsible approach to the deficit.

That in fact is not the case. As I understand it, this is really a tax cut in excess of $1 trillion. Could the gentleman explain what the truth is? The public is at least entitled to know the truth about the size of the tax cut.

Mr. SCOTT of Virginia. First of all, I think we ought to suggest that if we are this far in the red already, we ought to be talking about something other than additional tax cuts. We use the adage around here that if we find ourselves in a hole, the first thing we ought to do is stop digging.

This chart is actually somewhat out of date, because on the more recent numbers there is more red ink down here than this chart shows. The present situation is actually worse.

But as the gentleman has suggested, they concocted a plan that they call $350 billion because they would pass a tax cut, but then in a couple of years they would what is called sunset it; that is, stop the tax cut and revert back to present law. Everyone expects that when you get to that point in time, that instead of a sunset we will have a sunrise, and continue the tax cut into the future.

If we assume, as everyone does, that the tax cuts will be eventually made permanent, it is not just $350 billion but approximately $1 trillion, three times bigger, particularly if we add on the interest and other fixes that have to be made when we have those kinds of tax cuts.

Mr. DAVIS of Florida. In my home State, Florida, the historically low interest rates have contributed to prosperity for so many more than any tax cut I have ever heard promised in Washington.

What has Chairman Alan Greenspan said in front of the Committee on the Budget about the impact on low interest rates and student loans and credit card debts and mortgages if we continue with this level of deficits?

Mr. SCOTT of Virginia. He has said on numerous times that if we run up significant deficits and increased debt that it will eventually have an effect on interest rates. It will increase interest rates. For a person with a mortgage, car loans, and credit cards, every time we increase interest rates we have taken money out of their pockets.

As we look at this, we just have to wonder how bad does it have to get before we notice that something is not right. As I indicated, we are not creating jobs. The Joint Committee on Taxation shows that in several years after we have passed this thing, as a direct result, we will have fewer jobs than if we had done nothing.

Now, running up debt has consequences. Even if we do not pay the debt off, we have to pay interest on the national debt. Under the Clinton administration we left a surplus that was in the process, by all projections, of paying off the entire national debt, debt held by the public, by 2008; and by 2013 or so, pay off the entire national debt. So as this green bar shows, the interest on the national debt would be going towards zero.

Unfortunately, because of all the new debt we are running up, the interest on the national debt that we can actually pay in red is going up to almost $500 billion. To put this number, since it is a big number, in perspective, I have put in blue the defense budget. We are going to be paying, instead of zero interest on the national debt, almost as much in interest on the national debt as we are paying on defense.

Now, we can make it personal and divide the interest on the national debt by the population, multiply it by 4, so we have the family of four's portion of the national debt, interest on the national debt, just interest. Right now it is about $4,500. We are paying a family of four's proportionate share of interest on the national debt, and it is growing by 2013 to $8,500.

Now, the difficulty, the challenging thing about this is when we consider that chart and the Social Security cash flow, we are running about a $100 billion surplus in Social Security; but soon, by 2017, we will be running a significant deficit.

□ 2145

As the interest on the national debt is increasing, how are we going to pay the Social Security for the baby boomers on out?

Now, the egregious thing about the tax cut is if you look at this challenging chart and wonder how we can possibly pay Social Security in the future, we did some calculations and found that if, instead of the tax cut given to the top 1 percent, if that amount of money had been allocated to the Social Security trust funds, that would have been enough money to have paid Social Security benefits for 75 years without any reduction in benefits. We had a choice: make Social Security solvent for 75 years or a tax cut for the upper 1 percent. And this House and Senate passed a tax cut for the upper 1 percent and left Social Security who knows where.

Mr. KIND. It is one of my chief concerns as a member of the Committee on the Budget, as a Member of this House, the fact that the fiscal decisions being made today, if carried out the way we have intended is going to set up future generations for failure. As a member of the Committee on the Budget, I do believe deficits matter. As a father of two little boys back home, I do believe deficits matter. At a time when we should be investing in our children's and grandchildren's future, we are borrowing against their future.

This is happening at exactly the worst moment in our Nation's history, when we have 80 million of the so-called baby boomers all marching in lockstep to their retirement, which will start in a few short years; and we are digging this fiscal hole deeper and deeper and deeper at a time when the next generation will be taking over the reins of leadership. We will be setting up future Congresses and the younger generations for failure unless we can reverse course.

I appreciate the voice of my colleague in this deficit wilderness of warning the Nation of the consequences of these fiscal policies. The ranking member on the Committee on the Budget, the gentleman from South Carolina (Mr. SPRATT), has been telling us for a very long time that we need to keep an eye on the bottom line with the spending and the revenue streams and try to maintain some balance.

The question I have for both of the gentlemen here is that it was such a remarkable turnaround during the decade of the 1990s, unfortunately, we do not have another decade like that to prepare for the onset of the baby boom generation's retirement; but were there some fiscal tools available during the 1990s that no longer exist today, that we should consider putting back in place in order to develop some fiscal discipline and some fiscal responsibility in this House again before it is too late?

Mr. SPRATT. In 1990, when the first President Bush was in office, we prevailed upon him to sit down and negotiate with us a 5-year budget, a so-called budget summit deficit reduction plan. The negotiations went on for 4, 5, 6 months at Andrews Air Force Base; and they culminated in a budget agreement which, frankly, only about 60 Republicans voted for the first time it hit the House floor, failed then because there was no support there for it. It was modified and passed by the House mainly with Democratic votes. It was eclipsed by the recession.

It was an important piece of work because it established a ceiling for discretionary spending, that is the money we appropriate every year in 13 different appropriation bills. It also took on the Medicare entitlements, Medicare and Medicaid; and it addressed revenues. It increased revenues; and, of course, that caused Mr. Bush a lot of trouble in his own party.

In 1993 when Mr. Clinton came to the White House, because the results of that had been aggravated by recession, it was not evident; but he proposed a second 5-year plan that would have taken us until about 197. That plan was designed to cut the deficit by a bit more than half. Once again, it extended a ceiling on discretionary spending. It actually cut the rate of growth in some of the health care entitlements, and it raised revenues. The revenue increases went largely to upper tax bracket taxpayers. And as it so happened, the boom of the 1990s resounded more to their benefit than any other income class; and so they paid more taxes. Capital gains taxes went up from $40 billion a year in 1995 to $120 billion, by a factor of three, over a period of 5 years.

We finally got that budget passed here by one vote, the Vice President's vote in the Senate. Everyone said it would cut the economy off at its knees. We had bought ourselves a one-way ticket to recession, said Phil Graham over in the Senate. And what happened? The economy got up and ran. It took off like never before. For 10 straight years we had a phenomenal economy, partly because we were paying off our debt for the first time in years, adding to the pool of capital in this country, driving down interest rates and the economy prospered like never before to the point where we got to a $236 billion surplus. It is a matter of record. It is hard to believe now because it was just 3 short years ago, but that is where we were when President Bush came to office.

Now, we do not have those rules that limited the growth of entitlements before the so-called PAYGO rule. We do not have the PAYGO rule that says for every tax cut it has to be deficit neutral. It cannot impact the bottom line. You have to have offsetting spending cuts or offsetting revenue increases. We do not have the ceiling on discretionary spending anymore. None of those rules that we put in place in 1993 and 1997 with the balanced budget agreement any longer applied. We have a budget in free fall, an ad hoc budget.

Mr. KIND. I think the gentleman makes a very important point. The PAYGO did require fiscal discipline because for any proposed increase in discretionary funding, there had to be an offset in the entitlement in order to maintain balance. And it put the Nation in a position where there was a true lockbox on Social Security and Medicare trust funds, where the money was not being robbed to pay for other aspects of Federal spending which has gone out the window again in 2 short years. They have taken all the money out of the Social Security and Medicare trust fund to pay for these tax cuts or to pay for other spending programs when we should be downloading our debt in anticipation of this massive retirement boom.

One final point on the tax cut that was recently enacted into law, there was a lot of fanfare and Rose Garden ceremony, naturally, for the tax cut that the President signed. But what did not receive as much attention was the day before, unceremoniously and very quietly, within 20 seconds, the President also signed an increase in the debt ceiling by a trillion dollars.

Mr. SPRATT. $984 billion.

Mr. KIND. That is over next year alone.

Just to put this in context, the entire national debt in 1980 for the preceding 200 years was roughly $900 billion, and they are proposing to have a $1 trillion increase in the debt ceiling in 1 year alone. This was not economic stimulus that he signed into law. It was major structural tax reform, and it should be referred to as such. And no less an expert on capital accumulation in this Nation and the world, Warren Buffett has also weighed into decrying this tax cut. He says there is something fundamentally unfair with a tax cut proposal which will reduce his marginal tax rate, Warren Buffett, who is worth about $55 billion, will reduce his tax rate to roughly 5 percent when the receptionist in his own office has a marginal tax rate of 30 percent. Even Warren Buffet says that is not fair; that is not the values that reflects our great Nation. But that is what this tax cut was about. A major restructuring of the Tax Code, who is going to pay and who is going to be left on the hook. And, unfortunately, again, no less an expert on capital accumulation than Warren Buffett, he says it does not fly and it is very troubling.

Mr. SCOTT of Virginia. I was just going to ask the ranking member, since we have run out of the surplus and Social Security, Medicare and other surplus, as you pass a tax cut, how is it funded if it is not under the PAYGO rules?

Mr. SPRATT. How is the tax cut funded? It was not funded at all. It simply goes straight to the bottom line.

Something very significant happened this year. This year when the Office of Management and Budget sent us the President's budget, they sent with it an analysis and a forecast which said, the surplus we have projected in the year 2001, for 2002 through 2011, that 10-year surplus we projected back then, was $5.637 trillion over 10 years. We made a mistake, said OMB.

Looking at the economy as we see it and understanding it today, according to OMB, the true surplus today for that same time period, 2002 through 2011, is really about $2.492 trillion. We were off by that much, $3.2 trillion.

They went on to say that of that $2.4 trillion, $2.5 trillion, more than that amount, about 2.6, has already been committed to tax cuts, spending increases, national defense, homeland security, and other things. Already committed. As a consequence, you start the process this year with no surplus. So if you have additional tax cuts or additional spending, it will go straight to the bottom line. There is no mitigation; no offset. It adds dollar for dollar to the deficit. And what did Mr. Bush propose? He proposed $2 trillion, 1 trillion 990-something billion dollars in additional budget actions that would add that much to the deficit over the next 10 years.

It is a matter of record; OMB acknowledges it. So there was no PAYGO rule, which in the past would have required that all of these things be offset by some spending cut or revenue increase. Instead, they proposed $2 trillion in additional budget actions, all of it going to the bottom line and swelling eventually to a deficit in 10 years of about $4 trillion cumulative deficit over that period of time.

Mr. SCOTT of Virginia. Now, we had the previous speaker before our Special

Order suggest that it was wrong to give income tax relief for those who do not pay income tax. There are some that have lower income that do not pay income taxes, but I was wondering if they paid a payroll tax.

Mr. SPRATT. Of course they do pay a payroll tax on their gross earnings, not on net earnings, on gross earnings up to a ceiling of about $86,000. And for the lower- and moderate-income people, that payroll tax which essentially is about 16 percent when you include the employer's share is a big percentage of their income.

Mr. SCOTT of Virginia. Now, do they pay a sales tax?

Mr. SPRATT. Of course they pay a sales tax. They pay property taxes on the homes they own, on the cars they drive, all of these taxes they pay; and we are trying to give them some tax relief, because let us face it, they need it more than anybody else.

Mr. SCOTT of Virginia. The suggestion was that we would just pick one tax, the income tax, and only those that paid, there are other taxes that a lot of people do not pay; a lot of people do not pay estate taxes. What portion of the people have estates when they die over $1 million?

Mr. SPRATT. No more than 1 to 2 percent of all estates.

Mr. SCOTT of Virginia. So if we focus all of our tax relief on that, it would not surprise anybody that it would not be broadly based. It would just be aimed at the 1 or 2 percent. So it does not make much sense to complain that if we are trying to give tax relief to everyone, particularly when we are also trying to stimulate the economy, that we would give tax relief, however we can, to everyone, particularly those that might actually spend the money and help stimulate the economy.

Mr. SPRATT. Exactly. That is the complete and full point, namely, that we have got an economy with deficient demand. It is lagging. It is mired in a jobless recovery. And to get it up on its feet and running, you have got to put money in people's pockets to spend so that they can go buy things, work down inventories, and get the economy running at full speed again.

Mr. KIND. That is really the point of tonight's Special Order is what is going to get the economy back on track. That is what all of America embraces. We need to grow the economy, create jobs, stimulate investments. There is nothing that solves problems better for our Nation than a growing economy. But the fact of the matter is over the last 2 years, and the gentleman from South Carolina (Mr. SPRATT) recited these stats, is we have lost 3 million jobs in this economy. Two million of our citizens have gone from middle class back into poverty. During the 1990s when we had declining deficits and surpluses, 8 million of our citizens went the other way, from poverty into middle class. We have had over a trillion dollars of corporate assets that have been foreclosed upon over these last 2 years, one of slowest worker productivity rates in the last 30 years.

The economic policies are not working. And that is what we need to do is get together in a bipartisan fashion and figure out a plan that is going to work for working families and for all Americans throughout the country so we can stimulate economic activity and create jobs again. That is what we need to do rather than pursuing an idealogical agenda that has a poor track record during the 1980s, the first part of the 1990s, and now it is deja voodoo economics all over again here in the new century. And that is really the task that lies before us today. But unfortunately, there is an unwillingness with the administration and leadership of Congress to admit that things are not working.

Most reasonable and logical people, when they find themselves in a hole, stop digging. Ideological extremists ask for a bigger shovel. And later this year, as true as we are standing in this well today, there is going to be another trillion dollar tax cut proposal coming before this body with everything including the kitchen sink involved in it. They are just clinging to this mantra that tax cuts solve all the problems that this country is facing, when, in fact, the record belies that and it is very troubling.

□ 2200

Mr. SCOTT of Virginia. We just want to remind people who asked what our plan is, our plan is the green. If we had our ways, we would be running up back into surplus with the stock market high, unemployment low. This is what we would do if we had the choice.

Unfortunately, this is where we are because of all the deficit spending and the tax cuts which basically went to the wealthiest Americans.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Tennessee.

Mr. COOPER. Mr. Speaker, the gentleman makes a great point, talking about the 12 million kids who are left out of the tax cut. Right now, as I understand it, this House is considering whether to repair that mistake. The other body in the Senate has voted, I think overwhelmingly, 94–2, to help the 12 million poor children. The question before this House is whether we will take action to correct the mistake, to help the 12 million kids who should have been covered by the tax bill.

Mr. SCOTT of Virginia. We have legislation pending in this body that would do that. Interestingly enough, that tax cut would be paid for under the standard that we had adopted helping to create the green, that if you pass a tax cut it ought to be paid for with other tax increases or spending cuts so that the tax cut does not add to the deficit. And we close some loopholes and do other things that pay for the tax cut that would give relief to those in the $10- to $25,000 range. And people have said that is close to the minimum wage. A full-time worker at minimum wage makes about $10,000.

So when you get up to 25, you are 2½ times the minimum wage. So it is just not the bottom of the scale. You have gone quite a ways up of people that were left out that would be compensated and would be able to get the benefit of the tax cut without adding to the national debt, because in our plan that would be paid for, and that is the fiscally responsible way of doing it.

Mr. SPRATT. Mr. Speaker, we have talked about the economy. We have talked about fiscal policy and budget propriety.

We have not talked about the moral question of intergenerational burdens. That is a fancy way of saying what we are doing here, if we continue down the path we are on right now, stacking debt on top of debt, building $4 trillion in deficits and debt over the next 10 years, is take the tab of these tax cuts, the defense build-up and everything else that we are doing now but not fully paying for, and leaving it to our children. We are leaving them a legacy of debt.

On top of the responsibility of maintaining and sustaining the Social Security program, which is underfunded and will be significantly underfunded with 77 million baby boomers, doubling the number of beneficiaries in a matter of a few years; Medicare, same situation, the same increase in benefits that is looming in the future; they will have to sustain both of those promises, both of those programs, the benefits promise. And on top of that, if that were not enough, we are telling our children, the next generation, that they are going to have to bear as much as $12 trillion in gross statutory debt subject to limit.

It is just totally immoral, not just bad fiscal policy, not just bad economic policy. It is immoral and the wrong thing for us to do to our children and their children.

Mr. SCOTT of Virginia. When we spend without paying for it, we run up debt and you have to pay interest on the national debt. This is a family of four's portion of interest on the national debt. It is going up year after year after year.

When President Clinton left office, the projection was at that time if you did not take any action the interest on the national debt, just maintain services, kept the Tax Code as it is, interest on the national debt by 2013 would be zero. Instead, a family of four's portion of the national debt would be $8,500 and rising. At the same time, the Social Security Trust Fund would stop running the surplus that we have been spending and turned into a significant deficit.

Mr. SPRATT. The gentleman made a very significant point a minute ago, namely, in 2001, we stood at the fork of the road. Prior to Mr. Bush coming to office, we were on the cusp of adopting a very conservative economic policy which would have called upon us to forswear ever again spending anything in the Medicare or Social Security Trust Funds except for those benefits, and using the funds in the meantime solely to buy up outstanding debt, not newly issued debt, but outstanding debt so that over a period of about 10 years we could have just about paid off the debt held by the public, and therefore, Treasury would have been interest free, would have had no interest obligation to pay to the public at a time when the baby boomers began to come to the Treasury or at least assert their demands for benefits which they had been promised and draw down their benefits. The Treasury would be in a more solvent situation than it has been in since the Second World War.

Mr. SCOTT of Virginia. During the Presidential campaign, everyone had agreed that you would have a lockbox; you would not touch the Social Security money that was supposed to be for Social Security, and Medicare money collected for Medicare should be reserved for Medicare. Instead, we passed a $1 trillion tax cut and dipped into that spending, into great deficit.

Mr. SPRATT. More than dipped into it. For every year that we forecast, all 10 years to get to the right-hand edge of the paper, cannot see anymore, we will fully expend the Social Security surplus, fully draw it down and spend it for non-Social Security purposes.

Mr. SCOTT of Virginia. You wonder how you could pay the Social Security challenge that is shown on this chart, because instead of a nice surplus that we have been spending, we are going to have to actually come up with even more money. At the same time, the interest on the national debt is increasing. We are going to have to come up with more cash to pay this. And the tax cut, the amount of money that went to the top 1 percent in 2001, not 2003, 2001, that tax cut to the upper 1 percent only would have been sufficient to cover all of this red ink, for 75 years, no reduction in benefits.

Mr. SPRATT. Mr. Speaker, if I can reclaim my time, we are about to be gaveled down. Basically what we have said tonight is we are not opposed to a tax cut. We have proposed them before. We will propose them again. We recognize they can stimulate the economy if they are directed in the right manner. But we are deeply concerned about deficits and debt, and of course, we are primed for stacking deficits upon deficits and building the debt ever bigger every year. We simply do not believe that is the right prescription for our economic future.

## IMMIGRATION REFORM

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for half the time until midnight, approximately 56½ minutes.

Mr. TANCREDO. Mr. Speaker, it has been very elucidating listening to the folks who have such concerns about the possibility of a tax cut going to people that think they deserve it, and although it is not the topic of my discussion tonight or my presentation, I still feel it is worthy of some sort of rhetoric, and that is what we are really seeing, interestingly, is a discussion of what should be the tax cut policy of this country as proposed by the Democrats.

That is great. It is great to hear. It is a wonderful thing actually to hear Democrats say things like we need a tax cut. I am sure they almost have to gag when they say it, but the reality is we need a tax cut. It is just not the one that you guys proposed. You guys proposed a tax cut for the rich and all this and other stuff, but what is even more fascinating about this, Mr. Speaker, is that we all know, there is not a single person in this body who thinks, and perhaps I hope very few people in the listening audience in America who think, that there would be any tax cut proposal from the other side tonight or any other time had not we proposed one first.

Does anybody really believe that if the other party were in charge of the Congress of the United States or the White House that there would be any sort of tax cut proposal we would be debating? Does anybody really think for a second that there would have been something that the Democrats would have said we need a tax cut, because those words do not emanate freely and easily from our friends on the other side. They are prompted, they are urged and they come with great difficulty; and so they say, well, okay, we have a tax cut, we want a tax cut, but in reality, it is not the one that you guys have proposed.

We will take a tax cut anytime, anyplace, anywhere. A tax cut is essentially and generally a good thing. Having people pay less of their hard-earned money for the task of expanded government is a good thing, I think, and so the fact that we would have even gotten the Democrats into the position of debating what their tax cut policy would be is a great, great boon for America. It is a great thing for all of us to have them try to stand up and defend a tax cut policy that they would never have put in place in a million years. No one thinks it, no one believes it, no one has the slightest idea that that would have come out of the Democratic Party had they been in charge of the Congress of the United States.

That is part of who we are and what we are all about is reducing the cost of government to the people of this country; and so they think, well, we have to figure out a way to attack that. We have to attack the President. We have to attack the Party, the Republican Party, for doing this. How do we do it? I know. Let us drag up all of those things that we have used, time after time after time, somewhat successfully. Let us always say that it is the rich guys that the Republicans are giving a break to and it is the poor that are not getting their due rewards, and maybe they will buy it this time, or I should say maybe they will still buy it. Maybe we can still get the people who believe that, in fact, people should not be, that people do not, in fact, earn what they attain through the labor and the sweat of their brow, and that somehow or other everyone in this race of life should end up at the finish line at the same time.

I used to teach ninth grade social studies at Jefferson County Drake Junior High, and one time one of my students asked about the difference between conservatives and liberals and how I would describe that. I said, I am a conservative and I want you to take that into consideration when I tell you how I think about that. I said, this is the way I really do envision our division in our country between these two major philosophies of the Republicans generally and Democrats generally. Republicans are generally conservative. Democrats are generally liberal. Not all, of course; differences on both sides. But for the most part, you can say this: that if you look at life as a race, and start at birth, and the finish line is death, and a lot of things can happen to you in between time, and you are trying to accomplish certain goals as you move through life, that for the most part a liberal would say that everyone has to end up at the finish line at the same time. That is the important role of government, to make sure that everyone ends up at the finish line at the same time, that there are no winners and there are no losers; everybody gets there at the same time.

That is an idealistic approach and idealistic thought and philosophy. And remember, I am trying to explain this to ninth graders. I said, then, on the other hand, you have conservatives I think are saying if the government has any role at all, it makes sure the gate opens up exactly at the same time and everybody has the same opportunity, and if government has any role at all, it is to make sure there are no obstacles in the way, but no one is going to make sure you end up at the finish line at the same time because if you do that, of course, it is not a race. Pretty soon, if you do that, everybody walks because why should you run? It does not matter; we will all be at the finish line at the same time.

It is true, it can be portrayed as hard-hearted from a conservative standpoint to say that government's responsibility is to simply make sure that the gates open on time and that from that point on make sure that there are no obstacles in the race, and there will be losers, there will be winners, and people will say how dare you, how can you accept that? That is, the government should not be in the position of accepting the idea that there are winners and losers. That is the way of life.

I wish I could be on an NBA team. I am not tall enough. I am not capable of it. There are a lot of things I cannot do as a result of some of the shortcomings, literally and figuratively, that I think I face. And so no matter how much I would like the government to make sure I could get on that team, and therefore participate, and want the government to make sure that I am able to make baskets the same way as any other member of that team, it does not work that way.

So I think our position is right. I think that in fact in the race of life, the government has relatively few responsibilities, and that the most important one is to make sure that the gates open up exactly at the same time and there are no obstacles in the track and that whoever ends up at the finish line, some win and some do not, and there are a hundred different races. We all are better at some things than others. It is not just where you race. We all accomplish certain things that we can do better than other people, and that is, again, the way of life.

□ 2215

We have to accept that. But our friends on the other side of the aisle keep suggesting that somehow or other we have to say that in fact all people will end up at the finish line at the same time, and that is a winning sort of political proposal. People will respond, especially those who know they cannot make it to the finish line will say, yes, we should have the government stop everybody else until I get there. But in the total scheme of things, I do not think that will be the best for the country. I hope America understands when we start talking about tax cuts and who should get them and who should not, the reality is that if the Democrats were in charge of this place, there would be no tax cuts, there would be tax increases because that is the way they run government. That is the way they ran it for 40 years. That is why we are in power, and they are not.

Now I want to get on to the issue that I wanted to address tonight, and that of course revolves around the issue of immigration and immigration reform. Tonight I want to talk about a couple of things. First of all, I want to talk about the impact of legal and illegal immigration on American society in one particular area, the area of jobs. A lot of the rhetoric we have heard on the floor and we will certainly hear over and over again revolves around whether or not the tax cut package we have just passed in this Congress and signed by the President, whether or not that will create jobs because we all know that is an important thing for the country and that is what we all want.

The creation of jobs, I do not know of a single person in the Congress who would be opposed to it. Members recognize it is an important thing for us all, and it will be the stimulus for America in terms of us getting on the road to economic recovery.

Well, there are various ways to do that; and I believe firmly that tax cuts do in fact create a stimulus that will improve the opportunity for many Americans and improve the job opportunities, especially for millions of Americans. I believe that. But there is something else, Mr. Speaker, that could be done and that no one, not our side, not their side, no one wants to talk about, and that is the number of jobs that would be created if we enforced our immigration laws. That is all. Just that. Not even impose new immigration laws or try to deal with the fact that we have got crossing our borders every day literally thousands and thousands of people coming, low-skilled people who are seeking jobs in America and getting them by employers who are using these folks and, in fact, abusing them in many ways.

But if we just enforced the laws on the books, and surprising as it may be, it is against the law to hire someone who is here illegally. Now, who does not know somebody who may be or probably is hiring somebody or is in fact working for somebody in violation of that law. We all do. We all have anecdotal references we make to instances where somebody may be here working and they may be here illegally. We all know that.

Now the first thing we usually hear when we raise the question is the question of real-world impact on American jobs and employment, and that these millions of illegal immigrants take only the jobs that Americans do not want to do. That is a mantra. We have to have people here from all over the world taking jobs because in fact there are a few jobs that Americans will not do, and we need all these folks to do the hard stuff.

I am sure Members have heard that refrain many, many times. If it were true, the other problems brought about by illegal immigration would still remain, but we would not be worried about the loss of jobs or an adverse impact on wage rates. But is it true that illegal immigrants are taking jobs that no one else would take, no American citizen? I believe that the weight of the evidence is that it is not true. I believe there is ample evidence to the contrary. I believe there is ample evidence that illegal immigrants are increasingly taking jobs that American citizens would do willingly if wage rates for these jobs were not artificially suppressed by the ready supply of cheap labor from so-called undocumented aliens.

Mr. Speaker, about 6 months ago now, there was an article in the Denver paper, the Rocky Mountain News, and it was interesting because it was a news article rather than a want ad; but it was a news article about a want ad and the article was about an ad that had been placed in the paper by a restaurant in Denver, a restaurant I have visited many times and know well, it is called Luna Restaurant. It is in an area where I grew up in north Denver. The article was interesting because it said Luna Restaurant puts an ad in the paper for a $3-an-hour waiter. We all know that waiters and waitresses make less than minimum wage because tips are included. So this position was for a $3-an-hour waiter. The article was in the paper because it was a news story. And what was the news story? The news story was the day that the article appeared there were 600 applicants for the job.

Mr. Speaker, maybe some of those people, maybe a majority of those people were here illegally and were willing to do jobs that no one else was willing to do, but I do not believe that all 600 applicants were illegal immigrants. I believe a lot of them were American citizens looking for a job.

It is undoubtedly and undeniably true that illegal aliens will work for lower wage rates than legal immigrants or American citizens. They do so because the wage is higher than they would earn back in Mexico, Guatemala, or other poorer nations. We all understand this, and most Americans sympathize with their plight. We can admire people willing to travel thousands of miles and evade the U.S. Border Patrol to get to Chicago or Philadelphia or Seattle in order to better their lives economically. There is nothing wrong with that goal in and of itself, and we can respect it because it is the goal that was in front of all of our grandparents or great grandparents or however long ago our family heritage established roots here in the United States.

But there are several things wrong with the consequences of that behavior; and they need to be discussed even though it is not popular to do so, even though people get very antsy when you bring this up. They sort of go, oh, gosh, he is going to start talking about immigration again. I do not like dealing with that because people might think I am a racist or a xenophobe, so let us not talk about it. Well, it needs to be talked about.

First of all, one of the consequences of the behavior is that people are entering our country illegally, and the habit of breaking one law for economic benefit often creates a disregard for law and a willingness to violate other laws for personal benefit. And the more we choose to ignore it, the more we pretend that it is a law that we can wink at, a law that, gee, I know it is a law, but, and I have heard that 100 times. If it is a law, but, if it is a law that does not have importance, if it is a law that is not meaningful, then I urge this body to do what it should do.

Mr. Speaker, if there are laws in the books in America that are no longer valid and meaningful, repeal them. I urge this body to actually address this issue head on and bring a bill forward in this body that says we will repeal all laws regarding immigration. We will essentially erase our borders. We will eliminate the Border Patrol, close the stations, the ports of entry because after all, we cannot control it. And if people want to come to the United States, for the most benign or most wonderful reasons, the reasons that we can all applaud, let them come. Why should we call someone here illegal? Why should we draw any sort of conclusions about someone who came into this country without our permission? Let us just let them all come from wherever they want to come and as many as wish to come.

Now, I want that debated in this House. I want Members to vote yea or nay to this concept. If you vote "yea," you are for erasing the borders. You can make that case to your constituents. Try and make that case. Some of us will be able to do so. Some of us will not be at all excited about that possibility and will vote "no." I will not vote for such a bill, of course. I am a "no" vote because I do not believe it is good for America. I will tell Members I am a "no" vote on the issue of eliminating borders. I believe it goes to the very basic, to the heart of what we call our country, to the heart of national sovereignty. I will make the case as strongly as I can against any sort of bill that would in fact invalidate the borders. But that is exactly what we are doing, Mr. Speaker, every single day.

That is the problem. It is happening, our opponents, the people who want the elimination of borders, know they can accomplish their goal by pretending that they support national sovereignty and national security. They can stand up and suggest that all day long. They do not want to vote on this idea of whether or not we should erase our borders because in their heart of hearts many people want to, and many times they want to for political reasons. They know that people coming into this country as immigrants tend to vote for one party over the other. They tend to vote for the Democrats. The other side of the aisle knows that.

Again, this is not brain surgery we are dealing with here. It is politics 101. How do they gain supporters, especially when their side is losing? Where do they look? If the majority of Americans are now turning to the Republican Party or becoming more conservative and expressing that, where do the Democrats look for people who will support their efforts? Where do they look for people who support their efforts, for greater welfare and expanded government? They go to the immigrant class coming into the United States.

So it is not unusual, it is not illogical, it is not crazy for us to deal with it in that way, for political parties to look at it that way. So our friends on the other side of the aisle see massive immigration and say, I do not care whether they are coming here legally or not. They eventually become my voters, so I am for it. So I am going to on the one side of my mouth I am going to suggest that we need national security, everybody should come in legally, wink, wink. On the other side I am going to say we need your help, we need your labor, and vote for me when you get here, whether you do so legally or not.

On our side of the aisle, on the Republican side of the aisle, we have many Members who look at this whole thing and say there is an awful lot of cheap labor that is coming into this country, and that is good for business. That keeps wage rates low, prices low, and what is good for business, as Calvin Coolidge said, is good for America.

Mr. Speaker, in this case it is not good for America. I would challenge my opponents on the other side of the aisle and I would challenge my opponents on this side of the aisle that massive immigration today both legally and illegally is not good for America.

Now, as I mentioned, the first consequence of ignoring the fact that people come in illegally and break our laws is that is the wrong way to start off your citizenship in the United States. Of course it is not citizenship, your residency in the United States.

□ 2230

The second consequence of this lawbreaking behavior, the consequence of entering our country illegally, is that they also enter our labor market illegally. It is this consequence that I wish to talk about this evening.

I want to ask you to consider, Mr. Speaker, some aspects of this underground labor market that is not getting much attention or discussion in the press and not much attention by this body or policymakers in general. In the first place, with the possible exception of a few agricultural jobs, it is simply not true that Americans will not do certain jobs because of their low status or because they involve hard labor. We have done these jobs throughout our history and well into the second half of the 20th century. Mechanization of agriculture over the past 100 years has led to a diminishing need for farm labor and our food is the least expensive in the world because of this. This trend was well established long before agricultural interests started relying on migrant labor and becoming more and more dependent on illegal migrant labor. Fewer and fewer Americans were needed to harvest our crops and there was an adequate supply of indigenous labor in the vast majority of cases. Harvesting peaches and tomatoes and strawberries is indeed very hard work. Mechanization has taken over in many crops but there is still a need for some amount of seasonal physical labor in some sectors of agriculture. Does this require 8 or 10 or 13 million illegal immigrants? I do not think so.

There is another aspect of this that is very important to understand, Mr. Speaker, and, that is, when we allow massive immigration of low-skilled, low-wage workers, we have a tendency, therefore, to screw around with the market in a way. What we do is actually delay the implementation of the use of technology to accomplish certain goals. Specifically I remember when we used to have a bracero program in the United States. That was a program that allowed migrant workers, mostly from Mexico, to come in and do agricultural labor. And they had to return to Mexico and they could not bring families. When that program was ended, there was an outcry from the tomato growers in the United States. There was a massive sort of rush to legislative remedies. They wanted us to do something because they kept saying, it is impossible for us to actually do our job. We cannot possibly grow tomatoes, we cannot harvest tomatoes, without the help of this kind of labor. So we ended up in a situation where we went ahead and eliminated this bracero program. And what happened? Did tomato growers go out of business as they said they would? No. They were forced to actually invest in technology, to invest in different kinds of technology and actually develop some sort of mechanized approach to doing the labor that had been done heretofore by individuals. So today tomato growers in the United States are far more productive than they ever were before when they relied solely on individuals picking tomatoes. Now they can do it with machines, now they can do it more cost effectively, and they are more productive in the process.

So when we import massive numbers of illegal workers into this country, or even legal workers who are low-skilled, low-wage workers, we need to actually again get involved and kind of skew the marketplace. We mess up the process that should lead to a development of greater use of technology and productivity. To the extent that American workers cannot be found for some seasonal agricultural jobs, that need can be met by a new guest worker program. I intend to introduce legislation to accomplish that goal very soon. A well-designed and properly managed guest worker program would allow migrant workers to come into this country legally, work as long as they are needed in jobs that are certified as requiring foreign nationals and then return to their homes. That is the important part we ought to remember about guest worker. Guest worker is a program that allows people to come into the country for a period of time, do a specific job, and return to their country of origin. That is a guest worker program. On the other side, you can have people come into the country and begin the process of becoming a citizen of the United States; that is called immigration. Two different things.

We are right now by far the most liberal Nation on the planet in terms of who we let come into the country legally, 1 million, 1.5 million every year. We are also, of course, the most liberal Nation in the world in terms of who we let come into the country illegally, 1 million, 1.5 million people every year, that we turn a blind eye to. We do so for the reasons I mentioned earlier, political advantage for the Democrats, a business interest for the Republicans. And so we ignore the law.

Once again I go back and say to my colleagues on both sides of the aisle, if you want to accomplish your goals and let people into the country at their desire, not in any way, shape, or form connected to our needs in this country, if you want to do that to the Democratic Party, fine. To Republicans, if you want to just have a massive influx of low-skilled, low-wage workers in order to reduce the cost of labor, fine, let us tell America that is where we stand. Let us have a bill that actually eliminates the borders, allows people to come at their desire, not in response to our need. Let us do that. Let us let Americans know how you feel about this. Unfortunately, I do not think we are going to get that bill in this session or the next session, because I have never seen it introduced by anybody on either side of the aisle.

And so when the other side of the aisle, the Democrats, talk about job creation and the need to protect workers in America, I find it always fascinating that they never ever want to talk about the thing that would protect American workers to a very large extent, and that is to actually control our own borders and to allow people into this country based upon our needs and to determine what those are. If they are, in fact, needs that can only be filled by low-skilled, low-wage workers, fine. If that is it, fine. If in reality, quote, no American wants to do these jobs, then, yeah, they are open to anybody who wants to come in and work hard and accomplish their life's goals.

What about the jobs in other areas, the so-called low-status jobs that now employ illegal aliens? What about restaurants and car washes and leaf blowers and gardeners and carpet installers and hotel and motel housekeeping staff? These are a few of the typical jobs we are told that cannot be filled except by illegal aliens who will work for less money than legal workers or citizens. But should we stop and think about the statement they will work for less money, because that is really what we should add to the first part of the statement. There are jobs Americans will not do, at least for the money someone is willing to pay them to do it. It is true, but it is half a truth and hides a deeper reality. The illegal aliens will indeed work for less money because they can, because they come from a culture where $6 an hour is more than a living wage, and that family members often pool their incomes and share living quarters. This is to their credit. I do not mean to demean their efforts. They are doing exactly what my grandparents did and our great grandparents or however long ago our individual families ended up in this country. Most of them came for the same reason. I do not for a moment mean to demean that particular goal. But it is only half the story and the half that everyone sees and understands. The other half is that American workers used to do these jobs before the supply of cheap foreign labor drove down wage rates relative to the rest of the economy. In other words, the conventional wisdom has the story exactly backwards. We do not have 8 to 13 million illegal aliens in this country because we need them to fill jobs. We have 8 to 13 million illegal aliens in this country because there is a ready supply of cheap labor to keep wage rates low. We have that ready supply of cheap labor because we have an open border policy.

Once again, maybe you can make this case, Mr. Speaker. Maybe it is something that all Americans will agree with. Maybe our friends on the other side of the aisle and my colleagues on this side will in their heart of hearts say, yes, it is true that we have to keep people in very low-wage situations because it is good for the economy. I just want them to make that case to their constituents, that is all. That is all that I ask. I want them to tell the people who are struggling in those low-wage jobs that they are there and they are going to be there for a long time, and there is no real opportunity for advancement because open borders will keep wage rates low and, therefore, the economy moving.

Do we need an open borders policy? Not to help our economy, which would adjust and prosper without the supply of cheap labor, just as I mentioned earlier in what I described about what happened in the tomato growing industry. It is interesting how business does adjust and how the economy does in fact relate to these things called labor shortages. We would adjust and we would prosper without the supply of cheap labor. But because it benefits Mexico and maintains good relations with the Mexican Government and because it benefits the cheap labor advocates in the Congress of the United States and the political advantage that our friends in the Democratic Party get because of massive immigration, we will continue the program. If these workers were not available, if we did not maintain an open border policy, our economy would adjust and we would continue to be the most prosperous Nation in the world. The few companies that must have such low-wage workers in order to compete in the marketplace will move their plants to the source of the labor. But our history teaches that most employers will not do this. Denied a source of below-market cheap labor, employers will generally not move their operations. Instead, they do one of two things. They will either mechanize their operations, as agriculture has in fact done steadily over the past 150 years, or they will raise their wages to attract American workers or legal workers.

Actually there is another part to this. We will increase productivity. That is what we have done. Because in reality, no matter how much we talk about the need for open borders, it is very difficult to compete in a world in which, today especially, you can move work to worker anyplace in the world. So how does American labor compete? It is not, frankly, with just the importation of cheap labor; it is with the development and the continual increase of productivity by the American worker. When this is done across the entire industry, it does not disadvantage any one employer because all employers are in the same boat. Costs to the consumer will rise as the cost of labor rises, but the product will be produced and will be available on the market. To cite one of the most obvious examples, if restaurants in New York City and San Francisco and Dallas could not employ these illegal immigrants as their dishwashers and busboys and valet parking attendants, they would be forced to pay slightly higher wages to legal workers. Would they all go out of business? No, they would not. I respectfully submit that it would not be a calamity for our economy to have to pay a price for a prime rib dinner that would move from like $16 to $16.50, and the price of delivery of pizza to go up 50 percent, if the car wash goes up from $12 to $13, if the price of a Motel 6 room increases from $34.95 in Lubbock to $36.95.

I recognize that this might be a difficult adjustment for some people, but we have been through hardships that we endured and we can endure this one.

To offset these temporary adjustments in our life-style, there would be many favorable things that would happen in our economy if the supply of cheap labor and illegal labor was cut off. The first thing we would notice is that our college students could in fact find summer jobs and part-time jobs year around. Some of the 8 million unemployed Americans would find jobs in the service industries at a higher wage than is now offered. As the job magnet disappears, the flow of illegal aliens across our borders, now estimated at 1.5 million a year, would stop. This would have some very positive effects on our economy. Hospitals, law enforcement agencies, and public schools all across the border States and in many of our bigger cities would notice a diminished burden on their budgets. As a result, State and local governments all across the West and South would discover they have revenues available that had previously been devoted to the needs of a growing immigrant community. Legal immigrants seeking jobs would not be competing with people willing to work for below-market wages. The U.S. Border Patrol and the Customs Service could concentrate all of their energies on stopping the flow of illegal drugs into our Nation instead of worrying about the flow of illegal people; people like several members of my own community in Denver, Colorado; people in my own neighborhood. One gentleman in particular comes to mind. He is employed in the high-tech industry, and we will talk about that in a few minutes, about exactly what is happening there because we have spent most of the time talking about low-skilled, low-wage workers, but there is just as big a problem, if not more so, in the area of white collar workers, high-skilled workers in the United States and the various programs that we operate to bring people into this country to displace American workers in this area. My friend is one of those.

□ 2245

He is an individual that has been out of work for a year or year and a half in the high-tech industry. He now works a little bit for us, and at nighttime drives a limousine to keep a roof over his head and food on the table. If you ask him, you know, when you were a high-tech worker and in this very high position in this industry that you were involved in, would you believe that you would be driving a limousine at night picking people up and taking them to the airport, he would said no; but it does not matter, because that is what I need to do. That is what I have to do today.

That is the case for millions of Americans. They are looking for ways to keep the roof over their heads and food on the table. They will take jobs. They will take jobs, if available.

As I said, Mr. Speaker, the 600 people that applied for that $3-an-hour job at the Luna Restaurant as a waiter were not all illegal immigrants. I do not know how many, but I would guess 50 percent were people who have lived here all their lives. They were American citizens, and they were looking for a job; and their chances of getting it were diminished by the fact that so many people are here and working here and living here illegally.

I want to reiterate, it is not a slam against those people. They are doing what they need to do, what they want to do, what they have to do to try to improve their lives. I totally understand and relate to that. I empathize with them in every single way. I know what my grandparents went through, and I hear this a thousand times, that we are a Nation of immigrants and everybody came here and worked hard.

Mr. Speaker, this is a time when in America we have to determine what our needs are, what our needs are, and to what extent we want to disenfranchise and do things that do not benefit the American citizens of this country, so as to improve the lot of those people who are not citizens. How much of what we have in America do we wish to diminish? How much has to sink in order to allow this other part to rise? This is something we have to think about. It is harsh. I know that to many people, they feel that to be something that they would just as soon not think about, not deal with; but it is important for us to understand and deal with.

Is it right? Is it okay? If it is, if you believe so, if you come down on the side that says that we need to in fact allow for markets to work and simply have as many people who want a job in the United States to come across the border and get it, if that is true, if that is what we want, then eliminate the border. Erase the border. Forget about a border. Allow people to come to this country at their whim, at their desire. Allow them to come from every country in the world.

Now, what would happen, I ask? Would all of our lives be benefited? Would everybody in the United States be better off, the people living here, would they be better off as a result? Would the quality of our life go up, or would it be diminished? If it would increase, let us do it. Let us pass the bill. Let us put it on the floor; let us debate it. To the extent you can make the case to the American public that the United States should be open to every single person in every single country who wants to come here, then let us do it.

The thing I just hate, the thing that I rail against, is the idea that we are going to actually accomplish that goal, but we are going to sneak it through. We are not going to tell Americans that is what we want, that is the goal we are trying to accomplish, to reduce everyone's standard of living in order to accomplish this sort of idealistic libertarian goal of having markets actually determine all aspects of our society. Let us just say it. That is what I want from this Congress. That is what I expect from my colleagues and the President of the United States. I expect him to tell the truth about where we are going, about what they want to accomplish, because it is one or the other. We cannot have it both ways. Either you have unlimited massive immigration into the country, the elimination of the borders, or you do not.

There is another very important dimension to this whole debate over illegal workers, and it is a good news story when you really look into it and understand it. I am thinking of the role that millions of American workers play in our Social Security trust fund and the actuaries for payout to tomorrow's retirees.

One of the arguments frequently heard in this Capitol is that the Nation benefits from all these illegal workers because many of them do in fact pay into the Social Security system, but they never gain any of the benefits. The argument runs that if they are a net-plus for the system, they will help fund the future payouts for retirees.

A recent research report by economist John Attarian called "Immigration: Wrong Answer For Social Security" examines the numbers and the projects and comes to a different conclusion entirely.

Dr. Attarian's analysis of all the most pertinent research by many organizations and many pro-immigration advocates shows that in order to make any significant dent in the long-term deficit projected for the Social Security system, we would have to quadruple the number of high-wage immigrants in the technology field, not the low-wage workers who come from across our borders illegally. Moreover, the actual fiscal effects of massive illegal immigration are probably negative, because the low-wage workers contribute less in Social Security payroll taxes than the workers they displace.

If you depress the wage rates paid to workers in order to hire illegal aliens instead of higher-wage citizens, you decrease the net income of the Social Security trust fund. You do not increase it.

Yet there is another aspect of this labor market that needs greater attention and some serious scrutiny. We have talked only about the myth of low-wage jobs that supposedly no one wants to do. There is a growing problem with higher-level jobs that are now being taken by illegal aliens and that no one wants to talk about.

This is a strange thing, this public silence about the loss of jobs in the construction industry, jobs that pay $12, $14 and $15 an hour, that are being filled by illegal workers.

Please, someone explain to me how it is that contractors cannot find legal workers to do these jobs? Do you really believe, does anyone in this body, anyone even in Washington, where the air here is so rarified that it has sometimes affected all of our thinking and we have a hard time relating to the people we represent, the working Americans, does it really occur to anyone that there are in fact many Americans who will not take $12 to $14 or $15 hour jobs in the construction industry, and therefore they go begging and we have to import illegal aliens?

The explanation, however, is simple. The jobs that a contractor is willing to pay an illegal worker $14 an hour to do, he would have to pay $16 to $18 to carpenters, union workers, brick masons and union workers. More importantly, when hiring the illegal worker instead of the American worker, the employer does not have to pay withholding tax or workman's comp or health benefits. Thus, he reduces his labor costs by as much as 50 percent by breaking the law.

You may be surprised to learn that this practice is very widespread in our Nation, especially in the West and Midwest. The Denver Post recently ran a front page investigative report on this phenomenon. The investigative reporter revealed that there is a large underground network of labor brokers who specialize in providing illegal workers for the construction industry. They provide buses and transport illegal workers from one site to another when a project is completed. There are thousands of workers involved in this scheme all across the West and Midwest.

Two very interesting questions arise when looking at this matter. The first one is obvious: Why does the U.S. Labor Department let employers get away with this violation of our labor laws? Why are arrests and prosecutions so rare?

The second question is not so obvious, but it is equally curious: Why are the labor unions not objecting to this loss of jobs to their members? Thousands of jobs, and probably tens of thousands on a national scale, are going to illegal workers who are not union members.

Where is the voice? Where is the process of the AFL–CIO when union workers lose their jobs and are displaced by illegal aliens? Where is the protest from our deficit hawks when the IRS loses millions of dollars in withholding because these illegal workers are paid off the books or as independent contractors who do not have to pay withholding?

Where is the protest by the proponents of workers' safety rules and standards when it is revealed that hundreds of thousands of workers are not being covered by workman's comp laws because employers are skirting the law in wholesale fashion, and neither the U.S. Labor Department nor State authorities are willing to do anything about it?

Where are the Nation's frontline newspapers and news networks? Is this story not told because it is not politically correct to talk about it?

I will soon introduce a new guest worker program that will offer a real and equitable solution to the so-called labor shortage. We will authorize unlimited guest workers into this country to fill legitimate jobs that cannot "be filled by citizens and legal residents." If the employer can demonstrate a real need, if he can offer a job to a foreign national, then that worker can enter the job market and work at it for up to 2 years. There will be penalties for fraud, and a part of the worker's wages will be withheld until he or she returns to the home country.

This is another issue. We will see other Members introduce legislation for guest worker programs; and for the most part, they will be disguised as a guest worker program with the purpose of creating amnesty for people who are here illegally. This cannot be. This is absolutely inappropriate. We should never, ever, ever reward people for breaking the law, whether it is the employer who benefits or the illegal alien. We should not do that as a Congress; we should not do that as a Nation.

So if you need to come into this country and if we need the labor, we should have a legal process for that to occur, a process that guarantees the rights of the people coming into the country so they are not abused by the people who are hired by them to sneak them into the country, the coyotes, the people that packed them into the back of semis, like in Texas, where they died, 19 of them just recently, or where they bring them into the country or bring them near the border and the women are raped and the men in the family are robbed and they are shoved into the border.

We have testimony from people who have ranches near the southern border, and at nighttime they can hear the screams of women being raped by the coyotes who have taken them to this point where the promised land is just on the other side, but at that point they take advantage of them in every single way imaginable and shove them into the desert and they die there by the hundreds.

We can protect them. We can stop them from doing that. We can stop the coyotes from doing this. We can protect workers coming into the United States and make sure they are paid at least the minimum wage. We can be sure they are in fact given the kind of protection that American workers deserve, that all workers deserve.

On the other hand, we can protect our own interests in this country and protect the interests of Americans who need jobs. If there are truly "jobs that Americans will not do," fine, let somebody prove that; and when they prove it, let them import labor for that purpose. It is okay with me. But I will assure you that if that test were really that difficult, if we truly put it out there in that way, prove that no American wants this job for what you are willing to pay, for what the going rate is, by the way, not just what you are willing to pay, what the going rate for this job is, okay, you can bring in a guest worker. But I guarantee, Mr. Speaker, that most of these jobs that we are being told would only be taken by people we have to bring in here illegally would in fact be taken by American citizens. To the extent that is not true, fine, import workers. Bring them in legally so that they are protected in their rights and so that our rights are also protected.

There would be penalties for fraud, and part of the workers wage would be withheld, as I say. The penalties for fraud are important, because we have to stop the demand side of this equation just as much as the supply side. There are hundreds, if not thousands, of American corporations that are taking advantage of our laws, that are importing workers, that are actually involved in the process, not just of hiring illegal aliens, but bringing them into the country.

Tysons Foods, Tysons Foods in Arkansas is being prosecuted by the U.S. Government, and it is a showcase. I really and truly applaud the Immigration and Naturalization Service for bringing this case, because I hope people in Tysons Foods, if they are found guilty, actually go to jail for what they have done, because they are part of, according to the government's case anyway, Tysons Foods and the executives at Tysons Foods were actually involved in the importation of illegal workers.

□ 2300

Well, that even goes one step beyond just hiring someone who is here illegally, and the people who did that should go to jail. American corporations who knowingly hire people who are here illegally should be punished to the fullest extent of the law, and we should not wink at it and we should not just pretend that it is the problem of the illegal worker coming into this country. He is coming or she is coming for a job. That job is being offered by an American corporation or an American company or just an American citizen, and we have to stop that. Each are culpable. When those people died in Victorville, California, the people who are responsible for their death, beyond those individuals who put themselves in harm's way, who decided to actually take the risk of coming into this country illegally, beyond those people, there is still more culpability. Part of it goes to those American employers who enticed these people into the United States. Part of it goes to our own government and every Member of this Congress who refuses to deal with the issue of illegal immigration. Yes, it is our responsibility. Yes, their blood is on our hands.

Mr. Speaker, I state that categorically, that we have, over the course of the last couple of decades, made it enticing for them to come to the country illegally; made it illegal to do so, of course, to come without our permission; but, on the other hand said well, if you can do it, if you can make it, we will look the other way. So, of course, millions do, and some of them get caught in this trap, and some of them die. It is our fault. We share the blame. So does the Mexican Government for encouraging this flow, for doing everything possible to move unemployed young Mexican workers into the United States to reduce their own problems in Mexico and to increase remittances from people who come to the United States and send money back to Mexico, which becomes a significant part of their own GDP.

They also encourage the flow of illegal immigrants into the United States from Mexico in order to have them, as I was told by Juan Hernandez, who was at that time the head of the ministry in Mexico called the Ministry for Mexicans Living in the United States. He said that it helps them influence our government's policy, the massive number of Mexican nationals living in the United States helps them, he said, influence our government's policy vis-a-vis Mexico. So Mexico has a role to play and is equally culpable for the deaths of the people that have come across this border and found themselves in horrible circumstances and died as a result or were harmed in the process.

Mr. Speaker, all of these people have some role to play and some degree of culpability, and I say to every single one of them, I challenge you to actually deal with this forthrightly. Stand up in front of the American public and state unequivocally that what you want is, in fact, a Nation where there are no barriers to immigration, where people can come at their will. Say that. It may win. It may win a majority of the votes in the Congress of the United States and the President may sign that kind of a bill. I, as I say, am a "no" vote, but it may happen. I just want the debate. I want it to happen in this body. I want it to be done in a de jure fashion, not in a de facto way.

I know that what we are doing in America today is in fact moving in exactly that direction. We are eliminating our borders, but we are not doing it through a legal process; we are doing it in a de facto way, by looking the other way. And there are many, many bad things that happen as a result of that desire on our part to look the other way. Well, I want to force this Congress, I want to force this Nation, I want to force the President of the United States to look at this straight in the eye, and say we are going to deal with it one way or the other. Open our borders or secure them. Those are the only two options open to us as a Nation. Take your pick. Vote on one side or the other. Let us get this job done. Let us tell the people where we really stand. Let us get this problem solved one way or the other.

## POSTWAR IRAQ: WINNING THE PEACE AND FINDING WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 60 minutes.

Mr. HOEFFEL. Mr. Speaker, I will be joined by several colleagues this evening in a discussion about Iraq, with two fundamental questions to be addressed: First, are we winning the peace in Iraq after our impressive and important military victory, are we winning the peace in Iraq? And secondly, where in the world are the weapons of mass destruction?

I will be joined shortly by the gentleman from New Jersey (Mr. MENENDEZ), the minority caucus chair and a senior member of the Committee on International Relations, and by the gentleman from Massachusetts (Mr. DELAHUNT), a senior member of the House Committee on International Relations, and several others. We would like to have a colloquy this evening amongst ourselves to discuss this issue, to raise these issues for the American people.

Let me make a few points to get us started. We all agree that our Armed Forces performed brilliantly in Iraq. We are very proud of our young men and young women in uniform, and the military victory we won was important in that it removed the threat posed to regional and even world peace by the murderous regime of Saddam Hussein. But while the military victory is ours, the military mission is not yet accomplished, because we have not found and disarmed and dismantled the weapons of mass destruction.

There must be an accounting to Congress, to the American people, and to our allies regarding the weapons of mass destruction. They are certainly, in the hands of a terrorist, the greatest security challenge we face, and yet we do not know where the weapons of mass destruction are today. We need to determine what we must do to disarm and dismantle them. We must determine who has the custody of those weapons and what steps we must require of any new custodian to render those weapons harmless. If the weapons have been destroyed, then how did that happen, and how is it possible that our security agencies would not have known? And, fundamentally, did the Bush administration overstate its case for war against Iraq, based upon weapons of mass destruction? Did the administration mislead the Congress and the American people intentionally, or not, about Iraq's weapons of mass destruction program? Did the Bush administration misuse the intelligence gathered by our national security agencies? Did they hear only what they wanted to hear? Did they believe only what they wanted to believe? Or did they tell us only what they wanted us to hear about the weapons of mass destruction?

The Bush administration has a growing credibility gap, Mr. Speaker, regarding the weapons of mass destruction in Iraq, and we must have a full accounting.

Let me quickly touch on the second topic before turning to my colleagues, and that would be whether we are winning the peace in Iraq. We are faced with enormous challenges: peacekeeping, humanitarian aid, reconstruction, and building a new government. And the truth is that events in post-conflict Iraq are not going as well as they should. Security is a huge problem. Rampant lawlessness is blocking the economic recovery and the establishment of a civil society that we all want to achieve. Humanitarian aid is lacking. Reconstruction has not even started. And the establishment of a pluralistic and representative government seems a very long way off as the demands of religious and ethnic groups are loud and unresolved.

What are we doing in Iraq to deal with this? We have replaced all of the senior administrators that we first sent under Jay Garner and have replaced them with a new crew under Paul Bremmer. We have won the United Nations' approval by the Security Council of U.N. Resolution 1483 which names the U.S. and Great Britain as occupying powers, occupying powers under international law in Iraq. So we are responsible for the recovery, the reconstruction, the administration, and the establishment of a new government in Iraq as the occupying power.

Well, what have we done to get the ball rolling here? First came the Chalabi plan. Ahmed Chalabi, a 30- or 35-year exile from Iraq, head of the Iraqi National Congress. He visited my office on October 3, 2002. I believe he was making the rounds of members of the Committee on International Relations. To tell my colleagues the truth, I found Mr. Chalabi to be a blowhard, to be a blusterer, full of spin, the kind of man my grandfather would have called a four-flusher.

□ 2310

I am not quite sure what that means, but I think Achmed Chalaby meets the definition.

The Pentagon civilian leadership believed Achmed Chalaby, believed him when he said that Saddam Hussein had vast stores of weapons of mass destruction. Those weapons have not been found. They believed Chalaby when he said there was a close connection between al Qaeda and Hussein. That connection has not been established.

The Pentagon civilian leadership believed Chalaby when he said the Shiite Muslims in the south of Iraq would greet American military forces as liberators, greet them with open arms. Instead, they are treating us as occupiers and colonizers.

We flew Mr. Chalaby in with 700 followers. We armed him. We gave him arms, Mr. Speaker. We have now had to take those arms away because he does not have credibility.

The second plan was the Group of Seven plan to take seven so-called leaders, mostly exiles like Chalaby, and put them in as an interim authority to run Iraq. We have had to give up on that. Jay Garner could not get that to happen.

The third plan now is the Bremer plan. Under the Bremer plan, Paul Bremer, the new viceroy, American Viceroy in Iraq, will appoint a 25- to 30-person advisory council to give us advice on how to rule Iraq. We are not forming an interim authority or government, as we spoke of before. We hope to establish by fiat what really should come from within, from the people of Iraq.

So we have some very real challenges. I have more comments to make, but I have colleagues here who are anxious to join this debate and engage in a colloquy.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding to me. I want to congratulate him on conducting this particular Special Order because I think it is very important.

Clearly, newspaper reports, interviews over the course of the past several days, have raised these issues, really, to a level that I know our respective offices are receiving numerous telephone calls by constituents that are expressing profound concern.

Earlier this evening, a Republican colleague of ours talked about these issues. I think he was suggesting that they were emanating from a crowd that he called Blame America First. I respectfully have to disagree with him. I think these are questions that have to be asked. I think it is our responsibility to ask them on behalf of the American people.

We are not the only ones that are asking these questions. If there is a Blame America crowd, there are many people in that crowd who are not only highly regarded and highly respected but are Members of both parties.

I think it is important to note that the top Marine officer in Iraq, Lieutenant General Jim Conway, and again, this is from a report in The Washington Post, when no such weapons had been found and the move was announced just hours ago, and we are talking about a reorganization of the group that is missioned or tasked to look for these weapons of mass destruction, he said in a press conference that U.S. intelligence was simply wrong in leading the military to believe that the invading troops were likely to be attacked with chemical weapons.

This is a statement by Lieutenant General James Conway. I doubt that he is part of any group that would blame America, but he is making a statement that deserves an answer.

The Republican Chair of the Permanent Select Committee on Intelligence of this House, highly regarded, well respected on both sides of the aisle, in a letter dated May 22, 2003, and I am referring to the gentleman from Florida (Mr. GOSS), he co-signed a letter to the director of the Central Intelligence Agency. Let me just simply quote several sentences:

"The House Permanent Select Committee on Intelligence believes that it is now time to reevaluate U.S. intelligence regarding the amount or existence of weapons of mass destruction in Iraq and that country's linkages to terrorist groups such as al Qaeda.

"The committee wants to ensure that the intelligence analysis relayed to our policymakers from the intelligence community was," and I am quoting the gentleman from Florida (Mr. GOSS), "accurate, unbiased, and timely in light of new information resulting from recent events in Iraq." He goes on: "The committee is also interested in understanding how the CIA's analysis of Iraq's linkages to terrorist groups such as al Qaeda was derived."

No one in this body would ever describe the gentleman from Florida (Mr. GOSS) as a member of the Blame America Crowd.

When we raise questions about the planning and the efforts of reconstructing Iraq after that war, I am confident that no one would ever accuse the Republican chairman of the Senate Foreign Relations Committee, Richard Lugar, as part of the Blame America Crowd. Let me read, Mr. Speaker, to my colleagues and to the American people what Senator LUGAR, a Republican from the State of Indiana, chairman of the foreign relations committee, had to say in an opinion piece that he wrote on May 22 of this year:

"But transforming Iraq will not be easy, quick, or cheap." These are his words: "Clearly, the administration's planning for the post-conflict phase in Iraq was inadequate. I am concerned that the Bush administration and Congress has not yet faced up to the true size of the task that lies ahead or prepared the American people for it. The administration should state clearly that we are engaged in nation-building." That is Senator LUGAR's phrase. "We are constructing the future in Iraq. It is a complicated and uncertain business, and it is not made any easier when some in the Pentagon talk about quick exit strategies or saying dismissively that they don't do nation-building. The days when America could win battles and then come home quickly for a parade are over."

Mr. HOEFFEL. Mr. Speaker, I would like to ask the gentleman if he is aware of some of the comments made by the administration last fall in the lead-up to the votes, the very important votes taken in Congress and in the United Nations regarding the war on Iraq. Statements of certainty from the President and other high administration officials have not been supported by recent disclosures from the intelligence agencies, the kinds of problems that I believe are leading to the credibility gap that I see growing here.

Let me give the gentleman a couple of examples, and I would be interested in his comment.

President Bush said in the Rose Garden on September 26, 2002, that the Iraqi regime possesses biological and chemical weapons. The Iraqi regime is building the facilities necessary to make more biological and chemical weapons."

However, at the very time, the Defense Intelligence Agency was circulating a report in September of 2002 which said there was "no reliable information on whether Iraq is producing or stockpiling chemical weapons, or whether Iraq has or will establish its chemical agent production facilities."

□ 2320

This and other information led Greg Thielmann, who retired from the State Department in September 2002 as director of the Strategic Proliferation and Military Issues Office in the State Department's Bureau of Intelligence and Research, who reviewed this classified intelligence gathered by the CIA and other agencies in the run-up to the debate in the Congress and the U.N., to accuse the administration of distorting intelligence and presenting conjecture as fact. And he was quoted this week by the Associated Press as saying, "What disturbs me deeply is what I think are the disingenuous statements made from the very top about what the intelligence did say."

Is the gentleman aware of these statements and inconsistencies, and would he care to comment on them?

Mr. DELAHUNT. Yes, I am clearly aware of them and it even goes beyond to simply Mr. Thielmann. In fact, there is such outrage among intelligence professionals, people that have committed their lives to this work who I am sure are devoted to their country and are clearly not part of the Blame America Crowd; but they have come together and formed a group, Veterans Intelligence Professionals for Sanity.

They wrote recently to President Bush to protest what they call a policy, and, again, I am quoting here, "a policy in intelligence fiasco of monumental proportions. While there have been occasions in the past when intelligence has been deliberately warped for political purposes," this is their letter, "never before has such warping been used in a systematic way to mislead our elected representatives in voting to authorize war."

That is a very serious accusation; and the American people deserve to have these individuals, other individuals come before in public session, the appropriate committees in Congress, and listen to what they have to say and provide us with an opportunity to inquire to them, let us lift the veil of secrecy. This is a democracy.

When we talk about American values, we talk about transparency and accountability; and I am profoundly concerned as to what I am witnessing over the course of the past 2 or 3 weeks, specifically as it relates to the issues of weapons of mass destruction and the issue of links with al Qaeda and the Saddam Hussein regime.

Mr. MENENDEZ. On the gentleman's very point, I want to thank our colleague for convening this opportunity to talk about a very important issue. I would like to ask both of the gentlemen, you sat, as I did here, during the State of the Union speech. You heard the President, as I did, say that one of the concerns is that Iraq sought to buy uranium in Africa. And that was included in the President's State of the Union speech, one of many compelling reasons why supposedly we had to be alarmed about Iraq and Saddam Hussein. And yet we read in today's Washington Post that the National Security Advisor, Condoleezza Rice conceded that that was an inaccurate claim. And yet here before the entire body of Congress and the American people, we were told that one of the compelling reasons, why do you buy uranium? You buy uranium for nuclear devices. Iraq is something that we need to be concerned about.

And my question to both of my colleagues is, does this not go to the fundamental issue that if the President's preemption doctrine, not that many of us agree with that as a doctrine that should be followed by the United States, but this doctrine of preemption which basically says we cannot wait for the risk to rise to a level that is a threat to the national security of the United States, we have to go in there in any country and preempt that threat, that even if one is to ascribe themselves to that view, that it is based upon the ability of the United States to gather accurate intelligence and make honest assessments? Does that not go to that very purpose of that doctrine?

When we see the revelations that seem to be coming forth like Condoleezza Rice saying, yes, that statement that the President made before Congress and the whole Nation about uranium purchases in Africa being false, that those begin to raise concerns. How do we begin to have any credibility in any such preemption doctrine when the fundamental underpinnings seem to be at question, which is what I think the gentleman from Massachusetts (Mr. DELAHUNT) is saying.

Mr. DELAHUNT. Exactly. I think the point is, how in the future, if we face a genuine threat to our liberty, to our democracy, do we turn to our allies and the rest of the world and say this is a moment when the United States must take action, given what appears to be, what appears to be issues surrounding the quality of our intelligence.

Let me just go a bit further with the example that you alluded to. It was so shoddy, the intelligence work, that a local police department, let alone our intelligence agencies, would have, I hope, discovered that this information was false. It was based on forged documents. It was one of the documents being signed by the foreign minister of this particular nation which happens to be Niger, not Nigeria, but Niger on the continent of Africa, signed by the foreign minister. And simply taking the name of the foreign minister and doing an Internet search would have revealed that the foreign minister whose signature appeared, in fact, had left that particular role, had resigned from government for 10 years, 10 years.

What does that say about the quality of the intelligence that was relied on by the President and by those who supported the military intervention in Iraq?

And yet some would suggest that to even pose these questions or raise these concerns is Blame America First? I respond by saying it is defending America, defending our democracy, defending our credibility, defending our claim to moral authority among the family of nations. Not to do so would be unpatriotic.

Mr. MENENDEZ. Mr. Speaker, I think the gentleman's point is well taken. As a matter of fact, one of the things that I was additionally concerned about, and the gentleman did mention the Internet and how anybody who just did a casual search would see that this foreign minister had not been in office in a decade, and yet we rely upon it as fact by which we act and we do not even do a rudimentary study to find out whether that document had legitimacy.

It is interesting to note that one of our allies in this regard seems to have the same problem in this regard. There is an article that appeared in The New York Times that talks about how the top aide to Prime Minister Blair wrote to the head of Britain's Intelligence Service earlier this spring conceding that the government's presentation of a report on Iraqi arms was mishandled. And the report which is entitled, "Iraq, Its Infrastructure of Concealment, Deception and Intimidation," was used as part of the reason to pursue an invasion of Iraq and Saddam Hussein. And it is now referred to in the British news media as the dodgy dossier because of evidence that part of it was downloaded from the Internet, completed with typographical errors from an American student's thesis that relied on 12-year-old public information. And it is now being reviewed by two parliamentary committees in Great Britain because it raises doubts about its central claim that Iraq's chemical and biological weapons were in such a state of readiness that they could be launched within 45 minutes, within 45 minutes.

□ 2330

That type of information is incredibly frightening when that is the basis under which we would deploy American troops, put at harm American soldiers.

There is no question, I think we would all agree, that Saddam Hussein was a dictator, was a bad actor, happy to see him leave from the world stage; but the question is, what invokes the policy of preemption, the use of U.S. forces and power abroad, under what basis? That is why so many of us who asked questions at the time and say, well, what is the foundation, what is the clear and present danger to the U.S., what is the imminent threat, have real concerns now as I think we see this intelligence information suggesting that there was not necessarily a clear and present danger, any imminent threat to the United States.

I think it puts us in serious doubt with the international community when the next situation arises. I do not know what my colleague thinks about it.

Mr. HOEFFEL. The certainty that was used by the Bush administration to present this information in the fall of 2002 I think is a critical issue here. It is not completely clear at this point what all of the intelligence agencies were saying. Their information is becoming declassified and is beginning to be made public, but it is very clear what administration leaders were saying. In addition to the President, whom I already quoted also on September 26, Defense Secretary Rumsfeld told reporters, "Iraq has active development programs. Iraq has weaponized chemical and biological weapons." Yet a national intelligence estimate of October 2002, which was reputed to have said that Iraq had weapons of mass destruction, when we look at the backup material that is just being declassified, it is much more equivocal.

The question is, was the intelligence wrong or were the political leaders who were getting that intelligence misusing it? Were they hearing what they wanted to hear? Were they telling us what they thought we ought to hear? Were these innocent mistakes? Were they unintentionally mishandling the information, or was it more sinister?

I think these are fundamental questions that need to be asked if the gentleman is right; that if we are going to evaluate this new doctrine of preemption, a fundamental part of that has to be faith and credibility that our fear of imminent attack from another nation is an accurate fear, and if it is not an accurate fear, then the whole notion of preemption cannot possibly work.

I know my colleagues are anxious to respond, but we have been joined by a senior member of the House, the gentleman from Washington (Mr. McDERMOTT) who is sitting patiently and I think has quite a bit he would like to add to the discussion. So I would be happy to yield to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I thank the gentleman for coming out here at 11:30 at night to discuss this. The tragedy and real travesty of this whole thing of us being out here at this hour of the night, we have no mechanism to which we can get at the truth. They will never have an investigation in this House that ought to be done on what the President has said, what he has led to believe.

In Great Britain, they are calling for an independent judge to look at the whole question. What do we do in this House? Our distinguished colleague, who was mentioned before, from Florida was, Let's have the intelligence community look at their reports and see if they can evaluate how they did. That is about like asking the fox to go down to the hen house and check the lock, see if the key works. I mean, that makes no sense at all in my view.

It is clear we have two choices. We either have the choice that the President and those people who presented the evidence, or whoever presented him bad information, which implies stupidity, or we have a situation where they manipulated us. I voted against it because it was clear to me from September that they were so eager to go to war that they were going to say whatever they had to, and they shifted from al Qaeda to weapons of mass destruction to aluminum tubes to cake from Niger. Anything they could grab they threw up here and said this is the reason we have to go to war.

The other day Wolfowitz said the reason we had to go to war was because we did not have any other way to get at him. They were sitting on a lake of oil so we could not manipulate him financially anymore so we had to attack. North Korea, we can manipulate them financially because they are broke. We can squeeze them, but there was no way to squeeze the Iraqis.

In my view, we were going to go to war from about the first of September on. They had made the decision, and they came out here and repeatedly presented information.

In one of the training sessions before they went to the United Nations, they were rehearsing with Mr. Powell, and he finally got so frustrated looking at this stuff he threw pages up in the air and said bull-, and he used the word from the barnyard. He said this is nonsense. But yet the next day he got up and presented it to the whole world as this was the truth. And here we are, 80 days after they say the war is over. I mean, the President stages this photo op out there and lands and says, well, we have conquered it. You know why he does not say the war is over? Because if he did, he would have to face the reality or the real travesty of this thing is that they never planned for after the war.

The mess they have got over there right now is incredible, and I mean all we have to do is read the BBC. The BBC says that the incidence of diseases such as cholera, dysentery, and typhoid are 2½ times greater in the month of May 2003 than they were in the month of May 2002. That is what democracy brought the children of Iraq. That is what our President says he was going to bring. We are going to bring democracy, we are going to bring you cholera, we are going to kill kids on the basis of diarrhea.

The electric lights are not on. Why? Because they are having a big squabble with Bechtel about whether they ought to privatize the electric industry. The water is not clean because they are having a squabble with Bechtel about privatizing utilities.

And the worst thing was in today's newspaper. In today's newspaper, the New York Times on page 15, here we have a colonel that is responsible for 500,000 people in southern Baghdad. He has got 700 paratroopers and he is supposed to run a city of half a million people. He says, "I was in Haiti but I arrived here with zero experience running a city. We all wonder if we can go back and apply for an honorary degree in public communication. A lot of this stuff we are just completely feeling our way in the dark." This is a colonel in the United States military talking.

Mr. HOEFFEL. Mr. Speaker, if I can ask the gentleman a question, I am glad he moved us on to the questions of reconstruction and new governance in Iraq. It seems to me the biggest problem facing America in post-conflict Iraq is the perception, if not the reality, that we are an occupying colonial power as opposed to a liberating power, anxious to work internationally with existing organizations to develop a representative government.

Mr. McDERMOTT. My colleague is absolutely correct. The Arab world has had this before. They saw the West come into Palestine, into Algeria, into Egypt. They were going to be there just a couple of years to get things stabilized after the Ottoman Empire was over and the First World War was done, and they stayed for 25 years. These people see us, they have got a memory, and they are just saying, hey, get out of here, let us run it; you said we were going to be able to elect our own people. My colleague from Pennsylvania has already pointed out that we have already said we cannot have an election until you learn to pick the right people. So we are going to give you a group of 10 that we will select, and that way we will put an Iraqi face on the government.

Now, if you cannot ask where is our democracy, I do not know. They certainly have a right to choose their own government. It should not be decided by our government who is going to run that country.

Mr. HOEFFEL. Mr. Speaker, the gentleman from Massachusetts I think has a comment.

□ 2340

Mr. DELAHUNT. Mr. Speaker, let me pick up on the issue that the gentleman from Pennsylvania (Mr. HOEFFEL) raises and the gentleman from Washington (Mr. McDERMOTT).

Our troops made us proud. We all support them. Every American supports them. Now they are being asked to do something, as the gentleman indicates, that they have not been trained for. There they are on the ground in a situation that at best is unstable. I do not even want to calculate the number of dead American soldiers on a weekly basis that have occurred as a result of guerrilla-type attacks, ambushes. It is simply not fair.

And the irony of this is that the Army Chief of Staff, General Shinseki, indicated before the war that it was his judgment, his estimate that we would need several hundred thousand troops in Iraq for an extended period of time. He was dismissed by the Secretary of Defense. I think maybe it was the Under Secretary of Defense, Mr. Wolfowitz, maybe Mr. Rumsfeld.

Mr. McDERMOTT. It was Mr. Rumsfeld.

Mr. DELAHUNT. But that was grossly exaggerated. Now we discover that General Shinseki is absolutely correct. When I asked during the course of a House Committee on International Relations hearing to the Under Secretary of Defense, Mr. Dan Fife, simple questions, I think his responses are informative; and if I could indulge, I asked Secretary Fife, "We read different estimates of the cost of reconstruction to the American taxpayers. What is the current estimate of the administration in terms of the cost to the American taxpayers for the reconstruction of Iraq?

Mr. Fife: There is no total estimate for the whole government for the whole range of things.

Mr. DELAHUNT: There is no estimate. Is there a range?

Mr. Fife: I am not aware that anybody has pulled together all of the threads.

So then I said, "Well, I would hope that they would pull the threads together, and if you can get that information to me in writing, I would appreciate that."

This is maybe several weeks ago rather than at the end of the combat, the hostilities announced by the President. I would hope, in fact, that these estimates would have occurred months before the military intervention was launched. Then I go on, "You have answered my question, but I would like to receive something in writing, Mr. Secretary, and I would like to share it with my colleagues. I think it was General Shinseki that estimated some 200,000 troops would be necessary to secure stability in Iraq. What is the current estimate from the Department of Defense and for how long would they be required?"

The Under Secretary's response: "These kinds of questions have been an issue for some weeks, and we are continually being asked. And we are, obviously, not getting through on a key point which is there are so many things, so many different aspects of reconstruction and security, and each aspect depends on events and it depends on things we do not know about and we cannot know about. For example, how smoothly is the transition to an Iraq interim authority going to take place, and how quickly are the Iraqis going to be organizing?"

I responded, "I respect that, Mr. Secretary, but at the same time I would hope that the department would have been prepared to provide a range in terms of worst- and best-case scenarios. I think we have a right to that information. Let me ask you another question: Do you have an estimate in terms of when an election in Iraq may occur?"

The Under Secretary responded, "No, we do not."

"I appreciate your answers. You indicated there appears to be a narrow popular support for a theocracy similar to the one in Iran. Do we have polling data to support your thesis, or is this just an opinion through intelligence?"

Mr. Fife responded, "It is an opinion that comes from intelligence. It comes from diplomatic reporting."

"But there is no polling data, I take it?"

"I do not know whether there are. I do not know off the top of my head whether there is polling data."

So then I said, "Let me ask this question. Let me pose you a hypothetical question. If we have a free and fair election and if as a result of that election there is a leadership that does not necessarily feel warmly towards the United States, are we unconditionally willing to accept that particular leadership, presuming again free and fair elections?"

Mr. Fife answers, "We are going to be working with the Iraqis to get a government organized, and part of that is going to be organizing a constitution and a bill of rights."

Mr. MENENDEZ. Mr. Speaker, I think the questioning was a precursor, as mine was, when Secretary Powell appeared before the committee before that, and I asked the Secretary how long, how many lives will we lose, how long will we be there, how much will it cost, and are we nation building?

And I know that my colleagues have listened certainly for the decade that I have been here, listened to our colleagues on the other side of the aisle talk about how they abhorred the concept of nation-building when we were in Bosnia and other places, stopping real atrocities that were taking place, and hearing we are into nation-building.

And yet as the gentleman was trying to elicit from the witness before our Committee on International Relations, which we both sit on, we have no real planning. There was Jay Gardner, who was designated as the head of the Office of Reconstruction and Humanitarian Assistance. Here we have the Department of Defense doing nation-building, something that we consistently heard our colleagues on the other side of the aisle rail against, and he in essence was on the job a full 3 weeks, and after all of that preparation that supposedly took place for him to be there, we get rid of him in 3 weeks. He was going to develop a national assembly of Iraqis, and that did not work. And then his State Department successor, Ambassador Bremer, thought that perhaps seven opposition groups might be able to work effectively as an interim government. That was soon abandoned.

Now we are talking about a so-called advisory council of 20 or 25 Iraqis, but this latest plan of an advisory council seems to minimize, not increase, the participation of Iraqis in the process for months, if not longer.

So here we are in this preemption doctrine for which we now have serious questions about the underpinnings under which we committed massive force because it was alleged at the time that there was a clear and present danger to the United States. We are told by the administration, well, you have to have a lot more time; and yet we did not want to give any more time to U.N. weapons inspectors, but we are asked to give enormous amounts of time here. And we have the full roam of the country uninhibited. And then we supposedly were prepared for the post-Saddam era, and we seem not to be able to put that together, or I am not sure what our intent is.

□ 2350

We do not seem to know where Saddam Hussein is. We also do not seem to know where Osama bin Laden is, and that is a whole other issue in terms of Afghanistan and what happened. And so you have the confluence of all of these issues.

Mr. McDERMOTT. There is one other one you have left out. That is our allies, the British. Their defense chiefs are quoted in the newspaper as saying they are resisting calls for British troops to be sent to join American forces in Baghdad because they could, quote, be sucked into a quagmire. They do not want British troops caught up in the rising tide of anti-American violence. So even our allies are stepping back now and saying, hey, look, you guys got over in there and you said you knew what you were doing.

It is more complicated even than our own problems.

Mr. MENENDEZ. The point really is that it is the congressional responsibility for oversight that we have on behalf of all of the American people to raise the questions and get the answers that ultimately lead us to make the right choices in the future, informed choices, based upon real substantive information, not perceived or possibly manipulated information, and to be understanding that we have got to be prepared. We won the war; we salute the men and women who did not ask whether this was the right conflict or not but just responded to the Nation's call. I visited one of our bases and the young men and women there told me, Congressman, we don't ask whether this is right or wrong, we don't pick the time, the place or the conflict, we just respond. We salute them for that. But before we send those young men and women, sons and daughters of Americans of this country, we should know that we are sending them on the right information, that we have a plan not only to win the war but then to achieve the peace and to make sure that the seeds that we seek to sow in terms of democracy take place. Those are some of our concerns I think in this process.

Mr. HOEFFEL. The gentleman from New Jersey speaks very eloquently about congressional responsibilities, the things we ought to be asking about. You were talking about how to get a representative government started in Iraq. It seems to me that what Congress ought to be pushing the administration to focus on in our efforts to create liberty is to create the institutions of liberty first. We cannot have a democratic system in Iraq if they do not have the institutions of a free press and a functioning judiciary and the traditions of free speech and a civil society and a noncorrupt bureaucracy. In fact, all that needs to be founded in some written constitution that has public support and public input. What does my colleague think we need to do to achieve that, if he agrees with me that that is the fundamental goal that we have got to establish first before democracy is ever going to come to the people of Iraq?

Mr. MENENDEZ. I think there are a variety of things. I am sure some of our colleagues have some ideas as well. But fundamentally you have to get Iraqi civil society back engaged. You have to create the wherewithal to show that not only were we liberators, hopefully, but at the end of the day that we have also come to help really create a better society and to assist Iraqis to be able to do that. That comes with, first of all, at least having the functioning entities of civil society be able to take place, as you suggested, some of those institutions. As our colleagues suggested, to get some of the basic fundamental services that Iraqis would expect from a liberating force to take place and to begin to act. So, clean water, running sewerage systems, the opportunity for electricity to be present, the return to schools of children, the opportunity for hospitals to be able to take care of the sick. The rudimentary elements of a civil society start there. And then to engage civil society within Iraq to begin to perform some of their own functions and to also ask the beginnings of Iraq's natural resources to go for the purposes of helping Iraq rebuild itself. I think the American people have the right to know how long are we going to continue to be there? How many more lives will we lose? How much will it cost? And, as I always listen to our colleagues here in the House and in committee, what is our exit strategy? What is our exit strategy?

Mr. DELAHUNT. We do not seem to be hearing that anymore.

Mr. MENENDEZ. No, we do not hear about exit strategies or nation building anymore.

Mr. DELAHUNT. Or lockboxes, either, for that matter. As the both of you were talking about the men and women that really made us all proud, and we consider our very best, I think it is important to state unequivocally that when they return, it is not simply about parades, it is about respecting them and delivering the promise and the commitment to veterans that I know each and every member of our party is willing to make. No cuts in veterans' benefits. None at all. That is unacceptable and would be unconscionable.

But let me end my digression and go back to the issue of nation building and just read a paragraph from the May 19 Washington Post. It is entitled "Plan to Secure Postwar Iraq Faulted." The author writes the following paragraph:

"In interviews here and in Washington and in testimony on Capitol Hill, military officers, other administration officials, and defense experts said the Pentagon ignored lessons from a decade of peacekeeping operations in Haiti, Somalia, the Balkans and Afghanistan."

Let us be candid and let the American people hear this: that in Afghanistan, we are at great risk of returning to that kind of chaos, that kind of volatility, instability that occurred prior to our invasion of Afghanistan. It is a mess in Afghanistan. The President of that country, President Karzai, cannot leave Kabul. The rest of that nation and many sections of Pakistan bordering Afghanistan are rife with Taliban and with other terrorist groups. And we have failed miserably in reconstruction efforts there. I would hope that this administration and this House would look to Afghanistan as an example of what not to do and go forward with a sensible plan that we can all support, because we know our responsibility.

Mr. HOEFFEL. Would the gentleman agree that using NATO as a peacekeeping force might be the right thing to do in both Afghanistan and Iraq?

Mr. DELAHUNT. I think what is rather ironic, of course, is in Afghanistan, our NATO ally Germany is playing a key and vital role. Afghanistan militarily was truly a coalition of the willing, not a coalition of the coerced, the bribed, but a coalition of the willing. But I think it is important that we approach the reconstruction of both Afghanistan and Iraq on a multilateral basis. We cannot ask the American people to continue to bear the full burden. We have already made a comment in Iraq which practically guarantees a new hospital in every Iraqi city, 100 percent maternity coverage for Iraqi women that is going to be funded by the taxpayers of the United States. And what are we doing here in this Congress under this Republican leadership to Medicare? We are cutting it by $95 billion. That is not fair to the American taxpayer. It is not fair to the American people.

Mr. HOEFFEL. I thank the gentleman for his comments, for his leadership in the House and his eloquence on the House Committee on International Relations.

Would my friend from New Jersey like to make some final remarks as our time is short?

Mr. MENENDEZ. Very briefly, I appreciate the gentleman's engaging in the dialogue, and I hope we will continue it in the future. I think we owe America's young men and women who went into harm's way, that before we call upon them again for a preemptive strike, that we are doing so based upon sound information, that we are based on intelligence that is honest, truthful and transparent, that we ultimately have a plan not only to win the war but to win the peace, because we are losing soldiers every day. It is not as well publicized, but we are losing soldiers every day. We deserve, before we send the finest to answer the Nation's call, and that is where the congressional responsibility takes place, in asking these questions, in getting answers and being able to prepare for the future.

Mr. HOEFFEL. I thank my colleagues for joining me.

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## CORRECTION TO THE CONGRESSIONAL RECORD OF THURSDAY, JUNE 5, 2003, AT PAGES H 5036–H 5037

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## APPOINTMENT OF MEMBERS TO THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. PORTER). Pursuant to 22 U.S.C. 276h and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States Interparliamentary Group, in addition to Mr. KOLBE of Arizona, Chairman, appointed on March 13, 2003:

Mr. BALLENGER of North Carolina, Vice Chairman,
Mr. DREIER of California,
Mr. BARTON of Texas,
Mr. MANZULLO of Illinois,
Mr. WELLER of Illinois,
Ms. HARRIS of Florida,
Mr. STENHOLM of Texas,
Mr. FALEOMAVAEGA of American Samoa,
Mr. PASTOR of Arizona,
Mr. FILNER of California, and
Mr. REYES of Texas.

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## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BAIRD (at the request of Ms. PELOSI) for today on account of an event in the district.

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. KILPATRICK (at the request of Ms. PELOSI) for today on account of official business.

Mr. LARSON of Connecticut (at the request of Ms. PELOSI) for today and June 10 on account of a family illness.

Mr. REYES (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. SMITH of Washington (at the request of Ms. PELOSI) for today and the balance of the week on account of personal reasons.

Mr. HOUGHTON (at the request of Mr. DELAY) for today and June 10 on account of family matters.

Mr. TOOMEY (at the request of Mr. DELAY) for today on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Ms. PELOSI, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MILLER of North Carolina, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. KIND, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:

Mr. BURTON of Indiana, for 5 minutes, today and June 16.

Mr. GUTKNECHT, for 5 minutes, today and June 10, 11, and 12.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. RODRIGUEZ, for 5 minutes, today.

Mr. MEEKS of New York, for 5 minutes, today.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. 273. An act to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

## BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on June 6, 2003 he presented to the President of the United States, for his approval, the following bill.

H.R. 192. To amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

## ADJOURNMENT

Mr. DELAHUNT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 10, 2003, at 10:30 a.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2554. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Exotic Newcastle Disease; Removal of Areas From Quarantine [Docket No. 02-117-6] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2555. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Ports Designated for Exportation of Livestock; Portland, OR [Docket No. 02-127-1] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2556. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Thymol and Eucalyptus Oil; Exemptions from the Requirement of a Tolerance [OPP-2003-0002; FRL-7308-1] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2557. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA-D-7537] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2558. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2559. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2560. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule—Suspension of Community Eligibility [Docket No. FEMA-7807] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2561. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA-P-7622] received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2562. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received May 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2563. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's "Major" final rule—Management's Report on Internal Control over financial reporting and certification of disclosure in exchange act periodic reports [Release Nos. 33-8238; 34-47986; IC-26068; File Nos. S7-40-02; S7-06-03] (RIN: 3235-AI66 and 3235-AI79) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2564. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Labeling for Oral and Rectal Over-the-Counter Drug Products Containing Aspirin and Nonaspirin Salicylates; Reye's Syndrome Warning [Docket No. 93N-0182 and 82N-0166] (RIN: 0910-AA01) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2565. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled, "The Drinking Water State Revolving Fund Program: Report to Congress"; to the Committee on Energy and Commerce.

2566. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Large Municipal Waste Combustors; California [CA216-0400; FRL-7510-2] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2567. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Determining Conformity of Federal Actions to State or Federal Implementation Plans [DC042-2031a; FRL-7507-4] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2568. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Bay Area Air Quality Management District [CA275-0393c; FRL-7495-3] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2569. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Bay Area Air Quality Management District; San Diego County Air Pollution Control District [CA275-0393a; FRL-7495-1] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2570. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—State of Massachusetts; Withdrawal of Direct Final Rule [MA-088-7216C; A-1-FRL-7509-2] received June 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2571. A letter from the Secretary, Department of Education, transmitting the semiannual report of the activities of the Office of Inspector General during the six month period ending March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2572. A letter from the Federal Co-Chair, Appalachian Regional Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002, through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2573. A letter from the Chairman, Consumer Product Safety Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2574. A letter from the Secretary, Department of Veterans Affairs, transmitting the semiannual report on activities of the Inspector General for the period October 1, 2002, through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2575. A letter from the Chairman, National Credit Union Administration, transmitting the semiannual report on the activities of the Inspector General for October 1, 2002, through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2576. A letter from the Director, Office of National Drug Control Policy, transmitting a report on the "Fiscal Year 2002 Accounting of Drug Control Funds"; to the Committee on Government Reform.

2577. A letter from the Chairman, U.S. International Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2578. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Public Works and Community Service Projects [BOP-1002-F] (RIN: 1120-AA03) received May 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2579. A letter from the Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 2002, pursuant to 36 U.S.C. 1101(19) and 1103; to the Committee on the Judiciary.

2580. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Colorado River, Between Davis Dam and Laughlin Bridge (This section of the Colorado River divides Arizona and Nevada) [COTP: San Diego 03-019] (RIN: 1625-AA00) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2581. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulation; Fort Vancouver Fireworks Display, Columbia River, Vancouver, Washington [CGD13-03-001] (RIN: 1625-AA00 (Formerly RIN: 2115-AA97)) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2582. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Berwick Bay, Morgan City, LA [CGD08-03-023] received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2583. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Notification of Arrival in U.S. Ports [USCG-2002-11865] (RIN: 1625-AA41) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2584. A letter from the Administrator, Department of Transportation, transmitting the Department's report pursuant to Section 1403(c) of the Homeland Security Act of 2002, Pub. L. 107-296; to the Committee on Transportation and Infrastructure.

2585. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Change in Methodology for Determining Payment for Extraordinarily High-Cost Cases (Cost Outliers) Under the Acute Care Hospital Inpatient and Long-Term Care Hospital Prospective Payment Systems [CMS-1243-F] (RIN: 0938-AM41) received June 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2586. A letter from the Deputy Secretary, Department of Defense, transmitting notification of approved payment to the Government of Slovakia pursuant to Pub. L. 107-206; jointly to the Committees on Armed Services and Appropriations.

2587. A letter from the Chairman, Congressional Award Board, transmitting the 2002-2003 activities of the Congressional Award program, pursuant to 2 U.S.C. 802(e); jointly to the Committees on Government Reform and Education and the Workforce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Omitted from the Record of June 5, 2003]*

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 1460. A bill to amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes; with amendments (Rept. 108–142 Pt. 1). Ordered to be printed.

*[Pursuant to the order of the House on June 5, 2003 the following report was filed on June 6, 2003]*

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 2115. A bill to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes; with an amendment (Rept. 108–143). Referred to the Committee of the Whole House on the State of the Union.

*[Submitted June 9, 2003]*

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1115. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; with an amendment (Rept. 108–144). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 263. Resolution providing for consideration of the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes (Rept 108–145). Referred to the House Calendar.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII, the following action was taken by the Speaker:

*[Omitted from the Record of June 5, 2003]*

H.R. 1460. Referral to the Committee on Small Business extended for a period ending not later than July 7, 2003.

*[Submitted June 9, 2003]*

H.R. 1950. Referral to the Committees on Armed Services, Energy and Commerce, and the Judiciary extended for a period ending not later than June 16, 2003.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Texas (for himself, Mr. Berman, Mr. Conyers, Mr. Coble, Mr. Goodlatte, Mr. Green of Wisconsin, Ms. Hart, Mr. Boucher, Ms. Lofgren, Mr. Wexler, and Ms. Baldwin):

H.R. 2391. A bill to amend title 35, United States Code, to promote research among universities, the public sector, and private enterprise; to the Committee on the Judiciary.

By Mr. CASTLE (for himself, Mr. Tanner, Mr. Upton, Mr. Moore, Mr. Boehlert, and Mr. Alexander):

H.R. 2392. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 2393. A bill to provide that unremarried former spouses of retired and career members of the Armed Forces shall be entitled to military health care and commissary and exchange benefits if married for at least 10 years during the member's military service and if the former spouse left the marriage due to domestic violence or unbearable conditions; to the Committee on Armed Services.

By Mr. MOORE (for himself, Mr. Taylor of Mississippi, Ms. Woolsey, Mr. Rodriguez, Mr. Filner, Mr. Gordon, Mr. Case, Mr. Frank of Massachusetts, Mr. Strickland, Mr. Peterson of Minnesota, Mr. Etheridge, Mr. Allen, Mr. Davis of Tennessee, Mr. Michaud, and Ms. Lee):

H.R. 2394. A bill to require full funding of part A of title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001; to the Committee on Education and the Workforce.

By Mr. RADANOVICH (for himself, Mr. Doolittle, Mr. Herger, Mr. Nunes, and Mr. Ose):

H.R. 2395. A bill to provide suitable alternative grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the Record of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad; to the Committee on Resources.

By Ms. SOLIS (for herself, Mrs. Napolitano, Mr. Lantos, Mr. George Miller of California, Mr. Thompson of California, Mrs. Bono, Ms. Watson, Ms. Lee, Ms. Loretta Sanchez of California, Mrs. Tauscher, Ms. Harman, Ms. Lofgren, Ms. Linda T. Sánchez of California, Mr. Honda, Mr. Becerra, Mr. Baca, Ms. Roybal-Allard, Mrs. Capps, Mr. Sherman, Ms. Woolsey, Mr. Waxman, Ms. Eshoo, Mr. Schiff, Mr. Issa, Mr. Ose, Mr. Matsui, Ms. Millender-McDonald, Mr. Berman, Mr. Pombo, Mr. Rohrabacher, Mr. Filner, Mr. Cardoza, Mr. Calvert, Mr. Doolittle, Mr. Stark, Ms. Waters, Mr. Lewis of California, Mrs. Davis of California, Mr. Herger, Mr. Cunningham, Mr. Farr, Mr. Thomas, Mr. Gary G. Miller of California, Mr. Cox, Mr. Hunter, Mr. Radanovich, Mr. Dooley of California, Mr. McKeon, Ms. Pelosi, Mr. Royce, Mr. Gallegly, Mr. Nunes, and Mr. Dreier):

H.R. 2396. A bill to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Duarte, California, as the "Francisco A. Martinez Flores Post Office"; to the Committee on Government Reform.

By Mr. SAM JOHNSON of Texas (for himself, Mr. Rangel, Mr. Coble, and Mr. Conyers):

H. Con. Res. 212. Concurrent resolution recognizing and supporting the goals and ideals of the Year of the Korean War Veteran, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. VAN HOLLEN (for himself, Mr. Abercrombie, Mr. Baird, Ms. Baldwin, Mr. Bishop of New York, Mr. Brown of Ohio, Mr. Cardin, Ms. Carson of Indiana, Mr. Clyburn, Mr. Cooper, Mr. Crowley, Mr. Cummings, Mr. Davis of Illinois, Mr. Delahunt, Ms. DeLauro, Mr. Doggett, Mr. Doyle, Mr. Emanuel, Mr. Farr, Mr. Filner, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frost, Mr. Grijalva, Mr. Hill, Mr. Hinchey, Mr. Holden, Mr. Holt, Mr. Hoyer, Mr. Inslee, Mr. Israel, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Ms. Kaptur, Mr. Kildee, Ms. Kilpatrick, Mr. Langevin, Mr. Lantos, Ms. Lee, Mr. Lewis of Georgia, Mrs. Lowey, Mr. Lynch, Mrs. Maloney, Mr. Markey, Ms. McCarthy of Missouri, Ms. McCollum, Mr. McGovern, Mr. Menendez, Mr. Michaud, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Miller of North Carolina, Mr. Moran of Virginia, Ms. Norton, Mr. Oberstar, Mr. Olver, Mr. Pallone, Mr. Pascrell, Mr. Pastor, Mr. Payne, Mr. Pomeroy, Mr. Price of North Carolina, Mr. Rangel, Mr. Rodriguez, Mr. Rothman, Ms. Roybal-Allard, Mr. Ruppersberger, Mr. Rush, Mr. Ryan of Ohio, Mr. Sanders, Ms. Schakowsky, Mr. Scott of Virginia, Mr. Serrano, Ms. Slaughter, Ms. Solis, Mr. Spratt, Mr. Stark, Mr. Strickland, Mr. Towns, Mr. Udall of Colorado, Ms. Waters, Ms. Woolsey, and Mr. Wynn):

H. Con. Res. 213. Concurrent resolution expressing the sense of the Congress that Federal tax collection services should not be paid for on the basis of a commission or as a percentage of taxes collected; to the Committee on Ways and Means.

By Mr. PLATTS:

H. Res. 262. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Government Reform.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 58: Mr. Baca, Mr. Burns, Mr. Israel, and Mr. Barrett of South Carolina.

H.R. 140: Mr. Murtha.

H.R. 195: Mr. Brady of Texas.

H.R. 218: Mr. Camp and Mr. Carter.

H.R. 284: Ms. Linda T. Sánchez of California and Mr. Castle.

H.R. 290: Mr. Lucas of Oklahoma.

H.R. 294: Mr. Burgess.

H.R. 296: Mr. Visclosky.

H.R. 300: Mr. Schrock and Mr. Sessions.

H.R. 302: Mr. Walden of Oregon.

H.R. 303: Mr. Kennedy of Rhode Island, Mr. Janklow, Mrs. Musgrave, Mr. Crenshaw, Ms. Lee, Mrs. Maloney, and Mr. Israel.

H.R. 375: Mr. Skelton and Mr. Turner of Ohio.

H.R. 391: Mr. Smith of Texas and Mr. Kingston.

H.R. 438: Mr. Porter.

H.R. 528: Mr. Camp and Mr. Feeney.

H.R. 636: Ms. Schakowsky.

H.R. 648: Mr. Carter.

H.R: 660: Mr. Janklow and Mr. Cooper.

H.R. 713: Mr. Gillmor.

H.R. 779: Mr. George Miller of California and Mr. Berman.

H.R. 806: Mr. Greenwood and Mrs. Myrick.

H.R. 857: Mr. Udall of Colorado.

H.R. 898: Mr. Allen, Mr. Larsen of Washington, Ms. Lee, Mr. Lucas of Kentucky, Mr. LaTourette, and Mr. Skelton.

H.R. 953: Mr. Shimkus.

H.R. 979: Mr. McGovern.

H.R. 997: Mr. Peterson of Minnesota, Mr. Forbes, Mr. Platts, Mr. Ney, and Mr. Taylor of North Carolina.

H.R. 1043: Mr. Pickering.

H.R. 1049: Mr. Holt.

H.R. 1063: Mr. Miller of Florida.

H.R. 1084: Mr. Burgess.

H.R. 1087: Mr. Wilson of South Carolina and Ms. Lee.

H.R. 1100: Mr. Crane.

H.R. 1115: Mrs. Biggert, Mr. Franks of Arizona, Mr. Kennedy of Minnesota, Mr. Sessions, Mr. Osborne, Mr. DeMint, Mr. Souder, Mr. Schrock, Mr. Hensarling, Mr. Putnam, Mr. Sullivan, Mr. Mica, and Mr. Calvert.

H.R. 1125: Mr. Kirk, Mr. Peterson of Pennsylvania, Mr. Platts, Mr. Inslee, and Mr. Whitfield.

H.R. 1146: Mr. Franks of Arizona.

H.R. 1157: Mr. Neal of Massachusetts and Mr. Duncan.

H.R. 1196: Ms. Carson of Indiana and Ms. Woolsey.

H.R. 1199: Mr. Kucinich.

H.R. 1205: Ms. Lee, Mr. Davis of Illinois, Mr. Rangel, and Mr. Crowley.

H.R. 1250: Mr. Hayworth.

H.R. 1259: Mr. Owens and Mr. Ross.

H.R. 1268: Mr. Kildee, Mr. Neal of Massachusetts, and Ms. Lee.

H.R. 1276: Mr. Larsen of Washington.

H.R. 1279: Mr. Wilson of South Carolina, Ms. McCollum, and Mr. Rothman.

H.R. 1283: Mr. Towns and Mr. Payne.

H.R. 1295: Mr. Gutierrez.

H.R. 1305: Mr. Jenkins, Mr. Shimkus, and Mr. Whitfield.

H.R. 1336: Mr. Frost, Ms. Woolsey, Mr. Hayworth, and Mr. Strickland.

H.R. 1340: Mr. Lantos and Mr. Bell.

H.R. 1377: Mrs. Kelly, Ms. Woolsey, Mr. Boucher, and Mrs. Maloney.

H.R. 1429: Mr. Davis of Alabama.

H.R. 1470: Mr. Ross and Mr. Bell.

H.R. 1473: Ms. Slaughter.

H.R. 1478: Mr. Price of North Carolina.

H.R. 1482: Mr. McDermott, Ms. Jackson-Lee of Texas, Mr. Frank of Massachusetts, Mr. Filner, and Mrs. Capps.

H.R. 1523: Mr. Burgess, Mr. Fletcher, Ms. Woolsey, and Mr. Miller of Florida.

H.R. 1536: Mr. Weller.

H.R. 1565: Mr. Reyes and Ms. Woolsey.

H.R. 1580: Mr. Gutierrez.

H.R. 1612: Mr. Burgess.

H.R. 1657: Mr. Hinojosa and Mr. Owens.

H.R. 1675: Mr. Udall of New Mexico, Mr. Jones of North Carolina, and Mr. Hefley.

H.R. 1711: Mr. Hefley and Mr. Blumenauer.

H.R. 1716: Mr. Gillmor.

H.R. 1723: Ms. McCollum.

H.R. 1749: Mr. LaHood.

H.R. 1858: Mrs. McCarthy of New York, Mr. Cummings, Mr. Becerra, Mr. Frost, Mr. Stark, Mr. English, Mr. McHugh, Mr. McNulty, Mr. Wexler, and Mr. Doyle.

H.R. 1870: Mr. Thornberry.

H.R. 1874: Mr. Deal of Georgia, Mr. Brown of Ohio, Mr. Conyers, Mr. Frank of Massachusetts, Mr. McGovern, Mr. Meehan, Mr. Olver, Ms. Schakowsky, Ms. Kaptur, Mrs. Maloney, and Mr. Turner of Texas.

H.R. 1887: Mr. Kucinich.

H.R. 1910: Mr. Udall of Colorado, Mr. Marshall, Mr. Doggett, Mr. Regula, Mr. Sandlin, Mr. Fattah, Mr. Jackson of Illinois, Mr. Levin, Mr. Quinn, Mrs. Napolitano, Mr. Bass, Ms. Kilpatrick, Mr. Kolbe, Mr. Visclosky, Mr. Berry, Mr. Hastings of Florida, Mr. Olver, Mr. Bell, Mr. Lipinski, and Mr. Thompson of Mississippi.

H.R. 1943: Mr. Bartlett of Maryland and Mr. Pickering.

H.R. 2020: Mr. Goode, Mr. Clay, Mr. Meek of Florida, Mr. Davis of Tennessee, and Mr. Weldon of Florida.

H.R. 2028: Mr. King of New York, Mr. McCotter, Mr. Murphy, Mr. Radanovich, Mr. Rogers of Alabama, and Mr. Gerlach.

H.R. 2030: Mrs. Capps.

H.R. 2096: Mr. Hastings of Washington, Mr. Murphy, Mr. Terry, Mr. Cardoza, and Mr. Platts.

H.R. 2118: Mr. Shays, Mr. Wilson of South Carolina, and Mr. Janklow.

H.R. 2176: Mr. Calvert.

H.R. 2193: Mrs. Maloney.

H.R. 2198: Mrs. Jones of Ohio and Mr. Cramer.

H.R. 2202: Mr. Miller of Florida and Ms. Corrine Brown of Florida.

H.R. 2207: Mr. Owens.

H.R. 2208: Mrs. Musgrave, Mr. Lucas of Kentucky, Mr. Cooper, Mr. Hobson, and Mr. Rogers of Kentucky.

H.R. 2233: Mr. DeFazio.

H.R. 2260: Mr. Filner, Mr. Wolf, and Mr. Davis of Florida.

H.R. 2284: Mr. Filner, Mr. Towns, Mr. Hinchey, Mr. Udall of New Mexico, Mr. Serrano, and Ms. Carson of Indiana.

H.R. 2286: Mr. Schiff, Mr. Clay, Mr. Green of Texas, Mr. Pastor, Ms. Linda T. Sánchez of California, Mr. BISHOP of New York, and Mr. WEXLER.

H.R. 2291: Ms. MCCOLLUM, Mr. DAVIS of Tennessee, and Ms. SCHAKOWSKY.

H.R. 2300: Mr. OWENS, Ms. LOFGREN, and Mr. WEXLER.

H.R. 2318: Mr. PAUL.

H.R. 2319: Mr. CHABOT.

H.R. 2325: Mr. VAN HOLLEN, Mr. TURNER of Texas, Mr. GREEN of Texas, Mr. KIND, Mr. ETHERIDGE, Mr. WAXMAN, Mr. MOORE, Mr. KILDEE, Ms. KILPATRICK, Mr. WEINER, Mrs. JONES of Ohio, Mr. DAVIS of Illinois, Ms. HARMAN, Ms. MILLENDER-MCDONALD, Mr. HONDA, Mr. BALLANCE, Mr. UDALL of Colorado, Mr. CLAY, Mr. COSTELLO, Mr. SABO, Mr. RUSH, Mr. FARR, and Mr. RAHALL.

H.R. 2333: Mr. SANDLIN, Mr. SNYDER, Mr. TANNER, Mr. MCNULTY, Mr. ROSS, Mr. PICKERING, and Mr. HEFLEY.

H.R. 2342: Mr. MCNULTY.

H.R. 2351: Mr. BURTON of Indiana, Ms. HART, and Mr. GREENWOOD.

H.R. 2358: Mr. SMITH of Texas.

H.R. 2370: Mr. WELDON of Pennsylvania and Mr. FROST.

H.R. 2377: Ms. SCHAKOWSKY and Mr. ABERCROMBIE.

H.J. Res. 15: Mr. HOSTETTLER.

H.J. Res. 25: Mr. HASTINGS of Florida.

H.J. Res. 58: Mr. GRAVES, Mr. GOODE, and Mr. BARTLETT of Maryland.

H. Con. Res. 19: Mr. ANDREWS.

H. Con. Res. 37: Mr. GRIJALVA.

H. Con. Res. 93: Mr. SHERMAN.

H. Con. Res. 99: Mr. GEPHARDT.

H. Con. Res. 126: Mr. CUNNINGHAM and Mr. SOUDER.

H. Con. Res. 130: Mr. GRIJALVA.

H. Con. Res. 154: Ms. WATERS, Mr. ENGEL, Mr. GREEN of Wisconsin, Mr. TANCREDO, Ms. WATSON, Mr. CONYERS, Mr. FORD, Mr. JACKSON of Illinois, Ms. NORTON, Mr. CUMMINGS, and Mrs. NAPOLITANO.

H. Con. Res. 169: Mr. OWENS, Mr. WAXMAN, and Mr. BLUMENAUER.

H. Con. Res. 200: Ms. SCHAKOWSKY.

H. Res. 38: Ms. MCCOLLUM.

H. Res. 66: Mr. MANZULLO, Mr. PENCE, and Mr. TERRY.

H. Res. 103: Mrs. MILLER of Michigan, Mr. RAMSTAD, and Mr. COBLE.

H. Res. 199: Ms. MCCOLLUM and Mr. LEVIN.

H. Res. 237: Mr. GREEN of Wisconsin, Mr. THOMPSON of Mississippi, and Ms. KILPATRICK.

H. Res. 259: Ms. KILPATRICK.

# EXTENSIONS OF REMARKS

## NATIONAL HUNGER AWARENESS DAY RESOLUTION

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. WOLF. Mr. Speaker, today, Mr. MCGOVERN and I introduced a resolution to help draw attention to the 33 million hungry Americans. The resolution recognizes organizations such as America's Second Harvest that provide emergency food assistance to hungry people in the United States, and encourages all Americans to provide volunteer services and other support for local anti-hunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters.

On National Hunger Awareness Day I have mixed emotions. I am proud of the armies of compassion that are represented by organizations such as America's Second Harvest. But I'm also sad because its been nearly 40 years since President Johnson declared war on poverty and hunger and yet, today, 13 million kids STILL live in households that do not have an adequate supply of food. (USDA)

In 2001, there were 33.6 million Americans—20 million adults and 13 million children—who were hungry or at risk of hunger. (USDA) In Matthew 25, Jesus talks about the obligation to feed the hungry. In a world, and especially a nation, as plentiful as ours, it is tragic that even one child is hungry.

My state of Virginia is better off than many states. We are below the national average poverty rate of 11.6 percent. We have fewer people who don't have food—7.6 percent versus the national average of 10.4 percent.

Yet, hunger is still rampant here. 294,434 children, or 43.4 percent, received free or reduced-price meals.

Substantial progress has been made to feed the hungry in the United States, yet too many Americans still go to bed hungry and feel the effects of food deprivation. Federal programs like the Food Stamp Program, child nutrition programs, and food donation programs, provide essential nutritional support to millions of low-income people, but the need remains. Thankfully, community- and faith-based institutions are providing assistance to hungry people across the country.

The armies of compassion are working hard, but we each must do our part to join in and support them. Barriers need to be eliminated to allow businesses to do the morally conscionable thing and donate their surplus food. It's outrageous that it is more "cost effective" for a business to throw out or destroy surplus food rather than donate it to a local soup kitchen. A White House conference on hunger, like the one my colleague Senator DOLE called for just this morning, would be an ideal venue to discuss these important issues.

I hope that in the midst of the facts and statistics, no one misses the REAL point of National Hunger Awareness Day—that in a land of plenty, 13 million children still go to bed hungry. A country which is as blessed as ours needs to do better.

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## RECOGNIZING DIARIO LAS AMERICAS

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Ms. ROS-LEHTINEN. I wish to recognize the extraordinary achievements of a newspaper that will commemorate the 50th anniversary of its founding on July 4th, the day this Nation celebrates its independence.

Diario Las Americas is a nationally and internationally distributed newspaper that has always served its community, its Nation and the principles of freedom and democracy that we all embrace.

Dr. Horacio Aguirre, its founder and director, was born in New Orleans of Nicaraguan parents. He commenced his career in journalism early in life after having graduated from the University of Panama with a degree in Law and Political Sciences.

Since 1984, he has presided over the International Affairs Committee of the Inter-American Press Association, Sociedad Interamericana de Prensa, SIP, an organization that groups some 1,300 newspapers from this hemisphere. He is also a member of the World Association of Newspapers, WAN, whose headquarters is in Paris, and of the World Press Freedom Committee, of Washington, DC.

Dr. Aguirre has received, among many distinctions and honors, the Gran Cruz del Mérito Civil de España, bestowed in 1991 by His Majesty, King Juan Carlos I; the Orden de Caballero de San Gregorio bestowed by the Vatican in 1984; the Presidential Award of the Sociedad Interamericana de Prensa, SIP en 1999; and degrees honoris causa from Barry University, Miami-Dade Community College and Florida International University.

As the 50th anniversary of its founding approaches, I wish to acknowledge Diario Las Americas, Dr. Horacio Aguirre, his family and collaborators in their abiding stand in defense of moral and democratic values.

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## CONDEMNING THE CRACKDOWN OF THE OPPOSITION IN BURMA AND THE DETENTION OF DAW AUNG SAN SUU KYI

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. PAYNE. Mr. Speaker, I stand today to deplore in the strongest possible terms this past weekend's nationwide crackdown in Burma. The attack by armed goons supported by Burma's military regime on 1991 Nobel Peace Prize recipient Aung San Suu Kyi is an insult and an offense to all freedom loving peoples around the world. Even worse, it is reported that several of her supporters have been brutally killed.

When I traveled to Burma to meet with Aung San Suu Kyi, I was immediately impressed by her staunch commitment to freedom and her refusal to yield to unremitting government pressure.

I was proud to hear that Archbishop Desmond Tutu, a man I know and admire, has called for the international community to immediately impose sanctions on Burma's regime. I urge that the United States cooperate promptly in this regard; failure to act decisively would be to miss an opportunity to reaffirm our support for liberty and justice in Burma.

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## TRIBUTE TO KATHRYN GIOMI

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. MCINNIS. Mr. Speaker, it is with a solemn heart that I rise today to pay tribute to the life of an outstanding young woman with a desire to serve her country. Kathryn Giomi planned to spend her life in the service of her nation, but her life was tragically taken in an auto accident before she could live her dream. As her loved ones mourn her passing, I would like to pay tribute to her memory.

Kathryn, who enjoyed cooking, listening to big band music, and dancing, was born in San Jose, California where she graduated from high school three years ago. Last year, Kathryn moved to Colorado where she worked in a restaurant and theater while she waited for her chance to serve in the United States Air Force as a military police officer. Kathryn was proficient in Spanish, spoke some Italian and Farsi, and hoped for an assignment at Aviano Air Force Base in Italy, where she could improve the Italian language skills she learned from her family. Kathryn was slated to leave for basic training at Lackland Air Force Base in San Antonio in June.

Kathryn is survived by her mother Marguerite Ellen Rose, her father Ron Giomi, her

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sister Heather Giomi-Beck, her brothers Ryan and Vincent Giomi, two nephews and a niece. Our thoughts and prayers are with them during this difficult time.

Mr. Speaker, it is people like Kathryn, who understand the price of freedom and have answered the call to service, who have helped to make America what it is today. Kathryn would have made a fantastic member of our armed forces, and our nation is appreciative of her willingness to serve. She will be missed by her family, friends, and her country.

## SENSE OF THE HOUSE COMMENDING NATION'S BUSINESSES AND BUSINESS OWNERS FOR SUPPORT OF OUR TROOPS AND THEIR FAMILIES

SPEECH OF

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. HASTINGS of Florida. I rise today in support of H. Res. 201, which commends American business for its support of U.S. Reservists and National Guardsmen called to active duty.

Nationwide, Reservists are averaging far more number of days either deployed or away from home than at the height of the Gulf War in 1991. They are being called up more often, are serving for longer periods of time, and are absolutely vital to our national military strategy. The U.S. military does not undertake any sustained operations anywhere in the world without using the National Guard and Reserve.

Over 216,900 reservists have been called to active duty since 9/11, with most having to temporarily leave their civilian jobs to serve. Although their jobs are assured when they return, for their employers, war means having to continue business without key employees. Small firms in particular must make extraordinary sacrifices when they lose one of their most productive workers. Yet, despite these hardships, many companies continue to support these employees and their families while they serve their nation. H. Res. 201 expresses the sense of the House that our nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country.

It is important to acknowledge the sacrifices and contributions made by American business in support of the Reservists and Guardsmen they employ. Many of these companies, without legal obligation to do so, continue to pay reservists the difference between their military pay and what they earn on their civilian jobs. Many also continue to pay health and insurance benefits for those employees and their families.

Members of the guard and reserve can't do their job without the support of their family and employers. It is fitting that we take this opportunity to acknowledge the contribution that American business, both corporate and family-owned, is making to the defense of our nation and to our national military objectives.

## ALL SPOUSES OF MILITARY RETIREES DESERVE OUR HELP

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. FILNER Mr. Speaker and colleagues, I rise to call attention to my bill, H.R. 2393, "Continued Benefits for Injured Spouses Act".

Under current law, enacted in 1982, former spouses of military members or retirees are eligible for military medical benefits and exchange and commissary privileges if the military member had performed at least 20 years of military service, had been married for at least 20 years to one spouse, and 20 years of marriage and service were overlapping. This is known as the 20/20/20 restriction. Further legislation was enacted two years later to include additional former spouses under a 20/20/15 restriction.

While this law recognizes the contribution and sacrifice of many military spouses who later divorced, there is a group who are completely left out through no fault of their own. Spouses who must leave a marriage through divorce due to documented abuse are often left with none of these benefits. Domestic violence and physical or sexual endangerment to the spouse or the children, proven by medical or counseling records, should be taken into account. Divorced because of this situation, the injured spouse should continue to receive all benefits.

H.R. 2393 will change the law to 20/20/10—only for these special circumstances, meaning that the military member would have been married for at least 20 years to one spouse, would have performed at least 20 years of military service, with 10 years of service and marriage overlapping. This change would allow an abused spouse to escape from a potentially dangerous marriage and still keep benefits.

Teresa, a woman in my Congressional District, has found herself in these circumstances. She told me, "I didn't begin this marriage looking for a way to divorce. I believe in commitment, and there were some good years. But had I known when I married him how he would hurt me and endanger my life, I would have backed away. I have done all I can to keep this marriage together. His response to legal separation was to come over and throw our 15 year old around until I called the police. I will never allow him to hurt our children again."

Most of our military members are honorable and good people. But, in the few cases where spousal or child abuse is involved, we must protect the families. I invite my colleagues to join with me in supporting military spouses who have found themselves in dangerous marriages. Please co-sponsor H.R. 2393.

## TRIBUTE TO HILDA VAUGHAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Hilda Vaughan, an exceptional individual who has selflessly devoted her time and energy to the betterment of this nation. I applaud her outstanding character, and her desire to support and educate her community. Hilda demonstrates impressive qualities worthy of such praise, and today we honor her retirement as a salute to a job well done.

Hilda was born in Lynchburg, Virginia, and spent her adolescent years thirsting for knowledge. After graduating from Rustburg High School in Rustburg, Virginia, she obtained a Bachelor of Arts degree from Lynchburg College, and married her beloved husband, Ted Vaughan. Hilda moved to Silt, Colorado, and served her community well, by holding a number of clerical, secretarial, and accounting positions. Additionally, Hilda achieved her EMT–B certification and assisted the Grand Valley Fire Protection District. Hilda's attention to detail, together with her unwavering determination, led her to become and perform as an outstanding substitute teacher and librarian for 23 years. As a student teacher in Lynchburg, she educated herself to become a mentor as well as a teacher. Her first substitute teaching position was in the RE–2 School District, in Rifle, Colorado. Through her experiences in different geographic areas and districts, Hilda expanded her vast knowledge and wisdom, and became an excellent asset to every school district she served. Today we admire a woman who selflessly donated her time and efforts to upholding the structure of her community.

Mr. Speaker, it is with great pride I honor such an outstanding individual before this body of Congress and this nation. Hilda contributed so much, and she was so thoughtful, words will never express our appreciation to her. Hilda, thank you for your hard work in our country, and I anticipate great achievements from you in the future.

## TRIBUTE TO PATRICIA HARPER GARRETT

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to Patricia Harper Garrett, of whom it can be said, "Teaching was in her genes." Her grandmother was the Principal at Belle Glades Jr. High School and later Principal of Roosevelt Jenkins High School in Starke, Florida, where her parents were both students. At the end of this school year, Mrs. Garrett will be retiring from the teaching profession after 35 years.

Patricia Garrett is a graduate of George Washington Carver High School and Bethune Cookman College. She is also a member of Alpha Kappa Alpha Sorority, Inc. and an Associate Member of Jack and Jill of America.

Throughout her teaching career, her title has changed several times, including Work Experience Coordinator at Booker T. Washington and Richmond Heights Junior High Schools and Cooperative Education Coordinator/Department Chairperson at Miami Sunset Senior High School. However, her goal has always been the same: to make a positive and lasting difference in the lives of young people.

Ms. Garrett realized at an early age, from years of watching her grandmother and mother who were both teachers, that education was crucially important. After college, she came to realize that her skills could best be utilized helping to educate young people.

Ms. Garrett has received numerous honors over the years in recognition of her skill, commitment, dedication, and enthusiasm for educating young people. In 1997, she received perhaps her greatest honor: the selection of her daughter, Jessica Garrett—a fourth-generation teacher in her family as Miami-Dade Public Schools Region Beginning Teacher of the Year. The legacy of educators continues with her youngest daughter, April Garrett, who is in her first year of teaching.

Congratulations, Patricia Harper Garrett. Thank you for your service, and enjoy your retirement.

## TRIBUTE TO GEORGE RYAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, it is with a profound sense of pride that I stand before this Congress and this Nation to pay tribute to an outstanding educator, coach and leader from my district. George Ryan of Grand Junction, Colorado spends most of his time with the student-athletes of the area, providing them with leadership, and direction. I am honored to recognize his accomplishments here today.

George grew up interested in sports, and worked hard to receive a football scholarship to Youngstown College but enlisted in the armed forces to dutifully serve our country. One of the greatest things to happen to George was being stationed at Fort Carson in Colorado, where he met a young nursing trainee who would soon become his wife, Mary Ann. The couple soon wound up in Grand Junction, where George became a teacher and coach.

George's interest in our Nation's youth led him to serve on the District 51 school board. After some time there, he shifted his volunteer time to athletics and began to officiate at track meets. He worked as an insurance claims adjuster during the day, so he could provide some financial stability for his family. His hard work on the track garnered George quite a reputation as a track official, where he worked 15 State Track Championships. George was so good at his job that he received an invitation to the NCAA Track Championships in 1982, working the hammer throw, discus, and the javelin. He enjoys officiating track meets and working with young people so much that it has become his number one hobby.

Mr. Speaker, I am honored to stand before this Congress and this Nation to praise George Ryan. George has provided the city of Grand Junction with an exemplary model of community service. He has spent countless hours helping children engage in sports, while providing them with a role model they can look up to and admire. Thank you, George, for your years of service.

## RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

SPEECH OF

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. Con. Res. 177. This resolution acknowledges the accomplishments of the U.S. armed forces and expresses the deep gratitude of the nation to the 21 steadfast allies and coalition members in Afghanistan and Iraq. It also commends Defense Department civilians and contractors for their work and support.

It is a privilege to take a few minutes to pay tribute to the men and women who distinguish themselves daily in selfless service to this nation. More than 1.4 million men and women make up America's active and reserve forces, and over 300,000 of them are deployed for military action in Afghanistan and Iraq.

In addition to their duties as soldiers, members of the armed forces also serve as our nation's unofficial ambassadors.–They represent the very best of what this nation stands for—honor, loyalty, and a commitment to enhancing freedom and democracy throughout the world. The men and women now serving in Iraq and Afghanistan have the unique opportunity to demonstrate to the world that the United States cannot only win wars, it can help emerging nations become self-governing as well. Maintaining the peace and nation building in these two countries promises to be a lengthy and time-consuming process. I am pleased to offer my support to this resolution and call on my colleagues on both sides of the aisle to reaffirm our commitment to our nation's goals in these two countries.

H. Con. Res. 177 also conveys the deepest sympathy and condolences to the families of service members killed or wounded during these operations, and calls on communities across the country to prepare appropriate ceremonies to commemorate with tributes and days of remembrance their service and sacrifice.

Sixty-seven United States military and civilians lost their lives in Afghanistan and 140 died in Iraq so far. By any measure, their contributions, in terms of human sacrifice, are immense. As a nation we share the sense of loss that their families are experiencing. We must never forget that the peace and prosperity that we enjoy are founded on the ultimate sacrifices made by those who have lost their lives in war throughout our nation's history.

## EDUCATION, JOBS, BENEFITS, AND PRESCRIPTIONS FOR OUR NATION'S VETERANS

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. FILNER. Mr. Speaker and colleagues, I rise today to urge support for four bills that I have introduced to address several needs of our veterans and to ensure their well-being.

The first bill (H.R. 1924) deals with education benefits. Last year, one very important piece of the Fiscal Year 2003 National Defense Authorization Act that Congress passed was a provision that extends the time limit for members of the Selected Reserve to use their Montgomery GI Bill (MGIB) education benefits from 10 years to 14 years. Prior to the passage of this law, these MGIB participants had only 10 years from their release from military service to use these earned education benefits.

Many times, veterans with families, work commitments, and economic difficulties are unable to fulfill all their requirements to receive a degree or certification within this 10 year period. In passing last year's Defense Authorization Act, Congress recognized this difficulty for members of the Selected Reserve. Also recognizing that 10 years may not be long enough for certain individuals, the VA Secretary has limited discretion to grant time extensions to those who are unable to use their benefits due to mental or physical handicaps.

It is clear that life in 2003 can make it difficult to finish an education in the allotted time frame. I believe it is time to extend the time period for *all* the participants of the MGIB. Therefore, I have introduced H.R. 1924, "The Montgomery GI Bill Flexibility Act", which will allow all participants up to 14 years to complete their education. This bill will ensure that more of our veterans are able to avail themselves of the educational opportunity that the MGIB affords them—the educational opportunity that they earned.

A second bill, H.R. 1920, "Let U.S. Veterans Rebuild Iraq Act", does just what the title says. It would guarantee jobs to veterans with companies that are awarded government contracts to rebuild Iraq. We have all rallied to support our troops as they waged Operation: Iraqi Freedom. But often, after the troops come home, our veterans are not treated with the respect that they deserve. It is most important to ensure that there are jobs for our nation's veterans, both new veterans and older. We are still fighting homelessness among veterans, a national disgrace. One way to better the lives of many veterans is to include them in the job of rebuilding Iraq. They fought for freedom for Iraq. Let's get them involved with helping to secure the future for Iraq.

My third bill, H.R. 1347, "The Former Prisoners of War Equitable Dental Benefits Act", is legislation that I introduced in the 107th Congress and that passed the House of Representatives, but not the Senate. This bill is supported by the Department of Veterans Affairs. It would eliminate the "time of internment" requirement for former prisoners-of-war (POWs) in order to be eligible for outpatient dental care benefits at the VA.

No one can deny that former POWs have sacrificed greatly in defense of their country. Unfortunately, their sacrifices continue. Reports have shown that POWs are at higher risk for a number of disabling conditions associated with exposure to infectious disease, inclement weather, and malnutrition.

Currently, the law states that eligibility for outpatient dental care benefits only applies to former POWs with 90 days or more of internment. As you can imagine, this time requirement has been difficult for the VA to administer and to justify to the veterans seeking dental care. Former POWs are often confused about this time requirement. Who could say that our POWs in Iraq did not suffer because they were not imprisoned for 90 days? H.R. 1347 eliminates the arbitrary distinction between former POWs who have all paid dearly for their service.

Fourthly, I have learned that VA doctors are not allowed to prescribe more than a 1 month prescription for controlled drugs, such as pain killers used for chronic conditions. But many veterans who have these prescriptions have been treated with the same medications for years and show no signs of abuse. H.R. 1921, the "Continuity of Care for Veterans with Chronic Conditions Act", would allow VA doctors to write a three-months prescription for these veterans who demonstrate no sign of abuse of their medication. This bill would make it more convenient for sick veterans to get their medication and would ensure that no lag time exists when veterans are without their medication.

Education, jobs, benefits, and prescriptions for our nation's veterans. I urge your support for this legislation!

## TRIBUTE TO LEE M. ANCELL, SR.

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, it is with profound sadness that I take this opportunity to pay tribute to the life and memory of a veteran from my state, Lee M. Ancell, Sr. Lee passed away recently at the age of 88. As his family mourns their loss, I would like to take this moment to pay tribute to his life and accomplishments here today.

Lee was a part of what many call the "greatest generation," and when the United States entered World War II, he dutifully answered his nations call by enlisting in the Army Air Corp. After his discharge, Lee returned to marry Margaret Galloway. Lee and Margaret lived a long life together, as their marriage spanned 53 years. After moving to Cortez, Colorado, Lee became involved in a number of groups and organizations. He enjoyed membership in groups like the National Rifle Association, the VFW, and the National Water Well Drillers Association. He was also a respected leader of the 4–H Club. Lee spent his free time engaging in a variety of activities, including welding, hunting, fishing, and playing the guitar. A family man, Lee is survived by three children, six grandchildren, and one great grandchild.

Mr. Speaker, I am honored to stand before this Congress and this nation to pay tribute to the life and legacy of Lee Ancell, Sr. Lee was a solid contributor to his community and his nation, and I am grateful for his service. My thoughts and prayers go out to Lee's family and friends.

## TRIBUTE TO JERLEAN BARRON

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to Mrs. Jerlean Barron, who will be retiring from the Dade County Public Schools at the end of this school year. Mrs. Barron is the very definition of a strong person. She dedicated her life to serving her family and her community, and she did both with distinction.

Mrs. Barron was born and raised in Baxley, Georgia and is a product of the Appling County Public School System. She attended Appling Elementary and Secondary Schools.

Mrs. Barron is a role model who demonstrated daily how to overcome obstacles. After raising six of her biological children, she took on the responsibility of raising four of her grandchildren. Mrs. Barron was always there to support her grandchildren morally, emotionally, spiritually, and even financially in their pursuits.

Mrs. Barron has had to deal with hard decisions in her life. Her husband and daughter became terribly ill, and she was responsible for their care. During this difficult time, and despite the tremendous effort it took, she nonetheless continued to give great help and service to the Phyllis R. Miller Elementary School.

Mrs. Barron's dedication, loyalty, compassion, and involvement will be greatly missed. She showed students and faculty alike, by her example, how to make lemonade from the lemons life gives them, and in doing so she contributed greatly to the Miami-Dade community.

Mr. Speaker, I know that my colleagues join me in recognizing Mrs. Jerlean Barron for her work, in thanking her for her service and in wishing her much happiness in her retirement.

## HONORING ROBERT KREAMELMEYER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I stand before this body of Congress to pay tribute to Robert Kraemelmeyer, who recently passed away after many years of public service. Robert devoted his life to serving his community and this devotion will not be forgotten

Robert began his life of public service when he left college to join the Air Force and serve in World War II, stationed with the 423rd squadron—306 Bomb Group in England. After the war, Robert returned to the United States and moved to Golden, Colorado. While in Golden, Robert began a career as plumber, and dedicated much of his time to his community. He spent a lot of time as the Scout Master of Troop 48. Robert knew that he could make a difference in the lives of America's youth, so he purchased some property in the Williams Fork area, which he turned into a summer ranch for boys. He ran the ranch until his move to Montrose, Colorado in 1972. While in Montrose, Robert got involved in politics, and continued to serve his community as a city councilman and town mayor. While serving as the Mayor of Montrose, Robert worked hard to serve his community to the best of his ability.

Mr. Speaker, I am honored to stand before this Congress and pay tribute to the life and accomplishments of Robert Kreamelmeyer. Robert was an outstanding role model. I am saddened by the loss of such a good man, but am happy knowing he had such a positive impact on so many young people in his community. My thoughts and prayers go out to Robert's family and friends.

## ARMED FORCES NATURALIZATION ACT OF 2003

SPEECH OF

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 4, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in strong support of the Armed Forces Naturalization Act of 2003.

As of February 2003, there were 37,000 non-citizens serving on active duty in the U.S armed forces. Moreover, almost 12,000 foreign nationals were serving in the selected reserves, and another 8,000 were serving in the inactive National Guard and ready reserves.

Their red, white, and blue patriotism has contributed extraordinarily to national security. Every single one of these heroes, courageous defenders of lady liberty—from the Philippines, Mexico, Jamaica, Haiti, among many other source countries—deserves an expedited procedure for citizenship.

Mr. Speaker, as of February 2003, there were 1,663 non-citizen members of the U.S. military whose unit was stationed in Florida. Every single one of them has made the commitment to risk his or her life to defend the United States of America.

Volunteering to serve in the U.S. armed forces exemplifies one of the important roles of a citizen. On April 14, 2003, Captain Armando Ariel Gonzalez, a Florida non-citizen resident, was killed in a non-hostile accident when a commercial refueler collapsed at a supply area in Southern Iraq.

Once more, I wish to express my deepest condolences to the Gonzalez family, and at the same time offer all my support and prayers. This tragedy only crystallizes the great risk and danger the brave members of the all-volunteer military experience in the name of the people of the United States.

We must never forget that the peace and prosperity that we enjoy are founded on the ultimate sacrifice made by all those who have lost their lives in war throughout our nation's history.

We have witnessed the commitment of noncitizen soldiers to the United States during the war in Afghanistan and Iraq. They have earned our gratitude and admiration. We must now accord them our appreciation and respect.

I support The Armed Forces Naturalization Act of 2003 because it,

(a) Ensures the ability of lawful permanent resident spouses, unmarried children, and parents of soldiers killed as a result of service in the U.S military to apply for citizenship;

(b) Speeds up the naturalization process by allowing military members to naturalize after serving one year in the military, waive naturalization fees, and allow naturalization interviews and oath ceremonies to take place abroad, and

(c) Waives posthumous citizenship fees.

I am pleased with the bill proposed today, but urge my colleagues to further facilitate the naturalization process to these heroes and their loved ones.

## RECOGNIZING THE DISTINGUISHED CAREER OF JO ANN PISEL, EXECUTIVE DIRECTOR OF CALL FOR HELP

### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the distinguished career and retirement of Jo Ann Pisel, Executive Director of Call for Help Incorporated from 1976 to 2003.

Jo Ann Pisel has been with Call for Help for the past 27 years, 26 of which as the Executive Director. Call For Help is a not-for-profit multiple social service agency in St. Clair County, Illinois. Under her guidance, the organization, which started in the basements of volunteers, has grown and continued to offer critical services to the communities in Illinois that they have served for the past 33 years.

Starting with a Suicide and Crisis Hotline, the Call for Help agency includes a Victim Sexual Assault Care Unit, now with three satellite offices (Mt. Vernon, East St. Louis and Madison County). It also includes an Information and Referral Program, giving links to resources in the community and assisting with rental, utility and prescription assistance when available. Also, there is a domestic violence program that has evolved and has become an entity on its own now celebrating 25 years of service. Furthermore, Call for Help has an Adult Residential Program serving those who find themselves in a mental crisis, Crisis and MISA Counseling Services and a Transitional Living Center, housing homeless young women and their dependent children.

Serving people of all ages has been Jo Ann's stock in trade. In addition to her duties at Call for Help, Jo Ann also serves as a Home Health Social Worker for a variety of Home Health Agencies, currently BJC and Nurses and Company. From 1980–1992, Jo Ann was the Social Service and Activity consultant for Dammert Geriatrics, Parkview Manor and the St. Paul's Home for the Aged. She was a Medical Psychiatric Social Worker at St. Elizabeth's Hospital in Granite City and also served as a private consultant. She served as a caseworker for female ex-prisoners in the late 60's and was a caseworker for foster families from 1968–1969. From 1966–1969, she served as a childcare worker at Villa Maria Maternity home in St. Louis, working with single, young pregnant women. From 1959–1966, Jo Ann taught the elementary grades first through sixth.

Jo Ann was recognized in 2001 as one of the Top Ladies of Distinction and in 1997 she received the St. Louis University-School of Social Service, Alumni Distinguished Service Award. That same year she was named a Hardees Hometown Hero and in 1995, was honored as being recognized as both the State of Illinois and Metro East Social Worker of the Year.

Jo Ann has worked tirelessly all of her life in the service of people and has given much of herself to filling the needs of the community, both the young and old.

Mr. Speaker, I ask my colleagues to join me in recognizing the contributions of Jo Ann Pisel and wish her the best in the future.

## TRIBUTE TO JOHN GIRON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor a lifelong educator from my district. John Giron has devoted his life to the students of Trinidad State Junior College in Trinidad, Colorado for 33 years. As he embarks on his retirement, it gives me great joy to inform this body about John's exemplary service to his community and this nation.

John's family has deep roots in Trinidad, going back four generations to his great-grandfather who homesteaded in the area. His father worked as a miner, and John attended Trinidad High School where he excelled as a runner, becoming state champion in the half mile. Following graduation in 1957, John attended the University of Colorado on an athletic scholarship, but within weeks of starting school, his nation came calling. John received a draft notice in the mail and immediately gave up his scholarship to enlist in the Navy. The Navy trained John as an electrician and stationed him on two aircraft carriers before John returned to school, this time at Trinidad State Junior College and Adams State College.

John earned a BA in education and later an MA in counseling, which led to a job as a guidance counselor and launched his career with Trinidad State Junior College. He later worked as the Director of Upward Bound, a program designed to help students successfully complete high school and college. John also served as the Director of Student Life before spending the last 15 years as the Dean of Students. John is deeply connected to the school. His entire family, including his wife, three children, and daughter-in-law, has graduated from Trinidad State Junior College.

Mr. Speaker, I am proud to stand before this body today to recognize John Giron, a man who has clearly demonstrated his commitment to our nation's youth. His counsel and leadership helped guide the academic careers of numerous young people, and I thank him for his outstanding service and wish John all the best in his retirement.

## JANICE PEREZ ATOIGUE

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. BORDALLO. Mr. Speaker, I rise today to commend Ms. Janice Perez Atoigue for completing her Bachelor of Arts degree with Honors in Anthropology at the University of Maryland on May 22, 2003.

Janice was always an outstanding student both in high school and at the University of Maryland. She was born on Guam and her family resided in the village of Yigo during her early years. Her family later moved to Maryland where she attended the Talented and Gifted School and Suitland High School. At Suitland she was an honors student in both the Dance and French Programs.

While attending at the University of Maryland, she concentrated her studies in Biological Anthropology and was on the Dean's List. The Anthropology Department at the University of Maryland is a respected program, and she took advantage of educational opportunities available on campus and overseas. During the summer of 2002 she studied in Belgium and Germany, where she visited many archeological sites and museums. Just before graduating she completed a senior honor thesis on prehistoric Pacific migration, which reflects her quest for knowledge about the origins of the Pacific, Guam, and her Chamorro heritage.

This degree will now open many doors of opportunity for her to continue her education and to pursue a career in the field of anthropology. She plans to do some anthropology work in the Pacific in the future and has accepted an internship at Counterpart International. We all look forward to hearing of Janice's contributions in her profession and we hope she continues to pursue her interest in the cultural roots of our people and our region.

I am proud of Janice for her dedication and hard work in completing her undergraduate degree. I also want to take the time to commend Janice's parents, Jacinta and Lawrence Atoigue, who encourage her to do her best. They have every reason to be proud of her achievement.

Today I join the Atoigue family and friends in congratulating Janice for her accomplishment and in wishing her the very best in the future.

## TO HONOR THE HEROIC ACTS OF UNITED STATES ARMY PVT. JASON KLEINMAN

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. ACKERMAN. Mr. Speaker, I rise today to honor Private Jason Kleinman, of the United States Army, whose courage and valor in the face of tremendous danger saved the lives of three fellow United States soldiers during an enemy ambush outside of Baghdad on Memorial Day. Pvt. Kleinman, along with two fellow soldiers, ignored flames and exploding ammunition to pull three wounded comrades from a burning Humvee.

Pvt. Kleinman, a member of the Army's 3rd Infantry Division's Task Force 270, was traveling in a convoy of Humvees when an Iraqi man tossed a home-made bomb under the wheels of the vehicle in front of his. The bomb blew the Humvee back 80 feet, igniting the gas tank as well as machine gun and anti-tank rounds inside. Without hesitation, Pvt. Kleinman, along with Pvt. Dustin Meeks and Pvt. Enrique Alvarado, dragged three soldiers from the burning Humvee despite at least 50 secondary explosions as ammunition continued to discharge inside the vehicle. Though the Humvee's gunner succumbed to his injuries, the other two soldiers have Pvts. Kleinman, Meeks and Alvarado to thank for their lives.

I am proud to represent Pvt. Jason Kleinman, a nineteen year-old native of Roslyn Heights, Long Island who joined the Army last September, after graduating from Herricks High School in New Hyde Park. Jason had dreamed of joining the Army since he was a child. Now he will return home as a hero.

I commend Jason Kleinman for his tremendous display of bravery in the face of mortal peril and I ask my colleagues in the House of Representatives to please join me in praise of this young man's heroic acts.

## TRIBUTE TO MIKE OVERTURF

### HON. SCOTT McINNIS

OF COLORADO.

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, it is with deep admiration that I stand before this body of Congress to recognize the determination of fifteen year-old Mike Overturf of Olathe, Colorado, who is recovering from a recent stroke. The fortitude he has shown in the face of hardship, and the spirited manner with which he lives his life, are an inspiration to us all.

Although having suffered a stroke just a few short months ago, Mike has remained active. He has been riding his dirt bike, playing drums, making plans to go fishing, and even completing a major project in school in order to catch up on his studies. Mike's teachers note his remarkable performance and the extraordinary attention he has devoted to his schoolwork.

Throughout his ordeal, Mike has been a positive influence in the lives of his friends, family, and in his community. He has supported the performances of his school's band, even following them to Grand Junction for the Colorado West Band Festival. Mike plans to play with the band this spring and not only knows how to play the drums, but also the trombone, trumpet, saxophone, guitar, clarinet and flute.

Mr. Speaker, Mike Overturf is an inspiration to us all. His determination to overcome adversity and his commitment to recovery says volumes about his character and desire to succeed. Mike, I join your friends, family and all of Olathe in wishing you a speedy recovery and success in all of your future endeavors.

## TRIBUTE TO CAPT. MITCHELL A. SMITH

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. MILLER of Florida. Mr. Speaker, I rise today to honor one of this nation's most dedicated citizens, Captain Mitchell A. Smith, of the Santa Rosa Sheriffs Office. This past Thursday, June 5, 2003, Mitch was taken from us. He tirelessly served Santa Rosa County for the past 25 years, leaving a lasting impact on the Northwest Florida Community that he came to know so well. We will forever miss Mitch, but his memory will never be forgotten.

Mitch began his adult life by dedicating himself to the United States Army. He chose to serve his country, defending the freedoms and liberties that we as Americans have come to hold so dear. It was this passion to serve and help others that would continuously be shown throughout his life.

In May of 1978, Mitch retired from the U.S. Army and came to the Santa Rosa Sheriffs Office. He began his career in law enforcement as a Deputy, but quickly showed his dedication and commitment to serving and protecting the people of Northwest Florida, resulting in his subsequent promotions to the ranks of Corporal, Sergeant, and Lieutenant. Just two weeks ago, Mitch received the honor and recognition of his final promotion to the rank of Captain.

Just two months shy of retirement, Mitch served everyday to the best of his abilities. Over the course of his career he received numerous letters of commendation for his service to the citizens of Santa Rosa County. He was an officer respected by his peers, admired by his community, and loved by his family and friends.

Mr. Speaker, I would like to offer my sincere and heartfelt condolences to the family of Capt. Mitchell A. Smith for their loss. Although his time with us was cut short, we will be forever grateful for the time that Mitch did have with us in Santa Rosa County. On this such occasion, we honor one of America's greatest citizens, Capt. Mitchell A. Smith, whose legacy will live on long beyond his passing.

## PERSONAL EXPLANATION

### HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. LEWIS of Kentucky. Mr. Speaker, due to a death in the family, I was absent from the House on Wednesday, June 4 and Thursday, June 5. Had I been present, I would have voted the following way: rollcall vote 236—yea, rollcall vote 237—yea, rollcall vote 238—yea, rollcall vote 239—yea, rollcall vote 240—nay, rollcall vote 241—nay, rollcall vote 24—yea, rollcall vote 243, H. Res. 256—yea, rollcall vote 244—yea, rollcall vote 245—yea, rollcall vote 246—yea, rollcall vote 247—yea, rollcall vote 248—yea.

In particular, I would like to specifically express my strong support for H.R. 760, the Partial Birth Abortion Ban Act of 2003. This has been a bill that I have supported for many years and I am glad that it has again seen passage in the House. For nearly a decade Congress has attempted to see this legislation become law, and I am pleased that my colleagues have yet again affirmed the message that partial birth abortion is wrong by passing this bill.

There has been overwhelming support for a ban on partial birth abortions. The partial birth abortion ban has been passed in various forms by the House eight times, including multiple veto overrides. Having been first considered during the 104th Congress, we have seen numerous state legislatures take action and vote to end partial birth abortions in their states.

I am pleased that we have acted strongly and unmistakably by voting once again to preserve life and ban the heinous practice of partial birth abortions. The administration has stated their support of this bill and is willing to take positive action and sign this ban into law.

I understand that the issue of abortion is difficult for many. Well-intentioned people on both sides of this debate will continue to disagree. How long, though, can our society continue to justify its denial of the right to life to the defenseless unborn? The value of life has been consistently cheapened.

Partial birth abortion is a graphic example of the worst of abortion. Congress has taken a stand to uphold the value of life, especially in these instances in which life is so blatantly being destroyed. I am pleased that many have acted in support of this legislation. My colleagues have continued to support of human life and have voted in favor of a ban on partial birth abortions. Had I been present, I would have voted "yea" on this important bill.

## TRIBUTE TO VERNA BARR

SPEECH OF

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 9, 2003*

Mr. McINNIS. Mr. Speaker, it is a great honor for me to recognize the many years of public service that Verna Barr of Austin, Colorado has given to the citizens of my state. I would like to take this time to pay tribute to Verna's selfless contributions to the well being of so many children, seniors, and others who have had the pleasure of her company and her kindness.

Verna started her life of volunteer service at the age of eight, helping to print and fold her church's bulletin. Verna's mother, Florence Petersen, instilled in Verna a philosophy of life in which helping others has central importance. Over the years, Verna has volunteered her services to a number of worthy causes and projects, including preserving the history of Surface Creek Valley and Pioneer Town through disseminating information and indexing it for future generations. Verna has also spent a great deal of time and effort assisting the American Cancer Society, as well as the Colorado Cancer Society, from whom she has twice received official recognition for her assistance with Relay for Life. Even in her professional life, Verna's work continues the spirit of service. For seventeen and a half years Verna has worked with seniors at Horizon Health Care and Retirement Community, helping to enrich the lives of many with books, plays, music, and creative activities. Throughout this time, Verna's example has inspired scores of others to volunteer as well. Colorado is truly thankful.

Mr. Speaker, it is with great admiration that I recognize Verna Barr for her innumerable contributions to the quality of life for the citizens of Colorado. I am proud to represent Verna in this body of Congress, and wish to extend my heartfelt gratitude for her life of public service. Colorado is now a more beautiful place. Good luck, Verna, and best wishes on all of your future endeavors.

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## TRIP REPORT ON VISIT TO IRAQ

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. WOLF. Mr. Speaker, I just returned from spending two days in southern Iraq. I was there Sunday, May 25, and Monday, May 26. I also spent a day, Tuesday, May 27, in Kuwait, where I met with Kuwaiti government officials, members of the U.S. military, State Department officials and staff from the U.S. Agency for International Development (USAID).

Today I want to share with our colleagues some details of my trip. On another day, I will share a number of recommendations concerning the reconstruction of Iraq.

Let me begin by praising the efforts of all the soldiers, sailors, airmen, Marines and members of the Coast Guard who served—or are continuing to serve—in Operation Iraqi Freedom. They are the best of the best. I cannot emphasize enough how good a job they have done and continue to do. They and their families all have made tremendous sacrifices.

I was particularly impressed with the soldiers and Marines I talked with who are reservists called to active duty. Many left good jobs and/or school to serve. Their professionalism and attitude were exceptional.

I also want to express my heartfelt sympathy to all the families who lost loved ones during the war. We will never forget—and will always be grateful for—their service to the cause of freedom.

All the soldiers and Marines I met in Iraq are doing an incredible job under extremely difficult conditions. The heat in Iraq and Kuwait is oppressive and will only get worse as summer approaches. It was over 100 degrees both days I was in Iraq. I was told that the temperature can sometimes reach 140 degrees in July and August. The living conditions for most of the soldiers that I saw were primitive.

#### REASON FOR TRIP

I believed it was important to go to Iraq to get a first-hand look at the reconstruction efforts that are under way and to assess the humanitarian assistance that is being provided. I crossed over the border into Iraq from Kuwait. I visited the towns of Nasiriyah, Al Kut and Al Amarah.

I spent the night in Nasiriyah—where some of the heaviest fighting during the war took place—then traveled northeast to Al Kut on Monday morning. From there I headed south to Al Amarah then passed through the outskirts of Basra on the way back to the Iraq-Kuwait border.

During the trip I talked with a number of Iraqis, visited two hospitals, including the one from which Army Pfc. Jessica Lynch was rescued, met with military officials, and spent a considerable amount of time with representatives from several non-governmental organizations (NGOs) working in Iraq.

I saw what was left of one of Saddam Hussein's infamous torture chambers, heard ghastly stories about the brutality of Saddam's regime and was told of mass graves. I saw paintings, posters and statues of Saddam defaced or destroyed. His name was scratched off or punched out from signs on buildings bearing his name. I saw "No to Saddam Yes for Bush" spray painted in green letters on the side of a building just after crossing over the border from Kuwait.

I saw very sick children, many of whom are probably now dead, and was amazed by the bravery of a young boy I saw in the emergency room of a hospital. He had been brought in just minutes before I arrived. He had been playing outdoors and came in contact with either a land mine or unexploded ordnance. His face was severely burned and a piece of shrapnel was deeply embedded in his right eye. Blood was streaming down his face onto his chest. He looked to be about 10-years-old. He never cried.

I saw the results of precision-guided bombing. It is amazing. In Nasiriyah, I was taken by what was left of the former home of a Baath Party leader. The house was sandwiched between several other homes. While it was reduced to rubble, none of the surrounding houses appeared to sustain any damage.

I was told that Radio Sawa, a 24-hour, seven-days-a-week Arabic-language network whose programming originates from the United States and is broadcast in the region, is very popular. The network plays a mix of the best Western and Arabic pop music and has balanced up-to-the-minute news and analysis. It also broadcasts features on a variety of political and social issues and does in-depth reports on the development of freedom and democracy in the Middle East.

Some were skeptical of the success of the broadcasts. But I was told by locals that since Radio Sawa went on the air in spring 2002, few listen to Arabic radio stations anymore.

#### TOUGH CONDITIONS

Life in southern Iraq is difficult. Poverty is widespread. Buildings are dilapidated. Trash and rubble litter the streets. Many of the trees have been cut down and used for firewood because propane was so scarce under Saddam's rule. The water is putrid.

Saddam Hussein did everything in his power over the last decade to make life in towns like Nasiriyah as miserable as possible because of the uprisings following the first Gulf war. It was their punishment for opposing his iron-fisted rule. Thousands of men who defied Saddam literally disappeared and have never been heard from since; they are presumed dead.

The conditions in the two hospitals I visited—while dramatically improved over the last month—are pitiful. At what was once the Saddam General Hospital in Nasiriyah—now just called the General Hospital—there are no screens on the doors. As a consequence, any time a door is opened, bugs—particularly flies—come streaming in. Flies were swarming over two of the empty beds in the emergency room.

There is no monitoring equipment for the beds in the emergency room. In fact, I saw very little monitoring equipment anywhere in the hospital. Imagine walking into your local hospital and not seeing a machine to monitor your pulse or take your blood pressure. Medicine also is in short supply. It was depressing.

Security in Iraq remains a real concern, not only for coalition forces but for the general public. Lives continue to be lost. Whether I was talking to military officials, NGOs or Iraqis, security was the first issue they always addressed. Looting is still a problem in some parts of the country and I heard several stories about robberies and carjackings. I was told MPs in Nasiriyah successfully stopped a car jacking the Sunday night I was there.

Many Iraqis are afraid to go back to work for fear their home may be looted or that they may be robbed. Several people told me that hearing random gun fire after sundown has become commonplace.

The NGOs that I talked with said that it was not unusual for their vehicles to be pelted with rocks in some parts of the country. Civilian convoys are threatened. No one travels after sunset.

One reason for the lawlessness is that before the war started, Saddam Hussein opened all the prisons, releasing both political prisoners and hardened criminals. Murderers. Rapists. Robbers. Getting these criminals back behind bars is critical.

#### BLUEPRINT FOR IRAQ

In order for the United States to win the peace in Iraq it is imperative that we restore law and order. We need to redouble our efforts to ensure that Iraq is safe.

In "Play to Win," the final report of the bipartisan Commission on Post-Conflict Reconstruction, security is one of the four "pillars" of post-conflict reconstruction. The other three are: justice and reconciliation; economic and social well being, and governance and participation.

This comprehensive report published in January 2003 by the Association of the United States Army and the Center for Strategic and International Studies should serve as the blueprint for the reconstruction efforts in Iraq. Members of the commission include retired military officers, representatives from the NGO community and international aid organizations, former high-ranking executive branch officials, and Members of Congress with expertise in foreign affairs.

Among those on the commission are: Dr. John Hamre, former deputy secretary of defense; Richard Holbrooke, former U.S. ambassador to the United Nations; Gen. Gordon Sullivan, former chief of staff of the U.S. Army; Senator PAT ROBERTS, chairman of the Senate Select Committee on Intelligence, and Rep. DOUG BEREUTER, chairman of the House Subcommittee on Intelligence Policy and National Security. (I, too, was a member of the commission, although I did not have a leading role.)

The report makes 17 recommendations "on what the United States will have to do to enable itself to help countries successfully rebuild themselves following conflict."

I have asked the commission to provide me with 535 copies of the report so I can share it with my colleagues. It also can be found on the Internet at http://www.pcrproject.org

Below is an excerpt from the report on the issue of security:

"Security is the sine qua non of post-conflict reconstruction. Though every case is different, there is one constant—if security needs are not met, both the peace in the given country and the intervention needed to promote it are doomed to fail. Unless comprehensive security needs are addressed up front, spoilers will find the weak areas and retain leverage to affect the political outcomes, vitiating the peace. While peace is essential, it never will be one hundred percent guaranteed and the perfect must not become the enemy of the good. In order to achieve acceptable levels of security, 'coalitions of the willing' and the UN peacekeeping operations need coherent military leadership and core troops from a lead nation that provide the backbone of the operation. The international community must also enhance its ability to deploy civilian police to address temporary needs. In addition, efforts to design and reconstruct local security institutions, including both military and police, must begin early in the process."

I believe the Bush Administration would be well served to have several members of the commission visit Iraq to measure how the reconstruction efforts match the recommendations in the report. Dr. Hamre and Gen. Sullivan, who served as the co-chairmen of the commission, could be charged with selecting which members should go. There should be no objection to this recommendation. Each of the commission members has a distinguished and extensive background. Their insight and observations could prove to be invaluable.

In addition to members of the Commission on Post-Conflict Reconstruction visiting Iraq, members of Congress should visit as well. In my opinion, it would make sense for the chairman and ranking member—or their designees—of the following committees to travel to Iraq:

House and Senate Armed Services committees;

House International Relations Committee;

Senate Foreign Relations Committee; and

House and Senate Appropriations committees.

Members should spend time in all parts of Iraq. Obviously safety and security are issues that must be considered, but the trips could be made in small groups without publicity. The only way to get a feel for what is happening is by visiting the towns and cities and talking to the people living there.

In addition to meeting with military commanders, these members or their designees should meet with Ambassador L. Paul Bremer III, the civilian administrator of Iraq, and other officials from the Office of Reconstruction and Humanitarian Assistance (ORHA)-now called the Coalition Provisional Authority (CPA)–USAID officials, and representatives from the NGO community and other international aid organizations. Meetings with Iraqi citizens also should be set up.

Congress needs to be involved in—and kept up-to-date on—the reconstruction of Iraq. Clearly, there is a great deal at stake for the United States in Iraq. The reconstruction effort is going to be long and arduous. No one is naive enough to believe it is going to happen overnight. Nor is anyone naive enough to think that it is not going to come without problems and challenges.

Yet, if Congress is not involved, the Bush Administration is going to be left without a partner in rebuilding Iraq. The Congress is the Bush Administration's greatest ally. There should be nothing to hide. And after my trip, I believe there is great deal to tell-much of it positive.

We must, however, be realistic. We have a long, long way to go in the reconstruction of Iraq. We have won the war, and we must be careful not to lose the peace. Failure cannot be an option. A well developed plan for reconstruction is imperative and congressional involvement will help the Bush Administration from steering off course as it works to rebuild Iraq.

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## ON THE INTRODUCTION OF THE TAXPAYER ABUSE PREVENTION RESOLUTION OF 2003

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. VAN HOLLEN. Mr. Speaker today I am introducing the Taxpayer Abuse Prevention Resolution of 2003, a resolution expressing the sense of Congress that private sector debt collection agencies should not be paid on a commission basis or as a percent of the amount of federal taxes they collect.

The Internal Revenue Service has proposed paying private debt collectors a 25 percent commission to collect unpaid tax debt. That proposal will jeopardize the rights and privacy of American taxpayers. The following organizations oppose the IRS proposal and have expressed their strong support for this important consumer protection legislation I am introducing today: Citizens for Tax Justice, Consumer Federation of America, Consumers Union, National Consumer Law Center, National Consumers League.

Two pilot projects were authorized by Congress to test private collection of tax debt for 1996 and 1997. The 1996 pilot was such a failure that the 1997 project was cancelled. Contractors violated the Fair Debt Collection Practices Act (FDCPA) and did not protect the security of personal taxpayer information. An IRS Internal Audit Report found that contractors made hundreds of calls to taxpayers during times prohibited by the FDCPA, and that calls were even placed as early as 4:19 a.m.

The Administration's proposal to privatize tax collection services flies in the face of Section 1204 of the IRS Reform and Restructuring Act of 1998, which specifically prevents IRS employees from being evaluated on the basis of the amount of taxes they collect in order to eliminate incentives to use overly aggressive tax collection techniques. Despite concerns about aggressive collection techniques, the Administration now wants to pay private debt collectors $3.25 billion in commissions to collect taxes that IRS employees could collect for roughly one-tenth of that amount.

Paying private debt collectors on a commission basis will be costly and will threaten the rights and privacy of the American taxpayers. We must ensure, as this resolution seeks to do, that federal tax collection functions will not be handed over to private sector bounty hunters. Our constituents deserve that assurance.

Mr. Speaker, American taxpayers need to know that their government works for them, not against them. I urge this Congress to pass the Taxpayer Abuse Prevention Resolution of 2003.

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## HONORING PAUL LINN, SR., EARL CANTOR, SARAH CRISPIN, DON CANTOR, ANNA MAE PORTER, AND JAMES DAUGHERTY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. McINNIS. Mr. Speaker, it is always a pleasure to have the chance to come before this body with a story of great hope and inspiration. I am proud to stand before this body today to update you on the remarkable story of a family that I first brought to your attention back in October. Paul Linn Sr., Earl Cantor, Sarah Crispin, Don Cantor, Anna Mae Porter, and James Daugherty have traveled great distances and overcome many obstacles to reunite for the first time in 67 years. On Saturday, these fine individuals will meet face-to-face, reuniting as a family. Though they were separated from a young age, the dedication and love that they have shown in searching each other out is truly inspirational. I pay tribute to them again today for the dedication and resilience that has brought them together for this weekend of celebration.

Eight months ago, I relayed to you the remarkable story of this family. It is a story of a family whose beginning was filled with pain, loss, and confusion. A story about a family suffering the ills of abandonment and tragedy. However, today I share with you a new story of a family reunited through the strength and persistence of the bonds of blood. What began as a random search for a replacement birth certificate ended in the reunification of brothers, sisters, aunts, uncles, grandmothers, grandfathers and countless grandchildren.

Mr. Speaker, I am delighted to once again recognize Paul, Earl, Sarah, Don, Anna, and James as they celebrate family and enjoy the rewards of faith and persistence. As I said eight months ago before this body, their story is one of great satisfaction and inspiration. I wish them all the best as an old family is reunited in Colorado.

## PERSONAL EXPLANATION

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. RYAN of Wisconsin. Mr. Speaker, I was absent for legislative business last week from June 2, 2003 through June 5, 2003 due to the birth of my son, Charles Wilson Ryan on Friday, May 30, 2003, As a result, I missed rollcall votes 227 through 248.

Had I been present, I would have voted "yea" on the following rollcall votes:

227, H. Res. 159, Expressing the Profound Sorrow on the Occasion of the Death of Irma Rangel;

228, H. Res. 195, Congratulating Sammy Sosa of the Chicago Cubs for hitting 500 Major League Home Runs;

229, H.R. 1465, Designating the facility of the United States Postal Service in Iron Station, North Carolina as the "General Charles Gabriel Post Office";

230, S. 222, the Zuni Indian Tribe Water Rights Settlement Act;

231, S. 273, the Grand Teton National Park Land Exchange Act;

234, H.J. Res. 4, Proposing an Amendment to the Constitution of the United States Authorizing the Congress to Prohibit the Physical Desecration of the Flag of the United States;

235, H. Res. 231, Supporting the Goals of Peace Officers Memorial Day;

236. H. Res. 257, Providing for Consideration of H.R. 760, The Partial-Birth Abortion Ban Act;

237, H. Con. Res. 177, Recognizing and commending the members of the U.S. Armed Forces, and the allies of the United States and their armed forces, who participate in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and the dedication of military families and countless others for their support;

238, H. Res. 201, expressing the sense of the House of Representatives that our Nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country in many ways, especially in these days of increased engagement of our military around the world;

239, H.R. 1954, Armed Forces Naturalization Act;

242, H.R. 760, The Partial-Birth Abortion Ban Act;

243, H. Res. 256, Providing for the consideration of H.R. 1474, Check Clearing for the 21st Century Act;

244, H. Res. 258, On Ordering the Previous Question for the consideration of S. 222, Zuni Indian Tribe Water Rights and Settlement Act and S. 273, Grand Teton National Park Land Exchange Act;

245, H. Res. 258, On Agreeing to the Resolution for the consideration of S. 222, Zuni Indian Tribe Water Rights Settlement Act and S. 273, Grand Teton National Park Land Exchange Act;

246, H.R. 1474, Check Clearing for the 21st Century Act;

247, S. 222, Zuni Indian Tribe Water Rights Settlement Act;

248, S. 273, Grand Teton National Park Land Exchange Act.

Had I been present, I would have voted "nay" on the following rollcall votes:

232, S. 763, Birch Bayh Federal Building and United States Courthouse Designation Act;

233, Substitute Amendment offered by Mr. WATT to H.J. Res. 4, Proposing an Amendment to the Constitution of the United States Authorizing the Congress to Prohibit the Physical Desecration of the Flag of the United States;

240, Substitute Amendment offered by Mr. GREENWOOD to H.R. 760, Partial Birth Abortion Ban Act;

241, Motion to Recommit with Instructions to H.R. 760, Partial Birth Abortion Ban Act.

## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. MCCOLLUM. Mr. Speaker, I support S. 222, the Zuni Indian Tribe Water Rights Settlement Act of 2003, and S. 273, the Grand Teton National Park Land Exchange Act. Unfortunately, House Republican leaders continue to refuse to schedule debate on legislation that would include all low-income Americans in last month's tax bill. The only way to get their attention is to vote against these measures. Although I don't want to oppose these bills today, it is the only way to show House leaders that we must extend child tax credits to all families now.

It is an outrage that the House would consider legislation under suspension of the rules while millions of families continue to be left out of the $350 billion tax cut. The tax bill that passed last month failed to extend child tax relief to all low-income children and families. Fixing this omission must be our first priority.

This House lacks the leadership to ensure that the working parents of 19 million children receive the increased child tax credit they were denied. This House lacks the right priorities. I will continue to use my vote to speak out until we finally include all Americans, not just the well off, in the tax bill.

## TRIBUTE TO THE HOTEL COLORADO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. MCINNIS. Mr. Speaker, I am proud to rise before this body of Congress today to honor a historic landmark in my district. The incomparable Hotel Colorado celebrates its 110th birthday this weekend, and I am honored to inform my colleagues here today of some of the history behind this amazing facility.

The Hotel Colorado was completed in 1893 at a cost of $850,000, an enormous sum of money in those days. It was one of the first hotels in the country to be completely outfitted with, what was at the time, an amazing new technology—electricity. The hotel included a great courtyard fountain modeled after the one at the 1889 World's Fair, shooting water 185 feet in the air, along with a grand staircase.

Many famous figures stayed at the Hotel Colorado, including Teddy Roosevelt, Herbert Hoover, and William Howard Taft. A few infamous characters such as Al Capone, Diamond Jack Alterie, and Doc Holliday overnighted there too, as did singer Dinah Shore and legendary Titanic survivor Molly Brown.

On a couple of occasions the revered hotel didn't function as a hotel at all. During World War II, the U.S. Navy used the hotel as a convalescent hospital. In 1961, when a local school was condemned, the school district converted the hotel into a junior high school.

Mr. Speaker, the Hotel Colorado has a spot in both the national Register of Historic Places and the hearts of thousands of people worldwide who experienced its beauty and splendor. The hotel has a special place in my heart since I have an office located there. I am truly honored to recognize the Hotel Colorado and to offer my congratulations on 110 years of outstanding service.

## INTRODUCTION OF THE KOREAN WAR COMMEMORATION RESOLUTION

### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 9, 2003*

Mr. SAM JOHNSON of Texas. Mr. Speaker, on June 9, 2003, I, along with Mr. RANGEL and cosponsors Messrs. COBLE and CONYERS, all Korean War veterans, submitted a resolution recognizing and supporting the goals and ideals of the Year of the Korean War Veteran. I am pleased today to introduce this bill and honor those who fought courageously and fearlessly for our country and our cause.

This year marks the final year of the United States' 50th Anniversary of the Korean War Commemoration and the 50th year of the Armistice. The commemoration period began on June 25, 2000, marking the 50th anniversary of the invasion of South Korea, and will continue through Veteran's Day 2003. Efforts are currently under way to designate 2003 as the Year of the Korean War Veteran.

Just a few years after the war to end all wars, Korea was, in many ways, the first reminder that America must remain the world's leading force for peace, prosperity and freedom.

Called to defend freedom and fight back forces of communism, 1,800,000 Americans gallantly participated in the Korean War. The United States suffered 36,577 dead and 103,284 wounded in some of the most horrific conditions in the history of warfare. The service and sacrifices of our Korean War veterans 50 years ago saved a nation from communist enslavement and gave South Korea the opportunity to develop and flourish under freedom and democracy.

This resolution: declares to the Nation and the world that the American people will never forget our veterans or those who served our Nation on the home front during the Korean War; recognizes and supports the goals and ideals of 2003 as the Year of the Korean War Veteran; requests the President to issue a proclamation calling on the people of the United States to observe the Year of the Korean War Veteran with appropriate ceremonies and activities to thank, honor, remember and welcome home our Korean War veterans; and urges the chief executive officers of the States, and the chief executive officers of the political subdivisions of the States, to each issue a proclamation calling upon their citizens to "Pause to Remember" our Korean War veterans, their families and next of kin with appropriate activities.

Sadly, the Korean War is sometimes referred to as the "Forgotten War." May this resolution, along with the Korean War commemoration activities taking place this year, send a clear message to the world that the United States will never forget. Freedom is not free . . . should this great country wish to preserve its freedom, we must remember those who have paid the ultimate price.

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## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 10, 2003 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### JUNE 11

9 a.m.

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine patient safety, focusing on instilling hospitals with a culture of continuous improvement.
SD–342

9:30 a.m.

Judiciary
To hold hearings to examine the nominations of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, and Diane M. Stuart, of Utah, to be Director of the Violence Against Women Office, Department of Justice.
SD–266

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine health care access and affordability, focusing on cost containment strategies.
SD–124

Joint Economic Committee
To hold joint hearings to examine issues relating to Iraq's economy.
SD–628

10 a.m.

Appropriations
District of Columbia Subcommittee
To hold hearings to examine the District of Columbia's local budget request.
SD–192

Health, Education, Labor, and Pensions
Business meeting to consider S. 648, to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy, proposed legislation entitled "Greater Access to Affordable Pharmaceuticals Act", and pending nominations.
SD–430

Indian Affairs
To hold hearings to examine the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services, to be followed by hearings on S. 1146, to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota.
SR–485

2:30 p.m.

Commerce, Science, and Transportation
Competition, Foreign Commerce, and Infrastructure Subcommittee
To hold hearings to examine reauthorization of the Federal Trade Commission.
SR–253

#### JUNE 12

9:30 a.m.

Commerce, Science, and Transportation
To hold hearings to examine global overfishing.
SR–253

Foreign Relations
To hold hearings to examine repercussions of Iraq stabilization and reconstruction policies.
SD–419

Judiciary
Business meeting to consider pending calendar business, to be immediately followed by a Subcommittee on Constitution, Civil Rights and Property Rights business meeting to consider S.J. Res. 1, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.
SD–226

10 a.m.

Agriculture, Nutrition, and Forestry
To hold hearings to examine the Department of Agriculture's implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.
SR–328A

Banking, Housing, and Urban Affairs
To hold hearings to examine expanding homeownership opportunities.
SD–538

2 p.m.

Health, Education, Labor, and Pensions
To hold hearings to examine certain issues relative to TWA/American Airline workforce integration.
SD–430

2:30 p.m.

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 434, to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes, S. 435, to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, S. 490, to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California, H.R. 762, to amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of certain rights-of-way granted, issued, or renewed under these Acts, S. 1111, to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the RECORD of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad, and H.R. 622, to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona.
SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine issues relating to cloning.
SR–253

#### JUNE 13

10 a.m.

Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Nicholas Gregory Mankiw, of Massachusetts, to be a Member of the Council of Economic Advisers, Steven B. Nesmith, of Pennsylvania, to be an Assistant Secretary of Housing and Urban Development, Jose Teran, of Florida, Lane Carson, of Louisiana, and

Paul Pate, of Iowa, each to be a Member of the Board of Directors of the National Institute of Building Sciences.

SD–538

JUNE 17

9:30 a.m.

Rules and Administration

To hold hearings to examine Senate Resolution 151, requiring public disclosure of notices of objections (holds) to proceedings to motions or measures in the Senate.

SR–301

10 a.m.

Governmental Affairs

Business meeting to consider pending calendar items.

SD–342

JUNE 18

9:30 a.m.

Governmental Affairs

To hold hearings to examine the nominations of Fern Flanagan Saddler, Judith Nan Macaluso, Joseph Michael Francis Ryan III, and Jerry Stewart Byrd, all of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD–342

10 a.m.

Indian Affairs

To hold oversight hearings to examine Native American sacred places.

SR–485

JUNE 19

10 a.m.

Governmental Affairs

To hold hearings to conduct an initial review of the ULLICO matter, focusing on self-dealing and breach of duty.

SD–342

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold oversight hearings to examine grazing programs of the Bureau of Land Management and the Forest Service, focusing on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought, and other grazing issues.

SD–366

JUNE 21

10 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings to examine a national export strategy.

SD–538

JUNE 24

10 a.m.

Governmental Affairs

To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.

SH–216

JUNE 25

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

JUNE 26

9:30 a.m.

Governmental Affairs

To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.

SD–342

2 p.m.

Foreign Relations

To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.

SD–419

## POSTPONEMENTS

JUNE 11

2 p.m.

Judiciary

To hold hearings to examine P2P file-sharing networks, focusing on personal and national security risks.

SD–226

JUNE 12

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine private sector lessons for Medicare.

SD–430

JUNE 24

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine bus rapid transit and other bus service innovations.

SD–538

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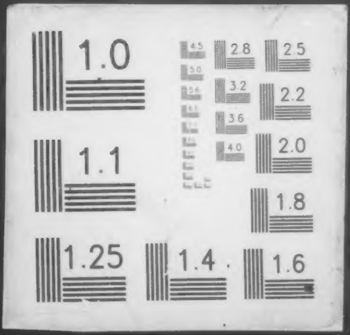
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